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Texas debt settlement firm wins dismissal of proposed class action

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(Reuters) - A federal judge in Cincinnati has dismissed a proposed class action accusing debt settlement company Nationwide Debt Direct of violating federal and state laws by using misleading tactics to market its get-out-of debt services.

In a decision on Monday, U.S. District Judge Susan Dlott ruled that Leoris Payton, the named plaintiff in the case, did not show she was harmed by Nationwide's conduct or that the company is subject to the laws cited in the lawsuit.

The lawsuit accused Nationstar of violating the U.S. Credit Repair Organizations Act (CROA) and a related Ohio state law, but the complaint failed to show that Nationwide is a credit repair company or that it provides credit repair services, Dlott said.

Enacted in 1996, the CROA bars fraud and deception by companies offering to improve consumers' credit reports or ratings.

"Our client helps people with debt settlement and renegotiating with creditors, but we are not a credit repair organization, which is the only type of entity governed by the federal act," said Beth-Ann Krimsky, a lawyer for Nationwide.

Plaintiffs "tried to basically fit a square peg into a round hole," she said.

In a court filing last month, plaintiffs' lawyers claimed Nationwide does not have to be a credit repair company to be liable under the CROA as long as it commits acts the law prohibits.

In Monday's decision, however, Dlott said the CROA prohibits misconduct solely in the area of credit repair services, which Nationwide did not provide.

Filed last year, the lawsuit said Texas-based Nationwide tried to scare the Chesapeake, Ohio plaintiff into believing that she owed debts and required the company's services when that was not the case.

The lawsuit said Payton received repeated letters from Nationwide urging her to contact the company about settling her debt, when her only bills were for monthly expenses like utilities that she paid as they were due.

The letters had the subject line, "IMPORTANT: DEBT SETTLEMENT NOTICE: PLEASE READ ENTIRE DOCUMENT CAREFULLY" and urged Payton to contact Nationwide within 10 days, her lawsuit said.

"Our client in this case was an unsophisticated senior citizen," said Marc Dann, a lawyer for Payton. "She was harmed by her fear that this engendered; whether this is actionable or not is something we're wrestling with in deciding whether to appeal."

The lawsuit said dozens of complaints have been filed with the Better Business Bureau about the company over the past three years, as well as several complaints with the Ohio attorney general.

The lawsuit also accused Nationwide of violating Ohio's Credit Services Organizations Act by making misleading statements when offering its debt settlement services.

Dlott, however, ruled that the state law also applies only to companies that offer to improve a consumer's credit record, and Nationwide made no such offer.

The state law claim also fails because Payton did not show she ever paid money to Nationwide or was otherwise harmed by the company's conduct, Dlott said.

The case is: Payton v. National Debt Direct, U.S. District Court, Southern District of Ohio, No. 15-cv-742.

For the plaintiffs: Marc Dann and Brian Flick at Dann Law Firm

For the defendant: Beth-Ann Krinsky and Lawren Zann at Greenspoon Marder and Ashley Oliker at Frost Brown Todd

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