Bloomberg Law News Feb 24, 2020

Envision Health Data-Breach Claims Dismissed in U.S. Court (1)

By Daniel R. Stoller Feb 21, 2020

- • Cognizable damages needed for claims, court rules
- • Courts split on "developing" data breach litigation

A Nevada federal judge tossed data-breach claims against Envision Healthcare Corp., saying a plaintiff's damage allegations were inadequate.

"None of plaintiff's purported damages are sufficient to plausibly allege a claim upon which relief can be granted," Judge James Mahan of the U.S. District Court for the District of Nevada wrote in an opinion Thursday.

Plaintiff Peggy Pruchnicki filed suit in July 2019 alleging that Envision didn't "secure its internal system of records." Envision had notified people the previous October that their data, including names, dates of birth, and Social Security numbers, may have been compromised in a breach, according to the opinion.

The case spotlights the different approaches courts take when handling data-breach litigation. Judge Mahan relied on decisions from multiple circuit courts, including the Eighth and Ninth, to toss the claims in what he called a "developing area of law."

The split among courts is likely to continue until the U.S. Supreme Court weighs in. "The Supreme Court has not provided guidance on standing issues specifically in the data-breach context," Mahan wrote.

Matt Pearson, an attorney at Baker & Hostetler LLP representing Nashville, Tenn.-based Envision, said he "cannot comment on ongoing client matters." Envision had sought to dismiss the suit, arguing the Pruchnicki didn't allege "cognizable damages."

Pruchnicki "is disappointed by the Court's Order, and anticipates appealing it to the Ninth Circuit in the near future," Miles Clark, attorney for the plaintiff, said in an emailed statement.

Pruchnicki brought her action under Nevada consumer protection law, negligence, breach of implied contract, and negligent misrepresentation. To back up the claims, Pruchnicki alleged she lost time recovering from the breach, faced emotional distress, and lost value in her personal data.

Mahan said the lost-time claim was too general and the plaintiff didn't incur out-of-pocket expense. There also weren't "specific allegations that plaintiff has been unable to sell, profit from, or otherwise monetize her personal information," the judge wrote.

McDonald Carano LLP and Baker & Hostetler LLP represented Envision Healthcare. Haines & Krieger LLC and Knepper & Clark LLC represented Pruchnicki.

The case is Pruchnicki v. Envision Healthcare Corp. , 2020 BL 60967, D. Nev., No. 19-CV-1193, motion granted 2/20/20 .

(Updates with plaintiff attorney comment)

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