Administrative Office of the Courts

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Supreme Court orders reinstatement of lawsuit by credit union's borrowers

SANTA FE – The state Supreme Court ruled today that a credit union's borrowers may sue the financial institution over its practices of having nonattorney employees file debt collections lawsuits in magistrate courts.

In a unanimous opinion, the Court allowed a lawsuit to move forward by current and former members of Guadalupe Credit Union who borrowed money from it and later were subject to debt collection actions on behalf of the credit union by employees who were not licensed attorneys. The lawsuit by Kyle Salas and six others alleges the credit union's actions constituted the unauthorized practice of law and violated a state law against unfair trade practices.

The Court ordered a district court in Santa Fe to reinstate the lawsuit, which seeks damages from the credit union. The justices agreed with a decision of the state Court of Appeals that the district court wrongly dismissed the lawsuit.

"In affirming the Court of Appeals, we clarify that corporations, such as Guadalupe, must appear before our courts through duly licensed counsel unless otherwise authorized by this Court's rules," the Supreme Court wrote in an opinion by Justice Michael E. Vigil.

In its appeal, Guadalupe maintained there was no legal basis for the lawsuit. The credit union argued that state law allows a nonattorney to practice law in magistrate courts, which have the authority to hear civil lawsuits up to $10,000. The financial institution also contended that its employees represented the credit union's interests, in effect making it a self-represented litigant in the debt collection lawsuits.

The Court disagreed. Corporations can appear in magistrate court through nonattorneys only in limited instances under court rules governing procedures in civil cases but those circumstances do not include Guadalupe's debt collections actions, the justices explained.

In addition, the Court stated that Guadalupe's nonattorney employees were not self-represented litigants because they pursued the debt collections on behalf of the credit union rather than representing their own legal interests.

"Corporations are held to different standards than individuals," the Court wrote. "As a corporation, Guadalupe cannot represent itself or appear pro se. Instead, a corporation must act

through an agent, such as an employee, and that agent can only represent the corporation if they are authorized to practice law."

Based on the allegations in the lawsuit, the Court concluded that the group of borrowers had the right to bring their lawsuit under New Mexico's Unfair Practices Act (UPA) and a state statute that permits damage claims by people who suffer a loss of money or property because of the unauthorized practice of law.

The Supreme Court regulates the practice of law in the state. The justices explained that "only attorneys duly admitted to the state bar may practice law in New Mexico, with limited exceptions provided as expressly recognized by the rules of this Court. This rule protects the public and the administration of justice by ensuring that those who practice law are held to the high standards of competency, ethics, and professionalism demanded of members of our state bar."

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To read the decision in *Salas v. Guadalupe Credit Union*, No. S-1-SC-39641, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/530797/index.do