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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

ADT Agrees To End Alarm Hackability Suits With Settlement

By **Steven Trader**

Law360, New York (January 24, 2017, 9:28 PM EST) -- ADT LLC has reached an undisclosed settlement with groups of device owners in five separate proposed class actions who allege the home security company deceived consumers about the efficiency of its devices and their vulnerability to hacking, a California federal court filing said Tuesday.

The home security company was facing claims by consumers in Illinois, Arizona, Florida and California, with claims in the latter state filed by Michael Edenborough in March alleging ADT violated California's Consumer Legal Remedies Act, Unfair Competition Law and fraudulently hid material information from consumers about the hackability of its devices.

U.S. District Judge Jon Tigar struck down Edenborough's CLRA and UCL claims in March, but allowed his fraudulent omission claim **to proceed**. Court records indicate the two sides continued to exchange discovery materials and take part in mediation sessions.

According to a joint notice of settlement submitted Tuesday by Edenborough, that mediation resulted in an agreement to settle, through a nationwide class, the claims alleged in his own suit, along with those filed by lead plaintiffs Dale Baker, Janet Cheatham, Santiago Hernandez and Patricia Wilson.

The terms of the deal were not disclosed, and counsel for Edenborough declined to comment. Representatives for ADT did not immediately return a request for comment Tuesday.

Edenborough had alleged that at the time he signed up for ADT's service in early 2012, the company was fully aware that wireless systems like its own were vulnerable to disruption because they lacked encryption, yet failed to share that information.

ADT struck back that Edenborough's allegations were unspecific, inadequate and did not establish the company's awareness in 2012 that a hacker could intercept and disrupt unencrypted wireless signals from an alarm sensor.

But Edenborough's complaint "need not specify in detail the exact methods of hacking to which ADT knew its devices were vulnerable," Judge Tigar concluded in October when he partially denied ADT's dismissal motion. "Rather, plaintiff need only generally allege that ADT had knowledge of, and withheld, a material fact: that its devices were unencrypted and vulnerable to hacking."

For starters, the publications cited by Edenborough suggested that the industry to which ADT belongs knew of wireless device vulnerabilities long before he signed his 2012 contract. What's more, his complaint alleged that the manufacturers of ADT's devices have acknowledged, and disclosed to ADT, that since 2012, their home systems were vulnerable — an acknowledgment ADT itself made in 2016, the judge noted.

Arizona resident Janet Cheatham had launched similar claims against ADT in September 2015, and recently **sought to certify** a class of state consumers she said were deceived by the company since 2012.

Florida resident Santiago Hernandez launched a suit against ADT around the same time as Edenborough, **complaining** that the company boasts that it uses the most innovative technology in the market, yet its signals are easily intercepted.

The company's knowing omissions and misrepresentations about its security systems and failure to encrypt or secure its wireless signals is a violation of the Florida Deceptive and Unfair Trade Practices Act, Hernandez said.

The consumers are represented by Mark Chavez and Dan Gildor of Chavez & Gertler LLP, Francis J. Balint Jr. and Andrew S. Friedman of Bonnett, Fairbourn, Friedman & Balint PC, and Tom Zimmerman of Zimmerman Law Offices PC.

ADT is represented by Mark L. Levine, Mark Ouweleen and Daniel R. McElroy of Bartlit Beck Herman Palenchar & Scott LLP, C. Sanders McNew of McNew PA, and Matthew J. Vanis and Katherine A. Wolf of Shook Hardy & Bacon.

The case is Edenborough v. ADT LLC, case number 3:16-cv-02233, in the U.S. District Court for the Northern District of California.

--Additional reporting by Cara Salvatore and Emily Field. Editing by Kelly Duncan.

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