

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

|                            |   |                               |
|----------------------------|---|-------------------------------|
| STATE OF MISSOURI, ex rel. | ) | No. ED95270                   |
| CHRIS KOSTER,              | ) |                               |
| ATTORNEY GENERAL,          | ) |                               |
|                            | ) | Appeal from the Circuit Court |
| Appellant,                 | ) | of the City of St. Louis      |
|                            | ) |                               |
| vs.                        | ) |                               |
|                            | ) | Honorable Mark H. Neill       |
| PROFESSIONAL DEBT          | ) |                               |
| MANAGEMENT, LLC,           | ) |                               |
|                            | ) |                               |
| Respondent.                | ) | FILED: April 5, 2011          |

The State of Missouri, through the attorney general (State), appeals from the circuit court's dismissal of its action alleging violations of Missouri's Merchandising Practices Act (MPA) by Professional Debt Management, LLC, (PDM). The circuit court granted PDM's motion to dismiss on the grounds that the MPA does not apply to the collection of debts.

AFFIRMED.

Division Four holds: When applying the accepted definition of the term "connection" to the allegations pled by the State in its Petition, we fail to find the necessary "relationship in fact" between the advertisement or sale of the merchandise and the deceptive practices of which the State complains. We find the alleged acts of deception and unfair practices were not committed "in connection with" the sale or advertising of merchandise as required by the plain and ordinary language of the MPA; thus, the State has failed to state a cause of action under the MPA.

Opinion by: Kurt S. Odenwald, P.J., Robert G. Dowd, Jr., J., and Gael D. Wood, Sp. J., Concur

Attorney for Appellant: Chris Koster and Debra Kay Lumpkins

Attorneys for Respondent: Sean Michael Sturdivan

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