

Based on my experience representing elderly clients with mortgage foreclosure problems, I have two areas of concern.

The first area concerns the use of the Internet by MARS providers. Increasing my clients look to the Internet to locate help with various financial problems, especially problems of a sensitive nature that they may not want to disclose to friends and family members. The ease of using the Internet can create a false sense of trust in the information that appears on a website. The Internet allows for immediate responses that are also appealing to people in desperate financial situations. My clients seem especially vulnerable to Internet scams for these reasons.

It is difficult to pursue problems with a MARS provider or even to check its legitimate status without certain information. MARS providers using the Internet should be required to disclose a mailing address, a physical address, and the name of the owner of the company. Because the MARS provider is often out of state, the disclosure should also include the contact information for the local state regulator, if any, in case the customer wants to file a complaint.

The second concern is the use of an attorney's name in the MARS provider's promotional material. It is misleading as to whether or not an attorney-client relationship will exist if the person hires the MARS provider. People are led to believe that the "attorney" will represent them if a judicial action is filed. However, unless the attorney is licensed in the state where the law suit occurs, it is misleading to people to think that the MARS provider can represent them in a court case.

I have a client who used a MARS provider that assured the client, who was making monthly payments to the MARS provider, that it would "take care" of the law suit when it clearly had no means or intent to do so. The client thought that the MARS provider would represent her in the foreclosure case, but this did not happen and it was not immediately apparent to the client that it would not happen, which adversely affected her legal rights in state court. The MARS provider did nothing and failed to advise the client that it would do nothing regarding the law suit despite desperate calls from the client.

A disclosure should be required if the MARS advertises or suggests that legal services are part of its services. A company that uses the name of a law firm or an attorney, or lists attorneys as employees gives the impression that the MARS provider can represent clients in court. The disclosure should state whether or not the MARS attorney is licensed in the client's state and whether or not the attorney will represent the client in court if a foreclosure suit occurs. If the MARS provider offers the services of a local attorney in the state where the client resides, it should disclose the name, address, and telephone number of that attorney and the fact that the attorney is licensed in that state. Without this information, a consumer may delay obtaining representation in state court.

There are many other aspects to this proposed regulation that consumer groups, like the National Association of Consumer Advocates and the National Consumer Law Center, will comment upon. I urge you to consider their comments, especially, since they represent the consumers, like my clients, most affected by the abuses to which this proposed regulation is directed.