

High Court To Hear Check-Cashing Fee Case

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LITTLE ROCK — A state law says it's not interest being paid when check-cashing companies charge for holding on to checks until money is deposited to cover them — but an Arkadelphia lawyer disagrees, and will get a hearing before the state Supreme Court.

Those are fees, say the companies cashing the checks, and they cite the Arkansas Check Cashers Act that says such fees "shall not be deemed interest."

But Todd Turner says it looks to him like interest is being paid for so-called "payday loans" — interest for using somebody else's money for a period of time. If so, he says, the rates of interest being paid are far in excess of what's allowed by the state constitution, and are therefore usury, or illegal interest.

Turner, acting on behalf of some check-cashing customers, sued in Pulaski County Circuit Court last year, challenging the constitutionality of the Arkansas Check Cashers Act. Pulaski

County Circuit Judge Barry Sims dismissed the case, and Turner appealed to the state Court of Appeals, which in turn has deferred to the state's highest court.

Typically, someone wanting a payday loan goes to a check-cashing company and writes a check for a certain amount, and the company agrees not to cash the check for a specified time — often waiting until the check-writer's payday, when money can be deposited to cover the amount of the check.

The check writer is given an

amount less than what's written on the check, and the company says the difference between what the check-writer got and the amount the check was made out for is a fee for holding the check.

A check might be written for \$400, but the check-writer gets only \$350. The \$50 difference would equal a 373 percent annual interest rate on a loan of \$350.

Except for banks, savings and loans and credit unions — all regulated by federal law — the constitution limits interest on loans to 8 percent.