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News

Pulaski County Judge Declares Check Cashers Act Constitutional
By Gwen Moritz
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Plaintiffs hoping to force the state to stop licensing payday lenders suffered a setback Tuesday afternoon as Pulaski County Circuit Judge Barry Sims declared the Check Cashers Act of 1999 constitutional.

He also ruled that the State Board of Collection Agencies, which regulates check-cashers, does not use any tax funds – only license fees paid by regulated businesses – and cannot be subject to an illegal exaction claim.

The summary judgment that followed the hour-long hearing was the second time Sims had ruled in the same case, which was originally filed in April 2003 and dismissed by Sims in August 2003. **But the state Supreme Court remanded the case to Sims in January.**

Little Rock attorney Tom Hardin, who drafted the Check Cashers Act on behalf of the payday lending industry that then lobbied successfully for its passage, represented the SBCA at the hearing.

The plaintiffs – several people who had sued payday lenders for usury and other interested parties, including North Little Rock Mayor Patrick Henry Hays – were represented by Todd Turner of Arkadelphia.

Turner noted that circuit judges in Craighead, Clark, Faulkner and Garland counties had ruled the Check Cashers Act violates the state's constitutional limit on interest rates in individual complaints filed by borrowers. The state Supreme Court ruled one section of the act unconstitutional in 2001 but, as Hardin pointed out, in two regular sessions since then, the Legislature has not changed the rest of the act.

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