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Ruling favorable to payday lenders

By WESLEY BROWN

Arkansas News Bureau

A circuit judge in Little Rock upheld Arkansas' payday lending law Tuesday.

Opponents who challenged the six-year-old law said they would appeal Pulaski County Circuit Judge Barry Sims' ruling that the Check Cashers Act of 1999 is constitutional.

Sims ruled after a 40-minute hearing that there has been no misuse of taxpayer funds by the State

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Board of Collection Agencies, and that the 1999 statute passed by the legislature to regulate payday lending is legally sound.

"The statute as written is constitutional," Sims said in his one-sentence decision.

Jacksonville, Cabot and Sherwood have several payday lenders that cater to the working poor and members of the military and their families.

The issue was back before Sims after the state Supreme Court in January reversed its earlier decision dismissing the original complaint for failure to state facts upon which relief could be granted.

The plaintiffs in the case, represented by attorney Todd Turner of Arkadelphia, argued the check-cashing law violates state usury laws, allowing pay-day lenders to charge annual interest rates in excess of 400 percent despite the state Constitution's usury cap of 17 percent on consumer loans.

"What I am asking the court to do is overrule what the General Assembly did when it passed the checking-cashing law ... and

declare it unconstitutional," Turner told the judge. But lawyers for the state Board of Collection Agencies and the Arkansas Financial Services Association, which represent the payday lending industry, disputed Turner's arguments on two fronts.

Thomas Thrash, representing the ABCA, contended Turner could not argue the 1999 act's legal integrity unless he proved that state funds were misused in applying the law.

"This is a very simple (issue), but we've done our very best to complicate it," Thrash said.

If the plaintiffs were going to attack the constitutionality of the law, then they must first exhaust all their remedies before the ABCA, he said.

"This entire case hinges on whether or not there were taxpayer funds in use to finance the ABCA's division of check cashing," the Little Rock attorney said.