

The Morning News

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Judge Rules Law Allowing Payday Lending Constitutional

By [Jason Wiest](#)
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LITTLE ROCK -- An Arkansas law allowing "payday lending" at fees that exceed the state's interest limits is constitutional, a state judge ruled Tuesday.

Pulaski County Circuit Judge Barry A. Sims, who has heard the case twice before, did not hear any additional testimony in the lawsuit challenging the 1999 Arkansas Check Cashers Act before leaving the courtroom in less than 10 minutes.

The ruling puts the lawsuit in a position for the state Supreme Court to rule on the act's constitutionality, according to Todd Turner, an Arkadelphia attorney who represents the plaintiffs in the lawsuit.

"The act has not been directly addressed, and that was our aim today," Turner told reporters after the hearing. "Even though we disagree with his ruling, we're glad that we have a ruling so now we can take that to the Supreme Court."

Sims first heard the case in 2003. Plaintiffs, a group that now includes people who have used check-cashing businesses as well as some who have not, including North Little Rock Mayor Patrick Henry Hays, claimed they were charged triple-digit interest rates, far exceeding the state's 17 percent usury limit.

The act specifies that fees charged for payday loans "shall not be deemed interest."

Sims dismissed the lawsuit in 2003 for multiple reasons, among them those suing had no standing to file a lawsuit, the Arkansas Board of Collection Agencies, which regulates payday lenders, was immune from suits and the suit did not offer facts the court could use to grant relief.

The state Supreme Court reversed Sims' decision in 2005 and sent the lawsuit back to circuit court. Sims then ruled the plaintiffs had not exhausted their administrative remedies, and also said the act was constitutional.

The order did not include the judge's statement about the act's constitutionality, however, according to Turner. Sims on Tuesday asked lawyers to make sure the omission did not happen again.

Tom Thrash, the attorney representing the state Board of Collection Agencies, the defendant in the case, said he was confident the ruling would stand.

"If they appeal it, we'll respond and we feel like (the Supreme Court) will uphold the act," Thrash said.