



Payday lenders deservedly lose on appeal: editorial

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The Plain Dealer Editorial Board

By

In a huge victory for Ohio borrowers, the 9th Ohio District Court of Appeals has found that **payday lenders can't evade a 28 percent interest cap by trying to lend under Ohio's second-mortgage loan law.**

The **court's 2-1 decision (pdf)**, issued Monday, likely will be appealed to the Ohio Supreme Court. But a sensible high court also will find that payday lenders are legally bound by the 28 percent payday-loan cap enacted four years ago and **overwhelmingly endorsed by voters.**



In this Nov. 6, 2008, file photo, a customer enters a Payroll Advance location in Cincinnati.

AP Photo/Al Behrman, File

Ever since that 2008 vote, the lenders have been defying the voters by legal hair-splitting.

A divided appellate court panel effectively said this week: "Enough!"

At issue in the case was a two-week \$500 loan that payday lender Ohio Neighborhood Finance Inc., doing business as Cashland, made to borrower Rodney Scott in December 2008.

In 2009, Cashland sued, asking \$570.16 for the unpaid loan balance plus fees. It also wanted 25 percent interest on top of that.

Last year, Elyria Municipal Court Magistrate Richard K. Schwartz found that was an effective 235 percent annualized interest

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rate, as defined by the federal Truth in Lending Act. He ruled the Cashland loan didn't qualify as a second-mortgage loan, so

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it was a payday loan, meaning that Cashland could collect only the loan's outstanding balance of \$465 -- vacating about \$105 in fees and other charges. Schwartz also ruled that interest should be calculated at 8 percent annually, not the 25 percent Cashland wanted.

This week, the appellate court agreed. Writing for the majority, Judge Eve V. Belfance noted that under Ohio's short-term (payday) loan act, loans must run for at least 31 days, can't exceed \$500, can't require more than 28 percent interest (or charge additional fees) and that the law "contemplates" a single repayment.

Under the second-mortgage loan law, by contrast, she wrote, while lenders can't charge more than 25 percent interest, "they can charge additional fees, may make larger loans, and may secure loans with property."

Belfance added that, to read Ohio law as Cashland wishes it to be read, would let lenders "nullify the very [2008] legislation that is designed to regulate payday-type loans." Judge Carla Moore concurred.

Judge Clair E. Dickinson dissented, arguing the loan could qualify as a second-mortgage loan. To say that's a legal stretch would be charitable. The appellate-court majority was right to call a halt to this brazen charade.

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