



NEWS RELEASE

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New Mexico Court Gives Go-Ahead for Group of Consumers to Challenge Lenders

A New Mexico Appeals Court on Wednesday gave the go-ahead for a class of consumers to continue their lawsuit against payday lenders charging illegal interest rates.

In the case of *Andrea Felts v. CLK Management, Inc. and Cash Advance Network, Inc.*, the defendants had appealed two earlier district court decisions: in July 2009, the District Court of Bernalillo County (N.M.) denied CLK Management, Inc.'s motion to compel arbitration; then in November 2009 the court denied Cash Advance Network, Inc.'s identical motion.

On Wednesday, March 2, 2011, Judge Cynthia A. Fry of the New Mexico Court of Appeals in Albuquerque wrote an opinion for a three-judge panel that affirmed those lower court decisions and approved the plaintiffs' class action.

Paul Bland, an attorney with Public Justice, P.C., argued for the plaintiffs on the appeal.

"The Court of Appeals has insisted that our client should be given her day in court," said Bland. "These internet payday lenders were trying to use the fine print of their contract to exempt themselves from and undermine New Mexico's consumer protection laws by shielding them from any kind of lawsuit."

Lead class member Andrea Felts and other New Mexico consumers who obtained loans for less than \$2,500 allege that the defendants engaged in online lending practices in direct violation of New Mexico State law.

"My office supported this lawsuit because we believe the lenders in this case took advantage of consumers and such practices are against public policy," said New Mexico Attorney General Gary King. "I am pleased that the Court of Appeals directed that the victims here will be allowed to continue their legal action against these lenders. New Mexico adopted legislation in

2007 that regulated the payday loan industry to protect consumers from excessively high interest rates and unfair business practices such as those alleged in the plaintiffs' lawsuit."

The case began in late 2007 when Ms. Felts, then a 38-year-old high school administrator in Albuquerque, was going through a costly divorce. In need of extra money to make ends meet, she turned to an online payday lender for three loans of around \$400 each.

She was then charged interest rates of 684, 730 and 521 percent on those three loans.

When Ms. Felts could not keep up with her payments, the lenders began to contact her repeatedly, both at work and at home. She sometimes received more than twenty calls per day, and her 13-year-old daughter was subjected to calls as well. The lenders even threatened Ms. Felts with jail.

Lead counsel for Ms. Felts is Rob Treinen of Albuquerque. The plaintiffs are also represented by the Schaefer Law Firm of Minneapolis, Minn.

New Mexico Attorney General Gary King and Assistant Attorney General Karen Meyers joined Public Justice in filing an *amicus* brief on behalf of the plaintiffs. Public Justice's Amy Radon was the principal author of Ms. Felts' appellate brief.

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