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Payday Lawsuit Back in Court

■ *Woman harassed by collectors claims firm's demand for arbitration over trial was unfair*

BY JOLINE

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Journal Staff Writer

The phone calls to her office, her home, her cell phone were relentless.

The loan collectors wanted their money, and it seemed to Laura Cordova that nothing she said or did could make them understand she was doing the best she could to pay them back, that she was ill, that she could lose her job — and thus her best chance of paying them back — if they didn't stop calling.

"I felt scared," the Las Vegas, N.M., social worker said. "I felt like I had nowhere to turn. It was hard to believe people



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would do that to someone. It just wasn't human."

After nearly three years of increasingly threatening calls — including, she claims, threats to her boss and at least one visit by a collector to her office, Cordova, 51, did lose her job.

"After I was fired in May 2006, I just felt I was being a victim," she said. "I was robbed of my dignity, my trust. I was humiliated."

Cordova filed a lawsuit against World Finance in September 2006 in state District Court in Las Vegas, accusing the company of unreasonable debt collection and violating the Unfair Practices Act.

The company challenged her right to a jury by invoking a clause in her contract that forces her into arbitration — a private dispute resolution system that bypasses the courts.

Chances are that, if you have a credit card, cell phone, loans, medical care or a job, you have signed an arbitration agreement of some kind.

"So few modern Americans read the fine print of their contracts," said Rob Treinen, an Albuquerque lawyer representing Cordova. "Those contracts can be amended in paperwork that arrives with the bills, and the consumer may never even notice them."

Proponents say that arbitration is a cheaper and quicker alternative to slogging through the courts and that outcomes are typically the same as they would be with a jury.

Critics say the person overseeing the arbitration process is often contracted by the company — sort of like a sports team selecting its own referee.

More importantly in this case, Cordova's lawyers say the company has retained its right to sue while taking away hers.

"If the agreements are so fair, why don't the companies stick solely with arbitration?" Treinen asked.

Backed by courts

Treinen opposed World Finance's effort to force arbitration, and in January 2007, state District Judge Eugenio Mathis agreed.

"The court in Las Vegas said this agreement is so one-sided it is not enforceable in New Mexico and we're not going to allow it," Treinen said.

The state Court of Appeals also sided with Cordova in June 2007, saying the arbitration clause allows World Finance "to choose whether to enter into a judicial or an arbitration remedy when and as it sees fit, without allowing (Cordova) the same choices or rights."

Attorneys for World Finance appealed, and today both sides will present arguments to the state Supreme Court.

Attorneys say the decision could determine how far New Mexico courts will go to protect consumers.

Should the state's highest

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PAUL BLAND,
A LAWYER WITH
THE PUBLIC
JUSTICE FOUNDATION

court rule that the mandatory arbitration clause is unfair, it could lead to a change in business practices statewide.

"We're asking the court to draw some lines, not to get rid of arbitration, but to make it fair," said Paul Bland, a lawyer with the consumer-friendly Public Justice Foundation who is also arguing Cordova's case today.

"Most people don't even know what the phrase 'mandatory arbitration' is, let alone realize they probably have signed a contract that forces them into it," Bland said.

The New Mexico Attorney General's Office and the AARP have filed "friend of the court" briefs siding with Cordova.

David Garcia, the Albuquerque attorney representing World Finance, said his client prefers not to comment on the matter because of the appeal.

Arbitration "saves parties a lot of time, money and aggravation and reduces the burden on our overworked judiciary," said Roger Haydock, managing director of the Minneapolis-based National Arbitration Forum, one of the country's largest alternative dispute resolution providers.

But Treinen said there's a difference between having a dispute aired before a jury and before a person whose contract is contingent on the work it does on behalf of the company in dispute.

"The opportunity to have your claims decided by 12 everyday people is what this country is founded on, and Ms. Cordova would prefer to go that way," Treinen said.

Hard times

In Cordova's case, she had borrowed from the World Finance loan branch in Las Vegas when lung disease forced her to miss work.

According to court documents, she borrowed \$500, and \$400 another time, both at a 110 percent annual interest rate. As a result, the amount she owed skyrocketed when she fell behind.

She sent three letters to the company — dated July 18, 2003; July 20, 2005; and Oct. 6, 2005 — asking them to stop contacting her at work and offering to speak with them at her home or on her cell phone after business hours.

"I wrote those letters when I couldn't take it anymore," she said.

Then, in January 2006, she underwent lung surgery and took medical leave for six weeks.

The collectors took no time off.

Relatives and friends started receiving the ever-more demanding calls, she said. Collectors called her office almost every day, sometimes more than once, she said.

One collector showed up at her office pretending to be someone looking into her non-profit agency's services, Cordova said. She surmises the undercover collector was actually checking on whether she really was out sick.

World Finance began threatening her boss with a lawsuit for telling Cordova about the visit — claiming that violated client confidentiality.

Cordova said her boss was afraid of being sued.

"My boss had no choice," Cordova said. "I had to be fired."



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