

Judge orders lender to pay NM customers \$4.3 million

Company didn't use lawyers to file suits

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BY OLIVIER UYTTEBROUCK
JOURNAL STAFF WRITER

An Oklahoma-based lender must pay about \$4.3 million to more than 1,200 of its New Mexico customers, a district judge ruled in a class-action lawsuit filed on behalf of borrowers.

Courtesy Loans violated New Mexico law by using store employees — rather than attorneys — to file civil lawsuits against customers who defaulted on loans, 2nd Judicial District Court Judge Elaine Lujan ruled.

“The primary motive of Courtesy Loans in improperly using store employees to file lawsuits against borrowers was financial in nature — to save the company money,” Lujan wrote in her July 14 ruling.

Courtesy Loans, which has 10 locations in New Mexico, makes loans up to \$900 each at annual interest rates up to 175%, Lujan wrote.

New Mexico lawmakers this year passed a bill that will lower the annual interest rate cap charged by storefront lenders to 36% beginning Jan. 1. Gov. Michelle Lujan Grisham signed the bill into law in March.

Currently, title loans and other small loans can come with annual interest rates up to 175%.

An Albuquerque attorney who filed the suit on behalf of 1,254 Courtesy Loans customers said the practice of using non-attorneys to file suits has been used by other lenders as a cost-saving measure.

Attorney Richard Feferman said he filed two similar class-action suits against storefront lenders in 2011 and 2014. Both suits ended with the lenders paying settlements to borrowers, he said.

The suit against Courtesy Loans was filed in 2015. Judge Lujan held a bench trial in the case in May.

“Each of these cases have been a little different,” Feferman said Friday in a phone interview. “The fundamental problem is that they’re abusing the courts, and that they’re using the court system as their piggy bank.”

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Attorneys representing Courtesy Loans did not immediately return phone messages Friday requesting comment.

A phone message left on Friday for Tim Kester, who is identified in court records as the firm’s corporate representative and general manager, was not immediately returned.

Courtesy Loans filed more than 3,700 lawsuits statewide from 2011 to 2015 in magistrate and metro courts across New Mexico, according to court records.

Those suits typically were filed by store managers or other employees. Using non-lawyers to file those suits violated the New Mexico Unfair Practices Act, Lujan wrote.

“Courtesy Loans did not use attor-

neys to file its lawsuits because it cost more,” she wrote. “It was more cost effective to use store clerks to file lawsuits.”

She estimated that using store employees to file the claims saved the company about \$275 per lawsuit.

The company collected \$569,971 through garnishment or payment in 1,254 of those lawsuits. Lujan ordered Courtesy Loans to pay that amount in restitution to borrowers.

She also ruled that each class member is entitled to \$3,000 in damages — or a total of more than \$3.7 million — under the New Mexico Unfair Practices Act.

In 2019, former 2nd Judicial District Court Judge Clay Campbell prohibited Courtesy Loans from using non-lawyers to file lawsuits against borrowers,

court records show.

Feferman said store employees who filed the lawsuits often over-calculated the amount of money borrowers owed.

“They were asking for more money than they were entitled to,” Feferman said of store employees. For example, the suits often illegally demanded interest due over the life of the loan, even if the interest hadn’t been earned, he said.

Too often, the judgments were awarded routinely in a default judgment that received little scrutiny from a judge, he said.

Lenders “have a right to loan money,” Feferman said. “They have a right to collect if they’re not paid and they have a right to use the court system. They just have to do things the proper way.”