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Payday lenders sue more clients

By Scott Simonson

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Payday-loan customers in Tucson are learning that if they don't pay, they can expect to be sued.

Payday lenders increased the number of lawsuits they filed in Pima County Justice Court from about 15 per month in 2002 to a high of 66 a month in 2004.

They averaged 52 a month last year, and in January this year alone, they filed 135.

Interest and fees can accumulate quickly for customers who don't pay back their loans within the customary two-week borrowing period.

Angela Randolph of Tucson said she took out a \$500 loan in 2004 that she could not repay on time. After nine months and paying more than \$1,000 in fees and interest, Randolph still hadn't paid off much principal. The lender, Speedy Cash, sued her.

The court cases do not explain why more payday customers seem to be defaulting on their short-term, high-interest loans, in which they borrow up to \$500 against their next paycheck. A spokeswoman for one of the nation's largest payday loan companies said the rise in suits could be attributable to growth in the lender's business.

"The product is extremely popular, and demand is growing and growing and growing," said Patsy Alston, spokeswoman for Advance America, which has 11 locations in Tucson.

Kelly Griffith, deputy director of the Southwest

Center for Economic Integrity, which opposes payday lending, said that as time passes, people are finding that the loans postpone financial woes, but don't solve them.

"You get into spiraling debt," Griffith said. "You hit the wall. You can't do it anymore." For a customer who is sued, the cost of a payday loan increases. Customers who lose in court must pay legal fees and interest. Losing in court also can mean lenders take a bite out of an employee's paycheck by garnisheeing wages.

Advance America sues often

One of the companies that is suing customers most frequently is Advance America, which bills itself as the nation's largest provider of payday loans.

From 2002 through 2004, Advance America filed a total of three lawsuits in Pima County Justice Court, according to court records. Last month, the company filed about 90.

By the numbers

• Payday loan stores in Tucson, South Tucson and Green Valley. The figures don't include stores that have opened and closed.

2000: 10

2001: 29

2002: 52

2003: 63

2004: 99

2005: 124

2006: 124

Source: Arizona Department of Financial Institutions

• Lawsuits filed by Tucson-area payday lenders in Pima County Justice Court. (Year, number per year, average per month)

2002 186 15.5

2003 422 35.2

2004 800 66.7

2005 627 52.3

2006 1,620* 135

*January's total projected over 12 months.

Source: Pima County Superior Court Web site

Alston said she's not sure what explains the increase, but said the company prefers to work with customers to find ways to repay the loans. She added that more than 97 percent of customers pay their loans back on time.

"We do everything we can," Alston said. "We will negotiate payment plans."

Payday lenders usually go to court when people stop answering calls or letters about their loans, said Lee Miller, a lobbyist who represents Arizona Community Financial Services Association, the trade group for payday lenders.

"Court is only a recourse for those people who have broken communication with the company," Miller said. "If [lenders] cannot communicate with you at all, some companies view justice court as a chance to, as they say, kick it up a notch."

When lenders go to court, customers usually end up paying more to settle their debt. Last July, payday lender Quik Cash sued Tucsonan Katrina Wyzykowski, who didn't repay her loan of \$437.23.

Quik Cash won its suit, and Wyzykowski was required to pay about \$586.

The total included \$77.94 in fees, \$25 for a bounced check, and \$46 for Quik Cash's cost to file the suit and serve notice to the defendant. The judgment also assessed 10 percent annual interest.

Wyzykowski, who could not be reached for comment, also ended up losing a portion of her paycheck. Some suits, like hers, end with a payday lender obtaining a court order to garnishee wages.

Angela's sad story

Angela Randolph said she was 21 when she took out her first payday loan in 2003. She repaid that \$200 loan, and was subsequently approved for larger loans. In 2004, she took out a \$500 loan, but found that she couldn't pay it back while working 30 hours a week at \$7 an hour.

"It was irresponsible of me," she said in an interview. "Initially, if you don't have the money and you don't have the credit to get a normal loan, then maybe you shouldn't do it."

She went back to Speedy Cash every two weeks, and the company extended the term of the loan, but she could afford to pay only interest and fees. She took a second job, moved back home with her mother, and still couldn't pay off the loan.

After paying \$1,109.50 in fees and interest on the \$500 loan, Randolph stopped paying. That's when Speedy Cash sued.

"If I had known I was going to get sued, I would have asked to work out a payment plan," said Randolph, who works full-time and attends Pima Community College.

Consumer advocates like the Southwest Center for Economic Integrity say habitual users of payday loans often see their debts spiral out of control.

Griffith said escaping payday debt resembles exercise on a treadmill: constant effort, but no progress.

The center estimates that 60 percent of payday customers are women who are the heads of their households, often single mothers.

"The cost is really to children and families," she said.

Class-action counter

Randolph responded to Speedy Cash's suit by countersuing.

Her suit, filed in October, is a class-action case on behalf of customers of Speedy Cash. The suit claims the lender's customers have been overcharged for their loans by an estimated \$5 million during the past two years.

Calls to Speedy Cash's main Arizona office were referred to its corporate parent, Tiger Financial Management of Wichita, Kan. Representatives of Tiger Financial Management did not return calls seeking comment.

Randolph's lawyer, Gary Urman, said state laws allow payday lenders to charge a fee of 15 percent of the loan every two weeks — \$75 on a \$500 loan. But, Urman said, lenders calculate fees that impose an effective rate closer to 17.6 percent, based on their reading of state law.

"I think the statutes were not particularly well-crafted," Urman said. "It has led to the potential for abuse by these lenders, in terms of these fees that are charged."

The first challenge for Randolph is to prove she has the right to sue; Randolph and other Speedy Cash customers sign a form agreeing to waive their right to participate in a class action suit.

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