



Federal Trade Commission Protecting America's

Consumers 09/26/2013

FTC Files Amicus Brief Supporting Class Action Suit that Challenges Payday Lender's Arbitration Practices

The Federal Trade Commission filed an *amicus* brief in the U.S. Court of Appeals for the Seventh Circuit supporting a class action lawsuit brought by consumers who are challenging a payday lender's practice of [requiring them to submit to arbitration at a Native American reservation in South Dakota](#).

The FTC has an interest in the class action case because, in a separate action, the agency has sued the [payday lender, Payday Financial, LLC, for unfair and deceptive collection practices](#) in connection with its attempts to garnish consumers' pay checks. The agency expanded the case against Payday Financial to allege unfair and deceptive conduct associated with its practice of filing collection suits against consumers in the [Cheyenne River Sioux tribal court, which allegedly lacked jurisdiction](#). The case remains in litigation.

The *amicus* brief argues that although arbitration is not an issue in the FTC's case, the Commission's allegations are relevant to the issue raised in the class action case -- specifically, whether the defendants can legally compel consumers to submit to tribal arbitration.

"For the vast majority of consumers, who can little afford the expense, travel to the Reservation to participate in either arbitral or court proceedings is simply infeasible," the brief states.

The brief notes that as a general matter, Native American tribes and tribal courts have legal authority over their own members and not over non-members, unless non-members conduct activities inside the reservation or enter into a commercial relationship with the tribe or a member of the tribe. According to the brief, consumers who take out payday loans from these companies do so via the Internet, and they do not conduct business on the reservation.

To learn more about alternatives to payday loans, see [Payday loans](#).

The FTC vote to join the *amicus* brief filing was 4-0.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online [Complaint Assistant](#) or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 2,000 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's website provides [free information on a variety of consumer topics](#). Like the FTC on [Facebook](#), follow us on [Twitter](#), and [subscribe to press releases](#) for the latest FTC news and resources.

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Related Items:

[Deborah Jackson v. Payday Financial, LLC](#), No. 12-2617 (7th Cir.) (September 13, 2013)

Brief of the Federal Trade Commission in response to an invitation from the U.S. Court of Appeals for the Seventh Circuit to present the Commission's views. The brief explains that, although the FTC's separate litigation challenging defendants' practices inducing consumers into Tribal Court presents distinct issues, aspects of the defendants' conduct that make it unfair and deceptive under the FTC Act are relevant to whether the clause in the loan contracts requiring tribal arbitration of consumer claims is unconscionable.

For Consumers:

- [Payday Loans](#)
- [Online Payday Loans](#)
- [Video: Payday Lending](#)

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