

CANADA & WORLD

Hamilton lawsuit nets \$3m payday loan settlement

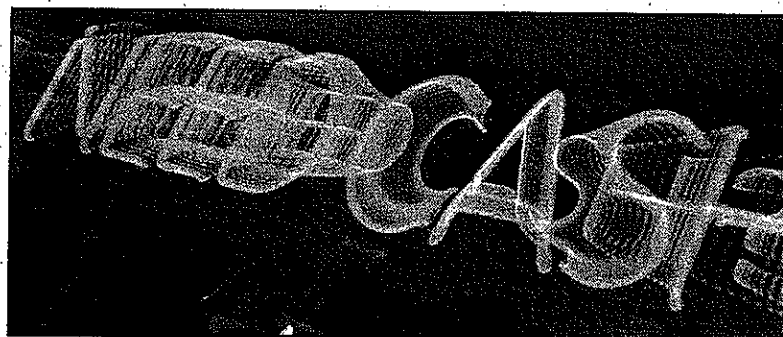
BY WADE HEMSWORTH

A class-action lawsuit that started after a Hamilton man paid thousands of dollars in interest and fees on a \$300 loan has ended with a settlement worth \$3 million.

Pending approval by the courts, The Cash Store Inc. will pay half the settlement in cash and half in transferable credit vouchers that can be applied against outstanding or future fees and interest.

If the courts approve the deal, the cash and credit will be split among members of the legal "class" — a group potentially composed of hundreds of thousands of Cash Store customers across Canada — with the exception of British Columbia and Alberta, where separate suits are still outstanding.

The settlement also requires The Cash Store to spend at least \$50,000 to create and provide materials on responsible borrowing



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and credit counselling through its locations.

The lawsuit is the second to be settled among several now working their way through the courts. The first involved a company now under The Cash Store's corporate umbrella.

The outstanding suits use the same basic legal argument: Lenders are charging more for loans than the maximum 60 per cent permitted under the Criminal Code.

The germ of the newly settled lawsuit was a loan to Hamilton's Thompson McCutcheon, who borrowed \$300 from a company store on Barton Street East five years ago.

When he couldn't pay back the loan right away, he rolled it over — or re-borrowed the money, plus fees and interest — at least 20 times.

He had become caught up in a cycle that saw him paying what the claim had asserted was an annual-

ized interest rate of 645 per cent, racking up thousands of dollars in costs for what was meant to be a short-term loan.

The suit was launched in 2004, months before the Canadian Payday Loan Association — of which The Cash Store was a member — adopted a no-rollover policy, a policy the company continues to uphold.

In all, there are about 1,300 payday loan outlets in Canada, which offer small, short-term loans designed to be paid back on the customer's next payday.

McCutcheon was the representative plaintiff in the case. That means his case was the example that Hamilton lawyer David Thompson — a class-action specialist — was using to establish that (the company's stated interest rate of 59 per cent (the highest allowed under the Criminal Code) should be taken in combination with its

other charges and fees to represent the true total cost of borrowing.

A statement from The Cash Store says the settlement does not equate to an admission of liability, and the company does not agree that its fees constitute a form of interest.

At the time the suit was launched in 2004, consumer advocates were hammering the payday loan industry and the federal and provincial governments for failing to rein in the lenders.

Since then, the federal government passed legislation giving the provinces greater power to curb the lenders.

Ontario introduced legislation last month to give it more authority over the lenders, though Thompson says it hardly goes far enough to give consumers the protection they need.

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