

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MADAM) FRIDAY, THE 20TH DAY
)
JUSTICE ALEXANDRA HOY) OF APRIL, 2007

B E T W E E N

MARGARET SMITH and RONALD ADRIEN ORIET

Plaintiffs

and

NATIONAL MONEY MART COMPANY and
DOLLAR FINANCIAL GROUP, INC.

Defendants

Proceeding Under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION and cross-motion brought by the plaintiffs and a motion and cross-motion brought by the defendants were heard on April 11, 2007 at the courthouse, 361 University Avenue, Toronto, Ontario.

ON READING the motion records, filed, including:

- (a) the motion record of the defendants regarding notice, containing the affidavit of Patti Smith, sworn March 4, 2007;

- (b) the motion and cross-motion record of the plaintiffs containing the affidavit of Margaret L. Waddell, sworn March 28, 2007;
- (c) the supplementary motion record of the plaintiffs; and
- (d) the cross-motion record of the defendants seeking to strike portions of the affidavit of Margaret L. Waddell.

AND ON HEARING the submissions and further submissions of counsel for the plaintiffs and counsel for the defendants,

1. THIS COURT ORDERS that the order dated January 5, 2007 certifying this action as a class proceeding (the "Order") be and is hereby amended as follows:
 - (a) the plaintiffs' revised litigation plan as of May 30, 2007, which is attached hereto as Schedule 1, shall be attached as Schedule 1 to the Order;
 - (b) paragraph 7 of the Order be and is hereby amended to add the following sentence at the end of the paragraph: "This approval of the plaintiffs' litigation plan does not impliedly endorse a cy-près distribution as appropriate in the circumstances.";
 - (c) the class definition in paragraph 2 of the Order be and is hereby amended to read as follows:

All persons who, in the period August 19, 1997 to September 9, 2007, received a Fast Cash Advance and/or a Payday Loan in Ontario that was payable either in cash on or before the borrower's next scheduled payday, being the day on which the borrower is scheduled to receive his or her salary, pension benefit, or any other regularly scheduled

payment or by cheque on the borrower's next scheduled payday, and was repaid by cheque on the borrower's next scheduled payday, payable to Money Mart or a franchisee of Money Mart.

(d) paragraph 8 of the Order be and is hereby amended to read as follows:

“THIS COURT ORDERS that a Class member may only opt out of this class action by, on or before 5:00 p.m. ET, March 9, 2008, sending a written election to opt out, signed by the Class member, addressed to “Crawford Class Action Services, Attention: Money Mart Class Action”, by pre-paid mail or courier, at Suite 3 – 505, 133 Weber St. N., Waterloo, ON, N2J 3G9; or by toll free fax to 1-888-842-1332; or by sending an email with the Class member's name, address, postal code, telephone number and birth date to moneymartclassaction@crowco.ca.”;

(e) paragraph 9 of the Order be and is hereby amended by removing the words “Howie & Partners” and replacing them with the words “Crawford Class Action Services”;

(f) paragraph 10 of the Order be and is hereby amended by removing the words “Sarkis Isaac of Howie & Partners” and replacing them with the words “Kerry Eaton of Crawford Class Action Services”; and

(g) common issues 1, 2, 3 and 13 in paragraph 6 of the Order be and are hereby amended to read as follows:

1. Have Money Mart and the Franchisees received interest in excess of an effective annual rate of 60%, when calculated in accordance with generally accepted actuarial practices and principles, on each Fast Cash Advance and Payday Loan in Ontario in the Class Period which was repaid by a cheque dated on the day after the due date specified in the Fast Cash Advance Agreement and Payday Loan Agreement?

2. Is each Fast Cash Advance Agreement and Payday Loan Agreement made in Ontario with a Class member in the Class Period void or invalid? If so, why?
3. Alternatively, are the provisions relating to interest, cheque cashing fees and item fees in each Fast Cash Advance Agreement and Payday Loan Agreement made in Ontario with a Class member in the Class Period invalid or void by reason of illegality? If not, what effective annual interest rate, if any, were Money Mart and the Franchisees entitled to charge on each such Fast Cash Advance and Payday Loan?
13. Should Money Mart, the Franchisees, Dollar Financial, their servants and agents and any other person having notice of the injunction be enjoined from charging or collecting interest, an item fee and a cheque cashing fee on any Fast Cash Advance and Payday Loan in Ontario which, in total, results in an effective annual interest rate of more than 60% at the time the Fast Cash Advance Agreement and Payday Loan Agreement was entered into?

2. THIS COURT ORDERS that, during the opt-out period, Crawford Class Action Services shall provide to Money Mart and plaintiffs' counsel, daily, Monday through Friday, except holidays, an up-to-date list of the names and addresses and copies of the opt-out forms of Class Members who have opted out and/or, Crawford Class Action Services shall give Money Mart and plaintiffs' counsel ongoing electronic access to an up-to-date list of the names and addresses and copies of the opt-out forms of Class Members who have opted out.
3. THIS COURT ORDERS that Money Mart may:
 - (a) determine from its records, including from the information provided to it by Crawford Class Action Services regarding daily opt-outs, whether an individual applying for a loan is a class member;
 - (b) ask an individual applying for a loan whether s/he obtained a payday loan prior to September 10, 2007; and

- (c) if an individual indicates that s/he did obtain a loan prior to September 10, 2007, ask whether the loan was repaid by cheque.
4. THIS COURT ORDERS that Money Mart shall not:
- (a) ask an individual applying for a loan whether s/he is a class member; or
 - (b) initiate communication with customers regarding the class action or the opt-out procedure until after the customer has applied for a loan and Money Mart has either declined to make the loan or made the loan.
5. THIS COURT ORDERS that for the purpose of this order “Notice” means the notice generally in the form of the notice attached as Schedule 2.
6. THIS COURT ORDERS that the class members shall be given notice of the certification order by the Notice being:
- (a) published by the plaintiffs, in the period September 10, 2007 to September 25, 2007, once, in a one-quarter page advertisement in the newspapers listed at Schedule 3, subject to publication deadlines;
 - (b) displayed on a sign prepared by Money Mart measuring at least two (2) feet horizontally by three (3) feet vertically and installed by Money Mart in a prominent location in each store in Ontario operated by Money Mart from September 10, 2007 until the close of business on March 9, 2008 (the “Notice Period”);

- (c) made available, on a single page sized 8 ½” by 11”, placed by Money Mart in the receptacle located at the bottom of each sign during the Notice Period;
 - (d) posted by Money Mart on its website at www.moneymart.com during the Notice Period;
 - (e) posted by plaintiffs’ counsel on the website at www.moneymartclassaction.com; and
 - (f) delivered by plaintiffs’ counsel to any person who requests it.
7. THIS COURT ORDERS Money Mart to direct its employees to ensure that the receptacle at the bottom of the sign in each store always contains a supply of Notices.
8. THIS COURT ORDERS that Money Mart may, but is not required to, make stamped or postage-paid envelopes, addressed to Crawford Class Action Services, Suite 3 – 505, 133 Weber St. N., Waterloo, ON, N2J 3G9, Attention: Money Mart Class Action, available in the receptacle located at the bottom of the sign displaying the Notice in each of its locations but Money Mart shall not cause or allow courier boxes to be placed in any of its stores or its franchisee stores to receive prepaid courier envelopes or arrange for the delivery or mailing of opt-out forms to Crawford Class Action Services.

9. THIS COURT ORDERS that Money Mart shall be responsible for producing and making available to class members at each store the Questions & Answers in the form attached as Schedule 4.

10. THIS COURT ORDERS that:

(a) Money Mart shall bear the costs of:

- (i) producing the signs;
- (ii) delivering the signs to each of its stores in Ontario;
- (iii) maintaining the signs;
- (iv) producing and providing adequate copies of the Notices;
- (v) providing stamped or postage-paid envelopes;
- (vi) producing and providing adequate copies of the Questions & Answers; and
- (vii) posting the Notice on its website www.moneymart.com; and

(b) the plaintiffs shall bear the costs of:

- (i) publishing the Notice in the newspapers;
- (ii) Crawford Class Action Services receiving the opt-out notices and reporting as required by paragraph 2;
- (iii) posting the Notice on the website at www.moneymartclassaction.com; and
- (iv) delivering the Notice to any person who requests it.

11. THIS COURT ORDERS that Money Mart shall:

- (a) restrict in-store communication by its employees with class members about why Money Mart has declined a loan, the class action and the opt-out procedure, to directing class members to the Notice and the Questions and Answers; and
- (b) take all reasonable steps to ensure that all in-store personnel are aware of and comply with the restrictions contained in this order.

12. THIS COURT ORDERS, for greater certainty, that:

- (a) Money Mart may advise as follows when directing the class member to the Notice and Questions & Answers:

“There is a Court order which prohibits me from speaking to you about the class action. I am required to direct you to this Notice and Questions & Answers sheet which contain information about the class action, and should answer any questions you have.”; and

- (b) If the class member asks for further information, Money Mart may respond as follows:

“I’m sorry but the Court prohibits me from speaking to you about this further. Please read the Notice and Questions & Answers sheet. If you still have questions, those documents indicate how you can get further information.”

13. THIS COURT ORDERS that whether the costs incurred by the plaintiffs in complying with subparagraph 10(b) of this order and the costs incurred by the defendants in complying with subparagraph 10(a) of this order should be

recovered as costs in the action is reserved to the judge at the common issues trial.

14. THIS COURT ORDERS that the defendants shall pay to the plaintiffs the costs of the defendants' cross-motion to strike portions of the affidavit of Margaret L. Waddell fixed in the amount of \$2,000.00.

15. THIS COURT ORDERS that, except as provided in paragraph 14, there shall be no order as to costs of the plaintiffs' motion and cross-motion and the defendants' motion.

478556

Alexander Key
JUSTICE

ENTERED AT WINDSOR	
In Book No.	18
re Document No.	1362
on	August 27 20 07
by	<i>[Signature]</i>

Schedule 1

PLAINTIFFS' REVISED LITIGATION PLAN
AS OF MAY 30, 2007

DEFINED TERMS

1. The defined terms used in this Plan include those found in the fresh amended statement of claim and the following defined terms:
 - (a) **“Business Records”** means records in print, electronic format or otherwise maintained in the usual and ordinary course of business;
 - (b) **“Computer Database”** means the database described in paragraph 33 created from the information extracted from Money Mart’s Business Records;
 - (c) **“Information”** means the information particularized in paragraph 7 which is stored in Money Mart’s Business Records;
 - (d) **“Interest”** means the definition of interest found in s. 347(2) of the *Criminal Code*;
 - (e) **“Notice”** means the form of notice approved by the court;
 - (f) **“Notice Program”** means the publication and distribution of the Notice to the **Class Members** in the manner described in paragraph 19;
 - (g) **“Total Interest”** means the total of all **Interest** charged and collected by **Money Mart** and the **Franchisees** from the **Class Members** pursuant to **Fast Cash Advances**;
 - (h) **“Unique Identifiers”** means address, date of birth, driver’s licence number and/or social insurance number;
 - (i) **“Website”** means <http://www.moneymartclassaction.com>.

CLASS COUNSEL

2. The plaintiffs’ counsel group is comprised of Sutts, Strosberg LLP, Paliare Roland Rosenberg Rothstein LLP, Koskie Minsky LLP and David Stratias (“Class Counsel”). Class Counsel have

the requisite knowledge, skill, experience, personnel and financial resources to prosecute this class action.

FAST CASH ADVANCES

3. Fast Cash Advances are loans that are payable either in cash, on or before the borrower's next scheduled payday, or by cheque on the borrower's next scheduled payday. This action concerns only the Fast Cash Advances made in Ontario by Money Mart and its Franchisees that were repaid by cheque on the borrower's next scheduled payday. Hereinafter, the use of the term Fast Cash Advance in this plan is intended to refer only to loans repaid in this manner. For greater certainty, no claim is asserted for any Fast Cash Advance repaid by a cheque that was not honoured. But, the court will be required to decide whether Money Mart is entitled to a set-off for any cheque drawn by a Class Member that was not honoured. The plaintiffs assert that Fast Cash Advance Agreements are void and there is no right of set-off.

FAST CASH ADVANCE CHARGES

4. The plaintiffs assert in the action that the three component charges of each Fast Cash Advance, namely, the interest charge, the cheque cashing fee and the item fee, are Interest.
5. From time to time, in unison, Money Mart and the Franchisees varied the cheque cashing fee percentage and the amount of the item fee for Fast Cash Advances as set out in the following chart.

EXHIBIT IN P. SMITH'S JUNE 5, 2006 AFFIDAVIT	DATE FEE INSTITUTED	CHEQUE CASHING FEE AS A PERCENTAGE OF THE LOAN AMOUNT PLUS THE DAILY INTEREST AT 59% PER YEAR	ITEM FEE
A	1997	2.9%	\$ 9.95
B	1998 and part of 1999	2.9%	\$ 9.95
C	later in 1999	2.9%	\$ 12.99
D	about the summer of 2000	2.99%	\$ 12.99
E	about late February, 2001	2.99%	\$ 12.99
F	about April, 2002	2.99%	\$ 14.99
G	February, 2003	2.99%	\$ 14.99
H	April, 2003	2.99%	\$ 14.99
I	November, 2003	4.99%	\$ 12.99
J	March, 2004	7.99%	\$ 9.99
K	August, 2004	7.99%	\$ 9.99
L	May, 2005	8.99%	\$ 7.99
M	November, 2005	13.99%	\$ 2.49
N	January, 2006	13.99%	\$ 2.49

MONEY MART'S BUSINESS RECORDS

6. Each person who made a Fast Cash Advance must have his or her Unique Identifiers entered into a computerized system which is part of Money Mart's Business Records. This information is available to and directly accessible by all Franchise stores and Money Mart stores.

7. The following information was entered into Money Mart's Business Records for each person who made a Fast Cash Advance in Ontario since August 19, 1997:
 - (a) name;
 - (b) address, date of birth, driver's license number and/or social insurance number;
 - (c) the date of the loan;
 - (d) the due date of the loan and the amount of the cheque given in repayment of the Fast Cash Advance; and
 - (e) for many of the transactions, the principal amount of each Fast Cash Advance.

THE COMPOSITION OF THE CLASS

8. The plaintiffs seek to represent a class defined as:

All persons who, in the period August 19, 1997 to September 9, 2007, received a Fast Cash Advance and/or a Payday Loan in Ontario that was payable either in cash on or before the borrower's next scheduled payday, being the day on which the borrower is scheduled to receive his or her salary, pension benefit, or any other regularly scheduled payment or by cheque on the borrower's next scheduled payday, and was repaid by cheque on the borrower's next scheduled payday, payable to Money Mart or a franchisee of Money Mart.

9. Just before the trial of the common issues, the plaintiffs will seek to amend the class definition to incorporate all other persons who, from the date of publication of the certification order to the date of judgment in the common issues trial, entered into Fast Cash Advance loan agreements in Ontario and repaid them by cheque on the borrower's next scheduled payday.

REPORTING AND COMMUNICATION

10. Class Counsel regularly report to the class through the Website and through a toll-free telephone number with a recorded message. The Website is updated regularly with information on the status of this action and copies of some of the court decisions. The toll-free telephone message is also regularly updated. The Website lists the telephone number for a person designated by Class Counsel to take calls concerning the class action.

SPECIFIC ORDERS FOR PRESERVATION AND PRODUCTION

11. Because of this action, the defendants must preserve and produce all relevant information and documents whether in electronic or paper form. If necessary, the plaintiffs will ask for a preservation order.

DOCUMENT HANDLING

12. Class Counsel will use data management systems to organize, code and manage the large number of documents that will likely be produced by the defendants.

LITIGATION SCHEDULE

13. After a decision on the certification motion, which is scheduled to begin on October 25, 2006, the plaintiffs will:
 - (a) ask the court to schedule the pending summary judgment motion;
 - (b) absent agreement among counsel, ask the court to set a schedule for the remaining steps in the action; and
 - (c) probably ask that the litigation schedule be amended from time to time.

MEDIATION

14. The plaintiffs will participate in mediation if the defendants are prepared to do so.

THE PLAINTIFFS' EXPERTS

15. The plaintiffs retained James E. (Jay) Jeffery, an actuary. He calculated the effective annual interest rate on the plaintiffs' Fast Cash Advances in accordance with generally accepted actuarial practices and principles. Also, he developed an algorithm which can be used to calculate the loan principal, if necessary, and the amount of Interest paid to Money Mart and/or the Franchisees by each Class Member on each Fast Cash Advance from certain information in Money Mart's Business Records. The algorithm depends on knowing the date of the loan, the due date of the loan, the amount of the cheque used to repay the loan, the three component charges that Money Mart charged in each Fast Cash Advance from time to time since August 19, 1997 when the class period begins or the date of the cheque used to repay the loan if the due date is unknown.

16. The plaintiffs retained Professor Jefim Efrim Boritz and Dennis Lee. They are experts in computer software. They expressed the opinion that computer program(s) are available, or can be written, to extract from the computerized system which is part of Money Mart's Business Records whatever information is stored therein regardless of the format Money Mart uses or used to store this information and the extracted information can be used in conjunction with an algorithm. The algorithm can be used to calculate the Interest for each Fast Cash Advance.

NOTICE OF CERTIFICATION OF THE ACTION AS A CLASS PROCEEDING AND THE OPT-OUT PROCEDURE

17. The plaintiffs propose that the Notice, inter alia, advise Class Members that:
 - (a) the court certified the action as a class proceeding;

- (b) a person may only opt out of the class proceeding by sending a written election to opt out to the recipient designated by the court before a date fixed by the court;
 - (c) no Class Member may opt out of this class proceeding after the date fixed by the court;
 - (d) the amount of Interest each Class Member paid to Money Mart and/or the Franchisees for each Fast Cash Advance will be calculated based on the computerized system which is part of Money Mart's Business Records and the Franchisees' Business Records;
 - (e) each Class Member will or may have the opportunity to review and, if necessary, provide information to correct his/her Interest calculations derived from the computer system which is part of those Business Records by accessing their personal lending information through the secure portion of the Website; and
 - (f) the calculation of the amount of Interest paid by each Class Member on each Fast Cash Advance based on Money Mart's and the Franchisees' Business Records may be used for the purposes of the common issues trial and/or the calculation of aggregate damages and/or the calculation of the individual damages of each Class Member.
18. The plaintiffs accept the defendants' proposal that Crawford Class Action Services receive the opt-out notices and report to the court the names and addresses of the persons who opt out in a manner provided by order dated April 20, 2007.
19. The plaintiffs propose the Notice be distributed and published in the following manner:
- (a) Class Counsel will:
 - (i) post the Notice on the Website; and
 - (ii) provide the Notice to any person who requests it.
 - (b) The Notice, in a size and format approved by the court, will be:

- (i) advertised by *Class Counsel* once in the “Pennysaver-like papers” or as the court directs;
- (ii) displayed in a prominent location in each store in Ontario operated by Money Mart until the expiration of the opt-out period;
- (iii) available at the front counter of each store in Ontario operated by Money Mart in sufficient quantities for each customer to take a Notice away until the expiration of the opt-out period; and
- (iv) posted in a prominent location on each defendant’s website.

20. The plaintiffs will ask the court to order that Money Mart and Dollar Financial implement and pay the costs of items (b)(ii) and (iii) of the Notice Program. The plaintiffs will ask that the balance of the costs of the Notice Program be paid by the plaintiffs in the first instance with the right reserved to the plaintiffs to seek the recovery of these costs from Money Mart and Dollar Financial by order of the judge presiding at the trial of the common issues.

DAMAGES ARE LIQUIDATED

21. The damages of each Class Member are liquidated.

THE EXTRACTION OF INFORMATION FROM MONEY MART’S BUSINESS RECORDS

22. The Class asserts that it is entitled to recover as damages the Total Interest which is the sum of Money Mart’s Fast Cash Advance revenue in the Class Period plus the Franchisees’ Fast Cash Advance revenue in the Class Period.

23. Money Mart's Business Records and/or Dollar Financial's Business Records record and calculate Money Mart's Canada-wide Fast Cash Advance revenue in each fiscal year and its Fast Cash Advance revenue generated in Ontario in the Class Period can be determined from this information.
24. Money Mart's and/or Dollar Financial's Business Records also record Money Mart's Canada-wide, Fast Cash Advances bad debts and bad debt recovery in each fiscal year during the Class Period.
25. The calculation of Money Mart's Fast Cash Advance revenue, bad debts and bad debt recovery in each fiscal year during the Class Period can be established without the necessity of the Class Members giving evidence.
26. The conclusion that Money Mart and Dollar Financial can provide particulars of Money Mart's annual Canada-wide Fast Cash Advances revenue from their Business Records is based upon:
 - (a) the admission by Mr. Gayhardt, Dollar Financial's president, that, in each fiscal year from 1997 to 2006, Money Mart's Fast Cash revenue, bad debt and debt recovery is calculated, recorded in Business Records and disclosed to the public as part of Dollar Financial's annual 10K filing; and
 - (b) Patti Smith's admission that since 2001, there has existed in Money Mart's Business Records a GL account in which the total interest, cheque cashing fee and per item fees relating to Fast Cash Advances which have been entered into by Money Mart is accumulated.

27. Money Mart also has in its possession information about the Franchisees' Fast Cash Advance revenue since September, 2000. It has some information about some of the Franchisees' Fast Cash Advance revenue before September, 2000.
28. The plaintiffs will seek an order requiring the Franchisees to produce the information in their Business Records about their Fast Cash Advance revenue in the Class Period which Money Mart does not produce.

FURTHER EXTRACTION OF INFORMATION: THE CREATION OF THE COMPUTER DATABASE

29. Whatever format Money Mart used and/or uses to store the Information, the Information necessary to use the algorithm to calculate the Interest can be extracted from the computerized system which is part of Money Mart's Business Records either by Money Mart or by the plaintiffs' computer expert(s).
30. After a decision on the certification motion, the plaintiffs will ask the court to order Money Mart and Dollar Financial to disclose the Information to Class Counsel in electronic format, or to make Money Mart's Business Records and Dollar Financial's Business Records available to the plaintiffs' expert(s) so that s/he can extract the Information for Class Counsel and establish or aid in establishing the Total Interest.

31. Once the Information is provided to Class Counsel, it will be used to determine or calculate for each Class Member the interest and the cheque cashing charges s/he paid Money Mart for each Fast Cash Advance.
32. The same process will be followed relating to any records of Franchisees' Fast Cash Advances that Money Mart has in its possession.
33. The plaintiffs' computer expert will create a Computer Database from the computer records which are part of Money Mart's Business Records and Dollar Financial's Business Records that link the name of each Class Member and her/his Unique Identifiers to the particulars of each Fast Cash Advance and each of the component charges paid on each Fast Cash Advance.
34. If necessary, the Computer Database will be supplemented by data obtained from the Franchisees.
35. Class Counsel will ensure that the Computer Database is hosted in a secure environment and accessible only through the secure section of the Website. Through the internet, each Class Member will be able to access his or her damage calculations by going to the Website and inputting, as an access code, one or more of her/his Unique Identifiers.
36. After a Class Member has reviewed her/his damage calculations on the Website, s/he can advise Class Counsel of any disagreement s/he may have with the information and/or calculations recorded in the Computer Database, and provide suggested changes with supporting documentation.

37. Class Counsel may conclude that the Computer Database must be amended in some respect for some Class Members or the Class Member may insist on such amendment. Any amendment to the Computer Database will be catalogued with the amendment clearly described and tracked.
38. Because Fast Cash revenue can be established from the Franchisees' and/or Money Mart's Business Records, the Computer Database will probably be used only for distribution purposes.

ASSESSMENT OF DAMAGES IN THE AGGREGATE

39. At the common issues trial, the plaintiffs intend to prove damages in the aggregate, in whole or in part, by introducing Money Mart's Business Records, Dollar Financial's Business Records and the Franchisees' Business Records which, together, will establish the Total Interest.
40. At the common issues trial, to prove the quantum of aggregate damages, that is, the Total Interest, the plaintiffs will rely upon:
 - (a) the revenue from Fast Cash Advances recorded in Money Mart's Business Records and Dollar Financial's Business Records; and, if necessary,
 - (b) the Franchisees' Business Records; and, if necessary,
 - (c) the Computer Database.
41. The plaintiffs will also argue, if necessary, that the Computer Database, derived from the computer records which are part of Money Mart's Business Records, Dollar Financial's Business Records and the Franchisee's Business Records, is admissible to prove aggregate

damages for part of the class or, alternatively, the damages of the individual Class Members listed in the Computer Database.

42. The defendants may assert that their Business Records are inaccurate or incomplete because, occasionally, some cheques that were not honoured, and were returned NSF were erroneously recorded in Money Mart's Business Records as payment for a Fast Cash Advance. At the common issues trial, the plaintiffs will argue that, regardless of this assertion, Money Mart's Business Records and/or the Computer Database is admissible. If Money Mart asserts there are errors in any Business Records, it must prove each error as part of the aggregate damages assessment process at the trial of the common issues.

PUNITIVE DAMAGES AND INTEREST

43. These amounts can be determined at the common issues trial.

RECOVERY BY THE CLASS MEMBERS

44. Each Class Member is entitled to be paid a share of the damages, including punitive damages, assessed against the defendants plus interest, less costs and expenses. A Class Member's share will be calculated by determining the amount of her/his individual claim and determining its percentage of the total of all the Class Members' claims.
45. An individual claim will be calculated as follows:

- (a) the amount s/he paid to Money Mart and/or its Franchisees as set out in the Computer Database for Interest, or part thereof; plus
- (b) if there is an assessment process, any further amounts s/he paid to Money Mart and/or the Franchisees for Interest on any other Fast Cash Advances not recorded in the Computer Database as established in the damages assessment procedure; less
- (c) any proper set-off or debt s/he owes to Money Mart and/or to the Franchisees unless the court concludes that Fast Cash Agreements are void or invalid in which case the defendants will not be entitled to any set-off.

THE INDIVIDUAL DAMAGES ASSESSMENT PROCEDURE

46. If the court at the certification motion does not decide that it should assess damages in the aggregate or if, at the trial of the common issues:
- (a) the court does not assess aggregate damages for part of the Class based on Money Mart's, Dollar Financial's and the Franchisee's Business Records; or
 - (b) does not conclude that the Computer Database is admissible,
- the plaintiffs propose that the court implement and oversee the following damages assessment procedure to assess the damages of the Class Members on an individual basis. If the court assesses aggregate damages for part of the class only, the following procedure must be implemented for the remainder of the class and/or for distribution.
47. The court will be asked to set a claims bar date and to:

- (a) appoint an administrator to implement and administer the damages assessment procedure and to make distributions to the Class Members under the direction of the court; and
- (b) appoint a referee or referees to review the administrator's eligibility decisions and/or the administrator's decisions on damages.

48. The damages assessment procedure shall, wherever practical, utilize a paperless, electronic state-of-the art web-based technology system.

49. The administrator will advertise the resolution of the common issues and the damages assessment procedure in a manner that the court directs.

50. If, at the trial of the common issues the court concludes that the Computer Database is *prima facie* proof of the damages of each Class Member identified therein, no Class Member may dispute the calculation of his/her damages recorded in the Computer Database and admitted at the common issues trial.

51. If the court makes the order referred to in the paragraph set out above, any Class Member whose name is listed in the Computer Database need not file a claim relating to any Fast Cash Advance listed in the Computer Database.

52. In the alternative, if, at the trial of the common issues the court concludes that the Computer Database is not *prima facie* proof of the damages of each Class Member identified therein, the plaintiffs will ask that a special order of admissibility be made for the Computer Database

pursuant to s. 25(3)(b) of the *Class Proceedings Act*. If the court makes this order, no Class Member may dispute the calculation of his/her damages recorded in the Computer Database and admitted at the common issues trial and any Class Member whose name is listed in the Computer Database need not file a claim relating to any Fast Cash Advance listed in the Computer Database.

53. In the further alternative, if, at the trial of the common issues the court does not make a special order of admissibility for the Computer Database pursuant to s. 25(3)(b), then, the court should require each Class Member to submit a claim before the claims bar date seeking payment of the Interest s/he paid to Money Mart and/or to the Franchisees.
54. If a Class Member asserts damages for Fast Cash Advances not recorded in the Computer Database, or asserts entitlement to be a Class Member although not recorded in the Computer Database, or asserts entitlement in the damages assessment procedure because the Computer Database is not relied upon, s/he must advise the administrator of the claim and provide the administrator with supporting documentation before the claims bar date.
55. Any person required to file a claim who does not file a claim before the claims bar date will not be eligible to participate in the damages assessment procedure and, if the Computer Database is admitted, will not be entitled to recover any damages unless identified in the Computer Database.

56. After assembly of all claims relating to eligibility and/or all Fast Cash Advances which must be considered individually, the administrator shall provide this information electronically to Money Mart and Dollar Financial who shall have 30 days to respond.
57. If the court has not declared that Fast Cash Advance Agreements are void or illegal, Money Mart and Dollar Financial may claim a set off or other defence in respect of a Fast Cash Advance recorded in the Computer Database, which has not been dealt with at the common issues trial, or dispute a claimant's eligibility, or amount claimed, and they must provide particulars and supporting documents to the administrator by a date fixed by the court. The Administrator shall provide the information to the claimant/Class Member who shall have 30 days to respond.
58. The Administrator shall provide the claimant/Class Member's responding material to Money Mart and Dollar Financial who shall have 10 days for any reply.
59. After receipt of all material or the expiration of the relevant time periods, the administrator shall consider the information and submissions provided by the claimant/Class Member, Money Mart and/or Dollar Financial and provide reasons for its decision on eligibility and/or the amount, if any, owed to the Class Member.
60. If the claimant/Class Member, Money Mart or Dollar Financial disagrees with the administrator's decision, within a time period fixed by the court, s/he/it may elect to have the administrator's decision reviewed by the referee.

REFEREE

61. The referee will carry out the review of the Administrator's decision in the least expensive, most summary manner possible. The referee's decisions will be final. There shall be no right of appeal from the referee's decision.

THE ADMINISTRATOR'S REPORT TO COURT

62. As soon as practicable after all references are complete, the administrator shall report to the court, by motion, the name, address, amount owing to each eligible Class Member and the basis of this calculation.
63. The court will review the administrator's report and decide what amount is payable by Money Mart and Dollar Financial to the class in addition to the amounts, if any, found owing at the common issues trial.
64. The plaintiffs will take collection proceedings against Money Mart and Dollar Financial if the judgment is not paid voluntarily.
65. The court will decide whether or not to authorize the administrator to distribute to the eligible Class Members. No distribution shall be made by the administrator unless authorized by the court. The court may authorize interim distributions.

66. If the total amount to be paid to eligible Class Members exceeds the amount available for distribution, the payments to each eligible Class Member will be reduced pro rata.
67. If the total amount available for distribution to eligible Class Members is not fully disbursed to the Class Members within a period of time fixed by the court, the unpaid amount shall be distributed by the administrator, for the general benefit of the Class Members, cy-près, for consumer credit education and protection programs or otherwise to designated recipients in Ontario in such manner and on such terms as the court may direct.
68. After the administrator makes its final distribution, it shall report to the court and be discharged as the administrator.

ORDERS RELATING TO CLASS COUNSEL'S FEES, THE COSTS OF ADMINISTRATION AND LEVY OF THE CLASS PROCEEDINGS FUND

69. After the trial of the common issues, the plaintiffs will ask the court to approve an agreement respecting fees and disbursements between the plaintiffs and Class Counsel. To the extent that the approved Class Counsel fees, disbursements and GST are not completely paid by the costs recovered from the defendants, the plaintiffs will ask the court to order that the unpaid balance be a first charge on the total recovery.
70. The plaintiffs will ask the court to order that the defendants pay all administration costs, including the costs of all notices associated with the process and the fees of the Administrator and referees. If the court does not so order, the plaintiffs will seek an order that these costs be

paid out of the total recovery after payment of Class Counsel's fees and disbursements but before any distribution to the eligible Class Members.

71. The Class Proceedings Fund has agreed to provide funding for this action. Therefore, it is entitled to receive 10% of the recovery plus certain expenses after payment of Class Counsel Fees, disbursements and applicable taxes and the costs of recovery. The court will be asked to make an order authorizing payment to the Class Proceedings Fund after payment to Class Counsel but prior to any distribution to eligible Class Members.

FURTHER ORDERS CONCERNING THIS PLAN

72. If approved at the certification motion, this plan may be amended from time to time by directions given at case conferences or by further order of the court.

NOTICE TO MONEY MART CUSTOMERS WHO MADE A FAST CASH ADVANCE OR PAYDAY LOAN IN ONTARIO IN THE PERIOD AUGUST 19, 1997 TO SEPTEMBER 9, 2007.

Read this notice carefully as it may affect your rights.

This notice was approved by The Honourable Madam Justice Alexandra Hoy of the Ontario Superior Court of Justice.

THE CLASS ACTION

This notice is directed to all persons who received a Fast Cash Advance or a Payday Loan from a Money Mart store in Ontario in the period August 19, 1997 to September 9, 2007 and repaid it by cheque on the borrower's next scheduled payday.

The class action seeks, among other things, an order requiring Money Mart and its parent company, Dollar Financial Group, Inc., to refund all interest and other fees charged on certain Fast Cash Advances and Payday Loans in Ontario repaid by cheque on the borrower's next scheduled payday on the basis that such fees and interest breach s. 347 of the Criminal Code of Canada.

The defendants have brought a counterclaim in the action against class members who owe money to Money Mart with respect to any transaction and seek a judgment and/or set off against them.

THE CERTIFICATION ORDER

On January 5, 2007, Madam Justice Hoy certified the action Smith v. National Money Mart Company, Court File No. 03-CV-1275, as a class action and appointed Margaret Smith and Ronald Adrien Oriet as representative plaintiffs of the class defined as:

All persons who, in the period August 19, 1997 to September 9, 2007, received a Fast Cash Advance and/or Payday Loan from Money Mart in Ontario that was repaid by cheque on the borrower's next scheduled payday.

If you are a member of the class, your rights will be affected.

Each member of the class who does not opt out of the class action will be bound by the terms of any judgment or settlement in the class action, including any judgment or settlement with respect to the counterclaim. If the class action is successful, he or she may be entitled to share in the amount of any award or settlement recovered. However, a class member may not receive any money if the amount he or she is entitled to recover is less than the amount of money that he or she owes the defendants as a result of the counterclaim.

This notice is a summary of the terms of the certification order and the further April 20, 2007 court order. If there is any conflict between the provisions of this notice and the terms of those orders, those orders shall prevail.

LEGAL FEES AND DISBURSEMENTS

Counsel have entered into an agreement with the representative plaintiffs with respect to legal fees and disbursements. The agreement provides that counsel will not receive payment for their work unless the class action is successful or costs are received from the defendants. The agreement, which must be approved by the court to be effective, provides for a contingency fee of at least one-third of the amount recovered in the class action.

The plaintiffs have received financial support from the Class Proceedings Fund. As a result, if the class action is successful, the Class Proceedings Fund is entitled to 10% of any monetary award or settlement plus the amount of any financial support it paid to the plaintiffs.

ADDITIONAL INFORMATION

Any questions about the matters in this notice should **NOT** be directed to the court because its administrative structure is not designed to address this type of inquiry.

The certification order, the April 20, 2007 order and other information are available on the web site at www.moneymartclassaction.com or may be obtained by calling 800.229.5323. Requests for information or questions for counsel should be directed to:

Harvey T. Strosberg, Q.C.
Sutts, Strosberg LLP
600-251 Goyeau Street
Windsor ON N9A 6V4

Tel: 1.800.229.5323 (toll free)
Fax: 1.866.316.5308 (toll free)

E-mail: moneymartclassaction@strosbergco.com

DO NOTHING IF YOU WISH TO PARTICIPATE IN THE CLASS ACTION

Class members who wish to participate in the class action need not do anything at this time. They are automatically included in the class action.

YOU MUST OPT OUT IF YOU DO NOT WISH TO PARTICIPATE IN THE CLASS ACTION

Money Mart may choose not to make a Payday Loan to class members who participate in the class action.

Members of the class who do not wish to participate in the class action must opt out of the class action. If you wish to opt out of the class action, send the opt-out form at the bottom of this notice or obtain an opt-out form from any Money Mart location, from www.moneymart.ca, from counsel listed above or from www.moneymartclassaction.com. **You must send the signed opt-out form to "Crawford Class Action Services, Attention: Money Mart Class Action", by pre-paid mail or courier, at Suite 3 - 505, 133 Weber St. N., Waterloo, ON, N2J 3G9; or by toll free fax to 1-888-842-1332. Or send an email to moneymartclassaction@crawco.ca with your name, address, postal code, telephone number and birthdate.**

A class member who opts out of the class action will not be entitled to participate in the class action. His or her right to pursue a claim in a separate proceeding will not be affected.

No class member will be permitted to opt out of the class action after March 9, 2008 at 5:00 ET.

OPT-OUT FORM

I do not want to be included in the class action against Money Mart and Dollar Financial. I want to opt out (be excluded from) this class action. My information is as follows:

Print Name: _____

Postal Code: _____

Date of birth: _____

Telephone: _____

Address: _____

Email address: _____

City: _____

Date: _____

Province: _____

Signature: _____

Schedule 3

Location	Publication
Ad*reach publications	
Ajax	Ajax/Pickering News Advertiser
Barrie	Barrie Advance
Bolton	Caledon Enterprise
Brampton	Brampton Guardian
Brockville	Brockville-St. Lawrence EMC
Burlington	Burlington Post
Cambridge	Cambridge Times
Cobourg	Northumberland News
Cornwall	Cornwall Seaway News
Courtice	Clarington Canadian Statesman
Etobicoke	Etobicoke Guardian
Fort Erie	Fort Erie Times
Georgetown	Georgetown/Acton Independent
Hamilton	Mountain News, Dundas Star News, Ancaster News, Stoney Creek News
Kanata	Kanata Kourier
Kingston	This Week
Lindsay	Kawartha Lakes This Week
London	The Londoner
Markham	Markham Economist & Sun
Milton	Halton Compass
Mississauga	Mississauga News
Nepean	Nepean This Week
Newmarket	Newmarket/Aurora Era-Banner
Niagara Falls	Niagara This Week
North York	North York Mirror
Oakville	Oakville Beaver
Orangeville	Orangeville Banner
Orillia	Orillia Today
Oshawa/Whitby	Oshawa/Whitby This Week
Peterborough	Peterborough This Week
Richmond Hill	Richmond Hill/Thornhill Liberal
Sault Ste. Marie	Sault Ste. Marie This Week
Scarborough	Scarborough Mirror
Stratford	Inside Stratford/Perth
Sudbury	Sudbury Northern Life
Thunder Bay	Thunder Bay's Source
Timmins	Timmins Times
Toronto	Toronto Downtown Bulletin
	York Guardian
	East York/Riverdale/Beach Mirror
	City Centre Moment
	Bloor West Villager/Annex Guardian
Vaughan	Vaughan Citizen
Waterloo	Waterloo Chronicle

Schedule 3

Location	Publication
Ontario Weekly Shoppers	
Belleville	Belleville Shopper's Market
Brantford	Brantford Pennysaver
Chatham	Chatham Pennysaver
Guelph	Guelph Pennysaver
Kitchener/Waterloo	K-W Pennysaver
Leamington	Leamington Shopper
Ottawa	Ottawa Pennysaver
Sarnia	Lambton County Smart Shopper
Simcoe	Lakeshore Shopper (Tillsonburg)
St. Thomas	Elgin County Market
Windsor	Windsor Pennysaver
Woodstock	Oxford Shopping News
Independent publications	
North Bay	North Bay Nugget (daily)
Pembroke	The News (bi-weekly advertiser)
St. Catharines	St. Catharines Standard (daily)
Trenton	Trentonian
Welland	Welland Tribune (daily)

Questions & Answers Regarding the "Money Mart Class Action"

Read these Questions & Answers to help you understand what the class action is about and decide if you want to be part of it.

If you have been refused a Payday Loan and referred to this Question & Answers Sheet, it is because you are part of the Money Mart class action.

1. What is the class action about?

The class action is a lawsuit to get Money Mart to give back all interest and fees class members paid to it for Fast Cash Advances and Payday Loans repaid by cheque.

2. Why?

The class action claims that the total of the fees and interest Money Mart received is illegal because, if the fees charged are included in the interest calculation, the rate of interest is more than the maximum of 60% per year permitted by law. The court has not yet decided if the fees and interest received are illegal.

3. Am I a class member?

You are a class member and part of the class action if you took out a Fast Cash Advance or Payday Loan between August 19, 1997 and September 9, 2007 and repaid it by cheque.

4. If the class action is successful at trial, what could I receive?

You could get back the total of the interest and fees that you paid, plus interest, less your share of expenses.

5. When would I get it?

If the class action goes to trial, it could be several years. If it settles, it would be sooner. Most class actions settle, but for less than the full amount claimed.

6. If the class action is successful, is it possible that I could receive no money?

Yes. If the amount of money you are entitled to recover is less than the amount of money that you owe Money Mart because, for example, you have bounced a cheque and not made good on it, you may not receive any money.

7. What if the class action is unsuccessful?

You will receive nothing and you will not pay any lawyers' costs. But if you owe Money Mart money, it may obtain a judgment against you.

8. Why have I been refused a Payday Loan?

If you have been refused a Payday Loan and referred to this Questions & Answers sheet, it is because you are a class member suing Money Mart in the lawsuit. Money Mart believes that the fees it charges are not against the law and

are reasonable. It does not want to make more loans to people who are suing it about these kinds of loans, and does not have to.

9. Can I get a Payday Loan today?

Yes. If you are an eligible customer and Money Mart has refused to give you a loan because you are part of the class action, it will give you a loan if you stop being part of the class action. Question 11 on this sheet tells you how to stop being part of the class action. Tell the Money Mart clerk that you have done so.

10. If I want to be part of the class action, do I have to do anything?

Do nothing if you want to be part of the class action.

11. If I do not want to be part of the class action, what must I do?

On or before **March 9, 2008**, complete and mail the opt-out form in the pocket of the large Notice sign to

Crawford Class Action Services, Attention: Money Mart Class Action, Suite 3 – 505, 133 Weber St. N., Waterloo, ON, N2J 3G9. Stamped, addressed envelopes are available in the pocket of the Notice sign. The nearest mailbox is at

Or, on or before **March 9, 2008**, fax the form to 1-888-842-1332.

Or, on or before **March 9, 2008**, send an email, with your name, address, postal code, telephone number and birthdate, stating that you do not want to be part of the class action, to moneymartclassaction@crowco.ca.

12. What if I want to be part of the class action and need a payday loan?

If Money Mart has refused to give you a loan because you are part of the class action, you may go to a payday lender other than Money Mart.

13. How do I get further information?

Money Mart's employees cannot discuss the class action with you. They can only direct you to this Questions & Answers and the Notice in this store.

Read the Notice.

If you want more information:

go to the website www.moneymartclassaction.com

or call toll free 1.800.229.5323

or fax toll free 1.866.316.5308

or email moneymartclassaction@strosbergco.com

or write Sutts, Strosberg LLP
600-251 Goyeau Street,
Windsor, ON, N9A 6V4.

MARGARET SMITH et al.

vs. NATIONAL MONEY MART
COMPANY et al.

Plaintiffs

Defendants

Court File No. 03-CV-1275

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT WINDSOR

Proceeding Under the *Class Proceedings Act, 1992*

ORDER

SUTTS, STROSBURG LLP

Lawyers

600 Westcourt Place

251 Goyeau Street

Windsor ON N9A 6V4

HARVEY T. STROSBURG, Q.C.

Tel: (519) 561-6228

Fax: (519) 561-6203

LSUC #126400

SOLICITORS FOR THE PLAINTIFFS

FILE: 73-107-000

REF: HTS/ba

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MADAM)
)
JUSTICE ALEXANDRA HOY) FRIDAY, THE 5TH DAY
) OF JANUARY, 2007

BETWEEN

MARGARET SMITH and RONALD ADRIEN ORIET

Plaintiffs

and

NATIONAL MONEY MART COMPANY
and DOLLAR FINANCIAL GROUP, INC.

Defendants

Proceeding Under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the plaintiffs for certification of the action as a class proceeding, was heard on October 25, 26 and 27, 2006 at Toronto, Ontario.

ON READING the motion record, filed, including:

- (a) the motion record of the plaintiffs containing, among others, the following:
 - (i) the affidavits of Margaret Smith sworn February 25, 2004 and June 18, 2004 and the transcript of her cross-examination on October 25, 2004;

Amended August 22 2007 pursuant to the Order of the
 Honourable Mr./Madam Justice A. Hoy
 dated: April 20 2007
 Book #: 18 Doc. #: 1362
 Registrar at Windsor, per: Marilyn Morgan

- (ii) the affidavits of Ronald Adrien Oriet sworn June 4, 2004 and December 15, 2005 and the transcript of his cross-examination on October 25, 2004;
 - (iii) the affidavits of Jasminka Kalajdzic sworn February 25, 2004, June 8, 2004, December 19, 2005 and September 6, 2006 and the transcript of her cross-examination on October 25, 2004;
 - (iv) the affidavits of James Jeffery sworn February 25, 2004, December 14, 2005 and August 10, 2006;
 - (v) the transcripts of the cross-examinations of Donald F. Gayhardt on October 13, 2004 and October 20, 2006;
 - (vi) the transcripts of the cross-examinations of Patti Smith on October 27, 2004 and October 4, 2006 and her answers to written questions;
 - (vii) the affidavit of Dennis Lee sworn August 11, 2006;
 - (viii) the affidavit of Efrim Boritz sworn August 11, 2006;
 - (ix) the transcript of the cross-examination of Peter Gorham on September 27, 2006; and
 - (x) Dollar Financial Group Inc.'s Form 10-K for the periods June 30, 2002 to June 30, 2006;
- (b) the motion record of National Money Mart Company ("Money Mart") containing, among others, the following:
- (i) the affidavits of Patti Smith sworn May 3, 2004, August 4, 2004, August 11, 2004, June 5, 2006, September 20, 2006 and October 17, 2006; and

- (ii) the affidavits of Peter Gorham sworn June 21, 2006 and September 22, 2006;
- (c) the motion record of Dollar Financial Group Inc. ("Dollar Financial") containing, among others, the following:
 - (i) the affidavit of Donald Gayhardt sworn May 3, 2004, August 17, 2004 and October 18, 2006;
 - (ii) the affidavit of Steven Bainbridge sworn August 18, 2004; and
 - (iii) answers to undertakings given by Donald Gayhardt;
- (d) the order dated October 19, 2006 dismissing this action against 722906 Ontario Limited, Jenica Holdings Ltd., 764815 Ontario Inc., 204772 Ontario Inc., Kilduff Investments Ltd., Canadian Capital Corporation, 931669 Ontario Limited and 1556911 Ontario Ltd. (together, the "Franchisees"); and
- (e) the order dated October 19, 2006 which records that the Franchisees have undertaken to be bound by certain declarations made in this action.

ON HEARING the submissions of counsel for the plaintiffs and counsel for Money Mart and Dollar Financial,

1. THIS COURT ORDERS that this action be and is hereby certified as a class proceeding.
2. THIS COURT ORDERS that the Class is defined as:

All persons who, in the period August 19, 1997 to the date of the publication of the certification order, received a Fast Cash Advance in Ontario that was payable either in cash on or before the borrower's next scheduled payday, being the day on which the borrower is scheduled to receive his or her salary, pension benefit, or any other regularly scheduled payment or by cheque on the borrower's next scheduled payday, and was repaid by cheque on the borrower's next scheduled payday, payable to Money Mart or a Franchisee.

3. THIS COURT DECLARES that Margaret Smith and Ronald Adrien Oriet be and are hereby appointed as the representative plaintiffs.

4. THIS COURT DECLARES that the causes of action asserted on behalf of the Class are declarations, the tort of conspiracy and unjust enrichment.

5. THIS COURT DECLARES that the relief sought by the Class is that claimed in subparagraphs 2(b) to (u) of the Further Fresh Amended Statement of Claim.

6. THIS COURT DECLARES that the common issues for the Class are:

1. Have Money Mart and the Franchisees received interest in excess of an effective annual rate of 60%, when calculated in accordance with generally accepted actuarial practices and principles, on each Fast Cash Advance in Ontario in the Class Period which was repaid by a cheque dated on the day after the due date specified in the Fast Cash Advance Agreement?

2. Is each Fast Cash Advance Agreement made in Ontario with a Class member in the Class Period void or invalid? If so, why?

3. Alternatively, are the provisions relating to interest, cheque cashing fees and item fees in each Fast Cash Advance Agreement made in Ontario with a Class member in the Class Period invalid or void by reason of illegality? If not, what effective annual interest rate, if any, were Money Mart and the Franchisees entitled to charge on each such Fast Cash Advance?

4(a). If the answers to common issues 1 and 2 or 3 are yes, was Money Mart unjustly enriched when it directly received a percentage of the franchise fees from the Franchisees and/or the illegal interest from the Class Members?

4(b). If the answer to 4(a) is yes, is Money Mart a constructive trustee holding a percentage of the franchise fees it received from the Franchisees and/or the illegal interest it received for the benefit of the Class members? What amount is held by Money Mart in the constructive trust?

5(a). If the answers to common issues 1 and 2 or 3 are yes, was Dollar Financial unjustly enriched when it received a percentage of the royalty payments from Money Mart?

5(b). If the answer to 5(a) is yes, is Dollar Financial a constructive trustee holding a percentage of the royalty payments for the benefit of the Class members? What amount is held by Dollar Financial in the constructive trust?

6. Is Money Mart and/or Dollar Financial required to account to the Class? If so, why and how?

7. Have Money Mart, Dollar Financial and the Franchisees conspired one with the other? If so, who conspired with whom, when, where, why and for what purpose?

8. Is Dollar Financial vicariously liable or otherwise responsible for the acts of its subsidiary Money Mart? If so, why?

9. Is Money Mart and/or Dollar Financial liable to pay damages to the Class? If so, why and in what amount?

10. What is the amount of the Total Interest?

11. Should the court assess damages in the aggregate, in whole or in part, for the Class? If so, what is the amount of the aggregate damage assessment and who should pay it to the Class?

12. Should Money Mart and/or Dollar Financial pay punitive damages to the Class? If so, who, why, in what amount and to whom?

13. Should Money Mart, the Franchisees, Dollar Financial, their servants and agents and any other person having notice of the injunction be enjoined from charging or collecting interest, an item fee and a cheque cashing fee on any Fast Cash Advance in Ontario which, in total, results in an effective annual interest rate of more than 60% at the time the Fast Cash Advance Agreement was entered into?

14. Should Money Mart and/or Dollar Financial pay prejudgment and postjudgment interest, at what annual interest rate, and should the interest be simple or compound interest?

7. THIS COURT ORDERS that the plaintiffs' litigation plan be and is hereby approved in the form attached as Schedule 1 to this order.

8. THIS COURT ORDERS that a Class member may only opt out of this class action by, on or before 5:00 p.m. ET, on a date to be fixed by further order of this court, sending a written election to opt out, signed by the Class member, addressed to Howie & Partners, Chartered Accountants, by pre-paid mail or courier, at 3036 Walker Road, Windsor, Ontario, Canada N8W 3R4, Attention: Money Mart Class Action; or by fax to 519.250.1929; or by email to sarkis.isaac@howieca.com.

9. THIS COURT ORDERS that no Class member may opt out of this class action unless the written election to opt out is received by Howie & Partners on or before 5:00 p.m. ET, on the date fixed by further order of this court.

10. THIS COURT ORDERS that, after the expiration of the opt out period, Sarkis Isaac of Howie & Partners shall report to Madam Justice Hoy, or such other judge of the Superior Court assigned by the Regional Senior Justice for such purposes, by affidavit and advise as to the names and addresses of those persons, if any, who have opted out of this class action.

11. THIS COURT ORDERS that the form of the notice and the manner of giving notice of this certification order will be dealt with by further order of this court.

12. THIS COURT ORDERS that, if the plaintiffs are successful at the trial of the common issues or on a motion for summary judgment, the presiding judge may consider whether:

- (a) Money Mart and/or Dollar Financial shall pay the costs of administering and distributing any recovery and, if so, who should pay what amount and why; and
- (b) the participation of individual Class members is required to determine individual issues and whether:
 - (i) any directions are necessary;
 - (ii) any special procedural steps need be authorized; and
 - (iii) any special rules relating to admission of evidence and means of proof need be ordered.

13. THIS COURT ORDERS that the parties shall make costs submissions in writing in accordance with a timetable to be agreed by them or they may request a case conference to address the process to decide the issue of costs of this motion.

Let this order issue on the above terms.

Alexandra He

JUSTICE

437269

ENTERED AT WINDSOR	
In Book No.	<i>18</i>
re Document No.	<i>268</i>
on	FEB 09 2007
by	<i>R</i>

MARGARET SMITH et al.

vs. NATIONAL MONEY MART
COMPANY et al.

Plaintiffs

Defendants

Court File No. 03-CV-1275

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT WINDSOR

Proceeding Under the *Class Proceedings Act, 1992*

ORDER

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Windsor ON N9A 6V4

HARVEY T. STROSBURG, Q.C.

Tel: (519) 561-6228
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LSUC #126400

SOLICITORS FOR THE PLAINTIFFS

FILE: 73-107-000
REF: HTS/ba