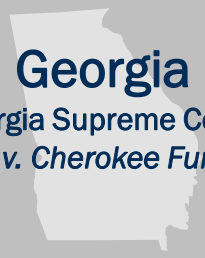
Major Court Rulings: Consumer Legal Funding Is Not A Loan

In 2018, Georgia and New York courts issued major rulings reaffirming that consumer legal funding is not a loan. Below are the key takeaways.

OCTOBER 2018



Georgia

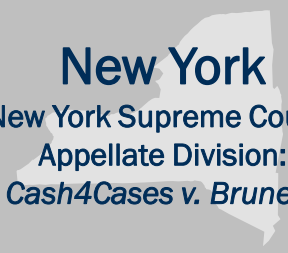
Georgia Supreme Court:
Ruth v. Cherokee Funding

"The provision of funds under an agreement that imposes only an uncertain and contingent repayment obligation is not a 'loan'... such a transaction is better characterized as an 'investment contract.'"
–Georgia Supreme Court

The Takeaway:

- In consumer legal funding, the obligation to repay the advanced funds is "uncertain and contingent."
- Why? Because the outcomes of lawsuits aren't certain, and whether or not a consumer must repay the funder depends on whether or not they win their case.

DECEMBER 2018



New York

New York Supreme Court, Appellate Division:
Cash4Cases v. Brunetti

"Assignment agreements such as the agreement at issue here are not loans, because the repayment of principal is entirely contingent on the success of the underlying lawsuit."
–New York Supreme Court, Appellate Division, First Judicial Department

The Takeaway:

- In a loan, the "principal," or the amount advanced, is collateralized, and loans must always be repaid.
- Consumers only have to pay back a pre-settlement advance if they win their case. There's no impact on their credit and no collateral required to receive funds.

Why It Matters To Policymakers

Regulating consumer legal funding as if it were a loan would significantly reduce or eliminate access to this resource, particularly for credit-challenged consumers.

Loans require credit and collateral that many consumers don't have. Consumers qualify for legal funding based on the merits of their case, not their credit history.

ALFA supports comprehensive regulation of the consumer legal funding industry. We are committed to working with policymakers to protect consumers and preserve access to pre-settlement advances, which help level the playing field in our justice system.