



# FEDERAL TRADE COMMISSION

## Recent FTC Actions Involving Payday Lending

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# FTC Authority over Payday Lenders

- Enforcement of the FTC Act, which prohibits unfair or deceptive acts or practices
  
- Enforcement of other statutes and rules
  - Fair Debt Collection Practices Act
  - Truth In Lending Act
  - Electronic Fund Transfer Act



# Lakota Cash: Defendants' Practices

As alleged in the FTC's complaint:

- Violations during lending
  - Used a wage assignment clause
  - Conditioned credit on preauthorized EFTs
- Violations during collections
  - Misrepresented authority to garnish
  - Misrepresented notifying consumers
  - Unfairly disclosed debt to third parties



# Lakota Cash: Defendants' Practices

## Defendant's Wage Garnishment Letter

“One of your employees has been identified as owing a delinquent debt to Payday Financial LLC/Lakota Cash.”

“The Indian Commerce Clause of the United States Constitution and the laws of the Cheyenne River Sioux Tribe permit agencies to garnish the pay of individuals who owe such debt without first obtaining a court order.”

## Treasury's Wage Garnishment Letter

“One of your employees has been identified as owing a delinquent nontax debt to the United States.”

“The Debt Collection Improvement Act of 1996 (DCIA) permits Federal agencies to garnish the pay of individuals who owe such debt without first obtaining a court order.”



# Lakota Cash

According to the FTC's Brief:

- Webb is a member of the Cheyenne River Sioux Tribe.
- The corporate defendants are not Tribal entities.
- The defendants do not offer loans to Tribal members or South Dakota residents. They lend to consumers elsewhere in the country.



# Lakota Cash: Case Status

## FTC v. Payday Financial

Case No. 3:11-cv-03017 (S.D.)

- Complaint filed Sept. 6, 2011
- Preliminary Injunction entered Sept. 7, 2011





# Other Recent Actions

- FTC v. Direct Benefits Group, et al., Case No. 6:11-CV-1186 (M.D. Fla.)
- United States v. Teletrack, Case No. 1:11-CV-2060 (N.D. Ga.)
- FTC v. Moneymaker, Case No. 2:11-CV-00461 (D. Nev.)
- For more information, visit [www.ftc.gov](http://www.ftc.gov)