

## Business

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# As subprime auto borrowers default, collection suits pile up in local courts

By Walker Moskop St. Louis Post-Dispatch 3 hrs ago



Shawn Mahler poses for a portrait in front of his home on Tuesday, May 31, 2016, in Ferguson. Mahler is suing Instacredit Auto

repossessed a truck that he bought with a 24% loan. His lawsuit stems from a dispute over who should have to pay for a new car. Photo by Laurie Skrivan. lskrivan@post-dispatch.com

## Falling behind on a 26% car loan: A case study

**WHO:** Ubunka Mahone, now 49, wanted a car to eliminate her hour and half long bus and MetroLink commute from her north St. Louis home to work in Town and Country.

**WHAT:** In 2009, she purchased a 2005 Pontiac Bonneville for \$9,368. She made a \$1,300 down payment, and agreed to two insurance add-ons and a vehicle service contract, which were added to her loan balance. With a 26 percent interest rate over 45 months, she would have paid \$16,825 for the Bonneville.

**WHAT WENT WRONG:** Mahone was a single mother supporting four kids as an account coordinator at Charter, she said. When she began helping her daughter with tuition payments at Harris-Stowe state University, she said she couldn't afford the car payments.

**WHAT HAPPENED:** In 2011, Midwest Acceptance, the company that bought her loan contract, repossessed and sold the car for \$3,550, which was credited toward the \$8,150 Mahone owed. Interest, late charges, unearned credit insurance and repossession and resale costs were added on, resulting in a balance of \$6,960. Midwest then sued her.

A Legal Aid attorney helped her negotiate a \$5,000 payment plan with Midwest. But she failed on

In August 2008, William Lesinski walked into a Car Credit City in Bridgeton and made a decision that would be far more expensive than he ever imagined.

Wanting to buy his son a car as a high school graduation gift, Lesinski put \$1,750 down and drove off the lot in a 2003 Ford Mustang. The loan for the car was \$11,367, and it carried 29 percent annual interest over nearly four years. His son would make the payments, but the loan was in Lesinski's name.

After paying the balance down to a little more than \$10,000, his son, who had stopped making insurance payments, wrecked the car, Lesinski said. In 2011, after more than \$4,000 in interest had accrued, Car Credit City's in-house finance arm, General Credit Acceptance, sued Lesinski. Factoring in attorney fees, the court judgment came to more than \$15,000.

After Lesinski fell behind on a payment plan later that year, General Credit Acceptance began garnishing a portion of his check from a Fenton painting company. It hasn't stopped since

As of Friday, the company has taken \$22,600 of Lesinski's wages. Because Missouri court judgments can carry the interest from the initial contract, little of that money has gone toward principal. Lesinski assumed the balance was near zero. In fact, he still owes almost \$13,000.

High-interest car loans for cash-strapped borrowers with bad credit are nothing new. But as the U.S. auto market has come roaring back since the financial crisis, the share of car loans that are subprime has steadily risen.

At the lowest rung of this subprime boom are thousands of borrowers in the St. Louis region — many of whom would be

the plan, which meant she owed the previous balance, plus more interest, attorney fees and court costs, totaling \$9,600. The loan's 26 percent rate applied to the judgment balance.

STATUS: In August 2012, Midwest began garnishing her wages. As of January, \$7,000 had been taken from Mahone's paychecks, but she still owed \$9,200. An additional \$910 has been taken since then, according to online court records.

"I'll never pay this off," she said.

MIDWEST RESPONSE: In a statement, Midwest said that it works with borrowers who stay in communication and only sues as a last resort. Even when it sues, it will work with the borrower, sometimes waiving interest, "without the need for garnishment, which we consider a true last resort."

About garnishment, Midwest said: "Obviously, no one wins in this scenario, especially Midwest, which must pay attorney and court fees up front."

—Walker Moskop

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considered below subprime because of their poor credit histories. For many of them, the end product of these loans is a default, repossession, court judgment and wage garnishment.

To get a sense of how lenders use the courts to recoup losses on loans to risky borrowers, the Post-Dispatch analyzed court data from suits involving three area auto finance companies.

Since 2010, those firms alone have filed more than 15,300 lawsuits against borrowers in local courts. The vast majority of cases resulted in a judgment against the defendant, after which the lender often sought to garnish wages from the borrower.

The lawsuits they file represent just a portion of the suits against area subprime borrowers, which are hard to quantify. Many other subprime lenders file dozens of suits annually, according to court records. And large debt-buying firms, as well as banks and finance companies, file hundreds of suits each year for all types of debts, including used car loans, but the origin of debt is impossible to identify without viewing individual court filings.

Among companies that specialize in high-interest car loans, few match the volume of suits filed by Midwest Acceptance, Instacredit Automart and Car Credit City.

The Post-Dispatch reviewed dozens of suits filed by each of the companies and found contracts that typically carried annual interest between 24 percent and 29.75 percent over terms ranging from three to five years. There are no interest-rate caps for auto installment loans in Missouri or Illinois.

Car Credit City and Instacredit Automart typically sue under the names of their in-house financing arms, General Credit Acceptance and Universal Credit Acceptance. When a Post-Dispatch reporter called Car Credit City to inquire about

the volume of lawsuits, an employee said “I don’t know anything about that,” and hung up. The company’s collections attorney declined to comment. Instacredit didn’t respond to interview requests.

In a lengthy statement, Midwest Acceptance declined to discuss interest rates or default rates but said it provided an essential service to low-income borrowers with poor credit histories, had strong underwriting standards, and bought loans only from reputable dealers who sold reliable cars.

“Subprime lending is a calculated risk — we know that some of our customers won’t pay, we just don’t know which at the time the loan is made,” Midwest said. “With higher default rates come higher expenses, and higher interest rates are necessitated to remain solvent.”

It also argued that its loans aren’t more likely to result in lawsuits than loans from other subprime lenders. But unlike competitors who bundle and sell debt elsewhere, the company said, it services its own debt, and thus files lawsuits in its own name.

“To summarize, it is against our company policy to make a loan we believe will fail, to anyone we believe cannot afford the monthly payment,” Midwest said. “And our policy works well the great majority of the time.”

## High interest rates

As U.S. auto sales have rebounded, investors have been pouring money into subprime loans. Many lenders have loosened credit standards and raised interest rates to account for more risk.

Several borrowers interviewed by the Post-Dispatch who ended

up with rates of nearly 30 percent said they visited multiple dealerships and failed to find a willing lender. Some said they knew the interest was high but signed the papers because they couldn't get to work without a car.

Others had little awareness of what was in the contract and didn't understand the terms until they fell behind and saw how little of their payments had gone toward principal.

"I wasn't very good on paperwork," said William Lesinski. Including a down payment, initial installment payments and garnishments, he paid nearly twice the \$12,885 sale price of the Mustang, which he said had more than 100,000 miles.

He was stunned when a reporter told him he still owed \$13,000.

"I'll never get it paid off," he said. "God, I'm floored."

Rob Swearingen, an attorney at Legal Services of Eastern Missouri, represents borrowers who have been sued by subprime lenders. Many are young, have bad or no credit, and have never bought a car before, he said.

"My clients are not sophisticated enough to know that they should negotiate the price or the interest rate," he said. "They just think this is the interest rate they deserve. They think they deserve 30 percent interest on a car loan."

Ken Shilson is the head of National Alliance of Buy Here Pay Here Dealers. Such dealers, including Car Credit City and Instacredit Automart, typically have their own finance companies, focus on buyers with poor credit histories and offer high interest rates. According to the group's 2014 market trend report, the industry's average default rate is 31 percent.

But even in a niche where high rates are the norm, loans carrying 29 percent interest are simply too high, Shilson said in a phone interview.

“When you load that kind of interest on a car they can’t afford anyway, it’s destined to fail,” he said. “If you set someone up to fail, they’re going to fail on their own. They don’t need any extra help.”

For borrowers who pay on time, a 29 percent interest rate means that over the term of a four-year loan with monthly installments, they would repay 70 percent more than the amount borrowed.

According to the research firm Experian Automotive, the average subprime borrower got interest rates ranging from 15.3 to 18.5 percent. For the same four-year, monthly installment loan, someone with an 18.5 percent rate would pay 42 percent above the amount borrowed.

For those who don’t pay on time, cars are frequently repossessed and sold at auctions, where they often sell for far less than the car’s sale price, court filings show. The sale proceeds — minus the lender’s repossession costs — are credited to the borrower, and the lender sues over the remaining balance.

“This is the way people get poor or stay poor in this country,” Swearingen said. “This is the biggest purchase most low-income consumers will ever make. They don’t buy houses. They buy cars. And if they get ripped off at a young age, you get a judgment against you, and you start off behind the eight ball immediately.”

## Broken heater

In addition to the high rates, Swearingen and several consumer protection and bankruptcy attorneys said many clients were sold cars with inflated prices and mechanical problems.

In 2014, Shawn Mahler, 37, a carpenter living in Ferguson, needed a new truck for work after his old one broke down. With poor credit, he had few options, so he went to Instacredit Automart in Collinsville.

"I was trying to haggle," he said, but he didn't have much leverage. He bought a 2002 Dodge Ram with 100,173 miles for \$14,000. He put \$1,000 down, and his nearly four-year loan carried 24 percent interest. If he made all payments on time, he would pay \$21,365.

The truck's heater repeatedly broke, he said, and about eight trips to Instacredit's repair shop didn't fix the issue. In a lawsuit Mahler alleged that after the vehicle's warranty expired, Instacredit told him the heater couldn't be fixed without a new engine but offered to cover only half the cost. Mahler refused the offer.

Instacredit repossessed the truck while it was in its repair shop. Mahler had previously fallen behind on payments but said he'd caught up by the time the truck was taken.

In March, he sued the dealer, alleging it had failed to disclose the truck's problems and misrepresented the repairs needed to fix it. The suit is pending.

Mahler has since bought a used car from a different dealer. The interest rate is 19 percent.

## **Pursuing garnishment**

Because many people sued over debts don't show up in court,

debt collection dockets are often a parade of default judgment against borrowers.

For those who went to court, records show many were put on payment plans through consent judgments, sometimes for discounted amounts. But when they fell behind, the contract interest and the original unpaid balance applied, and lenders frequently resorted to garnishment.

In Missouri, where judgments last 10 years and can then be renewed, lenders pursue many of these debts for years.

Because original contract interest rates can be applied to court judgments in Missouri, records show many borrowers make payments or have wages garnished at a rate that fails to keep up with the growing interest, with some reaching a point where they have been garnished for more than the judgment, yet still owe thousands. In Illinois, judgments carry 9 percent interest.

In his time as an associate circuit court judge in St. Louis, Christopher McGraugh, now a family court judge, presided over countless debt collection suits.

"In many of these instances," he said, "you can never get out from underneath these judgments because the interest rates are so high."

## **'I work with them'**

For many of these transactions, the down payment is minimal. In some cases, it's essentially nothing, because borrowers were referred to an installment lender to cover the down payment.

The Post-Dispatch found more than 300 instances in which suits were filed by Midwest Acceptance and an installment lender, Modern Finance, against a defendant of the same name.

In 2011, Cerissa Robinson took out an \$11,200, 45-month car loan at 26.75 annual interest. To cover most of the \$1,500 down payment, she took out a short-term, 62 percent interest loan from Modern Finance. She defaulted and was sued by both lenders.

According to a Midwest Acceptance payment document, Robinson paid about \$9,600 from 2011 to 2015 but still owes \$17,100.

Midwest Acceptance said in an email that full post-judgment interest was rarely collected and that it often accepted less than full payment and waived portions of interest for borrowers who stay in communication. It said that it never recommended down payment loans, but that the matter was “beyond our control.”

When she took out the loan, Robinson said, she hoped to make some payments, improve her credit and then refinance. She fell behind after she was laid off from her job as a senior records clerk in 2012, she said, and landed a lesser-paying job. Midwest Acceptance is her largest creditor, she said.

“I’m considering filing bankruptcy.”

According to court records, Modern Finance has garnished \$2,436 from Robinson, which all went toward post-judgment interest. She lives in Texas, where lenders can’t garnish wages.

David Chapnick, president of Modern Finance, said he makes extensive efforts to contact borrowers before resorting to lawsuits, though Modern files hundreds of them a year.

“I don’t want to sue anybody,” he said, “but I’ve got to pay postage. I’m paying rent. I’ve got to run a business here.”

Garnishing, he said, typically produces far less than if the

person paid on time.

"If they call us, we say we just want what they originally owed," he said. "I don't totally give away my candy store, but I work with them."

But if the customer pays nothing and disappears, he said, "What am I supposed to do, not add (interest) on? And we've been looking for them? And paying court costs?"

Most analysts agree that increased subprime auto lending isn't analogous to the real estate bubble, and that a surge in default wouldn't take down the economy. But for individual borrowers who can't keep up with payments, defaulting can be crippling.

William Lesinski lives with his wife and youngest son, who has autism, and is the sole provider. Years of being garnished by General Credit Acceptance have taken a toll, he said.

"I was blindsided" by how the interest has racked up, he said.

In hindsight, he was puzzled that he was given a 29 percent interest rate. He'd taken out car loans in the past that were as high as 12 percent, but had successfully paid them off. He recently cosigned a car loan for his daughter, which carried 9 percent interest.

"Maybe I wasn't very smart. Shame on me," Lesinski said. "But damn, shame on them."

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## Walker Moskop

Walker Moskop is a data specialist and reporter for the St. Louis Post-Dispatch.