

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CENTER FOR RESPONSIBLE)
LENDING,)
302 West Main Street)
Durham, NC 27701,)
))
Plaintiff,)
))
v.)
))
CONSUMER FINANCIAL)
PROTECTION BUREAU,)
1700 G Street NW)
Washington, DC 20552,)
))
Defendant.)
_____)

Civil Action No. 19-cv-00208

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This action is brought under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to compel the Consumer Financial Protection Bureau (CFPB) to produce records responsive to a FOIA request.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B). Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Center for Responsible Lending (CRL) is a non-profit, non-partisan research and policy organization that works to protect home ownership and family wealth by fighting predatory lending practices. CRL submitted the FOIA request at issue in this action.

4. Defendant CFPB is an agency of the United States and has possession of and control over the records that CRL seeks.

STATEMENT OF FACTS

5. On April 15, 2018, CRL submitted a FOIA request to CFPB for certain records related to the CFPB's final rule addressing payday, vehicle title, and certain high-cost installment loans, released October 5, 2017 (Payday Rule). *See* 82 Fed. Reg. 54,472 (Nov. 17, 2017). Specifically, the request sought:

- a) any and all communications concerning the Payday Rule that was to or from any staff of CFPB and any staff of the Community Financial Services Association of America (CFSA); and
- b) any and all records concerning meetings concerning the Payday Rule and involving any staff of CFPB and any staff of the CFSA.

The request specified that it sought records created or received by CFPB between January 23, 2018, and the date of processing of the request.

6. In its request, CRL sought a full waiver of fees and explained in support that disclosure of the requested information would be in the public interest and not for commercial use.

7. On April 17, 2018, CFPB acknowledged CRL's request and assigned it number CFPB-2018-479-F.

8. In its April 17 acknowledgement, CFPB stated that CRL was a non-commercial requester, but that CFPB would hold the fee waiver request "in abeyance pending the quantification of responsive records." CFPB also stated that it was construing CRL's request as an agreement to pay up to \$25.00 in fees associated with the request.

9. On September 6, 2018, CFPB notified CRL that it had initiated a search on CRL's FOIA request but did not provide an estimated completion date.

10. On October 25, 2018, CFPB estimated that it would respond to CRL's request in "early November."

11. More than 20 working days have passed since CFPB received CRL's April 2018 FOIA request, and CFPB has not made a determination on the substance of the FOIA request, produced any records in response to the request, or made a decision on the fee waiver request.

12. CRL has exhausted all administrative remedies with respect to its April 2018 FOIA request.

CAUSE OF ACTION

13. CRL has a right under FOIA to the records requested and to a public interest fee waiver.

14. There is no legal basis for CFPB's failure to disclose the requested records.

PRAYER FOR RELIEF

WHEREFORE, CRL requests that this Court:

- (1) Declare that CFPB's withholding of the requested records is unlawful;
- (2) Order CFPB to make the requested records available to CRL at no cost and without delay;
- (3) Award CRL its costs and reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (4) Grant such other and further relief as this Court may deem just and proper.

Dated: January 28, 2019

Respectfully submitted,

/s/ Rebecca Smullin
Rebecca Smullin (D.C. Bar No. 1017451)
Micah Bluming (Cal. Bar No. 314273)*

* Active member in good standing of the State Bar of California and the Supreme Court of

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California, authorized to practice under the direct supervision of Rebecca Smullin pursuant to D.C. Court of Appeals Rule 49(c)(8) during the pendency of first application to the District of Columbia Bar submitted within 90 days of commencing practice in the District of Columbia.