

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

COMMUNITY FINANCIAL SERVICES  
ASSOCIATION OF AMERICA, LTD., and  
CONSUMER SERVICE ALLIANCE OF TEXAS,

Plaintiffs,

v.

CONSUMER FINANCIAL PROTECTION  
BUREAU and JOHN MICHAEL MULVANEY,

Defendants.

Civil Action No. 1:18-cv-295-LY

**MOTION BY PUBLIC CITIZEN, INC.,  
AMERICANS FOR FINANCIAL REFORM EDUCATION FUND, CENTER FOR  
RESPONSIBLE LENDING, AND NATIONAL CONSUMER LAW CENTER  
FOR LEAVE TO FILE AMICUS MEMORANDUM  
IN OPPOSITION TO PLAINTIFFS' MOTION FOR RECONSIDERATION**

Public Citizen, Inc., Americans for Financial Reform Education Fund, Center for Responsible Lending, and National Consumer Law Center hereby request leave to file the accompanying amicus memorandum in opposition to the plaintiffs' motion (Dkt. 30) for reconsideration of the order denying a stay of the compliance date of the Consumer Financial Protection Bureau (CFPB) Payday Rule, 12 C.F.R. part 1041. Pursuant to Local Rule 7(i), counsel for movants conferred with counsel for all parties regarding this motion. Counsel for plaintiffs stated that they oppose this motion. Counsel for defendants stated that they take no position.

As stated previously (Dkt. 18), movants are four nonprofit consumer organizations that work to protect and defend the rights of consumers through education, advocacy, policy, research, and litigation. Because the parties are in agreement with respect to the motion at issue, the groups' participation as amici will bring a perspective to the Court that is not provided by the parties. The parties earlier jointly sought a stay of the litigation and, pursuant to the Administrative Procedure

Act (APA), 5 U.S.C. § 705, a stay of the Payday Rule. Now, after the Court granted the first request but denied the second, plaintiffs, with the support of defendants, seek reconsideration of that denial. Because the Court lacks the benefit of adversarial briefing on the motion, movants seek to address the parties' arguments and to explain that section 705 does not apply in the circumstances here, where parties seek to stay a rule pending the completion of litigation that is itself stayed. Discussion of this important point will benefit the Court as it considers plaintiffs' unopposed motion.

As explained previously (Dkt. 18), movants bring to the Court a rich understanding of consumer protection needs and the CFPB's role in addressing those needs, including in the context of payday and vehicle title lending. Movants also have considerable expertise with respect to the APA.

### CONCLUSION

For the foregoing reasons, the Court should grant the movants leave to file an amicus memorandum in opposition to the plaintiffs' motion for reconsideration.

Dated: June 25, 2018

Respectfully submitted,

/s/ Rebecca Smullin  
Rebecca Smullin (DC Bar No. 1017451)  
*(admitted pro hac vice)*  
Public Citizen Litigation Group  
1600 20th Street NW  
Washington, DC 20009  
(202) 588-1000  
Fax: (202) 588-7795  
rsmullin@citizen.org

Aaron Johnson (TX Bar No. 24056961)  
Equal Justice Center  
510 S. Congress Avenue, Suite 206  
Austin, Texas 78704  
(512) 474-0007  
Fax: (512) 474-0008

ajohnson@equaljusticecenter.org

*Counsel for Movants Public Citizen, Inc.,  
Americans for Financial Reform Education  
Fund, Center for Responsible Lending, and  
National Consumer Law Center*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 25, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel for all parties.

/s/ Rebecca Smullin  
Rebecca Smullin