

**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 THE PARTIES'
JOINT MOTION FOR STAY OF AGENCY ACTION PENDING REVIEW**

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 parties' request for a stay of the compliance date of the Consumer Financial Protection Bureau (CFPB)'s Payday Rule, 12 C.F.R. part 1041, as requested in the Joint Motion for Stay of Litigation and Stay of Agency Action Pending Review (Dkt. 16). 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 on this motion.¹

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

¹ The proposed amicus memorandum does not address the parties' request for a stay of litigation.

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 have jointly sought a stay pursuant to the Administrative Procedure Act (APA), 5 U.S.C. § 705, and thus the Court lacks the benefit of adversarial briefing on the parties' request. Movants explain, however, that section 705 does not apply in the circumstances here, where the parties are seeking to stay the litigation as well as a rule's compliance date. Discussion of this important point will benefit the Court as it considers the parties' joint motion.

In addition, movants bring to the Court a rich understanding of consumer protection needs and the CFPB's role in addressing those needs. In particular, they have extensive knowledge of the harms that consumers experience from payday and vehicle title lending, and the CFPB's role in addressing those harms through the rulemaking that is the topic of this litigation. Further information on the proposed amici and their interests in this matter follows below.

Public Citizen, Inc., is a consumer-advocacy organization founded in 1971, with members in all 50 states. Public Citizen advocates before Congress, administrative agencies, and the courts for the enactment and enforcement of laws protecting consumers, workers, and the general public. Of particular relevance here, Public Citizen advocates for strong consumer-protection laws to bring fairness to consumer finance and accountability to the financial sector. Public Citizen actively supported establishment of the CFPB to serve as the first federal agency devoted to protecting the financial interests of consumers.

Americans for Financial Reform Education Fund (AFR) works in concert with a coalition of more than 200 consumer, investor, labor, civil rights, business, faith-based, and community groups to lay the foundation for a strong, stable, and ethical financial system through

policy analysis, public education, communications, and outreach. AFR advocates for consumer financial protections, including an end to payday and car title lending abuses.

Center for Responsible Lending (CRL) is a nonprofit, nonpartisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, one of the nation's largest nonprofit community development financial institutions that, since 1980, has provided more than \$7 billion in financing to 131,000 families, individuals, and businesses. Additionally, CRL's research and policy reports and recommendations have addressed numerous issues within the mission and activities of the CFPB, including auto loans, debt collection, mortgage lending, payday lending, and student loans.

National Consumer Law Center (NCLC) is a national research and advocacy organization focusing on justice in consumer financial transactions, especially for low-income and elderly consumers. Since its founding in 1969, NCLC has been a resource center addressing consumer finance issues affecting equal access to fair credit in the marketplace. NCLC publishes a 20-volume Consumer Credit and Sales Legal Practice Series and has served on the Federal Reserve System Consumer-Industry Advisory Committee, as the Federal Trade Commission's designated consumer representative, and on committees of the National Conference of Commissioners on Uniform State Laws. NCLC staff engage with the CFPB on a broad range of issues, and an NCLC staff member serves on the CFPB's Consumer Advisory Board.

CONCLUSION

For the foregoing reasons, the Court should grant the movants leave to file an amicus

memorandum in opposition to the parties' joint motion for a stay of agency action pending review.

Dated: June 2, 2018

Respectfully submitted,

/s/ Aaron Johnson

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

Rebecca Smullin (DC Bar No. 1017451)
Public Citizen Litigation Group
1600 20th Street NW
Washington, DC 20009
(202) 588-1000
Fax: (202) 588-7795
rsmullin@citizen.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 2, 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/ Aaron Johnson

Aaron Johnson