

**IN THE UNITED STATES DISTRICT COURT
FOR THE 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, in his official capacity as
Acting Director, Consumer Financial
Protection Bureau,

Defendants.

Civil Action No. 1:18-cv-295

**UNOPPOSED PROTECTIVE MOTION TO EXTEND TIME TO ANSWER
COMPLAINT**

Defendants the Bureau of Consumer Financial Protection (Bureau) and John Michael Mulvaney, in his official capacity as Acting Director of the Bureau, respectfully move for an extension of time for Defendants to answer the complaint in this case as set forth below.

Plaintiffs do not oppose this motion. In support of this motion, Defendants state as follows:

1. On November 17, 2017, the Bureau published in the Federal Register a final rule entitled “Payday, Vehicle Title, and Certain High-Cost Installment Loans” (“Payday Rule” or “Rule”). 82 Fed. Reg. 54,472 (Nov. 17, 2017). The Payday Rule imposes various requirements on the extension and collection of certain consumer loans.

2. On April 9, 2018, Plaintiffs Community Financial Services Association of America, Ltd., and Consumer Service Alliance of Texas—two trade associations whose

members are engaged in the business of offering or facilitating payday loans and similar consumer financial products—filed the instant action seeking an order and judgment holding unlawful, enjoining, and setting aside the Rule.

3. On May 31, 2018, Plaintiffs and Defendants filed a Joint Motion for Stay of Litigation and Stay of Agency Action Pending Review (“Joint Motion”) (ECF No. 16). The Joint Motion requests that the Court stay this litigation pending planned rulemaking by the Bureau to reconsider the Payday Rule and stay the Rule’s compliance date until 445 days after final judgment in this litigation. The Joint Motion also requests that the Bureau’s obligation to file an answer in this case be waived.

4. On June 2, 2018, four advocacy organizations filed a motion for leave to file an amicus brief opposing the parties’ Joint Motion for a stay of agency action pending review. The proposed amicus brief does not oppose the request in the Joint Motion that the Bureau’s obligation to file an answer be waived.

5. The Court has not yet ruled on the parties’ Joint Motion, including the request that the Bureau’s obligation to file an answer be waived.

6. The docket indicates that, absent a grant of the Joint Motion, the Bureau’s answer is currently due on June 11, 2018.¹

7. Defendants file this motion as a protective, stand-alone request for an extension of time to file an answer in this case, in the event this Court has not waived Defendants’ obligation to answer the complaint as requested in the Joint Motion by the date the answer is due. In particular, Defendants request that the Court extend the time in which Defendants must file an

¹ The Summons and Complaint were served on the United States Attorney on April 13, 2018, so the Bureau calculates that its current deadline to respond to the complaint is June 12. *See* Fed. R. Civ. P. 4.

answer until 45 days after the date this Court rules on the Joint Motion or 45 days after the requested stay of litigation (if entered by the Court) is lifted, whichever is later, to provide Defendants' counsel adequate time to respond. This request is not intended to supersede the request in the Joint Motion that Defendants be excused from the obligation to file an answer in this case.

8. Pursuant to Local Rule CV-7(i), Counsel for Defendants conferred with counsel for Plaintiffs. Plaintiffs' counsel stated that Plaintiffs do not oppose the relief requested in this motion.

Dated: June 4, 2018

Respectfully submitted,

MARY McLEOD
General Counsel

JOHN R. COLEMAN
Deputy General Counsel

STEVEN Y. BRESSLER
Assistant General Counsel

/s/ Kristin Bateman
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*Counsel for Defendants Consumer Financial
Protection Bureau and John Michael Mulvaney*

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Kristin Bateman
Kristin Bateman
Counsel for Defendants

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[PROPOSED] ORDER

The Court, having considered Defendants' Unopposed Motion to Extend Time to Answer Complaint, and with cause appearing, GRANTS the Motion. Accordingly, it is hereby ORDERED that Defendants' answer shall be filed by no later than 45 days after the date this Court rules on the Joint Motion for Stay of Litigation and Stay of Agency Action Pending Review (ECF No. 16) or 45 days after the requested stay of litigation (if entered by the Court) is lifted, whichever is later.

IT IS SO ORDERED.

Dated: _____

THE HONORABLE LEE YEAKEL
UNITED STATES DISTRICT JUDGE