

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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CONSUMER FINANCIAL PROTECTION)	
BUREAU,)	
Plaintiff - Appellee,)	
)	
v.)	No. 18-60302
)	
ALL AMERICAN CHECK)	
CASHING, INC., et al.,)	
Defendants – Appellants.)	
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**MOTION OF APPELLEE CONSUMER FINANCIAL PROTECTION
BUREAU TO EXTEND THE BRIEFING SCHEDULE**

Appellee Consumer Financial Protection Bureau (Bureau) moves this Court for a 40-day extension for the filing of its brief in the above-captioned matter. This is the first extension that the Bureau has sought. Pursuant to Rule 27.4 of the rules of this Court, the Bureau has consulted regarding this Motion with Appellants All American Check Cashing, Inc., *et al.* (AACC). AACC stated that it has no objection to the Bureau’s motion if this Court will allow it an additional week (a total of 21 days) for the filing of its reply brief.

The Bureau’s brief is currently due on August 1, 2018, and the Bureau requests a 40-day extension so that its brief would be due on September 10,

2018. The Bureau also requests that AACC's reply brief be due on October 1, 2018.

AACC filed its opening brief on July 2, 2018. The primary issue raised in its brief is whether a statutory restriction on the President's authority to remove the Bureau's single Director violates Article II of the Constitution. On July 16, 2018, this Court issued its decision in *Collins v. Mnuchin*, No. 17-20364, 2018 WL 3430826 (5th Cir. July 16, 2018). In that decision, this Court concluded that the structure of the Federal Housing Finance Agency (FHFA), an independent agency in the executive branch that is also headed by a single Director, violates Article II. (Chief Judge Stewart dissented and would have held that FHFA's structure did not violate the Constitution.) Although the Court explained that it was not deciding the constitutionality of any agency other than the FHFA, *id.* at 51 n.274, the opinion discussed features of the Bureau and compared them to aspects of FHFA's structure. Thus, many of the arguments discussed by the Court are relevant to the issues in this case. The Bureau requests an additional 40 days to file its brief so that it may evaluate the *Collins* opinion, and to decide how to address that opinion in the context of this case.

Accordingly, the Bureau requests that this Court extend the remainder of the briefing schedule so that the Bureau's brief is due on September 10, 2018, and AACCC's reply is due on October 1, 2018.

Respectfully submitted,

/s/Lawrence DeMille-Wagman

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Consumer Financial Protection Bureau

CERTIFICATE OF COMPLIANCE

The Bureau's Motion complies with the length limits permitted by Fed. R. App. P. 27(d)(2) It contains 377 words, excluding the portions exempted by Fed. R. App. P. 32(f). This Motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5), and the type-style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface (14-point Georgia) using the Microsoft Word 2010 word processing program.

Dated: July 18, 2018

s/ Lawrence DeMille-Wagman
Attorney for Plaintiff-Appellee
Consumer Financial Protection Bureau

CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2018, I electronically filed the Unopposed Motion of Appellee Consumer Financial Protection Bureau to Extend the Briefing Schedule with the Clerk of the Court of the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system. I certify that all participants in the case (including all amici) are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Lawrence DeMille-Wagman