

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CONSUMER FINANCIAL PROTECTION  
BUREAU,

Plaintiff,

vs.

POPULUS FINANCIAL GROUP, INC. d/b/a  
ACE CASH EXPRESS,

Defendant.

Civil Action No. 3:22-cv-01494-K

**AGREED MOTION FOR ENTRY OF ORDER STAYING CASE PENDING FINAL  
RESOLUTION OF FIFTH CIRCUIT DECISION IN *COMMUNITY FINANCIAL  
SERVICES ASSOCIATION OF AMERICA LTD. v. CFPB***

Plaintiff Consumer Financial Protection Bureau (“CFPB” or “Bureau”) and Defendant Populus Financial Group, Inc. d/b/a ACE Cash Express (“ACE” and, together with the CFPB, the “Parties”) file this Agreed Motion seeking entry of an order staying the above-styled action pending final resolution of *Community Financial Services Association of America Ltd. v. CFPB*, No. 21-50826. In support thereof, the Parties respectfully show as follows:

1. On July 12, 2022, the CFPB filed this enforcement action asserting claims against ACE.
2. On September 23, 2022, ACE filed its Motion to Dismiss for Failure to State a Claim (ECF No. 16, the “Motion to Dismiss”), asserting that the Bureau’s enforcement action against ACE should be dismissed because the Bureau’s funding structure violates constitutional separation of powers.

3. Also on September 23, 2022, ACE filed its Motion to Stay all proceedings pending the Fifth Circuit's decision in *Community Financial Services Association of America Ltd. v. CFPB*, No. 21-50826 ("*CFSA*") (ECF No. 17, the "Motion to Stay");

4. On October 19, 2022, the Fifth Circuit panel issued its opinion in *CFSA*. The panel held that the Bureau's statutory funding mechanism violates the Appropriations Clause and the constitutional separation of powers.

5. In light of this recent decision, counsel for the CFPB and ACE met and conferred via teleconference and email, and agreed to jointly seek a stay of this case until after the Fifth Circuit issues its mandate in *CFSA*.

6. There is good cause for the stay. The CFPB and ACE believe the foregoing stay is reasonable given the perceived needs of the case. The agreed stay pending issuance of the mandate in *CFSA* will promote efficient resolution of the case, as the final decision in *CFSA* will control the resolution of key issues presented in ACE's pending motion to dismiss. Accordingly, waiting for the mandate to issue in *CFSA* will simplify the issues in the case and potentially resolve the motion to dismiss outright. It will also serve the interests of judicial efficiency by avoiding any otherwise-unnecessary ancillary motions or appeals.

7. The CFPB and ACE thus submit this Agreed Motion and respectfully request that the Court enter an order stating:

- a. All proceedings in this action shall be stayed until after the Fifth Circuit issues its mandate in *CFSA*;
- b. Accordingly, all briefing deadlines related to ACE's Motion to Dismiss, as set out in the Court's October 5, 2022 Order (ECF No. 25), are hereby VACATED;
- c. ACE's Motion to Stay is DENIED as moot;

- d. Any party may move the Court to extend the stay or to lift the stay before it expires on its own terms, upon a showing of good cause; and
  - e. The Parties shall file a Joint Report within 45 days of the conclusion of the stay.  
The Joint Report shall contain statements of how the parties wish to proceed.
8. The agreed stay is sought in good faith and not for the purpose of delay, but rather so that the interests of justice may be served.
9. This is the first joint request to stay this action.

Dated: October 28, 2022

Respectfully Submitted,

/s/ Angela C. Zambrano

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