

As SCOTUS Hands Down Its Decision On The Constitutionality Of The Consumer Financial Protection Bureau's Funding Structure, The Agency Awaits To Resume Major Enforcement Actions

Summary: As the Consumer Financial Services of America Association (CFSA) challenges the constitutionality of the Consumer Financial Protection Bureau (CFPB) in the Supreme Court, courts across the country have been staying various cases in anticipation of SCOTUS' final ruling. However, these stays have negatively affected the agency's ability to file lawsuits against predatory lenders or issue rules to protect consumers from said predators.

Since *CFPB v. Community Financial Services of America* made its way to the U.S. Supreme Court in November 2022, courts have ordered stays in at least ten of the Bureau's enforcement cases:

- [*CFPB v Community Loans of America*](#) was [stayed](#) by the District Court for the Northern District of Georgia Atlanta Division. The CFPB sought to compel Community Loans of America "to appear and give testimony" in accordance with a Civil Investigative Demand (CID) "relevant to the Bureau's ongoing investigation into whether CLA has engaged in consumer-lending practices that violate the CFPB and other Federal consumer financial laws."
- [*CFPB v Heights Finance Holding Co. et al*](#) was [stayed](#) by the District Court of South Carolina, Greenville. The CFPB sued Heights Finance "for illegal loan-churning practices that harvested hundreds of millions in loan costs and fees."
- [*CFPB v Check City Partnership LLC*](#) was [stayed](#) by the District Court of Nevada. The CFPB sought to enforce Check City Partnership's compliance with a CID into potential predatory practices made by the company into their "short-term, small-dollar, and installment loans to consumers."
- [*CFPB v Financial Asset Management Inc*](#) was [stayed](#) by the District Court for the District of Utah. The CFPB sought to enforce Financial Asset Management's compliance with a CID into potential predatory lending practices made by the short-term, small dollar lender.
- [*CFPB v Purpose Financial*](#) was [stayed](#) by the District Court of South Carolina. The CFPB sought to enforce Purpose Financial's compliance with a CID into potentially predatory practices for their short-term or small-dollar loans.
- [*CFPB v National Credit Systems*](#) was [stayed](#) by the Northern District Court of Georgia, Atlanta Division. The CFPB sought to enforce National Credit System's compliance with a CID to investigate NCS's debt collection, credit reporting, and potential debt buying conduct, focusing on potential violations of the CFPB's prohibition on unfair, deceptive, or abusive acts and practices, the Fair Debt Collection Practices Act (FDCPA), the Fair Credit Reporting Act (FCRA), and the FCRA implementing rule, Regulation V. Id. 4-5.
- [*CFPB v Credit Acceptance Corp*](#) was [stayed](#) by the District Court of New York. The CFPB sued a "predatory" auto lender, Credit Acceptance Corporation, for misrepresenting the cost of credit and "tricking" its customers into high-cost loans on used cars.
- [*CFPB v Active Networks, LLC*](#) was [stayed](#) by the District Court for the Eastern District of Texas Sherman Division. The CFPB sued Active Networks, LLC for allegedly signing up consumers for a

discount club membership without their knowledge or consent in violation of the Consumer Financial Protection Act of 2010.

- [CFPB v MoneyLion Technologies Inc et al](#) was [stayed](#) by the District Court for the Southern District of New York. The CFPB sued MoneyLion and 38 of its subsidiaries for allegedly violating the Military Lending Act for charging higher interest rates than the 36% rate cap on loans to servicemembers and their families.
- [CFPB v Populus Financial Group Inc d/b/a Ace Cash Express](#) was [stayed](#) by the District Court for the Northern District of Texas, Dallas Division. The CFPB sued payday lender Populous Financial, dba Ace Cash Express, over allegations the company violated the Consumer Protection Act of 2010 for charging consumers over \$240 million in repayment fees when eligible for a free repayment plan.

Additionally, in May 2024, the Northern District Texas granted a temporary [injunction](#) on the credit card late-fee rule that would have capped late fees at \$8 for consumers.

Since CFPB V. Community Financial Services Of America Made Its Way To The U.S. Supreme Court In November 2022, At Least Ten Cases Were Granted Stays By Courts Until A Ruling Was Handed Down On The Agency's Constitutionality.

Case Name	Location Filed	Filed Date	Date of Stay	Description Of Case
CFPB v Community Loans of America	GA	10/04/23	01/02/24	To compel Community Loans of America to comply with agency's civil investigative demand (CID)
CFPB v Heights Finance Holding Co. et al	SC	08/22/23	02/29/24	CFPB sued installment lender Heights Finance for illegal loan-churning practices that harvested hundreds of millions in loan costs and fees
CFPB v Check City Partnership LLC	NV	06/12/23	11/03/23	CFPB sought to enforce Check City Partnership's compliance with a CID into potential predatory practices made by the company into their "short-term, small-dollar, and installment loans to consumers."
CFPB v Financial Asset Management Inc	UT	06/12/23	03/29/24	CFPB sought to enforce Financial Asset Management's compliance with a CID into potential predatory lending practices made by the short-term, small dollar lender.
CFPB v Purpose Financial	SC	06/12/23	12/29/23	CFPB sought to enforce Purpose Financial's compliance with a CID into potentially predatory practices for their short-term or small-dollar loans.
CFPB v National Credit Systems	GA	02/22/23	10/18/23	CFPB sought to enforce National Credit System's compliance with a CID to investigate NCS's debt collection, credit reporting, and potential debt buying conduct, focusing on potential violations of the CFPA's prohibition on unfair, deceptive, or abusive acts and practices, the Fair Debt Collection Practices Act (FDCPA), the Fair Credit Reporting Act (FCRA), and the FCRA implementing rule, Regulation V. Id. 4-5.
CFPB v Credit Acceptance Corp	NY	01/04/23	08/07/23	CFPB sued a "predatory" auto lender, Credit Acceptance Corporation, for misrepresenting the cost of credit and tricking its customers into high-cost loans on used cars
CFPB v Active Networks, LLC	TX	10/18/22	11/29/22	CFPB sued Active Networks, LLC for allegedly signing up consumers for a discount club membership without

				their knowledge or consent in violation of the Consumer Financial Protection Act of 2010
CFPB v MoneyLion Technologies Inc et al	NY	09/29/22	12/01/22	CFPB sued MoneyLion and 38 of its subsidiaries for allegedly violating the Military Lending Act for charging higher interest rates than the 36% rate cap on loans to servicemembers and their families
CFPB v Populus Financial Group Inc d/b/a Ace Cash Express	TX	07/12/22	12/05/22	CFPB sued payday lender Populous Financial, dba Ace Cash Express, over allegations the company violated the Consumer Protection Act of 2010 for charging consumers over \$240 million in repayment fees when eligible for a free repayment plan.

[Search of CFPB Litigation Tracker via Law360, accessed [05/15/24](#)]

The Northern District Texas Court Has Also Stayed A Case Against The CFPB Brought By The Chamber Of Commerce, Which Won A Temporary Injunction Against The Bureau’s Credit Card Late-Fees Rule.

May 2024: The Northern District Texas Court Granted A Nationwide Injunction Against The CFPB’s Credit Card Late Fees Rule, Which Would Have Capped Late-Fees At \$8 For Consumers. “The temporary nationwide injunction imposed by Judge Mark Pittman in the Northern District of Texas is a win for the big banks and major credit card companies, which collect billions in revenue each year in late fees and were looking to stop the proposal from going into effect. It is also a win for the U.S. Chamber of Commerce, which led the lawsuit on behalf of the banks.” [The Washington Post, [05/10/24](#)]