

Judge Preska Dismisses With Prejudice The New York Attorney General's Dodd-Frank Claim In The RD Legal Funding

Article By:

Alan S. Kaplinsky

We have been following very closely the lawsuit filed by the CFPB and the New York Attorney General against RD Legal Funding. We [earlier reported](#) that on June 21 Judge Preska dismissed the CFPB's claims based on the unconstitutionality of the CFPA. We subsequently [reported](#) that on September 12 Judge Preska dismissed the claims brought by the New York Attorney General under Section 1042 of Dodd -Frank (i. e., the provision authorizing state attorneys general to initiate lawsuits based on UDAAP violations) and also dismissed the Attorney General's state law claims for lack of subject matter jurisdiction as a result of there being no remaining federal questions in the case.

The most recent development is that yesterday [Judge Preska amended her September 12 order](#) to provide that her dismissal of the New York Attorney General's 1042 claims are "with prejudice". That means that the New York Attorney General should not be able to re-file her 1042 claims in state court unless and until a higher court reverses Judge Preska's order. The CFPB has already [filed an appeal](#) with the Second Circuit and it seems likely that the New York Attorney General will do the same.

Copyright © by Ballard Spahr LLP

National Law Review, Volume VIII, Number 262

Source URL: <https://natlawreview.com/article/judge-preska-dismisses-prejudice-new-york-attorney-general-s-dodd-frank-claim-rd>