

RD Legal Funding Files Answer To Complaint In CFPB/NYAG Lawsuit

Article By:

Barbara S. Mishkin

RD Legal Funding has [filed an answer](#) to the complaint in the lawsuit filed against it by the CFPB and New York Attorney General (NYAG).

On June 18, Judge Preska [issued an order](#) denying RD Legal Funding's motion to dismiss the NYAG's federal UDAAP claims under the CFPB and state law claims but terminating the CFPB's participation in the case as a consequence of her determination that because the CFPB's single-director-removable-only-for-cause structure is unconstitutional, the CFPB lacked authority to bring claims under the CFPB. In Judge Preska's view, the proper remedy was to strike the CFPB (Title X of Dodd-Frank) in its entirety rather than just sever the for-cause removal provision.

Accordingly, citing to Judge Preska's ruling in its answer, RD Legal Funding denies the allegation in the complaint that the CFPB has litigation authority to file the complaint. Also citing to Judge Preska's ruling, RD Legal Funding denies the NYAG's allegation that it has authority under Dodd-Frank Section 1042 to enforce the provisions of the CFPB.

In her June 18 order denying RD Legal Funding's motion to dismiss, Judge Preska set a July 9 deadline for counsel to advise the court how they intended to proceed. In [the joint submission](#) made by RD Legal Funding and NYAG pursuant to Judge Preska's order, RD Legal asked the court to make an express finding that there is "no just reason for delay" and enter judgment against the CFPB alone under Rule 54(b) of the Federal Rules of Civil Procedure, and if the CFPB sought immediate review of the June 18 order, certify the order for interlocutory appeal and stay the proceeding during the appeal's pendency. The NYAG indicated that it wanted the case to proceed as quickly as possible and would oppose any request by RD Legal Funding for delay, including a request for interlocutory appeal and a stay of the proceeding.

The CFPB has not yet indicated whether it will appeal Judge Preska's order to the Second Circuit. Because the case remains active, it cannot appeal the order without a finding by Judge Preska that there is no reason to delay the appeal under Rule 54(b) of the Federal Rules of Civil Procedure.

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