

No. 18-60302

**In the United States Court of Appeals  
for the Fifth Circuit**

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CONSUMER FINANCIAL PROTECTION BUREAU,

*Plaintiff-Appellee,*

v.

ALL AMERICAN CHECK CASHING, INC., MID-STATE FINANCE, INC.,  
and MICHAEL E. GRAY,

*Defendants-Appellants.*

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On Appeal from the United States District Court for the  
Southern District of Mississippi  
Case No. 3:16-cv-00356-WHB-JCG

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**RECORD EXCERPTS**

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**TAB 1**

**RECORD EXCERPT 1**

STAY,JCG,JURY,TRIAL\_SET

**U.S. District Court**  
**Southern District of Mississippi (Northern (Jackson))**  
**CIVIL DOCKET FOR CASE #: 3:16-cv-00356-WHB-JCG**  
**Internal Use Only**

Consumer Financial Protection Bureau v. All American Check  
Cashing, Inc. et al  
Assigned to: District Judge William H. Barbour, Jr  
Referred to: Magistrate Judge John C. Gargiulo  
Case in other court: USCA, 18-60302  
Cause: 28:1331 Fed. Question

Date Filed: 05/11/2016  
Jury Demand: Defendant  
Nature of Suit: 890 Other Statutory Actions  
Jurisdiction: U.S. Government Plaintiff

**Plaintiff**

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**RECORD EXCERPT 2**

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**RECORD EXCERPT 7**

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Date Filed	#	Docket Text
05/11/2016	<u>1</u>	COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF against All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc., filed by Consumer Financial Protection Bureau. (Attachments: # <u>1</u> Civil Cover Sheet)(PKM) (Entered: 05/11/2016)
05/11/2016		(Court only) ***Set Magistrate Gargiulo and NO CMC Flags. (PKM) (Entered: 05/11/2016)
05/11/2016	<u>2</u>	Summons Issued as to All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc.(PKM) (Entered: 05/11/2016)
05/18/2016	<u>3</u>	SUMMONS Returned Executed by Consumer Financial Protection Bureau All American Check Cashing, Inc. served on 5/11/2016, answer due 6/1/2016. (Attachments: # <u>1</u> Exhibit Proof of Service)(Mintz - Federal Gov, Emily) (Entered: 05/18/2016)
05/18/2016	<u>4</u>	SUMMONS Returned Executed by Consumer Financial Protection Bureau Mid-State Finance, Inc. served on 5/11/2016, answer due 6/1/2016. (Attachments: # <u>1</u> Exhibit Proof of Service)(Mintz - Federal Gov, Emily) (Entered: 05/18/2016)
05/18/2016	<u>5</u>	SUMMONS Returned Executed by Consumer Financial Protection Bureau Michael E. Gray served on 5/11/2016,

**RECORD EXCERPT 8**

		answer due 6/1/2016. (Attachments: # <u>1</u> Exhibit Proof of Service)(Mintz - Federal Gov, Emily) (Entered: 05/18/2016)
05/18/2016	<u>6</u>	NOTICE of Appearance by Robin H. Rasmussen on behalf of All Defendants (Rasmussen, Robin) (Entered: 05/18/2016)
05/18/2016	<u>7</u>	NOTICE of Appearance by Dale Danks, Jr on behalf of All Defendants (Danks, Dale) (Entered: 05/18/2016)
05/23/2016	<u>8</u>	NOTICE of Appearance by Bentley E. Conner on behalf of All Defendants (Conner, Bentley) (Entered: 05/23/2016)
05/23/2016	<u>9</u>	MOTION for PETER D. BASKIND to Appear Pro Hac Vice by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Supplement Letter of Good Standing)(Rasmussen, Robin) (Entered: 05/23/2016)
05/31/2016	<u>10</u>	MOTION for More Definite Statement by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/31/2016)
05/31/2016	<u>11</u>	MEMORANDUM in Support re <u>10</u> MOTION for More Definite Statement filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/31/2016)
06/02/2016	<u>12</u>	Rule 16(a) Initial Order: Telephonic Case Management Conference set for 7/7/2016 at 10:30 AM before Magistrate Judge John C. Gargiulo. (AB) (Entered: 06/02/2016)
06/10/2016		TEXT ONLY ORDER granting <u>9</u> Motion to Appear Pro Hac Vice of Peter D. Baskind. That Peter D. Baskind be admitted pro hac vice in this case on behalf of Defendants All American Check Cashing, Inc., Michael E. Gray, and Mid-State Finance, Inc. in association with local counsel upon payment of the pro hac admission fee and upon registration for electronic filing. NO FURTHER WRITTEN ORDER SHALL ISSUE FROM THE COURT. Signed by Magistrate Judge John C. Gargiulo on 6/10/2016 (AB) (Entered: 06/10/2016)
06/10/2016		Pro Hac Vice fee paid for Peter D. Baskind receipt number 0538-3206202 \$ 100 (Baskind - PHV, Peter) (Entered: 06/10/2016)
06/10/2016		(Court only) ***Attorney Peter D. Baskind - PHV for All American Check Cashing, Inc.,Peter D. Baskind - PHV for Michael E. Gray,Peter D. Baskind - PHV for Mid-State Finance, Inc. added. (MGB) (Entered: 06/10/2016)
06/14/2016	<u>13</u>	RESPONSE in Opposition re <u>10</u> MOTION for More Definite Statement filed by Consumer Financial Protection Bureau (Mintz - Federal Gov, Emily) (Entered: 06/14/2016)
06/14/2016	<u>14</u>	MEMORANDUM IN SUPPORT re <u>13</u> Response in Opposition to Motion filed by Consumer Financial Protection

**RECORD EXCERPT 9**

		Bureau (Mintz - Federal Gov, Emily) (Entered: 06/14/2016)
06/21/2016	<u>15</u>	REPLY to Response to Motion re <u>10</u> MOTION for More Definite Statement filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 06/21/2016)
06/23/2016	<u>16</u>	MOTION FOR IN-PERSON CASE MANAGEMENT CONFERENCE re <u>12</u> Rule 16(a)Initial Order by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Baskind - PHV, Peter) (Entered: 06/23/2016)
06/23/2016	<u>17</u>	MEMORANDUM in Support re <u>16</u> MOTION FOR IN-PERSON CASE MANAGEMENT CONFERENCE re <u>12</u> Rule 16(a)Initial Order filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Baskind - PHV, Peter) (Entered: 06/23/2016)
06/29/2016	<u>18</u>	RESPONSE in Opposition re <u>16</u> MOTION FOR IN-PERSON CASE MANAGEMENT CONFERENCE re <u>12</u> Rule 16(a)Initial Order filed by Consumer Financial Protection Bureau (Mintz - Federal Gov, Emily) (Entered: 06/29/2016)
06/29/2016	<u>19</u>	MEMORANDUM IN OPPOSITION re <u>18</u> Response in Opposition to <u>16</u> , MOTION FOR IN-PERSON CASE MANAGEMENT CONFERENCE, filed by Consumer Financial Protection Bureau (Mintz - Federal Gov, Emily) Modified on 6/30/2016 (PKM). (Entered: 06/29/2016)
06/30/2016	<u>20</u>	REPLY to Response to Motion re <u>16</u> MOTION FOR IN-PERSON CASE MANAGEMENT CONFERENCE re <u>12</u> Rule 16(a)Initial Order filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Ex 1 - Plaintiff's Rule 26 Disclosures - REDACTED)(Baskind - PHV, Peter) (Entered: 06/30/2016)
07/01/2016		TEXT ONLY ORDER denying <u>16</u> Defendants' Motion for an In-Person Case Management Conference. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 7/1/2016 (MG) (Entered: 07/01/2016)
07/07/2016		Minute Entry for proceedings held before Magistrate Judge John C. Gargiulo: Telephonic Case Management Conference held on 7/7/2016. PARTICIPANTS: Emily Hope Mintz, Michael Philip Favretto, Gabrielle O'Malley (counsel for Plaintiff); Peter D. Baskind - PHV, Bentley E. Conner, Dale Danks, Jr. and Robin H. Rasmussen (counsel for Defendants). A Case Management Order will be entered. (AB) (Entered: 07/07/2016)
07/07/2016	<u>21</u>	CASE MANAGEMENT ORDER: Motions for Amended Pleadings due by 8/8/2016. Motions for Joinder of Parties due by 8/8/2016. Designate Experts Plaintiff Deadline due by <b>RECORD EXCERPT 10</b>

		10/3/2016. Designate Experts for Defendant Deadline due by 11/3/2016. Discovery due by 1/25/2017. Motions due by 2/8/2017. Settlement Conference set for 4/13/2017 at 9:30 AM in Suite 6.550, Courtroom 6B (Jackson) before Magistrate Judge John C. Gargiulo. On or before 6/1/2017, the parties must report to the undersigned all ADR efforts taken. Pretrial Conference set for 6/8/2017 at 9:00 AM in Courtroom 4B (Jackson) before District Judge William H. Barbour Jr. Bench Trial set for a four week trial calendar beginning on 7/3/2017 at 9:00 AM in Courtroom 4B (Jackson) before District Judge William H. Barbour Jr. Proposed Pretrial Order due by 6/8/2017. EDT: 20 days. Parties do not consent. Signed by Magistrate Judge John C. Gargiulo on 7/7/2016 (AB) (Entered: 07/07/2016)
07/14/2016	<u>22</u>	NOTICE of Service of <i>Initial</i> Disclosure by Consumer Financial Protection Bureau (Mintz - Federal Gov, Emily) (Entered: 07/14/2016)
07/15/2016	<u>23</u>	NOTICE of Service of <i>Rule 26 Intitial</i> Disclosure by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit EX A - 6.29.16 Email)(Rasmussen, Robin) (Entered: 07/15/2016)
07/15/2016	<u>24</u>	ORDER denying Defendants' <u>10</u> Motion for More Definite Statement. Signed by Magistrate Judge John C. Gargiulo on 7/15/2016 (MG) (Entered: 07/15/2016)
07/26/2016	<u>25</u>	NOTICE of Service of <i>First</i> Request for Production by Consumer Financial Protection Bureau (Mintz - Federal Gov, Emily) (Entered: 07/26/2016)
07/29/2016	<u>26</u>	ANSWER to <u>1</u> Complaint with Jury Demand by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc.. (Attachments: # <u>1</u> Exhibit Ex A - Gray/Hall Emails, # <u>2</u> Exhibit Ex B - Letter to Customers, # <u>3</u> Exhibit Ex C - Signage, # <u>4</u> Exhibit Ex D - Receipts, # <u>5</u> Exhibit Ex E - 10 Rules of Check Cashing, # <u>6</u> Exhibit Ex F - Check Cashing Questionnaire, # <u>7</u> Exhibit Ex G - Loaning on 1st and 3rd)(Rasmussen, Robin) (Entered: 07/29/2016)
08/02/2016		NOTICE of Hearing: Telephone Conference regarding discovery related dispute set for 8/8/2016 at 10:00 AM before Magistrate Judge John C. Gargiulo. Counsel for Plaintiff will place the call to Judge Gargiulo's Chambers with all necessary counsel on the line. (AB) (Entered: 08/02/2016)
08/08/2016		Minute Entry for proceedings held before Magistrate Judge John C. Gargiulo: Telephone Conference held on 8/8/2016 regarding depositions noticed by Defendants (two Bureau investigators and the Director of Consumer Finance Division for Mississippi Department of Banking and Consumer Finance). Plaintiff anticipates asserting certain privileges. As such, a briefing schedule will be entered by separate order. Participants: Emily Hope Mintz and Michael Philip Favretto

**RECORD EXCERPT 11**

		(counsel for Plaintiff ); Peter D. Baskind - PHV, Bentley E. Conner, Dale Danks, Jr. and Robin H. Rasmussen (counsel for Defendants) (AB) (Entered: 08/08/2016)
08/08/2016		TEXT ONLY SCHEDULING ORDER: On or before August 12, 2016, Defendants will provide Plaintiff, with reasonable particularity, their anticipated subject areas that are intended to be questioned during the depositions of two Bureau investigators and the Director of Consumer Finance Division for Mississippi Department of Banking and Consumer Finance. The deadline to file motions for protective orders as to the relevant depositions is August 26, 2016, with the response and reply due in accordance with the Local Uniform Civil Rules. NO FURTHER WRITTEN ORDER SHALL ISSUE FROM THE COURT. Signed by Magistrate Judge John C. Gargiulo on 8/8/2016 (AB) (Entered: 08/08/2016)
08/19/2016	<u>27</u>	MOTION to Strike <i>Defenses</i> by Consumer Financial Protection Bureau (Mintz - Federal Gov, Emily) (Entered: 08/19/2016)
08/19/2016	<u>28</u>	MEMORANDUM in Support re <u>27</u> MOTION to Strike <i>Defenses</i> filed by Consumer Financial Protection Bureau (Mintz - Federal Gov, Emily) (Entered: 08/19/2016)
08/24/2016	<u>29</u>	Corporate Disclosure Statement by All American Check Cashing, Inc., Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 08/24/2016)
08/26/2016	<u>30</u>	MOTION for Protective Order by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Mintz Declaration, # <u>2</u> Exhibit B - Ridder Declaration, # <u>3</u> Exhibit C - Thomas Declaration, # <u>4</u> Exhibit D - Petersen Declaration)(Mintz - Federal Gov, Emily) (Entered: 08/26/2016)
08/26/2016	<u>31</u>	MEMORANDUM in Support re <u>30</u> MOTION for Protective Order filed by Consumer Financial Protection Bureau (Mintz - Federal Gov, Emily) (Entered: 08/26/2016)
09/02/2016	<u>32</u>	RESPONSE in Opposition re <u>27</u> MOTION to Strike <i>Defenses</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 09/02/2016)
09/02/2016	<u>33</u>	Joint MOTION to Extend Expert Disclosure Deadline by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Proposed Order)(Mintz - Federal Gov, Emily) (Entered: 09/02/2016)
09/02/2016		DOCKET ANNOTATION as to [#33]: Proposed orders are not to be electronically filed as a separate pleading or as an attachment to a pleading, but instead are to be provided to chambers by e-mail (Court's Administrative Procedures for Electronic Case Filing Sec.5.B.). (MGB) (Entered: 09/02/2016)

**RECORD EXCERPT 12**

09/02/2016		TEXT ONLY ORDER granting in part and denying in part <u>33</u> Joint Motion to Extend Deadlines for Expert Disclosures. Plaintiff's expert designation deadline is 11/3/2016. Defendants' expert designation deadline is 12/5/2016. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 9/2/2016 (MG) Modified on 9/2/2016 to correct deadlines (MG). (Entered: 09/02/2016)
09/02/2016		Set/Reset Deadlines: Designate Experts Plaintiff Deadline is 11/3/2016. Designate Experts for Defendant Deadline is 12/5/2016. (MG) (Entered: 09/02/2016)
09/08/2016	<u>34</u>	NOTICE of Service of Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 09/08/2016)
09/09/2016	<u>35</u>	REPLY to Response to Motion re <u>27</u> MOTION to Strike <i>Defenses</i> filed by Consumer Financial Protection Bureau (Mintz - Federal Gov, Emily) (Entered: 09/09/2016)
09/09/2016	<u>36</u>	RESPONSE in Opposition re <u>30</u> MOTION for Protective Order filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Ex 1 - Rule 26 Disclosures, # <u>2</u> Exhibit Ex 2 - DBCF 07.11.16 Order)(Rasmussen, Robin) (Entered: 09/09/2016)
09/16/2016	<u>37</u>	NOTICE of Service of <i>Supplemental</i> Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 09/16/2016)
09/16/2016	<u>38</u>	REPLY to Response to Motion re <u>30</u> MOTION for Protective Order filed by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 09/16/2016)
09/19/2016	<u>39</u>	Amended NOTICE of Service of <i>Supplemental</i> Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 09/19/2016)
09/23/2016	<u>40</u>	NOTICE of Service of <i>First Set of</i> Interrogatories by All American Check Cashing, Inc. (Attachments: # <u>1</u> Exhibit Ex A - 09.23.16 E-Mail)(Rasmussen, Robin) (Entered: 09/23/2016)
09/28/2016	<u>41</u>	NOTICE of Appearance by Stephanie C. Brenowitz-Federal Gov on behalf of Consumer Financial Protection Bureau (Brenowitz-Federal Gov, Stephanie) (Entered: 09/28/2016)
10/07/2016	<u>42</u>	NOTICE of Service of <i>Second</i> Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 10/07/2016)
10/18/2016	<u>43</u>	

**RECORD EXCERPT 13**

		NOTICE of Service of <i>First Set of</i> Interrogatories by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 10/18/2016)
10/21/2016	<u>44</u>	NOTICE of Service of <i>Supplement to Rule 26 Initial</i> Disclosure by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 10/21/2016)
10/25/2016	<u>45</u>	NOTICE of Service of Response to Interrogatories by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit)(Mintz-Federal Gov, Emily) (Entered: 10/25/2016)
10/27/2016	<u>46</u>	NOTICE of Appearance by Megan B. Ross on behalf of All Defendants (Ross, Megan) (Entered: 10/27/2016)
11/03/2016	<u>47</u>	NOTICE of Service of Designation of Experts by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 11/03/2016)
11/07/2016	<u>48</u>	NOTICE of Service of Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 11/07/2016)
11/08/2016	<u>49</u>	ORDER granting in part and denying in part Plaintiff's <u>30</u> Motion for Protective Order. Signed by Magistrate Judge John C. Gargiulo on 11/8/2016 (MG) (Entered: 11/08/2016)
11/21/2016	<u>50</u>	First MOTION to Compel <i>Discovery Responses</i> by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Mintz Declaration)(Mintz-Federal Gov, Emily) (Entered: 11/21/2016)
11/21/2016	<u>51</u>	MEMORANDUM in Support re <u>50</u> First MOTION to Compel <i>Discovery Responses</i> filed by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 11/21/2016)
11/23/2016	<u>52</u>	Joint MOTION for Extension of Time to Complete Discovery by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Proposed Order)(Mintz-Federal Gov, Emily) (Entered: 11/23/2016)
11/23/2016		DOCKET ANNOTATION as to <u>52</u> : Proposed orders are not to be electronically filed as a separate pleading or as an attachment to a pleading, but instead are to be provided to chambers by e-mail (Court's Administrative Procedures for Electronic Case Filing Sec.5.B.). (PKM) (Entered: 11/23/2016)
11/29/2016		TEXT ONLY ORDER granting <u>52</u> Joint Motion for Extension of Time to Complete Discovery. The extensions requested necessitate a continuance of the trial date. An amended case management order will follow via separate docket entry. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on

**RECORD EXCERPT 14**



		11/29/2016 (MG) (Entered: 11/29/2016)
11/29/2016		TEXT ONLY AMENDED CASE MANAGEMENT ORDER: Discovery due by 3/31/2017. Motions due by 4/28/2017. Settlement Conference set for 5/25/2017 at 9:30 AM in Suite 6.550, Courtroom 6B (Jackson) before Magistrate Judge John C. Gargiulo. Pretrial Conference set for 9/7/2017 at 9:00 AM in Courtroom 4B (Jackson) before District Judge William H. Barbour Jr. Bench Trial set for a four week trial calendar beginning on 10/2/2017 at 9:00 AM in Courtroom 4B (Jackson) before District Judge William H. Barbour Jr. Proposed Pretrial Order due by 9/7/2017. NO FURTHER WRITTEN ORDER WILL ISSUE FROM THE COURT. Signed by Magistrate Judge John C. Gargiulo on 11/29/2016 (AB) (Entered: 11/29/2016)
12/06/2016	<u>53</u>	NOTICE of Service of Response to Interrogatories by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Ex 1 - 12.02.16 E-mail)(Rasmussen, Robin) (Entered: 12/06/2016)
12/06/2016	<u>54</u>	RESPONSE in Opposition re <u>50</u> First MOTION to Compel <i>Discovery Responses</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Ex A - Current Bates Index, # <u>2</u> Exhibit Ex B- Complaint Log, # <u>3</u> Exhibit Ex C - 2nd Supp Responses, # <u>4</u> Exhibit Ex D - Gilead Sci. v. Merck, # <u>5</u> Exhibit Ex E - MS Check Casher's Act, # <u>6</u> Exhibit Ex F - 11.04.16 Bates Index and E-Mail, # <u>7</u> Exhibit Ex G - 11.02.16 E-Mail, # <u>8</u> Exhibit Ex H - 10.31.16 E-Mail)(Rasmussen, Robin) (Entered: 12/06/2016)
12/13/2016	<u>55</u>	REPLY to Response to Motion re <u>50</u> First MOTION to Compel <i>Discovery Responses</i> filed by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit Ex. A - Van Atta Declaration, # <u>2</u> Exhibit B - Mintz Declaration)(Mintz-Federal Gov, Emily) (Entered: 12/13/2016)
12/14/2016	<u>56</u>	MOTION for Leave to File <i>Sur Reply</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Ex A - Proposed Sur Reply)(Ross, Megan) (Entered: 12/14/2016)
12/16/2016	<u>57</u>	ORDER denying Defendants' <u>56</u> Motion for Leave to File Sur-Reply. Signed by Magistrate Judge John C. Gargiulo on 12/16/2016 (MG) (Entered: 12/16/2016)
01/03/2017	<u>58</u>	Second MOTION to Compel <i>Discovery Responses</i> by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Mintz Declaration, # <u>2</u> Exhibit B - Van Atta Declaration)(Mintz-Federal Gov, Emily) (Entered: 01/03/2017)
01/03/2017	<u>59</u>	

		MEMORANDUM in Support re <u>58</u> Second MOTION to Compel <i>Discovery Responses</i> filed by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 01/03/2017)
01/04/2017	<u>60</u>	NOTICE of Service of <i>1st Set of Request for Production</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Ex A - 01.04.17 E-mail)(Rasmussen, Robin) (Entered: 01/04/2017)
01/09/2017	<u>61</u>	NOTICE of Receipt of Deposition by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 01/09/2017)
01/09/2017	<u>62</u>	NOTICE of Receipt of Deposition by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 01/09/2017)
01/09/2017	<u>63</u>	NOTICE of Receipt of Deposition by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 01/09/2017)
01/12/2017	<u>64</u>	MOTION to Withdraw as Attorney <i>Proposed order submitted</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Ross, Megan) (Entered: 01/12/2017)
01/12/2017	<u>65</u>	MEMORANDUM IN SUPPORT re <u>64</u> MOTION to Withdraw as Attorney <i>Proposed order submitted</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Ross, Megan) (Entered: 01/12/2017)
01/13/2017		TEXT ONLY ORDER granting Defendants' <u>64</u> Motion to Withdraw Counsel of Record. Megan B. Ross is granted leave to withdraw and is terminated from the docket as counsel of record for Defendants All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray. Defendants will continue to be represented by Robin H. Rasmussen, Peter D. Baskind, Bentley E. Conner, and Dale Danks, Jr. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 1/13/2017 (MG) (Entered: 01/13/2017)
01/17/2017	<u>66</u>	RESPONSE to Motion re <u>58</u> Second MOTION to Compel <i>Discovery Responses</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 01/17/2017)
01/23/2017	<u>67</u>	REPLY to Response to Motion re <u>58</u> Second MOTION to Compel <i>Discovery Responses</i> filed by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Mintz Declaration)(Mintz-Federal Gov, Emily) (Entered: 01/23/2017)
02/02/2017	<u>68</u>	MOTION to Extend Discovery Deadline by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance,

**RECORD EXCERPT 16**

		Inc. (Attachments: # <u>1</u> Exhibit Ex 1 - Attachments A & K, # <u>2</u> Exhibit 02.02.17 Email, # <u>3</u> Exhibit 01.31.17 Email)(Rasmussen, Robin) (Entered: 02/02/2017)
02/02/2017	<u>69</u>	NOTICE of Service of Response to Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 02/02/2017)
02/03/2017	<u>70</u>	NOTICE of Service of <i>Second Supplement to Rule 26 Initial Disclosure</i> by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 02/03/2017)
02/03/2017		TEXT ONLY ORDER granting in part and denying in part Defendants' <u>68</u> Unopposed Motion to Extension of Time to Complete Discovery. The extensions requested would necessitate a continuance of the trial date. The discovery deadline is extended to 4/12/2017. The motions deadline is extended to 5/10/2017. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 2/3/2017 (MG) (Entered: 02/03/2017)
02/09/2017	<u>71</u>	NOTICE of Service of Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Ex A - 02.09.17 E-Mail)(Baskind - PHV, Peter) (Entered: 02/09/2017)
02/13/2017	<u>72</u>	NOTICE of Receipt of Deposition by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 02/13/2017)
02/13/2017	<u>73</u>	NOTICE of Receipt of Deposition by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 02/13/2017)
02/21/2017	<u>74</u>	NOTICE of Service of <i>Third Supplement to Rule 26 Initial Disclosure</i> by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 02/21/2017)
02/23/2017	<u>75</u>	ORDER denying <u>27</u> Motion to Strike Defenses of Defendants. Signed by District Judge William H. Barbour, Jr on 2/23/17 (Lewis, Nijah) (Entered: 02/23/2017)
02/24/2017	<u>76</u>	NOTICE of Receipt of Deposition of Nathan Williams by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 02/24/2017)
02/24/2017	<u>77</u>	MOTION for Extension of Time to Complete Discovery , MOTION to Continue <i>Trial Date</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Ex 1 - 02.24.17 Email)(Rasmussen, Robin) (Entered: 02/24/2017)
02/27/2017	<u>78</u>	RESPONSE to Motion re <u>77</u> MOTION for Extension of Time to Complete Discovery MOTION to Continue <i>Trial Date</i> filed by Consumer Financial Protection Bureau

**RECORD EXCERPT 17**

		(Attachments: # <u>1</u> Mintz Declaration, # <u>2</u> Exhibit A to Mintz Declaration, # <u>3</u> Exhibit B to Mintz Declaration, # <u>4</u> Exhibit C to Mintz Declaration, # <u>5</u> Exhibit D to Mintz Declaration, # <u>6</u> Exhibit E to Mintz Declaration, # <u>7</u> Exhibit F to Mintz Declaration)(Mintz-Federal Gov, Emily) (Entered: 02/27/2017)
03/01/2017	<u>79</u>	MOTION to Compel <i>Responses to Defendants' First Set of Interrogatories</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Ex A - Good Faith Cert)(Rasmussen, Robin) (Entered: 03/01/2017)
03/01/2017	<u>80</u>	MEMORANDUM in Support re <u>79</u> MOTION to Compel <i>Responses to Defendants' First Set of Interrogatories</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Ex 1 - Responses to 1st INTS, # <u>2</u> Exhibit Ex 2 - 02.01.17 Deficiency Letter, # <u>3</u> Exhibit Ex 3 - 02.28.17 Mintz Email)(Rasmussen, Robin) (Entered: 03/01/2017)
03/01/2017	<u>81</u>	Second NOTICE of Receipt of Deposition of Dianne Valladares by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 03/01/2017)
03/01/2017	<u>82</u>	NOTICE of Receipt of Deposition of Jason Stabbs by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A)(Mintz-Federal Gov, Emily) (Entered: 03/01/2017)
03/01/2017	<u>83</u>	NOTICE of Receipt of Deposition of Lisa Pyron by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 03/01/2017)
03/03/2017	<u>84</u>	NOTICE of Service of <i>Third</i> Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 03/03/2017)
03/03/2017	<u>85</u>	NOTICE of Service of <i>Second Set</i> of Interrogatories by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 03/03/2017)
03/06/2017		Reset Hearing: Due to a conflict with the Court's calendar, the Settlement Conference is RESET for 6/1/2017 at 9:30 AM in Suite 6.550, Courtroom 6B (Jackson) before Magistrate Judge John C. Gargiulo. Counsel are instructed to submit to Judge Gargiulo, seven days prior to the conference, a memorandum (3 page maximum in PDF format) setting forth a brief explanation of the case, and a candid appraisal of their respective positions, including possible settlement figures. This document is NOT to be exchanged and will be viewed only by the Court. The settlement memoranda should be sent to Judge Gargiulo via e-mail (gargiulo_chambers@mssd.uscourts.gov). LOCAL, LEAD

**RECORD EXCERPT 18**

		COUNSEL AND PARTIES WITH FULL SETTLEMENT AUTHORITY MUST BE PHYSICALLY PRESENT AT THE CONFERENCE (INCLUDING INSURANCE CARRIERS WHO HAVE AUTHORITY). FAILURE TO APPEAR MAY RESULT IN SANCTIONS. (AB) (Entered: 03/06/2017)
03/06/2017		TEXT ONLY ORDER granting in part and denying in part Defendants' <u>77</u> Motion for Extension of Time to Complete Discovery and to Continue Trial Date. Defendants do not oppose extending the discovery and motions deadlines, but do oppose a continuance of the trial date. Accordingly: discovery closes 4/21/2017; dispositive and <i>Daubert</i> motions are due on or before 5/19/2017. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 3/6/2017 (MG) (Entered: 03/06/2017)
03/06/2017		Set/Reset Deadlines: Discovery is due by 4/21/2017. Motions are due by 5/19/2017. (MG) (Entered: 03/06/2017)
03/06/2017		TEXT ONLY ORDER setting expedited briefing schedule for Defendants' <u>79</u> Motion to Compel. Plaintiff's response is due on 3/9/2017. Any reply from Defendants is due on 3/13/2017. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 3/6/2017 (MG) (Entered: 03/06/2017)
03/08/2017	<u>86</u>	MOTION for Reconsideration re Order on Motion for Extension of Time to Complete Discovery, Order on Motion to Continue,, by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 03/08/2017)
03/08/2017	<u>87</u>	**ERROR** Disregard this entry. RESPONSE in Support re <u>86</u> MOTION for Reconsideration re Order on Motion for Extension of Time to Complete Discovery, Order on Motion to Continue,, filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) Modified on 3/8/2017 (PKM). (Entered: 03/08/2017)
03/08/2017	<u>88</u>	MEMORANDUM in Support re <u>86</u> MOTION for Reconsideration re Order on Motion for Extension of Time to Complete Discovery, Order on Motion to Continue,, filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 03/08/2017)
03/08/2017		DOCKET ANNOTATION as to <u>87</u> : Attorney advises there is an error in this entry, and it should be disregarded. It has been correctly refiled as Doc. <u>88</u> . (PKM) (Entered: 03/08/2017)
03/09/2017	<u>89</u>	RESPONSE in Opposition re <u>79</u> MOTION to Compel <i>Responses to Defendants' First Set of Interrogatories</i> filed by Consumer Financial Protection Bureau (Attachments: # <u>1</u>

**RECORD EXCERPT 19**

		Affidavit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit)(Brenowitz-Federal Gov, Stephanie) (Entered: 03/09/2017)
03/09/2017	<u>90</u>	MEMORANDUM IN OPPOSITION re <u>79</u> MOTION to Compel Responses to Defendants' First Set of Interrogatories, filed by Consumer Financial Protection Bureau (Brenowitz-Federal Gov, Stephanie) Modified on 3/10/2017 (PKM). (Entered: 03/09/2017)
03/10/2017		DOCKET ANNOTATION as to <u>89</u> : U.L.Cr.R.47(B) requires that all supporting exhibits to a document be denominated by an exhibit letter or number and a meaningful description. Attorney is advised to follow this rule in future filings. (PKM) (Entered: 03/10/2017)
03/10/2017		DOCKET ANNOTATION as to <u>90</u> Incorrect linkage made. Memorandum in Opposition of Motion should be linked to <u>79</u> , Motion to Compel Responses to Defendants' First Set of Interrogatories. All related filings to motions (using the "Responses and Replies" category, with the exception of "Response to Order") should be linked back to the original motion. Court staff has made the correction. (PKM) Modified on 3/10/2017 (PKM). (Entered: 03/10/2017)
03/13/2017	<u>91</u>	NOTICE of Service of Response to Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 03/13/2017)
03/16/2017	<u>92</u>	ORDER granting Plaintiff's <u>50</u> First Motion to Compel Discovery Responses and granting Plaintiff's <u>58</u> Second Motion to Compel Discovery Responses. An amended case management order, which will include a deadline by which Defendants must comply with court-ordered discovery responses, will follow via separate docket entry. Signed by Magistrate Judge John C. Gargiulo on 3/16/2017 (MG) (Entered: 03/16/2017)
03/16/2017	<u>93</u>	MOTION for Leave to File <i>Defendants' Reply to Plaintiff's Response in Opposition to Motion to Compel</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Defendants' Reply to Plaintiff's Response in Opposition to Motion to Compel)(Rasmussen, Robin) (Entered: 03/16/2017)
03/16/2017	<u>94</u>	MEMORANDUM in Support re <u>93</u> MOTION for Leave to File <i>Defendants' Reply to Plaintiff's Response in Opposition to Motion to Compel</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 03/16/2017)
03/17/2017		TEXT ONLY ORDER granting Defendants' <u>93</u> Motion for Leave to File Late Reply. Defendants' deadline to file a Reply is extended to 5:00 pm on 3/17/2017. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate

**RECORD EXCERPT 20**

		Judge John C. Gargiulo on 3/17/2017 (MG) (Entered: 03/17/2017)
03/17/2017	<u>95</u>	REPLY to Response to Motion re <u>79</u> MOTION to Compel Responses to Defendants' First Set of Interrogatories filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Subpoena duces tecum to E-Software Solutions, Inc.)(Rasmussen, Robin) (Entered: 03/17/2017)
03/20/2017		TEXT ONLY AMENDED CASE MANAGEMENT ORDER: Deadline for Defendants to comply with Court's <u>92</u> Order compelling discovery responses is 5/5/2017. Discovery due by 6/16/2017. Motions due by 7/14/2017. Settlement Conference set for 7/26/2017 at 1:30 PM in Courtroom 6B (Jackson) before Magistrate Judge John C. Gargiulo. Pretrial Conference set for 12/7/2017 at 9:00 AM in Courtroom 4B (Jackson) before District Judge William H. Barbour Jr. Bench Trial set for a four week trial calendar beginning on 1/2/2018 at 9:00 AM in Courtroom 4B (Jackson) before District Judge William H. Barbour Jr. Proposed Pretrial Order due by 12/7/2017. NO FURTHER EXTENSIONS WILL BE GRANTED ABSENT EXTRAORDINARY CIRCUMSTANCES. NO FURTHER WRITTEN ORDER WILL ISSUE FROM THE COURT. Signed by Magistrate Judge John C. Gargiulo on 3/20/2017 (AB) Modified on 3/20/2017 to correct Settlement Conference time (AB). (Entered: 03/20/2017)
03/20/2017		DOCKET ANNOTATION as to the Text Only Amended Case Management Order entered 3/20/2017: Docket text modified to correct the time of Settlement Conference which is set for 1:30 PM. (AB) (Entered: 03/20/2017)
03/20/2017		TEXT ONLY ORDER denying as moot <u>86</u> Joint Motion for Reconsideration of March 6, 2017 Order in light of the Amended Case Management Order entered 3/20/2017. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 3/20/2017 (MG) (Entered: 03/20/2017)
03/27/2017	<u>96</u>	NOTICE of Receipt of Deposition of Jeremy Hoskinson by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 03/27/2017)
03/27/2017	<u>97</u>	NOTICE of Service of <i>First Supplemental</i> Response to Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 03/27/2017)
03/31/2017	<u>98</u>	NOTICE of Service of <i>First Supplemental</i> Response to Interrogatories by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 03/31/2017)
04/03/2017	<u>99</u>	

**RECORD EXCERPT 21**

		NOTICE of Receipt of Deposition of Pamela Lyles by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 04/03/2017)
04/05/2017	<u>100</u>	NOTICE of Service of Request for Admissions by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 04/05/2017)
04/05/2017	<u>101</u>	NOTICE of Service of Request for Admissions by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 04/05/2017)
04/11/2017	<u>102</u>	NOTICE of Service of <i>Fourth</i> Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 04/11/2017)
04/11/2017	<u>103</u>	NOTICE of Receipt of Deposition of Chad Sheiner by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 04/11/2017)
04/12/2017	<u>104</u>	NOTICE of Service of <i>Second Supplemental</i> Response to Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 04/12/2017)
04/18/2017	<u>105</u>	NOTICE OF DEMAND FOR JURY TRIAL by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 04/18/2017)
04/28/2017	<u>106</u>	NOTICE of Service of <i>Third Supplemental</i> Response to Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 04/28/2017)
05/01/2017	<u>107</u>	NOTICE To Take Deposition of Jessica M. Choplin by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/01/2017)
05/01/2017	<u>108</u>	NOTICE CORRECTED NOTICE TO TAKE DEPOSITION OF JESSICA M. CHOPLIN by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. re <u>107</u> Notice (Other) (Rasmussen, Robin) (Entered: 05/01/2017)
05/01/2017	<u>109</u>	First NOTICE of Service of <i>Defendants' Third</i> Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit E-mail communication to Plaintiff's Counsel forwarding Discovery Request)(Rasmussen, Robin) (Entered: 05/01/2017)
05/01/2017	<u>110</u>	NOTICE of Service of <i>Fourth Supplement to Rule 26 Initial</i> Disclosure by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 05/01/2017)
05/08/2017	<u>111</u>	First MOTION for Extension of Time to File Response/Reply as to <u>92</u> Order on Motion to Compel,, by All American

**RECORD EXCERPT 22**



		Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/08/2017)
05/08/2017	<u>112</u>	MOTION for Theodore B. Olson to Appear Pro Hac Vice (Paid \$100 PHV fee; receipt number 0538-3440654) by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Certificate of Good Standing)(Rasmussen, Robin) (Entered: 05/08/2017)
05/08/2017	<u>113</u>	MOTION for Helgard C. Walker to Appear Pro Hac Vice (Paid \$100 PHV fee; receipt number 0538-3440659) by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/08/2017)
05/08/2017	<u>114</u>	MOTION for Joshua Seth Lipshutz to Appear Pro Hac Vice (Paid \$100 PHV fee; receipt number 0538-3440661) by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Certificate of Good Standing)(Rasmussen, Robin) (Entered: 05/08/2017)
05/08/2017	<u>115</u>	MOTION for Lochlan Francis Shelfer to Appear Pro Hac Vice (Paid \$100 PHV fee; receipt number 0538-3440662) by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Certificate of Good Standing)(Rasmussen, Robin) (Entered: 05/08/2017)
05/08/2017	<u>116</u>	First MOTION to Stay Proceedings by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/08/2017)
05/08/2017	<u>117</u>	MEMORANDUM in Support re <u>116</u> First MOTION to Stay Proceedings filed by Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/08/2017)
05/08/2017	<u>118</u>	MOTION for Helgard C. Walker to Appear Pro Hac Vice <i>Corrected to Add Exhibit</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Certificate of Good Standing)(Rasmussen, Robin) (Entered: 05/08/2017)
05/09/2017		(Court only) ***Motions terminated: <u>113</u> MOTION for Helgard C. Walker to Appear Pro Hac Vice (Paid \$100 PHV fee; receipt number 0538-3440659) filed by All American Check Cashing, Inc., Mid-State Finance, Inc., Michael E. Gray. (PKM) (Entered: 05/09/2017)
05/09/2017		DOCKET ANNOTATION as to <u>113</u> : Motion has been termed and has been refiled as document <u>118</u> , with Certificate of Good Standing attached. Fee paid: see entry <u>113</u> . (PKM) (Entered: 05/09/2017)
05/09/2017		DOCKET ANNOTATION as to <u>114</u> : Document is not signed by resident attorney. Attorney is directed to refile with appropriate signature. Motion <u>114</u> will be termed. (PKM) (Entered: 05/09/2017)

**RECORD EXCERPT 23**

05/09/2017		(Court only) ***Motions terminated: <u>114</u> MOTION for Joshua Seth Lipshutz to Appear Pro Hac Vice (Paid \$100 PHV fee; receipt number 0538-3440661) filed by All American Check Cashing, Inc., Mid-State Finance, Inc., Michael E. Gray. (PKM) (Entered: 05/09/2017)
05/09/2017		TEXT ONLY ORDER setting expedited briefing schedule for Defendants' <u>111</u> Motion for Extension of Time to Complete Compliance with Court's <u>92</u> Order. Plaintiff's Response is due by 5/11/2017 at 5:00PM CT. Defendants' Reply, if any, is due by 5/15/2017 at 12:00PM CT. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 5/9/2017 (MG) (Entered: 05/09/2017)
05/09/2017	<u>119</u>	ORDER granting in part and denying in part Defendants' <u>79</u> Motion to Compel Responses to Interrogatories. Signed by Magistrate Judge John C. Gargiulo on 5/9/2017 (MG) (Entered: 05/09/2017)
05/09/2017	<u>120</u>	NOTICE of Service of <i>Court Ordered</i> Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/09/2017)
05/09/2017	<u>121</u>	NOTICE of Service of <i>Court Ordered</i> Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/09/2017)
05/09/2017	<u>122</u>	NOTICE of Service of <i>Court Ordered</i> Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/09/2017)
05/09/2017	<u>123</u>	NOTICE of Service of <i>Court Ordered</i> Interrogatories by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/09/2017)
05/09/2017	<u>124</u>	NOTICE of Receipt of Deposition of Susan Seymour by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Page)(Mintz-Federal Gov, Emily) (Entered: 05/09/2017)
05/10/2017	<u>125</u>	ORDER denying Defendants' <u>116</u> Motion to Stay Proceedings. Signed by Magistrate Judge John C. Gargiulo on 5/10/2017 (MG) (Entered: 05/10/2017)
05/10/2017		TEXT ONLY ORDER granting <u>112</u> Motion to Appear Pro Hac Vice of Theodore B. Olson; granting <u>115</u> Motion to Appear Pro Hac Vice of Lochlan Francis Shelfer; granting <u>118</u> Motion to Appear Pro Hac Vice of Helgard C. Walker. That Theodore B. Olson, Lochlan Francis Shelfer and Helgard C. Walker be admitted pro hac vice in this case on behalf of Defendants All American Check Cashing, Inc., Mid-State Finance, Inc. and Michael E. Gary in association

**RECORD EXCERPT 24**

		with local counsel and upon registration for electronic filing. NO FURTHER WRITTEN ORDER SHALL ISSUE FROM THE COURT. Signed by Magistrate Judge John C. Gargiulo on 5/10/2017 (AB) (Entered: 05/10/2017)
05/10/2017	<u>126</u>	MOTION for Joshua Seth Lipshutz to Appear Pro Hac Vice <i>Corrected for Resident Attorney's Signature Replaces Doc 114</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Certificate of Good Standing)(Rasmussen, Robin) (Entered: 05/10/2017)
05/10/2017	<u>127</u>	NOTICE of Service of Response to Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 05/10/2017)
05/10/2017	<u>128</u>	Second NOTICE of Receipt of Deposition of Laura Vance by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 05/10/2017)
05/10/2017	<u>129</u>	NOTICE of Service of <i>Objections and Responses to Request for Admissions to Michael Gray</i> Response to Request for Admissions by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/10/2017)
05/10/2017	<u>130</u>	NOTICE of Service of <i>Objections and Responses to Request for Admissions to All American Check Cashing, Inc.</i> Response to Request for Admissions by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/10/2017)
05/11/2017	<u>131</u>	RESPONSE in Opposition re <u>111</u> First MOTION for Extension of Time to File Response/Reply as to <u>92</u> Order on Motion to Compel,, filed by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Mintz Declaration, # <u>2</u> Exhibit A to Mintz Declaration, # <u>3</u> Exhibit B to Mintz Declaration)(Mintz-Federal Gov, Emily) (Entered: 05/11/2017)
05/11/2017		(Court only) ***Attorney Theodore B. Olson - PHV, Helgard C. Walker - PHV, Lochlan Francis Shelfer - PHV for All American Check Cashing, Inc., Theodore B. Olson - PHV, Helgard C. Walker - PHV, Lochlan Francis Shelfer - PHV for Michael E. Gray, Theodore B. Olson - PHV, Helgard C. Walker - PHV, Lochlan Francis Shelfer - PHV for Mid-State Finance, Inc. added. (cwl) (Entered: 05/11/2017)
05/15/2017	<u>132</u>	NOTICE of Service of <i>Court Ordered</i> Interrogatories by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/15/2017)
05/15/2017	<u>133</u>	REPLY to Response to Motion re <u>92</u> Order on Motion to Compel,, <u>111</u> First MOTION for Extension of Time to File Response/Reply as to <u>92</u> Order on Motion to Compel,, , <u>131</u> Response in Opposition to Motion, <i>Extension of Time to</i>

**RECORD EXCERPT 25**

		<i>Complete Compliance with the Court's Order</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/15/2017)
05/15/2017		TEXT ONLY ORDER granting Defendants' <u>111</u> Motion for Extension of Time to Complete Compliance with the Court's <u>92</u> Order. Defendants are granted until May 19, 2017 to complete the discovery responses compelled by the Court's <u>92</u> Order. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 5/15/2017 (MG) (Entered: 05/15/2017)
05/15/2017		TEXT ONLY ORDER granting <u>126</u> Motion to Appear Pro Hac Vice of Joshua Seth Lipshutz. That Joshua Seth Lipshutz be admitted pro hac vice in this case on behalf of Defendants All American Check Cashing, Inc., Mid-State Finance, Inc. and Michael E. Gary in association with local counsel and upon registration for electronic filing. NO FURTHER WRITTEN ORDER SHALL ISSUE FROM THE COURT. Signed by Magistrate Judge John C. Gargiulo on 5/15/2017 (AB) (Entered: 05/15/2017)
05/15/2017		(Court only) ***Attorney Joshua Seth Lipshutz - PHV for All American Check Cashing, Inc., Joshua Seth Lipshutz - PHV for Michael E. Gray, Joshua Seth Lipshutz - PHV for Mid-State Finance, Inc. added. (PKM) (Entered: 05/16/2017)
05/16/2017	<u>134</u>	NOTICE of Service of <i>Fifth</i> Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 05/16/2017)
05/17/2017	<u>135</u>	NOTICE of Receipt of Deposition of Sean Palmedo by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Page)(Mintz-Federal Gov, Emily) (Entered: 05/17/2017)
05/18/2017	<u>136</u>	NOTICE of Service of <i>Supplemental</i> Response to Interrogatories by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/18/2017)
05/19/2017	<u>137</u>	NOTICE of Service of <i>Supplemental</i> Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/19/2017)
05/23/2017	<u>138</u>	NOTICE of Service of <i>Second Supplemental</i> Response to Interrogatories by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 05/23/2017)
05/23/2017	<u>139</u>	Third MOTION to Compel <i>Discovery Responses</i> by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Mintz Declaration, # <u>2</u> Exhibit A to Mintz Declaration, # <u>3</u> Exhibit B to Mintz Declaration, # <u>4</u> Exhibit C to Mintz Declaration, # <u>5</u> Exhibit D to Mintz Declaration, # <u>6</u> Exhibit E to Mintz Declaration, # <u>7</u> Exhibit F to Mintz Declaration, #

**RECORD EXCERPT 26**

		<p><u>8</u> Exhibit G to Mintz Declaration, # <u>9</u> Exhibit H to Mintz Declaration, # <u>10</u> Exhibit I to Mintz Declaration, # <u>11</u> Exhibit J to Mintz Declaration, # <u>12</u> Exhibit K to Mintz Declaration, # <u>13</u> Exhibit L to Mintz Declaration, # <u>14</u> Exhibit M to Mintz Declaration, # <u>15</u> Exhibit N to Mintz Declaration)(Mintz-Federal Gov, Emily) (Entered: 05/23/2017)</p>
05/23/2017	<u>140</u>	<p>MEMORANDUM in Support re <u>139</u> Third MOTION to Compel <i>Discovery Responses</i> filed by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 05/23/2017)</p>
05/23/2017	<u>141</u>	<p>MOTION to Strike <u>130</u> Notice of Service of Response to Admissions, <u>129</u> Notice of Service of Response to Admissions <i>and, in the alternative, Deem All American Objections and Answers Insufficient</i> by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Favretto Declaration, # <u>2</u> Exhibit A to Favretto Declaration, # <u>3</u> Exhibit B to Favretto Declaration, # <u>4</u> Exhibit C to Favretto Declaration, # <u>5</u> Exhibit D to Favretto Declaration, # <u>6</u> Exhibit E to Favretto Declaration, # <u>7</u> Exhibit F to Favretto Declaration, # <u>8</u> Exhibit G to Favretto Declaration, # <u>9</u> Exhibit H to Favretto Declaration, # <u>10</u> Exhibit I to Favretto Declaration, # <u>11</u> Exhibit J to Favretto Declaration, # <u>12</u> Exhibit K to Favretto Declaration, # <u>13</u> Exhibit L to Favretto Declaration)(Favretto-Federal Gov, Michael) (Entered: 05/23/2017)</p>
05/23/2017	<u>142</u>	<p>MEMORANDUM in Support re <u>141</u> MOTION to Strike <u>130</u> Notice of Service of Response to Admissions, <u>129</u> Notice of Service of Response to Admissions <i>and, in the alternative, Deem All American Objections and Answers Insufficient</i> filed by Consumer Financial Protection Bureau (Favretto-Federal Gov, Michael) (Entered: 05/23/2017)</p>
05/24/2017	<u>143</u>	<p>First MOTION for Review of Magistrate Judge Order re <u>125</u> Order on Motion to Stay Proceedings <i>Objection To Magistrate's Order Denying Stay</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/24/2017)</p>
05/24/2017	<u>144</u>	<p>First MOTION for Judgment on the Pleadings by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/24/2017)</p>
05/24/2017	<u>145</u>	<p>MEMORANDUM in Support re <u>144</u> First MOTION for Judgment on the Pleadings filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 05/24/2017)</p>
05/25/2017	<u>146</u>	<p>NOTICE of <i>Constitutional Challenge to Act of Congress</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. re <u>145</u> Memorandum in Support of Motion, <u>144</u> First MOTION for Judgment on the Pleadings</p>

**RECORD EXCERPT 27**

		(Rasmussen, Robin) (Entered: 05/25/2017)
05/25/2017	<u>147</u>	MOTION to Compel <i>Defendants' Depositions</i> by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit, # <u>11</u> Exhibit, # <u>12</u> Exhibit)(Brenowitz-Federal Gov, Stephanie) (Entered: 05/25/2017)
05/25/2017	<u>148</u>	***ERROR***DISREGARD THIS ENTRY***MEMORANDUM in Support re <u>147</u> MOTION to Compel <i>Defendants' Depositions</i> filed by Consumer Financial Protection Bureau (Brenowitz-Federal Gov, Stephanie) Modified on 5/26/2017 (MGB). (Entered: 05/25/2017)
05/26/2017		DOCKET ANNOTATION as to [#147]:L.U.Civ.R. 7(b)(2) requires that all supporting exhibits to a document be denominated by an exhibit letter or number and a meaningful description. Attorney is advised to follow this rule in future filings. (MGB) (Entered: 05/26/2017)
05/26/2017	<u>149</u>	MEMORANDUM in Support re <u>147</u> MOTION to Compel <i>Defendants' Depositions</i> filed by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 05/26/2017)
05/26/2017		DOCKET ANNOTATION as to [#148]: Attorney advises that there is an error in this entry, and it should be disregarded. It has been correctly refiled as Doc. [#149]. (MGB) (Entered: 05/26/2017)
05/26/2017		TEXT ONLY ORDER setting expedited briefing schedule for Plaintiff's <u>147</u> Motion to Compel Rule 30(b)(6) Deposition of All American Check Cashing, Inc. and Deposition of Michael E. Gray. Defendants' response is due 5/31/2017. Plaintiff's reply, if any, is due 6/2/2017. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 5/26/2017 (MG) (Entered: 05/26/2017)
05/30/2017	<u>150</u>	MOTION for Extension of Time to File Response/Reply as to <u>144</u> First MOTION for Judgment on the Pleadings by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 05/30/2017)
05/30/2017	<u>151</u>	MEMORANDUM in Support re <u>150</u> MOTION for Extension of Time to File Response/Reply as to <u>144</u> First MOTION for Judgment on the Pleadings filed by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 05/30/2017)
05/30/2017		TEXT ONLY ORDER granting <u>150</u> Motion for Extension of Time to File Response/Reply. Response to Motion for Judgment on the Pleadings (Docket No. 144) is due on or before June 23, 2017. NO FURTHER WRITTEN ORDER

**RECORD EXCERPT 28**

		SHALL ISSUE. Signed by District Judge William H. Barbour, Jr on 5/30/17 (Lewis, Nijah) (Entered: 05/30/2017)
05/31/2017	<u>152</u>	RESPONSE in Opposition re <u>147</u> MOTION to Compel <i>Defendants' Depositions</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Appendix 1)(Rasmussen, Robin) (Entered: 05/31/2017)
06/01/2017	<u>153</u>	NOTICE of Service of <i>Response to 4th RFP By Government</i> Response to Request for Production by All American Check Cashing, Inc. (Rasmussen, Robin) (Entered: 06/01/2017)
06/01/2017	<u>154</u>	NOTICE of Service of Response to Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 06/01/2017)
06/01/2017	<u>155</u>	NOTICE of Service of <i>Supplemental</i> Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 06/01/2017)
06/01/2017	<u>156</u>	MOTION for Extension of Time to File Response/Reply as to <u>141</u> MOTION to Strike <u>130</u> Notice of Service of Response to Admissions, <u>129</u> Notice of Service of Response to Admissions <i>and, in the alternative, Deem All American Objections and Answers Insufficient</i> , <u>139</u> Third MOTION to Compel <i>Discovery Responses</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 06/01/2017)
06/02/2017	<u>157</u>	REPLY to Response to Motion re <u>147</u> MOTION to Compel <i>Defendants' Depositions</i> filed by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 06/02/2017)
06/06/2017	<u>158</u>	RESPONSE to Motion re <u>139</u> Third MOTION to Compel <i>Discovery Responses</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit 1)(Rasmussen, Robin) (Entered: 06/06/2017)
06/06/2017	<u>159</u>	RESPONSE in Opposition re <u>141</u> MOTION to Strike <u>130</u> Notice of Service of Response to Admissions, <u>129</u> Notice of Service of Response to Admissions <i>and, in the alternative, Deem All American Objections and Answers Insufficient</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 06/06/2017)
06/06/2017	<u>160</u>	NOTICE of Service of <i>Supplemental Responses</i> Interrogatories by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 06/06/2017)
06/07/2017		TEXT ONLY ORDER finding as moot Defendants' <u>156</u> Motion for Extension of Time to File Responses to

**RECORD EXCERPT 29**

		Outstanding Motions in light of Defendants' <u>158</u> <u>159</u> Responses filed 6/6/2017. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 6/7/2017 (MG) (Entered: 06/07/2017)
06/07/2017	<u>161</u>	Response in Opposition re <u>143</u> First MOTION for Review of Magistrate Judge Order re <u>125</u> Order on Motion to Stay Proceedings <i>Objection To Magistrate's Order Denying Stay</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) filed by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit Mintz Declaration)(Mintz-Federal Gov, Emily) (Entered: 06/07/2017)
06/09/2017	<u>162</u>	NOTICE of Service of <i>Fourth Supplemental</i> Response to Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 06/09/2017)
06/09/2017	<u>163</u>	NOTICE of Service of <i>Fifth Supplement to Rule 26 Initial</i> Disclosure by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 06/09/2017)
06/09/2017	<u>164</u>	REPLY to Response to Motion re <u>139</u> Third MOTION to Compel <i>Discovery Responses</i> filed by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 1 - Brenowitz Declaration, # <u>2</u> Exhibit 2 - Mintz Declaration)(Mintz-Federal Gov, Emily) (Entered: 06/09/2017)
06/09/2017	<u>165</u>	ORDER granting in part and denying in part <u>147</u> Motion to Compel Fed. R. Civ. P. 30(b)(6) Deposition of Defendant All American Check Cashing, Inc.'s Corporate Representative(s) and Deposition of Michael E. Gray. Signed by Magistrate Judge John C. Gargiulo on 6/9/2017 (MG) (Entered: 06/09/2017)
06/12/2017	<u>166</u>	NOTICE of Service of <i>Third Supplemental</i> Response to Interrogatories by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 06/12/2017)
06/13/2017	<u>167</u>	REPLY to Response to Motion re <u>141</u> MOTION to Strike <u>130</u> Notice of Service of Response to Admissions, <u>129</u> Notice of Service of Response to Admissions <i>and, in the alternative, Deem All American Objections and Answers Insufficient</i> filed by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit Mintz Declaration, # <u>2</u> Exhibit A to Mintz Declaration, # <u>3</u> Exhibit B to Mintz Declaration)(Mintz-Federal Gov, Emily) (Entered: 06/13/2017)
06/14/2017	<u>168</u>	NOTICE of Appearance by Michael Verdier Cory, Jr on behalf of All Defendants (Cory, Michael) (Entered: 06/14/2017)
06/14/2017	<u>169</u>	REPLY to Response to Motion re <u>143</u> First MOTION for Review of Magistrate Judge Order re <u>125</u> Order on Motion to

**RECORD EXCERPT 30**



		Stay Proceedings <i>Objection To Magistrate's Order Denying Stay</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit A to declaration)(Rasmussen, Robin) (Entered: 06/14/2017)
06/15/2017	<u>170</u>	NOTICE of Service of <i>Defendants' Responses to Plaintiff's Fifth Set of Request for Production of Documents</i> Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 06/15/2017)
06/19/2017	<u>171</u>	NOTICE of Receipt of Deposition of Summer Graham by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 06/19/2017)
06/20/2017		REMINDER NOTICE of Settlement Conference: As a reminder to the parties, the Settlement Conference is set for 7/26/2017 at 1:30 PM in Courtroom 6B (Jackson) before Magistrate Judge John C. Gargiulo. Counsel are instructed to submit to Judge Gargiulo, seven days prior to the conference, a memorandum (3 page maximum in PDF format) setting forth a brief explanation of the case, and a candid appraisal of their respective positions, including possible settlement figures. This document is NOT to be exchanged and will be viewed only by the Court. The settlement memoranda should be sent to Judge Gargiulo via e-mail (gargiulo_chambers@mssd.uscourts.gov). LOCAL COUNSEL, LEAD COUNSEL AND PARTIES WITH FULL SETTLEMENT AUTHORITY MUST BE PHYSICALLY PRESENT AT THE CONFERENCE (INCLUDING INSURANCE CARRIERS WHO HAVE AUTHORITY). FAILURE TO APPEAR MAY RESULT IN SANCTIONS. (AB) (Entered: 06/20/2017)
06/20/2017	<u>172</u>	NOTICE of Service of <i>Fifth Supplemental</i> Response to Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 06/20/2017)
06/21/2017	<u>173</u>	MOTION to Withdraw as Attorney by Consumer Financial Protection Bureau (Paige-Federal Gov, Mitzi) (Entered: 06/21/2017)
06/22/2017		TEXT ONLY ORDER granting the <u>173</u> Motion to Withdraw as Counsel of Record filed by Assistant United States Attorney, Mitzi Dease Paige. Mitzi Dease Paige is granted leave to withdraw and is terminated from the docket as counsel of record for Plaintiff Consumer Financial Protection Bureau. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 6/22/2017 (MG) (Entered: 06/22/2017)
06/22/2017	<u>174</u>	NOTICE of Appearance by Daniel David McDonough Abraham-Federal Gov on behalf of Consumer Financial

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		Protection Bureau (Abraham-Federal Gov, Daniel) (Entered: 06/22/2017)
06/23/2017	<u>175</u>	NOTICE of Appearance by Christopher Deal-Federal Gov on behalf of Consumer Financial Protection Bureau (Deal-Federal Gov, Christopher) (Entered: 06/23/2017)
06/23/2017	<u>176</u>	NOTICE of Appearance by Lawrence De-Mille-Wagman-Federal Gov on behalf of Consumer Financial Protection Bureau (De-Mille-Wagman-Federal Gov, Lawrence) (Entered: 06/23/2017)
06/23/2017	<u>177</u>	RESPONSE in Opposition re <u>144</u> First MOTION for Judgment on the Pleadings filed by Consumer Financial Protection Bureau (Deal-Federal Gov, Christopher) (Entered: 06/23/2017)
06/23/2017	<u>178</u>	MEMORANDUM in Opposition re <u>144</u> First MOTION for Judgment on the Pleadings filed by Consumer Financial Protection Bureau (Deal-Federal Gov, Christopher) (Entered: 06/23/2017)
06/26/2017	<u>179</u>	NOTICE of Receipt of Deposition of Michael E. Gray by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 06/26/2017)
06/26/2017	<u>180</u>	NOTICE of Receipt of Deposition of All American Check Cashing, Inc. by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit A - Cover Sheet)(Mintz-Federal Gov, Emily) (Entered: 06/26/2017)
06/28/2017	<u>181</u>	Unopposed MOTION for Leave to File Excess Pages <i>for Original and Rebuttal Memorandum Briefs in support of Plaintiff's Motion for Summary Judgment</i> by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 06/28/2017)
06/28/2017	<u>182</u>	NOTICE of Service of <i>Sixth Supplement to Rule 26 Initial Disclosure</i> by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 06/28/2017)
06/28/2017	<u>183</u>	NOTICE of Service of <i>Fourth Supplemental Response to Interrogatories</i> by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 06/28/2017)
06/28/2017	<u>184</u>	ORDER granting <u>181</u> Motion for Leave to File Excess Pages. Signed by District Judge William H. Barbour, Jr on 6/28/17 (Lewis, Nijah) (Entered: 06/28/2017)
06/28/2017	<u>185</u>	ORDER denying <u>143</u> Defendants' Objection to the Magistrate Judge's Order Denying Motion to Stay. Defendants' renewed request to stay proceedings is hereby denied. Signed by District Judge William H. Barbour, Jr on 6/28/17 (Lewis, Nijah) (Entered: 06/28/2017)

06/30/2017	<u>186</u>	REPLY to Response to Motion re <u>145</u> Memorandum in Support of Motion, <u>144</u> First MOTION for Judgment on the Pleadings , <u>146</u> Notice (Other), <i>Defendants' Rebuttal memorandum In Further support of Their Motion For Judgment On The Pleadings</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 06/30/2017)
07/05/2017	<u>187</u>	MOTION to Extend Dispositive and Daubert Motions Deadline by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 07/05/2017)
07/07/2017	<u>188</u>	NOTICE of Service of <i>Sixth Supplemental</i> Response to Request for Production by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 07/07/2017)
07/07/2017	<u>189</u>	ORDER granting Plaintiff's <u>139</u> Third Motion to Compel Discovery Responses; granting in part and denying in part Plaintiff's <u>141</u> Motion to Strike Defendants' Responses to Plaintiff's Requests for Admission or, in the Alternative, to Determine the Sufficiency of Defendants' Responses. Defendants' deadline to comply with court-ordered discovery is July 21, 2017. The deadline to file dispositive and <i>Daubert</i> motions is extended to August 4, 2017. Signed by Magistrate Judge John C. Gargiulo on 7/7/2017 (MG) (Entered: 07/07/2017)
07/07/2017		Set/Reset Deadlines: Motions are due by 8/4/2017. (MG) (Entered: 07/07/2017)
07/07/2017		TEXT ONLY ORDER finding moot Plaintiff's <u>187</u> Motion to Extend Motions Deadline in light of the Court's <u>189</u> Order. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 7/7/2017 (MG) (Entered: 07/07/2017)
07/19/2017	<u>190</u>	MOTION to Withdraw as Attorney <i>proposed order submitted</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Rasmussen, Robin) (Entered: 07/19/2017)
07/20/2017	<u>191</u>	ORDER taking under advisement <u>190</u> Motion to Withdraw as Counsel of Record. Signed by Magistrate Judge John C. Gargiulo on 7/20/2017 (MG) (Entered: 07/20/2017)
07/21/2017	<u>192</u>	NOTICE of Service of <i>Third Supplemental</i> Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Cory, Michael) (Entered: 07/21/2017)
07/21/2017	<u>193</u>	NOTICE of Service of <i>Second Supplemental</i> Response to Interrogatories by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Cory, Michael) (Entered: 07/21/2017)
07/21/2017	<u>194</u>	

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		NOTICE of Service of <i>First Supplemental</i> Response to Request for Admissions by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Cory, Michael) (Entered: 07/21/2017)
07/26/2017	<u>195</u>	NOTICE of Service of <i>Defendants' Second Supplemental Responses to Plaintiff's Third Request for Production</i> Response to Request for Production by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Danks, Dale) (Entered: 07/26/2017)
07/26/2017	<u>196</u>	NOTICE of Service of <i>Defendants' Second Supplemental Responses to Plaintiff's Second Set of Interrogatories</i> Interrogatories by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Danks, Dale) (Entered: 07/26/2017)
07/26/2017		Minute Entry for proceedings held before Magistrate Judge John C. Gargiulo: Settlement Conference held on 7/26/2017. PARTICIPANTS: Emily Mintz, Daniel Abraham, and Stephanie Brenowitz (counsel for Plaintiff); Dale Danks, Jr. , Bentley Conner, and Michael Cory, Jr. (counsel for Defendants); Cecil Harper (CPA representative); Michael E. Gray (Defendant). The matter did not settle at conference however, significant progress was made toward settlement and negotiations are ongoing. Each of the parties have agreed to cooperate in completing the government's Standard Disclosure Financial Forms in furtherance of settlement. A status conference will be scheduled. (TRS) (Entered: 07/26/2017)
07/26/2017		NOTICE of Hearing: TELEPHONIC Status Conference set for 9/1/2017 at 9:30 AM before Magistrate Judge John C. Gargiulo. Counsel for Plaintiff will place the call to Judge Gargiulo's Chambers with all necessary counsel on the line. (AB) (Entered: 07/26/2017)
08/04/2017		TEXT ONLY ORDER granting <u>190</u> Motion to Withdraw as Counsel of Record filed by Robin H. Rasmussen and Peter D. Baskind of the law firm Dinkelspiel, Rasmussen & Mink, PLLC. Attorneys Robin H. Rasmussen and Peter D. Baskind are granted leave to withdraw and are terminated from the docket as counsel of record for Defendants All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray. Defendants will continue to be represented by attorneys from the law firms of Danks, Miller & Cory and Gibson, Dunn & Crutcher, LLP. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 8/4/2017 (MG) (Entered: 08/04/2017)
08/04/2017	<u>197</u>	MOTION in Limine to <i>Exclude Expert Testimony of Jessica Choplin, Ph.D.</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Expert Report of Dr. Jessica Choplin, Ph.D., # <u>2</u> Exhibit Deposition of Dr. Jessica Choplin, Ph.D.)(Cory,

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		Michael) (Entered: 08/04/2017)
08/04/2017	<u>198</u>	MEMORANDUM in Support re <u>197</u> MOTION in Limine to Exclude Expert Testimony of Jessica Choplin, Ph.D. filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Cory, Michael) (Entered: 08/04/2017)
08/04/2017	<u>199</u>	MOTION in Limine to Exclude Expert Testimony of Adam Levitin by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Expert Report of Adam Levitin)(Cory, Michael) (Entered: 08/04/2017)
08/04/2017	<u>200</u>	MEMORANDUM in Support re <u>199</u> MOTION in Limine to Exclude Expert Testimony of Adam Levitin filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Cory, Michael) (Entered: 08/04/2017)
08/04/2017	<u>201</u>	MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 1 - Mintz Decl, # <u>2</u> Exhibit 2 - Palmedo Decl, # <u>3</u> Exhibit 3 - Peters Decl, # <u>4</u> Exhibit 4 - Seymour Decl, # <u>5</u> Exhibit 5 - Stabbs Decl, # <u>6</u> Exhibit 6 - Williams Decl, # <u>7</u> Exhibit 7 - Ford Decl, # <u>8</u> Exhibit 8 - Howell Decl, # <u>9</u> Exhibit 9 - Johnson Decl, # <u>10</u> Exhibit 10 - Lackey Decl, # <u>11</u> Exhibit 11 - Rachel Decl)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/04/2017	<u>202</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 12 - Brown Decl, # <u>2</u> Exhibit 13 - Logan Decl, # <u>3</u> Exhibit 14 - Sheiner Decl, # <u>4</u> Exhibit 15 - Teabout Decl, # <u>5</u> Exhibit 16 - Block Decl, # <u>6</u> Exhibit 17 - Hampton Decl, # <u>7</u> Exhibit 18 - Reliford Decl, # <u>8</u> Exhibit 19 - Singleton Decl, # <u>9</u> Exhibit 20 - Levitin Decl, # <u>10</u> Exhibit 21 - Levitin Report, # <u>11</u> Exhibit 22 - Thomas Decl, # <u>12</u> Exhibit 23 - Hughes Decl, # <u>13</u> Exhibit 24 - Hanson Decl, # <u>14</u> Exhibit 25 - DBCF Order, # <u>15</u> Exhibit 26 - AACC Adm, # <u>16</u> Exhibit 27 - AACC Supp Adm, # <u>17</u> Exhibit 28 - Gray Adm)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/04/2017	<u>203</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 29 - AACC Resp to CID 1, # <u>2</u> Exhibit 30 - AACC Resp to CID 2, # <u>3</u> Exhibit 31 - AACC Resp to Interrog 1, # <u>4</u> Exhibit 32 - AACC Resp to Interrog 2)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/04/2017	<u>204</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 33 - 30b6 Dep, # <u>2</u> Exhibit 33A - 30b6 Dep Ex 10, # <u>3</u> Exhibit 33B - 30b6 Dep Ex 12, # <u>4</u> Exhibit 33C - 30b6 Dep Ex 13, # <u>5</u> Exhibit 33D - 30b6 Dep Ex 14, # <u>6</u> Exhibit 33E - 30b6 Dep Ex 15, # <u>7</u> Exhibit 33F - 30b6 Dep Ex 16, # <u>8</u> Exhibit 34A - Faulkner Dep I, # <u>9</u> Exhibit 34B - Faulkner

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		Dep II, # <u>10</u> Exhibit 35 - Graham Dep, # <u>11</u> Exhibit 36A - Gray Dep I, # <u>12</u> Exhibit 36B - Gray Dep II)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/04/2017	<u>205</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 37 - Hoskinson Dep, # <u>2</u> Exhibit 38 - Lyles Dep, # <u>3</u> Exhibit 39 - Mitchell Dep, # <u>4</u> Exhibit 40 - Mosley Dep, # <u>5</u> Exhibit 41 - Palmedo Dep, # <u>6</u> Exhibit 42 - Pyron Dep, # <u>7</u> Exhibit 43 - Seymour Dep, # <u>8</u> Exhibit 44 - Sheiner Dep, # <u>9</u> Exhibit 45 - Stabbs Dep, # <u>10</u> Exhibit 46 - Valladares Dep, # <u>11</u> Exhibit 47 - Williams Dep, # <u>12</u> Exhibit 48 - Wilson Dep, # <u>13</u> Exhibit 49 - Cain IH, # <u>14</u> Exhibit 50 - Crancer IH, # <u>15</u> Exhibit 51 - Gray IH, # <u>16</u> Exhibit 52 - Hall IH, # <u>17</u> Exhibit 53 - Reed IH)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/04/2017	<u>206</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 54 - 1/4/14 Email and Trans, # <u>2</u> Exhibit 55 - 2/8/13 Email and Trans, # <u>3</u> Exhibit 56 - 8/17/13 Email and Trans, # <u>4</u> Exhibit 57 - 2/17/14 Email and Trans, # <u>5</u> Exhibit 58 - 2/6/14 Email and Trans, # <u>6</u> Exhibit 59 - 2016 Policy and Proc, # <u>7</u> Exhibit 60 - 2013 Policy and Proc, # <u>8</u> Exhibit 61 - 6/13/12 Email, # <u>9</u> Exhibit 62 - 6/12/14 Email, # <u>10</u> Exhibit 63 - Check Cashing Presentation, # <u>11</u> Exhibit 64 - Bus Dev Audit, # <u>12</u> Exhibit 65 - Check Cashing Presentation, # <u>13</u> Exhibit 66 - Check Cashing Presentation, # <u>14</u> Exhibit 67 - 6/2/14 Email, # <u>15</u> Exhibit 68 - 1/21/14 Email, # <u>16</u> Exhibit 69 - 10 Rules of Check Cashing, # <u>17</u> Exhibit 70 - 9/26/12 Email)(Mintz-Federal Gov, Emily) Modified on 8/7/2017 (PKM). (Entered: 08/04/2017)
08/04/2017	<u>207</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 71 - 10/3/12 Email with 2012 Policy and Proc, # <u>2</u> Exhibit 72 - 2014 Policy and Proc, # <u>3</u> Exhibit 73 - 10/3/12 Email, # <u>4</u> Exhibit 74 - 8/29/13 Email, # <u>5</u> Exhibit 75 - eCash User Manual, # <u>6</u> Exhibit 76 - 10/12/12 Email, # <u>7</u> Exhibit 77 - 12/28/13 Email, # <u>8</u> Exhibit 78 - 11/4/13 Email, # <u>9</u> Exhibit 79 - Marketing Doc, # <u>10</u> Exhibit 80 - Marketing Doc)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/04/2017	<u>208</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 81 - 4/2/14 Email, # <u>2</u> Exhibit 82 - Check Cashing Presentation, # <u>3</u> Exhibit 83 - 8/31/11 Email, # <u>4</u> Exhibit 84 - Check Cashing Presentation, # <u>5</u> Exhibit 85 - 1/5/13 Email, # <u>6</u> Exhibit 86 - 12/18/13 Email, # <u>7</u> Exhibit 87 - 4/2/12 Email, # <u>8</u> Exhibit 88 - 11/9/11 Email, # <u>9</u> Exhibit 89 - 8/20/13 Email, # <u>10</u> Exhibit 90 - 2/25/13 Email, # <u>11</u> Exhibit 91 - 3/12/13 Email, # <u>12</u> Exhibit 92 - 11/13/13 Email, # <u>13</u> Exhibit 93 - 2/4/11 Email, # <u>14</u> Exhibit 94 - 10/1/13 Email, # <u>15</u> Exhibit 95 - 10/1/13 Email, # <u>16</u> Exhibit 96 - 7/19/13

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		Email, # <u>17</u> Exhibit 97 - 2/20/12 Email, # <u>18</u> Exhibit 98 - Training Document, # <u>19</u> Exhibit 99 - 4/8/13 Email, # <u>20</u> Exhibit 100 - Training Document)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/04/2017	<u>209</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 101 - Conversation Doc, # <u>2</u> Exhibit 102 - 8/19/13 Email, # <u>3</u> Exhibit 103 - 8/7/13 Email, # <u>4</u> Exhibit 104 - 1/27/11 Email, # <u>5</u> Exhibit 105 - 8/1/12 Email, # <u>6</u> Exhibit 106 - 7/8/13 Email, # <u>7</u> Exhibit 107 - 2/27/13 Email, # <u>8</u> Exhibit 108 - 9/19/12 Email, # <u>9</u> Exhibit 109 - 3/5/13 Email, # <u>10</u> Exhibit 110 - 9/17/12 Email, # <u>11</u> Exhibit 111 - 3/6/12 Email, # <u>12</u> Exhibit 112 - 12/20/12 Email, # <u>13</u> Exhibit 113 - 8/13/12 Email, # <u>14</u> Exhibit 114 - 2/13/14 Email, # <u>15</u> Exhibit 115 - 3/19/13 Email, # <u>16</u> Exhibit 116 - 10/2/12 Email, # <u>17</u> Exhibit 117 - 6/12/14 Email, # <u>18</u> Exhibit 118 - 1/16/13 Email, # <u>19</u> Exhibit 119 - 3/7/12 Email, # <u>20</u> Exhibit 120 - 1/5/13 Email, # <u>21</u> Exhibit 121 - 1/7/12 Email, # <u>22</u> Exhibit 122 - 1/5/13 Email, # <u>23</u> Exhibit 123 - 2/12/13 Email, # <u>24</u> Exhibit 124 - 10/1/12 Email, # <u>25</u> Exhibit 125 - 4/8/13 Email)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/04/2017	<u>210</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 126 - 10/1/12 Email, # <u>2</u> Exhibit 127 - 12/18/13 Email, # <u>3</u> Exhibit 128 - 10/9/11 Email, # <u>4</u> Exhibit 129 - Gray Compensation Record, # <u>5</u> Exhibit 130 - AL Fee Chart, # <u>6</u> Exhibit 131 - Loan Application, # <u>7</u> Exhibit 132 - 8/28/13 Email, # <u>8</u> Exhibit 133 - eCash User Manual, # <u>9</u> Exhibit 134 - 1/3/12 Email, # <u>10</u> Exhibit 135 - 4/3/12 Email, # <u>11</u> Exhibit 136 - 6/1/12 Email, # <u>12</u> Exhibit 137 - 10/1/12 Email, # <u>13</u> Exhibit 138 - 11/2/12 Email, # <u>14</u> Exhibit 139 - 12/14/12 Email, # <u>15</u> Exhibit 140 - 7/1/13 Email)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/04/2017	<u>211</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 141 - 2/24/14 Email, # <u>2</u> Exhibit 142 - 1/27/14 Email, # <u>3</u> Exhibit 143 - 11/1/11 Email, # <u>4</u> Exhibit 144 - 3/8/12 Email, # <u>5</u> Exhibit 145 - 5/4/12 Email, # <u>6</u> Exhibit 146 - 11/2/12 Email, # <u>7</u> Exhibit 147 - 5/3/12 Email, # <u>8</u> Exhibit 148 - 7/3/13 Email, # <u>9</u> Exhibit 149 - 3/1/12 Email, # <u>10</u> Exhibit 150 - 7/1/13 Email, # <u>11</u> Exhibit 151 - 4/3/14 Email, # <u>12</u> Exhibit 152 - 4/1/11 Email, # <u>13</u> Exhibit 153 - 4/1/11 Email, # <u>14</u> Exhibit 154 - 4/1/11 Email, # <u>15</u> Exhibit 155 - 4/1/11 Email, # <u>16</u> Exhibit 156 - 6/19/14 Email, # <u>17</u> Exhibit 157 - 6/19/14 Email, # <u>18</u> Exhibit 158 - 7/31/12 Email, # <u>19</u> Exhibit 159 - 7/31/12 Email, # <u>20</u> Exhibit 160 - 7/2/13 Email)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/04/2017	<u>212</u>	ATTACHMENT re <u>201</u> MOTION for Summary Judgment by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 161 - 6/3/14 Email, # <u>2</u> Exhibit 162 - 6/3/14 Email, #

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		<p><u>3</u> Exhibit 163 - 7/31/13 Email, # <u>4</u> Exhibit 164 - 10/1/12 Email, # <u>5</u> Exhibit 165 - 10/1/12 Email, # <u>6</u> Exhibit 166 - 10/1/12 Email, # <u>7</u> Exhibit 167 - 10/1/12 Email, # <u>8</u> Exhibit 168 - 10/1/12 Email, # <u>9</u> Exhibit 169 - 8/29/13 Email, # <u>10</u> Exhibit 170 - 5/4/12 Email, # <u>11</u> Exhibit 171 - 8/22/13 Email, # <u>12</u> Exhibit 172 - 1/10/13 Email, # <u>13</u> Exhibit 173 - Marketing Document, # <u>14</u> Exhibit 174 - Marketing Document, # <u>15</u> Exhibit 175 - 11/14/12 Email, # <u>16</u> Exhibit 176 - 1/24/12 Email, # <u>17</u> Exhibit 177 - 10/31/12 Email, # <u>18</u> Exhibit 178 - 2/17/14 Email, # <u>19</u> Exhibit 179 - 7/6/13 Email, # <u>20</u> Exhibit 180 - 9/26/11 Email, # <u>21</u> Exhibit 181 - 6/1/12 Email, # <u>22</u> Exhibit 182 - 7/3/12 Email, # <u>23</u> Exhibit 183 - Stipulation)(Mintz-Federal Gov, Emily) (Entered: 08/04/2017)</p>
08/04/2017	<u>213</u>	MEMORANDUM in Support re <u>201</u> MOTION for Summary Judgment filed by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 08/04/2017)
08/07/2017	<u>214</u>	NOTICE of Appearance by Kenneth C. Miller on behalf of All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Miller, Kenneth) (Entered: 08/07/2017)
08/07/2017	<u>215</u>	MOTION for Extension of Time to File Response/Reply to <i>Plaintiff's 201 Motion for Summary Judgment</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Cory, Michael) Modified on 8/7/2017 (MGB). (Entered: 08/07/2017)
08/08/2017	<u>216</u>	RESPONSE in Opposition re <u>215</u> MOTION for Extension of Time to File Response/Reply to <i>Plaintiff's Motion for Summary Judgment</i> filed by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 08/08/2017)
08/16/2017		TEXT ONLY ORDER granting <u>215</u> Motion for Extension of Time to File Response/Reply. Defendants' response to Motion for Summary Judgment is due on or before September 15, 2017. Plaintiff's responses to Motions to Exclude Expert Testimony are due on or before September 15, 2017. Rebuttals to all motions are due on or before September 27, 2017. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by District Judge William H. Barbour, Jr on 8/16/17 (Lewis, Nijah) (Entered: 08/16/2017)
09/01/2017		Minute Entry for proceedings held before Magistrate Judge John C. Gargiulo: TELEPHONIC Status Conference held on 9/1/2017. PARTICIPANTS: Emily Mintz, Michael Philip Favretto, and Stephanie Brenowitz (counsel for Plaintiff); Dale Danks, Jr., Bentley Conner and Michael Cory, Jr. (counsel for Defendants). On July 26, 2017, the parties agreed to cooperate in completing the government's Standard Disclosure Financial Forms which would have promoted potential settlement of the litigation. As all parties are aware, these completed forms are a prerequisite to any settlement of

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		this case. The Defense has informed the Court that despite the agreement, Defendant Michael Gray has refused to cooperate in completing the required forms, and as a consequence thereof, all progress toward settlement has ceased and the case remains postured for trial. (AB) (Entered: 09/01/2017)
09/15/2017	<u>217</u>	RESPONSE in Opposition re <u>199</u> MOTION in Limine to <i>Exclude Expert Testimony of Adam Levitin</i> filed by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit Brenowitz Declaration, # <u>2</u> Exhibit A to Brenowitz Decl., # <u>3</u> Exhibit B to Brenowitz Decl.)(Brenowitz-Federal Gov, Stephanie) (Entered: 09/15/2017)
09/15/2017	<u>218</u>	MEMORANDUM in Opposition re <u>199</u> MOTION in Limine to <i>Exclude Expert Testimony of Adam Levitin Memorandum in Opposition</i> filed by Consumer Financial Protection Bureau (Brenowitz-Federal Gov, Stephanie). (Entered: 09/15/2017)
09/15/2017	<u>219</u>	RESPONSE in Opposition re <u>197</u> MOTION in Limine to <i>Exclude Expert Testimony of Jessica Choplin, Ph.D.</i> filed by Consumer Financial Protection Bureau (Favretto-Federal Gov, Michael) (Entered: 09/15/2017)
09/15/2017	<u>220</u>	MEMORANDUM in Opposition re <u>197</u> MOTION in Limine to <i>Exclude Expert Testimony of Jessica Choplin, Ph.D.</i> filed by Consumer Financial Protection Bureau (Favretto-Federal Gov, Michael) (Entered: 09/15/2017)
09/15/2017	<u>221</u>	RESPONSE to Motion re <u>201</u> MOTION for Summary Judgment filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Attachments: # <u>1</u> Exhibit Settlement and Absolute Release with Covenants, # <u>2</u> Exhibit Plaintiff's Complaint for Permanent Injunction and Other Relief, # <u>3</u> Exhibit Photos and Rule 3.5, # <u>4</u> Exhibit Affidavit of Michael Gray, # <u>5</u> Exhibit Mike Garrards testimony during the DBCF Hearing, # <u>6</u> Exhibit Mike Garrards deposition excerpts, # <u>7</u> Exhibit Laura Faulkners deposition excerpts, # <u>8</u> Exhibit Check cashing receipts, # <u>9</u> Exhibit The eCash Software Handbook, # <u>10</u> Exhibit Fourteen day loan contracts, # <u>11</u> Exhibit Jeremy Hoskinsons deposition excerpts, # <u>12</u> Exhibit Diane Valladares deposition excerpts, # <u>13</u> Exhibit Michael Grays deposition excerpts, # <u>14</u> Exhibit Scott Cains testimony during the DBCF Hearing, # <u>15</u> Exhibit Sonya Teasleys testimony during the DBCF Hearing)(Danks, Dale) (Entered: 09/15/2017)
09/15/2017	<u>222</u>	MEMORANDUM IN SUPPORT re <u>221</u> Response to Motion,, filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Danks, Dale) (Entered: 09/15/2017)
09/27/2017	<u>223</u>	REPLY to Response to Motion re <u>218</u> Response in Opposition to Motion - <i>Defendants' Reply to Memorandum in Support of Defendants' Motion in Limine to Exclude Expert Testimony of Adam Levitin</i> filed by All American Check

**RECORD EXCERPT 39**

		Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Danks, Dale) (Entered: 09/27/2017)
09/27/2017	<u>224</u>	REPLY to Response to Motion re <u>220</u> Memorandum in Opposition to Motion - <i>Defendants' Reply to Memorandum in Support of Defendants' Motion in Limine to Exclude Expert Testimony of Jessica Choplin</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Danks, Dale) (Entered: 09/27/2017)
09/27/2017	<u>225</u>	REPLY to Response to Motion re <u>201</u> MOTION for Summary Judgment filed by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 09/27/2017)
10/24/2017	<u>226</u>	Joint MOTION to Continue <i>Trial</i> by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 10/24/2017)
11/20/2017	<u>227</u>	NOTICE of Hearing: Pretrial Conference reset for 12/14/2017 10:30 AM before District Judge William H. Barbour Jr. (Lewis, Nijah) (Entered: 11/20/2017)
11/20/2017		(Court only) ***Deadlines/Hearings terminated. 12/7/17 PTC (Lewis, Nijah) (Entered: 11/20/2017)
11/28/2017	<u>228</u>	ORDER granting <u>226</u> Motion to Continue. Trial is reset for the civil trial calendar beginning April 2, 2018. Final pretrial conference is set for March 8, 2018. Signed by District Judge William H. Barbour, Jr on 11/28/17 (Lewis, Nijah) (Entered: 11/28/2017)
11/28/2017		Set/Reset Hearings: Jury Trial reset for the civil trial calendar beginning 4/2/2018 09:00 AM in Courtroom 4B (Jackson) Barbour before District Judge William H. Barbour Jr.; Pretrial Conference reset for 3/8/2018 09:00 AM before District Judge William H. Barbour Jr. (Lewis, Nijah) (Entered: 11/28/2017)
11/28/2017		(Court only) ***Deadlines/Hearings terminated. Pretrial Conference set for 12/14/17. (Lewis, Nijah) (Entered: 11/28/2017)
01/19/2018	<u>229</u>	MOTION to Withdraw as Attorney by Consumer Financial Protection Bureau (Abraham-Federal Gov, Daniel) (Entered: 01/19/2018)
01/22/2018		TEXT ONLY ORDER granting <u>229</u> Motion to Withdraw as Counsel of Record filed by Daniel Abraham. Attorney Daniel Abraham is granted leave to withdraw and is terminated from the docket as counsel of record for Plaintiff Consumer Financial Protection Bureau. Plaintiff will continue to be represented by other attorneys at the Bureau. NO FURTHER WRITTEN ORDER WILL ISSUE. Signed by Magistrate Judge John C. Gargiulo on 1/22/2018 (MG) (Entered: 01/22/2018)

02/05/2018	<u>230</u>	NOTICE of <i>Supplemental Authority</i> by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 1 - PHH Corp. v. CFPB)(Mintz-Federal Gov, Emily) (Entered: 02/05/2018)
02/05/2018	<u>231</u>	NOTICE of <i>Ratification</i> by Consumer Financial Protection Bureau (Attachments: # <u>1</u> Exhibit 1 - Declaration of Mick Mulvaney)(Mintz-Federal Gov, Emily) (Entered: 02/05/2018)
02/15/2018	<u>232</u>	Response in Opposition re <u>231</u> NOTICE of <i>Ratification</i> by Consumer Financial Protection Bureau (Attachments: # 1 Exhibit 1 - Declaration of Mick Mulvaney)(Mintz-Federal Gov, Emily), <u>230</u> NOTICE of <i>Supplemental Authority</i> by Consumer Financial Protection Bureau (Attachments: # 1 Exhibit 1 - PHH Corp. v. CFPB)(Mintz-Federal Gov, Emily) filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Cory, Michael) (Entered: 02/15/2018)
02/20/2018	<u>233</u>	Joint MOTION to Continue <i>Trial and for a Set Trial Date</i> by Consumer Financial Protection Bureau (Mintz-Federal Gov, Emily) (Entered: 02/20/2018)
02/22/2018	<u>234</u>	NOTICE of Appearance by Edward Keefe-Federal Gov on behalf of Consumer Financial Protection Bureau (Keefe-Federal Gov, Edward) (Entered: 02/22/2018)
02/22/2018		TEXT ONLY ORDER granting <u>233</u> Motion to Continue. The trial of this matter is reset to June 25, 2018 at 9:00 am and the Pretrial Conference is set for May 10, 2018 at 9:30. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by District Judge William H. Barbour, Jr on 2/22/18 (Lewis, Nijah) (Entered: 02/22/2018)
02/22/2018		Set/Reset Hearings: Jury Trial set for 6/25/2018 09:00 AM in Courtroom 4B (Jackson) Barbour before District Judge William H. Barbour Jr. Pretrial Conference set for 5/10/2018 09:30 AM before District Judge William H. Barbour Jr. (Lewis, Nijah) (Entered: 02/22/2018)
02/27/2018	<u>235</u>	MOTION for <i>DEFENDANTS' MOTION TO HEAR AND DECIDE MOTION FOR JUDGMENT ON THE PLEADINGS BEFORE TRIAL AND TO SCHEDULE ORAL ARGUMENT</i> Hearing re <u>231</u> Notice (Other), <u>232</u> Response in Opposition, <u>186</u> Reply to Response to Motion, <u>178</u> Memorandum in Opposition to Motion, <u>145</u> Memorandum in Support of Motion, <u>177</u> Response in Opposition to Motion, <u>144</u> First MOTION for Judgment on the Pleadings , <u>230</u> Notice (Other), <u>146</u> Notice (Other), by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Cory, Michael) (Entered: 02/27/2018)
03/21/2018	<u>236</u>	ORDER denying <u>144</u> Motion for Judgment on the Pleadings; denying <u>235</u> Motion for Hearing. Signed by District Judge William H. Barbour, Jr on 3/21/18 (Lewis, Nijah) (Entered: 03/21/2018)

**RECORD EXCERPT 41**

03/21/2018	<u>237</u>	ORDER denying <u>199</u> Motion of Defendant to Exclude Expert Testimony of Adam Levitin. Signed by District Judge William H. Barbour, Jr on 3/21/18 (Lewis, Nijah) (Entered: 03/21/2018)
03/26/2018	<u>238</u>	MOTION re <u>236</u> Order on Motion for Judgment on the Pleadings, Order on Motion for Hearing <i>Defendants' Motion for Certification of Questions for Interlocutory Appeal Under 28 U.S.C. § 1292(b)</i> by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Cory, Michael) (Entered: 03/26/2018)
03/26/2018	<u>239</u>	MEMORANDUM in Support re <u>236</u> Order on Motion for Judgment on the Pleadings, Order on Motion for Hearing, <u>238</u> MOTION re <u>236</u> Order on Motion for Judgment on the Pleadings, Order on Motion for Hearing <i>Defendants' Motion for Certification of Questions for Interlocutory Appeal Under 28 U.S.C. § 1292(b)</i> filed by All American Check Cashing, Inc., Michael E. Gray, Mid-State Finance, Inc. (Cory, Michael) (Entered: 03/26/2018)
03/27/2018	<u>240</u>	ORDER granting <u>238</u> Motion of Defendants for Certification of Questions for Interlocutory Appeal only as to the following question: (1) Does the structure of the Consumer Financial Protection Bureau (CFPB) violate Article II of the Constitution and the Constitution's separation of powers? The Clerk of Court is directed to stay all proceedings in this case pending decision by the United States Court of Appeals for the Fifth Circuit as to whether it will consider the question herein certified, or until the interlocutory appeal is concluded, whichever is later. Signed by District Judge William H. Barbour, Jr on 3/27/18 (Lewis, Nijah) (Entered: 03/27/2018)
03/29/2018	<u>241</u>	ORDER holding in abeyance/deferring ruling on <u>197</u> Motion in Limine; and <u>201</u> Motion for Summary Judgment pending interlocutory appeal. Signed by District Judge William H. Barbour, Jr on 3/29/18 (Lewis, Nijah) (Entered: 03/29/2018)
03/29/2018		(Court only) ***Motions terminated: <u>197</u> MOTION in Limine to Exclude Expert Testimony of Jessica Choplin, Ph.D. filed by All American Check Cashing, Inc., Mid-State Finance, Inc., Michael E. Gray, <u>201</u> MOTION for Summary Judgment filed by Consumer Financial Protection Bureau. (Lewis, Nijah) (Entered: 03/29/2018)
04/03/2018	<u>242</u>	MOTION to Withdraw as Attorney by Consumer Financial Protection Bureau (Keefe-Federal Gov, Edward) (Entered: 04/03/2018)
04/04/2018		TEXT ONLY ORDER granting <u>242</u> Motion to Withdraw as Counsel of Record filed by Plaintiff Consumer Financial Protection Bureau. Attorney Edward Keefe is granted leave to withdraw and is hereby terminated as counsel of record for Plaintiff. Plaintiff will continue to be represented by other CFPB attorneys. NO FURTHER WRITTEN ORDER WILL

**RECORD EXCERPT 42**

		ISSUE. Signed by Magistrate Judge John C. Gargiulo on 4/4/2018 (MG) (Entered: 04/04/2018)
04/24/2018	<u>243</u>	USCA ORDER granting motion for leave to appeal from the interlocutory order filed in USCA, re <u>236</u> Order on Motion for Judgment on the Pleadings, Order on Motion for Hearing. (Attachments: # <u>1</u> USCA Cover Letter)(PKM) (Entered: 04/25/2018)
04/26/2018		Filing fee: (USCA Case No. 18-60302 - appeal filed in USCA) \$ 505, receipt number 34643049873. (PKM) (Entered: 04/26/2018)

**TAB 2**

Case: 18-90015 Document: 00514444467 Page: 1 Date Filed: 04/24/2018

*3:16CV 356*

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

\_\_\_\_\_  
No. 18-90015  
\_\_\_\_\_



CONSUMER FINANCIAL PROTECTION BUREAU,

Plaintiff - Respondent

A True Copy  
Certified order issued Apr 24, 2018

*Styl W. Coyle*  
Clerk, U.S. Court of Appeals, Fifth Circuit

v.

ALL AMERICAN CHECK CASHING, INCORPORATED; MID-STATE  
FINANCE, INCORPORATED; MICHAEL E GRAY, Individually,

Defendants - Petitioners

\_\_\_\_\_  
Motion for Leave to Appeal  
from an Interlocutory Order  
\_\_\_\_\_

Before DENNIS, SOUTHWICK, and HIGGINSON, Circuit Judges.

PER CURIAM:

The motion for leave to appeal from the interlocutory order of the United States District Court of the Southern District of Mississippi, entered on March 21, 2018, is GRANTED.

**TAB 3**



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

CONSUMER FINANCIAL PROTECTION BUREAU

PLAINTIFF

VS.

CIVIL ACTION NO. 3:16-cv-356-WHB-JCG

ALL AMERICAN CHECK CASHING, INC.;  
MID-STATE FINANCE, INC.; and  
MICHAEL E. GRAY, Individually

DEFENDANTS

ORDER

On March 21, 2018, the Court entered an Opinion and Order by which the Motion of Defendants for Judgment on the Pleadings was denied. Defendants have now moved for an Order certifying the following two questions for interlocutory appeal.

(1) Does the structure of the Consumer Financial Protection Bureau ("CFPB") violate Article II of the Constitution and the Constitution's separation of powers?

(2) Do principles of fair notice and due process prevent the CFPB from enforcing the Consumer Financial Protection Act's prohibition against "unfair," "deceptive," and "abusive" acts, 12 U.S.C. § 5536(a)(1)(B), without defining those terms?

Interlocutory appeals are governed by 28 U.S.C. § 1292(b), which provides:

When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals which would have jurisdiction of an appeal of such action may

thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: *Provided, however,* That application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or the Court of Appeals or a judge thereof shall so order.

As regards the question of whether the structure of the Consumer Financial Protection Bureau violates Article II of the Constitution and the separation of powers set forth therein, the Court finds the grounds for granting an interlocutory appeal are satisfied. First, whether the structure of the CFPB is unconstitutional based on its single-director status presents a controlling question of law that has not yet been decided by the United States Court of Appeals for the Fifth Circuit. Second, there is substantial ground for difference of opinion as to this issue as exhibited by the differences of opinion amongst the jurists in the United States Court of Appeals for the District of Columbia who have considered the issue. See PHH Corp. v. CFPB, 839 F.3d 1 (D.C. Cir. 2017) (holding the CFPB was unconstitutionally structured) (opinion by J. Kavanaugh, with separate concurring opinion by J. Randolph, and separate concurring in part, and dissenting in part opinion by J. Henderson); rev'd en banc, 881 F.3d 75 (D.C. Cir. 2018) (holding that the statutory provision by which the Director of the CFPB could be removed by the President only for cause was constitutional) (opinion and concurring opinions by Judges Pillard, Tatel, Millett, Wilkins, and Rogers; opinion

concurring with judgment by J. Griffith; dissenting opinions by Judges Henderson, Kavanaugh, and Randolph). Third, the immediate appeal of this question will materially advance the ultimate termination of the litigation because the case would not be able to proceed in the event the CFPB is not a constitutionally authorized entity. A decision that the case cannot proceed at this time would avoid the anticipated two week jury trial, which, in turn, would prevent the parties' incurring addition litigation expenses and would prevent the expenditure of judicial resources.

As regards the question of whether the principles of fair notice and due process prevent the CFPB from enforcing the Consumer Financial Protection Act's prohibition against "unfair," "deceptive," and "abusive" acts without defining those terms, the Court finds the grounds for granting an interlocutory appeal have not been satisfied because there is no substantial ground for difference of opinion as to whether the terms "unfair," "deceptive," and/or "abusive" have been adequately defined by other federal statutes from which Congress borrowed when enacting the Consumer Financial Protection Act.

For these reasons:

IT IS THEREFORE ORDERED that the Motion of Defendants for Certification of Questions for Interlocutory Appeal [Docket No. 238] is hereby granted only as to the following question:

(1) Does the structure of the Consumer Financial

Protection Bureau ("CFPB") violate Article II of the Constitution and the Constitution's separation of powers?

IT IS FURTHER ORDERED that the Clerk of Court is directed to stay all proceedings in this case pending decision by the United States Court of Appeals for the Fifth Circuit as to whether it will consider the question herein certified, or until the interlocutory appeal is concluded, whichever is later.

SO ORDERED this the 27th day of March, 2018.

s/ William H. Barbour, \_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

**TAB 4**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

CONSUMER FINANCIAL PROTECTION BUREAU

PLAINTIFF

VS.

CIVIL ACTION NO. 3:16-cv-356-WHB-JCG

ALL AMERICAN CHECK CASHING, INC.;  
MID-STATE FINANCE, INC.; and  
MICHAEL E. GRAY, Individually

DEFENDANTS

OPINION AND ORDER

This cause is before the Court on the Motion of Defendants for Judgement on the Pleadings. Having considered the pleadings, as well as supporting and opposing authorities, the Court finds the Motion is not well taken and should be denied.

**I. Factual Background and Procedural History**

The Consumer Financial Protection Bureau ("Bureau") filed a lawsuit against All American Check Cashing, Inc. ("All American"); Mid-State Finance, Inc.; and Michael E. Gray,<sup>1</sup> alleging that they violated Sections 1031(a), 1036(a), and 1054(a) of the Consumer Finance Protection Act of 2010 ("CFPA"), codified at 12 U.S.C. §§ 5531(a), 5536(a), and 5564(a), respectively.<sup>2</sup> The alleged

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<sup>1</sup> All American Check Cashing, Inc.; Mid-State Finance, Inc.; and Michael E. Gray will be collectively referred to as "Defendants".

<sup>2</sup> As the Complaint alleges claims arising under federal law, and is brought by an agency of the United States Government, the Court may exercise federal subject matter jurisdiction in this case under 28 U.S.C. §§ 1331 and 1345.

violations are connected with check cashing services and payday loans that had been offered by Defendants.

In its Complaint, the Bureau alleges that Defendants violated the CFPA by engaging in "abusive acts and practices" and/or "deceptive acts or practices" with respect to the check cashing services they provided. The alleged abusive and/or deceptive acts and practices included, but were not limited to, that Defendants: (1) failed to inform customers of the fees they would be charged for check cashing services; (2) intentionally blocked or otherwise interfered with a customer's ability to see the fee they were being charged on the receipt they were required to sign to have their check cashed; (3) provided false and/or misleading information to customers regarding the fees they would be charged and their ability to cancel check-cashing transactions; and (4) pressured or coerced customers into cashing their checks by, *inter alia*, processing checks without the customer's consent or prematurely endorsing the check thereby impeding the ability of the customer to have the check cashed elsewhere.

The Bureau also alleges that Defendants violated the CFPA by engaging in "deceptive acts or practices" with respect to the payday loans they offered. Specifically, the Bureau alleges that Defendants misrepresented to customers that the two-week payday loans they offered provided greater financial benefit than the thirty-day payday loans offered by their competitors when in

reality the customer was charged higher fees for the two-week payday loans. Finally, the Bureau alleges that Defendants violated the CFPA by failing to notify customers when they had overpaid their loan amounts and/or by failing to refund the overpayments.

Defendants have now moved for judgment on the pleadings arguing that this action is void *ab initio* because, *inter alia*, the CFPA is unconstitutional.

## II. Discussion

Defendants have moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. This rule provides, in relevant part: “[a]fter the pleadings are closed ... a party may move for judgment on the pleadings.” According to the United States Court of Appeals for the Fifth Circuit, “[a] motion brought pursuant to [Rule] 12(c) is designed to dispose of cases where the material facts are not in dispute and a judgment on the merits can be rendered by looking to the substance of the pleadings and any judicially noticed facts.” Machete Prods., L.L.C. v. Page, 809 F.3d 281, 287 (5th Cir. 2015) (quoting Great Plains Tr. Co. v. Morgan Stanley Dean Witter & Co., 313 F.3d 305, 312 (5th Cir. 2002)). When considering a Rule 12(c) motion, the Court applies the same standard as is used when considering a motion for failure to state a claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Great Plains, 313 F.3d at 313. As with Rule



12(b)(6), the “central issue” when deciding a Rule 12(c) motion “is whether, in the light most favorable to the plaintiff, the complaint states a valid claim for relief.” Hughes v. Tobacco Inst., Inc., 278 F.3d 417, 420 (5th Cir. 2001)(alteration in original)(internal quotations omitted).

In their Motion for Judgment on the Pleadings, Defendants first argue that the structure of the Bureau is unconstitutional and, therefore, the agency lacks authority to bring this action. The claim underlying this argument is that the structure of the Bureau is “antithetical to the separation of powers” doctrine in so far as the Bureau is headed by a single director who allegedly “wields unchecked legislative, executive, and judicial powers”, and who is not accountable to either Congress or the President. See Mem. in Supp. of Mot. [Docket No. 145], 5-15. The argument that the Bureau is unconstitutional based on its single-director status, however, was recently rejected by the United States Court of Appeals for the District of Columbia. See PHH Corp. v. CFPB, 881 F.3d 75 (D.C. Cir. 2018). As summarized by that Court:

The Supreme Court’s removal-power decisions have, for more than eighty years, upheld ordinary for-cause protections of the heads of independent agencies, including financial regulators. That precedent leaves to the legislative process, not the courts, the choice whether to subject the Bureaus’s leadership to at-will presidential removal. Congress’s decision to provide the CFPB Director a degree of insulation reflects its permissible judgment that civil regulation of consumer financial protection should be kept one step removed from political winds and presidential will. We have no warrant here to invalidate such a time-tested course. No relevant

consideration gives us reason to doubt the constitutionality of the independent CFPB's single-member structure. Congress made constitutionally permissible institutional design choices for the CFPB with which courts should hesitate to interfere. "While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government." Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 635 (1952).

Id. at 110. For the same reasons stated in PHH Corp., this Court rejects the arguments raised by Defendants, and likewise finds that the Bureau is not unconstitutional based on its single-director structure.

Next, Defendants argue that the claims alleged under the CFPA violate due process because the Act fails to give fair notice of the conduct proscribed by that statute. The issue of due process/fair notice was considered by the United States District Court for the Southern District of Indiana in the case of CFPB v. ITT Educational Services, Inc., 219 F. Supp. 3d 878 (S.D. Ind. 2015). In ITT, the defendant argued that the CFPA claims alleged against it were subject to dismissal because the Act did not provide fair notice as to what constituted "unfair" and "abusive" conduct thereunder. The defendant further argued that because the terms "unfair" and "abusive" were vague, any attempt to enforce the CFPA against it would violate the Due Process clause of the Fifth Amendment.

In considering the vagueness/due process challenge, the court in ITT began with this summary of applicable case law on the issue.

"A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required." F.C.C. v. Fox Television Stations, Inc., 567 U.S. 239, 253 (2012); Papachristou v. City of Jacksonville, 405 U.S. 156, 162 (1972) ("Living under a rule of law entails various suppositions, one of which is that all persons are entitled to be informed as to what the State commands or forbids.") (citations omitted). A statute is void for vagueness if it "fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement." United States v. Williams, 553 U.S. 285, 304 (2008); Hill v. Colorado, 530 U.S. 703, 732 (2000). This doctrine is not implicated merely because "it may at times be difficult to prove an incriminating fact but rather because it is unclear as to what fact must be proved." Fox Television, 567 U.S. at 253. Nor can a court declare a law unconstitutionally vague based on "the mere fact that close cases can be envisioned" under its provisions. Williams, 553 U.S. at 305-306. Rather, we refuse to apply a statutory standard only where it is so amorphous that reasonable observers have no choice but to "guess at its meaning[,] and differ as to its application." Connally v. General Constr. Co., 269 U.S. 385, 391 (1926) (explaining that "[a] statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law".).

ITT, 219 F.Supp.3d at 899 (alterations in original). The ITT court then considered the challenged provision of the CFPA, which provides, in relevant part: "It shall be unlawful for ... any covered person or service provider ... to engage in any unfair, deceptive, or abusive act or practice." 12 U.S.C. § 5536(a)(1)(B). On review the court in ITT rejected the defendant's argument that the terms "unfair" and "deceptive" were impermissibly vague on the grounds that these same terms are contained in the Fair Trade

Commission Act, codified at 15 U.S.C. § 45(a)(1), and Congress was well aware of the meaning given to those terms when it enacted the CFPA. As further explained:

The CFPA, like the FTCA before it, has empowered the agency itself to fill in the broad outlines of its authority with specific regulations and interpretations. The agency and the courts have done so in fleshing out the term "unfair ... act or practice," and Congress has tapped into that existing body of law in framing the CFPA with identical terminology. We thus have no difficulty in rejecting [defendant's] suggestion that a reasonable business entity would be forced to guess at the term's meaning, or would be subject to agency's standardless discretion in its enforcement.

ITT, 219 F.Supp.3d at 904.

The court in ITT likewise rejected the argument that the phrase "abusive act or practice" was unconstitutionally vague, first, on the grounds that the CFPA expressly describes the type of conduct/practice that can be declared "abusive". See 12 U.S.C. § 5531(d).<sup>3</sup> Second, the court in ITT found that the term "abusive"

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<sup>3</sup> The relevant subsection of the CFPA provides:

(d) The Bureau shall have no authority under this section to declare an act or practice abusive in connection with the provision of a consumer financial product or service, unless the act or practice -

(1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or

(2) takes unreasonable advantage of -

(A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;

(B) the inability of the consumer to protect the

was not novel in that the same term was used by Congress when enacting the Fair Debt Collection Practices Act ("FDCPA"), see 15 U.S.C. § 1692(e) (explaining that one of the purposes of the FDCPA is to "eliminate abusive debt collection practices by debt collectors"), and that that Act expressly describes conduct and/or practices considered abusive. See 15 U.S.C. § 1692d. As summarized by the court in ITT:

Because the CFPA itself elaborates the conditions under which a business's conduct may be found abusive – and because agencies and courts have successfully applied the term as used in closely related consumer protection statutes and regulations – we conclude that the language in question provides at least the minimal level of clarity that the due process clause demands of non-criminal economic regulation.

ITT, 219 F.Supp.3d at 906. For the same reasons stated by the court in ITT, this Court rejects the fair notice/due process challenge made by Defendants, which is premised on arguments that the terms "unfair", "deceptive" and "abusive acts and practices" in the CFPA are unconstitutionally vague.

Third, Defendants argue that the CFPA violates the non-delegation doctrine because Congress did not clearly delineate the general policy for, or the boundaries of delegated authority to, the Bureau. Contrary to this argument, the CFPA does provide general policy/boundaries of authority for the Bureau. See 12

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interests of the consumer in selecting or using a consumer financial product or service; or

(C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

U.S.C. § 5511 (providing that the purposes of the Bureau include implementing and enforcing federal consumer financial law; investigating consumer complaints; identifying risks to consumers in the marketplace; taking appropriate enforcement action against violators of federal consumer financial law; and issuing rules, orders, and guidance for implementing federal consumer financial law). The CFPA likewise provides limits on the types of conduct that can be declared "unfair" or "abusive" under the Act. See 12 U.S.C. § 5532(c) and (d). Because Congress, when enacting the CFPA, delineated a general policy for the Bureau to follow, and provided limits on its authority, the Court finds Defendants have failed to show that the CFPA violates the non-delegation doctrine. See e.g. United States v. Whaley, 577 F.3d 254, 263-64 (5th Cir. 2009) (explaining that the "modern test" for assessing alleged violations of the non-delegation doctrine is "whether Congress has provided an 'intelligible principle' to guide the agency's regulations", and that delegation is "'constitutionally sufficient if Congress clearly delineates the general policy, the public agency which is to apply it, and the boundaries of this delegated authority'" (quoting Mistretta v. United States, 488 U.S. 361, 372 (1989) and American Power & Light Co. v. SEC, 329 U.S. 90, 105 (1946), respectively).

Finally, Defendants argue that they are entitled to a judgment on the pleadings because the CFPA violates the principles of

federalism. The federalism challenge stems from the fact that the Bureau allegedly bases several of its FCPA claims on allegations including that All American violated state law. According to Defendants, if their conduct violated state law, then the state, as opposed to the federal government, should be responsible for bringing an enforcement action. See Mem. in Supp. of Mot. [Docket No. 145], 21 (arguing that the Bureau, by basing its claims on alleged violations of state law, has intruded on the rights of the states "to determine how far their laws should reach and how they should be enforced."). A review of the Complaint makes clear, however, that while there are allegations that state law was violated, the Bureau also alleges conduct on the part of All American that has not been shown subsumed by state law. For example, the Complaint alleges that Mississippi and Louisiana law require the display of fees for check cashing services. See Compl. ¶ 21. According to the Complaint, All American did display the required fee information, but it was displayed in such a manner as to make it unlikely that customers would actually see it. Id. (alleging that the fee sign was placed "under the counter" in All American offices). The Complaint further alleges that All American employees were specifically instructed to take action so as to either minimize or negate the likelihood that the fee display would be seen by customers. Id. (alleging that All American employees were told to limit the time customers were at the counter, and have

them wait in the lobby while their checks were processed so as to minimize the likelihood that they would see the posted fee signs); Id., ¶ 22 (alleging that All American employees were trained to use distraction techniques including providing consumers with non-relevant information and small gifts to keep them from having an opportunity to ask about fees). Because there has been no showing that all of the conduct on which the Bureau bases this enforcement action would be solely in the providence of state law, the Court finds Defendants have failed to show that they are entitled to judgment on the pleadings based on federalism concerns.

### III. Conclusion

For the foregoing reasons:

IT IS THEREFORE ORDERED that the Motion of Defendants for Judgment on the Pleadings [Docket No. 144] is hereby denied.

IT IS FURTHER ORDERED that the Motion of Defendants for Hearing on their Motion for Judgment on the Pleadings [Docket No. 235] is hereby denied as unnecessary.

SO ORDERED this the 21st day of March, 2018.

s/ William H. Barbour, Jr.  
UNITED STATES DISTRICT JUDGE



**TAB 5**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

CONSUMER FINANCIAL PROTECTION BUREAU

PLAINTIFF

VS.

CIVIL ACTION NO. 3:16-cv-356-WHB-JCG

ALL AMERICAN CHECK CASHING, INC.;  
MID-STATE FINANCE, INC.; and  
MICHAEL E. GRAY, Individually

DEFENDANTS

ORDER

In accordance with the stay issued in this case, all motions pending herein [Docket Nos. 197 and 201] will be held in abeyance, and the rulings thereon deferred, until the interlocutory appeal has been decided by the United States Court of Appeals for the Fifth Circuit.

SO ORDERED this the 29th day March, 2018.

s/ William H. Barbour, Jr.  
UNITED STATES DISTRICT JUDGE

**TAB 6**

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**CONSUMER FINANCIAL PROTECTION BUREAU** **PLAINTIFF**

**VS.** **CIVIL ACTION NO. 3:16-cv-00356-WHB-JCG**

**ALL AMERICAN CHECK CASHING, INC.;**  
**MID-STATE FINANCE, INC.; and**  
**MICHAEL E. GRAY, individually** **DEFENDANTS**

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**NOTICE**

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The Consumer Financial Protection Bureau hereby notifies the Court and defendants of recent events relevant to defendants' claim that this case must be dismissed because the Consumer Financial Protection Act unconstitutionally permits the President to remove the Bureau Director only for cause. *See* 12 U.S.C. § 5491(c)(3). Recent events have rendered that argument moot.

On November 24, 2017, the Bureau's former Director, Richard Cordray, resigned, and President Trump designated Office of Management and Budget Director Mick Mulvaney to serve as the Bureau's Acting Director pursuant to the Federal Vacancies Reform Act, 5 U.S.C. §§ 3345-3349d. *See* The White House, Office of the Press Secretary, *Statement on President Donald J. Trump's Designation of OMB Director Mick Mulvaney as Acting Director of the Consumer Financial Protection Bureau* (Nov. 24, 2017), <https://www.whitehouse.gov/the-press-office/2017/11/24/statement-president-donald-j-trumps-designation-omb-director-mick>. Acting Director Mulvaney has carefully considered the Bureau's decision to bring this lawsuit and has ratified that decision. *See* Ex. 1, Declaration of Mick Mulvaney, the Acting Director of Plaintiff Consumer Financial Protection Bureau, Regarding Ratification.

In light of these events, defendants' constitutional challenge no longer applies. In his capacity as Acting Director, Mr. Mulvaney is removable by the President at will. The CFPA's removal provision by its terms applies only to "the Director," not to an Acting Director. 12 U.S.C. § 5491(c)(3). And the Vacancies Reform Act does not limit the President's ability to designate a different person as Acting Director, and thereby remove Mr. Mulvaney from that role. As the Department of Justice's Office of Legal Counsel explained, "Congress does not, by purporting to give tenure protection to a Senate-confirmed officer, afford similar protection to an individual who temporarily performs the functions and duties of that office when it is vacant." *Designating an Acting Director of the Bureau of Consumer Financial Protection*, 41 Op. O.L.C. \_\_\_\_, 2017 WL 6419154, Slip Op. at 10 (Nov. 25, 2017) (citing *Swan v. Clinton*, 100 F.3d 973 (D.C. Cir. 1996), which holds that an officer who may be removed only for cause is removable at will if that officer holds over beyond the officer's designated term).

Because Acting Director Mulvaney is removable at will and has ratified the decision to bring this case, Defendants cannot obtain dismissal on the ground that this case was *initially* filed by an agency led by a Director removable only for cause. Acting Director Mulvaney's ratification cured any constitutional problem with this case's initiation. Courts have consistently held that a properly constituted government agency may cure a constitutional problem with previous agency actions by ratifying prior actions that the agency took when its structure or composition was constitutionally flawed. *See Wilkes-Barre Hosp. Co, LLC v. NLRB*, 857 F.3d 364, 371 (D.C. Cir. 2017) ("Ratification can remedy defects arising from the decisions of improperly appointed officials."); *Advanced Disposal Servs. East, Inc. v. NLRB*, 820 F.3d 592, 602 (3d Cir. 2016) (concluding that ratifications by properly appointed officials were "sufficient to

cure” problem with board appointments that previously left agency without authority to act); *CFPB v. Gordon*, 819 F.3d 1179, 1192 (9th Cir. 2016) (holding that Bureau Director’s “ratification, done after he was properly appointed as Director, resolves any Appointments Clause deficiencies” present at the time enforcement action was filed); *FEC v. Legi-Tech, Inc.*, 75 F.3d 704 (D.C. Cir. 1996) (holding that “FEC’s post-reconstitution ratification of its prior decisions” was “an adequate remedy for” an earlier constitutional defect in the agency’s structure at time enforcement action was initiated). Acting Director Mulvaney has done just that. Because Acting Director Mulvaney’s ratification of the decision to bring this enforcement action remedied any constitutional problem with the initiation of this case, defendants’ motion for judgment on the pleadings on that basis must be denied.

Should the Court request it, the Bureau stands ready to provide supplemental briefing on this additional ground for denying defendants’ motion for judgment on the pleadings.

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**CONSUMER FINANCIAL PROTECTION BUREAU** **PLAINTIFF**

**VS.** **CIVIL ACTION NO. 3:16-cv-00356-WHB-JCG**

**ALL AMERICAN CHECK CASHING, INC.;**  
**MID-STATE FINANCE, INC.; and**  
**MICHAEL E. GRAY, individually** **DEFENDANTS**

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**DECLARATION OF MICK MULVANEY, THE ACTING DIRECTOR OF  
PLAINTIFF CONSUMER FINANCIAL PROTECTION BUREAU,  
REGARDING RATIFICATION**

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I, Mick Mulvaney, declare as follows, pursuant to 28 U.S.C. § 1746:

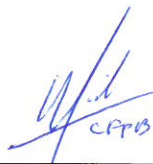
1) On November 24, 2017, upon the resignation of the Consumer Financial Protection Bureau's (Bureau) former Director, Richard Cordray, President Trump, acting pursuant to the Federal Vacancies Reform Act, 5 U.S.C. §§ 3345-3349d, designated me the Bureau's Acting Director.

2) In my capacity as the Bureau's Acting Director, I have reviewed the Bureau's decision to file a lawsuit against All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray. The Bureau's decision to initiate this case was originally authorized by former Director Cordray on November 3, 2015.

3) After having been briefed by the Bureau's Office of Enforcement regarding this case, I ratified the Bureau's decision to file a lawsuit against All American Check Cashing, Inc., Mid-State Finance, Inc., and Michael E. Gray.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 5, 2018.



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**MICK MULVANEY**  
Acting Director  
Consumer Financial Protection Bureau



**TAB 7**

smaller initial loans solely from the proceeds of the larger mid-month loans.<sup>157</sup> Defendants anticipated this, instructing employees: “Remember that for customers who are paid once a month we can loan them part of their credit limit on the first of the month and mid-month use their remaining line of credit to pay for the first check and then loan back to them their full credit line.”<sup>158</sup> This arrangement amounted to a rollover, illegal in Mississippi and Louisiana and sharply limited in Alabama.<sup>159</sup> One of Defendants’ training documents, titled “Loaning On the 1st and 3rd,” (“1<sup>st</sup> and 3<sup>rd</sup> training document”), provides an example of the scheme for a hypothetical monthly customer in Mississippi named Mary Smith who has a \$400 credit limit:

- (1) *Beginning of month*: Provide Mary with a 14-day loan for \$200 (*i.e.* part of her credit limit). Mary will owe \$240 (\$200 in principal plus a \$40 fee) in 14 days.
- (2) *Middle of month*: Mary brings in only \$40. Provide Mary with two 14-day loans<sup>160</sup> for \$400 (*i.e.* her entire credit limit). Combine the \$40 that Mary brought in with \$200 from that day’s loans to pay back the \$240 due. Mary leaves the store with the remaining \$200 from that day’s loans. Mary will owe \$480 (\$400 in principal plus an \$80 fee) in 14 days.
- (3) *Beginning of next month*: Mary Smith pays back the \$480 due.<sup>161</sup>

Defendants implemented 1<sup>st</sup> and 3<sup>rd</sup> lending company-wide from at least April 2011 until

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back the loan then. *See* Ex. 11 ¶ 25; Ex. 36A, 173:4-24; Ex. 38, 66:5-13; Ex. 39, 110:13-111:10; Ex. 41, 46:22-47:21; Ex. 43, 47:9-13; Ex. 47, 118:24-119:5; Ex. 21 ¶¶ 99, 144, 151; Ex. 16 ¶ 4. For all other customers, Defendants set loans due only on their paydays. *See* Ex. 71, AACC00700367; Ex. 72, at AACC00012861; Ex. 132, at AACC00174250.

<sup>157</sup> Ex. 2 ¶ 7; Ex. 3 ¶ 17; Ex. 4 ¶ 10; Ex. 6 ¶ 20-22; Ex. 9 ¶ 7; Ex. 10 ¶ 10; Ex. 11 ¶¶ 22-24; Ex. 19 ¶ 5; Ex. 21 ¶¶ 151-152. Even when monthly customers did not bring in the full amount due mid-month, employees say they marked that the loan was paid back in full in eCash. *See* Ex. 7 ¶¶ 21-22; Ex. 11 ¶ 23-24; Ex. 35, 59:8-60:10; Ex. 52, 198:21-199:14.

<sup>158</sup> Ex. 140; Ex. 43, 102:2-13. *See also* Ex. 158, at AACC00896713 (“Customer says but I don’t get paid again in the middle of the month, how am I going to pay for this check today? Answer – Inform customer that they have an existing line of credit they will be using to pay for their check on the 1st/3rd of the month.”).

<sup>159</sup> The DBCF found that Defendants rolled over consumer’s loans and revoked Defendants’ licenses to make loans. *See* Ex. 25, pp. 26-30 (DBCF Final Order). *See also* Miss. Code Ann. § 75-67-519(5); La. Rev. Stat. § 9:3578.6(7); Ala. Code § 5-18A-12(b).

<sup>160</sup> Mississippi law requires loans above \$250 to have a 28- to 30-day term, so rather than providing one \$400 loan, Defendants provided two loans for \$200 each. *See* note 146, *supra*.

<sup>161</sup> Ex. 158, at AACC00896712-14.

at least June 2014,<sup>162</sup> when the DBCF ordered Defendants to cease.<sup>163</sup> Defendants distributed versions of the 1<sup>st</sup> and 3<sup>rd</sup> training document to employees on multiple occasions,<sup>164</sup> including at numerous trainings,<sup>165</sup> and posted the document on the employee intranet.<sup>166</sup> Gray himself emailed the 1<sup>st</sup> and 3<sup>rd</sup> training document to supervisors in October 2012.<sup>167</sup> The Expert Report of Prof. Adam J. Levitin sets forth examples of 1<sup>st</sup> and 3<sup>rd</sup> lending in the three states where Defendants operated, showing the fees paid by Defendants' customers.<sup>168</sup> In total, between July 21, 2011 and June 2014, Defendants charged more than 7,500 monthly customers more than \$2.8 million in fees pursuant to the 1<sup>st</sup> and 3<sup>rd</sup> lending program.<sup>169</sup>

B. Defendants Routinely Made Deceptive Statements to Monthly Customers

1. Defendants told monthly customers that fees for 30-day loans were higher.

When selling the 1<sup>st</sup> and 3<sup>rd</sup> lending program to monthly customers, Defendants told monthly customers that the 30-day loans offered by competitors were more expensive than Defendants' 1<sup>st</sup> and 3<sup>rd</sup> lending program.<sup>170</sup> Specifically, when a monthly customer asked for a 30-day loan, Defendants instructed employees to say that "the fees are higher for competitors that offer 30 days"<sup>171</sup> and Defendants were "saving [customers] some money with lower fees."<sup>172</sup>

<sup>162</sup> Ex. 2 ¶¶ 7-12; Ex. 3 ¶¶ 16-22; Ex. 4 ¶¶ 8-17; Ex. 6 ¶¶ 18-27; Ex. 7 ¶¶ 21-27; Ex. 9 ¶¶ 7-9; Ex. 10 ¶ 10; Ex. 11 ¶¶ 22-28; Ex. 41, 56:20-61:3; Ex. 43, 44:8-47:3, 69:3-76:2; Ex. 47, 122:17-129:22. In April 2011, Scott Cain, responsible for training, sent a "Social Security Customer Strategy" to supervisors describing the practice. *See* Ex. 152; Ex. 153; Ex. 154; Ex. 155; Ex. 36A, 78:13-16.

<sup>163</sup> Ex. 157, at AACC00139086-92 (Cease & Desist Order).

<sup>164</sup> Ex. 36B, 360:17-361:3; Ex. 151; Ex. 158; Ex. 159; Ex. 160; Ex. 161; Ex. 162.

<sup>165</sup> Ex. 3 ¶ 21; Ex. 6 ¶ 19; Ex. 33, 104:20-106:11; 109:1-114:7 (discussing Ex. 33A, 33B, 33C, 33D, and 33E); Ex. 27, No. 4 (AACC Supp. Adm.).

<sup>166</sup> Ex. 36B, 360:17-361:3 (Gray Dep.); Ex. 163, at AACC02126072.

<sup>167</sup> Ex. 124. At Gray's request, supervisor instructed their employees to implement 1<sup>st</sup> and 3<sup>rd</sup> lending. *See* Ex. 126; Ex. 137; Ex. 164; Ex. 165; Ex. 166; Ex. 167; Ex. 168.

<sup>168</sup> Ex. 21 ¶¶ 166-171 (Tables 2a, 2b, 2c, 3a, 3b, 3c).

<sup>169</sup> Ex. 23 ¶ 11.

<sup>170</sup> Ex. 43, 77:23-79:22, 88:14-89:8; Ex. 41, 67:15-69:4; Ex. 53, 48:6-49:20.

<sup>171</sup> Ex. 158, at AACC00896713 (1<sup>st</sup> and 3<sup>rd</sup> training document).

<sup>172</sup> Ex. 134, at AACC02323634.

Corrections, Defendants withheld at least \$194,000 from more than 1,050 consumers from 2011-2014.<sup>234</sup>

It was not until 2014 and 2015, after the DBCF and the Bureau began looking into Defendants' handling of refunds,<sup>235</sup> that Defendants conceded that some of the credit balances they had cleared from consumers' accounts in 2011-2013 were actually refunds due to consumers who had been charged twice.<sup>236</sup>

First, with regard to the credit balances Defendants cleared in one fell swoop in October 2011, Defendants identified more than \$165,000 that represented overpayments owed to consumers instead of mere software "errors."<sup>237</sup> Defendants only issued refunds to consumers totaling \$32,670, however, for which consumers had waited an average of approximately five years.<sup>238</sup> That left another 692 refunds, totaling \$132,781.70, which Defendants have still not returned to consumers, even though they concede that their records indicate they are overpayments that should be refunded.<sup>239</sup> On May 11, 2017, the DBCF ordered Defendants to

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<sup>234</sup> Ex. 24 ¶ 22.

<sup>235</sup> Ex. 25, p. 21 (DBCF Order noting Defendants' review of refunds spurred by Bureau's requests).

<sup>236</sup> Ex. 27, No. 69; Ex. 30, at CFPB00002314 (CID response 3/20/15); Ex. 37, 198:12-18 (regarding "Remaining Prepaids" spreadsheet, Hoskinson acknowledged "the data wasn't there to say that we didn't owe them a refund" because consumers were charged twice—by cash and then by check or debit—and Defendants had no indication that the check or debit did not go through). These refunds were, on average, almost nine years old. Ex. 24 ¶ 16.c.

<sup>237</sup> Ex. 24 ¶¶ 13, 15; Ex. 30, at CFPB00002314.

<sup>238</sup> Ex. 24 ¶ 16.

<sup>239</sup> Ex. 24 ¶¶ 15-16 (describing "Offset Cleanup: Remaining Prepaid Items" spreadsheet); Ex. 37, 189:22-199:3 (Hoskinson testified that "Remaining Prepaid" spreadsheet, in Offset Cleanup Excel file, listed "\$132,000" in overpayments that Defendants have not refunded); *id.*, 198:12-18 (regarding "Remaining Prepaids" spreadsheet, Hoskinson acknowledged "the data wasn't there to say that we didn't owe them a refund" because consumers were charged twice – by cash and then by check or debit – and Defendants had no clear indication that the check or debit did not go through).

refund more than \$134,000 to the affected consumers.<sup>240</sup> These refunds are, on average, 9 years old, and some have been due and owing to consumers since 2006.<sup>241</sup>

Second, with regard to the Home Office Corrections where Defendants regularly swept credit balances from consumers' accounts from 2011 until at least 2013, Defendants identified approximately \$40,000 in overpayments that should have been refunded, and Defendants assert they have made those refunds.<sup>242</sup> Defendants' records of these refunds, however, appear to show that only approximately \$28,600 was actually returned to consumers.<sup>243</sup>

## II. Defendants' Retention of Overpayments Violated the CFPA (Count VI)

Defendants' practice of retaining credit balances was an unfair practice under the CFPA.<sup>244</sup> First, it caused substantial injury to consumers: Defendants wrongfully retained more than \$194,000 that belonged to more than 1,050 consumers, an average \$183 per consumer.<sup>245</sup> A substantial injury may be established by an act or practice that does a "small harm to a large

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<sup>240</sup> Ex. 25, p. 39 (DBCF Order, requiring Defendants to return all outstanding refunds to consumers, including 692 remaining from 2011 clearing).

<sup>241</sup> Ex. 24 ¶ 16.c.; Ex. 37, 199:4-9. Defendants assert they changed their refund policy in late 2013 or early 2014 to systematically provide refunds to consumers. Ex. 37, 154:6-155:1, 181:17-184:8. Store manager testimony indicates, however, that consumers still had to make a request or complain in order to receive a refund of an overpayment. Ex. 7 ¶¶ 2, 31-32 (manager says no change in refund policy through August 2015); Ex. 43, 14:19-21, 144:21-24 (regional supervisor saw no change in refund policy while at company through Jan. 2014).

<sup>242</sup> Defendants originally represented to the Bureau that their July 2014 review of "Home Office Corrections" resulted in "approximately \$40,000 total" refunds being issued. Ex. 30, at CFPB00002314.

<sup>243</sup> Ex. 24 ¶ 18.f. (Hanson Decl., concluding "Home Office Correction" refunds made in 2014 appear to be approximately \$28,600). The records Defendants provided to the Bureau contain many duplicate and erroneous entries, sometimes overstating the numbers of refunds made. *Id.* ¶¶ 11, 13, 18. Defendants' financial statements have never been audited, and some assertions that refunds that have been provided by credits, checks, and cash are unverifiable. *See id.*; Ex. 37, 216:17-20.

<sup>244</sup> An act or practice is unfair if: "[1] the act or practice causes or is likely to cause substantial injury to consumers [2] which is not reasonably avoidable by consumers; and [3] such substantial injury is not outweighed by countervailing benefits to consumers or competition." *ITT*, 219 F. Supp. 3d at 913 (quoting 12 U.S.C. § 5531(c)(1)) (alterations in original).

<sup>245</sup> *See* Ex. 24 ¶ 22. Being deprived of \$183 is a substantial amount to a typical AACC payday consumer, who is likely in "financial distress," and is in "acute" need of funds just to pay regular monthly expenses. Ex. 21 ¶ 100 (Report of Expert Prof. Levitin). *See generally id.* ¶¶ 100-104.

demonstrate that the amount it seeks reasonably approximates the amount of consumers' net losses and then the burden shifts to Defendants to show that those figures are inaccurate.<sup>299</sup> When necessary information is lacking, the risk of uncertainty falls on the wrongdoer.<sup>300</sup> Where, as here, the practices at issue are widespread, the Bureau does not need to prove injury for each consumer and transaction,<sup>301</sup> and there is no offset for the value of the products or services.<sup>302</sup>

The Bureau's analysis of the evidence demonstrates that, since July 21, 2011,<sup>303</sup> Defendants collected check cashing fees from consumers using unfair, deceptive, and abusive practices that total \$5,423,477.13.<sup>304</sup> The Bureau's analysis of the evidence also demonstrates that, between July 21, 2011 and June 19, 2014,<sup>305</sup> Defendants collected fees pursuant to their 1st

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\*2 (E.D. Tex. Mar. 11, 2008) (amount of restitution is purchase price less any refunds); *FTC v. Think Achievement Corp.*, 144 F. Supp. 2d 1013, 1019 (N.D. Ind. 2000) (the appropriate measure for restitution is "the amount paid by the consumer victims of an illegal scheme, less any amounts previously returned to the victims") (collecting cases), *aff'd*, 312 F.3d 259 (7th Cir. 2002); *FTC v. Nat'l Bus. Consultants, Inc.*, 781 F. Supp. 1136, 1143 (E.D. La. 1991) ("Generally, the amount of restitution in FTC consumer redress cases is the purchase price of the relevant product or business opportunity, less any refunds or money earned.").

<sup>299</sup> *Think Achievement*, 144 F. Supp. 2d at 1019. See also *Commerce Planet*, 815 F.3d at 603-04; *Gordon*, 819 F.3d at 1195.

<sup>300</sup> *Think Achievement*, 144 F. Supp. 2d at 1019; *Commerce Planet*, 815 F.3d at 604.

<sup>301</sup> *Commerce Planet*, 815 F.3d at 604; *Gordon*, 819 F.3d at 1196 (the government is entitled to the presumption that consumers relied on misrepresentations); *FTC v. BlueHippo Funding, LLC*, 762 F.3d 238, 244 (2d Cir. 2014) (no requirement to establish individual reliance or injury); *FTC v. Freecom Commc'ns, Inc.*, 401 F.3d 1192, 1205-07 (10th Cir. 2005) (FTC not required to show any particular purchaser actually relied on or was injured by unlawful misrepresentations); *McGregor v. Chierico*, 206 F.3d 1378, 1388 (11th Cir. 2000) (proof of individual reliance by each purchasing consumer is not needed); *Nat'l Bus. Consultants*, 781 F. Supp. at 1141-42 (FTC Act liability based on a pattern or practice of unlawful behavior – not necessary to prove individual reliance).

<sup>302</sup> See *Gordon*, 819 F.3d at 1195-96 (no precedent for excluding fees paid by satisfied customers); *McGregor*, 206 F.3d at 1388-89 (value of product irrelevant); *Think All Publ'g*, 2008 WL 687456, at \*2 (value of the product or service received is irrelevant), citing *FTC v. Figgie Int'l, Inc.*, 994 F.2d 595, 606 (9th Cir. 1993); *Inc21.com*, 745 F. Supp. 2d at 1011 ("the existence of some satisfied customers does not constitute a bar to liability or... restitution").

<sup>303</sup> Although Defendants' violations began earlier, the Bureau seeks damages only from the Bureau's transfer date (July 21, 2011) to present. See Designated Transfer Date, 75 FR 57252-02, (Sept. 20, 2010) (setting transfer date).

<sup>304</sup> Ex. 23 ¶ 6.

<sup>305</sup> In June 2014, Defendants instructed employees to cease 1<sup>st</sup> and 3<sup>rd</sup> lending. See p. 26, *supra*.

**TAB 8**



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*Direct Dial: 202-327-9718  
adenson@hudco.com*

October 3, 2014

***Via Hand Delivery to:***

Samuel J. Rappé  
Deputy Custodian  
Consumer Financial Protection Bureau  
1625 Eye Street, NW  
Washington, DC 20006

***Re: Civil Investigative Demand to All American Check Cashing***

***October 3, 2014, Response to September 3, 2014, CID***

Dear Mr. Rappé:

Enclosed please find copies of the All American Check Cashing's ("AACC") responses to the Consumer Financial Protection Bureau's September 3, 2014, CID. This transmittal includes:

1. One drive containing AACC's responses to Interrogatories 1-15, and Requests for Documents 1-3 and 6-15; and
2. The Certificate of Compliance – Interrogatory Answers and Reports.

Also, please note the following information:

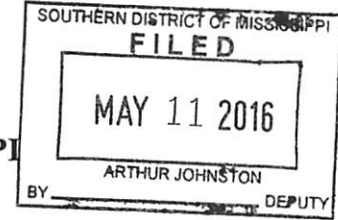
Production Volume Name: AACC\_Prod001  
Bates Range: AACC00000001-AACC00017089  
Number of Documents: 2,529  
Number of pages: 17,089  
Custodian(s): All American Check Cashing  
Time Zone: Central Standard Time (CST)  
Load File Format: DAT, TEXT, NATIVES, TIFF





**TAB 9**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION



Consumer Financial Protection Bureau,

Plaintiff,

v.

All American Check Cashing, Inc.; Mid-  
State Finance, Inc.; and Michael E. Gray,  
individually;

Defendants.

Case No. 3:16cv356WHB-JCG

**COMPLAINT FOR PERMANENT  
INJUNCTION AND OTHER RELIEF**

Plaintiff, the Consumer Financial Protection Bureau (“Bureau”), alleges the following against All American Check Cashing, Inc. and Mid-State Finance, Inc. (together, “AACC”) and Michael E. Gray (“Mr. Gray”) (together, “Defendants”):

**INTRODUCTION**

1. The Bureau brings this action based on Defendants’ violations of Sections 1031(a), 1036(a), and 1054(a) of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. §§ 5531(a), 5536(a), and 5564(a), in connection with their offering and providing of payday loans and check cashing services.

2. The Bureau seeks permanent injunctive relief, restitution, refunds, disgorgement, damages, civil money penalties, and other relief for Defendants’ violations of Federal consumer financial law.

**JURISDICTION AND VENUE**

3. The Court has subject-matter jurisdiction over this action because it is brought under Federal consumer financial law, 12 U.S.C. § 5565(a)(1), presents a federal question, 28 U.S.C. § 1331, and is brought by an agency of the United States, 28 U.S.C. § 1345.

4. Venue is proper in this District because Defendants are located, reside, and do business in this District and because a substantial part of the events or omissions giving rise to the claims occurred here. 28 U.S.C. § 1391(b) and (c), and 12 U.S.C. § 5564(f).

**PLAINTIFF**

5. The Bureau is an agency of the United States charged with regulating the offering and provision of consumer financial products or services under Federal consumer financial laws. 12 U.S.C. § 5491(a). The Bureau has independent litigating authority to enforce Federal consumer financial laws, including the CFPA. 12 U.S.C. § 5564(a) and (b), 12 U.S.C. § 5531(a).

**DEFENDANTS**

6. All American Check Cashing, Inc. is a Mississippi corporation with its principal place of business at 505 Cobblestone Court, Suite B, Madison, MS, 39110. All American Check Cashing, Inc. has approximately 50 stores located in Mississippi, Alabama, and Louisiana, the majority of which are in Mississippi. At all times material to this complaint, All American Check Cashing, Inc. has offered and provided short-term, high-cost loans (“payday loans”) and check cashing to consumers. These products and services are “consumer financial product[s] or service[s]” as defined under the CFPA. 12 U.S.C. § 5481(5), (15). All American Check Cashing, Inc. is

therefore a “covered person” under the CFPA. 12 U.S.C. § 5481(6). At all times material to this complaint, All American Check Cashing, Inc. has transacted business in the Southern District of Mississippi.

7. Mid-State Finance, Inc., d/b/a Thrifty Check Advance, is a Mississippi corporation with its principal place of business at 505 Cobblestone Court, Suite B, Madison, MS, 39110. Mid-State Finance, Inc. has at least one store, in Pearl, Mississippi. At all times material to this complaint, Mid-State Finance, Inc. has offered and provided payday loans and check cashing to consumers. These products and services are “consumer financial product[s] or service[s]” under the CFPA. 12 U.S.C. § 5481(5), (15). Mid-State Finance, Inc. is therefore a “covered person” under the CFPA. 12 U.S.C. § 5481(6). At all times material to this complaint, Mid-State Finance, Inc. has transacted business in the Southern District of Mississippi.

8. Mr. Gray is the president and sole owner of All American Check Cashing, Inc. and Mid-State Finance, Inc. (together, “AACC”). Mr. Gray resides in Madison, Mississippi. Mr. Gray founded All American Check Cashing, Inc. in 1999, and purchased Mid-State Finance, Inc. approximately ten years later. At all times material to this Complaint, acting alone or in concert with others, Mr. Gray formulated, directed, controlled, or participated in the acts and practices of AACC, including the acts and practices set forth in this Complaint. At all times material to this Complaint, Mr. Gray has been a director, officer, or employee charged with managerial responsibility at AACC. Mr. Gray has also materially participated in the conduct of AACC’s affairs, including the development and approval of the practices complained of herein. Mr. Gray is a “related person” and a “covered person” under the CFPA. 12

U.S.C. § 5481(6), (25). At all times material to this Complaint, Mr. Gray has transacted business in the Southern District of Mississippi.

**AACC'S CHECK CASHING BUSINESS**

9. AACC began offering check cashing services in Mississippi in March 1999, in Louisiana in July 2012, and in Alabama in October 2013.

10. AACC charges consumers a fee to cash their checks. In Mississippi and Alabama, AACC's policy is to charge consumers 3% of the amount of the check to cash government-issued checks, and 5% of the amount of the check to cash other checks. In Louisiana, AACC's policy is to charge consumers 2% of the amount of the check to cash government-issued checks, and 5% of the amount of the check to cash other checks. In addition, in all states, AACC's policy is to charge a minimum fee of \$5. There are businesses and financial institutions located near AACC stores that charge consumers lower fees to cash a check.

11. AACC's check cashing business has been lucrative. In recent years, AACC has cashed about 12,000 to 17,000 checks and collected more than approximately \$1 million in check cashing fees, annually.

**AACC's policy and practice of refusing to disclose  
the check cashing fee to consumers**

12. Because the check cashing fees are fixed, when a consumer presents a check to AACC to cash, the AACC employee knows the fee structure (e.g. 3% or 5%). To determine the particular fee percentage a consumer will pay, the only information the AACC employee needs to know is whether or not the check is a government check, which the employee can almost always determine by looking at the face of the check. In addition, if the employee calculates the fee or knows that the \$5 minimum applies,

the employee also knows the dollar amount of the fee.

13. AACC prohibits employees from orally disclosing to consumers the fee structure (e.g. 3% or 5%), the fee percentage that applies to a transaction (e.g. 3%), or the dollar amount of the fee, at any point during a check cashing transaction, even when a consumer asks the employee what the fee is.

14. AACC's policy and training documents instruct employees to "[n]ever tell the customer the fee" and "[n]ever quote the fee or the percentage to the customer[.]"

15. AACC regularly trains and monitors its employees to ensure that they adhere to this prohibition. For example, AACC provides a training presentation to new employees instructing them to "NEVER TELL THE CUSTOMER THE FEE."

16. In a January 5, 2013 email, Mr. Gray listed the check cashing methods and systems he created, including: "NEVER spout off the fee in dollars or in percent."

17. When a consumer presents AACC with a check, AACC instructs its employees to "verify" the check by calling the issuer to confirm the check's authenticity and to "process" the check by entering data from the check into a store computer and preparing the cash and receipt for the consumer. AACC requires its employees to verify and process the check and provide the cash and receipt to the consumer without ever disclosing the fee or obtaining the consumer's consent to the transaction, even when a consumer asks how much it costs to cash a check.

18. When a consumer asks how much it costs to cash a check, AACC requires employees to deflect the question long enough to verify and process the check. For example, AACC instructs employees to say that the employees are not sure what the fee is and need to take additional steps to determine the fee, such as putting information in the store's computer, processing the check, or verifying the check.

AACC also trains employees to falsely state “I will let you know [the fee] in just a moment,” or state that the fee depends on the company that issued the check.

19. In both Mississippi and Louisiana, two of the jurisdictions within which AACC operates, the law provides for certain disclosures related to fees for check cashing services. At all times relevant to the allegations in this Complaint, AACC and Gray formulated and carried out a program aimed at subverting these consumer protections.

20. Mississippi law requires that consumers sign an acknowledgment of the fees charged when cashing a check. The receipt that AACC provides to consumers to sign at the end of the transaction lists the fee charged, but AACC requires employees to “[c]ount money out over receipt” to block the consumer’s view of the fee. Employees sometimes use other items to cover the fee, such as small giveaways. AACC also instructs employees to minimize the amount of time that the consumer can see the receipt before signing it. AACC instructs its employees to “keep [the] receipt away from customer as much as possible,” “keep the [receipt] for [the consumer] to sign on the counter for only a second,” and “remove [the] receipt and check as quickly as possible.” One former supervisor stated, “Employees at the stores I supervised asked customers to sign the receipt after the money was counted out over the receipt, so customers would not have a clear view of the fees listed on the receipt before signing it.” Even if the consumer sees the fee on the receipt, the receipt lists the “Fee Charged” and the “Date Cashed” in the past tense, indicating that the transaction has been completed and the fee already charged.

21. In both Mississippi and Louisiana, AACC is required to display a sign listing the fee percentages that AACC charges to cash checks. AACC does not permit

employees to direct a consumer's attention to the sign, even if the consumer asks about the amount of the fee. In fact, AACC seeks to prevent consumers from seeing the sign. In AACC stores, the sign is placed under the counter. Per company policy, AACC employees must direct consumers to a seat in the lobby while their check is being verified and processed, and ensure that the consumer's time at the counter is as minimal as possible. The information on the sign can be difficult to read from the lobby. One former employee stated that he was told by a store manager to keep the consumer's time at the counter as short as possible "to minimize the chance that the customer would see the fees listed on the sign under the counter[.]"

22. AACC also trains employees to distract consumers from finding out the fee by engaging in small talk, providing consumers with information not relevant to the transaction, showing them the cash, and providing small, free gifts. During one training, AACC instructed employees to ensure "[c]onstant information [is] given to customer" so that "they are overwhelmed with info." AACC's goal is to distract consumers as much as possible so that transactions can be completed without consumers learning the fee.

23. One consumer described AACC's failure to disclose its check cashing fee as follows:

I went into All American Check Cashing... to cash my tax refund check which was roughly \$4100. Upon asking how much the fee would be I was told that it wouldnt be expensive. There were no signs in the... building telling customers how much their services were. So, once my check was cashed, the guy... brung me my money. While he was counting the money, I kept asking how much did yall charge because he kept my ID over the amount charged and everytime I would move the ID he would grab it back so I wouldnt see the fee. I was charged \$200+!!!! Im very upset that I was overcharged...On top of that, they provided no paperwork. Something has got to be done.



**AACC's policy and practice of making it difficult for consumers to cancel or reverse a check cashing transaction**

24. AACC compounds its obfuscation of check cashing fees by making it difficult or impossible for consumers to cancel or reverse a check cashing transaction if and when they do learn the fee. AACC does this by, among other things, making misrepresentations about the consumer's ability to cancel or reverse a transaction, and taking steps during processing that make it difficult or impossible for the consumer to cash a check elsewhere.

25. According to one former supervisor, "the only time you ever have the transaction voided... is if the customer is pretty much kicking and screaming, fussing, cussing[.]"

26. In some cases, AACC makes false or misleading representations to discourage consumers from cancelling or reversing a transaction. For example, employees sometimes falsely say that because of steps taken by AACC during processing, the consumer cannot reverse the transaction and cash the check elsewhere, even when the consumer could, in fact, reverse the transaction and cash the check elsewhere. Employees also foster the misimpression that if the check is taken to a bank, then the bank will hold the check for a long period of time — further delaying consumers' access to their funds — when the AACC employees do not know whether or not this is true. Employees also tell consumers that it will take a long time to void or reverse a transaction, when this is not true.

27. In some instances, the steps AACC takes while processing a check actually do make it difficult or impossible for the consumer to cash the check elsewhere, and thus AACC locks the consumer into the transaction. For example, when processing a

check, employees sometimes apply a stamp to the back of the check – such as, “FOR DEPOSIT ONLY: ALL AMERICAN CHECK CASHING INC” – that prevents or interferes with the consumer’s ability to cash the check elsewhere. Some employees stamp a consumer’s check and then, if the consumer becomes upset about fee, tell the consumer that the consumer cannot cash that check elsewhere.

28. AACC also uses physical custody of the check to control consumers and to compel consumers to pay the fee even if they object. Training documents instruct employees to “[a]lways keep the check” because doing so “[k]eeps [the employee] in control of the situation” so the “[c]ustomer can’t just walk out and leave without talking to you.”

#### **Creation and implementation of AACC’s check cashing policies**

29. AACC and Mr. Gray promoted the check cashing policies and procedures described in Paragraphs 12 to 28. Mr. Gray created, or specifically approved, many of these policies and procedures. These policies and procedures are widely implemented at AACC.

30. AACC and Mr. Gray devote substantial resources to ensure that employees at every store strictly follow the check cashing policies and procedures in every transaction. For example, AACC performs regular audits of its stores to ensure that employees follow its check cashing policies. In addition, a supervisor visits stores to conduct demonstrations and practice sessions with employees on how to cash a check according to the policies and procedures set forth in Paragraphs 12 to 28.

31. AACC and Mr. Gray provide store managers and supervisors with incentives to ensure they follow AACC’s check cashing policies and procedures. For example, managers and supervisors can increase their monthly bonuses by increasing check

cashing fees collected at their stores.

32. As a result of the check cashing practices and policies, described in Paragraphs 12 to 28, consumers who do not know the fee for cashing a check are prevented or hindered from discovering it and prevented or hindered from stopping or reversing a transaction if they do learn the check cashing fee and seek to cancel the transaction.

### **AACC'S PAYDAY LENDING BUSINESS**

33. AACC offers payday loans to consumers in its stores in Mississippi, Louisiana, and Alabama. AACC began offering payday loans in Mississippi in March 1999, in Louisiana in July 2012, and in Alabama in October 2013.

34. AACC provides payday loans to consumers who receive benefits or paychecks once a month ("monthly consumers"). Monthly consumers include individuals who receive government benefits, such as Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI), and individuals paid by their employers once per month.

35. Unlike many of its competitors, AACC does not provide 30-day loans to monthly consumers. Instead, AACC has provided these consumers with multiple two-week loans over the course of the month. By borrowing from AACC, these consumers pay more in fees for the same or less net cash received during the month. Nevertheless, AACC has deceptively represented to consumers that borrowing from AACC in this manner is more financially beneficial than, or at least financially equivalent to, taking out a 30-day loan from one of AACC's competitors.

### **Regulatory background**

36. In Mississippi, AACC offers two payday loan products: a two-week loan of

\$100 for a \$20 fee, and a two-week loan of \$200 for a \$40 fee. AACC does not offer loans above \$250 because, although the maximum permissible fee under Mississippi state law is slightly higher (\$21.95 for every \$100 loaned), Mississippi law requires that loans in excess of \$250 have a loan term of 28 to 30 days. Miss. Code. § 75-67-519(1), (4).

37. Mississippi law prohibits lenders from “rolling over” a consumer’s loan, *i.e.* providing the consumer with a new loan to pay back an outstanding loan from the same lender. Miss. Code. § 75-67-519(5).

38. In Louisiana, although a payday loan term can be up to 30 days, AACC offers only two-week loans. Lenders may not roll over loans in Louisiana, although a lender may accept a partial payment of 25% of the amount advanced plus the fee and then enter into a new transaction for the remaining balance. La. Rev. Stat. §§ 9:3578.3(2)(b); 9:3578.6(7).

39. In Alabama, although a payday loan term can be up to 31 days, AACC offers only two-week loans. Under Alabama law, one rollover is permitted for a maximum of two continuous transactions. Ala. Code §§ 5-18A-13(c); 5-18A-12(b).

40. AACC has regularly rolled over consumers’ loans, even when it is illegal to do so under state law.

**AACC’s practice of lending to consumers who are paid monthly,  
or “1st and 3rd lending”**

41. Instead of a 30-day loan, AACC has provided monthly consumers with one or more two-week loans during the course of a single month, typically in the beginning of the month and in the middle of the month. AACC often refers to this lending practice as “Lending on the 1st and 3rd” or “Loaning on the 1st and 3rd,” in part

because many monthly consumers regularly come into an AACC store in the beginning of the month – on the 1st or the 3rd day of the month. AACC has also referred to this practice as the “Monthly Lending Program.”

42. Since at least 2011, AACC has implemented Lending on the 1st and 3rd (“1st and 3rd lending” or “1st and 3rd lending program”) in Mississippi, Alabama, and Louisiana.

43. In implementing 1st and 3rd lending, AACC frequently has used consumer’s loan(s) in the middle of the month to pay back the consumer’s loan(s) from the beginning of the month, *i.e.* rolled over the loan(s). AACC has often loaned monthly consumers more in the middle of the month than in the beginning of the month.

44. By borrowing from AACC through 1st and 3rd lending rather than taking out a 30-day loan from a competitor, consumers pay more in fees for the same or less net cash received during the month.

45. On multiple occasions, AACC distributed a training document to employees describing 1st and 3rd lending, which was also posted on the company’s intranet. AACC used the document to instruct employees on how to implement 1st and 3rd lending, including during breakout sessions at company-wide meetings. The document uses the following example of how to implement 1st and 3rd lending for a consumer in Mississippi:

- a. At the beginning of the month, when Mary comes to the store to pay off her loans, employees “[i]mmediately start selling her on getting part of her money back today.”
- b. Mary takes out a two-week loan for \$200. This loan has a \$40 fee.
- c. In the middle of the month, Mary brings in \$40. She then takes out two

two-week loans of \$200 each. Mary combines the \$40 that she brought in with \$200 from one of the loans to pay back the loan and fee from the beginning of the month. In other words, the loan from the beginning of the month is rolled over. Mary leaves with the \$200 from the second loan.

- d. At the beginning of the next month, after receiving her monthly income, Mary pays the \$480 due (\$400 in principal plus an \$80 fee from the two loans from the middle of the month).

46. In the example in Paragraph 45, the consumer pays \$120 in fees during the course of the month in return for leaving the store with a total of \$400: \$200 in the beginning of the month and \$200 in the middle of the month. As shown in the chart below, AACC charged the consumer significantly more fees through 1st and 3rd lending than the consumer would have paid for a 30-day loan of \$400 from a competitor.

	<b>\$400 to consumer from one 30-day loan</b>	<b>\$400 to consumer from three two-week loans</b>
<b>Fee in beginning of month</b>	\$87.80 (for \$400 loan)	\$40 (for \$200 loan)
<b>Fees in middle of month</b>	None	\$40 (for \$200 loan to pay back first loan) \$40 (for an additional \$200 loan)
<b>Total fees</b>	\$87.80	\$120
<b>Total cash received</b>	\$400 (all in beginning)	\$400 (\$200 in beginning, \$200 in middle)

47. The exact implementation of 1st and 3rd lending has varied. For example, some monthly consumers have borrowed \$100 or \$300 in the beginning of the month, rather than \$200. In addition, monthly consumers sometimes have brought in nothing at all or the entire amount due mid-month. In all these circumstances, monthly

consumers still pay more in fees for the same or less net cash received than if they had borrowed a 30-day loan from a competitor. An AACC supervisor highlighted how costly AACC 1st and 3rd lending is compared to competitor 30-day loans:

The most common implementation of [1st and 3rd lending] that I saw was that the customer would borrow \$300 at the beginning of the month and then return in the middle of the month without any money. The customer would borrow an additional \$400 in the middle of the month and use \$360 to pay back the loan (\$300) plus the fee (\$60) from the beginning of the month. The customer would then leave the store with the remaining cash, which was \$40. The customer would owe \$480 at the beginning of the next month. In this situation, the customer paid \$140 in fees during the month. If the customer had taken out a 30-day loan for \$400 from a competitor instead, the customer would have paid only \$87.80 in fees.

**AACC made deceptive statements to consumers  
in implementing 1st and 3rd lending**

48. AACC has represented to consumers that borrowing pursuant to 1st and 3rd lending was more financially beneficial than, or at least financially equivalent to, taking out a 30-day loan from one of AACC's competitors. For example, AACC has represented to consumers that "the fees are higher for competitors that offer [loans for] 30 days" and that "[c]ompetitors that offer 30 day advances are not able to help their customers twice a month like All American[.]" AACC has told consumers that AACC was "helping" or "looking out for" them by providing them with money in the middle of the month.

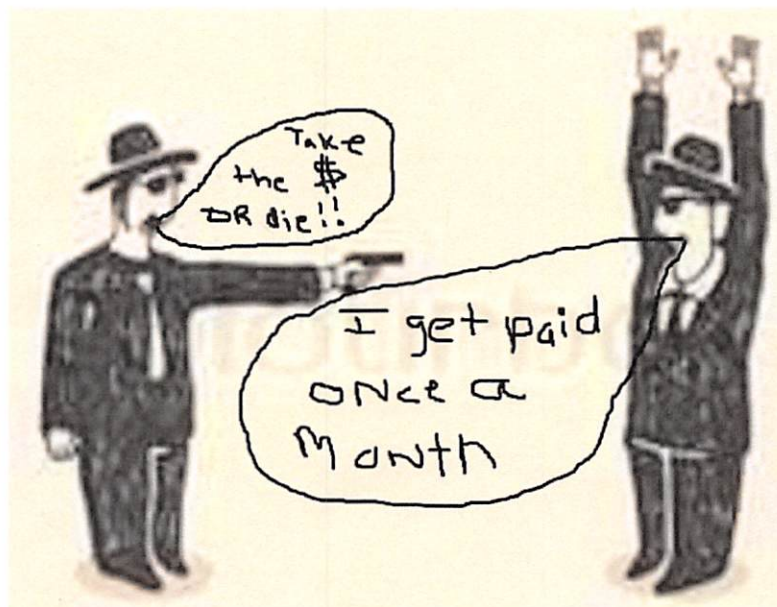
49. In fact, 1st and 3rd lending is not more financially beneficial for monthly consumers compared to a 30-day loan. In all variations of 1st and 3rd lending, monthly consumers pay AACC more in fees for the same or less net cash received over the course of the month than they would have paid for a 30-day loan from a competitor.

50. Consumers do not understand that they paid higher fees for the same or

less net cash received by borrowing twice a month from AACC compared with obtaining a 30-day loan from a competitor.

51. AACC also has misrepresented the amount and number of fees associated with 1st and 3rd lending. For example, AACC sometimes has told monthly consumers that, after receiving a loan, consumers could return in the middle of the month and receive more cash, but does not explain that consumers would also pay a fee at that time. As a result, some consumers have not understood that AACC charges them an extra fee when they obtain additional money in the middle of the month.

52. AACC has made these deceptive statements to encourage consumers to participate in 1st and 3rd lending, which AACC has described internally as a “huge income booster” due to the extra fees it has enabled AACC to extract from monthly consumers. AACC has instructed employees to sell 1st and 3rd lending aggressively to consumers. In one email to all the stores, a supervisor included the following cartoon depicting an AACC employee pressuring a consumer to participate in 1st and 3rd lending:





53. Mr. Gray has promoted the use of deceptive statements at AACC. For example, he circulated a 1st and 3rd training document that included the deceptive statements described in Paragraph 48, and instructed employees to implement it. Mr. Gray also has instructed employees to be aggressive in urging consumers to participate in 1st and 3rd lending.

**AACC RETAINED OVERPAYMENTS MADE BY CONSUMERS**

54. Consumers sometimes make overpayments to AACC when paying back a loan. Some of the overpayments are small, but in some instances, consumers overpay by hundreds of dollars. Overpayments occur when, for example, a consumer pays back a loan in cash at a store, and AACC has already requested an electronic fund transfer (EFT) from the consumer's bank. If AACC successfully obtains a payment through the EFT, then the consumer pays back the loan twice instead of once: first in cash, and then through the EFT.

55. From at least 2011 until at least 2014, AACC did not take affirmative steps to notify consumers when they made an overpayment or to refund overpayments to consumers, even though AACC could do so by sending an EFT to the consumer's bank account or a paper check to the consumer's home.

56. In addition, on a regular basis, AACC deleted the credit balances from consumers' accounts, making it more difficult for store employees to identify and provide refunds to consumers.

57. Mr. Gray knew of and directed AACC's practice of retaining overpayments by consumers and deleting credit balances from their accounts.

58. As a result of its refund policies and practices, AACC failed to provide refunds to hundreds of consumers.

**ROLE OF INDIVIDUAL DEFENDANT MICHAEL E. GRAY**

59. Mr. Gray was aware of the unlawful policies, procedures, and practices described herein, promoted them, directed others to implement them, and personally created some of them.

60. Mr. Gray has ultimate authority over AACC's products, policies, procedures, and strategic decisions, including with respect to lending, check cashing, and providing refunds to consumers.

61. Mr. Gray has received personal financial gain from the illegal practices discussed herein. Mr. Gray withdraws money from AACC at will with no formal process or predetermined regularity.

**VIOLATIONS OF THE CONSUMER FINANCIAL PROTECTION ACT**

62. Sections 1031 and 1036 of the CFPA prohibit a "covered person" from committing or engaging in any "unfair, deceptive or abusive act or practice" in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. 12 U.S.C. §§ 5531(a), 5536(a)(1)(B). Defendants are "covered person[s]" within the meaning of the CFPA. 12 U.S.C. § 5481(6), (25).

63. An act or practice is unfair if the act or practice causes or is likely to cause substantial injury to consumers, which is not reasonably avoidable by consumers; and such substantial injury is not outweighed by countervailing benefits to consumers or to competition. 12 U.S.C. § 5531(c).

64. An act or practice is deceptive if there is a material representation, omission, or practice that is likely to mislead consumers acting reasonably under the circumstances.

65. An act or practice is abusive if it (1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service, or (2) takes unreasonable advantage of (A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; (B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or (C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer. 12 U.S.C. § 5531(d).

**DEFENDANTS' UNLAWFUL CHECK CASHING PRACTICES**

**Abusive Acts and Practices in Check Cashing**

**Count I**

66. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

67. In numerous instances, in connection with offering and providing check cashing to consumers, Defendants have materially interfered with the ability of consumers to understand a term or condition of their check cashing services by having a policy to never tell the consumer the fee – even when the consumer asks, blocking the fee amount listed on the receipt, minimizing the amount of time the consumer has to see the receipt, interfering with the consumer's ability to see the sign listing fee percentages, making false or misleading statements to consumers about the availability of information about the fee, and making false or misleading statements to consumers about their ability to cancel or reverse the transaction or to cash their check elsewhere.

68. Defendants' acts and practices in connection with check cashing constitute

abusive acts or practices in violation of Sections 1031 and 1036 of the CFPA. 12 U.S.C. §§ 5531(a) and (d)(1), 5536(a)(1)(B).

### **Count II**

69. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

70. In numerous instances, in connection with offering and providing check cashing to consumers, Defendants have taken unreasonable advantage of the inability of consumers to protect their interests in selecting or using Defendants' check cashing services by pressuring or coercing consumers to cash their checks at AACC, including by retaining custody of the check to prevent consumers from leaving, processing the check without the consumer's consent, applying an AACC stamp to the back of the check during processing to impair the consumer's ability to cash the check elsewhere, and making misrepresentations about the consumer's ability to cancel or reverse the transaction or cash the check elsewhere.

71. Defendants' acts and practices in connection with check cashing constitute abusive acts or practices in violation of Sections 1031 and 1036 of the CFPA. 12 U.S.C. §§ 5531(a) and (d)(2)(B), 5536(a)(1)(B).

### **Deceptive Acts and Practices in Check Cashing**

#### **Count III**

72. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

73. In numerous instances, in connection with offering and providing check cashing to consumers, Defendants have represented to consumers that:

- a. Information about the fee for cashing a check is not available; and

b. It is difficult or time-consuming to cancel or reverse a check cashing transaction, and steps taken by AACC during processing prevent consumers from cashing their checks elsewhere.

74. In truth and in fact, in numerous instances:

- a. Information about the fee for cashing a check is available. This information includes: the fee structure (e.g. 3% or 5%), the fee percentage that applies to a transaction (e.g. 3%), or the dollar amount of the fee; and
- b. It is not difficult or time-consuming to cancel or reverse a check cashing transaction and, in some cases, the steps taken by AACC to process the check do not prevent consumers from cashing their checks elsewhere.

75. Defendants' representations described in Paragraph 73 are false and misleading, and constitute deceptive acts or practices in violation of Sections 1031 and 1036 of the CFPA, 12 U.S.C §§ 5531(a), 5536(a)(1)(B).

### **Unfair Acts and Practices in Check Cashing**

#### **Count IV**

76. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

77. In numerous instances, Defendants' check cashing acts and practices described herein have caused or were likely to cause substantial injury to consumers, including but not limited to the payment of fees in amounts that were not authorized by consumers and for which consumers did not bargain.

78. Defendants' actions cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid and that is not outweighed by countervailing benefits to consumers or to competition.

79. Defendants' acts and practices as described in Paragraph 77 constitute unfair acts or practices in violation of Sections 1031 and 1036 of the CFPA. 12 U.S.C §§ 5531(a) and (c), 5536(a)(1)(B).

**DEFENDANTS' UNLAWFUL 1ST AND 3RD LENDING PRACTICES**

**Deceptive Acts and Practices in 1st and 3rd Lending**

**Count V**

80. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

81. In numerous instances, in connection with offering and providing payday loans to monthly consumers, Defendants have represented to consumers directly or indirectly, expressly or by implication, that borrowing pursuant to "1st and 3rd lending" was more financially beneficial than or equivalent to obtaining a 30-day loan from a competitor.

82. In truth and in fact, "1st and 3rd lending" is not more financially beneficial than or equivalent to obtaining a 30-day loan from a competitor because consumers borrowing pursuant to "1st and 3rd lending" pay higher fees for the same amount of or less net cash received over the course of the month compared to 30-day loans offered by competitors.

83. Defendants' representations described in Paragraph 81 are false and misleading, and constitute deceptive acts or practices in violation of Sections 1031 and 1036 of the CFPA. 12 U.S.C §§ 5531(a), 5536(a)(1)(B).

**DEFENDANTS' UNLAWFUL PRACTICES RELATING TO OVERPAYMENTS**

**Unfair Acts and Practices in Connection with Overpayments by Consumers**

**Count VI**

84. The Bureau incorporates the allegations in Paragraphs 1 through 65 by reference.

85. In numerous instances, Defendants have not notified or refunded consumers when consumers have made an overpayment.

86. Defendants' actions cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid and that is not outweighed by countervailing benefits to consumers or to competition.

87. Defendants' acts and practices as described in Paragraph 85 constitute unfair acts or practices in violation of Sections 1031 and 1036 of the CFPA. 12 U.S.C §§ 5531(a) and (c), 5536(a)(1)(B).

**CONSUMER INJURY**

88. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the CFPA. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public.

**THIS COURT'S POWER TO GRANT RELIEF**

89. The CFPA empowers this Court to grant any appropriate legal or equitable relief including, without limitation, a permanent or temporary injunction, rescission or reformation of contracts, the refund of moneys paid, restitution, disgorgement or compensation for unjust enrichment, payments of damages or other monetary relief,

limits on the activities or functions of Defendants, and civil money penalties. 12 U.S.C. § 5565(a), (c). In addition, the Bureau may recover its costs in connection with the action, if it is the prevailing party. 12 U.S.C. § 5565(b).

**PRAYER FOR RELIEF**

90. Wherefore, the Bureau requests that the Court:

- a. Award Plaintiff such injunctive and ancillary relief as may be necessary to enjoin Defendants from harming consumers, including but not limited to limits on activities or functions of Defendants;
- b. Permanently enjoin Defendants from committing future violations of the CFPA;
- c. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the CFPA, including, but not limited to, rescission or reformation of contracts, the refund of moneys paid, restitution, disgorgement or compensation for unjust enrichment, and payment of damages or other monetary relief;
- d. Award Plaintiff civil money penalties; and
- e. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: May 11, 2016



## CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2018, an electronic copy of the foregoing Record Excerpts was filed with the Clerk of Court for the United States Court of Appeals for the Fifth Circuit using the appellate CM/ECF system, and service will be accomplished on all parties by the appellate CM/ECF system.

s/ Theodore B. Olson

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