

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

LEANDRA ENGLISH,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 1:17-cv-02534-TJK
)	
DONALD J. TRUMP and)	
JOHN M. MULVANEY,)	
)	
Defendants.)	
_____)	

**UNOPPOSED MOTION OF PUBLIC CITIZEN, INC.,
AMERICANS FOR FINANCIAL REFORM, CENTER FOR RESPONSIBLE LENDING,
CONSUMER ACTION, NATIONAL ASSOCIATION OF CONSUMER ADVOCATES,
NATIONAL CONSUMER LAW CENTER, NATIONAL CONSUMERS LEAGUE,
NATIONAL FAIR HOUSING ALLIANCE, TZEDEK DC, INC., AND UNITED STATES
PUBLIC INTEREST RESEARCH GROUP EDUCATION FUND, INC.
FOR LEAVE TO FILE BRIEF AS AMICI CURIAE IN SUPPORT OF PLAINTIFF’S
MOTION FOR A PRELIMINARY INJUNCTION**

Public Citizen, Inc., Americans for Financial Reform, Center for Responsible Lending, Consumer Action, National Association of Consumer Advocates, National Consumer Law Center, National Consumers League, National Fair Housing Alliance, Tzedek DC, and United States Public Interest Research Group Education Fund, Inc. respectfully move for leave to file the attached brief as amici curiae in support of Plaintiff’s motion for a preliminary injunction. Movants are 10 nonprofit consumer organizations whose work to protect and defend the rights of consumers through education, advocacy, policy, research, and litigation spans many decades combined. A copy of the proposed brief and a proposed order granting leave to file are attached to this motion. All parties have consented to the filing of the proposed brief.

Public Citizen, Inc., a consumer-advocacy organization founded in 1971, with members in all 50 states, works before Congress, administrative agencies, and courts for the enactment and

enforcement of laws protecting consumers, workers, and the general public. Of particular relevance here, Public Citizen advocates for strong consumer-protection laws to bring fairness to consumer finance and accountability to the financial sector. Public Citizen actively supported establishment of the Consumer Financial Protection Bureau (CFPB) to serve as the first federal agency devoted to protecting the financial interests of consumers. Public Citizen believes that the political independence of the CFPB is a crucial feature of the agency's ability effectively to ensure that banks, lenders, and other financial companies treat consumers fairly and in accordance with law.

Americans for Financial Reform (AFR) is a coalition of more than 200 consumer, investor, labor, civil rights, business, faith-based, and community groups that works through policy analysis, education, advocacy, and outreach to lay the foundation for a strong, stable, and ethical financial system. AFR was formed to advocate for the passage of the legislation that became the Dodd-Frank Wall Street Reform and Consumer Protection Act and continues to protect and advance the reforms in that legislation, including a strong and independent CFPB.

Center for Responsible Lending (CRL) is a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, one of the nation's largest nonprofit community development financial institutions. Since 1980, Self-Help has provided over \$7 billion in financing to 131,000 families, individuals, and businesses underserved by traditional financial institutions. Through its credit union network, Self-Help's two credit unions serve over 130,000 people in North Carolina, California, Chicago, Florida, and Wisconsin and offer a full range of financial products and services. Additionally, CRL's research and policy reports and recommendations have addressed numerous issues within the mission and activities of the CFPB,

including auto loans, debt collection, mortgage lending, payday lending, and student loans. CRL also has advocated rules to be issued by the CFPB and commented on the agency's rulemaking. As a result, CRL has a direct and immediate interest in the independence and agility of the CFPB and its Director.

Consumer Action, a non-profit 501(c)(3) organization, has been a champion of underrepresented consumers nationwide since 1971. Consumer Action focuses on consumer education that empowers low-to-moderate-income and limited-English-speaking consumers to financially prosper. Consumer Action has a keen interest in the independence and effectiveness of the Consumer Financial Protection Bureau (CFPB). Consumer Action advocated for the creation of the CFPB and has worked to support its role as a thoughtful, independent regulator with a commitment to fair and transparent consumer financial transactions—and consumer protection—since its inception. Consumer Action has engaged with the CFPB, regularly sharing consumer perspectives and advocating for reasonable rules and actions related to credit cards, credit reporting, mortgages, student loans, debt collection, and, especially, its complaint process and public complaint database. Nearly 7,500 community and grassroots organizations benefit annually from Consumer Action's extensive outreach programs, free multi-lingual training materials, advocacy and support, and materials on Consumer Action's comprehensive consumer financial website (www.consumer-action.org).

National Association of Consumer Advocates (NACA) is a non-profit corporation formed in 1994 whose members are lawyers, law professors, and students whose practice or area of study involves consumer protection. NACA's mission is to promote justice for consumers by maintaining a forum for information-sharing among consumer advocates and to serve as a voice for its members and consumers in the struggle to curb unfair and oppressive business practices.

National Consumer Law Center (NCLC) is a national research and advocacy organization focusing on justice in consumer financial transactions, especially for low-income and elderly consumers. Since its founding in 1969, NCLC has been a resource center addressing consumer finance issues affecting equal access to fair credit in the marketplace. NCLC publishes a 20-volume Consumer Credit and Sales Legal Practice Series and has served on the Federal Reserve System Consumer-Industry Advisory Committee, as the Federal Trade Commission's designated consumer representative, and on committees of the National Conference of Commissioners on Uniform State Laws. NCLC staff engage with the CFPB on a broad range of issues, and an NCLC staff member serves on the CFPB's Consumer Advisory Board.

National Consumers League (NCL), founded in 1899, is the nation's oldest consumer advocacy organization. NCL's mission is to protect and promote the interests of consumers in the United States. Since 1992, NCL's Fraud.org campaign has helped millions of consumers avoid financial scams. NCL also works with a network of more than 90 federal, state, local, and international law enforcement and consumer education partners to share consumer fraud complaint information. Through efforts such as its 30-member Alliance Against Fraud and the #DataInsecurity Project, NCL coordinates state and federal anti-fraud advocacy and public education efforts on fraud generally. NCL has worked closely with the CFPB to protect consumers against fraud.

National Fair Housing Alliance (NFHA) is a national organization dedicated to ending discrimination in housing. NFHA is a consortium of private, non-profit, fair-housing organizations, state and local civil rights groups, and individuals. NFHA engages in efforts to ensure equal housing opportunities for all people through leadership, education and outreach, membership services, public policy initiatives, advocacy, and enforcement. NFHA and its

members have undertaken important fair housing enforcement initiatives in cities and states across the country; those efforts have contributed significantly to the nation's efforts to eliminate discriminatory housing practices.

Tzedek DC, Inc. is a nonprofit public-interest organization dedicated to safeguarding legal rights and interests of low-income District of Columbia residents facing predatory debt collectors, including in litigation, as well as other consumer financial crises. Headquartered as an independent center at the University of the District of Columbia David A. Clarke School of Law, its work is aided by students and legal volunteers. Tzedek DC and its client communities have a substantial interest in the continued, robust work of the CFPB, the only federal agency dedicated solely to consumer financial protection. Through March 2017, according to a CFPB report, debt collection was the topic on which the CFPB received the most complaints from D.C. households.

U.S. Public Interest Research Group Education Fund, Inc. (U.S. PIRG Education Fund) is an independent, non-partisan 501(c)(3) organization that works for consumers and the public interest. Founded in 1984, U.S. PIRG Education Fund advocated and worked for the creation of the CFPB, urging Congress to create “a robust, independent federal Consumer Financial Protection Agency to protect consumers from unfair credit, payment, and debt management products.”¹ U.S. PIRG Education Fund now continues to collaborate with the CFPB to ensure that its mission is fulfilled. For example, U.S. PIRG Education Fund has used the CFPB's Consumer Complaint Database to write in-depth reports (10, thus far) that uncover patterns in the problems that

¹ *Testimony of Travis Plunkett, Consumer Federation of America and Edmund Mierzwinski, U.S. PIRG, Before the Committee on Financial Services, U.S. House of Representatives, Hearing on Regulatory Restructuring: Enhancing Consumer Financial Products Regulation, Consumers Union* (June 24, 2009), at https://consumersunion.org/research/consumer_group_testimony_on_enhancing_consumer_financial_products_regulation/.

consumers are experiencing with financial products.² The most recent report, published in June 2017, examines complaints from servicemembers and documents financial companies' widespread mistreatment of servicemembers.³ In addition, U.S. PIRG Education Fund has worked with the CFPB to protect students from unfair financial practices that have occurred when colleges and universities have partnered with financial institutions. Thus, in May 2012, U.S. PIRG Education Fund released a report that analyzed the campus card marketplace and surveyed practices at 120 colleges and universities.⁴ Prompted in part by U.S. PIRG Education Fund's work, the CFPB released in December 2015 the Safe Student Account Scorecard, which is a resource to assist colleges and universities that are seeking to select college-sponsored financial accounts. U.S. PIRG Education Fund strongly supported the release of the Safe Student Account Scorecard.⁵

Movants' participation is desirable because of the depth of their "relevant expertise and ... stated concern for the issues at stake in this case," *District of Columbia v. Potomac Elec. Power Co.*, 826 F. Supp. 2d 227, 237 (D.D.C. 2011); *see also Ellsworth Assocs., Inc. v. United States*, 917 F. Supp. 841, 846 (D.D.C. 1996) ("Generally, a court may grant leave to appear as an *amicus* if the information offered is timely and useful." (internal quotation marks omitted)).

² See *Reports: The CFPB Gets Results for Consumers*, U.S. PIRG Education Fund, at <https://uspirgedfund.org/page/usp/reports-cfpb-gets-results-consumers>.

³ See U.S. PIRG Education Fund, *Protecting Those Who Serve: How the CFPB Safeguards Military Members and Veterans from Abuse in the Financial Marketplace* (June 2017), available at <https://uspirg.org/reports/usp/protecting-those-who-serve>.

⁴ See U.S. PIRG Education Fund, *The Campus Debit Card Trap* (2012), available at http://www.uspirg.org/sites/pirg/files/reports/thecampusdebitcardtrap_may2012_uspef.pdf.

⁵ See *News Release, U.S. PIRG Lauds Consumer Guide for Safe Bank Accounts on Campus*, U.S. PIRG (Dec. 16, 2015), <http://uspirg.org/news/usp/us-pirg-lauds-consumer-guide-safe-bank-accounts-campus>.

Movants' brief focuses on the substantial public interest implicated by the dispute in this case, and thus speaks directly to the fourth prong of the test for assessing a motion for a preliminary injunction. Movants are particularly well qualified to help the Court understand this aspect of Plaintiff's motion. They have extensive knowledge of the history of the CFPB, the statutes that the CFPB enforces, and the consumer needs that the agency addresses. Since the CFPB was created, movants have engaged frequently with the agency and continually supported both its mission and its independence.

Furthermore, movants bring a perspective that is distinct from Plaintiff's and thus may benefit the Court. Most of the movants were conducting consumer advocacy, research, and education for decades before the CFPB existed, and were heavily involved in the policy debates that led to the agency's creation. Movants also address a wide variety of consumer issues, including those under other regulators' purview. Movants' analysis thus reflects a rich understanding of the CFPB's place in history and the broader regulatory landscape.

CONCLUSION

For the foregoing reasons, movants' motion for leave to file a brief as amici curiae in support of Plaintiff's motion for a preliminary injunction should be granted.

Dated: December 8, 2017

Respectfully submitted,

/s/ Rebecca Smullin

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[PROPOSED] ORDER

Upon consideration of the unopposed motion of Public Citizen, Inc., Americans for Financial Reform, Center for Responsible Lending, Consumer Action, National Association of Consumer Advocates, National Consumer Law Center, National Consumers League, National Fair Housing Alliance, Tzedek DC, Inc., and United States Public Interest Research Group Education Fund, Inc. for leave to file a brief as *amici curiae* in support of Plaintiff, it is hereby

ORDERED that the motion is GRANTED.

Dated: _____

Timothy J. Kelly
United States District Judge