

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
LONDON DIVISION

THE MONTICELLO BANKING CO., *et al.*,

Plaintiffs,

v.

CONSUMER FINANCIAL PROTECTION  
BUREAU, *et al.*,

Defendants.

Case No. 6:23-cv-00148-KKC

**DEFENDANTS' MOTION TO STAY**

Defendants the Consumer Financial Protection Bureau (CFPB) and Russell Vought, in his official capacity as the Acting Director of the CFPB,<sup>1</sup> respectfully move this Court to stay this matter while the Bureau conducts a new rulemaking under the Dodd-Frank Act's Section 1071 to reconsider the CFPB's Small Business Lending Rule ("the Rule" or "2023 Rule") issued on March 30, 2023. In support of its motion, Defendants aver the following:

On March 11, 2025, this Court ruled on a prior motion by Defendants seeking an extension of time to respond to Plaintiffs' First Amended Complaint. *See* ECF No. 48 (resolving ECF No. 44). The Court stayed this action until May 30, 2025 and stayed deadlines for Plaintiffs to comply with the Rule until further

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<sup>1</sup> Mr. Vought is automatically substituted as a party in his official capacity. *See* Fed. R. Civ. P. 25(d).

orders of the Court, indicating that the Court would establish new deadlines “after consulting with the CFPB and Plaintiffs after the CFPB files its response to Plaintiffs’ First Amended Complaint[.]” *Id.* The Court also ordered the Bureau to file a notice within seven days of any ruling from the Fifth Circuit in a case pending there that also challenges the Rule.

Since the Court’s March 11 order, the Bureau has directed staff to initiate a new Section 1071 rulemaking. The Bureau anticipates issuing a Notice of Proposed Rulemaking as expeditiously as reasonably possible. That rulemaking may moot or otherwise resolve this litigation.

As an initial step, the Bureau intends to take action to extend the rule’s deadlines for all regulated entities in order to ensure even treatment for all market participants and to provide time for the Bureau to consider and propose a new Section 1071 rule.<sup>2</sup> As a result, the earliest initial compliance date would be postponed for all regulated parties for a period of time during the Bureau’s reconsideration, likely by one year. In light of that intended action, regulated parties, including plaintiffs and their members, will not be subject to compliance

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<sup>2</sup> The Bureau also announced that it will not prioritize enforcement or supervision under the 2023 Rule. *See* “CFPB Keeps Its Enforcement and Supervision Resources Focused on Pressing Threats to Consumers,” April 30, 2025, *available at* <https://www.consumerfinance.gov/about-us/newsroom/cfpb-keeps-its-enforcement-and-supervision-resources-focused-on-pressing-threats-to-consumers/>.

obligations while the Bureau works to issue a new proposal to reconsider aspects of the 2023 Rule.

These developments provide good cause to stay this matter. This Court’s power to stay proceedings is incidental to its inherent power “to control the disposition of the causes in its docket with economy of time and effort for itself, for counsel and for litigants,” and its power to stay proceedings falls within its “sound discretion[.]” *Ohio Env’tl. Council v. U.S. Dist. Court, S. Dist. Of Ohio, E. Div.*, 565 F.2d 393, 396 (6th Cir. 1977). Entering a stay will conserve this Court’s resources by preventing it from having to consider an action that may be mooted. Moreover, it does not serve the public interest for Defendants to expend resources responding to a complaint challenging the 2023 Rule when a new proposal reconsidering aspects of the 2023 Rule is forthcoming. Finally, entering a stay will not prejudice any party, as Plaintiffs and their members face no imminent risk of being subjected to the 2023 Rule’s compliance deadlines—both as a result of this Court’s stay of the Rule’s deadlines and the Bureau’s forthcoming interim final rule extending those deadlines across the marketplace.

Defendants therefore request that the Court stay this case until 14 days following the promulgation of any rule reconsidering the CFPB’s 2023 Small Business Lending Rule.

The CFPB respectfully proposes submitting periodic status reports every 90 days during the pendency of the rulemaking and will promptly inform the Court when the rulemaking process is complete. Within 30 days of the issuance of a final rule, the CFPB proposes that the parties confer and notify the Court of whether and how they wish to proceed.

Counsel for Defendants conferred with counsel for Plaintiffs, and they indicated that they do not consent to the Bureau's motion to stay the case.

Dated: May 28, 2025

Respectfully submitted,

Christopher Deal  
*Assistant General Counsel*

/s/ Lauren Gorodetsky  
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### **CERTIFICATE OF SERVICE**

I hereby certify on May 28, 2025, a true and correct copy of this document was served electronically by the Court's CM/ECF system to all counsel of record.

Dated: May 28, 2025

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