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15 Attorneys for Defendant
16 SOLO FUNDS, INC.

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 WESTERN DIVISION – LOS ANGELES

20 CONSUMER FINANCIAL
21 PROTECTION BUREAU,

22 Plaintiff,

23 v.

24 SOLO FUNDS, INC.,

25 Defendant.

Case No. 2:24-cv-04108-RGK-AJR

**DEFENDANT SOLO FUNDS, INC.’S
OPPOSITION TO PLAINTIFF’S
EMERGENCY *EX PARTE*
APPLICATION FOR STAY OF
PROCEEDINGS**

Ctrm: 850 (8th Fl.)
Judge: Hon. R. Gary Klausner
Roybal Federal Building
255 East Temple Street
Los Angeles, CA 90012

1 Defendant SoLo Funds, Inc. (“SoLo”) opposes Plaintiff Consumer Financial
2 Protection Bureau’s (“Bureau”) Emergency *Ex Parte* Application for Stay of
3 Proceedings (“Application”).

4 The Bureau asks the Court for an indefinite stay solely because it has decided
5 to reevaluate its own decision to litigate this case. Though SoLo welcomes the
6 Bureau’s reconsideration of this lawsuit, neither the Bureau’s second-thoughts nor
7 the fact that there is new management at the Bureau constitute “good cause” for a
8 stay under these circumstances.

9 In assessing whether to stay a case, courts consider four factors: “(1) whether
10 the stay applicant has made a strong showing that he is likely to succeed on the merits;
11 (2) whether the applicant will be irreparably injured absent a stay; (3) whether
12 issuance of the stay will substantially injure the other parties interested in the
13 proceeding; and (4) where the public interest lies.” *Therabody, Inc. v. TJX*
14 *Companies, Inc.*, No. 22-00618, 2022 WL 18397364, at *1 (C.D. Cal. Sept. 19, 2022)
15 (Klausner, J.) (quoting *Nken v. Holder*, 556 U.S. 418, 434 (2009)). The Bureau’s
16 Application makes no attempt to address any of these factors except to assert that it
17 will be prejudiced absent a stay because it is unsure how (or even if) it wants to
18 proceed. For that reason alone, the stay should be denied. *Id.* (denying a stay both
19 parties requested); *Therabody, Inc. v. TJX Companies, Inc.*, No. 22-00618, 2022 WL
20 3137716, at *4-5 (C.D. Cal. June 2, 2022) (Klausner, J.) (denying stay where movant
21 made no showing on either of the first two stay factors).

22 But even as to the one issue the Bureau raises, alleged prejudice, there is no
23 irreparable injury to the Bureau. As shown below, the other factors—especially the
24 severe injury to SoLo—weigh strongly in favor of denying a stay.

25 The Bureau chose to bring this case, and immediately trumpet its action in a
26 well-circulated and misleading press release accusing SoLo of deceiving and acting
27 unfairly toward borrowers and charging illegal fees. As shown in the Declaration of
28

1 Travis Holoway (SoLo's Co-Founder and Chief Executive Officer) submitted
2 herewith, the Bureau's false accusations have already done substantial damage to
3 SoLo, a small fintech company. The lawsuit has hamstrung SoLo's ability to raise
4 funds and maintain, grow, and scale its business. *See* Holoway Decl. ¶ 3. It has
5 diverted SoLo's limited resources and attention, and chilled the market for investors.
6 *Id.* The lawsuit not only poses an existential threat to SoLo, but also disadvantages
7 the 2+ million users who have depended on SoLo to help connect them with other
8 citizens who are willing to extend small loans to meet their emergency credit needs.
9 *Id.* ¶¶ 2, 3.

10 Now, six weeks before SoLo finally has the opportunity to clear its name by
11 filing a summary judgment motion, the Bureau seeks a one-sided stay—without any
12 proposed end date—that benefits only one party: the Plaintiff. No party has the right
13 to pause a case within weeks of the discovery deadline so it can think about whether
14 it is still serious. A plaintiff's decision to halt the prosecution of their case—for
15 whatever reason—can create material prejudice to the defendant, such that even a
16 Rule 41(b) dismissal may be warranted. *See Henderson v. Duncan*, 779 F.2d 1421,
17 1423 (9th Cir. 1986) (setting out the Ninth Circuit's five-part test for involuntary
18 dismissal, to include weighing prejudice to defendant). Prejudice resulting from a
19 stay is always a factor to consider in assessing whether relief is appropriate. *See*
20 *Therabody*, 2022 WL 18397364, at *1.

21 In the face of this prejudice, the Bureau offers only the explanation that its just-
22 appointed Acting Director has issued a “pencils down” directive to counsel.
23 Application ¶ 6. Apparently, what will follow is an assessment by someone at some
24 indeterminate time of whether this lawsuit is consistent “with the goals of the new
25 administration.” *Id.* In the meantime, SoLo continues to be harmed. If the Bureau
26 is serious about that review, it would be more equitable than a stay for the Bureau to
27 dismiss the case outright, without prejudice. That would enable the Bureau to decide
28

1 in the fullness of time what, if anything, it may want to do next. That path would
2 best conserve judicial resources and promote the public interest in the efficient
3 administration of justice.

4 The only other argument for a stay is the complaint of Bureau counsel that
5 with pencils down the Bureau would be prejudiced without a stay. Application ¶¶ 8-
6 12. But that is a problem of the Bureau's own making. It can pick up the pencils at
7 any time. That is not "good cause" for a stay. *See Therabody*, 2022 WL 18397364,
8 at *1 ("While it is true that Plaintiff will have to defend its patents on multiple fronts,
9 it was Plaintiff who chose to bring its complaints to court.")

10 The Bureau does not address the remaining factors that bear on their request
11 for a stay. Since the first factor requires the applicant to "make a strong showing" of
12 merit in its case, that factor weighs against a stay. (Suffice it to say, if it had the
13 burden on this factor, SoLo would explain why it believes the Bureau is not likely to
14 win.) The final factor also does not support the requested relief; instead, there is
15 substantial public interest in resolving the unfair cloud that the Bureau's lawsuit has
16 hung over SoLo and its 2+ million users.

17 Under these circumstances, SoLo respectfully requests that the Court deny the
18 Bureau's Application for a stay.

19
20 Respectfully submitted,

21
22 Dated: February 4, 2025

By: /s/ Laura A. Stoll

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LEVI W. SWANK (admitted pro hac vice)

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GOODWIN PROCTER LLP

Attorneys for Defendant: SOLO FUNDS, INC.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Central District of California by using the CM/ECF system on **February 4, 2025**. I further certify that all participants in the case are registered CM/ ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct.
Executed on **February 4, 2025**.

/s/ Laura A. Stoll

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**DECLARATION OF TRAVIS
HOLOWAY**

Ctrm: 850 (8th Fl.)
Judge: Hon. R. Gary Klausner
Roybal Federal Building
255 East Temple Street
Los Angeles, CA 90012

1 I, Travis Holoway, declare as follows:

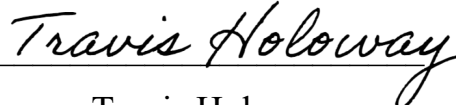
2 1. I am the Co-Founder and Chief Executive Officer of SoLo Funds, Inc.
3 (“SoLo”). I make this declaration based upon my personal knowledge and records
4 maintained in the ordinary course of business by SoLo. If called to testify as to any
5 of these matter set forth in this declaration, I could and would competently testify
6 thereto.

7 2. SoLo has over 2 million registered users who request and fund short-
8 term small-dollar loans on the SoLo loan marketplace.

9 3. This lawsuit has caused and is continuing to cause significant harm to
10 SoLo’s operations as a company. SoLo has been forced to divert resources from
11 investing in its technology platform and people to the litigation in order to defend
12 against the Bureau’s lawsuit, which has impeded its ability to grow. SoLo’s means
13 to raise capital from third-parties in order to maintain and scale its business has also
14 been negatively impacted by the lawsuit and associated publicity. Based on that
15 publicity, some SoLo users – borrowers and lenders – have expressed concerns about
16 their ability to continue using the SoLo loan marketplace platform for their
17 emergency credit needs, further jeopardizing the viability and vitality of the platform.

18 I declare under penalty of perjury under the laws of the United States that the
19 foregoing is true and correct.

20
21 Executed: February 4, 2025


Travis Holoway

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Central District of California by using the CM/ECF system on **February 4, 2025**. I further certify that all participants in the case are registered CM/ ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct.
Executed on **February 4, 2025**.

/s/ Laura A. Stoll

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**[PROPOSED] ORDER DENYING
PLAINTIFF'S EMERGENCY *EX*
PARTE APPLICATION FOR STAY
OF PROCEEDINGS**

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Judge: Hon. R. Gary Klausner
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[PROPOSED] ORDER

Upon consideration of Plaintiff's Emergency *Ex Parte* Application for Stay of Proceedings and Defendant's Opposition thereto, IT IS HEREBY ORDERED as follows:

1. Plaintiff's Emergency *Ex Parte* Application for Stay of Proceedings is DENIED.

IT IS SO ORDERED

Dated: _____, 2025

HON. R. GARY KLAUSNER
UNITED STATES DISTRICT JUDGE