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**

PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION FOR A JUDGMENT ON THE PLEADINGS

Plaintiff Consumer Financial Protection Bureau ("Bureau") files this Response in Opposition to Defendants' Motion for a Judgment on the Pleadings, Dkt. 144, and states:

1. This Court should not address the issues raised by the Motion at this time since the Motion raises only constitutional issues, and it is well settled that a court should avoid addressing constitutional issues until it becomes necessary to address them. It is not necessary to address constitutional issues now because Defendants' Answer, which disputes the central facts of the Bureau's Complaint, seeks the same relief – dismissal – as the Motion.

2. In any event, there is no merit to any of the issues raised by Defendants. a) The Supreme Court has never held unconstitutional the limited restriction that the Consumer Financial Protection Act imposes on the President's authority to remove the Bureau's Director; b) The Bureau's authority to prohibit unfair or abusive acts or practices does not violate due process because the Consumer Financial Protection Act adequately defines those terms; c) The Bureau's authority to prohibit unfair or abusive acts or practices does not violate the non-delegation doctrine because Congress has

adequately delineated the policy behind, and the limits of, the authority; and d) Principles of federalism are not violated merely because the Bureau has challenged some conduct that may also be prohibited by state law.

For these reasons, as well as the reasons set forth in Plaintiff's Memorandum Brief filed with this Response, the Bureau respectfully requests that the Court enter an order denying Defendants' Motion for a Judgment on the Pleadings.

Dated: June 23, 2017

Respectfully submitted,

CONSUMER FINANCIAL PROTECTION BUREAU

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CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2017, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record.

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