UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

CONSUMER FINANCIAL PROTECTION BUREAU, Plaintiff, v. THE MORTGAGE LAW GROUP, LLP, CONSUMER FIRST LEGAL GROUP, LLC, THOMAS G. MACEY, JEFFREY J. ALEMAN, JASON E. SEARNS and HAROLD E. STAFFORD, Defendants.	)	Case No. 3:14-cv-00513

DEFENDANTS' MOTION TO ABSTAIN

Defendants Consumer First Legal Group, LLC ("CFLG"), Thomas G. Macey ("Macey"), Jeffrey J. Aleman ("Aleman"), Jason E. Searns ("Searns"), and Harold E. Stafford ("Stafford" and collectively, "Defendants")[1] respectfully move this Court, pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), to abstain from adjudicating this case on the merits until the completion of pending proceedings before the Illinois Attorney Registration and Disciplinary Commission ("ARDC") and Wisconsin Office of Lawyer Regulation ("OLR"). It is expected that those ongoing proceedings will resolve certain issues of fact and substantive state regulatory law that are central to this case. In support of their motion, Defendants state as follows:

1. On July 22, 2014, the CFPB filed this case, alleging that Defendants have violated certain provisions of the Mortgage Assistance Relief Services Code, 12 C.F.R. § 1015.1, *et seq.* ("Regulation O"). Specifically, the CFPB alleges that various of Defendants violated Sections 1015.3(a), 1015.3(b)(1), 1015.3(b)(2), 1015.5(b)(4), 1015.(b)(8), 1015.3(b)(9), 1015.4(b)(1) and

[1] Defendant The Mortgage Law Group, LLP ("TMLG") filed a voluntary Chapter 7 bankruptcy petition on April 7, 2014. Accordingly, this action is stayed as to TMLG pursuant to 11 U.S.C. § 362.

1015.5(a) by making certain representations to and collecting certain fees from TMLG and CFLG clients and by failing to make certain disclosures.

2. All but one of Defendants are currently the subjects of pending disciplinary investigations and actions before the Wisconsin Office of Lawyer Regulation and the Illinois Attorney Registration and Disciplinary Commission. The factual and legal issues raised in those proceedings are central to the issues in this case (*e.g.*, whether Defendants were engaged in the practice of law and whether they complied with state rules and regulations governing their conduct).

3. Defendants have filed a memorandum, declaration, and exhibits in support of this motion, which are incorporated herein by reference. Pursuant to Federal Rule of Civil Procedure 12(b)(1), this Court should abstain from adjudicating the claims in this case under the *Burford* abstention doctrine. *See, e.g., Allstate Co. v. Elzanaty*, 916 F.Supp. 3d 273, 286 (E.D.N.Y. 2013) ("A motion to dismiss based on the abstention doctrine is also considered as a motion to dismiss made pursuant to [Rule] 12(b)(1)."); *Spillane v. Commonwealth Edison Co.,* 291 F.Supp. 2d 728 (N.D. Ill. 2003). In the alternative, this Court should abstain from adjudicating the claims in this case under the doctrine of primary jurisdiction, pursuant to Federal Rule of Civil Procedure 12(b)(6). *See, e.g., Davel Comm., Inc. v. Qwest Corp.*, 460 F.3d 1075, 1088 (9th Cir., 2006).

WHEREFORE, for the reasons set forth herein, Defendants Consumer First Legal Group, LLC, Thomas G. Macey, Jeffrey J. Aleman, Jason E. Searns and Harold E. Stafford respectfully move this Court to abstain from adjudicating this case on the merits until the Illinois Attorney Registration and Disciplinary Commission and Wisconsin Office of Lawyer Regulation have resolved certain matters pending before those agencies.

Dated: September 22, 2014

Respectfully submitted,

s/ Douglas M. Poland

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