



NEWS RELEASE

Attorney General Mike Hilgers

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Attorney General Hilgers Joins Coalition in Brief Asking U.S. Supreme Court to Restore Accountability for the CFPB

Lincoln - Attorney General Hilgers has joined a West Virginia-led coalition of 27 states in asking the U.S. Supreme Court to uphold a lower court's ruling that found Consumer Financial Protection Bureau's (CFPB) unprecedented funding mechanism unconstitutional.

The case, *Consumer Financial Protection Bureau v. Community Financial Services Association of America Ltd.*, centers around the bureau's funding means. Under current law, the CFPB can obtain hundreds of millions of dollars each year merely by sending a half-page letter to the Federal Reserve. The U.S. Court of Appeals for the Fifth Circuit ruled in October this funding mechanism for the federal agency, which was formed during the Obama administration and given vast power over the U.S. financial industry, is unconstitutional.

The Appropriations Clause of the U.S. Constitution explicitly gives Congress the power of the purse as an oversight over federal agencies. The Fifth Circuit, in the October decision, ruled the 2010 Congress improperly gave away that power when it granted CFPB an independent, perpetual income stream. In the 13 years since Congress made that mistake, the CFPB has resisted congressional oversight, engaged in misbehavior before federal courts, and locked states and other parties out of key regulatory decisions.

Currently, the agency gets its funding from the Federal Reserve. If the Supreme Court upholds the Fifth Circuit's ruling, then the bureau would need to get an appropriation approved by Congress through normal processes. Congress would then have an opportunity to rein in some of the agency's activities, which have increased borrowing costs for some consumers and shut other consumers out of the credit market entirely.

The Fifth Circuit ruled CFPB's bypass of Congressional appropriations violated the Constitution's Appropriations Clause and separations of powers doctrine.

According to the Constitution's Appropriations Clause, "no money shall be drawn from the Treasury, but in consequence of Appropriations made by law."

“The Appropriations Clause offers Congress one of its most powerful tools to supervise and control federal administrative agencies,” according to the coalition’s brief. “The appropriations power is essential to the separation of powers ...”

All 50 states have weighed in on this case, making this one of a few cases where voices of all 50 states are being expressed in the Supreme Court.

Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming joined the West Virginia-led brief.

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Brief attached.

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