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Media Contact: Glenn Lammi | glammi@wlf.org | 202-588-0302

## WLF Urges Supreme Court To Hold CFPB's Funding Method Unconstitutional

*(Consumer Financial Protection Bureau v. Community Financial)*

**“The CFPB’s funding mechanism is unprecedented. There is no parallel to any funding method that Congress has previously authorized.”**

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to hold that independent federal agencies must receive yearly appropriations from Congress.

The case arises from the Community Financial Services Association’s challenge to a Consumer Financial Protection Bureau rule. The CFPB does not receive a yearly appropriation from Congress. Rather, it gets to decide how much money it wants to spend every year. So long as that number is below a certain percentage of the Federal Reserve’s budget—which also falls outside the congressional appropriation process—it receives the requested amount. The U.S. Court of Appeals for the Fifth Circuit held that this funding mechanism violates the Appropriations Clause. The Supreme Court has agreed to consider the issue.

In its brief supporting CFSA, WLF examines a long list of statutes that the CFPB and its amici cite in support of their contention that historical precedent supports the CFPB’s funding mechanism. One group of statutes CFPB supporters cite just allowed agencies to collect fees and then spend those fees on their operations. The CFPB, of course, is not anywhere close to a break-even endeavor spending fees it collects. The second group of statutes addressed social safety nets. The CFPB, however, does not provide a safety net for needy Americans. Finally, the last set of statutes dealt with the national debt and bequests. These have nothing to do with independent federal agencies. In short, WLF’s brief argues that there is no historical precedent for the CFPB’s funding mechanism.

WLF’s brief also explains why allowing federal courts to adjudicate this dispute is key to the separation of powers. When a purely constitutional question about a statute arises, the Constitution assigns federal courts the task of resolving the dispute. Any suggestion that this “second-guessing” Congress is barred by the separation of powers is nothing more than a thinly veiled attempt at saving a blatantly unconstitutional agency funding mechanism.

*Celebrating its 46th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.*

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