

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

CHAMBER OF COMMERCE OF THE  
UNITED STATES OF AMERICA, et al.,

*Plaintiffs,*

v.

CONSUMER FINANCIAL PROTECTION  
BUREAU, et al,

*Defendants.*

Case No. 6:22-cv-00381

**UNOPPOSED MOTION FOR LEAVE TO FILE  
BRIEF OF AMICI CURIAE CALIFORNIA REINVESTMENT COALITION,  
NATIONAL COMMUNITY REINVESTMENT COALITION, NATIONAL  
ASSOCIATION FOR LATINO COMMUNITY ASSET BUILDERS, CENTER FOR  
RESPONSIBLE LENDING, TEXAS APPLESEED, AND NATIONAL CONSUMER LAW  
CENTER IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS OR, IN THE  
ALTERNATIVE, FOR PARTIAL SUMMARY JUDGMENT**

The California Reinvestment Coalition, National Community Reinvestment Coalition, National Association for Latino Community Asset Builders, Center for Responsible Lending, Texas Appleseed, and National Consumer Law Center respectfully request the Court's permission to file the attached brief of Amici Curiae.<sup>1</sup>

**ARGUMENT**

Leave to file an amicus brief should be granted "when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide." *In re Halo Wireless, Inc.*, 684 F.3d 581, 596 (5th Cir. 2012) (quoting *Ryan v. CFTC*, 125

---

<sup>1</sup> Undersigned counsel for Amici conferred with counsel for Plaintiffs and Defendants before filing this motion. Counsel for Plaintiffs indicated they consent to the filing of this motion; counsel for Defendants indicated they do not oppose the filing of this motion.

F.3d 1062, 1063 (7th Cir. 1997)). Whether to permit amicus briefing “lies solely within the court’s discretion.” *U.S. ex rel. Gudur v. Deloitte Consulting LLP*, 512 F. Supp. 2d 920, 927 (S.D. Tex. 2007).

Amici Curiae are consumer advocacy organizations that represent or work with individual consumers and small businesses across the country.

The California Reinvestment Coalition (CRC) builds an inclusive and fair economy that meets the needs of communities of color and low-income communities by ensuring that banks and other corporations invest and conduct business in our communities in a just and equitable manner. CRC envisions a future in which people of color and low-income people live and participate fully and equally in financially healthy and stable communities without fear of displacement, and have the tools necessary to build household and community wealth. For decades, CRC has been advocating for equal access to bank credit and non-credit products and services, and fighting discrimination and redlining in the financial system. CRC runs an economic health promotora program where participating families report disparate experiences accessing banking services based on race, ethnicity and language proficiency. CRC has also recently participated in a secret shopper investigation (discussed in the attached brief at 3 n.6) that found differences in treatment of BIPOC and Limited English Proficient consumers trying to access information about how to open low-cost bank accounts. During the course of the investigation, Black, Latinx, and Spanish-speaking shoppers reported disproportionate instances of negative treatment by bank staff compared to white shoppers, with several shoppers noting that they often didn’t feel welcomed during their visit. In some cases, these shoppers were turned away entirely and unable to ask questions directly to bank staff.

The National Community Reinvestment Coalition (NCRC) is an association of more than 700 community-based organizations that promote fair and equitable access to basic banking services, affordable housing, entrepreneurship, job creation, and vibrant communities for America's working families. Its members include community reinvestment organizations, community development corporations, local and state government agencies, faith-based institutions, community organizing and civil rights groups, minority and women-owned business associations, and social service providers. Among other things, NCRC works with community leaders, policymakers, and financial institutions to champion fairness and end discrimination in lending, housing, and business. NCRC engages in research, training, and advocacy on behalf of members; tests, monitors, and challenges discrimination in financial services and housing; and facilitates dialog between financial institutions and community networks to increase lending in neighborhoods that need it. Most recently, NCRC has concentrated its anti-discrimination efforts on reports and enforcement related to appraisal and small business bias and redlining in mortgage lending.

The National Association for Latino Community Asset Builders (NALCAB) advances economic mobility in Latino communities, and in doing so strengthens the economy as a whole. NALCAB is the hub of a national network of over 200 nonprofit organizations working in nearly every state, Washington, D.C., and Puerto Rico. NALCAB supports those organizations by building their capacity to responsibly invest in Latino communities and improving access to capital in underserved markets. NALCAB offers trainings, public policy work, peer-to-peer collaboration, and access to funding and professional development resources. In doing so, it dramatically scales the flow of public and private sector capital that responsibly meets the asset building needs and opportunities of the communities it serves. NALCAB regularly engages in the regulatory process,

and has offered testimony on discrimination in financial services to Congress in the past. *See, e.g., Examining Discrimination and Other Barriers To Consumer Credit, Homeownership, And Financial Inclusion In Texas, Before the Subcomm. on Oversight & Investigations of the H. Comm. on Fin. Servs.*, 116th Cong. 45 (2019) (statement of Noel Poyo, Exec. Dir., NALCAB).

The Center for Responsible Lending (CRL) is a non-partisan, nonprofit research and policy advocacy organization working to promote financial fairness and economic opportunity for all, end predatory lending, and close the racial wealth gap. CRL has extensive experience in consumer protection legal issues, including supporting strong state and federal consumer protections.

Texas Appleseed is a non-profit, non-partisan public interest justice center that promotes social, economic, and racial justice for all Texans. Texas Appleseed works to change unjust laws and policies that prevent Texans from realizing their full potential. Texas Appleseed anchors a dynamic network of pro bono partners and collaborators to develop and advocate for innovative and practical solutions to complex issues, including discriminatory financial practices. Texas Appleseed also conducts data-driven research that uncovers inequity in laws and policies and identifies solutions for lasting, concrete change. *See, e.g., Texas Appleseed, Debt, Access to Justice, and Racial Equity: An Analysis of Consumer Debt Collection Lawsuits in Texas and Recommended Reforms* (April 2021) <https://www.texasappleseed.org/sites/default/files/Debt%20Access%20to%20Justice%20and%20Racial%20Equity%20Final.pdf>.

The National Consumer Law Center (NCLC) is recognized nationally as an expert in consumer credit issues. For more than 50 years, NCLC has drawn on this expertise to provide information, legal research, policy analyses and market insights to federal and state legislatures, administrative agencies and the courts. NCLC also publishes a twenty-two volume Consumer

Credit and Sales Legal Practice Series which includes Unfair and Deceptive Acts and Practices (10th ed. 2021). Major focuses of NCLC's work include increasing public awareness of unfair and deceptive practices perpetrated against low-income and elderly consumers and to promoting equal access to justice against racially discriminatory practices in the marketplace.

Amici thus have a demonstrated interest in and commitment to combatting invidious discrimination of all types on behalf of the organizations and communities they represent. The ability of CFPB bank examiners to investigate potential discrimination and to recommend best practices to avoid it is crucial to giving Amici's constituents the protection and information they need to participate fairly and fully in our nation's economy.

As detailed in the attached brief, the statutory test for unfairness under the Dodd-Frank Act is fact-intensive and turns on the nature of the injury suffered by consumers. Amici have subject matter expertise on the occurrence and nature of discrimination in the financial services injury. Amici can therefore provide information relevant to the Court's analysis whether discrimination by financial service providers may constitute an "unfair" practice under the Dodd-Frank Act, should the Court reach the merits of Plaintiffs' claims under the Administrative Procedure Act.

### **CONCLUSION**

The Court should grant Amici's motion for leave to file and direct the clerk to file the attached brief on the docket.

Dated: December 23, 2022

Respectfully submitted,

/s/ Rachel L. Fried

Rachel L. Fried (D.C. Bar No. 1029538)\*

Democracy Forward Foundation

P.O. Box 34553

Washington, DC 20043

(202) 448-9090

rfried@democracyforward.org

*Counsel for Amici Curiae*

\* admitted *pro hac vice*