

A Knock-Down Drag-Out Fight With the CFPB

August 23, 2013 - Various groups have questioned the constitutionality of the CFPB since its inception. And there have been several lawsuits challenging that constitutionality which have not fared too well in the courts. Just last month, the federal court in Washington, DC dismissed a suit against the agency that was filed by a Texas bank and several states because they didn't have standing. But one suit filed last month by Morgan Drexen Inc. didn't appear to have that issue. And since the CFPB decided this week to file its own suit against the Morgan Drexen, the company definitely has standing now.

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Morgan Drexen is a company that works with law firms to provide debt relief services to consumers. The company has been the subject of a CFPB investigation over the legality of certain fees that it charges. But the CFPB may have overplayed its hand in the investigation. It issued demands to the company for documents that were attorney-client privileged.

So the company filed suit in the DC court late last month. The suit challenges the constitutionality of the CFPB on the grounds that it violates the separation of powers mandated by the constitution. When congress formed the CFPB, it put it under the FED. Congress has no direct control or oversight of the agencies budget or policies. At the same time, Congress and the White House delegated a vast amount of authority to the agency to set rules that have the effect of law.

The CFPB suit against the company claims that Morgan Drexel is violating provisions of Dodd-Frank (the same law that formed the CFPB) that prohibit debt relief firms from charging up-front fees to consumers. It alleges that the company charged consumers thousands of dollars in fees without reducing their debt.

The suit filed by Morgan Drexen is on a fast track for trial. The case is asking the court to declare Title X of Dodd Frank unconstitutional. Since Title X is the portion of the law that formed the CFPB, such a ruling could lead to the dismantling of the agency.

The company isn't being shy about its actions either. It has established a website that details the reasons for the suit. The site features video, documentation and a wide variety of other information on the status of the suit. You can find it by clicking [here](#). They are specifically stating that they believe the CFPB suit against them is retaliatory in nature.

by Jim Malmberg

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