

Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—D.C. Cir.: CFPB reorganization “programmatic, not final,” Vought insists in push to dissolve injunction, (May 15, 2025)

Banking and Finance Law Daily Wrap Up

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By Shashi Kant, BALLB, LLM

Vought argues unions have no injury and the CFPB restructuring is ordinary management, asking the court to lift the freeze.

Consumer Financial Protection Bureau Acting Director, Russell Vought, urges the U.S. Court of Appeals for the D.C. Circuit to dissolve, or at least sharply narrow, the district court injunction that blocks the CFPB reorganization plan. In a [reply brief](#), Vought argues that the plaintiffs, mainly employees' unions, lack Article III standing, that their claims are unripe and belong in civil service channels, that the alleged “shutdown” is neither final agency action nor ultra vires, and that the order's sweep, reinstating employees, freezing contracts, and dictating operations, oversteps equitable limits and intrudes on core executive discretion (*National Treasury Employees Union v. Vought*, No. 25-5091 (D.C. Cir. May 13, 2025)).

Background. Vought took office on Feb. 7, 2025, and on February 10, issued a stand-down directive instructing all employees and contractors to stop work unless specifically cleared by senior leadership. Witnesses later testified that the directive halted examinations, complaint processing, and other statutory tasks. Two days later, the Bureau began canceling service contracts and terminated all probationary employees; by February 13, an internal reduction-in-force (RIF) team had prepared notices for about 1,200 permanent staff. That afternoon, the National Treasury Employees Union (NTEU) and allied plaintiffs sued in the U.S. District Court for the District of Columbia.

After expedited proceedings, which included a two-day evidentiary hearing, Judge Amy Berman Jackson entered a preliminary injunction on March 28, reinstating the discharged personnel, pausing further RIFs, blocking wholesale contract terminations, and requiring the Bureau to keep consumer-response channels open. Vought appealed the next day. A D.C. Circuit motions panel partially stayed the injunction on April 11, permitting RIF actions backed by “particularized assessments.” During that 11-day window, the Bureau issued 1,408 RIF notices, affecting approximately 90 percent of its workforce. Afterward, the district court re-enjoined the layoffs on April 18 due to a lack of documented individualized review. NTEU and others filed their brief on May 9, 2025 (see [Banking and Finance Law Daily](#), May 12, 2025). Oral argument is scheduled for May 16, 2025.

Threshold objections. Vought's brief opens by asserting that none of the plaintiffs has Article III standing. It characterizes the nonprofits' resource-diversion claims as speculative and states that the individual plaintiff's stalled student-loan matter is not fairly traceable to any CFPB shutdown because the agency “has never expressed an intention to close.” Vought further argues that the dispute is unripe because plaintiffs attack a “programmatic level of government action,” not a discrete decision, and therefore seek an advisory opinion barred by *Lujan v. National Wildlife Federation* (504 U.S. 555 (1992)). Finally, he invokes the Civil Service Reform Act, claiming that any challenge to RIF procedures must proceed through the Merit Systems Protection Board before reaching an Article III court, as required by *Elgin v. Department of the Treasury* (567 U.S. 1 (2012)).

Cause-of-action argument. Vought contends that plaintiffs sued under the wrong subsection of the Administrative Procedure Act. Because they effectively ask the court to compel the Bureau to resume statutory duties, their claim, if cognizable at all, belongs under the Administrative Procedure Act, section 706(1), which applies only to “agency action unlawfully withheld.” Plaintiffs instead invoked section 706(2), which allows a court

to set aside final agency action, yet they identify no final action because the February 10 e-mail was an internal, temporary management directive. Vought asserts that an unimplemented reorganization plan cannot be deemed “final.” Also, Vought argues that the district court erred in recognizing a free-standing constitutional cause of action, citing *Dalton v. Specter* (511 U.S. 462 (1994)) for the principle that exceeding statutory authority is not itself a separation-of-powers violation cognizable without statutory authorization.

Challenging the district court’s factual findings. On the merits, the CFPB disputes the lower court’s conclusion that leadership intends to shut the agency. The brief highlights internal e-mails directing staff to catalog statutory functions and resume contract work, asserting that the district judge wrongly dismissed these communications as a “charade.” Vought says the court conflated litigation strategy with factual concession when it inferred a shutdown plan from counsel’s statements. The brief further maintains that plaintiffs cannot satisfy the *Norton v. Southern Utah Wilderness Alliance* (542 U.S. 55 (2004)) standard for compelling agency action, because they point to no discrete, legally required duty the Bureau has failed to perform; instead, they challenge what they perceive as a trajectory toward downsizing.

Overbreadth and equitable balance. Calling the injunction “profoundly overbroad,” Vought argues that it bars ordinary workforce and contracting adjustments essential to any agency and therefore conflicts with *Sampson v. Murray* (415 U.S. 61 (1974)), which requires especially strong proof of irreparable harm before courts halt federal personnel actions. He also contends that plaintiffs failed to show imminent, non-speculative harm, noting that consumer-complaint lines and core supervisory functions have continued under revised staffing plans.

Relief requested. The CFPB asks the appellate panel to vacate the injunction in full or, at minimum, to confine relief to alleged injuries the plaintiffs can prove. It proposes a remand that would allow leadership to proceed with RIFs and contract realignments so long as particularized assessments are documented, with any remaining disputes funneled through the Civil Service Reform Act process.

Attorneys: Deepak Gupta (Gupta Wessler LLP) for National Treasury Employees Union, National Consumer Law Center, National Association the Advancement of Colored People, Virginia Poverty Law Center, CFPB Employee Association and Ted Steege. Catherine M. Padhi, U.S. Department of Justice, for Russell T. Vought and the CFPB.

Companies: National Treasury Employees Union; National Consumer Law Center; National Association the Advancement of Colored People; Virginia Poverty Law Center; CFPB Employee Association

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