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SUPREME COURT WILL HEAR CFPB CONSTITUTIONALITY CASE*

As we have reported over the past few months, there have been a few cases in which the CFPB's adversaries are alleging that the agency's funding violates the Appropriations Clause and, thus, is unconstitutional. One of those cases involves a group of plaintiffs who sued the CFPB, attempting to have a court vacate what remained of the Payday Lending Rule. The plaintiffs challenged the Payday Lending Rule's validity by arguing that the CFPB acted arbitrarily and capriciously, exceeded its statutory authority, and its structure is unconstitutional. In addition, the plaintiffs argued that the CFPB's funding structure violated the Appropriations Clause and, thus, is unconstitutional. The Fifth Circuit held that the CFPB's funding mechanism violates the Appropriations Clause and is therefore unconstitutional. *Cnty. Fin. Servs. Ass'n of Am. v. Consumer Fin. Prot. Bureau*, 2022 U.S. App. LEXIS 29060 (5th Cir. Oct. 19, 2022).

In November 2022, the CFPB filed a petition for certiorari with the U.S. Supreme Court. On February 27, 2023, the U.S. Supreme Court granted that petition.

We will continue to report on this case. In the meantime, please contact Stephanie Shea at SShea@ABLAWYERS.COM with any questions.

* Janet Bonnefin is retired from the practice of law with the firm.

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