

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

WAZEE STREET OPPORTUNITIES  
FUND IV, LP, *et al.*,

Plaintiffs,

v.

THE FEDERAL HOUSING FINANCE  
AGENCY, *et al.*,

Defendants.

Case No. 2:18-cv-03478-NIQA

**FHFA DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendants Federal Housing Finance Agency and Mark A. Calabria (“FHFA Defendants”) submit this notice to inform the Court of two recent developments relevant to the FHFA Defendants’ pending motion to dismiss (ECF No. 16), the United States Department of Treasury’s pending motion to dismiss (ECF No. 15), and Plaintiffs’ pending motion for summary judgment (ECF No. 19).

1. On July 9, 2020, the Supreme Court granted certiorari to review the Fifth Circuit’s *en banc* decision in *Collins v. Mnuchin*, 938 F.3d 553 (2019). *See Collins v. Mnuchin*, No. 19-422, 2020 WL 3865248. *Collins* involves a separation-of-powers challenge to FHFA’s for-cause removal provision identical to Counts I and II here. The parties addressed the Fifth Circuit decision in a prior Notice of Supplemental Authority dated September 27, 2019 (ECF No. 37) and in supplemental briefing ordered by the Court (ECF Nos. 38-41). The *Collins* plaintiffs’ petition granted by the Court requested consideration of two issues:

- a. Whether FHFA’s structure violates the separation of powers;
- and

b. Whether the courts must set aside a final agency action that FHFA took when it was unconstitutionally structured and strike down the statutory provisions that make FHFA independent.

2. On June 29, 2020, the Supreme Court issued a decision in *Seila Law v. CFPB*, No. 19-7, --- S. Ct. ----, 2020 WL 3492641. That case involved the constitutionality of a for-cause removal provision applicable to the Director of the Consumer Financial Protection Bureau—the same issue as in several prior CFPB cases cited in the parties’ briefs. The Court held that the for-cause removal provision for the CFPB Director violated the separation of powers, but that the unconstitutional provision was severable from the remainder of the statute.

Respectfully submitted,

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Dated: July 15, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that on July 15, 2020, I filed and served via the Court's ECF system a true and correct copy of the foregoing FHFA Defendants' Notice of Supplemental Authority.

**TUCKER LAW GROUP**

/s/ Leslie Miller Greenspan  
Leslie Miller Greenspan