

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

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA;
LONGVIEW CHAMBER OF COMMERCE;
AMERICAN BANKERS ASSOCIATION;
CONSUMER BANKERS ASSOCIATION;
INDEPENDENT BANKERS ASSOCIA-
TION OF TEXAS; TEXAS ASSOCIATION
OF BUSINESS; and TEXAS BANKERS AS-
SOCIATION.

Plaintiffs,

v.

CONSUMER FINANCIAL PROTECTION
BUREAU; and ROHIT CHOPRA, in his offi-
cial capacity as Director of the Consumer Fi-
nancial Protection Bureau,

Defendants.

Case No. 6:22-cv-00381-JCB

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs write to notify the Court that the U.S. Supreme Court granted certiorari on the Appropriations Clause issue in *CFPB v. Cmty. Fin. Servs. Ass'n of Am., Ltd.*, No. 22-448 (Exhibit A). As Plaintiffs explained in our brief, this grant does not change our need for relief and the Court should decide Plaintiffs' APA claims regardless. *See, e.g.*, Doc. 17 at 2, 9-10. Plus, the Supreme Court did not expedite that case, so it may not issue its opinion until June 2024. Yet the CFPB's unlawful interpretation of its UDAAP authority is already in effect. And the law of the Fifth Circuit is that the CFPB is unconstitutionally funded, which should halt the agency action we challenge here. *Cmty. Fin. Servs. Ass'n of Am., Ltd. v. CFPB*, 51 F.4th 616, 643 (5th Cir. 2022).

Of course, "grants of certiorari do not themselves change the law." *See Schwab v. Sec'y, Dept. of Corr.*, 507 F.3d 1297, 1298 (11th Cir. 2007). And district courts will routinely resolve pending motions notwithstanding future Supreme Court action to avoid undue delay. *See, e.g., Rader v. Teva Parenteral Medicines, Inc.*, 2011 WL 446862, at *1 (D. Nev.) (acknowledging that pending cross-motions for summary judgement deal with "the very issue that the Supreme Court will be deciding," yet recognizing "that there are three other claims in this case that do not depend on the outcome of the Supreme Court, and that there is no just reason to delay the proceedings with regards to these claims" so declining "to stay the entire proceeding while the Supreme Court rules on the preemption issue"). "Waiting until an undetermined date in the summer of [2024] for the possibility of a Supreme Court ruling does not outweigh both the Plaintiff[s] and the Court's interest in judicial economy." *In re Homestore.com, Inc. Sec. Litig.*, 347 F. Supp. 2d 814, 818 (C.D. Cal. 2004). Accordingly, Plaintiffs provide notice of the Supreme Court's recent grant of certiorari and request that proceedings continue unhindered in this Court.

Respectfully submitted,

/s/ Cameron T. Norris

Dated: February 27, 2023

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CERTIFICATE OF SERVICE

I e-filed this document on February 27, 2023, which emailed everyone requiring service.

/s/ Cameron T. Norris