

Banking and Finance Law Daily Wrap Up, BANKING OPERATIONS— Preliminary injunction sought in CFPB leadership dispute, (Jan. 31, 2018)

Banking and Finance Law Daily Wrap Up

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By [Andrew A. Turner, J.D.](#)

Consumer Financial Protection Bureau Deputy Director Leandra English has filed a brief requesting a preliminary injunction in support of her claim to be recognized as acting director of the CFPB. English [contends](#) that the Dodd-Frank Act, not the Federal Vacancies Reform Act (FVRA), controls by establishing a mandatory succession plan when the Director of the CFPB resigns. The underlying argument is that resignation renders a Director "absent" and "unavailable" under Dodd-Frank, which created an exception to FVRA.

Earlier this month, U.S. District Judge Timothy J. Kelley ruled that English was not likely to succeed in her claim that she, rather than Mick Mulvaney, is the acting director and failed to show that a preliminary injunction is necessary to avoid an irreparable injury (see *Banking and Finance Law Daily*, [Jan. 11, 2018](#)). The U.S. Court of Appeals for the District of Columbia has agreed to expedite review in the fight to lead the bureau.

Noting that President Trump has publicly tweeted about particular CFPB enforcement decisions, English asserts that "it would be impossible to claim with a straight face that Mr. Mulvaney's appointment as Acting Director is consistent with Congress's intentions for the CFPB's independence." To support a showing of irreparable injury, English says that if "Mulvaney makes big changes that end up being invalid due to the illegality of his appointment, it may be difficult for anyone to unscramble those actions."

A [joint motion to stay proceedings](#) pending an appellate court decision has been granted.

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