

THE
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SCOTUS Denies Petition for Certiorari Filed in Case Challenging CFPB's Constitutionality

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The U.S. Supreme Court [has denied the petition for certiorari](#) filed by State National Bank of Big Spring (SNB) which, together with two D.C. area non-profit organizations that also joined in the petition, had brought one of the first lawsuits challenging the CFPB's constitutionality.

Despite agreeing with the petitioners that the CFPB's structure is unconstitutional, [the DOJ urged the court](#) to deny the petition, calling the case "a poor vehicle to consider the question [of the CFPB's constitutionality] for multiple reasons." Among such reasons was the DOJ's claim that if the Supreme Court were to grant the petition, the case would likely not be considered by the full Court because of Justice Kavanaugh's previous participation in the case while a D.C. Circuit judge. (The order denying the petition for certiorari states that "Justice Kavanaugh took no part in the consideration or decision of this petition.")

Another reason given by the DOJ was that other cases are pending in the courts of appeal that raise a similar constitutional challenge and "one or more of those cases may not present the same obstacles that could impede the full Court from considering the merits of this important issue." Those cases are the All American Check Cashing case pending in the Fifth Circuit, the RD Legal Funding case pending in the Second Circuit, and the Seila Law case pending in the Ninth Circuit. Oral argument was held last week in the Seila Law case and is tentatively calendared for the week of March 11, 2019 in the All American Check Cashing case. Briefing is scheduled to begin next month in the RD Legal Funding case.

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