IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

Case No. 9:17-CV-80495- MARRA-MATTHEWMAN

CONSUMER FINANCIAL PROTECTION BUREAU
Plaintiff,

vs.

OCWEN FINANCIAL CORPORATION,
OCWEN MORTGAGE SERVICING, INC., and
OCWEN LOAN SERVICING, LLC,
Defendants.

_____/

NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff Consumer Financial Protection Bureau respectfully submits this notice to advise the Court and defendants of recent authority concerning the constitutionality of the provision of the Bureau's organic statute permitting the President to remove the Bureau Director only for cause, an issue raised in defendants' pending motion to dismiss. On January 31, 2018, the D.C. Circuit, sitting en banc, issued the attached decision in *PHH Corp. v. CFPB*, No. 15-1177 (D.C. Cir.) (en banc). The D.C. Circuit held that the "provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act shielding the Director of the CFPB from removal without cause is consistent with Article II." *PHH*, slip op. at 5. The court also addressed the constitutionality of the Bureau's funding—another issue raised by defendants—and held that "Congress can, consistent with the Appropriations Clause, create governmental institutions" that are funded

outside of "the ordinary appropriations process," and that the Bureau's funding source "has no constitutionally salient effect on the President's power." *Id.* at 39, 40.

Dated: February 5, 2018

Respectfully submitted,

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CONSUMER FINANCIAL PROTECTION BUREAU

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of this Notice were served on February 5, 2018, on all counsel or parties of record on the following Service List via CM/ECF.

/s/ Jean M. Healey_____
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