



Mick Mulvaney is the Acting Director of the CFPB For Now

On Friday, November 24, 2017, the former Director of the Consumer Financial Protection Bureau (CFPB), Richard Cordray, appointed his chief of staff, Leandra English, as the Deputy Director of the agency. Cordray thereafter resigned from his post. That same day, President Trump appointed the Director of the Office of Management and Budget, Mick Mulvaney, to the position of Director of the CFPB.

On Sunday, November 26, 2017, English filed a lawsuit seeking an emergency temporary restraining order (TRO). English asked the court to rule that once Cordray resigned, she, as the deputy director, became the acting director pursuant to the Dodd-Frank Reform Act's rules on succession. According to her complaint, the deputy director serves as the acting director in the absence or unavailability of the director, until such time as the president appoints and the senate confirms a new director. English asked the court to prevent the president from appointing an acting director other than as provided for by the Reform Act. Several current and former Congressional Democrats submitted an amicus brief in favor of English.

The president's response argued that the Vacancies Reform Act (VRA) gave him the authority to appoint Mulvaney. President Trump's response pointed to a case in which the Ninth Circuit recently applied the VRA to an independent agency with its own default succession statute, the National Labor Relations Board, in *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550 (9th Cir. 2016). The Department of Justice and the CFPB's own general counsel also agreed that President Trump had lawfully designated Mulvaney as the acting director of the CFPB.

On Tuesday, November 28, 2017, the court denied English's TRO Motion. *English v. Trump*, Case No. 1:17-cv-02534-TJK (D.C. filed November 27, 2017). The judge stated, in part, that "[o]n its face, the Vacancies Reform Act does appear to apply to this situation." English's attorney, Deepak Gupta, told reporters she plans to appeal.