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17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**
19 **WESTERN DIVISION**

20 STUDENT DEBT CRISIS,

21 Plaintiff,

22 v.

23 CONSUMER FINANCIAL
24 PROTECTION BUREAU,
25 KATHLEEN KRANINGER, in her
26 official capacity as Director of the
27 Consumer Financial Protection
28 Bureau,

Defendants.

Case No. 2:19-cv-10048-JAK-AS

**PLAINTIFF’S MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF MOTION FOR
LEAVE TO FILE SUPPLEMENTAL
INFORMATION**

Hearing Date: October 19, 2020
Time: 8:30 AM
Location: 350 W 1st Street,
Los Angeles, CA 90012
Courtroom 10B

Trial Date: TBD
First Am. Compl. Filed: Mar. 2, 2020

1 Plaintiff Student Debt Crisis files this Memorandum of Points and
2 Authorities in Support of Plaintiff’s Motion for Leave to File Supplemental
3 Information:

4 1. On June 10, 2020, Student Debt Crisis filed its Response (ECF No.
5 37) to Defendants’ Motion to Dismiss (ECF No. 33). The briefing on the Motion to
6 Dismiss was completed on July 1, 2020. *See* Martinez Decl. ¶ 2.

7 2. A point at issue in the Motion to Dismiss is whether Defendant
8 Consumer Financial Protection Bureau has resumed and is conducting supervisory
9 examinations of “larger participants” in the student loan servicing market engaged
10 in servicing federally-held student loans and, if so, whether it is conducting these
11 examinations under an agreement with the Department of Education to conduct
12 “joint” examinations. *See* Defs.’ Mot to Dismiss at 2, 7, 22, 24 n.18; Pl.’s Resp. at
13 1, 13-14 & n.14.

14 3. Defendants’ Motion to Dismiss cites to Director Kathleen Kraninger’s
15 March 10, 2020 Senate testimony to support the contention that the CFPB has
16 resumed supervisory examinations. (ECF No. 33-1, p. 8). Director Kraninger is
17 asked: “Has the CFPB at this point in time *resumed* supervisory examinations and
18 oversight of companies that service the \$1.2 trillion of loans owned by the federal
19 government?” *Id.* (emphasis added). She responds: “Senator, yes. We have an
20 agreement with the Department of Education and are moving forward with a joint
21 exam, in fact, this month.” *Id.*

22 4. On March 5, 2020, Education Secretary Betsy DeVos testified before
23 the Senate Appropriations Subcommittee on Labor, Health and Human Services,
24 Education, and Related Agencies. *See* Martinez Decl. ¶ 3.

25 5. On or about July 23, 2020, after the briefing on the Motion to Dismiss
26 was completed, the Department of Education responded in writing to questions
27 from the Senate Appropriations Subcommittee. *Id.* ¶ 4.

1 6. The set of answers includes the Department’s response relating to the
2 joint examination, with the CFPB, of federal student loan servicers. The relevant
3 portion reads:

4 Question. On Tuesday, March 10, the Director of the
5 Consumer Financial Protection Bureau (CFPB), Kathleen Kraninger,
6 testified to the Senate Committee on Banking, Housing and Urban
7 Affairs that the CFPB and Department now have an agreement to
8 conduct monitoring of student loan servicers and will be conducting a
9 joint exam of a Federal student loan servicer later this month. Please
10 provide a copy of this monitoring agreement, a copy of any associated
11 memoranda or guidelines regarding this monitoring, a detailed
12 description of any plans to use staff detailed from CFPB at the
13 Department, and a detailed explanation of how the Department plans
14 to conduct oversight with CFPB for Federal student loan servicers.

15 Answer. [Federal Student Aid] is committed to increasing
16 oversight and monitoring of Federal student loan servicers to ensure
17 borrowers receive superior service. On February 3, 2020, the
18 Department and the Consumer Financial Protection Bureau (CFPB)
19 signed a Memorandum of Understanding (MOU) to better serve
20 student loan borrowers. A copy of the MOU is provided below. The
21 MOU will allow the Department and the CFPB to share complaint
22 information from borrowers and meet on a regular basis. The MOU
23 also provides for the sharing of complaint data analysis,
24 recommendations, and analytical tools.

25 As mentioned previously by CFPB Director Kraninger, FSA
26 and the CFPB recently conducted their first joint supervisory and
27 oversight examination of one of FSA’s loan servicers. CFPB
28 supervisory exams are generally considered confidential supervisory
information; therefore, the Department cannot discuss specific details
of the first joint exam. In general, FSA considered this first joint exam
to be a pilot; it therefore does not currently have any associated
monitoring agreements or memoranda other than the MOU mentioned
above.

See Martinez Decl. ¶¶ 4-5, Ex. A (Questions from Senator Patty Murray,
Senate Appropriations Subcommittee on Labor, Health and Human Services,

1 and Education, to the Dep't of Educ. *available at*
2 <https://www.help.senate.gov/download/wordmurrayqfrs5mar20hearingonfy2>
3 [ledbudget](#)).

4 7. This supplemental information is relevant to whether the CFPB has
5 resumed and is conducting supervisory examinations of “larger participants” in the
6 student loan servicing market engaged in servicing federally-held student loans in
7 the manner described in the Motion to Dismiss (via an agreement with the
8 Department of Education to conduct “joint” examinations).

9 WHEREFORE, Plaintiff requests that its Motion for Leave to File
10 Supplemental Information be granted and that Exhibit A to the Declaration of
11 Michael C. Martinez be included in the record before the Court.

12 Dated: August 13, 2020

13 Respectfully submitted,
14 *s/ Michael C. Martinez*

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