

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

PATRICK J. COLLINS; MARCUS
J. LIOTTA ; WILLIAM A.
HITCHCOCK,

Plaintiffs-Appellants,

v.

STEVEN T. MNUCHIN,
SECRETARY, U.S. DEPARTMENT
OF THE TREASURY; U.S.
DEPARTMENT OF THE
TREASURY; FEDERAL HOUSING
FINANCE AGENCY; MELVIN L.
WATT,

Defendants-Appellees.

No. 17-20364

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE FHFA
DEFENDANTS' RESPONSE BRIEF**

Pursuant to Federal Rule of Appellate Procedure 26(b), the Federal Housing Finance Agency and Melvin L. Watt (the "FHFA Defendants") hereby respectfully move for an extension of time through September 8, 2017, within which to file their response brief. In support of this motion, counsel states as follows:

1. This case raises challenges to actions taken by FHFA and the U.S. Department of the Treasury with respect to the operation of the conservatorships of Fannie Mae and Freddie Mac (the "Enterprises"). The plaintiffs in this action, who

are shareholders of the Enterprises, seek substantial relief including, *inter alia*, the transfer of billions of dollars from Treasury to the Enterprises. The plaintiffs in this case also challenge, for the first time, the constitutionality of the statutory provisions governing the removal of FHFA's director. The district court granted the defendants' motions to dismiss plaintiffs' claims. Plaintiffs filed their opening brief on July 19, 2017.

2. On July 20, 2017, separately represented defendants-appellees the U.S. Department of the Treasury and Steve T. Mnuchin (the "Treasury Defendants") moved for an extension to file their response brief until September 18, 2017. This Court granted that motion in part, extending the due date for the Treasury Defendants' response brief to September 8, 2017.

3. The FHFA Defendants respectfully submit that an extension of the due date for their response brief to that same date of September 8, 2017 is warranted both to allow counsel for the FHFA Defendants adequate time to prepare their response brief addressing the significant issues raised in this case, and to enable the FHFA Defendants to coordinate with the Treasury Defendants to help avoid duplicative or overlapping briefing.

4. Specifically, an extension is necessary to allow counsel for the FHFA Defendants adequate time to prepare their response brief in light of prearranged travel arrangements and preexisting motion deadlines and hearing dates. The

primary attorneys handling the case for the FHFA Defendants are Howard Cayne, Robert Katerberg, Ian Hoffman, and Dirk Phillips. Mr. Cayne has an out of town federal appellate court argument on July 27 and, in connection with an appeal pending in a different federal appellate court, a preexisting briefing deadline of August 7, which that court has extended by 30 days already.

Mr. Katerberg will be out of the office from July 27 through August 7 for prearranged travel. Mr. Katerberg also has preexisting briefing deadlines for two dispositive motions in federal district court on August 11 and an out of town federal district court hearing on August 17.

Mr. Hoffman will be out of the office from July 24 through August 1 for prearranged travel. Mr. Phillips will also be out of the office for prearranged travel from August 14 through August 18. Both Mr. Hoffman and Mr. Phillips also have a briefing deadline of August 7 in connection with an appeal pending before another federal court of appeals.

5. Furthermore, given the nature of the issues raised by the plaintiffs' claims, the FHFA Defendants and the Treasury Defendants will coordinate on briefing and may incorporate portions of one another's response briefs. This approach, which the FHFA Defendants and Treasury Defendants have taken in three prior appeals in various Circuits in cases challenging the same actions as in this case, will promote efficiency in briefing and help avoid overlapping or redundant briefing. It

would best enable such coordination for the FHFA Defendants' and Treasury Defendants' briefs to be due simultaneously, as they have been in all of the prior appeals.

6. Counsel for appellants does not oppose this motion.

Dated: July 21, 2017

Respectfully submitted,

/s/ Howard N. Cayne

Howard N. Cayne

Robert J. Katerberg

Dirk Phillips

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because it contains 590 words, according to the count of Microsoft Word.

/s/ Howard N. Cayne
Howard N. Cayne

CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2017, I filed and served the foregoing with the Clerk of the Court by causing a copy to be electronically filed via the appellate CM/ECF system. I also hereby certify that the participants in the case are registered CM/ECF users and will be served via the CM/ECF system.

/s/ Howard N. Cayne _____

Howard N. Cayne