

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No.: 1:16-cv-21221-Scola

ANTHONY R. EDWARDS, *et al.*,

Plaintiffs,

v.

DELOITTE & TOUCHE, LLP,

Defendant.

**PLAINTIFFS' MOTION FOR LEAVE TO FILE
SUR-REPLY IN OPPOSITION TO FHFA'S REPLY IN SUPPORT OF ITS
MOTION TO SUBSTITUTE AND INCORPORATED MEMORANDUM OF LAW**

Pursuant to Local Rule 7.1, Plaintiffs respectfully request the Court to enter an order granting Plaintiffs leave to file a Sur-Reply in opposition to FHFA's Reply in Support of its Motion to Substitute as Plaintiff ("Reply") and, in support, state:

1. On June 13, 2016, the Federal Housing Finance Agency ("FHFA") renewed its Motion to Substitute as Plaintiff in this matter. (Doc. 15)
2. On August 1, 2016, Plaintiffs filed their Response in Opposition to FHFA's Motion to Substitute. (Doc. 20).
3. On August 23, 2016, the United States District Court for the Eastern District of Virginia entered its Memorandum Opinion in the matter of *Pagliara v. Federal Home Loan Mortgage Corporation*, Case No. 1:16-cv-337, 2016 WL 4441978 (E.D. Va. Aug. 23, 2016).
4. On August 29, 2016, FHFA filed its Reply. (Doc. 34)
5. In its Reply, FHFA cites the *Pagliara* opinion in support of its argument that HERA transferred to FHFA Plaintiffs' rights to bring their direct claims.

6. Plaintiffs request leave to file a two page sur-reply in response to FHFA's incorrect interpretation of *Pagliara*, which found that HERA divests Freddie Mac stockholders of the right to inspect corporate records because it is a right "with respect to Freddie Mac or its assets." *Id.* at *7.

Memorandum of Law

Local Rule 7.1(c) provides that a party must obtain leave of court to file a sur-reply. Here, leave is warranted because FHFA's Reply substantially relies upon an opinion that was not issued until after Plaintiffs filed their Response in Opposition to FHFA's Motion to Substitute as Plaintiff. Given the importance of FHFA's Motion, which, if granted, may potentially divest Plaintiffs of significant rights, Plaintiffs should be given the opportunity to address the *Pagliara* opinion in a brief sur-reply.

Plaintiffs request until September 7, 2016, to file the Sur-Reply, which will be limited to two pages. FHFA does not oppose Plaintiffs' request and Defendant takes no position on the request.

WHEREFORE, Plaintiffs respectfully request the Court to enter an order granting Plaintiffs leave to file a sur-reply in opposition to FHFA's Reply in Support of its Motion to Substitute as Plaintiff and for such further relief as the Court deems just and proper.

Rule 7.1(a)(3) Certification

Before filing this Motion, Plaintiffs conferred with FHFA and Defendant. FHFA does not oppose the relief requested and Defendant takes no position on the request.

Respectfully submitted,

/s/ Brad F. Barrios

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 1, 2016, the foregoing document was filed with the Court's CM/ECF system, which will send electronic notice to all counsel of record.

/s/ Brad F. Barrios

Attorney