

UNITED STATES COURT  
OF FEDERAL CLAIMS

<hr/>		X
FAIRHOLME FUNDS, INC., et al.,	:	
Plaintiffs,	:	
- against -	:	No. 13-465C
THE UNITED STATES,	:	(Judge Sweeney)
Defendant.	:	
<hr/>		X

**THE NEW YORK TIMES COMPANY’S  
OPPOSITION TO DEFENDANT’S MOTION FOR  
AN ENLARGEMENT OF TIME TO FILE A RESPONSE  
TO THE NEW YORK TIMES COMPANY’S MOTION**

Proposed Intervenor The New York Times Company (“The Times”) submits this opposition to the Government’s motion (“Enlargement Motion,” Docket No. 198) for an extension of the Government’s time to respond to The Times’s motion filed on June 30, 2015 (Docket No. 177). The Times’s motion seeks an order permitting The Times to intervene and for the removal of “protected information” designations from the deposition transcripts of two Government witnesses, Edward DeMarco and Mario Ugoletti. The Government’s response is currently due on July 17, 2015, but by its motion the Government seeks an enlargement of time to August 17, 2015. The Enlargement Motion should be denied, and the Court should order that the Government’s response be filed no later than July 27, 2015 – the date proposed by Plaintiffs (*see* Docket No. 199) in respect to other motion practice dealing with confidentiality.

The Times's motion seeks narrow relief. It requests only intervenor status for The Times and the removal of the confidentiality designations from the two transcripts. The depositions took place on May 7, 2015 and May 15, 2015. As set forth in The Times's motion, these depositions will provide the public with important insights into the conduct of public officials and public agencies during the bailout of Fannie Mae and Freddie Mac and will permit the public to be better able to monitor the progress of this litigation.


The Enlargement Motion cites no good cause for delaying resolution of The Times's motion other than the ordinary burdens of civil litigation and the claimed need to coordinate the Government's response to The Times's motion with its responses to other confidentiality motions. To accommodate the Government's desire for coordination, The Times has agreed to a common date (July 27, 2015). As a result, all in, the Government will have four weeks to address The Times's motion. The Government is not being asked to engage in a laborious document production or to conduct novel and complex legal research in that time period – just to brief straightforward legal issues raised by a motion concerning public access to two deposition transcripts.

Tellingly, the Government addresses the question of whether Plaintiffs will be prejudiced by the delay but stands silent on how delay will affect The Times and the public. (*See* Enlargement Motion at 3.) That disregard for the public interest is sadly of a piece with the Government's decision to make the depositions confidential in the first place. There is no reason that citizens should be denied the ability to effectively monitor this important lawsuit as it unfolds. As the Government acknowledges, more depositions and "significant motion practice" will be taking place over the next few weeks, providing

further reason for the public to have as much information about this action as soon as possible.

For all of the foregoing reasons, the Court should deny the Enlargement Motion and order the Government to respond to The Times's motion by July 27, 2015.

Dated: New York, New York  
July 14, 2015



---

David E. McCraw, Esq.  
Legal Department  
The New York Times Company  
620 8<sup>th</sup> Avenue  
New York, NY 10018  
Phone: (212) 556-4031  
Fax: (212) 556-1009  
mccraw@nytimes.com