

# UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 17-1122

Fairholme Funds, Inc.

v.

United States

## DOCKETING STATEMENT

This Docketing Statement must be completed by all counsel and filed with the court within 14 days of the date of docketing. When the United States or its officer or agency is a party, this Docketing Statement must be completed by all counsel and filed with the court within 30 days of docketing. All questions must be answered or the statement will be rejected.

Name of the party you represent United States

Party is (select one)  Appellant/Petitioner  Cross-Appellant  
 Appellee/Respondent  Intervenor

Tribunal appealed from and Case No. Court of Federal Claims, No. 13-465C

Date of Judgment/Order 9/20/2016 Type of Case Takings Clause

Relief sought on appeal Vacatur of order granting motion to compel

Relief awarded below (if damages, specify) The Court of Federal Claims granted plaintiffs' motion to compel.

Briefly describe the judgment/order appealed from In its Sept. 20, 2016 order, the Court of Federal Claims rejected the government's privilege claims and granted the plaintiffs' motion to compel.

Nature of judgment (select one)

- Final Judgment, 28 USC 1295
- Rule 54(b)
- Interlocutory Order (specify type) \_\_\_\_\_
- Other (explain; see Fed. Cir. R. 28(a)(5)) final collateral order

FORM 26. Docketing Statement

Form 26  
Rev. 10/16

Name and docket number of any related cases pending before this court plus the name of the writing judge if an opinion was issued.  
If none, please state none.

In re United States, No. 17-104

Brief statement of the issues to be raised on appeal Whether the Court of Federal Claims erred in granting plaintiffs' motion to compel.

Have there been discussions with other parties relating to settlement of this case?  Yes  No If "yes," when were the last such discussions?

- Before the case was filed below?
- During the pendency of the case below?
- Following the judgment/order appealed from?

If "yes," were the settlement discussions mediated?  Yes  No

If they were mediated, by whom? \_\_\_\_\_

Do you believe that this case may be amenable to mediation?  Yes  No

Please explain why you believe the case is or is not amenable to mediation.

This appeal concerns the government's assertion of privilege under the presidential communications privilege, the deliberative process privilege, and the bank examination privilege.

Provide any other information relevant to the inclusion of this case in the court's mediation program.

I certify that I filed this Docketing Statement with the Clerk of the United States Court of Appeals for the Federal Circuit and served a copy on counsel of record, this

28th day of November, 2016

by: CM/ECF

(manner of service)

Abby Wright

s/ Abby C. Wright

Name of Counsel

Signature of Counsel

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