

No. 17-3794

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

DAVID JACOBS; GARY HINDES,  
Appellants,

v.

FEDERAL HOUSING FINANCE AGENCY, IN ITS CAPACITY AS  
CONSERVATOR OF THE FEDERAL NATIONAL MORTGAGE  
ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE  
CORPORATION; UNITED STATES DEPARTMENT OF THE TREASURY;  
FEDERAL NATIONAL MORTGAGE ASSOCIATION; FEDERAL HOME  
LOAN MORTGAGE CORPORATION,  
Defendants-Appellants.

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On Appeal from the United States District Court  
for the District of Delaware  
No. 15-cv-00708  
Gregory M. Sleet, U.S. District Judge

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**UNOPPOSED JOINT MOTION FOR EXTENSION OF TIME  
TO FILE APPELLEES' BRIEFS**

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Appellees the Federal Housing Finance Agency (“FHFA”), the Federal National Mortgage Association (“Fannie Mae”), the Federal Home Loan Mortgage Corporation (“Freddie Mac”), and the U.S. Department of the Treasury (“Treasury”) (together, “Appellees”) hereby respectfully seek a 28-day extension

of time—until April 26, 2018—to file their briefs in the above-referenced appeal.

In support of this motion, Appellees state as follows:

1. Undersigned counsel has conferred with counsel for Appellants in this appeal, and counsel for Appellants do not oppose this request for a 28-day extension of time.

2. The Court docketed this appeal on December 22, 2017.

3. On January 18, 2018, the Court ordered that (1) Appellants file their brief and joint appendix on or before February 27, 2018; (2) Appellees file their brief within 30 days of service of Appellants' brief; and (3) Appellants file their reply brief within 14 days of service of Appellees' brief.

4. On February 27, 2018, the Appellants filed their brief and joint appendix.

5. FHFA, Fannie Mae, and Freddie Mac anticipate filing a single, joint consolidated brief. Treasury anticipates filing its own brief.

6. Appellees' briefs are due March 29, 2018. A 28-day extension of time would make the Appellees' briefs due on April 26, 2018. Appellees have not sought any prior extensions of time and do not anticipate seeking any additional extensions of time.

7. FHFA, Fannie Mae, and Freddie Mac are represented by three separate law firms. Preparing a single joint consolidated brief will necessitate coordination among each of the firms and their clients.

8. Treasury is represented by the U.S. Department of Justice. Its brief therefore will require several levels of review. And Treasury and the other Appellees will also need to coordinate their drafting to ensure a minimum of overlap between the two briefs.

9. Appellees and their counsel have several other deadlines and obligations near the time of the current March 29, 2018 deadline. For example:

- a.* On March 15, 2018, the attorneys responsible for Treasury's brief in this matter have an oral argument in the Ninth Circuit. *See United States v. King Mountain*, No. 16-35956 (9th Cir.).
- b.* On March 23, 2018, FHFA, Fannie Mae, and Freddie Mac have a reply in support of their motion to dismiss due in three Third Amendment actions in the U.S. District Court for the District of Columbia. *See In re Fannie Mae/Freddie Mac Senior Preferred Stock Purchase Agreement Class Action Litigation*, No. 1:13-mc-1288 (D.D.C.); *Fairholme Funds, Inc. v. FHFA*, No. 1:13-cv-1053 (D.D.C.); *Arrowood Indemnity Co. v. Fannie Mae*, No. 1:13-cv-1439 (D.D.C.).
- c.* On March 26, 2018, FHFA, Fannie Mae, and Treasury have a motion to dismiss due in another Third Amendment action in the U.S. District Court for the District of New Jersey. *See Voacolo v. Fannie Mae*, No. 3:17-cv-5667 (D.N.J.).
- d.* On March 27, 2018, FHFA and Fannie Mae have a brief due in a Second Circuit appeal. *See Smulley v. FHFA*, No. 17-2666 (2d Cir.).

- e.* On April 3, 2018, the attorneys responsible for Treasury’s brief in this matter have a brief due in a Ninth Circuit case. *See Regents of the Univ. of Cal. v. U.S. Dep’t of Homeland Sec.*, No. 18-15068 (9th Cir.).
- f.* On April 4, 2018, FHFA and Freddie Mac have a brief due in a Ninth Circuit appeal. *See Kielty v. Nationstar Mortgage, LLC*, No. 17-16913 (9th Cir.).

10. A 28-day extension of time in this appeal will allow Appellees to stagger the filing deadline in this appeal with the filing deadlines and oral argument in the above-cited actions, and will allow time for the necessary coordination among all clients and attorneys involved.

11. Under these circumstances, Appellees respectfully submit that a 28-day extension of time is reasonable and warranted by good cause.

### **CONCLUSION**

For the reasons stated above, Appellees respectfully request that this Court grant a 28-day extension of time—until April 26, 2018—for the filing of Appellees’ briefs.

Respectfully submitted,

Dated: March 12, 2018

/s/ Howard N. Cayne

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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify the following:

1. I am a member of the United States Court of Appeals for the Third Circuit;
2. This filing has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman font;
3. This document has been scanned for viruses using Microsoft System Center Endpoint Protection (Antimalware Client Version 4.10.209.0 & Engine Version 1.1.14600.4) and is free from viruses; and
4. On March 12, 2018, I caused the foregoing to be electronically filed with the Clerk of Court using the CM/ECF System, which will send notice of such filing to all registered users.

Dated: March 12, 2018

/s/ Howard N. Cayne  
Howard N. Cayne

*Counsel for Defendant-Appellee  
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