

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

THOMAS SAXTON, IDA SAXTON,
BRADLEY PAYNTER,

Plaintiffs,

vs.

THE FEDERAL HOUSING FINANCE
AGENCY, in its capacity as Conservator of the
Federal National Mortgage Association and the
Federal Home Loan Mortgage Corporation,
MELVIN L. WATT, in his official capacity as
Director of the Federal Housing Finance
Agency, and THE DEPARTMENT OF THE
TREASURY,

Defendants.

Civil Action No. 1:15-cv-00047

**PLAINTIFFS' RESPONSE TO FHFA'S NOTICE
OF NEW AUTHORITY OF MARCH 21, 2017**

The district court's decision in *Roberts v. FHFA*, No. 16-2107 (N.D. Ill. Mar. 20, 2017), adds nothing to the arguments Defendants have previously advanced, and it is wrong for the reasons explained in Judge Brown's *Perry Capital* dissent and Plaintiffs' prior filings. As FHFA itself has repeatedly recognized outside of litigation, HERA imposes mandatory duties on the conservator to "preserve and conserve" the Companies' assets and put the Companies "in a sound and solvent condition." 12 U.S.C. § 4617(b)(2)(D). *See* Plaintiffs' Response to Defendants' Notice of New Authority Concerning the D.C. Circuit's *Perry Capital* Decision, Exhibit A (Mar. 16, 2017), Doc. 100-1 (collecting FHFA statements). "[D]ivesting the Companies of their near-entire net worth[] is plainly antithetical" to that mission. *Perry Capital, LLC v. Mnuchin*, 848 F.3d 1072, 1125 (D.C. Cir. 2017) (Brown, J., dissenting).

Dated: March 22, 2017

Respectfully submitted,

/s/ Alexander M. Johnson

Alexander M. Johnson, AT0004024 (*Lead Counsel*)

Sean P. Moore, AT0005499

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of March 2017, I caused a true and correct copy of the foregoing to be filed electronically using the Court's CM/ECF system, causing a true and correct copy to be served on all counsel of record.

/s/ Alexander M. Johnson
Alexander M. Johnson