



**U.S. Department of Justice**

Civil Division  
Federal Programs Branch  
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**December 18, 2017**

**VIA ECF**

The Hon. Brian R. Martinotti, U.S. District Judge  
U.S. District Court for the District of New Jersey  
Clarkson S. Fisher Building & U.S. Courthouse  
402 East State Street Room 2020  
Trenton, NJ 08608

**Re: Voacolo v. Fannie Mae et al., Civil Action No. 3:17-cv-5667-BRM-LHG**

Dear Judge Martinotti:

The Defendants in the above-referenced matter write to seek clarification regarding the Court's Letter Order from December 15, 2017. ECF No. 7. Defendants do not oppose Plaintiff's request that the Court withdraw the Clerk of Court's notice of call for dismissal, originally scheduled for December 18, 2017. Defendants seek clarification, however, regarding the briefing schedule for Defendants' motions to dismiss. As the Court is now aware, Defendants did not file those motions on December 15, 2017, as counsel for the Plaintiff represented in his December 14, 2017 letter that the Defendants would, *see* ECF No. 5, because, as stated in Defendants' December 15, 2017 letter to this Court, the parties have not reached agreement as to a briefing schedule and because not all Defendants have been properly served. *See* ECF No. 6.

To date, the United States Department of the Treasury ("Treasury") still has not been properly served. And to date, Plaintiff has not contested the notion that judicial economy favors filing and briefing motions to dismiss simultaneously. Once proper service is effectuated, Defendants remain open to negotiating a briefing schedule that reflects the 60 days to which Treasury is entitled under the Federal Rules to respond to the complaint. Until that time, however, Defendants respectfully request that they not be ordered to file any motions to dismiss.

To the extent any relief is in order, Defendants request that the Court require Plaintiff to effectuate proper service (in accordance with the Federal Rules of Civil Procedure), and order that the parties jointly confer about a briefing schedule once such service is effectuated and report back to the Court at that time. To the extent Plaintiff does not intend to proceed against Treasury, Fannie Mae and proposed intervenor the Federal Housing Finance Agency ("FHFA") will commit to filing

motions to dismiss within 45 days of Plaintiff's confirmation that its case against Treasury is not proceeding.

We thank the Court for its consideration of this matter.

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General

WILLIAM E. FITZPATRICK  
Acting United States Attorney

DIANE KELLEHER  
Assistant Branch Director  
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By: /s/ R. Charlie Merritt  
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/s/ Kristin L. Vassallo  
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/s/ Thomas R. Curtin  
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cc: Ravi P. Shah