

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

JOSEPH CACCIAPALLE, et al.,)	
)	
Plaintiffs,)	No. 13-466C
)	(Judge Sweeney)
v.)	
)	
THE UNITED STATES,)	
)	
Defendant.)	

PLAINTIFFS’ UNOPPOSED MOTION FOR LEAVE TO FILE OMNIBUS AND SUPPLEMENTAL OPPOSITION BRIEFS AND TO EXCEED PAGE LIMIT

Pursuant to Rules 5.4(b)(1) and 7 of the Rules of the United States Court of Federal Claims (“**RCFC**”), Plaintiffs Joseph Cacciapalle and American European Insurance Company (together, the “**Cacciapalle Plaintiffs**”) respectfully request that the Court grant leave: (1) to the Cacciapalle Plaintiffs to file a coordinated brief up to 75 pages in length (the “**Omnibus Opposition Brief**”) in opposition to the Defendants’ Amended Omnibus Motion to Dismiss (ECF No. 76) (the “**Omnibus Motion to Dismiss**”) to address common issues with the plaintiffs in *Rafter v. United States*, No. 14-740C (Fed. Cl.), *Fairholme Funds, Inc. v. United States*, No. 13-465C (Fed. Cl.), *Cacciapalle v. United States*, No. 13-446C (Fed. Cl.), *Fisher v. United States*, No. 13-608C (Fed. Cl.), *Reid v. United States*, No. 14-152C (Fed. Cl.), and *Arrowood Indemnity Co. v. United States*, No. 13-698C (Fed. Cl.) (together, the “**Related Cases**”); and (2) to the Cacciapalle Plaintiffs to file a supplemental brief up to 15 pages in length (the “**Supplemental Opposition Brief**”) in opposition to the Defendant’s Omnibus Motion to Dismiss to address case-specific issues. A representative for counsel in the Related Cases has confirmed that Defendant does not oppose the parties in these cases filing their oppositions in this manner.¹ Plaintiffs’ responses to the

¹ Elizabeth Hosford stated that the Defendant does not object by email on October 26, 2018.

Defendant's Omnibus Motion to Dismiss are due on November 2, 2018. *See* Order dated October 10, 2018 (ECF No. 78).

Good cause exists to grant the requested relief. Defendant sought leave to file an 85-page omnibus brief, and its Omnibus Motion to Dismiss is 81 pages. Many of the issues raised by Defendant's Omnibus Motion to Dismiss are common to the Related Cases, and it is most efficient—for the parties and the Court—to address those common issues through one proposed 75-page Omnibus Opposition Brief. To the extent Defendant's Omnibus Motion to Dismiss also raises issues that are specific to the Cacciapalle Plaintiffs, it is most efficient—for the parties and the Court—to address those case-specific issues in a separate proposed Supplemental Opposition Brief not to exceed 15 pages. For these reasons, the Cacciapalle Plaintiffs respectfully request that the Court grant this unopposed motion for leave to exceed the page limitation in Rule 5.4(b)(1) of the RCFC and to file one Omnibus Opposition Brief not to exceed 75 pages, and a separate Supplemental Opposition Brief not to exceed 15 pages, in this action.²

Dated: October 31, 2018

Respectfully Submitted,

/s/ Hamish P.M. Hume

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² Assuming the Cacciapalle Plaintiffs and the plaintiffs in each of the Related Cases were to each file a 40 page opposition brief to the Omnibus Motion to Dismiss under Rule 5.4(b)(1) of the RCFC, there would be 240 unique pages of briefs filed to this Court. By comparison, pursuant to this motion, the Cacciapalle Plaintiffs and the plaintiffs in the Related Cases seek leave to file up to only 165 unique pages of briefs to this Court in opposition to the Omnibus Motion to Dismiss.

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[PROPOSED] ORDER GRANTING PLAINTIFFS’ UNOPPOSED MOTION FOR LEAVE TO FILE OMNIBUS AND SUPPLEMENTAL OPPOSITION BRIEFS AND TO EXCEED PAGE LIMIT

On October 31, 2018, Plaintiffs filed an unopposed motion for leave: (1) to file a coordinated brief up to 75 pages in length (the “**Omnibus Opposition Brief**”) in opposition to the Defendants’ Amended Omnibus Motion to Dismiss (ECF No. 76) (the “**Omnibus Motion to Dismiss**”) to address common issues with the plaintiffs in *Rafter v. United States*, No. 14-740C (Fed. Cl.), *Fairholme Funds, Inc. v. United States*, No. 13-465C (Fed. Cl.), *Cacciapalle v. United States*, No. 13-446C (Fed. Cl.), *Fisher v. United States*, No. 13-608C (Fed. Cl.), *Reid v. United States*, No. 14-152C (Fed. Cl.), and *Arrowood Indemnity Co. v. United States*, No. 13-698C (Fed. Cl.) (together, the “**Related Cases**”); and (2) to file a supplemental brief up to 15 pages in length (the “**Supplemental Opposition Brief**”) in opposition to the Defendant’s Omnibus Motion to Dismiss to address case-specific issues. For good cause shown, the motion is GRANTED.

IT IS HEREBY ORDERED this ____ day of _____, 2018.