IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION AT PIKEVILLE

ARNETIA JOYCE ROBINSON, Plaintiff, vs. THE FEDERAL HOUSING FINANCE AGENCY, et al. Defendants.	:	CASE NO:7:15-cv-00109-ART-EBA **MOTION FOR LEAVE TO FILE AMENDED COMPLAINT UNDER SEAL**

Plaintiff Arnetia Joyce Robinson, through counsel, hereby moves the Court for the entry of an order permitting Plaintiff to file her Amended Complaint under seal. The reason for this request is that the Amended Complaint refers to certain information that is contained in various documents that are subject to a protective order entered in a case pending in the United States Court of Federal Claims, *Fairholme Funds, Inc. v. United States*, No. 13-465C. The grounds supporting this motion are set forth more fully in the accompanying Memorandum in Support. The undersigned has consulted with Defendants' Counsel and Defendants do not oppose Plaintiff's request.

Respectfully submitted,

/s/ Robert B. Craig
Robert B. Craig (KBA No. 15590)
Taft Stettinius & Hollister LLP
1717 Dixie Highway, Suite 910
Covington, KY 41011-2799
Tel: (859) 547-4300
Fax: (513) 381-6613
craigr@taftlaw.com

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of December, 2015, I electronically filed the foregoing through the Court's ECF system, which will send a notice of electronic filing to all parties to this action, and that I served a copy of Plaintiff's Amended Complaint upon Asim Varma, Esq.; Deepthy Kishore, Esq.; Thomas Zimpleman, Esq.; and T. Scott White, Esq. by email.

/s/ Robert B. Craig
Counsel for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION AT PIKEVILLE

ARNETIA JOYCE ROBINSON, Plaintiff, vs. THE FEDERAL HOUSING FINANCE AGENCY, et al. Defendants.	:	CASE NO:7:15-cv-00109-ART-EBA **MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO FILE AMENDED COMPLAINT UNDER SEAL**

Plaintiff Arnetia Joyce Robinson has moved to file her Amended Complaint under seal in the above-captioned action. The Amended Complaint is being filed as a matter of course under Fed. R. Civ. Pro. 15(a)(1)(B), and must be filed under seal because it refers to certain information that is subject to a Protective Order entered by the United States Court of Federal Claims (the "CFC") in an action entitled *Fairholme Funds, Inc. v. United States*, No. 13-465C. On December 18, 2015, the CFC granted Plaintiff's counsel access to information that had been obtained through jurisdictional discovery by the plaintiffs in the *Fairholme* case, to enable Plaintiff's counsel to determine if the Complaint in this action should be amended in light of the protected information. (*See* Order Granting Certain Robinson Attorneys Access to Protected Information, attached as Exhibit 1) Plaintiff's counsel has now reviewed that information and amended the Complaint as a result.

Because the Amended Complaint reflects information that is subject to the Protective Order entered by the CFC, a copy of the Amended Complaint has been submitted as a provisionally sealed document attached to this Motion. Pursuant to Rule

8.1 of the Court's Amended Electronic Case Filing Administrative Policies and Procedures, Plaintiff requests that the Court order that the Plaintiff's Amended Complaint be placed under seal and filed by the Clerk. Defendants do not oppose this request.

Respectfully submitted,

/s/ Robert B. Craig
Robert B. Craig (KBA No. 15590)
Taft Stettinius & Hollister LLP
1717 Dixie Highway, Suite 910
Covington, KY 41011-2799
Tel: (859) 547-4300
Fax: (513) 381-6613
craigr@taftlaw.com

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of December, 2015, I electronically filed the foregoing through the Court's ECF system, which will send a notice of electronic filing to all parties to this action, and that I served a copy of Plaintiff's Amended Complaint upon Asim Varma, Esq.; Deepthy Kishore, Esq.; Thomas Zimpleman, Esq.; and T. Scott White, Esq. by email.

/s/ Robert B. Craig
Counsel for Plaintiff

In the United States Court of Federal Claims

No. 13-465C
(Filed: December 18, 2015)

FAIRHOLME FUNDS, INC. et al.,	*	
	*	Application for Access to Protected
Plaintiffs,	*	Information; Protective Order;
	*	Net Worth Sweep; FHFA; Treasury;
v.	*	Amend Complaint
	*	
THE UNITED STATES,	*	
	*	
Defendant.	*	

ORDER GRANTING CERTAIN ROBINSON ATTORNEYS ACCESS TO PROTECTED INFORMATION

On December 11, 2015, Arnetia Joyce Robinson, plaintiff in Robinson v. FHFA, No. 15-109 (E.D. Ky.) ("Robinson") filed a "Notice of Filing of Applications for Access to Protected Information of Certain Attorneys Representing the Plaintiff in Robinson v. FHFA." The same day, the United States filed "Defendant's Opposition to Robinson's Applications for Access to Protected Information." Ms. Robinson requests that her attorneys be admitted to the protective order entered in this case in order to gain access to protected information obtained through the jurisdictional discovery conducted by Fairholme Funds, Inc. ("Fairholme"), the lead plaintiff in this case. The court construes Ms. Robinson's notice, which is supported by counsel for Fairholme, as a motion for admission of her attorneys to the protective order in this case. For the reasons explained below, Ms. Robinson's motion is granted.

Ms. Robinson's motion relates to the litigation she instituted in the United States District Court for the Eastern District of Kentucky ("Eastern District of Kentucky") that challenges the lawfulness of the Net Worth Sweep. Ms. Robinson represents that defendants in her case, the Federal Housing and Finance Agency ("FHFA") and the United States Department of the Treasury ("Treasury"), intend to file a motion to dismiss her complaint, and that Fairholme intends to file a motion for leave to submit an amicus brief in that case. Ms. Robinson argues that Fairholme's amicus brief will "outlin[e] the most significant materials produced in discovery in this action in response to Defendants' motions to dismiss" in the district court case. Robinson Mot. 1. Further, Ms. Robinson contends, Fairholme has indicated that materials produced in this case are "directly relevant to issues" in Administrative Procedure Act suits challenging the Net Worth Sweep, including hers. Id. at 2. Ms. Robinson also asserts that her request is similar to the motion for access to protected information filed before this court by the plaintiffs in Saxton v. FHFA, No. 15-47 (N.D. Iowa). After this court granted the Saxton plaintiffs' motion, those plaintiffs amended their complaint pending in the United States District Court for the Northern District of Iowa. According to Ms. Robinson, once her attorneys have access to the protected

information, she intends to amend her district court complaint. For these reasons, Ms. Robinson filed the instant motion, contending that her attorneys need access to the protected material in this case to enable them to amend her complaint as well as review Fairholme's proposed amicus brief in the Eastern District of Kentucky.

Defendant opposes the relief sought in Ms. Robinson's motion, arguing that her request is tantamount to seeking discovery, and that the Eastern District of Kentucky has not determined that she is entitled to any form of discovery. Defendant also notes that because the court in Saxton v. FHFA denied Fairholme's motion for leave to file an amicus brief, the Eastern District of Kentucky may similarly deny Fairholme's motion, and it is thus premature to consider Ms. Robinson's motion.

The court finds defendant's arguments unpersuasive. In an effort to zealously and effectively represent their client, Ms. Robinson's attorneys need access to the protected material because those documents are directly relevant to the district court litigation. Access to the protected information may provide grounds for Ms. Robinson to amend her complaint. Given the circumstances, her attorneys' request is reasonable. The fact that the information sought in this case is subject to a protective order does not preclude another litigant from demonstrating the need to access that material in order to fully prosecute litigation pending in another forum. Thus, the court rejects defendant's suggestion that a nonparty's counsel must be denied access to the protective material even where it is relevant in a related legal proceeding, like Ms. Robinson's, especially when plaintiffs in this litigation do not oppose Ms. Robinson's request for access.

By admitting Ms. Robinson's attorneys to the protective order, the court does not declare or imply that the material subject to the protective order is now available to the public or even to Ms. Robinson, herself. Instead, access to the protected information is only granted to her attorneys, to enable them to zealously represent their client, which includes pursuing with due diligence all material relevant to her claims. Further, to be admitted to the protective order, her attorneys must submit the appropriate signed declarations—as they have done—attesting to the fact that that they "are fully familiar with the provisions of the Protective Order," and that they "agree that the Protective Order and any amendments thereto shall be directed to and bind [them], and that [they] shall observe and comply with all provisions of the Protective Order."[1] Robinson Mot. Ex. A. As with any protective order, failure to abide by these requirements will subject the attorneys to sanctions. Thus, by allowing Ms. Robinson's attorneys access to protected information in this case, the court is not disseminating such materials or making them publically available. Indeed, admitting her attorneys to the protective order is not tantamount to providing trade secrets or proprietary information to a party's competitor, or to disclosing classified documents. Rather, the court grants her attorneys access to protected information because they have made a sufficient showing that access is appropriate and that they are willing to adhere to the terms of the protective order with fidelity and alacrity.

[1] The necessary declarations from these attorneys are attached as Attachment A to Ms. Robinson's motion and are accepted by the court.

Accordingly, Ms. Robinson's motion is **GRANTED**. By this order, the two attorneys identified in the motion are admitted to the protective order and **GRANTED IMMEDIATE ACCESS**.

IT IS SO ORDERED.

s/ Margaret M. Sweeney
MARGARET M. SWEENEY
Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION AT PIKEVILLE

ARNETIA JOYCE ROBINSON, Plaintiff, vs. THE FEDERAL HOUSING FINANCE AGENCY, et al. Defendants.	: : : : : : : : : : :	CASE NO:7:15-cv-00109-ART-EBA **ORDER**

This matter having come before the Court on Plaintiff Arnetia Joyce Robinson's Motion for Leave to File Amended Complaint under seal, and the Court being sufficiently advised;

IT IS HEREBY ORDERED that Plaintiff's motion is GRANTED and the Clerk shall place the Amended Complaint under seal of this Court.

SO ORDERED this ___ day of December, 2015.