

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

_____)	
ARROWOOD INDEMNITY)	
COMPANY, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 13-698C
)	(Judge Sweeney)
THE UNITED STATES,)	
)	
Defendant.)	
_____)	

**JOINT MOTION FOR ENLARGEMENT OF TIME TO
RESPOND TO COMPLAINT AND ADOPTION OF BRIEFING SCHEDULE**

Pursuant to Rules 6(b) and 6.1 of the Rules of the United States Court of Federal Claims (RCFC), the parties respectfully request that the Court enlarge the deadline for filing a response to plaintiffs Arrowood Indemnity Company, et al.’s (Arrowood’s) complaint and adopt the schedule for briefing the response set forth below. The purpose of this request is to align the schedule for briefing the Government’s motion to dismiss the complaint in this case with the coordinated schedule proposed for all of the related cases in a January 28, 2016 status report filed in *Fairholme Funds, Inc., et al. v. United States*, No. 13-465C, ECF No. 288.¹

Pursuant to an order dated August 25, 2014 (ECF No. 25), the Court granted defendant’s motion to extend the time for filing a response to Arrowood’s complaint until 60 days after the completion of jurisdictional discovery in *Fairholme*. Because the *Fairholme* jurisdictional

¹ The related actions are: *Washington Federal, et al. v. United States*, No. 13-385C; *Fairholme Funds, Inc., et al. v. United States*, No. 13-465C; *Cacciapalle, et al. v. United States*, No. 13-466C; *Fisher, et al. v. United States*, No. 13-608C; *Arrowood Indemnity Co., et al. v. United States*, No. 13-698C; *Reid, et al. v. United States*, No. 14-152C; *Rafter, et al. v. United States*, No. 14-740C.

discovery period ended on December 31, 2015, the Government's response to Arrowood's complaint is currently due 60 days later, on February 29, 2016.

Good cause exists to grant an enlargement of the February 29, 2016 deadline by coordinating briefing of the Government's motion to dismiss Arrowood's complaint with the briefing schedule proposed for *Fairholme* and each of the related cases in the January 28 status report filed in *Fairholme*. Although the Court has not issued an order adopting the joint schedule proposed in *Fairholme*, the Court has already aligned briefing on the *Fairholme* motion to dismiss with the other related cases in which the Government filed such a motion before jurisdictional discovery commenced. *See Cacciapalle v. United States*, No. 13-466C, ECF No. 44; *Washington Federal v. United States*, No. 13-385C, ECF No. 43; *Fisher v. United States*, No. 13-608C, ECF No. 23. Moreover, the Court has already issued an order coordinating all of the related cases "for discovery, motion practice, case management and scheduling, and other pretrial proceedings, as appropriate," *Cacciapalle*, No. 13-466C, ECF No. 36 at 2; *see also Arrowood*, No. 13-698C, ECF No. 3 (Notice of Directly Related Cases), and the proposed briefing schedule would promote efficiency and reduce the volume of briefing that would be necessary were the Government required to respond separately to each complaint.

In short, the parties to this case join the *Fairholme* parties in respectfully requesting that the Court grant the proposed briefing schedule set forth in the January 28 *Fairholme* status report, which we have reproduced below for ease of reference:

1. Plaintiffs in the related actions may file amended complaints no later than 45 days after the Court's resolution of *Fairholme* plaintiffs' pending Motion to Compel (No. 13-465C, ECF No. 270) unless the Court should permit further discovery by the plaintiffs.

2. Defendant will file an Omnibus Motion to Dismiss seeking dismissal of all of the related actions before this Court no later than 120 days after the expiration of the period for filing the amended complaints.
3. Plaintiffs in each of the related cases will file their responses, separately, to Defendant's Omnibus Motion to Dismiss no later than 90 days following the filing of the Omnibus Motion to Dismiss.
4. Defendant will file a reply in support of its Omnibus Motion to Dismiss no later than 90 days following the deadline for filing of responses to the Omnibus Motion to Dismiss.²

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

s/ Robert E. Kirschman, Jr.
ROBERT E. KIRSCHMAN, JR.
Director

s/ Kenneth M. Dintzer
KENNETH M. DINTZER
Deputy Director
Commercial Litigation Branch
U.S. Department of Justice
P.O. Box 480 Ben Franklin Station
Washington, D.C. 20044
(202) 616-0385
(202) 307-0972 (fax)
Kenneth.Dintzer@usdoj.gov

Attorneys for Defendant

s/ Michael H. Barr
MICHAEL H. BARR
Counsel of Record for Plaintiffs
DENTONS US LLP
1221 Avenue of the Americas
New York, New York 10020
(212) 768-6700
(212) 768-6800 (fax)
Michael.Barr@dentons.com

Of Counsel:
Richard M. Zuckerman
Sandra D. Hauser
Drew W. Marrocco
DENTONS US LLP
1221 Avenue of the Americas
New York, New York 10020

Attorneys for Plaintiffs

Date: February 25, 2016

² The words "deadline for" have been added to clarify that defendant would file a single Omnibus Reply 90 days after the deadline for filing of responses, and would not be required to file the reply in advance of that date.