BEFORE THE UNITED STATES
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE: FEDERAL HOUSING FINANCE AGENCY, *ET AL.*, PREFERRED STOCK PURCHASE AGREEMENTS THIRD AMENDMENT LITIGATION	MDL Docket No. 2713

FEDERAL HOUSING FINANCE AGENCY'S REPLY BRIEF IN SUPPORT OF ITS MOTION TO TRANSFER FOR COORDINATED OR CONSOLIDATED PRETRIAL PROCEEDINGS UNDER 28 U.S.C. § 1407

Each case proposed for transfer challenges a contract FHFA, acting as Conservator for Fannie Mae or Freddie Mac, entered with the U.S. Treasury—specifically, the Third Amendment to the Preferred Stock Purchase Agreements ("PSPAs") by which Treasury committed the hundreds of billions of dollars necessary to support the Enterprises after the financial crisis of 2008. As FHFA explained in its opening brief, the cases all involve plaintiffs with the *same* interests asserting the *same* claims arising out of the *same* transactions against the *same* defendants.

Plaintiffs do not seriously contest any of this. Their attempts to distinguish the cases from each other fail; the supposed distinctions are, at best, illusory and immaterial. Nor do Plaintiffs' arguments undermine the efficiency benefits that would flow from transfer. Plaintiffs argue that consolidation would be unjust, but that is wrong—allowing plaintiffs unlimited opportunities to relitigate the *same challenges* to the *same contracts* over and over and over again in numerous court around the country poses a greater risk of injustice. Plaintiffs also try to paint FHFA's arguments here as inconsistent with its opposition to MDL transfer in a different set of cases presenting different issues. Plaintiffs err. Transfer was not appropriate in that

litigation, so FHFA opposed it; transfer is proper here, so FHFA seeks it.

A. The Related Cases Raise Common Questions of Fact

As FHFA has explained, the Related Cases all involve common issues of fact.[1] The cases challenge the same transaction, and are all brought by similarly-situated Plaintiffs (Enterprise shareholders) against FHFA and Treasury. FHFA Br. at 3-6, 7. The Related Cases "focus on a significant number of common events" concerning the negotiation of, entry into, and effect of the Third Amendment on the Enterprises and their shareholders. *See In re Fed. Nat'l Mortg. Ass'n Sec. Derivative & "ERISA" Litig.*, 370 F. Supp. 2d 1359, 1361 (J.P.M.L. 2005).

For example, each of the operative complaints raises factual questions regarding the timing of the Third Amendment, and each plaintiff argues that FHFA and Treasury executed the Third Amendment when they knew, or should have known, that the Enterprises were entering a period of sustained profitability. *See, e.g.*, *Saxton* Am. Compl. ¶ 1; *Robinson* Am. Compl. ¶ 1; *Roberts* Compl. ¶ 1; *Jacobs* Compl. ¶ 9. They allege that FHFA agreed to the Third Amendment at Treasury's urging, and that the variable-rate dividend expropriates monies from the Enterprises and deprives Plaintiffs of the economic value of their shares. *See, e.g.*, *Saxton* Am. Compl. ¶¶ 14, 25; *Robinson* Am. Compl. ¶¶ 1, 25, 114, 157; *Roberts* Compl. ¶¶ 17, 25, 128, 134, 144; *Jacobs* Compl. ¶¶ 15, 46, 49, 157. These factual assertions—which FHFA and Treasury accept as true only for the purpose of their motions to dismiss—give rise to the substantially

[1] In two notices, FHFA has identified four additional related cases to be transferred as part of this multidistrict litigation. Not. of Related Actions (Mar. 28, 2016) (ECF No. 9) (noticing *Pagliara v. Fed. Nat'l Mortg. Ass'n*, No. 1:16-cv-00198 (D. Del.) and *Pagliara v. Fed. Home Loan Mortg. Corp.*, No. 1:16-cv-00337 (E.D. Va.)); Not. of Related Actions (Apr. 7, 2016) (ECF No. 22) (noticing *Edwards v. Deloitte & Touche LLP*, No. 1:16-cv-21221 (S.D. Fla.) and *Edwards v. PricewaterhouseCoopers, LLP*, No. 1:16-cv-21224 (S.D. Fla.)); FHFA Br. at 3 n.1, 6 n.4. Those four actions raise common legal questions regarding the Third Amendment and challenge, albeit indirectly, the Conservator's management of the Enterprises. None of the parties in those cases filed responses to FHFA's motion to transfer; therefore, they are not discussed in this Reply Brief. *See* R. P. U.S. J.P.M.L. 3.2(a)(iii) ("Each reply shall . . . address arguments raised in the response(s).").

similar claims each plaintiff presents and the substantially similar relief each seeks. *See* FHFA Br. at 4-6. Because the Related Cases all "assert comparable allegations against identical defendants based upon similar transactions and events," common questions of fact are presumed. *See In re Air W. Inc., Sec. Litig.*, 384 F. Supp. 609, 611 (J.P.M.L. 1974).

Presumptions aside, the parties fundamentally disagree about what happened and why. Robinson, joined by others, argues that FHFA has failed to identify "the specific factual disputes that will be material to the resolution of legal issues in each of the suits." Robinson Opp. at 6; *see* Saxton Opp. at 1 (joining and adopting the Robinson Opp.); Roberts Opp. at 1 (same). But Robinson's own brief identifies two such factual questions: *First*, Robinson concedes that there are "factual disputes . . . about the Defendants' *motive* for negotiating the Third Amendment." Robinson Opp. at 7. *Second*, Robinson incorrectly states that the impact of the Third Amendment on "Fannie and Freddie . . . shareholders[] [is] undisputed." Robinson Opp. at 7. While Plaintiffs argue that the Third Amendment has destroyed the economic value of Plaintiffs' shares, FHFA and Treasury do not concede that the Third Amendment had any material effect on their value, leaving causation as a disputed factual issue. Other factual disputes are surely lurking within the detailed factual allegations underlying each complaint: What was known, assumed, and projected by the parties? On what basis? With what degree of certainty?

Plaintiffs respond, in part, that there are no material factual questions because the resolution of the Related Cases would turn on the administrative records. Robinson Opp. at 5-7. Plaintiffs have it backwards. The Conservator asserts that it is under no obligation to maintain or to produce an administrative record. Plaintiffs are likely to contest the Conservator's position, generating a common question regarding the very facts that may or may not be before the court. Moreover, regardless of the record FHFA and/or Treasury may produce, Plaintiffs are likely to

challenge its adequacy and to seek additional discovery. *Cf. Perry Capital LLC v. Lew*, 70 F. Supp. 3d 208, 225 (D.D.C. 2014) (noting that plaintiffs alleged that Treasury failed to produce the full administrative record); Order, *Cont'l W. Ins. Corp. v. FHFA*, No. 4:14-cv-00042 (S.D. Iowa Aug. 5 2014) (ECF No. 42) (production of an administrative record would prompt "inevitable disputes about its adequacy" and probable "requests for additional discovery").

Indeed, questions regarding the proper contents of the administrative record have already arisen. Roberts Plaintiffs contend that they "will rely on somewhat different administrative records" than the other Plaintiffs. Roberts Opp. at 2. The three issues that the Roberts Plaintiffs assert as unique—FHFA's decision to pay the dividends in cash, Treasury's purported control over the Enterprises, and the expiration of Treasury's authority to purchase new securities—are all raised in *Jacobs*, *Robinson*, and/or *Saxton*. *See, e.g.*, *Saxton* Am. Compl. ¶¶ 62, 99 (cash versus in-kind dividends); *id.* ¶¶ 23, 112, 139, 149, 160 (Treasury's purported control); *id.* ¶¶ 22, 100, 143 (expiration of Treasury's authority). There is, therefore, no need for any "unique administrative record." *See* Roberts Opp. at 2. Nonetheless, there is a genuine possibility that FHFA and Treasury may face varying rulings on whether they are required to produce an administrative record and, if so, what the administrative record must include. It is precisely these types of questions that weighed in favor of transfer in *In re Polar Bear Endangered Species Act Listing & 4(d) Rule Litigation*, 588, F. Supp. 2d 1376 (J.P.M.L. 2008), where the Panel cited disputes over "identification of the underlying administrative record" as a key reason for transfer. *Id.* at 1377. They similarly weigh in favor of transfer here.

B. Transfer Promotes the Efficient and Just Resolution of These Actions

1. Transfer Will Promote Judicial Economy and Avoid Duplicative Litigation

In the Related Cases, similarly situated shareholder plaintiffs assert substantially similar

factual allegations, bring nearly identical claims (asserted frequently in identical language), and request substantially similar relief. *See* FHFA Br. at 4-6. Resolving the many common factual and legal issues in a consolidated proceeding would plainly be in the interests of efficiency and judicial economy.

Plaintiffs' attempts to highlight purported differences between their actions—specifically their legal theories—do not override the fact that HERA (12 U.S.C. § 4617) disposes of Plaintiffs' claims. *See* Jacobs Opp. at 8-11 (arguing that the claims "are so distinct from the claims brought in the other [Related Cases] that consolidation would be neither convenient no efficient"); Roberts Opp. at 1-2 (identifying issues that are purportedly not raised by the other actions); Saxton Opp. at 5 (distinguishing Saxton's abandoned state law claims because they arise under common law while the state law claims in *Jacobs* purportedly arise under state statutes). "[T]he mere fact that divergent legal theories are asserted arising out of the same substantive claims and allegations presents no bar to a Section 1407 transfer." *In re. Air W. Secs. Litig.*, 384 F. Supp. at 611; *see also In re Bank of N.Y. Mellon Corp. Foreign Exch. Transactions Litig.*, 857 F. Supp. 2d 1371, 1372 (J.P.M.L. 2012) ("[T]he presence of different legal theories among the subject actions is not a bar to centralization.").

Plaintiffs all disagree with how the Conservator is operating the Enterprises: "FHFA is operating two of the largest financial companies in the world with no capital. Plaintiff Robinson, *along with the plaintiffs in the other actions*, maintains that this state of affairs is highly prejudicial to Congress's goal of stabilizing the housing and financial markets." Robinson Opp. at 17 (emphasis added). FHFA and Treasury contend that Congress has closed the doors on precisely those types of claims. Thus, despite some variation in Plaintiffs' legal theories, the resolution of all of the Related Cases will, at the pleadings stage, turn on two legal questions:

(1) whether Section 4617(f) deprives the district courts of the power to grant the declaratory and injunctive relief Plaintiffs seek, and (2) whether the Conservator's succession to "all rights, titles, powers, and privileges" of shareholders deprives Plaintiffs of their right to prosecute these actions during conservatorship. *See* 12 U.S.C. § 4617(b)(2)(A)(i), (f). Having a single transferee court decide those two dispositive issues will promote judicial economy and avoid inconsistent adjudications. *See In re Fed. Election Campaign Act Litig.*, 511 F. Supp. 821, 824 (J.P.M.L. 1979); *see also In re Ivy*, 901 F.2d 7, 9 (2d Cir. 1990) (noting "real economies in transferring" common jurisdictional issues). Transfer is particularly efficient here given the importance of the PSPAs to the conservatorships and the fact that the courts must construe HERA and the Enterprises' statutory charters. *See In re Dep't of Energy Stripper Well Exemption Litig.*, 472 F. Supp. 1282, 1285 (J.P.M.L. 1979); FHFA Br. at 8.

2. Transfer Is Just

Plaintiffs protest that transfer would be unjust because FHFA is purportedly forum shopping. *See, e.g.*, Roberts Opp. at 2-3; Jacobs Opp. at 14-15. But if anyone is forum shopping, it is Plaintiffs and other Enterprise shareholders, who have given every indication that they will repeatedly litigate the issues presented here in as many forums as it takes for them to garner a single victory. For example, when the *Southern* District of Iowa granted FHFA's and Treasury's motions to dismiss in *Continental Western Insurance Co.*, plaintiff did not appeal that decision. Instead, a new action was filed by Saxton Plaintiffs in the *Northern* District of Iowa. Similarly, Robinson Plaintiff brought her action in the Pikeville Division of the Eastern District of Kentucky, the forum where she resides but otherwise has little connection to the facts here.

Transferring these cases to the District of the District of Columbia will not deprive the Plaintiffs of their opportunity to litigate their claims. Plaintiffs contend that they are "entitled to a full and fair opportunity to present arguments based on those factual allegations before a judge

that has not already deemed them to be irrelevant." Saxton Opp. at 2; *see also* Roberts Opp. at 2-3 (same). This is a red herring. The district court ruling about which Plaintiffs are so troubled is subject to appeal that is yet to be argued, let alone decided.[2] Should the Panel transfer this action to the District of the District of Columbia, each Plaintiff will have a full and fair opportunity to present its arguments before the transferee court that will not have to start from scratch in order to understand the complex factual and legal framework that governs Plaintiffs' claims.

C. Transfer Would Be Convenient for the Parties and Witnesses

1. The District of the District of Columbia Is a Convenient Forum

The factual allegations all address events and occurrences within the Washington, D.C. metropolitan area. FHFA, Treasury, and Fannie Mae are all located in Washington, D.C., and Freddie Mac is headquartered in McLean, Virginia, a Washington, D.C. suburb. Should FHFA, Treasury, or Enterprise personnel be called to testify as witnesses, the overwhelming majority of them reside in the Washington, D.C. metropolitan area. *See In re Cuisinart Food Processor Antitrust Litig.*, 506 F. Supp. 651, 655 (J.P.M.L. 1981); D.D.C. Local R. Civ. P. 30.1 (describing D.D.C.'s 50-mile range subpoena powers). Likewise, any documents that would comprise the administrative record, should one be necessary, are located in or near Washington, D.C. *See In re TJX Companies, Inc. Customer Data Sec. Breach Litig.*, 493 F. Supp. 2d 1382, 1383 (J.P.M.L. 2007). Lead counsel for Defendants are likewise located in Washington, D.C. Thus, the District of the District of Columbia, rather than the Pikeville Division of the Eastern District of Kentucky, *see* Robinson Opp. at 17-18; Saxton Opp. at 2-4, is the most convenient jurisdiction.[3]

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[2] Oral argument in that appeal is scheduled for Friday, April 15, 2016.

[3] *See* Transfer Order, *In re Columbia/HCA Healthcare Corp. Qui Tam Litig. (No. II)*, MDL No. 1307, at 2 (J.P.M.L Dec. 1, 1999) (D.D.C. "is convenient for this litigation in terms of the current location of principal parties, documents, and counsel"); Transfer Order, *In re Pilot Flying J Fuel Rebate Contract Litigation (No. II)*, MDL No. 2515 (J.P.M.L. Apr. 7, 2014) (similar).

2. The Eastern District of Kentucky is Not an Appropriate Transferee Court

The Eastern District of Kentucky has very little connection to this action. The events and occurrences surrounding the Third Amendment did not occur in or near that district. Notwithstanding that, Plaintiffs contend that Pikeville would be the superior venue, purportedly because docket statistics suggest that Judge Thapar might handle the case with greater dispatch. The purported statistical comparison of Judge Lamberth's and Judge Thapar's record in MDL cases underlying Plaintiffs' contention—based as it is on a grand total of two dissimilar matters—is simplistic and unenlightening. *See* Saxton Opp. at 2-4. The varying timelines in *In re Columbia/HCA Healthcare Corp. Qui Tam Litig. (No. II)*, MDL No. 1307, and *In re Pilot Flying J Fuel Rebate Contract Litigation (No. II)*, MDL No. 2515, were not the result of judicial management. Rather, the two cases differed dramatically in scope and complexity.

In re Columbia/HCA, over which Judge Lamberth presided, consolidated 26 cases alleging a healthcare provider and/or its affiliates defrauded the U.S. government by making false claims for payment. Transfer Order, MDL No. 1307, ECF No. 39. Two features of that litigation likely prolonged it: (1) discovery in false claims litigation is voluminous and time-consuming, and (2) the Panel noted that the transferee judge would have to adjudicate numerous remand motions. *Id.* That is precisely what happened. Remand orders occupied Judge Lamberth from early 2003 until the end of the litigation in late 2008. By contrast, the MDL over which Judge Thapar presided, *In re Pilot Flying J*, involved only seven actions brought by plaintiffs who had opted out of a nationwide class settlement. Transfer Order, MDL No. 2515 (J.P.M.L. Apr. 7, 2014). An FBI investigation had already revealed the underlying facts and circumstances, and the class-action litigation developed much of the case. *Id.* The Panel's decision to transfer was largely based on avoiding the need for Pilot executives to sit for

repetitive depositions, *id.*, and Judge Thapar was already familiar with the factual and legal issues because he was presiding over related criminal proceedings. *Id.* Comparison of these two cases shows nothing. Moreover, Plaintiffs ignore a more reliable indication of how Judge Lamberth would manage an MDL proceeding here: in the 10 substantially similar cases decided in *Perry Capital*, his Honor ruled on dispositive motions four months after briefing concluded.

D. The *Transfer Tax* Litigation Is Readily Distinguished from the Related Cases

Plaintiffs extract several snippets from FHFA's brief opposing transfer in a *different* set of cases presenting vastly *different* issues—*In re Real Estate Transfer Tax Litigation*, 895 F. Supp. 2d 1350 (J.P.M.L. 2012) (mem.) (MDL No. 2394)—to argue transfer is not warranted here. Those cases are readily distinguished, and any reasonable comparison to this litigation demonstrates why transfer is appropriate here even though it was not appropriate there.

First, the *Transfer Tax* cases did not involve any factual disputes whatsoever.[4] All parties agreed on what had happened: Fannie Mae or Freddie Mac had sold real properties to which they had taken title through foreclosure proceedings, and various state and local taxing authorities argued that those transactions were subject to excise taxes on the transfer of ownership and/or recordation of the instruments effecting that transfer. The cases turned on a straightforward question of federal statutory interpretation and were essentially over upon the courts' resolution of that issue. *See Transfer Tax*, 895 F. Supp. 2d at 1350 ("This litigation revolves around a fairly straightforward dispute . . . as to whether the Enterprise[s] . . . are

[4] Whereas the complaints here approach 100 pages in length and run to nearly 200 paragraphs that are largely devoted to factual allegations, the *Transfer Tax* complaints were much shorter and focused on points of law. *See, e.g.*, Compl. *Fed. Nat'l Mortg. Ass'n v. Hamer*, No. 3:12-cv-50230 (N.D. Ill. filed June 22, 2012) (containing 15 pages and 52 paragraphs).

required to pay state and county taxes on the transfer of real estate.").[5] Not so here. For the purposes of their motions to dismiss, FHFA and Treasury will accept as true any well-plead, factual allegations in the Related Cases' complaints. However, the parties to the Related Cases have very different interpretations of what FHFA and Treasury did and why they did it. If FHFA's and Treasury's motions to dismiss are denied, disputes regarding the "factual" allegations in Plaintiffs' complaints are likely to become central to the litigation. Thus transfer is warranted here whereas it was not warranted in the *Transfer Tax* cases.

Second, the danger posed by inconsistent rulings is significantly greater here than it was in *Transfer Tax*. *Cf.* Robinson Opp. at 12-13 (quoting FHFA's briefing to the Panel in *Transfer Tax*); Jacobs Opp. at 10-11 (same). That litigation involved *different* taxes imposed by *different* states and localities. While every district court and court of appeals ultimately held FHFA and the Enterprises exempt, had the courts split, the Enterprises could have paid one jurisdiction's tax without paying another's. In other words, divergent merits rulings could have coexisted without creating inconsistent obligations.[6] Here, Plaintiffs all challenge the *same* contracts, seeking injunctive relief that cannot be limited to specific districts or circuits. Absent transfer, shareholders would have virtually unlimited opportunities to litigate the same issues over and over until they obtain their preferred relief; the risk of inconsistent obligations is extreme.

CONCLUSION

Transfer will be just, fair, efficient, and wise. The Panel should grant FHFA's motion.

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[5] FHFA made these points in *Transfer Tax*: "The central fact alleged in each action, that the Enterprises did not pay all transfer taxes Plaintiffs claim were due . . . , is *undisputed*," and "[t]he central *issue* . . . is a purely legal question that can readily and promptly be resolved without the need for any discovery." Enterprise Defs.' Opp., MDL No. 2394, at 7 (ECF No. 108).

[6] FHFA made this point in *Transfer Tax*: "[D]ivergent rulings would not create. . . inconsistent obligations . . . because the transfer taxes are owed on a county-by-county basis. In other words, it is highly unlikely that two or more courts could render the Enterprises simultaneously liable and not liable to the same municipality . . . ." *See* Enterprise Defs.' Opp. at 10.

Dated: April 13, 2016

Respectfully submitted,

/s/ Howard N. Cayne

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BEFORE THE UNITED STATES
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
In re: Federal Housing Finance Agency, et al., Preferred Stock Purchase Agreements Third Amendment Litigation, MDL No. 2713

SCHEDULE OF ACTIONS

Case Captions	Court	Civil Action No.	Judge
Plaintiffs David Jacobs Gary Hindes **Defendants** Federal National Mortgage Association Federal Home Loan Mortgage Corporation U.S. Department of the Treasury Federal Housing Finance Agency, as Conservator **Movant** Timothy Howard	D. Delaware	1:15-cv-00708	Gregory M. Sleet
Plaintiffs Christopher Roberts Thomas P. Fischer **Defendants** Federal Housing Finance Agency, as Conservator U.S. Department of the Treasury Melvin L. Watt, as Director of FHFA Jacob J. Lew, as Secretary of the Treasury	N.D. Illinois	1:16-cv-02107	Edmond E. Chang
Plaintiffs Thomas Saxton Ida Saxton Bradley Paynter **Defendants** Federal Housing Finance Agency, as Conservator Melvin L. Watt, as Director of FHFA U.S. Department of the Treasury **Amicus** Fairholme Funds, Inc. Investors Unite	N.D. Iowa	1:15-cv-00047	Linda R. Reade

Plaintiff Arnetia Joyce Robinson **Defendants** Federal Housing Finance Agency, as Conservator Melvin L. Watt, as Director of FHFA U.S. Department of the Treasury	E.D. Kentucky	7:15-cv-00109	Amul R. Thapar
Plaintiff Timothy J. Pagliara **Defendant** Federal National Mortgage Association	D. Delaware, Wilmington	1:16-cv-00193	Gregory M. Sleet
Plaintiff Timothy J. Pagliara **Defendant** Federal Home Loan Mortgage Corporation	E.D. Virginia, Alexandria Division	1:16-cv-00337	James C. Cacheris
Plaintiffs Master Sgt. Anthony R. Edwards, USAF Gator Capital Management, LLC Perini Capital LLC Dr. Michael Pasternak Allen Harden Jim Humphries Ed Bieryla Doreen Bieryla Jay Huber Jorge Zapata Randy Webb Kevin Jarvis Catherine M. Jennings James Miller Sylvia Miller William Milton Jr. Carl R. Roberts Louise Strang Johnna B. Watson Ray B. O'Steen Melody Sullivan Amit Choksi Joseph K. Dughman Phil Miller Jean Mac Ball	S.D. Florida / Miami	1:16-cv-21221	Robert N. Scola, Jr.

Don R. Cameron II James Ferguson Gordon Inman Shaun Inman Jerry W. Sharber Jay Winer Michael Carmody Matt hill Joseph Waske Maryam Moinfar Jeffrey Langberg Barry West Wayne Olsen Rich Kivela Constance Lameier **Defendant** *Deloitte & Touche, LLP*			
Plaintiffs Master Sgt. Anthony R. Edwards, USAF Master Sgt. Salvatore Capaccio, USAF Gator Capital Management, LLC Perini Capital LLC Allen Harden Ed Bieryla Doreen Bieryla Jorge Zapata Hiren Patel Louise Strang Johnna B. Watson Melody Sullivan Amit Choksi Phil Miller James Ferguson Gordon Inman Shaun Inman Michael Carmody Matt Hill Joseph Waske Maryam Moinfar Wayne Olson Rich Kivela Chris Wossilek Mathew Reed	S.D. Florida / Miami	1:16-cv-21224	Federico A. Moreno

Defendant *PricewaterhouseCoopers, LLP*			

BEFORE THE UNITED STATES
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE: FEDERAL HOUSING FINANCE AGENCY, *ET AL.*, PREFERRED STOCK PURCHASE AGREEMENTS THIRD AMENDMENT LITIGATION	MDL Docket No. 2713

PROOF OF SERVICE

I hereby certify that on April 13, 2016, I electronically filed the foregoing **FEDERAL HOUSING FINANCE AGENCY'S REPLY BRIEF IN SUPPORT OF ITS MOTION TO TRANSFER FOR COORDINATED OR CONSOLIDATED PRETRIAL PROCEEDINGS UNDER 28 U.S.C. § 1407** through this Panel's CM/ECF system. Notice of this filing will be served on all parties of record by operation of the ECF System.

/S/ Douglas M. Humphrey
Douglas M. Humphrey

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Wilmington, DE

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Chicago, IL

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