

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

**PATRICK J. COLLINS; MARCUS J.  
LIOTTA; WILLIAM M.  
HITCHCOCK,  
Plaintiffs–Appellants,**

**v.**

**STEVEN T. MNUCHIN, SECRETARY,  
U.S. DEPARTMENT OF THE  
TREASURY; U.S. DEPARTMENT OF  
THE TREASURY; FEDERAL  
HOUSING FINANCE AGENCY;  
MELVIN L. WATT,  
Defendants–Appellees.**

**No. 17-20364**

**UNOPPOSED MOTION FOR A 17-DAY EXTENSION OF TIME TO FILE  
RESPONSE TO PETITION FOR REHEARING EN BANC**

Pursuant to Federal Rule of Appellate Procedure 26(b), defendants, Treasury and the Federal Housing Finance Agency (FHFA), hereby respectfully move for a 17-day extension of time, to and including September 13, 2018, within which to file defendants' response briefs. This is defendants' first request for an extension of time. In support of this motion, counsel states as follows:

1. This case raises a number of challenges to actions taken by Treasury and FHFA with respect to the operation of the conservatorships of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). Specifically, plaintiff-shareholders challenge the terms of

the “third amendment” to the preferred stock purchase agreements Treasury entered into with Fannie Mae and Freddie Mac in 2008. Plaintiffs challenge the third amendment on both statutory and constitutional grounds. The district court granted defendants’ motions to dismiss plaintiffs’ claims, holding that the bar on injunctive relief in the Housing and Economic Recovery Act of 2008 (HERA) barred plaintiffs’ statutory claims. The district court also rejected plaintiffs’ claim that FHFA’s structure violates the Constitution because the Director of FHFA is removable only for cause.

On July 16, 2018, this Court affirmed in part and reversed in part the judgment of the district court. The Court rejected plaintiffs’ statutory challenges, but held that FHFA’s structure—a single Director removable only for cause—violated the Constitution. The Court held that the proper relief for the constitutional violation was to strike from HERA the language requiring for-cause removal for the Director of FHFA.

On August 2, 2018, plaintiffs filed a petition for rehearing en banc, and, on August 17, this Court ordered defendants to file responses by August 27.

2. The defendants respectfully request a 17-day extension of time, to and including September 13.

An extension is necessary to allow defendants’ counsel adequate time to prepare responses to plaintiffs’ petition for rehearing en banc and to promote the efficient use of the resources of this Court and the parties. The panel’s decision was issued on July 16, 2018, and the parties therefore have until August 30 to file any

petitions for rehearing. An extension of time to respond to plaintiffs' rehearing petition until September 13 would provide FHFA and Treasury with 14 days from the rehearing deadline to file their responses. Those responses could then take into account any additional rehearing petitions.

Moreover, an extension is necessary in light of prearranged travel. Abby Wright and Gerard Sinzdek are the primary attorneys assigned to handle the case for Treasury. Both Ms. Wright and Mr. Sinzdek will be out of the office from August 18 through August 26.

3. Counsel for appellants does not oppose this motion.

HOWARD N. CAYNE

/s/ Asim Varma

ASIM VARMA

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AUGUST 2018

Respectfully submitted,

MARK B. STERN

/s/ Gerard Sinzdek

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*Counsel for Defendants-Appellees  
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Mnuchin*



### CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2018, I filed and served the foregoing with the Clerk of the Court by causing a copy to be electronically filed via the appellate CM/ECF system. I also hereby certify that the participants in the case are registered CM/ECF users and will be served via the CM/ECF system.

*s/ Gerard Sinzdak*

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