

**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.<sup>1</sup> Plaintiffs’ responses to the

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<sup>1</sup> 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.<sup>2</sup>

Dated: October 31, 2018

Respectfully Submitted,

/s/ Hamish P.M. Hume

Hamish P.M. Hume  
*Attorney of Record*  
BOIES SCHILLER FLEXNER LLP  
1401 New York Ave. NW  
Washington, DC 20005  
Tel: (202) 237-2727  
Fax: (202) 237-6131  
hhume@bsfllp.com

OF COUNSEL:

*Interim Co-Lead Class Counsel*

BOIES SCHILLER FLEXNER LLP

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<sup>2</sup> 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.

Stacey K. Grigsby  
Jonathan M. Shaw  
James A. Kraehenbuehl  
1401 New York Ave. NW  
Washington, DC 20005  
Tel: (202) 237-2727  
Fax: (202) 237-6131  
sgrigsby@bsfllp.com  
jshaw@bsfllp.com  
jkraehenbuehl@bsfllp.com

KESSLER TOPAZ MELTZER & CHECK, LLP  
Eric L. Zagar  
Lee D. Rudy  
Grant D. Goodhart  
280 King of Prussia Rd.  
Radnor, PA 19087  
Tel: (610) 667-7706  
Fax: (610) 667-7056  
ezagar@ktmc.com  
lrudy@ktmc.com  
ggoodhart@ktmc.com

*Additional Counsel for Plaintiffs*

POMERANTZ LLP  
Jeremy A. Lieberman  
600 Third Avenue, 20th Floor  
New York, New York 10016  
Tel: (212) 661-1100  
Fax: (212) 661-8665  
jalieberman@pomlaw.com

Patrick V. Dahlstrom  
Ten South LaSalle Street, Suite 3505  
Chicago, Illinois 60603  
Tel: (312) 377-1181  
Fax: (312) 377-1184  
pdahlstrom@pomlaw.com

BROWER PIVEN  
A PROFESSIONAL CORPORATION  
Charles J. Piven  
1925 Old Valley Road  
Stevenson, MD 21153  
Tel: (410) 332-0030  
Fax: (410) 685-1300  
piven@browerpiven.com

GRANT & EISENHOFER P.A.  
Michael J. Barry  
123 Justison Street  
Wilmington, DE 19801  
Tel: (302) 622-7000  
Fax: (302) 622-7100  
mbarry@gelaw.com

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Defendant.	)	
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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.