

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

Bryndon Fisher, Bruce Reid, and Erick Shipmon, derivatively on behalf of **Federal National Mortgage Association**,

Plaintiffs,

v.

The United States of America,

Defendant,

and **Federal National Mortgage Association**,

Nominal Defendant.

No. 13-608C
(Judge Sweeney)

Bruce Reid and Bryndon Fisher, derivatively on behalf of **Federal Home Loan Mortgage Corporation**,

Plaintiffs,

v.

The United States of America,

Defendant,

and **Federal Home Loan Mortgage Corporation**,

Nominal Defendant.

No. 14-152C
(Judge Sweeney)

PLAINTIFFS’ UNOPPOSED MOTION FOR LEAVE TO FILE OMNIBUS AND SUPPLEMENTAL OPPOSITION BRIEFS AND TO EXCEED PAGE LIMIT

On October 31, 2018, this Court granted in part and denied in part a motion for leave to file supplemental opposition briefs and to exceed the page limit filed by the plaintiffs in *Rafter v. United States*, No. 14-740C (Fed. Cl.) (“Rafter”). *See Rafter Order* (Oct. 31, 2018), Doc. 40. The

Rafter plaintiffs sought leave for themselves, the *Fisher* and *Reid* plaintiffs, and the plaintiffs in *Fairholme v. United States*, No. 13-465C (Fed. Cl.), *Cacciapalle v. United States*, No. 13-466C (Fed. Cl.), and *Arrowood Indemnity Co. v. United States*, No. 13-698C (Fed. Cl.), to file (a) a coordinated, omnibus opposition to Defendant's Amended Omnibus Motion to Dismiss of up to 75 pages addressing common issues and (b) a supplemental opposition of up to 15 pages addressing case-specific issues. As the *Rafter* plaintiffs explained, this proposal will streamline the briefing process in these related cases, and the Government did not oppose the motion. *See Rafter Plaintiffs' Unopposed Motion for Leave to File Omnibus and Supplemental Briefs and to Exceed Page Limit at 2-3* (Oct. 29, 2018), Doc. 39.

On October 31, this Court granted this request with respect to the *Rafter* plaintiffs but denied it with respect to the other plaintiffs, inviting them "to file their own motions requesting permission to file additional pages or file supplemental opposition briefs." *Rafter Order at 1*. Accordingly, the *Fisher* and *Reid* plaintiffs now move for leave to file (a) a coordinated opposition of up to 75 pages addressing common issues identical to that the Court has authorized to be filed in the *Rafter* case and (b) a single supplemental opposition of up to 15 pages addressing the shareholder-derivative claims in both *Fisher* and *Reid*.

Good cause exists for this request for the reasons set forth in the *Rafter* plaintiffs' motion, and the Government consents to the relief requested. Additionally, as most of the filed cases are direct actions on behalf of individual shareholders or class actions, the omnibus brief will necessarily devote more attention to the direct claims, which concern different property and raise different legal issues than the derivative claims at issue here. Therefore, although the *Fisher* and *Reid* plaintiffs anticipate joining certain portions of the omnibus brief, which will address issues that are common to many of the cases, they anticipate making certain additional arguments

specific to the unique questions at issue in their respective shareholder-derivative actions that will not be included in the omnibus brief.

Plaintiffs' proposal will also reduce the burden on the parties and the Court by decreasing the total number of briefing pages. Under RCFC 5.4(b)(1), Fisher and Reid would each be entitled to file a 40-page brief in opposition to the Government's motion to dismiss (for a total of 80 pages). By contrast, plaintiffs here only seek to join portions of the omnibus brief the Court permitted the *Rafter* plaintiffs to file and submit a single 15-page supplemental brief covering both the *Fisher* and *Reid* cases.

Plaintiffs therefore respectfully request that this Court grant Fisher and Reid leave to file a single 15-page supplemental brief in opposition to the Government's motion to dismiss, specifically addressing the shareholder-derivative claims at issue in their respective cases.

DATED: October 31, 2018

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