

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
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NEW ORLEANS, LA 70130

November 15, 2018

TO COUNSEL LISTED BELOW:

No. 17-20364 Patrick Collins, et al v.
Steven Mnuchin, Secretary, et al
USDC No. 4:16-CV-3113

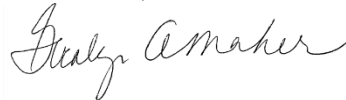
Dear Counsel,

Having granted both petitions for rehearing en banc in this case, the court directs the parties to file supplemental briefs addressing the constitutional, statutory, and remedy arguments that were presented to the panel. Counsel are specifically directed to address Supreme Court and federal appellate court opinions that support the respective positions taken by the parties on these issues. With respect to the remedy argument, expressly state whether, and under what circumstances, the proper remedy in a separation-of-powers case is to set aside the agency actions, see *NLRB v. Noel Canning*, 134 S. Ct. 2550, 2558 (2014), or to excise the unconstitutional portion of the statute, see *Free Enter. Fund v. Pub. Co. Accounting Oversight Bd.*, 561 U.S. 477, 508-10 (2010); *Murphy v. Nat'l Collegiate Athletic Ass'n*, 138 S. Ct. 1461, 1485-87 (2018) (Thomas, J., concurring). Additionally, in practical terms, what would setting aside the Net Worth Sweep entail and how would it affect other functions of the FHFA.

Please contact me if you have any questions.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Geralyn A. Maher
Calendar Clerk
504-310-7630

Mr. Charles Justin Cooper
Ms. Abby Christine Wright
Mr. Howard N. Cayne

cc: Mr. Brian W. Barnes
Mr. Chad Flores
Mr. Ian S. Hoffman
Mr. Robert J. Katerberg
Mr. Peter A. Patterson
Mr. Dirk Phillips
Mr. Gerard J. Sinzdak
Mr. Mark Bernard Stern
Mr. David H. Thompson
Ms. Asim Varma