

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FAIRHOLME FUNDS, INC., <i>et al.</i> , Plaintiffs, v. THE FEDERAL HOUSING FINANCE AGENCY, <i>et al.</i> , Defendants.	Civil No. 13-1053 (RCL)
ARROWOOD INDEMNITY COMPANY, <i>et al.</i> , Plaintiffs, v. FEDERAL NATIONAL MORTGAGE ASSOCIATION, <i>et al.</i> , Defendants.	Civil No. 13-1439 (RCL)
In re Fannie Mae/Freddie Mac Senior Preferred Stock Purchase Agreement Class Action Litigations <hr/> This document relates to: ALL CASES	Miscellaneous No. 13-1288 (RCL)

JOINT MOTION TO AMEND SCHEDULING ORDER

Pursuant to the Court’s Order Adjourning Second Amended Scheduling Order Deadlines, Plaintiffs in the above-captioned actions (collectively, the “Plaintiffs”), as well as Defendants Federal Housing Finance Agency (“FHFA”), FHFA Director Mark Calabria, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation (collectively, “Defendants”), hereby move the Court for entry of attached Proposed Third Amended Scheduling Order, which has been agreed to by all parties except with respect to the trial date.

Upon joint motion of the parties, the Court adjourned the deadlines under the Second Amended Scheduling Order because of issues caused by COVID-19 and the production of certain documents by the Department of Treasury. The Court directed the parties to submit proposed revised deadlines by June 30, 2020. The parties have agreed to the proposed revised deadlines in the attached Proposed Order. Although the Department of Treasury has not yet completed its production of documents, it has made substantial progress and the parties anticipate completion in time to complete fact discovery by the proposed January 22, 2021 date. The one date the parties could not agree on was the trial date.

Plaintiffs' Position: Plaintiffs propose that the trial date be set for February 21, 2022. Plaintiffs believe 108 days between the end of summary judgment briefing and trial is sufficient both to address summary judgment and for the parties to prepare for trial. Plaintiffs note that the existing schedule only provides for 78 days between summary judgment briefing and trial. Nor does filing pretrial disclosures two months after summary judgment briefing is completed present any problems for the parties, whether any motion for summary judgment has been ruled on or not.

Defendants' Position: Defendants propose a trial date of July 19, 2022, which is both practical and consistent with the Court's rules regarding resolution of dispositive motions in advance of the final pretrial conference. In contrast, Plaintiffs' proposed trial date of February 21, 2022 leaves only 3.5 months between the completion of briefing on summary judgment motions (November 5, 2021) and trial (February 21, 2022). With that trial date, the final pretrial conference would have to occur no later than January 21, 2022 (LCvR 16.3(c)(14)-(15), and the Parties' pretrial disclosures would be due no later than January 7, 2022 (LCvR 16.5(a)(2)). Thus, with a February 21, 2022 trial date, pretrial disclosures would be due only 2

months after the close of briefing on summary judgment (and immediately following the December holidays) without regard to whether the court has resolved the summary judgment motions. This approach is both impractical and in tension with the Court's rules, which state that "[a] dispositive motion in a civil action shall be filed sufficiently in advance of the final pretrial conference that it may be fully briefed *and ruled on* before the conference." LCvR 7(l) (emphasis added). Defendants' proposed trial date of July 19, 2022 gives the Court time to resolve the summary judgment motions in advance of the final pretrial conference. In this way, a July 2022 trial date is consistent with the first scheduling order entered in this case, which also provided for an approximately 8 month interval between the completion of briefing on summary judgment motions (February 26, 2020) and trial (October 19, 2020). *See* Doc. # 100 (No. 1:13cv1053). Finally, a July 2022 trial date would make it more likely the Parties could either prepare their pretrial disclosures more efficiently with the benefit of the Court's decision on summary judgment, or save the time and cost of preparing such disclosures in the event the Court decides the case on summary judgment.

All parties have been litigating this case in earnest and believe the Proposed Third Amended Scheduling Order deadlines will aid the administration of justice in this case by allowing the parties to effectively prepare the case for trial and prevent prejudice to any party.

Dated: June 30, 2020

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