

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Cynthia Boss,)	
Plaintiff-Appellee)	
)	
)	
Vs.)	Appeal No. 20-2026
)	District Ct. No. 1:1-ev-00042
Federal Housing Finance Agency))	The Honorable John J. McConnell, Jr
et al)	
Defendants-Appellants)	

MOTION TO ALLOW LATE FILING OF AMICUS BRIEF

Amicus Curiae Debra Brown requests that the Court allow the filing of a late amicus brief to bring two decisions to the Court’s attention that should be considered by this Court before making a decision in this matter. Neither party to this action included these significant decisions in their briefs to the Court.

1. The first decision is that of the Federal District Court in Massachusetts which dismissed an action brought by the Massachusetts Attorney General in the Massachusetts Superior Court against Federal Housing Finance Authority (“FHFA”) for

failure to comply with Massachusetts General laws.

Commonwealth v. FHFA 54 F.Supp. 3rd 94 (2014) FHFA removed the case to the U.S. District Court and the Court dismissed the complaint with a holding that FHFA is exempt from any Massachusetts court proceeding and exempt from compliance with Massachusetts property and unnecessary foreclosure laws. This decision creates a circuit conflict with the decision by the Rhode Island District Court. This conflict should be considered by the U.S. Court of Appeals.

2. The second decision is a case that was argued before the U.S. Supreme Court in December 2020 and a decision is expected any time. That case Collins v. Yellen, 938 F.3d 553 (2019) U.S. Supreme Court docket no. 19-422 formerly known as Collins v. Mnuchin is a cross appeal from a U.S. District Court decision of the District of Columbia that determined that the structure of the FHFA directorship is unconstitutional and that certain provisions of HERA are unconstitutional due to the separation of powers. The arguments to the U.S. Supreme Court are directly on point on the unconstitutionality of the anti-injunction clause of HERA – and it would assist this Court to review the final decision by the U.S.

Supreme Court on this matter. The Amicus submitted by the investors references this case but the briefs of the Appellant and Appellee do not.

2. The Amicus Brief is attached to this Motion.

WHEREFORE, Amicus Curiae prays for this Court to accept the late filing of the Amicus to assist this Court in their deliberations.

Dated: June 6, 2021

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CERTIFICATE OF SERVICE

I certify that on June 6, 2021, I electronically filed the foregoing document with the United States Court of Appeals for the First Circuit by using the CM/ECF system. I certify that the following parties or their counsel of record are registered as ECF filers and that they will be served by the CM/ECF system:

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