

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

In re Fannie Mae/Freddie Mac Senior Preferred Stock Purchase Agreement Class Action Litigations <hr/> THIS DOCUMENT RELATES TO: ALL CASES	Misc. Action No. 13-mc-1288 (RCL) <u>CLASS ACTION</u>
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JOINT RESPONSE TO COURT ORDER OF NOVEMBER 15, 2021

Plaintiffs Joseph Cacciapalle, Michelle M. Miller, Timothy J. Cassell, and Barry P. Borodkin (collectively, “Class Plaintiffs”), and Defendants Federal Housing Finance Agency (“FHFA”), the Federal National Mortgage Association (“Fannie Mae”), and the Federal Home Loan Mortgage Corporation (“Freddie Mac”) (collectively, “Defendants” and with Class Plaintiffs, the “Parties”) hereby file this Joint Response to the Court’s Order dated November 15, 2021 (ECF No. 134) (the “Order”).

On August 12, 2021, Class Plaintiffs filed their Motion for Class Certification (ECF No. 132) and a Memorandum of Law in Support of Motion for Class Certification (ECF No. 132-1). In an effort to streamline issues in this Action and make efficient use of the Parties’ and the Court’s resources, the Parties later conferred regarding class certification and determined to file a Stipulation and [Proposed] Order for Class Certification (ECF Nos. 133, 133-1) on October 14, 2021. In the Stipulation, the Parties suggested that the Class Plaintiffs’ Motion for Class Certification should be treated as “withdrawn.”

On November 15, 2021, the Court issued the Order expressing its “doubts that entering the proposed order of class certification - without a corresponding motion - would be permissible.” [Order at 2]. The Court further observed that “the parties proposed course seems inconsistent with

the federal and local rules of civil procedure.” [Order at 2]. Consequently, the Court ordered the Parties to file a joint written response to the Order by November 25, 2021 informing the Court how the Parties would like to proceed.

The Parties believe the best way to proceed is for the Court to treat Class Plaintiffs’ Motion for Class Certification as still pending, and not as withdrawn. Plaintiffs agree to limit the scope of the currently pending Motion for Class Certification to a motion to certify the prospective classes pursuant to Rule 23(b)(3) only. The Parties believe that Class Plaintiffs’ Memorandum of Law in Support of Motion for Class Certification sets forth the necessary bases for the Court to engage in the rigorous analysis required to rule on the motion for class certification pursuant to Rule 23(b)(3).

For the reasons stated in the Stipulation, Defendants do not oppose certification of the prospective classes under Rule 23(b)(3) and, therefore, the Parties respectfully submit that the narrowed motion should be treated as uncontested.

The Parties do not believe that oral argument on Class Plaintiffs’ Motion for Class Certification is necessary. However, the Parties are available at the Court’s convenience for a status conference relating to the Order and this joint response if it would be helpful to the Court.

Dated: November 22, 2021

Respectfully submitted,

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