

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

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

**JOINT MOTION TO REVISE EXPERT DISCOVERY
AND SUMMARY JUDGMENT DEADLINES**

The Parties in the above-captioned actions hereby move the Court for entry of an order revising certain expert discovery and summary judgment deadlines because Defendants are replacing one of their experts due to that expert's health issues. The Parties are not requesting that the trial date of July 11, 2022, be continued at this time.

By order dated June 16, 2020, this Court entered the Fifth Amended Scheduling Order, which provided for, *inter alia*, expert discovery to be completed on November 11, 2021, Defendants' summary judgment motion to be filed on December 9, 2021, and trial to commence on July 11, 2022. *See* ECF No. 131 (No. 1:13cv1288).

Following entry of the Fifth Amended Scheduling Order, the Parties diligently engaged in expert discovery, including through the exchange of expert reports (3 from Plaintiffs, 2 from

Defendants) and depositions of 4 of the 5 expert witnesses. However, after producing his report and before sitting for his deposition, one of Defendants' experts suffered a heart-related health issue raising uncertainty as to his ability to continue serving as an expert. Therefore, Defendants intend to replace him with a new expert.

Replacing one of Defendants' two experts would impact both the expert discovery and summary judgment schedule. Defendants would need adequate time to retain a new expert, the new expert would need adequate time to prepare a new report, and Plaintiffs would need adequate time to depose that expert. Further, Plaintiffs had intended to file a targeted rebuttal report (by one of their existing experts) after deposing Defendants' now-outgoing expert, and Plaintiffs had offered to make that rebuttal expert available for an additional deposition. However, none of this follow-up expert discovery was completed due to the unavailability of Defendants' now-outgoing expert. While reserving their rights to object to such a rebuttal report by one of Plaintiffs' experts, Defendants agree that the revised schedule should include a period for the submission of such a rebuttal report as well as deposition of the expert.

Moreover, the Parties respectfully submit that it would be most efficient to commence summary judgment briefing after the forthcoming expert reports and the close of expert discovery. As such, the Parties jointly request that the deadlines for expert discovery and summary judgment briefing be revised.

Finally, Plaintiffs have informed Defendants that Plaintiffs are unlikely to file their own motion for summary judgment, but if they do, they agree to file their own motion for summary judgment on the same date that Defendants file their motion for summary judgment, with the respective parties' oppositions and replies to be filed simultaneously.

Accordingly, the Parties propose the following revisions to the Fifth Amended Scheduling

Order:

Event	Current Deadlines	Proposed Deadline
Defendants identify new expert to Plaintiffs	n/a	January 25, 2022
Defendants produce new expert report to Plaintiffs	n/a	February 1, 2022
Plaintiffs depose new expert	n/a	February 15, 2022
Plaintiffs file rebuttal report in response to Defendants' new expert report	n/a	March 1, 2022
Completion of expert discovery	November 11, 2021	March 15, 2022
Defendants' Motion for Summary Judgment // Plaintiffs' Motion for Summary Judgment	December 9, 2021 (for Defendants) January 13, 2022 (for Plaintiffs)	March 21, 2022
Response(s) to Motion(s) for Summary Judgment	January 13, 2022 (for Plaintiffs) February 15, 2022 (for Defendants)	April 15, 2022
Repl(ies) in support of Motion(s) for Summary Judgment	February 15, 2022 (for Defendants) March 10, 2022 (for Plaintiffs)	May 6, 2022
Trial	July 11, 2022	July 11, 2022

The Parties recognize that these proposed revised deadlines leave less time between the close of summary judgment briefing and trial (approximately 65 days) than did the Fifth Amended Scheduling Order (approximately 120 days). While the Parties are not requesting a continuance of the July 11, 2022 trial date, the Parties of course defer to the Court should the Court see fit to set a later trial date.

Accordingly, the parties respectfully request that the Court enter the attached proposed Sixth Amended Scheduling Order, which reflects the deadlines identified above. Should the Court wish to discuss any of these matters with the Parties, undersigned counsel will promptly make themselves available for a conference.

Dated: December 2, 2021

Respectfully submitted,

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