

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

FAIRHOLME FUNDS, INC., *et al.*,

Plaintiffs,

v.

FEDERAL HOUSING FINANCE  
AGENCY, *et al.*,

Defendants.

Civil No. 13-1053 (RCL)

In re Fannie Mae/Freddie Mac Senior  
Preferred Stock Purchase Agreement Class  
Action Litigations

Miscellaneous No. 13-1288 (RCL)

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This document relates to:  
ALL CASES

**DEFENDANTS' NOTICE REGARDING LENGTH OF JURY TRIAL**

Defendants Federal Housing Finance Agency (“FHFA” or “Conservator”), as Conservator for the Federal National Mortgage Association (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation (“Freddie Mac,” and together with Fannie Mae, the “Enterprises,”), Sandra L. Thompson, in her official capacity as Acting Director of FHFA, and the Enterprises hereby notify the Court of the following:

1. Trial in the above-captioned cases is currently scheduled for July 11, 2022, “or at the Court’s earliest convenience thereafter.” The complaint in *In re Fannie Mae/Freddie Mac Senior Preferred Stock Purchase Agreement Class Action Litigations*, No. 13-1288 (RCL) (the “Class Action”), includes a jury demand (ECF No. 71), while the complaint in *Fairholme Funds*,

*Inc. v. FHFA*, No. 13-1053 (RCL), does not contain a jury demand (ECF No. 75). Because trial in both cases is scheduled to commence on the same date, Defendants understand that the jury trial in the Class Action and the bench trial in the *Fairholme* action will be tried simultaneously.<sup>1</sup>

2. In a document posted in the “Jury Information” section of the Court’s website, the Jury Office states: “[Special Trials] are trials specially ordered as they may last at least two weeks, mainly high-profile, and ordered through the jury office at least 10 weeks in advance and a pre screening form (advising the prospective jurors of the duration of the trial) are included in the mailing.” *See* Regular and Special Jury Trials, U.S. District Court for the District of Columbia, <https://www.dcd.uscourts.gov/jury-selections> (attached as Exhibit A).

3. The parties have not yet exchanged trial witness or exhibit lists, but based on their good faith estimates, Defendants by this Notice respectfully advise the Court that they anticipate that trial in the Class Action may last at least two weeks— (*i.e.*, at least ten trial days).

4. Defendants remain available should the Court or the Jury Office request or require further information.

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<sup>1</sup> The Court’s online calendar currently reflects that both the Class Action and the *Fairholme* case are scheduled for bench trials to commence on May 16, 2022. This date appears to be based on a prior, no longer operative scheduling order (*see* ECF No. 120 in No. 13-1288). Further, as noted above, the complaint in the Class Action includes a jury demand.

Dated: April 28, 2022

Respectfully submitted,

/s/ Howard N. Cayne

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**Jury Office  
United States District Court  
for the District of Columbia  
333 Constitution Avenue, NW  
Washington, DC 20001**

**We understand that there is a process prior to establishing a trial date and we are working very hard to provide an adequate number of prospective jurors for the selection process. As you know there is a tremendous cost for all involved, including time and money. Therefore, we would like to share our involvement, preparation and concerns; we greatly appreciate your efforts in promptly providing updates relevant to the case at hand so that the jury office can update jurors of a cancellation, prior to the scheduled reporting date.**

**First, let me explain the process on our end:**

**Regular Jury Trials:**

The jury office prepares mailings at least twice a month for groups serving on call for two weeks. The initial process involves the following:

- Printing at least 1700 summonses and questionnaires
- Metering and mailing
- Data entry for all qualified, excused, disqualified and deferred
- Scan all undeliverable mail
- An Automated Jury Information System (AJIS) is updated on a daily basis to inform prospective jurors of their stats. All who are qualified will be notified, via AJIS, the date and time to report for a trial.

Jurors are required to call the recording every evening after 5:00 p.m. to hear instructions for the following day which could either advise them to report or advise them that there is no jury selection. If a trial is not canceled prior to 4:30 p.m. the day before the trial, jurors will report and receive payment for their attendance. Although the jury staff work very hard to notify the jurors of a cancellation, this has proven unsuccessful, as most are already en route to the courthouse. Hence, 100% of jurors are "Not Used" and would cost the court approximately \$2,350.00, depending on the number of jurors requested/reported as required. (This figure is based on 50 jurors at \$47.00 each.)

**Communication during the Selection Process:**

- It is imperative that we receive the Jury Panel Sheet upon completion of the selection process. This enables us to empanel the jury and reuse prospective jurors who were not selected for your case.
- All Courtroom Deputies should inform the jury office when all jurors are present for the trial so that we can confirm attendances by the case number and prepare attendance letters and daily stats.
- All Courtroom Deputies should promptly inform the jury staff when a juror has been excused/dismissed so that we can update our records in the Jury Management System and provide accurate information to the juror and their employer, as well as proper payment.
- During multiple Day Selections, all jurors should check-in at the jury office for the same reasons stated above. We can either send them to the courtroom or the Courtroom Deputy can escort them to the courtroom.

**Special Trials:**

These are trials specially ordered as they may last at least two weeks, mainly high-profile, and ordered through the jury office at least 10 weeks in advance and a pre screening form (advising the prospective jurors of the duration of the trial) are included in the mailing. Although the process is similar to regular trials, the mailing can range from 2000-6500 or more, depending on the case and what the judge requests. A checklist is attached for your review.

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## **Checklist for Ordering a Special Jury Panel**

- A special jury panel should be ordered for trials that are expected to last more than two weeks and/or consist of more than 80 jurors (generally).
- To ensure that each judge receives the appropriate number of prospective jurors, the Request for Special Jury Panel form must be submitted to the Jury Office 10 weeks prior to the trial date.
- When completing the Request for Special Jury Panel form, be sure to indicate whether a Pre Screening and/or Pre Voir Dire questionnaires will be needed/utilized.
- Unless otherwise directed, the Jury Office will forward all juror requests for excuses and deferrals to the judge for his or her consideration.
- The Jury Office will provide the judge with updates regarding the number of jurors qualified to serve.
- Should there be a change in the trial date, the reporting date, or the status of the case (e.g., the case settles, the defendants plead, etc.), please notify the Jury Office immediately so jurors will not be called in needlessly. The telephone number for the Jury Office is 202-354-3360.

**\*\*IMMEDIATE NOTIFICATION OF AN ANONYMOUS TRIAL MUST BE PROVIDED TO THE JURY OFFICE PRIOR TO THE MAILING\*\***