

**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)

\_\_\_\_\_  
This document relates to:  
ALL CASES

**JOINT MOTION TO RESET TRIAL DATE AND AMEND SCHEDULING ORDER**

The parties to the above-captioned cases respectfully request that this Honorable Court reset the trial date in these matters to Monday, October 17, 2022, or any date thereafter convenient for the Court, in light of counsel's unavailability due to the Jewish holidays. In further support, the parties state:

1. On May 31, 2022, the Court entered an Order vacating the then-current trial date of July 11, 2022 and ordering that the trial "is reset for a ten-day jury trial beginning on September 19, 2022, unless counsel are unavailable." ECF No. 158 (No. 1:13mc1288). Assuming the Court sits for five days per week in trial, this means that the case would be

submitted to the jury no sooner than Friday, September 30, 2022, and could possibly carry over into the week of October 3, 2022.

2. This trial schedule presents conflicts with two Jewish holidays. In particular, Rosh Hashanah begins at sundown on Sunday, September 25, and ends at sundown on Tuesday, September 27. Further, Yom Kippur begins at sundown on Tuesday, October 4, and ends at sundown on Wednesday, October 5.

3. Two senior members of Defendants' trial team and two senior members of Plaintiffs' trial team observe these holidays and would not be available to work on these trial days. Moreover, potential jurors may also observe these holidays and be unable to serve as jurors on these dates.

4. The parties have promptly met and conferred about this issue and believe that starting and stopping trial on these dates could be disruptive and would keep the jury empaneled for a longer total period of time.

5. A senior member of Plaintiffs' trial team also is co-counsel in a case before the U.S. Supreme Court that, based on communications from the Supreme Court Clerk's Office, is likely to be scheduled for oral argument during the October 10-12 period. Counsel may present the argument in the case and if he does not, will need to attend the argument and be closely involved in argument preparation. Accordingly, the parties respectfully request that the Court reset the trial date in these matters to Monday, October 17, 2022, or any date thereafter convenient for the Court.

6. Consistent with the Court's direction provided on May 31, 2022, and a subsequent teleconference with chambers, the parties have met and conferred and agreed to a proposed schedule of interim deadlines based on the October 17, 2022, trial date, including deadlines for

briefing motions in limine, filing pretrial statements, which will include proposed jury instructions, voir dire questions, and verdict forms, and exchanging objections to deposition designations and exhibits. The full schedule of proposed dates is set forth in the attached proposed order. The schedule proposes a final pretrial conference the week of September 19, 2022.

7. Finally, the parties are presently conferring in good faith to reach agreement as to the admissibility of certain documents produced by the Department of Treasury that Plaintiffs are seeking to admit. If the parties are unable to reach agreement Plaintiffs believe it could become necessary to bring the dispute to the Court's attention at an earlier point than the parties' proposed order contemplates for other disputes. Under such circumstances, the parties would promptly notify the Court and propose a schedule for resolution.

Dated: June 9, 2022

/s/ Asim Varma

Asim Varma (D.C. Bar #426364)  
Howard N. Cayne (D.C. Bar #331306)  
David B. Bergman (D.C. Bar #435392)  
ARNOLD & PORTER KAYE SCHOLER LLP  
601 Massachusetts Ave NW  
Washington, DC 20001  
Tel: (202) 942-5000  
Howard.Cayne@arnoldporter.com  
Asim.Varma@arnoldporter.com  
David.Bergman@arnoldporter.com

*Attorneys for Defendant Federal Housing Finance  
Agency and Acting Director Sandra Thompson*

/s/ Michael J. Ciatti .

Michael J. Ciatti (D.C. Bar #467177)  
KING & SPALDING LLP  
1700 Pennsylvania Ave. N.W.  
Washington, DC 20006  
Tel: (202) 626-5508  
Fax: (202) 626-3737  
mciatti@kslaw.com

*Attorney for the Federal Home Loan  
Mortgage Corp.*

/s/ Meaghan VerGow .

Meaghan VerGow (D.C. Bar # 977165)  
O'MELVENY & MYERS LLP  
1625 Eye Street, N.W.  
Washington, DC 20006  
Tel: (202) 383-5300  
Fax: (202) 383-5414  
mvergow@omm.com

*Attorney for the Federal National Mortgage  
Association*

Respectfully submitted,

/s/ Hamish P.M. Hume

BOIES SCHILLER FLEXNER LLP  
Hamish P.M. Hume (D.C. Bar #449914)  
Samuel C. Kaplan (D.C. Bar #463350)  
1401 New York Ave. NW  
Washington, DC 20005  
Tel: (202) 237-2727  
Fax: (202) 237-6131  
hhume@bsflp.com  
skaplan@bsflp.com

KESSLER TOPAZ MELTZER & CHECK, LLP

Eric L. Zagar (*Pro Hac Vice*)  
280 King of Prussia Rd.  
Radnor, PA 19087  
Tel: (610) 667-7706  
Fax: (610) 667-7056  
ezagar@ktmc.com

GRANT & EISENHOFER, P.A.

Michael J. Barry (*Pro Hac Vice*)  
123 Justison Street  
Wilmington, DE 19801  
Tel: (302) 622-7000  
Fax: (302) 622-7100  
mbarry@gelaw.com

BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP

Adam Wierzbowski (*Pro Hac Vice*)  
1251 Avenue of the Americas  
New York, NY 10020  
Tel: (212) 554-1400  
Fax: (212) 554-1444  
adam@blbglaw.com

*Co-Lead Counsel for Plaintiffs*

Charles J. Cooper (Bar No. 24870)  
COOPER & KIRK, PLLC  
1523 New Hampshire Avenue, N.W.  
Washington, D.C. 20036  
(202) 220-9600  
(202) 220-9601

ccooper@cooperkirk.com

David H. Thompson (Bar No. 450503)  
Vincent J. Colatriano (Bar No. 429562)  
Peter A. Patterson (Bar No. 998668)  
Brian W. Barnes (*Pro Hac Vice*)  
COOPER & KIRK, PLLC  
1523 New Hampshire Avenue, N.W.  
Washington, D.C. 20036  
(202) 220-9600  
(202) 220-9601  
dthompson@cooperkirk.com  
vcolatriano@cooperkirk.com  
ppatterson@cooperkirk.com  
bbarnes@cooperkirk.com

*Counsel for Plaintiffs Fairholme Funds Inc., et al.*