

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

MICHAEL E. KELLY, *et al.*,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

No. 21-1949C
(Judge Kathryn C. Davis)

**PLAINTIFFS' UNOPPOSED MOTION FOR SUBSTITUTION OF COUNSEL
AND TO EXTEND THE CURRENT BRIEFING SCHEDULE**

By this motion, Plaintiffs request that the Court issue an order permitting the law firm currently representing Plaintiffs, Hagens Berman Sobol & Shapiro LLP, (“Hagens”) to withdraw as counsel of record, and the law firms of Diamond McCarthy LLP (“Diamond”) and Larson LLP (“Larson”) to substitute for Hagens, with Hagens consent, as counsel of record for Plaintiffs upon this Court’s granting of the Plaintiffs’ request to modify the current briefing schedule. The contact information for Plaintiffs’ proposed new counsel is as follows:

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Pursuant to this Court's October 25, 2022, scheduling order, Defendant filed a motion to dismiss the Complaint on December 16, 2022, and Plaintiffs are required to respond to Defendant's Motion to Dismiss on or before February 3, 2023. ECF Doc. No. 14. Given the pending substitution of new counsel at this late date in the current briefing schedule, Plaintiffs respectfully request that this Court's scheduling order be modified to suspend the current briefing schedule on Defendant's Motion to Dismiss and order that Plaintiffs' opposition briefing is due on March 6, 2023.

Defendant has advised counsel in writing that it does not oppose this substitution of counsel and the requested extension of the current briefing schedule.

Plaintiffs' request to modify the current briefing schedule is in the best interests of the Court, the Parties, and the efficient administration of justice. Providing Plaintiffs and new counsel the opportunity to perform appropriate review and research prior to responding to Defendant's motion to dismiss will facilitate this Court's analysis of the issues. This requested, short period of thirty days for filing of Plaintiffs' opposition will provide the opportunity to streamline the issues currently being contested and to raise only those which require consideration and decision by this Court. This is especially true in light of very recent and potentially applicable caselaw, such as the recent decision by the Federal Circuit in the *Washington Federal v. United States*, 26 F.4th 1253 (2022) and the more recent denial of certiorari by the U.S. Supreme Court in *Fairholme Funds, Inc., et al. v. United States, et al.*, 2023 WL 124023, at *1 (U.S. Jan. 9, 2023).

For the foregoing reasons constituting good cause, Plaintiffs respectfully ask the Court to grant plaintiffs' motion for substitution of counsel upon modification of the current scheduling order resetting the deadline for Plaintiff's opposition to Defendant's Motion to Dismiss to March 6, 2023.

Respectfully submitted,

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