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September 26, 2023

By ECF

Honorable Molly R. Silfen
United States Court of Federal Claims
Howard T. Markey National Courts Building
717 Madison Place, NW
Washington, DC 20439

Re: Michael E. Kelly, et. al. v. The United States, No. 21-1949 L

Dear Judge Silfen:

On behalf of Plaintiffs, the undersigned counsel respectfully submits this supplementary request for an oral hearing in the above captioned matter.¹ It is Plaintiffs' position that further elucidation beyond that contained in the Parties' written briefs would benefit the Court in these proceedings.

This Court may hold an oral hearing when it believes it would assist the court to resolve the case. *Waltner v. United States*, 98 Fed. Cl. 737, 765 (2011), *aff'd*, 679 F.3d 1329 (Fed. Cir. 2012). Where questions arise from the parties' briefings, the Court has a duty to have the parties answer its questions. *Hous. Auth. of City of Slidell v. United States*, 149 Fed. Cl. 692, 702 (2020).

Plaintiffs believe that oral argument would assist the Court and is warranted here because this case raises constitutional issues of considerable importance, and, unlike the Government's position to the contrary, it is unlike any of the GSE shareholder cases that have come before. The claims raised are of first impression in this Court and would benefit from a hearing.

Additionally, instead of addressing the detailed facts in the Amended Complaint, the Government's Reply in Support of its Motion to Dismiss Amended Complaint (ECF No. 41),

¹ Plaintiffs' Opposition to Government's Motion to Dismiss Amended Complaint filed on June 16, 2023 (ECF No. 33) previously requested a hearing.

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raised new arguments and counter-factual scenarios that this Court and Plaintiffs should have an opportunity to address. This includes, but is not limited to, the Government's factually inaccurate anecdotes to support its broad stance on tolling principles, as well as the Government's reliance on bankruptcy and consequential damages theories, neither of which constitute any aspect of Plaintiffs' claims.

Accordingly, Plaintiffs respectfully request the Court schedule an oral hearing in this matter prior to issuing a decision on the Government's Motion to Dismiss and the Plaintiffs' Opposition thereto.

Respectfully submitted,

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