

Significant Lawsuits Concerning Fannie Mae & Freddie Mac Net Worth Sweep

Updated March 17, 2015

Title ¹	Plaintiffs' Lawyers	Claims for Relief	Relief Requested ²	Pre-Trial Summary Judgment Proceedings	Current Status	Next Calendar Event
<i>American European Insurance Company v. Federal National Mortgage Association, et al.</i> , Case No. 13-cv-01169 (D.C. filed July 30, 2013)	Michael G. McLellan L. Kendall Satterfield Elizabeth R. Makris FINKELSTEIN THOMPSON LLP Jeremy A. Lieberman Lesley F. Portnoy Patrick V. Dahlstrom POMERANTZ GROSSMAN HUFFORD DAHLSTROM & GROSS LLP	Breach of contract Breach of the implied covenant of good faith and fair dealing	Class action certification and appointment as Class Representative Awarding Plaintiffs and the Class the amount of damages they sustained as a result of defendants' breaches of contract and breaches of the implied covenant of good faith and fair dealing Granting appropriate equitable and injunctive relief to remedy defendants' breaches of contract and breaches of the implied covenant of good faith and fair dealing	—	Consolidated into Misc. Action No. 13-mc-1288 (D.C.)	—

¹ Cases are listed in alphabetical order by the Plaintiff's name. Rows shaded in light orange indicate the litigation has been consolidated with another proceeding. Rows shaded in light green indicate that consolidated appellate proceedings are pending before the U.S. Court of Appeals for the D.C. Circuit.

² Excluding requests for costs and the catch-all prayer for such other and further relief as the Court deems just and proper.

Title ¹	Plaintiffs' Lawyers	Claims for Relief	Relief Requested ²	Pre-Trial Summary Judgment Proceedings	Current Status	Next Calendar Event
<i>American European Insurance Company v. USA</i> , Case No. 13-496 (Ct. Fed. Cl. filed July 19, 2013)	Jeremy A. Lieberman Lesley F. Portnoy Patrick V. Dahlstrom POMERANTZ GROSSMAN HUFFORD DAHLSTROM & GROSS LLP Charles J. Piven BROWER PIVEN	Just compensation under the Fifth Amendment	Class certification and appointment as Class Representative Awarding Plaintiff and the Class just compensation for the Government's taking of their property	—	Consolidated with <i>Cacciapelle v. United States</i> , Case No. 13-672 (Ct. Fed. Cl.)	—

Title ¹	Plaintiffs' Lawyers	Claims for Relief	Relief Requested ²	Pre-Trial Summary Judgment Proceedings	Current Status	Next Calendar Event
<p><i>Arrowood Indemnity Co., et al. v. Federal National Mortgage Association, et al.</i>, Case No. 13-cv-1439 (D.C. filed Sept. 12, 2013) (Lamberth, J.)</p>	<p>Drew W. Marrocco Michael H. Barr Richard M. Zuckerman Sandra D. Hauser DENTONS US LLP</p>	<p>Against Treasury and Secretary Lew for violation of the Administrative Procedure Act: (i) Treasury's conduct exceeds its statutory authority under HERA and (ii) Treasury's conduct was arbitrary and capricious</p> <p>Against FHFA and Acting Director DeMarco for violation of the Administrative Procedure Act: (i) The FHFA's conduct exceeds its statutory authority under HERA and (ii) the FHFA's conduct was arbitrary and capricious</p> <p>Against Fannie Mae, Freddie Mac, and FHFA, as Conservator, for breach of contract and breach of the implied covenant of good faith and fair dealing</p>	<p>Declaring that the Third Amendment, and its adoption, are not in accordance with HERA</p> <p>Vacating and setting aside the Third Amendment . . . and providing that all payments made by Fannie and Freddie under the Third Amendment, in excess of the amounts which would have been due as dividends absent the Third Amendment, be treated as a redemption of Senior Preferred Stock</p> <p>Enjoining Defendants from implementing, applying, or taking any action whatsoever pursuant to the Third Amendment</p> <p>If injunctive relief is not granted, awarding Arrowood damages [for the] par value of their Junior Preferred Stock</p>	<p>Treasury's Motion to Dismiss Filed (Doc. 35)</p> <p>Fannie Mae's Motion to Dismiss Filed (Doc. 36)</p> <p>Plaintiffs' Objection and Cross-Motion for Summary Judgment Filed (Docs. 44 and 45)</p> <p>Treasury's Reply Filed (Docs. 48 and 49)</p> <p>Fannie Mae's Reply Filed (Docs. 50 and 51)</p> <p>Plaintiff's Further Reply (Doc. 54)</p> <p>Case Dismissed (Doc. 59, Sept. 30, 2014).</p>	<p>On appeal to the U.S. Court of Appeals for the District of Columbia Circuit (No. 14-5243)</p> <p>Summary of Issues on Appeal available at http://is.gd/2qaxfK</p> <p>Parties awaiting direction from the D.C. Circuit about how many words their appellate briefs may contain.</p>	<p>Dispositive Motions, if any, to be filed with the U.S. Court of Appeals by Nov. 24, 2014, and briefing schedule to be set thereafter.</p>

Title ¹	Plaintiffs' Lawyers	Claims for Relief	Relief Requested ²	Pre-Trial Summary Judgment Proceedings	Current Status	Next Calendar Event
<i>Arrowood Indemnity Co., et al. v. USA</i> , Case No. 13-698 (Ct. Fed. Cl. filed Sept. 18, 2013) (Sweeney, J.)	Drew W. Marrocco Michael H. Barr Richard M. Zuckerman Sandra Hauser DENTONS US LLP	Against the United States of America for just compensation under the Fifth Amendment	Awarding Arrowood Parties just compensation for the Government's taking of their property	Requests by the Government for more time to answer or respond. <i>See</i> Docs. 19, 16, 15, 12, 11, 10, 9 and 8.	Government's answer or response to Arrowood's Complaint due within 60 days following completion of jurisdictional discovery in <i>Fairholme</i> . <i>See</i> Doc. 25.	—
<i>Borodkin, et al. v. Federal National Mortgage Association, et al.</i> , Case No. 13-cv-01443 (D.C. filed Sept. 20, 2013)	Craig L. Briskin MEHRI & SKALET, PLLC Barbara J. Hart Thomas A. Skelton LOWEY DANNENBERG COHEN & HART	Breach of contract Breach of the implied covenant of good faith and fair dealing	Class action certification and appointment as Class Representative Awarding Plaintiffs and the Class the amount of damages they sustained as a result of defendants' breaches of contract and breaches of the implied covenant of good faith and fair dealing Granting appropriate equitable and injunctive relief to remedy defendants' breaches of contract and breaches of the implied covenant of good faith and fair dealing	—	Consolidated into Misc. Action No. 13-mc-1288 (D.C.)	—

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<i>Cacciapelle, et al. v. Federal National Mortgage Association, et al.</i> , Case No. 13-cv-01149 (D.C. filed July 29, 2013) (Lamberth, J.)	Hamish P.M. Hume BOIES, SCHILLER & FLEXNER LLP Lee D. Rudy Eric L. Zagar KESSLER TOPAZ MELTZER & CHECK, LLP	Breach of contract Breach of the implied covenant of good faith and fair dealing	Class action certification and appointment as Class Representative Awarding Plaintiffs and the Class the amount of damages they sustained as a result of defendants' breaches of contract and breaches of the implied covenant of good faith and fair dealing Granting appropriate equitable and injunctive relief to remedy defendants' breaches of contract and breaches of the implied covenant of good faith and fair dealing	—	Consolidated into Misc. Action No. 13-mc-1288 (D.C.)	—

Title ¹	Plaintiffs' Lawyers	Claims for Relief	Relief Requested ²	Pre-Trial Summary Judgment Proceedings	Current Status	Next Calendar Event
<p><i>Cacciapalle, et al. v. USA</i>, Case No. 13-466 (Ct. Fed. Cl. filed July 10, 2013) (Sweeney, J.)</p>	<p>Hamish P.M. Hume BOIES, SCHILLER & FLEXNER LLP</p> <p>Lee D. Rudy Eric L. Zagar KESSLER TOPAZ MELTZER & CHECK, LLP</p>	<p>Against the United States of America for just compensation under the Fifth Amendment</p>	<p>Class action certification and appointment as Class Representative</p> <p>Awarding just compensation for the Government's taking of their property</p>	<p>Government's Motion to Dismiss Filed (Doc. 42)</p>	<p>Briefing regarding the motion to dismiss is stayed pending the conclusion of jurisdictional discovery in <i>Fairholme</i>. Once the parties in <i>Fairholme</i> file a postdiscovery joint status report, the court will issue an order in this case regarding further proceedings. <i>See</i> Doc. 46.</p> <p>Judge Sweeney indicates that discovery in this case is not stayed. <i>See</i> Doc. 49.</p>	<p>—</p>

Title ¹	Plaintiffs' Lawyers	Claims for Relief	Relief Requested ²	Pre-Trial Summary Judgment Proceedings	Current Status	Next Calendar Event
<p><i>Cane v. Federal Housing Finance Agency, et al.</i>, Case No. 13-cv-01184 (D.C. filed Aug. 1, 2013)</p>	<p>David L. Wales BERNSTEIN LITOWITZ BERGER & GROSSMANN, LLP</p>	<p>Breach of contract against FHFA for (i) modification of the certificates and series of stock without shareholders' consent and (ii) elimination of dividends</p> <p>Anticipatory breach of contract against FHFA for repudiation of shareholders' right to any eventual liquidation surplus</p> <p>Breach of the implied covenant of good faith and fair dealing against FHFA</p> <p>Violation of the Administrative Procedure Act because Treasury and FHFA's conduct (i) exceeded their statutory authority and (ii) was arbitrary and capricious</p> <p>No just compensation under the Fifth Amendment</p>	<p>Class action certification and appointment as Class Representative</p> <p>Compensatory damages to be determined at trial</p> <p>Just compensation under the Fifth Amendment for Treasury and FHFA's taking of Plaintiffs' property</p> <p>Declaring that the Third Amendment, and its adoption, violate HERA</p> <p>Vacating and setting aside the Third Amendment</p> <p>Enjoining Defendants from implementing, applying, or taking any action whatsoever pursuant to the Third Amendment, and from any further violations of HERA</p>	<p>—</p>	<p>Consolidated into Misc. Action No. 13-mc-1288 (D.C.)</p>	<p>—</p>

Title ¹	Plaintiffs' Lawyers	Claims for Relief	Relief Requested ²	Pre-Trial Summary Judgment Proceedings	Current Status	Next Calendar Event
<p><i>Continental Western Insurance Company v. The Federal Housing Finance Agency, et al.</i>, Case No. 14-cv-00042 (S.D. Iowa filed Feb. 5, 2014) (Pratt, J.; Walters, M.J.)</p>	<p>Charles J. Cooper Vincent J. Colatriano David H. Thompson Peter A. Patterson COOPER & KIRK, PLLC</p> <p>Matthew G. Whitaker Matt M. Dummermuth Kendra L. Mills Arnold WHITAKER HAGENOW & GUSTOFF, LLP</p>	<p>FHFA's conduct exceeds its statutory authority as conservator</p> <p>Violation of the Administrative Procedure Act: FHFA's conduct was arbitrary and capricious</p> <p>Treasury's conduct exceeded its statutory authority</p> <p>Violation of the Administrative Procedure Act: Treasury's conduct was arbitrary and capricious</p> <p>Breach of contract</p> <p>Breach of implied covenant of good faith and fair dealing</p> <p>Breach of fiduciary duty</p>	<p>Declaring that the Net Worth Sweep and its adoption are [illegal]</p> <p>Declaring that the . . . dividends to Treasury . . . violated HERA</p> <p>Declaring that Treasury's post-2009 payments to Fannie and Freddie . . . violate HERA</p> <p>Vacating and setting aside the Net Worth Sweep, the dividends, and Treasury's post-2009 payments</p> <p>Reducing the liquidation preference of the Government Stock;</p> <p>Enjoining further dividend payments or tinkering with the accounting</p> <p>Awarding Plaintiff damages resulting from FHFA's breaches</p>	<p>FHFA's Motion to Dismiss Filed (Doc. 23); Treasury's Motion to Dismiss Filed (Doc. 24); Continental Western's Response to Motion to Dismiss Filed (Doc. 45); and Replies Filed (Docs. 46 and 47).</p> <p>Motion to Compel production of Administrative Record Denied. <i>See</i> Doc. 42.</p> <p>Supplemental Briefs re Judge Lamberth's Sept. 30 Ruling Filed (Docs. 49 and 52-55).</p> <p>Case Dismissed (Doc. 69, Feb. 5, 2015).</p>	<p>—</p>	<p>04/06/2015 -- Deadline for filing notice of appeal to the Eighth Circuit.</p>

Title ¹	Plaintiffs' Lawyers	Claims for Relief	Relief Requested ²	Pre-Trial Summary Judgment Proceedings	Current Status	Next Calendar Event
<p><i>Dennis v. Federal Housing Finance Agency, et al.</i>, Case No. 13-cv-01208 (D.C. filed Aug 5, 2013)</p>	<p>Reuben A. Guttman Geoffrey C. Jarvis GRANT & EISENHOFER</p>	<p>Breach of contract</p> <p>Breach of the implied covenant of good faith and fair dealing</p> <p>Breach of fiduciary duty</p>	<p>Class action certification, appointment as Class Representative, and confirmation that this a proper derivative action</p> <p>Declaring that defendants breached the certificates of designation of the Series S & T Preferred Stock. . . .</p> <p>Awarding compensatory damages</p> <p>Declaring that the Net Worth Sweep was unfair to Fannie Mae, did not further any valid business purpose, did not reflect a good faith business judgment as to what was in the best interests of Fannie Mae or its shareholders, and constituted waste and a gross abuse of discretion</p> <p>Declaring that, through the Net Worth Sweep, defendants breached their respective fiduciary duties to Fannie Mae</p> <p>Awarding compensatory damages and disgorgement in favor of Fannie Mae against defendants as a result of their breach of their fiduciary duties. . . .</p> <p>Granting equitable relief, including rescission of the Net Worth Sweep</p>	<p>—</p>	<p>Consolidated into Misc. Action No. 13-mc-1288 (D.C.)</p>	<p>—</p>

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<i>Dennis v. USA</i> , Case No. 13-542 (Ct. Fed. Cl. filed Aug. 5, 2013)	Jay W. Eisenhofer Geoffrey C. Jarvis GRANT & EISENHOFER P.A.	Violation of the Takings Clause	Class action certification Awarding Plaintiff and the other Class members just compensation for the unconstitutional taking of their property, in an amount to be proven at trial. . . .	—	Consolidated with <i>Cacciapelle v. United States</i> , Case No. 13-672 (Ct. Fed. Cl.)	—
<i>Fairholme Funds, Inc., et al. v. The United States</i> , Case No. 13-465 (Ct. Fed. Cl. filed July 9, 2013) (Sweeney, J.)	Charles C. Cooper Vincent J. Colatriano David H. Thompson Peter A. Patterson Brian W. Barnes COOPER & KIRK, PLLC	Just compensation under the Fifth Amendment for the taking of private property for public use	Awarding compensation under the Fifth Amendment for the Government's taking of their property	Government's Motion to Dismiss Filed (Doc. 20) [Briefing suspended pending resolution of jurisdictional discovery dispute] Government's Motion to Stay Proceedings pending resolution of D.C. Circuit Appeal (Doc. 103) Denied (Doc. 127, Tr. dated Jan. 28, 2015, at 33:9-10.	Document production to occur in waves, subject to Protective Order (Docs. 72 and 73) Bi-Weekly Status Conferences continue (Doc. 85) Jurisdictional discovery to be completed by June 29, 2015 (Doc. 138)	07/13/2015 -- Joint status report due for further briefing on Government's Motion to Dismiss

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<p><i>Fairholme Funds, Inc., et al. v. Federal Housing Finance Agency, et al.</i>, Case No. 13-cv-1053 (D.C. filed July 10, 2013) (Lamberth, J.)</p>	<p>Charles C. Cooper Vincent J. Colatriano David H. Thompson Peter A. Patterson COOPER & KIRK, PLLC</p>	<p>FHFA's and Treasury's conduct exceeds their statutory authority</p> <p>Violation of the Administrative Procedure Act: FHFA's and Treasury's conduct was arbitrary and capricious</p> <p>Breach of contract against FHFA as Conservator of Fannie and Freddie</p> <p>Breach of implied covenant of good faith and fair dealing against FHFA as Conservator of Fannie and Freddie</p> <p>Breach of fiduciary duty against FHFA as Conservator of Fannie and Freddie: Claim for equitable and declaratory relief</p>	<p>Declaring that the Net Worth Sweep, and its adoption, violate HERA</p> <p>Declaring that, by entering the Net Worth Sweep, FHFA breached Fannie's and Freddie's contracts with Plaintiffs and the covenant of good faith and fair dealing implicit in those contracts</p> <p>Declaring that . . . FHFA violated its fiduciary duty to Plaintiffs</p> <p>Vacating and setting aside the Net Worth Sweep</p> <p>[Directing] Treasury to return to FHFA all dividend payments made pursuant to the Net Worth Sweep or, alternatively, recharacterizing a portion of the payments as partial redemption of Government Stock rather than dividends</p> <p>* * *</p>	<p>Treasury's Motion to Dismiss Filed (Doc. 27) and FHFA's Motion to Dismiss Filed (Doc. 28); Response Opposing Motions to Dismiss (Docs. 38 and 39); Treasury's Reply (Doc. 43) and FHFA's Reply (Doc. 45)</p> <p>—————</p> <p>Cross-Motion for Summary Judgment (Doc. 40); Treasury's Objection to Cross-Motion (Doc. 44) and FHFA's Objection to Cross-Motion (Doc. 46); Reply (Doc. 51)</p> <p>—————</p> <p>Case Dismissed (Doc. 57, Sept. 30, 2014).</p>	<p>On appeal to the U.S. Court of Appeals for the District of Columbia Circuit (No. 14-5243)</p> <p>Summary of Issues on Appeal available at http://is.gd/2qaxfK</p> <p>Parties awaiting direction from the D.C. Circuit about how many words their appellate briefs may contain.</p>	<p>Dispositive Motions, if any, to be filed with the U.S. Court of Appeals by Nov. 24, 2014, and briefing schedule to be set thereafter.</p>

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<p><i>Fisher, et al. v. USA</i>, Case No. 13-608 (Ct. Fed. Cl. filed Aug. 26, 2013) (Sweeney, J.)</p>	<p>Noah M. Schubert Robert C. Schubert Miranda P. Kolbe SCHUBERT JONCKHEER & KOLBE LLP</p> <p>Edward F. Haber SHAPIRO HABER & URMY LLP</p>	<p>Derivatively on behalf of FNMA:</p> <p>Unlawful taking without just compensation under the Fifth Amendment to the U.S. Constitution</p>	<p>Derivatively on behalf of FNMA:</p> <p>Finding that the United States has unlawfully taken the private property of Fannie Mae for public use without just compensation in violation of the Takings Clause of the Fifth Amendment to the U.S. Constitution</p> <p>Determining and awarding Fannie Mae just compensation for the Government's taking of its property</p>	<p>Motion to Dismiss Filed (Doc. 20)</p>	<p>Briefing regarding the motion to dismiss is stayed pending the conclusion of jurisdictional discovery in Fairholme. Once the parties in Fairholme file a post-discovery joint status report, the court will issue an order in this case regarding further proceedings. <i>See</i> Doc. 25.</p>	<p>—</p>

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<p><i>In re Fannie Mae/Freddie Mac Senior Preferred Stock Purchase Agreement Class Action Litigations</i>, Misc. Action No. 13-mc-1288 (D.C. filed Nov. 18, 2013) (Lamberth, J.)</p>	<p>David R. Kaplan Blair A. Nicholas John Rizio-Hamilton David L. Wales BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP</p> <p>Reuben A. Guttman Geoffrey C. Jarvis Michael J. Barry GRANT & EISENHOFER</p> <p>Hamish P.M. Hume Jonathan M. Shaw BOIES, SCHILLER & FLEXNER LLP</p> <p>Lee D. Rudy Eric L. Zagar Matthew A. Goldstein KESSLER TOPAZ MELTZER & CHECK, LLP</p> <p>Jeremy A. Lieberman Leslie F. Portnoy Partick V. Dahlstrom POMERANTZ GROSSMAN HUFFORD DAHLSTRON & GROSS LLP</p>	<p>Consolidated Amended Class Action and Derivative Complaint (Doc. 4) filed Dec. 3, 2013:</p> <p>Breach of contract</p> <p>Breach of implied covenant of good faith and fair dealing</p> <p>Breach of fiduciary duty</p> <p>No just compensation under the Fifth Amendment</p> <p>Derivative Complaint (Doc. 39) filed July 30, 2014:</p> <p>Breach of fiduciary duty against Treasury and FHFA</p>	<p>Class action status and certification</p> <p>Declaring that this action is a proper derivative action and that pre-suit demand is excused</p> <p>Declaring that the Third Amendment [is both] entirely [and] intrinsically [un]fair to Fannie Mae, did not further any valid business purpose of Fannie Mae, did not reflect a good faith business judgment as to what was in the best interests of Fannie Mae or its shareholders, and constituted waste and a gross abuse of discretion</p> <p>* * *</p> <p>Awarding compensatory damages and disgorgement in favor of Fannie Mae and just compensation for property taken</p> <p>* * *</p> <p>Declaring that, through the Third Amendment, Defendants FHFA and Treasury breached their respective fiduciary duties to Freddie Mac</p>	<p>Treasury's Motion to Dismiss Filed (Doc. 19) and Fannie Mae & FHFA's Motion to Dismiss Filed (Doc. 20)</p> <p>Plaintiffs' Objection to Motions to Dismiss (Doc. 33)</p> <p>Fannie Mae & FHFA's Reply (Doc. 36)</p> <p>Treasury's Reply (Doc. 38)</p> <p>Case Dismissed (Doc. 47, Sept. 30, 2014)</p>	<p>On appeal to the U.S. Court of Appeals for the District of Columbia Circuit (No. 14-5243)</p> <p>Summary of Issues on Appeal available at http://is.gd/2qaxfK</p> <p>Parties awaiting direction from the D.C. Circuit about how many words their appellate briefs may contain.</p>	

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<p><i>Liao v. Lew, et al.</i>, Case No. 13-cv-01094 (D.C. filed July 16, 2013)</p>	<p>Michael G. McClellan L. Kendall Satterfield Elizabeth R. Makris FINKELSTEIN THOMPSON LLP Lionel Z. Glancy Michael M. Goldberg Ex Kano S. Sams II GLANCY BINKOW & GOLDBERG LLP</p>	<p>Illegal taking and/or extraction in violation of the U.S. Constitution</p> <p>Violation of the Administrative Procedures Act: the Treasury's conduct exceeds its statutory authority under HERA</p> <p>Violation of the Administrative Procedures Act: the Treasury's conduct was arbitrary and capricious</p> <p>Violation of the Administrative Procedures Act: the FHFA's conduct exceeds its statutory authority under HERA</p> <p>Violation of the Administrative Procedures Act: the FHFA's conduct was arbitrary and capricious</p>	<p>Determining that this is a proper class action and certifying Plaintiff as a Class Representative. . . .</p> <p>Finding that Defendants have taken and/or illegally exacted the private property of Plaintiff and the Class in violation of the Due Process and Takings Clauses of the United States Constitution</p> <p>Declaring that the Third Amendment, and its adoption, [violate] HERA . . . ; and that the Treasury and the FHFA acted arbitrarily and capriciously . . . by executing the Third Amendment</p> <p>Vacating and setting aside the Third Amendment including its provisions that sweep the full amount of the Companies' net worth to the Treasury, that prevent redemption of the Government Preferred Stock, and that accelerate the Companies' dissolution</p> <p>Enjoining the Treasury [and the FHFA] . . . from implementing, applying, or taking any action whatsoever pursuant to the Third Amendment</p>	<p>—</p>	<p>Consolidated into Misc. Action No. 13-mc-1288 (D.C.)</p>	<p>—</p>

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<p><i>Marneu Holdings Co., et al. v. Federal Housing Finance Agency, et al.</i>, Case No. 13-cv-01421 (D.C. filed Sept. 18, 2013)</p>	<p>Geoffrey C. Jarvis GRANT & EISENHOFER P.A. Jeremy A. Lieberman Lesley F. Portnoy Patrick V. Dahlstrom POMERANTZ GROSSMAN HUFFORD DAHLSTROM & GROSS LLP</p>	<p>Breach of Contract Breach of the implied covenant of good faith and fair dealing Violation of the APA -- Treasury's and FHFA's conduct exceeds its statutory authority Violation of the APA -- Treasury's and FHFA's conduct was arbitrary and capricious Breach of fiduciary duty</p>	<p>Class certification [D]amages [for] defendants' breaches of contract and breaches of the implied covenant of good faith and fair dealing [R]escission of the Third Amendment Declaring that the Third Amendment was [un]fair to Fannie Mae and Freddie Mac, [and ha]d no[] valid business purpose . . . , and constituted waste and a gross abuse of discretion. Declaring that the Third Amendment [violates] HERA; and that Treasury and FHFA acted arbitrarily and capriciously . . . by executing the Third Amendment; Declaring that . . . the FHFA and the Treasury breached their . . . fiduciary duties to Fannie . . . and Freddie . . . Compensatory damages and disgorgement in favor of Fannie Mae and Freddie Mac against . . . FHFA and the Treasury, jointly and severally . . . in an amount to be proven at trial, including interest thereon</p>	<p>—</p>	<p>Consolidated into Misc. Action No. 13-mc-1288 (D.C.)</p>	<p>—</p>

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<p><i>Perry Capital LLC v. [Treasury Sec'y] Jacob J. Lew, [Acting FHFA Director] Edward DeMarco, The Department of the Treasury, and The Federal Housing Finance Agency, Case No. 13-cv-1025 (D.C. filed July 7, 2013) (Lamberth, J.)</i></p>	<p>Theodore B. Olson Douglas R. Cox Matthew D. McGill Mikesh Jindal Derek S. Lyons Janet Weiss GIBSON, DUNN & CRUTCHER LLP</p>	<p>Violations of the Administrative Procedure Act: (i) Treasury's conduct exceeds its statutory authority under HERA, (ii) Treasury's conduct was arbitrary and capricious, (iii) the FHFA's conduct exceeds its statutory authority under HERA, and (iv) the FHFA's conduct was arbitrary and capricious</p>	<p>Declaring that the Third Amendment [is illegal]</p> <p>Vacating and setting aside the Third Amendment, including [the] sweep, . . . that prevent redemption of the Government Preferred Stock, and that accelerate the Companies' dissolution</p> <p>Enjoining Treasury . . . from implementing . . . the Third Amendment</p> <p>Enjoining the FHFA . . . from implementing . . . the Third Amendment</p>	<p>Treasury's Motion to Dismiss Filed (Doc. 31) and FHFA and Fannie's Motion to Dismiss Filed (Doc. 32); Cross-Motion for Summary Judgment on Administrative Procedure Act Claims (Doc. 37); Plaintiffs' Opposition to Motions to Dismiss (Doc. 38); Treasury's Omnibus Reply (Doc. 40) and FHFA and Fannie's Omnibus Replies (Doc. 42, 43 and 44); Perry's Reply (Doc. 47)</p> <p>Case Dismissed (Doc. 51, Sept. 30, 2014)</p>	<p>On appeal to the U.S. Court of Appeals for the District of Columbia Circuit (No. 14-5243)</p> <p>Summary of Issues on Appeal available at http://is.gd/2qaxfK</p> <p>Parties awaiting direction from the D.C. Circuit about how many words their appellate briefs may contain.</p>	<p>—</p>

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<i>Rafter, et al. v. USA</i> , Case No. 14-740 (Ct. Fed. Cl. filed Aug. 14, 2014 (Sweeney, J.))	Lawrence D. Rosenberg Thomas F. Cullen James E. Gauch Paul V. Lettow JONES DAY	Just compensation under the Fifth Amendment for the taking of private property for public use Derivative claim for breach of implied contract	Awarding Plaintiffs just compensation under the Fifth Amendment for the Government's taking of their property Awarding to the Companies damages, rescission, disgorgement, equitable restitution or appropriate relief for the United States' breach of contract	—	Answer due within sixty days after the close of jurisdictional discovery in <i>Fairholme v. United States</i> (Doc. 9)	—

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<p><i>Rafter, et al. v. The Department of the Treasury, et al.</i>, Case No. 14-cv-01404 (D.C. filed Aug. 15, 2014) ([Lamberth], J.)</p>	<p>Thomas F. Cullen Michael A. Carvin James E. Gauch Paul V. Lettow JONES DAY</p>	<p>Violation of the Administrative Procedure Act: Exceeding Statutory Authority and Arbitrary and Capricious Conduct</p> <p>Direct Claim for Breach of Fiduciary Duty under Delaware and Virginia Law</p> <p>Direct Claim for Breach of Fiduciary Duty under Delaware and Virginia Law: Conversion of the Government's Senior Preferred Stock to Common Stock; Creation of Improper Securities</p> <p>Claim under Delaware and Virginia Law for Improper Denial of Demand to Permit Inspection of Books and Records</p>	<p>Declaring that FHFA as conservator had and has a duty under HERA to put the Companies in a sound and solvent condition, carry on their business, and preserve and conserve their assets and property</p> <p>Declaring that the Net Worth Sweep Agreements and the Net Worth Sweeps [violate] HERA, and that Defendants acted arbitrarily and capriciously. . . .</p> <p>Vacating the Net Worth Sweep Agreements and rescinding the Net Worth Sweeps</p> <p>Enjoining Defendants . . . from . . . taking any action [under] the Net Worth Sweep Agreements. . . .</p> <p>Enjoining Treasury . . . from exercising control over FHFA in its capacity as conservator of Fannie Mae and Freddie Mac, and declaring null and void any provisions of the Stock Purchase Agreements purporting to authorize Treasury to do so</p> <p>Declaring that Plaintiffs have the right to inspect the Companies' stockholder lists</p> <p>Ordering Defendants to make available to Plaintiffs the Companies' stockholder lists</p>	<p>—</p>	<p>Complaint voluntarily withdrawn without prejudice (Doc. 16).</p>	<p>—</p>

Title ¹	Plaintiffs' Lawyers	Claims for Relief	Relief Requested ²	Pre-Trial Summary Judgment Proceedings	Current Status	Next Calendar Event
<i>Reid v. USA</i> , Case No. 14-152 (Ct. Fed. Cl. filed Feb. 26, 2014) (Sweeney, J.)	Robert C. Schubert Noah M. Schubert Miranda P. Kolbe SCHUBERT JONCKHEER & KOLBE LLP Edward F. Haber SHAPIRO HABER & URMY LLP	Derivatively on behalf of FNMA: Unlawful taking without just compensation under the Fifth Amendment to the U.S. Constitution	Derivatively on behalf of FNMA: Finding that the United States has unlawfully taken the private property of Fannie Mae for public use without just compensation in violation of the Takings Clause of the Fifth Amendment to the U.S. Constitution Determining and awarding Fannie Mae just compensation for the Government's taking of its property	—	Answer due within sixty days after the close of jurisdictional discovery in <i>Fairholme v. United States</i> (Doc. 13)	—
<i>Samuels, et al. v. Federal Housing Finance Agency, et al.</i> , Case No. 13-cv-22399 (S.D. Fla. filed July 9, 2013) (Cooke, J.)	Charles Elsesser, Jr. Meena Jagannath Betsy Havens COMMUNITY JUSTICE PROJECT FLORIDA LEGAL SERVICES, INC.	Violation of the Administrative Procedures Act [Amended Complaint Filed (Doc. 30)]	Vacate and set aside as null and void FHFA's decision to indefinitely suspend payments by Fannie Mae and Freddie Mac to the Housing Trust Fund. Declare that Federal Defendants have violated the Administrative Procedure Act by acting in an arbitrary and capricious manner. . . . Order the FHFA to instruct Fannie Mae and Freddie Mac that Federal Defendants' challenged decisions to withhold payments from the Housing Trust Fund were null and void and that Fannie Mae and Freddie Mac must proceed as if those decisions had never taken place.	Motion to Dismiss Filed (Doc. 41) Response Filed (Doc. 52) Reply Filed (Doc. 61)	Case Dismissed (Doc. 85, Sept. 29, 2014)	—

Title ¹	Plaintiffs' Lawyers	Claims for Relief	Relief Requested ²	Pre-Trial Summary Judgment Proceedings	Current Status	Next Calendar Event
<i>Shipmon v. USA</i> , Case No. 13-672 (Ct. Fed. Cl. filed Sept. 12, 2013)	Noah M. Schubert Robert C. Schubert Miranda P. Kolbe SCHUBERT JONCKHEER & KOLBE LLP Edward F. Haber SHAPIRO HABER & URMY LLP	Derivatively on behalf of FNMA: Unlawful taking without just compensation under the Fifth Amendment to the U.S. Constitution	Derivatively on behalf of FNMA: Finding that the United States has unlawfully taken the private property of Fannie Mae for public use without just compensation in violation of the Takings Clause of the Fifth Amendment to the U.S. Constitution Determining and awarding Fannie Mae just compensation for the Government's taking of its property	—	Consolidated with <i>Fisher v. United States</i> , Case No. 13-608 (Ct. Fed. Cl.)	—
<i>Washington Federal, et al. v. USA</i> , Case No. 13-385 (Ct. Fed. Cl. filed June 10, 2013) (Sweeney, J.)	Steve W. Berman HAGENS BERMAN SOBOL SHAPIRO LLP	Illegal taking and/or exaction without just compensation in violation of the U.S. Constitution	Class action status and certification Finding that the Defendant has taken and/or illegally exacted Plaintiffs' and the Classes' private property in violation of the Due Process and Takings Clauses of the Constitution Determining and awarding Plaintiffs and the Classes damages suffered by them by virtue of the Defendant's taking and/or illegal exaction in the amount of \$41 billion, or some other amount to be determined at trial	Government's Motion to Dismiss Filed (Doc. 31)	Briefing regarding the motion to dismiss is stayed pending the conclusion of jurisdictional discovery in <i>Fairholme</i> . Once the parties in <i>Fairholme</i> file a postdiscovery joint status report, the court will issue an order in this case regarding further proceedings. See Doc. 44.	—