

IN THE SUPREME COURT OF THE UNITED STATES

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No. 19-422

PATRICK J. COLLINS, ET AL., PETITIONERS

v.

STEVEN T. MNUCHIN, SECRETARY OF THE TREASURY, ET AL.

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No. 19-563

STEVEN T. MNUCHIN, SECRETARY OF THE TREASURY, ET AL.,  
PETITIONERS

v.

PATRICK J. COLLINS, ET AL.

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ON WRITS OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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MOTION OF THE FEDERAL PARTIES  
FOR DIVIDED ARGUMENT AND  
ENLARGEMENT OF TIME FOR ARGUMENT

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Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the federal parties, respectfully moves that the time allotted for oral argument be enlarged and allocated as

set forth below. The federal parties have consulted with both Plaintiffs and the Court-appointed amicus. Plaintiffs consent to the proposed structure for oral argument set out below. The Court-appointed amicus does not object to this motion, though he ultimately takes no position on it and defers to the Court.

1. These cases present challenges by shareholders of Fannie Mae and Freddie Mac to the Third Amendment to preferred stock purchase agreements between the Department of the Treasury and the Federal Housing Finance Agency (FHFA). The petition for a writ of certiorari in No. 19-563 presents statutory questions concerning whether the succession clause and anti-injunction clause of the Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654, bar Plaintiffs' challenges to the Third Amendment. The petition for a writ of certiorari in No. 19-422 presents constitutional and remedial questions concerning whether the Recovery Act's provision granting removal protection to the Director of FHFA violates the separation of powers, whether that provision is severable from the rest of the statute, and whether the Third Amendment should be invalidated as a result of that asserted constitutional defect. Although the federal parties and Plaintiffs disagree on almost all of the questions presented, they agree that the FHFA Director's removal protection violates the Constitution, and so this Court has appointed an amicus curiae to defend the position that the structure of FHFA does not violate the separation of powers.

2. The federal parties and Plaintiffs respectfully request that the Court enlarge the time for oral argument to a total of 100 minutes and allocate the time as follows: 40 minutes for the federal parties, 15 minutes for the Court-appointed amicus, and 45 minutes for Plaintiffs, with the federal parties opening the argument (as they did the briefing) and presenting rebuttal. That modest extension for the parties would enable them more fully to address the multiple distinct, complex, and important issues presented by these cases -- which led the en banc court of appeals to issue eight separate opinions spanning almost 150 pages, and which will have been addressed in five briefs totaling nearly 65,000 words. The federal parties and Plaintiffs propose that the Court-appointed amicus be allocated 15 minutes because the constitutional question he addresses is just one of several in the case. Finally, because one of amicus's subsidiary arguments is also pressed by the federal parties in connection with the remedial question, the federal parties have proposed a slightly smaller extension for their time than for the Plaintiffs'.

3. The Court-appointed amicus curiae does not object to this allocation of time, though he ultimately takes no position on it and defers to the Court as to any allocation it deems helpful.

Respectfully submitted.

JEFFREY B. WALL  
Acting Solicitor General  
Counsel of Record

OCTOBER 2020