

ORAL ARGUMENT HELD APRIL 12, 2016**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

PHH CORPORATION, PHH MORTGAGE
CORPORATION, PHH HOME LOANS, LLC,
ATRIUM INSURANCE CORPORATION, and
ATRIUM REINSURANCE CORPORATION,

Petitioners,

v.

CONSUMER FINANCIAL PROTECTION
BUREAU,

Respondent.

Case No. 15-1177

**PETITIONERS' MOTION FOR LEAVE
TO FILE A SUPPLEMENTAL RESPONSE TO THE
PETITION FOR REHEARING EN BANC**

Petitioners (collectively, "PHH") respectfully move for leave to file a supplemental response to address new arguments raised in the United States' invitation brief supporting rehearing en banc. Counsel for PHH contacted counsel for the Consumer Financial Protection Bureau ("CFPB") and the United States to seek consent for the relief requested in this motion, but the CFPB and the United States did not immediately express a position on this motion or state whether they would file an opposition or response. PHH proceeded to file this motion promptly

as a precaution in light of the impending holiday, in order to provide the Court with sufficient time to consider PHH's request to file a supplemental response.

On October 11, 2016, a panel of this Court issued a decision vacating an order of the CFPB and remanding the case to the agency for further proceedings. On November 18, 2016, the CFPB filed a timely petition for rehearing en banc. Five days later, on November 23, the Court entered an order calling for PHH to file a response to the CFPB's petition by December 8, 2016, and inviting the Solicitor General to file a response expressing the views of the United States. On December 1, 2016, the Court granted a 14-day extension to both the United States and PHH. The United States and PHH filed their respective responses on December 22, 2016.

In its invitation brief, the United States argues that this Court should grant the CFPB's petition for rehearing en banc on several grounds that were not pressed in the CFPB's petition, and with which PHH strongly disagrees. The United States Government has now had two rounds of briefing and taken two separate positions in this Court in support of rehearing. PHH has not yet been heard on the United States' newly expressed views. In these extraordinary circumstances, PHH respectfully requests an opportunity to respond to the views of the United States in a 15-page supplemental response.*

* Although this Court's rules now specify type-volume limitations for petitions and responsive documents filed after November 30, 2016, PHH requests a 15-page limit

Granting this motion would allow PHH to address fully the Government's 30 total pages of internally inconsistent arguments supporting rehearing en banc. PHH therefore respectfully requests leave to file, within 14 days of the Court's order on this motion, a 15-page supplemental response to the United States' invitation brief.

CONCLUSION

For the foregoing reasons, PHH respectfully requests that the Court grant PHH leave to file a 15-page supplemental response within 14 days of the Court's order on this motion.

Dated: December 22, 2016

Respectfully submitted,

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for consistency with the CFPB's petition and the responses filed pursuant to this Court's orders dated November 23 and December 1.

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,
TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS**

1. This document complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A), because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 462 words, as determined by the word-count function of Microsoft Word 2016.

2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6), because this document has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Times New Roman font.

Dated: December 22, 2016

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CERTIFICATE OF SERVICE

I hereby certify that, on December 22, 2016, an electronic copy of the foregoing motion was filed with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the Court's CM/ECF system and was served electronically by the Notice of Docket Activity upon all counsel of record.

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