

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' REPLY IN SUPPORT OF THEIR MOTION
FOR LEAVE TO FILE A SUPPLEMENTAL RESPONSE
TO THE PETITION FOR REHEARING EN BANC**

The Consumer Financial Protection Bureau (“CFPB”) opposes PHH’s motion for leave to file a supplemental response to the United States’ invitation brief supporting rehearing en banc, but the CFPB’s opposition rests on a single sentence of reasoning, which is completely nonresponsive to PHH’s basis for seeking a supplemental response. Under this Court’s rules, a rehearing petition ordinarily will not be granted without giving the party opposing rehearing a chance to respond and explain why rehearing is not warranted. D.C. Cir. R. 35(d). The federal government has now filed two separate, and quite different, arguments in support of rehearing,

totaling 30 pages. *Compare, e.g.*, CFPB Pet. 11 (arguing that the panel’s decision “conflicts with both *Humphrey’s Executor* and *Morrison*”), *with* U.S. Br. 2–3 (arguing that the CFPB’s structure “raises a significant constitutional question that the Supreme Court has not yet squarely confronted,” and that the panel erred in considering the “threat to individual liberty” posed by the CFPB’s structure). PHH has not had the chance to respond to the United States’ 15-page brief. The CFPB does not dispute or even address that point. Instead it offers a non sequitur: that *if* rehearing is granted, PHH will have a chance to brief *the merits*. That is always true—and has nothing to do with whether PHH has had a fair opportunity to respond to the arguments *for rehearing*. It has not.

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 28, 2016

Respectfully submitted,

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**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)(C), because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 281 words, as determined by the word-count function of Microsoft Word 2016.

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Dated: December 28, 2016

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CERTIFICATE OF SERVICE

I hereby certify that, on December 28, 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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