

MOTION FILINGS CONTINUE IN DISPARATE IMPACT LITIGATION

The Department of Housing and Urban Development filed its **latest motion** Aug. 30 in NAMIC's challenge to the disparate impact rule. The department's motion contained no new arguments, and NAMIC will respond in late September.

HUD will have the opportunity to file one more motion by Oct. 29, after which Judge Richard Leon, who is hearing the case in the federal District Court for the District of Columbia, may call for oral arguments or issue a ruling. The judge is then under no time constraints to issue his decision.

In a related development, the District Court for the Northern District of Texas Dallas Division **ruled** last week that plaintiff The Inclusive Communities Project, Inc. has not proved a prima facie case and may not proceed to the next sequential step of its disparate impact claim under the Fair Housing Act. This case was remanded by the Supreme Court and the Fifth Circuit when the high court ruled that a disparate impact standard exists within the Federal Fair Housing Act but added constraints to the bringing of such claims. The district court's ruling supports the exact standards NAMIC is seeking from HUD. While this is only a single district court opinion, it does support the position that the United States Supreme Court decision has created civil procedure standards for a prima facie disparate impact case that will require a level of substantial and specific requirements that will seriously impede frivolous and unsupported claims.

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