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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

19 WELLS FARGO BANK, NATIONAL
 ASSOCIATION, as Trustee, *et al.*
 20
 21 Plaintiffs,
 22 vs.
 23 CITY OF RICHMOND, CALIFORNIA, a
 municipality; and MORTGAGE
 RESOLUTION PARTNERS LLC,
 24
 25 Defendants.

Case No. CV-13-3663-CRB

MOTION OF SECURITIES INDUSTRY AND FINANCIAL MARKETS ASSOCIATION AND CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA FOR LEAVE TO PARTICIPATE AS AMICI CURIAE, AND TO FILE MEMORANDUM, AS AMICI CURIAE, IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION; [PROPOSED] AMICI CURIAE MEMORANDUM IN SUPPORT; [PROPOSED] ORDER

Date: September 13, 2013
 Time: 10:00 a.m.
 Judge: Hon. Charles R. Breyer

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD**

2 **PLEASE TAKE NOTICE THAT** the Securities Industry and Financial Markets
3 Association (“SIFMA”) and the Chamber of Commerce of the United States of America (the
4 “Chamber”) respectfully request leave to participate in this action as *amici curiae*, and to file a
5 Memorandum in support of Plaintiffs’ motion for a preliminary injunction. *Amici* request leave to
6 help explain the substantial ramifications of the eminent domain plan at issue for the financial and
7 housing markets and also because *amici* have communicated extensively with City of Richmond
8 officials relating to the challenged plan and have Richmond-specific mortgage data relevant to this
9 case. *Amici* thus request that the Court consider its Memorandum and exhibits thereto so as to
10 assist the Court on the substantive merits and as to why the dispute is ripe.

11 **I. STANDARD FOR MOTION FOR LEAVE TO FILE MEMORANDUM OF AMICI**
12 **CURIAE**

13 District courts have discretion to permit third parties to participate in an action as *amici*
14 *curiae*. *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D.
15 Cal. 2005). Such discretion is generally exercised liberally, as “[t]here are no strict prerequisites
16 that must be established prior to qualifying for *amicus* status.” *In re Roxford Foods Litig.*, 790 F.
17 Supp. 987, 997 (E.D. Cal. 1991) (quoting *United States v. Louisiana*, 751 F. Supp. 608, 620 (E.D.
18 La. 1990)). Rather, “an individual seeking to appear as *amicus* must merely make a showing that
19 his participation is useful to or otherwise desirable to the court.” *Id.* District courts frequently
20 accept *amicus* briefs from non-parties where the legal issues in a case “have potential
21 ramifications beyond the parties directly involved or if the *amicus* has unique information or
22 perspective that can help the court beyond the help that the lawyers for the parties are able to
23 provide.” *NGV Parties*, 355 F. Supp. 2d at 1067 (quotation omitted).

24 **II. STATEMENT OF IDENTITY AND INTEREST OF AMICI CURIAE**

25 SIFMA brings together the shared interests of hundreds of securities firms, banks, and
26 asset managers. SIFMA has become the voice of the financial industry that is uniquely suited to
27 provide trusted and expert information to policymakers, regulators, media, industry participants
28 and the general public about the financial industry. SIFMA’s member firms are engaged in

1 communities across the country to raise capital for businesses, promote job creation, and lead
2 economic growth. SIFMA’s mission is to support a strong financial industry, investor
3 opportunity, capital formation, and economic growth, while building trust and confidence in
4 financial markets. In addition, SIFMA keeps a close watch on trends in financial markets, and
5 regularly publishes and maintains robust analyses of the strengths and weaknesses of those
6 markets, including the market for private-label residential mortgage-backed securities—the
7 financial instrument directly at issue in this case. Moreover, SIFMA has been monitoring, and has
8 been a vocal opponent of, MRP’s eminent domain plan since it gained attention over a year ago,
9 and as explained below, SIFMA has had extensive contact with the City of Richmond and has
10 developed mortgage data specifically on the issue.

11 The Chamber is the world’s largest business federation. It represents 300,000 direct
12 members and indirectly represents the interests of three million companies and professional
13 organizations of every size, in every industry sector, and from every region of the country.
14 Chamber members transact business throughout the United States and a large number of countries
15 around the world. An important function of the Chamber is to represent the interests of its
16 members in matters before Congress, the Executive Branch, and the courts.¹ The Chamber and its
17 members thus have a significant interest in this case, given the widespread ramifications that the
18 eminent domain plan will have for the financial and housing markets, and the national economy as
19 a whole. Moreover, the Chamber believes that Richmond’s and MRP’s plan, if allowed to
20 proceed, would create a dangerous precedent for municipalities’ ability to abrogate private
21 contractual rights and interfere with interstate markets.

22 **III. AMICI CURIAE’S EXPERTISE WILL BENEFIT THE COURT**

23 Based on their significant expertise in the functioning of American business and financial
24 markets and their direct involvement with Richmond in its decision to pursue MRP’s seizure
25

26 ¹ *Amici* are independent of the parties in this case. No counsel for a party authored their *amici curiae*
27 Memorandum in whole or in part, and no such counsel or party made a monetary contribution
28 intended to fund the preparation or submission of the Memorandum.

1 program, *amici* believe that their participation and perspective will aid the Court in evaluating
2 Plaintiffs' Preliminary Injunction Motion on both the merits and issue of ripeness.

3 Issues raised by Plaintiffs' motion include, among other things, (A) the extent to which
4 Defendants' seizure program is purportedly necessary to avoid foreclosure, remedy blight, and
5 correct alleged problems in the way that private-label securities ("PLS") trusts were set up; and
6 (B) the impact of Defendants' plan on the functioning of the financial and housing markets. Based
7 on *amici*'s extensive knowledge of these national markets, and specific information relating to
8 PLS loans in Richmond and the availability and success of alternative loan modification programs,
9 *amici* have "unique information [and] perspective that can help the court" and their perspective is
10 important to understand the severe "ramifications beyond the parties directly involved" in case.
11 *NGV Parties*, 355 F. Supp. 2d at 1067 (quotation omitted). SIFMA's first-hand interactions with
12 the City as it has pursued MRP's plan also go to, and will assist the Court in understanding, why
13 this case is ripe for adjudication, and why prompt adjudication is important to avoiding uncertainty
14 in the markets and preventing additional municipalities from following Richmond.

15 IV. CONCLUSION

16 Accordingly, SIFMA and the Chamber respectfully request that the Court grant their
17 motion for leave to participate as *amici curiae*, and to file the accompanying Memorandum in
18 support of Plaintiffs' motion for a preliminary injunction.²

19 Dated: September 3, 2013

Respectfully submitted,

SIDLEY AUSTIN LLP

21 By: /s/ David R. Carpenter
22 David R. Carpenter

23
24 ² Plaintiffs consented to the participation of SIFMA and the Chamber as *amici curiae* and to their
25 filing of a Memorandum regarding Plaintiffs' motion for a preliminary injunction, provided that the
26 filing does not cause a delay in the hearing on that motion. On August 27, 2013, counsel for *amici*
27 asked counsel for Defendants to consent to the filing of three *amicus* briefs by (1) SIFMA and the
28 Chamber, as well as (2) the Structured Finance Industry Group, Inc, and (3) the California Bankers
Association, American Bankers Association, California Mortgage Bankers Association, and
Mortgage Brokers Association. Defendants declined to consent to *amici*'s participation.

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Attorneys for *Amici Curiae*

SECURITIES INDUSTRY AND FINANCIAL
MARKETS ASSOCIATION AND
CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA

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