

1 John P. Relman*
 1 Glenn Schlactus (SBN 208414)
 2 Jamie L. Crook (SBN 245757)
 2 RELMAN, DANE & COLFAX PLLC
 3 1225 19th St. NW, Suite 600
 3 Washington D.C. 20036
 4 Telephone: (202) 728-1888
 4 Facsimile: (202) 728-0848
 5 jrelman@relmanlaw.com
 5 gschlactus@relmanlaw.com
 6 jcrook@relmanlaw.com
 6 * Subject to admission *pro hac vice*

7 Marcia Rosen (SBN 67332)
 8 Kent Qian (SBN 264944)
 8 NATIONAL HOUSING LAW PROJECT
 9 703 Market Street, Suite 2000
 9 San Francisco, CA 94103
 10 Telephone: (415) 546-7000
 10 Facsimile: (415) 546-7007
 11 mrosen@nhlp.org
 11 kqian@nhlp.org

12 *Attorneys for Amici Curiae National Housing Law Project,*
 13 *Housing and Economic Rights Advocates, Bay Area Legal*
 14 *Aid, California Reinvestment Coalition, and Law Foundation*
 14 *of Silicon Valley*

15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**
 17 **SAN FRANCISCO DIVISION**

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

Case No. CV-13-3663-CRB
**MOTION OF NATIONAL HOUSING
 LAW PROJECT, HOUSING AND
 ECONOMIC RIGHTS ADVOCATES,
 BAY AREA LEGAL AID,
 CALIFORNIA REINVESTMENT
 COALITION, AND LAW
 FOUNDATION OF SILICON VALLEY
 FOR LEAVE TO PARTICIPATE AS
 AMICI CURIAE, AND TO FILE
 MEMORANDUM IN SUPPORT OF
 DEFENDANTS’ OPPOSITION TO
 PLAINTIFFS’ MOTION FOR
 PRELIMINARY INJUNCTION**

Date: September 12, 2013
 Time: 10:00 a.m.
 Judge: Honorable Charles R. Breyer
 Courtroom 6, 17th Floor

28

1 PLEASE TAKE NOTICE that the National Housing Law Project, Housing and Economic
2 Rights Advocates, Bay Area Legal Aid, the California Reinvestment Coalition, and the Law
3 Foundation of Silicon Valley respectfully request leave to participate as *amici curiae* in this
4 action and to file the accompanying Memorandum in Support of Defendants’ Opposition to
5 Plaintiffs’ Motion for Preliminary Injunction.

6 **I. STATEMENT OF INTEREST OF AMICI CURIAE**

7 ***Amicus National Housing Law Project (“NHLP”)***: Established in 1968, the NHLP is a
8 law and advocacy center dedicated to advancing housing justice for the poor by using the power
9 of the law to increase and preserve the supply of decent affordable housing, to improve existing
10 housing conditions, to expand and enforce low-income tenants’ and homeowners’ rights, and to
11 increase housing access and security for people and communities subject to housing
12 discrimination. The NHLP was recently selected by the Office of Attorney General Kamala
13 Harris to lead a legal collaborative to help implement the new Homeowner Bill of Rights in
14 California.

15 Over the past five years, the NHLP has been engaged in advocacy related to the impact of
16 the foreclosure crisis on low income renters, homeowners, and communities. Through public
17 policy advocacy, legal assistance, research, training and publications, the NHLP has worked to
18 educate advocates, homeowners, tenants, and others about protections and remedies that are
19 designed to prevent and redress blight in communities hard hit by foreclosure. The NHLP also
20 provides technical assistance and litigation support to legal services programs and other
21 advocates. NHLP’s clients include large numbers of low-income borrowers who have faced or
22 are facing foreclosure during the current economic downturn.

23 ***Amicus Housing and Economic Rights Advocates (“HERA”)***: HERA is a California
24 statewide, not-for-profit legal services and advocacy organization. HERA’s mission is to ensure
25 that all people are protected from discrimination and economic abuses, particularly in the realm
26 of housing. In recent years, its work has focused on preventing foreclosure. HERA serves a
27 unique role as the only California statewide provider of free legal services focused on foreclosure
28 prevention, predatory lending, wrongful debt collection, credit reporting and related problems.

1 HERA serves over 2,000 California clients per year, providing free legal advice, advocacy, and
2 direct representation.

3 **Amicus Bay Area Legal Aid (“BayLegal”)**: BayLegal is the largest provider of free civil
4 legal services in the San Francisco Bay Area, serving Alameda, Contra Costa, Marin, Napa, San
5 Mateo, San Francisco and Santa Clara counties. BayLegal’s mission is to provide high quality
6 legal assistance to low-income people, regardless of their location, language or disability.
7 BayLegal provides assistance in the areas of housing, public benefits, health access, consumer
8 law and family law/domestic violence. BayLegal regularly assists low-income homeowners
9 facing foreclosure, including homeowners in Richmond. BayLegal also works to protect the fair
10 housing rights of low-income clients throughout the Bay Area. BayLegal provides services to
11 many persons of color who have been disproportionately impacted by predatory
12 mortgage lending practices. BayLegal thus has a substantial interest in ensuring compliance with
13 fair housing and fair lending laws to ensure its clients’ equal opportunity to access and maintain
14 housing.

15 **Amicus California Reinvestment Coalition (“CRC”)**: The CRC advocates for the right
16 of low-income communities and communities of color to have fair and equal access to banking
17 and other financial services. The CRC has a membership of over 300 nonprofit organizations and
18 public agencies across the State of California. For the past decade, the CRC has advocated
19 against predatory and abusive financial practices, such as predatory mortgage lending, and has
20 worked to promote policies and practices that stabilize California families and communities.

21 **Amicus Law Foundation of Silicon Valley (“Law Foundation”)**: The Law Foundation
22 is a non-profit agency in San Jose, California that provides free legal services to Santa Clara
23 County residents in need. The Law Foundation’s mission is to advance the rights of under-
24 represented individuals and families in our diverse community through legal services, strategic
25 advocacy, and educational outreach. Two Law Foundation programs—Fair Housing Law Project
26 and Public Interest Law Firm—regularly advocate and litigate fair lending cases on behalf of
27 homeowners in the region. The client base for these programs is heavily Latino, and many of
28 these clients have limited proficiency in English. A significant percentage of the Law

1 Foundation’s homeowner clients are seniors and people with disabilities. All of these groups
2 were disproportionately harmed by predatory lending practices and are being disproportionately
3 harmed by foreclosures, as many of their homes remain underwater despite a rebound in some
4 areas.

5 **II. THE UNIQUE PERSPECTIVE AND EXPERTISE OF AMICI NHLP ET AL. WILL**
6 **ASSIST THE COURT IN CONSIDERING THE FAIR LENDING AND**
7 **NATIONAL HOUSING POLICY IMPLICATIONS OF THESE PROCEEDINGS.**

8 This Court has broad discretion to allow the participation of parties seeking to appear as
9 *amici*, and “[t]here are no strict prerequisites that must be established prior to qualifying for
10 amicus status”. *In re Roxford Foods Litig.*, 790 F. Supp. 987, 987 (E.D. Cal. 1991) (quoting
11 *United States v. Louisiana*, 751 F. Supp. 608, 620 (E.D. La. 1990). Leave should be granted so
12 long as the proposed *amicus* “make[s] a showing that his participation is useful to or otherwise
13 desirable to the court.” *Id.* “District courts frequently welcome amicus briefs from non-parties
14 concerning legal issues that have potential ramifications beyond the parties directly involved or if
15 the amicus has ‘unique information or perspective that can help the court beyond the help that the
16 lawyers for the parties are able to provide.’” *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*,
17 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (quoting *Cobell v. Norton*, 246 F. Supp. 2d 59, 62
18 (D.D.C. 2003)).

19 *Amici NHLP et al.* have a vital interest in defending the ability of local jurisdictions to
20 take steps to address the devastating consequences of the foreclosure crisis and crippling rates of
21 underwater mortgages in communities like the City of Richmond. Moreover, ensuring
22 compliance with state and federal fair housing laws is fundamental to *Amici*’s organizational
23 missions. *Amici*’s perspective, formed through their direct work with and on behalf of local and
24 regional communities struggling to recover from the foreclosure crisis will aid the Court by
25 demonstrating why, from a fair lending and national housing policy perspective, the “public
26 interest” prong of the preliminary injunction standard compels denial of the injunction sought by
27 Plaintiffs.

28 The undersigned counsel for *Amici* have conferred with Plaintiffs and Defendants
regarding this Motion for Leave to File. Defendants do not oppose the Motion. The Plaintiffs

1 welcome all *amicus* briefs and believe the Court should allow them, but Plaintiffs are
2 uncomfortable expressly consenting to *amici* in support of Defendants as long as Defendants
3 continue to oppose the *amicus* briefs filed in support of Plaintiffs; Plaintiffs think Defendants'
4 opposition to the *amicus* briefs that have been submitted should be overruled and the Court
5 should allow submission of those *amicus* briefs as well as the *amicus* brief being currently
6 proposed by National Housing Law Project, Housing and Economic Rights Advocates, Bay Area
7 Legal Aid, California Reinvestment Coalition, and Law Foundation of Silicon Valley.

8 **III. STATEMENT PURSUANT TO RULE 29(c)(5) OF THE FEDERAL RULES OF**
9 **APPELLATE PROCEDURE**

10 Pursuant to Rule 29(c)(5) of the Federal Rules of Appellate Procedure,¹ the undersigned
11 counsel for *Amici* NHLP *et al.* certifies that *Amici*'s counsel authored this brief and that no
12 party's counsel authored this brief in any part; that no party nor counsel for any party contributed
13 money intended to fund the preparation or submission of this brief; and that no other person other
14 than *Amici* contributed money to fund the preparation or submission of this brief.

15
16
17
18
19
20
21
22
23
24
25
26

27 ¹ See *United States v. Alkaabi*, 223 F. Supp. 2d 583, 592 (D.N.J. 2002) (relying on Rule 29 of the
28 Federal Rules of Appellate Procedure for guidance in considering a motion for leave to
participate as *amicus curiae*).

1 Dated: September 9, 2013

Respectfully submitted,

2

/s/ Glenn Schlactus

3

John P. Relman*

4

Glenn Schlactus (SBN 208414)

Jamie L. Crook (SBN 245757)

5

RELMAN, DANE & COLFAX PLLC

1225 19th St. NW, Suite 600

Washington D.C. 20036

6

Telephone: (202) 728-1888

Facsimile: (202) 728-0848

7

jrelman@relmanlaw.com

gschlactus@relmanlaw.com

8

jcrook@relmanlaw.com

* Subject to admission *pro hac vice*

9

Marcia Rosen (SBN 67332)

10

Kent Qian (SBN 264944)

NATIONAL HOUSING LAW PROJECT

11

703 Market Street, Suite 2000

San Francisco, CA 94103

12

Telephone: (415) 546-7000

Facsimile: (415) 546-7007

13

mrosen@nhlp.org

kqian@nhlp.org

14

*Attorneys for National Housing Law Project,
Housing and Economic Rights Advocates, Bay Area
Legal Aid, California Reinvestment Coalition, and
Law Foundation of Silicon Valley*

15

16

17

18

19

20

21

22

23

24

25

26

27

28