

1 STEPHEN P. BERZON (SBN 46540)  
 SCOTT A. KRONLAND (SBN 171693)  
 2 STACEY M. LEYTON (SBN 203827)  
 ERIC P. BROWN (SBN 284245)  
 3 Altshuler Berzon LLP  
 4 177 Post Street, Suite 300  
 San Francisco, CA 94108  
 5 Tel: (415) 421-7151  
 Fax: (415) 362-8064  
 6 E-mail: sberzon@altber.com  
 7 Attorneys for Defendants *City of Richmond, Richmond*  
*City Council, Mortgage Resolution Partners LLC* and  
 8 *Gordian Sword LLC*

9 BRUCE REED GOODMILLER (SBN 121491)  
 City Attorney  
 10 CARLOS A. PRIVAT (SBN 197534)  
 Assistant City Attorney  
 11 CITY OF RICHMOND  
 450 Civic Center Plaza  
 12 Richmond, CA 94804  
 Telephone: (510) 620-6509  
 13 Facsimile: (510) 620-6518  
 14 E-mail: bruce\_goodmiller@ci.richmond.ca.us  
 Attorneys for Defendants *City of Richmond* and  
 15 *Richmond City Council*

WILLIAM A. FALIK (SBN 53499)  
 100 Tunnel Rd  
 Berkeley, CA 94705  
 Tel: (510) 540-5960  
 Fax: (510) 704-8803  
 E-mail: billfalik@gmail.com  
 Attorney for Defendants  
*Mortgage Resolution Partners LLC*  
 and *Gordian Sword LLC*

16 **UNITED STATES DISTRICT COURT**  
 17 **NORTHERN DISTRICT OF CALIFORNIA**

18 THE BANK OF NEW YORK MELLON (f/k/a The  
 Bank of New York) and THE BANK OF NEW  
 19 YORK MELLON TRUST COMPANY, N.A. (f/k/a  
 The Bank of New York Trust Company, N.A.), as  
 20 Trustees; U.S. BANK NATIONAL ASSOCIATION,  
 as Trustee; and WILMINGTON TRUST COMPANY  
 21 and WILMINGTON TRUST, NATIONAL  
 22 ASSOCIATION, as Trustees,

23 Plaintiffs,

24 v.

25 CITY OF RICHMOND, CALIFORNIA, a  
 municipality; RICHMOND CITY COUNCIL;  
 26 MORTGAGE RESOLUTION PARTNERS LLC, a  
 Delaware limited liability company; and  
 27 GORDIAN SWORD LLC, a Delaware limited  
 liability company,

28 Defendants.

Case No. CV-13-3664-CRB

**EX PARTE MOTION TO SHORTEN  
 TIME AND FOREGO HEARING ON  
 DEFENDANTS' MOTION TO DISMISS**

Honorable Charles R. Breyer

1                                   **EX PARTE MOTION TO SHORTEN TIME AND FOREGO**  
2                                   **HEARING ON DEFENDANTS' MOTION TO DISMISS**

3           Pursuant to Local Rule 6-3, Defendants hereby move this Court for an *ex parte* order  
4 shortening the time for briefing of the Motion to Dismiss. Plaintiffs oppose this motion.  
5 Declaration of Eric Brown ¶11.

6           As set forth in greater detail in Defendants' motion and supporting memorandum, this  
7 Court dismissed the related case *Wells Fargo v. Richmond*, Case No. 13-3663-CRB, on ripeness  
8 grounds that present no basis for distinguishing the instant case. Defendants have asked Plaintiffs  
9 to dismiss this case voluntarily, but Plaintiffs have refused to do so. Declaration of Eric Brown  
10 ¶¶4-11. Plaintiffs have offered no reason why this case would be ripe if *Wells Fargo* is not. *Id.*  
11 ¶11.

12           Because there is no non-frivolous basis to argue that this case is ripe, particularly given this  
13 Court's ruling in *Wells Fargo*, there is no need to allow the parties the regular time for briefing or  
14 to hold a hearing on the motion. Given the lack of such non-frivolous arguments, the only point of  
15 maintaining this lawsuit can be to seek to chill the political process in Richmond and elsewhere,  
16 and the Court should act expeditiously to dismiss the case.

17           Defendants therefore propose the following briefing schedule: Plaintiffs' opposition due  
18 Wednesday, September 25, 2013 and Defendants' reply due Friday, September 27, 2013.  
19 Defendants asked Plaintiffs if they would consent to this expedited schedule and Plaintiffs  
20 responded that they would not. *Id.* ¶11. Should the Court deem this proposed schedule untenable,  
21 Defendants ask that the Court set the most expedited schedule that it deems appropriate.  
22 Defendants further request that the Court rule on the papers without hearing. If this Court  
23 determines that a hearing should be held, Defendants ask that the hearing be set as soon as possible  
24 after completion of the briefing.

25           The only previous time modification in this case was to allow Defendants to delay  
26 responding to the Complaint until after the Court ruled on the pending motion to dismiss in the  
27 *Wells Fargo* case. Dkt. 23.

28           For the foregoing reasons, the Court should grant Defendants' motion to shorten time.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: September 20, 2013

Respectfully submitted,

/s/ Stacey M. Leyton  
Stacey M. Leyton

Stephen P. Berzon  
Scott A. Kronland  
Stacey M. Leyton  
Eric P. Brown  
Altshuler Berzon LLP

Attorneys for Defendants  
*City of Richmond* and  
*Mortgage Resolution Partners LLC*

Bruce Reed Goodmiller  
Carlos A. Privat  
City of Richmond

Attorneys for Defendant *City of Richmond*

William A. Falik

Attorney for Defendant  
*Mortgage Resolution Partners LLC*