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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

**DECLARATION OF ERIC P. BROWN
 IN SUPPORT OF EX PARTE MOTION
 TO CONTINUE HEARING AND
 REPLY BRIEF ON DEFENDANTS'
 MOTION FOR RULE 11 SANCTIONS**

Honorable Charles R. Breyer

DECLARATION OF ERIC P. BROWN IN SUPPORT OF
EX PARTE MOTION TO CONTINUE HEARING AND REPLY BRIEF

I, Eric P. Brown, hereby declare as follows:

1. I am an attorney at Altshuler Berzon LLP and represent Defendants in this case.

2. Defendants have moved for Rule 11 sanctions against Plaintiffs in connection with Plaintiffs' refusal to voluntarily withdraw their complaint after this Court dismissed the related case *Wells Fargo v. Richmond*, Case No. 13-3663-CRB, on ripeness grounds that presented no basis for distinguishing the instant case. Defendants noticed the hearing on their motion for December 13, 2013, and this Court subsequently continued the hearing sua sponte to December 20, 2013.

3. Under the current briefing schedule, Plaintiffs' opposition to the motion is due on November 22, 2013, Defendants' reply is due on December 2, 2013, and the hearing on the motion is set for December 20, 2013, pursuant to the Court's sua sponte continuance.

4. Altshuler Berzon LLP is lead counsel for Respondent SEIU Healthcare Illinois and Indiana in *Harris v. Quinn*, Dkt. No. 11-681, which is pending before the United States Supreme Court. That case concerns the constitutionality of exclusive representation of public employees by labor unions and the collection of agency fees for such representation. All three of the partners at Altshuler Berzon LLP who have worked on this case are also working on *Harris*. Scott Kronland has principal responsibility for the merits brief in that case, but Stephen Berzon and Stacey Leyton are also working on the brief. *Harris* is on a tight schedule, as the Supreme Court granted certiorari in October and set argument for January 21, 2014. The Petitioners' brief in *Harris* is due on November 22, 2013, and the Respondents' brief is due on December 23, 2013. Substantial work, including preparing, editing and finalizing the merits brief and coordinating with several amici, will be required of all three partners during the interim period, and especially in the week before Respondents' brief is due.

5. Scott Kronland has also had to devote time to preparing for argument on a motion to dismiss in *Casumpang v. Hawaiian Commercial and Sugar Co.*, Case No. CV-12-00694 (D. Haw.). Oral argument in that case is being held on November 18, 2013, in Honolulu, and

1 preparation and travel for that argument have pushed back Mr. Kronland's time for *Harris v.*
2 *Quinn*.

3 6. In addition, since the motion was filed, Stephen Berzon has had to take on
4 responsibility for preparing and arguing *United Public Workers, AFSCME, Local 646 v.*
5 *Abercrombie*, Case No. SCWC 12-0000505, which concerns the furlough of Hawaii State
6 employees, before the Hawaii Supreme Court on December 5, 2013. Mr. Berzon has had no prior
7 involvement in that case, and preparing for argument will require the vast majority of Mr. Berzon's
8 time between now and December 5.

9 7. Stacey Leyton has a major motion to dismiss due in *Salas v. International Union of*
10 *Operating Engineers*, Case No. 12-cv-10506 (C.D. Cal), a complex breach of fiduciary duty case
11 involving a 119-page complaint (plus over 100 pages of exhibits), on November 25, 2013. Ms.
12 Leyton also will be filing attorneys' fees petitions in early December in two significant voting
13 rights cases, *NEOCH v. Husted*, Case No. 2:06-cv-00896 (S.D. Ohio), and *Service Employees*
14 *International Union, Local 1 v. Husted*, Case No. 12-cv-00562 (S.D. Ohio), successfully litigated
15 in the Sixth Circuit.

16 8. I have a reply brief due in *Carrillo v. Schneider Logistics*, Case No: 11-cv-8557
17 (C.D. Cal.), on December 2, 2013, the same day that the reply brief on Defendant's Rule 11
18 Motion in this case is currently due. Additionally, I have a merits opposition brief in *Turtle Bay*
19 *Exploration Park v. Baker*, Case No. 176864 (Cal. Superior Ct.), due on December 4, 2013, as well
20 as a three-day arbitration before an administrative law judge of the California Public Employees'
21 Relations Board scheduled for December 16, 17, and 18, which will require a significant amount of
22 time to prepare between now and then. I also have a petition pending before the California
23 Supreme Court in *United Teachers Los Angeles v. Superior Court*, Court of Appeal Case No.
24 B251693, which will require a reply and substantial work in the coming weeks should it be
25 granted.

26 9. Finally, the Altshuler Berzon LLP attorneys have family commitments over the
27 week of the Thanksgiving holiday, which is the week before the reply brief is currently scheduled
28 to be due. My wife and I will be flying to Cincinnati for the latter part of that week, Stacey Leyton

1 and her family will be in Seattle, and Stephen Berzon has commitments with children and
2 grandchildren visiting from out of town.

3 10. On November 14, 2013, the same day that the Court continued the hearing date to
4 December 20, I sent an email to Plaintiffs' counsel Bronwyn Pollock asking if Plaintiffs would
5 stipulate to continue the reply brief to December 20, 2013, and the hearing to January 24, 2014, the
6 same continuance sought by this motion. I also proposed continuing Plaintiffs' opposition brief to
7 December 6, 2013. On November 15, 2013, Ms. Pollock responded on behalf of all Plaintiffs,
8 stating that Plaintiffs would not stipulate to a continuance.

9 11. The two previous time modifications in this case were to allow Defendants to delay
10 responding to the Complaint until after the Court ruled on the pending motion to dismiss in the
11 *Wells Fargo* case, Doc. 23, and this Court's recent sua sponte continuance of the hearing on
12 Defendants' Rule 11 motion, Doc. 56.

13 12. The requested continuance will not affect the schedule for the case since the case
14 has been dismissed.

15 I declare under penalty of perjury under the laws of the United States that the foregoing is
16 true and correct to the best of my knowledge.

17 Dated: November 18, 2013

Respectfully submitted,

18 

19 Eric P. Brown

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21 Stephen P. Berzon
22 Scott A. Kronland
23 Stacey M. Leyton
24 Eric P. Brown
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26 Attorneys for Defendants
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