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

23 Plaintiffs,

24 v.

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

28 Defendants.

Case No. CV-13-3664-CRB

**DECLARATION OF STACEY
 LEYTON IN SUPPORT OF
 DEFENDANTS' REPLY IN SUPPORT
 OF MOTION FOR RULE 11
 SANCTIONS**

Date: January 24, 2013

Time: 10:00 a.m.

Judge: Honorable Charles R. Breyer
 Courtroom 6, 17th Floor

1 **DECLARATION OF STACEY LEYTON**

2 I, Stacey Leyton, declare the following based upon my personal knowledge:

3 1. I am a partner at the law firm of Altshuler Berzon LLP, and am one of the
4 attorneys for Defendants in the above-captioned matter. I make this declaration in support of
5 Defendants' Motion for Rule 11 Sanctions.

6 2. I joined Altshuler Berzon LLP in 2001 as an associate and became a partner in the
7 firm in 2008. I am a 1998 graduate of Stanford Law School, where I graduated first in my class
8 and was a Symposium Editor of the Stanford Law Review. I served as a law clerk to Justice
9 Stephen Breyer of the United States Supreme Court, Judge Stephen Reinhardt of the United
10 States Court of Appeals for the Ninth Circuit, and Judge Susan Illston of the United States
11 District Court for the Northern District of California. I served as an Appellate Lawyer
12 Representative to the Ninth Circuit from 2010 until recently. In 2011, I was honored as a
13 California Lawyer of the Year in the Public Interest area by California Lawyer Magazine for my
14 work obtaining and defending a federal court injunction blocking reductions to the California
15 program that provides in-home care to Medicaid recipients. I was selected to the Northern
16 California 2013 Super Lawyers and as a 2012 Benchmark Plaintiff California Local Litigation
17 Star and 2013 Benchmark Plaintiff Top 150 Women in Litigation. I have spoken and published
18 articles on various topics including constitutional issues. I have briefed and argued numerous
19 cases in federal district court and the Ninth Circuit as well as in California state trial and
20 appellate courts. My current market rate is \$665 per hour.

21 3. I am familiar with the qualifications of the other attorneys who worked on this
22 case at Altshuler Berzon. The primary attorneys who have worked on this case in addition to me
23 are Stephen Berzon, Scott Kronland, Jonathan Weissglass, and Eric Brown.

24 4. Stephen Berzon is a founding partner of Altshuler Berzon LLP. He graduated in
25 1968 from Harvard Law School. Before founding Altshuler Berzon LLP (as it is now known) in
26 1977, he clerked for Judge Alvin B. Rubin of the United States District Court for the Eastern
27 District of Louisiana, served as the Legal Director of the Children's Defense Fund in

1 Washington, DC, and practiced beforehand with the Legal Aid Society of Alameda County as
2 well as the National Housing and Economic Development Law Project of the law school at the
3 University of California at Berkeley. He is a Fellow of the American Bar Foundation, served for
4 seven years on the national Board of Directors of the American Constitution Society, and is a
5 member of the Executive Committee of the Northern District of California Chapter of the
6 Federal Bar Association and was appointed by Chief Judge Alex Kozinski to the Ninth Circuit
7 Advisory Committee on Rules and Internal Operating Procedures. From 2000 to 2009, he served
8 on the Board of Directors of the AFL-CIO Lawyers Coordinating Committee. He is listed in The
9 Best Lawyers in America for labor and employment law, and in San Francisco Magazine's
10 Northern California Super Lawyers in the appellate practice area. He received the Voting Rights
11 Award from the ACLU of Southern California in 2002, and in both 2009 and 2013 was named a
12 California Lawyer of the Year by California Lawyer Magazine in the areas of Civil Rights and
13 Voting Rights for his work on voting rights cases in Colorado, Indiana, and Ohio. Over the
14 years, he has frequently lectured or participated on panels on litigation, constitutional, and
15 legislative matters. He has testified before both Houses of Congress and both Houses of the
16 California Legislature on prospective legislation. He specializes in major litigation, frequently
17 involving constitutional and voting rights issues, at both the trial and appellate levels. He has
18 argued before the United States Supreme Court and the United States Court of Appeals for the
19 District of Columbia, Fourth, Fifth, Ninth, and Tenth Circuits as well as numerous federal district
20 courts, the California Supreme Court, Hawaii Supreme Court and state courts of appeal. He has
21 also briefed cases in the United States Court of Appeals for the First, Second, Sixth, and Seventh
22 Circuits, as well as numerous state courts. His current market rate is \$875 per hour.

23 5. Michael Rubin is a partner at Altshuler Berzon LLP. He graduated in 1977 from
24 Georgetown University Law Center, where he was an editor of the Georgetown Law Journal. He
25 served as a law clerk to Justice William J. Brennan, Jr. of the United States Supreme Court,
26 Chief Judge James R. Browning of the United States Court of Appeals for the Ninth Circuit, and
27 Judge Charles B. Renfrew of the United States District Court for the Northern District of

1 California. He has been named a California Lawyer of the Year by California Lawyer Magazine
2 on four occasions: twice for employment law, once for False Claims Act law, and once for
3 criminal law. In 2003, he was a co-recipient of the Trial Lawyer of the Year award from Trial
4 Lawyers for Public Justice. He has been listed for several years in The Best Lawyers in
5 America, including in the most recent editions under both the appellate category and the labor
6 and employment category. San Francisco Magazine has named Mr. Rubin as among its Northern
7 California Super Lawyers in each of the past several years. Lawdragon Magazine named him a
8 member of the nationwide Lawdragon 500 in 2006, and as among the 500 leading plaintiffs'
9 counsel and 500 leading lawyers in the country in 2007. He is an elected member of the College
10 of Labor and Employment Lawyers and a member of the Board of Directors of the AFL-CIO's
11 Lawyers Coordinating Committee.

12 6. Scott Kronland is a partner at Altshuler Berzon LLP. He is a 1991 graduate of
13 UC Berkeley School of Law, where he was elected to Order of the Coif and was a member of the
14 California Law Review. He served as a law clerk to Judge James R. Browning of the United
15 States Court of Appeals for the Ninth Circuit. He is the former Chair and current member of the
16 Executive Committee of the Labor and Employment Section of the Bar Association of San
17 Francisco. He was selected in 2012 and 2013 as a Northern California Super Lawyer and a 2013
18 Benchmark Litigation Star for Labor and Employment Law. He has briefed and argued
19 numerous cases in the California Supreme Court, California Court of Appeal, United States
20 Court of Appeals for the Seventh and Ninth Circuits, and numerous federal district courts. He
21 has also played the lead role in drafting briefs in cases in the United States Supreme Court. His
22 current market hourly rate is \$780.

23 7. Jonathan Weissglass is a partner at Altshuler Berzon LLP. He is a graduate of
24 Yale College and Yale Law School, where he was an Articles Editor of the Yale Law Journal
25 and a student director of the Poverty Clinic. He served as a law clerk to Chief Judge Myron H.
26 Thompson of the United States District Court for the Middle District of Alabama and was a
27 Karpatkin Fellow with the national legal department of the American Civil Liberties Union in

1 New York. He received the Voting Rights Award from the ACLU of Southern California in
2 2002 and, has received two California Lawyer of the Year awards, one in 2009 for his work on
3 an Indiana voting rights case and the other in 2013 in the area of Education Law. Mr.
4 Weissglass' hourly rate is \$725.

5 8. Peder Thoreen is partner at Altshuler Berzon LLP. He graduated from Yale Law
6 School in 2001, where he was a Senior Editor of the Yale Law and Policy Review. He served as
7 a law clerk to Judge Harry Pregerson of the United States Court of Appeals for the Ninth Circuit
8 and Judge Dean Pregerson of the United States District Court for the Central District of
9 California. He is a member of the Editorial Board of Bender's California Labor and
10 Employment Bulletin. Mr. Thoreen's hourly market rate is \$575.

11 9. Eric Brown graduated from Yale College in 2002 and Yale Law School in 2008.
12 He served as a law clerk to Chief Judge Mark L. Wolf of the United States District Court for the
13 District of Massachusetts and Judge Kermit V. Lipez of the United States Court of Appeals for
14 the First Circuit. He spent two years as a litigation associate in the New York office of Jenner &
15 Block LLP before joining Altshuler Berzon LLP as an associate in 2012. His current hourly rate
16 is \$400.

17 10. Altshuler Berzon LLP regularly litigates complicated constitutional issues in
18 major cases in federal and state courts throughout the United States. Examples of appellate and
19 trial court cases that my partners and I have handled are set forth on our website,
20 www.altshulerberzon.com, and in our law firm resume, which is attached hereto as Exhibit A.

21 11. Altshuler Berzon maintains contemporaneous time records setting forth the
22 amount of time spent (rounded to the nearest one-tenth of an hour) on each task and each case,
23 along with brief explanatory statements regarding the actual task involved. Our usual and
24 customary practice is to record on daily time logs only those hours that our firm would
25 customarily bill to a client paying on an hourly basis. That practice was followed throughout this
26 litigation by all billers. During the time period covered by this case, our law firm used a remote
27 time entry program called Distributed Time Entry ("DTE") to record our billable time. At or

1 near the time the work was performed, the hours were input into DTE, which recorded and stored
2 the time as individual electronic entries, along with descriptions of the tasks performed. Shortly
3 after the end of each month, the time entries are electronically released to the accounting
4 department.

5 12. I have personally reviewed all of the time entries submitted to determine that the
6 hours were actually and reasonably expended in the case and to identify the time that was spent
7 on this matter reviewing pleadings; researching, briefing, and arguing the motion to dismiss; and
8 researching, briefing, and arguing the instant motion. The time spent on this matter was
9 substantially less than would otherwise have been required because we had already researched
10 and briefed the relevant issues in the related case *Wells Fargo Bank v. City of Richmond*, Case
11 No. 13-03663-CRB. Where time records reflected that work was done for both this case and
12 *Wells Fargo Bank*, I allocated the time evenly between the two cases. I did not include any time
13 reflecting work performed in the *Wells Fargo Bank* case, even if that work ended up being useful
14 in the instant case.

15 13. Attached hereto as Exhibit B are the edited time logs that itemize the work
16 performed in this case to date for which Defendants seek attorneys' fees as sanctions for
17 Plaintiffs' Rule 11 violation. These logs cover work performed through and including December
18 20, 2013. In addition, we estimate that one attorney will spend three hours preparing for the
19 hearing on this motion and that two attorneys will attend the hearing. With that estimated time
20 included, Defendants seek a total of \$105,672.25 in fees.

21 14. Set forth below is a chart listing the lodestar hours, rates, and totals by attorneys
22 at Altshuler Berzon LLP for work on this matter to date.

1	Billor	Law School Graduation Year	Hourly Rate	Hours	Lodestar
2	Stephen Berzon	1968	\$875	15.20	\$13,300.00
	Michael Rubin	1977	\$875	2.90	\$2,537.50
3	Scott Kronland	1991	\$780	41.05	\$32,019.00
	Jonathan Weissglass	1994	\$725	2.25	\$1,631.25
4	Stacey Leyton	1998	\$665	30.80	\$20,482.00
	Peder J. Thoreen	2001	\$575	0.70	\$402.50
5	Eric Brown	2008	\$400	73.20	\$29,280.00
	Paralegals	N/A	\$225	4.20	\$945.00
6	Total	Various	Various	170.30	\$100,597.25

7
8 15. Altshuler Berzon has regularly represented attorneys on attorneys’ fees matters in
9 public interest litigation, and is familiar with San Francisco Bay Area market rates. Based on my
10 knowledge, research, and experience, Altshuler Berzon’s 2013 California rates are
11 commensurate with San Francisco Bay Area market rates for attorneys of comparable skill and
12 experience.

13 14. These 2013 California market rates are actually billed to commercial clients
14 paying on a monthly basis including by attorneys in this case. Among the recent matters for
15 which Altshuler Berzon has billed at these market rates are *Standard Chartered Bank v. Ahmad*
16 *Hamad AlGosaibi & Bros. Co.*, No. 1-13-civ-248453 (Santa Clara Super. Ct.); *Hart v. Electronic*
17 *Arts, Inc.*, No. 11-3750 (3rd Cir.); *Keller v. Electronic Arts, Inc.*, No. 10-15387 (9th Cir.); *Green*
18 *v. Bank of America*, No. 11-56365 (9th Cir.); *Southern Wine & Spirits of America, Inc. v.*
19 *Simpkins*, No. 10-CV-21136-MGC (S.D. Fla.); *Simpkins v. Southern Wine & Spirits of America,*
20 *Inc.*, No. 10-CV-2353 EDL (N.D. Cal.); *Bright v. 99¢ Stores*, Case No. BC415527 (2d Dist. Cal.
21 Ct. App.); *Devon Harris and Lawrence Winston v. Home Depot U.S.A., Inc.*, Case No. S190270
22 (Cal. Supreme Court), Case No. B223184 (2d Dist. Cal. Ct. App.), Case No. BC415774 (Los
23 Angeles Super. Ct.); *Satchell v. FedEx Express*, Case No. 03-CV-2659 SI (N.D. Cal.); *City of*
24 *Redondo Beach v. Redondo Fisherman’s Cove Co.*, Case No. YC057513 (Los Angeles Super.
25 Ct.); and *Shoemaker v. Taylor*, Case No. 07-05849 MMM (C.D. Cal.).

26 15. Altshuler Berzon LLP’s current market rates for commercial clients have been
27 approved in numerous recent cases, including for attorneys in this case. Those cases include, but
28

1 are not limited to, *Luquetta v. Regents of the Univ. of Cal.*, Case No. CGC-05-443007 (San
2 Francisco Superior Court) (approving 2012 rates including \$850 for senior partner and \$700 for
3 Mr. Weissglass); *Vasquez v. Cal.*, Case No. GIC 740832 (San Diego Superior Court) (approving
4 2012 rates of \$850 for partner and \$375 for associate); *Div 15 Tech v. Sheet Metal Workers' Int'l*
5 *Ass'n*, Case Nos. C-10-05309, C-10-05423 (N.D. Cal.) (approving 2011 rates including \$545 for
6 2000 law school graduate and \$215 per hour for paralegals); *Air Line Pilots Ass'n Int'l v. United*
7 *Airlines, Inc.*, CGC-07-468937 (JAMS Ref. No. 1100061566) (San Francisco Super. Ct.) (2011
8 rates of \$825 per hour (partner), \$595 per hour (Ms. Leyton), \$330 per hour (associate)); *Zalua v.*
9 *Tempo Research Corp.*, Case No. BC319156 (Los Angeles County Super. Ct.) (2011 rates of
10 \$520-\$825 for partners); *Swanson v. California Dept. of Transportation*, Case No. RG 09-
11 476468 (Alameda County Superior Court) (approving 2010 rates of \$785 (Mr. Berzon) and \$490
12 (senior associate, 2001 law school graduate)); *Committee for Recognition of Nursing*
13 *Achievement v. Lucile Salter Packard Children's Hospital*, Case No. 10-cv-1633 JF (N.D. Cal.)
14 (approving 2010 hourly rates of \$785 for senior partner and \$540 for junior partner); *Ayon v.*
15 *Cintas*, Case No. BC310696 (approving 2010 rates); *Bell v. Farmers Servs., LLC*, Case No. BC-
16 438517 (2010 rates); *Aguiar v. Cintas Corp.*, BC310696 (Los Angeles County Superior Court)
17 (2010 rates); *Gardner v. Schwarzenegger*, Case No. RG06-278911 (Alameda County Superior
18 Ct. and Cal. Ct. App.) (2008 rates including \$590 for Mr. Weissglass and \$500 for Ms. Leyton);
19 *Wynne v. McCormick & Schmick's*, 06-cv-3154 CW (N.D. Cal.) (2008 rates of \$750 (partner));
20 *Curtis-Bauer v. Morgan Stanley & Co.*, Case No. C-06-3903-THE (2008 rates); *Adams v. Inter-*
21 *Con Security Systems*, C-06-5428 MHP (N.D. Cal.) (approving 2007 rates of \$700 per hour
22 (partner), \$650 per hour (partner), and \$350 (associate)); *Satchell v. FedEx Express*, No. C03-
23 2659 SI (N.D. Cal.) (approving 2007 rates of \$700 per hour (partner) and \$550 per hour
24 (partner)); *Amaral v. Cintas Corp. No. 2*, A114981 (1st App. Dist.) (2006 rates).

25 16. Attached hereto as Exhibit C is a true and correct compilation of the categories
26 and amounts of out-of-pocket expenses incurred by Altshuler Berzon LLP in litigating this
27 action. Exhibit C was prepared under my direction from contemporaneous expense records

1 maintained in the normal course of our law firm’s business. Because it was impractical to
2 separate printing costs between this case and the *Wells Fargo* case, I allocated one-third of
3 printing costs to this case. Exhibit C includes only those expenses that we customarily charge to
4 our paying clients, at the rates that we customarily charge. All of these expenses were
5 necessarily incurred in this case. The total amount of out-of-pocket expenses incurred to date is
6 \$1,117.15.

7 17. Rather than undertaking the expense of obtaining new declarations about rates in
8 the Northern District of California, I am attaching previously filed declarations to establish the
9 reasonableness of the rates sought by this motion.

10 18. Attached hereto as Exhibit D is a declaration by John Kecker, filed in 2006 in
11 *Schavrien v. Lynch*, Case No. 05-439578, in San Francisco Superior Court. In that declaration,
12 Mr. Kecker states that he is “familiar with the reputation and work of Stephen P. Berzon and the
13 attorneys at Altshuler Berzon” and that, “[a]lthough small in size, it is one of the best litigation
14 firms in the country, both at the trial and appellate level . . . known for its attorneys’ excellent
15 litigation skills and willingness to tackle novel and difficult legal issues.” He further opines that
16 the hourly rates claimed by Altshuler Berzon at that time were reasonable and consistent with
17 prevailing rates charged by attorneys with comparable experience in the Bay Area and points out
18 that at that time he was charging a \$900 hourly rate.

19 19. Attached hereto as Exhibits E and F are declarations regarding rates in the Los
20 Angeles legal market by Dan Stormer and Carol Sobel, which were filed last month in the United
21 States District Court for the Central District of California in *Carrillo v. Schneider Logistics*, No.
22 CV 11-8557 CAS, and affirm that Altshuler Berzon LLP’s market rates are reasonable rates
23 within the Los Angeles legal market. Based on my experience, I believe that Los Angeles rates
24 are no higher than those in the San Francisco legal market.

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

3 Executed this 20th day of December 2013 at San Francisco, California.

4 /s/ Stacey Leyton
5 Stacey Leyton