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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 THE BANK OF NEW YORK MELLON (f/k/a
12 The Bank of New York) and THE BANK OF
13 NEW YORK MELLON TRUST COMPANY,
N.A. (f/k/a The Bank of New York Trust
Company, N.A.), as Trustees, et al.,

14 Plaintiffs,

15 v.

16 CITY OF RICHMOND, et al.,

17 Defendants.
18

No. C 13-03664 CRB


**ORDER DENYING MOTION FOR
RULE 11 SANCTIONS**

19 Defendants the City of Richmond, Richmond City Council, Mortgage Resolution Partners
20 L.L.C. and Gordian Sword L.L.C. have filed a Motion for Rule 11 Sanctions, in which they argue
21 that Plaintiffs The Bank of New York Mellon, The Bank of New York Mellon Trust Company, U.S.
22 Bank National Association, Wilmington Trust Company, and Wilmington Trust, National
23 Association violated Rule 11 because “[e]ven if there could have been any reasonable doubt as to
24 the ripeness of Plaintiffs’ claims at the time Plaintiffs filed their Second Amended Complaint (and
25 there should not have been), this Court’s ruling [in Wells Fargo Bank v. City of Richmond, No. 13-
26 3663] resolved any such doubt and Plaintiffs should have dismissed their case.” Mot. (dkt. 55) at 1.
27 The Court finds these matters suitable for resolution without oral argument, pursuant to Civil Local
28 Rule 7-1(b), VACATES the hearing currently set for January 24, 2014, and DENIES the Motion.

1 Rule 11 sanctions are reserved “for the rare and exceptional case where the action is clearly
2 frivolous, legally unreasonable or without legal foundation, or brought for an improper purpose.”
3 Operating Eng’rs Pension Trust v. A-C Co., 859 F.2d 1336, 1344 (9th Cir. 1988). The Court finds
4 that the Second Amended Complaint in this case was neither frivolous nor filed for an improper
5 purpose. See Townsend v. Holman Consulting Corp., 929 F.2d 1358, 1362 (9th Cir. 1990).
6 Moreover, Plaintiffs’ opposition to dismissal was not inappropriate, both because it preserved
7 Plaintiffs’ opportunity to appeal,¹ and because it raised legitimate (if ultimately unpersuasive)
8 arguments not raised in the Wells Fargo case. See, e.g., Order re MTD (dkt. 53) at 7 (“Plaintiffs also
9 asserted during oral argument that although the city counsel has not yet approved the plan, the City
10 Manager’s letter to homeowners itself creates an injury, which makes the issue presently fit for
11 determination.”). There is no basis for imposing sanctions here.

12 **IT IS SO ORDERED.**

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14 Dated: January 15, 2014

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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

¹ Plaintiffs have indeed appealed the Order Granting Defendants’ Motion to Dismiss. See Notice of Appeal (dkt. 64).