

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN JOSE DIVISION

4  
5 NEWMARK REALTY CAPITAL, INC.,

6 Plaintiff,

7 v.

8 BGC PARTNERS, INC., et al.,

9 Defendants.

Case No. [16-cv-01702-BLF](#)

**ORDER DENYING PLAINTIFF'S  
REQUEST TO SUBMIT NEW  
EVIDENCE IN SUPPORT OF ITS  
MOTION FOR SUMMARY  
JUDGMENT**

[Re: ECF 607]

10  
11 On October 26, 2018, Plaintiff filed a Request to Submit New Evidence of Irreparable  
12 Harm in Support of its Motion for Summary Judgment (“Request”). ECF 607. The same day, the  
13 Court filed its Order Denying Defendants’ Motion for Summary Judgment and Denying Plaintiff’s  
14 Motion for Summary Judgment (“Order”). ECF 611.

15 Plaintiff provides no grounds for why the Court should consider new evidence at this late  
16 stage, two months after the summary judgment hearing. Where, as here, a post-reply submission  
17 does not fall within an itemized exception under Civil Local Rule 7-3(d), the Court may grant or  
18 deny leave to submit the new material in “the exercise of [its] discretion.” *See In re Nat’l*  
19 *Collegiate Athletic Ass’n Athletic Grant-in-Aid Cap Antitrust Litigation*, 2018 WL 1524005, at \*1  
20 n.2 (N.D. Cal. Mar. 28, 2018).

21 Exercising its discretion, the Court declines to grant Plaintiff leave to submit new evidence  
22 at this stage. Plaintiff has not articulated sufficient grounds to warrant such leave.

23  
24 **IT IS SO ORDERED.**

25 Dated: November 2, 2018

26 

27 BETH LABSON FREEMAN  
28 United States District Judge