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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA

15 v.

16 RUBYCON CORPORATION,

17 Defendant.

No. CR-16-0367-JD

**UNITED STATES' SUPPLEMENTAL
SENTENCING MEMORANDUM**

DATE: January 11, 2017 (requested, pending
Court approval)

TIME: 9:30 am

COURT: Hon. James Donato

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19 On October 12, 2016, the United States and Rubycon Corporation appeared before this
20 Court for a change of plea and sentencing hearing. On that date, the Court conducted a Rule 11
21 colloquy and accepted Rubycon's guilty plea. But the Court stayed sentencing and requested an
22 evidentiary proffer from the expert the United States retained to analyze Rubycon's financial
23 ability to pay. The United States now submits the Ability-To-Pay report of Dale Zuehls. Mr.
24 Zuehls's report is attached as Exhibit A to the declaration of Andrew J. Nicholson-Meade,
25 which accompanies this supplemental sentencing memorandum. As requested by the Court, Mr.
26 Zuehls will be available for questioning when sentencing resumes.

27 The United States requests that Mr. Zuehls's report be filed under seal. The report
28 contains sensitive information about the defendant that would typically be contained in a

1 confidential presentence report. Accompanying this supplemental sentencing memorandum is a
2 motion and proposed order to seal the report.

3 The parties request that sentencing resume on January 11, 2017, or the earliest date
4 available on the Court's calendar.

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6 DATED: December 21, 2016

Respectfully submitted:

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/s/ Andrew J. Nicholson-Meade

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Andrew J. Nicholson-Meade

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Trial Attorney

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U.S. Department of Justice

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Antitrust Division

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