

No. 24-2355

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

PAYSERVICES BANK,

Plaintiff-Appellant,

v.

FEDERAL RESERVE BANK OF SAN FRANCISCO,

Defendant-Appellee.

On Appeal from the United States District Court
for the District of Idaho
No. 1:23-cv-00305-REP
Hon. Raymond E. Patricco, Jr.

**RESPONSE TO PAYSERVICES' SEALED DOCUMENTS
(REDACTED)**

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Defendant-Appellee Federal Reserve Bank of San Francisco (“FRBSF”) hereby responds to Plaintiff-Appellant PayServices Bank’s (“PayServices”) April 2, 2026 Motion to Submit Sealed Documents. ECF No. 77.1 (the “Motion to Submit Sealed Documents”).

FRBSF submits this brief to respond to PayServices’ statement in its Motion to Submit Sealed Documents that it filed the documents in order to “obtain a final decision from this Court.” ECF No. 77.1 at 2. FRBSF respectfully submits that this appeal should remain in abeyance because the administrative appeal referenced in this Court’s January 24, 2025 order has not yet been resolved.

On October 16, 2024, the Idaho Department of Finance terminated PayServices’ preliminary approval to operate a bank in Idaho. PayServices did not stop using “PayServices Bank” and, in response, the Idaho Department issued a cease and desist Order directing PayServices immediately to stop using “bank” in its name (the “Cease-and-Desist Order”).¹

PayServices appealed the rescission of its preliminary approval to an Idaho administrative law judge.² And, on January 24, 2025, this Court held the case “in

¹ See Cease and Desist Issued to PayServices, Idaho Dep.’t of Fin., <https://www.finance.idaho.gov/wp-content/uploads/legal/administrative-actions/financial-institutions/documents/Cease-Desist-Order-Payservices.pdf> (last visited Apr. 7, 2026).

² FRBSF does not have access to documents and information relating to PayServices’ administrative appeal outside of those provided to the Court by PayServices.

abeyance pending the *outcome*” of PayServices’ administrative appeal and ordered PayServices “upon the *resolution* of PayServices’ administrative appeal” to file, among other things, “any explanation provided by the Idaho Department of Finance.” ECF No. 52.1 (emphasis added).

On November 18, 2025, PayServices notified this Court that the Idaho Department of Finance’s rescission of PayServices’ preliminary approval to operate a bank in Idaho had been reversed pending remand as effected by orders dated September 8 (“Sep. 8 Order”) and November 5 (“Nov. 5 Order”) (together, “ALJ Orders”). ECF No. 65.1. On November 24, 2025, the Court directed PayServices to file copies of the ALJ Orders. ECF No. 67.1.

On April 2, 2026, PayServices filed the ALJ Orders pursuant to the Motion to Seal, claiming in part that it was doing so in order to obtain a final decision in this matter. ECF No. 77.1. However, the ALJ Orders do not resolve PayServices’ administrative appeal or provide an “explanation provided by the Idaho Department of Finance” as to the resolution of PayServices’ administrative appeal, as directed in the Court’s January 24, 2025 order. ECF No. 52.1.

Specifically, the Sep. 8 Order remanded the case to the Idaho Department of Finance to [REDACTED]

[REDACTED]

[REDACTED] ECF No. 77.1 at 21 (Sep. 8 Order at 7).

Further, while the Nov. 5 Order [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ECF No. 77.1 at 27 (Nov. 5 Order at 3).

Thus, the outcome of PayServices’ administrative appeal remains pending until the Idaho Department of Finance makes a final determination on remand. Accordingly, the condition identified by this Court for lifting abeyance—“the outcome” or “resolution” of the administrative appeal—has not yet been satisfied. *See* ECF No. 52.1. For those reasons, FRBSF respectfully submits that this case should remain in abeyance until the Idaho Department of Finance completes the remand proceedings and issues a final ruling in PayServices’ administrative appeal.

Date: April 8, 2026

Simpson Thacher & Bartlett LLP

/s/ Jonathan K. Youngwood

Jonathan K. Youngwood

*Attorney for Appellee Federal Reserve
Bank of San Francisco*

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 20th day of April, 2026, I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

s/ Jonathan K. Youngwood

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