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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASON CAMPBELL and
SARAH SOBEK, individually,
and on behalf of all other
similarly situated current
and former employees of
PricewaterhouseCoopers, LLP,,

NO. CIV. S-06-2376 LKK/GGH

Plaintiffs,

v.

PRICEWATERHOUSECOOPERS, LLP,
a Limited Liability Partnership;,
and DOES 1-100, inclusive,

ORDER

Defendant.

_____ /

Pending before the court are four motions: ECF Nos. 255, 258,
394 and 402. Two motions for summary judgment, ECF Nos. 255 and
258, were filed on October 27, 2008. The first is a Motion for
Summary Judgment filed by plaintiffs on defendant's alleged breach
of legal duty under California Labor Code Sections 510, 1194,
226.7, 512, 226, 203, and 218.6. The second is a Motion for Summary
Judgment filed by defendant on the claims asserted by plaintiff
Jason Campbell. On March 11, 2009, the court issued an order

1 granting a separate summary judgment motion filed by plaintiffs,
2 and granting in part a summary judgment motion filed by defendants.
3 In the March 11 order, the court held that the plaintiff class
4 members are non-exempt employees. The court certified that matter
5 for interlocutory appeal. ECF No. 390. Plaintiffs filed a Motion
6 for Reconsideration of other portions of the March 11, 2009 order.
7 ECF No. 402. Defendants appealed the court's holding that the
8 members of the plaintiff class are non-exempt employees to the
9 Ninth Circuit.

10 On March 27, 2009, this court issued an order stating that the
11 Ninth Circuit decision on the appeal "may heavily impact the
12 remainder of this case," and the court vacated the hearing on the
13 two summary judgment motions filed on October 27, 2008, as well as
14 on the motion for reconsideration. ECF No. 425.

15 On June 15, 2011, the Ninth Circuit issued an opinion
16 reversing and remanding this court's holding that the plaintiff
17 class members are non-exempt. ECF No. 481. The Ninth Circuit issued
18 its mandate on August 5, 2011.

19 It is unclear to the court whether the Ninth Circuit's opinion
20 affects the two pending motions for summary judgment, and the
21 motion for reconsideration. The court determines that these
22 motions, as presented, are moot and are DENIED. If either party
23 believes that the motions are not moot, it may re-notice the
24 motions for hearing.

25 Additionally, defendant has filed a motion to seal its
26 Objections to Evidence Submitted in Support of Plaintiffs'

1 Opposition to Motion to Decertify Class. ECF No. 394. When a party
2 seeks to seal a document that is part of the judicial record, it
3 must show "compelling reasons" for doing so. Pintos v. Pac.
4 Creditors Ass'n, 605 F.3d 665, 678 (9th Cir. 2010). See also
5 Kamakana v. City & County of Honolulu, 447 F.3d 1172, 1178 (9th
6 Cir. 2006); Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122,
7 1135 (9th Cir. 2003). "A party seeking to seal judicial records
8 must show that 'compelling reasons supported by specific factual
9 findings . . . outweigh the general history of access and the
10 public policies favoring disclosure.'" Pintos, id. (quoting
11 Kamakana, 447 F.3d at 1178).

12 For the foregoing reasons, the Court tentatively GRANTS
13 plaintiffs' motion. Plaintiff is cautioned, however, that this
14 sealing is tentative. Kamakana, 447 F.3d at 1186. The court will
15 revisit whether these documents should be permanently sealed at a
16 later time, when it is possible to perform the fact specific
17 analysis required by Foltz.

18 Accordingly, the court ORDERS as follows:

19 [1] The following motions are DENIED as MOOT: ECF Nos.
20 255, 258, and 402. If either party wishes, it may re-
21 notice the motions for hearing.

22 [2] Defendant's Motion to Seal, ECF No. 394 is GRANTED.
23 The filing shall be tentatively SEALED.

24 IT IS SO ORDERED.

25 DATED: September 29, 2011.

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