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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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JANE DOE,  
Plaintiff,

NO. CIV. S-09-764 FCD/KJN

v.

ORDER CONTINUING HEARING AND  
SUPPLEMENTAL BRIEFING

UNIVERSITY OF THE PACIFIC,  
Defendant.

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This case is pending before the court on defendant University of Pacific's ("defendant") motion for an award of attorneys' fees, presently set for hearing on November 19, 2010. The undersigned serves as a judge on the Judicial Panel on Multidistrict Litigation which will hold hearings at Duke University Law School in North Carolina this week. Thus, the court will be unavailable for the hearing in this case.

The court continues defendant's motion to December 3, 2010 at 10:00 a.m., the court's next regularly scheduled law and motion date. At the hearing, the court will address defendant's

1 attorneys' fees motion, and as discussed below, the sealing of  
2 the record in this case.

3 The court notes that initially, plaintiff's counsel filed  
4 this complaint on March 18, 2009 under the pseudonym, "Jane Doe,"  
5 and, during the course of the litigation, plaintiff's counsel  
6 made repeated requests or acquiesced to sealing of the record.  
7 Yet, for the first time, the day before the hearing on  
8 defendant's motion for summary judgment on September 10, 2010,  
9 plaintiff's counsel requested that the hearing be open, and more  
10 recently, plaintiff's counsel requested that all briefing on the  
11 attorneys' fees motion be filed publicly. *Significantly,*  
12 *however, no one, including plaintiff's counsel, has moved the*  
13 *court, to date, to unseal the record.*

14 In light of plaintiff's counsel's conflicting positions, the  
15 court directs the parties to file simultaneous briefing on or  
16 before 4:00 p.m. on November 24, 2010, addressing the following:

17 (1) Whether a party requests the court unseal the record or  
18 any portion thereof.

19 (2) Whether there is a need to continue to seal the record,  
20 or any portion thereof, including the December 3 hearing.

21 (3) If a party seeks to keep the record, or any portion  
22 thereof, *under seal*, the party shall identify that portion of the  
23 record and specify the authority or reasons upon which it relies  
24 (e.g., the order permitting plaintiff to proceed as "Jane Doe";  
25 the Protective Order issued by the magistrate judge pursuant to  
26 Rule 26 of the Federal Rules of Civil Procedure; university  
27 disclosure restrictions pursuant to the Family Educational Rights  
28 and Privacy Act, 20 U.S.C. § 1232(g)).

1 (4) If a party seeks to *unseal* the record, or any portion  
2 thereof, the party shall identify the portion of the record and  
3 specify the authority or reasons upon which it relies.

4 IT IS SO ORDERED.

5 DATED: November 15, 2010

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8 FRANK C. DAMRELL, JR.  
9 UNITED STATES DISTRICT JUDGE  
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