

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CEMENT MASONS & PLASTERERS)	Case No. 11-01016 SC
JOINT PENSION TRUST,)	
Individually and on Behalf of)	ORDER REQUESTING SUPPLEMENTAL
All Others Similarly Situated,)	<u>BRIEFING</u>
)	
Plaintiffs,)	
)	
v.)	
)	
EQUINIX, INC., STEPHEN M.)	
SMITH, and KEITH TAYLOR,)	
)	
Defendants.)	
)	
)	

Now before the Court is Defendants' motion to dismiss Plaintiffs' Second Amended Complaint ("SAC"). ECF No. 29. Among other things, the SAC asserts that Defendants falsely represented that their sales force would not trade price for volume, i.e., offer discounts to customers. In support, Plaintiffs allege statements made by a confidential witness ("CW"). See ECF No. 44 ("SAC") ¶¶ 124-26. Specifically, the CW states that she regularly approved discounts between ten and thirty percent and that it was not uncommon for discounts to rise above thirty percent with the approval of the company's finance director. See id. It is not clear that the conduct described by the CW was ever revealed to the market. Accordingly, it is not clear that Plaintiffs have

1 adequately alleged loss causation with respect to this CW's
2 statements. See Metzler Inv. GMBH v. Corinthian Colleges, Inc.,
3 540 F.3d 1049, 1064 (9th Cir. 2008). The Court hereby requests
4 additional briefing on this issue. Each party may file a single
5 supplemental brief on this matter, not to exceed eight (8) pages,
6 no later than fourteen (14) days after the signature date of this
7 Order. Response briefs are neither required nor permitted.

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9 IT IS SO ORDERED.

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11 Dated: September 24, 2012



12 UNITED STATES DISTRICT JUDGE
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