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

JOSEPH MONASTIERO,

 Plaintiff,

v.

APPMOBI, INC.,

 Defendant.

No. C 13-05711 SI

**ORDER GRANTING DEFENDANT’S
MOTION FOR LEAVE TO FILE A
MOTION FOR RECONSIDERATION
AND RESCHEDULING HEARING**

Having considered defendant’s motion for leave to file a motion for reconsideration pursuant to this Court’s Local Rule 7-9(a), the Court GRANTS the motion. The Court deems defendant’s motion for leave to be the motion for reconsideration.

The Court requests further briefing on the question of whether, under *Atlantic Marine Const. Co. Inc. v. U.S. Dist. Court*, 134 S.Ct. 568 (2013), a district court may or must consider the factors enunciated in *M/S Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1 (1972), 12-13, 15, 18 (enforcement of a forum selection clause would be unreasonable where: (1) the inclusion of the clause in the agreement “was invalid for such reasons as fraud or overreaching”; (2) the party wishing to repudiate the clause shows “that trial in the contractual forum will be so gravely difficult and inconvenient that he will for all practical purposes be deprived of his day in court”; and (3) “enforcement would contravene a strong public policy of the forum in which suit is brought.”) in a separate analysis determining the enforceability of the forum selection clause. The parties should also evaluate the continuing vitality of the Ninth Circuit’s direction in *Murphy v. Schneider National Inc.*, 362 F.3d 1133, 1141-42 (9th Cir. 2003), that as to the second *Bremen* exception, “courts are to consider a party’s financial ability to litigate in the forum selected by the contract when determining the reasonableness of enforcing a forum selection clause.”

1 The parties shall submit additional briefing by April 23, 2014. If plaintiff wishes to file a
2 separate opposition to defendant's motion for reconsideration, it shall do so by April 23, 2014.
3 **Defendant's motion for certificate of appealability, currently scheduled for hearing on April 18,**
4 **2014, is continued to May 9, 2014.** Docket No. 23.

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6 **IT IS SO ORDERED.**

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8 Dated: April 14, 2014

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11 SUSAN ILLSTON
12 UNITED STATES DISTRICT JUDGE
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