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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAGUADALUPE SALAZAR, et al.,  
Plaintiffs,  
v.  
MCDONALD'S CORP., et al.,  
Defendants.Case No. [14-cv-02096-RS](#)**ORDER DENYING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT  
WITHOUT PREJUDICE AND  
GRANTING PLAINTIFFS' REQUEST  
FOR ADMINISTRATIVE RELIEF**

Defendants McDonald's Corporation and McDonald's USA, LLC ("McDonalds") filed a motion for summary judgment on May 6, 2016. That motion was granted in part and denied in part on August 16, 2016. Notably, Plaintiffs were allowed to proceed with their California Labor Code claims under an ostensible agency theory. Without seeking leave to file a successive motion or a motion for reconsideration, McDonalds filed a second motion for summary judgment on November 18, 2016. Therein, McDonalds argues that "Plaintiffs' theory of ostensible agency is insufficient as a matter of law to support claims brought under the California Labor Code." Dkt. No. 251 at 2. This second motion appears to present arguments that could have been raised in the first motion for summary judgment. For this reason, Plaintiffs now move summarily to deny McDonalds' motion.

As McDonalds' motion appears to be based on previously available evidence, McDonalds' second motion for summary judgment is denied without prejudice. If McDonalds wishes to refile its motion, it must first request leave to do so. In such request, McDonalds should state why its motion is not based on previously available evidence and explain why the motion should not be deemed a motion for reconsideration.

United States District Court  
Northern District of California

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**IT IS SO ORDERED.**

Dated: November 21, 2016



RICHARD SEEBORG  
United States District Judge