

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3

4 GOPI VEDACHALAM and KANGANA BERI,
5 on behalf of themselves and all
6 others similarly situated,

6 Plaintiffs,

7 v.

8 TATA CONSULTANCY SERVICES, LTD,
9 an Indian Corporation; and TATA
10 SONS, LTD, an Indian Corporation,

10 Defendants.

No. C 06-0963 CW

ORDER DENYING
WITHOUT PREJUDICE
PLAINTIFFS' MOTION
FOR SUMMARY
JUDGMENT AND
GRANTING
DEFENDANTS' MOTION
PURSUANT TO RULE
56(D) (Docket Nos.
281 and 288) AND
SETTING FURTHER
CASE MANAGEMENT
CONFERENCE

11 _____/
12 Plaintiffs Gopi Vedachalam and Kangana Beri move for partial
13 summary judgment on behalf of the National and California classes
14 against Defendants Tata Consultancy Services, Ltd., and Tata Sons,
15 Ltd. Defendants move to stay or deny Plaintiffs' motion for
16 partial summary judgment pursuant to Federal Rule of Civil
17 Procedure 56(d).

18 Having considered the parties' papers, the Court GRANTS
19 Defendants' Rule 56(d) motion and DENIES Plaintiffs' motion for
20 partial summary judgment without prejudice to re-filing when both
21 parties are prepared to file cross-motions for summary judgment.
22 Rule 56(d) "should be applied with a spirit of liberality" to
23 prevent injustice to the party facing summary judgment. Buchanan
24 v. Stanships, Inc., 744 F.2d 1070, 1074 (5th Cir. 1984). Here,
25 Defendants have identified certain extrinsic evidence that may be
26 relevant to show whether the contract is reasonably susceptible of
27 the meaning that they urge, which the Court must provisionally
28 receive under California law. See First Nat'l Mortg. Co. v. Fed.

1 Realty Inv. Trust, 631 F.3d 1058, 1067 (9th Cir. 2011).

2 Defendants have also identified evidence which may be relevant to
3 their affirmative defenses. While discovery has been underway in
4 this case for a period of time and discovery was not formally
5 bifurcated, it is reasonable that the parties focused first on
6 discovery relevant to class certification prior to the Court's
7 resolution of that issue, and shifted their focus to merits
8 discovery after the Court issued its order certifying classes to
9 prosecute certain claims in this case.

10 Further, the Court notes that, were it to consider the merits
11 of Plaintiffs' motion for partial summary judgment at this time,
12 the state of the record at this time would incline the Court to
13 deny the motion, at least in part. While Plaintiffs assert that
14 Defendants' "practice was to deduct the amount of the employees'
15 Indian salary from their gross U.S. compensation every month,"
16 Mot. at 6, there appears to be a material dispute of fact as to
17 whether Defendants deducted employees' Indian salary from their
18 gross United States compensation or from their total gross
19 compensation, and whether the latter practice was authorized by
20 the employment contracts.

21 The Court sets a further case management conference for
22 August 29, 2012 at 2:00 p.m. to set the remaining dates in this
23 case.

24 IT IS SO ORDERED.

25
26 Dated: August 3, 2012

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CLAUDIA WILKEN
United States District Judge