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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
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10 BACILIO RUIZ TORRES and JOSE
11 AMADOR, as individuals and on behalf of
12 all other similarly situated persons,

13 Plaintiffs,

14 v.

15 MERCER CANYONS, INC.,

16 Defendant.
17
18

1:14-cv-03032-SAB

**ORDER ON MOTION TO
RECONSIDER AND MOTION
TO AMEND BRIEFING
DEADLINES**

19 Before the Court is a Stipulated Motion to Amend Briefing Deadlines, ECF
20 No. 236, with a related motion to expedite, ECF No. 237; and Defendant's Motion
21 to Reconsider Order Granting Motion for Leave to Amend Scheduling Order and
22 to File Motions for Summary Judgment [ECF No. 230], ECF No. 233, along with
23 a related motion to expedite, ECF No. 234. For the reasons below, the Court
24 **GRANTS** the motion to amend briefing deadlines, and **DENIES** the motion to
25 reconsider.

26 ECF No. 236: The passage of three federal holidays, and the flurry of
27 activity in this case, causes the Court to find good cause to **GRANT** this motion.
28 Defendant may file a response by January 20, 2017.

ORDER ON MOTION TO RECONSIDER AND MOTION TO . . . ^ 1

1 ECF No. 233: Granting a motion for reconsideration is an extraordinary
2 remedy which is only appropriate if the court is presented with newly discovered
3 evidence, an intervening change of law, or the commission of clear error. *United*
4 *Nat. Ins. Co. v. Spectrum Worldwide, Inc.*, 555 F.3d 772, 780 (9th Cir. 2009). “The
5 district court is given broad discretion in supervising the pretrial phase of
6 litigation, and its decisions regarding the preclusive effect of a pretrial order . . .
7 will not be disturbed unless they evidence a clear abuse of discretion.” *C.F. ex rel.*
8 *Farnan v. Capistrano Unified Sch. Dist.*, 654 F.3d 975, 984 (9th Cir. 2011).

9 Defendant avers the Court committed clear error because Plaintiffs did not show
10 diligence, which is the central inquiry for a motion to amend a scheduling order.
11 *Morgal v. Maricopa Cty. Bd. of Sup'rs*, 284 F.R.D. 452, 460 (D. Ariz. 2012).

12 The Court concluded that Plaintiffs showed sufficient diligence given the
13 stay pending appeal and the activity surrounding the first phase of summary
14 judgment and class certification. The fact that Plaintiffs waited to see what the
15 new trial date would be does not preclude a finding of diligence; it merely
16 confirms they would not have filed motions for summary judgment that would
17 interfere with the trial date. Further, “the existence or degree of prejudice to the
18 party opposing the modification [can] supply additional reasons to deny a
19 motion” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir.
20 1992) (emphasis added). The lack of prejudice has done so here.

21 With no clear error, the motion to reconsider is **DENIED**.

22 Accordingly, **IT IS HEREBY ORDERED**:

23 1. Defendant’s Motion for Reconsideration, ECF No. 233, is **DENIED**.

24 2. Defendant’s Motion to Expedite the Motion for Reconsideration, ECF
25 No. 234, is **GRANTED**.

26 3. The Stipulated Motion to Amend Briefing Deadlines, ECF No. 236, is
27 **GRANTED**.

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1 A. Defendant may respond to the Motion for Summary Judgment on
2 Joint Employment of M&L Class Members, ECF No. 224, by **January 20, 2017**.

3 B. Plaintiffs may file a reply, if desired, in accord with the Local
4 Rules of the United States District Court for the Eastern District of Washington.

5 4. The Stipulated Motion to Expedite the Motion to Amend Briefing
6 Deadlines, ECF No. 237, is **GRANTED**. There is no impact on the planned trial
7 schedule.

8 **DATED** this 17th day of January, 2017.



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14 Stanley A. Bastian
15 United States District Judge
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