

O

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

TOYRRIFIC, LLC,

Plaintiff,

v.

EDVIN KARAPETIAN, EDWARD
MINASYAN, LENA AMERKHANIAN,
and EDO TRADING, INC.,

Defendants.

Case No. 2:12-cv-04499-ODW(Ex)

**ORDER DENYING EX PARTE
APPLICATION TO AMEND [47]**

The Court has received Plaintiff Toyrrific, LLC's ex parte application to amend the Court's scheduling order (ECF No. 47), which is based largely on the assertion that several of Defendants discovery responses were deficient. But the discovery cut-off in this matter was March 11, 2013 (ECF No. 39), and Toyrrific filed this application on March 18—an entire week after the close of discovery. As the Court's Scheduling Order prominently notes, the discovery cut-off date **"IS NOT THE DATE BY WHICH DISCOVERY REQUESTS MUST BE SERVED; IT IS THE DATE BY WHICH ALL DISCOVERY MUST BE COMPLETED."** (*Id.* at 2 (emphasis in original).) Because it seeks to amend the Scheduling Order based in part "on the need for Motions to Compel Discovery," Toyrrific has waited too long to bring these discovery issues before the Court.

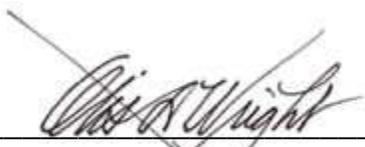
The Court recognizes that Toyrrific's current counsel substituted into this case on December 19, 2012, and may have faced challenges in catching up to speed on the

26
27
28

1 case. But counsel could have sought a stipulation to continue the discovery cut-off
2 date or petitioned the Court for an extension any time within the three months that
3 elapsed between the time that counsel received the case and the close of discovery.
4 As a result, Toyrrific cannot establish that it “is without fault in creating the crisis that
5 requires ex parte relief, or that the crisis occurred as a result of excusable neglect.”
6 *Mission Power Eng’g Co. v. Cont’l Casualty Co.*, 883 F. Supp. 488, 492 (C.D. Cal.
7 1995). Toyrrific’s request is therefore **DENIED** as untimely.

8
9 **IT IS SO ORDERED.**

10
11 March 18, 2012

12
13 
14 _____
15 **OTIS D. WRIGHT, II**
16 **UNITED STATES DISTRICT JUDGE**
17
18
19
20
21
22
23
24
25
26
27
28