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 DOLLAR TREE STORES, INC.

13  
 14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA

16 DOLLAR TREE STORES, INC.,

17 Plaintiff,

18 v.

19 TOYAMA PARTNERS, LLC; PETER PAU  
 20 d/b/a SAND HILL PROPERTY COMPANY,  
 a sole proprietorship; PETER PAU, in his  
 21 individual capacity and as partner of SAND  
 HILL PROPERTY MANAGEMENT  
 22 COMPANY; SUSANNA PAU, in her  
 capacity as partner of SAND HILL  
 23 PROPERTY MANAGEMENT COMPANY;  
 and SAND HILL PROPERTY  
 24 MANAGEMENT COMPANY,

25 Defendants.

Case No. CV-10-0325 SI

**STIPULATION TO AMEND  
 COMPLAINT AND AMEND PRETRIAL  
 PREPARATION ORDER DATES**

**DEMAND FOR JURY TRIAL**

Department: 10  
 Judge: Honorable Susan Illston

Complaint filed: January 22, 2010  
 Trial Date: October 17, 2011

1 Plaintiff Dollar Tree Stores, Inc. (“Dollar Tree”) and Defendant Toyama Partners, LLC  
2 (“Toyama” and, with Dollar Tree, the “Parties”), by their undersigned counsel, file the following  
3 Stipulation to Amend Complaint and Amend Pretrial Preparation Order Dates, stating as follows:

4 1. This case relates to the store formerly operated by Dollar Tree in the Mowry Crossing  
5 Shopping Center (the “Shopping Center”), which was owned by Toyama.

6 2. At a status conference on March 11, 2011, counsel for Toyama stated that Toyama sold  
7 the Shopping Center and subsequently advised that the purchaser was Capella-Mowry, LLC  
8 (“Capella”).

9 3. Also on March 11, 2011, this Court entered an Order Granting in Part and Denying in Part  
10 Plaintiff’s Motion for Leave to File Second Amended Complaint (the “Order”), which granted  
11 Dollar Tree leave to amend its Complaint to assert claims against additional defendants Peter Pau  
12 d/b/a Sand Hill Property Company; Peter Pau, in his individual capacity and as partner of Sand  
13 Hill Property Management Company; Susanna Pau, in her capacity as partner of Sand Hill  
14 Property Management Company; and Sand Hill Property Management Company.

15 4. Following entry of this Court’s March 11, 2011 Order, Dollar Tree requested that Toyama  
16 consent to a further amendment of the Complaint for Dollar Tree to assert claims against Capella  
17 as a purported successor to Toyama. Toyama agreed to consider the request after Dollar Tree  
18 filed its Second Amended Complaint with the confines permitted by the Order.

19 5. On March 22, 2011, Dollar Tree filed its Second Amended Complaint consistent with the  
20 Order.

21 6. Toyama has given its consent to Dollar Tree filing a Third Amended Complaint to assert  
22 claims against Capella. The Parties’ stipulation is conditional and contingent on a partial  
23 modification of the Pretrial Preparation Order dates as follows:  
24

25 NON-EXPERT DISCOVERY CUTOFF IS June 30, 2011.

26 DESIGNATION OF EXPERTS: pltf: June 17, 2011, deft: July 8, 2011;

27 REBUTTAL: pltf: July 22, 2011. Parties **SHALL** conform to Rule 26(a)(2).  
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EXPERT DISCOVERY CUTOFF is August 26, 2011.

DISPOSITIVE MOTIONS **SHALL** be filed by July 8, 2011;

Opp. Due August 9, 2011; Reply Due August 23, 2011;

and set for hearing no later than September 9, 2011 at 9:00 AM.

7. The relief sought in the Stipulation will not delay the trial of this matter as those dates are not changed by this Stipulation:

PRETRIAL CONFERENCE DATE: October 4, 2011 at 3:30 PM.

JURY TRIAL DATE: October 17, 2011 at 8:30 AM.

For the foregoing reasons, the Parties respectfully request that the Court grant this Stipulation, grant Dollar Tree leave to file a Third Amended Complaint in order to assert claims against Capella, and amend the Pretrial Preparation Order dates as set forth above.

Dated: March 31, 2011

FOX ROTHSCHILD LLP  
HOFHEIMER GARTLIR & GROSS, LLP

/s/ Jay D. Marinstein  
JAY D. MARINSTEIN  
Attorneys for Plaintiff  
DOLLAR TREE STORES, INC.

Dated: March 31, 2011

REHON & ROBERTS

/s/ Lisa C. Roberts  
LISA C. ROBERTS  
Attorneys for Defendant  
TOYAMA PARTNERS, LLC

PURSUANT TO STIPULATION, IT IS SO ORDERED:



\_\_\_\_\_  
The Honorable Susan Illston  
U.S. District Court Judge  
Northern District of California

Dated: 4/4/11, 2011

**CERTIFICATE OF SERVICE**

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I hereby certify that on this 31<sup>st</sup> day of March, 2011, a true and correct copy of the foregoing Stipulation to Amend Complaint and Amend Pretrial Preparation Order Dates was filed in accordance with the Court’s electronic filing procedures. I further certify that, as a result of such electronic filing, a copy of the above-mentioned document was served upon all counsel of record.

By:  /s/ Jay D. Marinstein  
Jay D. Marinstein