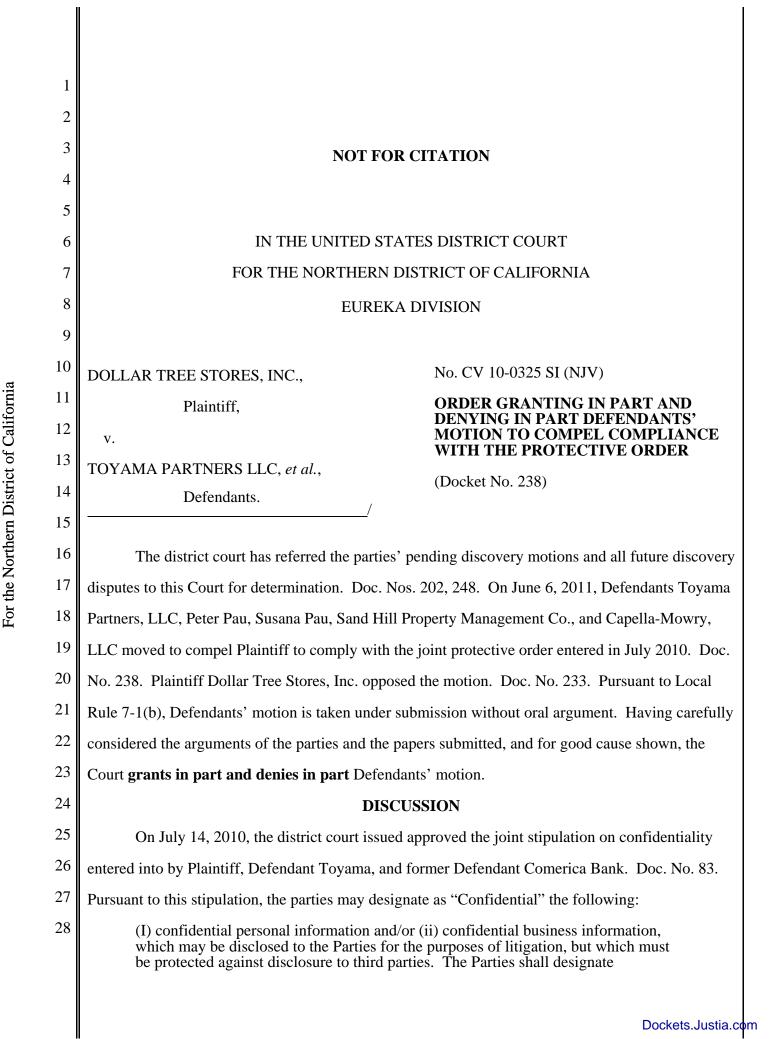
United States District Court



documents as Confidential only to the extent reasonably necessary to preserve the 1 confidentiality of the Confidential information. 2 Stip. Confidentiality Agmt at III.A. Pursuant to this stipulation, the parties may designate as 3 "Attorneys' Eyes Only" any information 4 which any Party or third party in good faith believes contains, refers to, or relates to 5 Confidential Information and concerns matters of central importance to the operation of the producing party, including but not limited to trade secrets and financial information.... The Parties shall designate Information as Attorneys' Eyes Only to 6 the extent reasonably necessary to preserve the confidentiality of the Attorneys' Eves 7 Only Information. 8 Stip. Confidentiality Agmt at III.B. The parties confirmed at the July 14, 2011 hearing on other 9 pending discovery disputes that Defendants Peter Pau d/b/a Sand Hill Property Co., Susana Pau, 10 Sand Hill Management, and Capella have not yet adopted the terms of the July 12, 2010 joint stipulation on confidentiality.¹ Therefore, only Defendant Toyama may challenge Plaintiff's 11 12 designations pursuant to the joint stipulation. Defendant argues that Plaintiff has designated everything it has produced as "Confidential." 13 14 Plaintiff opposes the motion, stating that it is willing to negotiate its designations with Defendant, 15 but argues that Defendant should be required to identify which documents Defendant believes 16 should be de-designated. 17 The Court agrees with Defendant that Plaintiff cannot simply designate its entire document 18 production as confidential. This defeats the purpose of a confidentiality agreement and the express 19 agreement within the joint stipulation that the parties will designate documents as "Confidential" 20 only to the extent reasonably necessary to preserve the confidentiality of this information. For 21 example, Plaintiff has designated certain documents as confidential that have been publicly filed. 22 These documents are not confidential and should not be designated as such. Plaintiff is ORDERED 23 to de-designate anything it has produced that has been publicly filed or is publicly available because 24 these documents are not confidential. After Plaintiff de-designates all documents that have been 25 publicly filed or are publicly available, the Court ORDERS counsel for all parties to engage in a 26 meaningful in-person meet and confer regarding any remaining designation issues. Plaintiff's 27

¹ The parties' dispute regarding other issues related to the July 14, 2010 joint stipulation that were raised in the parties' joint June 3, 2011 letter (Doc. No. 216) was heard on July 14, 2011 and will be addressed in a separate order.

United States District Court For the Northern District of California non-local counsel may participate in the "in-person" meet and confer by video conference and/or
telephone. Before this meet and confer, Defendant is ORDERED to identify sample documents (i.e.,
documents that have not been publicly filed or are publicly available), that it believes Plaintiff has
improperly designated.

IT IS SO ORDERED.

Dated: July 15, 2011

NANDOR J. VADAS United States Magistrate Judge