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28United States District Court
For the Northern District of California**NOT FOR CITATION**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

DOLLAR TREE STORES, INC.,

No. CV 10-0325 SI (NJV)

Plaintiff,

**ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S
STIPULATED MOTION TO SEAL**

v.

TOYAMA PARTNERS LLC, *et al.*,

(Docket No. 287)

Defendants.

The district court has referred the parties' discovery motions and all future discovery matters to this Court for determination. Doc. No. 202, 248. Plaintiff Dollar Tree Stores, Inc. ("Plaintiff") has filed a letter brief requesting an order compelling defendant Toyama Partners and other defendants ("Defendants") to produce documents pursuant to the crime-fraud exception to the attorney-client privilege. Doc. No. 285. In support of its letter brief, Dollar Tree submitted the Declaration of Jay D. Marinstein (Doc. No. 286), which attaches a document Defendants designated as confidential pursuant to the terms of the district court's Order on Confidentiality (Doc. No. 275). The parties accordingly stipulated to filing under seal the portion of the Marinstein Declaration that refers to the document and the document itself, and ask this Court to grant their stipulated motion to seal.

Having carefully considered the papers submitted, the Court **DENIES WITHOUT PREJUDICE** Plaintiff's stipulated motion to seal.

1 Civil Local Rule 79-5 (emphasis added). Plaintiff seeks to seal a document that has been designated
2 as confidential by Defendants, but neither Plaintiff nor Defendants has demonstrated why the
3 document is privileged or protectable. *See* Doc. No. 287. This is insufficient. Moreover, the Court
4 has reviewed the document and from the document itself cannot discern an obvious basis for finding
5 the document is privileged or protectable. At this point, the Court finds that sealing is not
6 warranted. The parties may submit a supplemental declaration that, in compliance with Local Rule
7 79-5, demonstrates that sealing is warranted.

8 In conclusion, the Court **denies without prejudice** Plaintiff's stipulated motion to seal
9 portions of the Marinstein Declaration.

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12 Dated: September 9, 2011



NANDOR J. VADAS
United States Magistrate Judge