

United States District Court
For the Northern District of California

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NOT FOR CITATION

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

DOLLAR TREE STORES, INC.,
Plaintiff,
v.
TOYAMA PARTNERS LLC, *et al.*,
Defendants.

No. CV 10-0325 SI (NJV)

**ORDER AUTHORIZING ALTERNATE
SERVICE AND EXTENDING FACT
DISCOVERY SOLELY FOR THE
PURPOSE OF DEPOSING THIRD
PARTY WITNESS**

(Doc. No. 324)

The district court has referred the parties' discovery motions and all future discovery matters to this Court for determination. Doc. Nos. 202, 248.

After initially serving third party witness Richard Daniel, the parties have been unable to secure Mr. Daniel's attendance at his deposition despite numerous attempts to serve him with a new deposition subpoena. Plaintiff accordingly requests the Court to authorize alternate service of a subpoena upon Mr. Daniel, and to extend the fact discovery deadline for the limited purpose of deposing Mr. Daniel. Doc. No. 324. Plaintiff's request is supported by the declaration of Patrick Abramowich, which attaches two returns of process without service describing the process server's attempts to serve Mr. Daniel with a subpoena at his business and home addresses. Doc. No. 325, Exhibits 2 & 3. Defendants support Plaintiff's request. *See* Doc. No. 326.

Judge Illston approved the parties' stipulated request to extended fact discovery as to Mr. Daniel. Doc. No. 337, ¶¶ 7-10. In light of the diligent attempts by Plaintiff to serve Mr. Daniel and

1 for good cause shown, the Court hereby authorizes Plaintiff to use alternate service of a subpoena
2 upon Rich Daniel, and extends the fact discovery deadline until November 21, 2011 for the limited
3 purpose of deposing Mr. Daniel. The parties should make all reasonable efforts to choose a location
4 and a time that is convenient for Mr. Daniel, who is a third party witness in these proceedings.

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6 Dated: October 27, 2011

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9 NANDOR J. VADAS
10 United States Magistrate Judge
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