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

DOLLAR TREE STORES INC.,

No. C 10-325 SI; C No. 11-2696 SI

Plaintiff,

**ORDER DENYING DEFENDANTS'
MOTION FOR STAY OF
NONDISPOSITIVE PRETRIAL ORDER
OF MAGISTRATE JUDGE**

v.

TOYAMA PARTNERS LLC, *et al.*,

Defendants.


Defendants have filed a letter seeking an order staying the December 20, 2011 Order Compelling Production of Documents Pursuant to the Crime Fraud Exception to the Attorney Client Privilege issued by Magistrate Judge Vadas. Defendants request that the Court stay the order until the Court has ruled on the parties' cross-motions for summary judgment, scheduled for a hearing on January 13, 2012. Alternatively, defendants seek a stay until the Court has ruled on defendants' appeal of the December 20, 2011 order, or until January 3, 2012 due to Mr. Rehon's medical issues. Plaintiff opposes the requested stay. Plaintiff asserts that the documents at issue are relevant to the upcoming motions for summary judgment, and that timely production of the documents will enable plaintiff to seek leave to file a short brief in support of its summary judgment filings.

The Court has reviewed defendants' letter and plaintiff's response thereto, and DENIES the requested stay. In light of Mr. Rehon's recent surgery, the Court will, however, grant defendants additional time to file an appeal of the December 20, 2011 order, and the Court will reschedule the summary judgment hearing so the appeal can be resolved prior to that hearing. Defendants must file an appeal no later than **January 6, 2012**, and plaintiff shall file a response no later than **January 13, 2012**. The Court will take the matter under submission upon receipt of plaintiff's response and will

1 promptly rule on the appeal. If, in reviewing defendants' appeal of the December 20, 2011 order, the
2 Court concludes that any documents should be accorded protection, the Court's order will require that
3 all copies of those documents be returned or destroyed, and that the documents not be used in this
4 litigation. If the Court denies defendants' appeal in whole or in part, the Court's order will set a
5 schedule for the filing of short supplemental briefs regarding the documents. The summary judgment
6 motions are rescheduled to **February 10, 2012 at 9:00 am.**

7
8 **IT IS SO ORDERED.**

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10 Dated: December 23, 2011



SUSAN ILLSTON
United States District Judge