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 DOLLAR TREE STORES, INC.

UNITED STATE DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

DOLLAR TREE STORES, INC.,  
 Plaintiff,

v.

TOYAMA PARTNERS, LLC and  
 COMERICA BANK,  
 Defendants.

Case No. CV-10-0325 SI

**STIPULATION AND ORDER TO  
 EXTEND DISCOVERY, AMEND  
 PRETRIAL PREPARATION ORDER  
 DATES, AND AMEND TRIAL DATE**

Department: 10  
 Judge: Honorable Susan Illston

Complaint filed: January 22, 2010  
 Trial Date: June 13, 2011

Plaintiff Dollar Tree Stores, Inc. (“Dollar Tree”), Defendant Toyama Partners, LLC  
 (“Toyama”), and Defendant Comerica Bank (“Comerica”) (collectively, the “Parties”), by their  
 undersigned counsel, file the following Stipulation to Extend Discovery, Amend Pretrial  
 Preparation Order Dates, and Amend Trial Date, stating as follows:

1 1. In its First Amended and Verified Complaint, Dollar Tree has asserted various claims  
2 against Toyama and Comerica relating to Dollar Tree's alleged loss of its retail store in the  
3 Mowry Crossing Shopping Center.

4 2. On July 30, 2010, the Court held argument on Comerica's motion to dismiss the claims  
5 asserted against Comerica in the First Amended Complaint. Comerica's motion to dismiss  
6 remains pending.

7 3. Over the past several months, the Parties have engaged in significant discussions  
8 concerning a potential business resolution of the matters in dispute between them.

9 4. Pursuant to the Pretrial Preparation Order entered on May 10, 2010, the non-expert  
10 discovery cutoff is November 12, 2010.

11 5. In light of the foregoing, the Parties desire to amend the case schedule as set forth below.

12 6. The Parties hereby stipulate to a four-month extension of the deadline for completing  
13 non-expert discovery until March 14, 2011. The Parties further stipulate to corresponding  
14 extensions of the other deadlines set forth in the Pre-Trial Preparation Order, conditioned upon an  
15 amended trial date commencing not earlier than October 13, 2011, as follows:<sup>1</sup>

16 AMENDMENT OF PLEADINGS: January 14, 2011.

17 NON-EXPERT DISCOVERY CUTOFF IS March 14, 2011.

18 DESIGNATION OF EXPERTS: pltf: March 29, 2011, deft: April 20, 2011;

19 REBUTTAL: pltf: May 16, 2011. Parties **SHALL** conform to Rule 26(a)(2).

20 EXPERT DISCOVERY CUTOFF is August 30, 2011.

21 DISPOSITIVE MOTIONS **SHALL** be filed by May 30, 2011;

22 Opp. Due June 28, 2011; Reply Due July 22, 2011;

23 and set for hearing no later than August 19, 2011 at 9:00 AM.

24 PRETRIAL CONFERENCE DATE: October 4, 2011 at 3:30 p.m.

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27 <sup>1</sup> The May 10, 2010 Pretrial Preparation Order identifies a jury trial date of June 13, 2011. A four-month  
28 extension of that date would result in an amended trial date of October 13, 2011. However, since the Court's  
calendar may not accommodate the revised schedule, the parties have left the amended pretrial conference and  
trial dates to be completed by the Court.

1 JURY TRIAL DATE: October 17, 2011 at 8:30 p.m.

2 Courtroom 10, 19<sup>th</sup> floor.

3 The Pretrial Preparation Order entered on May 10, 2010 shall remain in effect in all other  
4 respects.

5 7. Should the Court order the relief requested in this Stipulation, the Parties respectfully  
6 request that the Court hold a conference call to coordinate the availability of the Court, counsel,  
7 and the parties for the pretrial conference and trial dates.

8 8. The case schedule has not been previously modified.

9 For the foregoing reasons, the Parties respectfully request that the Court grant their  
10 Stipulation to Extend Discovery, Amend Pretrial Preparation Order Dates, and Amend Trial.

11 DATED: October 29, 2010

FOX ROTHSCHILD, LLP  
HOFHEIMER GARTLIR & GROSS, LLP

13 /s/ David F. Faustman  
14 DAVID F. FAUSTMAN  
15 Attorneys for Plaintiff  
DOLLAR TREE STORES, INC.

16 DATED: October 29, 2010

REHON & ROBERTS

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


20 DATED: October 29, 2010

BUCHALTER NEMER

21 /s/ Peter G. Bertrand  
22 PETER G. BERTRAND  
23 Attorneys for Defendant  
COMERICA BANK

24  
25 PURSUANT TO STIPULATION, IT IS SO ORDERED:

26 Dated: \_\_\_\_\_

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

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12 Attorneys for Plaintiff  
DOLLAR TREE STORES, INC.

13  
14  
15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA

17 DOLLAR TREE STORES, INC.,  
18  
19 Plaintiff,

20 v.

21 TOYAMA PARTNERS, LLC and  
COMERICA BANK,  
22 Defendants.

Case No. CV-10-0325 SI

**DECLARATION OF JAY D.  
MARINSTEIN IN SUPPORT OF  
STIPULATION TO EXTEND  
DISCOVERY AND AMEND PRETRIAL  
PREPARATION ORDER DATES**

Courtroom: 10  
Judge: Honorable Susan Illston

Complaint filed: January 22, 2010  
Trial Date: June 13, 2011

1 I, JAY D. MARINSTEIN, declare as follows:

2 1. I am a attorney licensed in the Commonwealth of Pennsylvania. I am a member  
3 of the law firm Fox Rothschild LLP, and one of the attorneys of record for Plaintiff Dollar Tree  
4 Stores, Inc. ("Dollar Tree").

5 2. I make this Declaration in support of the parties' Stipulation to Extend Discovery  
6 and Amend Pretrial Preparation Order Dates (the "Stipulation") pursuant to Civil Local Rule 6-  
7 2(a). I have personal knowledge of the facts herein. I am competent to testify, and if called upon  
8 to do so, I could and would testify as stated herein.

9 3. On July 30, 2010, the Court held argument on the motion of Defendant Comerica  
10 Bank ("Comerica") to dismiss the claims asserted against it in Dollar Tree's First Amended and  
11 Verified Complaint. Comerica's motion to dismiss remains pending.

12 4. Over the past several months, the Parties have engaged in significant discussions  
13 concerning a potential business resolution of the matters in dispute between them.

14 5. Pursuant to the Pretrial Preparation Order entered on May 10, 2010, the non-  
15 expert discovery cutoff is November 12, 2010. In light of the foregoing, the Parties have  
16 stipulated to amend the case schedule.

17 6. The requested modifications to the Pretrial Preparation Order entered on May 10,  
18 2010 will extend the deadline for completing non-expert discovery by four months and will  
19 extend the other deadlines set forth in the Pre-Trial Preparation Order, conditioned upon an  
20 amended trial date commencing not earlier than October 13, 2011, as follows:

- 21 (a) Amended pleadings on or before January 14, 2011;  
22 (b) The non-expert discovery cutoff will be March 14, 2011;  
23 (c) Plaintiff will designate experts by March 29, 2011, Defendants will  
24 designate experts by April 20, 2011, and Plaintiff will designate rebuttal  
25 experts by May 16, 2011;  
26 (d) The expert discovery cutoff will be August 30, 2011;

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28 ///

1 (e) Dispositive motions must be filed by May 30, 2011, with oppositions to  
2 dispositive motions due June 28, 2011, replies due July 22, 2011, and the  
3 motions set for hearing no later than August 15, 2011 at 9:00 a.m.;

4 (f) The dates for the pretrial conference and jury trial will be set as the  
5 schedules of the Court, counsel, and parties permit.

6 7. The Pretrial Preparation Order entered on May 10, 2010 will remain in effect in all  
7 other respects.

8 8. Should the Court order the relief requested in this Stipulation, the Parties are  
9 respectfully requesting that the Court hold a conference call to coordinate the availability of the  
10 Court, counsel, and the parties for the pretrial conference and trial dates.

11 9. The case schedule has not been previously modified.

12 I declare under penalty of perjury that the foregoing is true and correct.

13 Executed on October 29, 2010, in Pittsburgh, Pennsylvania.

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15 By /s/ Jay D. Marinstein  
16 Jay D. Marinstein  
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