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28***E-FILED 06-30-2010***

NOT FOR CITATION
 IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

BANK OF MONTREAL,

No. C10-80152MISC JW (HRL)

Plaintiff,

**ORDER RE SK FOODS, LLC'S
PETITION FOR DISCOVERY**

v.

SK FOODS, LLC,

[Re: Docket No. 1]Defendant.
_____ /

SK Foods, LLC (“SK Foods”) filed a “Petition for Discovery,” seeking leave to serve a deposition and document subpoena on Mark McCormick, an individual reportedly located in this district. SK Foods says that the discovery is sought in connection with a lawsuit pending against SK Foods in the District Court for the Northern District of Illinois: *Bank of Montreal v. SK Foods, LLC*, Case No. C09-03479.

Pursuant to Fed. R. Civ. P. 45, a subpoena may be issued by the court clerk, “signed, but otherwise in blank, to a party who requests it.” FED. R. CIV. P. 45(a)(3). A subpoena may also be issued by an attorney (as an officer of the court) on behalf of: (1) “a court in which the attorney is authorized to practice”; or (2) “a court for a district where a deposition is to be taken or production is to be made, if the attorney is authorized to practice in the court where the action is pending.” *Id.*

SK Foods may pursue discovery that is relevant to its case—subject, of course, to the

1 limits set by the Federal Rules of Civil Procedure and any court orders. However, to the extent
2 SK Foods seeks this court's pre-approval of the proposed subpoena in the form presented, this
3 court declines to do so. Nor does this court intend to foreclose any valid objections that may be
4 made by person(s) responding to the subpoena.

5 Insofar as SK Foods requests that this court issue a subpoena, SK Foods shall promptly
6 so advise this court. In that instance, this court will issue a subpoena form to SK Foods, signed,
7 but otherwise in blank, pursuant to Fed. R. Civ. P. 45(a)(3).

8 SO ORDERED.

9 Dated: June 30, 2010

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12 HOWARD R. LLOYD
13 UNITED STATES MAGISTRATE JUDGE
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5:10-mc-80152-JW Notice has been electronically mailed to:
Robert Laurence Rosenthal rlr@h2law.com
Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the court's CM/ECF program.