

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CRYSTAL ANTONELLI, ET AL.,

Plaintiffs,

v.

THE FINISH LINE, INC., ET AL.

Defendants.

) Case No.: 11-CV-03874-LHK (PSG)

) **ORDER DENYING DEFENDANT**
) **THE FINISH LINE, INC.’S MOTION**
) **TO SHORTEN TIME**

) **(Re: Docket No. 45)**

Defendant The Finish Line, Inc. (“Finish Line”) moves to shorten time on its motion to stay discovery. Plaintiffs Crystal Antonelli, Anny Chi, Alisha Elam, Analynn Foronda and Karen Lopez (collectively “Plaintiffs”) oppose the motion. Pursuant to Civ. L.R. 7-1(b), the motion is taken under submission without oral argument. Having reviewed the papers and considered the arguments of counsel,

IT IS HEREBY ORDERED that Finish Line’s motion to shorten time is DENIED.

Judge Davila denied Finish Line’s motion to compel arbitration¹ and Finish Line now appeals that decision to the Ninth Circuit.² While the appeal is pending, Finish Line requests that the court stay discovery. Because the deposition of David Meyer (“Meyer”) is scheduled to be held

¹ See Docket No. 33.

² See Docket No. 39.

1 on March 21, 2012 and responses to written discovery are due on March 26, 2012, Finish Line
2 argues that it will be substantially harmed or prejudiced if it must proceed with discovery before
3 the motion to stay discovery is heard on April 17, 2012.

4 Plaintiffs respond that not only is Finish Line's motion to shorten time procedurally
5 deficient but Finish Line has failed to show any substantial harm or prejudice. Plaintiffs point out
6 that under *Britton v. Co-op Banking Group*,³ the Ninth Circuit held that the district court retains
7 jurisdiction pending an appeal of an order denying a motion to compel arbitration. Plaintiffs also
8 point out that the Meyer deposition and the written discovery are narrowly tailored and relevant
9 regardless of whether the case is adjudicated here or in an arbitration. Plaintiffs note that in fact,
10 they are prejudiced if their opportunity to respond to Finish Line's motion to stay discovery is
11 significantly reduced and a hearing is held on March 20, 2012, as Finish Line has requested.

12 The court agrees with Plaintiffs. Finish Line's only justification for the court to shorten time
13 on its motion to stay discovery is that the Meyer deposition has been noticed for March 21, 2012
14 and responses to written discovery are due on March 26, 2012. Meyer is a defendant in the case
15 and as Plaintiffs point out, his deposition is relevant regardless of whether the case proceeds in
16 arbitration or in court and at this juncture the written discovery is limited to ten interrogatories,
17 seven document requests, seven requests for admission and a Rule 30(b)(6) notice. Finish Line has
18 not shown the substantial harm or prejudice it would face if the above discovery proceeded before
19 the regularly-noticed hearing on the motion to stay discovery is held on April 17, 2012.

20 **IT IS SO ORDERED.**

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22 Dated: 3/15/2012



PAUL S. GREWAL
United States Magistrate Judge

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³ 916 F.2d 1405, 1412 (9th Cir. 1990).