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 11 Jason Moore and Eric Madura

12 (Additional counsel listed on signature page)

13
 14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**
 16 **SAN FRANCISCO DIVISION**

17 JUST FILM, INC.; RAINBOW BUSINESS
 18 SERVICES, D/B/A PRECISION TUNE
 19 AUTO CARE; VOLKER VON
 20 GLASENAPP; and JERRY SU on behalf of
 themselves, the general public and those
 similarly situated,

21 Plaintiffs,

22 v.

23
 24 MERCHANT SERVICES, INC.;
 UNIVERSAL CARD, INC.; NATIONAL
 25 PAYMENT PROCESSING; UNIVERSAL
 MERCHANT SERVICES
 26 CORPORATION; ATLAS PAYMENT
 PROCESSING; UNITED BANK CARD
 27 OF AMERICAN, INC.; SPC, INC. d/b/a
 28 FIRST NATIONAL MERCHANTS

Case No. CV 10-01993 JL

**STIPULATION PURSUANT TO CIVIL
 LOCAL RULE 6-1(a) TO EXTEND
 DEADLINE TO ANSWER OR
 OTHERWISE RESPOND TO
 COMPLAINT**

and

**STIPULATION PURSUANT TO CIVIL
 LOCAL RULE 6-2(a) TO EXTEND
 ASSOCIATED BRIEFING SCHEDULE
 AND ~~PROPOSED~~ ORDER THEREON**

and

**STIPULATION REGARDING
 ELECTRONIC MAIL SERVICE**

**[Declaration of Cary D. Sullivan filed
 concurrently herewith]**

1 SOLUTIONS; MBF LEASING LLC; MBF
2 MERCHANT CAPITAL, LLC;
3 NORTHERN FUNDING, LLC;
4 NORTHERN LEASING SYSTEMS, INC.;
5 CONGRESS FINANCIAL
6 CORPORATION; GOLDEN EAGLE
7 LEASING, LLC; LEASE SOURCE, INC.;
8 LEASE FINANCE GROUP, LLC;
9 TRANSFIRST HOLDINGS, INC.;
10 TRANSFIRST FINANCIAL
11 INSTITUTIONS SERVICES;
12 TRANSFIRST INDEPENDENT SALES
13 SERVICES; FIRST NATIONAL BANK
14 OF OMAHA; COLUMBUS BANK AND
15 TRUST CO.; MERRICK BANK; THIRD
16 FIFTH BANK; RBL CAPITAL GROUP,
17 LLC; WILLIAM HEALY; ROBERT
18 LATOUSEK; JAY COHEN; RICH HAHN;
19 SARA KRIEGER; JASON MOORE; LINA
20 KRAVIC; BRIAN FITZGERALD; SAM
21 BUONO; PETER DEPALMA; FIONA
22 WALSH; and ERIC MADURA and
23 DOES 1 through 75,

Defendants.

1 **WHEREAS**, on March 26, 2010, plaintiffs Just Film, Inc., Rainbow Business Services
2 d/b/a Precision Tune Auto Care, Volker von Glasenapp and Jerry Su filed a class action
3 complaint against 35 defendants in the Superior Court of the County of San Francisco, Case No.
4 CGC-10-498225 (the “action”);

5 **WHEREAS**, a number of the defendants in the action have been served, including,
6 Merchant Services, Inc., Universal Card, Inc., National Payment Processing, Inc., Atlas Payment
7 Processing, SPC, Inc. d/b/a/ First National Merchants Solutions, MBF Leasing, LLC, MBF
8 Merchant Capital, LLC, Northern Funding, LLC, Northern Leasing Systems, Inc., Golden Eagle
9 Leasing, LLC, Lease Finance Group, LLC, United Bank Card, Inc., Congress Financial
10 Corporation, TransFirst Holdings, Inc., TransFirst, LLC, TransFirst Third Party Sales, LLC, First
11 National Bank of Omaha, Columbus Bank and Trust Company, Merrick Bank, Fifth Third Bank,
12 RBL Capital Group, LLC, William Healy, Jay Cohen, Rich Hahn, Sara Krieger, Jason Moore,
13 Lina Kravic, Sam Buono, Fiona Walshe and Eric Madura (collectively, the “Served Defendants”);

14 **WHEREAS**, the dates of service on the Served Defendants range from early to late April
15 2010;

16 **WHEREAS**, some of the defendants in the action may remain unserved;

17 **WHEREAS**, on May 7, 2010, the Served Defendants removed the action to this Court,
18 pursuant to Title 28, Sections 1441 and 1453 of the United States Code;

19 **WHEREAS**, pursuant to Rule 81(c)(2) of the Federal Rules of Civil Procedure, the range
20 in dates of service on the Served Defendants may create a range in deadlines for the Served
21 Defendants to answer or otherwise respond to the complaint herein, and a similar range in
22 associated briefing schedules;

23 **WHEREAS**, the parties believe a coordinated and extended deadline for the Served
24 Defendants to answer or otherwise respond to the complaint will conserve resources and promote
25 judicial economy;

26 **WHEREAS**, given the large number of parties and the potential complexity of the issues
27 presented, the parties further believe that a coordinated and extended briefing schedule with
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1 respect to any responsive motions filed by the Served Defendants is warranted and also will
2 conserve resources and promote judicial economy;

3 **WHEREAS**, pursuant to Civil Local Rule 6-1(a), the parties believe a stipulation may be
4 sufficient, without Court order, to coordinate and extend the deadline for the Served Defendants
5 to answer or otherwise respond to the complaint, but, pursuant to Civil Local Rule 6-2(a), a Court
6 order may be necessary to extend the associated briefing schedule;

7 **WHEREAS**, the parties wish to delay any Rule 26(f) conference until after the initial
8 hearing on any motions in response to the complaint, except for matters on which limited
9 discovery may be appropriate with respect to such motions, such as motions to dismiss for lack of
10 personal jurisdiction; and

11 **WHEREAS**, to save paper, fuel and expenses, and to reduce environmental harm, the
12 parties further believe it appropriate to exchange all correspondence, discovery and pleadings in
13 the action via electronic mail (“email”).

14 **NOW, THEREFORE, IT IS HEREBY STIPULATED**, by and between the
15 undersigned parties, through their respective counsel of record, pursuant to Civil Local Rules 6-
16 1(a) and 6-2(a) and Rules 6 and 26 of the Federal Rules of Civil Procedure, as follows:

17 1. If any Served Defendants intend to respond to the complaint with motions rather
18 than answers, such Served Defendants shall meet and confer with Plaintiffs regarding the bases
19 for such anticipated motions no later than May 21, 2010, and, to the extent such motions concern
20 matters (such as lack of personal jurisdiction) for which limited discovery may be sought prior to
21 the hearing on the motions, to meet and confer under Rule 26(f) as to the scope and timing of
22 such limited discovery;

23 2. Plaintiffs shall inform Served Defendants no later than May 28, 2010 whether
24 Plaintiffs intend to re-plead or otherwise preemptively respond to such anticipated motions;

25 3. Served Defendants, and any other defendants served on or before May 4, 2010,
26 shall answer or otherwise respond to the complaint no later than June 4, 2010, and shall set any
27 motions filed in response to the complaint for hearing on July 30, 2010 or the next available
28 Court day on which the assigned judge is hearing civil motions;

1 4. Plaintiffs shall oppose any such motions filed in response to the complaint no later
2 than July 2, 2010;

3 5. Served Defendants shall reply to any such oppositions no later than July 16, 2010;

4 6. Unless otherwise ordered by the Court, no Rule 26(f) conference shall be held
5 prior to the initial hearing on any motions filed in response to the complaint, except for any
6 conference focusing on the limited discovery issues set forth in paragraph 1 hereof;

7 7. On or before August 15, 2010, or within seven days of the Court's ruling on any
8 motions filed in response to the complaint, whichever is later, all defendants as to whom the
9 complaint has not been dismissed with prejudice shall participate in a joint telephonic meet and
10 confer session with Plaintiffs regarding the items set forth in Rule 26(f) of the Federal Rules of
11 Civil Procedure;

12 8. The parties need not separately serve any pleading or document that is filed
13 through the Court's Electronic Case Filing (ECF) system, rather, service of such pleading or
14 document will be deemed complete on the day of filing by way of the ECF system's automatic
15 email notification. The parties are excused from any duty under section IX(C)(2) of General
16 Order 45 to serve paper copies of any filing on any other party;

17 9. With respect to all pleadings, discovery requests and responses and
18 correspondence not filed through the ECF system (including documents filed under seal in paper
19 format), the following provisions shall apply:

20 a. The parties shall serve, and accept service, of all pleadings, discovery
21 requests and responses and correspondence via email. Emails shall have a subject line that
22 includes the phrase "Just Film v Merchant Services" and the subject of the email (example: Just
23 Film v Merchant Services – Plaintiff's Initial Disclosures);

24 b. Items sent by email prior to 6:00 p.m. shall be treated as though personally
25 served on that day; items sent by email after 6:00 p.m. or on a Saturday, Sunday or legal holiday
26 shall be treated as though personally served as of the next day thereafter on which the Court is
27 open (for example, items emailed on a Saturday will be deemed personally served as of the next
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1 Monday, assuming that Monday is not a legal holiday). The parties waive the provisions of Rule
2 6(d) of the Federal Rules of Civil Procedure;

3 c. Signed versions of pleadings, discovery requests and responses and
4 correspondence shall be served in .pdf format. The text of all discovery requests and responses
5 shall additionally be served in .doc format;

6 d. The parties shall be served at the email addresses provided in the signature
7 blocks herein; and

8 e. Any additional counsel who subsequently file an appearance in this matter
9 shall provide the undersigned counsel with such additional counsel's email address. Following
10 such notice, additional counsel shall also be served by email pursuant to paragraph 9 hereof.

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1 May 10, 2010

JONES DAY

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By: /s/ Cary D. Sullivan

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Cary D. Sullivan

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14 Attorney for defendant Congress Financial
15 Corporation

16 Pursuant to Civil Local Rule 6-2(a), and **GOOD CAUSE APPEARING THEREFOR**,
17 the stipulated briefing schedule set forth in paragraphs 3 through 5 hereof is hereby adopted.

18 **IT IS SO ORDERED.**

19 DATED: May 13, 2010

20 
THE HONORABLE JAMES LARSON
UNITED STATES MAGISTRATE JUDGE

21 I, Cary D. Sullivan, am the ECF user whose ID and password are being used to file this
22 document. In compliance with section X(B) of General Order 45, I hereby attest that Adam J.
23 Gutride, Maria Ellinikos, Tomio B. Narita, James R. McGuire, Hayes F. Michel, Scott M.
24 Pearson, Kevin Gaut, James Cai, Joan E. Trimble, Robert Elliott and Thomas O. Jacob concurred
25 in this filing.

26 /s/ Cary D. Sullivan

27 IRI-6567v3