

1 DAVID E. HARRIS (Bar No. 161334)
 MILLER STARR REGALIA
 2 A Professional Law Corporation
 1331 N. California Blvd., Fifth Floor
 3 Walnut Creek, California 94596
 Telephone: 925 935 9400
 4 Facsimile: 925 933 4126
 Email: david.harris@msrlegal.com

5 Attorneys for Third Party Plaintiff
 6 RPM MORTGAGE, INC.,
 now by merger and name change LendUS, LLC
 7 formerly known as LendUSA, LLC

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

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11 FEDERAL DEPOSIT INSURANCE
 CORPORATION as Receiver for AMTRUST
 12 BANK,

13 Plaintiff,

14 v.

15 RPM MORTGAGE, INC., a California
 corporation d/b/a RESIDENTIAL PACIFIC
 16 MORTGAGE, f/k/a NL, INC.,

17 Defendant.

18 RPM MORTGAGE, INC., a California
 corporation d/b/a RESIDENTIAL PACIFIC
 19 MORTGAGE, erroneously sued as f/k/a NL,
 20 INC.,

21 Third Party Plaintiff,

22 v.

23 JACLYNN COATES, an individual;
 ELIZABETH D. COFFIN, an individual,

24 Third Party Defendants

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Case No. 15-cv-05534-EMC

STIPULATION OF THE PARTIES
 DISMISSING THIRD PARTY DEFENDANT
JACLYNN COATES WITH PREJUDICE

JUDGE EDWARD M. CHEN

IT IS HEREBY STIPULATED, by and between Third Party Plaintiff herein

RPM MORTGAGE, INC., now by merger and name change LendUS, LLC formerly known as

1 LendUSA, LLC¹ (collectively “RPM”), and Third Party Defendant herein, JACLYNN COATES,
2 through their respective counsel as follows:

3 1. On December 3, 2015, Plaintiff THE FEDERAL DEPOSIT INSURANCE
4 CORPORATION as Receiver for AMTRUST BANK (“FDIC”) filed this action for breach of
5 contract against RPM MORTGAGE, INC., a California Corporation d/b/a RESIDENTIAL
6 PACIFIC MORTGAGE, f/k/a NL, INC., in the Unites States District Court for the Northern
7 District of California, Case No. 3:15-cv-05534-EMC (the “Action”).

8 2. On October 7, 2016, Defendant and Third Party Plaintiff RPM
9 MORTGAGE, INC., a California Corporation d/b/a RESIDENTIAL PACIFIC MORTGAGE,
10 erroneously sued as f/k/a NL, INC. filed a Third Party Complaint for Equitable Implied Indemnity
11 and Contribution in this Action against Third Party Defendants JACLYNN COATES and
12 ELIZABETH D. COFFIN (the “Third Party Complaint”). Third Party Defendants JACLYNN
13 COATES and ELIZABETH D. COFFIN are not parties to the Complaint filed initiating this
14 Action by the Federal Deposit Insurance Corporation, they are parties only to the Third Party
15 Complaint filed by RPM.

16 3. On November 21, 2016, this Court entered Judgment in this Action against
17 RPM, pursuant to a Federal Rules of Civil Procedure, Rule 68, accepted Offer of Judgment made
18 by RPM to FDIC.

19 4. On December 15, 2016, this Court entered the default in this Action of
20 Third Party Defendant ELIZABETH D. COFFIN who had failed to appear in response to the
21 Third Party Complaint.

22 5. On April 20, 2017, Third Party Defendant JACLYNN COATES
23 (hereinafter “Third Party Defendant”) filed a Chapter 13 bankruptcy case in the United States
24 Bankruptcy Court for the Northern District of California, Case No. 17-41070-WJL-13 (the
25 “Bankruptcy Action”).

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28 ¹ On September 15, 2017, LendUSA, LLC changed its name, effective September 18, 2017, to LendUS, LLC.

1 6. On July 28, 2017, LendUSA, LLC, RPM’s successor by merger
2 (“LendUSA”), filed against Third Party Defendant in the Bankruptcy Action an Adversary
3 Complaint to Determine a Debt Non-Dischargeable Pursuant to 11 U.S.C. §§ 523(a)(2)(A) & (B)
4 & (a)(6), Adv. Case No. 17-04052 (the “Adversary Proceeding”).

5 7. LendUSA, RPM’s successor by merger, and Third Party Defendant reached
6 a global written conditional settlement of the Adversary Proceeding and a conditional settlement
7 with Third Party Defendant with respect to this Action on September 11, 2017 (the “Settlement”),
8 which Settlement is contingent on the Bankruptcy Court’s granting approval of the Settlement
9 pursuant to a motion for approval of the Settlement to be filed by Third Party Defendant in the
10 Bankruptcy Action and payment of the settlement funds by Third Party Defendant to LendUSA
11 within ten (10) calendar days after entry of an order by the Bankruptcy Court approving the
12 Settlement.

13 8. In furtherance of the Settlement, on September 18, 2017, Third Party
14 Defendant filed with the Bankruptcy Court a Motion for Approval of the Settlement, which was
15 heard on October 18, 2017, at 10:30 a.m. in Department 220 of the Bankruptcy Court before the
16 Honorable William J. Lafferty, III.

17 9. On October 23, 2017, the Bankruptcy Court entered an Order approving the
18 Settlement in the Adversary Proceeding.

19 10. On November 1, 2017, Third Party Defendant paid the settlement funds
20 required by the Settlement to LendUSA.

21 11. Third Party Defendant and RPM have previously agreed in the Settlement
22 that once the Bankruptcy Court entered an order in the Bankruptcy Action approving the
23 Settlement and Third Party Defendant paid the settlement funds required by the Settlement to
24 LendUSA, RPM and Third Party Defendant would stipulate to and jointly cooperate in requesting
25 that this Court dismiss Third Party Defendant from this Action with prejudice.

26 **WHEREFORE, THE PARTIES HEREBY STIPULATE AND REQUEST**, by
27 and through their respective attorneys, as follows: That this Court should dismiss Third Party
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1 Defendant from this Action with prejudice in compliance with the terms of the parties completed
2 Settlement.

3 Dated: November __, 2017

MILLER STARR REGALIA

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5 By: _____ /s/
6 DAVID E. HARRIS
7 Attorneys for Third Party Plaintiff
8 RPM MORTGAGE, INC., now by merger and
name change LendUS, LLC formerly known as
LendUSA, LLC

9 Dated: November __, 2017

LAW OFFICE OF LARA C. SMITH

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11 By: _____ /s/
12 Lara Culinane Smith
13 Attorneys for Third Party Defendant
14 JACLYNN COATES

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16 ~~**[PROPOSED]**~~ **ORDER**

17 **IT IS ORDERED** that Third Party Defendant JACLYNN COATES is hereby dismissed
18 from this Action with prejudice pursuant to the Stipulation of the parties, Third Party Plaintiff
19 RPM MORTGAGE, INC., now by merger and name change LendUS, LLC formerly known as
20 LendUSA, LLC, and Third Party Defendant JACLYNN ANNE COATES.

21 Dated 11/17/17
22 _____

23 The Honorable Edward M. Chen
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