

1 MORGAN, LEWIS & BOCKIUS LLP
 2 Nicole A. Diller (State Bar No. 154842)
 3 Donald P. Sullivan (State Bar No. 191080)
 4 One Market, Spear Street Tower
 5 San Francisco, California 94105
 6 Telephone: (415) 442-1000
 7 Facsimile: (415) 442-1001
 8
 9 Attorneys for North Star Trust Company

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 THOMAS FERNANDEZ, LORA SMITH,
 12 and TOSHA THOMAS

Case No. C06-07339 CW

13 Plaintiffs,

**STIPULATION AND ORDER
 MODIFYING BRIEFING SCHEDULE ON
 PLAINTIFFS' MOTION FOR
 PRELIMINARY APPROVAL OF
 PARTIAL CLASS ACTION SETTLEMENT**

14 vs.

15 K-M INDUSTRIES HOLDING CO., INC.;
 16 K-M INDUSTRIES HOLDING CO., INC.
 17 ESOP PLAN COMMITTEE; WILLIAM
 18 E. AND DESIREE B. MOORE
 19 REVOCABLE TRUST; TRUSTEES OF
 20 THE WILLIAM E. AND DESIREE B.
 21 MOORE REVOCABLE TRUST; CIG
 22 ESOP PLAN COMMITTEE; NORTH
 23 STAR TRUST COMPANY; DESIREE B.
 24 MOORE REVOCABLE TRUST;
 25 WILLIAM E. MOORE MARITAL
 26 TRUST; WILLIAM E. MOORE
 27 GENERATION-SKIPPING TRUST; and
 28 DESIREE MOORE, BOTH IN HER
 INDIVIDUAL CAPACITY AND AS
 TRUSTEE OF THE WILLIAM E AND
 DESIREE B. MOORE REVOCABLE
 TRUST'S SUCCESSOR TRUSTS
 NAMED ABOVE,

Date: January 8, 2009
 Time: 2:00 P.M.
 Courtroom: 2, 4th Floor
 Judge: Hon. Claudia Wilken

Defendants.

1 WHEREAS, Plaintiffs Thomas Fernandez, Lora Smith, and Tosha Thomas (“Plaintiffs”)
2 and Defendants K-M Industries Holding Co., Inc.; K-M Industries Holding Co., Inc. ESOP Plan
3 Committee; William E. and Desiree B. Moore Revocable Trust; Trustees of the William E. and
4 Desiree B. Moore Revocable Trust; CIG ESOP Plan Committee; Desiree B. Moore Revocable
5 Trust; William E. Moore Marital Trust; William E. Moore Generation-Skipping Trust; and
6 Desiree Moore, both in her Individual Capacity and as Trustee of the William E. and Desiree B.
7 Moore Revocable Trust’s Successor Trusts (“Settling Defendants”) have reached an agreement to
8 settle the disputes between them;

9 WHEREAS, Defendant North Star Trust Company (“North Star”) is not party to the
10 settlement between Plaintiffs and the Settling Defendants;

11 WHEREAS, Plaintiffs filed a Notice of Motion and Motion for Preliminary Approval of
12 Partial Class Action Settlement (“Motion”) with this Court on November 14, 2008;

13 WHEREAS, Plaintiffs noticed the Motion for hearing on December 18, 2008;

14 WHEREAS, the parties stipulated to a briefing schedule and to continue the hearing on
15 Plaintiffs’ Motion to January 8, 2009 at 2:00 p.m.;

16 WHEREAS, the Court approved the parties’ stipulation and continued the hearing on
17 Plaintiffs’ Motion to January 8, 2009 at 2:00 p.m.;

18 WHEREAS, the parties are working together to determine the best way to resolve any
19 issues regarding Plaintiffs’ Motion for Preliminary Approval;

20 WHEREAS, the parties have agreed to modify the previously agreed-upon briefing
21 schedule to permit the parties to properly address the above issues.

22 WHEREFORE, IT IS HEREBY STIPULATED by and between the parties hereto through
23 their respective counsel of record and pursuant to Local Rule 6-1(b) that the previously agreed-
24 upon briefing schedule on Plaintiffs’ Motion shall be modified as follows:

25 (1) North Star’s Opposition to the Motion, if any, shall be filed on or before Tuesday,
26 December 16, 2008;

27 (2) Plaintiffs’ and/or the Settling Defendants’ Reply in support of the Motion, if any,
28 shall be filed on or before Tuesday, December 30, 2008; and

1 (3) Plaintiffs' Motion shall be heard on Thursday, January 8, 2009 at 2:00 p.m., or as
2 soon thereafter as is convenient for the Court.

3 **IT IS SO STIPULATED:**

4 DATED: December 5, 2008

LEWIS, FEINBERG, LEE, RENAKER &
JACKSON, P.C.

5
6 By: /S/ Todd Jackson
Daniel M. Feinberg
Todd Jackson
7 Attorneys for Plaintiffs Thomas Fernandez,
8 Lora Smith, and Tosha Thomas

9 DATED: December 5, 2008

LOVITT & HANNAN, INC.

10 By: /S/ Henry Bornstein
11 Henry Bornstein
12 Ronald Lovitt
13 Attorneys for Defendants K-M Industries
14 Holding Co., Inc.; K-M Industries Holding
Co., Inc. ESOP Plan Committee; and CIG
ESOP Plan Committee

15 DATED: December 5, 2008

HENNIGAN, BENNETT & DORMAN LLP

16 By: /S/ Robert L. Palmer
17 Robert L. Palmer
18 Lauren Smith
19 Allison Chock
20 Attorneys for Defendants William E. and
21 Desiree B. Moore Revocable Trust; Trustee
of the William E. and Desiree B. Moore
22 Revocable Trust; Desiree B. Moore
23 Revocable Trust; William E. Moore Marital
Trust; William E. Moore Generation-
24 Skipping Trust; and Desiree Moore

25 DATED: December 5, 2008

MORGAN, LEWIS & BOCKIUS LLP

26 By: /S/ Donald P. Sullivan
27 Donald P. Sullivan
28 Attorneys for Defendant North Star Trust
Company

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION

I hereby attest that I have on file all holograph signatures for any signatures indicated by a “conformed” signature (/S/) within this efiled document.

DATED: December 5, 2008

MORGAN, LEWIS & BOCKIUS LLP

By: /S/ Donald P. Sullivan
Donald P. Sullivan
Attorneys for Defendant North Star Trust
Company

ORDER

For good cause shown, it is hereby ordered that:

- (1) North Star’s Opposition to the Motion, if any, shall be filed on or before Tuesday, December 16, 2008;
- (2) Plaintiffs’ and/or the Settling Defendants’ Reply in support of the Motion, if any, shall be filed on or before Tuesday, December 30, 2008; and
- (3) Plaintiffs’ Motion shall be heard on **January 15, 2009, at 2:00 p.m.**

IT IS SO ORDERED:

12/10/08



DATED: _____

The Honorable Claudia Wilken
United States District Judge

DB2/20926033.1