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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

JUST FILM, INC., RAINBOW BUSINESS SERVICES, D/B/A PRECISION TUNE AUTO CARE; BURLINGAME MOTORS, INC., DIETZ TOWING, INC., THE ROSE DRESS, INC., VOLKER VON GLASENAPP; JERRY SU; VERENA BAUMGARTNER; TERRY JORDAN; AND LEWIS BAE on behalf of themselves, the general public and those similarly situated

Plaintiffs,

v.

MERCHANT SERVICES, INC.; NATIONAL PAYMENT PROCESSING; UNIVERSAL MERCHANT SERVICES LLC; JASON MOORE; JWM HOLDINGS, LLC; LA QUINTA HOLDINGS LLC; NATHAN JURCZYK, ROBERT PARISI, ERIC MADURA, FIONA WALSHE, ALICYN ROY; MBF LEASING LLC; NORTHERN FUNDING LLC; NORTHERN LEASING SYSTEMS, INC.; GOLDEN EAGLE LEASING LLC; LEASE SOURCE, LLC; LEASE FINANCE GROUP, LLC; JAY COHEN; LEONARD MEZEI; RICH HAHN; SARA KRIEGER; LINA KRAVIC; BRIAN FITZGERALD; SAM BUONO; MBF

Case No. 4:10-cv-01993-CW

STIPULATION TO CONSOLIDATE PLAINTIFFS' OPPOSITIONS TO DEFENDANTS' MOTIONS TO DISMISS

AND

STIPULATION TO SUSPEND RULE 7-4(b)

[Declaration of Kristen Simplicio filed concurrently herewith]

1 MERCHANT CAPITAL, LLC; RBL CAPITAL
2 GROUP, LLC; WILLIAM HEALY; JOSEPH I.
3 SUSSMAN; JOSEPH I. SUSSMAN, P.C.
4 TRANSFIRST HOLDINGS, INC.; TRANSFIRST,
5 LLC, TRANSFIRST THIRD PARTY SALES, LLC,
6 COLUMBUS BANK AND TRUST CO.; FIFTH
7 THIRD BANK; AND MERRICK BANK;

8 Defendants.

9 **WHEREAS**, on June 25, 2010, Plaintiffs filed a First Amended Class Action Complaint
10 in this action (the “First Amended Complaint”);

11 **WHEREAS**, defendants Merchant Services, Inc.; National Payment Processing;
12 Universal Merchant Services LLC; Jason Moore; JWM Holdings, LLC; La Quinta Holdings
13 LLC; Nathan Jurczyk, Robert Parisi, Eric Madura, and Alycin Roy filed a 17-page Motion to
14 Dismiss on July 26, 2010;

15 **WHEREAS**, defendants MBF Leasing LLC; Northern Funding LLC; Northern Leasing
16 Systems, Inc.; Golden Eagle Leasing LLC; Lease Finance Group LLC; Jay Cohen; Leonard
17 Mezei; Rich Hahn; Sara Krieger; Lina Kravic; Sam Buono; RBL Capital Group, LLC filed a 26-
18 page Motion to Dismiss on July 26, 2010 that was joined by Lease Source-LSI LLC on August
19 16, 2010;

20 **WHEREAS**, defendant Brian Fitzgerald filed a 13-page Motion to Dismiss on July 26,
21 2010;

22 **WHEREAS**, defendants MBF Merchant Capital, LLC and William Healy filed a 14-page
23 Motion to Dismiss on July 26, 2010;

24 **WHEREAS**, defendant Fifth Third Bank filed a 9-page Motion to Dismiss on July 26,
25 2010;

26 **WHEREAS**, defendant Merrick Bank joined in all Defendants motions to dismiss on July
27 26, 2010;

28 **WHEREAS**, defendant Fiona Walshe joined in all Defendants motions to dismiss on July
29 26, 2010;

WHEREAS, defendants TransFirst Holdings, Inc., TransFirst, LLC, TransFirst Third

1 Party Sales, LLC, and Columbus Bank and Trust filed a 23-page Motion to Dismiss on August 9,
2 2010;

3 **WHEREAS**, defendants Joseph I. Sussman, P.C. and Joseph I. Sussman filed a 13-page
4 Motion to Dismiss on August 9, 2010;

5 **WHEREAS**, the parties have agreed, subject to approval of the Court, to allow Plaintiffs
6 to submit one consolidated opposition to the motions to dismiss;

7 **WHEREAS**, Plaintiffs require a total of fifty (50) pages to respond to the seven separate
8 motions to dismiss filed by Defendants;

9 **NOW, THEREFORE, IT IS HEREBY STIPULATED**, by and between the
10 undersigned parties, through their respective counsel of record, that Plaintiffs will file one
11 consolidated opposition to the seven motions to dismiss not to exceed fifty (50) pages.

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1 DATED: August 24, 2010

Respectfully submitted,

2 **GUTRIDE SAFIER LLP**

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14 Kristen Simplicio

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16 *Rainbow Business Services d/b/a Precision*
17 *Tune Auto Care, Volker von Glasenapp and*
18 *Jerry Su, Burlingame Motors, Inc., Dietz*
19 *Towing, Inc., The Rose Dress, Inc., Verena*
20 *Baumgartner, Terry Jordan and Lewis Bae*

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Capital, LLC and William Healy*

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PROPOSED ORDER

Pursuant to **GOOD CAUSE APPEARING THEREFOR**, it is therefore ORDERED that Plaintiffs shall file one consolidated opposition to the seven motions to dismiss not to exceed fifty (50) pages. **Defendants shall file a consolidated reply, not to exceed 20 pages.**

IT IS SO ORDERED.

DATED: 8/26/2010



THE HONORABLE CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

I, Kristen Simplicio, am the ECF user whose ID and password are being used to file this document. In compliance with section X(B) of General Order 45, I hereby attest that Seema Tendolkar, Stephen Colangelo, Cary Sullivan, Robert Webner, Jen Nigro, Seth Weiner, John Heaphy, and Stephen Newman concurred in this filing.

/s/ Kristen Simplicio