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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

(SAN FRANCISCO 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,

vs.

MERCHANT SERVICES, INC.; UNIVERSAL CARD, INC.; NATIONAL PAYMENT PROCESSING; UNIVERSAL MERCHANT SERVICES CORPORATION; ATLAS PAYMENT PROCESSING; UNITED BANK CARD OF AMERICA, INC.; SPC, INC. d/b/a FIRST NATIONAL MERCHANTS SOLUTIONS; MBF LEASING LLC; MBF MERCHANT CAPITAL, LLC; NORTHERN FUNDING, LLC; NORTHERN LEASING SYSTEMS, INC.; CONGRESS FINANCIAL CORPORATION; GOLDEN EAGLE LEASING LLC; LEASE SOURCE,

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

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

and

**STIPULATED REQUEST PURSUANT TO CIVIL LOCAL RULE 6-2(a) TO WITHDRAW MOTIONS TO DISMISS SET FOR HEARING ON AUGUST 5, 2010 AND ORDER THEREON (AS MODIFIED)**

**[Declaration of Maria Ellinikos filed concurrently herewith]**

1 INC.; LEASE FINANCE GROUP, LLC; TRANS-  
2 FIRST HOLDINGS, INC.; TRANSFIRST FINAN-  
3 CIAL INSTITUTIONS SERVICES; TRANSFIRST  
4 INDEPENDENT SALES SERVICES; FIRST  
5 NATIONAL BANK OF OMAHA; COLUMBUS  
6 BANK AND TRUST CO.; MERRICK BANK;  
7 THIRD FIFTH BANK; RBL CAPITAL GROUP,  
8 LLC; WILLIAM HEALY; ROBERT LATOUSEK;  
9 JAY COHEN; RICH HAHN; SARA KRIEGER;  
10 JASON MOORE; LINA KRAVIC; BRIAN  
11 FITZGERALD; SAM BUONO; PETER DE-  
12 PALMA; FIONA WALSH; AND ERIC MADURA  
13 AND DOES 1 THROUGH 75

Defendants.

9 **WHEREAS**, on March 26, 2010, plaintiffs Just Film, Inc., Rainbow Business Services d/b/a  
10 Precision Tune Auto Care, Volker von Glasenapp and Jerry Su (collectively, "Plaintiffs") filed a class  
11 action complaint against approximately 35 defendants in the Superior Court of the County of San  
12 Francisco, Case No.CGC-10-498225 (the "Original Complaint");

13 **WHEREAS**, on May 7, 2010, defendants TransFirst Holdings, Inc., TransFirst, LLC,  
14 TransFirst Third Party Sales, LLC, Merchant Services, Inc., Universal Card, Inc., National Payment  
15 Processing, Inc., Columbus Bank and Trust, Merrick Bank, Fifth Third Bank, Atlas Payment  
16 Processing, MBF Leasing, LLC, MBF Merchant Capital, LLC, Northern Funding, LLC, Northern  
17 Leasing Systems, Inc., Golden Eagle Leasing, LLC, Lease Source, Inc., Lease Finance Group, LLC,  
18 RBL Capital Group, LLC, William Healy, Jay Cohen, Rich Hahn, Sara Krieger, Jason Moore, Lina  
19 Kravic, Sam Buono, Brian Fitzgerald, Fiona Walshe and Eric Madura (collectively, the "Served  
20 Defendants") removed the action to this Court, pursuant to Title 28, Sections 1441 and 1453 of the  
21 United States Code;

22 **WHEREAS**, by stipulation by and among counsel for Plaintiffs and counsel for the Served  
23 Defendants, the parties coordinated and extended the deadline for the Served Defendants to answer or  
24 otherwise respond to the complaint until June 4, 2010; and an order was entered on May 17, 2010 by  
25 the Honorable James Larson, United States Magistrate Judge;

1       **WHEREAS**, on or about June 4, 2010, the Served Defendants responded to the Original  
2 Complaint by answer or motion, including, *inter alia*, motions to dismiss under Fed. R. Civ. P. 12(b),  
3 to change venue, and to stay the action pending arbitration;

4       **WHEREAS**, the hearings on the motions to dismiss filed by the Served Defendants on or about  
5 June 4, 2010 are set for August 5, 2010;

6       **WHEREAS**, on June 25, 2010, Plaintiffs filed a First Amended Class Action Complaint in this  
7 action (the "First Amended Complaint")<sup>1</sup>;

8       **WHEREAS**, due to the filing of the First Amended Complaint, the motions to dismiss filed by  
9 the Served Defendants on or about June 4, 2010 became moot;

10       **WHEREAS**, pursuant to Federal Rule of Civil Procedure 15(a)(3), the Served Defendants have  
11 until July 12, 2010 to respond to the First Amended Complaint;

12       **WHEREAS**, the parties believe a coordinated and extended deadline for the Served  
13 Defendants to answer or otherwise respond to the First Amended Complaint will conserve resources  
14 and promote judicial economy;

15       **WHEREAS**, on June 8, 2010, a Case Management Scheduling Order was issued by the  
16 Honorable Claudia Wilken, pursuant to which a Case Management Statement must be submitted to the  
17 Court on or before August 3, 2010, and a Case Management Conference has been set for August 10,  
18 2010;

19       **WHEREAS**, the Plaintiffs request that the Case Management Statement scheduled for August  
20 3, 2010, and the corresponding Case Management Conference scheduled for August 10, 2010 remain  
21 on the calendar and the Served Defendants will move for it to be adjourned until any motions filed by  
22 Served Defendants in response to the First Amended Complaint have been decided;

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

26  
27  
28 <sup>1</sup> The First Amended Complaint included the following additional plaintiffs: Burlingame Motors, Inc., Dietz Towing, Inc.,  
The Rose Dress, Inc., Verena Baumgartner, Terry Jordan and Lewis Bae.

1           1.       The Served Defendants shall answer or otherwise respond to the First Amended  
2 Complaint no later than July 26, 2010, and shall set any motions filed in response to the First Amended  
3 Complaint for hearing on September 2, 2010 or the next available Court day on which the assigned  
4 judge is hearing civil motions;

5           2.       Plaintiffs shall oppose any such motions filed in response to the First Amended  
6 Complaint in accordance with the local rules;

7           3.       Served Defendants shall reply to any such oppositions in accordance with the local  
8 rules;

9           4.       Served Defendants hereby declare their motions to dismiss filed on or about June 4,  
10 2010 to be moot and withdraw their request for hearing on said motions;

11          5.       Plaintiffs and Served Defendants have met and conferred about the Case Management  
12 Statement scheduled for August 3, 2010, and the corresponding Case Management Conference  
13 scheduled for August 10, 2010. Plaintiffs request that the events remain on the calendar as currently  
14 scheduled and the Served Defendants intend to move for these events to be adjourned until any  
15 motions filed by Served Defendants in response to the First Amended Complaint have been decided.

16 ///

1 DATED: July 7, 2010

Respectfully submitted,

2  
3 **AKIN GUMP STRAUSS**  
4 **HAUER & FELD LLP**

5 By: /s/ Maria Ellinikos  
6 Maria Ellinikos

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15                                  *Jerry Su, Burlingame Motors, Inc., Dietz*  
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10                                  *Attorneys for Defendants MBF Merchant*

11                                  *Capital, LLC and William Healy*

12                                  ///

1 **ORDER**

2 Pursuant to Civil Local Rule 6-2(a), and **GOOD CAUSE APPEARING THEREFOR**, it is  
3 therefore ORDERED that:

4 1. The Served Defendants shall answer or otherwise respond to the First Amended  
5 Complaint no later than July 26, 2010, and shall set any motions filed in response to the First Amended  
6 Complaint for hearing on September 9, 2010;


7 2. Plaintiffs shall oppose any such motions filed in response to the First Amended  
8 Complaint in accordance with the local rules;

9 3. Served Defendants shall reply to any such oppositions in accordance with the local  
10 rules;

11 4. All pending motions filed by the Served Defendants on or about June 4, 2010 in  
12 response to the Original Complaint are deemed moot, and the hearings on said motions set for August  
13 5, 2010 are vacated. The Case Management Conference is continued to September 9, 2010.

14  
15 **IT IS SO ORDERED.**

16 DATED: 7/12/2010

  
THE HONORABLE CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

17  
18  
19 I, Maria Ellinikos, am the ECF user whose ID and password are being used to file this document. In  
20 compliance with section X(B) of General Order 45, I hereby attest that Adam J. Gutride, Cary  
21 Sullivan, Stephen Coleangelo, Robert N. Webner, Scott M. Pearson, Jennifer Nigro, James Cai, and  
22 John M. Heaphy concurred in this filing.

23  
24 /s/ Maria Ellinikos  
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