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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

ESTATE OF MARY L. MILES, BY AND  
THROUGH ITS SPECIAL  
ADMINISTRATORS (ROBERT E. MILES  
AND HOWARD M. MILES),

Plaintiff,

vs.

ESTATE OF HELEN S. MCBAIN, CAROL  
MERGEN, ALEXANDRA MERGEN,  
ANDREW MERGEN, RBC DAIN  
RAUSCHER INC., AND DOES 1-4  
INCLUSIVE,

Defendants.

Case No. 2:08-cv-00740-LRH-PAL

**STIPULATION AND ORDER TO  
PERMIT DEFENDANTS TO FILE A  
BRIEF IN RESPONSE TO PLAINTIFF'S  
REPLY TO DEFENDANT RBC DAIN  
RAUSCHER INC.'S REPLY IN  
SUPPORT OF ITS MOTION TO  
DISMISS PLAINTIFF'S COMPLAINT**

Plaintiff, the Estate of Mary L. Miles, by and through its Special Administrators ("Plaintiff"), and defendants RBC Dain Rauscher, Inc., n/k/a RBC Capital Markets Corporation ("Dain Rauscher"); and the Estate of Helen S. McBain, Carol Mergen, Alexandra Mergen, and Andrew Mergen (collectively, "McBain") stipulate and agree as follows:

1. Plaintiff filed its complaint captioned above (the "2008 Complaint") on June 9, 2008.
2. On February 16, 2009, Dain Rauscher filed a Motion to Dismiss (Document 37).
3. On March 23, 2009, Plaintiff filed its Memorandum in Opposition to Dain

1 Rauscher's Motion to Dismiss, and, in the Alternative, in Support of Plaintiff's Motion to  
2 Amend (Document 48).

3 4. On April 14, 2009, Dain Rauscher filed its Reply in Support of Its Motion to  
4 Dismiss Plaintiff's Complaint (Document 53).

5 5. On April 27, 2009, Plaintiff filed its Reply to RBC Dain Rauscher's Reply in  
6 Support of Its Motion to Dismiss Plaintiff's Complaint (Document 55). Plaintiff attached to  
7 this document a proposed amended complaint, titled "Amended Complaint."  
8

9 6. Rather than contest the procedural correctness of the Plaintiff's April 27, 2009,  
10 Reply (Document 55), Plaintiff, Dain Rauscher and McBain stipulate and agree as follows:

11 a. Dain Rauscher and McBain Trust have through and including Tuesday,  
12 May 26, 2009 to file their responses to the Miles Estate's Reply to Defendant RBC Dain  
13 Rauscher's Reply in Support of Its Motion to Dismiss Plaintiff's Complaint (Document 55).  
14

15 b. Upon the filing of the responses from Dain Rauscher and McBain,  
16 briefing shall be complete. The Motions to Dismiss of Dain Rauscher and McBain and the  
17 Motion for Leave to Amend shall thereafter be complete for submission for the Court's rulings.  
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1           7.       This stipulation is made in good faith and is not submitted for the purpose of  
2 delay.

3 FABIAN & CLENDENIN, P.C.  
4

LEWIS AND ROCA LLP

5 By: /s/ Kevin N. Anderson  
6 KEVIN N. ANDERSON  
7 Nevada Bar No. 4512  
8 601 South Tenth Street #102  
9 Las Vegas, Nevada 89101  
10 Attorney for Plaintiff  
11 Dated: May 6, 2009

By: /s/ Von S. Heinz  
VON S. HEINZ  
Nevada Bar No. 859  
Suite 600  
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Las Vegas, Nevada 89169  
Attorneys for Defendant  
RBC DAIN RAUSCHER INC.  
Dated: May 6, 2009

12 SOLOMON DWIGGINS & FREER  
13

14 By: /s/ Jeffrey P. Luszeck  
15 MARK A. SOLOMON  
16 Nevada Bar No. 0408  
17 DANA A. DWIGGINS  
18 Nevada Bar No. 7049  
19 JEFFREY P. LUSZECK  
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21 Suite 240  
22 7881 W. Charleston Blvd.  
23 Las Vegas, Nevada 89117  
24 Attorneys for Defendants  
25 Helen Carol Mergen,  
26 Individually, and as Trustee  
27 Of the Helen S. McBain 2000  
28 Living Trust, Alexandra  
Mergen and Andrew Mergen  
Dated: May 6, 2009

IT IS SO ORDERED this 8th day of May, 2009.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE