

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

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA**

<i>In Re HT Santa Barbara, Inc. v. The RMS Group, Inc., and Related Cases</i>) Case Nos.:) 1305436 [Lead Case]) 1337327 [A.J. Kirkwood & Assoc., Inc.]) 1306841 [All American Roofing, Inc.]) 1337003 [City Tile & Stone Tile, Inc.]) 1306628 [L.A. Lath & Plaster, Inc.]) 1306749 [United Electrical, Inc.])) COMPLEX CASE MANAGEMENT ORDER,)) ASSIGNED JUDGE: Hon. James W Brown) DEPARTMENT: Four) HEARING DATE: August 5, 2009) TIME: 3:00 pm)))
--------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

On July 22, 2009 the Court designated this matter as complex litigation under the California Standards of Judicial Administration.

The purpose of this order is to establish a case management plan for this complex litigation in order to avoid inconsistent or duplicative rulings, reduce the costs of litigation, assist the parties in resolving their disputes and reduce the costs and difficulties of discovery and trial. This complex case management order supersedes all prior complex case management orders in this case.

On any matter about which this order is silent, the Code of Civil Procedure, other statutes, the California Rules of Court, and the local rules of this Court shall be controlling.

1 On August 5, 2009 a complex case management conference was conducted in this
2 matter. An unofficial copy of this Order may be posted on the Court's web page at
3 http://www.sbCourts.org/general_info/judicial_officers/jbrown/ as a convenience to Court
4 and counsel, but the filed order entered by the Court is the only operative order. **The parties**
5 **stipulate and agree that the e-mail by the Court to the e-mail address provided by counsel**
6 **is equivalent to service as of the date of the e-mail and further notice of this Order is**
7 **waived.**

8 The Court considered at the conference, pursuant to Appendix to California Rules of
9 Court, Div I, section 19(e) (Initial Case Management Conference, Complex Litigation), and Rule
10 212(i) of the California Rules of Court (Case Management Conference, Generally), the following
11 subjects, and makes the following orders:

12 **1. SEVERANCE, BIFURCATION, CONSOLIDATION OR COORDINATION (APP. TO**
13 **CRC, Div I, §19(e)(2))**

14 **1.1. Severance and Bifurcation**

15 **1.2. Consolidation**

16 The following cases are consolidated: *HT Santa Barbara, Inc. v. RMS Group,*
17 *Inc., et. al.*, Case No. 1305436; *United Electrical, Inc. v. The RMS Group, Inc., et. al.*, Case No.
18 1306749; *All American Roofing, Inc. v. The RMS Group, Inc., et. al.*, Case No. 1306841; *L.A.*
19 *Lath & Plaster, Inc. v. The RMS Group, Inc., et. al.*, Case No. 1306628; *City Tile & Stone Tile,*
20 *Inc. v. The RMS Group, Inc., et. al.*, Case No. 1337003; *A.J. Kirkwood & Assoc., Inc. v. The*
21 *RMS Group, Inc., et. al.*, Case No. 1337327. ***HT Santa Barbara, Inc. v. RMS Group, Inc., et.***
22 ***al.*, Case No. 1305436, is designated the lead case.**

23 **1.3. Coordination**

1 **2. STATUS OF THE PARTIES AND PLEADINGS**

2 **2.1. Current Status**

3 **Operative Pleading: 02-05-09 Complaint Verified for Claim and Delivery to Recover Personal Property**
 4 **for Damages for Wrongful Detention and for Injunctive Relief etc, Filed by Plaintiff; 03-05-09 Complaint**
 5 **Verified First Amended etc, Filed by Plaintiff**

Party Plaintiff	Parties Defendant					
HT Santa Barbara, Inc	The RMS Group, Inc.					
	Russell W. McDaniel II					
Party Defendant	Served	Severed	Demurrer Motion to Strike	Answer	Dismissed	Judgment
The RMS Group, Inc.	3/5/09		4/3/09	7/27/09		
Russell W. McDaniel II	3/5/09		4/3/09	7/27/09		

11 **Operative Pleading: 04-15-09 Complaint for: 1. Breach of Contract 2. Common Counts 3. Foreclosure**
 12 **of Mechanic's Lien, Filed by Plaintiff**

Party Plaintiff	Parties Defendant					
United Electrical, Inc.	The RMS Group, Inc., HT Santa Barbara, Inc., Great Universal Associates LP, Bacara Resort & Spa, Bacara Retail LLC					
Party Defendant	Served	Severed	Demurrer Motion to Strike	Answer	Dismissed	Judgment
The RMS Group, Inc.	X			X		
HT Santa Barbara, Inc.	4/28/09			6/1/09		
Great Universal Capital Associates LP (wrongly sued as Great Universal Associates LP)	4/28/09			6/1/09		
Great Universal Capital Associates LP (d/b/a Bacara Resort & Spa)	4/28/09			6/1/09		
Bacara Retail LLC	4/28/09				6/4/09	

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

Operative Pleading: 04-21-09 Complaint Breach of Contract, Filed by Plaintiff; Complaint Filed: 04-21-09, Disposed: Before Tr:Consolidated on 07-22-09 - Case # 1306841, Subsumed On 07-22-09								
Party Plaintiff			Parties Defendant					
All American Roofing, Inc.			BCRA Resort Services, Inc., Great Universal Capital Associates LP, HT Santa Barbara, Inc., SantaBarb Associates, LLC					
Party Defendant			Served	Severed	Demurrer Motion to Strike	Answer	Dismissed	Judgment
The RMS Group, Inc.			4/28/09			6/5/09		
BCRA Resort Services, Inc.			5/14/09			6/12/09		
Great Universal Capital Associates LP			5/14/09			6/12/09		
HT Santa Barbara, Inc.			5/14/09			6/12/09		
SantaBarb Associates, LLC			5/14/09			6/12/09		

Operative Pleading: LA Lath & Plaster Inc vs The RMS Group Inc et al, Case No. 1306628 Filed on 04-10-09 Disposed on 07-22-09, 04-10-09 Complaint for Breach of Contract Foreclosure of Mechanics Lien Recovery on Mechanics Lien Release Bond Recovery on Contractors License Bond Open Book Account Account Stated and Quantum Meruit, Filed by Plaintiff								
Party Plaintiff			Parties Defendant					
L. A. Lath & Plaster, Inc.			The RMS Group, Inc., BCRA Resort Services, Inc., Great Universal Capital Associates LP, HT Santa Barbara, Inc., SantaBarb Associates, LLC, Salomon Bros. Realty Corp., American Contractors Indemnity Co.					
Party Defendant			Served	Severed	Demurrer Motion to Strike	Answer	Dismissed	Judgment
The RMS Group, Inc.			X			6/4/09		
BCRA Resort Services, Inc.			X			5/20/09		
Great Universal Capital Associates LP			X			5/20/09		
HT Santa Barbara, Inc.			X			5/20/09		
SantaBarb Associates, LLC			X			5/20/09		
Salomon Bros. Realty Corp.			X			8/4/09		
American Contractors Indemnity Co.			X			6/4/09		

Operative Pleading: City Tile & Stone Tile Inc vs The RMS Group Inc et al, Case No. 1337003 Filed on 04-27-09 Disposed on 07-22-09, 04-27-09 Complaint for: 1. Breach of Written Contract 2. Account Stated 3. Open Book Account 4. Indebitatus Assumpsit 5. Quantum Meruit 6. Foreclosure of Mechanic's Liens, Filed by Plaintiff

Party Plaintiff	Parties Defendant					
City Tile & Stone Tile, Inc.	The RMS Group, Inc., BCRA Resort Services, Inc., HT Santa Barbara, Inc., Great Universal Capital Associates LP, Santa Barbara Associates, LLC, SantaBarb Associates, LLC, Salomon Bros. Realty Corp., CitiGroup Global Markets Realty Corp., CitiGroup Global Markets Realty Corp., Santa Barbara Cellular Systems, Ltd, AT&T Wireless Services, GMAC Commercial Mortgage Corp., California Coastal Commission, Waco Scaffolding & Equipment, AJ Kirkwood & Assoc., W. Coy Delamar Enterprises, SMI Architectural Millwork, L.A. Lath & Plaster, United Electrical, Inc., Delta Welding & Fabrication, All American Roofing, Inc.					
Party Defendant	Served	Severed	Demurrer Motion to Strike	Answer	Dismissed	Judgment
The RMS Group, Inc.	X			X		
BCRA Resort Services, Inc.	6/15/09			7/16/09		
HT Santa Barbara, Inc.	6/15/09			7/16/09		
Great Universal Capital Associates LP	6/15/09			7/16/09		
Santa Barbara Associates, LLC	X					
SantaBarb Associates, LLC	6/15/09			7/16/09		
Salomon Bros. Realty Corp.	X					
CitiGroup Global Markets Realty Corp.	X					
Santa Barbara Cellular Systems, Ltd	X				X	
AT&T Wireless Services	X				X	
GMAC Commercial Mortgage Corp.	X					
California Coastal Commission	X				X	
Waco Scaffolding & Equipment	X					
AJ Kirkwood & Assoc.	X					
W. Coy Delamar Enterprises	X				X	
SMI Architectural Millwork	X					
L.A. Lath & Plaster	X			6/8/09		
United Electrical, Inc.	X			6/5/09		
Delta Welding & Fabrication	X				X	
All American Roofing, Inc.	X					

Operative Pleading: AJ Kirkwood & Associates Inc vs The RMS Group Inc et al, Case No. 1337327 Filed on 05-15-09 Disposed on 07-22-09; 05-15-09 Complaint, Filed by Plaintiff

Party Plaintiff	Parties Defendant					
A.J. Kirkwood & Assoc., Inc.	The RMS Group, Inc., BCRA Resort Services, Inc., HT Santa Barbara, Inc., Great Universal Capital Associates LP, Santa Barbara Associates, LLC, CitiGroup Global Markets Realty Corp.					
Party Defendant	Served	Severed	Demurrer Motion to Strike	Answer	Dismissed	Judgment
The RMS Group, Inc.	X			6/22/09		
BCRA Resort Services, Inc.	X			7/9/09		
HT Santa Barbara, Inc.	X			7/9/09		
Great Universal Capital Associates LP	X			7/9/09		
SantaBarb Associates, LLC (incorrectly sued as Santa Barbara Associates, LLC)	X			7/9/09		
CitiGroup Global Markets Realty Corp.	X			8/4/09		

Operative Pleading: Complaint Filed: 02-05-09, Disposed: Pending - Case # 1305436

Party Plaintiff	Parties Defendant					
Party Defendant	Served	Severed	Demurrer Motion to Strike	Answer	Dismissed	Judgment

2.2. Deadline and Orders on the Status of Parties and Pleadings

All parties may name additional defendants and cross-defendants who have not appeared in this action. Those parties shall be named no later than a date to be set at a future CCMC, unless extended by order of the Court for good cause shown.

Furthermore, any party bringing in any new party shall serve a copy of this CCMO upon said party with its operative pleading, whereupon this CCMO shall bind such newly appearing party unless the Court grants the party relief therefrom upon noticed motion for good cause shown

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

2.3. Cross-Actions Deemed Filed, Served And Answered

Cross-claims filed after October 28, 2009 may only be filed as allowed by the court on noticed motion.

2.4. Pleadings Deemed Filed

2.5. Express Indemnity Claims

As part of their cross-action in *HT Santa Barbara, Inc. v. RMS Group, Inc., et. al.*, Case No. 1305436, The RMS Group, Inc. and Russell W. McDaniel II filed express indemnity claims against Kirkwood & Associates, Inc., All American Roofing, Inc., City Tile & Stone Tile, Inc., L.A. Lath & Plaster, Inc., and United Electrical, Inc.

1 **3. COUNSEL**

2 **3.1. Master Counsel List**

3 The master list of counsel, their e-mail addresses and the parties is: (App. to CRC,
4 Div I, §19(e)(11)):

5

NAME	E-MAIL ADDRESS	PARTY
Patricia L. Glaser Peter C. Sheridan Kerry Garvis Wright Douglas P. Roy	pglaser@glaserweil.com psheridan@glaserweil.com kgarviswright@glaserweil.com droy@glaserweil.com	HT Santa Barbara, Inc.; BCRA Resort Services, Inc.; Great Universal Capital Associates LP; SantaBarb Associates, LLC; ADCO Group
Raymond Meyer Kit Natland Todd Windisch	rmeyer@bremerandwhyte.com knatland@bremerandwhyte.com twindisch@bremerandwhyte.com	The RMS Group, Inc.; Russell W. McDaniel II; American Contractors Indemnity Co.
Matt Steiner Roger Vega	msteiner@aalrr.com ; rvega@aalrr.com	A.J. Kirkwood & Assoc., Inc.
Raymond Myer Angelina Borrello	rmyer@myerlawpc.com aborrello@myerlawpc.com	All American Roofing, Inc.
Gregg Martin Ryan Koczara	gmartin@hkemlaw.com ; rkoczara@hkemlaw.com	City Tile & Stone Tile, Inc.
James Devine	james@leidermandevine.com	L.A. Lath & Plaster, Inc.
Eugene Alkana	eugenealkana@yahoo.com	United Electrical Inc.
Stefan Perovich	stefan.perovich@kyl.com	CitiGroup Global Markets Realty Corp. Salomon Bros. Realty Corp.

6
7
8
9
10
11
12
13
14
15

16 pglaser@glaserweil.com; psheridan@glaserweil.com; kgarviswright@glaserweil.com; droy@glaserweil.com;
17 rmeyer@bremerandwhyte.com; knatland@bremerandwhyte.com; twindisch@bremerandwhyte.com; msteiner@aalrr.com;
18 rvega@aalrr.com; rmyer@myerlawpc.com; gmartin@hkemlaw.com; rkoczara@hkemlaw.com; james@leidermandevine.com;
19 eugenealkana@yahoo.com; stefan.perovich@kyl.com; aborrello@myerlawpc.com

20 **3.2. Liaison Counsel**

21 Liaison counsel are not appropriate in this case. (App. to CRC, Div I, §19(e)(6);
22 CRC, Rules 1501(l), 1501(r) and 1506)).

23 **3.3. Liaison Groups**

24 **3.4. Pro Hac Vice Admission of Counsel**

1 **3.5. Trial Counsel**

2 The names and addresses of the attorneys who will try the case are (CRC, Rule
3 212(i)(9)):

4

COUNSEL	E-MAIL ADDRESS	PARTY
Patricia L. Glaser Peter C. Sheridan	pglaser@glaserweil.com psheridan@glaserweil.com	HT Santa Barbara, Inc.; BCRA Resort Services, Inc.; Great Universal Capital Associates LP; SantaBarb Associates, LLC; ADCO Group
Raymond Meyer Kit Natland	rmeyer@bremerandwhyte.com knatland@bremerandwhyte.com	The RMS Group, Inc.; Russell W. McDaniel II; American Contractors Indemnity Co.
Matt Steiner	msteiner@aalr.com ;	A.J. Kirkwood & Assoc., Inc.
Raymond Myer	rmyer@myerlawpc.com	All American Roofing, Inc.
Gregg Martin Ryan Koczara	gmartin@hkemlaw.com ; rkoczara@hkemlaw.com	City Tile & Stone Tile, Inc.
James Devine	james@leidermandevine.com	L.A. Lath & Plaster, Inc.
Eugene Alkana	eugenealkana@yahoo.com	United Electrical Inc.
Stefan Petrovich	stefan.perovich@kyl.com	CitiGroup Global Markets Realty Corp. Salomon Bros. Realty Corp.

14 **4. MOTIONS**

15 **4.1. Preliminary Legal Question Schedule**

16 **4.2. Class Certification Motion**

17
18
19
20
21
22
23
24
25
26
27
28

1 **4.4. Discovery Motions**

2 **Motion: Motion to Quash Subpoena to Fullerton Community Bank**

Moving Party		Responding Parties		
The RMS Group, Inc., Russell W. McDaniel II		HT Santa Barbara, Inc.		
Responding Parties		Hearing	Submitted	Disposition
HT Santa Barbara, Inc.			6/24/09	Granted

3

4

5

6

7

8 **4.5. Other Motions**

9 **Motion:**

Moving Party		Responding Parties		
Responding Parties		Hearing	Submitted	Disposition

10

11

12

13

14

15 **5. DISCOVERY**

16 **5.1. Special Discovery (App. to CRC, Div I, §19(e)(3))**

17 **5.1.1. List of Undisputed Facts**

18 **5.1.2. Defect List**

19 **5.1.3. Required Statements**

20 **5.1.4. Inspection and Testing**

21 **5.1.5. Expert Information Exchange**

22 **5.2. Stages of Discovery**

23 **5.2.1. Stage One**

24 Stage One discovery is limited to issues relating to the merits of the plaintiffs’

25 claims and defenses including damages and defenses to the contract and lien claims of the

26 consolidated plaintiffs. Deadline for Stage One discovery is 45 days before the initial trial call

27 date

28

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

5.2.2. Stage Two

Stage Two discovery is limited to expert witness reports and discovery relating to any designated expert witnesses. Expert witness reports shall be served on all parties.

5.2.3. Stage Three

5.3. Protective Orders (App. to CRC, Div I, §19(e)(4))

Each party shall be entitled to serve written discovery as and when allowed under the California Code of Civil Procedure.

5.4. Document Depository (App. to CRC, Div I, §19(e)(9))

5.5. Interrogatories, Demands for Production, Requests for Admissions

Each party shall be entitled to serve written discovery as and when allowed under the California Code of Civil Procedure.

1 **5.6. Depositions (App. to CRC, Div I, §19(e)(8))**

2 The following depositions, for the general purpose indicated, may be taken on the
3 dates specified:

4

Deponent	General Purpose	Date
Russell W. McDaniel	percipient witness re HT Santa Barbara’s claims and counterclaims against The RMS Group and McDaniel	TBD
Andrew Trost	percipient witness re HT Santa Barbara’s claims and counterclaims against The RMS Group and McDaniel	TBD
Roger Maki	percipient witness re HT Santa Barbara’s claims and counterclaims against The RMS Group and McDaniel	TBD
Michael Hammond	percipient witness re HT Santa Barbara’s claims and counterclaims against The RMS Group and McDaniel	TBD
Danielle Lyons	percipient witness re HT Santa Barbara’s claims and counterclaims against The RMS Group and McDaniel	TBD
Other Parties or Nonparties		TBD

5
6
7
8
9
10

11 **5.7. Discovery Referee (CCP §639(a)(5))**

12 **5.7.1. Appointment**

13 **6. ELECTRONIC CASE MANAGEMENT**

14 The Court orders that documents filed electronically in a central electronic
15 depository shall be available to all parties and are deemed served on all parties. (Rule 1830,
16 CRC.)

17 Parties have stipulated to electronic service of pleadings, filings and discovery.
18 (CCP §1010.6(a)(6))

19 The Court orders that documents filed electronically in a central electronic
20 depository available to all parties are deemed served on all parties. (Rule 1830, CRC.)

21 Parties have stipulated to electronic service of pleadings. (CCP §1010.6(a)(6))

22 All documents requiring service on any other party in this action shall be served
23 through the File and Serve electronic service provided by LexisNexis as ordered by **090805**
24 **EXHIBIT “A” to the August 5, 2009 Complex Case Management Order.**

1 **7. ALTERNATIVE DISPUTE RESOLUTION AND MANDATORY SETTLEMENT**
2 **CONFERENCES (App. to CRC, Div I, §19(e)(5))**

3 **7.1. Alternate Dispute Resolution (CRC, Rule 212(i)(1)-(2))**

4 **7.2. Mandatory Settlement Conferences (App. to CRC, Div I, §19(e)(5); CRC,**
5 **Rule 212(i)(10))**

6 **8. TRIAL**

7 A jury is demanded by the following parties who represent that a timely demand for
8 jury has been made and jury fees will be timely posted (CRC, Rule 212(i)(4)-(5)):

9 HT Santa Barbara, Inc.;

10 BCRA Resort Services, Inc.;

11 Great Universal Capital Associates, LP;

12 SantaBarb Associates, LLC;

13 ADCO Group

14 The estimated length of trial, including pre-trial motions and jury selection is 15
15 days (82.5 hours) (CRC, Rule 212(i)(6)).

16 All parties shall familiarize themselves with the Department Four web page at
17 http://www.sbCourts.org/general_info/judicial_officers/jbrown/ and the “Department
18 4:Forms” particularly the “Pre-trial Order” forms and be prepared to provide all information
19 required by the order at the pre-trial conference on the first day of trial.

20 **9. SCHEDULE OF CASE MANAGEMENT CONFERENCES**

21 The Court will conduct further complex case management conferences approximately
22 every seven (7) weeks on Wednesday afternoons in this department. (CRC, Rule 212(i)(11)-(12);
23 App. to CRC, Div I, §19(e)(12)).

24 In order to reduce file congestion:

25 (1) No Courtesy copies shall be delivered to the Court;

26 (2) Where the Court’s orders require only service of a document the parties shall not
27 also file copies of that document.

1 All law and motion matters shall be set for hearing at a complex case management
2 conference. If a matter is not set for a scheduled complex case management conference hearing,
3 the notice of motion shall contain a certificate by counsel for the moving party why special
4 setting is required.

5 On or before the Friday before a scheduled complex case management conference,
6 the parties shall submit to the Court by e-mail at jbrown@sbCourts.org an electronic copy of the
7 previous complex case management order with any changes or additions inserted into the order
8 in a contrasting colored font. The parties shall meet and confer and, if possible, e-mail a single
9 proposed complex case management conference order to the court with the suggested changes of
10 different parties inserted in different colored fonts. If the parties are unable to so meet and
11 confer and prepare a single proposed case management conference, each party may submit to the
12 Court by e-mail at jbrown@sbCourts.org an electronic copy of the previous complex case
13 management order with any changes or additions inserted into the order in a contrasting colored
14 font. Microsoft Word is the preferred format and proposals limited to proposed findings and
15 orders with very limited surplusage or argumentative material are strongly encouraged.
16 The Court considers transmittal letters or e-mails to the Court concerning Proposed Case
17 Management Orders or amendments thereto as *ex parte* communications and does not read or
18 review them. The Court has authorized only submission of a statement of proposed amendments
19 to or modifications of the then current complex case management order on the Friday before a
20 scheduled CCMC. Supplemental briefs and letters are not authorized. Circumvention by
21 submitting argumentative material in the proposed modifications is discouraged.
22
23
24
25
26
27
28

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

Complex case management conferences in this case are set in Department Four as follows:

August 5, 2009 at 3:00 pm

September 30, 2009 at 3:00 pm

IT IS SO ORDERED.

Dated: August 5, 2009

JAMES W. BROWN
Judge of the Superior Court

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

090805 EXHIBIT “A”

The Court finds that entry of this Electronic Case Management Order is necessary for the cost-effective and efficient resolution of the above-captioned consolidated action (the “Action”), and pursuant to the stipulation of the parties,

IT IS HEREBY ORDERED that the parties shall electronically serve documents required to be served by statute, rule of court, or agreement of the parties according to the procedures set forth below.

I. LEXISNEXIS FILE & SERVE

1. Subject to paragraphs 3 through 5 below, the parties shall utilize the electronic-service system (the “System”) of LexisNexis File & Serve (“LNFS”) to serve electronically (“e-serve”): (a) documents filed with the court; (b) discovery requests and written responses thereto (interrogatories, requests for production, requests for admission, deposition notices, demands for expert witness information). The parties may, but are not required to, utilize the System for written correspondence and production of documents. The Court, at its option, may use the System to e-serve documents and to communicate otherwise with counsel.

2. References to “document” in this Order include any exhibits or attachments to the main document.

3. Documents filed with the Court under seal. A party is not required to e-serve the confidential portions of a document filed under seal or conditionally under seal. When the serving party e-serves the publicly available version, it shall concurrently serve the sealed or conditionally sealed version by overnight delivery service or e-mail, at the serving party’s election.

4. Written responses to discovery requests. A party may, but is not required to, use the System to e-serve written discovery responses. A party serving a written discovery response that contains designated private, confidential and/or trade secret information may choose to e-serve only the partially or fully redacted version of a written discovery response. If the serving party elects to e-serve only the redacted version of a written discovery response, it shall

1 concurrently serve the unredacted version by overnight delivery service or e-mail, at the serving
2 party's election. If a party elects not to e-serve a written discovery response altogether, it shall
3 serve the response by e-mail or any other method of service provided for in the Code of Civil
4 Procedure, at the serving party's election.

5 5. Documents and information produced in discovery. A party is not required to e-
6 serve documents and electronic data produced in response to a request for production. The
7 responding party may produce such documents and data in any manner authorized by the Code
8 of Civil Procedure or as the parties may agree.

9 6. Counsel may determine individually whether to utilize the System to deliver
10 correspondence.

11 **II. SERVICE ONLY**

12 7. This Order applies only to the service of documents and not to their filing. The
13 parties shall continue to file original, signed documents with the Court, pursuant to the applicable
14 provisions of the Code of Civil Procedure, Rules of Court, Local Rules of this Court, and other
15 Court order.

16 **III. SERVICE LIST AND REGISTRATION**

17 8. Within five (5) days of this Order, counsel for HT Santa Barbara, Inc. shall
18 submit to the designated LNFS representative a complete and current service list of counsel of
19 record for the Action.

20 9. Within five (5) days of this Order or counsel's initial appearance, whichever is
21 later, each attorney of record in the Action shall register for e-service by completing the
22 application located at www.lexisnexis.com/fileandserve.

23 10. Before the scheduled date for the System to "go-live" in the Action, each attorney
24 of record or their assistant responsible for serving documents in the Action shall participate in
25 the training offered by LNFS at www.lexisnexis.com/fileandserve/training.asp.

26 **IV. WEBSITE AND SERVICE OF DOCUMENTS**

1 11. LNFS shall establish and maintain an Internet website (the “Website”) for the
2 Action. LNFS will post all documents e-served by the parties to the **In Re HT Santa Barbara,**
3 **Inc. v. The RMS Group, Inc., and Related Cases** docket on the Website as provided in this
4 Order and shall serve each document on the parties included on the service list for that docket
5 provided to LNFS in accordance with the procedures herein.

6 12. Counsel shall e-serve a document filed with the Court by electronically
7 transferring the document to LNFS via the Internet in the form of a word-processing file or a
8 scanned image of the document. Counsel shall identify each document by (a) the case caption in
9 which it belongs, (b) the title of the document set forth on its caption, (c) the identity of the party
10 or parties serving the document, and (d) the name of the law firm serving the document.

11 13. Within one (1) hour of receipt of a document, LNFS shall convert the document
12 into Adobe Portable Document Format (“PDF”), if necessary, and post it to the Website.

13 14. Within one (1) hour of posting a document to the Website, LNFS shall e-mail all
14 registered users in the Action notifying them that the document has been posted to the Website.
15 The e-mail shall contain a hypertext link to the document’s location on the System. If so
16 designated by the recipient, the e-mail shall have the served document attached thereto.

17 15. E-service of documents pursuant to this Order is complete upon transmission to
18 LNFS, but any period of notice or any right or duty to do any act or make any response within
19 any period or on a date certain after service of the document, which time period or date is
20 prescribed by statute or rule of court, shall be extended by two court days. *See* Cal. Civ. Proc.
21 Code § 1010.6(a)(6). Service of documents by e-service and overnight delivery service or e-
22 mail, under paragraphs 3 and 4 above, is complete upon transmission to LNFS, delivery of the
23 envelope containing the documents to a representative of the overnight delivery service
24 authorized to receive documents, and transmission by e-mail, but any period of notice or any
25 right or duty to do any act or make any response within any period or on a date certain after
26 service of the document, which time period or date is prescribed by statute or rule of court, shall
27 be extended by two court days. *See* Cal. Civ. Proc. Code § 1013(c).
28

1 16. LNFS will identify all documents posted on the System by (a) the case caption in
2 which it belongs, (b) the title of the document set forth on its caption, (c) the identity of the party
3 or parties serving the document, and (d) the name of the law firm serving the document.

4 17. The System shall contain a searchable, sortable index of all e-served documents in
5 the Action. LNFS shall to the extent possible provide to counsel and the Court access to the
6 Website 24 hours a day, 365 days a year.

7 18. Only registered users shall have access to the System. Registered users shall
8 include only (a) counsel of record and their designated staff members, and (b) authorized Court
9 personnel. Upon registration, LNFS will provide each registered user with a user name and
10 password to access the System and the documents e-served in the action.

11 19. E-served documents shall bear a facsimile, typographical, or pdf signature of at
12 least one of the attorneys of record. Typographical signatures shall be treated as personal
13 signatures for purposes of e-served documents. An e-served document that requires multiple
14 signatures (e.g., stipulations, joint status reports) may reflect the signatures of other counsel by
15 means of a conformed signature, e.g., “/s/ John Doe.” By submitting a conformed signature,
16 the serving counsel certifies that such other counsel has expressly agreed to the form and
17 substance of the document and that serving counsel has actual authority to use a conformed
18 signature and e-serve the document. Serving counsel must maintain any records evidencing this
19 concurrence for subsequent production to the Court if so ordered or for inspection upon request
20 by a party.

21 20. The proof of service for any document transmitted to the System shall certify that
22 a true and correct copy was e-served on counsel of record by transmission to LNFS. If a party
23 concurrently serves a sealed or conditionally sealed document by overnight delivery service or e-
24 mail under paragraph 3 or 4 above, the proof of service shall also certify service by that method.

25 21. LNFS shall to the extent possible provide to counsel and the Court access to a
26 help desk hotline at (888) 529-7587, and to the website
27 www.lexisnexis.com/fileandserve/support.asp, 24 hours a day, 365 days a year.
28

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

23. Counsel shall review the “LexisNexis File & Serve Welcome Kit,” which sets forth the procedure for registration with and service through LNFS, attached hereto as Exhibit A.