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15 Attorneys for Defendant  
 EXPEDITORS INTERNATIONAL OF  
 16 WASHINGTON, INC.

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19 SAN FRANCISCO DIVISION

20 RICHARD KINGERY, an individual, on  
 behalf of himself, and on behalf of all  
 21 persons similarly situated,

22 Plaintiff(s),

23 v.

24 EXPEDITORS INTERNATIONAL OF  
 WASHINGTON, INC., a Washington  
 25 corporation conducting business in the  
 State of California, and Does 1 to 10,

26 Defendant(s).  
 27

CASE NO. 3:08-cv-02510-SC

**STIPULATION AND [PROPOSED]  
 ORDER STRIKING PLAINTIFF'S CLASS  
 AVERMENTS AND DISMISSING CLASS  
 CLAIMS**

1 Defendant Expeditors International of Washington, Inc. (“Expeditors”) and Plaintiff  
2 Richard Kingery, through their respective counsel of record, hereby stipulate and seek an order as  
3 follows:

4 1. Following his deposition on November 21, 2008, Plaintiff concluded that class  
5 treatment in this matter would not be appropriate. Thereafter, the parties met and conferred and  
6 stipulated that Plaintiff will strike all class averments and dismiss with prejudice all claims he  
7 alleged in the Complaint on behalf of his proposed class, defined as “all Supervisors and  
8 Assistant Managers employed in the United States by Defendant during the Claims Period” (the  
9 “Class”). See Dkt. #1. Specifically, Plaintiff agreed to strike all Class averments and dismiss  
10 with prejudice the Class claims with respect to Plaintiff’s proposed nationwide class (pursuant to  
11 29 § U.S.C. 216(b)) for violation of the Fair Labor Standards Act (Plaintiff’s First Cause of  
12 Action) and the Class averments and Class claims with respect to Plaintiff’s proposed California  
13 state class for violation of (1) California Labor Code requirements pursuant to Cal. Lab. Code §§  
14 510, 515.5, 1194, and 1198 (Plaintiff’s Second Cause of Action); (2) the California Labor Code  
15 requirements for meal and rest periods pursuant to Cal. Lab. Code §§ 226.7 and 512 (Plaintiff’s  
16 Third Cause of Action); (3) the California Labor Code requirements for payment of wages at  
17 termination pursuant to Cal. Lab. Code § 203 (Plaintiff’s Fourth Cause of Action); (4) the  
18 California Labor Code requirements for itemized statements pursuant to Cal. Lab. Code § 226  
19 (Plaintiff’s Fifth Cause of Action); and (5) unlawful business practices pursuant to Cal. Bus. &  
20 Prof. Code § 17200 (Plaintiff’s Sixth Cause of Action).

21 2. The parties further agreed that, following the Court’s entry of dismissal regarding  
22 Plaintiff’s Class claims, Plaintiff will amend his Complaint by February 23, 2009 to reflect that he  
23 prosecutes the claims averred therein solely in his individual capacity by striking all class  
24 averments from the Complaint. The parties further agreed that Expeditors will answer the  
25 amended complaint within twenty days following service.

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IT IS SO STIPULATED.

Dated: February 17, 2009

MORRIS AND ASSOCIATES

DLA PIPER LLP (US)

By /s/ Stephen B. Morris  
STEPHEN B. MORRIS  
Attorneys for Plaintiff  
RICHARD KINGERY

By /s/ Carter W. Ott  
LUANNE SACKS  
CARTER W. OTT  
STELLMAN KEEHNEL  
Attorneys for Defendant  
EXPEDITORS INTERNATIONAL OF  
WASHINGTON, INC.

**ORDER**

The Parties having so stipulated and good cause appearing therefor,

IT IS HEREBY ORDERED:

1. Plaintiff's nationwide and California state class claims alleged on behalf of his proposed class, defined as "all Supervisors and Assistant Managers employed in the United States by Defendant during the Claims Period," for violation of (1) the Fair Labor Standards Act (29 § U.S.C. 216(b)); (2) the California Labor Code requirements for overtime (Cal. Lab. Code §§ 510, 515.5, 1194); (3) the California Labor Code requirements for meal and rest periods (Cal. Lab. Code §§ 226.7 and 512); (4) the California Labor Code requirements for payment of wages at termination (Cal. Lab. Code § 203); (5) the California Labor Code requirements for itemized statements (Cal. Lab. Code § 226); and (6) unlawful business practices (Cal. Bus. & Prof. Code § 17200), are hereby dismissed with prejudice.

2. Plaintiff shall amend his Complaint by February 23, 2009 to reflect that he prosecutes the claims alleged therein solely in his individual capacity and shall strike all class

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1 averments from his Complaint. Expeditors shall answer the amended complaint within twenty  
2 days following service.

3 IT IS SO ORDERED.

4 Dated: 2/18/09



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CASE NO. 3:08-cv-02510-SC  
**DEFENDANT'S NOTICE OF FILING  
PURSUANT TO GENERAL ORDER 45, X.B.**

