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21 **Attorneys for Defendant**

22 **UNITED STATES DISTRICT COURT**
 23 **NORTHERN DISTRICT OF CALIFORNIA**

24 RICHARD HOM, an individual
 25 on behalf of himself and JUSTIN
 26 KELLEY, an individual, on
 27 behalf of himself, and on behalf of
 28 all persons similarly situated,

Plaintiffs,

vs.

DHL EXPRESS (USA), INC., an
 Ohio corporation conducting
 business in the State of California,
 and Does 1 to 10.

Defendants.

CASE NO. C 08-03756 JL

STIPULATION AND ORDER TO DISMISS THE FIRST CAUSE OF ACTION (FLSA)

CLASS ACTION

This Stipulation and Order to Dismiss the First Cause of Action (FLSA) is entered into by Plaintiffs, RICHARD HOM and JUSTIN KELLEY, individuals on

1 behalf of themselves, and on behalf of all persons similarly situated and Defendant,
2 DHL EXPRESS (USA), INC. through their respective counsel of record.

3 Discovery has revealed that the Defendant has substantial defenses to
4 Plaintiff's FLSA claims, therefore, it would not be efficient to pursue a Fair Labor
5 Standards Act claim on behalf of the class. The parties stipulate to the dismissal of
6 the First Cause of Action, the Fair Labor Standards Act claim and Plaintiff filing a
7 First Amended Complaint.

8 IT IS SO AGREED.

9
10 Dated: May 13, 2009

MORRIS AND ASSOCIATES

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13 STEPHEN B. MORRIS
14 Attorneys for Class Plaintiffs

15 Dated: May 13, 2009

LITTLER MENDELSON, APC

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18 LAURA E. HAYWARD
19 Attorneys for Defendant

20 IT IS SO ORDERED.

21 Dated: May 15, 2009

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23 Honorable James Larson
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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA		FOR COURT USE ONLY
TITLE OF CASE (Abbreviated): HOM, et al. v. DHL EXPRESS (USA), INC.		
ATTORNEY(S) NAME AND ADDRESS Stephen B. Morris MORRIS and ASSOCIATES 444 West C Street, Suite 300 San Diego, CA 92101	TELEPHONE (619) 239-1300	
ATTORNEY(S) FOR: Plaintiff	HEARING: DATE-TIME-DEPT	CASE NUMBER: C 08-03756 JL

DECLARATION OF SERVICE BY MAIL

I, Jenna Sarinas, declare: I am, and was at the time of service of the papers herein referred to, over the age of 18 years, and not a party to the action. I am employed in the County of San Diego, California, within which county the subject service occurred. My business address is 444 West C Street, Suite 300, San Diego, California 92101. I am readily familiar with the ordinary business practices of my place of employment with regard to collection for mailing with the United States Postal Service and with serving documents via facsimile. I served an original and/or a true and correct copy of the following documents:

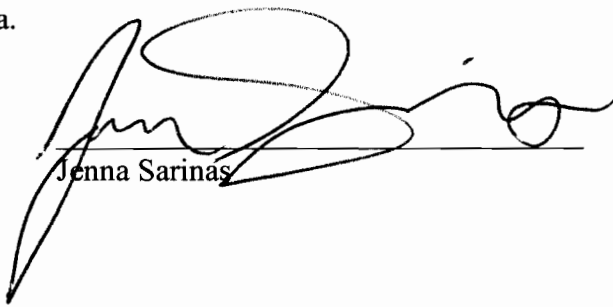
1. STIPULATION AND ORDER TO DISMISS THE FIRST CAUSE OF ACTION (FLSA)

X BY U.S. MAIL: I placed a copy of each of the above-listed documents in an envelope addressed to each addressee respectively named as follows and sealed each envelope and placed them for collection and mailing to each addressee and by email, on May 14, 2009.

Attorneys for Defendant:

R. Brian Dixon
Laura E. Hayward
LITTLER MENDELSON, APC
650 California Street, 20th Floor
San Francisco, CA 94108-2693

I certify under penalty of perjury that the foregoing is true and correct pursuant to the laws of the State of California. Executed on May 14, 2009 at San Diego, California.



Jenna Sarinas