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

RICHARD HOM, an individual on behalf of himself and JUSTIN KELLEY, an individual, on behalf of himself, and on behalf of all persons similarly situated,

Plaintiff,

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

~~[PROPOSED]~~ ORDER GRANTING MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

On April 14, 2010, the Court heard the joint motion of Defendant DHL Express (USA), Inc. (“DHL” or “Defendant”) and Plaintiffs Richard Hom and Justin Kelley (“Plaintiffs”) for final approval of the class action settlement of the above entitled case, the Honorable James Larson presiding, Having considered the papers submitted in support of the motion and having heard oral argument of the parties, the Court HEREBY ORDERS AS FOLLOWS:

1. This Court has jurisdiction over the subject matter of the above entitled case and over all parties, including all Class Members.

1           2.       The Court grants final approval of the settlement of the above class  
2 action based upon the terms set forth in the Joint Stipulation of Class Settlement  
3 and Class Settlement Agreement and Release (“Settlement Agreement”) filed with  
4 the Court. This Settlement Agreement includes the settlement of all claims brought  
5 by Plaintiffs on behalf of themselves and similarly situated employees of DHL who  
6 work or worked as Field Service Supervisors in California. All terms used in this  
7 final approval order shall have the same meaning as defined in this Settlement  
8 Agreement.

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10           3.       The Court finds that the Settlement was the product of protracted,  
11 arms-length negotiations between experienced counsel, assisted by a respected  
12 mediator. The Court further finds that the Settlement is fair, adequate, reasonable,  
13 and in the best interest of the Settlement Class Members and hereby grants final  
14 approval to the Settlement. In so doing, the Court has thoroughly considered such  
15 factors as: the strength of the Plaintiffs’ case; the risk, expense, complexity, and  
16 likely duration of further litigation, the risk of maintaining class action status  
17 throughout the trial; the amount offered in settlement, the extent of discovery  
18 completed and the stage of the proceedings; the experience and views of counsel;  
19 and the reaction of the Class Members to the proposed Settlement.

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21           4.       Pursuant to the Court’s Order Granting Preliminary Approval of the  
22 Class Action Settlement (“Preliminary Approval Order”) entered on November 19,  
23 2009, the Court preliminarily certified for settlement purposes only the following  
24 Settlement Class in accordance with Rule 23(e) of the Federal Rules of Civil  
25 Procedure and under section 16(b) of the Fair Labor Standards Act (“FLSA”), 29  
26 U.S.C. § 216(b):

27                   All current or former Field Services Supervisors employed  
28                   by Defendant DHL in the State of California between

1 August 6, 2004 and November 19, 2009 and who have not  
2 executed a general release of known and unknown  
3 employment claims against DHL, unless such release  
4 specifically permits participation in this Settlement by  
5 reference to this lawsuit.  
6

7 5. The proposed Class meets the requirements for certification under Rule  
8 23 of the Federal Rules of Civil Procedure: (a) the proposed Class is ascertainable  
9 and so numerous that joinder of all members of the class is impracticable; (b) there  
10 are questions of law or fact common to the proposed Class; (c) the claims of  
11 Plaintiffs Richard Hom and Justin Kelley are typical of the claims of the members  
12 of the proposed Class; (d) Plaintiffs Richard Hom and Justin Kelley will fairly and  
13 adequately protect the interests of the Class Members; (e) a class action is superior  
14 to other available methods for an efficient adjudication of this controversy; and (f)  
15 the counsel of record for the Class Representatives is qualified to serve as counsel  
16 for the Class Representatives in their own capacity as well as their representative  
17 capacity and for the Class.  
18

19 6. In accordance with the Preliminary Approval Order, the Settlement  
20 Administrator caused to be mailed the Notice, including the Claim and Exclusion  
21 Forms (collectively the "Notice Packet") to all Class Members. The Notice Packets  
22 were sent via first class mail within the time mandated in the Preliminary Approval  
23 Order, and adequately informed the Class of: (1) the pendency of the proposed  
24 Settlement Agreement; (2) all material elements of the proposed Settlement; (3) the  
25 April 14, 2010 hearing date for final approval of the Settlement; and (4) the  
26 opportunity to be excluded from the proposed Class or otherwise object to the  
27 proposed Settlement. The Declaration of Bernella Lenhart on behalf of the  
28 Settlement Administrator, filed on March 8, 2010, demonstrates that the Settlement

1 Administrator has complied with the Preliminary Approval Order. This Notice  
2 fully satisfied the requirements of due process, having been sent to all Class  
3 Members who could be identified through reasonable effort, and was the best  
4 notice practicable under the circumstances.

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6 7. The Court confirms the law firms of Morris and Associates and United  
7 Employee Law Group as Class Counsel, and Plaintiffs Richard Hom and Justin  
8 Kelley as the Class Representatives.

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10 8. The Court grants final approval to the following payments and  
11 authorizes the Settlement Administrator to make such payments out of the Total  
12 Settlement Amount in accordance with the terms of the Settlement Agreement:

- 13 a) an award of attorneys' fees to Class Counsel in an amount of  
14 \$185,000.00, plus costs in the amount of \$10,000; and  
15 b) service payments to Plaintiffs Richard Hom and Justin Kelley of  
16 \$8,500 per person; and  
17 c) the PAGA Payment of \$20,000; and  
18 d) the fees and expenses of the Claims Administrator not to exceed  
19 \$20,000  
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21 9. The Court grants final approval and authorizes the Settlement  
22 Administrator to pay in accordance with the terms of the Settlement Agreement:  
23 (1) the Individual Settlement Amounts to the Settlement Class Members who have  
24 returned accepted claims and (2) the employee portion of all applicable tax  
25 withholdings including, but not limited to, FICA, FUTA and other employment  
26 related taxes and withholding of federal, state and local income taxes and (3) the  
27 amount of up to Twenty-Eight Thousand Dollars (\$28,000) as and for the  
28 employer's share of FICA, FUTA, and all other state and federal payroll taxes and

1 deductions for the wage portion of the Settlement Payments

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3 10. No objections have been filed by any Class Member.

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5 11. Five Class Members timely opted out of the Settlement by  
6 submitting a valid Request for Exclusion.

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8 12. The Court enjoins any Settlement Class Member from filing any claim  
9 with the California Division of Labor Standards Enforcement (“DLSE”), or from  
10 initiating other proceedings, regarding any of the Claims released or to be released  
11 as part of this Settlement.

12  
13 13. The Settlement is not an admission by Defendants nor is this Order a  
14 finding of the validity of any claims asserted in the consolidated actions or any  
15 wrongdoing by Defendant. In addition, the Settlement is not an admission nor is  
16 this Order a finding that the certification of the Settlement Class is proper for any  
17 purpose or proceeding other than for settlement purposes in the present case.  
18 Furthermore, neither this Order, the settlement, any judgment, nor any document,  
19 statement, proceeding, or conduct related to the Settlement shall be construed as, or  
20 deemed to be evidence of, or an admission or concession with regard to, the denials  
21 or defenses by Defendant, and shall not be offered in evidence in any action or  
22 proceeding against the parties in any court, administrative agency, or other tribunal  
23 for any purpose whatsoever other than to enforce the provisions of this Order.  
24 However, the Settlement Agreement may be admitted in evidence and otherwise  
25 used in any and all proceedings to enforce any or all terms of the Settlement, or in  
26 defense of any claims released or barred by the Settlement.

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28 14. The Complaint and all claims alleged therein are hereby dismissed with

1 prejudice against all members of the Settlement Class in favor of Defendant.  
2 Without affecting the finality of this Order, this Court retains continuing  
3 jurisdiction over the interpretation, implementation, administration, and  
4 enforcement of the terms of the Settlement.

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7 Dated: 4-14-10



8 Honorable James Larson  
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