

1 Timothy J. Becker (MN Bar No. 256663)

tbecker@johnsonbecker.com

2 Jacob R. Rusch (MN Bar No. 391892)

jrusch@johnsonbecker.com

3 JOHNSON BECKER, PLLC

33 South Sixth Street, Suite 4530

4 Minneapolis, Minnesota 55402

Telephone: (612) 436-1800

5 Fax: (612) 436-1801

Trial Counsel for Plaintiffs

6 Robert G. Hulteng, Bar No. 071293

rhulteng@littler.com

7 Aurelio J. Pérez, Bar No. 282135

aperez@littler.com

8 LITTLER MENDELSON, P.C.

9 333 Bush, 34th Floor

San Francisco, California 94104

10 Telephone: (415) 433-1940

Fax: (415) 399-8490

11 Attorneys for Defendants

12 **UNITED STATES DISTRICT COURT**

13 **NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION**

14 PHILLIP FLORES and DARAH DOUNG,
15 individually and on behalf of all similarly
situated individuals,

16 Plaintiffs,

17 v.

18 VELOCITY EXPRESS, LLC, a
wholly-owned subsidiary of Dynamex
Operations East, LLC¹, TRANSFORCE, INC.,
19 and DYNAMEX OPERATIONS EAST, LLC,

20 Defendants,

Case No. 3:12-cv-05790-JST

Assigned for all purposes to the Honorable Jon
S. Tigar

**JOINT STIPULATION REGARDING
PLAINTIFFS' EMERGENCY MOTION
PURSUANT TO FED. R. CIV. P 56(E)
[DKT 247]**

Complaint Filed: November 9, 2012

FAC Filed: January 8, 2013

SAC Filed: July 17, 2013

TAC Filed: March 28, 2013

4th AC Filed: June 26, 2014

22 _____
23 ¹ Formerly Dynamex Operations East, Inc.

1 Following the telephonic Case Management Conference held on March 8, 2017, the Parties
2 further discussed the evidentiary issues raised in Defendants’ Opposition to Plaintiffs’ Motion for
3 Partial Summary Judgment as to Misclassification and Willfulness that were raised during the case
4 management conference. See generally Dkt. Nos. 241-250. In order to streamline the remaining
5 evidentiary disputes, the Parties stipulate as follows:

- 6 1. Exhibits 1 and 4 (the archived websites) to the Declaration of Timothy J. Becker
7 (“*Becker Dec.*”) are not properly authenticated;
- 8 2. The deposition excerpts attached to the Becker Dec. are authentic copies of the
9 transcripts created and produced in this case;
- 10 3. The deposition exhibits attached to the Becker Dec. are true and correct copies of
11 the documents submitted during the depositions cited in the Becker Dec.; and
- 12 4. Defendants retain all other evidentiary objections raised in its opposition to the
13 deposition transcripts and deposition exhibits including remaining disputes regarding
14 foundation.
- 15 5. The parties further agree that, upon entry of order, no further action—including any
16 further briefing by either party or hearing—is needed with regard to Plaintiffs’
17 emergency motion [Dkt No. 248].

18 **SO STIPULATED.**

19 ///

20 ///

21 ///

22 ///

23 ///

///

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Dated: March 8, 2017

/s/ Jacob R. Rusch
Timothy J. Becker
Jacob R. Rusch
JOHNSON BECKER, PLLC
Trial Counsel for Plaintiffs

Dated: March 8, 2017

/s/ Aurelio J. Perez
Robert G. Hulteng
Aurelio J. Perez
LITTLER MENDELSON, P.C.
Attorneys for Defendants

PURSUANT TO STIPULATION, IT IS SO ORDERED, this 9 of March 2017.



HONORABLE JON S. TIGAR