

1 JOSHUA KONECKY, Bar No. 182897  
 jkonecky@schneiderwallace.com  
 2 NATHAN PILLER, Bar No. 300569  
 npiller@schneiderwallace.com  
 3 SCHNEIDER WALLACE COTTRELL  
 KONECKY WOTKYNS LLP  
 4 180 Montgomery Street, Suite 2000  
 San Francisco, CA 94104  
 5 Telephone: 415.421.7100  
 Facsimile: 415.421.7105

6  
 7 Attorneys for Plaintiffs

8 ROBERT G. HULTENG, Bar No. 071293  
 rhulteng@littler.com  
 9 AURELIO J. PÉREZ, Bar No. 282135  
 aperez@littler.com  
 10 PERRY K. MISKA, Bar No. 299129  
 pmiska@littler.com  
 11 LITTLER MENDELSON, P.C.  
 650 California Street, 20th Floor  
 12 San Francisco, CA 94108.2693  
 Telephone: 415.433.1940  
 13 Facsimile: 415.399.8490

14 Attorneys for Defendants  
 DYNAMEX, INC., DYNAMEX FLEET  
 15 SERVICES, INC., DYNAMEX  
 OPERATIONS EAST, INC. and DYNAMEX  
 16 OPERATIONS WEST, INC.

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19

20 JUAN SARAVIA, individually and on  
 21 behalf of all others similarly situated,

22 Plaintiffs,

23 v.

24 DYNAMEX, INC., DYNAMEX FLEET  
 SERVICES, INC., DYNAMEX  
 25 OPERATIONS EAST, INC. and  
 DYNAMEX OPERATIONS WEST, INC.,

26 Defendants.  
 27

Case No. 3:14-CV-05003-WHA

**JOINT STIPULATION MEMORIALIZING  
 AGREEMENT REGARDING  
 PLAINTIFFS' DISCOVERY DISPUTE  
 PURSUANT TO COURT'S ORDER  
 FOLLOWING DISCOVERY HEARING**

Honorable William H. Alsup  
 Complaint Filed: November 12, 2014

1  
2 The Parties hereby file this joint stipulation pursuant to the Court’s Order, filed May 21,  
3 2015, which directed them to file a “joint stipulation memorializing their agreement regarding  
4 plaintiff’s discovery dispute, including the agreed-upon deadline.” [ECF 48]

5 WHEREAS, on May 14, 2015, Plaintiffs filed a letter for discovery relief pursuant to  
6 Paragraph 25 of the Court’s Supplemental Standing Order, which addressed the timing and scope of  
7 Defendants’ search for and production of documents in response to Plaintiff’s First Set of Requests  
8 for Production of Documents. [ECF 41]

9 WHEREAS, on May 18, 2015, Plaintiffs filed a declaration identifying the Parties’  
10 telephonic and written meet-and-confer efforts on the issues. [ECF 43]

11 WHEREAS, on May 19, 2015, Defendants filed a response to Plaintiffs’ discovery letter.  
12 [ECF 47]

13 WHEREAS, pursuant to the Court’s Order re Discovery Hearing, filed May 15, 2015 [ECF  
14 42], counsel for Plaintiffs and Defendants appeared in person for a three-hour meet-and-confer in the  
15 Court’s jury room on May 21, 2015.

16 WHEREAS, during the in person meet-and-confer, counsel reached an agreement to resolve  
17 the discovery dispute, which they put on the record during the discovery hearing held by the Court  
18 after the meet-and-confer.

19 WHEREAS, the following memorializes the agreement of the Parties to resolve the pending  
20 discovery dispute concerning Plaintiffs’ First Set of Requests for Production of Documents:

21 **STIPULATION**

22 1. For Requests 13-26, 34 & 35, Defendants will conduct a diligent search of all  
23 locations in the United States above the branch level at which responsive materials might plausibly  
24 exist, and produce all responsive non-privileged materials that are located (and a privilege log  
25 pursuant to FRCB 26(b)(5) for any materials withheld on the basis of a claimed privilege). By way  
26 of example only, a non-exhaustive list of possible locations and/or responsive materials includes, but  
27 is not necessarily limited to, the Dynamex Enterprise Computer System (“DECS”); the DECS  
28 manual; standard operating procedures (SOPs) to the extent not already produced; job descriptions,

1 advertisements and postings pertaining to transportation service providers covered by the collective  
2 action allegations; instructions from Dynamex clients concerning deliveries; pitches/advertising  
3 materials directed toward Dynamex clients and/or potential clients; descriptions of the work of the  
4 engineering department concerning routing; and documents among dispatchers and management  
5 concerning rates of pay for the transportation service providers covered by the collective action  
6 allegations.

7         2. For Requests 1-12, Defendants will conduct a diligent search of all locations in the  
8 United States at which responsive materials might plausibly exist, and produce all responsive non-  
9 privileged materials that are located (and a privilege log pursuant to FRCP 26(b)(5) for any  
10 materials withheld on the basis of an asserted privilege). To the extent that types or categories of  
11 information pertaining to an individual plaintiff is voluminous and a complete production would not  
12 be pertinent to Plaintiffs' motion to facilitate notice under 29 U.S.C. § 216(b), Defendants will so  
13 notify Plaintiffs and the Parties will meet and confer in good faith to determine whether the  
14 production can be deferred until a later stage of the litigation.

15         3. For Request 27 (complaints), the Parties will meet and confer further regarding the  
16 scope of the search and production. The Parties agree that the production need not include  
17 complaints, investigations and questions pertaining solely to *Lee, et al. v. Dynamex Operations West,*  
18 *Inc.*, (California Supreme Court, Case No. S222732); *Chevez, et al. v. Dynamex, Inc.*, (San  
19 Bernardino Sup. Ct., Case No. CIVRS 807176); or *Okeke v. Dynamex Operations East,*  
20 *Inc.*, Massachusetts Supreme Judicial Court docket SJC-11564.

21         4. For Request 32, the Parties will meet and confer regarding the terms, scope and  
22 timing of a production, including an ESI search protocol that might assist with the retrieval and  
23 production of responsive information.

24         5. No later than May 29, 2015, Defendants will produce all responsive, non-privileged  
25 materials located pursuant to the searches described in Paragraphs 1-2, above, which have not  
26 previously been produced. (The parties will meet and confer as to a later date for production of the  
27 privilege log, to the extent any responsive materials are withheld on claim of privilege.) Also by  
28

1 May 29, 2015, Defendants will file and serve an affidavit describing the search and production,  
2 which satisfies the requirements of the Court's Supplemental Standing Order at ¶ 13.

3 6. The Parties will further meet and confer after May 29, 2015, to determine whether  
4 Defendants' production of materials in Response to Requests 1-26, 34, 35, at that time fully resolves  
5 the discovery dispute (independent of any supplemental production that might otherwise be required  
6 under FRCP 26 & 34).

7 7. The Parties further stipulate that any production of discovery materials by Defendants  
8 pursuant to this stipulation will not constitute a waiver of whatever right Defendants may otherwise  
9 have to seek arbitration of the claims of Plaintiff [e.g., ECF 36], or the claims of any other individual  
10 that Plaintiff seeks to represent.

11 8. By agreeing to this stipulation, Plaintiffs do not waive whatever right they might  
12 otherwise have to seek production of information and materials responsive to other discovery  
13 requests that are not specifically addressed in this stipulation.

14 **IT IS SO STIPULATED.**

15 Dated: May 25, 2015

/s/ Joshua Konecky  
16 JOSHUA KONECKY,  
17 SCHNEIDER WALLACE COTTRELL  
KONECKY WOTKYNYS LLP  
Attorneys for Plaintiff JUAN SARAVIA

18 Dated: May 25, 2015

/s/ Aurelio J. Pérez  
19 AURELIO J. PÉREZ  
20 LITTLER MENDELSON, P.C.  
Attorneys for Defendants  
21 DYNAMEX, INC., DYNAMEX FLEET  
SERVICES, INC., DYNAMEX  
22 OPERATIONS EAST, INC. AND  
DYNAMEX OPERATIONS WEST, INC.

23  
24 **IT IS SO ORDERED.**

25 Dated: May 27, 2015.

  
26 THE HONORABLE WILLIAM ALSUP

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

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing document(s) with the Clerk of the Court for the United States District Court, Northern District of California, by using the Court's CM/ECF system on May 25, 2015.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Court's CM/ECF system.

/s/ Jong Gwan Hwang  
Jong Gwan (John) Hwang