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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN BERNARDINO**

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11 FERNANDO ALCOCER, an individual, on)
behalf of himself and on behalf of all persons)
12 similarly situated,

13 Plaintiff,

14 v.

15 DSV SOLUTIONS, LLC, a Limited Liability
Company; and DOES 1 through 50, inclusive,

16 Defendants.
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Case No. CIVDS2010345
[Consolidated with Case No.
CIVDS2018614]

**DECLARATION OF FERNANDO
ALCOCER IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Judge: Hon. David Cohn
Dept.: S-26

Hearing Date: December 1, 2021
Hearing Time: 10:00 a.m.

Complaint Filed: June 2, 2020
Trial date: None Set

1 I, Fernando Alcocer, declare as follows:

2 1. I am over the age of eighteen, a Plaintiff and a proposed Class Representative in the
3 above-entitled matter. I submit this declaration in support of the Motion for Preliminary
4 Approval of Class Action Settlement and in support of my application for a Class Representative
5 Service Payment.
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7 2. I have personal knowledge of all the facts stated herein. I could and would competently
8 testify under oath to these facts in court if requested to do so.

9 3. I worked for Defendant DSV Solutions, LLC (“DSV”) in California from October of
10 2019 to January of 2020 and I was classified by DSV as a non-exempt employee during that time
11 period.
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13 4. I retained the law firm of Blumenthal Nordrehaug Bhowmik DeBlouw LLP, who are
14 experienced in both class action litigation and claims against employers for violations of the
15 California Labor Code. I have no personal relationship or family ties to my attorneys or any
16 officer of the Court. I am not involved in any litigation against another member of the class in
17 this case and my attorneys are not working on my behalf in another capacity other than
18 representing me in this lawsuit.

19 5. I decided to file this class action lawsuit for the benefit of myself and other current
20 and former non-exempt employees who worked for DSV and be a class representative because I
21 felt that my legal rights as an employee and others like me were violated. For example, I was
22 required to spend time putting on a safety vest, goggles and gloves prior to clocking into DSV’s
23 timekeeping system. I was not, however, paid any minimum or overtime wages for the time I
24 spent putting on protective gear required by DSV. I was also not paid for the time I spent getting
25 a mandatory drug test. DSV also violated my rights relating to meal and rest breaks. DSV’s
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1 meal break policy, for example, did not state I should take my meal break prior to the fifth hour
2 of work and I often took meal breaks after five hours because I was very busy but never received
3 a meal break penalty for taking a late meal break. Also, with respect to rest breaks, DSV required
4 employees to clock out when they left the work facility. Therefore, I could not leave the premises
5 without clocking out and therefore was forced to stay on the premises during rest breaks. My rest
6 break should have been duty free which includes the ability to leave the premises if I choose to
7 do so.

9 6. This class action case was filed on June 2, 2020. Before the complaint was filed I
10 spoke to my attorneys several times and discussed how DSV implemented its company policies
11 and procedures. I also assisted my attorneys in their investigation into my claims by providing
12 them documents and answering their questions. I reviewed the complaint before it was filed and
13 after it was filed I was given access to an electronic file sharing program that alerted me via
14 email when important documents were filed so that I could review them and keep up with the
15 developments in the case which I understood was one of my duties as a class representative. I
16 would also call my attorneys from time to time if I had any questions about the case. My
17 attorneys were regularly available when I contacted them.

19 7. Even though this action is in the process of settling, I was and remain prepared to
20 perform all the duties of a class representative. I understand that as a class representative I have
21 assumed a fiduciary responsibility to prosecute this class action on behalf of the absent non-
22 exempt employees who worked for DSV during the class period. I have understood that as a
23 fiduciary, I have a duty to prosecute this action for the benefit of the members of the class and
24 surrender any right to compromise the group action for an individual gain.

26 8. I understand that being a plaintiff/class representative in this case means that I am
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1 seeking damages not only for myself but also other current and/or former non-exempt employees
2 working for DSV in California. I felt that this group of current and former employees were not
3 aware of their labor law rights and even if they were they would probably be apprehensive about
4 speaking up or even simply because of the time, effort and risk involved in filing a class action
5 lawsuit.

6
7 9. I understood that being a part of this lawsuit involved risks. For example, my
8 attorneys explained to me that if the case went to trial and we lost, I could be held responsible to
9 pay for all or part of the attorney fees and costs paid by DSV to defend this lawsuit. Also, I
10 knew there was a risk that future employers, if they ever found out about this lawsuit, could hold
11 it against me or downgrade me as a potential hire. As the only named Plaintiff in this case it
12 would not be difficult for a future employer to figure out I sued a former employer for labor law
13 violations. Ultimately I decided these risks were worth it and decided to fight for my rights and
14 the rights of others regardless of the risks, time and effort I spent on this case.

15
16 10. During the lawsuit I stayed in touch with my attorneys by phone and email. I also
17 kept up to date on important developments by reviewing court filings that were made available to
18 me electronically as I described above.

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20 11. A mediation took place on March 17, 2021 with Lou Marlin, an experienced
21 mediator of wage and hour class actions. Following the all-day mediation session, the parties
22 agreed to settle the action. I spoke with my attorneys regarding the terms of the settlement which
23 was reached between the parties and understood that I was representing absent class members
24 and therefore wanted the best possible result to be obtained for the class and I believe a very
25 positive result was in fact achieved via settlement. I reviewed and signed the Memorandum of
26 Understanding on March 18, 2021 and when the final settlement papers were ready, I again

1 spoke with my attorneys to review the Settlement Agreement which I signed on June 10, 2021.

2 12. I have been actively involved with this class action lawsuit performing the duties
3 described above. Although I did not keep time records, I was in regular contact with my
4 attorneys, reviewed important court filings and spent a significant amount of time on the issues
5 presented during the lawsuit and in the settlement process. I estimate that I spent approximately
6 50-60 hours working on this case. My understanding is that future tasks may require additional
7 hours of my time. I believe I have been diligent and have done what is expected of a named
8 plaintiff and proposed class representative to date, and will continue to do so. I have and always
9 will maintain the best interest of the class.
10

11 13. My attorneys explained to me that the settlement process involves a two-step
12 review by the Court to determine whether the settlement is fair before approving the settlement.
13 I know this process also involves notifying all class members of the settlement terms and of their
14 rights to make a claim for their settlement share, to opt out of the settlement or to object to the
15 settlement.
16

17 14. I believe I did the right thing by filing this case on behalf of the class. It gives me
18 great personal satisfaction to know that I played a role in benefitting the class who are in line to
19 receive monetary payments as a result of the settlement of this case. I also believe that the
20 requested Class Representative Service Payment of \$10,000 from the settlement is fair
21 compensation for the work I performed and the risks I undertook.
22

23 15. As part of the settlement it was necessary for me to sign a general release of all
24 claims I may have against the DSV. I believe the Class Representative Service Payment I have
25 requested provides me with some compensation for this agreed release.

26 16. I have not entered into any undisclosed agreements nor have I received any
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1 undisclosed compensation in this case. The only compensation I will receive is whatever amount
2 the Court awards as a service payment, as well as my share as a class member of the settlement
3 fund.
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5 17. In light of all the time and effort I have spent on this case, the risk I undertook by
6 suing a former employer, the exposure to being responsible for paying DSV's costs in the event
7 we did not win the case, the reputational risk that future employers may hold this lawsuit against
8 me, the general release, and in light of the size of the settlement, I believe the request for \$10,000
9 as a Class Representative service payment is fair and reasonable.

10 I declare under penalty of perjury under the laws of the State of California that the
11 foregoing is true and correct.

12 Executed on Oct 29, 2021, at Victorville, CA
13 (city, state)

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15 F. Alcocer (Oct 29, 2021 18:44 PDT)

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Fernando Alcocer