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Attorneys for Defendant
SOUTHWEST AIRLINES CO.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAYSON HUNTSMAN, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

SOUTHWEST AIRLINES CO.,

Defendant.

Case No. 4:19-cv-00083-PJH

**DECLARATION OF BRIAN D. BERRY IN
SUPPORT OF DEFENDANT SOUTHWEST
AIRLINES CO.'S REVISED
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PURSUANT TO THIS
COURT'S FEBRUARY 2, 2021 ORDER**

DECLARATION OF BRIAN D. BERRY

I, Brian D. Berry, hereby declare and state:

1. I am a Shareholder at Ogletree Deakins, Nash, Smoak, and Stewart, P.C. and counsel of record for SOUTHWEST AIRLINES CO. (“Southwest”) in this action. I am an attorney duly licensed to practice law in the State of California as well as in the United States District Court for the Northern District of California. I have personal knowledge of the facts set forth in this declaration, and I could and would competently testify to these facts if called upon to do so.

2. The documents and information that are subject to Southwest’s revised administrative motion to seal, filed concurrently herewith, have been designated “Confidential” by Plaintiff under the terms of the protective order governing discovery in this case.

3. After the Court issued its February 3, 2021, order denying without prejudice Southwest’s original administrative motion to seal materials filed in support of its opposition to Plaintiff’s motion for class certification, counsel for the parties met and conferred telephonically on February 9, 2021 regarding a plan for re-filing the administrative motion to seal and supporting papers. The attendees of this call were my colleague Kristin Higgins and I for Southwest and Michael Scimone and Michael Danna for Plaintiff.

4. On the call, the Parties agreed that Plaintiff would provide a set of lesser redacted materials and propose a joint filing that addressed the Court’s comments on whether certain materials met the “compelling reasons” standard for sealing documents.

5. On February 16, 2021, Plaintiff’s counsel sent me and my colleagues a set of lesser redacted materials for filing conditionally under seal along with a draft joint motion to seal.

6. Plaintiff’s draft motion argued that the Court should seal records of Plaintiff’s military service dates for several reasons, including that the documents are financial records, that the documents are not closely related to the merits of the case, and that Plaintiff believes Southwest’s interest in these documents arises from an interest in intimidation or retaliation.

7. I promptly informed Plaintiff’s counsel that Southwest disagreed with these assertions. The Parties then agreed that Southwest would file its own administrative motion to

1 seal, and Plaintiff would separately file a supporting declaration.

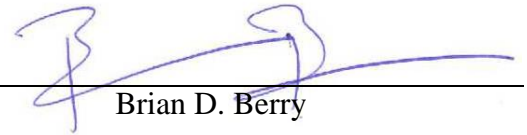
2 8. The set of lesser redacted materials that Plaintiff's counsel sent me on February 16,
3 2021, and that are subject to Southwest's revised administrative motion to seal, are the following:

- 4 a. A redacted version of Southwest's Opposition to Plaintiff's Motion for Class
5 Certification;
- 6 b. A redacted version of Exhibit A, which contains excerpts to Plaintiff's deposition
7 testimony. The redactions cover testimony related to Plaintiff's "PCARS" military
8 service record (located at P00009-15 in Exhibit B), and testimony related to a
9 photograph of a conference room at Travis Air Force Base with servicemembers
10 sitting at a table (located at P000026 in Exhibit B);
- 11 c. A redacted version of Exhibit B, which contains various documents produced by
12 Plaintiff in this litigation. The redactions cover Plaintiff's W-2 tax forms (P00003-
13 08), Plaintiff's "PCARS" military service record (P00009-15), a Reserve Order
14 from the Air Force (P000016), a military service history report (P000017), and a
15 photograph of a conference room at Travis Air Force Base with servicemembers
16 sitting at a table (located at P000026);
- 17 d. A redacted version of Exhibit 1 to the Declaration of John Freed. The redactions
18 cover the document with bates label SWA-HUNTSII 009251 in its entirety. The
19 document is entitled "Active Duty Statuses" and states dates of military service for
20 Plaintiff in 2017 and 2018. (Note that the block box at the top of page SWA-
21 HUNTSII 00928 of Exhibit 1 appears in the original production and is not subject to
22 this motion to seal); and
- 23 e. A redacted version of Exhibit 2 to the Declaration of John Freed. The redactions
24 cover the document with bates label SWA-HUNTSII 009254-55 in its entirety. The
25 document is a calendar with military service date information for Plaintiff in 2017
26 and 2018. (Note that the block box at the top of page SWA-HUNTSII 009252 of
27 Exhibit 2 appears in the original production and is not subject to this motion to seal).
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1 9. On February 16, 2021, Plaintiff's counsel also represented that Plaintiff is not
2 proposing any redactions for two documents that were subject to Southwest's original
3 administrative motion to seal – specifically, Exhibit C to the Berry Declaration (ECF 84-11) and
4 the text of the Freed Declaration (ECF 84-5). Exhibit C is a document that Plaintiff produced in
5 this litigation in which he identifies whether various dates of leaves in Southwest's records appear
6 or do not appear in his military PCARS record.

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.

9 Executed this 17th day of February, 2021.

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12 Brian D. Berry

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