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15 Employees for Plaintiffs and Proposed Class,
16 GALENA GOINS, SONIA LOPEZ, and TERRY A. JONES-JACKSON

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

19 GALENA GOINS, SONIA LOPEZ, TERRY
20 A. JONES-JACKSON ON BEHALF OF
21 THEMSELVES AND ALL OTHERS
22 SIMILARLY SITUATED,

23 Plaintiffs,

24 vs.

25 UNITED PARCEL SERVICE, INC.,
26 RICARDO MORENO

27 Defendants

Case No.:

**CLASS AND COLLECTIVE ACTION
COMPLAINT**

JURY TRIAL DEMANDED

28 Plaintiffs, GALENA GOINS, SONIA LOPEZ, and TERRY A. JONES-JACKSON
("Plaintiffs" or "Class Representatives"), by and through their employees, M. Alieu Iscandari and
Tiega-Noel Varlack, bring this action on behalf of themselves and all similarly situated employees
against Defendants, United Parcel Service, Inc. And Ricardo Moreno Plaintiffs allege, upon

1 knowledge as to themselves and otherwise upon information and belief, that Defendant engages
2 in systemic discrimination based on gender, age and disability as follows:

3
4 **I. INTRODUCTION**

- 5
6 1. Defendant, United Parcel Service, Inc., (“Defendant,” “UPS”), is an American
7 multinational package delivery and supply chain management company. UPS hires
8 employs approximately 444,000 staff: 362,000 in the U.S. and 82,000 internationally.
9 UPS specializes in the time-definite delivery of packages and documents domestically
10 and worldwide. In recent years, UPS has extended its service portfolio to include less
11 than truckload (LTL) transportation (primarily in the U.S.) and supply chain services.
12 UPS reports its operations in three segments: U.S. Domestic Package operations,
13 International Package operations, and Supply Chain & Freight operations. UPS operates
14 over 119,000 delivery vehicles worldwide, ranging from bicycles to tractor-trailer trucks.
15 In a long-running company policy to avoid advertisement or endorsement of a vehicle
16 manufacturer, all external manufacturer emblems and badging are removed when a
17 vehicle enters service (whenever possible). In recent years, UPS has been criticized for its
18 treatment of its workforce, including providing inadequate protections and sick leave
19 during the COVID-19 pandemic.
- 20 2. Defendant, Ricardo Moreno, is a coordinator at the Oakland Hub, who is the chief
21 harasser, and retaliator in charge of small sort, who recruits other supervisors to sabotage
22 women, he singles out the women on his shift who he feels are too feminine to do
23 additional work, he assigns supervisors to work in violation of company policy to take
24 away time on the clock that the women employees would otherwise earn, he has a pattern
25 of harassment and discrimination against women stemming from his time at the San
26 Bruno Hub.
- 27 3. At UPS, female employees who work are forced to work in the back while the men
28 work in the front in violation of the company’s seniority rules, women are routinely
denied opportunities for advancement and higher pay. UPS’ standard operating
procedure is to hold back women from supervisory roles, full-time and overtime
opportunities, regardless of their performance.

- 1 4. UPS fails to pay these women on par with their seniority and, by holding them back,
2 creates a lasting stain on their careers.
- 3 5. Working under a double standard, women report to work unsure of their position and
4 whether they will get bumped from their permanent positions despite their seniority, in
5 this way women are forced to prove their commitment to UPS in a way no one else is.
6 They risk isolation, being forced to work in areas with flows too heavy for one person,
7 and even being pushed out of their section if they do not meet the new, and impossibly
8 high, standards that are set for them if they dare to complain about the unequal treatment.
- 9 6. UPS' policies and practices are emblematic of the "old boys' club" that permeates
10 corporate culture, suppresses female advancement, and stereotypes women. When
11 female employees complain about workplace culture, they are punished in the ways
12 described above.
- 13 7. Today women make up more than half of our country's workforce. Enforcing a double
14 standard in the workplace not only pits men against women but also causes financial
15 harm and results in social consequences for women and the workplace. Historically
16 women in the workplace have faced discrimination due to their age, their gender, and
17 even their status as mothers. Due to societal norms the gender role for women is largely
18 based the stereotype that women are nice, kind and passionate but by contrast leadership
19 roles in the workplace expect a leader to take charge, demonstrate toughness, make tough
20 decisions, and be very assertive to complete the task at hand. When women are viewed
21 through the warped lens of gender bias in the workplace, their true commitment and
22 output often become irrelevant. Consigned to the idea that women are supposed to be
23 gentle and nice, women in the workplace are steered away from the opportunities for
24 professional development that would permit them to reach the same levels of pay and
25 promotion as their male colleagues.
- 26 8. At UPS the opportunities for women usually lead to a dead end. Women are routinely
27 prevented from advancing to higher positions within UPS, while at the same time the
28 company forces women to work harder to prove their dedication to the company and
setting unreasonably high expectations for them. Those who avail themselves of the
company's paid time off or flexible work schedule policy- which permits employees to
work part-time to care for family, purportedly without fear or repercussions for their

1 career – are particularly vulnerable. Adding insult to injury women are often denied even
2 the chance to meet the company’s expectations when they return from leave, and often
3 times find themselves without sufficient work to meet employee expectation.

- 4 9. Women in the work already face significant challenges based on their gender.
- 5 10. Gender inequality in the workplace is a multifaceted phenomenon that is demonstrated
6 through organizational structures, processes, and practices. For women some of the most
7 severe inequalities are enacted within human resources practices. This is because HR
8 practices affect hiring, training, pay and protection of women, such as policies, decision-
9 making and enactment of those decisions. Gender Discrimination in the workplace,
10 specifically in HR related decision-making, stems from gender inequalities in broader
11 organizational structures, processes, and practices which include leadership, structure,
12 culture, strategy, organizational climate, as well HR policies. It is also important to note
13 that institutional discrimination in organizational structure processes, and practices, play
14 an eminent role because they affect HR practices and also provide a socializing context for
15 organizational decision makers’ level of adverse and benevolent sexism.
- 16 11. Upon information and belief, UPS has long been aware of these problems but has failed
17 to take remedial measures to prevent or correct them.
- 18 12. To remedy the gender, age and disability discrimination they witnessed and experienced at
19 UPS, Plaintiffs and the class are seeking all legal and equitable relief available under
20 state and federal anti-discrimination, equal pay, and retaliation statutes, including Title
21 VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et seq.*, as amended; the Equal
22 Pay Act of 1963, 29 U.S.C. § 201 *et seq.*; the California Equal Pay Act, Cal. Lab. Code §
23 1197.5; the California Fair Employment and Housing Act, (“FEHA”), Cal. Gov. Code §
24 12940 *et seq.* Plaintiffs seek monetary and injunctive relief to rectify UPS’ discriminatory
25 practices and policies and to ensure that, going forward, UPS abides by the law.

26 **II. THE PARTIES**

- 27 13. **Plaintiff, Galena Goins** is a woman who, at all times relevant to this action, lived and
28 worked in California. At present, Galena Goins is an employee employed the UPS Hub

in Oakland, in the Small Sort Area.

14. **Plaintiff, Sonia Lopez** is a woman who, at all times relevant to this action, lived and worked in California. At present, Sonia Lopez is an employee employed the UPS Hub in Oakland, in the Small Sort Area.

15. **Plaintiff Terry A. Jones-Jackson** is a woman who, at all times relevant to this action, lived and worked in California. At present, Terry A. Jones-Jackson is an employee the UPS Hub in Oakland, in the Small Sort Area.

Number	Our clients	Age	Start Date at UPS
1.	Galena Goins	59	August 31, 1999
2.	Sonia Lopez	45	October 21, 1999
3.	Terry A. Jones-Jackson	54	January 01, 1999

III. JURISDICTION AND VENUE

16. This Court has subject matter jurisdiction over this suit pursuant to 28 U.S.C. § 1331 and has supplemental jurisdiction over Plaintiffs’ state law claims. The claims constitute the same case and controversy raised in the claims under federal law.

17. The Northern District of California has personal jurisdiction over the UPS and by extension Moreno because UPS transacts significant business in the State of California and in this District.

18. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5 (f) because Defendant conducts substantial business in the Northern District of California, and because, upon information and belief, unlawful employment practices originated in this District.

19. Plaintiffs duly filed their administrative charges before the California Department of Fair Employment and Housing (“DFEH”) and the U.S. Equal Employment Opportunity Commission (“EEOC”) on (Goins) November 20, 2020 and received a right to sue on August 26, 2021, (Lopez) filed on September 8, 2020, and received a right to sue on August 23, 2021, (Jones-Jackson) filed on October 5, 2021 and received her right to sue the same day. (Exhibits A-C)

1 **IV. FACTUAL ALLEGATIONS**

2 **A. What Happened When You are a Women with Seniority: UPS**
3 **Routinely Holds Back Women Who appear outwardly feminine and**
4 **are over the age of 40.**

5 20. Outwardly feminine women, even those who are considered the “best,” are not safe at
6 UPS. Indeed, these women are strikingly absent from the upper ranks of management
7 to understand what happens to high-performing women at UPS.

8 21. UPS boasts of its “EQUAL OPPORTUNITIES” for employees, including the promise
9 that all are treated with respect. But in reality, they do not respect women, instead they
10 take younger employees and allow them to work double shifts when plaintiffs had to
11 struggle for years to get the same hours. Further, the older women are forced to wait
12 in an area until they are told where to go while younger employees are allowed to go
13 straight to the work area of their choosing. With respect to Moreno and his gender
14 discrimination, it is common knowledge that he prefers men, and he carries out his
15 preference by picking all men who previously worked in the San Bruno Hub to work
16 in his area. These areas are supposed to be left for people such as plaintiffs who have
17 high seniority, each having at least 22 years at the company.

18 22. UPS discriminates against Plaintiffs and other female employees, especially those over
19 the age of forty, by denying opportunities for greater pay and limiting progression. UPS
20 reinforces stereotypes that older women are worse at and less committed to their jobs
21 and sets in motion a chain of events that leads to a dead end. When they seek additional
22 shifts, they are denied extra shift assignments or if given an additional shift the women’s
23 time is stolen through false reporting, being sent home early, and being told to clock
24 out if they stand idle whereas men are allowed to stand around and remain on the clock
25 until they decide to clock out.

26 23. The stereotype becomes self-reinforcing, and women become stuck. They now face
27 a Hobson’s choice: stay in an assigned shift in an area that they are told to go in violation
28 of seniority, or face intimidation, menacing stares, wage theft and retaliatory staffing.

29 24. In some cases, female employees are not even given the courtesy of receiving
30 notification that a new job will open. Only through checking on the Board, after the
31 position is filled, do they find the news: despite meeting expectations, or even stellar
32 performance, they will not be progressing with their peers.

1 25. Men, in general, are not subjected to the same unlawful practices.

2 **B. UPS' Male-Dominated Hierarchy Sets Policies that Disparately Impact**
3 **Disabled Women who can Still Perform Their Jobs with an Accommodation**

4 26. Men dominate UPS' leadership and management

5 27. Promotion and compensation decisions at UPS are controlled by male management.

6 28. UPS discriminates against women by permitting its predominantly male leadership
7 to favor men overtly in pay, promotions, and other opportunities regardless of their
8 qualifications and to otherwise discriminate against women, especially those over 40.
9 UPS leadership fosters or condones a culture that marginalizes, demeans, and
undervalues women and mothers.

10 29. UPS' leadership is aware of its inequitable promotion, pay, job assignment, and other
11 practices but have taken no steps to remedy the root causes of the disparity. Defendant
12 is aware of the demographics of its workforce, including the underrepresentation of
13 women in different levels and functions.

14 30. Defendant is aware of its own misconduct, but it has failed to rectify the discrimination.

15 **V. PLAINTIFF, GALENA GOINS**

16
17 31. Plaintiff, Galena Goins currently works in one of UPS' California offices.

18 32. On or about August 31, 1999, Plaintiff, Galena Goins joined UPS as a hub sorter and
19 loader/unloader.

20 33. Ms. Goins excelled at her duties at the UPS many several years.

21 **A. Joining Ups: When Ms. Goins started, she was an unloader, and she would finish**
22 **three to four trucks a night, because she was so fast. Drake and other supervisors**
23 **recognized her as a leader.**

24 34. From 1999 to 2011, Ms. Goins worked in loading and unloading and eventually moved
25 to small sort after her supervisor verbally assaulted her and she complained to his
26 supervisor, Drake Holloman.

27 35. Slowly Drake moved Ms. Goins to small sort on a nightly basis, based on her good
28 performance, but it was not permanent until about two months later this was 2012.
Believing that Drake would protect her from further acts of aggression, Ms. Goins joined

1 small sort as a permanent assignment.

2 36. Ms. Goins continued in this role for some time until the HUB closed in 2017 for
3 remodeling, after it reopened in 2018, the San Bruno Hub joined the Oakland Hub came
4 in January 2018. Ms. Goins had no history of performance issues, nor had she ever
5 been held back previously during her time at UPS.

6 37. Ms. Goins has been employed at UPS for over 20 years. She has seniority and is
7 entitled to receive preference to work less strenuous jobs.

8 38. Ms. Goins also has had two knee replacements and periodically needs to take off from
9 work due to her knees going out and her back pain.

10 39. From March 2018 to present Ms. Goins has been denied the interactive process and
11 reasonable accommodation based on her disability. From March 2018 to the present,
12 she requested to be placed in the Sorting area and a pad to walk on due to her disability;
13 however, her accommodation was denied.

14 40. The location involved was the Oakland hub, where Plaintiffs all had higher seniority
15 then the men that took over or attempted to take over their jobs and this violated the
16 CBA. Upon information and belief, the key difference between the members who
17 progressed, and Ms. Goins status as a woman who had disability issues.

18 **B. UPS Retaliation against Plaintiff, Galena Goins Due to her Gender, Age, and**
19 **Disability**

20 41. In January of 2019, a group of workers from the San Bruno hub moved to the Oakland
21 hub where Plaintiff is employed.

22 42. The supervisors in the group wanted to replace Ms. Goins because she had a better
23 position in small sort.

24 43. Supervisor Ricardo Moreno began to harass Ms. Goins to try and force her out of her
25 jobs because he wanted it to go to his friend, a male with less seniority. So, he would
26 pile on extra work and dump bags onto the ground, stand behind her and force her to
27 work faster. He would yell and scream for Ms. Goins to take her *ass* back to small sort.

28 44. He would only do this because she was African American, over 40 and a woman. Ms.
Goins also witnessed sexual harassment.

1 45. Connor O'Reilly another supervisor always asks for hugs from younger women who
2 work at the hub and wear see through clothes. Ms. Goins has seen him stare like he is
3 looking through clothing of women.

4 46. This kind of discriminatory conduct based on Plaintiff, Galena Goins' gender, age,
5 and disability were not limited to Supervisor Ricardo Moreno. Another supervisor
6 Connor O' Reilly always treated less favorably because Plaintiff, Galena Goins does
7 not wear see through clothes and is middle aged.

8 47. Retaliation:

- 9 a. Letter dated April 12, 2019:
10 Official warning for failure to follow proper load methods.
11 b. Letter dated May 6, 2019:
12 Official warning for failure to follow proper load methods.
13 c. Letter dated November 14, 2019:
14 d. Official discharge of gross insubordination and inappropriate conduct in the
15 workplace and failure to follow instructions.
16 e. Plaintiff was placed in an area that inflamed her knees and she had to refuse
17 work because of the danger that assignment caused to the viability of her knees.

16 **C. UPS Unfairly Evaluated Plaintiff, Galena Goins performance because of her
17 Gender, Age and Disability**

18 48. In January of 2019, a group of workers from the San Bruno hub moved to the Oakland
19 hub where Plaintiff is employed.

20 49. The supervisors in the group wanted to replace Ms. Goins because she had a better
21 position in small sort. As a result, Ricardo Moreno began to harass Ms. Goins to try
22 and force her out of her jobs because he wanted it to go to his friend, a male with less
23 seniority. So, he would pile on extra work and dump bags onto the ground, stand
24 behind her and force her to work faster.

25 50. From January 2019 to the present, she has been subjected to differential treatment based
26 on her sex/gender (female) and age (58). From January 2019 to the present Ricardo
27 Moreno assigns her extra duties and heavier work moved her from the back are to the
28 bagging area and does not provide her help. Younger male co-workers are not treated
in the same manner.

51. On or about April 12, 2019, Plaintiff, Galena Goins got a letter as retaliation - Official

1 warning for failure to follow proper load methods.

2 52. On or about May 6, 2019, Plaintiff, Galena Goins got another letter as retaliation -
3 Official warning for failure to follow proper load methods.

4 53. Plaintiff was placed in an area that inflamed her knees and she had to refuse work
5 because of the danger that assignment caused to the viability of her knees.

6 54. On or about November 14, 2019, Plaintiff, Galena Goins got a letter as retaliation -
7 Official discharge of gross insubordination and inappropriate conduct in the workplace
8 and failure to follow instructions.

9 55. Supervisor Ricardo Moreno would only do this because Ms. Goins was African
10 American, over 40 and a woman with disability issues, and because she reported him
11 to the state of California.

12 **D. “Ramp Up” Your Efforts: Following her disability issues, UPS Denied any**
13 **Employment Benefit or Privilege to Plaintiff, Galena Goins.**

14 56. Ms. Goins never had performance issues, moreover supervisors recognized her as a
15 leader.

16 57. In January of 2019, a group of workers from UPS’ San Bruno Hub moved to the
17 Oakland Hub where plaintiffs work. At Oakland hub Plaintiff, Galena Goins had
18 higher seniority then the men that took over or attempted to take over the job.

19 58. In September 2020 Goins was subjected to differential treatment based on her
20 sex/gender (female) and age (58).

21 59. In September 2020 Ms. Goins was evaluated three times in one month and written due
22 to work performance.

23 60. Ms. Goins aware that male co-workers are not evaluated three times in a month.

24 61. In September 2020 Ms. Goins work hours were reduced by 1-2 hours per shift.

25 62. Ms. Goins aware that younger male co-workers’ hours have not been reduced.

26 63. In response to this unrealistic expectation, Ms. Goins requested for grievance investigation.

27 64. Mr. Marcus stands behind Ms. Goins and force her to work faster. He has been writing
28 fake reports regarding Ms. Goins. Ms. Goins supervisors would not allow her to
meet her hourly requirements. Ms. Goins work hours were reduced by 1-2 hours per
shift.

65. Galena Goins Grievances timeline:

No.	Date	Subject	Type
1.	October 21, 2020	Harassment	Marcus made false claim about my work
2.	October 20, 2020	Harassment	Ricardo claims I am not working fast enough
3.	October 13, 2020	Harassment/ retaliation	Forced to switch job area
4.	October 7, 2020	Harassment	Marcus made false/unprovoked write UPS
5.	October 7, 2020	Harassment	Marcus false write up/I requested meeting
6.	October 5, 2020	Harassment	Marcus unnecessary & unprovoked observation of my work
7.	September 22, 2020	Harassment	Marcus forced heavy workload on me
8.	September 21, 2020	Harassment	Marcus contradicting work instructions
9.	September 18, 2020	Harassment	Marcus claims I am not working fast enough
10.	September 16, 2020	Harassment	Marcus claims I am not working fast enough
11.	September 12, 2020	Harassment	Marcus unprovoked & false write up

66. Ms. Goins has sought, but UPS has failed to provide, any substantive guidance or development plan to meet the hours requirements imposed upon her in light of the dearth of work opportunities she faces. Instead, Ms. Goins is being pushed out.

VI. PLAINTIFF, SONIA LOPEZ

67. Plaintiff, Sonia Lopez currently works in one of UPS' California offices.

68. On or about October 21, 1999, Plaintiff, Sonia Lopez joined UPS as a bagger.

69. Since joining UPS, Sonia Lopez has excelled in her job duties at UPS. She has been a committed employee and involved in many UPS initiatives.

A. UPS Employee Conner O'Reilly Sexually Harassed Plaintiff, Sonia Lopez as a Bystander

70. Supervisor, Conner O'Reilly sexually harassed other women in front of Ms. Lopez.

1 The harassment is visual and verbal in nature.

2 71. Since April 2018, Mr. O'Reilly would frequently leer at other female co-workers and
3 positioned himself in order to peer under their clothing.

4 72. Ms. Lopez has reported the harassment to the DFEH in June 2020, but no actions were
5 taken.

6 73. The harassment continued and created a hostile work environment for Ms. Lopez.

7 74. This was not rectified also, after Sonia Lopez' colleagues, Galena Goins and Terry A.
8 Jones-Jackson, raised the issue with the DFEH.

9 75. Ms. Lopez was berated by her male supervisors Connor O'Reilly and Ricardo Moreno;
10 was followed around her job and forced to work in unsafe environments.

11 76. When she complained, her harassers were simply moved to other departments, and she
12 was retaliated against by having her work compromised and the destinations of her
13 packages changed.

14 **B. UPS discriminated Plaintiff, Sonia Lopez Denied Work Opportunities or**
15 **Assignments based on her Age, Gender, and Race**

16 77. Ms. Lopez had no history of performance issues, nor had she ever been held back
17 previously during her time at UPS.

18 78. Ms. Lopez is 45 years old and was subjected to disparate treatment by her employer
19 UPS.

20 79. The disparate treatments include but not limited to consistently made to work faster
21 and was assigned heavier jobs despite having more seniority.

22 80. She was also required to clean up areas that she is not responsible for.

23 81. Ms. Lopez had been forced to end her shift prematurely several times and most recently
24 on June 12, 2020.

25 82. Ms. Lopez aware that her younger co-workers and male co-workers in general were
26 not treated similarly. She believes that she was discriminated based on her age and
27 gender.

28 83. Throughout her tenure at UPS, Sonia Lopez has never had problems with her
performance. In fact, she has never been written up.

C. UPS Discriminated against Plaintiff, Sonia Lopez was Harassed based on her

1 **Disability.**

2 84. Ms. Lopez has been harassed repeatedly since returning from medical leave after a
3 shoulder injury.

4 85. On or about June 19, 2020, Ms. Lopez requested to be moved to other areas that
5 requires less heavy lifting due to her previous work injury.

6 86. Ms. Lopez was not given the interactive process and her request was ignored.

7 87. She was prevented from going to a “small sort” department and forced to work
8 “outbound” loads despite her injury.

9 88. This was not the first time UPS discriminated against her due to her disability.

10 89. Ms. Lopez believes that she was discriminated and denied reasonable accommodation
11 for her disability.

12 90. Males at UPS have not experienced the same discrimination as to female workers in
13 the group.

14 **D. UPS Retaliation against Plaintiff, Sonia Lopez**

15 91. Ms. Lopez job description stated that she was not to lift over 25 lbs.

16 92. Although Ms. Lopez was able to return to work, she is restricted to lift heavy weights
17 overhead.

18 93. According to her doctor’s note:

19 a) No lifting greater than 10 pounds right upper extremity.

20 b) No lifting greater than 5 pounds overhead.

21 c) 10-minute break every hour.

22 94. But after filing grievances she was placed on irregulars, which are 70lbs or over big
23 boxes or very small and over 100 lbs. she cannot flip these.

24 95. This was done to retaliate against her. Ms. Lopez believes that she was discriminated
25 and denied reasonable accommodation for her disability.

26 **VII. PLAINTIFF, TERRY A. JONES-JACKSON**

27 96. Plaintiff, Terry A. Jones-Jackson currently works in one of UPS’ California offices.

28 97. On or about January 1, 1999, Plaintiff, Terry A. Jones-Jackson joined UPS as a hub
sorter and loader/unloader.

1 98. Since joining UPS, Terry A. Jones-Jackson has excelled in her job duties.

2
3 **A. UPS discriminated against Plaintiff, Terry A. Jones-Jackson for Equal Pay Due**
4 **to her Gender, Age, and Disability.**

5 99. Plaintiff, Terry A. Jones-Jackson has been employed at UPS for over 20 years. She
6 has seniority and is entitled to receive Equal Pay as male sorter of same seniority.

7 100. On or about December 2018, Terry A. Jones-Jackson discovered that her salary no
8 longer matched up to her as her male colleagues; she had not been promoted with her
9 peers, nor had she received the corresponding salary increase that should have
10 accompanied her anticipated promotion.

11 101. Terry A. Jones-Jackson had no history of performance issues, nor had she ever been
12 held back previously during her time at UPS.

13 102. Plaintiff, Terry A. Jones-Jackson was denied equal pay based on her gender.

14 103. Upon information and belief, within Terry A. Jones-Jackson office alone, more
15 male colleagues in the same office were advanced with Terry A. Jones-Jackson's
16 seniority and received the corresponding pay increase. Upon information and belief,
17 the key difference between the males who got paid more, and Terry A. Jones-Jackson
18 was Ms. Jones-Jackson's status as a woman and African American, over forty.

19 **B. UPS discriminated Plaintiff, Terry A. Jones-Jackson's Denied any Employment**
20 **Benefit or privileges due to her Gender and Race.**

21 104. Plaintiff, Terry A. Jones-Jackson has been employed at UPS for over 20 years. She
22 has seniority and is entitled to receive preference to pick from the jobs that are available.

23 105. Terry A. Jones-Jackson had a better position in small sort work area. She had been
24 in that position for two years.

25 106. In January of 2019, a group of workers from the San Bruno Hub moved to the
26 Oakland Hub where Plaintiff, Ms. Jones-Jackson was employed. The supervisors in
27 the group wanted to replace Ms. Jones-Jackson because she had a better lighter position
28 in small sort.

107. They end up moving Ms. Jones-Jackson from this position. They did this because
Ms. Jones-Jackson is a female and African American.

1 108. The supervisor assigns to drag every heavy bag to printer and placed tag on it. Ms.
2 Jones-Jackson never had a problem with labels. Those bags are heavy over 50 pounds
3 and need to drag them to printer each time on the twilight. Ms. Jones-Jackson's health
4 is deteriorated because of this shift.

5 109. Ms. Jones-Jackson later figured out that the other workers are having problems
6 placing tags on the bags and tough to drag those heavy bags. Many other workers also
7 refused to work on the twilight.

8 110. Based on her seniority Ms. Jones-Jackson can pick from the jobs that are available.
9 But Ms. Jones-Jackson was allocated this shift and job. Ms. Jones-Jackson was
10 threatened to send her home. Supervisors told Ms. Jones-Jackson, if she does not drag
11 those heavy bags, she won't be able to work on this shift.

12 111. Ms. Jones-Jackson was always singled out at work.

13 **C. UPS discriminated Plaintiff, Terry A. Jones-Jackson Denied Work Opportunities**
14 **or Assignments Due to her Gender and Race.**

15 112. On or about January 2019 to February 2020 Ms. Jones-Jackson was denied Work
16 Opportunities based on her gender.

17 113. Ms. Jones-Jackson's supervisor told, if he needed help in, he would call Ms. Jones-
18 Jackson.

19 114. Ms. Jones-Jackson know that they go by seniority and employees also need to be
20 on time for the shift.

21 115. On Friday January 8, 2019 twilight started at 3:30 p.m. Ms. Jones-Jackson did not
22 get a call or text to work. She was told that another employee already came in. But
23 the other employee (who is a male) arrived at 5:45 whereas the shift starts at 3:30 p.m.

24 116. When Ms. Jones-Jackson checked about her shift, she was told that she needs to be
25 on time if she wants to do double shift.

26 117. The management denied Ms. Jones-Jackson the opportunity to work overtime,
27 while a male sorter with same seniority was allowed to work overtime.

28 118. Upon information and belief, male colleagues were given preference and excused
from being on time to shift.

1 **D. UPS Employee Connor O'Reilly Sexually Harassed Plaintiff, Terry A. Jones-**
2 **Jackson Due to Age and Gender**

3 119. From on or about January 2019 to date Ms. Jones-Jackson have been subjected to
4 sexual harassment-hostile work environment by manager Connor O'Reilly.

5 120. Ms. Jones-Jackson also witnessed sexual harassment.

6 121. During the period Ms. Jones-Jackson observed Mr. O'Reilly stare at females who
7 wear see-through clothes and tight pants.

8 122. He always asks for hugs from younger women who work at hub and wear see
9 through clothes on a daily basis which created a hostile environment.

10 123. As a supervisor Mr. O'Reilly treated Ms. Jones-Jackson less favorably because she
11 does not wear see through clothes and is middle aged.

12 124. UPS tries to steal Ms. Jones-Jackson's time by having supervisors work when they
13 re not supposed to work.

14 125. UPS send in supervisors to work to finish the jobs to send women home earlier, at
15 a rate of thirty (30) minutes a shift.

16 **E. UPS discriminated against Plaintiff, Terry A. Jones-Jackson Denied Work**
17 **Opportunities or Assignments Due to her Race and Gender.**

18 126. On or about January 2019 to date Ms. Jones-Jackson have been denied Work
19 Opportunities or Assignments based on sexual harassment-hostile work environment.

20 127. UPS engaged supervisors who are fair and discriminate against employees because
21 of Age and Race.

22 128. Supervisors have made her lose income by letting low seniority employees work
23 while not allowing Ms. Jones-Jackson to work.

24 129. UPS should not be able to terminate employees without approval of union. Jones-
25 Jackson has been terminated twice, one time while she was on vacation.

26 130. When they fired Ms. Jones-Jackson, they disconnected her UPS stock withdrawal
27 to buy stock & it has been that way since 2017.

28 131. UPS never paid Ms. Jones-Jackson for all the grievances through the years.

 132. UPS stole a 1:00 hour off Ms. Jones-Jackson's pay and never gave her back pay.

 133. They hired low seniority employees and gave them full times jobs and Ms. Jones-

1 Jackson is still part time and but has more seniority. They have been at the Oakland
2 hub (low seniority employees with full time jobs) going on two years.

3 134. Manager Jimmy and Robin removed Ms. Jones-Jackson from Small Sort group.

4 135. Supervisor Connor O'Reilly removed Ms. Jones-Jackson from small sort
5 assignment and replaced her with females he stares at who wear see-through clothes
6 and tight pants, and whom he asks for hugs.

7 **F. UPS Retaliation against Plaintiff, Terry A. Jones-Jackson**

8
9 136. Ms. Jones-Jackson started at UPS from January 1, 1999 and she has been employed
10 at UPS for over 20 years.

11 137. Although Ms. Jones-Jackson going to complete 22 years with UPS, the supervisors
12 always discriminated against her.

13 138. Retaliation:

- 14 a. Letter dated July 10, 2017:
Official warning for undependability.
- 15 b. Letter dated April 10, 2018:
Official warning for failure to follow proper load methods.
- 16
- 17 c. Letter dated March 05, 2019:
Official warning for undependability.
- 18 d. Letter dated April 05, 2019:
Official warning for failure to follow instructions.
- 19 e. Letter dated April 10, 2019:
- 20 f. Official warning for failure to follow instructions.
- 21 g. Terminated twice and rehired.
- 22 h. Given less pay than male counterpart.

23 **CLASS AND COLLECTIVE ALLEGATIONS**

24
25 139. Plaintiffs incorporate allegations from the previous paragraphs of the Complaint
26 alleging class-based discrimination against female employees, who are over forty years
27 old and/or with a disability.

28 140. Plaintiffs represent a class consisting of all female employees at Us who have or
will be employed by UPS in the United States from November 9, 2017 to the date

1 of judgment, as well as subclasses of all female employees who have been or will be
2 employed by UPS: (a) in the United States, and who were over forty years old, and/or
3 disabled between November 9, 2017 and the date of judgment (the “class”); (b) in
4 California from November 9, 2017 to the date of judgment (the “California subclass”);
5 (c) California from November 9, 2017 to the date of judgment (the “CEPA subclass”);
6 and (e) in California from November 9, 2017 to the date judgment (the “California
7 Unfair Competition” subclass).

8 141. Plaintiffs also seek to represent a collective of female employees employed by
9 UPS from November 9, 2017 to the date of judgment (a) who were not compensated
10 equally to male employees who had substantially similar job classifications, functions,
11 titles, and/or duties, (b) who were not compensated equally to male employees who
12 performed substantially similar work and/or (c) who were denied equal compensation
13 to similarly situated male employees by being held back to lower pay levels and/or
14 prevented from picking up extra shifts at the same level of similarly situated male
15 employees who performed substantially similar work.

16 **VIII. CLASS ALLEGATIONS UNDER RULE 23 OF THE FEDERAL**
17 **RULES OF CIVIL PROCEDURE**

18 142. UPS tolerates and cultivates a work environment that discriminates against female
19 employees, in particular those who are who are over forty years old and/or with a
20 disability.

21 143. Female employees, who are over forty years old and/or with a disability are
22 subjected to continuing unlawful disparate treatment in pay and work opportunities.
23 Moreover, UPS’ policies and procedures have an ongoing disparate impact on female
24 employees, who are over forty years old and/or with a disability.

25 144. UPS maintains policies and methods of scheduling employees that promote
26 gender- based inequities in compensation, and policies and methods for
27 advancement that lead to gender-based unequal promotion. UPS’ discriminatory
28 policies, practices, and procedures include a system where women who are over forty
years old and/or with a disability are denied opportunities for advancement at UPS, as
well as the opportunity to work additional shifts afforded to their male colleagues.

1 145. UPS' nationwide practices, policies, and procedures result in lower compensation
2 for female employees than similarly situated male employees.

3 146. In general, the policies, practices, and procedures that govern the pay and
4 promotions of female employees lack the sufficient standards, quality controls,
5 implementation metrics, transparency, and oversight to ensure equal opportunity at
6 UPS.

7 147. Because UPS' management does not provide sufficient oversight or safety
8 measures to protect against intentional and overt discrimination or the disparate impact
9 of facially neutral policies and procedures, female employees suffering from
10 discrimination are without recourse. Whatever complaint and compliance policies may
11 exist, lack meaningful controls, standards, implementation metrics, and means of
12 redress such that upper management may ignore, disregard, minimize, cover up,
13 mishandle, or otherwise fail to properly respond to evidence of discrimination in the
14 workplace.

15 148. UPS' policies, practices, and procedures are not valid, job-related, or justified by
16 business necessity. Alternative, objective, and more valid procedures are available to
17 UPS that would avoid such a disparate impact on female employees. UPS has failed or
18 refused to use such alternative procedures.

19 149. Upon information and belief, UPS' discriminatory employment practices, policies,
20 and procedures are centrally established and implemented at the highest levels of UPS.

21 150. Upon information and belief, UPS' employment policies, practices, and
22 procedures are not unique or limited to any location; rather, they apply uniformly and
23 systematically to employees throughout UPS, occurring as a pattern and practice
24 throughout all locations.

25 151. Because of UPS' systemic pattern and practice of gender discrimination, the
26 Plaintiffs and members of the proposed Class have suffered harm including lost
27 compensation, back pay, employment benefits, and emotional distress.

28 152. The Plaintiffs and members of the Class have no plain, adequate, or complete
remedy at law to redress the rampant and pervasive wrongs alleged herein, and this
suit is their only means of securing adequate relief. The Plaintiffs and members of
the Class have suffered and are now suffering irreparable injury from UPS' ongoing,

1 unlawful policies, practices, and procedures set forth herein, and they will continue to
2 suffer unless those policies, practices, and procedures are enjoined by this Court.

3 **A. Rule 23 Class Definition**

4
5 153. The proposed Rule 23 Class consists of all female employees who are, have been,
6 or will be employed by UPS in the United States from November 9, 2017 until the date
7 of judgment. Upon information and belief, there are more than 40 members of the
8 proposed Class.

9 154. Plaintiffs also seek to represent subclasses of female employees who are, have been
10 or will be employed at UPS in: (a) in the United States, and who have been or will
11 reach forty-years of age and/or become disabled from November 9, 2017 and the date
12 of judgment (the “class”).

13 155. Plaintiffs are each member of the Class and subclass.

14 156. The systemic gender discrimination described in this Complaint has been, and is,
15 continuing in nature.

16 157. Plaintiffs reserve the right to amend the class definitions based on discovery
17 or legal developments.

18 **B. Efficiency of Class Prosecution of Class Claims**

19 158. Certification of the proposed classes and sub-classes is the most efficient and
20 economical means of resolving the questions of law and fact that are common to the
21 claims of the Plaintiffs and the Class.

22 159. The individual claims of Plaintiffs, as Class Representatives, require resolution of
23 the common questions concerning whether UPS has engaged in a pattern and/or
24 practice of gender discrimination against its female employees, particularly against
25 women who are over forty and/or disabled, and whether its policies or practices have
26 an adverse effect on the Class. Class Representatives seek remedies to eliminate the
27 adverse effects of such discrimination in their own lives, careers, and working
28 conditions and in the lives, careers, and working conditions of the Class members,
and to prevent UPS’ continued gender discrimination.

1 160. The Class Representatives have standing to seek such relief because of the adverse
2 effect that such discrimination has on them individually and on female employees
3 generally. UPS caused Plaintiffs' injuries through its discriminatory practices, policies,
4 and procedures and through the disparate impact its policies, practices, and procedures
5 have on female employees. These injuries are redressable through systemic relief, such
6 as equitable and injunctive relief and other remedies sought in this action. In addition,
7 proper relief for Plaintiffs' individual discrimination claims can include promotion and
8 increased compensation. Plaintiffs have a personal interest in the policies, practices,
and procedures implemented at UPS

9 161. To obtain relief for themselves and the Class members, the Class Representatives
10 will first establish the existence of systemic gender discrimination as the premise for
11 the relief they seek. Without class certification, the same evidence and issues would be
12 subject to re-litigation in a multitude of individual lawsuits with an attendant risk of
13 inconsistent adjudications and conflicting obligations.

14 162. Certification of the proposed Class is the most reasonable and efficient means of
15 presenting the evidence and arguments necessary to resolve such questions for the
16 Class Representatives, the Class members and UPS.

17
18 **C. Numerosity and Impracticability of Joinder**

19 163. The Class that the Class Representatives seek to represent is so numerous that
20 joinder of all members is impracticable. In addition, joinder is impractical as the
21 employees are physically based in different locations throughout the United States and
22 California. Fear of retaliation on the part of UPS' female employees is also likely to
23 undermine the possibility of joinder.

24 **D. Common Questions of Law and Fact**

25 164. The prosecution of the claims of the Class Representatives will require the
26 adjudication of numerous questions of law and fact common to their individual claims
27 and those of the Class they seek to represent.

28 165. The common issues of law include, *inter alia*: (a) whether UPS has engaged in

1 unlawful, systemic gender discrimination in its work assignment, promotion, and
2 compensation policies, practices, and procedures; (b) whether the failure to institute
3 adequate standards, quality controls, implementation metrics or oversight of those
4 policies, practices, and procedures violates Title VII, the FEHA, or the CEPA,
5 and/or other statutes; (c) whether the lack of transparency and opportunities for redress
6 in those systems violates Title VII, the FEHA, the CEPA, and/or other statutes; (d) a
7 determination of the proper standard for proving whether UPS' employment policies
8 had a disparate impact on the Class and Sub- Class; (e) a determination of the proper
9 standards for proving a pattern or practice of discrimination by UPS against its female
10 employees, and under the disparate treatment theory of liability for employees; (f)
11 whether UPS' failure to prevent, investigate, or properly respond to evidence and
12 complaints of discrimination in the workplace violates Title VII and other statutes; and
13 (g) whether UPS is liable for continuing systemic violations of Title VII and other
14 statutes.

14 166. The common questions of fact include, *inter alia*: whether UPS has: (a)
15 intentionally held back female employees who are over 40 and/or disabled on its pay
16 scale because UPS does not give equal opportunities to work additional shifts; (b) used
17 a compensation system that lacks appropriate standards, implementation metrics,
18 quality controls, transparency, and opportunities for redress; (c) relied on
19 compensation criteria that perpetuate discrimination; (d) compensated female
20 employees less than similarly-situated male employees in salary and/or promotions;
21 (e) minimized, ignored, or covered-up evidence of gender discrimination in the
22 workplace and/or otherwise mishandled the investigation of and response to complaints
23 of discrimination; (f) cultivated an indifference to evidence of discrimination in the
24 workplace or otherwise minimized, ignored, mishandled, or covered up evidence of or
25 complaints of gender discrimination; and (g) otherwise discriminated against female
26 employees, especially those who are over forty and/or disabled, in the terms and
27 conditions of employment.

26 167. Upon information and belief, UPS' employment policies, practices, and
27 procedures are not unique or limited to any location; rather, they apply uniformly and
28 systematically to employees throughout UPS, occurring as a pattern and practice

1 throughout all locations. They thus affect the Class Representatives and Class members
2 in the same ways regardless of the location in which they work. Discrimination in
3 compensation occurs as a pattern and practice throughout UPS.

4 **E. Typicality of Claims and Relief Sought**

5 168. The Class Representatives' claims are typical of the claims of the proposed
6 Class. The Class Representatives possess and assert each of the claims they assert on
7 behalf of the proposed Class. They pursue the same factual and legal theories and seek
8 similar relief.

9 169. Like members of the proposed Class and Sub-Classes, the Class Representatives are
10 female employees who were employees of UPS during the liability period and who were
11 over forty and/or disabled during the liability period.

12 170. Differential treatment between male and female employees occurs as a pattern and
13 practice throughout UPS. UPS discriminates against female employees, especially
14 those who are over forty and/or disabled, in compensation and promotion and subjects
15 them to a work culture predominated by men. This differential treatment has affected
16 the Class Representatives and the Class members in the same or similar ways.

17 171. UPS has failed to respond adequately or appropriately to evidence and complaints
18 of discrimination. The Class Representatives and Class members have been affected
19 in the same or similar ways by UPS' failure to implement adequate procedures to
20 detect, monitor, and correct this pattern and practice of discrimination.

21 172. UPS has failed to create adequate procedures to ensure its management
22 complies with equal employment opportunity laws regarding each of the policies,
23 practices, and procedures referenced in this Complaint, and UPS has failed to
24 discipline adequately supervisors when they violate anti-discrimination laws. These
25 failures have affected the Class Representatives and the Class members in the same or
26 similar ways.

27 173. The relief necessary to remedy the claims of the Class Representatives is the same
28 as that necessary to remedy the claims of the proposed Class members.

174. The Class Representative seeks the following relief for their individual claims and
for the claims of the members of the proposed Classes: (a) a declaratory judgment that

1 UPS has engaged in systemic gender discrimination against female employees by (i)
2 denying work opportunities to female employees who are over forty and/or disabled
3 and on the basis of gender, (ii) paying female who are over forty and/or disabled less
4 than their male counterparts in base compensation, (iii) failing to investigate or respond
5 to evidence of discrimination in the workplace against female employees, especially
6 those who are over forty and/or disabled, and (iv) otherwise exposing female
7 employees, especially those who are over forty and/or disabled, to differential
8 treatment; (b) a permanent injunction against such continuing discriminatory conduct;
9 (c) injunctive relief that effects a restructuring of UPS' policies, practices, and
10 procedures for promoting and awarding compensation to female employees; (d)
11 equitable relief that effects a restructuring of UPS compensation system so female
12 employees receive the compensation they would have been paid in the absence of
13 UPS' discrimination; (e) back pay, front pay, reinstatement, and other equitable
14 remedies necessary to make female employees whole from UPS' past discrimination;
15 (f) compensatory damages; (g) punitive damages to deter UPS from engaging in
16 similar discriminatory practices in the future; and (h) employees' fees, costs, and
17 expenses.

18 **F. Adequacy of Representation**

19 175. The Class Representatives' interests are coextensive with those of the members
20 of the proposed Class. The Class Representatives seek to remedy UPS'
21 discriminatory policies, practices, and procedures so female employees, and those
22 over forty and/or disabled, will not receive disparate pay and differential treatment.

23 176. The Class Representatives are willing and able to represent the proposed Class
24 fairly and vigorously as they pursue their similar individual claims in this action.

25 177. The Class Representatives have retained counsel sufficiently qualified,
26 experienced, and able to conduct this litigation and to meet the time and fiscal demands
27 required to litigate an employment discrimination class action of this size and
28 complexity. The combined interests, experience, and resources of the Class
Representatives and their counsel to litigate competently the individual and class

1 claims at issue in this case clearly satisfy the adequacy of representation requirement
2 of Federal Rule of Civil Procedure 23(a)(4).

3 **G. Requirements of Rule 23(b)(2)**

4
5 178. UPS has acted on grounds generally applicable to the Class Representatives and
6 the proposed Class by adopting and following systemic policies, practices, and
7 procedures that discriminate on the basis of gender, age and disability. Gender
8 discrimination is UPS' standard operating procedure rather than a sporadic occurrence.

9 179. UPS has also acted or refused to act on grounds generally applicable to the Class
10 Representatives and the proposed Class by, *inter alia*: (a) using a scheduling system
11 that systematically intentionally, or knowingly disadvantages women; (b)
12 systematically, intentionally, or knowingly denying work opportunities for women in
13 favor of similarly situated males; (c) using a scheduling system that lacks meaningful
14 or appropriate standards, implementation metrics, quality controls, transparency, and
15 opportunities for redress; (d) compensating women less than similarly situated males
16 in salary; (e) systematically, intentionally, or knowingly compensating women less
17 than similarly situated male employees, including less base salary; (f) minimizing,
18 ignoring, or covering up evidence of gender, age and disability discrimination in the
19 workplace and/or otherwise mishandling the investigation of and response to
20 complaints of discrimination; (g) cultivating an indifference to evidence of
21 discrimination in the workplace or otherwise minimizing, ignoring, mishandling, or
22 covering up evidence of or complaints of gender, age, and disability discrimination;
23 and (h) otherwise discriminating against women in the terms and conditions of
24 employment as employees.

25 180. UPS' policies, practices, and procedures with respect to compensation have led
26 to gender, age, and disability discrimination and stratification. The systemic means of
27 accomplishing such gender-based stratification include, but are not limited to, UPS'
28 policies, practices, and procedures for awarding base compensation, bonus pay, and
opportunities to take on extra shifts to female employees. These practices and
procedures all suffer from a lack of transparency, adequate quality standards, and
controls; sufficient implementation metrics; and opportunities for redress or challenge.

1 181. UPS’ systemic discrimination and refusals to act on nondiscriminatory grounds
2 justify the requested injunctive and declaratory relief with respect to the Class as a
3 whole.

4 182. Injunctive, declaratory, and affirmative relief are a predominant form of relief
5 sought in this case. Entitlement to declaratory, injunctive, and affirmative relief flows
6 directly and automatically from proof of UPS’ systemic gender discrimination. In
7 turn, entitlement to declaratory, injunctive, and affirmative relief forms the factual and
8 legal predicate for recovery by the Class Representatives and Class members of
9 monetary and non-monetary remedies for individual losses caused by the systemic
10 discrimination, as well as their recovery of compensatory and punitive damages.

11 **H. Requirements of Rule 23(b)(3)**

12 183. The common issues of fact and law affecting the claims of the Class
13 Representatives and proposed Class members—including, but not limited to, the
14 common issues identified above—predominate over any issues affecting only
15 individual claims. The common issues include whether UPS has engaged in gender,
16 age, and disability discrimination against female employees.

17 184. A class action is superior to other available means for fairly and efficiently
18 adjudicating the claims of the Class Representatives and members of the proposed
19 Class.

20 185. By virtue of the pattern and practice of discrimination at UPS, the Class
21 Representatives and Class members are eligible for monetary remedies for losses
22 caused by the systemic discrimination, including back pay, front pay, reinstatement,
23 compensatory damages and other relief.

24 186. Additionally, or in the alternative, the Court may grant “partial” or “issue”
25 certification under Rules 23(c)(4). Resolution of common questions of fact and law
26 would materially advance the litigation for all Class members.

27 **IX. COLLECTIVE ALLEGATIONS UNDER THE EQUAL PAY ACT**

28 187. Plaintiffs incorporate all allegations of the Complaint alleging class-based
discrimination.

1 188. Plaintiffs bring collective claims under the Equal Pay Act pursuant to Section 16(b)
2 of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 216(b), on behalf of all members
3 of the EPA Collective Action. The EPA Action includes female employees (a) who
4 were not compensated equally to male employees who had substantially similar job
5 classifications, functions, titles, and/or duties, (b) who were not compensated equally
6 to male employees who performed substantially similar work, and/or (c) who were
7 denied equal compensation to similarly situated male employees by being held back
8 to lesser pay levels than male employees who performed substantially similar work
and had substantially similar experience.

9 189. Plaintiffs and the Collective Action members are similarly situated with respect
10 to their claims that UPS paid and promoted them less than their male counterparts.

11 190. There is a common nexus of fact and law suggesting that Plaintiffs and the
12 Collective Action members were discriminated against in the same manner. Questions
13 at issue in the case include:

- 14 a) Whether UPS unlawfully awarded less in base pay to female employees
15 than to similarly qualified male employees;
- 16 b) Whether UPS unlawfully awarded less in bonuses to female employees
17 than similarly qualified male employees;
- 18 c) Whether UPS unlawfully assigned and continues to assign employees
19 into positions with lesser pay and other compensation than similarly
20 qualified male employees;
- 21 d) Whether UPS' resulting failure to compensate female employees on
22 a par with comparable male employees was willful within the meaning
23 of the EPA.

24 191. Counts for violations of the EPA may be brought and maintained as an "opt-in"
25 collective action pursuant to 29 U.S.C. § 216(b), for all claims asserted by the EPA
26 Collective Action Plaintiffs who opt-in to this action because the claims of the
27 Plaintiff are similar to the claims of the EPA Collective Action Class.

28 192. Plaintiffs and the EPA Collective Action Plaintiffs (a) are similarly situated; (b)
have substantially similar job classifications, functions, titles, and/or duties; and (c)

1 are subject to UPS' common policy and practice of gender discrimination in failing
2 to compensate female employees commensurate with compensation given to male
3 employees who perform substantially equal work.

4 **X. COUNTS**

5 **CLASS AND COLLECTIVE COUNTS**

6 **COUNT 1**

7
8 **VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. §**
9 **2000(e) *et seq.*,**

10 **On Behalf of Class Representatives and all Subclass Members**

11
12 193. Plaintiffs re-allege and incorporate each and every allegation in this Complaint.

13 194. This Count is brought on behalf of the Class Representatives and all members
14 of the subclass.

15 195. UPS has discriminated against Class Representatives and all members of the
16 subclass in violation of Title VII by subjecting them to different treatment on the
17 basis of their gender, including age and disability. The members of the Class have
18 been disparately impacted and disparately treated as a result of UPS' wrongful
19 conduct and its policies, practices, and procedures.

20 196. UPS has discriminated against the subclass members by treating them
21 differently from and less preferably than similarly situated male employees and
22 female employees, who appear masculine, and by subjecting them to differential and
23 substandard terms and conditions of employment including but not limited to
24 discriminatory denials of fair compensation, discriminatory denials of promotional
25 opportunities, and discriminatory treatment with respect to leave, work
26 responsibilities, and other terms and conditions of employment in violation of Title
27 VII.

28 197. UPS' conduct has been intentional, deliberate, willful, malicious, reckless, and
conducted in callous disregard of the rights of Class Representatives and the
members of the proposed subclass, entitling the Class Representatives and the

1 members of the subclass to punitive damages.

2 198. As a result of UPS' conduct alleged in this Complaint, Class Representatives
3 and the members of the subclass have suffered and continue to suffer harm,
4 including but not limited to lost earnings, lost benefits, and other financial loss, as
5 well as humiliation, embarrassment, emotional and physical distress, and mental
6 anguish.

7 199. By reason of UPS' discrimination, Class Representatives and members of the Sub-
8 Class are entitled to all legal and equitable remedies available for violations of Title
9 VII, including an award of punitive damages.

10 200. Employees' fees should be awarded under 42 U.S.C. § 2000e-5(k).

11 **COUNT 2**

12 **VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. § 2000(e)**
13 ***et seq.***

14 **GENDER DISCRIMINATION**

15 **On Behalf of Class Representatives and all Class Members**

16 201. Plaintiffs re-allege and incorporate each and every allegation in this Complaint.

17 202. This Count is brought on behalf of the Class Representatives and all members of the
18 Class.

19 203. UPS, an employer of Class Representatives and Class Members within the
20 meaning of Title VII, has discriminated against the Class Representatives and the Class
21 Members in violation of Title VII by subjecting them to different treatment on the basis
22 of their gender, including by engaging in intentional disparate treatment, and by
23 maintaining uniform policies and practices that have an adverse, disparate impact on
24 them.

25 204. UPS has engaged in an intentional, company-wide and systemic policy, pattern,
26 and/or practice of discrimination against Class Representatives and the Class by, among
27 other things: maintaining a discriminatory system of determining compensation;
28 maintaining a discriminatory system for promotions; discriminating against Class
Representatives and Class members in pay and promotions; discriminatory denials

1 of development opportunities; and other forms of discrimination.

2 205. These foregoing common policies, practices, and/or procedures have produced
3 an unjustified disparate impact on Class Representatives and the Class with respect to
4 the terms and conditions of their employment.

5 206. As a result of this disparate treatment and disparate impact discrimination, UPS
6 has treated Class Representatives and the Class differently from and less preferentially
7 than similarly situated male employees with respect to pay and promotions.

8 207. UPS has failed to prevent, to respond to, to investigate adequately, and/or to
9 appropriately resolve this gender discrimination.

10 208. UPS' conduct has been intentional, deliberate, willful, malicious, reckless, and
11 conducted in callous disregard of the rights of the Class Representatives and the Class,
12 entitling the Class Representatives and all members of the Class to punitive damages.

13 209. By reason of the continuous nature of UPS' discriminatory conduct, which
14 persisted throughout the employment of the Class Representatives and the Class, the
15 Class Representative and all members of the class are entitled to application of the
16 continuing violations doctrine to all violations alleged herein.

17 210. By reason of UPS' discrimination, the Class Representatives and the Class are
18 entitled to all legal and equitable remedies available for violations of Title VII.

19 211. As a result of UPS' conduct alleged in this Complaint, the Class Representatives and
20 the Class have suffered and continue to suffer harm, including but not limited to lost
21 earnings, lost benefits, and other financial loss, including interest.

22 212. As a further result of UPS' unlawful conduct, the Class Representatives and the
23 Class have suffered and continue to suffer, inter alia, impairment to their name and
24 reputation, humiliation, embarrassment, emotional and physical distress, and mental
25 anguish. Class Representative and the Class are entitled to recover damages for such
26 injuries from UPS under Title VII.

27 213. Employees' fees and costs should be awarded under 42 U.S.C. § 2000e-5(k).

28 **COUNT 3**

**VIOLATION OF CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT, Cal. Gov.
Code § 12940, et seq.**

GENDER DISCRIMINATION

On behalf of Plaintiffs and the California Subclass Members

1
2
3
4 214. Plaintiffs re-allege and incorporate each and every allegation in this Complaint.

5 215. This Count is brought on behalf of Plaintiffs in their individual and representative
6 capacities, and all members of the California subclass.

7 216. UPS has discriminated against Plaintiffs and the California subclass in violation of
8 the FEHA by subjecting them to different treatment because and on the basis of their
9 gender, and where they are over age forty and/or disabled, including by engaging in
10 intentional disparate treatment, and by maintaining uniform policies and practices that
11 have an adverse, disparate impact on them.

12 217. UPS has engaged in an intentional, company-wide and system policy, pattern,
13 and/or practice of discrimination against plaintiffs and the California subclass by,
14 among other things: maintaining a discriminatory system for scheduling, maintaining a
15 discriminatory system for work assignments, unwarrantedly suppressing pay,
16 promotions, and professional development for women who are over forty and/or
17 disabled, and other forms of discrimination.

18 218. These foregoing common policies, practices, and/or procedures have produced
19 an unjustified disparate impact on Plaintiffs and the members of the California
20 subclass with respect to the terms and conditions of their employment.

21 219. As a result of this disparate treatment and disparate impact discrimination, UPS
22 has treated Plaintiffs and California subclass differently from and less preferentially
23 than similarly situated male employees and female employees who appear masculine,
24 with respect to pay and promotions.

25 220. UPS has failed to prevent, respond to, adequately investigate, and/or appropriately
26 resolve this gender discrimination.

27 221. UPS' conduct has been intentional, deliberate, willful, malicious, reckless, and
28 conducted in callous disregard of the rights of the Class Representatives and all
members of the California subclass, entitling the Class Representatives and all
members of the California subclass to punitive damages.

222. As a result of UPS' conduct alleged in this Complaint, Class Representatives and

1 the California subclass have suffered and continue to suffer harm, including but not
2 limited to, lost earnings, lost benefits, lost future employment opportunities, and other
3 financial loss, as well as non-economic damages.

4 223. By reason of the continuous nature of UPS' discriminatory conduct, which
5 persisted throughout the employment of the Class Representatives and the members
6 of the California subclass, the continuing violations doctrine applies to all violations
7 alleged herein.

8 224. By reason of UPS' discrimination, Class Representatives and the members of the
9 California subclass are entitled to all legal and equitable remedies available for
10 violations of the FEHA, including reinstatement and an award of compensatory and
11 punitive damages.

12 225. Employees' fees should be awarded under Cal. Gov't Code § 12940.

13 **COUNT 4**

14 **VIOLATION OF THE FAIR LABOR STANDARDS ACT OF 1938, *as amended by* THE**
15 **EQUAL PAY ACT OF 1963, 29 U.S.C. § 216(b)**

16 **DENIAL OF EQUAL PAY FOR EQUAL WORK**

17 **On Behalf of Class Representatives and the EPA Collective Action Plaintiffs**

18 226. Plaintiffs re-allege and incorporate each and every allegation in this Complaint.

19 227. This Count is brought on behalf of Plaintiffs and the EPA Collective Action,
20 including all EPA Collective Action Plaintiffs who "opt-in" to this action.

21 228. UPS has discriminated against Plaintiffs and all EPA Collective Action Plaintiffs
22 within the meaning of the Equal Pay Act of 1963 in violation of the Fair Labor Standards
23 Act of 1938, 29 U.S.C. §§ 206, et seq., as amended by the EPA, by providing them with
24 a lower rate of pay than similarly situated male colleagues on the basis of their gender,
25 female, even though Plaintiffs and all others similarly situated performed similar duties
26 requiring the same skill, effort, and responsibility as their male counterparts.

27 229. Plaintiffs, all EPA Collective Action Plaintiffs, and similarly situated male
28 employees all perform similar job duties and functions. Plaintiffs, all EPA Collective
Action Plaintiffs, and similarly situated male employees all performed jobs that

1 required equal skill, effort, and responsibility.

2 230. UPS discriminated against Plaintiffs and all EPA Collective Action Plaintiffs by
3 subjecting them to discriminatory pay in violation of the Equal Pay Act.

4 231. The differential in pay between male and female employees was not due to a
5 legitimate seniority, merit, quantity or quality of production, or a factor other than sex,
6 but was due to gender.

7 232. UPS caused, attempted to cause, contributed to, or caused the continuation of pay
8 discrimination based on gender, in violation of the EPA. The foregoing conduct
9 constitutes a willful violation of the EPA within the meaning of 29 U.S.C. § 255(a).
10 Because UPS has willfully violated the EPA, a three-year statute of limitations applies
11 to such violations, pursuant to 29 U.S.C. § 255.

12 233. As a result of UPS' conduct as alleged in this Complaint, Plaintiffs and all
13 EPA Collective Action Plaintiffs have suffered and continue to suffer harm, including
14 but not limited to lost earnings, lost benefits, and other financial loss, as well as
15 humiliation, embarrassment, emotional and physical distress, and mental anguish.

16 234. By reason of UPS' discrimination, Plaintiffs and all EPA Collective Action
17 Plaintiffs are entitled to all legal and equitable remedies available for violations of
18 the EPA, including liquidated damages, interest, and other compensation pursuant to
19 29 U.S.C. § 216(b).

20 235. Employees' fees should be awarded under 29 U.S.C. §216(b).

21 **COUNT 5**

22 **VIOLATION OF THE CALIFORNIA EQUAL PAY ACT, *as amended by* THE**
23 **CALIFORNIA FAIR PAY ACT, Cal. Lab. Code § 1197.5, *et seq.*; CALIFORNIA EQUAL**
24 **PAY ACT, Cal. Lab. Code § 1197.5**

25 **DENIAL OF EQUAL PAY FOR EQUAL & SUBSTANTIALLY SIMILAR WORK**

26 **On behalf of Plaintiffs and the CEPA Subclass**

27 236. Plaintiffs re-allege and incorporate each and every allegation in this Complaint.

28 237. This Count is brought on behalf of Plaintiffs in their individual and representative
capacities, and all members of the CEPA subclass.

1 238. UPS has discriminated against the Plaintiffs and all members of the CEPA
2 subclass in violation of the California Equal Pay Act, Cal. Lab. Code § 1197.5 (West
3 2015) (amended 2015), *et seq.* UPS has paid Class Representative and members of the
4 CEPA subclass less than similarly situated male employees in the same establishment
5 performing equal work on jobs the performance of which requires equal skill, effort,
6 and responsibility, and which are performed under similar working conditions.

7 239. UPS has discriminated against the Plaintiffs and the CEPA subclass in violation
8 of the California Equal Pay Act, Cal. Lab. Code § 1197.5 *et seq.* UPS has paid
9 Class Representatives and members of the class less than similarly situated male
10 employees performing substantially equal work, when viewed as a composite of skill,
11 effort, and responsibility, and performed under similar working conditions.

12 240. UPS subjected Class Representatives and the members of the CEPA subclass to
13 common discriminatory pay policies, including maintaining a discriminatory system of
14 determining compensation; maintaining a discriminatory system for promotions; and
15 other forms of discrimination affecting pay.

16 241. The differential in pay between male and female employees was not due to seniority,
17 merit, or the quantity or quality of production, a bona fide factor other than sex, such
18 as education, training, or experience, but was due to gender. In the alternative, to the
19 extent that UPS relied upon one or more of these factors, said factor(s) were not
20 reasonably applied and did/do not account for the entire wage differential.

21 242. The foregoing conduct constitutes a willful violation of the California Equal Pay
22 Act, Cal. Lab. Code §1197.5 *et seq.*, as amended by the California Fair Pay Act.
23 Therefore, a three-year statute of limitations applies to such violations, pursuant to
24 California Equal Pay Act, Cal. Lab. Code § 1197.5(h), *et seq.*, and California Equal
25 Pay Act, as amended by the California Fair Pay Act, Cal. Lab. Code 23 §1197.5(h).

26 243. As a result of UPS' conduct alleged in this Complaint and/or UPS' willful, knowing,
27 and intentional discrimination, the CEPA subclass members have suffered and will
28 continue to suffer harm, including but not limited to lost earnings, lost benefits, and
other financial loss, as well as non-economic damages.

244. Plaintiffs and the CEPA subclass are therefore entitled to all legal and equitable
remedies, including doubled compensatory awards for all willful violations.

1 245. Employees' fees should be awarded under California Labor Code § 1197.5(g).

2 **COUNT 6**

3
4 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE, Cal. Bus. &**
5 **Prof. Code § 17200 *et seq.***

6 **UNFAIR COMPETITION**

7 **On behalf of Plaintiffs and the California Unfair Competition Subclass**

8 246. Plaintiffs re-allege and incorporate each and every allegation in this Complaint.

9 247. This Count is brought on behalf of Plaintiffs in their individual and representative
10 capacities, and all members of the California Unfair Competition subclass.

11 248. UPS is a "person" as defined under California Business & Professions Code §
12 17201.

13 249. UPS' willful failure to pay women equally, to promote women equally, and
14 otherwise to offer women equal employment opportunities as alleged above,
15 constitutes unlawful, unfair and/or fraudulent activity prohibited by California
16 Business and Professions Code §17200. As a result of its unlawful, unfair and/or
17 fraudulent acts, UPS reaped and continues to reap unfair benefits and illegal profits
18 at the expense of Plaintiffs and the California Unfair Competition subclass. UPS
19 should be enjoined from this activity.

20 250. Accordingly, Plaintiff and the California Unfair Competition subclass members are
21 entitled to restitution with interest and other equitable relief, pursuant to Business &
22 Professions Code §17203.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiffs, on their own behalf and on behalf of the Class, Subclasses,
25 and EPA Collective Action, request the following relief:

- 26 a. Acceptance of jurisdiction of this case;
- 27 b. Certification of this case as a class action under Federal Rule of Civil Procedure 23, on
28 behalf of the proposed Plaintiff Class and Subclasses, designation of the proposed Class

1 Representatives as representatives of this Class and Subclasses, and designation of
2 Plaintiffs' counsel of record as Class Counsel;

3 c. Designation of this action as a collective action on behalf of the proposed EPA Collective
4 Plaintiffs (asserting EPA claims) and:

5 i. promptly issuing notice pursuant to 29 U.S.C. § 216(b) to all similarly situated
6 members of the EPA Opt-In Class, which (a) apprises them of the pendency of this
7 action and (b) permits them to assert timely EPA claims in this action by filing
8 individual Consent to Sue forms pursuant to 29 U.S.C. § 216(b); and

9 ii. tolling the statute of limitations on the claims of all members of the EPA Opt-In
10 Class from the date the original Complaint was filed until the Class members are
11 provided with reasonable notice of the pendency of this action and a fair opportunity
12 to exercise their right to opt in as Plaintiffs;

13 d. Designation of Plaintiffs as representatives of the EPA Collective Action;

14 e. A declaratory judgment that the practices complained of therein are unlawful and violate,
15 among other laws, 42 U.S.C. § 2000(e) *et seq.*, as amended; 29 U.S.C. § 2601, *et seq.*; 29
16 U.S.C. § 206, *et seq.*; Cal. Gov. Code § 12940 *et seq.*; Cal. Gov. Code § 12945.2; Cal.
17 Labor Code section 1197.5 *et seq.*; and Cal. Bus. & Prof. Code § 17200 *et seq.*;

18 f. A permanent injunction against UPS and its partners, officers, owners, agents, successors,
19 employees, representatives and any and all persons acting in concert with them, from
20 engaging in any further unlawful practices, policies, customs and usages set forth therein.

21 g. An Order requiring UPS to initiate and implement programs that (i) remedy the hostile
22 work environment at UPS; (ii) ensure prompt, remedial action regarding all claims of
23 gender, age, and disability discrimination; and (iii) eliminate the continuing effects of the
24 discrimination and retaliatory practices described therein;

25 h. An Order requiring UPS to initiate and implement systems for compensating female
26 employees in a non-discriminatory manner;

27 i. An Order directing UPS to adjust the compensation for Class Representatives and the
28 Class members to the level that they would be enjoying but for the UPS' discriminatory
policies, practices, and procedures;

j. An award of back pay, front pay, lost benefits, preferential rights to jobs, and other
damages for lost compensation and job benefits suffered by the Plaintiffs, Members of the

1 Classes, and Members of the EPA Collective Action, in an amount not less than
2 \$100,000,000.00;

3 k. An award of nominal, liquidated, and compensatory damages to Plaintiffs and Members
4 of the Classes, in an amount not less than \$100,000,000.00;

5 l. Award punitive damages to Plaintiffs and Members of the Classes, in an amount not less
6 than \$50,000,000.00;

7 m. An award of penalties available under applicable laws, including waiting time penalties;

8 n. An award of litigation costs and expenses, including reasonable employees' fees to the
9 Plaintiffs;

10 o. An award of pre-judgment and post-judgment interest; and

11 p. Such other and further relief as the Court may deem just and proper.

12 **DEMAND FOR JURY TRIAL**

13 Plaintiffs demand a trial by jury of all issues triable of right to a jury.

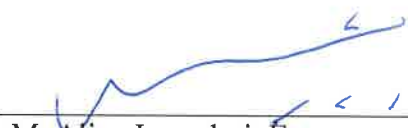
14 Respectfully submitted,

15
16 DATED: November 9, 2021

17 VARLACK LEGAL SERVICES

18 

19 _____
20 Tiega-Noel Varlack, Esq.
21 Attorney for Plaintiffs and Proposed Class,
22 GALENA GOINS, SONIA LOPEZ, and
23 TERRY A. JONES-JACKSON

24 
25 _____
26 M. Aliou Iscandari, Esq.
27 Attorney for Plaintiffs and Proposed Class,
28 GALENA GOINS, SONIA LOPEZ, and
TERRY A. JONES-JACKSON

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [‘Old Boys’ Club’: UPS Hit with Class Action Over Alleged Sexual Discrimination](#)
