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9 Attorneys for Defendant
 10 UNITED PARCEL SERVICE, INC.

11
 12 UNITED STATES DISTRICT COURT
 13 CENTRAL DISTRICT OF CALIFORNIA

15 BRANDON VAWTER on behalf of
 16 himself and all others similarly situated,

17 Plaintiff,

18 vs.

19 UNITED PARCEL SERVICE, INC., a
 20 Georgia corporation, and DOES 1
 through 10, inclusive,

21 Defendants.

Case No.

**DEFENDANT UNITED PARCEL
 SERVICE, INC.'S NOTICE OF
 REMOVAL OF CIVIL ACTION
 TO FEDERAL COURT**

(Los Angeles Superior Court Case No.
 BC686104)

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, PLAINTIFF BRANDON VAWTER AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant UNITED PARCEL SERVICE, INC. (“UPS” or “Defendant”) hereby removes this action from the Superior Court of the State of California for the County of Los Angeles to the United States District Court for the Central District of California. UPS removes this action pursuant to 28 U.S.C. §§ 1332 (as amended by the Class Action Fairness Act of 2005, Pub. L. 109-2, § 4(a)) and 1441(a) and (b), for the following reasons:

1. On or about December 7, 2017, Plaintiff Brandon Vawter filed a Complaint in the Superior Court of the State of California for the County of Los Angeles (“Superior Court”) entitled “Brandon Vawter on behalf of himself and all others similarly situated v. United Parcel Service, Inc., a Georgia Corporation, and DOES 1 through 10, inclusive,” designated as Case No. BC686104 (the “Action”). A true and correct copy of Plaintiff’s Complaint in the Action is attached to the Declaration of Amanda Bolliger Crespo in Support of Defendant United Parcel Service, Inc.’s Notice of Removal of Civil Action to Federal Court (“Crespo Decl.”) as Exhibit A.¹ See Crespo Decl. ¶ 3, Ex. A.

2. The Complaint asserts “Class Allegations” for (a) failure to pay overtime, (b) failure to pay wages at the correct regular rate of pay, (c) failure to pay regular all wages (d), failure to timely pay wages at termination, (e) failure to provide meal periods, (f) failure to furnish accurate itemized wage statements, and (g) failure to provide rest breaks. Compl. ¶¶ 14-21; see also Compl. at ¶¶ 25-40. The Complaint further alleges the following purported causes of action:

¹ In accordance with 28 U.S.C. § 1446(a), the Complaint and all other publicly-available process, pleadings or orders that were served on UPS in this action also are attached to this filing as Exhibit A.

1 (1) recovery of unpaid overtime wages and penalties (First Cause of Action);
2 (2) violation of California’s Unfair Competition Act (“UCL”), Bus. & Prof. Code
3 §17200 *et seq.* (Second Cause of Action); (3) failure to allow rest breaks (Third
4 Cause of Action); (4) failure to allow meal breaks (Fourth Cause of Action); (5)
5 failure to provide itemized wage statements (Fifth Cause of Action); and (6)
6 violation of California’s Private Attorney General Act (“PAGA”) (Sixth Cause of
7 Action).

8 3. On January 18, 2018, Plaintiff effected personal service of the
9 Complaint on UPS’s agent for service of process. *See* Crespo Decl. ¶ 4, Ex. B.

10 4. Defendants Does 1 through 10 are unnamed and unknown, and
11 therefore have not been served with the Complaint. *See* Compl. ¶ 9.

12 5. Defendant filed an answer or other pleading in response to Plaintiff’s
13 Complaint on February 16, 2018. *See* Crespo Decl. ¶ 5, Ex. C.

14 6. In accordance with 28 U.S.C. § 1446(d), the undersigned counsel
15 certifies that a copy of this Notice of Removal and all supporting papers will be
16 promptly served on Plaintiff’s counsel and filed with the Clerk of the Los Angeles
17 County Superior Court. True and correct copies of the Notice to Superior Court of
18 Removal to Federal Court and Notice to Adverse Parties of Removal to Federal
19 Court are attached to the Crespo Declaration as Exhibits E and F, respectively.
20 Therefore, all procedural requirements under 28 U.S.C. § 1446 have been satisfied.

21 7. This Notice of Removal is timely. It is filed within thirty (30) days of
22 receipt of the Complaint, making this matter removable pursuant to 28 U.S.C. §
23 1446(b).

24 8. Venue is set in this District pursuant to 28 U.S.C. § 1441(a) because
25 the Superior Court where the removed case was pending is located within this
26 District.

1 9. This Action is one over which this Court has original jurisdiction
2 under the provisions of 28 U.S.C. § 1332, and may be removed to this Court
3 pursuant to 28 U.S.C. § 1441(a) on the following grounds.

4 **REMOVAL BASED ON CLASS ACTION FAIRNESS ACT OF 2005**

5 **(28 U.S.C. § 1332(d))**

6 1. This Action is properly removed to this Court under the rules for
7 diversity of citizenship jurisdiction under the Class Action Fairness Act of 2005,
8 Pub. L. 109-2, §4(a), 119 Stat. 9.

9 2. The Class Action Fairness Act of 2005 amended 28 U.S.C. § 1332 to
10 provide that a putative class action is removable to federal court if: (1) the proposed
11 class members number at least 100; (b) the amount in controversy exceeds
12 \$5,000,000, exclusive of interest and costs; and (c) any member of a class of
13 plaintiffs is a citizen of a state different from that of any defendant.

14 3. Plaintiff’s Complaint is pled as a putative class action by which
15 Plaintiff seeks to represent “all California based current and former non-exempt
16 hourly paid employees” of UPS. Compl. ¶ 4. At this time, there are at least
17 104,884 individuals who were employed in non-exempt hourly positions by UPS in
18 California during the time period of December 7, 2013 to July 17, 2017 alone.
19 Declaration of John Shipley in Support of Defendant United Parcel Service, Inc.’s
20 Notice of Removal of Civil Action to Federal Court (“Shipley Decl.”) ¶ 3; *see also*
21 Compl. ¶ 15 (defining the class period as “the four (4) years prior to the filing of
22 this Complaint through the date of final judgment”). Plaintiff further alleges that
23 “the classes number greater than 1,000 individuals.” Compl. ¶ 16. Therefore, the
24 requirement that the proposed class consist of at least 100 members is satisfied.

25 4. UPS may properly remove this Action on the basis of diversity of
26 citizenship jurisdiction pursuant to 28 U.S.C. § 1332(d)(2) because:

27 a. Plaintiff Vawter is now, and was at the time the Action was
28 commenced, a citizen of the State of California within the

1 meaning of 28 U.S.C. § 1332. *See* Compl. ¶ 3 (“At all relevant
2 times herein, Plaintiff was and currently is, a California
3 resident.”).

4 b. At least one currently-employed non-exempt hourly employee in
5 California lists California as his state of residence. *See* Shipley
6 Decl. ¶ 3.

7 c. UPS is now, and was at the time this Action was commenced, a
8 citizen of a state other than California within the meaning of 28
9 U.S.C. § 1332(c)(1) because UPS is now, and was at the time
10 this Action was commenced, a corporation organized under the
11 laws of the State of Ohio with its principal place of business in
12 the State of Georgia. *See* Declaration of Ryan Swift in Support
13 of Defendant United Parcel Service, Inc.’s Notice of Removal of
14 Civil Action to Federal Court ¶¶ 2-5.

15 d. UPS is the only defendant named in this Action, and the
16 presence of Doe defendants has no bearing of diversity with
17 respect to removal. *See* 28 U.S.C. § 1441(a) (“For purposes of
18 removal under this Chapter, the citizenship of defendants sued
19 under a fictitious name shall be disregarded.”).

20 5. Without admitting that Plaintiff and/or the purported classes could
21 recover any damages, the amount in controversy placed by Plaintiff in this Action,
22 in which Plaintiff asserts a maximum four-year liability period, exceeds
23 \$5,000,000, exclusive of interest and costs, based on the following:

24 a. Under the removal statute, “[i]n any class action, the claims of
25 the individual class members shall be aggregated to determine
26 whether the matter in controversy exceeds the sum or value of
27 \$5,000,000, exclusive of interest and costs.” 28 U.S.C. §
28 1331(d)(6).

- 1 b. Between December 7, 2013 to July 17, 2017 alone, there were
2 approximately 104,884 individuals employed by UPS in
3 California in non-exempt hourly positions. *See Shipley Decl.* ¶
4 3. Thus, there are at least 104,884 individuals who fall within
5 the scope of Plaintiff’s alleged class definition and are alleged to
6 be the Putative Class Members in this Action.
- 7 c. Between December 7, 2014 to July 17, 2017 alone,
8 approximately 55,799 individuals holding a non-exempt hourly
9 position in California terminated their employment with UPS.
10 *See id.* ¶ 5.
- 11 d. The average hourly wage rate of individuals holding a non-
12 exempt hourly position in California between December 7, 2013
13 to July 17, 2017 was \$22.42. *See id.* ¶ 4. The average hourly
14 wage rate of individuals holding a non-exempt hourly position
15 in California whose employment terminated between
16 December 7, 2014 to July 17, 2017 was approximately \$16.71.
17 *See id.* ¶ 6.
- 18 e. Between June 20, 2016 and July 17, 2017, there were at least
19 20,000 individuals employed by UPS in non-exempt hourly
20 positions in California. *See id.* ¶ 7. These individuals worked
21 an average of at least 39 pay periods between June 20, 2016 and
22 July 17, 2017. *Id.*
- 23 f. In the Complaint, Plaintiff alleges that UPS failed to pay
24 overtime, failed to provide meal periods, failed to provide rest
25 breaks, failed to provide accurate wage statements, failed to pay
26 all wages upon separation, and violated the California Business
27 and Professions Code and PAGA. *See Compl., passim.*
28 Plaintiff, on behalf of himself and those he alleges are similarly

1 situated, seeks to recover unpaid wages, penalties, restitution,
 2 and attorneys' fees against UPS for the four-year period
 3 preceding the filing of the Complaint, continuing through the
 4 date of final judgment. *Id.* Based on these allegations, the
 5 amount Plaintiff has placed in controversy exceeds \$5,000,000,
 6 as summarized and explained below.

Overtime	\$3,527,248.92
Meal Period Compensation	\$2,351,499.28
Rest Period Compensation	\$2,351,499.28
Wage Statement Penalties	\$1,000,000.00
TOTAL	\$9,230,247.48

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- i. Overtime: In the Complaint, Plaintiff alleges that Plaintiff and the Putative Class Members worked in excess of eight (8) hours per work day or forty (40) hours per work week. Compl. ¶ 26. Specifically, Plaintiff alleges that “Plaintiff and all others [sic] similarly situated hourly non-exempt employees . . . were and are employed and scheduled as a matter of established company policy to work and in fact worked as non-exempt hourly employees in excess of eight (8) hours per day and/or in excess of forty (40) hours per pay week” and that UPS “employed and scheduled all hourly non-exempt employees without providing overtime compensation for such excess hours worked[.]” *Id.* Based on Plaintiff’s allegation that he and all the alleged class members worked overtime, conservatively assuming that each Putative Class Member worked only one hour of overtime
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during the entire liability period, the amount in controversy as to Plaintiff’s overtime claims would be at least \$3,527,248.92 (1 hour of overtime x \$33.63 per hour² x 104,884 Putative Class Members).

ii. Meal Period Compensation: In the Complaint, Plaintiff alleges that UPS denied him and the Putative Class Members meal periods. Specifically, Plaintiff alleges that “Plaintiff and the class consistently worked over five (5) hours shifts without meal periods due to Defendant’s policy of discouraging, dissuading and/or impeding Plaintiffs and the class from taking meal periods.” Compl. ¶ 59.

Under the California Labor Code, “[i]f an employer fails to provide an employee a meal period or rest period . . . , the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal or rest period is not provided.” Cal. Lab. Code § 226.7(b). Because these payments are deemed to be wages, not penalties, the one-year statute of limitations applicable to penalties does not apply. *See Murphy v. Kenneth Cole Productions, Inc.*, 40 Cal. 4th 1094, 1114 (2007) (“[W]e hold that the Court of Appeal erred in construing section 226.7 as a penalty and applying a one-year statute of limitations. The statute’s plain language, the administrative and legislative history, and the compensatory purpose of the remedy compel the conclusion that the

² The overtime rate is calculated by multiplying the average hourly rate of \$22.42 by 1.5.

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‘additional hour of pay’ [citation] is a premium wage intended to compensate employees, not a penalty.’”). Thus, Plaintiff and the Putative Class Members may potentially collect meal period compensation for the entire four-year liability period specified in the Complaint.

As discussed above, Plaintiff alleges that UPS failed to provide meal breaks. Assuming that Plaintiff and the Putative Class Members each missed just one meal period during the entire liability period, the amount in controversy as to Plaintiff’s meal break claims would be at least **\$2,351,499.28** (1 meal period premium x \$22.42 per hour x 104,884 Putative Class Members).

iii. Rest Period Compensation: In the Complaint, Plaintiff also claims that UPS denied him and the Putative Class Members rest periods. Compl. ¶ 55 (alleging that UPS failed to provide Plaintiffs with the required rest periods).

Assuming that Plaintiff and the Putative Class Members each missed just one rest period during the entire liability period, the amount in controversy as to Plaintiff’s rest break claims would be **\$2,351,499.28** (1 rest period premium x \$22.42 per hour x 104,884 Putative Class Members).

iv. Wage Statement Penalties: In the Complaint, Plaintiff alleges that UPS “intentionally and knowingly fails/failed to provide Plaintiff and the putative classes with an itemized wage statement that fulfills the requirements of Labor Code § 226 in that it does not provide Plaintiff and the classes with an accurate accounting of earned wages” Compl. ¶ 64; *see also id.* ¶ 65 (alleging that

1 “Plaintiff and each of the members of the class are
2 entitled to damages pursuant to Labor Code § 226,
3 including but not limited to \$50.00 for the first violation
4 and \$100.00 for each subsequent violation, up to
5 \$4,000.00 per person . . .”). In the Complaint, Plaintiff
6 alleges that UPS’s “[w]age statements fail to include total
7 hours worked by the hourly non-exempt employee, the
8 net wages earned, and all applicable hourly rates in effect
9 during the pay period and the corresponding number of
10 hours worked at each hourly rate by the hourly non-
11 exempt employee.” *Id.* ¶ 36.

12 California law requires employers to provide employees
13 with itemized wage statements that accurately state the gross
14 wages earned, total hours worked, net wages earned, and the
15 name and address of the legal entity that is the employer,
16 among other items. Cal. Lab. Code § 226. Employees who
17 suffer injury from an employer that knowingly failed to
18 provide the required itemized wage statements may recover
19 wage statement penalties of \$50 for an initial violation and
20 \$100 for subsequent violations. *Id.* § 226(e). Under
21 California Labor Code section 340(a), the limitations period
22 for wage statement penalties is one year.

23 Between June 20, 2016 and July 17, 2017, at least 20,000
24 Putative Class Members were employed by UPS. During
25 this period of time, these Putative Class Members were
26 employed for an average of at least 39 pay periods.
27 Assuming that Plaintiff can establish just one non-compliant
28 wage statement for those Putative Class Members during that

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limited time frame, the amount in controversy as to Plaintiff's wage statement penalty claim would be at least \$1,000,000.00 (\$50 penalty x 20,000 Putative Class Members).

6. Accordingly, because proposed class members number at least 100, because there is diversity of citizenship jurisdiction under the Class Action Fairness Act of 2005, and because the amount in controversy is met, UPS has satisfied the requirements for removal under 28 U.S.C. § 1332(d).

WHEREFORE, UPS hereby removes the above action now pending before the Superior Court for the State of California for the County of Los Angeles to this Court.

DATED: February 16, 2018

GRUBE BROWN & GEIDT LLP

By: /s/ Amanda Bolliger Crespo
AMANDA BOLLIGER CRESPO

Attorneys for Defendant
UNITED PARCEL SERVICE, INC.

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

DEC 07 2017

Sherri R. Carter, Executive Officer/clerk
By Shaunya Bolden, Deputy

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

UNITED PARCEL SERVICE, INC., a Georgia corporation, and DOES
1 through 10, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

BRANDON VAWTER on behalf of himself and all others similarly
situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Los Angeles
Stanley Mosk 111 N. Hill, Los Angeles, CA 90802

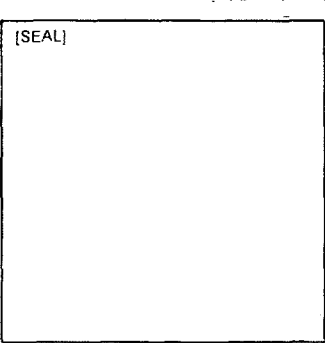
CASE NUMBER: **BC 6 8 6 1 0 4**
(Número del Caso)

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Kevin Mahoney 249 East Ocean Blvd., Ste. 814, Long Beach, CA 90802, (562) 590-5550

DATE: December 7, 2017 **DEC 07 2017**
(Fecha)

Clerk, by **SHAUNYA BOLDEN**, Deputy
(Secretario) *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of *(specify)*:
3. on behalf of *(specify)*:
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other *(specify)*:
4. by personal delivery on *(date)*:

Kevin Mahoney (SBN: 235367)
kmahoney@mahoney-law.net
Treana L. Allen (SBN: 302922)
tallen@mahoney-law.net
MAHONEY LAW GROUP, APC
249 Ocean Boulevard, Suite 814
Long Beach, CA 90802
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Fax: 562.590.8400

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OF ORIGINAL FILED**
Los Angeles Superior Court

DEC 07 2017

Sherril R. Carter, Executive Officer/Clerk

By Shaunya Bolden, Deputy

Attorneys for Plaintiff and all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

BRANDON VAWTER on behalf of himself
and all others similarly situated,

Case No.

BC 6 8 6 1 0 4

CLAS ACTION

COMPLAINT FOR DAMAGES

Plaintiff,

1. Violation of Labor Code §§ 204, 206, 218, 510, 511, 1194 and 1198;
2. Injunctive Relief; Declaratory Relief; Restitution for Violations of Unfair Business Practices (B&PC §17200, et seq.);
3. Violation of Labor Code §200, et seq.;
4. Violation of Labor Code §§226.7 & 512 (Rest Breaks);
5. Violation of Labor Code §§226.7 & 512 (Meal Breaks);
6. Violation of Labor Code §206; and
7. Penalties Under PAGA Labor Code §2698, et seq.

vs.

UNITED PARCEL SERVICE, INC., a
Georgia corporation, and DOES 1 through 10,
inclusive,

Defendants.

DEMAND FOR JURY TRIAL

1 Plaintiff, BRANDON VAWTER, on behalf of himself and all others similarly situated
2 hourly non-exempt employees, hereby complains against Defendant, UNITED PARCEL
3 SERVICE, INC., a Georgia Corporation (“UPS”); and DOES 1 to 10, inclusive, and on
4 information and belief, alleges as follows:

5 **JURISDICTION**

6 1. This is a civil action seeking recovery of unpaid wages and penalties under
7 California Business and Professions Code “B&PC” §17200, et. seq., and Labor Code §§ 200,
8 226, 226.7, 510, 1194, and 1198. Plaintiff, on behalf of himself and all hourly non-exempt
9 employees, others similarly situated, hereby brings an action for damages for violation of the
10 Labor Code and for injunctive relief, declaratory relief, and restitution for Defendant’s violations
11 of B&PC §17200, et. seq. Plaintiff seeks all available relief, including full damages, restitution,
12 and/or disgorgement of all revenues, earnings, profits, compensation, and benefits retained by
13 Defendants as a result of their unlawful, unfair business practices. Further, Plaintiff seeks all
14 injunctive relief under B&PC §17200, et. seq.

15 **VENUE**

16 2. Venue as to each Defendant is proper in this judicial district pursuant to California
17 Code of Civil Procedure §§ 395(a) and 395.5, as at least some of the acts complained of hereon
18 occurred in the County of Los Angeles. Each Defendant either owns, maintains offices, transacts
19 business, has an agent or agents within the County of Los Angeles, or otherwise is found within
20 the County of Los Angeles and each Defendant is within the jurisdiction of this Court for purposes
21 of service of process.

22 **PARTIES**

23 3. Brandon Vawter is an individual over the age of eighteen (18). At all relevant
24 times herein, Plaintiff was and currently is, a California resident.

25 4. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
26 herein, Defendant UPS is a Georgia Corporation and is/was the employer of Plaintiff and all
27 hourly non-exempt employees.

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1 5. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
2 herein, Defendant UPS, a Georgia Corporation is an organization licensed to do business in the
3 State of California.

4 6. Plaintiff is informed and believes, and thereon alleges, that all relevant times each
5 Defendant was licensed to do business in the State of California, County of Los Angeles.

6 7. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
7 herein, Defendant UPS and each doe Defendant, are doing the acts performed in this matter.

8 8. Plaintiff is informed and believes, and thereon alleges, that UPS controls and
9 operates company-owned businesses and establishments in locations within the State of
10 California including, but not limited to, the County of Los Angeles for the purposes of providing
11 mail service, including shipping and delivery of packages in California. Plaintiff believes UPS
12 owns and operates facilities in California. Thus, each named Defendant and DOES 1 to 10 are
13 subject to California B&PC_§17200, et seq. (Unfair Competition Law).

14 9. Plaintiff does not know the true names or capacities, whether individual, partner,
15 or corporate, of the Defendants sued herein as DOES 1 to 10, inclusive, and for that reason, said
16 Defendants are sued under such fictitious names, and Plaintiff will seek from this Court to amend
17 this Complaint when such true names and capacities are discovered. Plaintiff is informed and
18 believes, and thereon alleges, that each of said fictitious Defendants, whether individual, partners,
19 or corporate, was responsible in some manner for the circumstances alleged herein, and
20 proximately caused plaintiff and those members of the general public and class similarly situated
21 to be subject to the unlawful employment practices, wrongs, injuries and damages complained of
22 herein.

23 10. At all times herein mentioned, each of said Defendants participated in the doing
24 of the acts hereinafter alleged to have been done by the named Defendant; and furthermore, the
25 Defendants, and each of them, were the agents, servants, and hourly non-exempt employees of
26 each and every one of the other Defendant, as well as the agents of all Defendants, and at all times
27 herein mentioned were acting within the course and scope of said agency and employment.

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1 11. At all times mentioned herein, the Defendant, and each of them, were members of
2 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
3 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
4 Plaintiff allege that all Defendants were the joint employers for all purposes for all Plaintiff and
5 all class members.

6 12. At all times herein mentioned, the acts and omissions of various Defendants, and
7 each of them, concurred and contributed to the various acts and omissions of each and every one
8 of the other Defendant in proximately causing the complaints, injuries, and damages alleged
9 herein.

10 13. At all times herein mentioned, Defendant, and each of them, approved of,
11 condoned, and/or otherwise ratified each and every one of the acts or omissions complained of
12 herein. At all times herein mentioned, Defendant, and each of them, aided and abetted the acts
13 and omissions of each and every one of the other Defendant, thereby proximately causing the
14 damages, as herein alleged.

15 **CLASS ALLEGATIONS**

16 14. **PLAINTIFF CLASSES**

17 The class representative Plaintiff who worked in the position of a California non-exempt
18 hourly employee or other similar title while employed by Defendant within the State of California,
19 is as follows:

20 A. **Brandon Vawter.**

21 At all times mentioned herein, the aforementioned Plaintiff seeks to represent himself and
22 the entirety of the Classes identified herein as all California based current and former non-exempt
23 hourly paid employees of Defendant who were improperly paid their wages, as Defendant failed
24 to pay hourly non-exempt employees the correct overtime premium based on the employees'
25 regular rate of pay for hours worked in excess of eight (8) hours in a day and/or forty (40) hours
26 in a week. Further, Defendant failed to include all remuneration paid to the class when computing
27 their hourly non-exempt employees' regular rate of pay and failed to provide, authorize, or permit
28 meal and rest breaks pursuant to California law and failed to provide legally compliant pay stubs

1 to Plaintiff. As to the regular rate allegation, Plaintiff is informed and believes and thereon alleges
2 that Defendant failed to do a weighted average and include all remuneration paid to hourly non-
3 exempt employees for non-discretionary bonus, shift differential premium, and other types of
4 remuneration, which are not statutory exclusions when calculating hourly non-exempt
5 employees' regular rate for purposes of overtime payments.

6 15. Plaintiff brings this action on behalf of himself and all others similarly situated
7 persons as a class action pursuant to CCP §382. The classes which Plaintiff seeks to represent are
8 composed of and defined as follows:

9 **Class 1: "Overtime Class"**

10 All current and former California hourly non-exempt employees who work or worked for
11 Defendant and who worked over eight (8) hours in a day or forty (40) in a week without receiving
12 proper overtime premium payments in the four (4) years prior to the filing date of this Complaint
13 through the date of final judgment.

14 **Class 2: "Regular Rate Class"**

15 All current and former California hourly non-exempt employees who work or worked for
16 Defendant in the four (4) years prior to the filing date of this Complaint through the date of final
17 judgment who were not paid all earned wages, including Defendant's failure to include certain
18 remuneration that must be included in hourly non-exempt employees' regular rate, including
19 without limitation, nondiscretionary bonuses and shift differentials into the hourly non-exempt
20 employees' regular rate.

21 **Subclass 1:**

22 All hourly non-exempt employees of Defendant UPS regularly scheduled to work more
23 than 5 hours who were paid for a missed meal break penalty at a reduced rate of pay in the four
24 (4) years prior to the filing date of this Complaint through the date of final judgment.

25 **Class 3: "Failure to Pay All Wages"**

26 All current and former California hourly non-exempt employees who work or worked for
27 Defendant in the four (4) years prior to the filing date of this Complaint through the date of final
28 judgment who were not paid all wages due them, including but not limited to overtime, double

1 overtime, missed meal periods, and missed rest breaks.

2 **Class 4: "Waiting Time Class"**

3 All current and former California hourly non-exempt employees who worked for
4 Defendant in the four (4) years prior to the filing date of this Complaint through the date of final
5 judgment, who left Defendant's employ without receiving all wages due upon termination.

6 **Class 5: "Failure to Provide Meal Periods"**

7 All current and former California hourly non-exempt employees who work or worked for
8 Defendant in the four (4) years prior to the filing date of this Complaint through the date of final
9 judgment who were not provided legally complaint meal periods.

10 **Subclass 2:**

11 All current and former California hourly non-exempt employees who work or worked for
12 Defendant during the relevant time period to be determined and who had thirty (30) minutes
13 automatically deducted from their time for alleged meal breaks. That is, each hourly non-exempt
14 employee was required to punch out and in for a thirty 30-minute meal period even though the
15 Defendant did not provide a thirty (30) minute meal period.

16 **Subclass 3:**

17 All current and former California hourly non-exempt employees who work or worked for
18 Defendant during the relevant time period to be determined and who were required to sign meal
19 waivers as a condition of employment.

20 **Subclass 4:**

21 All current and former California hourly non-exempt employees who work or worked for
22 Defendant during the relevant time period to be determined and who worked a shift greater than
23 10 hours and did not receive a second meal period.

24 **Class 6: "Failure to Furnish Accurate Itemized Wage Statements"**

25 All current and former California hourly non-exempt employees who work or worked for
26 Defendant during the relevant time period to be determined and who were not provided pay stubs
27 that complied with Labor Code §226.

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1 **Class 7: “Failure to Provide Rest Breaks”**

2 All current and former California hourly non-exempt employees who work or worked for
3 Defendant during the relevant time period to be determined and who did not receive, or were not
4 afforded, or were not authorized or permitted, a rest period of at least ten (10) consecutive minutes
5 for each four (4) hours or major fraction thereof pursuant to California law.

6 16. The members of the classes and subclasses are so numerous that joinder of all
7 members would be unfeasible and not practicable. The membership of the classes and subclasses
8 are unknown to Plaintiff, at this time; however, it is estimated that the classes number greater than
9 1,000 individuals. The identity of such membership is readily ascertainable via inspection of
10 Defendant's employment records.

11 17. There are common questions of law and fact as to Plaintiff and all others similarly
12 situated which predominate over questions affecting only individual members including, without
13 limitation to:

14 i. Whether Defendant failed to use a weighted average for purposes of
15 determining the proper overtime rate, when class members earned two or more pay rates in a
16 given pay period and worked over 8 hours in a day, or 40 hours in a week;

17 ii. Whether Defendant violated the applicable Labor Code provisions
18 including §§510, 1194, and 203 by requiring substantial “overtime” work and not paying for said
19 work according to the overtime laws of the State of California;

20 iii. Whether Defendant failed to pay the proper straight time and overtime
21 premium to members of class members;

22 iv. Whether Defendant failed to include all forms of compensation when
23 computing the hourly non-exempt employee’s regular rate;

24 v. Whether the Defendant paid daily overtime to their hourly non-exempt
25 employees;

26 vi. Whether Defendant engaged in unfair business practices;

27 vii. The appropriate amount of monetary penalties allowed by Labor Code §§
28 201, et seq, 226;

1 viii. Whether Defendant failed and continue to fail to provide meal periods to
2 the class members in violation of Section 11 of the applicable Wage Orders;

3 ix. Whether Defendant failed and continues to fail to authorize and permit
4 class members to take rest periods in violation of Section 12 of the applicable Wage Order;

5 x. Whether Plaintiff and the class members are entitled to seek recovery of
6 penalties for the Labor Code and Wage Order violations alleged herein and, if so, for what time
7 period;

8 xi. Whether Defendants failed to keep adequate records for the members of
9 the itemized wage statement class pursuant to Labor Code 226(a) (and the consequence for such
10 statutory violations if Defendants did not.);

11 xii. Whether Defendant is liable for penalties under PAGA Labor Code §2698,
12 et seq.;

13 xiii. Whether Defendant UPS's conduct was willful or reckless;

14 xiv. The effect upon and the extent of the injuries suffered by Plaintiff and all
15 others similarly situated and the appropriate amount of compensation; and

16 xv. Whether UPS pays and continues to pay for a missed meal break at an
17 allegedly "reduced" rate of pay in violation of Section 11 of the applicable Wage Orders.

18 18. Plaintiff's claims are typical of the claims of all members of the classes mentioned
19 herein. Plaintiff, as a representative party, will fairly and adequately protect the interest of the
20 classes and subclasses by vigorously pursuing this suit through her attorneys who are skilled and
21 experienced in handling matters of this type. Plaintiff has no claim or interest that is antagonistic
22 to any class or subclass member.

23 19. The nature of this action and the nature of laws available to the members of the
24 classes identified herein make use of the class action format particularly efficient and appropriate
25 procedure to afford relief to Plaintiff for the wrongs alleged herein. Further, this claim involves a
26 large corporate employer and a large number of individual hourly non-exempt employees
27 (Plaintiff and all others similarly situated) with many relatively small claims with common issues
28 of law and fact. If each hourly non-exempt employee were required to file an individual lawsuit,

1 the corporate Defendants would necessarily gain an unconscionable advantage since they would
2 be able to exploit and overwhelm the limited resources of each individual Plaintiff with its vastly
3 superior financial and legal resources. Requiring each class member to pursue an individual
4 remedy would also discourage the assertion of lawful claims by hourly non-exempt employees
5 who would be disinclined to pursue an action against their present and/or former employer for an
6 appreciable and justifiable fear of retaliation and permanent damage to their careers at present
7 and/or subsequent employment. Proof of a common business practice of factual pattern, of which
8 the named Plaintiff experienced, is representative of the class mentioned herein and will establish
9 the right of each of the members of the named class to recovery on the causes of action alleged
10 herein.

11 20. The prosecution of separate actions by the individual class members, even if
12 possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with
13 respect to the individual class members against Defendants herein; and which would establish
14 potentially incompatible standards of conduct for Defendants; and/or legal determinations with
15 respect to individual class members which would, as a practical matter, be dispositive of the
16 interest of the other class members not parties to adjudications or which would substantially
17 impair or impede the ability of the class members to protect their interests. Further, the claims of
18 the individual members of the class are not sufficiently large to warrant vigorous individual
19 prosecution considering all of the concomitant costs and expenses attending thereto.

20 21. Plaintiff and all others similarly situated are entitled to the wages and other monies
21 unlawfully withheld. Further, the public is entitled to restitution and disgorgement of those funds
22 being improperly withheld by Defendants, and each of them. This action is brought for the benefit
23 of the public.

24 **PRIVATE ATTORNEY GENERAL ALLEGATIONS**

25 22. Plaintiff files this cause of action acting as private attorney general on behalf of
26 the general public to challenge and remedy the business practices of Defendants alleged herein.

27 23. B&PC §17200, et seq., often referred to as the “Unfair Competition Law”,
28 prohibits unfair competition which is defined to include any unlawful, unfair, or fraudulent

1 business act or practice. Defendant has instituted and implemented unlawful wage-and-hour
2 policies, which constitutes unfair, unlawful, or fraudulent business acts or practice within the
3 State of California. Any plaintiff may initiate an action to enforce B&PC §17200 as they have
4 been injured/damaged by Defendants' policies. The court is authorized to order injunctive relief,
5 declaratory relief, disgorgement of wrongful gains and restitution to affected members of the
6 general public as remedies for any violations of B&PC §17200.

7 24. Plaintiff is entitled to an award of attorneys' fees and costs in prosecuting this
8 action against Defendants under Civil Procedure Code §1021.5 and other applicable statutes
9 based in part on the following:

10 a. A successful outcome in this action will result in the enforcement of
11 important rights affecting the public interest by maintaining the integrity of entities that employ
12 hourly non-exempt employees;

13 b. This action will result in a significant benefit to the general public by
14 ceasing unlawful, unfair and deceptive activity, and by causing the return of ill-gotten gains
15 obtained by the Defendant through its failure to properly pay their hourly non-exempt employees;

16 c. Unless this action is prosecuted, members of the general public will not
17 recover monies wrongfully taken from them, and many hourly non-exempt employees and
18 consumers would not be aware that they were victimized by Defendant's wrongful acts and
19 practices; and

20 d. Unless attorneys' fees and costs are awarded against Defendant, the
21 general public will not be made whole.

22 **FIRST CAUSE OF ACTION**

23 **RECOVERY OF UNPAID WAGES AND PENALTIES**

24 **(Violation of Labor Code §§ 204, 206, 218, 226, 510, 511, 1194 and 1198)**

25 25. Plaintiff realleges and incorporates by reference herein the allegations of all
26 paragraphs 1 through 24 as though fully set forth herein.

27 26. Plaintiff and all others similarly situated hourly non-exempt employees identified
28 herein were and are employed and scheduled as a matter of established company policy to work

1 and in fact worked as non-exempt hourly employees in excess of eight (8) hours per day and/or
2 in excess of forty (40) hours per pay week. Defendant employed and scheduled all hourly non-
3 exempt employees without providing overtime compensation for such excess hours worked in
4 violation of Labor Code §§510 and 1194 and the relevant California Industrial Welfare
5 Commission (“IWC”) orders. Labor Code §204 establishes the fundamental right of all hourly
6 non-exempt employees in the state of California to be paid the proper amount of wages in a timely
7 fashion for their work, including overtime. Defendants always had a written and verbal agreement
8 to pay overtime at time and one-half of the hourly non-exempt employee’s regular rate for all
9 hours worked in excess of eight (8) per day and/or forty (40) hours per pay week.

10 27. Pursuant to Labor Code §§218 and 1194(a), Plaintiff may bring a civil action
11 for straight time wages, overtime wages and all wages directly against the employer without first
12 filing a claim with the Division of Labor Standards Enforcement (hereinafter “DLSE”) and may
13 recover such wages, together with interest thereon, penalties, attorneys’ fees and costs.

14 28. At all times relevant hereto, Defendant has failed to pay to Plaintiff and all persons
15 similarly situated wages when due as required by Labor Code §204.

16 29. Pursuant to Labor Code §1198, it is unlawful to employ persons for longer than
17 the hours set by the IWC or under conditions prohibited by the applicable IWC Wage Orders.
18 IWC Wage Order No. 5, as amended, applies to all putative class members.

19 30. At all times relevant hereto, Plaintiff is informed and believes and thereon alleges
20 that Defendants have treated Plaintiff and all persons similarly situated, as hourly non-exempt
21 employees. Despite this classification, Defendant has willfully violated the Labor Code with
22 respect to meeting the requirements of paying all wages earned, including minimum wages,
23 straight time pay, overtime, and remuneration when calculating the hourly non-exempt employees
24 regular rate of pay, as herein before alleged.

25 31. Despite this classification, Defendant has willfully violated the Labor Code with
26 respect to meeting the requirements of paying one (1) regular rate of pay, as herein after alleged.
27 Defendant has willfully and wrongfully designated two (2) rates of pay to the employees in order
28 to avoid payment of overtime wages and other benefits in violation of the Labor Code and the

1 orders issued by the IWC, thereby Defendant is able to reduce their overhead and operating
2 expenses and gain an unfair advantage over competing companies complying with state law.
3 Furthermore, the Defendant has failed to include all items of remuneration when determining the
4 employees' regular rate of pay, as described above.

5 32. Defendant has willfully and wrongfully excluded certain compensation when
6 calculating the hourly non-exempt employees' regular rate of pay. Defendant has intentionally
7 excluded remuneration that must be included in all hourly non-exempt employees' regular rate of
8 pay in order to avoid payment of overtime wages and other benefits in violation of the Labor
9 Code and the orders issued by the IWC. Thereby Defendant is able to reduce its overhead and
10 operating expenses and gain an unfair advantage over competing shipping companies complying
11 with state law.

12 33. Plaintiff is informed and believes, and thereon alleges, that the hourly non-exempt
13 employee class was never paid the proper compensation for work accomplished in excess of forty
14 (40) hours per week and/or eight (8) hours per day throughout the entire period alleged.

15 34. Plaintiff is informed and believes and thereon alleges that Defendant consistently
16 administered a corporate policy regarding both staffing levels and duties and responsibilities of
17 the members of the classes which required the entirety of all classes to work overtime without
18 proper premium pay. This includes a uniform corporation policy and practice that fails to include
19 a weighted average in determining the regular rate. This corporate policy and pattern of conduct
20 was/is accomplished with the advance knowledge and design of all Defendants herein.

21 35. This corporate policy and pattern of conduct was/is accomplished with the advance
22 knowledge and designed of all Defendants herein. Thus, Plaintiff and all others similarly situated
23 routinely regularly and customarily performed overtime work. Accordingly, Plaintiff and all
24 others similarly situated are entitled to the proper overtime compensation under California law.
25 Further, Defendant disseminated false information throughout Defendant's facilities and among
26 the hourly non-exempt employees reciting that all hourly non-exempt employees would receive
27 premium overtime pay for all hours worked over eight (8) in a day or forty (40) in a work week.
28 However, Defendant never paid the proper premium rate for hours worked over eight (8) in a day

1 and/or forty (40) hours in a week.

2 36. Plaintiff is informed and believes, and thereon alleges, that the obligations and
3 responsibilities of all subclasses of hourly non-exempt employees are irrelevant because Plaintiff
4 and all others similarly situated merely allege wrongdoing with Defendants' pay plans.

5 37. Further, Plaintiff alleges that Defendant failed to properly pay Plaintiff and the
6 classes proper meal period rest period penalty payments at the hourly non-exempt employees'
7 regular rate of pay, as hereinafter alleged.

8 38. As a pattern and practice, in violation of the aforementioned labor laws and wage
9 orders of the State of California, Defendant did not pay the hourly non-exempt employees the
10 proper regular rate of pay and, thus, underpaid the regular rate, straight time pay, and premium
11 rate for all overtime hours.

12 39. Plaintiff and all others similarly situated are current and former hourly non-exempt
13 employees of Defendants. Plaintiff is informed and believes, and thereon alleges, that Defendant
14 had and/or have numerous manuals, letters, correspondence, policy handbooks and the like which
15 taken together constitute, created, or comprise a written contract for employment.
16 Notwithstanding, Defendant and each of them, in violation of Labor Code §§201 and 202, et seq.,
17 respectively, had a consistent and uniform policy, practice and procedure of willfully failing to
18 pay the earned wages of all such former hourly non-exempt employees. Defendant has willfully
19 failed to pay the earned and unpaid wages of such individuals, including, but not limited to,
20 regular pay, straight time pay, premium pay, vacation pay, and other wages earned and remaining
21 uncompensated according to amendment, or proof.

22 40. The pattern, practice and uniform administration of corporate policy regarding
23 illegal hourly non-exempt employee compensation as described herein is unlawful and creates an
24 entitlement to recovery by Plaintiff and all others similarly situated hourly non-exempt
25 employees, in a civil action, for the unpaid balance of the full amount of the straight time
26 compensation and overtime premiums owing, including interest thereon, willful penalties,
27 reasonable attorneys' fees and costs of suit accordingly to the mandate of Labor Code §§1194, et.
28 seq.

1 **SECOND CAUSE OF ACTION**

2 **(Violation of B&PC §17200, et seq.)**

3 41. Plaintiff re-alleges and incorporates by reference herein the allegations of
4 paragraphs 1 through 40 as though fully set forth herein.

5 42. Beginning on an exact date unknown to Plaintiff but believed to have occurred at
6 least within the last four (4) years, Defendant has engaged in a pattern and practice of acts of
7 unfair competition in violation of B&PC §17200, including the practices alleged herein.

8 43. Defendant owns and operates, manages and controls Defendant's business.
9 Defendant has engaged in the practice of paying its hourly non-exempt employees, including
10 plaintiff, in a fashion circumvents California overtime laws. Defendant has unlawfully designed
11 a pay system which does not pay proper straight time nor premium overtime to hourly non-exempt
12 employees. Defendant requires its hourly non-exempt employees, including Plaintiff, to work
13 shifts of eight (8) hours or more. However, Defendant does not pay its hourly non-exempt
14 employees the correct straight time pay nor the correct premium overtime for those overtime
15 hours worked.

16 **FAILURE TO PAY PROPER WAGES AND OVERTIME COMPENSATION**

17 44. Plaintiff is informed and believes and thereon alleges that as part of Defendant's
18 ongoing unfair business practice, the hours worked by Defendant's hourly non-exempt employees
19 is in excess of eight (8) hours per day, and in excess of forty (40) hours per pay period without
20 receiving the proper regular rate of pay and therefore do not receive the proper overtime premium.
21 That is the hourly rate which Defendant uses to calculate the overtime premium rate is an artifice,
22 subterfuge, and sham in that the regular rate is based on an artificially low designation by
23 Defendant. That is the class members allege and will prove that they are entitled to payment
24 based on the proper and legal regular rate which will include all damages that flow from this
25 calculation. The Defendant is in violation of Labor Code §§ 510 and 1194, and the relevant
26 California Industrial Welfare Commission Orders 9-2001, et seq.

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FAILURE TO PROVIDE ITEMIZED STATEMENTS

1
2 48. Plaintiff is informed, and believes, and thereon alleges, that as part of Defendant's
3 ongoing unfair business practices, Defendant, fails to provide its hourly non-exempt employees
4 with proper and understandable itemized wage statements, as required by Labor Code §226.

5 49. Plaintiff is informed, and believes, and thereon alleges, that Defendant fails to
6 provide each hourly non-exempt employee with an itemized statement which states the actual
7 total hours worked by the hourly non-exempt employee, the net wages earned, and all applicable
8 hourly rates in effect during the pay period and the corresponding number of hours worked at
9 each hourly rate by the hourly non-exempt employee. As a result of the noncompliant pay stubs
10 issued, Plaintiff and others similarly situated have suffered injury.

11 **FAILURE TO PAY OVERTIME PAY**

12 50. Defendant has engaged in unfair business practices in California by practicing
13 employing and utilizing the employment practices complained of herein. Defendant's use of such
14 practices constitutes an unfair business practice, unfair competition, and provides an unfair
15 advantage over Defendant's competitors. Plaintiff, on behalf of the general public, seeks full
16 restitution of said monies by Defendant, as necessary and according to proof, to restore any and
17 all monies withheld, acquired, and/or converted by the Defendant by means of the unfair business
18 practices complained of herein. Plaintiff seeks, on behalf of all current and former hourly non-
19 exempt employees of the Defendant, restitution and disgorgement of said monies. Plaintiff
20 further seeks, on behalf of the general public, the appointment of a receiver, as necessary, to
21 establish the total monetary relief from Defendant. The restitution includes all profits realized as
22 a result of the unfair business practices, including interest thereon. The acts complained of herein
23 occurred, at least in part, within at least the last four (4) years preceding the original Complaint.

24 51. Plaintiff is informed, and believes; and thereon alleges, that at all times herein
25 mentioned, Defendant has engaged in unlawful, deceptive, and unfair business practices
26 prohibited by California B&PC §17200, thereby depriving its hourly non-exempt employees and
27 other members of the general public of the minimum working condition standards and conditions
28 due to them under the California labor laws and Industrial Welfare Commission wage orders as

1 specifically described herein. Plaintiff seeks an injunction preventing Defendant from continuing
2 its unfair business practice of improperly depriving its hourly non-exempt employees of overtime
3 pay, meal and rest periods and proper and compliant itemized statement of wages. Plaintiff
4 further seeks an order requiring Defendant to identify by full name, telephone number, and last
5 known address hourly non-exempt employees who worked or still work for Defendant from at
6 least four (4) years preceding the filing of the original Complaint through the date of judgment;
7 Plaintiff further seeks an order requiring Defendant to timely pay restitution to all current and
8 former hourly non-exempt employees, including back wages, penalties, interest, and attorneys'
9 fees and costs.

10 **MEAL AND REST PERIOD VIOLATIONS**

11 52. Defendant incorrectly and illegally considered itself to be exempt from meal and
12 rest break requirements established by Sections 11 and 12 of the Wage Order applicable to the
13 industry (Wage Order 9-01). Class members were and are improperly and illegally denied rest
14 break and meal breaks required by law.

15 53. The acts complained of herein occurred, at least in part, within the last four (4)
16 years preceding the original filing of the Complaint.

17 **THIRD CAUSE OF ACTION**

18 **FAILURE TO ALLOW REST BREAKS**

19 **(Against All Defendants)**

20 54. Plaintiff realleges and incorporate by reference as if fully set forth herein, the
21 allegations of paragraphs 1 through 53.

22 55. The plaintiff alleges that the Defendant has violated Labor Code §§226.7 & 512.
23 §226.7 of the Labor Code requires an employer to pay an additional hour (1) of compensation for
24 each rest period the employer fails to provide. Hourly non-exempt employees are entitled to a
25 paid ten (10) minute rest break for every four (4) hours worked or major fraction thereof. The
26 Defendant's policy discourages, dissuades, and prevents all hourly non-exempt employees from
27 taking a rest period break for any work period that is greater than two (2) hours up to four (4)
28 hours. Plaintiff and the class consistently worked over four (4) hours per shift with no rest breaks,

1 due to Defendant's policy of discouraging, dissuading and/or preventing hourly non-exempt
2 employees from taking said breaks.

3 56. Defendant failed to provide and has and continues to discourage and dissuade
4 Plaintiff and other hourly non-exempt employees from taking rest breaks of not less than ten (10)
5 minutes for each work period of four (4) hours worked or major fraction thereof, as required by
6 the Labor Code during the relevant class period.

7 57. Pursuant to Labor Code §226.7, plaintiff and the class are entitled to damages in
8 an amount equal to one (1) hour of wages at the hourly non-exempt regular rate of pay per rest
9 break violation, in a sum to be proven at trial.

10 **FOURTH CAUSE OF ACTION**

11 **FAILURE TO ALLOW MEAL BREAKS**

12 **(Against All Defendants)**

13 58. Plaintiff incorporates by reference as if fully set forth herein, the allegations of
14 paragraphs 1 through 57.

15 59. The Plaintiff alleges that the Defendant has violated Labor Code §§226.7 & 512
16 Labor Code §226.7 requires an employer to pay an additional hour of compensation at the hourly
17 non-exempt employees' regular rate of pay for each meal period the employer fails to provide.
18 Plaintiff alleges that Defendant fails to provide legally compliant meals in addition to impeding,
19 discouraging and/or dissuading hourly non-exempt employees from taking legally compliant
20 meal periods. Hourly non-exempt employees are entitled to a meal period of at least thirty (30)
21 minutes per five (5) hour work period. Plaintiff and the class consistently worked over five (5)
22 hour shifts without meal periods due to Defendant's policy of discouraging, dissuading and/or
23 impeding Plaintiffs and the class from taking meal periods. Plaintiff and the class are required to
24 carry pagers, and/or answer pages while on breaks such that Defendant fails to provide
25 uninterrupted meal breaks to Plaintiff and the class. Pursuant to the Code, Plaintiff and the class
26 are entitled to a meal period of not less than thirty (30) minutes prior to exceeding five (5) hours
27 of employment, and a second meal period for hours worked over ten (10) in a day.

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1 60. Defendant fails to provide and has and continues to impede and/or discourage
2 Plaintiff and other hourly non-exempt employees from taking timely meal breaks of not less than
3 thirty (30) minutes as required by the Labor Code during the relevant class period and/or failed
4 to obtain legal waivers waiving the first or second meal period. Additionally, Defendant had a
5 policy of requiring each hourly employee to punch out and punch in for a thirty (30) minute meal
6 period whether or not an hourly non-exempt employee was provided a meal period. If the hourly
7 non-exempt employees do not punch out or in for a thirty (30) minute meal period, the hourly
8 non-exempt employees risk reprimand up to and including termination. Said automatic
9 deductions constitute a forfeiture of wages.

10 61. Pursuant to Labor Code §226.7, Plaintiff is entitled to damages in an amount equal
11 to one (1) hour of wages at the hourly non-exempt employee's regular rate of pay per missed meal
12 break, in a sum to be proven at trial.

13 **FIFTH CAUSE OF ACTION**

14 **VIOLATION OF LABOR CODE § 226**

15 **(Against All Defendants)**

16 62. Plaintiff on behalf of herself and the hourly non-exempt classes herein re-alleges
17 and incorporates each and every one of the allegations contained in paragraphs 1-61, inclusive of
18 this Complaint, as if fully set forth herein.

19 63. Plaintiff is informed and believes, and thereon alleges that Defendant has
20 intentionally and knowingly failed to comply with Labor Code § 226.

21 64. Defendant intentionally and knowingly fails/failed to provide Plaintiff and the
22 classes with an itemized wage statement that fulfills the requirements of Labor Code § 226 in that
23 it does not provide Plaintiff and the classes with an accurate accounting of earned wages all to the
24 detriment and injury to Plaintiff and the members of the class. Specifically, the itemized wage
25 statements fail to include total hours worked by the hourly non-exempt employee, the net wages
26 earned, and all applicable hourly rates in effect during the pay period and the corresponding
27 number of hours worked at each hourly rate by the hourly non-exempt employee.

28 65. Plaintiff and each of the members of the class are entitled to damages pursuant to

1 Labor Code § 226, including but not limited to \$50.00 for the first violation and \$100.00 for each
2 subsequent violation, up to \$4,000.00 per person as well as attorneys' fees and costs.

3 **SIXTH CAUSE OF ACTION**

4 **VIOLATION OF CALIFORNIA LABOR CODE**

5 **PRIVATE ATTORNEY GENERAL ACT**

6 **[CAL. LABOR CODE §2698-2699 (Against All Defendants)]**

7 66. Plaintiff on behalf of herself and on behalf of aggrieved hourly non-exempt
8 employees herein re-alleges and incorporates each and every one of the allegations contained in
9 paragraphs 1-65, inclusive of this Complaint, as if fully set forth herein.

10 67. Labor Code §2698-2699, the Labor Code Private Attorney General Act of 2004,
11 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
12 Agency (LWDA), or any of its departments, divisions, commissions, boards, agencies or
13 employees for a violation of the Labor Code, may be recovered through a civil action by an
14 aggrieved employee on behalf of himself or herself, and collectively on behalf of all other current
15 or former employees.

16 68. Whenever the LWDA, or any of its departments, divisions, commissions, boards
17 agencies or hourly non-exempt employees, has discretion to assess a civil penalty, a court in a
18 civil action is authorized to exercise the same discretion, subject to the same limitations and
19 conditions to assess a civil penalty.

20 69. Plaintiff, and all hourly non-exempt employees of Defendant are "aggrieved
21 employees" as defined by Labor Code §2699, in that they are all current or former hourly non-
22 exempt employees of Defendant, and one or more of the alleged violations was committed against
23 them.

24 70. Prior to filing the Complaint, Plaintiff gave written notice to the LWDA on July
25 6, 2017, via mandatory online filing through the State of California LWDA/Department of
26 Industrial Relations website with a copy to the employer via certified mail, of the specific
27 provisions of this code alleged to have been violated, including listing some facts and some
28 theories to support the alleged violations as required by Labor Code §2699.3; A true and correct

1 copy of said Notice is attached hereto as **Exhibit 1**. Plaintiff alleges that he has exhausted all
2 administrative remedies and filed the herein complaint 65 days after mailing said notice. At the
3 date of filing this complaint, the LWDA has not responded with any intention to investigate. As
4 such, Plaintiff has exhausted his administrative requirements pursuant to Labor Code
5 §2699.3(a)(1) and (2) (A-C).

6 71. Pursuant to Labor Code §2699.3, notwithstanding any other provision of law,
7 plaintiff did as a matter of right amend the existing original complaint, to add a cause of action
8 under Labor Code §2699 at any time within 60 days under the code.

9 72. Plaintiff asserts all of the claims in this Complaint against Defendant, individually
10 and on behalf of all aggrieved hourly non-exempt employees in her capacity as private attorney
11 general, and seeks all statutory penalties available under the Labor Code.

12 73. Pursuant to Labor Code §2699, Plaintiff, individually and on behalf of all
13 aggrieved hourly non-exempt employees, requests and is entitled to recover from the Defendant;
14 overtime compensation, rest and meal period compensation, waiting period wages, and penalties
15 according to proof, and plaintiff is further entitled to recover interest, attorney's fees and costs
16 pursuant to Labor Code §2699(g)(1), as well as all statutory penalties and attorneys' fees against
17 Defendant, and each of them, including, but not limited to:

18 A. Penalties under Labor Code §2699 in the amount of \$100 for each
19 aggrieved employee per pay period for each initial violation, and \$200 for each aggrieved
20 employee per pay period for each subsequent violation;

21 B. Penalties under Code of Regulations, Title 8 §11070 in the amount of \$50
22 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved
23 employee per pay period for each subsequent violation;

24 C. Penalties under Labor Code §210, in addition to and entirely independent
25 and apart from other penalty provided in the Labor Code, in the amount of \$100 for each
26 aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per
27 pay period for each subsequent violation, plus 25% of the wage wrongly withheld;

1 D. Any and all additional penalties and sums as provided by the Cal. Labor
2 Code and/or other statutes.

3 74. In addition, thereto, Plaintiff seeks and is entitled to 50% of all penalties obtained
4 under Labor Code §2699 to be allocated to the General Fund, and 25% of all penalties obtained
5 to be allocated to the LWDA, for education of employers and employees about their rights and
6 responsibilities under the Labor Code, and 25% to all aggrieved employees.

7 75. Further, plaintiff is entitled to seek and recover reasonable attorney's fees and costs
8 pursuant to Labor Code §§2699(g)(1), 1194, 210, and 212 and any other applicable statute.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays:

11 1. That the Court determine this action may be maintained as a class action;

12 **As to the First Cause of Action:**

13 2. For damages according to proof, as set forth in Labor Code §§ 510, 511 and 1194,
14 et seq., (and the applicable California Industrial Welfare Commission wage orders) regarding
15 wages due and owing;

16 3. For pre-judgment interest as allowed by Labor Code §1194 and California Civil
17 Code § 3287(b), for waiting time penalties as authorized by Labor Code §203, and for reasonable
18 attorneys' fees;

19 4. For one (1) hour of pay at the employee's regular rate for each workday that the
20 meal period was not provided;

21 5. For each employee one (1) hour of pay at the employee's regular rate of pay for
22 each workday that a rest break was not provided.

23 6. For an order, preliminarily and permanently enjoining Defendant from engaging
24 in the practices challenged herein;

25 **As to the Second Cause of Action:**

26 7. For an order, preliminarily and permanently enjoining Defendant from engaging
27 in the practices challenged herein;

28 8. An order for full restitution of all monies, as necessary and according to proof, to

1 restore any and all monies withheld, acquired, and/or converted by the Defendants by means of
2 the unfair practice complained of herein. Plaintiff seeks, on behalf of the general public, the
3 appointment of a receiver, as necessary. The restitution includes all monies retained as wages, as
4 defined in Labor Code §§ 201, 202, 510, 511 and 1194, prejudgment interest, and attorneys' fees
5 as a result of the unfair business practices;

6 9. For an order finding and declaring that Defendant's acts and practices as
7 challenged herein are unlawful, and unfair and/or fraudulent;

8 10. For an accounting, under administration of Plaintiff and subject to Court Review,
9 to determine the amount to be returned by Defendant and the amounts to be refunded to members
10 who are or were not paid properly;

11 11. For the creation of an administrative process wherein each injured current and
12 former employee receives his or her back wages in the form of minimum wage, straight time,
13 overtime pay or alternatively that each current or former eligible employee may submit a claim
14 in order to receive his/her money;

15 12. For an order requiring Defendant to make full restitution and payment pursuant to
16 Labor Code §§ 201-202, 510, 511 and 1194;

17 13. For all other appropriate declaratory and equitable relief;

18 14. For pre-judgment interest to the extent permitted by law;

19 15. For an order requiring Defendant to identify, by name, address and telephone
20 number of each person who worked as an hourly non-exempt employee for Defendant from at
21 least four (4) years before filing of the original complaint in this action through the time of
22 judgment;

23 **As to the Third Cause of Action:**

24 18. One (1) hour of pay at each of the employees' regular rate of compensation for
25 each workday that a rest break was not provided, impeded, interrupted, discouraged and/or
26 dissuaded;

27 **As to the Fourth Cause of Action:**

28 19. One (1) hour of pay at each of the employees' regular rate of compensation for

1 each workday that a meal break was not provided, impeded, discouraged and/or dissuaded;

2 **As to the Fifth Cause of Action:**

3 20. For the greater of all actual damages, or fifty dollars (\$50.00) for the initial pay
4 period in which the pay stub violation occurs and one hundred dollars (\$100.00) per employee
5 for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand
6 dollars (\$4,000.00).

7 21. For penalties as authorized by Labor Code §226(e);

8 22. For an award of costs and reasonable attorneys' fees pursuant to Labor Code
9 §226(g);

10 **As to the Sixth Cause of Action:**

11 23. On behalf of all current and former employees, for all penalties authorized by
12 Labor Code Private Attorney General Act of 2004 at the rate specified in California Labor Code
13 §558 plus the rate specified in Labor Code §1197.1 for former or current employees who are due
14 overtime and other wage payments;

15 24. For penalties pursuant to Labor Code § 558 as follows: For any initial violation,
16 fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was
17 underpaid in addition to an amount sufficient to recover underpaid wages; For each subsequent
18 violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which
19 the employee was underpaid in addition to an amount sufficient to recover underpaid wages;

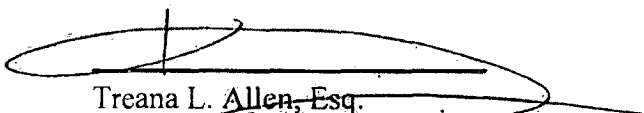
20 **As to All Causes of Action:**

21 25. For reasonable costs incurred.

22 26. For such other and further relief as this Court may deem just and proper.

23 Dated: December 7, 2017

MAHONEY LAW GROUP, APC

24
25 

26 Treana L. Allen, Esq.
27 Attorneys for Plaintiff BRANDON
28 VAWTER on behalf of himself, and those
similarly situated employees

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues so triable.

Dated: December 7, 2017

MAHONEY LAW GROUP, APC



Kevin Mahoney, Esq.
Treana Allen, Esq.
Attorney for Plaintiff BRANDON
VAWTER on behalf of himself, and those
similarly situated employees

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Kevin Mahoney Case D18-61601318 Document 1-3 Filed 02/16/18 Page 1 of 1 Page ID #:37
MAHONEY LAW GROUP, APC
249 E. Ocean Blvd., Ste. 814
Long Beach, CA 90802

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

DEC 07 2017

Sherri R. Carter, Executive Officer/clerk
By Shaunya Bolden, Deputy

TELEPHONE NO.: (562) 590-5550 FAX NO. (562) 590-8400

ATTORNEY FOR (Name): Plaintiff Brandon Vawter

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles

STREET ADDRESS: 111 N. Hill Street

MAILING ADDRESS: 111 N. Hill Street

CITY AND ZIP CODE: Los Angeles, CA 90802

BRANCH NAME: Stanley Mosk

CASE NUMBER:

BC 686104

CASE NAME:

Vawter v. UPS, Inc. et al.

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000)
Limited (Amount demanded is \$25,000 or less)

Complex Case Designation

Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

Auto (22)
Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Product liability (24)
Medical malpractice (45)
Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

Business tort/unfair business practice (07)
Civil rights (08)
Defamation (13)
Fraud (16)
Intellectual property (19)
Professional negligence (25)
Other non-PI/PD/WD tort (35)

Employment

Wrongful termination (36)
Other employment (15)

Contract

Breach of contract/warranty (06)
Rule 3.740 collections (09)
Other collections (09)
Insurance coverage (18)
Other contract (37)

Real Property

Eminent domain/Inverse condemnation (14)
Wrongful eviction (33)
Other real property (26)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38)

Judicial Review

Asset forfeiture (05)
Petition re: arbitration award (11)
Writ of mandate (02)
Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

Antitrust/Trade regulation (03)
Construction defect (10)
Mass tort (40)
Securities litigation (28)
Environmental/Toxic tort (30)
Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

Enforcement of judgment (20)

Miscellaneous Civil Complaint

RICO (27)
Other complaint (not specified above) (42)

Miscellaneous Civil Petition

Partnership and corporate governance (21)
Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties
b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. Substantial amount of documentary evidence
d. Large number of witnesses
e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 7

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 7, 2017

Kevin Mahoney

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
File this cover sheet in addition to any cover sheet required by local court rule.
If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Court Filing Location (Column C)

- Class actions must be filed in the Stanley Mosk Courthouse, Central District.
- Permissive filing in central district.
- Location where cause of action arose.
- Mandatory personal injury filing in North District.
- Location where performance required or defendant resides.
- Location of property or permanently garaged vehicle.
- Location where petitioner resides.
- Location wherein defendant/respondent functions wholly.
- Location where one or more of the parties reside.
- Location of Labor Commissioner Office.
- Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury).

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above:
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	1, 11 1, 11
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1, 4, 11
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4, 11
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1, 4, 11
<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)		1, 4, 11	
<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress		1, 4, 11	
<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1, 4, 11	

Non-Personal Injury/Property
Damage/Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1, 2, 3
	<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3
Other Employment (15)	<input checked="" type="checkbox"/> A6024 Other Employment Complaint Case	1, 2, 3
	<input type="checkbox"/> A6109 Labor Commissioner Appeals	10
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2, 5
	<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2, 5
	<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1, 2, 5
	<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1, 2, 5
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	5, 6, 11
	<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	5, 11
	<input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 8
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1, 2, 3, 5
	<input type="checkbox"/> A6031 Tortious Interference	1, 2, 3, 5
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 8, 9
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2, 6
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2, 6
	<input type="checkbox"/> A6032 Quiet Title	2, 6
	<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6, 11

Vawter v. UPS, Inc.

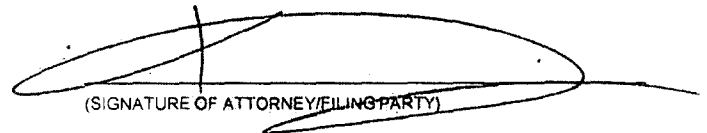
A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05) <input type="checkbox"/> A6108 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11) <input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02) <input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2, 8 2 2
	Other Judicial Review (39) <input type="checkbox"/> A6150 Other Writ /Judicial Review	2, 8
Provisionally Complex Litigation	Antitrust/Trade Regulation (03) <input type="checkbox"/> A6003 Antitrust/Trade Regulation	1, 2, 8
	Construction Defect (10) <input type="checkbox"/> A6007 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40) <input type="checkbox"/> A6006 Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28) <input type="checkbox"/> A6035 Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30) <input type="checkbox"/> A6036 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41) <input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
Enforcement of Judgment	Enforcement of Judgment (20) <input type="checkbox"/> A6141 Sister State Judgment	2, 5, 11
	<input type="checkbox"/> A6160 Abstract of Judgment	2, 6
	<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2, 9
	<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2, 8
	<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 8
	<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2, 8, 9
Miscellaneous Civil Complaints	RICO (27) <input type="checkbox"/> A6033 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (Not Specified Above) (42) <input type="checkbox"/> A6030 Declaratory Relief Only	1, 2, 8
	<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2, 8
	<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8 1, 2, 8
Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2, 8
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43) <input type="checkbox"/> A6121 Civil Harassment	2, 3, 9
	<input type="checkbox"/> A6123 Workplace Harassment	2, 3, 9
	<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2, 3, 9
	<input type="checkbox"/> A6190 Election Contest	2
	<input type="checkbox"/> A6110 Petition for Change of Name/Change of Gender	2, 7
	<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2, 3, 8
	<input type="checkbox"/> A6100 Other Civil Petition	2, 9

Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

REASON: <input checked="" type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11.			ADDRESS: 111 N. Hill Street		
CITY: Los Angeles		STATE: CA	ZIP CODE: 90012		

Step 5: Certification of Assignment: I certify that this case is properly filed in the Central District District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: December 7, 2017


 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

Case Number _____

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT
Your case is assigned for all purposes to the judicial officer indicated below (Local Rule 3.3 (c)).

	ASSIGNED JUDGE	DEPT.	ROOM
	Judge Elihu M. Berle	323	1707
	Judge William F. Highberger	322	1702
	Judge John Shepard Wiley, Jr.	311	1408
	Judge Kenneth Freeman	310	1412
	Judge Ann Jones	308	1415
	Judge Maren E. Nelson	307	1402
	Judge Carolyn B. Kuhl	309	1409

BC 686104

Instructions for handling Class Action Civil Cases

The following critical provisions of the Chapter Three Rules, as applicable in the Central District, are summarized for your assistance.

APPLICATION

The Chapter Three Rules were effective January 1, 1994. They apply to all general civil cases.

PRIORITY OVER OTHER RULES

The Chapter Three Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS

Cases assigned to the Individual Calendaring Court will be subject to processing under the following time standards:

COMPLAINTS: All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days of filing.

CROSS-COMPLAINTS: Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

A Status Conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE

The Court will require the parties at a status conference not more than 10 days before the trial to have timely filed and served all motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested jury instructions, and special jury instructions and special jury verdicts. These matters may be heard and resolved at this conference. At least 5 days before this conference, counsel must also have exchanged lists of exhibits and witnesses and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Eight of the Los Angeles Superior Court Rules.

SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party or if appropriate on counsel for the party.

This is not a complete delineation of the Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is absolutely imperative.

Given to the Plaintiff/Cross Complainant/Attorney of Record on _____ SHERRI R. CARTER, Executive Officer/Clerk

BY _____, Deputy Clerk

Kevin Mahoney (SBN: 235367)
kmahoney@mahoney-law.net
Treana L. Allen (SBN: 302922)
tallen@mahoney-law.net
MAHONEY LAW GROUP, APC
249 Ocean Boulevard, Suite 814
Long Beach, CA 90802
Tel: 562.590.5550
Fax: 562.590.8400

Attorneys for Plaintiff and all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT
CENTRAL CIVIL WEST COURTHOUSE

BRANDON VAWTER on behalf of himself
and all others similarly situated,

Plaintiff,

vs.
UNITED PARCEL SERVICE, INC., a
Georgia corporation, and DOES 1 through 10,
inclusive,

Defendants.

Case No. BC686104

CLASS ACTION

NOTICE OF DEPOSIT OF JURY FEES

Assigned for all purposes to:
Hon. John P. Doyle, Dept.: 58

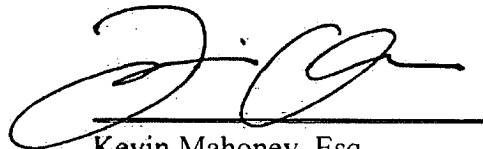
Complaint Filed: July 18, 2017
Trial Date: July 30, 2018

TO THE HONORABLE COURT AND DEFENDANTS:

PLEASE TAKE NOTICE that pursuant to Code of Civil Procedure section 631(b),
Plaintiff BRANDON VAWTER has posted the requisite jury fees in the amount of \$150.00.

Dated: January 11, 2018

MAHONEY LAW GROUP, APC



Kevin Mahoney, Esq.
Treana Allen, Esq.
Attorney for Plaintiff BRANDON
VAWTER on behalf of himself, and those
similarly situated employees

Superior Court of California County of Los Angeles



ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKET

The person who files a civil lawsuit (plaintiff) must include the ADR information Packet with the complaint when serving the defendant. Cross-complainants must serve the ADR Information Packet on any new parties named to the action together with the cross-complaint.

There are a number of ways to resolve civil disputes without having to sue someone. These alternatives to a lawsuit are known as alternative dispute resolution (ADR).

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. For example, in mediations, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help resolve disputes without having to go to court.

Advantages of ADR

- Often faster than going to trial
- Often less expensive, saving the litigants court costs, attorney's fees and expert fees.
- May permit more participation, allowing parties to have more control over the outcome.
- Allows for flexibility in choice of ADR processes and resolution of the dispute.
- Fosters cooperation by allowing parties to work together with the neutral to resolve the dispute and mutually agree to remedy.
- There are fewer, if any, court appearances. Because ADR can be faster and save money, it can reduce stress.

Disadvantages of ADR - ADR may not be suitable for every dispute.

- If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.
- ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.
- The neutral may charge a fee for his or her services.
- If the dispute is not resolved through ADR, the parties may then have to face the usual and traditional costs of trial, such as attorney's fees and expert fees.

The Most Common Types of ADR

- **Mediation**

In mediation, a neutral (the mediator) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the parties, rather than the mediator, decide how the dispute is to be resolved.

- **Mediation is particularly effective** when the parties have a continuing relationship, like neighbors or business people. Mediation is also very effective where personal feelings are getting in the way of a resolution. This is because mediation normally gives the parties a chance to express their feelings and find out how the other sees things.
- **Mediation may not be effective** when one party is unwilling to cooperate or compromise or when one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

- **Arbitration**

In arbitration, a neutral person called an “arbitrator” hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is typically less formal than a trial, and the rules of evidence may be relaxed. Arbitration may be either “binding” or “non-binding.” Binding arbitration means the parties waive their right to a trial and agree to accept the arbitrator’s decision as final. Non-binding arbitration means that the parties are free to request a trial if they reject the arbitrator’s decision.

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

- **Mandatory Settlement Conference (MSC)**

Settlement Conferences are appropriate in any case where settlement is an option.

Mandatory Settlement Conferences are ordered by the Court and are often held near the date a case is set for trial. The parties and their attorneys meet with a judge who devotes his or her time exclusively to preside over the MSC. The judge does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement.

The Los Angeles Superior Court Mandatory Settlement Conference (MSC) program is free of charge and staffed by experienced sitting civil judges who devote their time exclusively to presiding over MSCs. The judges participating in the judicial MSC program and their locations are identified in the List of Settlement Officers found on the Los Angeles Superior Court website at <http://www.lacourt.org/>. This program is available in general jurisdiction cases with represented parties from independent calendar (IC) and Central Civil West (CCW) courtrooms. In addition, on an ad hoc basis, personal injury cases may be referred to the program on the eve of trial by the personal injury master calendar courts in the Stanley Mosk Courthouse or the asbestos calendar court in CCW.

In order to access the Los Angeles Superior Court MSC Program the judge in the IC courtroom, the CCW Courtroom or the personal injury master calendar courtroom must refer the parties to the program. Further, all parties must complete the information requested in the Settlement Conference Intake Form and email the completed form to mscdept18@lacourt.org.

Additional Information

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs (www.dca.ca.gov) Consumer Information Center toll free at 800-952-5210, or;
- Contact the local bar association (<http://www.lacba.org/>) or;
- Look in a telephone directory or search online for “mediators; or “arbitrators.”

There may be a charge for services provided by private arbitrators and mediators.

A list of approved State Bar Approved Mandatory Fee Arbitration programs is available at <http://calbar.ca.gov/Attorneys/MemberServices/FeeArbitration/ApprovedPrograms.aspx#19>

To request information about, or assistance with, dispute resolution, call the number listed below. Or you may call a Contract Provider agency directly. A list of current Contract Provider agencies in Los Angeles County is available at the link below.

<http://css.lacounty.gov/programs/dispute-resolution-program-drp/>

County of Los Angeles Dispute Resolution Program
3175 West 6th Street, Room 406
Los Angeles, CA 90020-1798
TEL: (213) 738-2621
FAX: (213) 386-3995

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [UPS Accused of Failing to Deliver Proper Wages](#)
