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35 UNITED STATES DISTRICT COURT

36 EASTERN DISTRICT OF CALIFORNIA

37 OREN SHILL,

38 Case No. 08-CV-2918 MCE (DAD)

39 Plaintiff,

40 **STIPULATION FOR EXTENSION OF**  
41 **PAGE LIMITATIONS GOVERNING**  
42 **DISPOSITIVE MOTION PAPERS AND**  
43 **ORDER THEREON**

44 vs.

45 UNITED PARCEL SERVICE, INC.,

46 Defendant.

47 Courtroom: 7, 14th Floor  
48 Judge: Hon. Morrison C. England, Jr.

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1 TO THE HONORABLE MORRISON C. ENGLAND:

2 Pursuant to Section VI of the Court’s April 20, 2009, Pretrial Scheduling Order,  
3 and upon a showing of good cause, Defendant United Parcel Service, Inc. (“UPS”) and Plaintiff  
4 Oren Shill (“Plaintiff”) hereby request that the page limitation for dispositive motion moving  
5 papers be extended from 20 pages to 25 pages; that the page limitation for oppositions to  
6 dispositive motions be extended from 20 pages to 25 pages; and that the page limitation for  
7 replies to dispositive motions be extended from 10 pages to 15 pages.

8 The parties make this request for the following reasons, which constitute good  
9 cause:

10 1. This case involves the classification of Plaintiff Oren Shill as exempt from  
11 California’s wage and hour laws as a Fulltime Supervisor employed by UPS. Plaintiff asserts  
12 several causes of action stemming from his alleged misclassification, including failure to pay  
13 overtime, failure to provide meal and rest periods, failure to provide properly itemized wage  
14 statements, waiting time penalties, conversion, and unfair competition. In addition, Plaintiff  
15 seeks various other penalties and punitive damages.

16  
17 2. UPS asserts several defenses to Plaintiff’s misclassifications claim,  
18 including, without limitation, the application of the executive, administrative, and Motor Carrier  
19 Act exemptions. UPS intends to move for summary judgment on the applicability of each  
20 exemption. Each exemption has several elements. For example, the executive exemption applies  
21 to supervisors who (a) customarily and regularly exercise discretion and independent judgment,  
22 (b) have the authority to hire or fire another employee, or have their  
23 recommendations/suggestions as to hiring, firing, or other changes in status be accorded  
24 particular weight, (c) are primarily engaged in exempt job duties, (d) manage a customarily  
25 recognized subdivision of the employer’s enterprise, (e) customarily and regularly direct the work  
26 of at least two other employees, and (f) earn at least two times the California minimum wage.  
27 IWC Wage Order 9-2001 § 1 (A) (1). The administrative exemption applies to employees who:  
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1 (a) perform office or non-manual work directly related to the management policies or general  
2 business operations of UPS; (b) customarily and regularly exercise discretion and independent  
3 judgment; (c) execute special assignments and tasks under only general supervision or regularly  
4 and directly assist an employee in a bona fide executive or administrative capacity; (d) primarily  
5 engage in exempt duties; and (e) earn at least twice the minimum wage. IWC Wage Order 9-  
6 2001 § 1 (A) (2). The Motor Carrier Act exemption applies to employees whose hours of service  
7 are regulated by the U.S. Department of Transportation (“DOT”) through the federal Motor  
8 Carrier Act. IWC Wage Order 9-2001 § 3 (L) (1).

10                   3.       The summary judgment briefing will address each element of each  
11 exemption for each of Plaintiff's relevant positions.

13                   4.        UPS's summary judgment briefing will assert additional factual arguments  
14 and legal defenses to Plaintiff's claims. For example, UPS will address Plaintiff's claims for  
15 failure to provide meal and rest periods, failure to provide properly itemized wage statements,  
16 waiting time penalties, conversion, and unfair competition.

18                   5.     Therefore, the parties anticipate that extra space will be required to  
19 adequately analyze the facts and law regarding each of Plaintiff's positions so that the Court can  
20 make an informed and accurate determination.

22                   6.        Counsel for the parties have litigated other cases involving the exempt  
23                   status of current and former Fulltime Supervisors employed by UPS. In most of those cases, the  
24                   parties have used the above-requested page limitations.

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1 For these reasons, the parties' respectfully request the extensions listed above for  
2 page limitations on dispositive motions.

3 DATED: May 11, 2010 PAUL, HASTINGS, JANOFSKY & WALKER LLP

5 By: \_\_\_\_\_ /s/ Ryan C. Hess  
6 RYAN C. HESS

7 Attorneys for Defendant  
8 UNITED PARCEL SERVICE, INC.

9 DATED: May 11, 2010 DUCKWORTH · PETERS · LEBOWITZ LLP  
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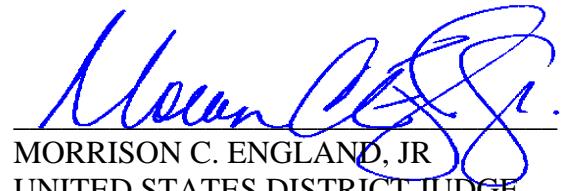
11 By:/s/  
12 MARK C. PETERS

13 Attorneys for Plaintiff  
14 OREN SHILL

15 **ORDER**

16 IT IS SO ORDERED.

17 DATED: May 12, 2010

18   
19 MORRISON C. ENGLAND, JR  
20 UNITED STATES DISTRICT JUDGE

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