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9 UNITED STATES DISTRICT COURT  
10 EASTERN DISTRICT OF CALIFORNIA  
11 SACRAMENTO DIVISION  
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13 LARRY WALTHER,

14 Plaintiff,

15 vs.

16 UNITED PARCEL SERVICE, INC. and  
17 DOES 1 through 20, inclusive,

18 Defendants.  
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CASE NO. 2:09-CV-00494-JAM-KJN

**JUDGMENT IN FAVOR OF DEFENDANT  
UNITED PARCEL SERVICE, INC.**

Complaint Filed: August 13, 2008

The Honorable John A. Mendez

1 This action was brought by Plaintiff Larry Walther (“Plaintiff”) against Defendant United  
2 Parcel Service, Inc. (“Defendant”). Plaintiff asserted claims for: (1) retaliation under the  
3 California Family Rights Act (“CFRA”), (2) retaliation under the California Fair Employment  
4 and Housing Act (“FEHA”), (3) interference under the CFRA, (4) failure to engage in the  
5 interactive process under the FEHA, (5) failure to provide a reasonable accommodation under the  
6 FEHA, (6) wrongful demotion in violation of public policy, and (7) punitive damages.

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8 **I. MOTION FOR SUMMARY JUDGMENT**

9 On January 20, 2010, the Court heard oral argument on Defendant’s Motion For Summary  
10 Judgment Or, In The Alternative, Summary Adjudication Of Issues. Plaintiff appeared through  
11 his counsel of record, Sheri L. Leonard of Henk Leonard. Defendant appeared through its  
12 counsel of record, Katherine C. Huibonhoa of Paul, Hastings, Janofsky & Walker LLP. The  
13 Court, having read and considered the moving and responding papers, and all supporting papers,  
14 and the oral arguments presented, and the matter having been duly heard, granted Defendant’s  
15 Motion and dismissed with prejudice Plaintiff’s claims for: (1) interference under the CFRA, (2)  
16 failure to engage in the interactive process under the FEHA, (3) failure to provide a reasonable  
17 accommodation under the FEHA, (4) wrongful demotion in violation of public policy, and (5)  
18 punitive damages. (*See* Docket No. 75.)

19 The Court denied Defendant’s Motion as to Plaintiff’s claims for: (1) retaliation under the  
20 CFRA, and (2) retaliation under the FEHA. (*See* Docket No. 75.)

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22 **II. JURY TRIAL**

23 A jury trial in this matter on the remaining causes of action — Plaintiff’s claims for  
24 retaliation under the CFRA and the FEHA — commenced on May 24, 2010. Plaintiff appeared  
25 through his counsel of record, Robert P. Henk and Sheri L. Leonard of Henk Leonard. Defendant  
26 appeared through its counsel of record, E. Jeffrey Grube and Gregory W. Dalton of Paul,  
27 Hastings, Janofsky & Walker LLP.  
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1           A.     Motion For Judgment As A Matter Of Law (Rule 50) At Close Of Plaintiff's Case

2           On May 27, 2010, at the close of Plaintiff's case-in-chief, Defendant moved under Federal  
3 Rule of Civil Procedure 50 for judgment as a matter of law on Plaintiff's claims for retaliation  
4 under the CFRA and the FEHA, as well as on Plaintiff's claims for emotional-distress damages  
5 and front pay. The Court denied without prejudice Defendant's Motion as to Plaintiff's claims  
6 for retaliation and emotional-distress damages, but granted Defendant's Motion as to Plaintiff's  
7 claim for front pay.

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9           B.     Jury Verdict

10          On May 28, 2010, a jury of eight individuals returned a verdict on Plaintiff's claims for  
11 retaliation under the CFRA and the FEHA as follows:

12                 Did Plaintiff Larry Walther prove by a preponderance of the evidence that United  
13 Parcel Service, Inc. ("UPS") took an adverse employment action against him  
14 because he requested a medical leave of absence for toe surgery in 2007?

15                         \_\_\_\_\_ Yes                           X   No

16          (See Docket No. 140.) The parties stipulated that this special verdict question resolved both of  
17 Plaintiff's remaining legal claims — retaliation under the CFRA and retaliation under the FEHA.

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19         **III. JUDGMENT**

20          Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED and DECREED:

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22                 1.       That judgment is entered in favor of Defendant and against Plaintiff on all  
23 claims for relief asserted in the complaint;

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25                 2.       That Plaintiff shall take nothing on the complaint; and

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27                 3.       That Defendant shall recover its costs in an amount to be taxed by the  
28 Clerk pursuant to Federal Rule of Civil Procedure 54 and Local Rule 292.

1 IT IS SO ORDERED.

2 DATED: June 1, 2010

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4 / s/ John A. Mendez  
HON. JOHN A MENDEZ  
5 Judge, United States District Court

6 Presented by:

7 PAUL, HASTINGS, JANOFSKY & WALKER LLP

8  
9 By: s/ Gregory W. Dalton  
Greggory W. Dalton  
10 Attorneys for Defendant United Parcel Service, Inc.

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