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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LARRY WALTHER,)	Case No.S:09-CV-00494 JAM-KJM
)	
Plaintiff,)	<u>PRETRIAL CONFERENCE ORDER</u>
)	
v.)	
)	
UNITED PARCEL SERVICE, INC., and)	
DOES 1 through 20, inclusive,)	
)	
Defendants.)	

Walther v. United Parcel Service, Inc.

Doc. 82

Pursuant to court order, a Pretrial Conference was held on April 16, 2010 before Judge John Mendez. Sheri L. Leonard and Robert P. Henk appeared as counsel for plaintiff; Gregory W. Dalton and E. Jeffrey Grube appeared as counsel for defendant. After hearing, the court makes the following findings and orders:

I. JURISDICTION/VENUE

Jurisdiction is predicated upon 28 U.S.C. section 1332, and has previously been found to be proper by order of this court, as has venue. Those orders are confirmed.

II. JURY/NON-JURY

Plaintiff has demanded a jury trial of all issues.

1 III. STATEMENT TO BE READ TO JURY

2 Seven (7) days prior to trial the parties shall E-file a joint
3 statement of the case that may be read to the jury at the beginning
4 of jury selection.

5 IV. UNDISPUTED FACTS

6 The following facts are admitted by the parties and require no
7 proof:

- 8 1. UPS operates a package delivery business.
- 9 2. On February 28, 1990, UPS hired Walther to work as a
10 package car driver in the Sacramento Valley District.
- 11 3. The Sacramento Valley District encompassed the
12 geographical area from Stockton, California, to the Oregon border,
13 and all of northern Nevada.
- 14 4. On January 17, 1991, UPS promoted Walther into management
15 - as a full-time supervisor.
- 16 5. On August 1, 2000, UPS promoted Walther to manager.
- 17 6. In April 2007, UPS assigned Walther to manage the Local
18 Sort operations at UPS's Stockton, California location, under the
19 supervision of Package Division Manager, Matt Echeveria.
- 20 7. On July 5, 2007, Walther met with Echeveria at UPS's West
21 Sacramento Center at approximately 1:00 p.m.
- 22 8. After Walther left the July 5, 2007, meeting, Walther did
23 not return to work that day.
- 24 9. Walther did not report to work on July 6, 2007.
- 25 10. Walther's doctor cleared him to return to work without
26 restrictions on July 6, 2007.
- 27 11. Walther was scheduled for and took vacation from July 9,
28 2007, through July 13, 2007.

1 4. Whether Walther's managers visited the Stockton Local
2 Sort to expedite operational improvements in June 2007.²

3 5. Whether Walther and Echeveria met on July 2, 2007, to
4 discuss the most recent staff visit to the Stockton Local Sort.³

5 6. Why Echeveria called a meeting with Walther on July 5,
6 2007.

7 7. What was said between Walther and Echeveria during and
8 after their meeting on July 5, 2007.

9 8. What Walther did, and why he did it, after leaving the
10 meeting with Echeveria on July 5, 2007.

11 9. Whether Walther's managers demoted Walther because
12 Walther informed his managers of his need for a leave of absence
13 for foot surgery.

14 10. Whether UPS had legitimate non-retaliatory reasons for
15 demoting Walther.

16 11. Whether Echeveria was a decisionmaker in the decision to
17 demote Walther.⁴

18 12. Whether UPS would have demoted Walther solely for failing
19 to report to work on July 6, 2007, for using profanity toward his
20 manager, and/or for refusing to follow his manager's instructions.

21 13. The nature and extent of harm, if any, that Walther
22 suffered from UPS's alleged wrongful conduct.

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26 ² Defendant UPS again believes this issue of fact is undisputed by
the parties. (See Walther Dep. 384:6-16, 386:4-9, 386:17-387:1,
387:9-20.)

27 ³ Defendant UPS again believes this issue of fact is undisputed by
the parties. (See Walther Dep. 399:24-401:2.)

28 ⁴ Plaintiff believes this issue of fact is undisputed by the
parties. (See Ray Dep. 34:13-20; Asgeirsson Dep. 167:18-22.)

1 VI. DISPUTED EVIDENTIARY ISSUES

2 Defendant UPS objects to the evidence and exhibits to be
3 offered by Plaintiff. These objections shall be filed separately
4 and in accordance with Section XI of this Pretrial Order.

5 VII. RELIEF SOUGHT

6 Plaintiff seeks damages consisting of: (1) lost back wages
7 and benefits; (2) lost future wages and benefits; (3) emotional
8 distress; (4) attorneys' fees and costs; and (5) any other further
9 relief the Court deems just and proper.

10 Defendant UPS reserves its right to seek attorneys' fees
11 pursuant to Cal. Gov't Code § 12965(b). See also *Christiansburg*
12 *Garment Co. v. EEOC*, 434 U.S. 412, 421-22 (1978).

13 VIII. POINTS OF LAW

14 Trial briefs shall be E-filed with the court no later than
15 seven (7) days prior to the date of trial, i.e., May 17, 2010. Any
16 points of law not previously argued to the Court should be briefed
17 in the trial briefs.

18 IX. ABANDONED ISSUES

19 The parties are not aware of any abandoned issues in this
20 case.

21 X. WITNESSES

22 Plaintiff's witness list is attached to this Pretrial
23 Conference Order as Exhibit A.

24 Defendant's witness list is attached to this Pretrial
25 Conference Order as Exhibit B.

26 Each party may call a witness designated by the other.

27 A. No other witnesses will be permitted to testify unless:

28 (1) The party offering the witness demonstrates that the

1 witness is for the purpose of rebutting evidence which could not be
2 reasonably anticipated at the Pretrial Conference, or

3 (2) The witness was discovered after the Pretrial
4 Conference and the proffering party makes the showing required in
5 "B" below.

6 B. Upon the post-Pretrial discovery of witnesses, the
7 attorney shall promptly inform the court and opposing parties of
8 the existence of the unlisted witnesses so that the court may
9 consider at trial whether the witnesses shall be permitted to
10 testify. The evidence will not be permitted unless:

11 (1) The witnesses could not reasonably have been
12 discovered prior to Pretrial;

13 (2) The court and opposing counsel were promptly
14 notified upon discovery of the witnesses;

15 (3) If time permitted, counsel proffered the witnesses
16 for deposition;

17 (4) If time did not permit, a reasonable summary of the
18 witnesses' testimony was provided opposing counsel.

19 XI. EXHIBITS, SCHEDULES AND SUMMARIES

20 Plaintiff's Exhibit List is attached to this Pretrial
21 Conference Order as Exhibit C.

22 Defendant's Exhibit List is attached to this Pretrial
23 Conference Order as Exhibit D.

24 Each party may use an exhibit designated by the other.

25 A. No other exhibits will be permitted to be introduced
26 unless:

27 (1) The party proffering the exhibit demonstrates that
28 the exhibit is for the purpose of rebutting evidence which could

1 not be reasonably anticipated at the Pretrial Conference, or

2 (2) The exhibit was discovered after the Pretrial
3 Conference and the proffering party makes the showing required in
4 paragraph "B," below.

5 B. Upon the post-Pretrial discovery of exhibits, the
6 attorneys shall promptly inform the court and opposing counsel of
7 the existence of such exhibits so that the court may consider at
8 trial their admissibility. The exhibits will not be received
9 unless the proffering party demonstrates:

10 (1) The exhibits could not reasonably have been
11 discovered prior to Pretrial;

12 (2) The court and counsel were promptly informed of
13 their existence;

14 (3) Counsel forwarded a copy of the exhibit(s) (if
15 physically possible) to opposing counsel. If the exhibit(s) may
16 not be copied, the proffering counsel must show that he has made
17 the exhibit(s) reasonably available for inspection by opposing
18 counsel.

19 As to each exhibit, each party is ordered to exchange copies
20 of the exhibit not later than fourteen (14) days before trial.
21 Each party is then granted five (5) days to file and serve
22 objections to any of the exhibits. In making the objection, the
23 party is to set forth the grounds for the objection. The parties
24 shall pre-mark their respective exhibits in accord with the Court's
25 Pretrial Order. Exhibit stickers may be obtained through the
26 Clerk's Office. An original and one (1) copy of the exhibits shall
27 be presented to Harry Vine, Deputy Courtroom Clerk, at 8:30 a.m. on
28 the date set for trial or at such earlier time as may be agreed

1 upon. Mr. Vine can be contacted at (916) 930-4091 or via e-mail
2 at: hvine@caed.uscourts.gov. As to each exhibit which is not
3 objected to, it shall be marked and may be received into evidence
4 on motion and will require no further foundation. Each exhibit
5 which is objected to will be marked for identification only.

6 XII. DISCOVERY DOCUMENTS

7 None at issue.

8 XIII. FURTHER DISCOVERY OR MOTIONS

9 Pursuant to the court's Status Conference Order, all discovery
10 and law and motion was to have been conducted so as to be completed
11 as of the date of the Pretrial Conference. That order is
12 confirmed. The parties are free to do anything they desire
13 pursuant to informal agreement. However, any such agreement will
14 not be enforceable in this court.

15 XIV. STIPULATIONS

16 None at this time.

17 XV. AMENDMENTS/DISMISSALS

18 Not applicable.

19 XVI. FURTHER TRIAL PREPARATION

20 A. Counsel are directed to Local Rule 285 regarding the
21 contents of trial briefs. Such briefs should be E-filed seven (7)
22 days prior to trial, i.e., May 17, 2010.

23 B. Counsel are further directed to confer and to attempt to
24 agree upon a joint set of jury instructions. The joint set of
25 instructions shall be lodged via ECF with the court clerk seven (7)
26 calendar days prior to the date of the trial, i.e., May 17, 2010,
27 and shall be identified as the "Jury Instructions Without
28 Objection." As to instructions as to which there is dispute the

1 parties shall submit the instruction(s) via ECF as its package of
2 proposed jury instructions three days before trial, i.e., May 21,
3 2010. This package of proposed instructions should not include the
4 "Jury Instructions Without Objection" and should be clearly
5 identified as "Disputed Objections" on the proposed instructions.

6 The parties shall e-mail a set of all proposed jury
7 instructions in word or wpd format to the Court's Judicial
8 Assistant, Jane Pratt, at: jpratt@caed.uscourts.gov.

9 C. It is the duty of counsel to ensure that any deposition
10 which is to be used at trial has been lodged with the Clerk of the
11 Court pursuant to Local Rule 133(4)(j). The depositions shall be
12 lodged with the court clerk seven (7) calendar days prior to the
13 date of the trial. Counsel are cautioned that a failure to
14 discharge this duty may result in the court precluding use of the
15 deposition or imposition of such other sanctions as the court deems
16 appropriate.

17 D. The parties are ordered to E-file with the court and
18 exchange between themselves not later than one (1) week before the
19 trial a statement designating portions of depositions intended to
20 be offered or read into evidence (except for portions to be used
21 only for impeachment or rebuttal).

22 E. The parties are ordered to E-file with the court and
23 exchange between themselves not later than one (1) week before
24 trial the portions of Answers to Interrogatories which the
25 respective parties intend to offer or read into evidence at the
26 trial (except portions to be used only for impeachment or
27 rebuttal).

28 F. Each party may submit proposed voir dire questions the

1 party would like the court to put to prospective jurors during jury
2 selection. Proposed voir dire should be submitted via ECF one (1)
3 week prior to trial.

4 G. In limine motions shall be E-filed separately at least ten
5 (10) days prior to trial, i.e., May 14, 2010. Opposition briefs
6 shall be E-filed five (5) days prior to trial, i.e., May 19, 2010.
7 No reply briefs may be filed.

8 XVII. SETTLEMENT NEGOTIATIONS

9 No formal settlement conference will be scheduled.

10 XVIII. AGREED STATEMENTS

11 See paragraph III, *supra*.

12 XIX. SEPARATE TRIAL OF ISSUES

13 The parties agree that no separate trial of issues is
14 necessary.

15 XX. IMPARTIAL EXPERTS/LIMITATION OF EXPERTS

16 Defendant UPS disclosed no experts. Plaintiff disclosed Dr.
17 Scott Cannon and Dr. Daniel Fields as experts. The parties do not
18 anticipate that appointment by the Court of impartial expert
19 witnesses or limitation on the number of expert witnesses is
20 necessary.

21 XXI. ATTORNEYS' FEES

22 The matter of the award of attorneys' fees to prevailing
23 parties pursuant to statute will be handled by motion in accordance
24 with Local Rule 293.

25 XXII. MISCELLANEOUS

26 None.

27 XXIII. ESTIMATE OF TRIAL TIME/TRIAL DATE

28 The parties estimate four (4) to five (5) court days for

1 trial. Trial will commence on May 24, 2010, at 9:00 a.m.

2 Counsel are to call Harry Vine, Courtroom Deputy, at
3 (916) 930-4091, one week prior to trial to ascertain the status of
4 the trial date.

5 XXIV. OBJECTIONS TO PRETRIAL ORDER

6 Each party is granted seven (7) days from the date of this
7 Pretrial Order to object to it via ECF.

8 IT IS SO ORDERED.

9 DATED: April 16, 2010.

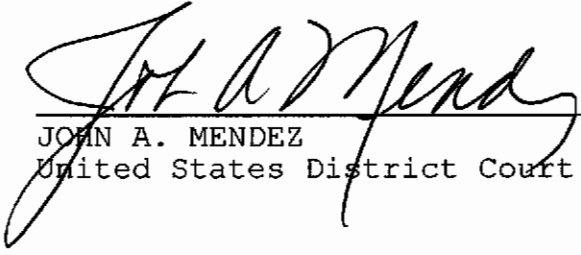
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11 _____
12 JOHN A. MENDEZ
13 United States District Court Judge
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EXHIBIT A

1 Robert P. Henk (147490)
2 Sheri L. Leonard (173544)

3 **HENKLEONARD**
4 **A Professional Law Corporation**
5 2260 Douglas Blvd, Suite 200
6 Roseville, CA 95661
7 Telephone: (916) 787-4544
8 Fax: (916) 787-4530

9 Attorneys for Plaintiff,
10 **LARRY WALTHER**

11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

13	LARRY WALTHER,)	Case No.: 2:09-CV-00494-JAM-KJM
14	Plaintiff,)	
15	vs.)	PLAINTIFF, LARRY WALTHER'S
16	UNITED PARCEL SERVICE, INC. and)	WITNESS LIST
17	DOES 1 through 20, inclusive,)	
18	Defendants.)	
19)	

20 Plaintiff, LARRY WALTHER, hereby submits the following list of witnesses that are
21 to be called at trial:

- 22 1. Larry Walther. Plaintiff.
- 23 2. Heidi Walther. Plaintiff's wife, and someone who has knowledge of his
24 emotional distress and of various actions taken.
- 25 3. Matt Echeveria. Plaintiff's immediate supervisor, and one of the decision-
26 makers regarding the adverse employment action.
- 27 4. Otto Aseirsson. District Operations Manager, and one of the decision-makers
28 regarding the adverse employment action.

EXHIBIT A

1 5. Dennis Ray. District Human Resources Manager, and one of the decision-
2 makers regarding the adverse employment action.

3 6. Margie Hernandez-Woidtke. Occupational Health Supervisor, and person with
4 knowledge of Plaintiff's medical conditions and leave requests, as well as various
5 FMLA/FEHA policies and procedures.

6 7. George Gibbs. Employee Relations Manager. Conducted facilitation
7 investigation into Plaintiff's claims of adverse treatment.

8 8. Paul Lerma. Business Manager. Plaintiff's coworker, and someone who had
9 similar responsibility for the Local Sort, but was treated in a different manner than Plaintiff.

10 9. Laura Brown. Employee Relations Manager, and someone who has knowledge
11 of policies, procedures and practices of UPS and UPS' response to Plaintiff's claims of adverse
12 employment action.

13 10. Dr. Dr. Scott Cannon, MD. One of Plaintiff's treating physicians.

14 11. Dr. Daniel Fields, MD. One of Plaintiff's treating physicians.

17 Dated: April 7, 2010

HENK LEONARD
A Professional Law Corporation

/s/SHERI L. LEONARD
SHERI L. LEONARD
Attorneys for Plaintiff,
LARRY WALTHER

EXHIBIT B

11 PAUL, HASTINGS, JANOFSKY & WALKER LLP
E. JEFFREY GRUBE (SB# 167324)
12 jeffgrube@paulhastings.com
AMY C. HIRSH (SB# 246533)
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GREGGORY W. DALTON (SB# 252000)
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San Francisco, CA 94105-3441
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17 Facsimile: (415) 856-7100

18 Attorneys for Defendant
19 UNITED PARCEL SERVICE, INC.

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 SACRAMENTO DIVISION

13
14 LARRY WALTHER,
15
16 Plaintiff,
17
18 vs.
19 UNITED PARCEL SERVICE, INC. and
DOES 1 through 20, inclusive,
20 Defendants.

CASE NO. 2:09-CV-00494-JAM-KJM
(Sacramento County Superior Court
Case No. 34-2008-00019192-CU-OE-GDS)

**DEFENDANT UNITED PARCEL
SERVICE, INC.'S WITNESS LIST**

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10. **Steve Osgood.** Current Security Manager. He may be contacted through
counsel for UPS.

11. **Larry Walther.** Plaintiff.

DATED: April 9, 2010

E. JEFFREY GRUBE
AMY C. HIRSH
GREGGORY W. DALTON
PAUL, HASTINGS, JANOFSKY & WALKER LLP

By: /s/ *Greggory W. Dalton*
Greggory W. Dalton

Attorneys for Defendant
UNITED PARCEL SERVICE, INC.

EXHIBIT C

1 Robert P. Henk (147490)
2 Sheri L. Leonard (173544)

3 **HENKLEONARD**
4 **A Professional Law Corporation**
2260 Douglas Blvd, Suite 200
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6 Fax: (916) 787-4530

7 Attorneys for Plaintiff,
8 **LARRY WALTHER**

9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 **LARRY WALTHER,**) **Case No.: 2:09-CV-00494-JAM-KJM**
12)
13 Plaintiff,)
14)
14 vs.) **PLAINTIFF, LARRY WALTHER'S**
15) **EXHIBIT LIST**
15 **UNITED PARCEL SERVICE, INC. and**)
16 **DOES 1 through 20, inclusive,**)
17)
17 Defendants.)
18)
19)
19)

20 Plaintiff, LARRY WALTHER, hereby submits the following list of Exhibits that are to
21 be used at trial.

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>
1.	Documents from Plaintiff's Personnel File showing history and performance review while employed
2.	UPS Flexible Benefits Plan
3.	UPS Family and Medical Leave Compliance Manual
4.	Memo from Ray to Martin re MIP Exception – Walther

EXHIBIT C

- 1 5. Job position statement – Feeder Management
- 2 6. Job position statement – Operations Supervisor
- 3 7. Memo dated 9-28-07 from Ray to Tichenor
- 4 8. Memo dated 7-16-07 from Dugan to File
- 5 9. Memo dated 7-5-07 from Echeveria re Walther
- 6 10. Handwritten notes dated 6-28-07
- 7 11. Handwritten notes dated 7-5-07
- 8 12. Letter from Dr. Fields re Walther dated 7-18-07
- 9 13. UPS’ ADA Procedural Compliance Manual
- 10 14. UPS’ Overview of ADA/Management Guide
- 11 15. Policy Book
- 12 16. Leading with Integrity
- 13 17. Handwritten notes re facilitation
- 14 18. Memo dated 3-29-08 from Gibbs re facilitation
- 15 19. Mgmt and Specialist Vacation & Disc. Day Planning
- 16 20. Memo dated 12-11-00 re Discretionary Days
- 17 21. Doc re MIP Program
- 18 22. Doc re MIP Program
- 19 23. UPS Managers MIP Eligibility for 2006
- 20 24. UPS MIP Eligibility for 2008
- 21 25. Sacramento Valley Dist. 2008 Compensation Plan
- 22 26. ADA Updated 1-8-08
- 23 27. Disability Update from Aetna dated 12-20-07
- 24 28. Memo from Brumley dated 11-12-07 re Disability Update
- 25 29. Memo from Tichenor to Wrench dated 10-2-07 re 2007 MIP
- 26 Clarification Worksheet
- 27 30. Memo from Gibbs dated 3-27-08 re Echeveria Interview
- 28 31. Memo from Haskell to Ray dated 1-9-08
- 29 32. 2007 IBP Perspective

EXHIBIT C

- 1 33. RCR Audit cover pages
- 2 34. RCR Audit
- 3 35. Balance Score Card re Stockton
- 4 36. 2007 SEAS Report
- 5 37. 2006 SEAS Report
- 6 38. 2007 Balance Score Card elements
- 7 39. Focus Group Meeting Notes
- 8 40. Email from Echeveria to Walther dated 5-9-07
- 9 41. Dr. Cannon's Medical File
- 10 42. Dr. Taylor's Medical File
- 11 43. Dr. Fields' Medical File
- 12 44. Letter dated 2-20-08 from Dugan to Walther
- 13 45. Job Assignment Time Line
- 14 46. MIP Award Statement – 12/08
- 15 47. MIP Prospectus dated 10-1-07

16
17
18 Dated: April 7, 2010

HENK LEONARD
A Professional Law Corporation

/s/SHERI L. LEONARD

SHERI L. LEONARD

Attorneys for Plaintiff,

LARRY WALTHER

EXHIBIT D

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23 Attorneys for Defendant
24 UNITED PARCEL SERVICE, INC.

25 UNITED STATES DISTRICT COURT
26 EASTERN DISTRICT OF CALIFORNIA
27 SACRAMENTO DIVISION

28 LARRY WALTHER,
29 Plaintiff,
30 vs.
31 UNITED PARCEL SERVICE, INC. and
32 DOES 1 through 20, inclusive,
33 Defendants.

CASE NO. 2:09-CV-00494-JAM-KJM

(Sacramento County Superior Court
Case No. 34-2008-00019192-CU-OE-GDS)

**DEFENDANT UNITED PARCEL
SERVICE, INC.'S AMENDED EXHIBIT
LIST RE: JOINT PRETRIAL
STATEMENT**

EXHIBIT D

11 Defendant United Parcel Service, Inc. ("UPS") plans to offer the following
12 exhibits into evidence at trial:

Exh.	Title	Date	Bates Range
A.	Employee History Profile	Undated	D-000049-000057
B.	UPS Policy Book	March 2001	D-001830-001894
C.	UPS Code of Business Conduct	Undated	D-001798-001829
D.	Walther Agreement and Policy Acknowledgement	8/10/07	D-000019
E.	Walther Career Development Meeting Profile	Undated	D-000980
F.	Walther 2006 QPR	1/1/06-12/31/06	D-001036-001067
G.	Sac Day Shift Part-Time Supervisor Focus Group Meeting	01/17/07	D-004736-004737
H.	Email: re International not Origin Processed	06/04/07	D-005117
I.	Stockton Air Recovery Point Audit 2007	06/08/07	D-005137
J.	Email re: Larry Vacation	06/24/07	D-005126
K.	UPS Internal Audit Regulatory Compliance Review	06/18/07	D-002355-002377
L.	9520 RCR Audit	06/18/07	D-013761-013873
M.	Facility Audit Summary Report for District 85	01/01/07 – 12/31/07	D-006378-006379
N.	Email: FW: July 4th Lockdown	07/03/07	D-005129-005130
O.	Email RE: Stockton RCR Audit Results	07/03/07	D-005131
P.	Email RE: Stockton RCR Audit Results	07/03/07	D-005132
Q.	Email RE: Stockton RCR Audit Results	07/03/07	D-005223
R.	Email RE: Stockton Holiday Audit	07/04/07	D-005224
S.	Email re: Stockton Holiday Audit	07/05/07	D-005133
T.	"Operations Report" with Handwritten Notes	Undated	P-0043

1	U.	Action Plans: Stockton Center 2nd Quarter	Undated	LW-0226-0228
2	V.	Action Plans: Stockton Center June 2007	Undated	LW-0229-0233
3	W.	Action Plans: Stockton Center 2nd Quarter	Undated	LW-0234-0239
4	X.	Handwritten Notes	07/10/07	P-0050
5	Y.	Email: FW: 2008 Merit Increases Prorated - LOA	03/07/08	D-005215
6	Z.	Memo RE: MIP Exception—Larry Walther	09/28/07	D-000059
7	AA.	2007 MIP Prospectus	10/1/07	D-001778-001788
8	BB.	MIP Award Statement 2008	12/08	LW-0218
9	CC.	2008 MIP Eligibility Memorandum	Undated	D-001689-001695
10	DD.	2008 MIP Prospectus	10/1/08	D000492-000504
11	EE.	Doctor Notes	12/4/06	P-0285-0286
12	FF.	Doctor Notes	04/29/05, 04/6/05	P-0319-0321
13	GG.	Doctor Notes	04/19/06, 03/27/06, 3/21/06	P-0300-0305
14	HH.	Sutter Medical Foundation Letter	07/18/07	P-0267
15	II.	Doctor Notes	07/20/07	P-0263-0264
16	JJ.	Sutter Medical Foundation Letter	07/24/07	P-0216

21 DATED: April 12, 2010

22 E. JEFFREY GRUBE
 23 AMY C. HIRSH
 GREGGORY W. DALTON
 PAUL, HASTINGS, JANOFSKY & WALKER LLP

24
 25 By: /s/ Gregory W. Dalton
 GREGGORY W. DALTON

26 Attorneys for Defendant
 27 UNITED PARCEL SERVICE, INC.