

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BEN LOPEZ,

No. C 08-5396 SI

Plaintiff,

SPECIAL VERDICT

v.

UNITED PARCEL SERVICE, INC.,

Defendant.

_____ /

We, the jury in the above entitled case, find the following on the questions put to us:

United States District Court
For the Northern District of California

1 **Question 4:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
2 by a preponderance of the evidence, that UPS failed to provide him meal breaks during the time he
3 performed his job as Hub Supervisor?

4 YES _____ NO _____

5
6 If your answer to Question 4 was “No,” do not answer the next question; instead, skip down to Question
7 6. If your answer to Question 4 was “Yes,” please answer the next questions.

8
9 **Question 5:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
10 preponderance of the evidence, is owed to him for the meal breaks UPS failed to provide during the time
11 he worked as Hub Supervisor?

12 \$ _____

13
14 **Question 6:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
15 by a preponderance of the evidence, that UPS failed to authorize and permit him rest breaks during the
16 time he performed his job as Hub Supervisor?

17 YES _____ NO _____

18
19 If your answer to Question 6 was “No,” do not answer the next question; instead, skip down to Question
20 8. If your answer to Question 6 was “Yes,” please answer the next question.

21
22 **Question 7:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
23 preponderance of the evidence, is owed to him for the rest breaks UPS failed to authorize and permit
24 during the time he worked as Hub Supervisor?

25
26 \$ _____

27
28 Please answer the next question.

1 **SECTION II – PRELOAD SUPERVISOR**

2 Plaintiff was a Preload Supervisor with UPS on the following dates:

3 August 1, 2006 through October 22, 2006

4
5 **Question 8:** Did UPS prove, in accordance with the instructions provided to you and by a
6 preponderance of the evidence, that in performing his job as Preload Supervisor, plaintiff Ben Lopez
7 was an exempt employee under either the executive exemption or the administrative exemption?

8 YES _____ NO _____

9
10 If your answer to Question 8 was “Yes,” do not answer the next questions; instead, skip down to
11 Question 15. If your answer to Question 8 was “No,” please answer the next question.

12
13 **Question 9:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
14 by a preponderance of the evidence, that he worked overtime hours during the time he performed his
15 job as Preload Supervisor?

16 YES _____ NO _____

17
18 If your answer to Question 9 was “No,” do not answer the next question; instead, skip down to Question
19 11. If your answer to Question 9 was “Yes,” please answer the next questions.

20
21 **Question 10:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
22 preponderance of the evidence, is owed to him for unpaid overtime for the days he worked as Preload
23 Supervisor?

24 \$ _____

1 **Question 11:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
2 by a preponderance of the evidence, that UPS failed to provide him meal breaks during the time he
3 performed his job as Preload Supervisor?

4 YES _____ NO _____

5
6 If your answer to Question 11 was “No,” do not answer the next question; instead, skip down to
7 Question 13. If your answer to Question 11 was “Yes,” please answer the next questions.

8
9 **Question 12:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
10 preponderance of the evidence, is owed to him for the meal breaks UPS failed to provide during the time
11 he worked as Preload Supervisor?

12 \$_____

13
14 **Question 13:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
15 by a preponderance of the evidence, that UPS failed to authorize and permit him rest breaks during the
16 time he performed his job as Preload Supervisor?

17 YES _____ NO _____

18 If your answer to Question 13 was “No,” do not answer the next question; instead, skip down to
19 Question 15. If your answer to Question 13 was “Yes,” please answer the next question.

20
21 **Question 14:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
22 preponderance of the evidence, is owed to him for the rest breaks UPS failed to authorize and permit
23 during the time he worked as Preload Supervisor?

24
25 \$_____

26
27
28 Please answer the next question.

1 **SECTION III – TRAINING AND RETENTION SUPERVISOR**

2 Plaintiff was a Training and Retention Supervisor with UPS on the following dates:

3 February 1, 2008 through June 1, 2008

4
5 **Question 15:** Did UPS prove, in accordance with the instructions provided to you and by a
6 preponderance of the evidence, that in performing his job as Training and Retention Supervisor, plaintiff
7 Ben Lopez was an exempt employee under either the executive exemption or the administrative
8 exemption?

9 YES _____ NO _____

10
11 If your answer to Question 15 was “Yes,” do not answer the next questions; instead, skip down to
12 Question 22. If your answer to Question 15 was “No,” please answer the next question.

13
14 **Question 16:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
15 by a preponderance of the evidence, that he worked overtime hours during the time he performed his
16 job as Training and Retention Supervisor?

17 YES _____ NO _____

18 If your answer to Question 16 was “No,” do not answer the next question; instead, skip down to
19 Question 18. If your answer to Question 16 was “Yes,” please answer the next questions.

20
21 **Question 17:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
22 preponderance of the evidence, is owed to him for unpaid overtime for the days he worked as Training
23 and Retention Supervisor?

24
25 \$ _____

1 **Question 18:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
2 by a preponderance of the evidence, that UPS failed to provide him meal breaks during the time he
3 performed his job as Training and Retention Supervisor?

4 YES _____ NO _____

5
6 If your answer to Question 18 was “No,” do not answer the next question; instead, skip down to
7 Question 20. If your answer to Question 18 was “Yes,” please answer the next questions.

8
9 **Question 19:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
10 preponderance of the evidence, is owed to him for the meal breaks UPS failed to provide during the time
11 he worked as Training and Retention Supervisor?

12 \$ _____

13
14 **Question 20:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
15 by a preponderance of the evidence, that UPS failed to authorize and permit him rest breaks during the
16 time he performed his job as Training and Retention Supervisor?

17 YES _____ NO _____

18
19 If your answer to Question 20 was “No,” do not answer the next question; instead, skip down to
20 Question 22. If your answer to Question 20 was “Yes,” please answer the next questions.

21
22 **Question 21:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
23 preponderance of the evidence, is owed to him for the rest breaks UPS failed to authorize and permit
24 during the time he worked as Training and Retention Supervisor?

25 \$ _____

26
27 Please answer the next question.
28

1 **SECTION IV – ON ROAD SUPERVISOR**

2 Plaintiff was an On Road Supervisor with UPS on the following dates:

- 3 May 13, 2004 through October 8, 2004
4 August 1, 2005 through December 31, 2005
5 June 2, 2008 through June 24, 2008

6 **Question 22:** Did UPS prove, in accordance with the instructions provided to you and by a
7 preponderance of the evidence, that in performing his job as On Road Supervisor, plaintiff Ben Lopez
8 was an exempt employee under either the executive exemption or the administrative exemption?

9 YES _____ NO _____

10 If your answer to Question 22 was “Yes,” do not answer the next questions; instead, go to the end of
11 the verdict form, and date and sign it. If your answer to Question 22 was “No,” please answer the next
12 question.

13 **Question 23:** Did UPS prove, in accordance with the instructions provided to you and by a
14 preponderance of the evidence, that in performing his job as On Road Supervisor, plaintiff Ben Lopez
15 was an exempt employee under the Motor Carrier Act exemption?

16 YES _____ NO _____

17 If your answer to Question 23 was “Yes,” do not answer the next questions; instead, skip down to
18 Question 26. If your answer to Question 23 was “No,” please answer the next question.

19
20 **Question 24:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
21 by a preponderance of the evidence, that he worked overtime hours during the time he performed his
22 job as On Road Supervisor?

23 YES _____ NO _____

24
25 If your answer to Question 24 was “No,” do not answer the next question; instead, skip down to
26 Question 26. If your answer to Question 24 was “Yes,” please answer the next questions.

26
27
28

1 **Question 25:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
2 preponderance of the evidence, is owed to him for unpaid overtime for the days he worked as On Road
3 Supervisor?

4

5

\$ _____

6

7 **Question 26:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
8 by a preponderance of the evidence, that UPS failed to provide him meal breaks during the time he
9 performed his job as On Road Supervisor?

10

YES _____ NO _____

11

12 If your answer to Question 26 was “No,” do not answer the next question; instead, skip down to
13 Question 28. If your answer to Question 26 was “Yes,” please answer the next questions.

13

14

15 **Question 27:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
16 preponderance of the evidence, is owed to him for the meal breaks UPS failed to provide during the time
17 he worked as On Road Supervisor?

18

\$ _____

19

20 **Question 28:** Did plaintiff Ben Lopez prove, in accordance with the instructions provided to you and
21 by a preponderance of the evidence, that UPS failed to authorize and permit him rest breaks during the
22 time he performed his job as On Road Supervisor?

23

YES _____ NO _____

24

25 If your answer to Question 28 was “No,” do not answer the next question; instead, go to the end of the
26 verdict form, and date and sign it. If your answer to Question 28 was “Yes,” please answer the next
27 question.

26

27

28

1 **Question 29:** What amount of money, including interest, did plaintiff Ben Lopez prove, by a
2 preponderance of the evidence, is owed to him for the rest breaks UPS failed to authorize and permit
3 during the time he worked as On Road Supervisor?

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

\$ _____

Dated:

FOREPERSON