

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES CORNN, ERIC DUVOE, KIM
MARCHANT, individually, and on behalf of all
other similarly situated current and former
employees of UPS,

Plaintiffs,

vs.

UNITED PARCEL SERVICE, INC., dba UPS,
an Ohio corporation; JOHN NADDY, an
individual, and DOES 1 through 150, inclusive,

Defendants.

Case No.: C03 2001 TEH

CLASS ACTION

**NOTICE OF PENDENCY OF CLASS
ACTION AGAINST UNITED PARCEL
SERVICE, INC.**

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

TO: All hourly California employees of United Parcel Service, Inc. ("UPS") whose job responsibilities during the period of February 6, 1999 to March 14, 2005 included delivering or moving packages by driving on road ("Class" or "Class Members"). This includes all drivers designated by UPS as Package-Car or Feeder drivers, as well as Combination drivers and Utility drivers whose job responsibilities included those of Package-Car or Feeder drivers.

Please take notice that a class action lawsuit is currently pending against UPS in the United States District Court, Northern District of California ("Court"), alleging that UPS failed to provide you and other Class Members with all required meal periods, failed to authorize and permit third breaks after you worked 10 or more hours in a day, and failed to accurately report all time you have worked during your first meal on your written pay statements. You may be a member of the Class, and your legal rights may be affected by this case.

This class notice describes the class case being pursued against UPS. It also describes your rights as a class member and what you must do to protect them.

The Court authorized this notice. It is not a solicitation from a lawyer.

This notice is not about a lawsuit against you. You are not being sued.

**IF YOU INTEND TO PARTICIPATE IN THIS ACTION YOU NEED NOT
DO ANYTHING AT THIS TIME.**

IF YOU DO NOT WANT TO PARTICIPATE IN THIS ACTION, YOU MUST SEND A LETTER STATING THAT YOU WANT TO BE EXCLUDED. IF YOU DO NOT SEND SUCH A LETTER YOU WILL BE BOUND BY ANY DECISIONS IN THIS CASE WHETHER FAVORABLE OR UNFAVORABLE.

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PART 1: BASIC INFORMATION ABOUT CLASS ACTION LAWSUITS

1. What is a class action lawsuit? Class actions are lawsuits in which the legal claims and rights of many people are decided in a single court proceeding.
2. What is the benefit of having a class action lawsuit? Class actions allow the legal claims of thousands of class members to be resolved in a single case. This avoids the need for thousands of people to file similar individual lawsuits.
3. Who represents the interests of the class? The court appoints “class representatives” and “class counsel” to pursue the legal claims on behalf of the class. Ultimately, however, the court is there to protect the best interests of the class and to make sure that the representation by class counsel is fair and adequate.
4. Who is the judge in this case? The judge assigned to handle this case is the Honorable Thelton E. Henderson, Judge of the United States District Court for the Northern District of California.

PART 2: BASIC INFORMATION ABOUT THIS CASE

A. Case Description:

5. What is this case about? Plaintiffs allege that UPS failed to provide Class Members with meal periods and failed to authorize and permit rest periods under California law. Plaintiffs also allege that UPS failed to accurately report all time you may have worked on your written pay statements.
6. What legal claims are a part of this lawsuit? Plaintiffs presented a number of claims for class certification, some of which were certified by the Court. The Court certified the following legal claims to be included in this class action:
 - a. Whether UPS breached its obligation to provide Class Members with a first meal period under California Labor Code section 512;
 - b. Whether UPS failed to provide a second meal period and third rest period to Class Members who worked more than ten hours a day;
 - c. Whether UPS's "standard lunch deduction" violated California Labor Code section 226;
 - d. Whether one or more of these alleged violations constitute an unfair business practice under California's unfair competition law.

Plaintiffs may file motions for summary judgment to obtain judgments in favor of the class on some of these claims or issues.

7. What time period is covered by this case? The class period defined by the Court is February 6, 1999 to March 14, 2005 for the "standard lunch deduction" and unfair business practices claims (6.c. and 6.d. above). The time period for the meal period and rest period claims (6.a. and 6.b. above) is January 1, 2001 to March 14, 2005.
8. What is UPS's position? UPS denies all alleged wrongdoing and intends to defend against this case. Specifically, UPS contends that it provided the Class Members meal periods and authorized and permitted Class Members to take rest periods as required by law. UPS further contends that it paid Class Members for all time worked. UPS also disputes the time frames for which Class Members may seek recovery under different legal theories and the nature of any recovery. UPS intends to file motions with the Court to dispose of portions or all of this case on summary judgment.

B. Class Definition:

9. How do I know if I am a Class Member? You are a Class Member if you were an hourly California employee of UPS whose job responsibilities during the period February 6, 1999 to March 14, 2005 included delivering or moving packages by driving on road. This includes all drivers designated by UPS as Package-Car or Feeder drivers, as well as Combination drivers and Utility drivers whose job responsibilities included those of Package-Car or Feeder drivers.

10. What if I was employed by UPS as a driver for some but not all of the class period? You are a Class Member if you were a UPS driver (as described directly above) at any time between February 6, 1999 and March 14, 2005.

11. How did you get my name and address? Class counsel obtained your name and address from UPS's records.

C. Representative Plaintiffs:

12. What are "representative" plaintiffs? Representative plaintiffs are the named plaintiffs who bring suit on behalf of all the members of a similarly situated group, without the necessity of each individual Class Member filing his or her own lawsuit.

13. Who are the representative plaintiffs in this case? There are three representative plaintiffs in this case. They are: James Cornn, a package car driver in Oakland, California; Eric Duvoe, a package car and feeder driver in Rocklin, California; and, Kim Marchant, a package car driver in Oakland, California. These individuals have agreed to represent the interests of the class to the best of their ability.

14. What is their role? The representative plaintiffs have been actively involved with the case since it was filed in February 2003. They have assisted class counsel in responding to discovery requests from UPS; had their depositions taken by UPS's lawyers; and submitted sworn statements to help get the case certified as a class action. If this case proceeds to trial, it is likely they will be called to testify.

D. Class Counsel:

15. Who are the lawyers appointed by the Court as class counsel? There are three law firms that will be serving as class counsel. They are:

a. York Law Corporation, 2295 Gateway Oaks Drive, Suite 165, Sacramento, California 95833, (916) 643-2200 (www.yorklawcorp.com);

b. Kershaw, Cutter & Ratinoff, 980 9th Street, 19th Floor, Sacramento, California 95814, (916) 448-9800 (www.kcrlegal.com);

c. Scott Cole & Associates, 1970 Broadway, Suite 950, Oakland, California 94612, (510) 891-9800 (www.scalaw.com).

16. Will I have to pay any part of their legal fees and costs? At no time will you be obligated to pay any litigation expenses or costs of class counsel.

17. How do class counsel get paid? At the conclusion of the litigation, Class Counsel may request fees to be paid out of any recovery obtained for the Class. Alternatively, Class Counsels' fees may be paid for by defendant UPS. Class Counsel will not be paid unless they obtain a monetary award and/or other benefit for the Class. Any legal fees paid to class counsel must be reviewed, approved and awarded by the Court.

PART 3: YOUR OPTIONS AS A CLASS MEMBER

18. Do I have to do anything to be a Class Member? No. The lawsuit will continue to be prosecuted on your behalf, and you will be notified regarding any settlement, trial result, and of all judgments that affect your interests as a Class Member. You should, however, be sure to update Class Counsel if your address changes.
19. What does it mean to stay in the class? If you remain in the class, you will be bound by the results of this lawsuit as to the issues identified in this Notice, whether the results are favorable or unfavorable.
20. Will Class Members receive a monetary award? If you remain in the class, you will have the right to share in any equitable relief or monetary recovery obtained for the class, less the costs of prosecuting the case and any legal fees that the Court may award Class Counsel.
21. If I still work at UPS, can I be fired or disciplined for being a Class Member? No. Consistent with UPS's non-retaliation policy, your participation in this class action will not affect your existing employment relationship with UPS, nor will that ongoing relationship affect your ability to recover damages as a class member.
22. Will I have to actively participate in the case to receive an award? It is possible that the parties will seek information from you. For example, a limited number of Class Members may be interviewed, deposed, or may testify at trial. Class Members may also be asked to complete and mail a "proof of claim" form when the case is concluded.
23. What if I don't want to be a Class Member? You are currently considered a Class Member. You have a choice of staying in the Class or deciding to "opt-out" of the Class. The Court will exclude from the class any person who requests that they be excluded. If you decide to opt-out of the class, you will not be bound by the results of this lawsuit, whether favorable or unfavorable, nor will you share in any recovery obtained for the class. By opting out you will retain any claims against UPS that are subject to this proceeding.
24. How do I "opt-out" of the class? You must send a letter setting forth your name, present address and a simple statement that you wish to be excluded from this lawsuit. Opt-out letters should be sent by first class mail to Kershaw, Cutter & Ratnoff, 980 9th Street, 19th Floor, Sacramento, California 95814.
25. What is the last day to "opt-out" of the class? The last day to opt-out of the class is **April 3, 2006**, 60 days from date of the mailing of this notice. If your letter is not postmarked on or before that date, you will be included in the Class. Late opt-out letters will not be effective.
26. Can I appear in this case or file my own lawsuit? Yes. You can do either. You may choose to have your own attorney represent you in this case by filing an appearance on your behalf, or you may choose to opt-out and file your own separate lawsuit. If you decide to bring an individual lawsuit, you should do so promptly to reduce the risk that

certain defenses will bar that suit.

PART 4: WHAT HAPPENS NEXT?

27. When will the case be over? It is difficult to know how long it will take for this case to conclude. There is, of course, a possibility that the case will settle before trial. However, if it does go all the way to trial it is unlikely to be resolved before the middle of 2006.
28. Will I be notified if something important happens? Yes. You will receive notice from class counsel of any decertification of the class, settlement, voluntary dismissal, compromise, or final judgment if it affects you as a Class Member. You may also receive notice of other significant developments.

PART 5: GETTING MORE INFORMATION?

29. Are there more details about the case? The complete record of all the non-confidential pleadings and papers filed in this case are available for your inspection during regular business hours at the United States District Court, Northern District of California, 450 Golden Gate Ave., Courtroom 12, 19th Floor, San Francisco, CA 94102. For a small fee, you can also obtain copies of documents filed with the Court at <http://pacer.psc.uscourts.gov>. *Please do not write or call the Court or the Clerk of the Court for information.*
30. Who should I contact for more information? If you have any questions you should contact class counsel identified in Paragraph 15 above. Class counsel can also be reached by email at www.paydrivers.com.

Dated: _____

The Honorable Thelton E. Henderson
JUDGE OF THE U.S. DISTRICT COURT