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Attorney for Defendant
UNITED PARCEL SERVICE, INC.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

STEPHEN SIMONI, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

UNITED PARCEL SERVICE, INC. and
DOES 1 through 10, inclusive,

Defendants.

Civil Action No.:

**DEFENDANT
UNITED PARCEL
SERVICE, INC.'S
NOTICE OF
REMOVAL**

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1441, defendant
United Parcel Service, Inc. ("UPS") hereby removes to this Court the state action
described below, which is within the original jurisdiction of this Court and
properly removed under 28 U.S.C. §§ 1332, 1446 and 1453.

TIMELINESS OF REMOVAL, JURISDICTION AND VENUE

1. On or about May 14, 2014, plaintiff Stephen Simoni (“Plaintiff”) filed a purported class action against UPS in the Superior Court of New Jersey, Law Division, Monmouth County, entitled *Stephen Simoni v. United Parcel Service, Inc.*, Docket Number MON-L-01966-2014.

2. UPS received service of the Summons and Complaint no earlier than June 13, 2014. This notice is timely under 28 U.S.C. § 1446(b). Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served upon UPS in the action are attached to this Notice as Exhibit A (the service copy of the Complaint was missing the last two pages but UPS has appended those pages to the Complaint filed under Exhibit A as a courtesy to the Court).

3. This action is within the original jurisdiction of this Court, and removal is therefore proper, under the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d). CAFA grants district courts original jurisdiction over class actions such as this one, in which the matter in controversy exceeds \$5 million and any member of the class of plaintiffs is a citizen of a State different from any defendant.

4. Removal to this Court is proper pursuant to 28 U.S.C. § 1441 because it is the district court of the United States for the district and division within which the original action was pending.

ALLEGATIONS OF THE COMPLAINT

5. This is a putative class action in which Plaintiff alleges that UPS sells shipping boxes that it falsely represents to be a particular size, and then charges higher shipping prices based on dimensions that are larger than represented on the boxes.¹

6. According to the Complaint, Plaintiff purchased a “shipping box branded with UPS insignia and advertised as size 24 inches long by 24 inches wide by 24 inches deep on January 23, 2014 at the UPS Customer Center in Tinton Falls, New Jersey in Monmouth County.” (*Id.* ¶ 10.) Plaintiff alleges that he thereafter packaged the box at his residence in Monmouth County, and arranged for UPS to pick it up for shipment the following day. (*Id.* ¶ 11.) Plaintiff alleges that, on January 23, 2014, he entered the box’s dimensions on UPS’s website as size 24 inches long by 24 inches wide by 24 inches deep, which he claims were the “stated dimensions of the shipping box branded with UPS insignia.” (*Id.*) Plaintiff further alleges that UPS then calculated a shipping charge based on his representation of “the box’s dimensions, shipping distance, etc.,” and charged his

¹ UPS’s charges for delivery services are based on a package’s weight, size and origin-to-destination distance. (Declaration of Joseph B. Maclaverty (“Maclaverty Decl.”) ¶ 2, Ex. A at 16.) Billable weight is the greater of the actual weight of a package or its “dimensional weight,” which reflects package density and is determined based on the package length, width and height, measured in inches at the longest point for each dimension. (*Id.* ¶ 2, 3, Ex. A at 16.)

credit card accordingly. (*Id.* ¶ 12.) Plaintiff alleges that UPS later charged Plaintiff's payment card a "Shipping Charge Correction," after a UPS audit determined that the box actually measured larger than the dimensions Plaintiff had entered. (*Id.* ¶ 13.) According to Plaintiff, UPS "market[s]" boxes "by their interior dimensions" but calculates "shipping charges based on the exterior dimensions of boxes." (*Id.* ¶ 17c.)

7. Plaintiff seeks to represent a putative class comprised of "[a]ll individuals who purchased UPS shipping boxes and/or utilized the UPS-stated dimensions of UPS shipping boxes in New Jersey for entering shipments on UPS's web site and who received boxes that were sized different than the stated dimensions *and/or* were charged for dimensions that exceeded the UPS-stated dimensions," excluding the Court and individuals or entities affiliated with UPS. (*Id.* ¶ 14 (emphasis added).) He alleges that UPS "wrongfully charge[d] Class members by calculating increased shipping charges pursuant to its 'audits' that utilized dimensions for UPS shipping boxes that were *larger than* the actual dimensions of the UPS shipping boxes." (*Id.* ¶ 17a (emphasis in original).) Plaintiff alleges that such class members "most likely" number in the "thousands" and are "geographically dispersed throughout the country." (*Id.* ¶ 15.)

8. On behalf of Plaintiff and the putative class, the Complaint attempts to state four claims for relief: (1) fraud; (2) breach of contract "Re: Box Sales";

(3) violations of the New Jersey Consumer Fraud Act (“NJCFA”), N.J.S.A. 56:8-2.2 *et seq.*; and (4) breach of contract “Re: Delivery Services.” (*Id.* ¶¶ 24-45.) The Complaint seeks unspecified compensatory, consequential, special, and general damages, punitive damages, statutory damages, treble damages, interest, attorneys’ fees and costs, as well as injunctive relief regarding the dimensions designated on shipping boxes and charges to shippers, disgorgement of unjust enrichment and profits. (*Id.* at 8.) The Complaint *does not* allege that the class is entitled to recover less than \$5 million.

BASIS FOR REMOVAL JURISDICTION

9. Generally. Under the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. §§ 1332(d) and 1453(b), district courts have original jurisdiction over class action cases in which the matter in controversy exceeds \$5 million and “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2). This action is removable pursuant to CAFA for at least the following reasons:

10. This is A Covered Class Action. Plaintiff purports to bring the action “on behalf of himself and all persons similarly situated pursuant to Rule 4:32 of the New Jersey Rules of Court,” which addresses class actions, and defines the putative class as set forth above. (Compl. ¶ 14.) According to Plaintiff, the class

members are “sufficiently numerous, most likely thousands of consumers.” (*Id.* ¶ 15.) *See* 28 U.S.C. §§ 1332(d)(1) & (2), 1453(a) & (b).

11. The Parties Are Diverse. The action satisfies the diversity requirements of CAFA, 28 U.S.C. § 1332(d)(2)(A). The Complaint alleges that Plaintiff is a California resident and also has a residence in Monmouth County, New Jersey, where UPS picked up the Subject Package. (Compl. ¶¶ 1, 11.) UPS alleges on information and belief that Plaintiff is a citizen either of the State of California or the State of New Jersey. Plaintiff has sued UPS, which he alleges is “formed under the statutes of Delaware.” United Parcel Service, Inc., a Delaware corporation, has its principal place of business in Atlanta, Georgia. (*Id.* ¶¶ 2, 8.) Accordingly, UPS is a citizen of both Delaware and Georgia.

12. CAFA confers federal jurisdiction where *any* member of a class of plaintiffs is a citizen of a state different from any defendant. UPS and Plaintiff are citizens of different states and this putative class action as alleged therefore satisfies the diversity requirements of 28 U.S.C. § 1332(d)(2)(A).

13. The Amount in Controversy Exceeds \$5 million. The Third Circuit has held that “[i]n removal cases, determining the amount in controversy begins with a reading of the complaint filed in the state court.” *Samuel-Bassett v. Kia Motors Am., Inc.*, 357 F.3d 392, 398 (3d Cir. 2004). The ultimate inquiry is what amount is put “in controversy” by the complaint, not what a defendant will actually

owe. *See Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 448 (7th Cir. 2005) (“The question is not what damages the plaintiff will recover, but what amount is ‘in controversy’ between the parties.”).

14. Here, Plaintiff does not expressly limit his alleged damages to an amount below the \$5 million threshold under CAFA. Indeed, Plaintiff fails to include *any* damages estimate. While UPS vigorously disputes that the material allegations of the Complaint have merit, it is clear from the face of the Complaint that the amount in controversy exceeds the \$5 million threshold.

15. Plaintiff attempts to state a claim for relief for, *inter alia*, violations of the New Jersey Consumer Fraud Act (“NJCFA” or the “Act”), N.J.S.A. 56:8-2.2, *et seq.* (Compl. ¶¶ 34-40.) Pursuant to this claim, Plaintiff seeks to recover “treble damages, attorneys’ fees, penalties of \$10,000.00 for the first violation and \$20,000.00 for the second and every subsequent violation, and enhanced damages for violations perpetrated against Senior Citizens and/or persons suffering from a disability including a \$30,000.00 for a scheme perpetrated against such vulnerable consumers.” (*Id.* ¶ 39; *see also id.* at 8 (Prayer for Relief “E,” seeking “Statutory damages and penalties including those for targeting Senior Citizens and/or persons suffering from a disability”).)

16. Plaintiff’s claim for penalties in the amount of \$10,000 for the first violation and \$20,000 for the second and subsequent violations is apparently based

on Section 56:8-13 of the Act, which provides that any person who violates the Act “shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$10,000 for the first offense and not more than \$20,000 for the second and each subsequent offense.” Such penalty is “exclusive of and in addition to any moneys or property ordered to be paid or restored to any person in interest.” (*Id.*) Plaintiff’s request for \$30,000 per violation for “targeting” senior citizens or persons suffering from a disability is apparently based on Section 56:8-14.3, which provides that “[i]n addition to any other penalty authorized by law, a person who violates the [Act] shall be subject to additional penalties,” including “[a] penalty of not more than \$30,000 if the violation was part of a scheme, plan, or course of conduct directed at senior citizens or persons with disabilities in connection with sales or advertisements.” Plaintiff’s claim for treble damages is apparently pursuant to Section 56:8-19, providing for an “award threefold the damages sustained by any person in interest.”

17. Based on the Complaint’s allegations, even assuming that each putative class member had a claim for a single NJCFA violation based on his or her purchase of just one box sold by UPS or his or her use of the stated dimensions of just one UPS box, and that no class member was a Senior Citizen or disabled, the \$5 million amount in controversy requirement under CAFA would be satisfied

if the putative class contained only 251 members² (\$10,000 (for the first violation) + (250 x \$20,000 (\$20,000 for each additional violation)). (*See id.* ¶¶ 35, 39.)

Plaintiff alleges that there are *thousands* of putative class members entitled to recovery. (*Id.* ¶ 15.) Thus, based on Plaintiffs' own allegations, the amount in controversy is well beyond the \$5 million threshold required under CAFA.

18. In addition, claims under the NJCFA are subject to a six year statute of limitations. *DiIorio v. Structural Stone & Brick Co., Inc.*, 845 A.2d 658, 663 (N.J. Super. Ct. 2004). UPS has determined that in the six years preceding the filing of the Complaint, UPS sold in excess of 30,000 boxes at its Customer Centers in the State of New Jersey alone. (*See* Declaration of Fran Gaul ("Gaul Decl.") ¶ 3.) As of the filing of this Notice, UPS has sold shipping boxes in significant numbers at eleven different UPS Customer Center locations in New Jersey since 2008. (*Id.*) By way of example, there were more than 500 boxes of the same specification that Plaintiff alleges he shipped (24" x 24" x 24") that were purchased at the UPS Customer Center in Tinton Falls, New Jersey (where Plaintiff alleges he purchased his box) during that time period. (*Id.* ¶ 4.)

² The 251 class member figure is conservative, as it assumes each putative class member only purchased one box during the relevant period. Plaintiff seeks relief for each alleged NJCFA violation, not for each affected class member. (Compl. ¶ 39.)

19. As a result, given Plaintiff's allegations that UPS identifies box sizes based on interior dimensions but charges for shipping based on exterior dimensions (Compl. ¶ 17c), it is more likely than not that there were more than 251 boxes sold to individuals at UPS Customer Centers in New Jersey in the relevant timeframe "that were sized different than the stated dimensions," which satisfies the alleged class definition even if the individual was not also charged for dimensions based on the different size. (*Id.* ¶ 14 ("individuals who . . . received boxes that were sized different than the stated dimensions *and/or* were charged for dimensions that exceeded the UPS-stated dimensions" (emphasis added)).)

20. It also is more likely than not that there were more than 251 boxes sold to individuals at UPS Customer Centers in New Jersey in the relevant timeframe who were "charged for dimensions that exceeded the UPS-stated dimensions," which is an independent, sufficient criterion for class membership. (*Id.*)

21. UPS's shipment charges are based on the actual outer dimensions of the package, not on the dimensions printed on a box. (MacLavery Decl. ¶ 4, Ex. A at 17; *see also* Compl. ¶ 17c.) The actual outer dimensions can vary from printed dimensions for a variety of reasons. For example, the industry standard in box manufacturing is to print a box's *inner* dimensions, to reflect available storage space, which is important to shippers so that they can ensure the contents shipped

fit inside the box. (Maclaverty Decl. ¶ 5.) In addition, the manner in which a box is packed can change the outer dimensions, as an overstuffed box may have bulges that increase its size. (*Id.* ¶ 4, Ex. A at 17.) Measurements of *outer* dimensions are important to carriers because they measure the amount of physical space (e.g., in a truck or container) each box will occupy in transport. (*Id.* ¶ 5.) That is why the UPS Rate and Service Guide (“UPS Guide”) instructs shippers to measure box dimensions based on a packed box’s *exterior* dimensions. (*Id.* ¶ 3, 4, Ex. A at 16-17.) Indeed, the UPS Guide specifically advises shippers that:

Size limits indicated by a box manufacturer may not reflect exterior dimensions of a package, including where a package may have bulges or otherwise may not be uniform across each plane, and should not be used as a substitute for actual length, width and height measurements in determining dimensional weight.

(*Id.* ¶ 4, Ex. A at 17.) The UPS Guide further advises shippers that “[i]mproper packaging may result in the alteration of a package’s dimensions during transit which can affect the package’s dimensional weight and result in a shipping charge correction.” (*Id.*)

22. With more than 30,000 boxes sold at UPS Customer Centers in the State of New Jersey during the relevant time period, it is more likely than not that more than 251 of those boxes were sold to individuals who were charged for dimensional weight based on dimensions greater than those printed on the boxes. (*Id.* ¶ 6.) And, it is equally likely that more than 251 such boxes were “sized

different than the stated dimensions” (Compl. ¶ 14), even if they were never charged based on such dimensions.

23. For all of these reasons, Plaintiff’s estimate that the number of class members “most likely” numbers in the “thousands”—far more than the 251 necessary to meet the amount in controversy given the statutory penalties of the NJCFA—is reasonable, at least for purposes of determining the amount Plaintiff has put in controversy. (*Id.* ¶ 15.)

24. Moreover, Plaintiff also seeks punitive damages (*id.* at 8), which, under the NJCFA, may reach up to five times the compensatory damages. N.J. Stat. Ann. § 2A:15-5.14(b); *see Raspa v. Home Depot*, 533 F. Supp. 2d 514, 522 (D.N.J. 2007). Punitive damages properly are aggregated with compensatory damages for purposes of calculating the amount in controversy. *Raspa*, 533 F. Supp. 2d at 522.

25. Plaintiff also seeks injunctive relief requiring UPS to “cease directly or indirectly (i) wrongfully designating dimensions for boxes that are larger than the boxes’ actual dimensions and (ii) wrongfully charging shippers’ credit cards (and/or wrongfully making EFT deductions from shippers’ bank accounts) for the additional amount.” (Compl. at 8.) Under CAFA, a defendant’s costs in complying with an injunction are considered as part of the amount in controversy. Just as CAFA allows aggregation of class members’ claims to assess damages, it

also permits assessing the amount in controversy from the defendant's perspective. *See, e.g.*, 14AA Fed. Prac. & Proc. Juris. § 3705.1 (4th ed.) (CAFA was "meant to eliminate the established 'plaintiff-viewpoint' rule" and creates jurisdiction where "the amount in controversy exceeds \$5,000,000 from the viewpoint of the defendant, which in injunction cases typically means the cost of complying"); *see also* S. Rep. No. 109-14, *reprinted in* 2005 U.S. Code Cong. & Admin. News 3, 42-43 (amount in controversy under CAFA could be established "either from the viewpoint of the plaintiff or the viewpoint of the defendant, and regardless of the type of relief sought (e.g., damages, injunctive relief, or declaratory relief)").

26. Plaintiff's request for injunctive relief that would preclude UPS from assessing shipping charges for any box sold at a UPS Customer Center based on dimensions larger than those stated on the box would prohibit UPS from continuing to employ its standard methods for assessing charges based on actual "dimensional weight." (Maclaverty Decl. ¶ 7.)

27. An injunction that prohibited UPS from assessing shipping charges based on package actual dimensions that were greater than those stated on a box purchased from UPS would require UPS to incur significant cost and expense. (*Id.*) If Plaintiff were granted the injunction he seeks, UPS would have to alter its standard practices and devise a way to identify every box in its transportation network that was sold at a UPS Customer Center, ascertain the printed dimensions

of every such box, and then ensure that the dimensional weight for each such box was based on the dimensions printed on the box, and not the actual dimensional weight. Creation and implementation of special identification and billing procedures for the shipment of boxes sold at UPS Customer Centers is likely to cost UPS in excess of several million dollars. (*Id.*)

28. Plaintiff also seeks an unspecified amount in attorneys' fees. (Compl. at 9.) Attorneys' fees also must be included in connection with the amount in controversy. *See, e.g., Raspa*, 533 F. Supp. 2d at 522. (in calculating amount in controversy, "[c]ourt must also consider attorney's fees, which can be significant.").

29. No CAFA Exclusions. The action does not fall within any exclusion—discretionary or mandatory—to removal jurisdiction recognized by 28 U.S.C. § 1332(d) because all such exclusions assume that at least one, and typically the primary, defendant is a citizen of the forum state. UPS is not a citizen of New Jersey.

CONCLUSION

30. For the reasons stated above, this action is within this Court's original jurisdiction pursuant to 28 U.S.C. §§ 1332 and 1453. This action is removable pursuant to 28 U.S.C. § 1441(a) & (b).

NOTICE TO STATE COURT AND ADVERSE PARTY

31. Counsel for UPS certifies that pursuant to 28 U.S.C. § 1446(d), copies of this Notice of Removal will be filed with the Clerk of the Superior Court of New Jersey, Law Division, Monmouth County, and served on Plaintiff promptly.

WHEREFORE, UPS gives notice that the above-described action pending against it in the Superior Court of New Jersey, Law Division, Monmouth County, is removed to this Court.

Dated: July 10, 2014 DAVID J. FIOCCOLA
MORRISON & FOERSTER LLP

By: /s/: David J. Fioccola
DAVID J. FIOCCOLA
250 West 55th Street
New York, NY 10019-9601
Telephone: 212.468.8000
Facsimile: 212.469.7900

Attorney for Defendant
UNITED PARCEL SERVICE, INC.

EXHIBIT A

SUMMONS

Attorney(s) SIMONI CONSUMER CLASS ACTION
 Office Address c/o Jardim, Meisner & Susser, P.C.
 Town, State, Zip Code 30B Vreeland Road, Suite 201
Florham Park, NJ 07932
 Telephone Number (917) 621-5795
 Attorney(s) for Plaintiff Stephen Simoni
Stephen Simoni, an individual, on behalf of himself and all
others similarly situated.
Plaintiff(s)

Vs.

United Parcel Service, Inc. and DOES 1 through 10.
inclusive.
Defendant(s)

**Superior Court of
New Jersey**

MONMOUTH COUNTY
LAW DIVISION

Docket No: 14-01966

**CIVIL ACTION
SUMMONS**

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$135.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

Michelle Smith
 Clerk of the Superior Court

DATED: 06/13/2014

Name of Defendant to Be Served: United Parcel Service, Inc.
Service 830
 Address of Defendant to Be Served: Corporation Trust Company 820 Bear Tavern Road
Ewing, NJ 08628-1021

MONMOUTH COUNTY
SUPERIOR COURT
PO BOX 1265
FREEHOLD NJ 07728

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (732) 677-4240
COURT HOURS 8:30 AM - 4:30 PM

DATE: MAY 20, 2014
RE: SIMONI VS UNITED PARCEL SERVICE ET AL
DOCKET: MON L -001966 14

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 2.

DISCOVERY IS 300 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON THOMAS F. SCULLY

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 003
AT: (732) 677-4256 EXT 4256.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.


ATTENTION:

ATT: STEPHEN J. SIMONI
SIMONI STEPHEN J
55 OCEAN AVE
PENTHOUSE A
MONMOUTH BEACH NJ 07750

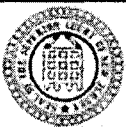
JUNNAND

Appendix XII-B1

Return to Filer

	CIVIL CASE INFORMATION STATEMENT (CIS)		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO.: _____ AMOUNT: _____ OVERPAYMENT: _____ BATCH NUMBER: _____
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule</i> 4:5-1 Pleading will be rejected for filing, under <i>Rule</i> 1:5-6(c), If information above the black bar is not completed or attorney's signature is not affixed		
ATTORNEY / PRO SE NAME Stephen J. Simoni		TELEPHONE NUMBER (917) 621-5795	COUNTY OF VENUE Monmouth
FIRM NAME (if applicable) Simoni Consumer Class Action Law Offices		DOCKET NUMBER (when available) MON-L-1966-14	
OFFICE ADDRESS c/o Jardim, Meisner & Susser, P.C. 30B Vreeland Road, Suite 201 Florham Park, NJ 07932-1926		DOCUMENT TYPE Complaint & Jury Demand JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
NAME OF PARTY (e.g., John Doe, Plaintiff) Stephen Simoni, Plaintiff		CAPTION Simoni v. United Parcel Service, Inc., et al.	
CASE TYPE NUMBER (See reverse side for listing) 699	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule</i> 1:38-7(b).			
ATTORNEY SIGNATURE: <i>Stephen J. Simoni</i>			

Side 2



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)**Track I - 150 days' discovery**

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 288 PRUDENTIAL TORT LITIGATION |
| 271 ACCUTANE/ISOTRETINOIN | 289 REGLAN |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 278 ZOMETHA/ARELIA | 291 PELVIC MESH/GYNECARE |
| 279 GADOLINIUM | 292 PELVIC MESH/BARD |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 282 FOSAMAX | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 284 NUVARING | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 297 MIRENA CONTRACEPTIVE DEVICE |
| 286 LEVAQUIN | 601 ASBESTOS |
| 287 YAZ/YASMIN/OCELLA | 623 PROPECIA |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☒ Putative Class Action ☐ Title 59

STEPHEN J. SIMONI, ESQ.
SIMONI CONSUMER
CLASS ACTION LAW OFFICES
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30B Vreeland Road, Suite 201
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(917) 621-5795

Extra Copy
for Court

Counsel for Plaintiff and Proposed Class

-----))
STEPHEN SIMONI, an Individual, on behalf of himself and		) SUPERIOR COURT OF NEW JERSEY
all others similarly situated,		) LAW DIVISION
		) MONMOUTH COUNTY
Plaintiffs,		) Hon. _____
vs.		) Docket No. MON-L- <u>1966</u> -2014
UNITED PARCEL SERVICE, INC. and		) CIVIL ACTION
DOES 1 through 10, inclusive,		) COMPLAINT (CLASS ACTION)
		) FOR INJUNCTIVE RELIEF
		) AND COMPENSATORY
Defendants.		) AND PUNITIVE DAMAGES
		) JURY TRIAL DEMANDED
-----))

Plaintiff STEPHEN SIMONI ("**PLAINTIFF**" or "**CONSUMER**"), an Individual, on behalf of himself and all others similarly situated, by this Complaint, against **UNITED PARCEL SERVICE, INC. ("UPS")** and DOES 1 through 10, inclusive, avers as follows:

PARTIES

1. Plaintiff is an individual who resides in California.
2. Defendant UNITED PARCEL SERVICE, INC. ("**UPS**") is a corporation formed under the statutes of Delaware that maintains its headquarters in Georgia.

3. Except as described herein, Plaintiff is ignorant of the true names of Defendants sued as Does 1 through 10, inclusive, and the nature of their wrongful conduct, and therefore sues these Defendants by such fictitious names. Plaintiff will seek leave of the Court to amend this Complaint to allege their true names and capacities when ascertained.

4. At all times herein mentioned, UPS and the Doe Defendants (collectively, "**DEFENDANTS**"), and each of them, were an agent or joint venturer of each of the other, and in doing the acts alleged herein, were acting within the scope of such agency. Each Defendant had actual and/or constructive knowledge of the acts of each of the other Defendants, and ratified, approved, joined in, acquiesced and/or authorized the wrongful acts of each co-Defendant, and/or retained the benefits of said wrongful acts.

5. At all times herein mentioned, Defendants, and each of them, aided and abetted, encouraged and rendered substantial assistance to the other Defendants in committing the wrongful acts alleged herein. In taking action, as particularized herein, to aid and abet and substantially assist the commission of these wrongful acts and other wrongdoing complained of, each of the Defendants acted with an awareness of its primary wrongdoing and realized that its conduct would substantially assist the accomplishment of the wrongful conduct, wrongful goals, and wrongdoing.

6. At all times herein mentioned, Defendants conspired by means of mutual understanding, either expressly or impliedly, among themselves and others in engaging in the activities detailed herein to accomplish the wrongful conduct, wrongful goals, and wrongdoing.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the Defendants in this action because their actions and omissions complained of herein occurred in and/or were targeted to cause damages in Monmouth County. Venue is proper in Monmouth County in that a substantial part of the events or omissions giving rise to the claims referenced herein occurred in Monmouth County.

FACTUAL BACKGROUND

8. Defendant UNITED PARCEL SERVICE, INC. ("UPS") is a for-profit corporation formed under Delaware statutes that maintains its headquarters at 55 Glenlake Parkway NE, Atlanta, Georgia 30328.

9. UPS sells, *inter alia*, shipping supplies branded with its insignia and delivery services throughout the United States and worldwide, which supplies may be purchased without any requirement that the supplies be utilized in connection with the purchase of UPS's delivery services.

10. Plaintiff purchased a shipping box branded with UPS insignia and advertised as size 24 inches long by 24 inches wide by 24 inches deep on January 23, 2014 at the UPS Customer Center in Tinton Falls, New Jersey in Monmouth County.

11. Plaintiff prepared the shipping box at his residence in Monmouth County and entered on UPS's web site the box's dimensions for pick-up at his residence by UPS the following day, January 24, 2014. In accordance with UPS's stated dimensions of the shipping box branded with UPS insignia, Plaintiff entered the box's dimensions as size 24 inches long by 24 inches wide by 24 inches deep.

12. UPS calculated a shipping charge based on the box's dimensions, shipping distance, etc. and charged Plaintiff's credit card.

13. After the shipping box was delivered to its destination, UPS charged Plaintiff a "Shipping Charge Correction" on his credit card based on UPS's purported "[a]udit" that indicated the shipping box was purportedly larger than the size 24 inches long by 24 inches wide by 24 inches deep dimensions that Plaintiff had entered, which accorded with the stated dimensions of the box branded with UPS insignia. UPS "Credit Card Additional Charges," Feb. 1, 2014, Ref. No. 00161671010541.

CLASS ACTION ALLEGATIONS

14. Plaintiff brings this action on behalf of himself and all persons similarly situated pursuant to Rule 4:32 of the New Jersey Rules of Court. This action satisfies the numerosity, commonality, typicality, adequacy, predominance and superiority requirements of the Rule. The Class is defined as follows:

All individuals who purchased UPS shipping boxes and/or utilized the UPS-stated dimensions of UPS shipping boxes in New Jersey for entering shipments on UPS's web site and who received boxes that were sized different than the stated dimensions and/or were charged for dimensions that exceeded the UPS-stated dimensions. Excluded from the Class are: (1) employees of the Defendants, including their officers or directors; (2) Defendants' affiliates, subsidiaries, or co-conspirators; and (3) the Court to which this case is assigned.

15. Plaintiff does not know the exact number of Class members because such information is in the exclusive control of the Defendants. However, Plaintiff believes that due to the nature of the trade and commerce involved, Class members are sufficiently numerous, most likely thousands of consumers, and geographically dispersed throughout the country, such that joinder of all Class members is impracticable. The information as to the identity of the Class members can be readily determined from records of credit card charges and bank account EFT deductions maintained by the Defendants, as well as from general public notification.

16. Plaintiff's claims are typical of, and not antagonistic to, the claims of the other Class members because Plaintiff was injured by Defendants' practices and by asserting his claims, Plaintiff will also advance the claims of all members of the Class who were damaged by the same wrongful conduct of Defendants and their co-conspirators as alleged herein, and the relief sought is common to the Class.

17. The common legal and factual questions which do not vary from Class member to Class member, and which may be determined without reference to individual circumstances of any Class member, include, but are not limited to, the following:

a. Did Company wrongfully charge Class members by calculating increased shipping charges pursuant to its "audits" that utilized dimensions for UPS shipping boxes that were ***larger than*** the actual dimensions of the UPS shipping boxes?

b. Did Company deliberately and knowingly misrepresent the dimensions of the UPS shipping boxes it sold?

c. Did Company deliberately and knowingly indicate the dimensions of the UPS shipping boxes it sold by marketing them by their interior dimensions while aware that delivery companies calculate shipping charges based on the exterior dimensions of boxes?

d. Was Company unjustly enriched by the challenged practice?

e. Did Plaintiff and the Class members sustain damages, and, if so, what is the proper measure of such damages?

f. Are Plaintiff and the Class members entitled to the injunctive and equitable relief requested herein?

18. These common questions and others predominate over questions, if any, that affect only individual members of the Class.

19. The claims of the representative Plaintiff are typical of the claims of the Class. There are no material conflicts with any other member of the Class that would make class certification inappropriate. Plaintiff and counsel will fairly and adequately represent the interests of the Class.

20. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because individual litigation of the claims of all Class members is impracticable. Even if every Class member could afford individual litigation, the court system could not. It would be unduly burdensome on the courts if individual litigation of numerous cases would proceed. By contrast, the conduct of this action as a class action, with respect to some or all of the issues presented in this Complaint, presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class member.

21. Prosecution of separate actions by individual Class members would create the risk of inconsistent or varying adjudications, establishing incompatible standards of conduct for the defendants, and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues.

22. Injunctive relief is appropriate as to the Class as a whole because Defendants have acted or refused to act on grounds generally applicable to the Class.

23. Whatever difficulties may exist in the management of the class action will be greatly outweighed by the benefits of the class action procedure, including, but not limited to, providing Class members with a method for the redress of claims that may otherwise not warrant individual litigation.

AS AND FOR A FIRST CAUSE OF ACTION

(Fraud Re: Box Sales)

24. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

25. Defendants knowingly and deliberately advertised its UPS-branded box as constituting stated dimensions that were not accurate.

26. Plaintiff relied on Defendants' representations by purchasing the boxes.

27. Defendants thereby obtained money of Plaintiff to which they are not legally entitled.

28. As a direct and proximate result of Defendants' conduct, Plaintiff has been damaged.

AS AND FOR A SECOND CAUSE OF ACTION

(Breach of Contract Re: Box Sales)

29. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

30. Defendants advertised its UPS-branded box as constituting stated dimensions.

31. Plaintiff purchased the box, but the box was sized different than the stated dimensions.

32. Defendants thereby obtained money of Plaintiff to which they are not legally entitled.

33. As a direct and proximate result of Defendants' conduct, Plaintiff and Class members have been damaged.

AS AND FOR A THIRD CAUSE OF ACTION

(New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2.2 *et seq.* ("NJCFA") Re: Box Sales)

34. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

35. Defendants knowingly falsely stated in connection with the sale of its UPS shipping boxes that the boxes' dimensions were those obtained by interior measurement while aware that shipping companies calculate delivery charges on the exterior dimensions of the boxes.

36. Plaintiff relied on Defendants' representations by purchasing the boxes.

37. Defendants thereby obtained money of Plaintiff to which they are not legally entitled.

38. As a direct and proximate result of Defendants' conduct, Plaintiff has been damaged.

39. NJCFA provides for, *inter alia*, treble damages, attorneys' fees, penalties of \$10,000.00 for the first violation and \$20,000.00 for the second and every subsequent violation, and enhanced damages for violations perpetrated against Senior Citizens and/or persons suffering from a disability including a \$30,000.00 for a scheme perpetrated against such vulnerable consumers.

40. NJCFA imposes personal liability¹ upon individuals who violate the statute notwithstanding their having purported to contract solely in the corporate entity's name.

AS AND FOR A FOURTH CAUSE OF ACTION

(Breach of Contract Re: Delivery Services)

41. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

42. Defendants stated in the subject contract that UPS would charge the shippers' credit cards and/or debit cards only the amount that was calculated by utilizing the package's actual dimensions.

43. Although Plaintiff shipped his package with UPS, Defendants designated box dimensions that were larger than the box's actual dimensions and Defendants charged shippers'

¹ Gennari v. Weichert Co. Realtors, 148 N.J. 582 (1997).

credit cards (and/or made EFT deductions from shippers' bank accounts) for such additional amount. Defendants' conduct thereby violated their promised action as specified in the subject contract.

44. Defendants thereby obtained money of Plaintiff to which they are not legally entitled.

45. As a direct and proximate result of Defendants' conduct, Plaintiff and Class members have been damaged.

WHEREFORE, Plaintiff demands Judgment as follows:

A. A permanent injunction requiring that Defendants and their agents, servants, employees, officers, directors, attorneys, successors, licensees, partners, and assigns, and all persons acting in concert or participation with each or any of them, cease directly or indirectly (i) wrongfully designating dimensions for boxes that are larger than the boxes' actual dimensions and (ii) wrongfully charging shippers' credit cards (and/or wrongfully making EFT deductions from shippers' bank accounts) for the additional amount;

B. Compensatory, consequential, special, and general damages in an amount to be determined at trial;

C. Disgorgement of unjust enrichment and ill-gotten profits in an amount to be determined at trial;

D. Punitive damages in an amount to be determined at trial in order to punish Defendants for their deliberate and knowing *ultra vires* and tortious activity of conversion and fraud and to deter Defendants and other delivery services from engaging in similar egregious and unconscionable activity;

E. Statutory damages and penalties including those for targeting Senior Citizens and/or persons suffering from a disability;

F. Treble damages;

G. Pre- and post-judgment interest on all amounts awarded;

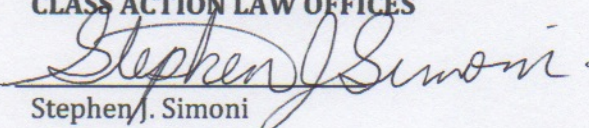
H. The court costs, other expenses, and reasonable attorneys' fees incurred in bringing, prosecuting, and enforcing judgments and/or settlements of this action; and

I. Such other and further relief as this Court shall deem just and proper.

Dated: Florham Park, New Jersey
May 14, 2014

**SIMONI CONSUMER
CLASS ACTION LAW OFFICES**

By:


Stephen J. Simoni

c/o Jardim, Meisner & Susser, P.C.
30B Vreeland Road, Suite 201
Florham Park, New Jersey 07932
StephenSimoniLAW@gmail.com
(917) 621-5795

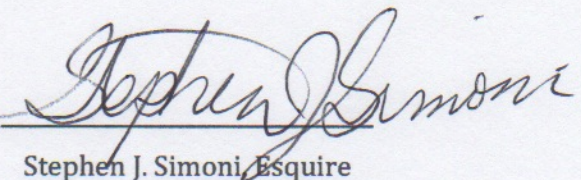
Counsel for Plaintiff and Proposed Class

CERTIFICATION OF OTHER ACTIONS

I certify, to the best of my knowledge and belief, that none of the disputes about which I am suing are related to the subject of any other actions pending in the state or federal judiciary.

Also, to the best of my knowledge and belief, no additional action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

Dated: May 14, 2014

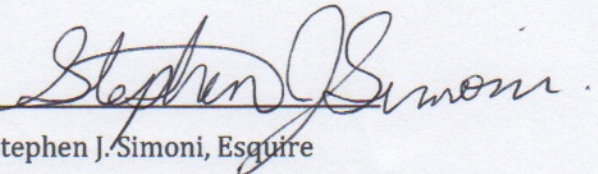
Signature: 

Stephen J. Simoni, Esquire

JURY DEMAND

The Plaintiff demands trial by a jury on all of the triable issues of this Complaint pursuant to New Jersey Court Rules 1:8-2(b) and 4:35-1(a).

Dated: May 14, 2014

Signature: 
Stephen J. Simoni, Esquire

DAVID J. FIOCCOLA (SBN 013022000)
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MORRISON & FOERSTER LLP
250 West 55th Street
New York, NY 10019-9601
Telephone: 212.468.8000
Facsimile: 212.469.7900

Attorney for Defendants
UNITED PARCEL SERVICE, INC.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

STEPHEN SIMONI, on behalf of himself
and all others similarly situated,

Plaintiffs,

v.

UNITED PARCEL SERVICE, INC. and
DOES 1 through 10, inclusive,

Defendants.

Case No.

**DECLARATION OF JOSEPH B.
MACLAVERTY IN SUPPORT OF
UNITED PARCEL SERVICE, INC.'S
NOTICE OF REMOVAL**

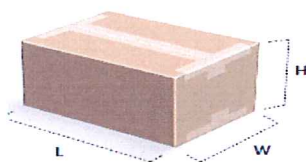
DECLARATION OF JOSEPH B. MACLAVERTY

I, Joseph B. Maclaverty, declare as follows:

1. I am employed by defendant United Parcel Service, Inc. (“UPS”) as a Rates Manager, in the Corporate Rates and Forecasting Group at UPS’s headquarters in Atlanta, Georgia. I have been employed by UPS since November 2007, and assumed my current position in July 2009. In the ordinary course of my employment, I frequently deal with issues involving the UPS Tariff/Terms and Conditions of Service applicable to shipments within and originating in the United States (“UPS Terms”), the UPS Rate and Service Guide (“UPS Guide”) and generally with billing for UPS services. I am very familiar with the contents of the UPS Terms and UPS Guide, in particular with regard to UPS’s billing practices, as a result of my current position. I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would testify under oath to the matters set forth herein. I submit this declaration in support of UPS’s Notice of Removal.

2. The UPS Guide effective January 23, 2014 provides that shipping rates are based on package weight, size and origin-to-destination distance. (Ex. A at 16.) The UPS Guide also provides that billable weight is the weight used to calculate the rate, and defines billable weight as the greater of the “dimensional weight” as compared to the actual weight. (*Id.*) A true and correct copy of the pertinent pages of the UPS Guide applicable to occasional shippers receiving published retail rates, which would apply to an occasional shipper who processed a shipment using the ups.com website, effective on January 23, 2014 is attached hereto as Exhibit A. Other versions of the UPS Guide applicable to U.S. shippers who receive “daily” or “standard” published rates or rates for Hawaii and Alaska shipments, contain the same language regarding dimensional weight that is discussed herein.

3. The applicable UPS Guide also provides that dimensional weight reflects package density, which is the amount of space a package occupies in relation to its actual weight. (*Id.*) Package dimensions are determined in inches, and the applicable UPS Guide instructs shippers to measure “at the longest point, rounding each measurement to the nearest whole number.” (*Id.*) The UPS Guide further instructs shippers to “[m]ultiply the package length by the width by the height. The result is the cubic size in inches.” (*Id.*) The applicable UPS Guide instructs shippers to divide the cubic size in inches by 166 for domestic shipments and 139 for international shipments to obtain the dimensional weight. (*Id.*) The applicable UPS Guide contains the following illustration on page 16:



Domestic

$$\left[\begin{array}{c} \text{Dimensional Weight} \\ \text{in Pounds} \end{array} \right] = \frac{L \times W \times H}{166}$$

L = Length in inches
W = Width in inches
H = Height in inches

U.S. Export and Import

$$\left[\begin{array}{c} \text{Dimensional Weight} \\ \text{in Pounds} \end{array} \right] = \frac{L \times W \times H}{139}$$

L = Length in inches
W = Width in inches
H = Height in inches

4. UPS does not base dimensional weight on the dimensions that may be printed on a box. Instead, dimensional weight is based on *actual* outer dimensions of a package. The actual package size can differ from the box manufacturer’s stated dimensions for a variety of reasons, including that a fully packed box can bulge (thereby increasing the outer dimensions) and that the printed dimensions on a box are typically for the inner box dimensions. In that regard, the applicable UPS Guide advises shippers that “[s]ize limits indicated by a box manufacturer may not reflect exterior dimensions of a package, including where a package may have bulges or otherwise may not be uniform across each plane, and should not be used as a substitute for actual length, width and height measurements in determining dimensional weight.” (*Id.* at 17.) The applicable UPS Guide further provides that “[i]mproper packaging may result in the alteration of a package’s dimensions during transit which can affect the package’s dimensional weight and

result in a shipping charge correction.” (*Id.*)

5. UPS relies on the actual, exterior dimensions to determine the amount of space a package will occupy in transport. Box manufacturers, however, typically specify the interior dimensions of boxes (and print these dimensions on the box), to reflect the actual storage space of the box.

6. UPS’s billing system does not contain any information that would allow UPS to link package transportation charges (including adjustments) specifically to boxes that were purchased at UPS Customer Centers. As a result, I am not aware of any way to determine how many boxes purchased at UPS Customer Centers in New Jersey received Shipping Charge Corrections based on actual dimensional weight that is greater than the dimensions printed on boxes purchased from UPS. However, I have been informed and I believe that in excess of 30,000 boxes were purchased at UPS Customer Centers located in New Jersey from June 13, 2008 to the present. Given this volume of boxes, I believe it is more likely than not that more than 251 of those 30,000 boxes that were purchased at UPS Customer Centers in New Jersey were charged based on dimensions that exceeded the dimensions printed on the boxes. That is particularly true because, as set forth above, printed box dimensions are ordinarily to the inner dimensions of the box, and the manner in which a box is packed can often impact box dimensions (e.g., if the box is over-packed or improperly packed).

7. If an injunction were issued that required UPS to charge for dimensional weight based only on the printed dimensions of boxes purchased at UPS Customer Centers, I believe that it could well cost UPS several million dollars to comply. UPS’s network depends a great deal on uniformity for efficiency. UPS does not currently identify whether packages are shipped using boxes that were purchased from UPS at Customer Centers. To comply with such an injunction, UPS would have to create special procedures to identify when such boxes are

tendered into the UPS system, train its employees on how to carry out those procedures, and then specially modify its billing systems to ensure that those boxes were treated differently for billing purposes. In light of the breadth of UPS's operations, the volume of packages it delivers every day (which totals in the millions) and the complexity of UPS's billing systems, I believe that the cost of compliance could be several million dollars, if not more.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed on July 10, 2014, at Atlanta, Georgia.



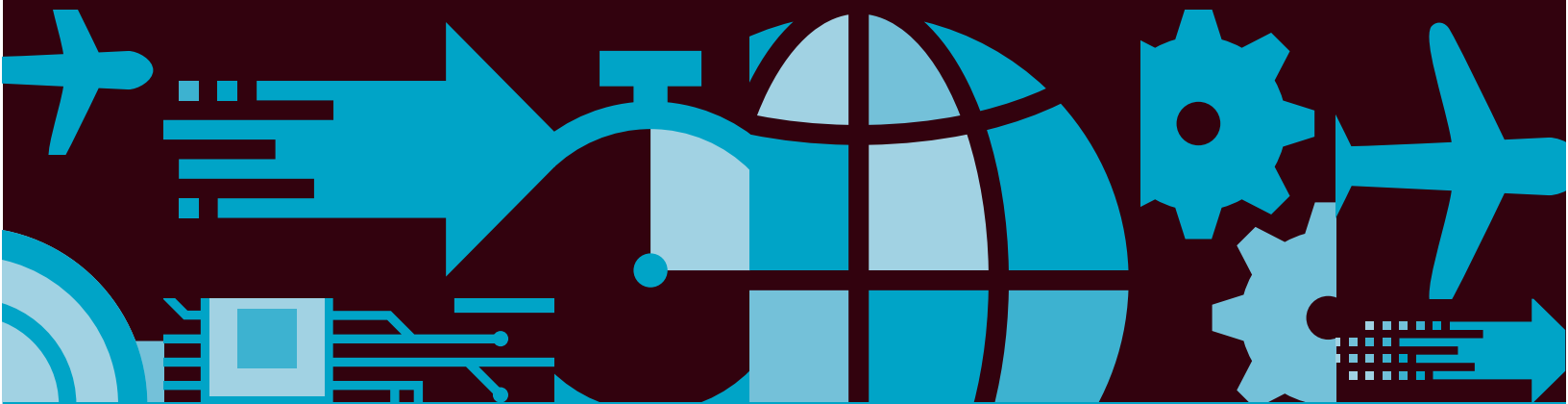
JOSEPH B. MACLAVERY

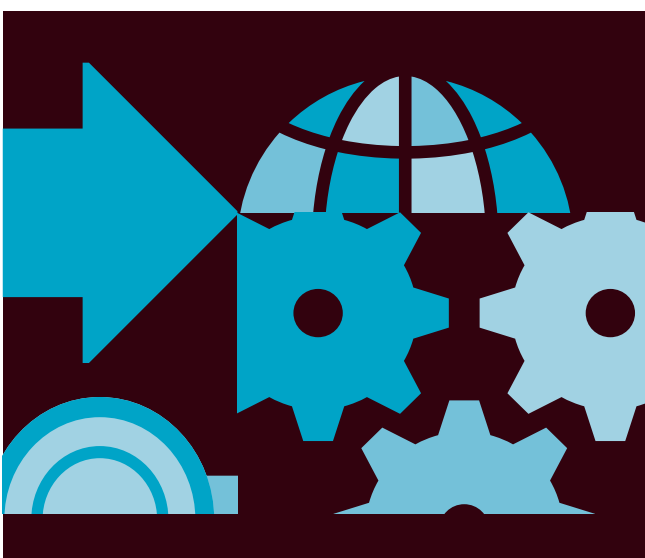
EXHIBIT A



2014 Retail Rates

UPS Rate and Service Guide





ups.com[®]

1-800-PICK-UPS[®]

Logistics gets the job done

As a global leader in logistics, UPS guaranteed on-time package and freight shipments are just a few of the many deliveries that we make every business day. We also deliver:

- Extensive knowledge and experience from the world's largest package delivery company to keep you competitive in a rapidly expanding international marketplace.
- Customized solutions and reliable services for shipping, tracking and billing from a global leader in technology to drive greater efficiency, helping to save you time and reduce costs.
- Sustainable shipping options from one of the most efficient global transportation networks in the world to help reduce carbon emissions and conserve resources.

All of this helps make the best delivery of all possible — your satisfaction and, most importantly, your customers' satisfaction. When that's delivered, we know we've done our job.

To learn more about what we can deliver for your business, visit ups.com/solutions.

HOW TO USE THIS GUIDE

Find what you need to ship your packages – from services and rates to packaging and payment – in the following pages. For your convenience, the *UPS Rate and Service Guide* is divided into five sections that cover each of the primary steps involved in preparing and processing a shipment. At the beginning of each section, further detail as to what is covered in that section is provided.

SECTION

1

CHOOSING A SERVICE

PAGES [4-9](#)

Determine the service that best meets your needs for domestic, export and import shipping. Also, learn about certain service restrictions that may apply.

SECTION

2

PREPARING A SHIPMENT

PAGES [10-23](#)

Information about how you package a shipment, determine the rate and get the shipment to UPS is provided.

SECTION

3

DETERMINING THE RATE

PAGES [24-128](#)

Determine the rates and zones for domestic, export and import shipments. Also, learn about value-added services that are available.

SECTION

4

TRACKING AND PAYMENT

PAGES [129-134](#)

Convenient and up-to-the-minute ways to track shipments are reviewed, as well as an explanation of the UPS invoice, its presentation and various billing and payment options.

SECTION

5

UPS TARIFF/TERMS AND CONDITIONS OF SERVICE – UNITED STATES

PAGES [135-159](#)

Essential information is provided regarding the general terms and conditions of service governing UPS and its affiliates in the transportation of packages and UPS Worldwide Express Freight® pallets in the United States.

Essential Contacts

Support

UPS Customer Service

ups.com

1-800-PICK-UPS®

1-800-877-1548 En Español

1-800-782-7892 International

1-800-811-1648 Billing

1-800-554-9964 Hazardous Materials

1-800-833-0056 Hearing Impaired – TTY/TDD

customer.service@ups.com

International Shipping

ups.com/international

1-800-782-7892

Zone Charts

View or download at ups.com/rates

WorldShip® Technical Support

ups.com/worldshipsupport

1-888-553-1118

UPS Package Design and Test Lab

1-877-877-7229

UPS CampusShip® Support

Help Desk: 1-877-289-6418 (United States)

Eform: ups.com/eform

Help Desk Listing for other Countries:

campusship.ups.com/techsupport

UPS Ground Time in Transit

ups.com/maps

Freight Services

UPS offers multiple options for shipments over 150 pounds. For more information on these services, go to pages [5](#) and [6](#).

Air Freight Services

ups-scs.com/airfreight

1-800-443-6379

UPS Freight® – LTL

ltl.upsfreight.com

1-800-333-7400 (LTL)

UPS Worldwide Express Freight®

ups.com/worldwideexpressfreight

1-800-782-7892

UPS Solutions

Visit ups.com/solutions to view the full portfolio of UPS services.

The UPS Store®

theupsstore.com

1-858-455-8800

UPS Capital®

upscapital.com

1-877-263-8772

UPS Mail Innovations®

upsmailinnovations.com

1-800-500-2224

UPS Supply Chain Solutions®

ups-scs.com

1-800-742-5727

*Stay on top of the latest UPS news, announcements
and critical updates via e-mail at ups.com/subscribe.*

2014 Updates

Updates to this guide are as follows:

January 23	<p>■ UPS Tariff/Terms and Conditions</p> <p>Section 3.6.2 – Ammunition on page 140 and section 3.10 – Limited Quantity/ORM-D Packages on page 141 have been updated in the UPS Tariff/Terms and Conditions. Ammunition is not accepted for international shipments.</p>
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In this *UPS Rate and Service Guide*, you will find the 2014 UPS Package Retail Rates for the 48 contiguous states, effective December 30, 2013. These rates are applicable to customers who ship occasionally or have packages processed at locations of The UPS Store®, UPS Customer Centers and UPS Authorized Shipping Outlet locations. You will also find service and rate information for UPS freight services including Air Freight and Less-Than-Truckload. The most current version of this guide can be downloaded at ups.com/rates.

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UPS Tariff/Terms and Conditions of Service – United States

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Determine the Weight and Size

PACKAGE

For All Domestic and International Shipments

The Determine the Weight and Size information on this page and the next page are for package shipments only. For information on how to determine the weight and size for UPS Worldwide Express Freight® refer to page 18.

Shipping rates are based on package weight and size (explained below and on the following page) and origin-to-destination distance (refer to page 27 for Domestic, Export and Import).

Billable weight is the weight used to calculate the rate. For domestic and international services, the billable weight will be the greater of the dimensional weight as compared to the actual weight.

How to determine billable weight.

1. Determine actual weight.

Actual weight is the package weight rounded up to the next whole pound.

Use a scale to determine the weight of the package. Round any fraction of a pound to the next whole pound for UPS Express® Envelopes (letters) over eight ounces and all other packages.

2. Determine dimensional weight.

Dimensional weight reflects package density, which is the amount of space a package occupies in relation to its actual weight. Dimensional weight may apply to all UPS domestic and international package services.

Determine the package dimensions in inches. For each dimension, measure at the longest point, rounding each measurement to the nearest whole number (for example, 1.00 to 1.49 will be considered 1, and 1.50 to 1.99 will be considered 2).

Multiply the package length by the width by the height. The result is the cubic size in inches.

For domestic shipments:

UPS Air Services shipments –

Divide the cubic size in inches by 166 to determine dimensional weight in pounds. Increase any fraction to the next whole pound.

UPS Ground shipments – If the cubic size of the package in inches is 5,184 or larger, divide the cubic size by 166 to determine dimensional weight in pounds. If the cubic size in inches is less than 5,184, use the actual weight

of the package. Increase any fraction to the next whole pound.

For international shipments:

For export and import shipments, divide the cubic size in inches by 139 to determine the dimensional weight. Increase any fraction to the next whole pound.

For import shipments by way of UPS Standard™ from Canada, divide the cubic size in inches by 166 to determine the dimensional weight. Increase any fraction to the next whole pound.

For UPS Standard™ to Canada shipments – If the cubic size of the package is 5,184 cubic inches or greater, divide the cubic size in inches by 139 to determine the dimensional weight. Increase any fraction to the next whole pound.

3. Determine billable weight.

Compare the package's actual weight to its dimensional weight. The greater of the two is the billable weight and should be used to calculate the rate.

For multiple-package shipments, total the billable weight of all packages in the shipment.

Domestic

$$\left[\begin{array}{c} \text{Dimensional Weight} \\ \text{in Pounds} \end{array} \right] = \frac{L \times W \times H}{166}$$

L = Length in inches

W = Width in inches

H = Height in inches

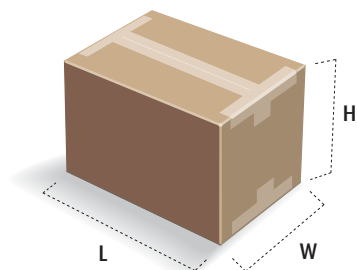
U.S. Export and Import

$$\left[\begin{array}{c} \text{Dimensional Weight} \\ \text{in Pounds} \end{array} \right] = \frac{L \times W \times H}{139}$$

L = Length in inches

W = Width in inches

H = Height in inches



Determine the Weight and Size

PACKAGE

For All Domestic and International Shipments (continued)

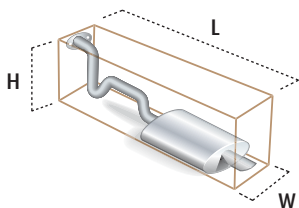
Additional Information on Determining Weight and Size.

– **Letter rates** apply for domestic and international documents, correspondence and electronic media shipments that do not exceed eight ounces sent in a UPS Express® Envelope. Domestic letters greater than eight ounces will be billed by weight (rounded up to the next whole pound). Export letters greater than eight ounces and up to two pounds will be billed at UPS Express® Pak rates. International letters greater than two pounds will be billed by weight (rounded up to the next whole pound).

– **UPS Express Pak rates** apply for international shipments that weigh two pounds or less, do not exceed \$100.00 in customs value and UPS Express Pak is selected at the time of shipping.

– **Irregularly Shaped Packages:** If the package has a bulge or is irregularly shaped, measure the length, width and height of the package at its extreme points, which may include the bulge or irregular aspects of the package.

Treat the irregularly shaped package as if it were in a regular rectangular box. Measure the length, width and height of the package from its extreme points.



– Items Shipped in Bags:

Shape – When multiple items are shipped in a flexible container (e.g., burlap or plastic bag), the package measurements will be determined when the exterior is at rest. As this shape will differ from placement to placement, cubic size or package measurements will be made at the sole discretion of UPS.

Tails – A tail on an item shipped in a bag should be measured for the amount of space it takes up in a reasonably compressed fashion. Any tail that is created by placing an item in a bag must be compressed and taped to the body of the item.

– Packages that exceed UPS weight and size limits are not accepted for transportation. If found in the UPS system, they are subject to an Over Maximum Limits charge. Refer to page 118 for more information. For Maximum Weight service restrictions, refer to page 8. For shipments over 150 pounds other than UPS Worldwide Express Freight®, refer to pages 72 and 73 for Air Freight and page 6 for UPS Freight® Less-Than-Truckload.

– **A Large Package Surcharge** may apply to domestic and international shipments.

A package is considered a “Large Package” when its length plus girth $[(2 \times \text{width}) + (2 \times \text{height})]$ combined exceeds 130 inches.

Large Packages are subject to a minimum billable weight of 90 pounds. An Additional Handling charge will not be assessed when a Large Package Surcharge is applied.

– Shippers are responsible for providing accurate and complete shipment information on the shipping document or in the automated processing system used, including service selected, number, weight and dimensions of packages. UPS reserves the right to audit any package and/or invoice to verify service selection, package dimensions or weight and applicability of any charges. As part of that audit, UPS may weigh and measure any package tendered to UPS using any method UPS deems appropriate including, but not limited to, multi-dimensional measuring devices. If any aspect of the shipment information provided by the shipper is incomplete or incorrect as determined by UPS in its sole discretion, UPS may adjust charges at any time.

Follow the instructions on this page and the previous page to determine the billable weight for your package shipments. Refer to page 18 for UPS Worldwide Express Freight.

Notes:

- Size limits indicated by a box manufacturer may not reflect exterior dimensions of a package, including where a package may have bulges or otherwise may not be uniform across each plane, and should not be used as a substitute for actual length, width and height measurements in determining dimensional weight.
- Improper packaging may result in the alteration of a package's dimensions during transit which can affect the package's dimensional weight and result in a shipping charge correction.

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New York, NY 10019-9601
Telephone: 212.468.8000
Facsimile: 212.469.7900

Attorneys for Defendants
UNITED PARCEL SERVICE, INC.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

STEPHEN SIMONI, on behalf of himself
and all others similarly situated,

Plaintiffs,

v.

UNITED PARCEL SERVICE, INC. and
DOES 1 through 10, inclusive,

Defendants.

Case No.

**DECLARATION OF FRAN GAUL IN
SUPPORT OF UNITED PARCEL
SERVICE, INC.'S NOTICE OF
REMOVAL**

DECLARATION OF FRAN GAUL

I, Fran Gaul, declare as follows:

1. I am employed by defendant United Parcel Service, Inc. ("UPS") as a Complex Commodity Manager, in UPS's Procurement Group in Atlanta, Georgia. I began my employment with UPS in 1978. I have worked in the UPS Procurement Group since 1990. I assumed my current position as Complex Commodity Manager in 2012. I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would testify under oath to the matters set forth herein.

2. I have specific responsibility at UPS for (among other things) the procurement of boxes that are stocked for sale at UPS Customer Centers throughout the United States. UPS purchases these boxes from third parties. The boxes made available for sale in the UPS Customer Centers include, for example, standard box sizes such as 12" x 12" x 12", 18" x 18" x 18" and 24" x 24" x 24".

3. I have reviewed records setting forth the number of boxes procured for sale at UPS Customer Centers within the State of New Jersey since January 1, 2008. I am informed and believe that UPS does not maintain a record of the precise number of boxes sold at each of those Centers. However, based on the number of boxes that the Procurement Group has purchased for sale at Customer Centers in New Jersey, I am confident that in excess of 30,000 boxes were sold at the eleven UPS Customer Centers in New Jersey during the period from June 13, 2008 to the present.

4. I understand that the Plaintiff in the above-captioned action alleges that he purchased a 24" x 24" x 24" box at the UPS Customer Center in Tinton Falls, New Jersey. I have reviewed the procurement records for the Tinton Falls Customer Center, and conservatively estimate that in excess of 6,000 boxes were sold at that Customer Center from June 13, 2008 to the present. I estimate that

more than 500 24" x 24" x 24" boxes were sold at the Tinton Falls Customer Center in that time period.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed on July 10, 2014, at Atlanta, Georgia.



FRAN GAUL

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SIMONI, STEPHEN

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

Stephen Simoni, Esq.; Simoni Consumer Class Action Law Offices c/o Jardim, Meisner & Susser, P.C.; 30B Vreeland Road, Suite 201, Florham Park, NJ 07932; StephenSimoniLAW@gmail.com; (917) 621-5795.

DEFENDANTS

UNITED PARCEL SERVICE, INC.

County of Residence of First Listed Defendant Fulton County, Georgia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

David Fioccola, Esq.; MORRISON & FOERSTER LLP; 250 West 55th Street, New York, NY 10019; DFioccola@mofo.com; (212) 468-8000

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d)

Brief description of cause:

Putative class action for fraud, breach of contract, and NJ Consumer Fraud Act violation re: transportation services

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
> \$5,000,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/10/2014

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE