

1 **SINGLETON SCHREIBER, LLP**  
 CHRISTOPHER R. RODRIGUEZ, SB# 212274  
 2 E-Mail: crodriguez@singletonschreiber.com  
 ANDREW D. BLUTH, SB# 232387  
 3 E-Mail: abluth@singletonschreiber.com  
 JOHN R. TERNIEDEN, SB# 330343  
 4 E-Mail: jternieden@singletonschreiber.com  
 TRENT J. NELSON, SB# 340185  
 5 E-Mail: tnelson@singletonschreiber.com  
 1414 K Street, Suite 470  
 6 Sacramento, California 95814  
 Telephone: (916) 248-8478  
 7 Facsimile: (619) 255-1515

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 David W. Slayton,  
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8 **LAW OFFICE OF THOMAS LEARY, APC**  
 THOMAS A. LEARY, SB# 123792  
 9 3023 First Avenue  
 San Diego, California 92103  
 10 Phone: (619) 291-1900

11 Attorneys for Plaintiffs

12  
 13 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
 14 COUNTY OF LOS ANGELES

16 AMBER ANDERSON, an individual;  
 CHAKA THEUS, an individual; RONALD  
 17 LATHROP, an individual; ANITRA  
 HALL, an individual; BRIAN FELSEN, an  
 18 individual; and ARASH MAGHBOULEH,  
 an individual, on behalf of themselves and  
 19 all others similarly situated,

20 Plaintiffs,

21 v.

22 UNITED PARCEL SERVICE OF  
 AMERICA, INC., a corporation; UNITED  
 23 PARCEL SERVICE, INC.; a corporation;  
 and DOES 1 through 100, inclusive,

24 Defendants.  
 25

No. **23STCV28941**

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 COMPLAINT

2 Plaintiffs Amber Anderson, Chaka Theus, Anitra Hall, Brian Felsen, Ronald Lathrop, and  
3 Arash Maghbooleh, by and through their undersigned counsel, on their own behalf and on behalf  
4 of all other persons similarly situated (residents of California only) (collectively, “Plaintiffs”), sue  
5 United Parcel Service of America, Inc; United Parcel Service, Inc. (“UPS”) and Does 1 through  
6 100 (“Doe Defendants”) (UPS and Doe Defendants are collectively referred to herein as the  
7 “Defendants”) and for this Complaint, allege upon information and belief, and based on the  
8 investigation to date of their counsel, as follows:

9 INTRODUCTION

10 1. This is a class action brought for the benefit and protection of Plaintiffs, and all other  
11 similarly situated consumers who are residents of California, who have visited and used  
12 Defendants’ website, ups.com (the “Website”).

13 2. By way of this action, Plaintiffs, and all others similarly situated, seek statutory  
14 damages available as a result of Defendants’ violation of California Civil Code section 1670.8, as  
15 well as public injunctive relief to enjoin ongoing violations of said statutory provisions.

16 3. Because of the current power of the internet and social media platforms to publicize  
17 a company’s offerings of goods or services—and the potential harm to corporate interests when  
18 negative consumer statements “go viral”—Defendants have a significant incentive to minimize the  
19 negative publicity they receive, including in the form of negative online reviews and comments.  
20 Some companies have gone so far as to attempt to prohibit customers and potential customers from  
21 making negative statements about the goods or services they offer, to the detriment of consumers,  
22 potential consumers, and the public of the State of California. Fortunately, California Civil Code  
23 section 1670.8 was enacted to protect the right of California consumers to voice their opinions,  
24 observations, and experiences about the products and services delivered or offered to California  
25 consumers, as well as the citizens of the State of California. The California Legislature reasonably  
26 and correctly determined that such freedom is important to keep the public informed and keep large  
27 corporations honest about the quality of the goods or services they offer to consumers.

28 4. Section 1670.8(a) provides as follows: “(1) **A contract or proposed contract for**

1 the sale or lease of consumer goods or services **may not include a provision waiving the**  
2 **consumer’s right to make any statement** regarding the seller or lessor or its employees or agents,  
3 or concerning the goods or services” and **“(2) It shall be unlawful to threaten or seek to enforce**  
4 **a provision made unlawful under this section, or to otherwise penalize a consumer for making**  
5 **any statement protected under this section.”** Section 1670.8’s protections are so important that  
6 the statute expressly provides that **“any waiver of the provisions of this section is contrary to**  
7 **public policy, and is void and unenforceable.”**

8 5. In order to use and benefit from the UPS Website, Website visitors, or users, are  
9 informed that they must agree to Defendants’ Website Terms of Use (“Terms”). In fact, UPS  
10 asserts that simply by accessing or using their Website, users have agreed to be bound by the  
11 Terms—regardless of whether users are simply visiting the Website or are actual purchasers or  
12 registered members of the Website. The Terms provide, “these Terms of Use govern Your use of  
13 the Website and all applications, software, and services available on the Website.”

14 6. While conducting substantial business with California consumers, the Terms  
15 Defendants impose upon customers and prospective customers of UPS clearly violate Section  
16 1670.8. Pursuant to the Terms that Defendants impose upon their customers for the privilege of  
17 accessing the goods and/or services offered and promoted on the Website, UPS requires users to  
18 “agree to use the Website. . . in a fashion that does not, in the sole judgment of UPS, negatively  
19 reflect on the goodwill or reputation of UPS. . . .” The Terms further threaten visitors to the Website  
20 who consider violating the Terms that “UPS, in its sole discretion, may terminate or suspend [y]our  
21 use of the Website, the UPS Systems, Information, Services, and Content at any time and for any  
22 or no reason in its sole discretion. . . .”

23 7. Defendants’ conduct is unlawful, including among other reasons, because it is aimed  
24 to stifle California consumers’ right to free speech, and the right of the California public to hear  
25 lawful discourse. Defendants’ strong-arm tactics to silence injured parties were and continue to be  
26 intentionally exercised to protect Defendants’ self-promoting public image for commercial and  
27 other benefits. Defendants’ unlawful business practices, purposefully designed to maintain and  
28 increase its consumers and prop up its stock price, all while denying public, consumers, and

1 potential consumers accurate information so that they may make informed decisions as consumers.

2 8. By way of these provisions, UPS seeks to have users waive their right as consumers  
3 to make negative statements regarding UPS or its employees, agents, goods or services, and further  
4 threatens to penalize consumers for making such statements. These unlawful restrictions—  
5 imposed by Defendants against their own customers and prospective customers—is an important  
6 component of UPS' business strategy, which relies upon the popularity of its service offerings  
7 nationwide to generate significant revenues and profits. But Defendants' efforts to silence their  
8 customers and prospective customers is clearly prohibited by California law, thereby subjecting  
9 Defendants to significant penalties, as described herein.

10 **JURISDICTION AND VENUE**

11 9. This Court has jurisdiction over the claims and causes of action asserted herein  
12 because such claims arise solely and specifically out of Defendants' unlawful practices within the  
13 State of California, and relate to at least one statute—California Civil Code section 1670.8—that  
14 was designed to protect California's citizens, the application of which is exclusively a matter for  
15 the courts of this State.

16 10. Venue is proper in this Court because: Defendants transact business in California  
17 and in the County of Los Angeles based on Plaintiffs' use of the Website in this County; Defendants  
18 have committed unlawful acts in the County by and through the Website and associated business  
19 transactions within the County; and a substantial part of the events giving rise to the claims alleged  
20 herein occurred in this County, where at least one of the Plaintiffs resides.

21 **THE PARTIES**

22 11. At all relevant times, Plaintiff Amber Anderson was and has been a citizen of the  
23 State of California and a resident of Los Angeles County. Plaintiff Anderson visited and used  
24 Defendants' Website, ups.com, within the applicable limitations period in Los Angeles County in  
25 the State of California.

26 12. At all relevant times, Plaintiff Chaka Theus was and has been a citizen of the State  
27 of California and a resident of Los Angeles County. Plaintiff Theus visited and used Defendants'  
28 Website, ups.com, within the applicable limitations period in Los Angeles County in the State of

1 California.

2 13. At all relevant times, Plaintiff Anitra Hall was and has been a citizen of the State of  
3 California and a resident of Los Angeles County. Plaintiff Hall visited and used Defendants'  
4 Website, ups.com, within the applicable limitations period in Los Angeles County in the State of  
5 California.

6 14. At all relevant times, Plaintiff Brian Felsen was and has been a citizen of the State  
7 of California and a resident of Los Angeles County. Plaintiff Felson visited and used Defendants'  
8 Website, ups.com, within the applicable limitations period in Los Angeles County in the State of  
9 California.

10 15. At all relevant times, Plaintiff Ronald Lathrop was and has been a citizen of the  
11 State of California. Plaintiff Lathrop visited and used Defendants' Website, ups.com, within the  
12 applicable limitations period in the State of California.

13 16. At all relevant times, Plaintiff Arash Maghbouleh was and has been a citizen of the  
14 State of California. Plaintiff Maghbouleh visited and used Defendants' Website, ups.com, within  
15 the applicable limitations period in the State of California.

16 17. Upon information and belief, UPS is comprised of affiliated corporate entities, each  
17 of which conducts business in the state of California with California citizens. These entities,  
18 individually or collectively, through an integrated corporate structure (the details of which Plaintiffs  
19 are presently unaware), markets, sells and provides global supply chain goods or services, including  
20 without limitation shipping and tracking services of goods or documents. Defendants operate in  
21 California and generate sales through the Website.

22 18. The true names and/or capacities, whether individual, corporate, partnership,  
23 associate, governmental, or otherwise, of the Doe Defendants, inclusive, and each of them, are  
24 unknown to Plaintiffs at this time, who therefore sues said Doe Defendants by such fictitious names.  
25 Plaintiffs are informed and believe, and thereon allege, that each defendant designated herein as a  
26 Doe Defendant caused injuries and damages proximately thereby to Plaintiffs as hereafter alleged,  
27 and that each Doe Defendant is liable to Plaintiffs for the acts and omissions alleged herein below,  
28 and the resulting injuries to Plaintiffs, and damages sustained by Plaintiffs. Plaintiffs will amend

1 this Complaint to allege the true names and capacities of said DOE Defendants when that same is  
2 ascertained.

3 **FACTS COMMON TO ALL CLASS MEMBERS**

4 19. At all relevant times, UPS was and currently is in the business of advertising,  
5 promoting, marketing, selling, and distributing consumer services or products through the Website,  
6 which Website is targeted to, and accessible by, the citizenry of California.

7 20. UPS is well-aware that its public image is vital to maintaining and gaining  
8 customers. If the public sees content posted by users that may be insulting to UPS, and/or any of  
9 its partners, and/or any its employees, and/or concerning any of its goods or services, then its current  
10 customers and/or prospective customers may shift to a competitor, ultimately resulting in loss of  
11 business and loss of revenue.

12 21. Thus, in order to maintain a positive public image, UPS has engaged in an  
13 intentional business strategy to silence each and every customer or potential customer who visits  
14 its Website by purporting to bind users to its Terms—immediately upon accessing its Website.

15 22. Specifically, UPS' Terms provide that "[b]y accessing or using the Site. . . [y]ou  
16 agree to use the Website. . . in a fashion that does not, in the sole judgment of UPS, negatively  
17 reflect on the goodwill or reputation of UPS..."

18 23. UPS' Terms, moreover, threaten to penalize users for making any statements that it  
19 considers to "negatively reflect on the goodwill or reputation of UPS" in providing that "UPS, in  
20 its sole discretion, may terminate or suspend [y]our use of the Website, the UPS Systems,  
21 Information, Services, and Content at any time and for any or no reason in its sole discretion. . . ."

22 24. UPS forbids any California consumers, or potential California consumers, who have  
23 visited or used the Website, or are even considering purchasing services or products from UPS  
24 through its Website, from making any statements that would purportedly "negatively reflect on the  
25 goodwill or reputation" of UPS itself, any of its partners, any of its employees, any of its agents, or  
26 any of its goods or services.

27 25. In doing so, UPS has and continues to engage in conduct that violates California  
28 Civil Code section 1670.8.



1 and/or through the records of Defendants.

2 34. There are common questions of law and fact affecting Plaintiffs and Class members.  
3 Common legal and factual questions include, but are not limited to:

4 a. Whether each imposition of Defendants' Terms upon members of the Class constitutes a  
5 violation of the provisions of California Civil Code section 1670.8 and, if so, whether each such  
6 violation is a "willful, intentional, or reckless" violation;

7 b. Whether Defendants' Terms are unlawful, contrary to public policy, void and/or  
8 unenforceable;

9 c. Whether Class members are entitled to civil penalties; and

10 d. Whether, as a result of Defendants' misconduct alleged herein, Plaintiffs and Class  
11 members are entitled to injunctive and/or public injunctive relief, and if so, the nature of such relief.

12 35. Plaintiffs' claims are typical of the claims of the proposed Class because the rights  
13 of Plaintiffs and Class members were violated in the same manner by the same conduct.

14 36. Plaintiffs and Class members are all entitled to recover statutory penalties and other  
15 relief arising out of Defendants' violations of statutory law alleged herein.

16 37. Plaintiffs will fairly and adequately represent and protect the interests of the Class.

17 38. Plaintiffs' interests do not conflict with the interests of the Class they seek to  
18 represent. Plaintiffs have retained counsel competent and experienced in prosecuting class actions,  
19 and Plaintiffs intend to vigorously prosecute this action.

20 39. The class mechanism is superior to other available means for the fair and efficient  
21 adjudication of the claims of Plaintiffs and Class members.

22 40. Given the relative value of statutory penalties available to any of the individual Class  
23 members, individual litigation is not practicable.

24 41. Individual Class members will not wish to undertake the burden and expense of  
25 individual cases.

26 42. In addition, individualized litigation increases the delay and expense to all parties  
27 and multiplied the burden on the judicial system. Individualized litigation also presents the potential  
28 for inconsistent or contradictory judgments.



1           43.     In contrast, the class action device presents far fewer management difficulties and  
2 provides the benefits of single adjudication, economy of scale, and comprehensive supervision by  
3 a single court.

4           44.     Questions of law and fact common to all Class members predominate over any  
5 questions affecting only individual Class members. Injuries sustained by Plaintiffs and Class  
6 members flow, in each instance, from a common nucleus of operative facts as set forth above.

7           45.     In each case, Defendants' actions caused harm to all Class members as a result of  
8 such conduct. The resolution of these central issues will be the focus of the litigation and  
9 predominate over any individual issues.

10          46.     Proposed Class counsel possesses the knowledge, experience, reputation, ability,  
11 skill, and resources to represent the Class and should be appointed lead counsel for the Class.

12                   **COUNT I— VIOLATION OF CIVIL CODE SECTION 1670.8**

13          47.     Plaintiffs re-allege and incorporate by reference Paragraphs 1 through 46 of their  
14 Complaint. Plaintiffs assert this first cause of action on behalf of themselves and all other similarly  
15 situated persons residing in California who visited or used the Website.

16          48.     Defendants are in the business of selling or leasing consumer goods or services.

17          49.     Plaintiffs and Class members visited or used the Website.

18          50.     Pursuant to the Terms on the Website, Defendants require users to “agree to use the  
19 Website. . . in a fashion that does not, in the sole judgment of UPS, negatively reflect on the  
20 goodwill or reputation of UPS. . . .” The Terms further threaten visitors to the Website who consider  
21 violating the Terms that “UPS, in its sole discretion, may terminate or suspend [y]our use of the  
22 Website, the UPS Systems, Information, Services, and Content at any time and for any or no reason  
23 in its sole discretion. . . .”

24          51.     By simply accessing or using the Website, Defendants purport to have charged  
25 Plaintiffs and Class members with having read, understood, and agreed to be bound by the Terms.

26          52.     By way of this restriction, Defendants intentionally, willfully, or recklessly seek to  
27 have Plaintiffs and the Class members waive their right as consumers to make statements regarding  
28 Defendants or their employees, agents, and goods or services, which restriction is prohibited under

1 California Civil Code 1670.8 and is contrary to public policy.

2 53. Defendants have repeatedly violated California Civil Code 1670.8 in relation to each  
3 of the Plaintiffs and Class members and their respective interactions with the Website.

4 54. Plaintiffs and Class members are also entitled to civil penalties for Defendants'  
5 violations of Civil Code 1670.8, as well as injunctive and/or public injunctive relief.

6 **PRAYERS FOR RELIEF**

7 **WHEREFORE**, Plaintiffs, on behalf of themselves and the putative Class members, pray  
8 for judgment as follows:

9 a. Determining that this action is a proper class action and certifying the Class, as defined  
10 herein;

11 b. Appointing Plaintiffs as Class representatives;

12 c. Appointing the undersigned as Class counsel;

13 d. Finding Defendants liable to Plaintiffs and Class members for damages in such amount(s)  
14 as the Court or Jury may determine;

15 e. Awarding statutorily provided damages to Plaintiffs and Class members as appropriate;

16 f. Awarding pre- and post-judgment interest;

17 g. Awarding injunctive relief, including public injunctive relief, as claimed herein or as the  
18 Court may deem proper;

19 h. Awarding Plaintiffs and Class members attorney fees and all litigation costs, as allowed  
20 by law; and

21 i. Awarding such other and further relief as may be just and proper.

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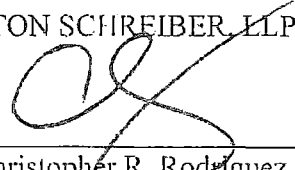
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DEMAND FOR JURY TRIAL

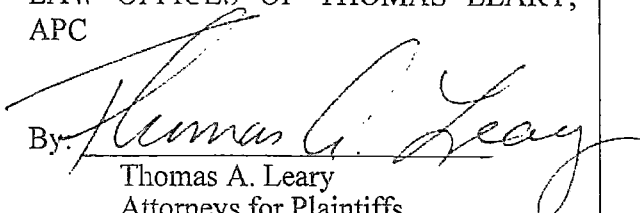
Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: November 21, 2023

SINGLETON SCHREIBER, LLP

By:   
Christopher R. Rodriguez  
Attorneys for Plaintiffs

LAW OFFICES OF THOMAS LEARY,  
APC

By:   
Thomas A. Leary  
Attorneys for Plaintiffs