ORIGINAL

COMMONWEALTH OF KENTUCKY FAYETTE CIRCUIT COURT SEVENTH DIVISION CASE NO. 14-CI-2172

WILLIAM BARBER, ET AL.

APR 1 4 2016

PLAINTIFFS

V_o,

UNITED PARCEL SERVICE, INC., ET AL.

DEFENDANTS

JURY INSTRUCTIONS

GENERAL INSTRUCTIONS

- A. Immediately upon retiring to the jury room, you shall select one of your number as Foreperson.
- B. Nine or more of you must agree in order to answer any of the questions or make any of the determinations required by these instructions. The nine or more of you who agree on one question, however, need not be the same jurors who agree upon another.
- C. If all twelve agree, only the Foreperson must sign his or her name and write his or her juror number on the verdict form for that question.
- D. If nine or more, but not all, agree on a determination or question, the nine or more who agree must sign their names and write their juror numbers on the verdict form individually.

INSTRUCTION NO. 1 DEFINITION

<u>Constructive discharge</u>: occurs when an employer makes working conditions so intolerable that a reasonable person in the employee's position would feel compelled to resign

INSTRUCTION NO. 2 MISSING EVIDENCE

If you find from the evidence that notes were in fact prepared by Jim Lewis that recorded material information about a meeting with the Plaintiffs, or a report regarding disparate discipline, and if you further find from the evidence that Defendant UPS intentionally or in bad faith concealed or destroyed the notes and/or report, you may, but are not required to, infer that the information recorded in the notes and/or report would be, if available, adverse to Defendant UPS and favorable to Plaintiffs.

INSTRUCTION NO. 3 RACE DISCRIMINATION

Plaintiffs allege that they were discriminated against on the basis of race. You will find for the Plaintiffs under this instruction if and only if you are satisfied by a preponderance of the evidence that:

- a. Plaintiffs suffered an adverse employment action;
- b. Plaintiffs' race was a motivating factor for the adverse action; AND
- c. The Plaintiffs were treated less favorably than similarly situated employees of other races

INTERROGATORY NO. 3(A)

Are yo	ou satisfied from the	evidence that:			
a.	Plaintiff Barber suf	fered an adverse	e employ	ment action;	
b.	Plaintiff Barber's ra	ace was a motiv	ating fac	ctor for the adverse ac	etion;
	AND				,
c.	Plaintiff Barber was	s treated less fav	orably t	han similarly situated	l employees of other
	races		•		· employees of outer
	VER: YES	2	or	NO	
(pleas	e check only one)				%
				FOREPERSON No	. (if unanimous)
(If not	unanimous)				
Jury M	a Campbell lember	3 <u>29</u> 9 No.	Jury M	July Cont	3337 No.
Jury M	y Journa I	3 <u>名し</u> \ No.	Jury M	lember July	3030 No.
Jury	ember 1	3036 No.	Jury M	fember	3506 No.
Jury M	ember	3062 No.	Jury M	1ember	No.
Jury M	ember	3 <u>510</u> No.	Jury M	lember	No.
Jury M	ember	<u>862</u> 3 No.			

INTERROGATORY NO. 3(B)

Are you satisfied from the evidence that:

- a. Plaintiff Goree suffered an adverse employment action;
- b. Plaintiff Goree's race was a motivating factor for the adverse action;

AND

c. Plaintiff Goree was treated less favorably than similarly situated employees of other races

ANSWER: YES		or NO	
(please check only one)			
		FOREPERSON No	. (if unanimous)
(If not unanimous)		200	
Jury Member	3 <u>99</u> 9	Jury Member,	No.
Jury Member	<u> 2500 \</u> No.	Jury Member	3030 No.
Jury Member	No.	Jury Member	No.
Va Mu	TACK EL	Y X 1	
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	3545 No.		

INTERROGATORY NO. 3(C)

Are you satisfied from the evidence that:

- a. Plaintiff Weathers suffered an adverse employment action;
- b. Plaintiff Weathers' race was a motivating factor for the adverse action;
 - AND
- c. Plaintiff Weathers was treated less favorably than similarly situated employees of other races

ANSWER: YES		or NO 🗸	
(please check only one)		5 7	
		FOREPERSON No.	(if unanimous)
(If not unanimous) Jury Member	<u>5290</u> No.	Kyukent Jury Member	3337 No.
Jury Member	3031 No.	Jury Member	3030 No.
Jury Member 8	3361 No.	Jury Member	<u>Solo</u> (No.
Jury Member	3036 No.	Jury Member	<u>380</u> 8 No.
Jury Member	3082 No.	Jury Member	<u> </u>
Jury Member	$\frac{33i0}{\text{No.}}$		

INTERROGATORY NO. 3(D)

Are	vou	satisfied	from	the	evidence	that
7 M	100	DAMIDITOR	TT OTT		0 11001100	CTTCCC

- a. Plaintiff Jackson suffered adverse employment action, which includes a constructive discharge;
- Plaintiff Jackson's race was a motivating factor for the adverse action;
 AND
- c. Plaintiff Jackson was treated less favorably than similarly situated employees of other races

ANSWER: YES		or NO	
(please check only one)			
		FOREPERSON No.	(if unanimous)
(If not unanimous) Jury Member	No.	Jury Member	301 No.
Jury Member	$\frac{3B1}{No.}$	Jury Member	3808 No.
Jury Member	3337 No.	Jury Member	$\frac{363}{\text{No.}}$
JUNE David	3030 No.	Jury Member	3433 No.
Jury Member	Solol No.	Jury Member	No.
Jury Member	No.		
PLEASE PROCEED TO N	EXT PAGE		

INTERROGATORY NO. 3(E)

Are you satisfied from the evidence that:

- a. Plaintiff Brown suffered an adverse employment action;
- b. Plaintiff Brown's race was a motivating factor for the adverse action;

AND

c. Plaintiff Brown was treated less favorably than similarly situated employees of other races

ANSWER: YES	or NO	ë
(please check only one)		8
e e	FOREPERSON No.	(if unanimous)
(If not unanimous)		
Jury Member No.	Jury Member	3061 No.
Jury Member No.	Jury Member	3 03 6 No.
Jury Member No.	Jury Member	3082 No.
Jupy Member No.	Jury Member	<u> </u>
Loe HOMAN SOO1	2 blu	3433
Jury Member No.	Jur∜ Me¦mber ∖	No.
Jury Member No.		

INTERROGATORY NO. 3(F)

Are you satisfied from the evidence that:

- a. Plaintiff Ragland suffered an adverse employment action, which includes a constructive discharge;
- Plaintiff Ragland's race was a motivating factor for the adverse action;
 AND
- c. Plaintiff Ragland was treated less favorably than similarly situated employees of other races

ANSWER: YES		or	NO .	·/	
(please check only one)					
20					
			FORE	EPERSON No.	(if unanimous)
(If not unanimous)		W	mb	Kent	3337
Jury Member	No.	Jury N	lember		No.
Jury Member	3037 No.	Jura	1ember	TAN	$\frac{3}{No}$
July Member	110.	July IV	Cinoci		140.
Dernoliner	3030	- Uber	- 1		3082
Jury Member	No.	Jury N	1ember		No.
Ler Home A)	3001	()e	1901		3023
Jury Member	No.	Juny N	1ember	î.	No.
O CHE.	3808	-/	de	hs.	3+37
Jury Member	No.	Jury N	1ember	1	No.
Jury Member	3061 No.				

INTERROGATORY NO. 3(G)

Are you satisfied from the evidence that: a. Plaintiff Hughes suffered an adverse employment action; b. Plaintiff Hughes' race was a motivating factor for the adverse action; AND c. Plaintiff Hughes was treated less favorably than similarly situated employees of other races **ANSWER: YES** (please check only one) FOREPERSON No. (if unanimous) (If not unanimous) Jury Member Jury Member lury Member Jury Member Jury Member Jury Member Jury Member No. Jury Member No. Jury Member

INTERROGATORY NO. 3(H)

Are you satisfied from the evidence that:

- a. Plaintiff Young suffered an adverse employment action;
- b. Plaintiff Young's race was a motivating factor for the adverse action; AND
- c. Plaintiff Young was treated less favorably than similarly situated employees of other races

ANSWER: YES	or NO	
(please check only one)		
	FOREPERSON No. (if unanimous)	_
(If not unanimous)	WATER Chino 38'5	
Jury Member No.	Jury Member No.	
Show the To	1. 710 3026	
Jury Member	Jury Member No.	
Jury Member No.	Jury Member No.	
Jury Member 1 N8:	Jury Member No.	
Jury Member No.	Jury Member No.	
Jury Member No.		

INSTRUCTION NO. 4(A) HOSTILE WORK ENVIRONMENT

Plaintiffs allege that they were subject to a hostile work environment based upon their race by Defendants during their employment at UPS. Hostile work environment is a form of discrimination that is prohibited by Kentucky law. You will find for the Plaintiffs under this Instruction if, and only if, you are satisfied by a preponderance of the evidence that in the course of Plaintiffs' employment with UPS, the Plaintiffs were subjected to racial harassment by UPS, by and through its agents, severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive, and that the Plaintiffs subjectively regarded as hostile and abusive.

In determining whether the work environment was hostile or abusive, you may consider any of the following factors:

- a. The frequency of the conduct or behavior;
- b. The severity of the conduct or behavior;
- c. Whether the conduct or behavior was physically threatening or humiliating; OR
- d. Whether the conduct or behavior unreasonably interfered with the Plaintiffs' work performance.

INSTRUCTION NO. 4(B) AFFIRMATIVE DEFENSE

If you find that the Defendants exercised reasonable care to prevent and to correct promptly any alleged racially harassing behavior and that the Plaintiffs unreasonably failed to utilize the measures the employer provided or to avoid harm otherwise, then Defendant UPS cannot be liable for hostile work environment.

INTERROGATORY NO. 4(A)(1) HOSTILE WORK ENVIRONMENT

Are you satisfied from the evidence that:

- a. In the course of Plaintiff Barber's employment with UPS, Plaintiff Barber was subjected to racial harassment by Defendant UPS;
- b. That such harassment was severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive; AND
- c. That Plaintiff Barber subjectively regarded the work environment as hostile or abusive.

ANSWER: YES		or NO	
(please check only one)			
		FOREPERSON No.	(if unanimous)
(If not unanimous)			
Jury Member	9941 No.	Jury Member	<u> 3299</u> No.
Jury Member	<u>3036</u> No.	Jury Member	3037 No.
Jury Member	3040 No.	Jury Member	No.
Jury Member	2000 No.	Jury Member	<u> 2001</u> No.
Jury Member	3553'A No.	Jury Member	3030 No.
Jury Member	30 23 No.		2

If you answered YES to this Interrogatory, please proceed to the next page.

If you answered NO to this Interrogatory, please proceed to Interrogatory 4(B)(1)

INSTRUCTION NO. 4(A)(2)

Are you satisfied from the evidence that:

- a. Defendant UPS exercised reasonable care to prevent or correct promptly any racially harassing behavior; AND
- b. Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant UPS or to avoid harm otherwise.

ANSWER: YES		or NO V	
(please check only one)			
		FOREPERSON No	. (if unanimous)
(If not unanimous) Jury Member	Bays No.	Jury Member	75334 No.
Jury Member	3036 No.	Jury Member	75999 No.
Jury Member	2 <u>06.</u> 2 No.	Jury Member	No.
Jury Member	33.0 No.	Jury Member	<u> 3808</u> No.
Jury Member	30023 No.	Jury Member	No.
Jury Member	<u>3030</u> No.		

If you answered YES to this Interrogatory, you will find in favor of Defendant UPS on this claim. Please proceed to the next page.

INTERROGATORY NO. 4(B)(1) HOSTILE WORK ENVIRONMENT

Are you satisfied from the evidence that:

- a. In the course of Plaintiff Goree's employment with UPS, Plaintiff Goree was subjected to racial harassment by Defendant UPS;
- b. That such harassment was severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive; AND
- c. That Plaintiff Goree subjectively regarded the work environment as hostile or abusive.

ANSWER: YES		or NO	
(please check only one)			
8		FOREPERSON No.	(if unanimous)
(If not unanimous) Jury Member	Sacos No.	Jury Member	<u>3333</u> 4 No.
Jury Member	2 <u>029</u> No.	Jury Member	No.
Jury Member	0030 No.	Jury Member	5030 No.
Jury Member	No.	Jury Member	3808 No.
Jury Member	3310 No.	Jury Member	No.
Jury Member	No.		

If you answered YES to this Interrogatory, please proceed to the next page.

If you answered NO to this Interrogatory, please proceed to Interrogatory 4(C)(1)

INSTRUCTION NO. 4(B)(2)

Are you satisfied from the evidence that:

- a. Defendant UPS exercised reasonable care to prevent or correct promptly any racially harassing behavior; AND
- b. Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant UPS or to avoid harm otherwise.

ANSWER: YES		or NO	
(please check only one)			
		FOREPERSON	No. (if unanimous)
(If not unanimous)		K	
Jury Member	No.	Jury Member	
Jury Member	752553 No.	Jury Member	
Jury Member	3299 No.	Jury Member	<u>303</u> 0 No.
Jury Member Jury Member	52€√\ No.	Jury Member	<u>.3%8</u> No.
Jury Member	No.	Jury Member	No.
Jury Member	No.		

If you answered YES to this Interrogatory, you will find in favor of Defendant UPS on this claim. Please proceed to the next page.

INTERROGATORY NO. 4(C)(1) HOSTILE WORK ENVIRONMENT

Are you satisfied from the evidence that:

- a. In the course of Plaintiff Weathers' employment with UPS, Plaintiff Weathers was subjected to racial harassment by Defendant UPS;
- b. That such harassment was severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive; AND
- c. That Plaintiff Weathers subjectively regarded the work environment as hostile or abusive.

ANSWER: YES	or NO	
(please check only one)		
	FOREPERSON No	. (if unanimous)
(If not unanimous)	ie Wyllhent	3334
Jury Member No.	Jury Member	No.
Jury Member No.		<u>529</u> 9 No.
Jury Member No.	Jury Member	3030 No.
Jury Member No.	Jury Member	386 No.
Jury Member No.		No.
Jury Member No.	<u>2</u> 5	

If you answered YES to this Interrogatory, please proceed to the next page.

If you answered NO to this Interrogatory, please proceed to Interrogatory 4(D)(1)

INSTRUCTION NO. 4(C)(2)

Are you satisfied from the evidence that:

- a. Defendant UPS exercised reasonable care to prevent or correct promptly any racially harassing behavior; AND
- b. Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant UPS or to avoid harm otherwise.

ANSWER: YES		or NO	
(please check only one)			
		FOREPERSON No	. (if unanimous)
(If not unanimous) Jury Member Jury Member Jury Member	3 24 No. No. 30 8 2 No.	Jury Member Jury Member Jury Member	No. No. No.
Jury Member	No.	Jury Member	Baaa No.
Jury Member Jury Member	No. 25 No. 25 No.	Jury Member	No.

If you answered YES to this Interrogatory, you will find in favor of Defendant UPS on this claim. Please proceed to the next page.

INTERROGATORY NO. 4(D)(1) HOSTILE WORK ENVIRONMENT

Are you satisfied from the evidence that:

- a. In the course of Plaintiff Jackson's employment with UPS, Plaintiff Jackson was subjected to racial harassment by Defendant UPS;
- b. That such harassment was severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive; AND
- c. That Plaintiff Jackson subjectively regarded the work environment as hostile or abusive.

ANSWER: YES	, e-	or NO	
(please check only one)			
		FOREPERSON NO	o. (if unanimous)
(If not unanimous)			
Jury Member	3249 No.	Jury Member	3082_ No.
Show tillium	3087	Y Markon	33/D
Jury Member	No.	Jury Member	No. 3023
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member Jury Member	3361 No.	Jury Member	No.
Jury Member	$\frac{3036}{\text{No.}}$		7

If you answered YES to this Interrogatory, please proceed to the next page.

If you answered NO to this Interrogatory, please proceed to Interrogatory 4(E)(1)

INSTRUCTION NO. 4(D)(2)

Are you satisfied from the evidence that:

- a. Defendant UPS exercised reasonable care to prevent or correct promptly any racially harassing behavior; AND
- b. Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant UPS or to avoid harm otherwise.

ANSWER: YES		or NO	
(please check only one)			
		FOREPERSON No.	(if unanimous)
(If not unanimous)		, A	
Jury Member	3299 No.	Jury Member	$\frac{303}{\text{No.}}$
Jury Member	3037 No.	Jury Member	3082 No.
Hynchest Jury Member	3337 No.	Jury Member	$\frac{33}{\text{No.}}$
Jury Member	3030 No.	Jury Member	3023 No.
Jury Member	3808 No.	Jury Member	No.
Jury Member	336/ No.		

If you answered YES to this Interrogatory, you will find in favor of Defendant UPS on this claim. Please proceed to the next page.

INTERROGATORY NO. 4(E)(1) HOSTILE WORK ENVIRONMENT

Are you satisfied from the evidence that:

- a. In the course of Plaintiff Brown's employment with UPS, Plaintiff Brown was subjected to racial harassment by Defendant UPS;
- b. That such harassment was severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive; AND
- c. That Plaintiff Brown subjectively regarded the work environment as hostile or abusive.

ANSWER: YES	or NO
(please check only one)	(B)
	FOREPERSON No. (if unanimous)
(If not unanimous)	
Jury Member No.	
Strong the 302	
Jury Member No. Jury Member No. No.	Jury Member No. Jury Member No. No.
Jury Member No.	
Jury Member 300 No.	
Jury Member No.	

If you answered YES to this Interrogatory, please proceed to the next page.

If you answered NO to this Interrogatory, please proceed to Interrogatory 4(F)(1)

INSTRUCTION NO. 4(E)(2)

Are you satisfied from the evidence that:

- a. Defendant UPS exercised reasonable care to prevent or correct promptly any racially harassing behavior; AND
- b. Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant UPS or to avoid harm otherwise.

ANSWER: YES		or	NO	
(please check only one)				
			211	
			FOREPERSON No.	(if unanimous)
		~		
(If not unanimous)				
Mesignas groc	300 a	Lhe	Mai	3082
Jury Member	No.	Jury N	Member	No.
Atau to Aver	3037	SE	1/1/2-	33/2
Jury Member	No.	Jury N	Member	No.
Dana Saver	3030 '	- De	EGIN.	7027
Jury Member	No.	Jury	Member	No.
6.36	380°E	U		
Jury Member	No.	Jury N	Member	No.
Statulloung	336			9
Jury Member	No.	Jury N	Member	No.
Dun TJS	<u> 3 63</u> 6			
Jury Member	No.			

If you answered YES to this Interrogatory, you will find in favor of Defendant UPS on this claim. Please proceed to the next page.

INTERROGATORY NO. 4(F)(1) HOSTILE WORK ENVIRONMENT

Are you satisfied from the evidence that:

- a. In the course of Plaintiff Ragland's employment with UPS, Plaintiff Ragland was subjected to racial harassment by Defendant UPS;
- b. That such harassment was severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive; AND
- c. That Plaintiff Ragland subjectively regarded the work environment as hostile or abusive.

ANSWER: YES		_ or NO	1 4
(please check only one)		FOREPERSO	No. (if unanimous)
(If not unanimous)			
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	No.		
If you answered YES to the	nis Interrogato	ry, please proceed to the n	ext page.

INSTRUCTION NO. 4(F)(2)

Are you satisfied from the evidence that:

- a. Defendant UPS exercised reasonable care to prevent or correct promptly any racially harassing behavior; AND
- b. Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant UPS or to avoid harm otherwise.

	4		
ANSWER: YES	W.	or NO	
(please check only o	one)		W 14
		FOREPERSON No.	(if unanimous)
(If not unanimous)	R	1.	
Server Camp	DO00	Drug T. Ad	3036
Jury Member	No.	Jury Member	No.
Story tolk	WY 3087	() mh	3082
Jury Member	No.	Jury Member	No.
Wundher-	3337	4816	3310
Jury Member	No.	Jury Member	No.
Dorna Sau	or 3030	John Gill	3023
Jury Member	No.	Jury Member	No.
6		-	· · · · · · · · · · · · · · · · · · ·
Jury Member	No.	Jury Member	No.
Jury Member	3361 No.		

If you answered YES to this Interrogatory, you will find in favor of Defendant UPS on this claim. Please proceed to the next page.

INTERROGATORY NO. 4(G)(1) HOSTILE WORK ENVIRONMENT

Are you satisfied from the evidence that:

- a. In the course of Plaintiff Hughes' employment with UPS, Plaintiff Hughes was subjected to racial harassment by Defendant UPS;
- b. That such harassment was severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive; AND
- c. That Plaintiff Hughes subjectively regarded the work environment as hostile or abusive.

ANSWER: YES	o ^{se 9}	or NO	
(please check only one)			
		FOREPERSON No	. (if unanimous)
(If not unanimous)		. 7	
Jury Member	2000 No.	Jury Member	336(No.
Jury Member	3087 No.	Jury Member	3082_ No.
Jury Member	3337 No.	Jury Member	33/0 No.
Jury Member	3030 No.	Jury Member	3023 No.
Jury Member	3808 No.	7	
Jury Member	3836 No.	Jury Member	No.

If you answered YES to this Interrogatory, please proceed to the next page.

If you answered NO to this Interrogatory, please proceed to Interrogatory 4(H)(1)

INSTRUCTION NO. 4(G)(2)

Are you satisfied from the evidence that:

- a. Defendant UPS exercised reasonable care to prevent or correct promptly any racially harassing behavior; AND
- b. Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant UPS or to avoid harm otherwise.

ANSWER: YES		or NO	
(please check only one)			
		FOREPERSON No	o. (if unanimous)
(If not unanimous)		6 · · · · · · · · · · · · · · · · · · ·	
Jury Member	No.	Jury Member	<u>5 03 6</u> No.
Jury Member	3037 No.	Jury Member	3082 No.
Lury Member	3 <u>33</u> 7 No.	Jury Member	$\frac{33}{No}$
Jury Member	3030 No.	Jury Member	3023 No.
Jury Member	3808 No.	Jury Member	No.
Jury Member	306/ No.		

If you answered YES to this Interrogatory, you will find in favor of Defendant UPS on this claim. Please proceed to the next page.

INTERROGATORY NO. 4(H)(1) HOSTILE WORK ENVIRONMENT

Are you satisfied from the evidence that:

- a. In the course of Plaintiff Young's employment with UPS, Plaintiff Young was subjected to racial harassment by Defendant UPS;
- b. That such harassment was severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive; AND
- c. That Plaintiff Young subjectively regarded the work environment as hostile or abusive.

ANSWER: YES	•	or	NO	
(please check only one)				
			FOREPERSON No. ((if unanimous)
(If not unanimous)	21	7-1		4 /
Jury Member	3299 No.	Jury N	1ember	3 03 6 No.
Jury Member	<u>3537</u> (No.	Jury N	Member 1	3082 No.
Kynubent	3337 S	Jumi N	Member	3810 No.
Jury Member	3030	(Jel	9/4/	3023
Jury Member	No. SBOB	Jury IV	Member	No.
Jury Member	No.	Jury M	1ember	No.
Jury Member	326 No.			

If you answered YES to this Interrogatory, please proceed to the next page.

If you answered NO to this Interrogatory, please proceed to Instruction No. 5.

INSTRUCTION NO. 4(H)(2)

Are you satisfied from the evidence that:

- a. Defendant UPS exercised reasonable care to prevent or correct promptly any racially harassing behavior; AND
- b. Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendant UPS or to avoid harm otherwise.

ANSWER: YES		or NO V	
(please check only one)			
		FOREPERSON No.	(if unanimous)
(If not unanimous)		1	
Jury Member	3 <u>299</u> No.	Jury Member	3 03 6 No.
Jury Member	3037 No.	Jury Member	3082 No.
Jury Member	3337 No.	Jury Member	3310 No.
Jury Member	3030 No.	Jury Member	$\frac{\sqrt{3023}}{\text{No.}}$
Jury Member	Bece No.	Jury Member	No.
Jury Member Jury Member	300 No.		

If you answered YES to this Interrogatory, you will find in favor of Defendant UPS on this claim. Please proceed to the next page.

INSTRUCTION NO. 5 RETALIATION

Plaintiffs allege that Defendants retaliated against them for engaging in protected activity. It is unlawful for an employer to retaliate against an employee for engaging in protected activity. You will find for the Plaintiffs if and only if you are satisfied by a preponderance of the evidence that:

- a. The Plaintiff engaged in protected activity when he complained about racial issues in the workplace;
- b. Defendants UPS, Mattingly, and/or Speaks were aware of the Plaintiff's protected activity;
- c. Defendants UPS, Mattingly, and/or Speaks took adverse employment action against the Plaintiff; AND
- d. There is a causal connection between the Plaintiff's protected activity and the adverse employment action.

INTERROGATORY NO. 5(A) RETALIATION

Are you satisfied from the evidence that:

- a. Plaintiff Barber engaged in protected activity when he complained about racial issues in the workplace;
- b. Defendants UPS, Mattingly, and/or Speaks were aware of Plaintiff Barber's protected activity;
- c. Defendants UPS, Mattingly, and/or Speaks took adverse employment action against Plaintiff Barber; AND
- d. There is a causal connection between Plaintiff Barber's protected activity and the adverse employment action.

ANSWER (as against UPS): '(please check only one)	YES or	NO _
(If not unanimous)	FOREPERS	ON No. (if unanimous)
	No. Jury Member	3334 No.
	No. Jury Member	11 3030 No.
	No. Jury Member	No.
No Alika	500 ROLL	3608 ×
Mylly 3	No. Jury Member	No. 3299
	No. Jury Member	No.
	No.	

ANSWER (as against Mas (please check only one)	ttingly): YES	or	NO
		FOREPERSON 1	No. (if unanimous)
(If not unanimous) Jury Member	2061 No.	Jury Member	No.
Jury Member	2036 No.	Jury Member	_ <u>3</u> 29 No.
Jury Member	No.	Jury Member	3337 No.
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	<u>8030</u> No.		
ANSWER (as against Spear) (please check only one)	aks): YES _	or No	0
(If not unanimous)		FOREPERSON N	No. (if unanimous)
Jury Member	No.	Jury Member	= 30-62 No.
Jury Member	No	Jury Member	5037

Thelen	3913	Overas Sauce	3030
Jury Member	No.	Jury Member	No.
Calco Homenth	1,200		110.
Jury Member	No.	Jury Member	No.
Jury Member	No. 150.00	Jury Member	No.
Jury Member	75933 No.		

INTERROGATORY NO. 5(B) RETALIATION

Are you satisfied from the evidence that:

- a. Plaintiff Goree engaged in protected activity when he complained about racial issues in the workplace;
- b. Defendants UPS, Mattingly, and/or Speaks were aware of Plaintiff Goree's protected activity;
- c. Defendants UPS, Mattingly, and/or Speaks took adverse employment action against Plaintiff Goree; AND
- d. There is a causal connection between Plaintiff Goree's protected activity and the adverse employment action.

ANSWER (as against UPS (please check only one)	S): YES	or, I	NO V	
(Production of the Control of the Co		FOREBEON	INIE (:f	
(If not unanimous)		FOREPERSON	No. (if unanimous)	
Descenso &	9,349	Cho MONTH	13201	
Jury Member	No.	Jury Member	No.	
do the being	3261	Show till	W30311	
Jury Member	No.	Jury Member	No.	
1 7 14	2-036	Wana Sauce	3030	
Jury Member	No.	Jury Member	7 No.	
	Deser of	ROLL	2000	
Jury Member	<u>ъоъэ</u> No.	Jury Member	No.	
A. A.M	0 -00	1 Mind Hook	0.00	
Jury Member	3023 No.	Jury Member	No.	*
			- 1 - 2	
Jury Member	<u>5 64</u> 5 No.			
7				
(CONTINUED ON NEXT	PAGE)			

ANSWER (as against Mattingly): YE	or NO
(please check only one)	
	FOREPERSON No. (if unanimous)
Jury Member No. Jury Member No. Jury Member No.	Jury Member No. Jury Member No. Jury Member No.
Jury Member No.	Jury Member No.
Jury Member No.	Jury Member No.
Jury Member No.	
ANSWER (as against Speaks): YES	or NO
(please check only one)	
(If not unanimous) Jury Member No.	Jury Member No. Jury Member No. Jury Member No.
Jury Member No.	Jury Member No.
Jury Member No.	Jury Member No.
(CONTINUED ON NEXT PAGE)	

<u>2560</u>6 No.

Jury Member

INTERROGATORY NO. 5(C) RETALIATION

- a. Plaintiff Weathers engaged in protected activity when he complained about racial issues in the workplace;
- b. Defendants UPS, Mattingly, and/or Speaks were aware of Plaintiff Weathers' protected activity;
- c. Defendants UPS, Mattingly, and/or Speaks took adverse employment action against Plaintiff Weathers; AND
- d. There is a causal connection between Plaintiff Weathers' protected activity and the adverse employment action.

ANSWER (as against UP	S): YES	or NO	_ 1
(please check only one)		3	
		FOREPERSON No	. (if unanimous)
(If not unanimous)		A .	,
6(2)	2506	Jan 1 1	3036
Jury Member	No.	Jury Member	No.
Jury Member	<u>L020</u> No.	Jury Member	3261 No.
Jury Member	33333 No.	Jury Member	No.
Jury Member	2003 No.	Jury Member	3343 No.
Jury Member	No.	Jury Member	No.
Jury Member	2003 No.		
(CONTINUED ON NEXT	PAGE)		

ANSWER (as against Mattingly): YES	or NO
(please check only one)	
	FOREPERSON No. (if unanimous)
ži.	
(If not unanimous)	t As the second
State Dung Baco	YALILIKENT 3333
Jury Member No.	Jury Member No.
1 303c	Dans James 3030
Viry Member / No.	Jury Member No.
11/1/2000	Sho thow MIT
Jury Member No.	Jury Member No.
N 1 1/1	160
Jury Membern No.	Jury Member No.
3343	S. Cangball 3399
Jury Member No.	Jury Member No.
John 11 3037	
Jury Member No.	
ANSWER (as against Speaks): YES	or NO
(please check only one)	
(If not unanimous)	FOREPERSON No. (if unanimous)
(12 120 12111111111111111111111111111111	
the hall been and	NAME OF THE PROPERTY OF THE PR
Jury Member No.	Jury Member No.
d A)	¥
Jury Member No.	Jury Member, No.
)	
Un Mu 3060	AMM 3037
Jury Member No.	Jury Member No.

Jury Members	No.	Jury Member	3908 No.
Jury Member	703C	Jury Member	3299 No.
Jury Member	No.		

INTERROGATORY NO. 5(D) RETALIATION

- a. Plaintiff Jackson engaged in protected activity when he complained about racial issues in the workplace;
- b. Defendants UPS, Mattingly, and/or Speaks were aware of Plaintiff Jackson's protected activity;
- c. Defendants UPS, Mattingly, and/or Speaks took adverse employment action against Plaintiff Jackson; AND
- d. There is a causal connection between Plaintiff Jackson's protected activity and the adverse employment action.

ANSWER (as against UP (please check only one)	S): YES	or NO	
		FOREPERSON No	o. (if unanimous)
(If not unanimous)	77	1 1	()
Den TA	2026	Willout	3337
Jury Member	No.	Jury Member	No.
14121	3310	10/5	35008
Jury Member	No.	Jury Member	No.
alexano 2 d	a, goan	DOLLA MULL	2020
Jury Member	No.	Jury Member	No.
•	C	1 2/26-1	200
	(bc2)5	- Jol Mill	<u> 3043</u>
Jury Member	No.	Jury Member	No.
	-3060	V	
Jury Member	No.	Jury Member	No.
sury Member	140.	sary weineer	140.
Status young	20ce)		
Jury Member	No.		
(COMEDITIES ON MEXALE	DACE)		
(CONTINUED ON NEXT	PAGE)		

ANSWER (as against M	lattingly): YES	or N	0
(please check only one)			- NO 2-200
		FOREPERSON No	
(If not unanimous)			
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
3/2			
Jury Member	No.		
ANSWER (as against SI	peaks): YES _	or NO	~
(please check only one)			
		FOREPERSON No	. (if unanimous)
(If not unanimous)		11da 11 -	
Tom Manhot	Many A	Skithy Jumo	3261 No.
Jury Member Jury Member	No.	Jury Member Jury Member	3 03 6 No.
2000	3808	Males	3023 No.
Jury Member	No.	Jury Member	140.

Jury Member	33 13 No.	Mulkent Jury Member	3337 No.
Jury Member	3082 No.	Jury Member	No.
Jury Member	No.		*

INTERROGATORY NO. 5(E) RETALIATION

- a. Plaintiff Brown engaged in protected activity when he complained about racial issues in the workplace;
- b. Defendants UPS, Mattingly, and/or Speaks were aware of Plaintiff Brown's protected activity;
- c. Defendants UPS, Mattingly, and/or Speaks took adverse employment action against Plaintiff Brown; AND
- d. There is a causal connection between Plaintiff Brown's protected activity and the adverse employment action.

ANSWER (as against UPS (please check only one)	S): YES	or NO	~
(If not unanimous)		FOREPERSON No.	(if unanimous)
Jury Member	No.	Jury Member	3337 No.
hury/Member	3433 No.	Jury Member	3800 No.
Jury Member	3037 No.	Jury Member)	303 6 No.
Jury Member	2030 No.	Jury Member	No.
Jury Member	130/ No.	Jury Member	No.
Staty Young	32lel		
Jury Member	No.		

ANSWER (as against Matti	ngly): YES	or N	0
(please check only one)			
		FOREPERSON No.	(if unanimous)
(If not unanimous)		ω'	
	5299 No.	Jury Member	3 03 6 No.
Jury Member	3037 No.	Jury Member	3337 No.
Jury Member 3	030 No.	Jury Member	3082_ No.
Jury Member	No.	Jury Member	3433 No.
Jury Member	3800 No.	Jury Member	No.
Jury Member	BOLL No.		
ANSWER (as against Speak	s): YES	or NO	V
(please check only one)			
(If not unanimous)		FOREPERSON No.	The state of the s
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.

Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member			

INTERROGATORY NO. 5(F) RETALIATION

- a. Plaintiff Ragland engaged in protected activity when he complained about racial issues in the workplace;
- b. Defendants UPS, Mattingly, and/or Speaks were aware of Plaintiff Ragland's protected activity;
- c. Defendants UPS, Mattingly, and/or Speaks took adverse employment action against Plaintiff Ragland; AND
- d. There is a causal connection between Plaintiff Ragland's protected activity and the adverse employment action.

ANSWER (as against UP (please check only one)	S): YES	or NO	
		FOREPERSON No.	(if unanimous)
(If not unanimous)		Way Harl	0000
Jury Member	<u>599</u> 9 No.	Jury Member	353 No.
Jury Member	3037 No.	Jury Member	3 <u>63</u> 0 No.
Jesty Ubuno	386L	Jugar 1 St	3036
Jury Member	No.	Jury Member	No.
In the	3082	Land Marshare	3310
Jury Member	No.	Jury Member	No.
_ lo-Ull	<u> </u>		
Jury Member	No.	Jury Member	No.
Jury Member	No.		
(CONTINUED ON NEXT	PAGE)		

ANSWER (as against Mattingly): YES	or No	0
(please check only one)		
	FOREPERSON No.	(if unanimous)
Jury Member No. Jury Member No. Jury Member No. Jury Member No. Jury Member No.	Jury Member Jury Member Jury Member	3 036 No. 3-433 No. 3387 No.
Jury Member No.	Jury Member Jury Member	No.
Jury Member 8 No.	NO	
ANSWER (as against Speaks): YES	or NO	
(If not unanimous)	FOREPERSON No.	(if unanimous)
Jury Member No. 3037 Jury Member No. 4333 Jury Member No.	Jury Member Jury Member Jury Member	3030 No. No.

Jury Member	3366 No.	Jury Member	3 <i>8</i> 36 No.
Jury Member	3082 No.	Jury Member	702.7 No.
Jury Member	3 + 3 3 No.		

INTERROGATORY NO. 5(G) RETALIATION

Are you satisfied from the evidence that:

- a. Plaintiff Hughes engaged in protected activity when he complained about racial issues in the workplace;
- b. Defendants UPS, Mattingly, and/or Speaks were aware of Plaintiff Hughes' protected activity;
- c. Defendants UPS, Mattingly, and/or Speaks took adverse employment action against Plaintiff Hughes; AND
- d. There is a causal connection between Plaintiff Hughes' protected activity and the adverse employment action.

ANSWER (as agai	nst UPS): YES	or N	10	
(please check only one)				
w_		FOREPERSON No.	(if unanimous)	
(If not unanimous)		A A		
Jury Member	3299 No.	Jury Member	3 <u>26</u> No.	
Jury Member	3037 No.	Jury Member	3036 No.	
Jury Member	3337 No.	Jury Member	3082 No.	
Dorra Saver	3030	J.A.	3023	
Jury Member	No.	Jury Member	No. 3433	
Jury Member	No.	Jury Member	No.	
Jury Member	No.		%	

ANSWER (as against Matt	ingly): YES	or	NO V
(please check only one)			
-			
		FOREPERSON	No. (if unanimous)
(If not unanimous) Jury Member	3 <u>299</u>	Deethout	13207
Jury Member	No. No.	Jury Member Jury Member	No. _ 3337 No.
Jury Member	No.	Jury Member	3309 No.
Jury Member	No.	Jury Member	3036 No.
Jury Member	No.	Jury Member	7433 No.
Jury Member	No.		
ANSWER (as against Speal (please check only one)	ks): YES _	or N	o <u>/</u>
(produce entering only)			
(If not unanimous)		FOREPERSON	No. (if unanimous)
Jury Member Jury Member	3037 No.	Jury Member Jury Member Jury Member	3337 No. No.
Jury Member	No.	Jury Member	<u></u>

Jury Member	300 L No.	Jury Member	3 03.6 No.
Juny Member	3082 No.	Jury Member	
JuryMember	3433 No		

INTERROGATORY NO. 5(H) RETALIATION

Are you satisfied from the evidence that:

- a. Plaintiff Young engaged in protected activity when he complained about racial issues in the workplace;
- b. Defendants UPS, Mattingly, and/or Speaks were aware of Plaintiff Young's protected activity;
- c. Defendants UPS, Mattingly, and/or Speaks took adverse employment action against Plaintiff Young; AND
- d. There is a causal connection between Plaintiff Young's protected activity and the adverse employment action.

ANSWER (as against UP	S): YES	or NO _ 1	
(please check only one)			
(If not unanimous) Jury Member	3399 No.	FOREPERSON No Jury Member	3337 No.
Jury Member Jury Member	3037 No. 3630 No.	Jury Member Jury Member	5808 No. 13036 No.
Jury Member	530) No.	Jury Member	3082 No.
Jury Member Jury Member	306 No.	Jury Member	3027 No.

ANSWER (as against Mattingly): YES		or NO		
(please check only one)				
		FOREPERSON N	o. (if unanimous)	
(If not unanimous)		. 1		
Jury Member	5299 (No.	Jury Member	306 No.	
Jury Member	3037 No.	Jury Member	303-6 No.	
Jury Member	3337 (No.	Jury Member	3082 No.	
oc Cicio cone	030 No.	Jury Member	30).7 No.	
Jury Member	$\frac{200}{\text{No.}}$	Jury Member	3433 No.	
101/2	<u> 38 0</u> 8	sury internoci	140.	
Jury Member	No.			
ANSWER (as against Speak	s): YES	or NO		
(please check only one)			·	
(If not unanimous)		FOREPERSON N	o. (if unanimous)	
Jury Member	No.	Jury Member	No.	
Jury Member	No.	Jury Member	No.	
Jury Member	No.	Jury Member	No.	

Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	No		

PLEASE PROCEED TO THE NEXT PAGE

INSTRUCTION NO. 6 DAMAGES

If you answered YES to one or more of the Interrogatories presented to you, you will determine from the evidence and award a sum or sums of money that will fairly and reasonably compensate each individual Plaintiff for such of the following damages you believe from the evidence have been sustained as a direct result of the Defendants' conduct.

To Plaintiff William Barber:

Back	Wages	(not to	exceed	\$314.96)
------	-------	---------	--------	----------	---

Emotional and mental distress (not to exceed \$1,500,000)

*<u>***************</u> \$_;5335,050,00

200		FOREPERSON No	o. (if unanimous)
(If not unanimous)		Shir	
Hothy Young	SAROI		2034
Jury Member	No.	Jury Member	No.
June 1	2536	Why Kest	3337
Jury Member	No.	Jury Member	No.
Jury Member	5000 No.	Jury Member	3030 No.
Jury Member	3 <u>09</u> 9 No.	Jury Member	1001
July Member	NO.	Jury Member	No.
FRAL	3350	Q.	
Jury Member	No.	Jury Member	No.
JAMIL	100000		
Jury Member	No.		

PLEASE PROCEED TO THE NEXT PAGE

To Plaintiff Jeffrey Goree:

(CONTINUED ON NEXT PAGE)

Emotional and mental distress (not to exceed \$1,500,000)

	(16	To the state of th	FOREPERSON No.	(if unanimous)
	(If not unanimous)			
	Jury Member	No.	Jury Member	Ño.
/	Jury Member	No.	Jury Member	No.
(Jury Member	7.55.2 No.	Jury Member	No. No.
1	Jury Member	3310 No.	Jury Member	No.
	Jury Member	<u>1500</u> 5 No.	Jury Member	3000 No.
	Jury Member	75034 No.		
	To Plaintiff Curtis Weather	rs:		
	Back Wages (not to exceed	\$30,528.96)		\$
	Emotional and mental distre	ess (not to excee	d \$1,500,000)	\$ 100,000.00
			FOREPERSON No.	(if unanimous)
13	(If not unanimous) Jury Member	No.	Jury Member	3037 No.

Jury Member	8680 No.	Jury Member	3036 No.
Jury Member Jury Member	No.	Jury Member Jury Member	No.
Jury Member	No.	Jury Member	No.
Jury Member	No.		
To Plaintiff Glenn Jackson Future Wages (not to exceed Emotional and mental distr	ed \$346,080)		\$2
(If not manine)		FOREPERSON No.	(if unanimous)
(If not unanimous) Jury Member	25349 No.	Jury Member	3337 No.
Jury Member Jury Member	No. 3030 No.	Jury Member	No. 1 3 03 6 No.
Jury Member	3000 No.	Jury Member	N982

Jury Member Jury Member	No.	Jury Member	3023 No.
To Plaintiff Lamont Brown	: :		
Back Wages (not to exceed	\$12,187)		\$ 0
Future Wages (not to exceed	d \$1,485,000)		\$ \$
Emotional and mental distre	ess (not to excee	ed \$1,500,000)	\$100,000.00
Jury Member Jury Member Jury Member Jury Member Jury Member	No. 3037 No. 3030 No. No.	FOREPERSON No. Jury Member Jury Member Jury Member Jury Member	(if unanimous) 33 No. 303 6 No. 303 6 No. 3082 No.

No.

Jury Member

To Plaintiff Donald Ragland:

Future Wages (not to exceed	d \$168,000)		\$
Emotional and mental distre	ess (not to exce	ed \$1,500,000)	\$500,000.00
		FOREPERSON No.	(if unanimous)
(If not unanimous)		. 1	·
Bedford and	2,200	Alla beino	32101
Jury Member	No.	Jury Member	No.
All	3037	Leigh Sh	303-6
Jury Member	No.	Jury Member	No.
houthout	3337	In We	3082
Jury Member	No.	Jury Member	No.
Mang Shuar 3	080c	J. Mys	3023
Jury Member	No.	Jury Member	No.
Jury Member	No.	Jury Member	2310 No.
RXX	380%		
Jury Member	No.		
	1101		
To Plaintiff John Hughes:			
Emotional and mental distre	ess (not to excee	ed \$1,500,000)	\$ 400,000,00
		,	1.
		FORENERGOVIA	/'C
(If not unanimous)		FOREPERSON No.	(if unanimous)
(If not unanimous) Jury Member	3099 No.	Jury Member	333 7 No.
A.U.S	3037	MULLING SUMMER	2 <u>090</u>
Jury Member	No.	Jury Member	No.

Jury Member Jury Member	3000 No.	Jury Member	A 3036 No.
Jury Member	3082 No.	Jury Member	7027 No.
Jury Member	No.	Jury Member	3310 No.
Jury Member	No.		

To Plaintiff David Young:

Emotional and mental distress (not to exceed \$1,500,000)

\$1,000,000.00

FOREPERSON No. (if unanimous) (If not unanimous) -No. Jury Member No. Jury Member 17 No. Jury Member Jury Member No. Jury Member Jury Member No. No. Jury Member Jury Member

YOUR DELIBERATIONS ARE COMPLETE. PLEASE INFORM THE BAILIFF, WHO WILL INSTRUCT YOU WHEN YOU MAY RETURN TO THE COURTROOM.