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5 Attorneys for Plaintiff

6 CLAUDIA LOPEZ

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **FOR THE COUNTY OF LOS ANGELES**

10 CLAUDIA LOPEZ,

11 Plaintiff,

12 v.

13 UNITED PARCEL SERVICE, INC., doing
14 business as UPS, an Ohio corporation,
15 ATTIM HUTCHINSON, an individual, and
DOES 1 through 100, INCLUSIVE,

16
17 Defendants.

) CASE NO. BC715278

) *(Assigned for all purposes to the*
) *Hon. Elizabeth Allen White in Dept. 48)*

) **PLAINTIFF CLAUDIA LOPEZ'S**
) **NOTICE OF RULING ON**
) **DEFENDANT UNITED PARCEL**
) **SERVICE, INC.'S DEMURRER TO**
) **FIRST AMENDED COMPLAINT**

) DATE: March 12, 2019
) TIME: 8:30 A.M.
) DEPT: 48

) Complaint Filed: July 24, 2018

21 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

22 **PLEASE TAKE NOTICE** that on March 12, 2019 at 8:30 a.m., in Department
23 48 of the above-entitled court, located at 111 North Hill Street, Los Angeles CA 90012,
24 Defendant UNITED PARCEL SERVICE, INC.'s ("UPS") Demurrer to Plaintiff
25 CLAUDIA LOPEZ 's First Amended Complaint ("FAC") was heard by the Honorable
26 Judge Elizabeth Allen White.

1 Counsel Amber Grayhorse of Sanchez & Amador, LLP, appeared on behalf of
2 Defendant UPS and Counsel T. Joshua Ritz of T. Joshua Ritz & Associates, Inc.,
3 appeared on behalf of Plaintiff CLAUDIA LOPEZ.

4 After full consideration of Defendant's moving papers and reply, Plaintiff's
5 opposition thereto, all related exhibits and declarations and oral argument, the Court
6 adopted its March 12, 2019 Tentative Order, a true and correct copy of which is attached
7 hereto as Exhibit A, RULING as follows:

- 8
- 9 1. **Third Cause of Action (Discrimination).** Defendant's Demurrer to Plaintiff's
10 Third Cause of Action For Discrimination is OVERRULED.
- 11 2. **Fourth Cause of Action (Failure to Prevent Harassment, Retaliation and**
12 **Discrimination).** Defendant does not challenge the fourth cause of action to the
13 extent it is based upon a failure to prevent harassment and retaliation, as such the
14 demurrer to the fourth cause of action is OVERRULED.
- 15 3. Defendant has ten (10) days to file and serve an answer.

16

17 Dated: March 12, 2019

T. JOSHUA RITZ & ASSOCIATES, INC.

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21 By: 

22 T. JOSHUA RITZ
23 Attorneys for Plaintiff
24 CLAUDIA LOPEZ
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EXHIBIT - A

Tentative Rulings

DEPARTMENT 48 LAW AND MOTION RULINGS

Case Number: BC715278 Hearing Date: March 12, 2019 Dept: 48

DEMURRER TO FIRST AMENDED COMPLAINT

MOVING PARTY: Defendant United Parcel Service, Inc.

RESPONDING PARTY(S): Plaintiff Claudia Lopez

PROOF OF SERVICE:

- Correct Address: Yes.
- 16/21 (CCP § 1005(b): OK. Served by overnight delivery on February 13, 2019.
- **OVERRULE demurrer to third and fourth causes of action;**
- **Defendant to answer 1AC.**

ANALYSIS

Demurrer

Meet and Confer

The Declaration of Amber M. Grayhorse reflects that the meet and confer requirement set forth in CCP § 430.41 was satisfied.

Discussion

1. Third Cause of Action (Discrimination).

The 1AC sufficiently pleads that defendant UPS knowingly subjected females to the harassment of Defendant Hutchinson by approving his requests to sit alone multiple hours a day

with women drivers, despite UPS allegedly knowing for at least seven years that Hutchinson was a dangerous sexual predator. 1AC, ¶¶ 2, 32.

“Sexual harassment is a form of sex discrimination. (Citations omitted.)” Accardi v. Superior Court (1993) 17 Cal.App.4th 341, 348. If Defendant UPS knew about Hutchinson being a sexual predator and permitted him to ride alone with female drivers, including Plaintiff, upon his request, this is sufficient to plead an adverse employment action that materially affects the terms, conditions or privileges of employment.

Accordingly, the demurrer to the third cause of action is OVERRULED.

2. Fourth Cause of Action (Failure To Prevent Harassment, Retaliation and Discrimination).

Defendant does not challenge the fourth cause of action to the extent it is based upon a failure to prevent harassment and retaliation.

Moreover, the third cause of action survives demurrer.

The demurrer to the fourth cause of action is OVERRULED.

Defendant is ordered to answer the 1AC within 10 days.

PROOF OF SERVICE — 1013a

1 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

2 I am employed in the county of Los Angeles, State of California; I am over the age
3 of 18 years and not a party to the within action; my business address is 14724 Ventura
4 Blvd., Suite 510, Sherman Oaks, CA 91403

5 On **March 13, 2019**, I served true copies of the following document (s) described as:
6 **PLAINTIFF CLAUDIA LOPEZ'S NOTICE OF RULING ON DEFENDANT UNITED
7 PARCEL SERVICE, INC.'S DEMURRER TO FIRST AMENDED COMPLAINT** on the
8 interested parties in this action to:

9 Richard S. Amador, Esq.
10 Amber M. Grayhorse, Esq.
11 **SANCHEZ & AMADOR, LLP**
12 800 S. Figueroa Street, Suite 1120
13 Los Angeles, CA 90017

Kenneth M. Jones, Esq.
LIM NEXUS LLP
707 Wilshire Blvd. 46th Floor
Los Angeles, CA 90017

14 **X** **BY MAIL:** I enclosed the document(s) in a sealed envelope/package addressed to
15 the addressee(s) designated and placed it for mailing, following our ordinary
16 business practices. I am readily familiar with the mailing practice of my place of
17 employment in respect to the collection and processing of correspondence and
18 pleadings for mailing. It is deposited with the United States Postal Service on that
19 same day in the ordinary course of business with postage fully prepaid.

20 **BY FEDERAL EXPRESS/OVERNIGHT:** I caused such envelope(s) to be
21 delivered via Federal Express Overnight to the addressee(s) designated.

22 **BY EMAIL:** by electronic mail transmission to the email address(es)
23 listed.

24 (STATE) I declare under the penalty of perjury under the laws of
25 **X** the State of California that the foregoing is true and correct.

26 Executed on **March 13, 2019**, at Sherman Oaks, California.

27 
28 _____
Karen Flores