


LIBERTY COUNSEL

FLORIDA OFFICE:
PO Box 540774
Orlando, FL 32854
Tel 407-875-1776
Fax 407-875-0770
www.LC.org

DISTRICT OF COLUMBIA OFFICE:
122 C Street NW, Ste 360
Washington, DC 20001
Tel 202-289-1776
Fax 407-875-0770

VIRGINIA OFFICE:
PO Box 11108
Lynchburg, VA 24506
Tel 407-875-1776
Fax 407-875-0770
Liberty@LC.org

REPLY TO FLORIDA

February 12, 2020

Via EMAIL and FACSIMILE

Norman M. Brothers, Jr.
Senior Vice President,
General Counsel and Corporate Secretary
United Parcel Service of America, Inc.
55 Glenlake Parkway, NE
Atlanta, GA 30328
Facsimile: 404-828-6777
nbrothers@ups.com

Re: Ban on UPS driver prayer meetings and retaliatory firings

Dear Mr. Brothers:

Liberty Counsel is a national nonprofit litigation, education, and public policy organization with an emphasis on First Amendment liberties, including the free exercise of religion. Religious free exercise is also protected against employment discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e–2(a) (hereinafter, “Title VII”). Liberty Counsel provides *pro bono* assistance nationwide on religious liberties matters, in conjunction with our network of affiliated attorneys. This matter arises out of South Carolina.

United Parcel Services (“UPS”) drivers working at the UPS Center located at 200 George Bishop Parkway, Myrtle Beach, SC 29579 have contacted Liberty Counsel, reporting that manager Steve Keller has ordered them to cease voluntarily meeting on UPS property for prayer prior to their shifts. Since Mr. Keller gave this order on January 16 and reiterated it on January 20, several senior drivers with many years’ experience who participated in the prayer meetings have been fired for what appear to be pretextual reasons. The drivers report the following facts:

- Approximately 40 Drivers started praying in July 2019 each morning in the parking lot before they clocked-in for work. The group is now between 50 and 60.

- After the prayer, they would remain and talk for a few minutes before starting work at 9:15 AM.
- The gatherings were optional and were instituted by the drivers on their own. On one occasion, the Center manager, Steve Keller, observed the meeting from a distance.
- On **January 16, 2020**, the group met as usual in the parking lot before work and prayed.
- On that same date, Steve Keller approached an employee (also a union shop steward), and asked him to meet privately. Mr. Keller told him that you **“cannot pray anymore on company property because someone else may feel discriminated against.”**
- On **January 20, 2020**, Steve Keller told a second driver (also a union shop steward) that the drivers **“could no longer pray on company property because it violates others’ religious rights.”**
- The following week, the drivers met and did not pray. They did announce that anyone who chose to do so could bow their heads in a moment of silence. The Center manager, Steve Keller was watching and observing the drivers meeting, and saw some bow their heads.
- On **January 27, 2020**, a friend of the drivers posted a message on Facebook that UPS was prohibiting the drivers from praying. The post has since been shared more than 1,100 times.
- **Since January 27, 2020**, several employees who had regularly participated in the prayers have all been fired for pretextual reasons.
- The remaining drivers believe these firings are retaliation for the Facebook post that a driver’s friend made online about UPS’s preventing them from praying and retaliation for the drivers’ filing grievances against UPS for failing to pay the drivers properly in 2019.
- The remaining drivers are afraid that they themselves will be fired if they speak out.

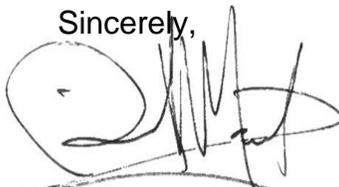
As you know, employees of private companies, including UPS, retain religious free exercise rights, and may engage in religious expression while not on the clock, so long as it is voluntary and nondisruptive. Employees may voluntarily read the Bible, pray together, or discuss spiritual matters before their shifts begin for the day; during their lunch breaks; or during any other off-the-clock time when they may otherwise read or discuss secular topics. An order that employees refrain from praying together under the circumstances described herein by our employee contacts appears to constitute a prima facie case of discrimination on the basis of “religion,” which is a violation of Title VII.

Title VII, as amended, prohibits two categories of discriminatory employment practices. It is unlawful for an employer: “(1) to fail or refuse to hire or to **discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment**, because of such individual’s race, color, **religion**, sex, or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities **or otherwise adversely affect his status** as an employee, because of such individual’s race, color, **religion**, sex, or national origin.” See 42 U.S.C. § 2000e–2(a) (emphasis added).

For these reasons, **Liberty Counsel hereby demands a written response from UPS by close of business on February 19, 2020**, that 1) the “no prayer meetings on UPS property” order has been revoked, and 2) the drivers who have since been fired have been reinstated; or Liberty Counsel will take additional action to protect the religious free exercise rights of UPS employees. Such action may include, without limitation, assisting the fired employees in filing complaints with the Equal Employment Opportunity Commission (“EEOC”), and filing suit in federal court for civil rights violations.

Thank you for your immediate attention to this matter.

Sincerely,



Richard L. Mast[†]
Natasha Hanna^{††}

CC:

Via EMAIL and FACSIMILE

David B. Abney
Chairman and Chief Executive Officer
United Parcel Service of America, Inc.
55 Glenlake Parkway, NE
Atlanta, GA 30328
Phone: 404-828-6000
Facsimile: 404-828-6777

dabney@ups.com

Via Email

Steve Keller

skeller@ups.com

[†] Licensed in Virginia

^{††}Licensed in South Carolina

RLM:tge