

Bates v UPS (9th Cir.), [Amicus Brief](#) filed 04-06-2005.



Question. Whether UPS's use of the U.S. Dept. of Transportation (DOT) hearing test standard, as a qualification standard for drivers of light delivery trucks (i.e., trucks not covered by the DOT rule) violates the Title I of the ADA.

Decision. UPS had used a DOT hearing test intended for vehicles weighing more than 10,000 lbs to determine who would be eligible for positions driving vehicles that were under 10,000 lbs such as brown package car vans. Plaintiffs successfully argued at trial that using the test for vehicles under 10,000 lbs, impermissibly screened out deaf applicants with safe driving records, seniority, and who were otherwise eligible to drive. The District Court had ordered UPS to individually assess deaf applicants for driver positions including what reasonable accommodations, if any, were needed to enable deaf applicants to drive safely and communicate effectively. On 10-10-2006, the Ninth Circuit unanimously affirmed the lower court ruling against UPS, *Bates v UPS*, 465 F.3d 1069 (9th Cir 2006), and UPS sought re-hearing en banc. On 12-28- 2007, the Ninth Circuit issued a new [decision](#) applying different legal standards because the case involved a facially discriminatory qualification standard, and vacating and remanding for further proceedings.