

Lawyers for FedEx drivers deliver more than 10,000 pages of supporting documents in presenting motions for summary judgment to overturn driver independent-contractor model

SOUTH BEND, Ind., May 7, 2008 – Lawyers for approximately 25,000 FedEx Ground/Home Delivery drivers filed motions, supported by a massive record containing 10,616 pages, for summary judgment in the pivotal, class-action challenge to the company’s embattled independent contractor model. In a related development, the Court directed that notice of the litigation be sent to all class members without injecting any corporate spin.

The motions, which follow two years of discovery and more than 300 depositions, including that of former FedEx Ground/Home Delivery Founder and CEO Daniel Sullivan, assert that there is incontrovertible evidence showing that the drivers are clearly company employees, not independent contractors, according to Lynn Rossman Faris, co-lead counsel from the California-based firm of Leonard Carder.

In summarizing the filing, she said that FedEx cannot re-litigate the employment status of its drivers after losing the issue in the landmark California *Estrada* trial, and that the company clearly treated its drivers like employees. “FedEx controls what the drivers drive, what they wear, how they deliver packages, how they act with customers, how much work they perform in a day and when and where they perform it,” explains Faris. “The factual record is extraordinary in this case because FedEx’s actions are so blatant.”

The plaintiffs filed for summary judgment regarding employment status in the nationwide ERISA class and in the certified-class-action states of Alabama, Arkansas, California, Kansas, Florida, Indiana, Kentucky, Maryland, Minnesota, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, West Virginia and Wisconsin.

The Class Notice Order was entered April 25, 2007, by U.S. Magistrate Christopher A. Nuechterlein of the Northern District of Indiana, South Bend Division. He rejected the company’s arguments to change the Notice and reminded them that the notice is “not meant to protect the rights of the defendants.” The Notice prohibits FedEx from “asking or telling you (the drivers) to exclude yourself from this action, or even from expressing an opinion as to whether it is or is not in your best interest to remain a class member or exclude yourself from this action,” and further bars “retaliation” for participating in the case.

“We can now ensure that every member of the class is notified of this crucial litigation and that they can freely make up their own minds about their participation,” said Faris. The lawsuits allege that by misclassifying the drivers, FedEx deprived them collectively of hundreds of millions of dollars in lost wages, benefits and expenses.

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