

## THE TRUTH ABOUT THE \$27 MILLION CALIFORNIA FEDEX GROUND DRIVER-MISCLASSIFICATION JUDGMENT

December 8, 2008

If you believe the FedEx spin doctors, the only reason their employer decided to fork over **\$27 million** – *after nearly 10 years of litigation and in the worst economy since the Depression* - to settle the Estrada case is that it just wanted to “put the matter behind us.” They claim that their decision to call it a decade in the biggest FedEx labor and employment case ever had nothing to do with the merits of the driver-misclassification case.

What’s more, FedEx said that the agreement in the landmark case “has no bearing” on any other pending legal case, such as the huge Federal misclassification litigation on behalf of 27,000 drivers working its way through U.S. District Court in Indiana.

Is FedEx to be believed in its post-judgment rhetoric? No! As anyone who that has been following the FedEx follies knows, the company has long lived in a state of fantasy and denial when it comes to trying to defend in court and then publicly rationalize its sham, independent contractor model. Even in the face of a \$27 million, final stipulated judgment in California, it continues to misrepresent what has occurred. Free of any sugar-coating or spinning, here are the facts behind the Estrada judgment:

- The 203 drivers will receive a total of more than \$14 million in documented damages, which comes out to about \$70,000 on average per plaintiff. The minimum reimbursement is \$2,000 and the maximum is about \$280,000. Part of the drivers’ recovery is pre-judgment interest from the date the drivers paid for FedEx’s operating expenses.
- Those reimbursement amounts were determined after the Court-appointed retired judge painstakingly reviewed thousands of pages of records, including expense receipts for everything from the purchase of insurance, fuel for trucks, tires and oil. These were all business expenses that the drivers should not have had to pay, and would not have paid for if they had been properly classified as employees.
- The legal fees that FedEx likes to focus on are being paid by FedEx, not the drivers, for work by counsel during nearly ten years of litigation. The company conveniently fails to mention that no driver ever paid out-of-pocket for their legal services, and that all attorneys fees were reviewed and preliminarily approved by the Court, who commended the Plaintiffs’ lawyers for ensuring the drivers got the full measure of their damages without reduction for legal fees.
- The relevance of Estrada to the Federal class action will not be determined by the FedEx PR department but by the U.S. District Court Judge overseeing the huge, multi-district case in his Indiana court, where single work area and multiple work area drivers are included in the certified class and are challenging – right now – FedEx’s business model. The Plaintiffs have asked the Court to rely on the Estrada judgment in determining the drivers’ employment status, so FedEx’s claim that the California case is irrelevant is wishful thinking. Ultimately, FedEx faces an exposure in the billions – not millions – for its misclassification practices across America.

FedEx has once again tried to sidestep the real issue—how it treats its drivers like employees refused to pay taxes and provide benefits that all employers are required to provide. Clearly, this strategy failed in Estrada and we believe it will fail at the Federal level, as well as before the IRS when that agency completes its full tax audit for the years under scrutiny.

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