

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

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In re FEDEX GROUND PACKAGE )	Cause No. 3:05-MD-527-RM
SYSTEM, INC., EMPLOYMENT )	(MDL 1700)
PRACTICES LITIGATION )	
)	
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THIS DOCUMENT RELATES TO: )	
)	
<i>Lawrence Asbury, et al. v. FedEx Ground</i> )	
<i>Package System, Inc.,</i> )	
Civil No. 3:06-cv-00337-RLM-CAN (WV) )	
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**WEST VIRGINIA PLAINTIFFS’  
MOTION FOR CLASS CERTIFICATION**

Plaintiffs Lawrence Asbury and Roger Davis move this Court for an Order pursuant to Fed. R. Civ. P. 23(a), (b)(2), and (b)(3):

a. Allowing this action to proceed as a class action as to Plaintiffs’ First, Third, Fourth, Fifth, Sixth, Seventh, and Eighth causes of action for violation of the West Virginia Consumer Credit and Protection Act and Illegal Deductions from Wages Act, for accounting, damages, rescission, restitution, declaratory and injunctive relief, arising under West Virginia law, on behalf of the following Plaintiff Class:

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since September 25, 2001, to provide package pick-up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of West Virginia;

b. Appointing Plaintiffs Lawrence Asbury and Roger Davis as Class Representatives;

c. Appointing Lockridge Grindal Nauen P.L.L.P., Leonard Carder, LLP, and Harwood Feffer LLP, who have been previously designated as Co-Lead Counsel, to serve as Class Counsel pursuant to Fed. R. Civ. P. 23(g) and directing that Class Counsel continue to conduct this litigation pursuant to the structure set forth in Sections II(A)-(C) of the Initial Scheduling Order and seek the assistance of and consult with Plaintiffs' Steering Committee and the other attorneys of record for Plaintiffs in these proceedings, actions essential to the fair and adequate representation of the classes;

d. Requiring Defendant FedEx Ground Package System, Inc., to supply Class Counsel a list of all individuals who are members of the class defined in paragraph (a) of this motion; and

e. Granting such further and other relief as this Court deems just and proper.

In support of this motion, Plaintiffs refer the Court to the West Virginia Plaintiffs' Memorandum of Law in Support of Class Certification, the Omnibus Fact Memorandum, the Declaration of Susan E. Ellingstad dated March 11, 2007, the Second Declaration of Susan E. Ellingstad dated March 30, 2007, and the Third Declaration of Susan E. Ellingstad dated April 20, 2007, and exhibits attached thereto, all prior pleadings, Orders, and proceedings herein.

WHEREFORE, Plaintiffs respectfully request that the Court grant their motion and enter an Order certifying Plaintiffs' First, Third, Fourth, Sixth, Seventh, and Eighth causes of action to proceed as a class action pursuant to Fed. R. Civ. P. 23(a), (b)(2), and (b)(3), appointing Plaintiffs as Class Representatives of the Class, and, pursuant to Fed. R. Civ. P. 23(g), appointing the undersigned Co-Lead Counsel as Class Counsel.

Dated: April 23, 2007

Respectfully Submitted,

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

s/Susan E. Ellingstad

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