

**STATEMENT OF COUNSEL FOR PLAINTIFF IN FEDEX  
GROUND/HOME DELIVERY  
FEDERAL CLASS-ACTION LITIGATION  
November 27, 2006**

Present and former California FedEx Ground/Home Delivery drivers, plaintiffs in the Federal class-action suit against the company, are greatly encouraged after the administrative law judge for the California Unemployment Insurance Appeals Board (CUIAB) last week upheld the decision that the drivers are employees – not independent contractors. FedEx’s petition for reassessment of a multi-million dollar tax deficiency entered against it by the California EDD earlier this year was denied on this basis.

In its November 22 ruling, the administrative law judge for the CUIAB stated, in part, that “the substantial control exercised by the petitioner (FedEx Ground) as a practical matter, its power to define satisfactory performance, the fact that drivers are not a distinct occupation and their services are integral to the business, favor finding an employment relationship.”

Lynn Rossman Faris, the Oakland, California-based attorney for the drivers, said the decision is significant, especially in light of the ruling by a California appellate court earlier in the week stating that the two lead plaintiffs in the California class-action case lacked standing to seek forward-looking relief because they are former drivers. The appellate court decision did not address the trial court’s ruling that the drivers have been misclassified as “independent contractors”.

“We respectfully disagree with the Court of Appeals ruling on this procedural issue and look forward to presenting comprehensive arguments to the contrary before the California Supreme Court,” said Faris. “There are now more than 40 lawsuits pending in more than 30 states and the company’s claim the drivers are independent contractors – not employees – has been and continues to be consistently debunked by numerous governmental agencies from coast to coast.”

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