

1 THE HONORABLE GREGORY P. CANOVA

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7 SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

8 RANDY ANFINSON, JAMES GEIGER and
9 STEVEN HARDIE, individually and on behalf
10 of others similarly situated,

11 Plaintiffs,

12 v.

13 FEDEX GROUND PACKAGE SYSTEM,
14 INC.

15 Defendant.

No. 04-2-39981-5SEA

NOTICE OF CLASS ACTION AND RIGHT
TO REQUEST EXCLUSION FROM THE
CLASS

16 **THIS NOTICE HAS BEEN APPROVED BY THIS COURT**

17 **AND MAY AFFECT YOUR RIGHTS. PLEASE READ CAREFULLY.**

18 TO: ALL PERSONS WHO SIGNED AN OPERATING AGREEMENT (EITHER
19 INDIVIDUALLY OR THROUGH A BUSINESS ENTITY) AND PROVIDED PICK
20 UP AND DELIVERY SERVICES OVER A SINGLE-ROUTE (OR SINGLE WORK
21 AREA) FOR FEDEX GROUND OR FEDEX HOME DELIVERY IN
22 WASHINGTON STATE AT ANY TIME BETWEEN DECEMBER 21, 2001 AND
23 DECEMBER 31, 2005

24 A lawsuit against FedEx Ground Package System, Inc. ("FedEx") has been certified as
25 a class action by Judge Gregory P. Canova of the King County Superior Court. The action
asserts that FedEx misclassified persons who signed an Operating Agreement (either
individually or through a business entity) and provided pickup and delivery services over a
single FedEx Ground or FedEx Home Delivery route in Washington at any time between
December 21, 2001 and December 31, 2005 (the "P&D Drivers") as independent contractors
instead of treating them as employees. The plaintiffs claim that, as a result, FedEx owes the
P&D Drivers overtime wages for hours worked over 40 in any given work week and
reimbursement of uniform expenses.

NOTICE OF CLASS ACTION AND RIGHT TO REQUEST
EXCLUSION FROM THE CLASS – 1

1 The purpose of this notice is to advise you that you have been identified as a potential
2 member of the certified class. You have the choice as to whether you wish to participate in
3 this lawsuit or not. If you want to participate in the lawsuit, you do not need to do anything
4 further at this time. You will automatically be a part of the case and receive more information
5 in the future. You may also be required to provide information concerning your possible
6 claims in this case. Thus, you should preserve all of your tax and other records relating to
7 your relationship with FedEx. If you do not want to participate in the lawsuit, you must send
8 in a Request to Be Excluded form by mail, and the form must be postmarked on or before [45
9 days from the date of mailing of the Class Notice].

6 **PLAINTIFFS' CLAIMS**

7 Three former FedEx P&D Drivers, Randy Anfinson, James Geiger, and Steven
8 Hardie, brought this case against FedEx on behalf of themselves and others who are similarly
9 situated. They seek unpaid overtime wages and reimbursement of uniform expenses, for the
10 period between December 21, 2001 and December 31, 2005 ("the class period") due to the
11 alleged misclassification of the P&D Drivers as independent contractors rather than
12 employees. They also seek double wages for the period between August 1, 2004 and
13 December 31, 2005, and an award of pre-judgment interest, attorneys' fees and costs.

11 **FEDEX'S DEFENSES**

12 FedEx denies the allegations in this lawsuit, and asserts that it did nothing wrong
13 because the P&D Drivers were independent contractors. FedEx also asserts that the P&D
14 Drivers received proper compensation for their services and that it acted in good faith.

14 **MERITS NOT DETERMINED**

15 The Court has not yet ruled on the merits of plaintiffs' claims or FedEx's defenses,
16 and has only determined that plaintiffs have satisfied the requirements to maintain this case as
17 a class action under Washington Law.

17 **WHAT IS A CLASS ACTION?**

18 A "class action" is a type of lawsuit in which the named plaintiffs bring a lawsuit for
19 themselves and on behalf of a larger group of similarly situated "class members." In a class
20 action, the court resolves all of the issues for the class members and the class members are
21 bound by the final outcome of the lawsuit, unless they have excluded themselves from the
22 lawsuit by the Court-established deadline.

21 **WHO IS IN THE CERTIFIED CLASS?**

22 The Court has decided that the following persons are potential members of the class:

23 all persons who performed services as a pick up and delivery driver, or
24 "contractor," for defendant during the class period (December 21, 2001 and
25 December 31, 2005) who signed (or did so through a personal corporate entity)
a FedEx operating agreement and who handled a single route at some point
during the class period; excluding persons who only performed or filled one or
more of the following positions during the class period: multiple route

1 contractors, temporary drivers, line-haul drivers, or who worked for another
2 contractor.

3 **CLASS REPRESENTATIVES**

4 Randy Anfinson, James Geiger, and Steven Hardie have been approved by the Court
5 to serve as class representatives.

6 **CLASS COUNSEL**

7 The Court has designated William Rutzick and Martin Garfinkel of Schroeter,
8 Goldmark & Bender, and Dmitri Iglitzin and Lawrence Schwerin of Schwerin, Campbell,
9 Barnard & Iglitzin, as the attorneys for the class in this case (“Class Counsel”).

10 **OPTION TO REMAIN IN CLASS ACTION**

11 If you want to remain a member of the class and participate in the class action lawsuit,
12 you are not required to do anything at this time.

13 **OPTION TO DECLINE PARTICIPATION**

14 If you do not want to remain a member of the class in this lawsuit, you must make a
15 request to be excluded. If you want to be excluded, you must communicate your desire by
16 mail, postmarked on or before [45 days from the date of mailing of the Class Notice], to Class
17 Counsel, whose addresses are indicated below. You must use the enclosed Request to Be
18 Excluded form for this purpose.

19 **CONSIDERATIONS REGARDING DECISION TO PARTICIPATE**

20 It is not possible to address all of the considerations that might influence an
21 individual’s decision to participate as a class member in this class action lawsuit. But here are
22 a few:

- 23 ■ If you choose to be excluded from the class, you will not share in any recovery
24 that might be paid to class members as a result of this lawsuit.
- 25 ■ If you choose to be included in the class, you will be bound by any court decision
in this case, whether favorable or unfavorable to the class. You may be barred
from bringing your own lawsuit against FedEx for similar claims.
- If you choose to be included in this class action, you can engage an attorney of
your choosing. If you do not wish to engage your own attorney, your interests
will be represented by the class counsel identified above.
- If you choose to be excluded from the class, you may file your own lawsuit
against FedEx for similar claims.
- If you choose to be included in the class, FedEx is not permitted to retaliate
against you in any way because of your participation in this case.

1 **ADDITIONAL INFORMATION**

2 **PLEASE DO NOT CONTACT THE COURT FOR FURTHER INFORMATION**
3 **AT THIS TIME.** Any questions you have concerning this notice and any corrections or
4 changes of name and address should be directed in writing to the Class Counsel:

5 **FedEx Litigation**
6 **Schwerin, Campbell, Barnard & Iglitzin**
7 **c/o Betsy Miller, paralegal**
8 **18 West Mercer Street, Suite 400**
9 **Seattle, Washington 98119**
10 **(206) 285-2828; or miller@workerlaw.com**

11 **or**

12 **FedEx Litigation**
13 **William Rutzick/Martin S. Garfinkel**
14 **Schroeter, Goldmark & Bender**
15 **810 Third Avenue**
16 **Seattle, Washington 98104**
17 **(206) 622-8000; 1-800-809-2234; or garfinkel@sgb-law.com**

18 You may call or write, or send an e-mail to Class Counsel with questions. You may
19 also seek the advice of your own attorney if you desire. Pleadings and other records in this
20 litigation may be examined and copied at any time during regular office hours at the Office of
21 the Clerk, King County Superior Court, 516 Third Avenue, Seattle, Washington 98104.

22 **REMINDER OF THE TIME LIMIT**

23 If you wish to be excluded from this class action lawsuit, you must return the
24 completed Request to Be Excluded form to Class Counsel by mail postmarked on or before
25 [45 days from the date of mailing of the Class Notice].

