

Court finds FedEx Ground drivers are employees

FedEx could be liable for hundreds of millions of dollars in drivers' operating expenses and wages

OAKLAND, CA – The Ninth Circuit Court of Appeals ruled Aug. 27 that a class of 2,300 individuals working for FedEx Ground was misclassified as independent contractors instead of employees. As a result, FedEx may owe its workforce of drivers hundreds of millions of dollars for illegally shifting to them the costs of such things as the FedEx branded trucks, FedEx branded uniforms, and FedEx scanners, as well as missed meal and rest period pay,

overtime compensation, and penalties. The case, known as *Alexander v. FedEx Ground*, covers employees in California from 2000 to 2007.

Judge William Fletcher's majority opinion was very clear on the question of whether the workers are employees or independent contractors, stating "We hold that plaintiffs are employees as a matter of law under California's right-to-control test."

The court's finding in *Alexander* that drivers in California are covered by California's workplace protection statutes not only impacts one of FedEx Ground's largest workforces, but could influence the outcome in over two dozen cases nationwide in which FedEx Ground drivers are challenging the le-

gality of their independent contractor classification.

Millions of packages are delivered every day across the state under the control, direction, and supervision of FedEx Ground. In addition, many trucking companies have been operating under a similar model in which they classify their drivers as independent contractors.

"FedEx Ground built its business on the backs of individuals it labeled as independent contractors, promising them the entrepreneurial American Dream," said Beth A. Ross, an attorney for the labor law firm of Leonard Carder LLP in Oakland who represented the drivers. "However, as Judge (Stephen) Trott said in his concurring opinion, not all

that glitters is gold."

FedEx Ground drivers were required to pay out of pocket for everything from the FedEx Ground branded trucks they drove (painted with the FedEx Ground logo) to fuel, various forms of insurance, tires, oil changes, maintenance, etc. as well as their uniforms, scanners and even workers' compensation coverage.

In some cases, workers were required to pay the wages of employees who FedEx Ground required them to hire to cover for them if they were sick or needed a vacation, to help out during the Christmas rush, and in some cases to drive other FedEx Ground trucks.

After paying these expenses, a typical FedEx driver makes less than employee drivers at FedEx Ground's competitors like UPS, and received none of the employee benefits, like health care, workers compensation, paid sick leave and vacation, and retirement.

"Nationally, thousands of FedEx Ground drivers must pay for the privilege of working for FedEx 55 hours a week, 52 weeks a year," Ross said. "Today, these workers were granted rights and benefits entitled to employees under California law. To be clear, the Ninth Circuit exposed FedEx Ground's

independent contractor model as unlawful."

Tom Chamberlain, president of the Oregon AFL-CIO, released a statement congratulating the workers on a win that could change their industry.

"The misclassification of workers is an employer tactic to shift expenses and liabilities to their employees. It is bad business, plain and simple," he said. "This decision says in no uncertain terms, what FedEx workers have claimed for decades: 'when you're told where to show up, how to do your job, what to wear, and how fast to work, you're working for someone else.'"

ATU buys National Labor College campus

WASHINGTON, D.C. (PAI) — Amalgamated Transit Union (ATU) has purchased the 46 acre campus of the National Labor College in Silver Spring, Maryland for \$31.4 million. The international union will move its headquarters there from Washington, D.C.

The campus, which was purchased by the AFL-CIO about 42 years ago, closed due to financial reasons after this year's class graduated. The NLC was the nation's only college dedicated to labor-related studies, such as collective bargaining, organizing, mobilizing and grievance handling.

"Today the ATU has stepped up and assumed a greater leadership role in the molding of minds, values and progressive reform for both Canada and the United States, where we represent more than 190,000 workers," ATU President Larry Hanley said. "The state-of-the-art conference and training center will again be a hub of activity for ATU and the entire labor movement."

ATU has trained more than 10,000 members this year and plans to do so at the NLC campus in Silver Spring, Md.

It will also make the campus available to other unions and progressive groups.

The college "represents a new beginning in terms of our capacity to train not only our leaders and members, but also those who work every day to improve the life of our society," Hanley said.

"The campus has been the preeminent training facility for organized labor over the past 40 years," Hanley continues. "ATU will build on and expand that legacy to educate and train new generations of workers and activists across North America and the world who share our values."



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4275 NE Halsey St., P.O. Box 13150, Portland, Ore. 97213 Telephone: (503) 288-3311

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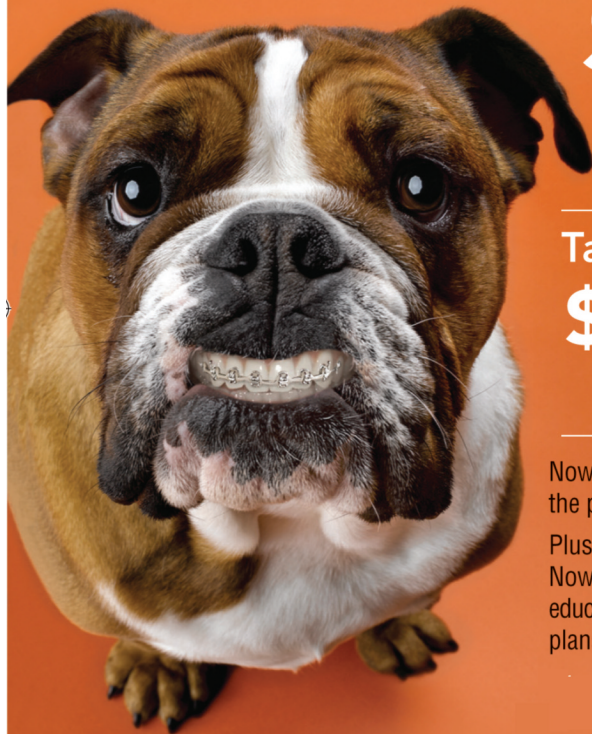


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