

## **Journal of Commerce 8/18/10: FedEx Drivers Launch Suit for Reclassification**

By Thomas L. Gallagher

Battle over employee/independent contractor status moves to Massachusetts

The battle over the employment status of drivers at FedEx Ground moved to Massachusetts this week as 31 current and former drivers sued the carrier, alleging improper classification.

The suit, filed in U.S. District Court in Boston, seeks class-action status. Plaintiffs contend FedEx exerts enough control over its drivers to consider them employees rather than independent contractors. FedEx controls the days the drivers work, enforces appearance and vehicle standards and monitors performance. The suit seeks monetary damages as well as an injunction changing the independent contractor classification.

Reclassification would allow the drivers to organize for union representation. The Teamsters represent drivers at rival UPS. Of approximately 125,000 FedEx employees in the U.S., only the 4,200 pilots in the air express unit are unionized.

FedEx Ground recently **tightened its standards for independent contractors**, responding to concerns raised by several states. In a letter sent to contractors and obtained by Dow Jones, FedEx tells owner-operators to incorporate under state law rather than organize as partnerships or sole proprietorships. The contractors also must treat their personnel as employees. Independent contractors driving for FedEx Ground have at least 180 days to comply with the new standards, the letter said.

Last year some states threatened to challenge FedEx's classification of drivers as independent contractors rather than employees. Federal legislation also could affect FedEx's use of owner-operators. Sen. John F. Kerry introduced legislation in December to toughen standards for employers using contractors.

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