

# Three More States Plan to Sue FedEx Over Classification of Employees

By Staff and Wire Reports

State attorneys general from New York, New Jersey and Montana told FedEx Corp. they intend to sue the package carrier as early as this week, claiming the company misclassifies workers at its Ground unit as contractors instead of employees.

The officials gave the company a deadline of Oct. 27 for responding to an Oct. 20 letter that represents the latest challenge to the status of the Ground unit's workers.

In addition to the latest challenge, a national class-action lawsuit is pending in Indiana, and at least one dozen state cases are pending, testing the same issue.

"FedEx's illegal misclassification of its drivers has resulted in a serious injustice to more than a thousand FedEx drivers," said the letter from Steve Bullock of Montana, Andrew Cuomo of New York and Anne Milgram of New Jersey.

Maury Lane, a spokesman for FedEx, Memphis, Tenn., told Bloomberg News the company has been in talks with the states "to address the questions that they may have regarding this issue."

"While we intend to continue with these discussions, we will vigorously defend the right of FedEx Ground independent contractors to own and operate their businesses, should the AGs pursue litigation," Lane said in an e-mailed statement.

Lane did not respond to several requests for comment from



Jeremy Bales — Bloomberg News

**A FedEx worker makes deliveries in New York City. New York, New Jersey and Montana say they will sue over employee classification.**

## TRANSPORT TOPICS.

The company maintains that the workers are contractors who sign an operating agreement that gives them the freedom to operate their business as entrepreneurs, but the states claim the workers are employees who are entitled to pay and benefits.

The attorneys general said tasks and schedules are mandated by the company, which even specifies what color socks should be worn. Workers have little or no freedom regarding equipment and operational practices, the state officials added.

Workers must buy or lease trucks that cost up to \$70,000, buy fuel and maintain the vehicle and pay about \$2,000 for a uniform and package scanner, the attorneys general said.

"FedEx's practices hurt the states

of New Jersey, New York and Montana when proper taxes are not paid," they wrote in the letter. "FedEx's practices also hurt other employers, which face unfair competition as a result of FedEx's illegal cost-cutting measures."

FedEx has settled a California case but has won battles in other venues, including a federal appeals court ruling arising from a complaint by workers in Massachusetts and a Georgia case.

Last month, FedEx was fined \$14 million by the Internal Revenue Service, which found workers were misclassified as contractors for the 2002 tax year. Similar probes have continued for three additional years.

The states said they intend to seek restitution, damages, civil penalties and other relief.