

FedEx delivery drivers file suit

Class action says firm unlawfully classifies workers as contractors

By Diane E. Lewis, Globe Staff | May 7, 2005

Four current and former Massachusetts [FedEx](#) drivers yesterday filed a class-action lawsuit against the company, claiming that they were unlawfully classified as independent contractors. The action is the first brought on behalf of all 17,000 of the package delivery company's independent drivers in the United States and Canada.

Filed in a Boston federal court against FedEx Ground Package System Inc. in Pittsburgh and its parent, FedEx Corp., the suit argues that although the men signed contracts stating that they would operate as independent contractors, they were employees because they had to adhere to FedEx rules.

The suit says that as contractors the drivers had to pay thousands of dollars to lease trucks and buy gas, uniforms, and equipment, but netted a fraction of what they expected to make and what salaried drivers at rival UPS are paid.

"Even though they pay for their routes, FedEx controls the routes, and it can change them willy-nilly," said Shannon Liss-Riordan, a Boston lawyer who represents the drivers. "It can take away routes; it can add routes."

A FedEx Ground spokesman, David Westrick, declined to comment on the specifics of the lawsuit. He said, however, that since the delivery firm was founded in 1985, it has relied on independent drivers and will keep doing so.

"We believe in it, and we believe it benefits the vast majority of contractors who sign the agreement and find success with it," said Westrick. "It is also beneficial to our customers. Everyone has the opportunity to read the agreement before they sign, and our model has been affirmed by the Internal Revenue Service."

In July, a California court ruled that the firm's contractors were FedEx Corp. employees. Westrick said the company plans to appeal.

FedEx Ground, which was founded as Road Package System Inc., or RPS, in 1985, was built on the contractor model. FedEx bought the company in 1998. Now named FedEx Ground, it continues to operate with delivery people who are classified as contractors.

Debate about who is an employee has increased as more firms have turned to contractors and reclassified workers as such.

"If employers can transfer the risk of employment to an independent contractor, it is not surprising that it is becoming a trend," said Elaine Bernard, executive director of the Labor and Worklife Program at Harvard Law School.

Edward Sheehan, 63, of Marston Mills and a plaintiff in the class-action suit, said he has worked for FedEx Ground for 16 years. Sheehan paid \$45,000 for his truck, and said he thought he would have more freedom. "But everything has to be approved by the company,"

he said. "You are also assigned the routes or you buy them from another driver, which means that you have to put even more money up in addition to buying your job."

Also named in the class action were drivers Ronald Perry of North Dartmouth; Randy Azzalo, of East Falmouth, and Alan Pacheco of Fall River.

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