

# L I C H T E N & L I S S - R I O R D A N , P. C.

ATTORNEYS AT LAW

100 CAMBRIDGE STREET, 20<sup>TH</sup> FLOOR  
BOSTON, MASSACHUSETTS 02114

HAROLD L. LICHTEN<sup>†</sup>  
SHANNON LISS-RIORDAN<sup>◇</sup>  
HILLARY SCHWAB<sup>◇</sup>

TELEPHONE 617-994-5800  
FACSIMILE 617-994-5801

WWW.LLRLAW.COM

IAN O. RUSSELL  
BRANT A. CASAVANT  
TIMOTHY L. BELCHER<sup>^†</sup>  
JOSEPH L. SULMAN

STEPHEN S. CHURCHILL  
OF COUNSEL

<sup>^</sup>ALSO ADMITTED IN CONNECTICUT  
<sup>†</sup>ALSO ADMITTED IN MAINE  
<sup>◇</sup>ALSO ADMITTED IN NEW YORK

July 30, 2010

To: Present and Former FedEx Ground and FedEx Home Delivery Drivers

Re: Update on the FedEx Misclassification Case and the Decision by FedEx to Require All Current Drivers to Sign an ISP Agreement

Dear Present and Former FedEx Drivers:

We have been receiving many questions about FedEx's recent decision to require all current drivers to sign so-called ISP Agreements. We are writing this letter to try to answer these questions for you and further update you on the misclassification case.

First, our office maintains a list of all drivers who have authorized us to represent them in the FedEx misclassification lawsuit. The original lawsuit known as Sheehan v. FedEx was filed as a class action and approximately 140 present and former FedEx drivers in Massachusetts signed up to be included in that lawsuit when the Court denied class action status and ruled that only drivers who actually became Plaintiffs could participate in that case. More recently, another 30 individual present and former FedEx drivers have signed up for a second class action lawsuit that we are in the process of filing against FedEx, also challenging the company's misclassification of drivers as independent contractors. The reason for the second lawsuit, which we are filing as a class action, is that these individuals signed up to participate after the deadline had expired for adding Plaintiffs to the original Sheehan case. If you are interested in participating in the case and have not yet filled out the paperwork to join, you should contact us. Please call or e-mail Scott Simpson, at (617) 994-5800, [ssimpson@llrlaw.com](mailto:ssimpson@llrlaw.com), or fill out the enclosed form and we will send you the paperwork you need to sign to join the case. If you are not certain whether you are on our list, you can call Scott and he will tell you.

Second, as current drivers all know, FedEx has recently announced that it will soon no longer permit single route drivers in Massachusetts, and the drivers wishing to continue with FedEx must sign so-called ISP Agreements that would require them to have at least three routes. We have met with a number of drivers who are very upset about this decision by FedEx. We are in the process of filing an injunction lawsuit seeking to stop FedEx from forcing single route drivers to either sign the ISP Agreement, or be terminated. In this lawsuit, we will also seek money damages for drivers who lose their jobs as a result of the ISP changeover.

# L I C H T E N   &   L I S S - R I O R D A N ,   P . C .

As part of the ISP changeover, FedEx is offering a lump sum amount of money (\$10,000) for FedEx drivers to sign a release in which they agree not to challenge the changeover to the ISP system. Therefore, if you accept the payment, you would not be able to participate in this lawsuit we are filing seeking to stop the changeover to the ISP system, or obtain money damages for drivers who lose their jobs because of the changeover. However, by signing the release, you would in no way be prevented from participating in the Sheehan case or the new class action case we are filing challenging FedEx's misclassification of drivers as independent contractors because the release specifically applies only to the ISP changeover and not to the pending and proposed lawsuits for misclassification. In other words, you may still participate in the misclassification lawsuits we have brought even if you sign this release and receive the \$10,000.

We realize that some of this might sound rather complicated, so let us summarize the situation:

1. If you wish to participate in the misclassification lawsuit (and have not yet signed on to it), you should contact Scott Simpson immediately, or return the enclosed form so that we can send you the necessary paperwork. Scott can also check to see if you are already included in the lawsuit. If you do not join this lawsuit, you will likely not be able to participate in any judgment or settlement we obtain.

2. We will be filing a separate lawsuit to try to stop the company from forcing single route drivers to sign an ISP Agreement or be terminated. In this case, we will be seeking damages for any driver who loses his or her job as a result of the ISP changeover.

3. If you sign the FedEx release which will provide you with a \$10,000 lump sum, you would release FedEx from any claims relating to the ISP changeover, but you would not be releasing FedEx from any claims you have during the time you were a single route driver and were misclassified. In other words, if you sign the release you can still join the misclassification lawsuit, but you could not receive any money damages we may obtain from the lawsuit we are filing challenging the ISP changeover. If you plan to finish your contract and not accept the \$10,000 lump sum payment and would like to get involved in the lawsuit involving the ISP changeover, please contact Scott.

We hope this information is helpful to you. If you have any questions, please feel free to call Scott Simpson, at (617) 994-5800, or e-mail at [ssimpson@llrlaw.com](mailto:ssimpson@llrlaw.com)

Sincerely,

Harold L. Lichten  
Shannon Liss-Riordan

HLL:kk

L I C H T E N   &   L I S S - R I O R D A N ,   P . C .

**For more information on joining the FedEx driver independent contractor misclassification litigation, please call paralegal Scott Simpson, (617) 994-5800 or e-mail [ssimpson@llrlaw.com](mailto:ssimpson@llrlaw.com), or fill out this form and return it to us at the address below. We will then send you the forms you would need to fill out to join the litigation.**

FedEx Lawsuit  
Lichten & Liss-Riordan, P.C.  
100 Cambridge Street, 20<sup>th</sup> Floor  
Boston, MA 02114  
Fax: (617) 994-5801  
Email: [ssimpson@llrlaw.com](mailto:ssimpson@llrlaw.com)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Approximate dates you drove as a contractor for FedEx:

\_\_\_\_\_

Select appropriate FedEx Delivery:

\_\_\_\_\_ FedEx Ground

\_\_\_\_\_ FedEx Home