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FedEx Settles Independent Contractor Mislabeling Case For \$228 Million

FedEx has [settled a long-running dispute](#) with FedEx Ground California drivers. The class settlement will [create a \\$228 million fund](#) to resolve claims by over 2,000 FedEx Ground and FedEx Home Delivery pickup and delivery drivers. Some claims date back to 2000 and some extend through 2007. The settlement must still be approved by the Ninth Circuit, but assuming court approval, will end one chapter in a bitter dispute.

The settlement comes in the wake of a 2014 Ninth Circuit ruling that [FedEx misclassified drivers as independent contractors](#). FedEx has long maintained that it didn't misclassify anyone. Yet independent contractor status was a key component of how FedEx does business. In the case of the 2,300 FedEx Ground drivers, for years, FedEx called them—and paid them—as independent contractors.



Employees trigger a litany of federal and state tax withholding, fringe benefit, anti-discrimination, health care, pension, worker's compensation and unemployment insurance obligations. Companies can avoid these entanglements by hiring [independent contractors](#), but labels alone aren't enough. A variety of state and federal agencies—including the IRS—can examine the worker status issue and reach their own determination. So can the courts in private lawsuits.

In this case, the Ninth Circuit said that FedEx controlled the drivers and that they were independent contractors in name only. It was a major blow to FedEx, which has fought about its so-called independent contractor model of operation for many years. The financial benefit of the contract arrangement was big. For years, FedEx has been able to shift to its drivers the costs of FedEx branded trucks, FedEx branded uniforms, FedEx scanners, fuel, maintenance, insurance, and more. Drivers were not provided pay for missed meals, rest periods, overtime compensation, etc.

But a key question was just *how much* it would cost FedEx to get out of the mess. The Ninth Circuit left open the question of how much the 2,300 California drivers should receive. This settlement avoids a retrial, but the cost to FedEx is big. Attorney [Beth Ross](#) of Leonard Carder LLP represents the class, and said, "The \$228 million settlement, one of the largest employment law settlements in recent memory, sends a powerful message to employers in California and elsewhere that the cost of Independent Contractor misclassification can be financially punishing, if not catastrophic, to a business."

FedEx has faced other lawsuits, and this case is an example of how private lawsuits can sometimes achieve more than government enforcement efforts. The amount of this settlement is said to be comparable to what the United States Department of Labor has collected in back wages annually through nationwide enforcement of wage and hour law during the [last seven years](#) (2014: \$250 million; 2013: \$240 million; 2012: \$275 million; 2011: \$225 million; 2010 and 2009: \$175 million).

Notably, the Ninth Circuit's ruling and the current settlement only impact drivers in California, making clear that they are covered by California's workplace protection statutes. But how that conclusion could influence the outcome of dozens of other FedEx worker status cases nationwide is not yet clear. FedEx Ground drivers in other markets have also sued to challenge the legality of their putative independent contractor classification.

Of course, it isn't only FedEx Ground that has relied upon an aggressive independent contractor classification model and the financial benefits that come with it. Many other companies—including a number of trucking companies and delivery operations—employ a model that is similar to that used by FedEx Ground. Apart from all the other incentives to avoid having employees, there is even renewed impetus to [avoid Obamacare with independent contractors](#).

Given how fiercely FedEx has fought this issue for so many years, it is not hyperbole to call the impact of this case, as Beth Ross noted, “seismic.”

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