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"We believe that our work reflects not only the quality of our legal skills, but also our deep commitment to our clients, their objectives and interests."

News

December 2009: Court Grants Preliminary Approval of Settlement of Case Against UPS Supply Chain Solutions for Misclassification of its Delivery Drivers as Independent Contractors

On Friday, December 4, Judge Phyllis Hamilton preliminarily approved a \$12.8 million mediated settlement of a class and collective action in *LaBrie v. UPS Supply Chain Solutions*. (Order attached) The case involves approximately 660 delivery drivers who claimed that they had been misclassified as independent contractors while treated as employees and thereby deprived of overtime compensation and other benefits of employment. The Court certified two settlement classes, a California opt-out class of approximately 280 drivers and a collective action class under the Fair Labor Standards Act of approximately 380 drivers from outside of California.

The court preliminarily approved the settlement because it fell within the range that could be finally approved as "fair, reasonable and adequate." The court set a fairness hearing for March 15, 2010 to make a final determination.

Of the \$12.8 million, \$10.65 million or 83% is earmarked for distribution to class members based on the number of days or weeks they were dispatched to perform deliveries for UPS SCS. The remainder, if finally approved by the Court at its fairness hearing on March 15, 2010, will be paid for litigation costs and attorney fees, class representative incentive awards and for other litigation related purposes.

The Court also approved notices to be mailed to each of the approximately 660 class members informing them of their rights and obligations and of their proportionate recovery from the settlement funds.

"Delivery drivers who are misclassified as independent contractors while treated like employees can take heart from this substantial settlement," said Lynn Rossman Faris, of Leonard Carder, LLP in Oakland, Plaintiffs' lead counsel in this case, as well as the mutli-district misclassification case against FedEx Ground pending in the Northern District of Indiana. "The tragedy of misclassification is that drivers are deprived of workers compensation, unemployment, overtime pay and other rights at the same time as the federal and state governments are deprived of badly-needed tax revenue, all in the name of so-called entrepreneurship. When drivers work exclusively for one company and have their work and their pay determined for them, calling them independent contractors is pure fiction and illegal." Drivers were represented in this case by Ms. Faris and attorneys Eleanor Morton and Jennifer Keating.

- [The Recorder: UPS Overtime Suit Settles for \\$12.8 Million](#)

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