A.G. Underwood Announces $2 Million Settlement With FedEx For Misclassifying And Underpaying Its Delivery Drivers

Agreement Creates $2 Million Fund for Hundreds of FedEx Ground and FedEx Home Drivers to Receive Restitution for Unpaid Overtime and Unlawful Wage Deductions

Since 2011, NY AG Has Recovered Over $33 Million in Stolen Wages for 22,000 Workers

NEW YORK – Attorney General Barbara D. Underwood today announced the settlement of a lawsuit against FedEx Ground Package System, Inc. (“FedEx Ground”) that will distribute $2 million to an estimated 500 qualifying drivers who delivered packages for FedEx Ground and its division, FedEx Home Delivery. The Attorney General filed the lawsuit in October 2010 in the Supreme Court for New York County, alleging that these drivers had been unlawfully misclassified as independent contractors and were, in fact, employees. The Attorney General’s action sought restitution for violations of New York Labor Law, including unpaid overtime and unlawful deductions from wages.

“Companies cannot misclassify employees in order to dodge their legal obligations – period,” said Attorney General Underwood. “We will continue to hold accountable employers who fail to pay workers the wages they’re owed under the law.”

Since 2011, the New York Attorney General’s office has recovered over $33 million in stolen wages for 22,000 workers across New York.

The settlement fund will be distributed to two classes of affected FedEx drivers. One class covers unpaid overtime claims for current and former FedEx Ground and FedEx Home drivers who entered into an operating agreement with FedEx on or after August 10, 2005, provided services to FedEx Ground up to September 2016, and drove over 40 hours in a week. The second class covers unlawful deductions claims for current and former FedEx Ground and FedEx Home drivers who entered into an operating agreement with FedEx Ground between October 15, 2007 and September 11, 2009 and provided services to FedEx Ground up to September 2016.

Qualifying drivers will be sent notice by the claims administrator and be required to submit a claim form in order to qualify for payment from the settlement fund. The settlement sets a timetable for sending notice and processing claims that will commence after court approval of the settlement agreement, which was filed today in New York County Supreme Court.

This settlement is part of the Attorney General’s continuing efforts to hold accountable employers who evade labor law requirements by improperly classifying workers as independent contractors.
Employers who do so deny legally required wages, benefits, and protections to their employees, such as reimbursement for employee’s out-of-pocket, work-related expenses, overtime pay for hours over 40 in a workweek, unemployment insurance, and workers’ compensation. Today’s settlement follows the Attorney General’s criminal prosecution of three Queens construction companies for misclassifying workers, with over $371,000 in unpaid wages recovered for workers. Recently, the Attorney General also jointly filed a brief with 12 other states supporting the National Labor Relations Board’s decision that a company’s misclassification of employees as independent contractors constituted an unfair labor practice in violation of the National Labor Relations Act.

The case against FedEx Ground is being handled by Assistant Attorneys General Lawrence J. Reina and Jessica Agarwal of the Labor Bureau, under the supervision of Civil Enforcement Section Chief Mayur Saxena and Bureau Chief ReNika Moore. Data Analyst John Ferrara and Director of Research and Analytics Jonathan Werberg also assisted with this matter. Matthew Colangelo is the Executive Deputy Attorney General for Social Justice.