

FILED

UNITED STATES COURT OF APPEALS

APR 06 2009

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

KALINI BOYKIN; et al.,

Plaintiffs - Appellees,

WAUKEEN Q. MCCOY,

Appellant,

v.

FEDEX EXPRESS, a Delaware
corporation,

Defendant.

No. 08-15904

D.C. Nos. 3:03-CV-02659-SI
3:03-CV-02878-SINorthern District of California,
San Francisco

ORDER

Appellant's opposed motion to strike the answering brief and supplemental excerpts is granted in part. The following portions of the supplemental excerpts are stricken: SER 1-47, SER 565-605 and SER 48-118. To the extent the motion seeks to strike SER 210-219, 272-278 and 279-327, the motion shall be referred to the merits panel for resolution. The portions of the brief that rely upon SER 48-118 are stricken; to the extent appellant seeks to strike further portions of the answering brief, the motion is referred to the merits panel for resolution. Appellees' cross-motion to supplement the record is denied. 9th Cir. R. 10-2.

cb /Pro Mo

Appellees' alternative request for judicial notice is referred to the merits panel for resolution. The Court may elect to strike the portions of the briefs that rely on the material to be judicially noticed if it declines to grant the request. Advisory Note to Circuit Rule 27-1.

Appellant's motion for an extension of time to file the reply brief is granted. The reply brief is due 14 days after the date of this order.

For the Court:

MOLLY C. DWYER, Clerk

Cole Benson
Supervising Deputy Clerk
Ninth Circuit Rule 27-7/Advisory Note to
Rule 27 and Ninth Circuit Rule 27-10