

**PLAINTIFF'S COMPENDIUM OF DOCUMENTS  
FILED IN THE OLGUIN V. FED EX STATE COURT  
ACTION ASSIGNED TO THE HONORABLE  
STEPHEN J. SUNDVOLD VOLUME I OF II**

**PART 3 OF 3**

**EXHIBIT 5**

COPY



1 MATTHEW RIGHETTI, ESQ. {121012}  
2 JOHN GLUGOSKI, ESQ. {191551}  
3 RIGHETTI & WYNNE  
4 456 Montgomery Street, 14th Floor  
5 San Francisco, CA 94104  
6 (415) 983-0900

7 GEOFFREY GEGA, ESQ. {91980}  
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9 200 West Santa Ana Blvd., Ste. 670  
10 Santa Ana, CA 92701  
11 Tel: 714-542-1883  
12 Fax: 714-542-1009

13 Attorneys for Plaintiffs :

14  
15 SUPERIOR COURT OF CALIFORNIA  
16  
17 COUNTY OF ORANGE

18 ALAN SLATER, Clerk of the Court  
19  
20 XAVIER OLGUIN and other members of the  
21 general public similarly situated,

22 Plaintiffs,

23  
24 FED EX GROUND PACKAGE SYSTEM,  
25 and Does 1 through 50, inclusive,

26 Defendants.

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

AUG 17 2005

ALAN SLATER, Clerk of the Court

S. Galvan  
BY S. GALVAN

COPY

RECEIVED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CIVIL COMPLEX CENTER

AUG 03 2005

ALAN SLATER, Clerk of the Court

Case No. OCSC 02CC00200

CLASS ACTION

Assigned for all purposes to the  
Honorable Stephen J. Sundvold

DECLARATION OF  
MATTHEW RIGHETTI  
IN SUPPORT OF MOTION  
FOR CLASS CERTIFICATION

Date: TBD  
Time: TBD  
Dept.: CX105

COPY

1 I, Matthew Righetti, declare:

2  
3 1. I am an attorney licensed to practice law in the State of California and am a  
4 partner of Righetti & Wynne, P.C., attorneys of record for Plaintiffs. I offer this declaration in  
5 support of Plaintiffs' Motion for Class Certification. I have personal knowledge of the  
6 following facts and if called as a witness would testify as follows:

7  
8 2. I graduated from the University of California at Berkeley in 1982 with a degree  
9 in Economics. I graduated from the University of San Francisco School of Law in 1985. I am  
10 admitted to practice law before the following courts: United States Court of Appeals, Ninth  
11 Circuit, United States Court of Appeals, Federal Circuit, United States District Court, Northern,  
12 Central and Eastern Districts of California, United States District Court, Northern District of  
13 Illinois and all of California's state courts.

14  
15 3. My practice has been devoted to complex class action litigation for the past ten  
16 years. Much of this litigation has involved class action prosecution of the wage and hour laws  
17 in both state and federal courts. A representative sampling of recent class actions (including  
18 wage and hour litigation) where Righetti Wynne has served, or is serving, as lead counsel,  
19 includes: *Rocher v. Sav-On Drug Stores* (Hon. Irving Feffer, Los Angeles County Superior  
20 Court), lead counsel in a certified overtime class action. The California Supreme Court  
21 overturned the Court of Appeal's decision to reverse certification; *Crandall v. U-Haul Int'l, Inc.*  
22 (Hon. J. Stephen Czuleger, Los Angeles County Superior Court), the only certified overtime  
23 class action to go through a merits trial under California's quantitative exemption standard;  
24 *Aguardo v. Pizza Hut Inc.* (Hon. Alex Saldamando, San Francisco Superior Court),  
25 consolidated and certified overtime and vacation class actions; *Gentry v. Circuit City Stores,*  
26 *Inc.* (Hon. Thomas Wilhite, Los Angeles County Superior Court), overtime class action -- trial  
27  
28

1 court's order to enforce employment agreement barring class actions has been granted review  
2 by the California Supreme Court; *Albrecht v. Rite Aid* (Hon. J. Richard Haden, San Diego  
3 Superior Court), consolidated and certified overtime class actions; *Cooper et al. v. Chief Auto*  
4 *Parts* (Hon. Ken Kawaichi, Alameda County Superior Court), a multi-party (over 200 included  
5 plaintiffs) overtime case; *Amezcuca v. Trak Auto* (Hon. Bruce Mitchell, Los Angeles County  
6 Superior Court), a certified overtime class action; *Riggs v. Winston Tires* (Hon. Emilie Elias,  
7 Los Angeles County Superior Court), a certified overtime class action; *Crogan's v. Fireman's*  
8 *Fund* (Hon. Lynn O'Malley Taylor, Marin County Superior Court), discriminatory denial of  
9 dividends on participating insurance policies certified class action; *Winfrey v. Chief Auto Parts*  
10 (Hon. David Garcia, San Francisco Superior Court), a certified class action regarding denial of  
11 rest breaks; *Leung v. Rite Aid* (Hon. Bruce Mitchell, Los Angeles County Superior Court), a  
12 certified class action regarding denial of vacation pay; *Woods v. Dollar Financial* (Alameda  
13 County Superior Court), a certified overtime class action; *Dubrow v. Pep Boys* (Hon. Stephen  
14 Sunvold, Orange County Superior Court), a certified overtime class action; *Gallegos v. Office*  
15 *Depot* (Hon. Conrad Rushing, Santa Clara County Superior Court), certified overtime class  
16 action; *Gavarette v. Chuck-E-Cheese* (Hon. Anthony Mohr, Los Angeles County Superior  
17 Court), a certified overtime class action; *Flores v. KB Toys* (Hon. Sheridan Reed, San Diego  
18 County Superior Court), certified overtime class action; *O'Donnell v. Starving Students* (Hon.  
19 Vernon Smith, Marin County Superior Court), certified overtime class action; *In. Re Trans*  
20 *Union Corp. Privacy Litigation* (Hon. Robert W. Gettleman, United States District Court,  
21 Northern District of Illinois), MDL case involving approximately 20 national class actions  
22 alleging privacy and FCRA violations coordinated by the MDL Panel in which Righetti Wynne  
23 was appointed by the court to act as co-lead counsel.  
24  
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28

1           4.     I was co-lead counsel in the only class action overtime case ever to have been  
2     tried under the quantitative executive exemption standard articulated in Ramirez v. Yosemite  
3     Water Company (1999) 20 Cal.4th 785. That case, tried in Los Angeles County Superior Court  
4     before the Hon. J. Stephen Czuleger, resulted in a phase one finding that U-Haul had  
5     misclassified all California salaried "General Managers" as exempt from overtime. The case  
6     settled before the phase two remedy trial convened.  
7

8  
9           5.     I have been invited to speak on class action and employment issues by a number  
10    of professional organizations in California on the topic of class actions, mediation and wage  
11    and hour developments.  
12

13           6.     Because it is not uncommon for these cases to move through the appellate courts  
14    during the course of proceedings, I have developed a significant amount of appellate  
15    experience. In Winfrey v. Chief Auto Parts, Inc. I succeeded in having the First District Court  
16    of Appeal reverse a trial court's denial of class certification in a class action alleging violation  
17    of California rest break laws. In Saunders v. U-Haul the Court of Appeal vindicated the right  
18    of plaintiffs' counsel to communicate with class members before certification. In Indian Head  
19    Water Company v. Superior Court (an unpublished decision from the Second District Court of  
20    Appeal affirming certification of a wage and hour class action under the quantitative Ramirez  
21    v. Yosemite Water Company standard), I represented various amicus groups in the Court of  
22    Appeal proceedings. And, perhaps most significantly, I am counsel for Plaintiffs in the Sav-On  
23    class action litigation (a case where the California Supreme Court recently reversed the Court  
24    of Appeal order which had overturned trial court's order granting certification of an overtime  
25    class action). I have also handled many other appeals not only in California but also in the  
26    federal courts both in the Ninth Circuit, the Seventh Circuit and in the Federal Circuit.  
27  
28

1           7.     Marked and attached hereto as Exhibit 1 is a true and correct copy of the  
2 Description and Acknowledgement of Package Handler Duties.

3  
4           8.     Marked and attached hereto as Exhibit 2 is a true and correct copy of the  
5 Declaration of Jack Foster.

6  
7           9.     Marked and attached hereto as Exhibit 3 are true and correct copies of excerpts  
8 from the Deposition of Lynette Dhillon.

9  
10          10.    Marked and attached hereto as Exhibit 4 are true and correct copies of  
11 interoffice email memorandums of FedEx Ground's corporate personnel.

12          11.    Marked and attached hereto as Exhibit 5 is a true and correct copy of the Human  
13 Resources Organization Chart, bates stamped page No. D00584.

14  
15          12.    Marked and attached hereto as Exhibit 6 are true and correct copies of excerpts  
16 from the Deposition of Eric Ricardo.

17          13.    Marked and attached hereto as Exhibit 7 are true and correct copies of excerpts  
18 of the Deposition of Michael Vickers.

19  
20          14.    Marked and attached hereto as Exhibit 8 is a true and correct copy Defendant's  
21 Responses to Kelley Freeman's Request for Production of Documents, Set One.

22  
23          15.    Marked and attached hereto as Exhibit 9 is a true and correct copy of the  
24 California Human Resource Update 2004.

25  
26          16.    Marked and attached hereto as Exhibit 10 is a true and correct copy of the  
27 Declaration of John A. Miller.

28

1           17.    Marked and attached hereto as Exhibit 11 are true and correct copies of the  
2           Declarations of Class Representatives Javier Olguin, Miguel Vargas, and Kelley Freeman.  
3

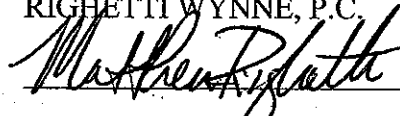
4           18.    Marked and attached hereto as Exhibit 12 is a true and correct copy of the letter  
5           from John Glugoski to Mark Riera dated July 28, 2005 confirming the extension to file  
6           Plaintiff's Motion for Class Certification from Monday, August 1, 2005 to Wednesday, August  
7           3, 2005.  
8

9           19.    Marked and attached hereto as Exhibit 13 are true and correct copies of excerpts  
10          of the Deposition of Ed Leveque.  
11

12           I declare under penalty of perjury under the laws of the State of California that the  
13          foregoing is true and correct.  
14

15          Dated: August 2, 2005  
16

RIGHETTI WYNNE, P.C.



Matthew Righetti  
Attorney for the Plaintiffs  
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**EXHIBIT 1**



# DESCRIPTION AND ACKNOWLEDGEMENT OF PACKAGE HANDLER DUTIES

## Primary Function of Job:

- Load packages into a delivery vehicle or trailer.
- Unload packages from a delivery vehicle or trailer.
- Manually place packages onto sortation systems.
- Reposition packages to the proper conveyor system.
- Sort packages to the proper conveyor system.
- Move certain types of packages (incompatibles, rejects, no reads, heavy weight, air and company mail) to and from conveyor system carts and load gratings.
- Bag sorted packages.
- Hand scan packages.

## Tools and Equipment Used:

- Skate Wheel Roller/Tripod - Wheel conveyor mounted on common shafts or axles or on parallel spaced bars on individual axles.
- Dock Cart - A four-wheeled, hand pushed cart that packages are loaded onto to allow the packages to be moved about a facility.
- Hand Held Scanner - A hand operated laser scanner which reads FedEx Ground barcodes.
- Come-a-Long - Helps open jammed trailer doors.
- Transition Gate - Moveable section of roller conveyor that connects the in-feed belt to the roller conveyor.
- Extendo - A conveyor section that can be extended into a trailer to load and unload packages.
- Coal Chute - A material handling device that transfers a package to its appropriate trailer at the end of a sortation system.
- Pallet - Wooden platform on which heavy articles or packages are placed.
- Pallet Jack - A hand operated hydraulic lift which is used to move pallets about a facility.
- Unload Device - A portable roller section with bracket used to assist unloading packages from a van.
- Netting Strap - Drop frame trailers are equipped with netting to prevent packages from shifting during transit.
- Flap - Shelving in a trailer separating areas above and below rollers. Flaps can be lowered or raised.
- Two-Wheel Hand Cart - A two-wheel, hand-operated device which assists in moving a large, awkward package or a stack of packages.

## Specific Related Physical and Mental Requirements:

- Work assignments can include repetitive lifting, carrying, pushing and pulling of packages up to 150 pounds in weight in a standing or moving position more than 60 percent of work time.
- Assistance is provided with heavy packages.

- Work assignments require reaching, handling, fingering, feeling eye-hand coordination, turning and/or twisting and/or bending at the waist more than 60 percent of work time.
- The climbing of stairs or ladders would be required less than 20 percent of work time.
- Job requires working in areas of facilities with temperature and humidity variations ranging from 20 to 100 percent humidity and below zero to 110 degrees Fahrenheit temperatures based on local weather variations more than 60 percent of work time.
- Noise level measured in decibels ranges from 20 to 80 decibels depending on work assignment more than 60 percent of work time.
- Job requires working rapidly for long periods of time more than 60 percent of work time.
- Work assignments require reading labels, charts, verify numbers memorization and carrying out instructions, estimating speed of moving objects and the size, form, weight and quality of objects more than 60 percent of work time.
- Read and understand oral and simple written instructions less than 20 percent of work time.

## NOTICE OF JOB REQUIREMENTS

FedEx Ground requires that each applicant be informed of what is expected of employees in each position with the Company. In return, FedEx Ground expects that applicants will truthfully state whether or not they can perform the requirements for each job. On this page is a written description for the position of Package Handler for which you have applied.

After reading this description carefully, determine whether you can perform the job. If so, please sign and date this notice. If you cannot perform every aspect of the job, please indicate in the space at the bottom of this page the specific job requirements that you cannot perform.

By accepting the applicant's statement that he or she can perform the job for which he or she has applied, FedEx Ground does not waive the right, in the event applicant is employed, to discharge the applicant at any time, for any reason, with or without notice, with or without cause. In addition, falsification, omission or misrepresentation of information provided herein, or at any time during this process, is grounds for immediate discharge.

I have read the attached description and certify that:

I am qualified and I can perform all aspects of the job as required by the company.

OR

I cannot perform all of the above essential functions and would like an opportunity to discuss an accommodation(s) that will be needed to perform the essential job functions.

Kelley Fay Freeman 9-13-00  
Signature Date

## AUTHORIZATION FOR RELEASE OF INFORMATION

I, Kelley Fay Freeman, in connection with this service, authorize all Corporations, Companies, Credit Agencies, Educational Institutions, Persons, Law Enforcement Agencies, Military Services and Former Employers to release information they may have about me to: FedEx and their agents, and release them from any liability or responsibility for doing so; further I authorize the procurement of an investigative consumer report and understand that such a report may contain information about my background, character and personal reputation and that further information may be available upon written request within a reasonable period of time. I understand this notice will also apply to any future update reports that may be requested.

Kelley Fay Freeman  
(Applicant's full name)  
Kelley Fay Freeman  
(Applicant's signature)  
9-13-00  
(Today's date)

## VERIFICATION KEY

Month	03	Day	08
Of		Of	
Birth		Birth	

\* Do not include year of birth. Information is used for background verification only.

**EXHIBIT 2**

1 **MATTHEW RIGHETTI, ESQ.** {121012}  
2 **JOHN GLUGOSKI, ESQ.** {191551}  
3 **RIGHETTI & WYNNE**  
4 456 Montgomery Street, 14th Floor  
San Francisco, CA 94104  
(415) 983-0900

5 **GEOFFREY GEGA, ESQ.** {91980}  
6 **COOK BROWN**  
7 200 West Santa Ana Blvd., Ste. 670  
8 Santa Ana, CA 92701  
9 Tel: 714-542-1883  
10 Fax: 714-542-1009

11 Attorneys for Plaintiffs

12 **SUPERIOR COURT OF CALIFORNIA**  
13 **COUNTY OF ORANGE**

14  
15 **JAVIER OLGUIN** and other members of the  
16 general public similarly situated,

Case No. OCSC 02CC00200

CLASS ACTION

17 Plaintiffs,

*Assigned for all purposes to the  
Honorable Stephen J. Sundvold*

18 vs.  
19

20 **FED EX GROUND PACKAGE SYSTEM,**  
21 and Does 1 through 50, inclusive,

**AFFIDAVIT OF JACK FOSTER**

22 Defendants.  
23  
24  
25  
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1 I, JACK FOSTER, declare as follows:

2 1. I am an individual residing in Pomona, California. I have personal knowledge  
3 of the matters set forth herein, and would and could testify thereto if called as a witness.  
4

5 2. I was employed by FedEx for a period of eight years as a casual  
6 handler/courier in the SPQA Los Angeles office and as a courier at the JDYA Santa Fe Springs  
7 office in California. I left my employment with FedEx in 2002.

8 3. During the time I worked for FedEx, I became familiar with FedEx's  
9 practices, policies and procedures applicable to my position.  
10

11 4. During my employment, I received a copy of FedEx's training material  
12 entitled "Go Express: Station Policies and Procedures." This manual set forth directives on  
13 time card recording procedures for hourly employees (i.e. Clocking in when you begin your  
14 shift, clocking out for meal periods and rest periods, clocking back in at the end of a meal  
15 periods and rest periods, clocking out at the end of the shift, etc.), guidelines for time card  
16 submission, explanations of time card codes, and code definitions for each activity performed  
17 during a workday.  
18

19 5. In addition, the "Go Express: Station Policies and Procedures" manual  
20 contained a detailed coding system for rest and meal breaks that FedEx required to be included  
21 on time cards. Specifically, we were required to enter the job code 13 which stands for "Begin  
22 Break," job code 14 which stands for "End Break," job code 28 which stands for "Begin Paid  
23 Break," and job code 29 which stands for "End Paid Break." Marked and attached hereto as  
24 Exhibit 1 is a true and correct copy of an excerpt of the Go Express: Station Policies and  
25 Procedures manual regarding time cards.  
26  
27

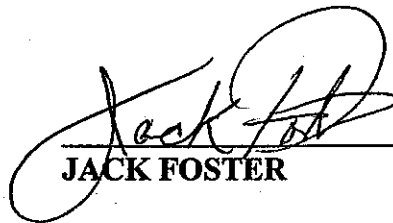
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6. As an employee of FedEx, I complied with FedEx's policies and procedures by utilizing these codes to note that I was taking a rest break or meal period on my time cards.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and that if called as a witness, I could competently testify to the same.

Executed this 28 day of July, 2005, at Pomona, California.

  
\_\_\_\_\_  
**JACK FOSTER**

**EXHIBIT 3**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE

JAVIER OLGUIN, et al.,  
Plaintiffs,  
vs.  
FEDEX GROUND PACKAGE SYSTEMS,  
INC., et al.,  
Defendants.

No. 02CC00200

ORIGINAL

DEPOSITION OF LYNETTE DHILLON

Los Angeles, California

June 15, 2004

**Reported By:**

DEBORAH HEISMAN, CSR NO. 3772

*Karyn Abbott & Associates, Inc.*

*Certified Shorthand Reporters*

*Transamerica Center*

*1150 S. Olive Street, Suite GL-29*

*Los Angeles, California 90015*

*(213) 749-1234*



1 LOS ANGELES, CALIFORNIA, TUESDAY, JUNE 15, 2004

2 1:25 P.M.

3  
4 LYNETTE DHILLON,

5 having been first duly administered an oath  
6 in accordance with C.C.P. Section 2094, was  
7 examined and testified as follows:

8  
9 EXAMINATION

10 BY MR. GLUGOSKI:

11 Q. Good afternoon, Ms. Dhillon. How are you  
12 today?

13 A. Fine, thank you.

14 Q. Could you please state your name and spell it  
15 for the court reporter?

16 A. Lynette Dhillon, L Y N E T T E, D H I L L O N.

17 Q. And where do you reside?

18 MR. NELSON: Is perhaps her office address good  
19 enough for you?

20 MR. GLUGOSKI: If you agree that if she leaves the  
21 company she will provide you with her last known  
22 address.

23 MR. NELSON: We can do that.

24 MR. GLUGOSKI: All right.

25 Q. Ms. Dhillon, have you ever had your

1 preparation for your deposition here today?

2 A. I reviewed the California HR update just a  
3 minute ago and the deposition by Ed Leveque.

4 Q. When did you receive the Mr. Leveque  
5 deposition?

6 A. About two weeks ago.

7 Q. Did you have an opportunity to go through the  
8 deposition?

9 A. Yes.

10 Q. Did you agree with all of the testimony that  
11 Mr. Leveque provided in that deposition?

12 MR. NELSON: Objection. Vague and overbroad but,  
13 you can answer.

14 THE DEPONENT: Did I agree with it. Some of my  
15 recollection was different.

16 BY MR. GLUGOSKI:

17 Q. What specifically do you recall being  
18 different -- strike that.

19 What specific testimony do you recall being  
20 different from what Mr. Leveque testified to?

21 MR. NELSON: Objection. Again vague and overbroad  
22 but you can answer.

23 THE DEPONENT: I recall him stating that we had  
24 structured breaks from 1999, and I started with the  
25 company in 2000 and I didn't recall them being

1 structured at the time.

2 BY MR. GLUGOSKI:

3 Q. What is your understanding of structured  
4 breaks?

5 A. Shutting down the belt.

6 Q. As far as you understood it when did shutting  
7 down the belt become a policy at FedEx Ground?

8 A. I recall it being implemented beginning in  
9 2000.

10 Q. What part of 2000?

11 A. The fall of 2000.

12 Q. Any other aspects of Mr. Leveque's testimony  
13 that you recall being different?

14 A. No.

15 Q. Were you involved in the policy of  
16 implementing the shutting down of the belts with  
17 respect to rest breaks?

18 A. Yes.

19 Q. Was that a policy that you decided?

20 A. No.

21 Q. Including yourself who else was involved in  
22 the discussions regarding the shutting down of the  
23 belt as it relates to breaks?

24 MR. NELSON: Objection on the basis of  
25 attorney-client privilege, so exclude any

1 conversations that you had with counsel in your  
2 answer.

3 THE DEPONENT: Okay. I proposed it to my regional  
4 director Tim Watkins.

5 BY MR. GLUGOSKI:

6 Q. What prompted you to propose this practice to  
7 Mr. Watkins?

8 A. We had some employee feedback regarding  
9 breaks. We had a complaint in one of our buildings.

10 Q. In California?

11 A. Yes.

12 Q. Anything else besides an employer feedback  
13 regarding breaks?

14 A. Employee.

15 Q. Oh, an employee. There was one employee who  
16 complained about rest breaks? Is that what you are  
17 saying?

18 A. No. We had some employees who referenced  
19 inconsistency of breaks.

20 Q. Do you recall who those employees were or  
21 employee was?

22 A. They were in Torrance and Anaheim.

23 Q. Do you have an idea or an estimate of  
24 approximately how many employees provided feedback  
25 regarding rest breaks?

1 A. No.

2 Q. More than one at each location?

3 A. Yes.

4 Q. More than two at each location?

5 A. Yes.

6 Q. More than three at each location?

7 A. Yes.

8 Q. More than ten at each location?

9 A. I am not sure. It might have been around

10 ten.

11 Q. How did this feedback come to you? Was it in

12 connection with a survey or questionnaire of employees

13 at the Torrance or Anaheim location?

14 A. Yes.

15 Q. Was this a survey or questionnaire that was

16 handed out just to the Torrance and Anaheim locations?

17 A. Yes.

18 Q. What prompted the creation of this

19 questionnaire or survey?

20 A. It was a quality involvement team to reduce

21 turnover. Actually there were two separate quality

22 involvement teams, one in each building.

23 Q. Were the quality involvement team members

24 employees of FedEx Ground?

25 A. Yes.

1 Q. Do you recall any of the members of the  
2 quality involvement team?

3 A. I was the sponsor.

4 Q. For which location?

5 A. For both locations. I believe the terminal  
6 managers were on the teams and a number of their  
7 service managers. I don't recall the names offhand.

8 Q. Do you recall the names of the terminal  
9 managers at Torrance and Anaheim?

10 A. Yes.

11 Q. And they were?

12 A. John Abbott in Torrance and Martin Daza in  
13 Anaheim.

14 Q. How do you spell Daza?

15 A. D A Z A.

16 Q. Now, the quality involvement team, had they  
17 done any type of investigation at locations other than  
18 Torrance and Anaheim?

19 A. No.

20 Q. What was the purpose for the creation of the  
21 quality involvement team?

22 A. To reduce turnover.

23 Q. Was turnover an issue in any other location  
24 in California?

25 A. Yes.

1 MR. NELSON: Objection. Vague.

2 BY MR. GLUGOSKI:

3 Q. Was there something about Torrance or Anaheim  
4 that resulted in the creation of a quality involvement  
5 team to address turnover as opposed to the other  
6 locations in California?

7 A. My recollection is that their turnover was  
8 the highest.

9 Q. Was there any official findings or report  
10 that was generated by the quality involvement team  
11 regarding the issue of turnover?

12 MR. NELSON: Objection. Vague as to official but  
13 you can answer.

14 THE DEPONENT: Yes, there was a final report.

15 BY MR. GLUGOSKI:

16 Q. And that report was authored by whom?

17 A. In Anaheim it was Laura Rosen, R O S E N, she  
18 was the recruiter, and in Torrance I am not sure.

19 Q. Are copies of those reports still maintained  
20 at the company?

21 A. I don't know about Torrance. Yes for  
22 Anaheim.

23 Q. And where would that be maintained?

24 A. I have a copy in my office.

25 Q. Now, with respect to the quality involvement

1 team study, do you recall exactly when that study was  
2 conducted?

3 A. The fall of 2000.

4 Q. Do you recall when the policy was implemented  
5 that the conveyer belts would be turned off for rest  
6 periods?

7 A. I believe in Anaheim and Torrance it was in  
8 the fall as well.

9 Q. Do you recall exactly the time frame between  
10 when the findings were made by the quality involvement  
11 team and the actual policy of turning down the  
12 conveyer belts was actually implemented?

13 A. I don't remember that.

14 Q. Can you walk me through exactly what the  
15 study consisted of?

16 A. Can you be more specific?

17 Q. You indicated there was some questionnaires  
18 sent to employees at the Torrance and Anaheim  
19 location; correct?

20 A. Um-hum.

21 Q. Yes?

22 A. Yes.

23 Q. Did you make the decision that there would be  
24 a survey or questionnaire given to the Torrance and  
25 Anaheim employees?



1           A.    I don't recall whose idea the survey was.

2           Q.    Do you know who drafted the survey?

3           A.    No.

4           Q.    Did you play any role in drafting that

5 survey?

6           A.    I don't recall.

7           Q.    Was the survey the only source of gathering

8 information regarding the issue of turnover during the

9 quality involvement team survey?

10          A.    As best as I can recall, yes.

11          Q.    Were there any conversations or follow ups

12 with people who filled out the survey regarding their

13 responses?

14          A.    I don't recall any.

15          Q.    Did the quality involvement team create some

16 type of outline or game plan as to how they would be

17 conducting the study?

18          A.    I recall it was the quality involvement team

19 which required the four steps, research, plan, act.

20          Q.    And the fourth step? Research, plan, act?

21          A.    I can't remember.

22          Q.    Quality involvement team, is that a practice

23 at FedEx Ground to address issues that come up that

24 could be problematic for the company such as turnover?

25          A.    Yes.

1 MR. NELSON: Objection. Lacks foundation.

2 BY MR. GLUGOSKI:

3 Q. Are you aware of a quality involvement team  
4 ever being set up to address any other issues during  
5 your tenure other than when it was created to address  
6 turnover at Torrance and Anaheim?

7 A. Yes.

8 Q. Is there some type of protocol or procedure  
9 as to how a quality involvement team will be put  
10 together?

11 A. How it will be put together? What do you  
12 mean?

13 Q. Well, is there any protocol or procedure in  
14 the creation or need for a quality involvement team?  
15 For example, if this situation arises we will need a  
16 quality involvement team to be created to investigate  
17 it. It will be consisting of these types of people.  
18 Just some type of guidelines as to how the quality  
19 involvement team will be created and why it would need  
20 to be created.

21 A. There is a total quality management process.

22 Q. Is that a written publication or -- strike  
23 that.

24 Is the total quality management process a  
25 written publication or guideline?

1           A.    Yes.

2           Q.    And within the total quality management  
3 process it breaks down for instance areas that would  
4 give rise to the need for a quality involvement team?

5           MR. NELSON:  Objection.  Vague.

6 BY MR. GLUGOSKI:

7           Q.    What prompts the creation of a quality  
8 involvement team?

9           MR. NELSON:  Objection.  Foundation as to the  
10 company, outside this witness' area, but you can  
11 answer.

12          THE DEPONENT:  I believe it's to improve the  
13 process.

14 BY MR. GLUGOSKI:

15          Q.    Who originally established the concept of  
16 creating a quality involvement team to address or  
17 improve the process?

18          A.    Are you talking about in Torrance and  
19 Anaheim?

20          Q.    Or just practice in general.

21          MR. NELSON:  Objection.  Lacks foundation.

22          THE DEPONENT:  Do you want me to respond for  
23 Torrance and Anaheim?

24 BY MR. GLUGOSKI:

25          Q.    Just in general if you know.

1           A.    No.

2           Q.    How did you come to learn that there is a  
3 quality involvement team procedure to deal with  
4 improving the process?

5           A.    My regional director Tim Watkins asked me to  
6 sponsor a quality involvement team in both buildings.

7           Q.    Prior to Mr. Watkins bringing to your  
8 attention the idea of creating a quality involvement  
9 team did you know there was such a practice of  
10 creating a quality involvement team to improve  
11 processes at the workplace?

12          A.    No.

13          Q.    Have you ever been involved in any quality  
14 involvement team -- strike that.

15                Have you ever been a member of any quality  
16 involvement team other than the quality involvement  
17 team that addressed turnover at Torrance and Anaheim?

18          A.    Yes.

19          Q.    What other areas have you been involved in  
20 wherein you have been a member of a quality  
21 involvement team?

22          A.    In Bakersfield, Lancaster, and Santa Maria.

23          Q.    What gave rise to the need for a quality  
24 involvement team?

25          A.    Operations issues such as inbound service,

1 damages. I don't recall specifically the other ones.

2 Q. Have you ever been involved in any quality  
3 involvement team that relates to whether or not meal  
4 periods have been taken by employees who would be  
5 authorized to take a meal break under California law?

6 A. No.

7 Q. Have there ever been any studies that you are  
8 aware of regarding meal breaks being taken by package  
9 handlers at any of the locations in California?

10 MR. NELSON: Objection as to attorney-client  
11 privilege so excluding communications with house  
12 counsel or outside counsel.

13 THE DEPONENT: No.

14 BY MR. GLUGOSKI:

15 Q. Now, after you reached a conclusion with the  
16 findings of the quality involvement team how did you  
17 convey to the L.A. hub -- strike that.

18 After reaching findings relating to the  
19 quality involvement team study issue in Anaheim how  
20 did you convey to the hubs in California that a policy  
21 was to be implemented that they were now to turn off  
22 the conveyer belts?

23 MR. NELSON: Objection. Compound. Lacks  
24 foundation. You can answer it if you know how.

25 BY MR. GLUGOSKI:

1 Q. Can you break it down for me again how you  
2 indicated you implemented a policy where the conveyer  
3 belts would be turned down at all the locations?

4 A. In the Anaheim and Torrance.

5 Q. So the policy was only implemented in  
6 Torrance and Anaheim?

7 A. At that time the managers chose to shut down  
8 the belts to reduce turnover in Anaheim and Torrance.

9 Q. So turning down the belt wasn't a directive  
10 or a suggestion from the quality improvement team as  
11 to how to deal with turnover at Anaheim and Torrance?

12 A. It was.

13 Q. It was. You indicated that the senior  
14 managers decided to turn off the belts.

15 A. Correct.

16 Q. Is it your testimony because the -- strike  
17 that.

18 Is it your testimony that because the senior  
19 managers were part of the quality improvement team  
20 that that made it a directive with respect to turning  
21 off the conveyer belts?

22 I am a little confused. You say the senior  
23 managers chose to turn off the conveyer belts.

24 A. Correct.

25 Q. To me that doesn't seem like it's a directive

1 from the quality improvement team.

2 A. They were the quality improvement team. It  
3 was in their buildings.

4 Q. Was this policy of turning down the conveyer  
5 belts -- strike that.

6 Was the policy of turning off the conveyer  
7 belts put in place at any other location besides  
8 Anaheim and Torrance?

9 A. Yes.

10 Q. Was that policy put in place at other  
11 locations in California based on the findings of the  
12 quality improvement team at Anaheim and Torrance?

13 MR. NELSON: Objection. Lacks foundation. Calls  
14 for speculation but you can answer.

15 THE DEPONENT: I am not sure if it had anything to  
16 do with those quality improvement teams.

17 BY MR. GLUGOSKI:

18 Q. As you sit here today do you know for a fact  
19 that the conveyer belt is turned down at every  
20 location in California to accommodate rest periods?

21 A. Yes.

22 Q. How do you know that?

23 A. It has been a directive.

24 Q. When was the directive issued?

25 A. I don't recall.

1 Q. The directive was issued to Anaheim and  
2 Torrance following the completion of the quality  
3 improvement team study; correct?

4 A. They chose to implement structured breaks in  
5 this building, yes.

6 Q. When you say "they" chose, are you referring  
7 to the senior managers?

8 A. Yes.

9 Q. So as far as you saw it did you believe that  
10 it was a company directive ordering the senior  
11 managers to turn off their conveyer belts or the  
12 senior managers made a decision to turn off the  
13 conveyer belts?

14 A. They made a decision.

15 Q. Now, you indicated there was a directive from  
16 the company to all the other locations in California  
17 to turn off the conveyer belts to deal with rest  
18 periods; correct?

19 A. Yes.

20 Q. When did that directive come out?

21 A. I don't recall.

22 Q. Is it fair to say that that directive did not  
23 come out before the senior managers at Anaheim and  
24 Torrance had decided to turn off the conveyer belts to  
25 deal with rest periods?



1 A. Yes.

2 Q. Has the directive to turn off the conveyer  
3 belts at all of the California locations to deal with  
4 rest periods been in place for at least six months?

5 A. Yes.

6 Q. At least a year?

7 A. Yes.

8 Q. At least two years?

9 A. I can't be sure.

10 Q. As part of human resources -- strike that.  
11 What is your present position?

12 A. Regional human resources manager for the  
13 Southern California region.

14 Q. How long have you held that position?

15 A. My title since June 1st of this year. Prior  
16 to that it was regional human resources manager for  
17 the west region and I started with the company in  
18 August of 2000.

19 Q. In the position of regional human resources  
20 for the west region?

21 A. Yes.

22 Q. As part of your duties and responsibilities  
23 as regional HR for the west region did you have the  
24 duties and responsibilities to make sure that there  
25 was compliance with California law relating to meal

1 periods and rest breaks?

2 A. Yes.

3 Q. In connection with carrying out your duties  
4 and responsibilities to make sure there was compliance  
5 with meal periods and rest breaks while you were  
6 regional HR with the west region did you ever issue a  
7 directive that in order to accommodate for rest  
8 periods under California law that conveyer belts  
9 should be turned off at all of the locations in the  
10 west region?

11 A. No.

12 Q. Once you conducted the quality improvement  
13 team study with relation to Torrance and Anaheim did  
14 you have any discussions with anyone at FedEx Ground  
15 about implementing a conveyer belt shutdown for rest  
16 periods at any of the other California locations?

17 MR. NELSON: Objection. Attorney-client  
18 privilege. Exclude from your answers discussions with  
19 in-house counsel or outside counsel.

20 THE DEPONENT: Yes, with my region director Tim  
21 Watkins.

22 BY MR. GLUGOSKI:

23 Q. When did that discussion take place if you  
24 recall?

25 A. The fall of 2000.

1 Q. So at some point after you conducted the  
2 quality improvement team study at Anaheim and Torrance  
3 you approached Mr. Watkins and discussed turning off  
4 the conveyer belts at all of the California locations;  
5 correct?

6 A. Yes.

7 Q. What did Mr. Watkins say?

8 A. He -- I am trying to remember. He said that  
9 we were not going to change the procedure throughout.

10 Q. And what was your response?

11 A. I pointed to the quality involvement teams  
12 and how it had reduced turnover.

13 Q. And his response to you pointing out the  
14 findings of the quality involvement team was?

15 A. That we weren't going to change the  
16 procedure.

17 Q. Do you have a sense of how long after your  
18 conversations with Mr. Watkins about turning off the  
19 conveyer belts at the other locations in California  
20 that a directive was actually issued by the company  
21 that the conveyer belts would be turned off at all  
22 locations?

23 MR. NELSON: Objection. Lacks foundation and also  
24 attorney-client privilege to the extent it includes  
25 privileged communication with in-house counsel or

1 outside counsel.

2 THE DEPONENT: I don't know when the directive  
3 came down.

4 BY MR. GLUGOSKI:

5 Q. Was the directive put into written form?

6 A. I don't recall it being in written form. It  
7 might have been communicated by an e-mail but I don't  
8 remember specifically.

9 Q. Did you ever have any discussions with any of  
10 the senior managers or terminal managers at any of the  
11 California locations regarding the directive that the  
12 conveyer belts would now be turned off to accommodate  
13 rest periods?

14 A. I am sure I did but I don't recall specific  
15 conversations.

16 Q. Did you personally issue any written  
17 statements or memorandums regarding turning off the  
18 conveyer belt for rest break accommodations in  
19 connection with your duties and responsibilities to  
20 make sure there was compliance with meal breaks and  
21 rest breaks under California law?

22 A. I may have sent out an e-mail reminding them  
23 to that extent.

24 Q. In connection with your duties and  
25 responsibilities to make sure that rest periods are

1 question is, assuming that is the fact, what was the  
2 difference in the policy that existed or predated the  
3 policy that's set forth in exhibit one?

4 A. There are a couple things.

5 Q. Okay. What specifically do you recognize as  
6 being a change to the policy that existed prior to the  
7 implementation of exhibit one?

8 A. On page 598 where it says half hour lunch  
9 taken, as written I don't recall how long that's been  
10 in place but actually it's probably been less than two  
11 years.

12 Q. Is that simply --

13 A. That's kind of an administrative process I  
14 put in place.

15 Q. Does that specific provision, nonexempt  
16 employees must write "half hour lunch taken" on their  
17 time sheets in the comments section if a lunch is  
18 taken each day, apply to package handlers?

19 A. No.

20 Q. What other differences do you see?

21 A. Same comment on page 599.

22 Q. Anything else?

23 A. The waiver came into place about two years  
24 ago. Prior to that it was a verbal waiver.

25 Q. Anything else?

1 DEPOSITION OFFICER'S CERTIFICATE

2  
3 STATE OF CALIFORNIA )  
4 COUNTY OF LOS ANGELES ) ss.  
5

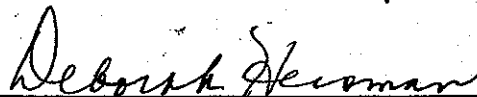
6 I, DEBORAH HEISMAN, Certified Shorthand Reporter,  
7 Certificate No. 3772, hereby certify:

8 I am the deposition officer that stenographically  
9 recorded the testimony in the foregoing deposition;

10 Prior to being examined the deponent was by me  
11 first duly sworn;

12 The foregoing transcript is a true record of the  
13 testimony given. However, any changes made by the  
14 deponent or whether or not the deponent signed the  
15 transcript cannot at this time be set forth because at  
16 the time of execution of this certificate the deponent  
17 has not yet done so and the time period provided for  
18 in Code of Civil Procedure, Section 2025 (q)(1), has  
19 not run.

20  
21 Dated June 18, 2004

22  
23 

24 DEBORAH HEISMAN  
25

**EXHIBIT 4**



**INTEROFFICE MEMORANDUM**

**Date:** 8.28.02  
**To:** Randy Eller, Jim Nugent  
**From:** Dave Gerschultz  
**cc:** DVPs  
**Subject:** Field Action Items

Per our discussion today we must take action quickly in the following areas:

1. California Breaks – it is imperative that we will be able to show proof that we are providing breaks that are required by law.
2. Package Handlers working more than 30 hours – this practice must stop. Part-time packages handlers cannot work more than 30 hours.
3. Office Clerical – proper classification. Must go terminal by terminal and get budgeted clerical personnel off time cards and into the proper hours reporting timesheet.
4. P&D Contractor needs D&E facilities – There are some of our largest terminals that do not have enough permanent contractors. Hammond and Detroit are just to name a few.

We need to move swiftly in these areas.

DLG/js



**Service Culture Make it Personal.**  
Service • Product Quality • Customer Contact

48940



Edward Leveque

07/03/2003 07:43 PM

To: Martin Daza/FIELD/FXG@FXG, John Coats/FIELD/FXG@FXG, Brad O'Connell/FIELD/FXG@FXG, Rich Greene/FIELD/FXG@FXG, Ken Barnes/FIELD/FXG@FXG, Todd Yesland/FIELD/FXG@FXG, Adam Johnson/FIELD/FXG@FXG, John Abbott/FIELD/FXG@FXG, Rob Doherty/FIELD/FXG@FXG, Eric Pagano/FIELD/FXG@FXG, Daniel Van Watermulen/FIELD/FXG@FXG, Bill Larson/FIELD/FXG@FXG, Rene Jimenez/FIELD/FXG@FXG, Jim A Fleming/FIELD/FXG@FXG, Mike Vickers/FIELD/FXG@FXG, Kyle Krivanek/FIELD/FXG@FXG, Todd Asbridge/FIELD/FXG@FXG, Gail Hoffmeyer/FIELD/FXG@FXG, Sam N Anderson/FIELD/FXG@FXG, Timothy Weber/FIELD/FXG@FXG, Michael Rudolph/FIELD/FXG@FXG, Steve Hillman/FIELD/FXG@FXG, Robert Sharp/FIELD/FXG@FXG, Eric Ricardo/FIELD/FXG@FXG, James Vasquez/FIELD/FXG@FXG, Brian Dicely/FIELD/FXG@FXG, Paul Oliveira/FIELD/FXG@FXG, Cyndie Gonzales/FIELD/FXG@FXG, Lynette Dhillon/FIELD/FXG@FXG, Mike Kay/FIELD/FXG@FXG, Yogesh Mistry/FIELD/FXG@FXG, Daniel Boesch/FIELD/FXG@FXG, Tom Horth/FIELD/FXG@FXG, Neil Krans/FIELD/FXG@FXG, Shea R Winston/FIELD/FXG@FXG, John F Smith/FIELD/FXG@FXG, Patty Hurtado/FIELD/FXG@FXG, Brian Roberts/FIELD/FXG@FXG, Jackie Mendez/FIELD/FXG@FXG, Teresa Sanchez/FIELD/FXG@FXG, Wendy Giannetti/FIELD/FXG@FXG, Robert Horn/FIELD/FXG@FXG, Ray Sanchez/FIELD/FXG@FXG, Andrea Cox/FIELD/FXG@FXG, Elvia Moreno/FIELD/FXG@FXG, Nellie Estrada/FIELD/FXG@FXG, Cyndie Gonzales/FIELD/FXG@FXG, Heraclio Roldan/FIELD/FXG@FXG, Brian Stepp/FIELD/FXG@FXG, Samuel Ravelo/FIELD/FXG@FXG, Greg Norton/FIELD/FXG@FXG, Brad Mitcheltree/FIELD/FXG@FXG, John Sun/FIELD/FXG@FXG, Jesus Fernandez/FIELD/FXG@FXG, Leonardo Sanchez/FIELD/FXG@FXG, Gregory Free/FIELD/FXG@FXG, Alex Ortega/FIELD/FXG@FXG, Roberto Padilla/FIELD/FXG@FXG, Dean-Marc Leon/FIELD/FXG@FXG, Terrance Starnes/FIELD/FXG@FXG, Thomas Trompeter/FIELD/FXG@FXG, Eric Fuchs/FIELD/FXG@FXG, Sean Williams/FIELD/FXG@FXG

cc:

Subject: Preload Hourly T-put by 15 minute increments for 7/3/03

On the conference call Monday, I mentioned that for the California Terminals all breaks must be given approximately half way through the sort. I also stated that all scanning must stop during this time frame. There can be no staggering of breaks - we must see all scanning completely stop during the break. Hopefully you have been made aware that this is a zero tolerance item - if the breaks are not given, or given near the end of the sort, it is grounds for immediate termination. I need a response from Burbank and Anaheim for this report - the lowest 15 minute increment for Burbank is 2856, and for Anaheim it's 2392. I need Dean Rivera and Brad Mitcheltree to respond to me ASAP on:

1. start time of preload
2. time break is taken
3. why the scan volume is so high during these 15 minute increments.

----- Forwarded by Edward Leveque/FIELD/FXG on 07/03/2003 11:30 AM -----

Yogesh Mistry

07/03/2003 11:04 AM

To: Aaron Pugh/FIELD/FXG@FXG, Adam Johnson/FIELD/RPS@RPS, April Denning/FIELD/FXG@FXG, Ben Lomax/FIELD/RPS@FXG, Bill Larson/FIELD/RPS@RPS, Brad Mitcheltree/FIELD/FXG@FXG, Brad O'Connell/FIELD/FXG@FXG, Brett Barker/FIELD/FXG@FXG, Chavis Richardson/FIELD/FXG@FXG, Damon Diaz/FIELD/FXG@FXG, Daniel J Harris/FIELD/FXG@FXG, Daniel Van Watermulen/FIELD/RPS@RPS, Dean J Rivera/FIELD/FXG@FXG,



Jim Nugent

10/31/2002 01:03 PM

To: Lynette Dhillon/FIELD/FXG@FXG, Tom Sanders/FIELD/FXG@FXG,  
Shea R Winston/FIELD/FXG@FXG, Sandra K  
Williams/FIELD/FXG@FXG

cc: Edward Leveque/FIELD/FXG@FXG, Andre Harris/FIELD/FXG@FXG,  
Mike Holland/FIELD/FXG@FXG, Harold Goodman/FIELD/FXG@FXG,  
Lynn Angstadt/CORP/FXG@FXG

Subject: Presort Meeting Planner (California Only) T-800Cal, T-800CalRes

Below are two presort meeting forms that are to be used in all California terminals for presort meetings. They both address the "break" issue and instruct the leader of the meeting to discuss that there will be a break that day. We need them to use and file this form daily because it will serve as documentation if we are ever challenged. Please make sure all California terminals start using this form if not already in place. Please send me a memo once the process is in place letting me know we are in compliance.

----- Forwarded by Jim Nugent/FIELD/FXG on 10/31/2002 07:50 AM -----



Debbie Michalik

10/09/2002 03:03 PM

To: Jim Nugent/FIELD/FXG@FXG, Dennis Oates/CORP/FXG@FXG, Rick  
Schuster/CORP/FXG@FXG

cc: Marilyn R Smith/CORP/FXG@FXG, Beth Heuring/CORP/FXG@FXG,  
Dayna Camino/CORP/FXG@FXG

Subject: Presort Meeting Planner (California Only) T-800Cal, T-800CalRes

The following forms have been numbered and will appear (10/10/02) online as a word document. The owner of the form must communicate to the users that it is a new form and that it is available to them via the Online Manuals and Forms website (reference GSB-007, Forms Review Policy).



Presort Meeting Planner, T-800Cal.d



Presort Meeting Planner, T-800CalRes.c

Debbie Michalik, Technical Writer  
Performance Services  
FedEx Ground  
412.859.2609  
deborah.michalik@fedex.com

Lynette Dhillon  
02/26/2004 05:23 PM

To: Lynette Dhillon/FIELD/FXG@FXG  
cc:  
Subject: Presort Meeting Planner - IMPORTANT

----- Forwarded by Lynette Dhillon/FIELD/FXG on 02/26/2004 12:13 PM -----

Lynette Dhillon  
11/14/2002 05:38 PM

To: Martin Daza/FIELD/FXG@FXG, Kevin Dixon/FIELD/FXG@FXG, Todd Yesland/FIELD/FXG@FXG, Adam Johnson/FIELD/FXG@FXG, John Abbott/FIELD/FXG@FXG, Steve Hillman/FIELD/FXG@FXG, Rob Doherty/FIELD/FXG@FXG, Daniel Van Watermolen/FIELD/FXG@FXG, Eric Ricardo/FIELD/FXG@FXG, Bill Larson/FIELD/FXG@FXG, Rene Jimenez/FIELD/FXG@FXG, Mike Vickers/FIELD/FXG@FXG, Gail Hoffmeyer/FIELD/FXG@FXG, Sam N Anderson/FIELD/FXG@FXG, James Vasquez/FIELD/FXG@FXG  
cc: Elvia Moreno/FIELD/FXG@FXG, Cyndie Gonzales/FIELD/FXG@FXG, Edward Leveque/FIELD/FXG@FXG, Chris Preston/FIELD/FXG@FXG, Patty Hurtado/FIELD/FXG@FXG  
Subject: Presort Meeting Planner - IMPORTANT

#### CA Managers

I just received some clarification on the following e-mail. Please have the sort and service managers start using these forms, each day for every sort. One is for the hubs and the other for the satellites. This is not optional. Retain the original forms until further notice. Please call if you have questions.  
Lynette

----- Forwarded by Lynette Dhillon/FIELD/FXG on 11/14/2002 05:28 PM -----

Jim Nugent  
10/31/2002 08:03 AM

To: Lynette Dhillon/FIELD/FXG@FXG, Tom Sanders/FIELD/FXG@FXG, Shea R Winston/FIELD/FXG@FXG, Sandra K Williams/FIELD/FXG@FXG  
cc: Edward Leveque/FIELD/FXG@FXG, Andre Harris/FIELD/FXG@FXG, Mike Holland/FIELD/FXG@FXG, Harold Goodman/FIELD/FXG@FXG, Lynn Angstadt/CORP/FXG@FXG  
Subject: Presort Meeting Planner (California Only) T-800Cal, T-800CalRes

Below are two presort meeting forms that are to be used in all California terminals for presort meetings. They both address the "break" issue and instruct the leader of the meeting to discuss that there will be a break that day. We need them to use and file this form daily because it will serve as documentation if we are ever challenged. Please make sure all California terminals start using this form if not already in place. Please send me a memo once the process is in place letting me know we are in compliance.

----- Forwarded by Jim Nugent/FIELD/FXG on 10/31/2002 07:50 AM -----

Debbie Michalik  
10/09/2002 03:03 PM

To: Jim Nugent/FIELD/FXG@FXG, Dennis Oates/CORP/FXG@FXG, Rick Schuster/CORP/FXG@FXG  
cc: Marilyn R Smith/CORP/FXG@FXG, Beth Heuring/CORP/FXG@FXG, Dayna Carnino/CORP/FXG@FXG  
Subject: Presort Meeting Planner (California Only) T-800Cal, T-800CalRes

The following forms have been numbered and will appear (10/10/02) online as a word document. The owner of the form must communicate to the users that it is a new form and that it is available to them via the Online Manuals and Forms website (reference GSB-007, Forms Review Policy).

Bill Larson

01/14/2004 08:18 PM

To: Eric Fuchs/FIELD/FXG@FXG, Dean J Rivera/FIELD/FXG@FXG,  
Andrew L Johnson/FIELD/FXG@FXG, Robert  
Encinas/FIELD/FXG@FXG, Dennis Hilligoss/FIELD/FXG@FXG,  
Ronnie Albances/FIELD/FXG@FXG

cc: Lynette Dhillon/FIELD/FXG@FXG

Subject: Time Card Audit

Lynette has been doing an audit of our time cards and time sheets. Many errors have been detected. These must be corrected immediately. As discussed, the class action lawsuit is growing and several terminals in our region have already been notified that they have package handlers that indicated that they have not been paid in accordance with California Law. This is the LAW and we can not deviate from it.

PT Service Managers - Numerous instances where the time sheets are not filled out completely and are not being turned in. Dennis, Eric and Dean, time sheets for your people should be submitted to you for review prior to being turned in.

**Package handlers**

- 13 instances where handwritten times were not initialled
- Campos - 5 days worked without ever punching out
- Diaz - handwritten times initialled, however, he did not punch out for 5 days.
- Mata - Did not punch in or out for an entire week. Worked exactly 30 hours?
- Perez - worked 7.2 hours without a lunch break.
- Weber - worked 6 hours for three days without a break.
- Bartolo - worked 2 days 6+ hours without a break.

When you are dealing with California Law, you can not deviate, you must be perfect. The expectation is that we will be operating in accordance with California Law from this moment forward. Please see me if you have ANY questions regarding this matter.

**Lynette Dhillon**

02/05/2004 09:53 PM

To: Elvia Moreno/FIELD/FXG@FXG, Elizabeth Davalos/FIELD/FXG@FXG,  
Jackie Mendez/FIELD/FXG@FXG, Brian Roberts/FIELD/FXG@FXG,  
Elaine Ortega/FIELD/FXG@FXG, Megan Zipp/FIELD/FXG@FXG

cc:

Subject: Meal Waivers

I did not specify in my e-mail, but we need waivers for all part time non exempt, not just PH's. Include 30 hour clerks in case they work under 6 and don't take lunch.

----- Forwarded by Lynette Dhillon/FIELD/FXG on 02/05/2004 04:42 PM -----

**Lynette Dhillon**

02/04/2004 05:28 PM

To: Elvia Moreno/FIELD/FXG@FXG, Elizabeth Davalos/FIELD/FXG@FXG,  
Jackie Mendez/FIELD/FXG@FXG, Brian Roberts/FIELD/FXG@FXG,  
Elaine Ortega/FIELD/FXG@FXG, Megan Zipp/FIELD/FXG@FXG

cc:

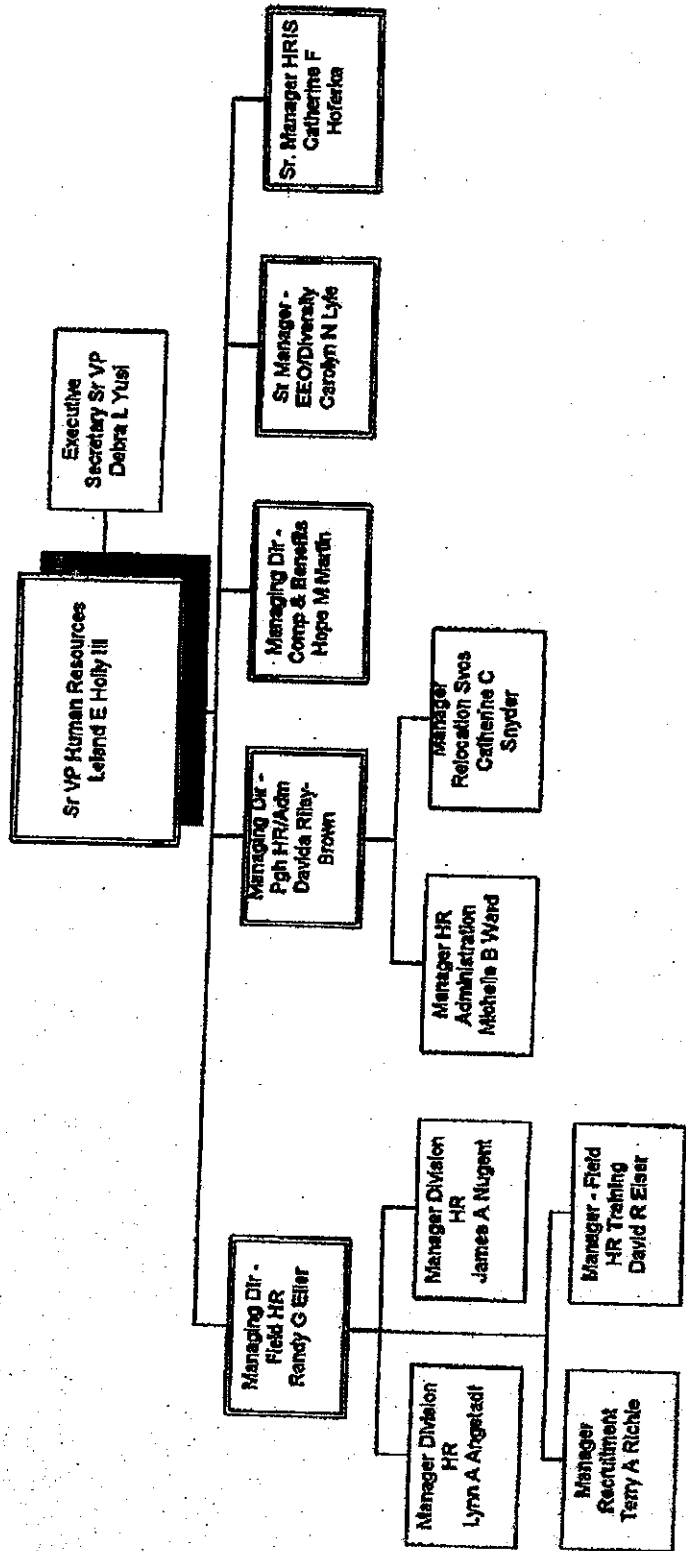
Subject: Meal Waivers

Please conduct an audit of the meal waivers in your terminals ASAP. Compare a list of current employees to the signed waivers to determine if we are missing any. Please get back to me on the status-whether we had waivers signed for all or not, and give me a list of names of those who refused to sign. It is not a problem if they won't sign, we just have to monitor them more closely. I also want to know if the waivers are being signed at date of hire or a later date. If you are not scheduled to be in your smaller buildings, have them fax the waivers to you.

**EXHIBIT 5**

6402

# Human Resources



**EXHIBIT 6**



SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF ORANGE

JAVIER OLGUIN, et al.,  
Plaintiffs,

vs.

FEDEX GROUND PACKAGE SYSTEMS,  
INC., et al.,

Defendants.

No. 02CC00200

ORIGINAL

DEPOSITION OF ERIC RICARDO

Los Angeles, California

June 15, 2004

**Reported By:**

DEBORAH HEISMAN, CSR NO. 3772

*Karyn Abbott & Associates, Inc.*

*Certified Shorthand Reporters*

*Transamerica Center*

*1150 S. Olive Street, Suite GL-29*

*Los Angeles, California 90015*

*(213) 749-1234*

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LOS ANGELES, CALIFORNIA, TUESDAY, JUNE 15, 2004

10:15 A.M.

ERIC RICARDO,

having been first duly administered an oath  
in accordance with C.C.P. Section 2094, was  
examined and testified as follows:

EXAMINATION

BY MR. GLUGOSKI:

Q. Good morning. How are you today?

A. Good. How about you?

Q. Good. Could you please state and spell your  
name for the record.

A. First name is Eric. Last name Ricardo.

E R I C, R I C A R D O.

Q. And where do you live?

A. Chino Hills, California.

Q. What is the address?

A. 15485 Timber Ridge Lane, Chino Hills,  
California 91709.

Q. Mr. Ricardo, have you ever had your  
deposition taken before?

A. No.

Q. Before we get started I just want to go over

1 Q. Have you had conversations with any of the  
2 hourly employees that work with you regarding this  
3 lawsuit?

4 A. No.

5 Q. Mr. Ricardo, what is your present position?

6 A. I am a senior manager for the Rialto local  
7 facility.

8 Q. And who are you presently employed by?

9 A. I call it FedEx Ground but I think it's FedEx  
10 Ground Systems.

11 Q. What is the number used to identify the  
12 Rialto terminal location?

13 A. 0924.

14 Q. You refer to it as the Rialto local facility.  
15 Is that a hub or a terminal?

16 A. It's a hub local. There is a hub and we are  
17 the local facility that's attached to it.

18 Q. Do you specifically work in the hub or in the  
19 terminal division of the Rialto hub?

20 A. I specifically work in the terminal division  
21 of the Rialto hub.

22 Q. Do you use the time card system or Timekeeper  
23 System to record hours worked?

24 A. Timekeeper.

25 Q. How long have you been the senior manager at

1 the Rialto location?

2 A. Since mid-October of 2003. Six, seven, eight  
3 months I believe it is.

4 Q. Were you working with FedEx Ground prior to  
5 mid-October 2003?

6 A. Yes.

7 Q. In what capacity?

8 A. I was the senior manager of the Palm Springs  
9 facility.

10 Q. Palm Springs uses the time card recording  
11 system?

12 A. Correct.

13 Q. When did you begin your employment as the  
14 senior manager at the Palm Springs terminal location?

15 A. An approximation would be 13 to 16 months  
16 from the date I took over as a senior manager of  
17 Rialto local.

18 Q. Had you been at the Palm Springs location in  
19 a title other than senior manager before being  
20 promoted to the senior manager position?

21 A. No.

22 Q. Prior to assuming the senior manager position  
23 at Palm Springs were you working with FedEx Ground?

24 A. Correct.

25 Q. In what capacity?

1           A.    I was the sort manager at the Los Angeles  
2 hub.

3           Q.    Did you ever work with Bill Larson?

4           A.    He was the senior manager of the local  
5 facility that was attached to the Los Angeles hub.

6           Q.    Did you work with him while you were at  
7 Los Angeles as the sort manager?

8           A.    I never worked directly for him.

9           Q.    When you were the sort manager at Los Angeles  
10 who was your direct supervisor?

11          A.    Initially it was Ed Leveque.  After his  
12 promotion it was Kevin Dixon.

13          Q.    When Mr. Leveque and Mr. Dixon were your  
14 supervisors what title did they hold?

15          A.    Hub manager.

16          Q.    Is it fair to say that Mr. Larson worked in  
17 the local facility at the L.A. hub whereas you were  
18 working at the actual hub in Los Angeles?

19          A.    Correct.

20          Q.    Did you ever work at Los Angeles in the  
21 terminal local facility?

22          A.    Never.

23          Q.    How long did you hold the sort manager  
24 position at the L.A. hub?

25          A.    Approximately 19 to 20 months from the time

1 are not going to be exactly the same as the hub end of  
2 sort reports because their function at the hub is much  
3 different than our function at the local but each hub  
4 has a report but they are not going to mirror up.

5 BY MR. GLUGOSKI:

6 Q. Whether they mirror up, my question is are  
7 the reports that you are saying would be a good  
8 indication of whether rest periods were taken at the  
9 Rialto hub location the same type of document that you  
10 would use at the Rialto local facility to look at  
11 whether rest periods have been taken?

12 MR. NELSON: Objection. Vague but you can  
13 answer.

14 THE DEPONENT: No.

15 BY MR. GLUGOSKI:

16 Q. So if you wanted to figure out if rest  
17 periods have been taken at the Rialto hub the best  
18 document to look at would be the end of sort reports?

19 MR. NELSON: Objection. Lacks foundation but you  
20 can answer.

21 THE DEPONENT: In my opinion, yes.

22 BY MR. GLUGOSKI:

23 Q. How about for the local facility at Rialto?

24 A. Would I use the same end of sort reports? No  
25 I wouldn't.

1 Q. What documents would best indicate whether  
2 rest periods have been taken?

3 A. I would wait for our through-put graph to  
4 come to us via e-mail.

5 Q. What is a through-put graph?

6 A. Basically it tells us in general what time  
7 the sort started, what time the sort ended. It will  
8 tell us how many packages we are processing per  
9 whatever time frame we choose to make it. Normally we  
10 get it on a five or 15 minute interval.

11 Q. What determines whether it's a five minute or  
12 15 minute interval?

13 A. Depending how our headquarters wants to give  
14 us back the information. It can be broken down to any  
15 time increment. A second if necessary.

16 Q. What is your understanding of why the  
17 headquarters might give you a report that has a five  
18 minute interval one day and a 15 minute interval  
19 another day?

20 MR. NELSON: Objection. Lacks foundation and  
21 calls for speculation as phrased.

22 BY MR. GLUGOSKI:

23 Q. I am just asking what your understanding is.

24 A. My understanding is that, one, we can see if  
25 we are running productive or not which is one of the

1 Q. So if I was looking at the through-put graph  
2 and wanted to figure out when a rest period was being  
3 taken, what would I be looking at in the graph and  
4 what would indicate to me that there was a rest period  
5 taken?

6 A. If we are speaking in terms of being in a  
7 local facility as I am now, understanding the nature  
8 of a through-put graph and having some concept of how  
9 to read those graphs as would logically dictate, when  
10 the graph zeros out towards the middle of a sort you  
11 would ask your sort manager, this is when I assume you  
12 took your break and they would confirm yes, no.

13 And if there is any other huge values in that  
14 graph I would ask them what happened here and they  
15 would explain to me it was a volume availability issue  
16 or broke down for 20 minutes or one of those variables  
17 that I stated earlier.

18 Q. So there may be more than one location where  
19 the through-put graph as you put it would zero out,  
20 correct, on a given day?

21 A. Correct.

22 Q. Is there anything specific on the through-put  
23 graph that would distinguish that it was in fact a  
24 rest period versus a belt breakdown or volume  
25 fluctuation or staffing availability?



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DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA        )  
                                  )        ss.  
COUNTY OF LOS ANGELES    )

I, DEBORAH HEISMAN, Certified Shorthand Reporter,  
Certificate No. 3772, hereby certify:

I am the deposition officer that stenographically  
recorded the testimony in the foregoing deposition;

Prior to being examined the deponent was by me  
first duly sworn;

The foregoing transcript is a true record of the  
testimony given. However, any changes made by the  
deponent or whether or not the deponent signed the  
transcript cannot at this time be set forth because at  
the time of execution of this certificate the deponent  
has not yet done so and the time period provided for  
in Code of Civil Procedure, Section 2025 (q)(1), has  
not run.

Dated June 18, 2004

  
DEBORAH HEISMAN

**EXHIBIT 7**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO

JAVIER OLGUIN, et al.,  
  
Plaintiffs,  
  
vs.  
  
FEDEX GROUND PACKAGE SYSTEMS,  
INC., et al.,  
  
Defendants.

**ORIGINAL**

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DEPOSITION OF MICHAEL VICKERS

Taken on Thursday, June 24, 2004, at 9:14 a.m.

Location: Davis Murray Shorthand Reporting Corporation  
2102 Business Center Drive, Suite 115-G  
Irvine, California

Reporter: Sandra Jo Roberts, CSR  
CSR No. 5086

1 MICHAEL VICKERS,  
2 called as a witness by the Plaintiffs, and having been  
3 first duly sworn by the deposition officer, was examined  
4 and testified as follows:

6 EXAMINATION

7 BY MR. GLUGOSKI:

8 Q. Good morning. How are you today?

9 A. Good.

10 Q. Could you please state your name and spell it  
11 for the court reporter.

12 A. Michael Vickers, M-i-c-h-a-e-l V-i-c-k-e-r-s.

13 Q. Mr. Vickers, have you ever had your deposition  
14 taken before?

15 A. Yes.

16 Q. How many times?

17 A. Twice.

18 Q. Although you've had your deposition taken  
19 before and I'm sure you've had an opportunity to speak  
20 with counsel, I just want to go over a few ground rules  
21 so that we can make the process move smoother and  
22 quicker, okay?

23 A. Certainly.

24 Q. Seated to my left is a certified court reporter  
25 who is going to be taking down everything that is said

1 deposition taken you believe in two other situations?

2 A. Correct.

3 Q. Did that involve cases where FedEx Ground was a  
4 party?

5 A. Correct.

6 Q. Do you recall what the substance of those  
7 specific litigations were?

8 A. I don't know what you mean by "substance."

9 Q. Was it a case involving employment? Was it a  
10 dispute over a contract? What type of case --

11 A. Independent -- excuse me. Independent  
12 contractor.

13 Q. In both situations?

14 A. Same situation.

15 Q. Do you have a general understanding of what the  
16 dispute was between the parties?

17 A. Generally.

18 Q. And what was your understanding?

19 A. I believe that they were claiming that they  
20 were actually employees and not independent contractors.

21 Q. Now, who are you presently employed by?

22 A. FedEx Ground.

23 Q. In what capacity?

24 A. Senior manager.

25 Q. Of what facility?

1 A. Anaheim.

2 Q. Is that a terminal or a hub?

3 A. Satellite.

4 Q. In other depositions that I've taken, I have  
5 come across the terminology of "terminal" and "hub."

6 Have you ever heard those terms used before?

7 A. Yes.

8 Q. What is a satellite in relation to a terminal  
9 or a hub, as you understand?

10 A. Same word.

11 Q. If I was to ask -- strike that.

12 If I was to use the term "terminal" to  
13 correspond to the facility where you worked, would that  
14 be your understanding of how that specific facility is  
15 classified, or is there something in your mind that  
16 makes a satellite different from a terminal?

17 A. Only in the form of diction. It makes it  
18 usually clearer when, in this type of situation  
19 presently, counsel would use "hub" and "satellite" for  
20 me to make my understanding clearer. "Terminal" can  
21 sometimes be a vague term used to refer to either or a  
22 satellite located inside of a terminal -- I mean inside  
23 of a hub. Excuse me.

24 Q. Okay. And I understand what you're saying, and  
25 I'll do my best to try and refer to it that way.

1           But just so the record is clear, I understand  
2 that there are four hubs in California, if you know?

3           MR. SANDERSON: Three, I think.

4           THE WITNESS: I believe three.

5 BY MR. GLUGOSKI:

6           Q. Okay. Three.

7           Now, I also understand that within those hubs,  
8 they may have a local terminal facility, correct?

9           A. Correct.

10          Q. Just so there's no confusion, if I was going to  
11 be speaking about a hub, the terminal facility within a  
12 hub, I would refer to it as the local terminal facility  
13 within the hub, okay?

14          A. Correct.

15          Q. So when I use the term "terminal," I'm not  
16 referring to the hub. I would be referring to terminals  
17 or a local terminal facility within a hub but not the  
18 hub itself.

19                 Is that okay? Did you understand?

20          A. Yes, I do. Hence the preference stated  
21 earlier.

22          Q. Okay. I'll do my best. As long as you  
23 understand that, well --

24          MR. SANDERSON: I think we have been using  
"terminal" up to this point instead of "satellite," so

1 it's probably going to be difficult for him to keep  
2 saying "satellite" instead of "terminal."

3 THE WITNESS: Understood.

4 MR. SANDERSON: So if you just understand terminal  
5 to mean satellite, I think we'll be okay, right?

6 MR. GLUGOSKI: Yeah, that's fine.

7 BY MR. GLUGOSKI:

8 Q. Is that okay?

9 A. Yes.

10 MR. GLUGOSKI: Thank you, counsel.

11 BY MR. GLUGOSKI:

12 Q. How long have you been the senior manager at  
13 the Anaheim terminal?

14 A. Approximately one year.

15 Q. Before becoming the senior manager at the  
16 Anaheim terminal, were you working in the Anaheim  
17 terminal in another position?

18 A. No.

19 Q. Had you been with FedEx Ground prior to  
20 becoming senior manager at Anaheim?

21 A. Yes.

22 Q. In what capacity?

23 A. Senior manager, Pomona.

24 Q. Pomona -- sorry. Strike that.  
25 Pomona is not a hub, correct?



1 A. Correct.

2 Q. It is a terminal, as we've discussed earlier?

3 A. Yes.

4 Q. How long were you the senior manager at Pomona?

5 A. About three years.

6 Q. So from about approximately June 2000 to  
7 June 2003?

8 A. August 2000 to June 2003.

9 Q. When you left Pomona as the senior manager, did  
10 you go directly to Anaheim as the senior manager, or did  
11 you take any time off?

12 A. Directly.

13 Q. Okay. Did you hold any position with FedEx  
14 Ground prior to becoming senior manager at Pomona?

15 A. Yes.

16 Q. What position?

17 A. Pickup and delivery manager in Anaheim.

18 Q. When you were pickup and delivery manager, did  
19 you have any responsibility over supervising package  
20 handlers?

21 A. No.

22 Q. Do you recall how long you held the pickup and  
23 delivery manager position at Anaheim?

24 A. Approximately September 1997.

25 Q. To approximately August 2000?

1 A. Correct.

2 Q. Did you hold any other position with FedEx  
3 Ground prior to becoming pickup and delivery manager?

4 A. Yes.

5 Q. What position?

6 A. Sort manager.

7 Q. From what time period?

8 A. May 1997 to September '97.

9 MR. SANDERSON: We should probably clarify at this  
10 point, when it was RPS instead of FedEx Ground.

11 BY MR. GLUGOSKI:

12 Q. Have you ever held the position of package  
13 handler?

14 A. No.

15 Q. When you were sort manager, was that at the  
16 Anaheim location?

17 A. Correct.

18 Q. Did you hold any other positions prior to  
19 becoming sort manager?

20 A. Yes.

21 Q. What position?

22 A. Coordinator. We used the term "coordinator"  
23 before, same as service manager now.

24 Q. And how long did you hold that position?

25 A. From April 3, '95 to May '97.

1 Q. When you were sort manager, did you have any  
2 responsibility to supervise package handlers?

3 A. Yes.

4 Q. How about while you were coordinator?

5 A. Yes.

6 Q. Prior to becoming coordinator, did you hold any  
7 other positions?

8 A. No.

9 Q. As pickup and delivery manager, did you have  
10 any supervisory responsibilities over sort managers or  
11 service managers?

12 A. Service managers.

13 Q. Did the service managers in the Anaheim  
14 location during the time you were pickup and delivery  
15 manager have responsibility over supervising package  
16 handlers?

17 A. No. They were then pickup and delivery service  
18 managers.

19 Q. Can you briefly explain to me what your duties  
20 and responsibilities were as a pickup and delivery  
21 manager?

22 A. Generally to ensure the orderly delivery of all  
23 inbound packages due for delivery that day. Ensure all  
24 pickups scheduled for that evening take place. Handle  
25 problems as they present themselves. Customer service

1 calls would be the majority of my day. A lot of  
2 administrative functions that go along with the pickup  
3 and delivery operation. Seeing to that the rest of my  
4 pickup and delivery staff are doing what they need to be  
5 doing on a daily basis.

6 Q. Is it fair to say that the focus of your  
7 responsibilities are more on the drivers accurately  
8 delivering packages and customers receiving packages  
9 versus actually dealing with the loading of trucks,  
10 things like that, of that nature?

11 MR. SANDERSON: Let me just lodge an objection that  
12 the questioning is pertaining to a period prior to the  
13 period of time ordered by the Court as the discovery  
14 scope in this case. I'm going to go ahead and let him  
15 answer it, but I just wanted to lodge that objection.

16 THE WITNESS: As a pickup and delivery manager?

17 BY MR. GLUGOSKI:

18 Q. That the focus of your responsibility is more  
19 on making sure packages are picked up and delivered  
20 properly whereas it's -- strike that.

21 That the focus of your duties and  
22 responsibilities were more on the drivers and customers,  
23 making sure packages were picked up and packages were  
24 delivered, versus packages being handled within the  
25 plant?

1 consistency in the time. Trailers coming and going.  
2 You know, the contractors are tractor-trailer operators,  
3 so if they know your yard is going to be quiet during  
4 your break time, that's a good time for them to get in  
5 and make trailer switches and things of that nature.

6 BY MR. GLUGOSKI:

7 Q. Now, with respect to documentation that would  
8 support whether a rest break had been given, is it your  
9 understanding the best documentation would be to look at  
10 the through-put graphs in order to determine if, in  
11 fact, the rest period would be given?

12 A. I don't know that "best" is the qualifier, but  
13 that would be one document I could look at. I don't  
14 know that there's others.

15 Q. I'm sorry. Did you say you're not sure if  
16 there might be -- well, strike that.

17 If I was to ask you to look into whether a rest  
18 period had been given on a given day in the month of  
19 March, what specifically would you do to try and see if  
20 you could verify if a rest period had been given on a  
21 specific day in the month of March?

22 A. I'd have to contact somebody to give me access  
23 to an older report of the through-put graph from the  
24 time frame. That would be my initial foray into the  
25 problem.

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REPORTER'S CERTIFICATION

I, Sandra Jo Roberts, Certified Shorthand Reporter in and for the State of California, do hereby certify:

That the foregoing witness was by me duly sworn; that the deposition was then taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed under my direction; that the foregoing is a true record of the testimony and proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name this date: July 13, 2004

Sandra Jo Roberts  
Sandra Jo Roberts, CSR  
Certificate No. 5086

**EXHIBIT 8**

1 SEYFARTH SHAW  
James M. Nelson (Bar No. 116442)  
2 Mark P. Grajski (Bar No. 178050)  
Jason T. Cooksey (Bar No. 208748)  
3 400 Capitol Mall, Suite 2350  
Sacramento, California 95814-4428  
4 Telephone: (916) 448-0159  
Facsimile: (916) 558-4839

5 Attorneys for Defendant  
6 FEDEX GROUND PACKAGE SYSTEM, INC.

7  
8  
9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF ORANGE

11 JAVIER OLGUIN, et al.	)	Case No. 02CC00200
12 Plaintiff,	)	ASSIGNED FOR ALL PURPOSES TO:
13 v.	)	Judge: Stephen J. Sundvold
14 FEDEX GROUND PACKAGE SYSTEM,	)	Dept: CX105
15 INC., et al.	)	<b>DEFENDANT'S RESPONSE TO</b>
16 Defendant.	)	<b>KELLEY FREEMAN'S REQUESTS</b>
	)	<b>FOR PRODUCTION OF DOCUMENTS</b>
	)	<b>SET NO. ONE</b>
	)	Action Filed: July 18, 2002
	)	Trial Date: None Set

18  
19 **PROPOUNDING PARTY:** Plaintiff Kelley Freeman  
20 **RESPONDING PARTY:** Defendant FedEx Ground Package System, Inc.  
21 **SET NO.:** One

22 Pursuant to Section 2031 of the Code of Civil Procedure, defendant, FedEx Ground  
23 Package System Inc., offers the following responses to plaintiff's, Kelley Freeman, request for  
24 production of documents.

25 **GENERAL OBJECTIONS**

26 1. Defendant objects to each and every request to the extent it could be construed as  
27 requesting identification or disclosure of information protected by the attorney-client privilege  
28 and/or the attorney work product doctrine.



1           2.       Defendant objects to each and every request to the extent it requests disclosure of  
2 the confidential, proprietary and/or trade secret information of defendant.

3           3.       Defendant objects to each and every request to the extent it requests disclosure of  
4 information pertaining to the employees or former employees of defendant or their customers  
5 protected by law or general privacy rights from disclosure to third parties.

6           4.       Defendant objects on the grounds that it has not yet completed its investigation of  
7 the facts relating to this action, has not yet completed discovery in this action, and has not yet  
8 completed its preparation for trial. Consequently, the following responses are given without  
9 prejudice to defendant's right to produce at trial subsequently discovered evidence and  
10 documents. By objecting to any particular request, defendant does not admit that documents  
11 exist that are responsive to the request.

12           5.       Defendant objects to each and every request to the extent that it seeks to impose  
13 on it responsibility for producing documents not within its possession, custody or control. In  
14 these responses, the term "will produce" means that defendant will make the requested  
15 documents available for inspection and copying at a time and place to be agreed upon by counsel  
16 for the parties to the extent such documents (1) exist, (2) are in defendant's possession, custody  
17 or control, (3) can be located following a reasonable search, (4) have not been made available for  
18 inspection previously in this action, and (5) are not covered by any of the general or specific  
19 objections set forth below.

20           Subject to and without waiving the foregoing general objections, defendant responds to  
21 plaintiff's requests as follows:

22       **REQUEST FOR PRODUCTION NO. 1:**

23           Please produce any and all writings which list the names of all employees, including their  
24 last known addresses and phone numbers, who worked as a package "handler" or "loader" at the  
25 San Francisco(CA) FedEx Ground terminal office at any time during the time period of October  
26 1, 2000 through the present.

27       ///

28       ///

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

2 Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad  
3 and unduly burdensome. Defendant further objects to this request on the ground that it seeks  
4 information protected by the privacy rights of third parties.

5 **REQUEST FOR PRODUCTION NO. 2:**

6 Please produce a copy of Plaintiff Kelley Freeman's personnel file.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

8 Defendant objects to this request on the ground that it is vague and ambiguous.  
9 Defendant further objects to this request to the extent that it seeks information protected by the  
10 attorney-client privilege and/or attorney work product doctrine. Without waiving any objections,  
11 defendant will produce non-privileged documents responsive to this request.

12 **REQUEST FOR PRODUCTION NO. 3:**

13 Please produce a copy of Plaintiff Kelley Freeman's payroll records.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

15 Defendant objects to this request on the ground that it is vague, ambiguous, and  
16 overbroad. Without waiving any objections, defendant will produce non-privileged documents  
17 responsive to this request.

18 **REQUEST FOR PRODUCTION NO. 4:**

19 Please produce a copy of all time records or "time cards" for Plaintiff Kelley Freeman.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

21 Defendant objects to this request on the grounds that it is vague, ambiguous, and  
22 overbroad. Without waiving any objections, defendant will produce non-privileged documents  
23 responsive to this request.

24 **REQUEST FOR PRODUCTION NO. 5:**

25 Please produce a copy of all employee handbooks in place during Plaintiff Kelley  
26 Freeman's employment with FedEx Ground.

27 ///

28 ///

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

2 Defendant objects to this request on the grounds that it is vague, ambiguous and  
3 overbroad. Defendant also objects to this request on the ground that it is unduly burdensome.  
4 Without waiving any objections, defendant has already produced defendant's Code of Corporate  
5 Conduct (bates labeled D00294-D00309) and People Guide (bates labeled D00200-00235) in  
6 this action.

7 **REQUEST FOR PRODUCTION NO. 6:**

8 Please provide a copy of all FedEx Ground policies regarding meal and/or rest periods in  
9 place during Kelley Freeman's employment with FedEx Ground.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

11 Defendant objects to this request on the ground that it is vague, ambiguous and  
12 overbroad. Without waiving any objections, defendant will produce non-privileged documents  
13 responsive to this request.

14 **REQUEST FOR PRODUCTION NO. 7:**

15 Please provide a copy of all FedEx Ground policies currently in place regarding meal  
16 and/or rest periods.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

18 Defendant objects to this request on the ground that it is vague, ambiguous and  
19 overbroad. Without waiving any objections, defendant will produce non-privileged documents  
20 responsive to this request.

21 **REQUEST FOR PRODUCTION NO. 8:**

22 Please provide a copy of any documents given to current package handlers, in the State of  
23 California, of FedEx Ground regarding meal and/or rest periods.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

25 Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad,  
26 and unintelligible. Without waiving any objections, defendant will produce non-privileged  
27 documents responsive to this request.

28 ///

1 **REQUEST FOR PRODUCTION NO. 9:**

2 Please provide a copy of any documents given to any package handlers, in the State of  
3 California, of FedEx Ground, from October 2000 to the present, regarding meal and/or rest  
4 periods.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

6 Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad,  
7 and unintelligible. Without waiving any objections, defendant will produce non-privileged  
8 documents responsive to this request.

9 **REQUEST FOR PRODUCTION NO. 10:**

10 Please provide a copy of any documents given to current sort managers, shift supervisors,  
11 or any other managers at FedEx Ground facilities, in the State of California, regarding meal  
12 and/or rest periods.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

14 Defendant objects to this request on the grounds that it is vague, ambiguous, and  
15 overbroad. Defendant also objects to this request on the ground that it is unduly burdensome.  
16 Without waiving any objections, defendant will produce non-privileged documents responsive to  
17 this request.

18 **REQUEST FOR PRODUCTION NO. 11:**

19 Please provide a copy of any documents given to any sort managers, shift supervisors, or  
20 any other managers at FedEx Ground facilities, in the State of California, from October 2000 to  
21 the present, regarding meal and/or rest periods.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

23 Defendant objects to this request on the grounds that it is vague, ambiguous, and  
24 overbroad. Defendant also objects to this request on the ground that it is unduly burdensome.  
25 Without waiving any objections, defendant will produce non-privileged documents responsive to  
26 this request.

27 ///

28 ///

1 **REQUEST FOR PRODUCTION NO. 12:**

2 Please provide a copy of any documents given to current package handlers, at FedEx  
3 Ground facilities, in the State of California, for their signature with regard to meal and/or rest  
4 periods.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

6 Defendant objects to this request on the grounds that it is vague, ambiguous, and  
7 overbroad. Without waiving any objections, defendant will produce non-privileged documents  
8 responsive to this request.

9 **REQUEST FOR PRODUCTION NO. 13:**

10 Please provide a copy of any documents given to any package handlers, at FedEx Ground  
11 facilities, in the State of California, from October 2000 to the present, for their signature with  
12 regard to meal and/or rest periods.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

14 Defendant objects to this request on the grounds that it is vague, ambiguous, and  
15 overbroad. Without waiving any objections, defendant will produce non-privileged documents  
16 responsive to this request.

17 **REQUEST FOR PRODUCTION NO. 14:**

18 Please provide a copy of any documents pertaining to the takeover, buy-out or purchase  
19 by Defendant of RPS.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

21 Defendant objects to this request on the grounds that it is vague, ambiguous, and  
22 overbroad. Defendant also objects to this request on the ground that it is oppressive and unduly  
23 burdensome and exceeds the scope of discovery since defendant has operated what was known  
24 formerly as RPS prior to October 2000.

25 **REQUEST FOR PRODUCTION NO. 15:**

26 Please provide a copy of any documents evidencing the date Defendant took over, or  
27 began operating, its terminal offices in the State of California.

28 ///

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

2 Defendant objects to this request on the grounds that it is vague, ambiguous, overbroad  
3 and unintelligible. Defendant also objects to this request on the ground that it is oppressive and  
4 unduly burdensome and exceeds the scope of discovery in that defendant has operated in  
5 California prior to October 2000. Defendant further objects to this request to the extent it seeks  
6 information which is confidential.

7 **REQUEST FOR PRODUCTION NO. 16:**

8 Please provide a copy of all files pertaining to Plaintiff Kelley Freeman.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

10 Defendant objects to this request on the ground that it is overbroad. Defendant further  
11 objects to this request to the extent it seeks information protected by the attorney-client privilege  
12 and/or attorney work product doctrine. Without waiving any objections, defendant will produce  
13 non-privilege documents responsive to this request.

14 **REQUEST FOR PRODUCTION NO. 17:**


15 Please provide a copy of all documents pertaining to Plaintiff Kelley Freeman.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

17 Defendant objects to this request on the ground that it is overbroad. Defendant further  
18 objects to this request to the extent it seeks information protected by the attorney-client privilege  
19 and/or attorney work product doctrine. Without waiving any objections, defendant will produce  
20 non-privilege documents responsive to this request.

21  
22 DATED: August 6, 2003

SEYFARTH SHAW

23  
24  
25 By   
26 Jason T. Cooksey  
27 Attorneys for Defendant  
28 FEDEX GROUND PACKAGE SYSTEM,  
INC.

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VERIFICATION

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss

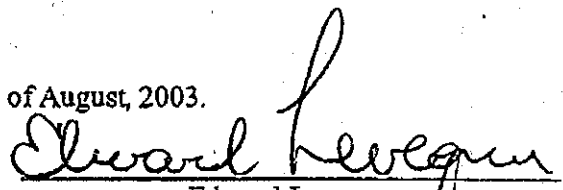
I, Edward Leveque, declare:

I am the Managing Director, West Region of FedEx Ground Package System, Inc, a corporation organized and existing under the laws of Delaware, which is the Defendant in the above-entitled action, and I have been authorized to make this verification on its behalf.

I have read the foregoing Response to Plaintiff Kelley Freeman's Request for Production of Documents Set No. One on file herein and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Los Angeles on the 6<sup>th</sup> day of August, 2003.

  
Edward Leveque



1 **PROOF OF SERVICE.**

2 STATE OF CALIFORNIA )  
3 COUNTY OF SACRAMENTO ) ss

4 I am a resident of the State of California, over the age of eighteen years, and not a party  
5 to the within action. My business address is Seyfarth Shaw, 400 Capitol Mall, Suite 2350,  
6 Sacramento, California 95814-4428. On August 6, 2003, I served the within documents:

7 **DEFENDANT'S RESPONSE TO KELLEY FREEMAN'S REQUESTS FOR**  
8 **PRODUCTION OF DOCUMENTS SET NO. ONE**

9  I sent such document from facsimile machine (916) 558-4839 on August 6, 2003,  
10 2003. I certify that said transmission was completed and that all pages were received  
11 and that a report was generated by facsimile machine (916) 558-4839 which confirms  
12 said transmission and receipt. I, thereafter, mailed a copy to the interested party(ies)  
13 in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed  
14 to the parties listed below.

15  by placing the document(s) listed above in a sealed envelope with postage thereon  
16 fully prepaid, in the United States mail at Sacramento, addressed as set forth below.

17  by personally delivering the document(s) listed above to the person(s) at the  
18 address(es) set forth below.

19  by placing the document(s) listed above, together with an unsigned copy of this  
20 declaration, in a sealed Federal Express envelope with postage paid on account and  
21 deposited with Federal Express at Sacramento, California, addressed as set forth  
22 below.

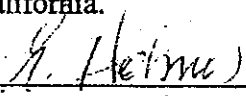
23  by transmitting the document(s) listed above, electronically, via the e-mail addresses  
24 set forth below.

25 Geoffrey F. Gega  
26 Regina Silva  
27 Cook Brown, LLP  
28 200 W. Santa Ana Blvd., Ste. 670  
Santa Ana, California 92701  
Telephone: 714-542-1883  
Facsimile: 714-542-1009  
Attorneys for Plaintiff

29 I am readily familiar with the firm's practice of collection and processing correspondence  
30 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same  
31 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on  
32 motion of the party served, service is presumed invalid if postal cancellation date or postage  
33 meter date is more than on day after the date of deposit for mailing in affidavit.

34 I declare under penalty of perjury under the laws of the State of California that the above  
35 is true and correct.

36 Executed on August 6, 2003, at Sacramento, California.

37  
38   
Elizabeth Holmes

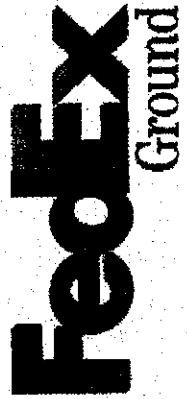


**EXHIBIT 9**



The Ground Moves Faster

# California HR Update 2004





The Ground Moves Faster

# Meal & Break Periods

- Non-exempt employees (Phs, clerks, techs & pt Svc Mgrs.) who work over 5 hours are entitled to a half hour unpaid meal period.
- If a non-exempt employee works between 5 and 6 hours the meal period can be mutually waived by the employer and the employee.
- The waiver for meal periods should be presented during new hire orientation.

**FedEx**  
Ground



The Ground Movers Feaster

# Meal & Break Periods Contd.

- Non-exempt employees are not obligated to sign the waiver. If they don't and they work over 5 hours they must take a half hour unpaid meal period.
- Non-exempt employees that do sign, can revoke it whenever they choose.
- If a non-exempt employee works over 6 hours the half hour unpaid meal period is required. It can not be waived even if they signed the waiver.

**FedEx**  
Ground



The Ground Moves Faster

# Meal & Break Periods Contd.

- Pt Non-exempt employees must take a 10 minute paid break around the middle of their shift if they will be working at least 3.5 hours.
- Ft non-exempt employees must take a half hour unpaid lunch and 2 paid 10 minute breaks.
- Non-exempt employees must write "half hour lunch taken" on their time sheets in the comments section if a lunch is taken each day.

**FedEx**  
Ground



The Ground Moves Faster

# Time Cards/Time Sheets

- Submit time cards weekly to payroll.
- Make sure they are totaled correctly and signed by Sort or Senior Manager.
- On time sheets please make sure Ft clerks write that they took a half hour unpaid lunch everyday they worked.
- Please make sure that Clerical time sheets are signed by both the employee and Senior Manager.

**FedEx**  
Ground

**EXHIBIT 10**

1 **MATTHEW RIGHETTI, ESQ.** {121012}  
 2 **JOHN GLUGOSKI, ESQ.** {191551}  
 3 **RIGHETTI & WYNNE**  
 4 456 Montgomery Street, 14th Floor  
 San Francisco, CA 94104  
 (415) 983-0900

5 **GEOFFREY GEGA, ESQ.** {91980}  
 6 **COOK BROWN**  
 7 200 West Santa Ana Blvd., Ste. 670  
 Santa Ana, CA 92701  
 8 Tel: 714-542-1883  
 Fax: 714-542-1009

9 Attorneys for Plaintiffs

10 **SUPERIOR COURT OF CALIFORNIA**

11 **COUNTY OF ORANGE**

12  
13  
14  
15 **JAVIER OLGUIN** and other members of the  
16 general public similarly situated,

Case No. OCSC 02CC00200

**CLASS ACTION**

17 Plaintiffs,

*Assigned for all purposes to the  
Honorable Stephen J. Sundvold*

18 vs.

19  
20 **FED EX GROUND PACKAGE SYSTEM,**  
21 and Does 1 through 50, inclusive,

**DECLARATION OF  
JOHN A. MILLER**

22 Defendants.  
23  
24  
25  
26  
27  
28



1 I, JOHN A. MILLER, declare as follows:

2 1. I am an individual residing in Pittsburgh, PA. I have personal knowledge of  
3 the matters set forth herein, and would and could testify thereto if called as a witness.  
4

5 2. I am employed by Systems Imaging, a document management and imaging  
6 specialist located in Pittsburgh, PA. In May 2004, our company was contracted by Righetti  
7 Wynne, P.C. perform an image scanning project.

8 3. We were contracted to scan payroll related documents from a Federal Express  
9 Ground facility, at the Business Records Management facility, located at 1018 Western Ave.,  
10 Pittsburgh, PA. 15233. I was selected as the contact person for Systems Imaging and was  
11 responsible for managing the project.  
12

13 4. I first contacted Robert Wolfrum, a paralegal at FedEx Ground, to gather the  
14 necessary information I would need to complete the project. I was informed that 500 boxes of  
15 payroll documents were maintained at the Business Records Management site (BRM), however  
16 only 100 boxes contained information from the California terminals of FedEx Ground that were  
17 in question. FedEx identified the California terminals as the following:  
18

19 900, 901, 905, 915, 918, 921, 922, 923, 924, 928, 930, 932, 933, 934,  
20 935, 937, 939, 941, 942, 945, 946, 951, 952, 954, 955, 958, 959, 960

21 5. May 4-12, 2004, my staff and I scanned 47,839 documents that were contained  
22 in the 100 boxes. The documents inside the boxes were bound with rubber bands, however  
23 they were stacked randomly so we had to manually pull out documents that pertained to the  
24 terminals requested.  
25

26 6. After scanning all the documents I burned them onto 6 CDs and sent them to  
27 Jessica Gunther at Righetti Wynne, P.C.  
28

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I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and that if called as a witness, I could competently testify to the same.

Executed this 28<sup>th</sup> day of July, 2005, at Pittsburgh, PA.

John A. Miller  
JOHN A. MILLER

**EXHIBIT 11**

1 **MATTHEW RIGHETTI, ESQ.** {121012}  
2 **JOHN GLUGOSKI, ESQ.** {191551}  
3 **RIGHETTI & WYNNE**  
4 456 Montgomery Street, 14th Floor  
5 San Francisco, CA 94104  
6 (415) 983-0900

7 **GEOFFREY GEGA, ESQ.** {91980}  
8 **COOK BROWN**  
9 200 West Santa Ana Blvd., Ste. 670  
10 Santa Ana, CA 92701  
11 Tel: 714-542-1883  
12 Fax: 714-542-1009

13 Attorneys for Plaintiffs

14 **SUPERIOR COURT OF CALIFORNIA**

15 **COUNTY OF ORANGE**

16 **JAVIER OLGUIN** and other members of the  
17 general public similarly situated,

Case No. OCSC 02CC00200

**CLASS ACTION**

18 Plaintiffs,

*Assigned for all purposes to the  
Honorable Stephen J. Sundvold*

19 vs.

**DECLARATION OF  
CLASS REPRESENTATIVE,  
JAVIER OLGUIN**

20 **FED EX GROUND PACKAGE SYSTEM,**  
21 and Does 1 through 50, inclusive,

22 Defendants.

23  
24 **I, JAVIER OLGUIN** declare:

25 1. I am a named plaintiff in this action and I am over eighteen years of age. I have  
26 personal knowledge of the matters set forth herein (except where stated on information and  
27  
28

1 belief, and as to those facts I believe them to be true), and would and could testify thereto if  
2 called as a witness herein.

3  
4 2. I am a proposed Class Representative and I am filing this declaration in support  
5 of class certification. I have never been named as a class representative in any other lawsuit. I  
6 am a California citizen with my primary residence in San Diego, California.

7  
8 3. I was employed with FedEx Ground as a Package Handler at its terminal office  
9 located in San Diego, California from December 14, 2000 to July 13, 2001.

10  
11 4. During the time I worked as a Package Handler for Defendant, I became familiar  
12 with Defendant's practices, policies and procedures applicable to Package Handlers.

13  
14 5. As a Package Handler, I typically worked 4-6 hours per shift. My usual work  
15 schedule started between 1:30 a.m. and 3:00 a.m. and I worked until anytime between 7:00 a.m.  
16 and 8 a.m. I worked on the average 20-25 hours per week.

17  
18 6. Defendant never provided any education or training concerning rest and/or meal  
19 breaks. Defendant never told me anything about rest and/or meal breaks. Defendant did not  
20 authorize and/or permit rest breaks for package handlers. I never signed any documents  
21 regarding rest and/or meal breaks. I was never asked to enter into any agreement waiving meal  
22 breaks-- and I never entered into any such agreement.

23  
24 7. While I worked for defendant as a Package Handler I was never informed that I  
25 was authorized and/or permitted to take regular off duty meal or rest breaks. Further, I was  
26 never authorized nor permitted to take rest breaks or provided meal breaks during the time I  
27 worked for defendant. I believe my situation to be the same as that of all Package Handlers  
28 because I worked side-by-side with other Package Handlers and I never observed the other  
package handlers take daily off duty rest and/or meal breaks.



1 **MATTHEW RIGHETTI, ESQ.** {121012}  
2 **JOHN GLUGOSKI, ESQ.** {191551}  
3 **RIGHETTI & WYNNE**  
4 456 Montgomery Street, 14th Floor  
5 San Francisco, CA 94104  
6 (415) 983-0900

7 **GEOFFREY GEGA, ESQ.** {91980}  
8 **COOK BROWN**  
9 200 West Santa Ana Blvd., Ste. 670  
10 Santa Ana, CA 92701  
11 Tel: 714-542-1883  
12 Fax: 714-542-1009

13 Attorneys for Plaintiffs

14 **SUPERIOR COURT OF CALIFORNIA**

15 **COUNTY OF ORANGE**

16 **JAVIER OLGUIN** and other members of the  
17 general public similarly situated,

Case No. OCSC 02CC00200

CLASS ACTION

18 Plaintiffs,

*Assigned for all purposes to the  
Honorable Stephen J. Sundvold*

19 vs.

**DECLARATION OF  
CLASS REPRESENTATIVE,  
MIGUEL VARGAS**

20 **FED EX GROUND PACKAGE SYSTEM,**  
21 and Does 1 through 50, inclusive,

22 Defendants.

23  
24 **I, MIGUEL VARGAS** declare:

25 1. I am a named plaintiff in this action and I am over eighteen years of age. I have  
26 personal knowledge of the matters set forth herein (except where stated on information and  
27  
28

1 belief, and as to those facts I believe them to be true), and would and could testify thereto if  
2 called as a witness herein.

3  
4 2. I am a proposed Class Representative and I am filing this declaration in support  
5 of class certification. I have never been named as a class representative in any other lawsuit.  
6 My primary residence is in Yuma, Arizona.

7  
8 3. I was employed with FedEx Ground as a Package Handler at its terminal office  
9 located in San Diego, California from August 2000 to April 2001.

10  
11 4. During the time I worked as a Package Handler for Defendant, I became familiar  
12 with Defendant's practices, policies and procedures applicable to Package Handlers.

13  
14 5. As a Package Handler, I typically worked 4-7 hours per shift. My usual work  
15 schedule started between 12:00 a.m. and 2:00 a.m. and went until anytime between 6 a.m. to  
16 8:00 a.m. I worked on the average 20-25 hours per week.

17  
18 6. Defendant never provided any education or training concerning rest and/or meal  
19 breaks. Defendant never told me anything about rest and/or meal breaks. Defendant did not  
20 authorize and/or permit rest breaks for package handlers. I never signed any documents  
21 regarding rest and/or meal breaks. I was never asked to enter into any agreement waiving meal  
22 breaks-- and I never entered into any such agreement.

23  
24 7. While I worked for defendant as a Package Handler I was never informed that I  
25 was authorized and/or permitted to take regular off duty meal or rest breaks. Further, I was  
26 never authorized nor permitted to take rest breaks or provided meal breaks during the time I  
27 worked for defendant. I believe my situation to be the same as that of all Package Handlers  
28 because I worked side-by-side with other Package Handlers and I never observed the other  
package handlers take daily off duty rest and/or meal breaks.



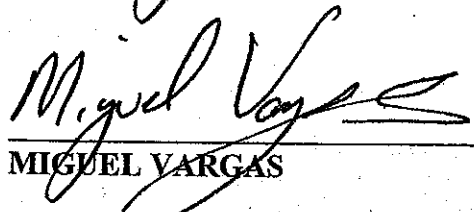
1           8.     As a class representative, I will fairly and adequately protect the interests of the  
2 other class members. I have been participating -- and will continue to participate -- actively in  
3 the lawsuit, such as by testifying at deposition and trial, answering written interrogatories, and  
4 keeping generally aware of the status and progress of the lawsuit. I will also make certain that  
5 the litigation is prosecuted by skilled and effective attorneys. I believe the class counsel I  
6 retained are skilled, experienced and well suited to prosecute this case on behalf of the class. I  
7 intend to seek the broadest possible relief against the defendant for the benefit of the class,  
8 including, but not necessarily limited to, obtaining all of the injunctive relief necessary to force  
9 the defendant to discontinue their unlawful practice.  
10

11  
12           12.    I understand, recognize and accept that any resolution of the lawsuit, such as by  
13 settlement or dismissal, is subject to court approval, and must be designated and pursued in the  
14 best interest of the class as a whole.  
15

16           13.    I believe that a class lawsuit will save time, money, and effort, and thus will  
17 benefit all parties and the court. To the best of my knowledge, I have no conflict to interest that  
18 would hinder me from fairly and adequately representing the proposed class.  
19

20           I declare under penalty of perjury under the laws of the state of California that the  
21 foregoing is true and correct and that if called as a witness, I could competently testify to the  
22 same.

23           Executed this 28<sup>th</sup> day of July, 2005, at Yuma, Arizona.

24  
25  
26             
27           MIGUEL VARGAS  
28

1 MATTHEW RIGHETTI, ESQ. {121012}  
2 JOHN GLUGOSKI, ESQ. {191551}  
RIGHETTI & WYNNE  
3 456 Montgomery Street, 14th Floor  
San Francisco, CA 94104  
4 (415) 983-0900

5 GEOFFREY GEGA, ESQ. {91980}  
6 COOK BROWN  
200 West Santa Ana Blvd., Ste. 670  
7 Santa Ana, CA 92701  
8 Tel: 714-542-1883  
Fax: 714-542-1009

9 Attorneys for Plaintiffs

11 SUPERIOR COURT OF CALIFORNIA  
12 COUNTY OF ORANGE

14 JAVIER OLGUIN and other members of the  
15 general public similarly situated,

Case No. OCSC 02CC00200

CLASS ACTION

17 Plaintiffs,

*Assigned for all purposes to the  
Honorable Stephen J. Sundvold*

18 vs.

19 DECLARATION OF  
20 CLASS REPRESENTATIVE,  
KELLEY FREEMAN

21 FED EX GROUND PACKAGE SYSTEM,  
and Does 1 through 50, inclusive,

22 Defendants.

24 I, KELLEY FREEMAN declare:

25 1. I am a named plaintiff in this action and I am over eighteen years of age. I have  
26 personal knowledge of the matters set forth herein (except where stated on information and  
27

1 belief, and as to those facts I believe them to be true), and would and could testify thereto if  
2 called as a witness herein.

3  
4 2. I am a proposed Class Representative and I am filing this declaration in support  
5 of class certification. I have never been named as a class representative in any other lawsuit. I  
6 am a California citizen with my primary residence in Santee, California.

7  
8 3. I was employed with FedEx Ground as a Package Handler at its terminal office  
9 located in San Diego, California from September 2000 to July 2002.

10  
11 4. During the time I worked as a Package Handler for Defendant, I became familiar  
12 with Defendant's practices, policies and procedures applicable to Package Handlers.

13  
14 5. As a Package Handler, I typically worked 4-6 hours per shift. My usual work  
15 schedule started between 12:00 a.m. and 1:00 a.m. and typically went until 7 a.m. I worked on  
16 the average 25-30 hours per week.

17  
18 6. Defendant never provided any education or training concerning rest and/or meal  
19 breaks. Defendant never told me anything about rest and/or meal breaks. Defendant did not  
20 authorize and/or permit rest breaks for package handlers. I never signed any documents  
21 regarding rest and/or meal breaks. I was never asked to enter into any agreement waiving meal  
22 breaks-- and I never entered into any such agreement.

23  
24 7. While I worked for defendant as a Package Handler I was never informed that I  
25 was authorized and/or permitted to take regular off duty meal or rest breaks. Further, I was  
26 never authorized nor permitted to take rest breaks or provided meal breaks during the time I  
27 worked for defendant. I believe my situation to be the same as that of all Package Handlers  
28 because I worked side-by-side with other Package Handlers and I never observed the other  
package handlers take daily off duty rest and/or meal breaks.



**EXHIBIT 12**

**RIGHETTI ♦ WYNNE**  
A PROFESSIONAL CORPORATION

July 28, 2005

Via regular mail and facsimile

**Mark Riera**  
Sheppard Mullin Richter & Hampton, LLP  
333 South Hope St., 48th Floor  
Los Angeles, CA 90071-1448

**Re: Olguin v. Fedex**

Dear Mark:

This shall confirm our agreement wherein you graciously agreed to extend the filing deadline for Plaintiff's Motion for Class Certification in the above-referenced matter from Monday, August 1, 2005 to Wednesday, August 3, 2005. Plaintiff will overnight the motion to you so that you receive the motion in your office on August 3, 2005. Further, this extension will not shorten in any way the time in which Defendant has to file its opposition to the motion.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,

**RIGHETTI WYNNE, P.C.**

  
John Glugoski

JG:jmg

cc. Geoffrey Gega

**EXHIBIT 13**

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

JAVIER OLGUIN, et al., )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 FEDEX GROUND PACKAGE SYSTEM, )  
 INC., et al., )  
 )  
 Defendants. )

No. 02CC00200

**CERTIFIED**  

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**COPY**

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DEPOSITION OF ED LEVEQUE

San Francisco, California

Tuesday, March 16, 2004

Reported by:  
GINA GLANTZ  
CSR No. 9795, RPR, RMR  
JOB No. 50902



1 San Francisco, California, Tuesday, March 16, 2004

2 10:00 a.m. - 12:08 p.m.

3  
4 (Deposition Exhibit 1 was marked for  
5 identification by the court reporter.)

6  
7 ED LEVEQUE,

8 having been first duly sworn, was examined and testified  
9 as follows:

10  
11 EXAMINATION

12 BY MR. RIGHETTI:

13 Q State your name, please.

14 A Ed Leveque.

15 Q And who are you employed by?

16 A FedEx Ground.

17 Q When you say "FedEx Ground," is that a  
18 shortened-up name for your employer or is that the full  
19 name?

20 A No, that's the full name.

21 Q Okay. And do you know what FedEx Ground's  
22 relationship is with FedEx Ground Package System, Inc.,  
23 or is that the same?

24 A Same.

25 Q Okay. How long have you been employed there?

1 A Since 1989. It was RPS at the time.

2 Q So were you originally hired by RPS?

3 A Yes. Actually, I was with Roadway Express.

4 Q Sounds like your employers have kind of morphed  
5 along the way.

6 A I mean, it's all the same. I started with  
7 Roadway Express, transferred over to the RPS division of  
8 that company.

9 Q RPS?

10 A Yeah, Roadway Package System.

11 Q Okay.

12 A And then FedEx. Fedex Corporation bought RPS.

13 Q Okay.

14 A Our name became FedEx Ground, and that's who  
15 I'm working for now.

16 Q So in your paycheck -- do you get paychecks or  
17 do you get direct deposit?

18 A Paychecks. Well, I get direct deposit.

19 Q When you get a W-2 at the end of the year, what  
20 name is listed as the employer on that?

21 A I believe it's FedEx Ground.

22 Q Again, FedEx Ground Package System, Inc.?

23 A I'm not sure.

24 Q And around what time, did you begin with  
25 Roadway Express?

1 A Roadway Express, 1978.

2 Q As what?

3 A My position?

4 Q Yes.

5 A I believe it was called dock foreman.

6 Q And were you still dock foreman when you

7 transferred to RPS, the RPS division of Roadway Express?

8 A No.

9 Q What was your position then?

10 A Just before I came over to RPS?

11 Q Yes.

12 A I was called assistant breakbulk manager.

13 Q B-r-e-a-k?

14 A B-r-e-a-k-b-u-l-k.

15 Q What is that?

16 A A breakbulk is a consolidation and distribution

17 operation.

18 Q Okay.

19 A So I was the assistant of that operation.

20 Q And did you retain that title when you arrived

21 at RPS?

22 A No.

23 Q What title did you pick up when you --

24 A Terminal manager.

25 Q What terminal?

1 A Everett, Washington.

2 Q How long did you remain terminal manager --  
3 when was that, pardon me?

4 A That was 1989.

5 Q And how long did you remain terminal manager at  
6 Everett, Washington?

7 A Until 1995.

8 Q What happened then?

9 A I became the terminal manager in Seattle,  
10 Washington.

11 Q How long did you retain that position?

12 A Until 1999.

13 Q What happened?

14 A Then I became the hub manager in Los Angeles,  
15 California.

16 Q Until when?

17 A Until 2000 -- August 2001, that's when I became  
18 my current position.

19 Q Which is?

20 A Managing director.

21 Q Of?

22 A FedEx Ground.

23 Q Okay. Now, what is -- I'm going to ask you  
24 some questions. Have you ever had your deposition taken  
25 before?

1 A Pardon me?

2 Q Have you ever had your deposition taken before?

3 A Yes.

4 Q How many times?

5 A I believe twice.

6 Q Any in relation to your work at FedEx Ground or  
7 any of its predecessors?

8 A Yes.

9 Q When was the first time you had your deposition  
10 taken, approximately?

11 A Approximately last year sometime.

12 Q And the time before -- and --

13 A The time before that would -- I'm not sure. It  
14 would either be late last year or early this year.  
15 Probably -- I'm not sure.

16 Q Okay, so you've had your deposition taken twice  
17 in the last couple years?

18 A Yes.

19 Q And are those depositions in relation to  
20 employment litigation matters?

21 A You mean involved in my position with FedEx  
22 Ground?

23 Q Where employees have been suing FedEx Ground.

24 MR. SANDERSON: Objection. Vague and  
25 ambiguous.

1 A Yes.

2 Q The court reporter can only get audible  
3 responses. Nods of the head can't get picked up. And  
4 "uh-huhs," "huh-uhs," although we all commonly use them,  
5 they can get misunderstood, so please try and give  
6 clear, audible answers; okay?

7 A Yes.

8 Q If you don't understand any of my questions,  
9 please let me know, I'll be happy to rephrase any  
10 questions that you don't understand, to make sure we're  
11 on the same page.

12 And you understand your testimony here has the  
13 same force and effect as if we were in a court of law?

14 A Yes.

15 Q Okay. I want to ask you some questions about  
16 the structure of the FedEx Ground system. I  
17 understand -- I assume, from your positions, that there  
18 are terminals and there are hubs; right?

19 A Yes.

20 Q Okay. What's the difference between a terminal  
21 and a hub?

22 A A hub would be more of a consolidation terminal  
23 where they process packages for other buildings; where a  
24 terminal is more they handle their own service area,  
25 their own geographic area.

1 Q Give me -- can you give me an example?

2 A A hub would load, let's say, packages that are  
3 destined to various points across the country.

4 Obviously we want to have full trailers to go across the  
5 country, so many of our buildings are smaller buildings,  
6 so they don't have enough packages, let's say, to fill a  
7 trailer going to Florida or to New York, so we might  
8 have a group of smaller facilities send all of their  
9 out- -- what we call outbound packages that are going  
10 across the country, they would send them to a hub, who  
11 would then -- you know, with this larger group of  
12 packages, they would consolidate and load all the  
13 Florida packages to Florida, New York packages to  
14 New York.

15 Q So a terminal is an -- strike that.

16 A terminal and hub are both loading facilities?

17 A Yes, they both load.

18 Q Okay. Are there any other facility titles that  
19 also load?

20 A No.

21 Q You understand this case is on behalf of ground  
22 package handlers; is that correct?

23 MR. SANDERSON: Objection. Vague and  
24 ambiguous.

25 THE WITNESS: Pardon me?

1 BY MR. RIGHETTI:

2 Q Who do you understand this case is on behalf  
3 of? Package handlers?

4 A Package handlers.

5 Q Okay. What are package -- you're familiar with  
6 the term "package handlers"?

7 A Yes.

8 Q Are you also familiar with the term "package  
9 loaders," or is that the same?

10 A That would be the same. A loader would be one  
11 of the many job descriptions that a package -- or a job  
12 function a package handler could do.

13 Q And FedEx Ground Package System, Inc. -- and  
14 I'm just going to call it FedEx Ground, because that's  
15 how you referred to it; okay?

16 A Yes.

17 Q That company employs people with the title  
18 "package handlers"?

19 A Yes.

20 Q How long has it employed people in that title?

21 A When I came on the company in 1989, that was  
22 their title.

23 Q Okay. And has the -- strike that.

24 Have the duties and responsibilities of the  
25 package handlers changed over time, or have they



1 remained about the same?

2 MR. SANDERSON: Objection. Vague and  
3 ambiguous.

4 THE WITNESS: They have numerous  
5 responsibilities.

6 BY MR. RIGHETTI:

7 Q Why don't you tell me what the responsibilities  
8 of the package handlers are.

9 A They could be a loader, they could be an  
10 unloader, they could be a swacker, they could be a  
11 switcher, they could be a sorter, they could be a  
12 splitter. Depends --

13 Q Go ahead, I want to get them all.

14 A Depends on the size of the building.

15 Q You gave me six different types of duties that  
16 package handlers may handle. Are there more?

17 A Could be. I think those are the main ones.

18 Q Main ones?

19 A Yeah.

20 MR. SANDERSON: Scanner?

21 MR. RIGHETTI: Scanner?

22 THE WITNESS: I'm trying to think if they do  
23 just strictly scan.

24 MR. SANDERSON: Okay.

25 THE WITNESS: They'll do some in their other --

1 a very small building.

2 Q Okay. I understand that FedEx Ground has some  
3 package handlers which are part-time?

4 A Yes.

5 Q And what does that mean?

6 A That they work -- I don't know what the exact  
7 classification would classify them part-time versus  
8 full-time.

9 Q That's what I'm asking, if you know.

10 A No, I'm trying -- we have the full-times that  
11 are scheduled, like, 37 hours a week.

12 Q So full-timers are scheduled at least 37 a  
13 week, and part-timers --

14 A Not necessarily. I shouldn't say that. That  
15 could vary.

16 Q So you know that there are part-time package  
17 handlers and full-time package handlers?

18 A Right.

19 Q And you're not sure what hours per week  
20 differentiates the two?

21 A Yeah. A full-timer, there's no guarantee of  
22 their number of hours.

23 Q Okay. How about for part-timers, is there any  
24 high or low --

25 A No.

1 Q -- scale on that?

2 A No, it's dependent -- strictly depends on the  
3 size of the building, the volume, the number of packages  
4 that have to be worked, which will vary day to day,  
5 month to month.

6 Q Are either -- strike that.

7 Have you ever heard of a package handler who  
8 was salaried?

9 A No.

10 Q So they are all hourly employees?

11 A Yes.

12 MR. SANDERSON: All paid by the hour, you mean?

13 MR. RIGHETTI: Paid by the hour, yes.

14 THE WITNESS: Yes.

15 BY MR. RIGHETTI:

16 Q And have been for as long as you can remember?

17 A Since I came on board in 1989.

18 Q Do you know how many package handlers there are  
19 in California presently?

20 A No.

21 Q Do you know what -- I may have asked you this  
22 already, but there are, in fact, part-time package  
23 handlers and full-time package handlers; correct?

24 A Yes.

25 Q Do you know what the -- what the division is

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

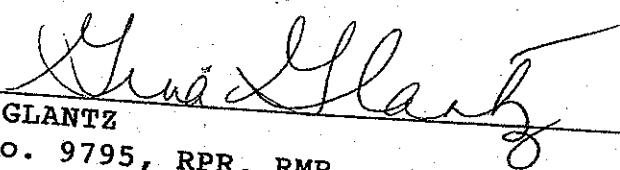
That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

APR 12 2004

Dated: \_\_\_\_\_

  
\_\_\_\_\_  
GINA GLANTZ  
CSR No. 9795, RPR, RMR

WORD INDEX