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21 Attorneys for Plaintiffs

22 **UNITED STATES DISTRICT COURT**
 23 **NORTHERN DISTRICT OF CALIFORNIA**
 24 **SAN FRANCISCO DIVISION**

25 FAITH D. MARTIN, et al,

26 Plaintiff,

27 v.

28 FEDEX GROUND PACKAGE SYSTEM
 INC.,
 et al,

Defendants.

Case No. 06-CV-06883-VRW

**DECLARATION OF JOHN
 GLUGOSKI RE: PLAINTIFFS'
 FURTHER SUBMISSION IN SUPPORT
 OF MOTION FOR PRELIMINARY
 APPROVAL OF CLASS ACTION
 SETTLEMENT**

Honorable Vaughn R. Walker
Date: December 18, 2008
Time: 2:30 p.m.
Courtroom: 6

1 I, JOHN GLUGOSKI declare that:

2 1. I am an attorney duly licensed to practice law in the State of California and I
3 represent the plaintiff herein. I have personal knowledge of the matters set forth herein,
4 and would and could testify thereto if called as a witness herein.
5

6 2. During the discovery process, Plaintiffs' counsel were given access to Fed
7 Ex Ground's time records and other documents pertaining to hours worked by the class.
8 Since the records produced by Fed Ex Ground were so voluminous, for purposes of
9 certification on the issue of missed meal and rest breaks, we conducted a sampling in
10 support of motion for class certification. For purposes of settlement Plaintiffs' counsel
11 conducted a further and more detailed evaluation of the time records.
12

13 3. Based on the above referenced sampling, Plaintiffs' counsel was able to
14 determine approximately how many shifts of 3.5 or more hours were worked, and hence
15 how many shifts would have been entitled to a rest period. Similarly, Plaintiffs' counsel
16 could determine how many shifts exceeding 6 hours were worked, and hence how many
17 shifts would have been entitled to a meal period. Plaintiffs' counsel's analysis revealed
18 that approximately 77% of the total shifts worked 3.5 hours or more, and were entitled to
19 rest periods; and 5% of the total shifts worked over 6 hours, and were entitled to meal
20 periods.
21
22

23 4. Because there was no record-keeping requirement for rest periods, and an
24 employee is paid for rest periods regardless of whether an employee did or did not take a
25 rest period, there is no basis to estimate the actual compliance rate by Fed Ex Ground.
26
27
28

1 Similarly, based on statements by class members, the evidence was clear that some efforts
2 were made at some facilities to comply with rest breaks during the first part of the class
3 period, but there was noncompliance for the most part. Fed Ex Ground has asserted that
4 there was more compliance on its part during the first part of the class period than
5 Plaintiffs have given it credit for. This is confirmed from the testimony of putative class
6 members. After Plaintiffs filed this class action in 2002, it is agreed that Fed Ex Ground
7 made more definitive attempts to correct its compliance.
8
9

10 5. Based on our review of time records, conveyor belt stoppage and package
11 flow charts, FedEx's quality survey team's efforts to address meal and rest break issues at
12 the Anaheim location, as well as interviews with numerous putative class members,
13 Plaintiffs concluded that during the first two (2) years of the class period, there was a 50%
14 compliance rate. This 50% compliance rate neither afforded Plaintiffs or Defendant the
15 benefit of the doubt. Then, for the subsequent years starting with 2002, based on evidence
16 from putative class members the violation rate appeared to drop based on evidence of
17 compliance. Specifically, putative class members confirmed increased compliance but not
18 absolute compliance. Moreover, there was evidence of a company-wide directive in June
19 2003 regarding rest breaks and testimony by putative class members that by 2004 there
20 was significant to virtually total compliance. The explanation for the increased compliance
21 stems from a policy to turn off conveyor belts at the locations to accommodate rest breaks.
22 The putative class members confirmed this. The compliance rate at that point was
23 estimated to be at about 95% based on the new policy and confirmation from class
24
25
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1 members confirming the new practice. Therefore, the following table illustrates the
 2 assumed compliance rate for the class period:

3		2000	50%
4		2001	50%
5		2002	33%
6		2003	10%
7		2004	5%
8		2005	5%
9		2006	5%
10		2007	5%

11 6. Plaintiffs then took the above compliance rates and meal/rest period shifts,
 12 and applied those variables to the number of estimated shifts worked during the class
 13 period. The estimated shifts worked was evidence which was provided by Fed Ex
 14 Ground, and there was two (2) separate tables provided by Fed Ex Ground as to the
 15 estimate shifts worked by the Olguin class, and Martin class.

16 7. With respect to the Olguin class, Plaintiffs took the estimate of shifts worked
 17 and applied that number to the compliance rates and meal/rest period shifts, and came up
 18 with the following estimate of the total shifts of potential violations for missed rest
 19 periods.

20	<u>Year</u>	<u>Shifts</u>	<u>x77%</u>	<u>% violations</u>	<u>Total</u>
21	2000	99,240	76,414	50	38,207
22	2001	388,440	299,098	50	149,549
23	2002	490,729	377,861	33	125,953
24	2003	568,328	437,612	10	43,761
25	2004	652,979	502,793	5	25,139
26	2005	687,126	529,087	5	26,454
27	2006	780,370	600,884	5	30,044
28	2007	840,000	646,800	5	32,340

471,447=Total Shifts of Potential violations for rest periods

1 8. Plaintiffs then took the average hourly compensation for package handlers
2 over the class period, and came up with a weighted average hourly compensation of
3 \$9.78. Hence, the liability for rest periods under the Olguin class was 471,447 x
4 9.78/hourly = \$4,610,751.

5
6 9. Plaintiffs did the same analysis with respect to the Martin class, and came up
7 with a total of 22,204 total shifts. This number was a lot lower than the total shifts for the
8 Olguin class because the class period did not start until 2002, and there were lesser shifts
9 being worked by this class. Plaintiffs took the number of total shifts and multiplied it by
10 the weighted hourly compensation of \$13.95. The liability for rest periods under the
11 Martin class was calculated to be \$309,745. Hence, the combined rest period liability for
12 both classes was **\$4,920,496**.

13
14
15 10. With respect to meal periods, since these breaks were recorded, Fed Ex
16 Ground was able to provide Plaintiffs with hard data regarding missed meal breaks.
17 Based on the evidence produced by Fed Ex Ground, Plaintiffs were able to calculate that
18 approximately 55% of the shifts which exceeded 6 hours (i.e. 5%) were working without a
19 recorded meal during the class period. Taking the two calculations together (55% of 5%),
20 the percentage of total shifts worked without a recorded meal was 2.75%.

21
22
23 11. In order to determine the total shifts with potential violations, Plaintiffs
24 applied the 2.75% to the estimated total shifts worked (3,942,077). The resulting number
25 was 108,407 total shifts of potential rest period violations. Multiplying 108,407 by the
26 weighted hourly compensation of \$9.78, the liability for meal periods under the Olguin
27

1 class was \$1,060,220. Plaintiffs did the same analysis with respect to the Martin Class.
2 Based on the evidence produced by Fed Ex Ground to Plaintiffs, it was deduced that 52%
3 of the shifts exceeded 6 hours. Moreover, 1% of those working over 6 hours did not a
4 recorded meal period. Taking these two calculations together (52% of 1%), the
5 percentage of total shifts worked without a recorded meal was .5%. Applying .5% to the
6 estimated total shifts worked (374,781), Plaintiffs calculated that there were 1873 total
7 shifts of estimated meal breaks.
8

9
10 12. Multiplying 1873 by the weighted hourly compensation of \$13.95, Plaintiffs
11 determined that the liability for missed meal periods in the Martin class was \$26,128.
12 Hence, the combined meal period liability for both classes was \$1,086,348. The combined
13 liability for both meal and rest periods was \$6,006,844. Plaintiffs also calculated that they
14 could possibly recover over 2.2 million dollars in simple interest for the missed meal/rest
15 periods.
16

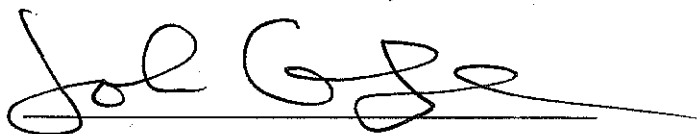
17
18 13. As previously provided in Plaintiffs' papers, the maximum payout fund
19 under the terms of the Settlement is \$5,148,750. As demonstrated above, this payout fund
20 is fairly close to the potential calculated liability for the missed meal and rest breaks and
21 interest. Further, as stated in Plaintiffs' preliminary approval papers, Plaintiffs thought it
22 was fair and reasonable to not continue to litigate this case, where there class certification
23 was still undecided, and even the state of the law regarding an employer's obligation to
24 provide meal/rest periods was unclear.
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EXHIBITS

1
2 14. A true and correct copy of the revised Proposed Notice of Class Action
3 Settlement to be sent the class members is marked and attached hereto as Exhibit 1.

4
5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct. Executed this 20th day of November, 2008 at San Francisco,
7 California.

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9 **RIGHETTI LAW FIRM, P.C.**

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11 John Glugoski

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EXHIBIT 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FAITH D. MARTIN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

FEDEX GROUND PACKAGE SYSTEM,
INC.,

Defendants.

Case No. 06-CV-06883-VRW

CLASS NOTICE

NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION; SETTLEMENT HEARING; AND CLAIM, CONSENT, AND EXCLUSION PROCEDURES

Martin v. FedEx Ground Package System, Inc.

U.S. District Court for the Northern District of California, Case No. 06-CV-06883-VRW

Pursuant to the Order of the United States District Court entered on [INSERT DATE, PRELIMINARY APPROVAL], YOU ARE HEREBY ADVISED: A settlement has been reached between the parties in the above-captioned lawsuit pending in the United States District Court on behalf of all California FedEx Ground Package System, Inc. ("FedEx Ground") package handlers who held their positions at FedEx Ground anytime between October 1, 2000 and _____ ("Package Handler Class") and all California FedEx Ground non-package handler non-exempt employees who held their positions at FedEx Ground anytime between September 20, 2002 and _____ ("Non-Package Handler Class"). The Package Handler Class and Non-Package Handler Class shall collectively be referred to as "Class Members."

* * * *

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION AS TO YOUR RIGHT TO MAKE A CLAIM FOR PAYMENT.

IF YOU WISH TO RECEIVE PAYMENT FOR YOUR SHARE OF THE SETTLEMENT, YOU MUST SUBMIT A CLAIM FORM (PRINTED ON GREEN PAPER) ON OR BEFORE _____, 2008 [xx days after mailing of notice]. IF YOU WISH TO BE EXCLUDED FROM THE CLASS, YOU MUST SUBMIT A REQUEST FOR EXCLUSION ON OR BEFORE _____, 2008.

IF YOU SUBMIT A CLAIM FORM WHICH IS POSTMARKED AFTER _____, 2008 [xx days after mailing of notice], OR IF YOU SUBMIT A CLAIM FORM WHICH IS NOT COMPLETELY FILLED OUT, YOUR CLAIM FORM WILL BE REJECTED AND YOU WILL NOT RECEIVE A SETTLEMENT PAYMENT, BUT YOU WILL BE BOUND BY THE RELEASE AND ALL OTHER SETTLEMENT TERMS.

IF YOU SUBMIT AN EXCLUSION FORM WHICH IS POSTMARKED AFTER _____, 2008 [xx days after mailing of notice], YOUR EXCLUSION FORM WILL BE REJECTED AND YOU WILL BE BOUND BY THE CLASS RELEASE AND ALL OTHER SETTLEMENT TERMS.

I. WHY YOU HAVE RECEIVED THIS NOTICE:

You have received this Notice because FedEx Ground's records show you were employed by FedEx Ground in California in a Package Handler Position at some time during the Package Handler Class Period, and/or in a Non-Package Handler Position at some time during the Non-Package Handler Class Period. This Notice is designed to advise you of how you can participate in this settlement or, alternatively, how you can be excluded from this settlement, or object to this settlement.

II. HISTORY OF THE LITIGATION

On July 18, 2002, a complaint was filed by Javier Olguin, Kelley Freeman, and Miguel Vargas in the Superior Court of the State of California, County of Orange (the "Olguin Action"). The Olguin Action was subsequently amended and generally alleges FedEx Ground failed to provide Package Handler Plaintiffs with meal periods and rest breaks as required by California law, and failed to keep and maintain accurate time records as required by California law, and that these alleged practices are unfair, unlawful, or fraudulent business practices and unfair competition. On September 20, 2006, a complaint was filed by Faith Martin in the United States District Court, Northern District of California (the "Martin Action"). The Martin Action generally alleges FedEx Ground failed to provide Package Handler and Non-Package Handler Plaintiffs with meal periods and rest breaks as required by California law and failed to provide accurate wage statements as required by California law, and that these alleged practices are unfair, unlawful or fraudulent business practices and unfair competition. The allegations of the Olguin Action and the Martin Action have been combined in an amended complaint in the Martin Action for purposes of settlement. The Olguin Action and the Martin Action will collectively be referred to as "the Actions" and the claims raised in the Actions will collectively be referred to as "the Claims." Javier Olguin, Kelley Freeman, Miguel Vargas, and Faith Martin are the "Named Plaintiffs" in the Actions.

FedEx Ground denies the allegations and asserts that it did provide Class Members with appropriate meal periods and rest breaks and with accurate wage statements and that it kept and maintained accurate time records.

The parties have reached a settlement in these cases following years of litigation followed by mediations and extensive negotiations.

III. THE SETTLEMENT

The following is a summary of the provisions of the proposed Settlement. The specific and complete terms of the proposed Settlement are described in the Stipulation and Settlement Agreement of Class Action Claims ("Settlement Agreement"), a copy of which is available for your review as set forth at the end of this Notice.

The Settlement has a tentative maximum value of \$8,125,000 (Eight Million One Hundred Twenty-Five Thousand Dollars) (the "Settlement Fund"). This amount is comparable to the potential principal damages for claims of meal and rest break violations based on FedEx's records and information provided by class members. This maximum value could be increased pursuant to the terms of the Settlement Agreement. The Settlement Fund is made up of four parts: (1) the Gross Settlement Amounts paid from a Payout Fund to the Settlement Class Members, (2) a Fees Award to Class Counsel, (3) Incentive Awards to the Named Plaintiffs, and (4) claims administration expenses. The first part, the Payout Fund, is described in this Section. The Fees Award, Incentive Awards and claims administration expenses are explained in Section V below.

All Class Members are receiving this Notice. As a Class Member, if you wish to claim the money that is your portion of the Settlement Fund, you must sign and return the enclosed Claim Form/ Consent Form as set forth below in Section IV. You will then be a "Settlement Class Member."

Settlement Class Members will receive payment from the Payout Fund pro rata based on how long each of the Settlement Class Members worked in a Package Handler Position for FedEx Ground in California during the Package Handler Class Period and/or in a Non-Package Handler Position for FedEx Ground in California during the Non-Package Handler Class Period.

Each Settlement Class Member's share of the Payout Fund is referred to as that Settlement Class Member's "Settlement Amount." The Settlement Amounts will be calculated by assigning a certain dollar value to each week of work in a Package Handler or Non-Package Handler Position. Any partial workweek will be expressed as a percentage of a full workweek. The amount paid per workweek is calculated by dividing the Payout Fund by the total number of weeks worked by all employees in covered positions during the Package Handler and Non-Package Handler Class Periods and is subject to state and federal taxes and withholding. However, if 48% of the Payout Fund is not claimed by Class Members, the difference between the amount claimed and the amount equivalent to 48% of the Payout Fund will be redistributed on a proportional basis to Settlement Class Members who do timely submit a Claim Form. Therefore, to the extent other Class Members do not submit timely Claim Forms, your Settlement Amount may be higher.

Assuming 100% participation by class members, class members can expect to receive approximately \$300 per year for each year (365 day period) worked during the class period.

The Parties anticipate the Settlement Awards will be distributed approximately two months after the Court grants final approval of the Settlement.

With respect to calculating individual payments, the claims administrator will make the final determination on individual awards based on FedEx Ground records provided by FedEx Ground and/or class members to the claims administrator.

IV. CLAIM PROCEDURE FOR COLLECTING SETTLEMENT AWARD MONEY; FLSA CONSENT PROCEDURE

A. The Settlement of the Actions includes claims under both California state law and federal law. All persons sent this Notice will be bound by the Settlement as to their California law claims unless they request exclusion as set forth below in Section VII. However, federal law provides that in order for Class Members to be bound by the Settlement as to their federal law claims, they must complete the enclosed Claim Form/Consent Form. Additionally, only Class Members who complete, sign and return the enclosed Claim Form/ Consent Form will become Settlement Class Members and receive payment. You therefore have three options:

- Option 1: If you wish to receive the money that is your Settlement Award as part of this Settlement Agreement, you must complete, sign and return the Claim Form/ Consent Form as outlined below in subsection B. This will also indicate your consent to join the federal law (FLSA) portion of the action. You will be bound by the Settlement as to both your California and federal claims.
- Option 2: If you do not return the Claim Form/ Consent Form or request exclusion, you will be bound by the Settlement as to your California claims but not as to your federal claims, and you will not receive the money that is your Settlement Award.
- Option 3: If you wish to be excluded from the Settlement, you must follow the procedures outlined below in Section VII. You will not be bound by the Settlement as to either your California or federal claims, and you will not receive a Settlement Award.

B. As a Class Member, if you wish to receive a Settlement Award and consent to join the federal law portion of the lawsuit, you must complete, sign and return in a proper and timely fashion the Claim Form/ Consent Form (printed on Green paper) to _____ ("Claims Administrator"), located at _____

_____ via first class U.S. mail or equivalent,
postage paid, postmarked on or before _____.

The Claim Form/ Consent Form shall be valid only if: (1) the Class Member has printed his/her name and Social Security Number, (2) the Class Member has dated and signed the form, and (3) the name and Social Security Number match the FedEx Ground's records, or if the Class Member's last name has changed due to marital or domestic partner status. If the Claim Form is defective in any of these three requirements, the Class Member will be given 15 days from the date the defective form is returned to the Class Member to cure the defects and mail the corrected form back to the Administrator. Any Claim Form/ Consent Form that is postmarked after the applicable date will not constitute a valid claim and will be denied unless otherwise ordered by the Court.

C. If you submit a claim, your identity will not be disclosed to your direct supervisor at FedEx Ground. It is unlawful for anyone to retaliate or discriminate against you if you choose to participate in this Settlement.

D. If more than 8% of the class members request exclusion from the settlement FedEx Ground has the option to withdraw from the settlement.

V. CLASS COUNSEL'S FEES AWARD, INCENTIVE AWARD, AND CLAIMS ADMINISTRATION EXPENSES

A. The amount of attorney's fees and costs awarded to Righetti Law Firm, P.C.; Cook Brown, LLP; and the Law Offices of Michael L. Carver (collectively, "Class Counsel") will be subject to the Court's discretion, but in any event, will not exceed \$2,756,250 (Two Million Seven Hundred Fifty-Six Thousand Two Hundred Fifty Dollars) (the "Fees Award"). Class Counsel shall not be permitted to petition the Court for any additional payments for fees, costs or interest and the award shall be for all claims for attorneys' fees and costs past, present and future incurred in the Actions. This Fees Award shall be deducted from the Settlement Fund. As part of the Settlement, you will not be required to pay Class Counsel for their representation of you in the Actions.

B. The amount of Incentive Awards to the Named Plaintiffs will be subject to the Court's discretion. Class Counsel will request Incentive Awards of \$10,000 (Ten Thousand Dollars) to each of the four Named Plaintiffs for their assistance and active participation in this lawsuit. Class Counsel may request an additional amount of \$10,000 for Incentive Awards, provided that their request for attorney's fees will then be reduced by that \$10,000 amount. These Incentive Awards shall be deducted from the Settlement Fund.

C. Also as part of the preliminary approval of the Settlement, the Court has approved payment of claims administration expenses to the Claims Administrator, which expenses shall be deducted from the Settlement Fund.

VI. BINDING EFFECT/RELEASE OF CLAIMS

A. Release of Claims Affecting All Class Members

All Class Members, *i.e.*, all Plaintiffs who have not validly requested exclusion, will be bound by the terms of the proposed Settlement with regard to their California law claims if the Settlement is approved and if the Final Judgment of the Court dismissing the Action is entered and becomes final. If the proposed Settlement is approved, all Class Members will have released the "Released Parties" from the "Released Claims" as defined below and will be

permanently barred from suing or otherwise making a claim against any of the Released Parties that is in any way related to the Released Claims. This is more completely set forth as follows:

1. The "Released Parties" are FedEx Ground and any parent, subsidiary, affiliate, predecessor or successor, and all agents, employees, officers, directors and attorneys thereof.

2. The "Released Claims" are defined as any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, actions or causes of action contingent or accrued, arising under California law, which relate to the following:

a. the allegations and claims asserted in the Plaintiffs' complaints, for the respective Class Period, for denied meal and rest breaks, including derivative claims arising under any of the following: i) California Labor Code Sections 203, 204, 210, 226, 226.7, 512, 558, 1194 (i.e., to the extent a meal/rest violation is alleged to have resulted in a violation of any of these sections) and the Labor Code Private Attorney General Act; ii) California Business & Professions Code, including Section 17200 et seq. (i.e., to the extent a meal/rest violation is alleged to have resulted in a violation of any of these sections); iii) Wage Order 9 (i.e., to the extent a meal/rest violation is alleged to have resulted in a violation of this wage order); iv) claims for conversion (i.e., to the extent a meal/rest violation is alleged to have resulted in conversion); v) claims for restitution and other equitable relief (i.e., to the extent a meal/rest violation is alleged to have resulted in a claim for restitution or equitable relief); vi) punitive damages (i.e., to the extent a meal/rest violation is alleged to have resulted in a punitive damage claim); vii) claims related to pay stub or recordkeeping violations; viii) waiting time penalties (i.e., to the extent a meal/rest violation is alleged to have resulted in waiting time penalties); ix) penalties of any nature whatsoever related to meal/rest period violations; and, x) any other benefit arising under California state law claimed on account of the allegations asserted in the Plaintiffs' complaints for denied meal and rest breaks. This specifically includes but is not limited to claims for any type of wages, penalties, benefits, or other amounts for meal and/or rest periods allegedly not provided in accordance with the law, and claims for any type of wages, penalties, benefits, or other amounts for failure to pay for all hours worked in any way relating to meal and/or rest periods allegedly not provided in accordance with the law.

b. Any and all additional claims alleged in the Plaintiffs' complaints, for the respective Class Period, which are identified in the complaint as follows: i) wages due for working through meal and rest periods; ii) Labor Code § 203 penalties; iii) Unfair Competition Act; iv) accounting; v) injunctive relief; vi) declaratory relief; vii) failure to provide meal and rest periods; viii) conversion; and (ix) failure to comply with itemized employee wage statement.

3. The Class Members may hereafter discover facts in addition to or different from those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, they shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever settled and released any and all of the Released Claims. As of the Effective Date, the Class Members who have not timely opted out agree not to sue or otherwise make a claim against any of the Released Parties that is in any way related to the Released Claims.

B. Release Of Claims Affecting Only Class Members Who Return A Claim Form/ Consent Form.

All Settlement Class Members, i.e., all Plaintiffs who have submitted a valid Claim Form/ Consent Form, will be bound by the terms of the proposed Settlement with regard to their federal law claims if the Settlement is approved and if the Final Judgment of the Court

dismissing the Actions is entered and becomes final. If the proposed Settlement is approved, all Settlement Class Members, in addition to releasing the Released Parties from the Released Claims as outlined in Section VI, Subparagraph A, will have released the "Released Parties" from the "Released Federal Claims" defined as:

Any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, actions or causes of action contingent or accrued, arising under federal law, brought under the federal Fair Labor Standards Act ("FLSA"), specifically including but not limited to claims for liquidated damages, provided that such claims are related in any way to claims FedEx Ground failed to provide Plaintiffs all meals and/or rest periods to which they were entitled under either California law or the FLSA.

VII. PROCEDURE FOR EXCLUSION

Plaintiffs who wish to exclude themselves from the Settlement must submit a written statement expressing their desire to be excluded from the Settlement by mailing the statement on or before _____, 2008 to the Claims Administrator at _____. If you wish to request exclusion from the Settlement, your written statement must include your name (and former names, if any), current address, telephone number, Social Security Number, and the dates of your employment by FedEx Ground, and state that you wish to be excluded from the Settlement in the Martin v. FedEx Ground lawsuit. In addition, it must be postmarked on or before _____. Requests for exclusion that do not include all required information, or that are not submitted on a timely basis, will be deemed null, void and ineffective. Persons who submit valid and timely requests for exclusion from the Settlement will not receive Settlement Awards, nor will they be bound by the terms of the proposed Settlement, nor have any right to object, appeal, or comment on the Settlement.

VIII. SETTLEMENT HEARING/OBJECTIONS TO THE PROPOSED SETTLEMENT

A hearing (the "Settlement Hearing") will be held before the Honorable Vaughn R. Walker on _____, 2008 at ____:____.m. at the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, California 94102 (the "Court"), to determine whether the proposed Settlement of the Actions is fair, adequate and reasonable and should be approved by the Court and whether the Actions should be dismissed on the merits with prejudice. The hearing may be continued by the Court from time to time as the Court may without further notice direct.

Any Class Member may appear in person or through counsel at the Settlement Hearing and be heard as to why the proposed Settlement of the Actions should not be approved as fair, adequate and reasonable, or why a Final Judgment dismissing the Actions against FedEx Ground with prejudice should or should not be entered. No Class Member, however, shall be heard or entitled to object and no papers or briefs submitted by any such person shall be received or considered by the Court unless written notice of intention to appear at the Settlement Hearing, together with copies of all papers and briefs proposed to be submitted to the Court at the Settlement Hearing, shall have been filed with the Court and have been served personally on or before _____, 2008, or if by mail then postmarked no later than _____, 2008, upon all of the following:

COUNSEL FOR PLAINTIFFS:

COUNSEL FOR DEFENDANT:

Michael L. Carver
Law Offices of Michael L. Carver
1600 Humboldt Road, Suite 3
Chico, CA 95928

Samantha D. Hardy
Sheppard Mullin Richter & Hampton LLP
501 W. Broadway, 19th Floor
San Diego, California 92101

John Glugoski
Righetti Law Firm, P.C.
456 Montgomery Street, Suite 1400
San Francisco, CA 94104

Geoffrey Gega
Cook Brown, LLP
1851 East 1st Street, #1440
Santa Ana, CA 92705

Any member of the Settlement Class who does not make and serve his or her written objections in the manner provided above shall be deemed to have waived such objections and shall be foreclosed from making any objections (by appeal or otherwise) to the proposed Settlement.

Any Class Member who is satisfied with the proposed Settlement need not appear at the Settlement Hearing.

IX. EXAMINATION OF PAPERS AND INQUIRIES

The foregoing is only a summary of the Actions and the proposed Settlement and does not purport to be comprehensive. For a more detailed statement of the matters involved in the Actions and the proposed Settlement, you may refer to the pleadings, the Stipulation and Settlement Agreement of Class Action Claims, and other papers filed in the Martin Action, which may be inspected at the Office of the Clerk of the United States District Court, 450 Golden Gate Avenue, San Francisco, California 94102, during regular business hours of each Court day, or to the pleadings in the Olguin Action, which may be inspected at the office of the Clerk of the Orange County Superior Court, 751 West Santa Ana Boulevard, Santa Ana, California 92701, during regular business hours of each Court day.

All inquiries by Plaintiffs regarding this Notice and/or the Settlement should be directed to counsel for the Settlement Class:

Michael L. Carver
Law Offices of Michael L. Carver
1600 Humboldt Road, Suite 3
Chico, CA 95928
Toll Free: (877) 219-8481
mcarver@carverlaw.com

John Glugoski
Righetti Law Firm, P.C.
456 Montgomery Street, Suite 1400
San Francisco, CA 94104
415-983-0900
Toll Free: 800-447-5549
jglugoski@righettilaw.com

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, FEDEX GROUND, OR FEDEX GROUND'S ATTORNEYS WITH INQUIRIES.

Dated: _____, 2008

BY ORDER OF THE COURT
HON. VAUGHN R. WALKER
U.S. DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FAITH D. MARTIN, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

FEDEX GROUND PACKAGE SYSTEM,
INC.,

Defendants.

Case No. 06-CV-06883-VRW

CLAIM FORM/ CONSENT FORM

Martin v. FedEx Ground Package System, Inc.
United States District Court for the Northern District of California
Case No. 06-CV-06883-VRW

CLAIM FORM/ CONSENT FORM
COMPLETE AND RETURN TO CLAIM SETTLEMENT AWARD MONEY

(Please Type or Print)

Name (First, Middle, Last): _____

Street Address: _____

City, State, Zip Code: _____

Former Names (if any): _____

Social Security Number

FedEx Ground Package System, Inc.
("FedEx Ground") Employee # (if known)

(_____) _____ (Work)

(_____) _____ (Home)

Area Code Telephone Number

Area Code Telephone Number

YOU MUST COMPLETE, SIGN AND POSTMARK THIS FORM NO LATER THAN
_____ TO CONSENT TO JOIN THE FEDERAL LAW (FLSA) PORTION OF THIS
ACTION AND CLAIM YOUR SETTLEMENT AWARD.

INSTRUCTIONS:

1. Please complete, sign and mail this form to consent to join the federal law (FLSA) portion of this action and collect your share of the Settlement Fund. Other than timely submitting a valid claim form, no further action will be required of you in connection with either the federal or state portions of this lawsuit to claim your Settlement Award money.
2. If you move before you receive your Settlement Award check, please send your new address to the Claims Administrator at the address below.
3. Please do not send any supporting documentation at this time. If such documentation is deemed necessary, a separate request will be sent to you directly.

PLEASE NOTE: If you submit a claim, your identity will not be disclosed to your direct supervisor at FedEx Ground. It is unlawful for anyone to retaliate or discriminate against you if you choose to participate in this Settlement.

4. If you timely submit a valid Claim Form, you will receive your check approximately two months after the Court grants final approval.

5. The exact amount of your recovery will depend on your length of employment in a covered position, the level of participation of Class Members in the Settlement, the amount of the Fees Award and Incentive Awards, and the costs of administration.

The minimum estimated amount of recovery is approximately \$ [weekly amount] for each full week you were employed in a covered position. For example, if you worked for Fed Ex Ground as a package handler for 52 weeks during the Class Period, you would be awarded a minimum amount of approximately \$ [52 x weekly amount].

YOU MUST COMPLETE, SIGN AND MAIL THIS FORM BY FIRST CLASS U.S. MAIL OR EQUIVALENT, POSTAGE PAID, POSTMARKED ON OR BEFORE _____, 2008, ADDRESSED AS FOLLOWS IN ORDER TO CONSENT TO JOIN THE FLSA PORTION OF THIS ACTION AND RECEIVE YOUR SETTLEMENT AWARD MONEY.

FedEx Ground Claims Administrator
c/o _____ _____ _____

I have reviewed the Class Notice and this form and request my portion of the Settlement. I also consent to join in the federal law (FLSA) portion of this action and have the Named Plaintiffs and their counsel represent me in this lawsuit.

X _____

Date: _____