

- Pursuant to this court's March 22 order, the clerk has already amended the judgments in *Humphreys* (3:05-CV-540) [Doc. No. 2523] and *Kelly* (3:08-CV-336) [Doc. No. 2524], and no further action is needed in these two cases;
- Pursuant to the instructions provided in this court March 22 order, the amended judgments shall list:
 - the case number of the particular FedEx MDL 1700 case in question only;
 - named plaintiffs for the particular FedEx MDL 1700 case in question only;
- And, pursuant to this court's February 18 order, the amended judgments shall include the class definitions approved by this court when granting class certifications in these cases. The clerk shall use the class definitions provided in the Appendix attached to this order.

SO ORDERED.

ENTERED: April 4, 2011

_____/s/ Robert L. Miller, Jr.
Judge
United States District Court

APPENDIX
Class Definitions

3:05-CV-530 (*Craig* - Kansas)

- Kansas class definition:

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a fulltime basis (meaning exclusive of time off for commonly excused employment absences) since February 11, 1998, to provide package pick-up and delivery services pursuant to the Operating Agreement; and (3) were dispatched out of a terminal in the state of Kansas.

- ERISA class definition:

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) during the class period to provide package pick-up and delivery services pursuant to the Operating Agreement; and 3) were eligible for ERISA plan benefits, absent their mischaracterization as independent contractors.

3:06-CV-428 (*Floyd* - Alabama)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since May 11, 2000, to provide package pickup and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of Alabama.

3:07-CV-272 (*Gibson* - Arizona)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES) and/or provided or will provide package pick-up and delivery services pursuant to an executed Operating Agreement; 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since May 11, 2004, to provide package

pick-up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of Arizona.

3:07-CV-411 (*White* - Georgia)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and Form OP 149 RES) and/or provided or will provide package pick -up and delivery services pursuant to an executed Operating Agreement; 2) drove or will drive a vehicle on a full -time basis (meaning exclusive of time off for commonly excused employment absences) since July 26, 200 1, to provide package pick -up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of Georgia.

3:05-CV-390 (*Riewe* - Indiana)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since June 28, 1999, to provide package pick-up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the State of Indiana.

3:08-CV-193 (*Boudreaux* - Louisiana)

- Class definition:

All persons who, at any time after February 8, 2002, entered into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES) and drove a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) to provide package pick-up and delivery services in Louisiana pursuant to that Operating Agreement.

- Non-damages class definition:

All persons who have since February 8, 2002, entered, or will enter, into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as Form OP-149 and form OP-149 RES) and currently drive, or will drive, a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) to provide package pick-up and delivery services pursuant to that Operating Agreement.

- Sub-class definition:

All persons who, at any time after February 8, 2002, entered into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES), drove a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) to provide package pick-up and delivery services in Louisiana pursuant to that Operating Agreement, and have been discharged or resigned from FXG.

3:06-CV-485 (*Westcott* - Maryland)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since May 5, 2003, to provide package pick-up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of Maryland.

3:05-CV-533 (*Lee* - Minnesota)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since April 5, 1999, to provide package pickup and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of Minnesota.

3:07-CV-326 (*Whiteside* - North Carolina)

All persons who: 1) entered or will enter into a FXG Ground or Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since May 2, 2003, to provide package pick-up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of North Carolina.

3:05-CV-595 (*Tofaute* - New Jersey)

- Class definition:

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused

employment absences) since May 19, 1999, to provide package pickup and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of New Jersey.

- Sub-class definition:

All persons who: 1) entered into an FedEx Ground or FedEx Home Delivery Form Operating Agreement (now known as OP-149 and Form OP-149-RES) for the first time during the period from May 19, 1999 through October 15, 2007; 2) drove a vehicle on a fulltime basis (meaning exclusive of time off for commonly excused employment absences) from May 19, 1999 through October 15, 2007 to provide package pick-up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of New Jersey.

3:05-CV-538 (*Louza* - New York)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since October 27, 1998, to provide package pick-up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of New York.

3:05-CV-597 (*Willis* - Pennsylvania)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since July 25, 2001, to provide package pickup and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the commonwealth of Pennsylvania.

3:05-CV-599 (*Tierney* - Rhode Island)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since May 19, 1999, to provide package pickup and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of Rhode Island.

3:05-CV-668 (*Cooke* - South Carolina)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since September 6, 2002, to provide package pick-up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of South Carolina.

3:05-CV-600 (*Smith* - Tennessee)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since June 22, 1999 to provide package pickup and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of Tennessee.

3:05-CV-601 (*Larson* - Wisconsin)

All persons who: 1) entered or will enter into an FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since August 18, 1999, to provide package pick-up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of Wisconsin.

3:06-CV-826 (*Asbury* - West Virginia)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since September 25, 2001 to provide package pick-up and delivery services pursuant to the Operating Agreement; and 3) were dispatched out of a terminal in the state of West Virginia.

3:08-CV-53 (*Fishler* - Utah)

All persons who: 1) entered or will enter into a FXG Ground or FXG Home Delivery form Operating Agreement (now known as form OP-149 and form OP-149 RES); 2) drove or will drive a vehicle on a full-time basis (meaning exclusive of time off for commonly excused employment absences) since November 16, 2003, to provide package

pick-up and delivery services pursuant to the Operating Agreement;
and 3) were dispatched out of a terminal in the state of Utah.