

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
FIRST REGION**

In the Matter of

FEDEX HOME DELIVERY, A SEPARATE  
OPERATING DIVISION OF FEDEX  
GROUND PACKAGE SYSTEM, INC.

and

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, LOCAL UNION 25

CASES 1-CA-44037  
1-CA-44038

**ORDER CONSOLIDATING CASES, CONSOLIDATED  
COMPLAINT AND NOTICE OF HEARING**

International Brotherhood of Teamsters, Local Union 25, herein called the Union, has charged in Cases 1-CA-44037 and 1-CA-44038, that FedEx Home Delivery, a Separate Operating Division of FedEx Ground Package System, Inc., and herein called Respondent, has been engaging in unfair labor practices as set forth in the National Labor Relations Act, 29 U.S.C. Sec. 151, herein called the Act. Based thereon, and in order to avoid unnecessary or delay, the General Counsel, by the undersigned, pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, herein called the Board, ORDERS these cases to be consolidated.

These cases having been consolidated, the General Counsel, by the undersigned, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, issues this Order Consolidating Cases, Consolidated Complaint and Notice of Hearing and alleges as follows:

1. (a) The charge in Case 1-CA-44037 was filed by the Union on July 12, 2007, and a copy was served by regular mail on Respondent on July 12, 2007.

(b) The charge in Case 1-CA-44038 was filed by the Union on July 12, 2007, and a copy was served by regular mail on Respondent on July 12, 2007.

2. At all material times, Respondent, a Delaware corporation with offices and places of business at 375 Ballardvale Street and 8 Jewel Drive in Wilmington, Massachusetts, herein collectively called Respondent's Wilmington facilities, and individually referred to as the Ballardvale Street facility and Jewel Drive facility, respectively, has been engaged in the business of interstate package pick-up and delivery services.

3. Annually, Respondent, in conducting its business operations described above in paragraph 2, purchases goods valued in excess of \$50,000 directly from points located outside the Commonwealth of Massachusetts.

4. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

6. (a) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Donald Clark  
Robert Cole

Terminal Manager  
Terminal Manager

7. The following employees of Respondent, herein called the Ballardville Street Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All full-time and regular part-time contractors and swing contractors employed by Respondent at its 375 Ballardvale Street facility in Wilmington, Massachusetts, but excluding temporary drivers, helpers employed by contractors, package handlers, guards, and supervisors as defined in the Act.

8. The following employees of Respondent, herein called the Jewel Drive Unit, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All full-time and regular part-time contractors and swing contractors employed by Respondent at its 8 Jewel Drive facility in Wilmington, Massachusetts, but excluding temporary drivers, helpers employed by contractors, package handlers, guards, and supervisors as defined in the Act.

9. On October 20, 2006, a representation election was conducted among the employees in the Ballardvale Street Unit in Case 1-RC-22034, and on June 18, 2007, the Union was certified by the Board as the exclusive collective-bargaining representative of the Ballardvale Street Unit.

10. On October 20, 2006, a representation election was conducted among the employees in the Jewel Drive Unit in Case 1-RC-22035, and on June 18, 2007, the Union was certified by the Board as the exclusive collective-bargaining representative of the Jewel Drive Unit.

11. At all times since June 18, 2007, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Ballardvale Street Unit.

12. At all times since June 18, 2007, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Jewel Drive Unit.

13. By letter dated June 22, 2007, the Union, by Sean M. O'Brien, President/Principal Officer, to Donald Clark and Robert Cole of Respondent, requested that Respondent bargain

collectively with the Union as the exclusive collective-bargaining representative of the Ballardvale Street Unit.

14. By letter dated June 22, 2007, the Union, by Sean M. O'Brien, President/Principal Officer, to Donald Clark and Robert Cole of Respondent, requested that Respondent bargain collectively with the Union as the exclusive collective-bargaining representative of the Jewel Drive Unit.

15. By letter dated June 28, 2007, Respondent informed the Union that its requests, as described above in paragraphs 13 and 14, were "premature," and that "the Company intends to continue to challenge the elections and the resultant certifications through the only means available, by refusing to bargain." A copy of the June 28, 2007 letter is attached as Attachment "A."

16. Since on or about June 28, 2007, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Ballardvale Street Unit.

17. Since on or about June 28, 2007, Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the Jewel Drive Unit.

18. By the conduct described above in paragraphs 15, 16 and 17, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in the Units described above in paragraphs 7 and 8 in violation of Section 8(a)(1) and (5) of the Act.

19. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Consolidated Complaint. The answer must be received by this office on or before August 9, 2007, or postmarked on or before August 8, 2007. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at <http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu. Click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. A failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. When an answer is filed electronically, an original and four paper copies must be sent to this office so that it is received no later than three business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Consolidated Complaint are true.

### **NOTICE OF HEARING**

**PLEASE TAKE NOTICE THAT**, if necessary, on a date and place to be determined, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and

any other party to this proceeding have the right to appear and present testimony regarding the allegations in the Consolidated Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Boston, Massachusetts this 26<sup>th</sup> day of August 2007.

/s/ Rosemary Pye

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Rosemary Pye, Regional Director  
National Labor Relations Board  
First Region  
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June 28, 2007

**SENT VIA TELECOPIER, REGULAR MAIL & FEDERAL EXPRESS**

Sean M. O'Brien  
President/Principal Officer  
Teamsters Local Union No. 25  
544 Main Street  
Boston, MA 02129-1113

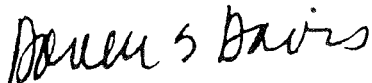
Re: FedEx Ground – Wilmington, MA Home Delivery

Dear Mr. O'Brien:

Your letters to Donald Clark and Robert Cole have been turned over to me for response. Please be advised that we represent FedEx Ground Package System, Inc. for labor matters. Please direct any future correspondence to my attention. This responds to your June 22, 2007 letter requesting that negotiations begin and your June 25 request for information.

At this juncture, your requests are premature. The Company intends to continue to challenge the elections and the resultant certifications through the only means available, by refusing to bargain. In the meantime, FedEx Home Delivery intends to maintain the status quo and conduct business as usual, to defend the independent contractor model, and to continue to work as business partners with contractors.

Sincerely,



Doreen S. Davis  
DSD/jas

Attachment "A"

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

NOTICE

Case: 1-CA-44037, 44038

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hours, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b);
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of the parties must be ascertained in advance by the requesting party and set forth in the request; ***and***
- (5) Copies must be simultaneously served on all parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Ms. Doreen Davis, Esq.  
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FedEx Ground Package System, Inc.  
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Wilmington, MA 01887  
Certified No. 7000 1670 0011 3232 7873

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