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Shareholders latest to sue FedEx over drivers

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By Ann Belser, Pittsburgh Post-Gazette

FedEx's use of independent contractors has come under fire again, this time by shareholders.

The company already is fighting a multidistrict litigation class action lawsuit from its ground unit drivers. It also has been assessed \$319 million in penalties by the IRS for not paying payroll taxes on those drivers whom the government said were misclassified. And it lost a case on its classification of drivers in California, which has forced it to change its route system.

The latest lawsuit was filed yesterday in Memphis, Tenn., on behalf of the Plumbers and Pipefitters Local 51 Pension Fund, which holds shares of FedEx as part of the fund.

The issue in all of these cases is the company's use of independent drivers who have to provide their own trucks, wear the company uniform and drive the company assigned routes. Some drivers are fighting that classification, saying they are employees of the company and as such should be given medical benefits, overtime, sick leave, vacation time and workers' compensation if they are hurt on the job.

A spokesman for FedEx, Maury Lane, was quick to dismiss the case.

"This lawsuit is clearly without merit and frivolous. FedEx has a long record of providing outstanding shareholder value and is led by a board of successful and experienced directors who are committed to the highest quality of corporate governance," Mr. Lane said.

Dan Newman, a spokesman from one of the law firms representing the shareholders, said the case was anything but frivolous.

"There's nothing frivolous about illegally exploiting workers and cheating on taxes -- it's gross mismanagement and a grave breach of fiduciary duty," he said.

The lawsuit filed yesterday claims that since 2002 the members of the company's board of directors have been enriching themselves while knowingly violating the laws of at least six states by classifying drivers as independent contractors and possibly violating federal tax laws.

Charts in the lawsuit show that directors salaries grew from 2002 when outside directors were paid a minimum of \$48,000 to the fiscal year that ended May 31, 2007, when the minimum compensation for a director was \$160,00 for Steven Loranger and at least \$222,000 for every other director.

The company defends the use of independent contractors, saying that drivers can buy multiple routes and hire people to work those routes for them so the people who own the routes are actually owners of small businesses who contract with FedEx.

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