

# Kansas Supreme Court rules that FedEx misclassified drivers

Another appellate court has ruled that FedEx misclassified hundreds of delivery drivers as independent contractors. The ruling, issued this month, the Kansas Supreme Court, is the second major decision to come down against FedEx in recent months.

Last month, the Ninth Circuit Court of Appeals held that 2,300 drivers in California and 363 in Oregon are employees rather than independent contractors. The delivery giant has faced multiple class actions throughout the U.S. as current and former drivers challenge the company's classification as independent contractors.

An independent contractor is generally considered a person who works under contract to provide a service for a business or individual. The employer is not supposed to control the worker beyond the terms of the contract. Employers have more control over employees. (See our article on worker misclassification for more information.)

The distinction is huge when it comes to worker benefits. Employers must give employees workers' compensation, leave to care for sick family members, overtime, contributions to Social Security and other significant financial benefits. Independent contractors do not receive these benefits, a cost savings for the employer and a significant loss for the worker.

That's why the Kansas Supreme Court ruling is so important. The drivers had said that although they were considered independent contractors, FedEx forced them to buy their own uniforms and equipment and controlled details of their

appearance and behavior "" including guidelines for body odor. FedEx countered by saying that drivers set their own delivery routes.

The Supreme Court found that Fed Ex had structured the operators' agreements with the drivers as independent contractors so that it could gain a competitive advantage. It had created an employment relationship with the drivers, "but dressed that relationship in independent contractor clothing," according to the opinion.

Although the decision affects only drivers in Kansas, it could have a widespread effect on other pending misclassification cases.

**Source:** Courthouse News Service, "[Big Win for Kansas FedEx Drivers on Designation](#)," Ted Wheeler, Oct. 7, 2014