

Worker Says FedEx Contractor Shorted OT Through Fixed Pay

By **Grace Elletson**

Law360 (March 17, 2022, 3:48 PM EDT) -- A FedEx contractor withheld overtime premium pay from drivers by only paying them a fixed amount of hours each day even though they clocked well over 40 hours a week, an ex-employee alleged in a proposed collective action filed in Florida federal court.

Ashley Bodin says in the suit filed Wednesday that her former employer TCR Logistics Corp. and its president Jean Diedericks violated the Fair Labor Standards Act by only paying employees for eight hours of work each day, even though they often clocked far more hours. Bodin also says that management ignored her when she brought up concerns about the pay practice.

"Defendant JD refused to rectify any of overtime wage violations, even after he became expressly aware of them," Bodin says.

Bodin says she worked for TCR as a nonexempt, hourly delivery driver from April 2020 to February 2022. TCR is a logistics company that provides delivery services for FedEx to residential and commercial customers, according to the suit.

While working as a driver, Bodin says she was given a raise because of her "excellent" job performance. But she says she was not properly paid for all the overtime hours she worked.

Bodin says she would regularly work six days a week for the company. In a regular week, she clocked about 64 hours. Despite this, she says, she was only paid for eight hours worked each day.

She says the company knew it was not properly paying its workers overtime premium pay. In one instance, she says, she told Diedericks that she was owed overtime pay, but he responded, "I am not going to discuss the legality of my pay policies with you."

Bodin also alleges that the company did not keep accurate pay records and that the company's payroll records do not accurately reflect the hours that she worked.

TCR drivers like Bodin are not overtime exempt, she says. She did not have a supervisory role over any other drivers, she did not make any managerial decisions of importance and she was not required to possess any advanced training for her job — conditions that might otherwise qualify a worker as exempt from overtime pay, according to the suit.

"Defendants were aware of the requirements of the FLSA, and the pertinent regulations thereto, yet acted willfully in failing to pay plaintiff and the class members in accordance with the law," Bodin says.

She wants to represent a collective of all nonexempt delivery drivers who worked for TCR in Florida over the past three years. She is seeking damages, attorney fees and litigation costs.

Diedericks' wife declined to comment on behalf of her husband when reached by Law360 on Thursday.

Counsel for Bodin did not immediately respond to a request for comment, nor did a representative from FedEx.

Bodin is represented by Jordan Richards and Blake Blumstein of USA Employment Lawyers-Jordan Richards PLLC.

Counsel information for TCR Logistics was not yet available.

The case is Bodin v. TCR Logistics Corp. et al., case number 3:22-cv-03951, in the U.S. District Court for the Northern District of Florida.

--Editing by Leah Bennett.

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