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October 30, 2007

Hon. Ronald M. George, Chief Justice and
Associate Justices
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

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Re: Estrada v. FEDEX Ground Package System, Inc. Case
No. S156595

Petition for Review

Dear Chief Justice George and Associate Justices:

This letter urging a denial of the Petition for Review of the Court of Appeal's decision is submitted on behalf of The Impact Fund, the National Employment Law Project (NELP) and the Legal Aid Society-Employment Law Center. We are nonprofit advocacy organizations that represent workers, many of whom work in industries where misclassification of employees as independent contractors is increasingly becoming a serious problem.

Although the Petition and its supporting *amicis* suggest dire consequences if review is denied, in fact this case presents no novel question of law. The appeal is from a factually complex case where class certification and liability turned on documentary and testimonial evidence. Review of such cases is limited to whether the trial court abused its considerable discretion. *Sav-On Drug Stores, Inc. v.*

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Superior Court (2004) 34 Cal.4th 319, 326.

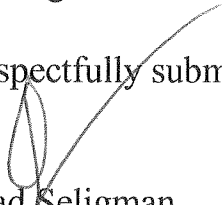
Although Petitioner asserts that the decision below was based on “anecdotal evidence from a handful of class members”, the record belies this claim. Both the trial court and the Court of Appeal relied upon a broad range of documentary and testimonial evidence, including testimony from FEDEX managers.

But even if Petitioner were correct that the trial court relied upon a “handful” of witnesses, review by this Court would not be justified. The abuse of discretion standard does not turn on a score card to see who had the most witnesses. Indeed, *Sav-On* confirmed that the testimony of a *single witness* is sufficient to support certification of a class. *Id* at 334.

The case below turned on a narrow legal issue that was common to the class: whether the class members were properly treated as independent contractors or employees. FEDEX does not claim that the trial court or court of appeal applied the wrong legal standard to answer this question. Nor did the lower courts articulate any new evidentiary standard for determining whether common questions predominate. Under these circumstances, review is completely unwarranted.

We urge this Court to deny the Petition.

Respectfully submitted,


Brad Seligman
The Impact Fund
Attorney for Amici Curiae

PROOF OF SERVICE

I, Elizabeth A. Aakhus declare that:

I am employed at The Impact Fund, 125 University Avenue, Suite 102, Berkeley, California, 94710. I am over the age of 18 years and not a party to this action. On Tuesday, October 30, 2007, I served a true and correct copy of the following document(s):

LETTER RE PETITION FOR REVIEW

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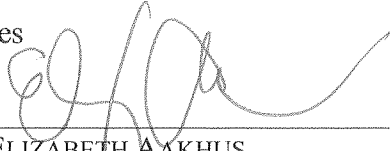
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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 30, 2007 in Berkeley, California.

Via Overnight Mail to the Supreme Court

[X] Via First Class Mail to all Interested Parties



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Paralegal for The Impact Fund