

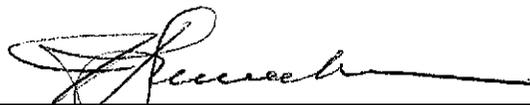
Notice of Appeal of FedEx Ground Package System, Inc.

Appellant FedEx Ground Package System, Inc. hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Franklin County Court of Appeals, Tenth Appellate District, entered in State of Ohio, *ex rel.* FedEx Ground Package System, Inc. v. Industrial Commission, *et al.*, Court of Appeals Case No. 07AP-959 on April 9, 2009.

This case originated in the court of appeals and is, therefore, an appeal of right pursuant to S.Ct. Prac. R. II §1(A)(1).

Respectfully submitted,

EASTMAN & SMITH LTD.



John T. Landwehr (0021711)

Nicole A. Flynn (0074196)

One SeaGate, 24th Floor

P.O. Box 10032

Toledo, Ohio 43699-0032

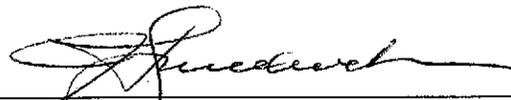
Telephone: (419) 241-6000

Fax: (419) 247-1777

Attorneys for Appellant
FedEx Ground Package System, Inc.

PROOF OF SERVICE

A copy of the foregoing *Notice of Appeal* has been sent by ordinary U.S. Mail this 18th day of May, 2009 to Theodore Bowman, Esq., 3516 Granite Circle, Toledo, Ohio, 43617, attorney for Appellee Christopher Roper and to Gerald Waterman, Assistant Attorney General, Workers' Compensation Section, 150 E. Gay Street, 22nd Floor, Columbus, Ohio 43215, attorney for Appellee Industrial Commission of Ohio.



Attorney for Appellant
FedEx Ground Package System, Inc.

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

FILED
COURT OF APPEALS
10th DISTRICT
2009 APR -9 PM 3:54
CLERK OF COURTS

State of Ohio ex rel.
FedEx Ground Package System, Inc.,

Relator,

v.

Industrial Commission of Ohio
and Christopher J. Roper,

Respondents.

No. 07AP-959

(REGULAR CALENDAR)

JUDGMENT ENTRY

For the reasons stated in the opinion of this court rendered herein on April 2, 2009, relator's first objection is overruled, relator's second objection is sustained in part, and the commission's objection is sustained. We adopt the magistrate's findings of fact but reject the conclusions of law. It is the judgment and order of this court that the requested writ of mandamus is denied. Costs shall be assessed against relator.

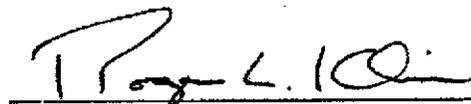
Within three (3) days from the filing hereof, the clerk of this court is hereby ordered to serve upon all parties not in default for failure to appear notice of this judgment and its date of entry upon the journal.



Judge Patrick M. McGrath



Judge Lisa L. Sadler



Judge Roger L. Kline, of the Fourth Appellate District, sitting by assignment in the Tenth Appellate District.

IN THE COURT OF APPEALS OF OHIO

FILED
COURT OF APPEALS
FRANKLIN CO. OHIO

TENTH APPELLATE DISTRICT

2009 APR -2 PM 1:26

CLERK OF COURTS

State of Ohio ex rel.
FedEx Ground Package System, Inc.,

Relator,

v.

No. 07AP-959

Industrial Commission of Ohio
and Christopher J. Roper,

(REGULAR CALENDAR)

Respondents.

O P I N I O N

Rendered on April 2, 2009

*Eastman & Smith Ltd., John T. Landwehr, Nicole A. Flynn
and Mark A. Shaw, for relator.*

*Richard Cordray, Attorney General, and Gerald H.
Waterman, for respondent Industrial Commission of Ohio.*

*Gallon, Takacs, Boissoneault & Schaffer Co., L.P.A., and
Theodore A. Bowman, for respondent Christopher J. Roper.*

IN MANDAMUS
ON OBJECTIONS TO THE MAGISTRATE'S DECISION

McGRATH, J.

{¶1} Relator, FedEx Ground Package System, Inc. ("FedEx Ground"), commenced this original action requesting that this court issue a writ of mandamus ordering respondent Industrial Commission of Ohio ("commission") to vacate its order setting the average weekly wage ("AWW") and the full weekly wage ("FWW") of