

CASE NO. _____

JEFFERSON DISTRICT COURT
CIVIL DIVISION
JUDGE _____

JANE ZUPETZ
On behalf of herself and a Class
of similarly situated persons

PLAINTIFF

v.

FEDEX OFFICE AND PRINT SERVICES, INC.

DEFENDANT

*** **

CLASS ACTION COMPLAINT AND JURY DEMAND

Plaintiff, Jane Zupetz (“Jane”), alleges as follows against Defendant, FedEx Office and Print Services, Inc. (“FedEx”).

PARTIES and JURISDICTION

1. FedEx is a Texas corporation that does substantial business in the Commonwealth of Kentucky and Jefferson County.
2. The conduct on which this lawsuit is based occurred in Jefferson County Kentucky and in other counties in Kentucky where Defendant sells overnight delivery services.
3. Defendants are subject to the personal jurisdiction of this Court.
4. The amount in controversy exceeds the minimal jurisdictional amounts of this Court, and jurisdiction in this Court is otherwise proper.
5. Jane is a resident of Jefferson County Kentucky, and venue in this Court is proper.

FACTS AND CLAIMS

1. On February 24, 2021, Jane visited the FedEx store at 4402 Shelbyville Road in Louisville.

2. FedEx represented and promised that it would deliver a letter for Jane “standard overnight” to be delivered the next day, February 25, 2021.

3. Based on FedEx’s promise and representation, Jane agreed to purchase the overnight delivery service and paid FedEx \$39.60 to deliver the letter.

4. Without such promise and representation, Jane would have simply bought a stamp for \$.60 and put the letter in the U.S. mail.

5. The letter was not delivered the next day as promised. In fact, it was delivered 4 days later.

6. Within days, Jane called FedEx to demand a refund, but FedEx refused to give her a refund.

7. FedEx breached its agreement with Jane to deliver her letter overnight (i.e. the next day).

8. Jane has been damaged by that breach in the amount of \$39.00 (the purchase price less a \$.60 stamp).

9. Jane also brings this action as a class action on behalf of all individuals who purchased overnight delivery services from FedEx in Kentucky, where the package or letter was not timely delivered, and where no refund was provided by FedEx.

10. This action has been brought and may properly be maintained as a class action pursuant to Kentucky Rule of Civil Procedure 23 on behalf of Jane and all others similarly situated with the Class, as defined above.

11. Members of the Class are so numerous that their individual joinder is impracticable.

12. The claims of the representative are typical of the claims of the Class.

13. The core questions of law and fact in this case are common to Jane and Class members and include whether FedEx breached its agreements failing to timely make overnight deliveries and whether any defense common to the Class would bar Jane and the Class's claims.

14. Jane will fairly and adequately protect the interests of the Class. Jane has retained counsel with substantial experience in contract and class action claims. Jane and his counsel are committed to vigorously prosecuting this action on behalf of the Class they represent and have the financial resources to do so.

15. Neither Jane nor his counsel have any interest adverse to those of the Class.

16. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, the vast majority of the Class members would likely find the cost of litigating their claims prohibitive and would have no effective remedy at law. Class treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the courts and litigants and promote consistency and efficiency of adjudication.

WHEREFORE, Jane Zupetz respectfully requests that this Court:

- a. Certify the Class, appoint Jane Zupetz as the Class Representative, and appoint the undersigned counsel of record, Joshua T. Rose, as Class Counsel;
- b. Grant trial by jury;
- c. Award compensatory damages to Jane and the Class;
- d. Award pre-judgment and post-judgment interest;
- e. Award costs and attorney's fees; and
- f. Grant any and all other relief the Court or jury deem appropriate.

Respectfully submitted:

/s/ Joshua T. Rose
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