

High court backs ruling against UPS in pilot suit

Company has settled hundreds of similar cases

By JOE WARD
The Courier-Journal

United Parcel Service must pay \$1.7 million for defrauding former contract pilot John Rickert, under a judgment upheld last week by the Kentucky Supreme Court. And that may be a small fraction of what the dispute involving Rickert and others has cost the giant package carrier.

Since the initial verdict was delivered in Jefferson Circuit Court in February 1995, UPS has settled similar cases with nearly 320 other pilots. Like Rickert, they said UPS reneged on promises to hire them after it got its airline off the ground in 1988.

Terms of the settlements are not being disclosed, so it is unlikely the public will ever know UPS's total cost.

"I can't comment. There is a confidentiality agreement," said Rob Shelton, one of several Louisville attorneys who represented both Rickert and the pilots in the settled cases.

UPS spokesman Mark Dickens also said the settlements were confidential.

The pilots flew for carriers that contracted to haul UPS air packages before UPS started its own airline in 1988. Other airlines were expanding at that time, and many pilots were leaving cargo carriers for better jobs.

The pilots said UPS promised them they all would get jobs at UPS if they would hang around through the transition period. But the company subsequently hired only about half of them.

Dickens said UPS maintains it acted properly and treated the pilots fairly and evenly. But he said the company decided that contesting the suits might cost more than settling.

"Any time you go to a jury trial, you never know what peo-

ple are thinking or how they will react," he said. "Sometimes it is in your best interests to reach a timely and expeditious settlement rather than engage in a long legal battle."

Rickert, who lives in New Hampshire, has been a co-pilot since 1988 with American Airlines — a company he said he joined after waiting months in vain to be hired by UPS.

Because American Airlines already had a lot of senior pilots when Rickert took a job there, he had to get in a long line for a captain's job — a rank he held with the cargo carrier he had worked for.

If he had joined American earlier, he said, he could have moved up to captain sooner. But he stayed with his old airline months longer than he would have if he hadn't expected a job with UPS.

"Friends of mine were hired," he said in an interview, "and I'd go by the employment office, and they'd say, 'We'll get to you. Don't worry about it.' Ultimately, they said, 'We're sorry. We can't use you.'"

The jury awarded Rickert \$425,160 in lost wages up to the trial — the difference between what he was paid by American Airlines and what he would have made at UPS. It gave him another \$321,356 for future lost wages and \$1 million in punitive damages.

Shelton said the money actually will come to \$2.9 million with interest compounded since 1995 and a penalty on the principal.

"My share, after the lawyers and Uncle Sam, will go into investments for retirement, and for college costs," Rickert said. He has two children, ages 10 and 7.

Pete Karem, a former Jefferson Circuit and Kentucky Court of Appeals judge who now specializes in mediation, said it would be impossible to even estimate the size of the other pilots' settlements from knowing Rickert's award.

Shelton said UPS can ask the

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Kentucky Supreme Court to reconsider its 5-2 decision. Dickens said attorneys are studying the case, but UPS hasn't decided whether to take it further.

Rickert said he still doesn't know why he wasn't hired.

He said he believes one of the important accomplishments of his long litigation was that "it kind of forced (UPS) to settle with the other guys rather than making them go to trial."

However, Rickert said he has mostly lost contact with the other pilots. He said the ones he has seen have

declined to tell him what their settlements were because "they've all been sworn to secrecy."

Shelton said two pilots' suits against UPS are still pending.

He said Rickert's case is important to all Kentucky employees because it gives them some protection against Kentucky's "employment at will" doctrine, under which workers not represented by unions can be fired at will as long as discrimination can't be proved.

In a context of fraud, Shelton said, the ruling says a jury can decide whether a worker has been treated fairly.

UPS's total cost may never be known

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