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Estrada v. FedEx Ground Package System, Inc.
154 Cal.App.4th 1, 64 Cal.Rptr.3d 327
Cal.App. 2 Dist., 2007.
August 13, 2007 (Approx. 23 pages)

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- [2007 WL 540166](#) (Appellate Brief) Cross-Appellants' Reply Brief (Jan. 16, 2007)
- [2006 WL 3915532](#) (Appellate Brief) Combined Reply Brief and Cross-Appeal Brief of Appellar FedEx Ground Package System, Inc. (Nov. 30, 2006)
- [2006 WL 2302803](#) (Appellate Brief) Appellant FedEx Ground's Motion to Consolidate and for Schedule, or, in the Alternative, for an Extension of Time for Its Opening Brief in Appeal No. [B189031](#) (Docket) (Jan. 10, 2006)

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Court of Appeal, Second District, Division 1, California.
Anthony ESTRADA et al., Plaintiffs and Appellants,
v.
FEDEX GROUND PACKAGE SYSTEM, INC., Defendant and Appellant.
No. B189031.
Aug. 13, 2007.
Review Denied Nov. 28, 2007.

Background: Three drivers brought class action against package delivery company, contending that, for limited purpose of their entitlement to reimbursement for work-related expenses, they were employees, not independent

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Howlett v. Birkdale Shipping Co., S.A.
1993 WL 657828
United States Supreme Court Respondent's Brief.
Appellate Brief (Approx. 37 pages)

1993 WL 657828 (U.S.)
For opinion see [114 S.Ct. 2057](#), [114 S.Ct. 1215](#), [114 S.Ct. 681](#)

[Briefs and Other Related Documents](#)

United States Supreme Court Respondent's Brief.
Albert HOWLETT, Petitioner,
v.
BIRKDALE SHIPPING CO., S.A., Respondent.
No. 93-670.
October Term, 1993.
March 30, 1993.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF OF RESPONDENT

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***I QUESTIONS PRESENTED**

1. Does a shipowner have a nondelegable duty under Section 5(b) of the Longshore and Harbor Worker's Compensation Act to ensure the safety of discharging longshoremen from defects in the cargo stow created by the cargo operations of an independent loading stevedore?

2. Does a shipowner have a duty to supervise and inspect the cargo operations of an independent stevedore for the safety of the longshoremen who will board the vessel in a subsequent port?

[KeyCite Notes](#)

354 SHIPPING

- **354V** Liabilities of Vessels and Owners in General
- **354i-78** Torts
 - **354i-84** Injuries to Stevedores and Other **Independent Contractors** and Their **Employees**
 - **354i-84(3)** Dangerous or Defective Condition of Vessel, Appliances, or Places for Work
 - **354i-84(3.1)** k. In general.

Does ship owner have nondelegable duty to insure safety of discharging longshoremen from defects in the cargo stow created by the cargo operations of an independent loading stevedore? Longshore and Harbor Workers Compensation Act, § 5(b), as amended, [33 U.S.C.A. § 905\(b\)](#).

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***iv TABLE OF AUTHORITIES**

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- [Alaska Airlines, Inc. v. Brock](#), 480 U.S. 678 (1987) ... 19
- [Alphin v. Marquesa Maritime](#), 747 F. Supp. 1223 (E.D. Tex. 1990) ... 46
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- [Atlantic & Gulf Stevedores, Inc. v. Ellerman Lines, Ltd.](#), 369 U.S. 355 (1962) ... 24
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***I COUNTERSTATEMENT OF CASE**

Petitioner Albert Howlett is a longshoreman who allegedly slipped and fell while assisting with the discharge of cocoa beans from the M/V PRESIDENT IBANEZ, a vessel owned by respondent Birkdale Shipping Co., S.A. [FN1] On the day in question, petitioner, an employee of Northern Shipping Company, was working in the vessel's No. 2 hatch, hooking up drafts of cocoa beans for discharge. (J.A. 5-9, 42). Northern Shipping had been hired as a stevedoring expert by respondent. Prior to his accident, petitioner and the other longshoremen working in the hatch hooked up four or five drafts of cocoa beans which were lifted out of the hold without incident. (J.A. 9). While these initial drafts were being discharged, petitioner and the other longshoremen were working on top of the bags of cocoa beans. (J.A. 7-8).

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