



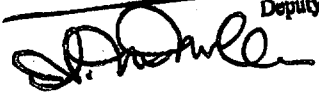
Res 20

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Attorneys for Plaintiffs
LAVON GODFREY and GARY GILBERT

FILED
ALAMEDA COUNTY
OCT 29 2010
CLERK OF THE SUPERIOR COURT
By  Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

LAVON GODFREY and GARY GILBERT, on) Case No. RG08379099
behalf of themselves and all others similarly)
situated,) PLAINTIFFS' NOTICE OF MOTION
) AND MOTION FOR CLASS
) CERTIFICATION
)
Plaintiffs,)
)
v.) Date: December 3, 2010
) Time: 10:00 a.m.
OAKLAND PORT SERVICES CORP. d/b/a) Dept: 20
AB TRUCKING, and DOES 1 through 20,) Judge: Robert B. Freedman
inclusive,) Reservation Number: R-1114331
)
Defendants.)

TO OAKLAND PORT SERVICES CORP., d/b/a AB TRUCKING:

Please take notice that on December 3, 2010, at 10:00 a.m., in Department 20 of the above captioned court, located at 1221 Oak Street, Oakland, California, Plaintiffs Lavon Godfrey and Gary Gilbert, will and hereby do move, on behalf of themselves and others similarly situated, for an order of Class Certification.

The Motion is made on the grounds that a class action is appropriate under C.C.P. § 382 and California Rule of Court 3.764. Specifically, Plaintiffs seek an Order as follows:

1. To certify that this action is maintainable as a class action;

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FAXED
FIRST LEGAL SUPPORT SERVICE

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ROSENFELD
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Alameda, CA 94501-1091
510.337.1001

1 2. To certify the class as the plaintiff class, for purposes of proceeding with this
2 lawsuit as a class action, described as: All drivers¹ who performed work for AB Trucking out of its
3 Oakland, California facility from the period of March 28, 2004 through December 3, 2010. Should
4 the Court determine that subdividing the class would be beneficial, five sub-classes are readily
5 defined as follows:

6 (1) The All Hours Worked Subclass

7 All drivers employed by Defendant during March 28, 2004 through
8 December 3, 2010 who were not paid for all hours worked in any work
9 week.

10 (2) The Misclassified Employee or No Wages Received Subclass

11 All individuals who were misclassified as "non-employee trainees" rather
12 than as drivers and as a result were not paid by Defendant for any hours
13 worked in any work week during March 28, 2004 through December 3,
14 2010.

15 (3) The Overtime Subclass

16 All drivers employed by Defendant during March 28, 2004 through
17 December 3, 2010 who were not paid for hours worked over eight (8) in a
18 day and/or forty (40) in a week at an overtime rate of time-and-one-half the
19 regular rate.

20 (4) The Living Wage Subclass

21 All drivers employed by Defendant during March 28, 2004 through
22 December 3, 2010 who were paid less than the Oakland Living Wage for
23 any hour worked.

24 (5) The Meal and Rest Period Subclass

25 All drivers employed by Defendant during March 28, 2004 through
26 December 3, 2010 who were not provided rest breaks and/or meal periods as
27 required by California law.

28 3. To approve the Class Notice attached as Exhibit A to the [proposed] order and
direct such Notice to be mailed to all Class Members; and


 4. To certify the individual Plaintiffs who are bringing this motion as the
representatives of the plaintiff class and their counsel of record as counsel for the plaintiff class.

¹ "Driver" means an employee who operates a vehicle described in subdivision (b) of Section 15210 of the California Vehicle Code, or an individual operating a "motor vehicle." (California Health and Safety Code §§25115 and 25117).

1 This motion is based on this Notice, the supporting Memorandum of Points and
2 Authorities, Plaintiffs' reply to any opposition memorandum, the Declaration of Lisl R. Duncan,
3 the Declaration of Lavon Godfrey, the Declaration of Gary Gilbert,² all records and pleadings on
4 file with this Court, and such argument, testimony, and documentary evidence as may be adduced
5 at the hearing on this motion.

6 Dated: October 28, 2010

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: 
DAVID A. ROSENFELD
CAREN P. SENCER
LISL R. DUNCAN
Attorneys for Plaintiffs

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² The Declarations of Lavon Godfrey and Gary Gilbert referenced in this motion and its supporting papers were filed with the Court on July 19, 2010.

PROOF OF SERVICE
(CCP 1013)

I am a citizen of the United States and an employee in the County of Alameda, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501-1091. On October 29, 2010, I served upon the following parties in this action:

Jay Ian Aboudi
The Law Office of Jay Ian Aboudi
1855 Olympic Blvd., Ste. 210
Walnut Creek, CA 94596
jay@aboudi-law.com

copies of the document(s) described as:

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR CLASS CERTIFICATION

BY MAIL I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Alameda, California. I am readily familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

BY OVERNIGHT DELIVERY SERVICE I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and placed the same for collection by Overnight Delivery Service by following the ordinary business practices of Weinberg, Roger & Rosenfeld, Alameda, California. I am readily familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing of Overnight Delivery Service correspondence, said practice being that in the ordinary course of business, Overnight Delivery Service correspondence is deposited at the Overnight Delivery Service offices for next day delivery the same day as Overnight Delivery Service correspondence is placed for collection.

BY E-MAIL I caused to be transmitted each document listed herein via the e-mail address(es) listed above or on the attached service list.

I certify under penalty of perjury that the above is true and correct. Executed at Alameda, California, on October 29, 2010.


Jennifer Koffler

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