



FILED
ALAMEDA COUNTY

JAN 29 2010

CLERK OF THE SUPERIOR COURT

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LAVON GODFREY and GARY GILBERT

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

11 LAVON GODFREY and GARY GILBERT, on) Case No. RG 08-379099
12 behalf of themselves and all others similarly)
13 situated,) PLAINTIFF LAVON GODFREY AND
14 Plaintiffs,) GARY GILBERT'S RESPONSE TO
15 v.) DEFENDANT'S STATEMENT OF
16 OAKLAND PORT SERVICES CORP. d/b/a) INTERROGATORIES AND RESPONSES
17 AB TRUCKING, and DOES 1 through 20,) IN DISPUTE
18 inclusive,)
19 Defendants.) Date: February 11, 2010
Time: 2:00 p.m.
Dept: 20
Judge: Robert Freedman

FAXED

INTERROGATORY	DEFENDANT'S RESPONSE	DEFENDANT'S POSITION
20 No. 2.11: At the time of the 21 INCIDENT were you acting as 22 an agent or employee for any 23 PERSON? If so, state: (a) the 24 name, ADDRESS, and 25 telephone number of that 26 PERSON; and (b) a description 27 of your duties.	Plaintiff incorporates his General Objections as though set forth fully herein. Plaintiff objects to this Interrogatory on the ground that it seeks information not relevant to the instant action, nor reasonably likely to lead to the discovery of admissible evidence. Plaintiff objects to this request on the ground that it is unduly overbroad, burdensome, and oppressive, and that the information is discoverable through less burdensome means in that Defendants already possess this	Reason further response should be compelled: Both Plaintiffs' responses were identical, verbatim. Plaintiffs' response to Form Interrogatory No. 2.11 is incomplete. Although Plaintiffs answered that it was acting as an agent or employee of AB Trucking, it has not provided a response to subsection (b) of Form Interrogatory No. 2.11 which requests a description of each individual Plaintiffs duties. Defendant is entitled to each Plaintiffs' description of duties in order to determine, inter alia, whether Plaintiffs

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	<p>information in their own records. Plaintiff objects to this request on the ground that the request seeks information protected by the right of privacy. Plaintiff objects to this request in that it serves no purpose other than vex, harass and annoy Plaintiff, and is propounded for no other purpose than to waste Plaintiffs time in an effort to obfuscate the discovery process. Plaintiff objects on the basis that the question is oppressive and burdensome. Subject to and without waiving the foregoing objections Plaintiff responds as follows: Yes. Plaintiff was acting as an agent or employee of AB Trucking.</p>	<p>can satisfy the requirements of California Code of Civil Procedure §382. In addition, Plaintiffs' responses were untimely and unverified.</p>
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PLAINTIFFS' POSITION

Defendant improperly incorporates its responses to both of the two Plaintiffs into one separate statement in violation of California Rule of Court 3.1020(c). Defendant failed to meet and confer with Plaintiff regarding this interrogatory.

Regardless of Defendant's failure to meet its requirement under CCP § 2023.010(i), Plaintiff's response was adequate and sufficiently complaint. Plaintiff testified extensively at two days of deposition as to her job duties. Moreover, Defendant, as her employer, is fully aware of those job duties, as it was that employer who prescribed them. (See CCP § 2030.220(c).)

Further, Defendant has had Plaintiff's class certification motion for over 40 days. The main arguments Plaintiffs intend to make regarding their ability to satisfy the requirements of California Code of Civil Procedure §382 based on a description of their job duties, have been made. Defendant's motion to compel on this point is frivolous because both parties already possess knowledge of the information sought; in fact Defendant has greater knowledge of Plaintiffs' job duties.

Neither Plaintiff has additional information that they can provide in response to this interrogatory that has not already been brought to Defendant.

As further described in Plaintiffs' opposition, Defendant mischaracterizes Plaintiffs' responses as "untimely" and "unverified."

At this time, Defendant has verifications for all Plaintiffs' responses and no changes were made to Plaintiffs' responses or supplemental responses.

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INTERROGATORY	DEFENDANT'S RESPONSE	DEFENDANT'S POSITION
<p>No. 12.1: State the name, ADDRESS, and telephone number of each individual who witnessed the INCIDENT or the events occurring immediately before or after the INCIDENT; who made any statement at the scene of the INCIDENT; who heard any statements made about the INCIDENT by any individual at the scene; and who YOU OR ANYONE ACTING ON YOUR BEHALF claim has knowledge of the INCIDENT (except for expert witnesses covered by Code of Civil Procedure section 2034).</p>	<p>Plaintiff incorporates his General Objections as though set forth fully herein. Plaintiff objects to this request on the ground that it is unduly overbroad, burdensome, and oppressive. Plaintiff objects to this request in that it serves no purpose other than vex, harass and annoy Plaintiff. Subject to and without waiving the above objections, Plaintiff hereby responds as follows: Interrogatory is indecipherable in the context of this case. Plaintiff objects to this interrogatory on the grounds it is vague and ambiguous in its reference to "the INCIDENT." In responding to this interrogatory, Plaintiff understands INCIDENT to mean the violations of law alleged in the first amended complaint during Plaintiff's employment with A.B. Trucking. Based on this understanding, the individuals with whom Plaintiff worked and supervisory personnel were aware of the violations. Plaintiff believes all AB Trucking management may have information regarding the violations alleged in the complaint. Discovery is continuing and Plaintiff reserves the right to supplement her response at a later date."</p>	<p>Reason further response should be compelled: Both Plaintiffs' responses were identical, verbatim. Plaintiffs' response to Form Interrogatory No. 12.1 is incomplete. Although Plaintiffs provide a broad response identifying "all AB Trucking management," Plaintiffs do not provide the names of individuals as requested by the interrogatory nor do Plaintiffs provide a complete answer. Firstly, we know that each of the Plaintiffs GODFREY and GILBERT is a witness, and so each of the plaintiffs should have identified each other. Secondly the plaintiffs must know of specific other employees who are witnesses to some specific allegation of the Complaint who they can identify. Form Interrogatory 12.1 requires the Plaintiffs to identify actual witnesses of whom they are aware. While Defendant certainly has superior information regarding the entire list of its employees, only Plaintiffs know of specific employees whom they know to be actual witnesses to the claims of the named Plaintiffs. Likewise, if Plaintiffs believe there are representatives of the corporation who are witnesses, they must identify them. Defendant is entitled to learn the identity of those witnesses in order to adequately conduct discovery, to prepare for Plaintiffs' motion for class certification, and to prepare for trial. In addition, Plaintiff's responses were untimely and unverified.</p>

PLAINTIFFS' POSITION

Plaintiffs responses are adequate and sufficiently compliant based on their personal knowledge. Defendant argues without support that the two named Plaintiffs, "should have identified each other." Such a response would violate CCP § 2030.220(c) because Plaintiff GILBERT and Plaintiff GODFREY do not know one another. Plaintiffs are not under an obligation to make an

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1 effort to obtain this information because the information is *more* available to Defendant. (CCP §
2 2030.220(c).) Plaintiffs have complied with their duty and responded to the best of their personal
3 knowledge.

4 The meet and confer process resulted in supplemental responses which bolstered this response.
5 There is no further responsive information available to provide.

6 As further described in Plaintiffs' opposition, Defendant mischaracterizes Plaintiffs' responses as
7 "untimely" and "unverified."

8 At this time, Defendant has verifications for all Plaintiffs' responses and no changes were made to
9 Plaintiffs' responses or supplemental responses.

INTERROGATORY	DEFENDANT'S RESPONSE	DEFENDANT'S POSITION
<p>10 No. 207.2: Did the 11 EMPLOYEE complain to the 12 EMPLOYER about any of the 13 unlawful conduct alleged in the 14 PLEADINGS? If so, for each 15 complaint: state the date of the 16 complaint; state the nature of 17 the complaint; state the name 18 and ADDRESS of each 19 PERSON to whom the 20 complaint was made; state the 21 name, ADDRESS, telephone 22 number, and job title of each 23 PERSON who investigated the 24 complaint; state the name, 25 ADDRESS, telephone number, 26 and job title of each PERSON 27 who participated in making 28 decisions about how to conduct the investigation; state the name, ADDRESS, telephone number, and job title of each PERSON who was interviewed or who provided an oral or written statement as part of the investigation of the complaint; state the nature and date of any action taken in response to the complaint; state whether the EMPLOYEE who made the complaint was made aware of the actions taken by the EMPLOYER in response to the complaint, and, if so, state how and when; identify all DOCUMENTS relating to the complaint, the investigation, and any action taken in response to the complaint; and state the name, ADDRESS, and telephone number of each</p>	<p>Plaintiff responds as follows: Yes. Plaintiff testified to making such complaints to AB Trucking management in her deposition taken on June 24, 2009. Discovery is continuing and Plaintiff reserves the right to supplement her response at a later date."</p>	<p>Reason further response should be compelled: Plaintiff GODFREY'S response to Form Interrogatory No. 207.2, that she "testified to making such complaints...in her deposition" is improper as the response, by itself, is not fully responsive to the interrogatory. Plaintiff GODFREY supplies only a portion of the information sought and Defendant is entitled to a complete answer. In addition, Plaintiff's responses were untimely and unverified. Plaintiff GILBERT was not served with this interrogatory.</p>

1 PERSON who has knowledge
2 of the EMPLOYEE'S
3 complaint or the
4 EMPLOYER'S response to the
5 complaint.

6 PLAINIFFS' POSITION

7 **PLAINTIFF GODFREY ONLY:** All responsive information has been provided both through
8 written discovery and deposition testimony.

9 As further described in Plaintiffs' opposition, Defendant mischaracterizes Plaintiff's responses as
10 "untimely" and "unverified."

11 At this time, Defendant has verifications for all Plaintiff's responses and no changes were made to
12 Plaintiff's responses or supplemental responses.

13 Dated: January 29, 2010

14 WEINBERG, ROGER & ROSENFELD
15 A Professional Corporation

16 By: 

17 DAVID A. ROSENFELD
18 CAREN P. SENCER
19 LISL R. DUNCAN
20 Attorneys for Plaintiffs

21 118212/559267

PROOF OF SERVICE
(CCP 1013)

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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 January 29, 2010, I served upon the following parties in this action:

Michael A. Broad
166 Santa Clara Ave
Oakland, CA 94610

Jay Ian Aboudi
General Counsel
Oakland Port Services Corporation
11 Burma Road
Oakland, CA 94607

copies of the document(s) described as:

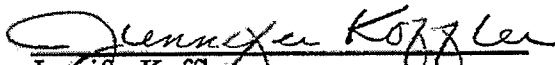
PLAINTIFF LAVON GODFREY AND GARY GILBERT'S RESPONSE TO
DEFENDANT'S STATEMENT OF INTERROGATORIES AND RESPONSES IN
DISPUTE

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 January 29, 2010.


Jennifer Koffler

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