

FILED BY FAX

ALAMEDA COUNTY

February 05, 2010

CLERK OF
THE SUPERIOR COURT
By Denise Dalton, Deputy

CASE NUMBER:

RG08379099

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JAY IAN ABOUDI (SBN: 251984)
5 GENERAL COUNSEL
OAKLAND PORT SERVICES CORPORATION
6 11 Burma Road
Oakland, CA 94607
7 Telephone: (510) 719-5583
Facsimile: (510) 803-4529
8

Attorneys for Defendant
9 OAKLAND PORT SERVICES CORPORATION
d/b/a AB TRUCKING (erroneously sued as AB
10 TRUCKING, INC.)
11

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF ALAMEDA
14

15 LAVON GODFREY and GARY GILBERT, on
behalf of themselves and all others similarly
16 situated,

17 Plaintiffs,

18 v.

19 OAKLAND PORT SERVICES
CORPORATION d/b/a AB TRUCKING, and
20 DOES 1 through 20, inclusive,

21 Defendants.
22
23

CASE NO. RG 08-379099

**SUPPLEMENTAL DECLARATION OF
JAY IAN ABOUDI IN SUPPORT OF
MOTION TO COMPEL FURTHER
ANSWERS TO INTERROGATORIES
AND FOR SANCTIONS**

Hearing Date: February 11, 2010
Hearing Time: 2:00 p.m.
Dept: Dept. 20, Judge Freedman
Action Filed: March 28, 2008
Trial Date: Not yet assigned
Reservation No. R - 1027608

24 **I, JAY IAN ABOUDI, declare:**

25 1. I am an attorney for Defendant OAKLAND PORT SERVICES CORPORATION
26 d/b/a AB TRUCKING in this action. I have personal knowledge of each fact state in this
27 declaration.

28 2. On November 5, 2009, I e-mailed Plaintiffs' counsel regarding their failure to

1 provide verified responses to Defendant's discovery requests. On November 6, 2009, Defendant
2 and Plaintiffs further corresponded via e-mail regarding Plaintiffs' failure to provide verified
3 responses. Defendant proposed that the time limit for Defendant's deadline to file a motion to
4 compel would not run until Plaintiffs provided verified responses. A true and correct copy of
5 these e-mails is attached hereto as EXHIBIT A.

6 3. On November 6, 2009, Plaintiffs proposed to extend the deadline for Defendant's
7 motion to compel to January 5, 2010. Defendant accepted the proposed extension in a letter
8 dated November 10, 2009 as a professional courtesy to Plaintiffs. True and correct copies of
9 these letters are attached hereto as EXHIBITS B and C.

10 4. On December 30, 2009, I spoke to Caren Sencer on the telephone regarding
11 Plaintiffs letter dated December 23, 2009. I requested, via e-mail, to meet and confer with
12 Plaintiffs during the week of January 4 through January 8, 2010 regarding their letter and
13 requested an extension to file Defendant's motion to compel 45 days from January 5, 2010. Via
14 e-mail, Plaintiffs declined to accommodate Defendant's schedule and pressed Defendant to meet
15 and confer on December 31, 2009. A true and correct copy of this letter is attached hereto as
16 EXHIBIT D.

17 5. On December 31, 2009, Plaintiffs sent a letter agreeing to provide supplemental
18 responses to Defendant by January 5, 2010. A true and correct copy of these e-mails is attached
19 hereto as EXHIBIT E.

20
21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct.

23
24 Dated: February 4, 2010

25 
26 JAYIAN ABOUDI, Esq.

From: Jay Aboudi
Sent: Fri 11/6/2009 11:43 AM
To: Lisl Duncan
Subject: RE: GODFREY v. OPS

Lisl,

Thanks and please do follow up on our request for a signed stipulation extending the time to file a motion to compel.

Given that the failure to provide verifications amounts to an untimely response, we will accept an agreement to the effect that the 45-day time limit on making a motion to compel will not run until the verifications have been served.

Thanks,

Jay

From: Lisl Duncan [mailto:lduncan@unioncounsel.net]
Sent: Fri 11/6/2009 9:52 AM
To: Jay Aboudi
Subject: RE: GODFREY v. OPS

Jay,

We are still waiting for the verifications to come back in to us. I'll send them over as soon as we receive them. Let me know if I should send them to you, as opposed to Mike's office.

Thank you.

Lisl R. Duncan

Weinberg, Roger & Rosenfeld
A Professional Corporation
1001 Marina Village Parkway, Suite 200
Alameda, California 94501-1091
phone: (510) 337-1001
fax: (510) 337-1023
email: <lduncan@unioncounsel.net>

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Please consider the environment before printing this email.

From: Jay Aboudi [mailto:jay@abtruck.com]
Sent: Thursday, November 05, 2009 10:40 AM
To: Lisl Duncan
Subject: RE: GODFREY v. OPS

Lisl,

I just wanted to check on the status of all of the verifications for your responses to written discovery. Please let me know at your earliest convenience.

Thanks,

Jay

EXHIBIT B

WEINBERG, ROGER & ROSENFELD
A PROFESSIONAL CORPORATION1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-1091
TELEPHONE 510.337.1001
FAX 510.337.1023STEWART WEINBERG
DAVID A. ROSENFELD
WILLIAM A. SOROL
VINCENT A. HARRINGTON, JR.
W. DANIEL BOONE
BLYTHE MCKELSON
BARRY E. HIRKLE
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SANDRA RAE BENSON
CHRISTIAN L. RAISNER
JAMES J. WESSER
THEODORE FRANKLIN
ANTONIO PILIZ
MATTHEW J. GAUGER
ASHLEY K. WEDA **
LINDA BALDWIN JONES
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ALAN G. CROWLEY
KRISTINA L. HILLMAN ***
EMILY P. RICH
BRUCE A. HARLAND
CONCEPCION E. LOZANO-BATISTA
CAREN P. SCHERERLORI K. AQUINO **
ANNE L. YEN
NICOLE M. PHILLIPS
MARGARY CHURILA
KRISTINA M. ZHANG
JANNAH V. MANANGALA
MANUEL A. BOGUES ***
MERIANNE R. STEELE ***
ANA M. GALLEGO
GARY P. FROCHENCHER
LISE R. DUNCAN
JORDAN D. MAZUR
JACOB J. WHITEPATRICIA M. GATES, Of Counsel
ROBERTA D. PEPKINS, Of Counsel
RICHARD T. DRURY, Of Counsel
SHARON A. SCHOENSTEIN, Of Counsel
NINA FENDEL, Of Counsel* Also admitted in Arizona
** Admitted in Hawaii
*** Also admitted in Nevada
**** Also admitted in Illinois

November 6, 2009

VIA E-MAIL TO: JAY@ABTRUCK.COM

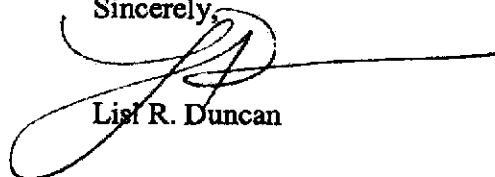
Mr. Jay Aboudi

Re: Lavon Godfrey, et al. v. Oakland Port Services Corporation d/b/a AB Trucking
Alameda County Superior Court No. RG 08-379099

Dear Mr. Aboudi:

This letter is in reference to our telephone conversation of today, November 6, 2009. While we understand your concern regarding the verifications to Plaintiff's discovery responses, I do represent to you that the verifications will not change the responses in any material way; if Defendant believes Plaintiffs' responses are non-responsive and warrant a motion to compel, this will be the case with or without verification. Notwithstanding this fact, Plaintiffs are certainly happy to provide a reasonable extension to the deadline to file a motion to compel. Plaintiffs propose extending the deadline for Defendant's motion to compel 60 days from today's date, or January 5, 2010.

Sincerely,



Lisa R. Duncan

LRD/jk
opeiu 3 afl-cio(1)
cc: Michael Broad
118212/550543

EXHIBIT C

11 Burns Road
Oakland, CA 94607
(510) 835-0830 main
(510) 835-0832 fax
www.abtruck.com



Oakland Port Services Corporation

AB
TRUCKING

GENERAL COUNSEL

JAY IAN ABOUDI
JAY@ABTRUCK.COM

November 10, 2009

Sent Via E-mail Only

Lisl R. Duncan, Esq.
Weinberg, Roger & Rosenfeld
lduncan@unioncounsel.net

Re: *Lavon Godfrey, and Gary Gilbert v. Oakland Port Services Corp. d/b/a AB Trucking*
Alameda County Superior Court Case No. RG 05-379099

Dear Ms. Duncan:

This letter is in reference to your letter dated November 6, 2009 regarding Plaintiff's written discovery responses. Defendant hereby accepts your proposal to extend the deadline for Defendant's motion to compel. Accordingly, Defendant now has until to January 5, 2010 to file a motion to compel. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jay Aboudi'.

Jay Ian Aboudi
General Counsel

cc: Michael Broad

EXHIBIT D

From: Lisl Duncan [mailto:lduncan@unioncounsel.net]
Sent: Thu 12/31/2009 9:10 AM
To: Jay Aboudi
Subject: RE: Godfrey et al. v. AB Trucking

Jay,

11a.m. would work well for me. Please give me a call in the office, or let me know a number where I can reach you at that time.

Thank you.

Lisl R. Duncan

Weinberg, Roger & Rosenfeld
A Professional Corporation
1001 Marina Village Parkway, Suite 200
Alameda, California 94501-1091
phone: (510) 337-1001
fax: (510) 337-1023
email: <lduncan@unioncounsel.net>

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Please consider the environment before printing this email.

From: Jay Aboudi [mailto:jay@abtruck.com]
Sent: Wednesday, December 30, 2009 4:25 PM
To: Lisl Duncan
Cc: Caren Sencer; mikebroad@broad-law.com
Subject: RE: Godfrey et al. v. AB Trucking

Lisl,

I am available to meet and confer tomorrow (12/31) between 9:30am and 2:00pm. Please let me know what time works for you.

Thanks,

Jay

From: Caren Sencer [mailto:csencer@unioncounsel.net]
Sent: Wed 12/30/2009 4:16 PM
To: Jay Aboudi
Cc: Lisl Duncan
Subject: RE: Godfrey et al. v. AB Trucking

Lisl is available to meet and confer tomorrow.

From: Jay Aboudi [mailto:jay@abtruck.com]
Sent: Wednesday, December 30, 2009 4:15 PM
To: Caren Sencer
Cc: Lisl Duncan
Subject: RE: Godfrey et al. v. AB Trucking

Caren,

Given this disagreement, we would like to revert back to our original request that I emailed to Lisl yesterday:

"I am in receipt of your letter dated December 23, 2009 regarding your client's responses to discovery. I would like to meet and confer with you either via telephone or in person next week. Are you available either Thursday or Friday?"

In addition, given the holiday schedule, I propose extending the deadline for Defendant's motion to compel 30 days from January 5, 2010. Please confirm that this new deadline is acceptable to you. Thank you."

I understand that Lisl is out of the office today and cannot confirm her availability to meet and confer. However, please respond to our request to extend the deadline for Defendant's motion to compel 30 days from January 5, 2010, to allow the parties to meet and confer.

Thanks,

Jay

From: Caren Sencer [mailto:csencer@unioncounsel.net]
Sent: Wed 12/30/2009 3:20 PM
To: Jay Aboudi
Cc: mikebroad@broad-law.com; Lisl Duncan
Subject: RE: Godfrey et al. v. AB Trucking

Jay,

No thanks. The compromise to provide an extension of 45 days on Defendant's motion to compel was agreement that the responses were timely served. Your additional statement regarding the verifications was not part of our discussion or agreement. I am happy to discuss this further.

Caren

From: Jay Aboudi [mailto:jay@abtruck.com]
Sent: Wednesday, December 30, 2009 3:15 PM
To: Caren Sencer
Cc: mikebroad@broad-law.com; Lisl Duncan
Subject: Godfrey et al. v. AB Trucking

Caren,

To follow up on our telephone conversation today, we will accept extending the deadline for Defendant's motion to

compel 45 days from January 5, 2010. In return, we will agree that your client's responses were served timely and that your objections were not waived as a result. As for the verifications, on the other hand, our position stands that they were not timely served with the responses.

Please confirm that the deadline for Defendant's motion to compel is extended 45 days from January 5, 2010. Thank you for your professional courtesy in this regard.

Best,

Jay Aboudi

Jay Ian Aboudi
General Counsel
Direct: (510) 719-5583
Fax: (510) 803-4529

Oakland Port Services Corporation
11 Burma Road
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IRS CIRCULAR 230 DISCLOSURE

To ensure compliance with requirements by the IRS, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

EXHIBIT E

WEINBERG, ROGER & ROSENFELD
A PROFESSIONAL CORPORATION1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-1091
TELEPHONE 510.337.1001
FAX 510.337.1023STEWART WEINBERG
DAVID A. ROSENFELD
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KERRANNE R. STEELE ***
ANA M. CALLEDOS
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LISL R. DUNCAN
JORDAN D. MAZUR
JACOB J. WHITE
SHARON A. SEIDENSTEINPATRICIA M. GAYBE, Of Counsel
ROBERTA D. PERKINS, Of Counsel
RICHARD T. DUBLRY, Of Counsel
NINA FENDEL, Of Counsel* Also admitted in Arizona
** Admitted in Hawaii
*** Also admitted in Nevada
**** Also admitted in Illinois

December 31, 2009

VIA E-MAIL ATTACHMENTJay Ian Aboudi
General Counsel
Oakland Port Services Corporation
11 Burma Road
Oakland, CA 94607Re: Lavon Godfrey, et al. v. Oakland Port Services Corporation d/b/a AB Trucking
Alameda County Superior Court No. RG 08-379099

Dear Mr. Aboudi:

This confirms our discussion of today where we agreed that the deadline for Defendant to file its motion to compel would be extended to January 15, 2010, if Plaintiffs' supplemental discovery responses are received by January 5, 2010.

I will send you Plaintiffs' supplemental responses via PDF attachment. Please let me know as soon as possible if this is not acceptable.

Sincerely,

Lisl R. Duncan

LRD/LRD