

**FILED BY FAX**

ALAMEDA COUNTY

March 09, 2010

CLERK OF  
THE SUPERIOR COURT  
By Rosanne Case, Deputy

CASE NUMBER:

**RG08379099**

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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

**DEFENDANT'S DISCOVERY STATUS  
REPORT**

Dept: Dept. 20, Judge Freedman  
Action Filed: March 28, 2008  
Trial Date: Not yet assigned

24 **I. DISCOVERY STATUS REPORT**

25 Pursuant to the Court's February 19, 2010 Order granting the Application of OAKLAND  
26 PORT SERVICES CORPORATION d/b/a AB TRUCKING (the "Defendant") to Continue the  
27 Hearing Date of Motion for Class Certification, Defendant respectfully submits this report on the  
28 status of discovery.

**A. Additional Discovery Issues That Need To Be Addressed Following the Last Case Management Conference On January 15, 2010**

*Motion to Compel*

On February 11, 2010, the Court granted Defendant's Motion to Compel Further Answers to Interrogatories. Plaintiffs served verified further responses from Plaintiff GARY GILBERT on February 16, 2010. Plaintiffs also served further responses from Plaintiff LAVON GODFREY on February 16, 2010 but verifications were not sent until February 26, 2010. In addition, Plaintiff LAVON GODFREY's further response to Form Interrogatory No. 207.2 remains inadequate and thus in violation of the Court's Order.

*Deposition of Plaintiff GARY GILBERT.*

Plaintiffs' counsel failed to produce Plaintiff GARY GILBERT for his deposition scheduled for 9:00 a.m. on February 16, 2010 at Santa Rita Jail even though it was Plaintiffs' counsel that arranged the deposition location. As a result of Plaintiffs' counsel's failure in that regard, Defendant incurred attorneys' fees and travel expenses. The deposition of Plaintiff GARY GILBERT was rescheduled to take place on March 2, 2010 but Plaintiffs' counsel notified Defendant that Plaintiff GARY GILBERT was again incarcerated on March 1, 2010.

On March 5, 2010 Plaintiffs' counsel telephoned Defendant's attorney, Michael Broad, to reschedule Plaintiff GARY GILBERT's deposition. Defendant has agreed to accommodate Plaintiff GARY GILBERT by taking his deposition while he is incarcerated at Santa Rita County Jail in Dublin, California. Plaintiffs' counsel has agreed to produce Plaintiff GARY GILBERT for deposition on March 22, 2010 at Santa Rita Jail.

*Public Records Request*

On March 3, 2010, Defendant received written correspondence from Port Attorney David L. Alexander responding to Defendant's California Public Records Act Request under Government Code Section 6250 *et seq.* Said Request is critical to the class certification stage for two primary reasons: (1) the Request inquires to the disputed status of whether Defendant is a Port Related Business; and (2) the Request is relevant to issues of manageability and appropriateness of class action. The Port Attorney's office estimates that documents under the

1 Request will not be available until after March 12, 2010.


2 **B. Proposed Timeline Corresponding With Additional Discovery Issues**

3 Defendant anticipates that it will seek an order and request appropriate sanctions for  
4 Plaintiff LAVON GODFREY's continued failure to provide further responses to Form  
5 Interrogatory 207.2.

6 Defendant will request that the Class Certification Motion Hearing Date be set for a date  
7 no earlier than 60 days after receipt of the deposition transcript of Plaintiff GARY GILBERT.  
8 The court reporter requires two to three weeks to prepare and send deposition transcripts.  
9 Barring any scheduling issues that may stem from Plaintiff GARY GILBERT's incarceration, a  
10 Class Certification Motion Hearing Date set no earlier than 80 days after March 22, 2010 should  
11 provide the parties adequate time for transcript processing and receipt, opportunity for  
12 corrections by deponent, and necessary review.

13  
14  
15 Dated: March 9, 2010

JAY IAN ABOUDI, ATTORNEY AT LAW

  
JAY I. ABOUDI, GENERAL COUNSEL  
Attorney for Defendant  
OAKLAND PORT SERVICES  
CORPORATION d/b/a AB TRUCKING

1 Godfrey v. Oakland Port Services Corporation dba AB Trucking  
2 Alameda County Superior Court Case No. RG 08-379099

3 **PROOF OF SERVICE**

4 I am a resident of the State of California, over the age of eighteen years, and not  
5 a party to the within action. My business address is: 675 Ygnacio Valley Blvd., Suite B-  
6 108, Walnut Creek, CA 94596. On the date below, I served the within documents:

7 **DEFENDANT'S DISCOVERY STATUS REPORT**

- 8 ☐ by transmitting via facsimile the document(s) listed above to the fax number(s)  
9 set forth below on this date before 10:00 A.M.
- 10 ☒ by placing the document(s) listed above in a sealed envelope with postage  
11 thereon fully prepaid, in United States mail in the State of California at Walnut  
12 Creek, addressed as set forth below.
- 13 ☐ by personally delivering the document(s) listed above to the person(s) at the  
14 address(es) set forth below.

15 Lisl Duncan, Esq.  
16 Weinberg, Roger & Rosenfeld  
17 A Professional Corporation  
18 1001 Marina Village Parkway, Suite 200  
19 Alameda, CA 94501-1091  
20 Tel: (510) 337-1001  
21 Fax: (510) 337-1023

22 I am readily familiar with the firm's practice of collection and processing  
23 correspondence for mailing. Under that practice it would be deposited with the U.S.  
24 Postal Service on that same day with postage thereon fully prepaid in the ordinary  
25 course of business. I am aware that on motion of the party served, service is presumed  
26 invalid if postal cancellation date or postage meter date is more than one day after the  
27 date of deposit for mailing in affidavit.

28 I declare under penalty of perjury under the laws of the State of California that  
the above is true and correct.

Executed on March 9, 2010 at Walnut Creek, California.

24   
25 \_\_\_\_\_  
26 Jay Aboudi, Esq.