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**FILED**  
ALAMEDA COUNTY

MAY 31 2013

CLERK OF THE SUPERIOR COURT  
By *Walter J. Dan*  
OFFICIAL

5 Attorney for Defendant  
OAKLAND PORT SERVICES CORP. d/b/a  
6 AB TRUCKING, a California Corporation,

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

11	LAVON GODFREY and GARY GILBERT,	)	Case No.: RG 08-379099
12	on behalf of themselves and all other similarly	)	<b>REPLY MEMORANDUM IN SUPPORT</b>
13	situated,	)	
13	Plaintiffs,	)	
14	vs.	)	<b>COUNSEL; CCP § 284.</b>
15	OAKLAND PORT SERVICES CORP. d/b/a	)	Action Filed: March 28, 2008
16	AB TRUCKING, and DOES 1-20	)	Hearing Date: June 7, 2013
17	Defendant.	)	Dept.: 20
18		)	Time: 10:00 a.m.
19		)	Trial Date: February 14, 2012
20		)	Before Honorable Judge Robert B. Freedman
21		)	Reservation Number: R-1395638

22 Plaintiffs Opposition to Attorney Guy A. Bryant's ("Defense Counsel") Motion to Be  
23 Relieved as Counsel of record for Defendant OAKLAND PORT SERVICES CORP. d/b/a AB  
24 TRUCKING, a California Corporation, (collectively hereinafter referred to as "AB Trucking" or  
25 "Defendant") in the above-entitled action ("Motion") provides no legal basis to deny the Motion.

1 Based on the foregoing, Defense Counsel relies on its initial moving papers and the arguments  
2 below to support the Motion to be relieved as counsel of record at this time.

3 As a preliminary matter, Defense Counsel has efficiently moved the case along since  
4 substituting into the case. The matter was tried in February 2012 and Defense Counsel brought  
5 important issues to the attention of the Court that streamlined the case significantly and resulted  
6 in the elimination of two substantial claims. Moreover, Defense Counsel acted responsibly when  
7 it challenged the NOID and Proposed Statement of Decision. Defense Counsel is not responsible  
8 for any prejudicial delay in this matter.

9 In addition, Plaintiffs are not prejudiced by any substitution of counsel at this juncture.  
10 The trial has concluded and the Court entered Judgment on this matter on May 21, 2013. AB  
11 Trucking has a right to appeal the Judgment and can request a stay of any enforcement of the  
12 Judgment by posting a bond. This is the kind of activity that is much more likely to delay the  
13 class administrative process than any substitution of counsel.  
14

#### 15 **Reasonable Assurance of Substitution Of Counsel**

16 On May 17, 2013, Mr. Aboudi provided Defense Counsel with a written assurance that  
17 he had confirmed the retention of Ronald C. Chauvel (Chauvel & Glatt, LLP) to take over AB  
18 Trucking's legal representation through appeal if necessary once Mr. Chauvel returned from his  
19 vacation in mid June 2013. Defense counsel will bring the redacted written correspondence  
20 referenced above received from Mr. Aboudi to the June 7, 2013 hearing.

#### 21 **Settlement Possibility**

22 AB Trucking is still actively pursuing efforts to package a settlement that would be  
23 acceptable to Plaintiffs. It is anticipated that the U.S. Supreme Court will not fully resolve the  
24 FAAAA preemption defense with regard to California wage & hour laws this summer. It is also  
25

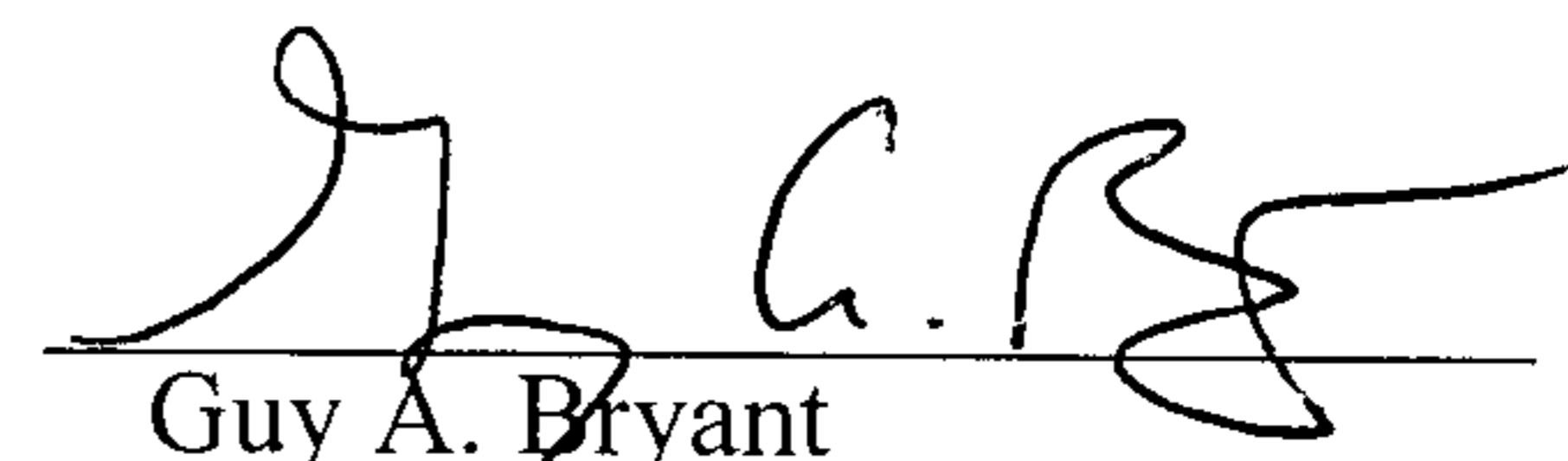
1 anticipated that the Ninth Circuit will not definitively weigh in on the FAAAA preemption  
2 doctrine until the end of the year. Thus, AB Trucking acknowledges that pursuing settlement is a  
3 prudent business decision that may benefit both the class and the company.

4 **Conclusion**

5 Based on the foregoing, Defense Counsel respectfully requests that the Court grant its  
6 motion to be relieved as counsel of record. Additionally, Defense Counsel requests the Court to  
7 follow California Rules of Court, Rule 8.104(3) with regard to the filing of any Notice of  
8 Appeal. Given the unique circumstances presented in this case, the pending substitution of  
9 counsel and possibility of settlement, the Court's own motion in this regard is required.

10  
11 Dated this 31st day of May, 2013.

12  
13 Respectfully Submitted,

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15 Guy A. Bryant  
16 Bryant & Brown  
17 Attorney for Defendant  
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8 Attorney for Defendant  
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10 AB TRUCKING, a California Corporation,

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF ALAMEDA

13 LAVON GODFREY and GARY GILBERT,  
14 on behalf of themselves and all other similarly  
15 situated,

16 Plaintiffs,

17 vs.

18 OAKLAND PORT SERVICES CORP. d/b/a  
19 AB TRUCKING, and DOES 1-20

20 Defendant.

) Case No.: RG 08-379099

) **PROOF OF SERVICE**

) Action Filed: March 28, 2008

) Date: May 3, 2013

) Dept.: 20 for Trial: February 14, 2012

) Before Honorable Judge Robert B. Freedman

) Hearing Date: June 7, 2013

) R-1395638

21  
22 **PROOF OF SERVICE**

23 I am employed in the County of Alameda, State of California. I am over the age of 18  
24 and not a party to the within action. My business address is 476 Third Street, Oakland,  
25 California, 94607.

On May 31, 2013, I served the foregoing documents described as:

1 **REPLY MEMORANDUM IN SUPPORT OF MOTION TO BE RELIEVED AS**  
2 **COUNSEL; CCP § 284.**

3 on the interested parties in this action by placing a true copy thereof enclosed in a  
4 sealed envelope addressed as follows:

5 **SEE MAILING LIST INCLUDED HEREIN**

6

7 (BY MAIL) I am readily familiar with the firm's practice of collection and  
8 processing correspondence for mailing. Under that practice it would be  
9 deposited with U.S. postal service on that same day with postage thereon fully  
10 prepaid at Oakland, California in the ordinary course of business.

11

12 (BY FACSIMILE/E-MAIL) by faxing or e-mailing a true and correct copy thereof to  
13 the person(s) at the fax number or e-mail address set forth below.

14

15 (BY FEDERAL EXPRESS) by using express mail service and causing to be  
16 delivered overnight next day delivery a true copy thereof to the person(s) at the  
17 address set forth above.

18

19 (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand  
20 to the offices of the addressee.

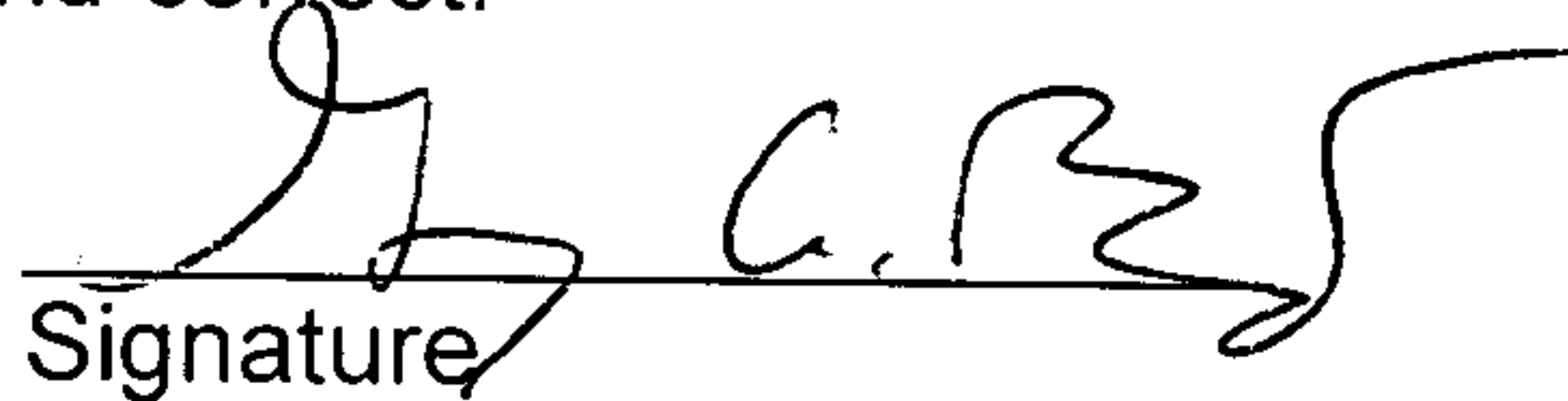
21

22 (FEDERAL) I declare that I am employed in the office of a member of the bar  
23 of this court at whose direction the service was made.

24

25 (STATE) I declare under penalty of perjury under the laws of the State of  
California that the above is true and correct.

GUY A. BRYANT

  
Signature

1 **SERVICE LIST**

2  
3  
4 **VIA PERSONAL SERVICE ON ALL PARTIES LISTED HEREIN:**

5 **Attorney for:** LAVON GODFREY and GARY GILBERT, ET AL.

6 David A. Rosenfeld

Lisl R. Duncan

7 Weinberg, Roger & Rosenfeld

A Professional Corporation

8 1001 Marina Village Parkway, Suite 200

Alameda, California 94501-1091

9  
10 Lisl Duncan [lduncan@unioncounsel.net]

11 **DEFENDANT REPRESENTATIVE**

12 Mr. William Aboudi

AB Trucking/Oakland Port Services Corp.

13 11 Burma Road

Oakland, CA 94607