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**FILED  
ALAMEDA COUNTY**

JUN 09 2008

CLERK OF THE SUPERIOR COURT  
By [Signature]

Deputy

1 FLETCHER C. ALFORD (SBN: 152314)  
MICHAEL D. BRUNO (SBN: 166805)  
2 JON C. YONEMITSU (SBN: 199026)  
GORDON & REES LLP  
3 275 Battery Street, Suite 2000  
San Francisco, CA 94111  
4 Telephone: (415) 986-5900  
Facsimile: (415) 986-8054

5 Attorneys for Defendant  
6 OAKLAND PORT SERVICES CORPORATION  
d/b/a AB TRUCKING (erroneously sued as AB  
7 TRUCKING, INC.)

8 SUPERIOR COURT OF CALIFORNIA - COUNTY OF ALAMEDA

9  
10 LAVON GODFREY, on behalf of herself and  
all others similarly situated,

11 Plaintiffs,

12 v.

13  
14 AB TRUCKING, INC., OAKLAND PORT  
SERVICES CORP., BILL ABOUDI and DOES  
1 through 20, inclusive,

15 Defendants.

CASE NO. RG 08-379099

ANSWER TO COMPLAINT

**BY FAX**

CLASS ACTION

16  
17 Complaint Filed: March 28, 2008

18  
19 GENERAL DENIAL

20 Defendant, OAKLAND PORT SERVICES CORPORATION d/b/a AB TRUCKING  
21 (erroneously sued as AB TRUCKING, INC.), answers the unverified Complaint on file herein,  
22 and each cause of action thereof, with a general denial of each and every allegation contained in  
23 plaintiff's unverified complaint pursuant to Code of Civil Procedure section 431.30(d), and  
24 further specifically denies plaintiff has been damaged in the amount or manner alleged or in any  
25 other manner whatsoever. Defendant also denies plaintiff and others are entitled to any of the  
26 relief sought in the complaint.

27 In addition, defendant asserts the following affirmative defenses and prays for judgment  
28 as set forth below:

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San Francisco, CA 94111

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AFFIRMATIVE DEFENSES

1  
2 Defendant alleges that the Complaint and the causes of action therein fail to state facts  
3 sufficient to constitute a cause of action against this answering defendant.

4 Defendant alleges each cause of action is barred by any and all applicable statutes of  
5 limitations.

6 Defendant denies any wrongdoing on its part, and expressly denies that plaintiff, or any  
7 individual claimed to be similarly situated as plaintiff, has been damaged as alleged, and as a  
8 result, defendant alleges plaintiff, and those claimed to be similarly situated as plaintiff, have  
9 failed to mitigate their alleged pecuniary losses and damages.

10 Defendant alleges the Complaint fails to state a claim for which punitive and/or  
11 exemplary damages may be granted and defendant has committed no acts justifying an award of  
12 punitive damages.

13 Defendant alleges plaintiff has waived and/or is estopped from asserting, in whole or in  
14 part, each cause of action upon which she seeks relief.

15 Defendant alleges each cause of action is barred, in whole or in part, by the doctrine of  
16 unclean hands and/or laches.

17 Defendant alleges each cause of action is barred, in whole or in part, by the doctrine of  
18 unjust enrichment.

19 Defendant alleges that plaintiff's recovery is limited in whole or in part by the doctrine of  
20 after-acquired evidence.

21 Defendant alleges plaintiff's Complaint and each and every claim contained therein are  
22 barred in whole or in part and cannot be maintained against defendant because the alleged losses  
23 or harms sustained by plaintiff, if any, resulted from causes other than any act or omission by  
24 defendant.

25 Defendant alleges that plaintiff's Complaint, and each and every claim contained therein,  
26 are barred in whole or in part because the conduct of defendant was privileged at all material  
27 times.

28 Defendant alleges each cause of action is barred, in whole or in part, by the doctrine of

1 avoidable consequences.

2 Defendant alleges plaintiff is not entitled to attorney's fees pursuant to, among other  
3 items, Code of Civil Procedure section 1021.5, Labor Code section 1197.1(f), and otherwise.

4 Defendant alleges plaintiff lacks standing to assert the claims against defendant,  
5 particularly because plaintiff has not suffered any injury as a result of any of the alleged conduct  
6 of defendant in plaintiff's complaint.

7 Defendant alleges plaintiff did not accurately report the hours for which she seeks  
8 allegedly unpaid wages, overtime and penalties; therefore, plaintiff is barred from seeking to  
9 recover any such amounts from defendant.

10 Plaintiff was not secretly paid a lower wage; rather, plaintiff was paid in accordance with  
11 the terms of her employment with defendant.

12 Defendant alleges that plaintiff was paid in full any and all amounts due during her  
13 employment.

14 Defendant alleges a private right of action does not exist for the alleged Labor Code  
15 violations claimed by plaintiff in the Complaint.

16 Defendant alleges no basis exists either based on the allegations in the Complaint or any  
17 of its stated causes of action for the imposition of penalties upon defendant.

18 Defendant alleges its payment of wages to plaintiff and the purported class is, and was,  
19 not "unfair," "unlawful" or "fraudulent" within the meaning of California Business and  
20 Professions Code section 17200.

21 Defendant alleges that plaintiff's claims are barred by accord and satisfaction, release,  
22 and/or settlement.

23 Defendant alleges plaintiff's Complaint fails to satisfy any of the prerequisites for class  
24 certification as to any cause of action.

25 Defendant alleges certification of a class, based upon the facts and circumstances alleged  
26 in plaintiff's Complaint, would constitute a denial of defendant's due process rights in violation  
27 of the Fourteenth Amendment and the California Constitution.

28 Defendant alleges prosecution of a representative action and certification of the alleged

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San Francisco, CA 94111

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class as representative of the general public under California Business and Professions Code section 17200, based upon the facts and circumstances alleged in plaintiff's complaint, would constitute a denial of defendant's due process rights in violation of the Fourteenth Amendment and the California Constitution.

**RESERVATION OF ADDITIONAL DEFENSES**

Defendant reserves the right to amend this Answer should it discover facts demonstrating the existence of new and/or additional affirmative defenses and/or should a change in the law support the inclusion of new and/or additional affirmative defenses.

**PRAYER FOR RELIEF**


WHEREFORE, defendant prays that:

1. Plaintiff take nothing by this action;
2. Any motion for class certification be denied;
3. Judgment be entered in favor of defendant and against plaintiff;
4. Defendant be awarded cost of suit;
5. Defendant be awarded its reasonable attorneys' fees incurred by this action; and
6. For such other and further relief in favor of defendant as this court deems just and

proper.

Dated: June 9, 2008

GORDON & REES LLP

By:   
FLETCHER C. ALFORD  
MICHAEL D. BRUNO  
JON C. YONEMITSU  
Attorneys for Defendant  
OAKLAND PORT SERVICES  
CORPORATION d/b/a AB TRUCKING  
(erroneously sued as AB TRUCKING,  
INC.)

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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is: Gordon & Rees LLP 275 Battery Street, Suite 2000, San Francisco, CA 94111. On June 9, 2008, I served the within documents:

**ANSWER TO COMPLAINT**

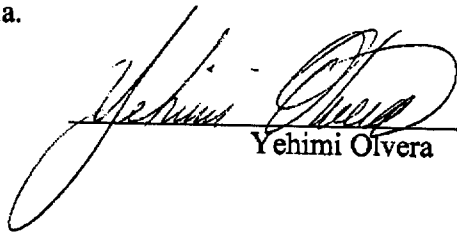
- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in United States mail in the State of California at , addressed as set forth below.

David A. Rosenfeld, Esq.  
 Caren P. Sencer  
 Weinberg, Roger & Rosenfeld  
 1001 Marina Village Parkway, Suite 200  
 Alameda, California 94501  
 Tel.: (510) 337-1001  
 Fax: (510) 337-1023

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

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

Executed on June 9, 2008 at , California.



Yehimi Olvera

Gordon & Rees LLP  
 275 Battery Street, Suite 2000  
 San Francisco, CA 94111