



ORIGINAL

1 DAVID A. ROSENFELD, Bar No. 058163
2 CAREN P. SENCER, Bar No. 233488
3 LISL R. DUNCAN, Bar No. 261875
4 WEINBERG, ROGER & ROSENFELD
5 A Professional Corporation
6 1001 Marina Village Parkway, Suite 200
7 Alameda, California 94501-1091
8 Telephone 510.337.1001
9 Fax 510.337.1023

FILED
ALAMEDA COUNTY

JUN 23 2009
Robert Freedman
Exec. Off. Clerk

10 Attorneys for Plaintiffs
11 LAVON GODFREY and GARY GILBERT

12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF ALAMEDA

14	LAVON GODFREY and GARY GILBERT, on)	Case No.	RG 08-379099
15	behalf of themselves and all others similarly)	} PLAINTIFFS' CASE MANAGEMENT	} CONFERENCE STATEMENT
16	situated,		
17	Plaintiffs,		
18	v.		
19	OAKLAND PORT SERVICES CORP. d/b/a)	DATE: June 25, 2009	
20	AB TRUCKING, and DOES 1 through 20,)	TIME: 2:00 p.m.	
21	inclusive,	DEPT.: 20	
22	Defendants.)	JUDGE: Robert Freedman	

23 A. FACTUAL SUMMARY

24 This is a wage and hour class action litigation brought by two former drivers of Defendant
25 OAKLAND PORT SERVICES CORP. dba AB TRUCKING ("OPS" or "AB Trucking").
26 Plaintiffs allege unfair business practices, violations of the California Labor Code and violations of
27 the Port of Oakland's Living Wage Ordinance (Oakland City Charter, Section 728). Plaintiffs, on
28 behalf of themselves and other similarly situated employees, seek to recover wages owed for work
performed as drivers with AB Trucking. Under the Oakland City Charter, Port-Assisted businesses
are required to pay their employees no less than the Oakland Living Wage per hour. This living
wage is significantly higher than the federal or state minimum wage and the wage rates paid by AB
Trucking. AB Trucking failed to provide employees meal periods and rest periods in accordance

WEINBERG, ROGER &
ROSENFELD
A Professional Corporation
1001 Marina Village Parkway
Suite 200
Alameda, CA 94501-1091
510.337.1001

FAXED

1 with applicable law, compensation for overtime at the appropriate rate, compensation for all hours
2 worked and compensation at the wage rate required by the Oakland City Charter.

3 The individual Plaintiffs are former employees of AB Trucking. AB Trucking is a trucking
4 drayage operation located at the Port of Oakland. AB Trucking is located at 11 Burma Road,
5 Oakland, California 94607, within the general Port area. The individual Plaintiffs and other
6 similarly situated current and former employees did not receive compensation at the rates required
7 under the Living Wage Charter Amendment. Plaintiffs' Complaint asserts Causes of Action
8 ("COA") for violations of Business and Professions Code § 17200 (1st COA, Unfair Business
9 Practices); for violations of the Oakland City Charter § 728 (3rd COA, Living Wage); for
10 violations of Labor Code §§ 226.7 and 512, and IWC Wage Order 9 (4th COA, Meal and Rest
11 Periods); for violations of Labor Code §§ 201, 202 and 203 (5th COA, Payment of Wages and
12 Penalties); and for violations of Labor Code § 226 (6th COA, Payroll Stubs).

13 Plaintiffs seek to recover all wages due and applicable penalties on behalf of themselves
14 and others similarly situated. Plaintiffs also seek the difference between the Living Wage and the
15 wage rate paid for the four (4) years prior to the filing of the Complaint, for themselves and those
16 similarly situated. Under Section 9 of the Port Living Wage Ordinance, the Plaintiffs are
17 requesting treble damages, costs of litigation and attorneys fees.

18 B. PARTIES

19 The two individual Plaintiffs bring suit on behalf of themselves and other similarly situated
20 employees and former employees of AB Trucking. Plaintiffs are represented by the law firm
21 Weinberg Roger and Rosenfeld.

22 Defendant AB Trucking is a Port-Assisted Business engaged in trucking and drayage at the
23 Port of Oakland. Defendant is represented by the Law Offices of Michael Broad.

24 C. DEADLINES AND LIMITS ON JOINDER AND AMENDED PLEADINGS

25 Plaintiffs do not intend to join any additional parties. Should joinder and/or amended
26 pleadings be necessary, it should be completed by September 2009.

27 D. CLASS DISCOVERY AND CLASS CERTIFICATION

28 Whether employees received overtime payments, payment for all hours worked and the

1 Living Wage or some other lesser wage, can be established simply by payroll documentation.
2 Deposition testimony confirms all employees were paid under the same payroll system. Plaintiffs
3 have requested and received some documents related to all workers showing the commonality of
4 the time keeping practices. These documents show employees working more than 8 hours a day
5 and 40 hours in a work week. These time records also show neither meal nor rest periods were
6 recorded.

7 E PROPOSED LITIGATION SCHEDULE

8 1. **Discovery Plan** – Plaintiffs served Request for Production of Documents (Set One);
9 General Form Interrogatories, Employment Law; Form Interrogatories; and Special Interrogatories
10 (Set One) on July 15, 2008. Defendant produced initial responses to these discovery requests.
11 Plaintiffs also sent Request for Admissions on January 21, 2009. Defendant produced responses to
12 the Request for Admissions. Beginning February 9, 2009, the parties began engaging in the meet
13 and confer process. The parties continue to engage in the meet and confer process. On February
14 13, 2009, the deposition of Plaintiff Gary Gilbert was taken though the deposition has not yet been
15 completed. June 8, 2009, Plaintiffs took the deposition of the person designated most qualified in
16 several subject areas by Defendant AB Trucking, Bill Aboudi. Plaintiffs anticipate taking
17 depositions of additional persons most knowledgeable on payroll practices and other practices of
18 the Defendant. Defendant has sent notice of deposition of Plaintiff Lavon Godfrey, which will be
19 held June 24, 2009.

20 2. **Law and Motion** – Plaintiffs propose the class certification motion be filed by
21 December 2009 and do not request any change to the briefing schedule of CRC 3.764. A briefing
22 schedule for motions for summary judgment/adjudication can be set after the class certification
23 hearing.

24 3. **Projected Trial Date** – Plaintiffs propose a trial date in July 2010 to allow the
25 motion for class certification to be heard in January 2010 and Plaintiffs' anticipated motion for
26 summary judgment to be heard in June 2010.

27 F. POTENTIAL EVIDENTIARY ISSUES

28 The documentary evidence in the case will raise the issue of disclosure of confidential

1 financial information for the putative class members. Plaintiffs are willing to stipulate to a
2 protective order to maintain the confidentiality of the documents.

3 G. PROCEDURAL POSTURE

4 1. **Unserved Parties:** All named Defendants have been served.

5 2. **Unserved/Unfiled Cross-Complaints:** None known.

6 3. **Related Actions:** None known.

7 4. **Jurisdictional or Venue Issues:** None known or anticipated.

8 5. **Discovery Status:** The parties continue to engage in the meet and confer process
9 and ongoing written discovery.

10 6. **Unresolved Law and Motion Matters:** There are no pending law and motion
11 matters.

12 7. **ADR Proceedings:** Plaintiffs believe it would be in the best interest of the parties
13 to participate in mediation before a significant amount of time and costs are incurred in the class
14 certification process.

15 8. **Severance or Issues for Trial:** There are currently no known issues that
16 should be severed for trial purposes. Bifurcation of liability and damage issues may be efficient
17 for trial purposes.

18 9. **Calendar Conflicts:** As of this date, there are no known conflicting trial dates for
19 Plaintiffs' counsel.

20 H OTHER MATTERS

21 Plaintiffs are agreeable to streamlining discovery as set forth above and to use e-filing.

22 Dated: June 23, 2009

23 WEINBERG, ROGER & ROSENFELD
24 A Professional Corporation

25 By: 

26 DAVID A. ROSENFELD
27 CAREN P. SENCER
28 LISL R. DUNCAN
Attorneys for Plaintiffs

118212/534384

PROOF OF SERVICE
(CCP 1013)

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 June 23, 2009, I served upon the following parties in this action:

Michael A. Broad
166 Santa Clara Ave
Oakland, CA 94610
Fax: (510) 835-5773

copies of the document(s) described as:

PLAINTIFFS' CASE MANAGEMENT CONFERENCE STATEMENT

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 PERSONAL SERVICE I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and caused the same to be delivered by hand to the offices of each addressee.

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 FACSIMILE I caused to be transmitted each document listed herein via the fax number(s) 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 June 23, 2009.


Jennifer Koffler

118212/517766