

RRD



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
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FILED
ALAMEDA COUNTY

OCT 03 2011

CLERK OF THE SUPERIOR COURT
By Yvonne Perera

8 SUPERIOR COURT OF CALIFORNIA-COUNTY OF ALAMEDA
9

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

CASE NO. RG 08-379099

11
12 Plaintiffs,

DECLARATION IN RESPONSE TO
ORDER TO SHOW CAUSE RE:
FAILURE TO APPEAR AND FAILURE
TO PAY COMPLEX CASE FEE

13
14 v.

Date: October 19, 2011
Time: 3:00 p.m.
Dept.: 20

15 AB TRUCKING, INC., OAKLAND PORT
SERVICES CORP., BILL ABOUDI and DOES
16 1 through 20, inclusive,

17
18 Defendants.

BY FAX

19 I, JON C. YONEMITSU, hereby declare:

20 1. I am a partner with the law firm of Gordon & Rees LLP. Our office previously
21 represented defendants OAKLAND PORT SERVICES CORP., a/b/a AB TRUCKING
22 (erroneously sued as AB Trucking, Inc.) and BILL ABOUDI (collectively referred to herein as
23 "Defendants") in the above-referenced matter. I have personal knowledge of the facts stated in
24 this declaration, and could competently testify to them as a witness.

25 2. Gordon & Rees LLP has not represented the Defendants in this matter since
26 December 15, 2008. On December 15, 2008, the Court entered a Substitution of Attorney on
27 behalf of said Defendants wherein Gordon & Rees LLP and its attorneys were substituted out as
28

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

1 counsel for Defendants. Said entry of Substitution of Attorney identified attorney Michael Broad
2 as new counsel of record for Defendants. A file endorsed copy of the Substitution of Attorney is
3 attached as **Exhibit "A"**.

4 3. Since entry of the Substitution of Attorney on December 15, 2008, Gordon &
5 Rees LLP and its attorneys have not appeared in the above-referenced matter, nor has Gordon &
6 Rees LLP and its attorneys have had any involvement with the litigation of this matter.

7 4. On May 4, 2009, my partner Fletcher C. Alford of Gordon & Rees LLP, sent
8 correspondence to the Court advising of the entry of Substitution of Attorney on December 15,
9 2008, and requesting that Gordon & Rees LLP be removed from the Court's service and/or
10 mailing list. A true and correct copy of the May 4, 2009, letter is attached as **Exhibit "B"**.

11 5. Since Mr. Alford's May 4, 2009 letter, Gordon & Rees LLP has not received
12 communication from the Court in the above-referenced matter, until it received notice on
13 October 3, 2011 of an Order To Show Cause Re: Failure to Appear and Failure to Pay Complex
14 Case Fee set for October 19, 2011. Said OSC requested all counsel to file a declaration by
15 October 19.


16 6. For reasons unknown to the undersigned, notice of the above referenced OSC was
17 sent to Mr. Alford care of Gordon & Rees LLP. Although Gordon & Rees LLP, or any of its
18 attorneys, have not been counsel of record for Defendants since entry of the Substitution of
19 Attorney was executed on December 15, 2008, in an abundance of caution, to avoid the issuance
20 of any sanctions, and to avoid the necessity of the personal appearance of the undersigned or Mr.
21 Alford at the OSC hearing set for October 19, 2011, the undersigned submits this declaration in
22 compliance with the Court's Order.

23 7. Pursuant to the above, the undersigned respectfully requests that Gordon & Rees
24 LLP or any of its attorneys, including the undersigned and Mr. Alford, be relieved of any and all
25 potential sanctions that are subject of the OSC hearing on October 19, 2011. The undersigned
26 further respectfully requests the Court to excuse the personal attendance of the undersigned or
27 Mr. Alford at the OSC hearing set for October 19, 2011. In addition, the undersigned
28 respectfully further requests that Gordon & Rees LLP and its attorneys be removed from the

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Court's service and/or mailing list for this matter.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Declaration was executed on October 4, 2011, at San Francisco, California.



JON C. YONEMITSU

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

EXHIBIT "A"



7156043

MC-050

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar No., and address) Michael Broad · SBN 121348 Law Offices of Michael Broad 166 Santa Clara Ave., Oakland, CA 94610 TELEPHONE NO 510-835-5772 FAX NO. (OPTIONAL) E-MAIL ADDRESS (OPTIONAL) ATTORNEY FOR (Name) Oakland Port Services	FOR COURT USE ONLY FILED ALAMEDA COUNTY DEC 15 2008 CLERK OF THE SUPERIOR COURT By <u>Molly Bandy</u> Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS 1225 Fallon St. MAILING ADDRESS CITY AND ZIP CODE Oakland, CA 94610 BRANCH NAME	CASE NUMBER RG-08-379099
CASE NAME Lavon Godfrey v. Oakland Port Services, et al.	
SUBSTITUTION OF ATTORNEY—CIVIL (Without Court Order)	

THE COURT AND ALL PARTIES ARE NOTIFIED THAT (name): **Michael Broad** makes the following substitution

1. Former legal representative Party represented self Attorney (name) **Joni C. Yonemitsu, Gordon & Rees**

2. New legal representative Party is representing self Attorney

a. Name **Michael Broad** b. State Bar No. (if applicable) **121348**

c. Address (number, street, city, ZIP, and law firm name, if applicable)
166 Santa Clara Ave., Oakland, CA 94610

d. Telephone No. (include area code) **510-835-5772**

3. The party making this substitution is a plaintiff defendant petitioner respondent other (specify):

***NOTICE TO PARTIES APPLYING TO REPRESENT THEMSELVES**

- Guardian
- Personal Representative
- Guardian ad litem
- Conservator
- Probate fiduciary
- Unincorporated association
- Trustee
- Corporation

If you are applying as one of the parties on this list, you may NOT act as your own attorney in most cases. Use this form to substitute one attorney for another attorney. SEEK LEGAL ADVICE BEFORE APPLYING TO REPRESENT YOURSELF.

NOTICE TO PARTIES WITHOUT ATTORNEYS

A party representing himself or herself may wish to seek legal assistance. Failure to take timely and appropriate action in this case may result in serious legal consequences.

4. I consent to this substitution.
 Date **December 1, 2008**
Bill Aboudi
 (TYPE OR PRINT NAME)

(SIGNATURE OF PARTY)

5. I consent to this substitution.
 Date **December 1, 2008**
Joni C. Yonemitsu
 (TYPE OR PRINT NAME)

(SIGNATURE OF FORMER ATTORNEY)

6. I consent to this substitution.
 Date **December 1, 2008**
Michael Broad
 (TYPE OR PRINT NAME)

(SIGNATURE OF NEW ATTORNEY)

(See reverse for proof of service by mail)

Page 1 of 2

PROOF OF SERVICE

I declare that I am employed in the County of Alameda, California. I am over the age of 18 years and not a party to the within-entitled cause my business address is 166 Santa Clara Ave. Oakland, California 94610.

On December 8, 2008 I served the following: Defendant Oakland Port Services Substitution of Attorney

on the interested parties in this action,

XX by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

_____ by transmitting a true copy thereof, addressed as follows:

David A. Rosenfeld
Caren P. Sencer
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-1091

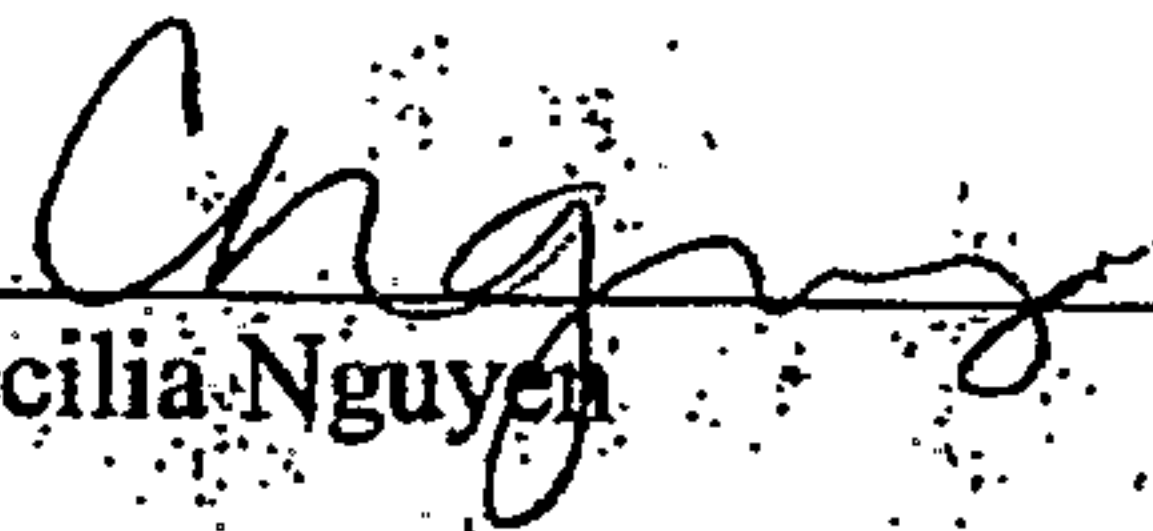
XX (By first class mail) I placed such envelope in the mail, postage fully prepaid, at Oakland, California on the same day.

_____ (By personal service) I caused such envelope to be delivered by hand to the offices of the addressee.

_____ (By telecopier transmission (FAX)) I caused such document(s) to be transmitted by Fax machine to the office of the addressee.

XX (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 8th day of December, 2008 at Oakland, California.



Cecilia Nguyen

EXHIBIT "B"

FLETCHER C. ALFORD
FALFORD@GORDONREES.COM

GORDON & REES LLP

ATTORNEYS AT LAW
EMBARCADERO CENTER WEST
275 BATTERY STREET, SUITE 2000
SAN FRANCISCO, CA 94111
PHONE: (415) 986-5900
FAX: (415) 986-8054
WWW.GORDONREES.COM

May 4, 2009

Clerk of Court
Alameda County Superior Court
1225 Fallon Street
Oakland, CA 94612

Re: *Lavon Godfrey v. Oakland Port Services Corp., erroneously sued as AB Trucking, Inc. and Bill Aboudi*
Alameda County Superior Court Case No. RG 08-379099

Dear Clerk:

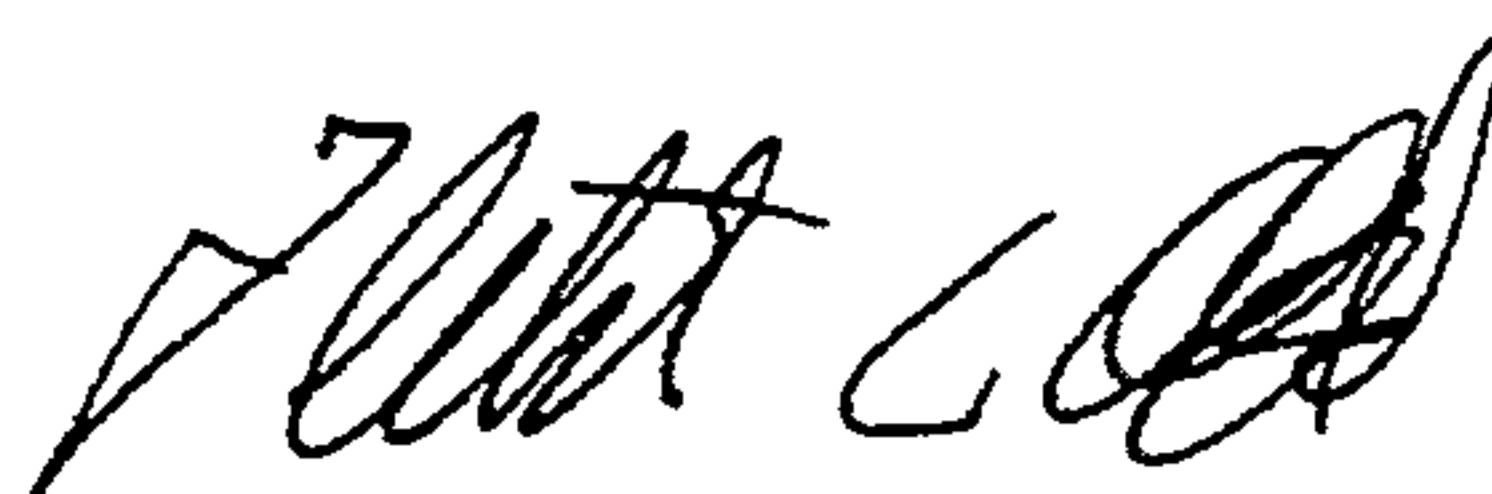
This office no longer represents defendants Oakland Port Services Corporation d/b/a AB Trucking (erroneously sued as AB Trucking, Inc.) and Bill Aboudi in the above-referenced matter.

On December 15, 2008, the Court entered a Substitution of Attorney on behalf of said defendants. Therefore, please remove our firm from your service and/or mailing list.

Thank you for your attention to this request.

Very truly yours,

GORDON & REES LLP



Fletcher C. Alford

FCA/md

cc: David Rosenfeld
Michael Broad

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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 October 5, 2011, I served the within documents:

DECLARATION IN RESPONSE TO ORDER TO SHOW CAUSE RE: FAILURE TO APPEAR AND FAILURE TO PAY COMPLEX CASE FEE

- 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.

Attorneys for Plaintiffs
 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

Attorneys for Defendants
 Jay Ian Aboudi
 The Law Office of Jay Ian Aboudi
 1855 Olympic Blvd., Suite 210
 Walnut Creek, CA 94596

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

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 October 5, 2011 at San Francisco, California.



Terry L. Johnson