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**FILED**  
**ALAMEDA COUNTY**

OCT 14 2011

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

CLERK OF THE SUPERIOR COURT  
By *Sherrisa Hill* Deputy

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

10 LAVON GODFREY and GARY GILBERT, on  
11 behalf of themselves and all others similarly  
12 situated,

CASE NO. RG 08-379099

12 Plaintiffs,

**DEFENDANT OAKLAND PORT  
SERVICES CORPORATION'S  
EVIDENCE IN OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
SUMMARY ADJUDICATION—  
DECLARATION OF WILLIAM  
ABOUDI**

13 v.

14 OAKLAND PORT SERVICES  
15 CORPORATION d/b/a AB TRUCKING, and  
16 DOES 1 through 20, inclusive,

Date: October 28, 2011  
Time: 2:00 p.m.  
Place: Department 20  
Judge: Hon. Robert Freedman  
Action Filed: March 28, 2008  
Trial Date: November 29, 2011  
Reservation No.: R-1204995

16 Defendants.

19 I, WILLIAM ABOUDI, hereby declare:

20 1. I am president of OAKLAND PORT SERVICES CORPORATION dba AB  
21 TRUCKING. I have personal knowledge of the facts set forth in this declaration. If called as a  
22 witness I could and would testify as set forth herein. I submit this declaration as evidence in  
23 opposition to plaintiff's motion for summary adjudication.

24 2. AB hired employee drivers. However, when work volume was high, AB also obtained  
25 the services of independent contractors. Drivers generally but not always worked eight-hour  
26 shifts. Occasionally, depending on work volume, drivers' shifts were either shorter or longer than  
27 eight hours.

28

1           3. Employee drivers for AB did not always report to the same small group of supervisors.  
2 Depending on work load, drivers were contracted to other companies or to customers directly for  
3 special projects. Until 2007, Oakland Port Services had two dispatchers, one in Vallejo and one  
4 in Oakland. The Vallejo dispatcher, Bill Snyder, supervised 2 dedicated Baymodal drivers. On  
5 occasion, Bill Snyder supervised up to 4 employee drivers (2 Baymodal employee drivers plus 2  
6 AB Trucking employee drivers). When Bill Snyder resigned, Oakland Port Services reverted to  
7 having one dispatcher, located in Oakland.

8           4. I made all hiring and firing decisions. Dispatchers were authorized to fire drivers who  
9 came to work obviously intoxicated. Control and direction was delegated to the dispatchers in  
10 the sense that the dispatchers were required to know when a driver was taking breaks and would  
11 dispatch drivers accordingly.

12           5. Employee drivers used time sheets that changed in format over time. AB started  
13 keeping track of unpaid trainees' time on time sheets both in order to satisfy DOT regulations  
14 and to satisfy specific requests from parole and probation officers regarding certain individuals.  
15 The time sheets were used for no other purpose with respect to unpaid trainees. The time sheets  
16 also were adapted to other operational needs as the needs arose; for example: (1) a space for the  
17 truck number was added; (2) office staff and drivers were separated from one another on the  
18 sheets; (3) a space to tally hours worked was added; and (4) "employee drivers and paid hired  
19 trainees" were distinguished from "unpaid trainees."

20           6. The payroll processing system changed approximately four times between 2004 and  
21 2011. Early on the payroll was called in or faxed to the payroll company. After that, it was done  
22 online through a web interface. Each payroll service provider used varying web interface systems  
23 over the time.

24           7. Although it is true it could take as many as 8 hours to get through the terminal at the  
25 Port of Oakland, this is in fact an extremely rare occurrence. I witnessed it only during the 2002  
26 lockout of the longshoremen.  
27  
28



1 8. No one gate per se provides access to the Port of Oakland. The Port is accessed via a  
2 number of public streets from which numerous entrances to the port's many terminals are  
3 provided and lines of varying lengths exists at these entrances to the different terminals. Some  
4 such lines are long, some such lines are short. The length of a wait depends on whether the  
5 terminal has a long or a short line. Any drivers who work for AB Trucking who leave the line  
6 and thus lose their place in the line are situated similarly to those of all other companies whose  
7 drivers leave the line and thus lose their place in the line.

8 9. "The Port of Oakland" covers miles of space from the Bay Bridge to the San Leandro  
9 border, the Maritime Facilities cover 1,210 acres of Marine Terminals, Intermodal Rail Facility  
10 and Maritime Support Area, all designed to make sure trucks exit the freeway system onto streets  
11 serving the Port.

12 10. Employee drivers were verbally informed about meal breaks, and depending on the  
13 driver's dispatch and type of load, drivers were instructed to stop every two hours to check on  
14 the load and take a break.

15 11. Meal period policy was given to the employee drivers verbally at the time of hire and  
16 on an ongoing basis thereafter, based on the driver's work experience. A Department of  
17 Transportation book was issued to each employee driver and that book defines the meal break.

18 12. Employee drivers were provided with one hour lunch breaks.

19 13. Beginning on April 21, 2009, AB started providing a place for employee drivers to  
20 record their meal periods each shift.

21 14. AB does have a record of meal periods taken by employee drivers beginning on April  
22 21, 2009.

23 15. Employees who did not report they had not taken a lunch break were presumed to  
24 have taken their lunch break. No deduction was made for any shift shorter than 5 hours. A  
25 deduction simply means that a lunch was taken. AB had a policy regarding how to treat lunch  
26 breaks, whether reported or not reported, and that was to always take lunch breaks when  
27 possible. AB treated all employee drivers in the same manner under that policy.  
28

1           16. Lavon Godfrey is the only person who has said that she did not receive a 10-minute,  
2 off-duty paid rest period for every four hours worked, but she said that at the same time she also  
3 claimed she never took more than a one-minute bathroom break, if any.

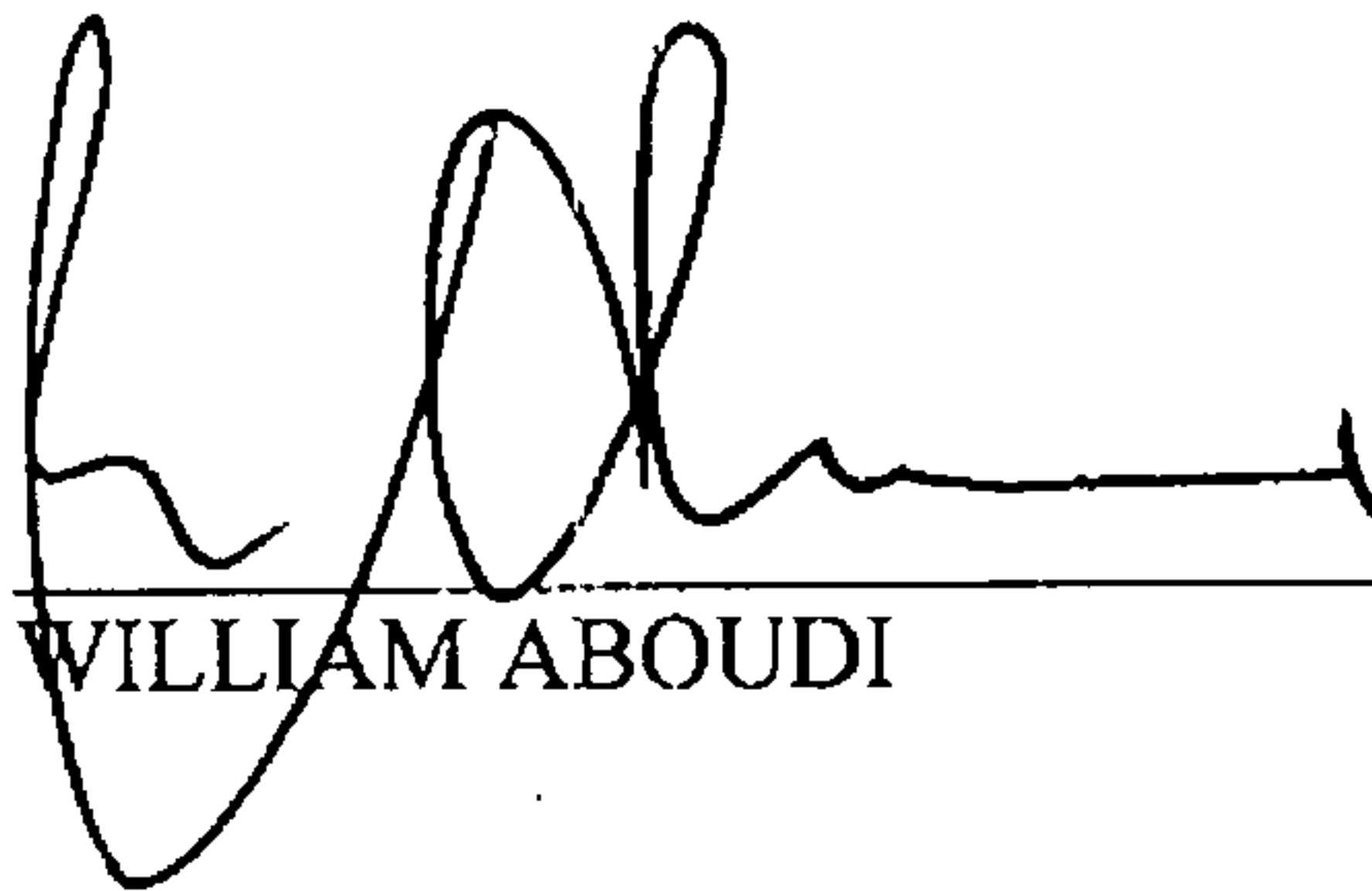
4           17. Beginning on November 27, 2009, a written policy on rest periods was provided to  
5 employee drivers.

6           18. Beginning on April 21, 2009, AB Trucking maintained records showing rest periods  
7 taken by employee drivers.

8           19. Employee drivers did receive compensation of an additional hour of pay for a missed  
9 meal or rest period.

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

12 Dated October 14, 2011

13   
14 \_\_\_\_\_  
15 WILLIAM ABOUDI