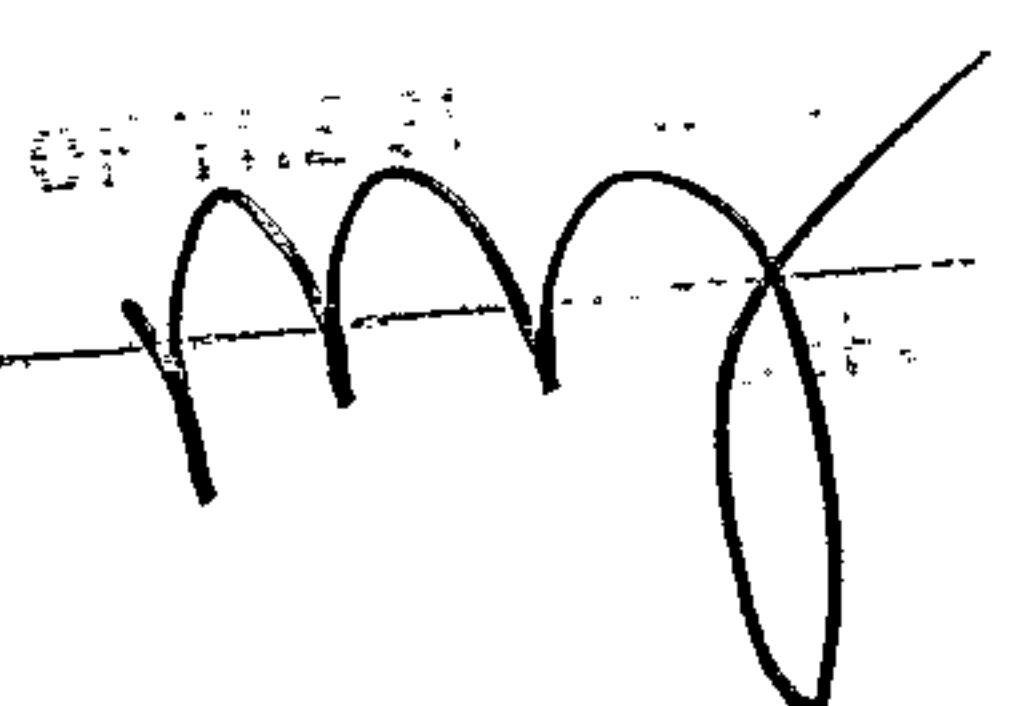




WR

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): David A. Rosenfeld (058163) Caren P. Sencer (233488) Lisl R. Duncan (261875) Weinberg, Roger & Rosenfeld 1001 Marina Village Parkway, Suite 200 Alameda, CA 94501-1091 TELEPHONE NO.: 510.337.1001 FAX NO. (Optional): 510.337.1023 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiffs Lavon Godfrey and Gary Gilbert, et al.	FOR COURT USE ONLY FILED 2012 OCT 18 PM 1:13 
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1221 Oak Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME:	
PLAINTIFF: Lavon Godfrey and Gary Gilbert, et al. DEFENDANT: Oakland Port Services Corp. d/b/a AB Trucking, et al.	
APPLICATION FOR <input type="checkbox"/> RIGHT TO ATTACH ORDER <input type="checkbox"/> TEMPORARY PROTECTIVE ORDER <input checked="" type="checkbox"/> ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT <input type="checkbox"/> ORDER FOR ISSUANCE OF ADDITIONAL WRIT OF ATTACHMENT <input type="checkbox"/> After Hearing <input checked="" type="checkbox"/> Ex Parte <input type="checkbox"/> Against Property of Nonresident	CASE NUMBER: RG08379099

- Plaintiff (name): Lavon Godfrey and Gary Gilbert, et al.
 applies after hearing ex parte for
 - a right to attach order and writ of attachment.
 - an additional writ of attachment.
 - a temporary protective order.
 - an order directing the defendant to transfer to the levying officer possession of
 - property in defendant's possession.
 - documentary evidence in defendant's possession of title to property.
 - documentary evidence in defendant's possession of debt owed to defendant.
- Defendant (name): Oakland Port Services Corp. d/b/a AB Trucking, et al.
 - is a natural person who
 - resides in California.
 - does not reside in California.
 - is a corporation
 - qualified to do business in California.
 - not qualified to do business in California.
 - is a California partnership or other unincorporated association.
 - is a foreign partnership that
 - has filed a designation under Corporations Code section 15800.
 - has not filed a designation under Corporations Code section 15800.
 - is other (specify):
- Attachment is sought to secure recovery on a claim upon which attachment may issue under (check one):
 Code of Civil Procedure section 483.010 Welfare and Institutions Code section 15657.01.
- Attachment is not sought for a purpose other than the recovery on a claim upon which the attachment is based.
- Plaintiff has no information or belief that the claim is discharged or the prosecution of the action is stayed in a proceeding under title 11 of the United States Code (Bankruptcy).

ORIGINAL

FAXED

SHORT TITLE Godfrey, et al. v. Oakland Port, et al.

CASE NUMBER:
RG08379099

6. a. Plaintiff's claim or claims arise out of conduct by the defendant who is a natural person of a trade, business, or profession. The claim or claims are not based on the sale or lease of property, a license to use property, the furnishing of services, or the loan of money where any of the foregoing was used by the defendant primarily for personal, family, or household purposes.
- b. Plaintiff's claim or claims arise out of conduct of a natural person who or an entity that has taken, secreted, appropriated, obtained or retained, or assisted in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use, with intent to defraud, or by using undue influence.
7. The facts showing plaintiff is entitled to a judgment on the claim up on which the attachment is based are set forth with particularity in the
- a. verified complaint.
- b. attached affidavit or declaration.
- c. following facts (*specify*):
8. The amount to be secured by the attachment is: \$ 1,376,160.99
- a. which includes estimated costs of: \$ 41,480.81
- b. which includes estimated allowable attorney fees of: \$ 370,123.10
9. Plaintiff is informed and believes that the following property sought to be attached for which a method of levy is provided is subject to attachment:
- a. Any property of a defendant who is not a natural person.
- b. Any property of a nonresident defendant.
- c. Property of a defendant who is a natural person that is subject to attachment under Code of Civil Procedure section 487.010 (*specify*):
- d. Property covered by a bulk sales notice with respect to a bulk transfer by defendant on the proceeds of the sale of such property (*describe*):
- e. Plaintiff's pro rata share of proceeds from an escrow in which defendant's liquor license is sold (*specify license number*):
10. Plaintiff is informed and believes that the property sought to be attached is not exempt from attachment.
11. The court issued a Right to Attach Order on (*date*):
(*Attach a copy.*)
12. Nonresident defendant has not filed a general appearance.

SHORT TITLE: Godfrey, et al. v. Oakland Port, et al.	CASE NUMBER: RG08379099
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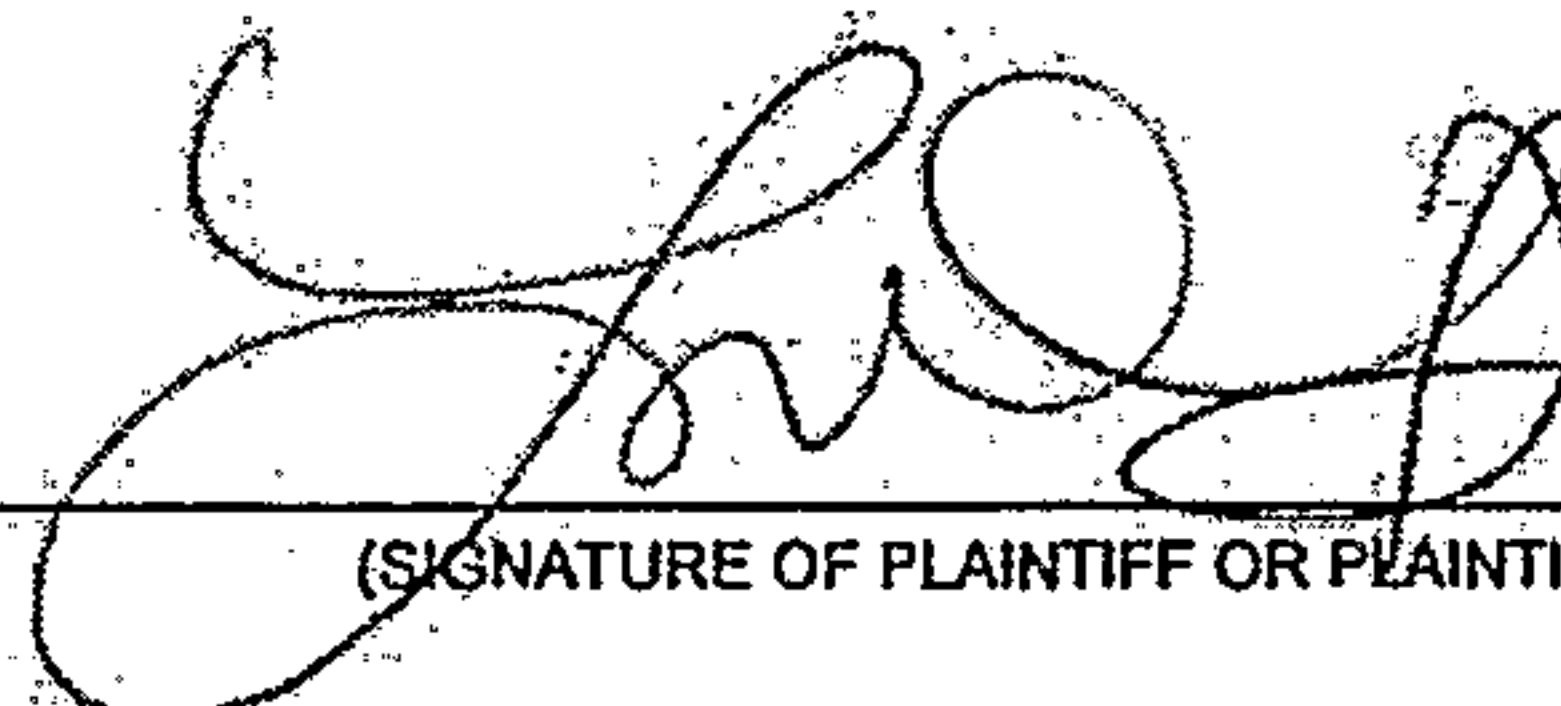
13. a. Plaintiff alleges on ex parte application for order for writ of attachment
 is informed and believes on application for temporary protective order
that plaintiff will suffer great or irreparable injury if the order is not issued before the matter can be heard on notice because
(1) it may be inferred that there is a danger that the property sought to be attached will be
(a) concealed.
(b) substantially impaired in value.
(c) made unavailable to levy by other than concealment or impairment in value.
(2) defendant has failed to pay the debt underlying the requested attachment and is insolvent as defined in Code of Civil Procedure section 485.010(b)(2).
(3) a bulk sales notice was recorded and published pursuant to division 6 of the Commercial Code with respect to a bulk transfer by the defendant.
(4) an escrow has been opened under the provisions of Business and Professions Code section 24074 with respect to the sale by the defendant.
(5) other circumstances (specify):
- b. The statements in item 13a are established by the attached affidavit or declaration
 the following facts (specify):

14. Plaintiff requests the following relief by temporary protective order (specify):

15. Plaintiff
a. has filed an undertaking in the amount of: \$
b. has not filed an undertaking.

Date: October 16, 2012

Lisl R. Duncan
(TYPE OR PRINT NAME OF PLAINTIFF OR PLAINTIFF'S ATTORNEY)

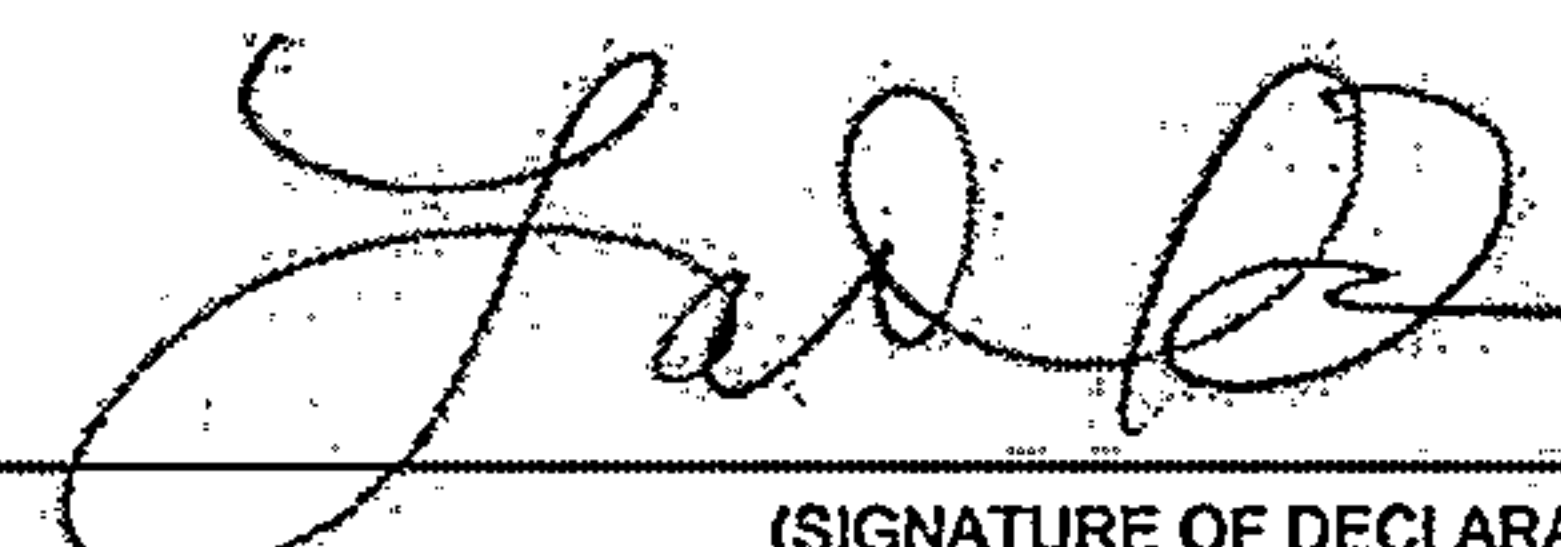

(SIGNATURE OF PLAINTIFF OR PLAINTIFF'S ATTORNEY)

DECLARATION

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

Date: October 18, 2012

Lisl R. Duncan
(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

16. Number of pages attached: 4

1 DAVID A. ROSENFELD, Bar No. 058163
CAREN P. SENCER, Bar No. 233488
2 LISL R. DUNCAN, Bar No. 261875
WEINBERG, ROGER & ROSENFELD
3 A Professional Corporation
1001 Marina Village Parkway, Suite 200
4 Alameda, California 94501
Telephone (510) 337-1001
5 Fax (510) 337-1023

6 Attorneys for Plaintiffs
LAVON GODFREY and GARY GILBERT
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF ALAMEDA

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

12 Plaintiffs,

13 v.

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

16 Defendants.
17

Case No. RG08379099

**DECLARATION OF LISL R. DUNCAN
IN SUPPORT OF PLAINTIFFS'
APPLICATION FOR ORDER FOR
ISSUANCE OF WRIT OF
ATTACHMENT**

Judge: Hon. Robert B. Freedman

18
19 I, LISL R. DUNCAN, hereby declare that:

20 1. I am an attorney at law, admitted to practice before this Court, and an associate
21 with the law firm of Weinberg, Roger & Rosenfeld ("the Law Firm"), attorneys for Plaintiffs in
22 the above-referenced matter. I make this declaration upon my personal knowledge, and, if called
23 as a witness, I could competently testify to the facts hereinafter stated.

24 2. I notified counsel for Defendant, Oakland Port Services Corp. d/b/a AB Trucking,
25 of the law firm Bryant & Brown located at 476 3rd Street, Oakland, CA with phone number
26 510.836.7563 of Plaintiffs' intent to file this application on October 18, 2012 by telephone and
27 email. I notified Mr. Bryant at 9:24 a.m. and at 10:06 a.m. by telephone, and by email at 10:05
28 a.m., of our filing of this application and the date, time and location of the *ex parte* hearing. I

1 intend to provide Mr. Bryant with courtesy copies of our filing this afternoon, and advised him
2 accordingly. Attached hereto as Exhibit A is a true and correct copy of email correspondence
3 sent to Mr. Bryant.

4 3. On October 2, 2012, this Court issued a Notice of Intended Decision and Order
5 finding in favor of Plaintiffs but for one cause of action. The Court requested Plaintiffs file
6 supplemental damages estimates for the Court to utilize in its final Order. Plaintiffs filed these
7 supplemental estimates on October 12, 2012. Based on these facts, Plaintiffs would be entitled to
8 a judgment on the claim upon which the attachment is based.

9 4. Attachment is not sought for a purpose other than recovery on a claim for money
10 which is not secured within the meaning of California Civil Procedure § 483.010 and is based
11 upon an implied contract.

12 5. The amount to be secured by the attachment is \$1,376,160.99, which includes
13 damages and interest, estimated costs of \$41,480.81, and estimated allowable attorney fees of
14 \$370,123.10.

15 6. Plaintiffs have no information or belief that the claim is discharged or the
16 prosecution of the action is stayed under proceeding under Title 11 of the United States Code
17 (Bankruptcy).

18 7. Plaintiffs are informed and believe that the following properties sought to be
19 attached are subject to attachment. Plaintiffs seek to attach: All corporate property which is
20 subject to attachment pursuant to subdivision (a) of Code of Civil Procedure Section 487.010.

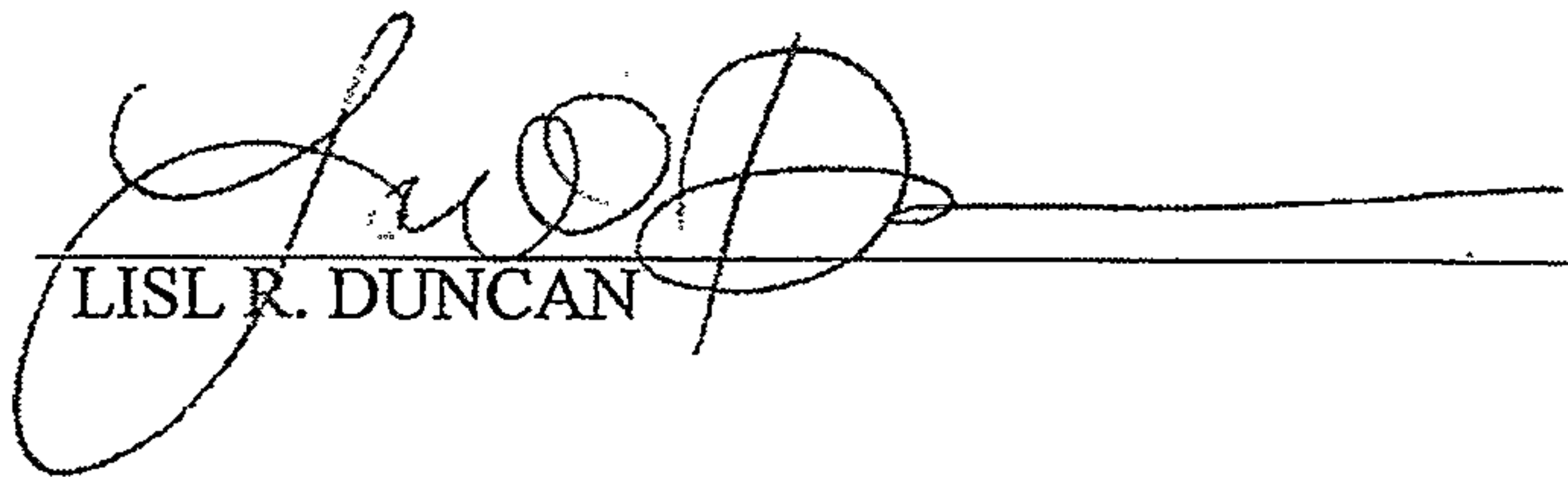
21 8. Plaintiffs are informed and believe that the property sought to be attached is not
22 exempt from attachment.

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9. Plaintiffs allege on *ex parte* motion for order for writ of attachment that Plaintiffs will suffer from great or irreparable injury if the order is not issued before the matter can be heard on notice, as there is a danger that the property sought to be attached would be made unavailable to levy by concealment or impairment in value.

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 by me on the 18th day of October 2012, at Alameda, California.


LISL R. DUNCAN

118212/687997

Lisl Duncan

From: Lisl Duncan
Sent: Thursday, October 18, 2012 10:05 AM
To: Guy Bryant (GuyBryant@bryantbrownlaw.com)
Subject: Ex Parte Tomorrow Oct. 19 at 9:45 a.m. - Dept. 20: Godfrey v. AB Trucking

Mr. Bryant,

I left you a voicemail this morning at 9:24 a.m. on your office line. I called (510) 836-7563. In the voicemail, I advised you that we would be appearing tomorrow ex parte before Judge Freedman at 9:00 a.m. seeking an Order for Issuance of Writ of Attachment.

I am emailing to follow-up on that voicemail.

We have made a reservation to appear ex parte tomorrow, October 19, 2012 at 9:45 a.m. before Judge Freedman in Dept. 20 seeking an Order for Issuance of Writ of Attachment. Please note the time: 9:45 a.m., not 9:00 a.m.

I will send you the documents we will seek to file via email this afternoon as a courtesy.

I am calling again right now to repeat this information.

Please do not hesitate to call should you have any questions or concerns.

Thank you.

Lisl R. Duncan

Weinberg, Roger & Rosenfeld
A Professional Corporation
1001 Marina Village Parkway, Suite 200
Alameda, California 94501-1091
phone: (510) 337-1001
fax: (510) 337-1023
email: <lduncan@unioncounsel.net>

This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in or attached to the message. If you have received the message in error, please advise the sender by reply e-mail to <lduncan@unioncounsel.net> and delete the message.



Please consider the environment before printing this email.

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**PROOF OF SERVICE
(CCP §1013)**

I am a citizen of the United States and resident of the State of California. I am employed in the County of Alameda, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years and not a party to the within action.

On October 18, 2012, I served the following documents in the manner described below:

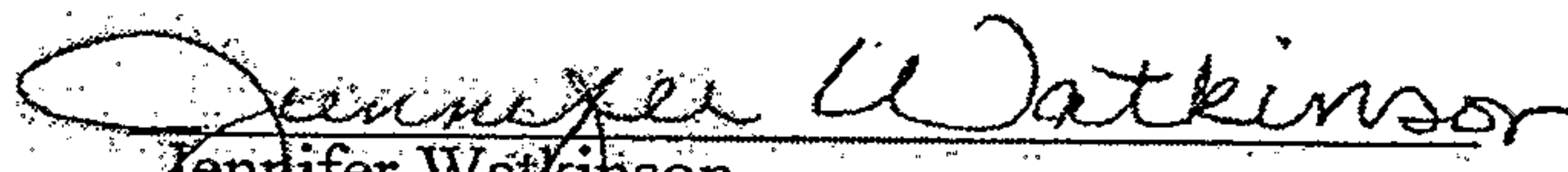
APPLICATION FOR ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT EX PARTE

- (BY U.S. MAIL) I am personally and readily familiar with the business practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for mailing with the United States Parcel Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at Alameda, California.
- (BY ELECTRONIC SERVICE) By electronically mailing a true and correct copy through Weinberg, Roger & Rosenfeld's electronic mail system from jwatkinson@unioncounsel.net to the email addresses set forth below.
- (BY OVERNIGHT MAIL) I am personally and readily familiar with the business practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by United Parcel Service for overnight delivery.

On the following part(ies) in this action:

Mr. Guy A. Bryant
Bryant & Brown
476 3rd Street
Oakland, CA 94607
(510) 836-7564 (fax)
guybryant@bryantbrownlaw.com

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 18, 2012, at Alameda, California.


Jennifer Watkinson

118212/688277