

FILED BY E-DELIVERY

ALAMEDA COUNTY

January 20, 2011

CLERK OF THE SUPERIOR COURT
By Catherine Green, Deputy

CASE NUMBER:
RG08379099

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

6 Attorneys for Plaintiffs
LAVON GODFREY and GARY GILBERT

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

10 LAVON GODFREY and GARY GILBERT, on) Case No. RG08379099
11 behalf of themselves and all others similarly)
12 situated,)

12 Plaintiffs,

) PLAINTIFFS' COMPLEX CASE
) MANAGEMENT CONFERENCE
) STATEMENT

13 v.

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

16 Defendants.

) Date: January 20, 2011
) Time: 2:00 p.m.
) Dept.: 20
) Judge: Robert B. Freedman

18
19 Plaintiffs LAVON GODFREY and GARY GILBERT (hereinafter "GODFREY and/or
20 GILBERT") submit this Complex Case Management Statement in preparation for the complex
21 case management conference scheduled for January 20, 2011 at 2:00 p.m.

22 A. FACTUAL SUMMARY

23 This is a wage and hour class action litigation brought by two former drivers of Defendant
24 AB Trucking. Plaintiffs allege unfair business practices, violations of the California Labor Code
25 and violations of the Port of Oakland's Living Wage Ordinance (Oakland City Charter, Section
26 728). Plaintiffs seek to recover all wages due and applicable penalties on behalf of themselves and
27 others similarly situated. Plaintiffs also seek the difference between the Living Wage and the wage
28 rate paid for the four (4) years prior to the filing of the Complaint, for themselves and those

1 similarly situated. Under Section 9 of the Port Living Wage Ordinance, the Plaintiffs are
2 requesting treble damages, costs of litigation and attorneys' fees.

3 B. PARTIES

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

7 Defendant is represented by Jay Ian Aboudi, 1855 Olympic Boulevard, Suite 210
8 Walnut Creek, CA 94596.

9 C. DEADLINES AND LIMITS ON JOINDER AND AMENDED PLEADINGS

10 Plaintiffs do not intend to join any additional parties.

11 D. CLASS DISCOVERY AND CLASS CERTIFICATION

12 The Court certified a class and subclasses in this action on December 3, 2010.

13 E. PROPOSED LITIGATION SCHEDULE

14 Since December 3, 2010, Plaintiffs and Defendant met and conferred regarding the class
15 notice on several occasions. The parties also engaged in confidential settlement negotiations.

16 Plaintiffs and Defendant filed a stipulated proposed order regarding class notice on January
17 3, 2011, but the Court denied this proposed class notice without prejudice on January 11, 2011.
18 Plaintiffs are in the process of creating a new class notice acceptable to the Court, which Plaintiffs
19 intend to submit via stipulation.

20 The parties initiated discussion regarding merits discovery, dispositive motions and a trial
21 date, but have not fully completed this discussion, as the parties were devoting much of their
22 attention to the class notice process. Plaintiffs have attempted to conclude the meet and confer
23 process on these issues with Defendant prior to this CMC, but have been unsuccessful thus far.

24 Plaintiffs propose the class notice be sent as soon as possible, or by the first week of March
25 2011. Plaintiffs anticipate a motion for summary judgment to be heard shortly, by late March
26 2011.

27 At this stage, Plaintiffs know of no additional "merits" discovery they wish to conduct,
28 other than a half day deposition of the person most knowledgeable at the Oakland Port to

1 authenticate and explain certain documents already in Plaintiffs possession.

2 Plaintiffs propose the trial date be set for September 2011 to allow time for the class notice
3 and any dispositive motions.

4 Plaintiffs respectfully request the Court grant additional time to the parties to identify issues
5 that may be tried by a jury or by the Court. Plaintiffs will be able to present these issues to the
6 Court within 3 days from the date of this CMC, but ask for 5 additional days as conferring with
7 Defendant is not always immediately possible.

8 F. POTENTIAL EVIDENTIARY ISSUES

9 There are no potential evidentiary issues identified at this time.

10 G. PROCEDURAL POSTURE

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

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

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

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

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

17 6. **Unresolved Law and Motion Matters:** The hearing date for the motion for
18 class certification will be set by the Court.

19 7. **ADR Proceedings:** Plaintiffs believe it would be in the best interest of the parties
20 to participate in mediation after class certification. Defendant does not believe this is an
21 appropriate case for ADR.

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

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

27 //

28 //


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

H OTHER MATTERS

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

Dated: January 20, 2011

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: 

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

118212/604740

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 January 20, 2011, I served upon the following parties in this action:

Jay Ian Aboudi
The Law Office of Jay Ian Aboudi
1855 Olympic Blvd., Ste. 210
Walnut Creek, CA 94596
jay@aboudi-law.com

copies of the document(s) described as:


PLAINTIFFS' COMPLEX 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 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 E-MAIL I caused to be transmitted each document listed herein via the e-mail address(es) 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 January 20, 2011.


Jennifer Koffler

118212/555975