

Superior Court of California, County of Alameda
Rene C. Davidson Alameda County Courthouse

Godfrey Plaintiff/Petitioner(s)
VS.
AB Trucking, Inc. Defendant/Respondent(s) (Abbreviated Title)

No. **RG08379099**

Minutes

Department 20 Honorable Robert B. Freedman, Judge
Reporter Teri Rosette CSR#6631

Cause called for Motion: December 03, 2010.

The Demurrer of defendant Oakland Port Services Corporation dba AB Trucking ("Defendant") to the Second Amended Complaint ("SAC") of plaintiffs Lavon Godfrey and Gary Gilbert ("Plaintiffs") is ruled on as follows:

The Court notes at the outset that Defendant's demurrer does not comply with Rule of Court 3.1320(a). None of the enumerated grounds for demurrer state whether they apply to the entire SAC or to one or more of the eight separate causes of action. The Court further notes that Defendant relies primarily on federal authorities, none of which arise in the context of a pleadings challenge.


All of Defendant's enumerated grounds for demurrer appear to be directed to the "Class Allegations" section of the SAC, and each addresses issues that are not appropriate for resolution pursuant to Code of Civil Procedure section 430.10. Determination of class sufficiency cannot be made on the face of the pleading. (See, e.g., Gutierrez v. California Commerce Club, Inc. (2010) 187 Cal.App.4th 969, 975.)

The Demurrer is **OVERRULED** in all respects.

Defendant shall answer the SAC forthwith, and no later than December 10, 2010.

The order will be issued by the court.

Minutes of 12/03/2010
Entered on 12/03/2010

Executive Officer / Clerk of the Superior Court
By  digital
Deputy Clerk