



1 DAVID A. ROSENFELD, Bar No. 058163
 2 CAREN P. SENCER, Bar No. 233488
 3 LISL R. DUNCAN, Bar No. 261875
 WEINBERG, ROGER & ROSENFELD
 4 A Professional Corporation
 1001 Marina Village Parkway, Suite 200
 Alameda, California 94501-1091
 Telephone 510.337.1001
 5 Fax 510.337.1023

FILED
ALAMEDA COUNTY

DEC 15 2009

CLERK OF THE SUPERIOR COURT
 By *[Signature]* Deputy

6 Attorneys for Plaintiffs
 LAVON GODFREY and GARY GILBERT

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

11	LAVON GODFREY and GARY GILBERT, on)	Case No.	RG 08-379099
12	behalf of themselves and all others similarly)		
	situated,)		
13	Plaintiffs,)	PLAINTIFFS' NOTICE OF MOTION	
		AND MOTION FOR CLASS	
14	v.)	CERTIFICATION	
15	OAKLAND PORT SERVICES CORP. d/b/a)	Date:	January 15, 2010
16	AB TRUCKING, and DOES 1 through 20,)	Time:	11:00 a.m.
	inclusive,)	Dept:	20
17	Defendants.)	Judge:	Robert Freedman
		Reservation Number:	1006715

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 19 TO OAKLAND PORT SERVICES CORP., d/b/a AB TRUCKING:

20 Please take notice that on January _____, 2010, at _____ a.m., in Department 20 of the
 21 above captioned court, located at 1221 Oak Street, Oakland, California, Plaintiffs Lavon Godfrey
 22 and Gary Gilbert, will and hereby do move, on behalf of themselves and others similarly situated,
 23 for an order of Class Certification.

24 The Motion is made on the grounds that a class action is appropriate under C.C.P. § 382
 25 and California Rule of Court 3.764. Specifically, Plaintiffs seek an Order as follows:

26 1. To certify that this action is maintainable as a class action;

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2. To certify the subclasses, described as:

(1) The All Hours Worked Class

All drivers employed by Defendant during the statutory period who were not paid for all hours worked in any work week.

(2) The Misclassified Employee or No Wages Received Class

All drivers employed by Defendant during the statutory period who were not paid for any hours worked in any work week.

(3) The Overtime Class

All drivers employed by Defendant during the statutory period who were not paid for hours worked over eight (8) in a day and/or forty (40) in a week at an overtime rate of time-and-one-half the regular rate.

(4) The Living Wage Class

All drivers employed by Defendant during the statutory period who were paid less than the Oakland Living Wage for any hour(s) worked.

(5) The Meal and Rest Period Class

All drivers employed by Defendant during the statutory period who were not provided rest breaks and/or meal periods as required by California law.

as the plaintiff classes for purposes of proceeding with this lawsuit as a class action;

3. To approve the Class Notice attached as Exhibit A to the [proposed] order and direct such Notice to be mailed to all Class Members; and

4. To certify the individual Plaintiffs who are bringing this motion as the representatives of the plaintiff class and their counsel of record as counsel for the plaintiff class.

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This motion is based on this Notice, the supporting Memorandum of Points and Authorities, Plaintiffs' reply to any opposition memorandum, the Declaration of Lisl R. Duncan, Plaintiff's request for judicial notice, all records and pleadings on file with this Court, and such argument, testimony, and documentary evidence as may be adduced at the hearing on this motion.

Dated: December 14, 2009

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: 

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

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