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FILED
 ALAMEDA COUNTY

JUL 19 2010

CLERK OF THE SUPERIOR COURT
 By [Signature] Deputy

6 Attorneys for Plaintiff
 7 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. RG08-379099
11 behalf of themselves and all others similarly)	PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR CLASS CERTIFICATION
12 situated,)	
13 Plaintiffs,)	
14 v.)	Date: August 20, 2010
15 OAKLAND PORT SERVICES CORP. d/b/a)	Time: 10:00 a.m.
16 AB TRUCKING, and DOES 1 through 20,)	Department: 20
17 inclusive,)	Judge: Robert B. Freedman
18 Defendants.)	

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

19 Please take notice that on August 20, 2010, at 10:00 a.m., in Department 20 of the above
 20 captioned court, located at 1221 Oak Street, Oakland, California, Plaintiffs Lavon Godfrey and
 21 Gary Gilbert, will and hereby do move, on behalf of themselves and others similarly situated, for
 22 an order of Class Certification.

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

- 25 1. To certify that this action is maintainable as a class action;
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1 2. To certify the class as the plaintiff class, for purposes of proceeding with this
2 lawsuit as a class action, described as: All drivers¹ who performed work for AB Trucking out of its
3 Oakland, California facility from the period of March 28, 2004 through March 28, 2008. Should
4 the Court determine that subdividing the class would be beneficial, five sub-classes are readily
5 defined as follows:

6 (1) The All Hours Worked Subclass

7 All drivers employed by Defendant during March 28, 2004 through March
8 28, 2008 who were not paid for all hours worked in any work week.

9 (2) The Misclassified Employee or No Wages Received Subclass

10 All individuals who were misclassified as "non-employee trainees" rather
11 than as drivers and as a result were not paid by Defendant for any hours
 worked in any work week during March 28, 2004 through March 28, 2008.

12 (3) The Overtime Subclass

13 All drivers employed by Defendant during March 28, 2004 through March
14 28, 2008 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.

15 (4) The Living Wage Subclass

16 All drivers employed by Defendant during March 28, 2004 through March
17 28, 2008 who were paid less than the Oakland Living Wage for any hour
 worked.

18 (5) The Meal and Rest Period Subclass

19 All drivers employed by Defendant during March 28, 2004 through March
20 28, 2008 who were not provided rest breaks and/or meal periods as required
 by California law.

21 3. To approve the Class Notice attached as Exhibit A to the [proposed] order and
22 direct such Notice to be mailed to all Class Members; and
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¹ "Driver" means an employee who operates a vehicle described in subdivision (b) of Section 15210 of the California Vehicle Code, or an individual operating a "motor vehicle." "Motor vehicle" includes, though is not limited to, a vehicle(s) that (1) has a gross vehicle weight rating (GVWR) of 26,001 pounds or more; (2) is a combination vehicle with a gross combination weight rating of 26,001 or more pounds, if the trailer(s) has a GVWR of 10,001 or more pounds; (3) tows any vehicle with a GVWR of 10,001 pounds or more; (4) tows more than one vehicle or a trailer bus; (5) has three or more axles (excludes three axle vehicles weighing 6,000 pounds or less gross); (6) is any size vehicle which requires hazardous material placards or is carrying material listed as a select agent or toxin; and/or (7) transports hazardous wastes (California Health and Safety Code §§25115 and 25117).

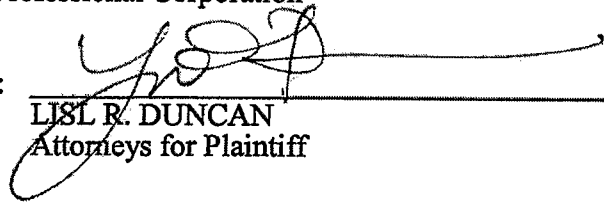
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4. To certify the individual Plaintiffs who are bringing this motion as the representatives of the plaintiff class and their counsel of record as counsel for the plaintiff class.

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, the Declaration of Lavon Godfrey, the Declaration of Gary Gilbert, 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: July 19, 2010

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: 
LISL R. DUNCAN
Attorneys for Plaintiff

118212/579615

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 July 19, 2010, 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

copies of the document(s) described as:

PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR CLASS CERTIFICATION

- 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 July 19, 2010.


Jennifer Koffler

118212/555975