

ORIGINAL

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10 Attorneys for Plaintiffs
11 LAVON GODFREY and GARY GILBERT

12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF ALAMEDA

14 LAVON GODFREY and GARY GILBERT, on)
15 behalf of themselves and all others similarly)
16 situated,)

17 Plaintiffs,

18 v.

19 OAKLAND PORT SERVICES CORP. d/b/a)
20 AB TRUCKING, and DOES 1 through 20,)
21 inclusive,)

22 Defendants.

Case No. RG 08-379099

[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION

Date: August 20, 2010
Time: 10:00 a.m.
Dept: 20
Judge: Robert Freedman

23 The motion of Plaintiffs Lavon Godfrey and Gary Gilbert for class certification came on for
24 hearing on August 20, 2010 in the Superior Court of California, County of Alameda, the Honorable
25 Robert Freedman presiding. Plaintiffs and Defendant Oakland Port Services Corp., d/b/a AB
26 Trucking appeared through their respective counsel.

27 After full consideration of the motion and the evidence and points and authorities as well as
28 the oral arguments of counsel, the Court hereby:

1. Certifies that this action may be maintained as a class action;

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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)
13 situated,) [PROPOSED] CLASS NOTICE
14 Plaintiffs,)
15 v.)
16 OAKLAND PORT SERVICES CORP. d/b/a)
17 AB TRUCKING, and DOES 1 through 20,)
18 inclusive,)
19 Defendants.)

19 TO:

20 A CLASS ACTION LAWSUIT HAS BEEN FILED AGAINST DEFENDANT
21 OAKLAND PORT SERVICES CORP., D/B/A AB TRUCKING. YOU MAY BE A CLASS
22 MEMBER. THIS NOTICE PROVIDES IMPORTANT INFORMATION ABOUT YOUR
23 RIGHTS IN CONNECTION WITH THAT LAWSUIT. PLEASE READ IT CAREFULLY.
24 YOU ARE NOT BEING SUED.

25 A lawsuit has been filed in the California Superior Court for the County of Alameda,
26 against Oakland Port Services Corp., d/b/a AB Trucking ("AB Trucking"). The Court has
27 determined that this case may proceed as a class action. A class action lawsuit is a lawsuit in
28 which one or more persons sue on behalf of themselves and others who have similar claims. This

1 Notice is being provided for the purpose of informing you of the lawsuit and of your rights
2 regarding it.

3 In this lawsuit, the Plaintiffs, Lavon Godfrey and Gary Gilbert, are drivers who work or
4 worked for AB Trucking. Plaintiffs allege that AB Trucking failed to provide wages for all hours
5 worked, failed to pay overtime, failed to compensate drivers at the Oakland Living Wage rate,
6 failed to authorize and permit meal and rest periods and failed to provide drivers with adequate
7 wage statements.

8 California law and statute require an employer to provide an employee with compensation
9 for all hours worked. Unless any exemptions apply, California law and statute require employers
10 to compensate employees at the rate of one and one-half times the regular rate of pay for hours
11 worked beyond eight (8) in a workday and forty (40) in a week. The Oakland Municipal Code, or
12 the "Oakland Living Wage Ordinance," requires that certain employees must be compensated at
13 the Oakland Living Wage rate. This rate is updated periodically and is higher than the California
14 minimum wage.

15 California law and statute require employers to provide employees who work more than
16 five (5) hours in one day with at least a 30-minute, off-duty meal period and an additional 30-
17 minute meal period when employees work more than ten (10) hours in one day. If an employer
18 fails to provide these meal periods in accordance with law, employees are entitled to an additional
19 hour of compensation for each day a meal period is missed. California law and statute require an
20 employer to authorize and permit employees to take paid ten (10) minute rest breaks for each work
21 period of four (4) hours or the greater portion thereof. If an employer fails to provide these rest
22 breaks in accordance with law, employees are entitled to an additional hour of compensation for
23 each day a rest period is missed.

24 California law and statute require employers to provide employees with accurate itemized
25 wage statements. These statements must include, among other requirements, total hours worked
26 and all applicable hourly rates in effect during the pay period.

27 Based upon the above statutes, Plaintiffs allege the following legal claims or "causes of
28 action": (1) Unfair Competition under Business & Professions Code section 17200 *et seq.*; (2)

1 Failure to Pay for All Hours Worked; (3) Failure to Provide Minimum Compensation at the
2 Oakland Living Wage Rate; (4) Failure to Provide Meal and Rest Periods and (5) Failure to
3 Provide Adequate Wage Statements. Plaintiffs seek injunctive and/or declaratory relief, restitution
4 of wages, interest on wages owed, monetary penalties for wage violations, an accounting of all
5 amounts due, and attorney's fees and costs. Oakland Port Services Corp., d/b/a AB Trucking
6 denies that it violated any wage laws or that any amounts are owed.

7 The Court has certified the following classes:

8 (1) The All Hours Worked Class

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

11 (2) The Misclassified Employee or No Wages Received Class

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

14 (3) The Overtime Class

15 All drivers employed by Defendant during the statutory period who were not
16 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.

17 (4) The Living Wage Class

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

20 (5) The Meal and Rest Period Class

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

23 The Court has not made any decision about who is right or wrong in the lawsuit or who will
24 win at trial. This Notice is not to be understood as an expression of any opinion of the Court.

25 The law firm of Weinberg, Roger & Rosenfeld, 1001 Marina Village Parkway, Suite 200,
26 Alameda, California 94501 ("Class Counsel") is prosecuting this action on behalf of the class.
27 Class Counsel represents the class members on a contingent basis, without any charge to class
28 members. Any reimbursement of costs or expenses or award of attorney fees to Class Counsel will
be made by the Court from any recovery for the class members or from AB Trucking directly.

1 Class members may choose to remain in the class or to be excluded from it ("opt out"). If
2 you do not request exclusion from the class, you will remain a member of the class and will be
3 bound by the outcome of the lawsuit. Any claims that you may have against AB Trucking arising
4 from the matters alleged in the class action will be determined in the class action, in which you will
5 be represented by Class Counsel. You will share in any recovery obtained for the class, but you
6 will not be able to present the same claims in another lawsuit regardless of the outcome in this
7 action.

8 IF YOU WANT TO REMAIN A MEMBER OF THE CLASS, NO ACTION IS
9 NECESSARY AT THIS TIME.

10 If you wish to exclude yourself from the class, you must send a written "Request for
11 Exclusion" postmarked on or before _____, 2010 to:

12 Lavon Godfrey, et al. v. Oakland Port Services Corp. d/b/a AB Trucking
13 Administrator

14 [Address of Chosen Administrator]

15 The Request for Exclusion must include your name and address, and must specifically state
16 that you wish to request to be excluded from the plaintiff class in the case entitled *Lavon Godfrey,*
17 *et al. v. Oakland Port Services Corp. d/b/a AB Trucking*, Alameda Superior Court No. RG 08-
18 37909.

19 If you request to be excluded from the class, you will not share in any recovery (if any) that
20 may be made in the class action. You will not be bound by any judgment in the class action. You
21 are free to file your own lawsuit against the Defendant. Do not send a request for exclusion if you
22 wish to remain in the class.

23 If you have any questions about this Notice, or this lawsuit, you may contact Class
24 Counsel:

25 WEINBERG, ROGER & ROSENFELD
26 A Professional Corporation
27 1001 Marina Village Parkway, Suite 200
Alameda, California 94501-1091
Telephone 510.337.1001
Fax 510.337.1023

1 You may wish to seek the advice and guidance of your own attorney, at your own expense,
2 about your legal rights. You may also enter an individual appearance in the action through
3 counsel, at your own expense, but it is not necessary to do so in order to be included as a member
4 of the class. For further information concerning this Notice, you may also contact Weinberg,
5 Roger & Rosenfeld at the address shown above.

6 DO NOT WRITE OR CALL THE COURT OR THE CLERK OF THE COURT.

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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:

[PROPOSED] ORDER GRANTING PLAINTIFFS' 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

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