



FILED
ALAMEDA COUNTY

OCT 29 2010

CLERK OF THE SUPERIOR COURT
By [Signature] Deputy

ORIGINAL

[Handwritten initials]

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

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)	Case No.	RG08379099
15	behalf of themselves and all others similarly)		
16	situated,)		
17	Plaintiffs,)		
18	v.)	Date:	December 3, 2010
19	OAKLAND PORT SERVICES CORP. d/b/a)	Time:	10:00 a.m.
20	AB TRUCKING, and DOES 1 through 20,)	Dept:	20
21	inclusive,)	Judge:	Robert B. Freedman
22	Defendants.)	Reservation Number:	R-1114331

23 The motion of Plaintiffs Lavon Godfrey and Gary Gilbert for class certification came on for
24 hearing in the Superior Court of California, County of Alameda, the Honorable Robert Freedman
25 presiding. Plaintiffs and Defendant Oakland Port Services Corp., d/b/a AB Trucking appeared
26 through its 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;
2. Certifies the plaintiff class of all drivers who performed work for AB Trucking out
of its Oakland, California facility from the period of March 28, 2004 through December 3, 2010;

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FAXED
FIRST LEGAL SUPPORT SERVICES

WEINBERG, ROGER &
ROSENFELD
A Professional Corporation
1001 Marina Village Parkway
Suite 200
Alameda, CA 94501-1091
510.337.1001

1 3. Certifies the subclasses as:

2 (1) The All Hours Worked Subclass

3 All drivers employed by Defendant during March 28, 2004 through
4 December 3, 2010 who were not paid for all hours worked in any work
5 week.

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

7 All drivers who were misclassified as "non-employee trainees" rather
8 than as employees and as a result were not paid by Defendant for any
9 hours worked in any work week during March 28, 2004 through
10 December 3, 2010.

11 (3) The Overtime Subclass

12 All drivers employed by Defendant during March 28, 2004 through
13 December 3, 2010 who were not paid for hours worked over eight (8) in
14 a day and/or forty (40) in a week at an overtime rate of time-and-one-
15 half the regular rate.

16 (4) The Living Wage Subclass

17 All drivers employed by Defendant during March 28, 2004 through
18 December 3, 2010 who were paid less than the Oakland Living Wage for
19 any hour(s) worked.

20 (5) The Meal and Rest Period Subclass

21 All drivers employed by Defendant during March 28, 2004 through
22 December 3, 2010 who were not provided rest breaks and/or meal
23 periods as required by California law.

24 4. Approves the Class Notice attached as Exhibit A hereto and directs such Notice to
25 be mailed to all Class Members; and

26 5. Appoints the individual Plaintiffs who have brought this motion as the
27 representatives of the plaintiff class and their counsel of record as counsel for the plaintiff class.

28 IT IS SO ORDERED.

Dated: _____, 2010

By: _____
JUDGE OF THE SUPERIOR COURT

118212/593477

1 DAVID A. ROSENFELD, Bar No. 058163
2 CAREN P. SENCER, Bar No. 233488
3 LISL R. DUNCAN, Bar No. 261875
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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) Case No. RG08379099
15 behalf of themselves and all others similarly)
16 situated,) [PROPOSED] CLASS NOTICE

17 Plaintiffs,

18 v.

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

22 Defendants.

23 TO:

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

A lawsuit has been filed in the California Superior Court for the County of Alameda,
against Oakland Port Services Corp., d/b/a AB Trucking ("AB Trucking"). The Court has
determined that this case may proceed as a class action. A class action lawsuit is a lawsuit in
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 class and subclasses:

8 Class:

9 All drivers¹ who performed work for AB Trucking out of its Oakland,
10 California facility from the period of March 28, 2004 through December 3,
2010.

11 Subclasses:

12 (1) The All Hours Worked Subclass

13 All drivers employed by Defendant during March 28, 2004 through
14 December 3, 2010 who were not paid for all hours worked in any work
week.

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

16 All individuals who were misclassified as "non-employee trainees" rather
17 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 December 3,
2010.

18 (3) The Overtime Subclass

19 All drivers employed by Defendant during March 28, 2004 through
20 December 3, 2010 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.

21 (4) The Living Wage Subclass

22 All drivers employed by Defendant during March 28, 2004 through
23 December 3, 2010 who were paid less than the Oakland Living Wage for
24 any hour worked.

25 ¹ "Driver" means an employee who operates a vehicle described in subdivision (b) of Section 15210 of the California
26 Vehicle Code, or an individual operating a "motor vehicle." "Motor vehicle" includes, though is not limited to, a
27 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
28 pounds; (3) 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).

1 (5) The Meal and Rest Period Subclass

2 All drivers employed by Defendant during March 28, 2004 through
3 December 3, 2010 who were not provided rest breaks and/or meal periods as
4 required by California law.

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

7 The law firm of Weinberg, Roger & Rosenfeld, 1001 Marina Village Parkway, Suite 200,
8 Alameda, California 94501 ("Class Counsel") is prosecuting this action on behalf of the class.

9 Class Counsel represents the class members on a contingent basis, without any charge to class
10 members. Any reimbursement of costs or expenses or award of attorney fees to Class Counsel will
11 be made by the Court from any recovery for the class members or from AB Trucking directly.

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

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

21 If you wish to exclude yourself from the class, you must send a written "Request for
22 Exclusion" postmarked on or before _____, 20__ to:

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

25 [Address of Chosen Administrator]

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

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

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

7 WEINBERG, ROGER & ROSENFELD
8 A Professional Corporation
9 1001 Marina Village Parkway, Suite 200
10 Alameda, California 94501-1091
11 Telephone 510.337.1001
12 Fax 510.337.1023

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

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

19 118212/594796

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WEINBERG, ROGER &
ROSENFELD
A Professional Corporation
1001 Marina Village Parkway
Suite 200
Alameda, CA 94501-1091
510.337.1001

PROOF OF SERVICE
(CCP 1013)

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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 October 29, 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
jay@aboudi-law.com

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 October 29, 2010.


Jennifer Koffler

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