



9605482

FILED
ALAMEDA COUNTY

AUG 10 2011

Exec. Off/Clerk

By

[Handwritten Signature]

ORIGINAL

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)
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. RG08379099

) PLAINTIFFS' NOTICE OF MOTION
) AND MOTION FOR SUMMARY
) ADJUDICATION ON THE SECOND
) AND SIXTH CAUSES OF ACTION

) Date: October 28, 2011

) Time: 2:00 p.m.

) Dept: 20

) Judge: Robert B. Freedman

) Reservation Number: R-1204995

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

24 Please take notice that on October 28, 2011, at 2:00 p.m., in Department 20 of the above
25 captioned court, located at 1221 Oak Street, Oakland, California, Plaintiffs and Class

26 Representatives Lavon Godfrey and Gary Gilbert, will and hereby do move, pursuant to California
27 Code of Civil Procedure section 437c, on behalf of themselves and others similarly situated, for an
28 order adjudicating that:

- 29 1. Plaintiffs are entitled to judgment on the second cause of action for violation of
30 California Labor Code ("Labor Code") sections 1182.12, 1194 and Industrial Welfare Commission
31 Wage Order 9, subdivision 4 ("Wage Order 9") because Defendant failed to pay employee drivers
32 at least minimum wage for all hours they worked; and

33 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


2. Plaintiffs are entitled to judgment on the sixth cause of action for violation of Labor Code sections 226.7, 512 and Wage Order 9, subdivisions 11 and 12, because employee drivers did not receive meal and rest periods or wages in lieu thereof.

Plaintiffs therefore seek an order that the final judgment in this action shall, in addition to any matters determined at trial, award judgment as established by such adjudication.

This motion is based on this Notice, the supporting Memorandum of Points and Authorities, Plaintiffs' Separate Statement of Undisputed Fact, the Declaration of Caren P. Sencer, 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: August 9, 2011

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: 
CAREN P. SENCER
Attorneys for Plaintiffs

118212/630593

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 August 10, 2011, 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:


PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR SUMMARY ADJUDICATION ON THE SECOND AND SIXTH CAUSES OF ACTION

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 August 10, 2011.


Jennifer Koffler

118212/555975