

FILED BY FAX

ALAMEDA COUNTY

January 15, 2010

CLERK OF
THE SUPERIOR COURT
By Rosanne Case, Deputy

CASE NUMBER:
RG08379099

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9 OAKLAND PORT SERVICES CORPORATION
d/b/a AB TRUCKING (erroneously sued as AB
10 TRUCKING, INC.)

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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF ALAMEDA
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15 LAVON GODFREY and GARY GILBERT, on
behalf of themselves and all others similarly
16 situated,

17 Plaintiffs,

18 v.

19 OAKLAND PORT SERVICES
CORPORATION d/b/a AB TRUCKING, and
20 DOES 1 through 20, inclusive,

21 Defendants.

CASE NO. RG 08-379099

**RULE 3.1345 STATEMENT OF
INTERROGATORIES AND
RESPONSES IN DISPUTE**

Hearing Date: February 11, 2010
Hearing Time: 2:00 p.m.
Dept: Dept. 20, Judge Freedman
Action Filed: March 28, 2008
Trial Date: Not yet assigned
Reservation No. R - 1027608

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23 **I. BACKGROUND**

24 Plaintiff LAVON GODFREY was a former truck driver for OAKLAND PORT
25 SERVICES CORPORATION d/b/a AB TRUCKING (the "Defendant"). Plaintiff GARY
26 GILBERT was a voluntary participant in a trainee program offered by Defendant. Plaintiffs
27 LAVON GODFREY and GARY GILBERT filed this putative class action lawsuit, on behalf of
28 themselves and other similarly situated employees, seeking to recover wages from Defendant.

1 Plaintiffs named OAKLAND PORT SERVICES CORPORATION as one of the defendants
2 alleging unfair business practices, violations of the California Labor Code and violations of the
3 Port of Oakland's Living Wage Ordinance (Oakland City Charter, Section 728).

4 On September 8, 2009, Plaintiff GODFREY was served individually with Set Number
5 One of Form Interrogatories—Employment Law using the Judicial Council of California Form
6 DISC-002.

7 Also on September 8, 2009, both Plaintiffs GODFREY and GILBERT were each served
8 with Set Number One of Form Interrogatories—General using the Judicial Council of California
9 Form DISC-001 and propounded by Defendant including the interrogatories set forth below, to
10 which objections were interposed or responses given as set forth below. The Form
11 Interrogatories—General using the Judicial Council of California Form DISC-001 provided the
12 following defined terms under subsection (a) of Sec. 4. Definitions:

13 “(1) **INCIDENT** includes the circumstances and events surrounding the alleged accident,
14 injury or other occurrence or breach of contract giving rise to this action or proceeding.”

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16 **II. INTERROGATORIES AND RESPONSES IN DISPUTE**

17 1. **Set No. 1, Form Interrogatory No. 2.11:** At the time of the **INCIDENT** were
18 you acting as an agent or employee for any **PERSON**? If so, state: (a) the name, **ADDRESS**,
19 and telephone number of that **PERSON**; and (b) a description of your duties.

20 **Response to Form Interrogatory No. 2.11:** “Plaintiff incorporates his General
21 Objections as though set forth fully herein. Plaintiff objects to this Interrogatory on the ground
22 that it seeks information not relevant to the instant action, nor reasonably likely to lead to the
23 discovery of admissible evidence. Plaintiff objects to this request on the ground that it is unduly
24 overbroad, burdensome, and oppressive, and that the information is discoverable through less
25 burdensome means in that Defendants already possess this information in their own records.
26 Plaintiff objects to this request on the ground that the request seeks information protected by the
27 right of privacy. Plaintiff objects to this request in that it serves no purpose other than vex,
28 harass and annoy Plaintiff, and is propounded for no other purpose than to waste Plaintiff's time

1 in an effort to obfuscate the discovery process. Plaintiff objects on the basis that the question is
2 oppressive and burdensome. Subject to and without waiving the foregoing objections Plaintiff
3 responds as follows: Yes. Plaintiff was acting as an agent or employee of AB Trucking."

4 **Reason further response should be compelled:** Both Plaintiffs' responses were
5 identical, verbatim. Plaintiffs' response to Form Interrogatory No. 2.11 is incomplete. Although
6 Plaintiffs answered that it was acting as an agent or employee of AB Trucking, it has not
7 provided a response to subsection (b) of Form Interrogatory No. 2.11 which requests a
8 description of each individual Plaintiff's duties. Defendant is entitled to each Plaintiffs'
9 description of duties in order to determine, *inter alia*, whether Plaintiffs can satisfy the
10 requirements of California Code of Civil Procedure §382. In addition, Plaintiffs' responses were
11 untimely and unverified.

12 2. **Set No. 1, Form Interrogatory No. 12.1:** State the name, **ADDRESS**, and
13 telephone number of each individual:

14 (a) who witnessed the **INCIDENT** or the events occurring immediately before or after
15 the **INCIDENT**;

16 (b) who made any statement at the scene of the **INCIDENT**;

17 (c) who heard any statements made about the **INCIDENT** by any individual at the
18 scene; and

19 (d) who **YOU OR ANYONE ACTING ON YOUR BEHALF** claim has knowledge of
20 the **INCIDENT** (except for expert witnesses covered by Code of Civil Procedure
21 section 2034).

22 **Response to Form Interrogatory No. 12.1:** "Plaintiff incorporates his General
23 Objections as though set forth fully herein. Plaintiff objects to this request on the ground that it
24 is unduly overbroad, burdensome, and oppressive. Plaintiff objects to this request in that it
25 serves no purpose other than vex, harass and annoy Plaintiff. Subject to and without waiving the
26 above objections, Plaintiff hereby responds as follows: Interrogatory is indecipherable in the
27 context of this case. Plaintiff objects to this interrogatory on the grounds it is vague and
28 ambiguous in its reference to "the **INCIDENT**." In responding to this interrogatory, Plaintiff

1 understands INCIDENT to mean the violations of law alleged in the first amended complaint
2 during Plaintiff's employment with A.B. Trucking. Based on this understanding, the individuals
3 with whom Plaintiff worked and supervisory personnel were aware of the violations. Plaintiff
4 believes all AB Trucking management may have information regarding the violations alleged in
5 the complaint. Discovery is continuing and Plaintiff reserves the right to supplement her
6 response at a later date."

7 **Reason further response should be compelled:** Both Plaintiffs' responses were
8 identical, verbatim. Plaintiffs' response to Form Interrogatory No. 12.1 is incomplete. Although
9 Plaintiffs provide a broad response identifying "all AB Trucking management," Plaintiffs do not
10 provide the names of individuals as requested by the interrogatory nor do Plaintiffs provide a
11 complete answer. Firstly, we know that each of the Plaintiffs GODFREY and GILBERT is a
12 witness, and so each of the plaintiffs should have identified each other. Secondly the plaintiffs
13 must know of specific other employees who are witnesses to some specific allegation of the
14 Complaint who they can identify. Form Interrogatory 12.1 requires the Plaintiffs to identify
15 actual witnesses of whom they are aware. While Defendant certainly has superior information
16 regarding the entire list of its employees, only Plaintiffs know of specific employees whom they
17 know to be actual witnesses to the claims of the named Plaintiffs. Likewise, if Plaintiffs believe
18 there are representatives of the corporation who are witnesses, they must identify them.
19 Defendant is entitled to learn the identity of those witnesses in order to adequately conduct
20 discovery, to prepare for Plaintiffs' motion for class certification, and to prepare for trial. In
21 addition, Plaintiff's responses were untimely and unverified.

22 3. **Set No. 1, Form Interrogatory No. 207.2:** Did the EMPLOYEE complain to the
23 EMPLOYER about any of the unlawful conduct alleged in the PLEADINGS? If so, for each
24 complaint:

- 25 (a) state the date of the complaint;
26 (b) state the nature of the complaint;
27 (c) state the name and ADDRESS of each PERSON to whom the complaint was made;
28 (d) state the name, ADDRESS, telephone number, and job title of each PERSON who

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- investigated the complaint;
- (e) state the name, ADDRESS, telephone number, and job title of each PERSON who participated in making decisions about how to conduct the investigation;
- (f) state the name, ADDRESS, telephone number, and job title of each PERSON who was interviewed or who provided an oral or written statement as part of the investigation of the complaint;
- (g) state the nature and date of any action taken in response to the complaint;
- (h) state whether the EMPLOYEE who made the complaint was made aware of the actions taken by the EMPLOYER in response to the complaint, and, if so, state how and when;
- (i) identify all DOCUMENTS relating to the complaint, the investigation, and any action taken in response to the complaint; and
- (j) state the name, ADDRESS, and telephone number of each PERSON who has knowledge of the EMPLOYEE’S complaint or the EMPLOYER’S response to the complaint.

Response to Form Interrogatory No. 207.2: “Plaintiff responds as follows:

Yes. Plaintiff testified to making such complaints to AB Trucking management in her deposition taken on June 24, 2009. Discovery is continuing and Plaintiff reserves the right to supplement her response at a later date.”

Reason further response should be compelled: Plaintiff GODFREY’S

response to Form Interrogatory No. 207.2, that she “testified to making such complaints...in her deposition” is improper as the response, by itself, is not fully responsive to the interrogatory. Plaintiff GODFREY supplies only a portion of the information sought and Defendant is entitled to a complete answer. In addition, Plaintiff’s responses were untimely and unverified. Plaintiff GILBERT was not served with this interrogatory.

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Dated: January 15, 2010

JAY IAN ABOUDI, ATTORNEY AT LAW



JAY I. ABOUDI, GENERAL COUNSEL
Attorney for Defendant
OAKLAND PORT SERVICES
CORPORATION d/b/a AB TRUCKING