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21 SUPERIOR COURT OF THE STATE OF CALIFORNIA

22 IN AND FOR THE COUNTY OF ALAMEDA

23 LAVON GODFREY and GARY GILBERT, on
24 behalf of themselves and all others similarly
25 situated,

26 Plaintiffs,

27 v.

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

Defendants.

Case No. RG 08-379099

**CLASS ACTION SETTLEMENT
AGREEMENT AND RELEASE OF ALL
CLAIMS**

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1 This Class Action Settlement Agreement and Release of Claims (the "Agreement") is
2 made by and between Plaintiffs Lavon Godfrey and Gary Gilbert ("Plaintiffs") on behalf of
3 themselves and the Class (as defined below) and Oakland Port Services Corp. d/b/a AB Trucking
4 ("Defendant"). The "Plaintiffs" and "Defendant" are collectively referred to as "the Parties."
5 (Capitalized terms used herein shall have the meanings set forth in Section II or elsewhere in this
6 Agreement.)

7 **I. SETTLEMENT**

8 Subject to Court approval, the Parties have agreed to settle the Litigation by agreement of
9 Defendant to provide a payment of a total amount of two hundred thousand dollars
10 (\$200,000.00), which sum includes attorneys' fees and costs, but not costs associated with the
11 administration and dispersal of the settlement funds, upon the terms and conditions and for the
12 consideration set forth in this Agreement, including but not limited to a release of the class action
13 claims against Defendant and related Released Parties by Plaintiffs and the Class.

14 **II. DEFINITIONS**

15 Unless otherwise defined herein, capitalized terms used in this Agreement shall have the
16 meanings set forth below:

17 **A. THE AGREEMENT**

18 "Agreement" shall refer to this Class Action Settlement Agreement and Release of
19 Claims.

20 **B. APPLICABLE PERIOD**

21 "Applicable Period" is limited to the following: March 28, 2004, through March 15,
22 2011.

23 **C. AUTHORIZED CLAIMANTS**

24 "Authorized Claimants" means those Class Members who worked during the Applicable
25 Period and who deliver a valid and timely Claim Form to the Claims Administrator as set forth in
26 this Agreement.

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1 **D. CLAIM FORM**

2 “Claim Form” means the claim form included with the Settlement Notice mailed to the
3 Class Members, which is substantially in the form of Exhibit 2 to this Agreement.

4 **E. CLAIMS ADMINISTRATOR**

5 “Claims Administrator” means CPT Group, which is the qualified third party
6 administrator of the Settlement Fund agreed to by the Parties.

7 **F. CLASS COUNSEL**

8 “Class Counsel” means the law firm of Weinberg, Roger & Rosenfeld, counsel for
9 Plaintiffs and Certified Class Members.

10 **G. CLASS COUNSEL ATTORNEYS’ FEES AND COSTS**

11 “Class Counsel Attorneys’ Fees and Costs” is the amount to be paid to Class Counsel for
12 attorneys’ fees and costs pursuant to Section III.F of this Agreement.

13 **H. CLASS MEMBERS**

14 “Class Members” means those individuals who are on the Class List, a copy of which is
15 attached hereto as Exhibit 3.

16 **I. COMPLAINT**

17 “Complaint” means the operative class action complaint in the instant action: the Second
18 Amended Complaint, filed by Plaintiffs on September 20, 2010, in Alameda Superior Court, Case
19 No. RG 08-379099, and entitled *Godfrey v Oakland Port Services Corp. d/b/a AB Trucking*.

20 **J. COURT**

21 “Court” means the Superior Court of the State of California, County of Alameda.

22 **K. DEFENDANT’S COUNSEL**

23 “Defendant’s Counsel” means the law firm of Chauvel & Glatt LLP, counsel for
24 Defendant.

25 **L. EXECUTION DATE OF THE AGREEMENT**

26 “Execution Date of the Agreement” means the date on which the Alameda Superior Court
27 enters an Order granting the parties’ Joint Motion for Final Settlement Approval.

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1 **M. FINAL APPROVAL**

2 “Final Approval” of this Agreement means the last date by which all of the following have
3 occurred: (1) the Final Approval Order is entered by the Court approving this Agreement, which
4 shall dispose of all issues raised in this Lawsuit; and (2) the Court has ordered payment to
5 Plaintiffs and Class Members under the terms of this Agreement.

6 **N. FINAL APPROVAL HEARING**

7 “Final Approval Hearing” means the hearing which follows appropriate notice to the
8 Class Members and an opportunity for Class Members to object to the terms of this Agreement.
9 At the Final Approval Hearing, the Plaintiffs will request that the Court approve the fairness,
10 reasonableness, and adequacy of the terms and conditions of this Agreement, enter the Final
11 Approval Order, award Class Counsel Attorneys’ Fees and Costs, approve the capitalization of
12 the Settlement Fund under the terms of this Agreement, and order the Settlement Payments to be
13 subsequently made, and take other appropriate or necessary action.

14 **O. FINAL APPROVAL ORDER**

15 “Final Approval Order” means an order issued by the Court, which shall approve the
16 fairness, reasonableness, and adequacy of the terms and conditions of this Agreement and
17 Exhibits hereto.

18 **P. LITIGATION OR LAWSUIT**

19 “Litigation” or “Lawsuit” means the claims and judgments subsequently entered against
20 Defendant on or about May 21, 2013, August 9, 2013 and August 28, 2013 in the Alameda
21 Superior Court, Case No. RG 08-379099, and entitled *Godfrey v Oakland Port Services Corp.*
22 *d/b/a AB Trucking.*

23 **Q. PRELIMINARY APPROVAL**

24 “Preliminary Approval” means that the Court has entered an order preliminarily approving
25 the terms and conditions of this Agreement.

26 **R. PRELIMINARY APPROVAL ORDER**

27 “Preliminary Approval Order” means an order issued by the Court, substantially in the
28 form of Exhibit 4.

1 **S. RELEASED CLAIMS**

2 “Released Claims” means any and all claims, demands, rights, liabilities, and/or causes of
3 action asserted in this Lawsuit against the Released Parties for the Applicable Period, or which
4 could have been asserted by Class Members for the Applicable Period.

5 **T. RELEASED PARTIES**

6 “Released Parties” means Defendant Oakland Port Services Corp. and its agents,
7 founders, owners, officers, directors, shareholders, employees, predecessors, successors or
8 assigns, attorneys, and insurers.

9 **U. SETTLEMENT FORMULA**

10 “Settlement Formula” means the method to calculate Settlement Payments.

11 **V. SETTLEMENT FUND**

12 “Settlement Fund” means the Two Hundred Thousand dollars (\$200,000.00) to be
13 transferred by Defendant to the Claims Administrator under the terms of this Agreement.

14 **W. SETTLEMENT NOTICE**

15 “Settlement Notice” is notice to be disseminated to the Class Members informing them
16 that Defendant and Plaintiffs have entered into a Settlement Agreement, the terms of the
17 Settlement Agreement, that the Court has granted Preliminary Approval, and procedures for Class
18 Members to follow in filing written objections and in arranging to appear at the final settlement
19 approval hearing and state any objections to the proposed settlement, and which is substantially in
20 the form of Exhibit 4.

21 **X. SETTLEMENT PAYMENTS**

22 A “Settlement Payment” is the gross payment that each Authorized Claimant is entitled to
23 receive under the terms of the Agreement.

24 **III. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

25 **A. PREREQUISITES TO PAYMENT OF CASH AS CONSIDERATION FOR**
26 **THIS AGREEMENT**

27 Before Defendant transfers any capital comprising the Settlement Fund, the Parties and
28 their respective counsel agree that:

1 (1) An original or counterparts of this Agreement fully executed by the Parties and
2 their respective counsel must be delivered to Defendant's Counsel and Class Counsel; and

3 (2) Class Counsel and Defendant's Counsel will jointly, on behalf of their clients, file
4 a joint motion seeking Preliminary Approval of this Agreement. Defendant's Counsel shall be
5 responsible for drafting this motion and documents in support thereof.

6 **B. PRELIMINARY APPROVAL OF THIS AGREEMENT**

7 Class Counsel and Defendant's Counsel will jointly, on behalf of their clients, submit a
8 Joint Motion for an Order: (1) preliminarily approving this Agreement; (2) directing mailing of a
9 Settlement Notice; and (3) scheduling a Final Approval Hearing. Such submission will include
10 such motions, pleadings and evidence as may be required for the Court to determine that this
11 Agreement is fair, adequate and reasonable, and that it constitutes a good faith settlement. Such
12 submission shall be filed in a timely manner such that the Final Approval Hearing can be
13 scheduled as soon as feasible.

14 **C. NOTICE TO CLASS MEMBERS**

15 **1. Most Recent Addresses Provided by Class Counsel**

16 Within three (3) calendar days following the Court's grant of the Preliminary Approval
17 Order, Class Counsel shall prepare a database or spreadsheet listing the last known addresses and
18 telephone numbers of Class Members.

19 **2. Settlement Notice by Mail**

20 Within three (3) calendar days following the Court's grant of the Preliminary Approval
21 Order, Class Counsel shall instruct the Claims Administrator to prepare, print and mail to Class
22 Members a copy of the Settlement Notice and Claim Form approved by the Court and
23 substantially in the forms attached hereto respectively as Exhibits 1 and 2. The Notices shall be
24 sent in English. The Settlement Notice and Claim Form shall be sent via First Class regular U.S.
25 mail, postage prepaid, using the database previously prepared and/or any more current address
26 information that the Parties may have, or that the Claims Administrator is able to obtain via skip-
27 tracing. For any Settlement Notice and Claim Form returned to the Claims Administrator as non-
28 deliverable within twenty-one (21) calendar days of mailing of the Settlement Notice and Claim

1 Form, the Claims Administrator shall notify the Parties' counsel, and the Claims Administrator
2 shall make prompt and reasonable efforts to locate the person involved, using appropriate search
3 methods including conducting a skip-trace if necessary. If new address information is obtained,
4 the Claims Administrator shall promptly re-mail the Settlement Notice and Claim Form to the
5 addressee via First Class regular U.S. mail, postage prepaid, using the new address. If the Claims
6 Administrator is unable to obtain new address information with regard to any Settlement Notice
7 and Claim Form returned as non-deliverable within twenty-one (21) calendar days of mailing the
8 Settlement Notice and Claim Form, or if a Settlement Notice and Claim Form is returned as non-
9 deliverable more than forty-five (45) calendar days following Preliminary Approval Order, the
10 parties shall be deemed to have satisfied their obligation to provide the Settlement Notice and
11 Claim Form to the Class Member through the original mailing. In the event the procedures of this
12 paragraph are followed and the intended recipient of the Settlement Notice and Claim Form does
13 not receive the Settlement Notice and Claim Form, the intended recipient shall nevertheless
14 remain a Class Member and shall be bound by all the terms of this Agreement and the Final
15 Approval Order.

16 **3. Information Provided by the Settlement Notice**

17 The Settlement Notice shall provide that those Class Members who wish to object to this
18 Agreement must file with the Court and serve on counsel for the Parties a written statement
19 objecting to this Agreement. Such written statement must be filed with the Court and served on
20 counsel for the Parties at least fourteen (14) calendar days prior to the Final Approval Hearing.
21 No Class Member shall be entitled to be heard at the Final Approval Hearing (whether
22 individually or through separate counsel) or to object to this Agreement, and no written objections
23 or briefs submitted by any Class Member shall be received or considered by the Court at the Final
24 Approval Hearing, unless written notice of the Class Member's intention to appear at the Final
25 Approval Hearing, and copies of any written objections or briefs shall have been filed with the
26 Court and served on counsel for the Parties on or before the date specified in the Preliminary
27 Approval Order. Class Members who fail to file and serve timely written objections in the
28 manner specified above shall be deemed to have waived any objections and shall be foreclosed

1 from making any objection (whether by appeal or otherwise) to this Agreement. At no time shall
2 any of the Parties or their counsel seek, solicit or otherwise encourage, directly or indirectly,
3 Class Members to submit written objections to this Agreement or to appeal from the Final
4 Approval Order.

5 **4. Due and Sufficient Notice to Class Members**

6 Compliance with the procedures described in Section III.C. shall constitute due and
7 sufficient notice to Class Members of this settlement and of the Final Approval Hearing and shall
8 satisfy the requirements of due process. Nothing else shall be required of the Parties or counsel
9 for the Parties to provide notice of the settlement, this Agreement, and of the Final Approval
10 Hearing.

11 **D. FINAL APPROVAL OF SETTLEMENT**

12 On the date set forth in the Order Granting Preliminary Approval of Class Action
13 Settlement, a Final Approval Hearing shall be held before the Court in order to consider and rule
14 upon (i) whether the Court should give this Agreement final approval, (ii) Class Counsel
15 Attorneys' Fees and Costs, and (iii) any timely objections made pursuant to Section III.C.3., and
16 all responses by the Parties to such objections. At or after the Final Approval Hearing, the Parties
17 shall present the Final Approval Order to the Court for its approval.

18 **E. SETTLEMENT FUND**

19 **1. Payment into the Settlement Fund**

20 Defendant shall transfer \$200,000.00 to the Claims Administrator, which represents the
21 total to be paid by Defendant to the Settlement Fund, within 65 calendar days of Final Approval.
22 The parties acknowledge that Defendant separately paid \$25,000 toward settlement which has
23 already been disbursed in part pursuant to court order.

24 **2. When a Payment is Considered Made**

25 Payment is considered made if the Settlement Fund amount is transferred from Defendant
26 to the Claims Administrator on or before the date set forth in paragraph III.E.1 by either of the
27 following ways: 1) electronic bank transfer from Defendant to the Claims Administrator, 2)
28 service by hand or mail of check made out to the Claims Administrator. The Claims

1 Administrator is not authorized nor will accept any other form of payment, and any such attempts
2 shall not affect in any fashion Defendant's obligations to make the required payment.

3 **F. ALLOCATION OF THE SETTLEMENT FUND**

4 The Settlement Fund shall be divided as follows:

5 a) Settlement Payments to Class Members: One Hundred Forty-Seven Thousand
6 Eight Hundred Ninety-Three dollars and Eighty-Four cents (\$147,893.84) shall be allocated for
7 Settlement Payments to Class Members. Settlement Payments to Authorized Claimants will be
8 based on the Settlement Formula.

9 b) Payment of Class Counsel Attorneys' Costs: Forty-Two Thousand One Hundred
10 Six dollars and Sixteen cents (\$42,106.16) in costs shall be allocated for Class Counsel's costs,
11 those costs having been awarded in the August 27, 2013 Amended Judgment in this matter. Class
12 Counsel foregoes the \$487,810.50 awarded in the Amended Judgment for attorney fees as well as
13 all fees and costs that have accrued since the August 27, 2013 Amended Judgment, except as set
14 forth below. Defendant shall not object to this award of attorney fees and costs.

15 c) Enhancement for Plaintiffs: Ten Thousand (\$10,000.00) shall be allocated to be
16 equally divided between Plaintiffs, in addition to any Settlement Payments to each Plaintiff as an
17 Authorized Claimant, to provide compensation for Plaintiffs' efforts as the class representatives,
18 and as was awarded in the Amended Judgment filed August 28, 2013.

19 d) On July 7, 2015 the Court ordered \$7,500 to be distributed to the Class on a pro
20 rata basis. Plaintiffs' Counsel mailed distribution checks to the 73 Class Members in February
21 2016. Of the 73 Class Members, 35 either were not reached or were contacted and failed to cash
22 their distribution checks. Plaintiffs' Counsel has \$3,385.84 in its client trust account reflecting
23 these uncontacted Class Members and uncashed checks. For those 35 Class Members who did
24 not receive the first distribution, their share of the \$3,585.84 will be added to their pro rata share
25 of the \$147,893.84. The list of Class Members who did not receive or cash their checks in the
26 first distribution, and the \$3,385.84 remaining funds, will be provided to the Claims
27 Administrator by Class Counsel.

28 ///

1 e) Undistributed Amounts of Settlement Fund: Within ninety (90) calendar days
2 after Final Approval, if a Class Member cannot be found in order to provide a Settlement Notice
3 and Claim Form, or a Class Member fails to submit a valid and timely Claim Form, the
4 undistributed or unclaimed Settlement Fund amounts shall be distributed to Class Counsel as
5 partial payment of its attorney fees and costs.

6 **G. ADMINISTRATION OF THE SETTLEMENT FUND AND ITS COSTS**

7 The Parties agree that the Claims Administrator shall be responsible for the following, in
8 consultation with Class Counsel: (1) determining Class Members' eligibility to receive Settlement
9 Payments; (2) the amount of Settlement Payments to be issued to Authorized Claimants. The
10 Parties agree that Class Counsel shall be responsible for overseeing the Claims Administrator,
11 who shall be responsible for the following: (1) directly issuing Settlement Payments to
12 Authorized Claimants; and (2) directly issuing any applicable tax forms for Settlement Payments.
13 Defendant shall pay any costs associated with administration of the Settlement Fund.
14 Defendant's Counsel and Class Counsel shall be copied on any written or electronic
15 communications with the Claims Administrator. The Parties agree that Class Counsel may
16 recover their Attorney's Fees and Costs from the Settlement Fund as set forth in Section III.F.

17 **1. Initial Review of Returned Claim Forms**

18 The Claim Form, which will be mailed by the Claims Administrator as described in
19 Section III.C., shall include instructions in English on how to submit the Claim Form, and shall
20 notify recipients that the Claim Form must be completed, signed and returned no later than thirty
21 (30) calendar days after mailing of the Settlement Notice and Claim Forms. The Claim Form
22 may be returned by mail or by personally submitting the Claim Form to the Claims
23 Administrator, whose name and address shall be stated on the Claim Form. The date of the
24 postmark on the return envelope or a date stamp entered on the Claim Form by the Claims
25 Administrator shall be the exclusive means used to determine whether a Class Member has timely
26 returned his or her claim form on or before the applicable deadline. Claim Forms received by the
27 Claims Administrator post-marked or date-stamped after the applicable deadline (including any
28 extended deadline) shall be disregarded. However, if the Claims Administrator receives a timely,

1 but incomplete or defective Claim Form, Claims Administrator shall promptly call, interview and
2 otherwise notify the Class Member in writing of the omissions or defects. If Claims
3 Administrator has the Class Member's telephone number or other means of contacting the Class
4 Member, Claims Administrator shall use the most prompt and effective means of contacting the
5 Class Member. Claims Administrator shall afford the Class Member a reasonable opportunity to
6 complete the Claim Form or remedy any defect.

7 Each Class Member who has submitted a valid and timely Claim Form shall be eligible to
8 receive a Settlement Payment from the Settlement Fund. Claims Administrator shall be
9 responsible for receiving and reviewing the Claim Forms submitted by Class Members to
10 determine eligibility for payment and the amounts of the Settlement Payments. In order for a
11 Class Member to submit a valid and timely claim, the Class Member, or his or her authorized
12 representative, must: (1) sign the Claim Form under penalty of perjury, without deletion or
13 amendment of the release language; (2) provide the social security number that the Class Member
14 provided to Defendant when employed or other verifiable information that confirms that the Class
15 Member worked for Defendant during the Applicable Period; and (3) return the completed Claim
16 Form to Claims Administrator by hand delivery or by mail postmarked no later than thirty (30)
17 calendar days after mailing of the Settlement Notice and Claim Forms. Any Class Member who
18 fails to submit a valid and timely Claim Form shall receive no Settlement Payment. Any
19 completed Claim Form that is returned to Claims Administrator by hand delivery or mail
20 postmarked more than thirty (30) calendar days after the distribution of the Settlement Notice and
21 Claim Forms shall be conclusively untimely and invalid.

22 Class Members who properly and timely complete and return Claim Forms will be
23 considered Authorized Claimants eligible to receive Settlement Payments.

24 **2. Determination of "Authorized Claimant" and Settlement Payment**
25 **Amounts**

26 The Claims Administrator shall determine the eligibility for, and the amounts of, any
27 Settlement Payments under the terms of this Agreement. To determine eligibility, the Claims
28 Administrator will compare timely, completed Claim Forms with the information provided to the

1 Claims Administrator by Defendant. If the last four digits of the social security number provided
2 on a Claim Form matches the information provided to the Claims Administrator by Defendant, or
3 if other verifiable information confirms that the Class Member worked for Defendant during the
4 Applicable Period, the Class Member who has filed a valid and timely form, as described in
5 Section III.G., will be deemed an Authorized Claimant eligible to receive a Settlement Payment.

6 The Claims Administrator shall calculate the Settlement Payments of each Authorized
7 Claimant by applying the Settlement Formula to the portion of the Settlement Fund that has been
8 allocated for Settlement Payments to Authorized Claimants.

9 **3. Taxes**

10 All of the Settlement Payments to the Class Members shall be treated as penalties and
11 interest. Accordingly, no employment taxes, including, without limitation, federal, state and local
12 income tax withholding and the employee share of the FICA tax shall be withheld or reported to
13 the Internal Revenue Service ("IRS") or the payee. Any payments pursuant to Section III.F.c
14 shall be treated as non-wage payments and made without withholding. If any portion of these
15 payments are subsequently deemed taxable by the state or federal government, Defendant shall
16 pay the employer's share of all state and federal payroll taxes imposed by applicable law,
17 including the employer's share of the FICA tax and any federal and state unemployment tax due.
18 Such tax obligations shall be in addition to any capital payments to the Settlement Fund described
19 in this Agreement. To the extent required by law, payments treated as penalties and interest
20 pursuant to this section shall be reported on IRS Form 1099 to the IRS and the payee, under the
21 payee's name and social security number. Any enhancement payments pursuant to Section III.F.c
22 shall be made without withholding and reported to the IRS and the payee under the payee's name
23 and social security number on an IRS Form 1099.

24 **4. Issuing Applicable Tax Forms**

25 Class Members may be required to either use their social security number or apply for a
26 Taxpayer Identification Number (TIN) and complete a W-9 form for the Claims Administrator.

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1 **5. Unclaimed Settlement Fund Amounts**

2 Any Settlement Payment checks shall remain valid and negotiable for sixty (60) calendar
3 days from the date of their issuance and may thereafter automatically be canceled if not cashed by
4 an Authorized Claimant within that time, at which time the Authorized Claimant's claim shall be
5 deemed void and of no further force and effect.

6 **H. SETTLEMENT FORMULA**

7 The Parties have determined that it is reasonable that the damage allocations to each Class
8 Member be done in accordance with the Settlement Formula.

9 The Parties have further determined that it is appropriate to allocate the Settlement
10 Payments in the following manner: **Each Class Member's percentage of total damages (i.e.,**
11 **the amount listed for each Class Member in Appendix A to the Judgment, divided by the**
12 **total damages award of \$724,903.80) MULTIPLIED BY \$147,893.84 = Total Amount of**
13 **Individual Recovery.**

14 **I. NO CLAIMS FOR DISTRIBUTION OF SETTLEMENT PAYMENTS**

15 No person shall have any claim against Plaintiffs, the Class, Class Counsel, Defendant, or
16 Defendant's Counsel based on the distributions or payments made in accordance with and
17 pursuant to this Agreement and/or the Court's orders.

18 **J. STAY ON PAYMENT, ADMINISTRATION AND DISTRIBUTION OF**
19 **SETTLEMENT PAYMENTS**

20 In the event an appeal is filed from the Court's Final Approval Order, or any other
21 appellate review is sought prior to sixty (60) calendar days after the entry of Final Approval
22 Order, payment, administration, and distribution of funds under this Agreement shall be stayed
23 pending final resolution of the appeal or other appellate review.

24 **K. AUTHORIZATION TO NEGOTIATE AGREEMENT**

25 Counsel for all Parties warrant and represent that they are expressly authorized by the
26 Parties whom they represent to negotiate this Agreement and to take all appropriate action
27 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate the
28 terms hereof, and to execute any other documents required to effectuate the terms of this

1 Agreement. The Parties and their respective counsel shall cooperate with each other and use their
2 best efforts to effect the implementation of this Agreement. In the event the Parties are unable to
3 reach agreement on the form or content of any document needed to implement this Agreement, or
4 on any supplemental provisions that may become necessary to effectuate the terms of this
5 Agreement, the Parties agree to seek the assistance of the Court to resolve such disagreement.
6 The person signing this Agreement on behalf of Defendant represents and warrants that s/he is
7 authorized to sign this Agreement on behalf of Defendant.

8 **IV. LIMITATIONS ON USE OF THIS SETTLEMENT**

9 **A. NO ADMISSION**

10 Neither the acceptance nor the performance by Defendant of the terms of this Agreement
11 is or shall be claimed to be, construed as or deemed a precedent or an admission by Defendant of
12 the truth of any allegations in the Complaint or Statements of Decision rendered in this matter, the
13 validity of any claims that were or could have been asserted by the Plaintiffs or any Class
14 Members in the Litigation, or of any liability by Defendant.

15 **B. NON-EVIDENTIARY USE**

16 Neither this Agreement nor any of its terms, nor any statements or conduct in the
17 negotiation or drafting of it, shall be offered or used as evidence by any of the Parties, Class
18 Members or their respective counsel, or in any other action or proceeding; provided, however,
19 that nothing contained in this section shall prevent this Agreement from being used, offered, or
20 received in evidence in any proceeding to enforce, construe, or finalize this Agreement.

21 **C. NO RETALIATION OR HARASSMENT**

22 The Parties agree that there will be no retaliation against any employee or former
23 employee who is a Class Member, nor shall Class Members engage or assist in any acts of
24 harassment against Defendant or its owner William Aboudi, or any company owned by Mr.
25 Aboudi in whole or in part. Neither Class Counsel nor any Plaintiff or Class Member shall be
26 liable for any acts of harassment by another Class Member.

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1 **D. NO COLLATERAL ATTACK**

2 This Agreement shall not be subject to collateral attack by any Class Member or any
3 recipient of the Settlement Notice after the Final Approval Order is entered. Such prohibited
4 collateral attacks shall include but not be limited to claims that a Class Member's Settlement
5 Payment was improperly calculated or adjusted, or that the Class Member failed to receive timely
6 notice of the procedure for disputing the calculation of individual Settlement Payments or failed
7 to submit a timely dispute letter for any reason.

8 **E. NULLIFICATION**

9 If the Court should for any reason fail to approve this Agreement in the form agreed to by
10 the Parties; or the Court should for any reason fail to enter the Final Approval Order; or the Final
11 Approval is reversed, modified, or declared or rendered void, then (1) this Agreement, shall be
12 considered null and void; (2) neither this Agreement nor any of the related negotiations or
13 proceedings shall be of any force or effect; (3) all Parties to this Agreement shall stand in the
14 same position, without prejudice, as if this Agreement had been neither entered into nor filed with
15 the Court; (4) neither the Class Members nor Class Counsel shall receive any benefit, nor suffer
16 any detriment, from this Agreement and, (5) all moneys from the Settlement Fund paid by
17 Defendant, unless already paid out to Authorized Claimants, will immediately be returned to
18 Defendant.

19 Invalidation of any material portion of this Agreement shall invalidate this Agreement in
20 its entirety unless the Parties shall agree in writing that the remaining provisions shall remain in
21 full force and effect.

22 **V. RELEASE AND SATISFACTION OF JUDGMENT**

23 **A. FULL RELEASE BY PLAINTIFFS**

24 It is the desire of the Parties to fully, finally, and forever settle, compromise, and
25 discharge disputes and claims arising from or related to the instant Litigation, including
26 enforcement of the Judgment and Amended Judgments, and any and all claims or potential claims
27 known or unknown arising out of Plaintiffs' employment or former employment with Defendant
28 during the Applicable Period. Upon entry of the Final Approval Order, which will include a

1 dismissal with prejudice of the Litigation, Plaintiffs shall be bound by this Agreement as to the
2 Released Claims and shall have recourse exclusively to the benefits, rights and remedies provided
3 hereunder. Only after the complete transfer of the capital constituting the Settlement Fund to the
4 Claims Administrator pursuant to this Agreement, shall Plaintiffs be deemed to have, and by
5 operation of the Final Approval Order shall have, fully, finally and forever released, relinquished
6 and discharged each and all of the Released Parties from the Released Claims.

7 **B. WAIVER OF CALIFORNIA CIVIL CODE § 1542**

8 As to the Released Claims, Plaintiffs waive all rights and benefits afforded by section
9 1542 of the Civil Code of the State of California, and do so understanding the significance of that
10 waiver. Section 1542 provides:

11 A general release does not extend to claims which the creditor does
12 not know or suspect to exist in his/her favor at the time of executing
13 the release, which if known by him/her must have materially
affected his/her settlement with the debtor.

14 Plaintiffs shall be deemed to have acknowledged that this Agreement is intended to
15 include in its effect all Released Claims not known or suspected to exist in his favor at the time of
16 final approval of this Agreement. Each Class Member shall be deemed to have made the
17 foregoing Release.

18 **C. RELEASE BY THE CLASS**

19 Upon Final Approval, and except as to such rights or claims as may be created by this
20 Agreement, the Class Members shall be deemed to have covenanted and agreed that, upon
21 Defendant providing the full relief provided in this Agreement: (1) they shall be forever barred
22 from instituting, maintaining, or prosecuting against the Released Parties any claim, demand,
23 action, cause of action or liability of any nature, whether known or unknown, suspected or
24 unsuspected, which the Class Members ever asserted against Released Parties or which could
25 have been asserted by Class Members for the Applicable Period, and any claims related to or
26 arising from the Litigation; and (2) the Released Parties shall be forever released and discharged
27 from any and all liability with respect to such claims. The release provided by this Agreement by
28 Class Members is limited to claims arising during the Applicable Period.

1 **D. SATISFACTION OF JUDGMENT**

2 Within fifteen (15) business days of the Claims Administrator's receipt of the full amount
3 due under Section III.E.1 hereof, Class Counsel shall cause to be filed with the Court a full
4 Acknowledgment of Satisfaction of Judgment encompassing all judgments and attorneys' fee or
5 costs awards entered in connection with the Litigation. Within fifteen (15) business days of the
6 Claims Administrator's receipt of the full amount due under Section III.E.1 hereof, Class Counsel
7 shall cause to be withdrawn any liens, UCC filings or any other similar encumbrances filed,
8 entered or created with respect to any judgments entered in the Litigation.

9 **VI. MISCELLANEOUS PROVISIONS**

10 **A. AGREEMENT TO SIGN AND BE BOUND**

11 Plaintiffs agree to sign this Agreement and by signing this Agreement are bound by the
12 terms herein stated and further agree not to object to any of the terms of this Agreement.

13 **B. AMENDMENTS**

14 The terms and provisions of this Agreement, as approved by the Court in the Final
15 Approval Order, may be amended or modified only by a written agreement which is signed by
16 Class Counsel (on behalf of the Class Members) and Defendant or its successors in interest, and
17 approved by the Court.

18 **C. AUTHORIZATION TO ENTER INTO AGREEMENT**

19 The person signing this Agreement on behalf of Defendant represents and warrants that
20 he/she is authorized to sign this Agreement on behalf of Defendant and related Released Parties.

21 **D. COOPERATION AND RESOLUTION OF DISPUTES REGARDING**
22 **SETTLEMENT PROVISIONS**

23 The Parties and their respective counsel shall cooperate with each other and use their best
24 efforts to effect the implementation of this Agreement. Class Counsel shall retain discretion on
25 the form or content of any document needed to implement this Agreement or on any supplemental
26 provisions that may become necessary to effectuate the terms of this Agreement, subject to Court
27 approval.

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1 **E. COUNTERPARTS**

2 This Agreement, and any amendments hereto, may be executed in any number of
3 counterparts, each of which when executed and delivered shall be deemed to be an original and
4 all of which taken together shall constitute but one and the same instrument.

5 **F. DISPUTES REGARDING THIS AGREEMENT**

6 Any and all controversies or disputes relative to the enforcement of this Agreement shall
7 be submitted to the Court for resolution pursuant to California Code of Civil Procedure § 664.6.

8 **G. ENTIRE AGREEMENT**

9 This Agreement, including the Exhibits referred to herein which form an integral part
10 hereof, contains the entire understanding of the Parties hereto in respect of the subject matter
11 contained herein. This Agreement has been drafted jointly and is not to be construed against any
12 Party. In case of any conflict between text contained in this Agreement and text contained in
13 Exhibits to this Agreement, the former shall be controlling. There are no restrictions, promises,
14 representations, warranties, covenants, or undertakings governing the subject matter of this
15 Agreement other than those expressly set forth or referred to herein. This Agreement supersedes
16 all prior agreements and understandings among the Parties hereto with respect to the settlement of
17 the Litigation.

18 **H. GOVERNING LAW**

19 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
20 and Class Members determined in accordance with California law without regard to its conflicts
21 of laws principles and shall be subject to the continuing jurisdiction of the Alameda County
22 Superior Court.

23 **I. NOTICES**

24 All notices and other communications to be provided or made to the Parties and/or Class
25 Counsel or Defendant's Counsel under the terms of this Agreement shall be delivered personally,
26 e-mailed, or mailed via guaranteed next business day delivery, postage prepaid, addressed as
27 follows:

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[illegible]

Defendant's Counsel

J. STAY OF LITIGATION


*****SIGNATURE PAGE TO FOLLOW***

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APPROVED AS TO FORM

Dated: June 18, 2019

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: 
Emily P. Rich
Caren P. Sencer

Attorneys for Plaintiffs LAVON GODFREY and
GARY GILBERT, on behalf of themselves and the
Certified Class

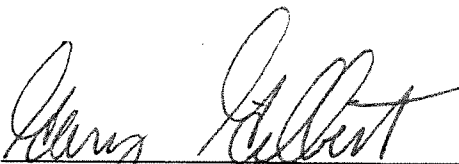
Agreed to By:

Dated: June __, 2019

By: LAVON GODFREY
Plaintiff

Agreed to By:

Dated: June 18, 2019

By: 
GARY GILBERT
Plaintiff

APPROVED AS TO FORM

Dated: June __, 2019

CHAUVEL & GLATT, LLP

By: Kenneth Weinfield

Attorney for Defendant OAKLAND PORT
SERVICES CORP. d/b/a AB TRUCKING

Agreed to By:

Dated: June __, 2019

By: WILLIAM ABOUDI
On behalf of Defendant OAKLAND PORT
SERVICES CORP. d/b/a AB TRUCKING

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APPROVED AS TO FORM

Dated: June __, 2019

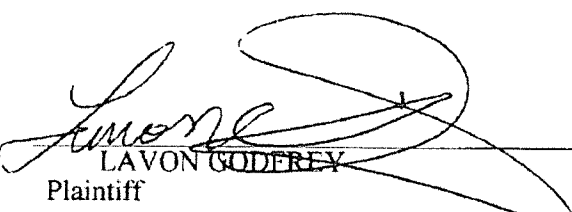
WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: Emily P. Rich
Caren P. Sencer

Attorneys for Plaintiffs LAVON GODFREY and
GARY GILBERT, on behalf of themselves and the
Certified Class

Agreed to By:

Dated: June 17, 2019

By: 
LAVON GODFREY
Plaintiff

Agreed to By:

Dated: June __, 2019

By: GARY GILBERT
Plaintiff

APPROVED AS TO FORM

Dated: June __, 2019

CHAUVEL & GLATT, LLP

By: Kenneth Weinfield

Attorney for Defendant OAKLAND PORT
SERVICES CORP. d/b/a AB TRUCKING

Agreed to By:

Dated: June __, 2019

By: WILLIAM ABOUDI
On behalf of Defendant OAKLAND PORT
SERVICES CORP. d/b/a AB TRUCKING

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APPROVED AS TO FORM

Dated: June __, 2019

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: Emily P. Rich
Caren P. Sencer

Attorneys for Plaintiffs LAVON GODFREY and
GARY GILBERT, on behalf of themselves and the
Certified Class

Agreed to By:

Dated: June __, 2019

By: LAVON GODFREY
Plaintiff

Agreed to By:

Dated: June __, 2019

By: GARY GILBERT
Plaintiff

APPROVED AS TO FORM

Dated: June 20, 2019

CHAUVEL & GLATT, LLP

By: Kenneth Weinfield
Kenneth Weinfield

Attorney for Defendant OAKLAND PORT
SERVICES CORP. d/b/a AB TRUCKING

Agreed to By:

Dated: June 20, 2019

By: William Aboudi
WILLIAM ABOUDI
On behalf of Defendant OAKLAND PORT
SERVICES CORP. d/b/a AB TRUCKING

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