

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

CITY OF OAKLAND,

Plaintiff, Cross-defendant and
Respondent,

v.

KENNY D. HASSEY,

Defendant, Cross-complainant and
Appellant;

RICHARD WORD,

Cross-defendant and Respondent.

A116360

(Alameda County
Super. Ct. No. 2007027607)

(Alameda County
Super. Ct. No. 2007027607)

**ORDER DENYING REHEARING
AND MODIFYING OPINION
[NO CHANGE IN JUDGMENT]**

BY THE COURT:

Appellant's petition for rehearing is denied. The opinion filed June 17, 2008, is modified as follows:

Add, as the last three sentences of the eleventh paragraph in part II.A.2. of the opinion, "We decline to address Hassey's argument, raised for the first time in his reply brief, that the repayment agreement violates Labor Code sections 2802 [employer shall indemnify employee for all necessary expenditures and losses] and 2804 [any contract waiving provision invalid]. (*Campos v. Anderson* (1997) 57 Cal.App.4th 784, 794, fn. 3 [points raised in reply brief for first time will not be considered absent good cause].) We note that Hassey's answer to Oakland's complaint did not rely on Labor Code sections 2802 and 2804, and his cross-complaint did not allege causes of action based on them."

The above modification does not effect any change in the judgment.

Dated: _____

P.J.