

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)

ORDER MODIFYING OPINION
[NO CHANGE IN JUDGMENT]

BY THE COURT:

The opinion filed June 17, 2008, and modified July 15, 2008, is further modified as follows:

The following language, added by the July 15, 2008 modification order, is to be inserted as the last three sentences of the last paragraph starting on page 12 of the filed opinion and ending on page 13 with the words “are inapplicable.”

“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.