

*Not implemented*

IN THE MATTER OF A CONTROVERSY	)	
	)	
Between	)	SC-9-97
	)	
PACIFIC MARITIME ASSOCIATION	)	OPINION AND DECISION
	)	
and	)	of
	)	
INTERNATIONAL LONGSHOREMEN'S AND	)	John Pandora
WAREHOUSEMEN'S UNION LOCAL 13	)	Area Arbitrator
	)	
Violation of	)	
Maximum Hours' Limitation	)	
Pacific Maritime Association	)	
International Longshoremen's &	)	Long Beach, California
Warehousemen's Union	)	
Marine Terminals Corporation	)	February 21, 1997
	)	

The hearing was held at 9:20 A.M. on Friday, February 21, 1997, at the Pacific Maritime Association, 100 West Broadway, Suite 3000, Long Beach, California. Each party was afforded full opportunity for examination and presentation of relevant arguments, documents, and witnesses. A Certified Shorthand Reporter was in attendance and recorded a transcript of the hearing.

#### APPEARANCES

FOR THE EMPLOYERS: Mr. Charles M. Young, PMA

FOR THE UNION: Mr. Joe Cortez, Local 13  
Mr. Ralph Espino, Local 13  
Mr. Tom Hebert, #35348

ALSO PRESENT: Mr. Tim Kennedy, PMA  
Mr. Paul Russell, PMA

Mr. Mike Fogarty, Int'l. Trans. Service  
Mr. Craig Milburn, Marine Terminals Corp.  
Mr. Bobby Munoz, Maersk Stevedoring Co.  
Mr. Eric Porter, Int'l. Trans. Service  
Mr. Bob Roach, Metropolitan Stevedore Co.

#### Local 13 Members

Mr. R. Bozan	Mr. A. Ortega
Mr. S. Bozan	Mr. R. Ortiz, Jr.
Mr. N. Geich	Mr. G. Padovan
Mr. T. Hebert	Mr. N. Padovan
Mr. W. Huli	Mr. M. Petschlag
Mr. D. Lujan	Mr. J. Potter
Mr. D. Miranda	Mr. P. Quinones
Mr. R. Negrete	Mr. J. Radisich
Mr. R. Ogden	Mr. J. Sestich

ISSUES

1. Is Marine Terminals Corporation and 43 of their steady crane operators in violation of the maximum hours' limitation under the PCLCD?

2. And, if so, what shall the remedy and/or penalties be?

DISCUSSION

Minutes (Joint Exhibit No. 1) from Special LRC Meeting No. 31-97 dated February 19, 1997, were submitted and read as follows:

MINUTES OF SPECIAL MEETING  
JOINT LONGSHORE LABOR RELATIONS COMMITTEE  
LOS ANGELES-LONG BEACH HARBOR

FEBRUARY 19, 1997

MEETING NO. 31-97

The Committee met at 2:00 P.M. at 100 West Broadway, Suite 3000, Long Beach, California.

Present: Employers  
K. Biazevich  
J. Burgin  
M. Fogarty  
B. Garcia  
T. Lombard  
C. Milburn  
B. Munoz  
E. Porter  
P. Russell  
C. Young  
T. Kennedy

ILWU Local 13  
J. Cortez  
R. Espino, Jr.

Also present:

T. Hebert, #35348  
G. Padovan, #33883  
B. Negrete, #31253  
Various longshoremen

U.C. #117-96 - VIOLATION OF MAXIMUM HOURS' LIMITATION - 9/11/96 -  
PACIFIC MARITIME ASSOCIATION, MARINE TERMINALS CORPORATION, AND  
INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION

The Committee met to again discuss the Union's claim that steadily employed crane operators with Marine Terminals Corporation were paid in longshore categories other than crane on numerous occasions without having been dispatched from the Joint Longshore Dispatch Hall.

The Union presented documented evidence of its research regarding this claim.

The Employers stated that steadily employed crane operators with Marine Terminals Corporation were paid in longshore categories other than crane without having been dispatched from the Joint Longshore Dispatch Hall, but that the practice was discontinued at the end of May in 1996.

Disagreement was reached on how to resolve this complaint. The parties agreed to bypass the Area LRC and refer this issue to the Area Arbitrator for resolution.

Meeting adjourned at 4:00 P.M.

TJK:mob - 3/11/97

THESE MINUTES ARE PUBLISHED UNSIGNED. CORRECTIONS, IF ANY, WILL APPEAR IN SUBSEQUENT MINUTES.

\* \* \* \* \*

The Employers' contention is that U.C. #117-96 is not timely, and the monies paid to the 43 steady crane operators was compensation.

The Union's contention is that Marine Terminals Corporation has violated the maximum hours' limitation (PCL&CD) with "side deals" to 43 of their steady crane operators.

#### OPINION

Upon reviewing the transcript, exhibits, and the testimony of witnesses, the following conclusions are made:

The following names of the 43 individuals were submitted regarding the maximum hours' violations (Union Exhibit No. 4):

<u>No.</u>	<u>Name</u>	<u>No. of Occ. Code Violations</u>	<u>Total No. of Hours Paid</u>	<u>Total Amount of Monies Paid</u>
4370	John Torres	1	8.0	189.60
30059	Roger Gonzales	1	9.0	319.96
34380	Michael Munoz	1	8.0	284.40
31326	Billie Ketchum	2	19.0	499.61
33802	Ron Marinkovich	1	12.0	511.92
32015	Terrance McLellan	3	27.0	1,023.84
04437	Nedo Viducich	4	30.5	1,028.55
32271	Karl Ayres	4	31.0	1,137.60
34000	Ralph Bomback	4	39.0	1,169.45
33791	Bob Lackey	4	37.0	1,195.00
34450	Sam Puccio	5	44.0	1,279.80
34415	Lester Estrada	5	42.0	1,493.10

92436	Thad Malone	6	48.0	1,611.60
34404	M. Petschlag	6	49.0	1,647.15
33856	Joe Utovac	5	45.0	1,704.08
**33114	Sherman Clark	0	0	0.00
33047	Danny Jones	1	8.0	284.40
33236	Joseph Cassick	8	68.0	2,038.20
30097	Tommie Meyers	7	66.0	2,505.90
34417	John Brickner	1	10.0	426.60
33500	Eddie Alvarado	9	81.0	2,763.42
**33904	Albert Myles	0	.0	0.00
33083	Andrew Lampkin	12	98.0	3,100.42
04420	Frank Sanchez	8	78.0	3,017.01
34352	Allen Armstrong	12	104.0	3,652.17
34300	Malcolm Smallwood	17	143.0	4,306.78
08376	Alvin Nelson	17	141.0	4,799.25
33108	Pilar Ortega	9	85.0	3,498.12
33992	Rosevelt Carter	19	166.0	5,145.79
34280	James Moses	17	151.0	5,365.00
33852	Antonio Martinez	17	150.0	5,679.04
34443	Burton Lucich	26	227.0	8,380.53
06314	James Trotter	26	265.0	9,759.25
33679	Mickey Henderson	24	266.0	10,089.61
34194	Charles Kelley	32	285.0	10,229.96
*34371	Joe Chuka	56	481.0	16,100.11
33401	Nathan Crumby	52	556.0	18,178.42
*33771	Dan Imbagliazzo	64	529.0	19,263.27
*34150	Frank Gasperov	70	573.0	20,400.93
*33218	Garland Berseth	70	586.0	20,524.20
*34077	Arthur O'Grady	67	597.5	22,785.44
*33277	Robert Mendoza	61	604.0	24,999.55
*33776	Paul Quinones	97	978.5	38,873.39
<b>Total: 43</b>		<b>851</b>	<b>7,745.5</b>	<b>\$281,262.42</b>

\*The following individuals show different figures for Occ. Code violations in the transcript and Union Exhibit No. 4:

<u>No.</u>	<u>Name</u>	<u>Transcript Violations</u>	<u>Union Exhibit No. Violations</u>
34371	Joe Chuka	46	56
33771	Dan Imbagliazzo	55	62
34150	Frank Gasperov	60	70
33218	Garland Berseth	60	70
34077	Arthur O'Grady	57	67
33277	Robert Mendoza	51	61
33776	Paul Quinones	87	97

\*\*The following individuals were excluded from Union Exhibit No. 4 for no record of violations:

<u>No.</u>	<u>Name</u>
33114	Sherman Clark
33904	Albert Myles



Union Exhibit No. 3 is a packet of documents titled "Pacific Maritime Association, Summed Employee Daily Work Record." The packet contains the names of the individuals who are being charged with maximum hours' violations within the time span of December 24, 1994 through September 19, 1996.

Union Exhibit No. 4 also contains the occ. codes that individuals were paid and the shifts on which they were pay-rolled. It is also the Union's contention that individuals who were "first shift" steady crane operators were being paid as second and/or third shift employees for Marine Terminals Corporation, as steady crane operators were never on the job site. This also applied to second and/or third shift steady crane operators for Marine Terminals Corporation.

The record shows they were being paid at the occ. code other than the crane operators' occ. code.

The charges of Contract violations by Marine Terminals was undisputed or challenged by Marine Terminals Corporation.

The contention of Marine Terminals Corporation is that the monies paid were compensation for their steady crane operators for helping to instruct unqualified crane operators on how better to operate the crane to which they would be assigned has no merit.

The contention of Marine Terminals Corporation is that U.C. #117-96 is untimely and therefore should not be considered. Joint Exhibit No. 8 addresses U.C. #117-96 in Clerks LRC Meeting No. 43A-96 and reads as follows:

MINUTES OF SPECIAL MEETING  
CLERKS LABOR RELATIONS COMMITTEE  
LOS ANGELES-LONG BEACH HARBOR

DECEMBER 5, 1996

MEETING NO. 43A-96

The Committee met at 10:00 A.M. at 100 West Broadway, Suite 3000, Long Beach, California.

Present: Employers  
J. Burgin  
B. Garcia  
K. Hayes  
R. Heal  
R. Inlow  
G. Lange  
P. Lawrence  
T. Lombard  
G. Love

ILWU Local 63  
J. Gasperov  
J. Spinosa

R. Merical  
C. Milburn  
B. Munoz  
E. Porter  
B. Roach  
D. Rohde  
T. Seeds  
S. Wagner  
T. Kennedy  
C. Young

1. U.C. #19-96 - D. IMBAGLIAZZO, #33771, AND N. CRUMBY, #33104 VIOLATIONS OF SECTIONS 8.11, 8.14, 8.23, 8.41, AND 8.44 - 3/96 - MARINE TERMINALS CORPORATION (LRC 23-96, 7/11/96, ITEM 15)
- 

The Committee noted that this item was discussed and held over in Special Clerks LRC Meeting No. 23-96, July 11, 1996, Item 15.

The Union stated that, upon additional investigation, it was concluded that violations of Section 8 had been committed by the Employer, Marine Terminals Corporation.

After a lengthy discussion, the Employers stated that it is their position that no violation of Section 8 had occurred.

The Employers stated that the issue of extra payments to crane drivers was properly before the Longshore Labor Relations Committee. However, the Employers noted that the company had agreed to settle this claim by paying the following individuals as noted: (Underscoring added.)

\* \* \* \* \*

Also, Special Clerks LRC Meeting No. 23-96 dated July 11, 1996, Item 15, as Joint Exhibit No. 9, states as follows:

NEW BUSINESS

15. U.C. #19-96 - D. IMBAGLIAZZO, #33771, AND N. CRUMBY, #33104 VIOLATIONS OF SECTIONS 8.11, 8.14, 8.23, 8.41, AND 8.44 - 3/96 - MARINE TERMINALS CORPORATION
- 

The complaint states, "During the month of March 1996, Messrs. D. Imbagliazzo, #33771, and N. Crumby, #33104, were paid as clerks in various clerk occupation codes and shifts. On the following dates, they were paid the following number of hours:

	"ST	OT	TOTAL
#33771 - 3/03 (1st shift)	8	10	10
3/15 (2nd shift)	8	2	10
3/19 (2nd shift)	8	2	10
3/26 (2nd shift)	8	2	10
#33104 - 3/13 (2nd shift)	8	2	10
3/21 (2nd shift)	8	2	10
3/26 (1st shift)	8	2	10

"These people were not dispatched by the Dispatchers of Locals 63 or 13. The company named is in violation of the PCCCD, Sections 8.11, 8.14, 8.23, 8.41, and 8.44.

"The Union is requesting all payroll computer readouts as it pertains to clerk work, with work number, shift worked, dates, etc. (as provided in the past). The Union demands a time in lieu for each and every violation of Section 8. The Union further demands that this information be turned over immediately. This information shall begin with July 1, 1993 to the present. (Underscoring added.)

The Area Arbitrator's contention is that U.C. #117-96 was filed in a timely manner.

The current Contract (1966-1999) contains the following language regarding individual "side-agreements:"

#### VI. GUARANTEES AND SKILLED RATES FOR ALL LONGSHOREMEN AND CLERKS

A. Employees shall be paid at the appropriate shift and skill rates of pay in accordance with Sections 2 and 4, PCL&CA, and the provisions herein. Individual side agreements, including paid hours in excess of the PCL&CA, as defined by Area Arbitration No. SC-29-94, between individual employees or local Union officials and individual member companies shall be considered a Contract violation. Employer(s) found guilty of violating this provision shall be denied manpower at the terminal where the violation occurred. First offense - 24 hours loss of manpower, second offense - 48 hours loss of manpower. Any disagreements involving guilt or assessment of a penalty shall be subject to the Contract grievance machinery. (Underscoring added.)

\* \* \* \* \*

Arbitration Award No. SC-29-94 predates (published on September 28, 1994) all arguments, exhibits, and testimony of witnesses presented by each party regarding this award.

Arbitration Award No. SC-29-94 was never appealed and remains intact as per the current Agreement.

The record does show that these individuals and Marine Terminals Corporation are in violation of Sections 24.1 and 24.2 and reads:

#### **SECTION 24**

##### **MODIFICATION**

**24.1** No provision or term of this Agreement may be amended, modified, changed, altered, or waived except by a written document executed by the parties hereto.

**24.2** All joint working and dispatching rules shall remain in effect unless changed pursuant to Section 15. All other restrictions on the employer or longshoremen that are in conflict with the provisions of this Agreement are null and void. There will be no unilateral "hip pocket" working or dispatching rules. (underscoring added.)

\* \* \* \* \*

The record also shows that the individuals and Marine Terminals Corporation is in violation of Section 18 and reads as follows:

#### **SECTION 18**

##### **GOOD FAITH GUARANTEE**

**18.1** As an explicit condition hereof, the parties are committed to observe this Agreement in good faith. The Union commits the Locals and every longshoreman it represents to observe this commitment without resort to gimmicks or subterfuge. The Employers give the same guarantee of good faith observance on their part. (Underscoring added.)

\* \* \* \* \*

It is obvious that the Union cannot apply the Good Faith Guarantee to these individuals it represents.

It is also obvious the Employers cannot apply the Good Faith Guarantee to Marine Terminals Corporation.

The Union is the moving party by filing U.C. #117-96 to correct a system that is fostering noncontractual "side deals" between longshoremen and the Direct Employers who are members of the Pacific Maritime Association.

February 21, 1997

"Side Deals" can be construed as anything of value that is not part of the negotiated Contract (PCL&CA). For example: the use of Employer credit cards, bonuses, cash, incentive pay, merit pay, gifts, or any other valued inducement while working steady for a Direct Employer under the PCL&CA.

The collaboration between Marine Terminals Corporation and their steady crane operators is unprecedented under the PCL&CA.

Union Issue No. 2 regarding Mr. Daniel Imbagliazzo, #33771, is a separate issue, however, it is related to this arbitration hearing. This issue will be handled in a separate arbitration hearing, but Mr. Imbagliazzo is a subject of this award.

Therefore, the following decision, hereby confirmed, is rendered:

DECISION

1. Union Complaint No. 117-96 is proper and timely.

2. The following steady individuals shall be released from Marine Terminals Corporation for a period of thirty (30) days beginning with the payroll week of Saturday, March 22, 1997.

<u>No.</u>	<u>Name</u>
30059	Roger Gonzales
31326	Billie Ketchum
32015	Terrence McLellan
32271	Karl Ayres
33047	Danny Jones
33791	Bob Lackey
33802	Ron Marinkovich
34000	Ralph Bomback
34370	John Torres
34380	Michael Munoz
34417	John Brickner
34437	Nedo Viducich
34450	Sam Puccio

They shall be placed on nondispatch status to Marine Terminals Corporation for their 30-day period.

\* \* \* \* \*

February 21, 1997

3. The following steady individuals shall be released from Marine Terminals Corporation for a period of sixty (60) days beginning with the payroll week of Saturday, March 22, 1997:

<u>No.</u>	<u>Name</u>
30097	Tommie Myers
33108	Pilar Ortega
33236	Joseph Cassick
33500	Eddie Alvarado
33856	Joe Utovac
33083	Andrew Lampkin
34300	Malcolm Smallwood
34352	Allen Armstrong
34404	Mike Petschlag
34415	Lester Estrada
92436	Thad Malone
04420	Frank Sanchez

They shall be placed on nondispatch status to Marine Terminals Corporation for their 60-day period.

\* \* \* \* \*

4. The following steady individuals shall be released from Marine Terminals Corporation for a period of ninety (90) days beginning with the payroll week of Saturday, March 22, 1997:

<u>No.</u>	<u>Name</u>
06314	James Trotter
08376	Alvin Nelson
33104	Nathan Crumby
33218	Garland Berseth
33277	Robert Mendoza
33679	Mickey Henderson
33771	Dan Imbagliazzo
33776	Paul Quinones
33852	Antonio Martinez
33992	Rosevelt Carter
34077	Arthur O'Grady
34150	Frank Gasperov
34194	Charles Kelley
34280	James Moses
34371	Joe Chuka
34443	Burton Lucich

February 21, 1997

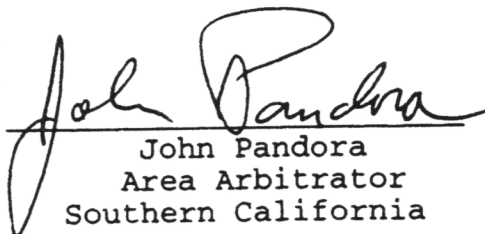
They shall be placed on nondispatch status to Marine Terminals Corporation for their 90-day period.

\* \* \* \* \*

5. The issue regarding monies paid to the steady crane operators is remanded back to the Joint Port Labor Relations Committee for resolution.

(The Area Arbitrator's calculation is \$281,262.42 based on the packet of Union Exhibit No. 4).

\* \* \* \* \*



John Pandora  
Area Arbitrator  
Southern California

JP:nr  
Dated: March 14, 1997



**Pacific Maritime Association**  
**Southern California Area**

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March 24, 1997

**Sub-Steering Committee Members**

Mr. Mike Fogarty, International Transportation Service  
Mr. Pieter Suttorp, Centennial Stevedoring Services  
Mr. Frank Pisano, TRAPAC  
Mr. Art Merrick, Long Beach Container Terminal  
Mr. Scot Buckles, Rio Doce Pasha  
Mr. Mark Wheeler, California United Terminals

Gentlemen:

**Violation of Maximum Crane  
Cap Hours Limitation  
(Pages 213 and 214 of the PCLCD)  
Marine Terminal Corporation's Crane Operators  
Union Complaint No. 117-96**

Find enclosed for your reference copies of LA-LB Joint Port Longshore LRC Meeting Minutes of Meeting No. 42-97 and Southern California Area Arbitration Award No. SC-9-97.

1. The Joint Port LRC in Meeting No. 42-97 settled Union Complaint No. 117-96 by agreement that the ten steady crane operators identified in the Union's claim would be returned to the Joint Longshore Dispatch Hall for 30 days in accordance with the Los Angeles-Long Beach Crane Operators' Supplement, page 214, Item 3, of the PCLCD.
2. Area Arbitration Award No. SC-9-97 was then issued subsequent to the agreement of Joint Longshore LRC Meeting No. 42-97.
3. During the Arbitrators' Conference in San Francisco on March 20, 1997, the Coast Arbitrator and Coast LRC members determined that the Joint Longshore LRC agreement resolved the Union's claim and Arbitration Award No. SC-9-97 would not be implemented.



Members  
March 24, 1997  
Page Two

4. The ten steady crane operators specified in Joint LRC Meeting No. 42-97 were given notices on March 21, 1997 to return to the Joint Longshore Dispatch Hall effective March 22, 1997.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Chuck", written in black ink.

Charles J. Wallace  
Vice President  
Southern California

CJW:nr  
Attachment:  
Joint Longshore LRC Minutes No. 42-97  
Arbitration Award No. SC-9-97

MINUTES OF SPECIAL MEETING  
JOINT LONGSHORE LABOR RELATIONS COMMITTEE  
LOS ANGELES-LONG BEACH HARBOR

MARCH 3, 1997

MEETING NO. 42-97

The Committee met at 4:30 P.M. at 100 West Broadway, Suite 3000, Long Beach, California.

Present: Employers  
J. Burgin  
C. Young  
T. Kennedy

ILWU Local 13  
J. Cortez  
M. Freese

Also present:

C. Brady, #30202

The Committee met at the request of the Union to discuss U.C. #117-96, which had been presented to the Area Arbitrator for resolution on February 21, 1997.

The Union stated that, pursuant to Section 17.284 of the PCLCD, nothing in Section 17 shall prevent the parties from mutually agreeing upon other means of deciding matters upon which there has been disagreement. The Union asserted that 43 steady crane operators were claimed to have been paid in excess of the maximum hours' limitation at the area arbitration hearing held on February 21, 1997. However, the Union now maintains that only those individuals cited on the original complaint are properly before the Joint Longshore Labor Relations Committee. In addition, the claims for lost work opportunity payment contained in U.C. #117-96 are withdrawn. The undisputed Union statement at this LRC indicated that the LRC was processing, at this point, only that section of the complaint addressing the Employers' alleged violations of the Agreement. In the cases of the individual longshoremen, the dispatch violations alleged against each of the accused must be reduced to charges of specific violations and presented to the individual so that any questions of accuracy or conflicting evidence may be presented by the individual to the Joint LRC. Affording every longshoreman accused of a Contract violation the opportunity to present evidence and arguments in his own defense is consistent with past practice, the rights of workers and Union members under state and federal law, and the duties of the Joint Port LRC to operate the Joint Longshore Dispatch Hall and investigate and adjudicate under Sections 17.121, 17.124, and 17.125.

Following discussion, the Committee agreed that Marine Terminals Corporation paid hours in excess of the maximum hours' limitation to the following steady crane operators cited in U.C. #117-96:

<u>No.</u>	<u>Name</u>
31326	B. Ketchum
32271	K. Ayres
33104	N. Crumby
33277	R. Mendoza
33771	D. Imbagliazzo
34280	J. Moses
34300	M. Smallwood
34370	J. Torres
34371	J. Chuka
34781	B. Dreisbach

In accordance with the 1993-1996 Los Angeles-Long Beach Crane Operators' Addendum of the PCLCD, the above-noted crane operators shall be required to return to the Joint Longshore Dispatch Hall for the payroll month of April 1997 for exceeding the maximum hours' limitation.

Meeting adjourned at 5:35 P.M.

TJK:mob - 3/17/97

Approved by PMA - 3/10/97

Approved by Union - 3/14/97

SC-9-97

**SUBMISSION AGREEMENT**

CLRC  
~~BMCW~~  
RA  
~~RO~~  
GR  
JS

The Pacific Maritime Association ("PMA") and the International Longshoremen's and Warehousemen's Union, Local 13 ("Local 13") hereby submit the following as a Submission Agreement to the Area Arbitrator in the complaint filed by Tom Hebert ("Hebert") on September 11, 1996 against Marine Terminals Corporation ("MTC") and individual crane operators:

1. After providing Hebert, MTC and the individual crane operators with an opportunity to be heard, the Area Arbitrator shall determine whether MTC and/or the individual crane operators have violated the Pacific Coast Longshoremen's Contract Document ("the Contract").

2. The Contract does not designate the penalties for violation of all of the provisions of the Contract. Therefore, PMA and Local 13 agree to the following penalties to be imposed by the Area Arbitrator if he determines that MTC and/or the individual crane operators are in violation of the Contract:

a. If MTC is found to be in violation of the Contract, MTC shall be prohibited from employing steady crane operators for a period of one month from the date of the Area Arbitrator's decision and shall pay an amount of damages equivalent to the amount paid to the crane operators in excess of the Contract rate, to be distributed to the individuals who lost the opportunity to work; and

b. If individual crane operators are found to be in violation of the Contract, the individual crane operators shall be required to check into the Dispatch Hall for a period of one month from the date of the Area Arbitrator's decision.

3. The Area Arbitrator's authority to determine the liability of the individual crane operators shall be on a non-precedent setting basis.

4. The Area Arbitrator shall be limited to the issues and the penalties as outlined herein. PMA and Local 13 agree that the Area Arbitrator shall have exceeded his authority and jurisdiction if he decides any other issues or imposes any other penalties.

DATED: March \_\_, 1997

PACIFIC MARITIME ASSOCIATION

ILWU, Local 13

By: \_\_\_\_\_

By: \_\_\_\_\_

## SUBMISSION AGREEMENT

The Pacific Maritime Association ("PMA") and the International Longshoremen's and Warehousemen's Union, Local 13 ("Local 13") hereby submit the following as a Submission Agreement to the Area Arbitrator in the complaint filed by Tom Hebert ("Hebert") on September 11, 1996 against Marine Terminals Corporation ("MTC"):

1. The Area Arbitrator shall determine whether MTC has violated the Pacific Coast Longshoremen's Contract Document ("the Contract") and, if so, the appropriate remedy to be imposed.
2. The Area Arbitrator shall not determine whether any individual crane operators are in violation of the Contract and shall not impose any penalties on individual crane operators.
3. The Area Arbitrator shall be limited to the issue as outlined herein.. PMA and Local 13 agree that the Area Arbitrator shall have exceeded his authority and jurisdiction if he decides whether any individual crane operators are in violation of the Contract or imposes any penalties on any individual crane operators..

DATED March \_\_, 1997

PACIFIC MARITIME ASSOCIATION

ILWU, Local 13

By: \_\_\_\_\_

By: \_\_\_\_\_



**Pacific Maritime Association**  
**Southern California Area**

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March 24, 1997

**Sub-Steering Committee Members**

Mr. Mike Fogarty, International Transportation Service  
Mr. Pieter Suttorp, Centennial Stevedoring Services  
Mr. Frank Pisano, TRAPAC  
Mr. Art Merrick, Long Beach Container Terminal  
Mr. Scot Buckles, Rio Doce Pasha  
Mr. Mark Wheeler, California United Terminals

Gentlemen:

**Violation of Maximum Crane  
Cap Hours Limitation  
(Pages 213 and 214 of the PCLCD)  
Marine Terminal Corporation's Crane Operators  
Union Complaint No. 117-96**

Find enclosed for your reference copies of LA-LB Joint Port Longshore LRC Meeting Minutes of Meeting No. 42-97 and Southern California Area Arbitration Award No. SC-9-97.

1. The Joint Port LRC in Meeting No. 42-97 settled Union Complaint No. 117-96 by agreement that the ten steady crane operators identified in the Union's claim would be returned to the Joint Longshore Dispatch Hall for 30 days in accordance with the Los Angeles-Long Beach Crane Operators' Supplement, page 214, Item 3, of the PCLCD.

2. Area Arbitration Award No. SC-9-97 was then issued subsequent to the agreement of Joint Longshore LRC Meeting No. 42-97.

3. During the Arbitrators' Conference in San Francisco on March 20, 1997, the Coast Arbitrator and Coast LRC members determined that the Joint Longshore LRC agreement resolved the Union's claim and Arbitration Award No. SC-9-97 would not be implemented.

Members  
March 24, 1997  
Page Two

4. The ten steady crane operators specified in Joint LRC Meeting No. 42-97 were given notices on March 21, 1997 to return to the Joint Longshore Dispatch Hall effective March 22, 1997.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chuck", written in a cursive style.

Charles J. Wallace  
Vice President  
Southern California

CJW:nr  
Attachment:  
Joint Longshore LRC Minutes No. 42-97  
Arbitration Award No. SC-9-97

MINUTES OF SPECIAL MEETING  
JOINT LONGSHORE LABOR RELATIONS COMMITTEE  
LOS ANGELES-LONG BEACH HARBOR

MARCH 3, 1997

MEETING NO. 42-97

The Committee met at 4:30 P.M. at 100 West Broadway, Suite 3000, Long Beach, California.

Present: Employers  
J. Burgin  
C. Young  
T. Kennedy

ILWU Local 13  
J. Cortez  
M. Freese

Also present:

C. Brady, #30202

The Committee met at the request of the Union to discuss U.C. #117-96, which had been presented to the Area Arbitrator for resolution on February 21, 1997.

The Union stated that, pursuant to Section 17.284 of the PCLCD, nothing in Section 17 shall prevent the parties from mutually agreeing upon other means of deciding matters upon which there has been disagreement. The Union asserted that 43 steady crane operators were claimed to have been paid in excess of the maximum hours' limitation at the area arbitration hearing held on February 21, 1997. However, the Union now maintains that only those individuals cited on the original complaint are properly before the Joint Longshore Labor Relations Committee. In addition, the claims for lost work opportunity payment contained in U.C. #117-96 are withdrawn. The undisputed Union statement at this LRC indicated that the LRC was processing, at this point, only that section of the complaint addressing the Employers' alleged violations of the Agreement. In the cases of the individual longshoremen, the dispatch violations alleged against each of the accused must be reduced to charges of specific violations and presented to the individual so that any questions of accuracy or conflicting evidence may be presented by the individual to the Joint LRC. Affording every longshoreman accused of a Contract violation the opportunity to present evidence and arguments in his own defense is consistent with past practice, the rights of workers and Union members under state and federal law, and the duties of the Joint Port LRC to operate the Joint Longshore Dispatch Hall and investigate and adjudicate under Sections 17.121, 17.124, and 17.125.

Following discussion, the Committee agreed that Marine Terminals Corporation paid hours in excess of the maximum hours' limitation to the following steady crane operators cited in U.C. #117-96:



<u>No.</u>	<u>Name</u>
31326	B. Ketchum
32271	K. Ayres
33104	N. Crumby
33277	R. Mendoza
33771	D. Imbagliazzo
34280	J. Moses
34300	M. Smallwood
34370	J. Torres
34371	J. Chuka
34781	B. Dreisbach

In accordance with the 1993-1996 Los Angeles-Long Beach Crane Operators' Addendum of the PCLCD, the above-noted crane operators shall be required to return to the Joint Longshore Dispatch Hall for the payroll month of April 1997 for exceeding the maximum hours' limitation.

Meeting adjourned at 5:35 P.M.

TJK:mob - 3/17/97

Approved by PMA - 3/10/97

Approved by Union - 3/14/97

## SUBMISSION AGREEMENT

CLRC  
BMCW  
RA  
RO  
GR  
IS

The Pacific Maritime Association ("PMA") and the International Longshoremen's and Warehousemen's Union, Local 13 ("Local 13") hereby submit the following as a Submission Agreement to the Area Arbitrator in the complaint filed by Tom Hebert ("Hebert") on September 11, 1996 against Marine Terminals Corporation ("MTC") and individual crane operators:

1. After providing Hebert, MTC and the individual crane operators with an opportunity to be heard, the Area Arbitrator shall determine whether MTC and/or the individual crane operators have violated the Pacific Coast Longshoremen's Contract Document ("the Contract").

2. The Contract does not designate the penalties for violation of all of the provisions of the Contract. Therefore, PMA and Local 13 agree to the following penalties to be imposed by the Area Arbitrator if he determines that MTC and/or the individual crane operators are in violation of the Contract:

a. If MTC is found to be in violation of the Contract, MTC shall be prohibited from employing steady crane operators for a period of one month from the date of the Area Arbitrator's decision and shall pay an amount of damages equivalent to the amount paid to the crane operators in excess of the Contract rate, to be distributed to the individuals who lost the opportunity to work; and

b. If individual crane operators are found to be in violation of the Contract, the individual crane operators shall be required to check into the Dispatch Hall for a period of one month from the date of the Area Arbitrator's decision.

3. The Area Arbitrator's authority to determine the liability of the individual crane operators shall be on a non-precedent setting basis.

4. The Area Arbitrator shall be limited to the issues and the penalties as outlined herein. PMA and Local 13 agree that the Area Arbitrator shall have exceeded his authority and jurisdiction if he decides any other issues or imposes any other penalties.

DATED: March \_\_, 1997

PACIFIC MARITIME ASSOCIATION

ILWU, Local 13

By: \_\_\_\_\_

By: \_\_\_\_\_

## SUBMISSION AGREEMENT

The Pacific Maritime Association ("PMA") and the International Longshoremen's and Warehousemen's Union, Local 13 ("Local 13") hereby submit the following as a Submission Agreement to the Area Arbitrator in the complaint filed by Tom Hebert ("Hebert") on September 11, 1996 against Marine Terminals Corporation ("MTC"):

1. The Area Arbitrator shall determine whether MTC has violated the Pacific Coast Longshoremen's Contract Document ("the Contract") and, if so, the appropriate remedy to be imposed.
2. The Area Arbitrator shall not determine whether any individual crane operators are in violation of the Contract and shall not impose any penalties on individual crane operators.
3. The Area Arbitrator shall be limited to the issue as outlined herein.. PMA and Local 13 agree that the Area Arbitrator shall have exceeded his authority and jurisdiction if he decides whether any individual crane operators are in violation of the Contract or imposes any penalties on any individual crane operators..

DATED March \_\_, 1997

PACIFIC MARITIME ASSOCIATION

ILWU, Local 13

By: \_\_\_\_\_

By: \_\_\_\_\_