

**MINUTES OF THE SPECIAL MEETING OF THE  
COAST LABOR RELATIONS COMMITTEE**

**Meeting No. 21-12**

Time/Date: Tuesday, October 9, 2012 – 2:30 p.m.

Place: Pacific Maritime Association  
555 Market Street, Third Floor  
San Francisco, CA

Present: For the Union

R. Ortiz, Jr.  
L. Sundet

For the Employers

S. Hennessey  
N. Romanowski  
R. Marzano

Also Present: K. Donovan

1. Robert W. Wilson Jr. #8868 Letter to JCLRC – Appeal of JPLRC 17.42 Decision (Union Held Over – CLRC #10B-12, Item 16)
- 

The CLRC, having received Mr. Wilson's timely appeal of the JPLRC finding and following a review of all documentation related to the grievance, made the following determinations based on the record of the JPLRC hearing transcript and the evidence provided in the JPLRC hearing:

- a. The JPLRC's decision not to post a new crane training list in 2009, but instead to resume and exhaust the previous list, is not a violation of Section 13.3.
- b. The complaint that failure to post a new crane training list constitutes discrimination or retaliation against individuals who have previously failed crane training is not covered by Section 13, as individuals who have failed crane training are not an identified protected class under Section 13.
- c. The complaint that failure to post a new crane training list constitutes a discriminatory rule or provision based on age is without merit. The Committee noted that there was no evidence presented that the old list contained only individuals 40 years or under. In fact, Mr. Wilson himself was on that list and was afforded an opportunity to be crane trained pursuant to being on that list.
- d. Mr. Wilson alleged that a Union Labor Relations Committee member's conduct at the JPLRC meeting on April 7, 2011 was in retaliation of Mr. Wilson's filing a grievance challenging the failure to post a new crane training list in 2009. Any such alleged conduct took place years after the decision to resume and exhaust the previous list (the underlying basis of Mr. Wilson's grievance). Further, there is no evidence that a Union Labor Relations Committee member's alleged conduct and/or alleged opinion as to Mr. Wilson's position regarding the crane training list, influenced or altered any JPLRC proceeding or outcome. The

JPLRC is made up of both union and employer representatives with equal vote as the outcome of any particular case. Thus, even if it had been proven that the Union side of the JPLRC somehow shared the Union Labor Relations Committee member's alleged opinion, the Union side of the JPLRC does not control the outcome of a JPLRC decision.

The Committee, finding no basis to support a claim of discrimination, agreed to deny this appeal. A letter will be sent to the individual advising him of the Committee's decision and his right to appeal under Section 17.43.

2. SC-91-12 – Joint Request – Eric Aldape #37519 – Appeal of JPLRC 17.4 Decision – Los Angeles/Long Beach (Local 13)

---

The CLRC, having received Mr. Aldape's timely appeal of the JPLRC finding and following a review of all documentation related to the grievance, made the following determinations based on the record of the JPLRC hearing transcript and the evidence provided in the JPLRC hearing:

- a. The JPLRC correctly informed Mr. Aldape at the Section 17.41 proceeding on March 15, 2012 of the CLRC policy that attorneys are not permitted involvement in the local grievance machinery, including a Section 17.41 proceeding. In a Section 17.41 proceeding at the local level, an individual may choose to be represented by either a registered Class A or Class B longshoreman or a Class A or Class B clerk. The individual complainant may call witnesses subject to the clarification contained in Coast arbitration award C-06-2004.
- b. The Committee noted that under Section 17.42, there is no hearing unless the CLRC chooses to order a hearing as outlined in Section 17.421. If the CLRC proceeds without ordering a hearing, the process at this stage is merely an appellate review and one that takes place outside of the presence of the grievant. Any decision that issues from this appellate review is issued based solely on an examination of the record (transcript, exhibits, etc.) made at the JPLRC level. Should a hearing be conducted under Section 17.421, the same rules exist relative to representatives as those in a Section 17.41 hearing (i.e., non-industry representatives are prohibited).
- c. The Committee further noted that on appeal under Section 17.43, an individual may choose one of the following representatives: (1) a licensed attorney; (2) a registered Class A or Class B longshoreman; or (3) a registered Class A or Class B clerk.
- d. At the JPLRC level, Mr. Aldape refused to present his case on Union Complaints 271-11 and 027-12. Since Mr. Aldape refused to present his case at the local level, there is no record upon which the CLRC can base a decision. An individual who initiates a grievance under Section 17.4 forfeits the grievance by refusing to

present his or her case on the record. Therefore, the Union Complaints 271-11 and 027-12 are moot and not subject to further processing under Section 17.4.

- e. The Committee agreed with the JPLRC that with respect to Union Complaint 270-11 Mr. Aldape failed to state a claim that is covered by Section 13.3 as “hall men” are not an identified protected class under Section 13. Furthermore, the Committee reviewed the accusation that the Hall Crane Board Equalization (pg. 207, item C) in the PCLCD as written/applied is discriminatory relative to Section 13 and agreed that this claim is without merit.

The Committee, finding no basis to support a claim of discrimination, agreed to deny the appeal of Union Complaint 270-11. A letter will be sent to the individual advising him of the Committee’s decision and his right to appeal the denial of Union Complaint 270-11 under Section 17.43.

### 3. General Discussion

---

The Committee noted that in reviewing the above cases there appeared to be some confusion at the local level as to the proper application of Section 17.81 of the PCL&CA. According to the plain language of Section 17.81, only the Employers have standing to file a complaint under Section 17.81.

Individuals seeking redress for a physical altercation with another worker that is otherwise not covered by Section 13.2 may complain to the Employers (or the Union may complain to the Employers on the individual’s behalf). The Employers should reasonably investigate the allegation and, if sufficient probable cause is determined, the Employers should file and prosecute a complaint under Section 17.81.

In the Joint Dispatch Hall context, the employer is the JPLRC. Joint Dispatchers and jointly employed “registered” Sergeant-at-Arms (where employed) are agents/employees of the JPLRC. When warranted, formal complaints may be filed by the JPLRC, the Employer JPLRC representatives, or the Union JPLRC representatives. It shall not be necessary to reach JPLRC agreement prior to the filing of a complaint against any longshoreman/clerk for contract violations in the Joint Dispatch hall or against any agent/employee of the JPLRC, recognizing that such complaint is subject to appropriate adjudication and due process under the Contract grievance machinery.

Date Signed: 10/17/12

For the Union:

Reg. Off.  
Paul A. Sander

Date Signed: 10/17/12

For the Employers:

R. J. Dwyer