



LRC: ☐

GRIEVANCE:

DATE OF INCIDENT: 03 - 22 - 2016

If multiple dates, please list below.

FOR OFFICE USE ONLY

[illegible]

TIME OF INCIDENT	BERTH(S)	GANG #	NAME OF VESSEL	JOB CATEGORY
EMPLOYER	SUPERINTENDENT		FOREMAN	BUSINESS AGENT

Against Employer: Employer: COAST LABOR RELATIONS COMMITTEE

Against Member:	Registration No.						
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First Name

Last Name:

Section(s) of the Agreement violated,
including, but not limited to:

13.3

Nature of Incident: (Describe events in detail using additional pages if necessary) ☒ See Attached

SEE ATTACHED STATEMENT

By:

First Name

Last Name

A	L	D	A	P	E
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Signature _____

Signature _____

Union complaints (LRC) must be filed within 30 days of the incident.
GRIEVANCES MUST BE FILED WITHIN 45 DAYS after the discovery
or no more than 90 days after the alleged violation occurred (whichever
period is shorter). CONSTITUTION-ARTICLE III-SECTION 8-RULE C

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Registration No.

Registration NO.

PAGE 1 OF 1

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STAMPED

This Section 13.3 claim of discriminatory application of the July 1, 2016, Letter of Understanding regarding Coast Appeals Officer for Section 13.2 Cases.


On or about March 22, 2016, I came into possession of the March 1, 2016, CLRC letter appointing longtime ILWU attorney Larry Schwerin as Coast Appeals Officer effective March 2, 2016, in direct contradiction with the clear and unambiguous language of the July 1, 2016, LOU where the parties agreed to appoint an individual "from outside the industry."

Larry Schwerin has been an ILWU attorney for over 33 years, representing both Local 23 in Tacoma, and Local 19 in Seattle, and is NOT "from outside the industry."

According to Award C-10-86, a rule that conflicts with the unambiguous language of the Agreement is, per se, discriminatory.

What the CLRC did conflicts with the unambiguous language of the July 1, 2014, LOU re Coast Appeals Officer for Section 13.2 Cases and is therefore, per se, discriminatory.

Larry Schwerin needs to be replaced with a neutral professional, from outside the industry, per the July 1, 2016 LOU.

A handwritten signature in black ink, appearing to read "Brian Allet", followed by a horizontal line and the number "#7519".

4-1-16

ILWU-PMA JOINT COAST LABOR RELATIONS COMMITTEE

International Longshore and
Warehouse Union
1188 Franklin Street, 4th Floor
San Francisco, California 94109

Pacific Maritime Association
555 Market Street
Third Floor
San Francisco, California 94105

March 1, 2016

VIA FIRST CLASS MAIL, FACSIMILE, and EMAIL

To: All JPLRCs

Please be advised that effective Wednesday, March 2, 2016 at 8:00 a.m. all Industry Arbitrators will begin administering and adjudicating Section 13.2 grievances as outlined in the amendment to Section 17.511 (*ref. Memorandum of Understanding 2014*).

Additionally, please be advised that effective Wednesday, March 2, 2016 at 8:00 a.m. the new Coast Appeals Officer, Larry Schwerin, will also begin administering and adjudicating Coast Appeals for Section 13.2 grievances as outlined in the *2014 Letter of Understanding regarding Coast Appeals Officer for Section 13.2 Cases*.

Please find the attached updated Special Grievance Forms to be used starting Wednesday, March 2, 2016 at 8:00 a.m.

Very truly yours,

ILWU-PMA
JOINT COAST LABOR RELATIONS COMMITTEE

Attachments

03-01-16 - REVISED PCL&CA Section 13.2 - Appeal Form
03-01-16 - REVISED PCL&CA Section 13.2 - Grievance Form
03-01-16 - REVISED PCL&CA Section 13.2 - SGP Notice of Grievance and Hearing

cc: ILWU Coast Committee
ILWU Locals 13, 29, 46, 63, 94
ILWU Locals 10, 18, 54, 14, 34, 91
ILWU Locals 4, 8, 12, 21, 40, 50, 53, 92
ILWU Locals 7, 19, 23, 24, 25, 27, 32, 47, 51, 52, 98

IV. HOW TO FILE THIS APPEAL AND WHAT HAPPENS NEXT

Please **immediately** send this completed Form to **both** (1) the Coast Appeals Officer, by facsimile or mail, and (2) to the JPLRC, c/o the PMA office, by facsimile or mail, in the Area where the incident occurred.

Coast Appeals Officer:

Mr. Larry Schwerin
Attn: Section 13.2 Grievance
37571 Vista Key Drive N.E Hansville, WA 98340
Facsimile: 206/257-6042

JPLRC, c/o PMA:

Southern California Area

JPLRC, c/o Pacific Maritime Association
Attn: Section 13.2 Grievance
PO Box 21618, Long Beach, CA 90801-4443
Facsimile: 562/684-0155

Northern California Area

JPLRC, c/o Pacific Maritime Association
Attn: Section 13.2 Grievance
475 14th Street, Suite 300, Oakland, CA 94612
Facsimile: 510/839-0285

Washington & Puget Sound Area

JPLRC, c/o Pacific Maritime Association
Attn: Section 13.2 Grievance
PO Box 9348, Seattle, WA 98109-0348
Facsimile: 206/298-3469

Oregon Coast & Columbia River Area

JPLRC, c/o Pacific Maritime Association
Attn: Section 13.2 Grievance
One Main Place, 101 S. W. Main Street, Suite 330
Portland, OR 97204-3277
Facsimile: 503/827-4049

The section below is for use by the Coast Appeals Officer.

Date and manner (mail, fax) of receipt: _____

Distribute Entire Form: Copy to ILWU Local Union(s) & PMA Area Office

Distribute Sections II – IV Only: Copy to JPLRC, Accused(s), other Parties (involved Employer, etc.; identify here: _____)



**Pacific Maritime Association
Headquarters**

July 1, 2014

Mr. Robert McEllrath, International President
International Longshore and Warehouse Union
1188 Franklin Street, 4th Floor
San Francisco, CA 94109

Letter of Understanding
Coast Appeals Officer for Section 13.2 Cases

Mr. McEllrath:

The Parties appoint the following individual from outside the industry to serve as the Coast Appeals Officer under the Section 13.2 procedures: **[name]**. This individual meets or exceeds the Minimum Qualifications set out in the Letter of Understanding – Procedure for Selecting and Compensating the Coast Appeals Officer for Section 13.2 Cases.

In reviewing any appeal, the Coast Appeals Officer shall conduct an independent review based on the record before the Area Arbitrator and may in his or her discretion in whole or in part affirm, reverse or modify the decision of the Area Arbitrator, or remand the case for rehearing or for the taking of further evidence. In reviewing any appeal, the Coast Appeals Officer shall affirm the decision of the Area Arbitrator as long as it correctly interprets and applies the 13.2 materials as modified or clarified by the Coast Labor Relations Committee (CLRC) and is based on substantial evidence. The Coast Appeals Officer's decision shall be final and binding.

The Coast Appeals Officer shall serve at the direction of the CLRC. Vacancies in the position of Coast Appeals Officer shall be filled in accordance with the selection and compensation procedures of the Letter of Understanding – Procedure for Selecting and Compensating the Coast Appeals Officer for Section 13.2 Cases.

The Coast Appeals Officer shall be selected by the CLRC to serve a term coextensive with the term of the Agreement. The Coast Appeals Officer may be reappointed for the term of the next Agreement by mutual agreement of the Parties. If the Coast Appeals Officer shall at any time be unable or refuse or fail to act, the CLRC shall select a successor or substitute.

Sincerely,

/s/ James C. McKenna

James C. McKenna
President and CEO

Understanding confirmed:

/s/ Robert McEllrath

Robert McEllrath
International Longshore and Warehouse Union

Dated: 03/03/15



**Pacific Maritime Association
Headquarters**

July 1, 2014

Mr. Robert McEllrath, International President
International Longshore and Warehouse Union
1188 Franklin Street, 4th Floor
San Francisco, CA 94109

Letter of Understanding
Procedure for Selecting and Compensating the Coast Appeals Officer for Section 13.2 Cases

Mr. McEllrath:

During the 2014 ILWU-PMA Contract negotiations, the Parties agreed to the following procedures for selecting and compensating the Coast Appeals Officer for Section 13.2 cases:

A. Minimum Qualifications

JD degree from an accredited law school.

Expertise in employment law.

Professional experience:

- At least five years as a labor arbitrator; or
- At least ten years of practice in employment law.
- Significant portion of professional experience pertaining to employment matters involving blue collar workers.

Commitment to:

- Basing all decisions exclusively on the terms of Sections 13.1 and 13.2 of the PCL&CA and all LOUs and CLRC agreements regarding Section 13.2.
- Conducting reviews of appeals and issuing decisions within the time frames established by the LOUs regarding Section 13.2.
- Maintaining impartiality.

B. Selection and Compensation

To fill an open position for the Coast Appeals Officer:

- Each Party has seven days to nominate up to three candidates.
- The CLRC has seven days to make a selection.
- If the CLRC is unable to agree on a selection, the selection shall be determined by a striking process. The first strike shall be determined by a coin flip. The Party that correctly calls the coin flip shall have the choice of striking first or last.

Mr. Robert McEllrath, President
Letter of Understanding - Procedure for Selecting and Compensating the
Coast Appeals Officer for Section 13.2 Cases
July 1, 2014
Page 2 of 2

The Coast Appeals Officer will be jointly retained by the CLRC as an independent contractor.

The Coast Appeals Officer shall be compensated by payment of a quarterly retainer in the amount of **\$[amount]**, which payment will cover all fees and expenses of the Coast Appeals Officer for considering all 13.2 appeals and issuing all 13.2 decisions on appeals that arose in that quarter.

The compensation for the Coast Appeals Officer shall be allocated 30% to the Union and 70% to the Employers.

Sincerely,

/s/ James C. McKenna

James C. McKenna
President and CEO

Understanding confirmed:

/s/ Robert McEllrath

Robert McEllrath
International Longshore and Warehouse Union

Dated: 03/03/15

VI. No Discrimination

- A. Modify PCLCD and PCCCD to Cover Grievances and Complaints for Disability Discrimination Under Section 13.2.

The first sentence of Section 13.2 shall be modified to add the term “disability” to the bases for grievances and complaints that shall be processed solely under the Special Grievance/Arbitration Procedures For The Resolution of Complaints RE Discrimination and Harassment Under The Pacific Coast Longshore & Clerks’ Agreement. The first sentence of Section 13.3 shall be modified to delete the term “disability” from the bases for grievances and complaints that are not to be filed under the Special Section 13.2 Grievance Procedures.

- B. See Proper Application of Section 13 of the PCL&CA to Discrimination Complaints LOU.

Section 13.2 History

2008-2014 Memorandum of Understanding states:

“A panel of neutral professional labor arbitrators shall hear all Section 13.2 cases. Appeals shall continue to be filed with the Coast Appeals Officer. The use of professional arbitrators shall be subject to review and continuation upon JCLRC agreement annually.”

CLRC Meeting #22-09, held December 10, 2009, states that PMA requested a response to their proposals. Union requested a list of possible candidates to serve on the panel in each area. Held over by Committee.

CLRC Meeting #6-10, held June 10, 2010, states: “The Committee agreed to schedule a special CLRC meeting to address the Employers’ proposal regarding the Section 13.2 process. Date of meeting to be determined.”

CLRC Meeting #13-10, held September 9, 2010, states the Union noted they had not received the Employers list of candidates to serve on the panel in each area. Employers said they did not want to provide a list until a process for selection was agreed to. Committee agreed to hold a special meeting to discuss implementation.

CLRC Meeting #32-11, held December 15, 2011, states Employers requested the Union position regarding their proposed process, as well as the list of candidates for positions in each Area provided by Coast Arbitrator John Kagel. Union stated: The Parties first have to reach a clear understanding as to the application and scope of Section 13.2.” Union said they would provide a list of its issues and agreed to schedule a special CLRC to address those issues. Held over by the Committee.

CLRC Meeting # 1-13, held January 10, 2013, states: “The Employers provided a draft primer of Section 13.2 Special Grievance procedures and guidelines in effort to expedite the process of the Parties acting on securing non-industry special arbitrators to judge Section 13.2 cases as agreed to in 2008 bargaining.” Union stated it would review the document and respond. Held over by Union.



NOTICE TO



EMPLOYEES AND MEMBERS

POSTED PURSUANT TO A SETTLEMENT AGREEMENT
APPROVED BY A REGIONAL DIRECTOR OF THE
NATIONAL LABOR RELATIONS BOARD
AN AGENCY OF THE UNITED STATES GOVERNMENT

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities

WE WILL NOT

fail to notify bargaining unit employees, when we first seek to obligate them to pay dues and fees under a union-security clause or any other clause with a similar effect contained in Pacific Coast Longshore Contract Document, of their right under *NLRB v. General Motors Corp.*, 373 U.S. 734 (1963), to be and remain nonmembers and of the rights of nonmembers under *Communications Workers v. Beck*, 487 U.S. 735 (1988), to object to paying dues and fees for activities that are unrelated to our duties as the collective-bargaining representative and to obtain a reduction in dues and fees for such activities.

WE WILL NOT

in any like or related manner restrain or coerce you in the exercise of the rights under Federal law.

WE WILL

notify "B" registered longshoremen, in writing, of their *General Motors* and *Beck* rights, including that you have the right to become and remain a nonmember of the Union, that as a nonmember you have the right to object to paying for Union activities unrelated to the Union's duties as the collective-bargaining representative, and that you may obtain a reduction in fees for such activities. Such written notification will include sufficient information to enable you to intelligently decide whether to object, as well as a description of any internal Union procedures for filing objections.

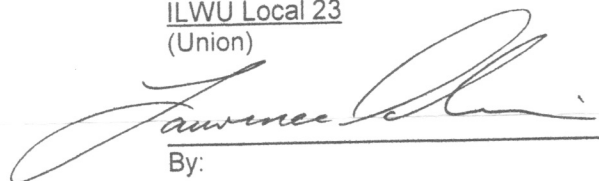
WE WILL

process the objections of nonmember "B" registered longshoremen whom the Union first sought to obligate to pay dues or fees on or after January 1, 2004.

WE WILL

reimburse, with interest, nonmember "B" registered longshoremen who file objections for any dues and fees exacted from them for nonrepresentational activities for each accounting period since March 1, 2005.

ILWU Local 23
(Union)

 Lawrence Attorney
By: (Title)

Date: 10/18/05