

STATE OF WASHINGTON  
BEFORE THE MARINE EMPLOYEES' COMMISSION

MARINE ENGINEERS' BENEFICIAL  
ASSOCIATION,

Complainant,

v.

WASHINGTON STATE DEPARTMENT  
OF TRANSPORTATION, FERRIES  
DIVISION,

Respondent.

MEC CASE NO. 4-10

DECISION NO. 583 - MEC

ORDER CLOSING  
SETTLED COMPLAINT

Reid, Pedersen, McCarthy and Ballew, by *Michael McCarthy*, Attorney, appearing for the Marine Engineers' Beneficial Association.

Robert McKenna, Attorney General, by *David Slown*, Assistant Attorney General, appearing for Washington State Department of Transportation, Ferries Division.

THIS MATTER came on regularly before the Marine Employees' Commission (MEC) on October 30, 2009, when the Marine Engineers' Beneficial Association (MEBA) filed an unfair labor practice complaint, MEC Case 4-10, against Washington State Department of Transportation, Ferries Division (WSF).

MEBA's complaint charged WSF with engaging in unfair labor practices within the meaning of RCW 47.64.130(1) by interfering with, restraining or coercing employees in the exercise of rights; encouraging or discouraging membership in an employee organization by discrimination in regard to: hiring, tenure, any term or condition of employment; and by refusing to bargain collectively with representatives of employees. Specifically, MEBA alleged that in October 2009, WSF notified SCE Ben Davis that his schedule would change while in commercial shipyard, from 7 days on, 7 days off, 12 hours/day to 8 hours/day, 5 days/week. MEBA asserted that Mr. Davis was singled out as the only engine room employee to deviate from his permanent year round schedule while in the shipyard.

Following review of MEBA's complaint, the Commission determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable. Chairman

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John Swanson was assigned as Mediator for the settlement conference scheduled on January 14, 2010. Commissioner Patricia Warren was designated to act as Hearing Examiner and a hearing scheduled for April 15, 2010.

MEBA and WSF engaged in settlement discussions on January 14, at which time MEBA requested additional information from WSF. On March 25, the parties requested that the April 15 hearing be converted to another settlement conference. The joint request was granted. During the April 15 settlement conference the parties resolved the issue.

On June 24, 2010, MEBA provided the MEC with a signed copy of the parties' settlement agreement and MEBA's letter withdrawing the complaint. That agreement is appended to and becomes a part of this Order by reference.

### ORDER

It is hereby ordered that the unfair labor practice complaint, filed by MEBA against WSF and docketed as MEC Case 4-10, is closed in acknowledgement of the parties' settlement agreement.

DATED this 25th day of June 2010.

#### MARINE EMPLOYEES' COMMISSION

  
\_\_\_\_\_  
JOHN SWANSON, Chairman

  
\_\_\_\_\_  
PATRICIA WARREN, Commissioner

  
\_\_\_\_\_  
JOHN COX, Commissioner

# 4-10  
cc: MFC

## Settlement Agreement

By and Between  
The Marine Engineers Beneficial Association (MEBA)  
and  
The Washington State Department of Transportation-Ferries Division (WSF)  
and  
The State of Washington

JUN 24 2010  
MARINE EMPLOYEES' COMMISSION  
OLYMPIA, WA

### Ben Davis/Work Schedule Change (Grievance, Demand to Bargain, and Unfair Labor Practice Charge)

Via the terms and conditions of this Settlement Agreement (Agreement), the Ben Davis Work Schedule Grievance, Demand to Bargain, and Unfair Labor Practice Charge are hereby resolved as provided for below.

#### WSF AGREES:

- That, if the Employer determines it is necessary to change a Staff Chief Engineer's (SCE) work schedule during a yard period in a commercial shipyard or the Eagle Harbor Maintenance Facility from 12-hour shifts (seven-on/seven-off) to 8-hour shifts (5 days), the Employer will provide not less than fourteen (14) calendar days' written notice to the Staff Chief Engineer prior to the SCE's work schedule being changed.
- In emergency situations, the Employer shall give such notice as the circumstances allow.
- When the Employer properly provides notice under this Agreement of a schedule change for a yard period commencing on a designated date, and that date is delayed, the notice remains effective for any rescheduled commencement date within thirty (30) days of the first commencement date. For any later rescheduled commencement date, a new notice is required.
- If the Employer changes a SCE's shift without providing the notice required under this Agreement, it shall pay the SCE for all hours worked as though his schedule were 12 hours, seven-on/seven-off until the 14-day notice period has passed. Guaranteed time will only be paid in cases in which the SCE does not work eighty hours in a pay period.
- When working eight (8) hour shifts, the work week shall consist of five (5) consecutive eight (8) hour days followed by two (2) consecutive days off.
- This agreement shall apply only to schedule changes of Staff Chief Engineers from twelve hour shifts to eight hour shifts during yard periods, and shall not modify or alter in any way other practices currently in force regarding engine room staffing during yard periods or at other times.
- In the next pay cycle, or as soon as possible thereafter, following the execution of this Agreement, the Employer shall pay Ben Davis \$1500.00, less appropriate withholding and deductions.

**IT IS HEREBY FURTHER AGREED:**

This Agreement constitutes complete and full resolution concerning the above referenced Grievance, Demand to Bargain, and Unfair Labor Practice Charge

- This Agreement and the mutual obligations under this Agreement do not constitute an admission by any party as to the validity of any claims or defenses of any other party.
- This Agreement shall become effective on the date of final signature.
- That MEBA will submit a copy of this Agreement and a Notice of Withdrawal to the Marine Employees Commission concerning the above referenced Unfair Labor Practice Charge (MEC Case No. 4-10) within ten (10) calendar days from the date that the final signature is attached to this Agreement.

Signed and agreed:

Jeffrey Arhca 6/10/10  
MEBA DATE

Paul H. Braden 6/15/2010  
WSF DATE

Glenn Lopez 6/17/10  
State of Washington DATE

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MEC CASE NO. 4-10

CERTIFICATE OF SERVICE

I certify that I served a copy of ORDER CLOSING SETTLED COMPLAINT, DECISION NO. 583-MEC, on all parties or their counsel of record on June 25, 2010, as follows:

- Facsimile and US Mail via Consolidated Mail Service
- US Certified Mail, Return Receipt Requested via Consolidated Mail Service
- Personal Delivery by \_\_\_\_\_

**TO:** David Slown  
Assistant Attorney General  
Labor & Personnel  
P.O. Box 40145  
Olympia, WA 98504-0145

Michael McCarthy  
Reid, Pedersen, McCarthy & Ballew  
101 Elliott Avenue West, Suite 550  
Seattle, WA 98119-4220

*(Courtesy copy by US Mail to: Jeff Duncan, Karol Kingery—MEBA; Leah Maurseth, WSF; Glenn Frye, OFM/LRO.)*

I certify under penalty of perjury under the laws of the state of Washington, that the foregoing is true and correct.

DATED this 25<sup>th</sup> day of June 2010 at Olympia, WA.

  
Linda Hoverter, Spec. Asst.