

STATE OF WASHINGTON  
BEFORE THE MARINE EMPLOYEES' COMMISSION

DISTRICT NO. 1, MARINE  
ENGINEERS' BENEFICIAL  
ASSOCIATION,

Complainant,

v.

WASHINGTON STATE FERRIES,

Respondent.

MEC CASE NO. 31-04

DECISION NO. 457 - MEC

ORDER CLOSING  
SETTLED COMPLAINT

Reid, Pedersen, McCarthy and Ballew, by *Thomas Leahy*, Attorney, appearing for District No. 1, Marine Engineers' Beneficial Association.

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

THIS MATTER came on regularly before the Marine Employees' Commission on January 9, 2004, when District No. 1, Marine Engineers' Beneficial Association (MEBA) filed an unfair labor practice complaint against Washington State Ferries (WSF). The complaint was docketed as MEC Case 31-04. (On the same date, MEBA also filed a related request for grievance arbitration on behalf of Ken Daft.)

By letter on January 16, 2004, MEC Chairman John Swanson requested that MEBA clarify the allegations in its complaint. On January 29, 2004, MEBA Counsel Thomas Leahy filed a Motion to Amend the Complaint and the Amended Complaint.

In its amended complaint, MEBA 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; and by refusing to bargain collectively with representatives of employees.

Specifically, MEBA alleged that WSF unilaterally changed wages, hours or working conditions without bargaining with the union regarding:

1. Proper notice to the union of alleged problems Mr. Daft was having during the familiarization process (prior to disciplinary process).
2. Policy and/or practice of allowing additional time, if necessary, for employees to complete the familiarization process.
3. Policy and/or practice of demoting employees or giving them opportunity to transfer before terminating their employment.

Following review of MEBA's amended complaint, the MEC determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable. The Commission ordered the complaint, MEC Case 31-04, consolidated with the Daft grievance, MEC Case 30-04, for settlement purposes. Commissioner Sullivan conducted a settlement conference on February 18, 2004, but the issues were not resolved.

On March 5, 2004, WSF Counsel AAG Slown filed a Motion for Deferral to Arbitration. He requested that further proceedings in Case 31-04 be deferred until after resolution of the related (Daft) grievance (30-04). MEBA did not object. On March 30, 2004, the MEC granted WSF's Motion.

The Commission issued a decision in the Daft grievance case on June 23, 2004 (Dec. 415-MEC). Following closure of the grievance, MEBA Counsel asked that the MEC keep Case 31-04 on active status to accommodate the parties' continuing settlement discussions.

By telephone on October 26, 2004, MEBA Counsel Thomas Leahy requested a hearing date be scheduled for Case 31-04 while the parties continued to discuss the issue. February 16, 2005, was scheduled for a hearing, but later cancelled, due to the MEC's budget shortfall.

At MEBA's request, Commissioner Sullivan conducted another settlement conference on August 19, 2005. MEBA and WSF reached an agreement on that date. A copy of the agreement is appended to and becomes a part of this Order by reference. By letter from Counsel Thomas Leahy on August 22, MEBA withdrew its unfair labor practice complaint.

### **ORDER**

It is hereby ordered that the unfair labor practice complaint, filed by District No. 1 MEBA against WSF and docketed as MEC Case No. 31-04, is closed in acknowledgment of the parties' settlement agreement and MEBA's withdrawal.

DATED this 26th day of August 2005.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN SWANSON, Chairman

/s/ JOHN SULLIVAN, Commissioner

/s/ ELIZABETH FORD, Commissioner

**SETTLEMENT AGREEMENT**  
**MEC Case No. 31-04**

IN FULL AND COMPLETE SETTLEMENT of MEC Case No. 31-04, the parties, The Marine Engineers' Beneficial Association, (MEBA), and Washington State Ferries (WSF), do hereby agree to the following

**MEMORANDUM OF UNDERSTANDING**  
**VESSEL BREAK-IN/FAMILIARIZATION**

The parties agree that the break-in/familiarization process for all MEBA bargaining unit members is to be used as an educational and/or learning process when engineers begin working on a new class of vessel. The break-in/familiarization program is specific to each vessel class and is designed to meet or exceed all requirements under 46 CFR 15.405 (Subchapter B) and 46 CFR 199.180 (b)(1)[Subchapter W] concerning familiarity with vessel characteristics, training, and drills ("break-in"). Before standing watch on a new class of vessel, all bargaining unit members must complete the break-in/familiarization process, including the required check-offs, in the familiarization workbook. The parties agree that the expected times to successfully complete break-in/familiarization are as set forth in SMS Engineering and Maintenance Manual, Section: Engineer's Watch 0050. The parties further agree that in some cases it is appropriate to extend the time an individual needs for break-in/familiarization. Willful noncompliance with break-in/familiarization procedures may constitute a violation of the WSF Code of Conduct, and of 46 CFR 5.27, "Misconduct".

The parties agree that in all cases in which management believes that an engine department employee is not meeting the expectations set forth in Engineer's Watch 0050, with respect to vessel break-in/familiarization, management will notify the employee and MEBA of the problem. Before taking further action, and before extending the time for break-in/familiarization, management will meet with the employee and a union representative to develop a plan for the employee to successfully complete the break-in/familiarization process within a reasonable time.

After the meeting, the employee is expected to make a good-faith effort to complete break-in/familiarization in accordance with the plan. Failure to complete the break-in/familiarization, despite the employee's good faith effort, shall not be grounds for discipline, but may result in cessation of the break-in/familiarization process and ineligibility to stand watches on the new class of vessel. Employees failing to complete break-in/familiarization retain all rights under the appropriate WSF-MEBA collective bargaining agreement, but WSF reserves the right to deny a bid by the employee to the same class of vessel on which the employee failed to break-in/familiarize, for a period of two years.

Dated this 19<sup>th</sup> day of August, 2005.

For MEBA:                   /s/ Mario Micomonaco, MEBA/WSF Rep

For WSF:                   /s/ David J. Slown, AAG, WSBA 24943