



INTERNATIONAL LONGSHORE & WAREHOUSE UNION COAST LONGSHORE DIVISION

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MEMORANDUM

TO: ILWU Coast Longshore Division Locals
FROM: The Coast Committee
SUBJECT: **New Class Action Lawsuit**
DATE: May 27, 2020

This is a follow up to our April 30, 2020 memorandum, which was sent to the California Coast Longshore Division Locals.

ILWU workers coastwide have begun to receive a “NOTICE OF CLASS ACTION” from attorneys in a new lawsuit against our Employers. This Notice of Class Action has on its front cover the image of two workers joining hands and the words “WE NEED YOUR HELP” written beneath the joined hands. On the back of the card, the lawsuit is identified and the recipient is asked to take a quick survey. Although the card indicates at the bottom in very small print that there is no obligation to respond, this is barely visible and the online survey contains no statement that individuals do not have to respond to these lawyers or their representatives. Further, the survey asks workers to sign the survey under penalty of perjury.

We have begun to receive calls from workers up and down the coast who are confused and asking what their obligation is to respond to this Notice of Class Action. The card is being received by anyone who worked in California since August 22, 2015.

Because of the slick nature of the marketing on the card and the lack of clarity in visible print that there is absolutely no requirement that anyone respond to this solicitation from plaintiffs’ attorneys seeking to establish a larger group of people who want to sue our Industry, we ask that you review the original text of our April 30, 2020 memorandum below, let us know if you have any question, and communicate to workers and union members in your areas that (1) no one has any obligation whatsoever to respond to these predatory attorneys and that (2) individuals can ask plaintiffs’ counsel to stop contacting them about the lawsuit and they must stop upon receipt of such a request.

Here is the text of our April 30, 2020 memorandum, please let us know if you have any questions:

Recently, the Coast Committee learned of a class action lawsuit brought by five longshore workers and marine clerks in Southern California against PMA and its member companies. This lawsuit seeks over \$100 million in damages under California wage and hour law. The plaintiffs’ attorneys are seeking to represent classes including all registered and casual longshore workers, marine

clerks, watchmen, and foremen in California for the last four years. PMA will soon be required to provide the names and home addresses of these ILWU members and casual longshore workers to the plaintiffs' attorneys. Your members may be contacted by these plaintiffs' attorneys and have questions about the lawsuit.

1. Your Members Are Not Required To Communicate With The Plaintiffs' Attorneys.

We expect that your members may receive letters from the plaintiffs' attorneys seeking information about the lawsuit and suggesting that they may be eligible to receive money from the lawsuit. It is important that your members know that they do *not* have any obligation to respond to the plaintiffs' attorneys if they do not want to do so. That said, you also may not prohibit your members from speaking plaintiffs' attorneys if they choose to do so.

2. This Lawsuit Threatens The Dispatch Hall.

After the Big Strike in 1934, the Employers lost control over the dispatching of longshore jobs through the inequitable "shape up" and in its place arose the current fair and equitable system of distributing work opportunities under union control. As a result, the dispatch halls have become part of the ILWU's culture and a place where ILWU members can interact away from management and the Employers.

This lawsuit claims that ILWU members are working for and under the control of the Employers the moment they step into the Dispatch Hall, a claim that if successful would shift the hard fought ILWU control of dispatch to increased Employer control. The ILWU will fight to preserve the Dispatch Halls for the Union and not for the Employers.

3. This Lawsuit Threatens Contractual Practices.

The lawsuit also attacks Port Working Rules and other practices concerning the nature and hours of ILWU jobs. These rules have been negotiated at the Port level to benefit ILWU members and provide them with maximum flexibility in their work hours. The lawsuit is trying to impose rigid work rules that could require ILWU members to work more hours or receive less pay.

Additionally, the ILWU fought to ensure that TWIC cards are not a condition of employment, keeping the Employers outside of the process. The lawsuit could have unknown impacts on how TWIC is treated on the dock.

4. The ILWU's Response

We will defend the Dispatch Halls, Port Working Rules, and arbitration decisions that are foundational to the ILWU and to the protection of ILWU workers. We hope that you will join us in opposing these efforts that threaten our union and the strength of its membership.