

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| FEDERAL MARITIME COMMISSION |) | |
| Plaintiff |) | |
| vs. |) | |
| CITY OF LOS ANGELES, CALIFORNIA |) | |
| HARBOR DEPARTMENT OF THE |) | Civil Action No. 1:08-cv-1895-RJL |
| CITY OF LOS ANGELES |) | |
| BOARD OF HARBOR COMMISSIONERS |) | |
| OF THE CITY OF LOS ANGELES |) | PLAINTIFF'S MOTION FOR |
| CITY OF LONG BEACH, CALIFORNIA |) | PRELIMINARY INJUNCTION |
| HARBOR DEPARTMENT OF THE |) | |
| CITY OF LONG BEACH |) | |
| BOARD OF HARBOR COMMISSIONERS |) | |
| OF THE CITY OF LONG BEACH |) | |
| Defendants |) | |

PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

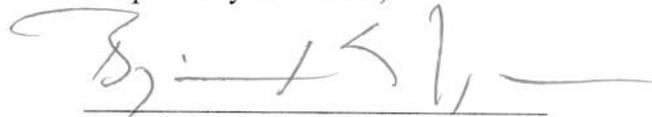
Pursuant to Fed. R. Civ. P. 65, Plaintiff Federal Maritime Commission respectfully moves for entry of a preliminary injunction to enjoin, pursuant to section 6(g) of the Shipping Act of 1984, 46 U.S.C. § 41307 (b), Defendants' activities under Agreement No. 201170 seeking to discuss, agree or implement, jointly and severally, any portion of the Ports' Concession Program or Clean Trucks Program ("CTP") that (1) requires the use of employee-drivers by LMC concessionaires; or (2) establishes truck purchasing incentives, subsidies and clean truck fee exemptions that disadvantage Independent Owner Operators ("IOOs") providing drayage services at the Ports. The Ports' concession plans prohibit IOOs from accessing port terminals at the Port of Los Angeles ("POLA") by restricting such access to Licensed Motor Carriers

("LMCs") utilizing employee drivers. Absent preliminary relief from this Court, the employee mandate and the discriminatory application of incentives, subsidies and fee exemptions will violate the Shipping Act of 1984, 46 U.S.C. § 41307 (b), and irreparably harm the public by terminating the ability of IOOs to access private marine terminals in the port area, thus posing an immediate and substantial threat to the drayage industry. LMCs have already been required by the Ports to consent to concession plans banning the utilization of IOOs, initiating a process which may terminate the ability of IOOs to do business within the San Pedro Bay ports area.

In support of this motion, Plaintiff relies on the following documents: (1) the Complaint; (2) Memorandum in Support of Plaintiff's Motion for a Preliminary Injunction; (3) the Declaration of Dr. Roy J. Pearson (Ex. 1, attached to Memorandum in Support); (4) Declaration of Robert M. Blair (Ex. 2); (5) Declaration of Joshua M. Owen (Ex. 3); (6) Declaration of Kathleen C. Dodd (Ex. 4); (7) Declaration of Mary Lou Hendricks (Ex. 5); (8) Declaration of Michael J. Lightman (Ex. 6); (9) Declaration of Thelma Standart (Ex. 7); (10) Declaration of Daniel Meylor (Ex. 8); and (11) Declaration of Gary Linder (Ex. 9).

Pursuant to Fed. R. Civ. P. 65 and Local Rule 65.1(d), Plaintiff respectfully requests that a hearing on this motion be scheduled at the Court's earliest convenience.

Respectfully submitted,



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