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ILA, USMX stake out sides as Charleston appeals Leatherman ruling



The union representing 45,000 longshore workers along the East and Gulf coasts is entering talks for a new contract this year. Photo credit: Walter Lagarenne / SCSPA.

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Michael Angell, Associate Editor | Feb 13, 2023, 4:25 PM EST



The International Longshoremen's Association (ILA) and the group representing ocean carriers and marine terminals on the East and Gulf coasts have asked to join in the Port of Charleston's appeal of a federal ruling over the ILA's lawsuit against carriers calling the Hugh K. Leatherman Terminal.

The appeal comes as one of the ocean carriers in the ILA lawsuit rerouted its container service away from the two-year-old Leatherman terminal while union work at the \$1 billion facility remains unsettled, and the ILA and the United States Maritime Alliance (USMX) prep for talks over a new contract covering work at ports along the East and Gulf coasts.

The US Court of Appeals for the Fourth Circuit last week granted separate motions to intervene from ILA Local 1422 and the USMX in an appeal seeking to overturn a National Labor Relations Board (NLRB) ruling that upheld the ILA's right to file a lawsuit against ocean carriers that called the Leatherman terminal. The USMX is intervening on behalf of the South Carolina State Ports Authority (SCSPA), which is seeking to overturn the agency's ruling, while the ILA filed to intervene on behalf of the NLRB.

Two of the NLRB's three members voted last December to overturn an administrative law judge's earlier decision that the ILA's April 2021 lawsuit against Hapag-Lloyd and Orient Overseas Container Line was an illegal boycott of the ocean carriers. The union's lawsuit alleged the carriers' vessel calls to the Leatherman terminal were violations of the master contract they are subject to as members of the USMX, which was also named in the lawsuit.

ILA and the SCSPA have been arguing since October 2020 over the scope of container work at the Leatherman terminal where non-union state employees work on cranes and lift equipment and ILA members handle all other tasks. The ILA claims that the master contract governing all East and Gulf coast ports requires all container handling work be done by union members. However, the SCSPA claims that because it is not a party to that contract, it can use non-union workers at Leatherman.

In its appeal filed in mid-January, the SCSPA said the NLRB ruling "is not supported by substantial evidence and is contrary to law." In a subsequent filing, the SCSPA asked the court for, but was denied, an expedited hearing in the case "to mitigate the commercial and financial impact" from the NLRB's ruling.

"The NLRB's erroneous decision results not only in ongoing substantial financial and reputational harm to SCSPA and the State of South Carolina, but also adversely impacts the national supply chain by eliminating the first new container-handling facility built in the United States in more than 10 years, resulting in harm to the economy of the State of South Carolina, the Southeast, and the entire United States," the filing said.

Hapag-Lloyd diverts from Leatherman

At the end of January, Hapag-Lloyd issued a customer advisory that its trans-Atlantic AL3 service would switch vessel calls from Leatherman to Charleston's Wando Welch Terminal. Hapag-Lloyd did not respond to a request for comment about the decision to switch terminals.

In a statement to the *Journal of Commerce* last week about the terminal switch, the SCSPA said the last call on the AL3 service to Leatherman was on Jan. 29. It said the joint SeaLead-TS Lines service from Asia to the US East Coast continues to use the Leatherman terminal.

"We expect the overall situation to be temporary as we work towards a solution," the SCSPA said in its statement regarding the AL3 diversions. "Regardless of the current NLRB decision, SC Ports remains hopeful that we can work with the ILA to achieve a solution that will allow for full utilization of the Leatherman Terminal and preservation of our port's growth trajectory, which creates more jobs for both SC Ports employees and ILA members."

The ILA and the USMX this year are set to begin talks on a new six-year master contract ahead of the current contract's expiration in 2024. Last October, ILA President Harold Daggett said the union and the USMX "understand and respect" one another, which should "bring confidence to all" that both sides will be able to work out a new contract.

The ILA is also involved in a separate case before the Federal Maritime Commission (FMC) alleging price-fixing among the stevedoring companies that operate at the ports of Charleston and Savannah. That case is pending.

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