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June 2, 2011

VIA EMAIL : info@USWA1005.ca
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United Steelworkers, Local 1005
350 Kenilworth Avenue North
Hamilton ON L8H 4T3

Attention: Gary Howe, Vice-President

Dear Sir:

Re: United Steel Workers of America Blockade of Burlington Lift Bridge (U.S. Steel Canada Labour Dispute)

We have been advised by the Hamilton Port Authority that the United Steelworkers, Local 1005 has and is continuing to engage in an unlawful picket on the Burlington Lift Bridge (the "Bridge") in support of its strike against U.S. Steel Canada. Presumably this strike action is intended to cause economic harm to and to interfere with the trade of U.S. Steel Canada. By occupying the Bridge, the strikers are preventing operators of the Bridge from lifting the Bridge and are thus obstructing lawful ingress and egress by all ships, not just ships carrying product belonging to U.S. Steel Canada. This unlawful strike action is also interfering with the operations of the Hamilton Port Authority and causing harm to the Hamilton Port Authority.

The Bridge is Federal Crown property that is unrelated to the business and operations of U.S. Steel Canada and it is not a location from which U.S. Steel Canada carries on operations. Moreover, the Federal Crown is not a party to this labour dispute.

In support of our position that the occupation of the Bridge by picketers is unlawful, we refer you to the decision of the Ontario Superior Court in *Long Lake Forest Products Inc. v. United Steelworkers Local 1-2693*, 2006 CanLII 344442 in which the Court granted an injunction to prevent USW from obstructing traffic on a highway when conducting their "informational picket". Specifically, the court held at paragraph 36:

The right to picket does not encompass the right to obstruct travel on the roadways. The Ontario Court of Appeal agreed that blocking a highway created a nuisance in Ogden Entertainment Services v. Retail Wholesale/Canada Canadian Services sector Division of the United Steelworkers of America, Local 440 [1998] O.J. No. 1824.

It is our position that the same principle applies to obstructing shipping traffic.

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Similarly, in the recent decision of *Brookfield Properties v. Hoath et. al*, 2010 ONSC 6187 (CanLII), the Court, after granting an injunction to prevent obstructing lawful entry and exit from premises noted that:

[36] Picketing which constitutes obstruction of the lawful entry to and exit from premises is unlawful, constituting a nuisance. That the blockading or obstruction occurs during a labour dispute does not transform an unlawful nuisance into a lawful expression of a message. However, picketing which attempts to communicate information to those attempting to enter into or leave premises may result in temporary delays where the targets of the communicated message stop and engage the picketers in discussion. Delays incidental to such communication which last only for the amount of time reasonably required to convey the message may fall into the category of permissible impedence, rather than unlawful obstruction or blockage.

It is our position that, given the lack of proximity between the deck of the Bridge the Captains of ships, there is no opportunity to verbally communicate with the Captains of the ships, and thus no legal basis to support an "informational picket" being set up on the Bridge itself.

We therefore request that you forthwith cease and desist from picketing on the Bridge. Pickets may however be set up in safe areas at the road side entrances to the Bridge, provided such pickets similarly do not obstruct vehicle traffic and do not otherwise interfere with the lifting of the Bridge.

If picketing on the Bridge does not stop forthwith, we will be forced to consider a more formal response to this unlawful strike activity.

Yours truly,



Jacqueline Dais-Visca
Senior Counsel
Business Law Section

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