

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF ESSAR STEEL ALGOMA INC.,
ESSAR TECH ALGOMA INC., ESSAR STEEL ALGOMA
(ALBERTA) ULC, CANNELTON IRON ORE COMPANY
AND ESSAR STEEL ALGOMA INC. USA**

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**SUPPLEMENTAL AFFIDAVIT OF MICHAEL DA PRAT
(Motion Returnable March 11, 2016)**

March 10, 2016

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SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
ESSAR STEEL ALGOMA INC., ESSAR TECH ALGOMA INC., ALGOMA HOLDINGS B.V.,
ESSAR STEEL ALGOMA (ALBERTA) ULC, CANNELTON IRON ORE COMPANY AND
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COUNSEL FOR ALGOMA TUBES, INC. c.o.b. as TENARIS ALGOMA TUBES

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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF ESSAR STEEL ALGOMA INC.,
ESSAR TECH ALGOMA INC., ESSAR STEEL ALGOMA
(ALBERTA) ULC, CANNELTON IRON ORE COMPANY
AND ESSAR STEEL ALGOMA INC. USA**

Applicants

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR
ARRANGEMENT OF ESSAR STEEL ALGOMA INC., ESSAR TECH ALGOMA INC.,
ESSAR STEEL ALGOMA (ALBERTA) ULC, CANNELTON IRON ORE COMPANY,
AND ESSAR STEEL ALGOMA INC. USA**

Applicants

**AFFIDAVIT OF MICHAEL DA PRAT
(Sworn March 10, 2016)**

I, **MICHAEL DA PRAT**, of the City of Sault Ste. Marie, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the President of the United Steelworkers Local Union 2251 ("**Local 2251**") and, as such, I have personal knowledge of the matter deposed in my affidavit, except where I have indicated that I have obtained facts from other sources, in which case I believe those facts to be true.

2. I have had an opportunity to review the Affidavit of David James Malcolm Rennie, sworn March 9, 2016 ("**Rennie Affidavit**"). This affidavit is supplemental to the affidavit I swore on February 24, 2016 ("**Initial Affidavit**"), and in response to the Rennie Affidavit. Capitalized term used herein but not otherwise defined have the meaning attributed to them in Initial Affidavit.

The Rennie Affidavit

3. The Rennie Affidavit was served by the Applicants at approximately 8:00 p.m. on March 9, 2016.

4. On March 9, 2016, I travelled to Toronto from Sault Ste. Marie to be present for the hearing of the grievance procedure motion, returnable March 11, 2016, and was in Toronto when I received the Rennie Affidavit.

5. The Rennie Affidavit mischaracterizes critical information with respect to the grievances filed by Local 2251, and the current state of the health and safety system at Algoma.

6. My counsel, Mr. Brzezinski, e-mailed counsel for the Applicants to request an adjournment of the grievance procedure motion, given the need to respond to the Rennie Affidavit in a fulsome way. Unfortunately, without access to documents from the grievance database, which can only be accessed in Sue Ste. Marie, it is difficult to comprehensively address the issues raised in the Rennie Affidavit. However, counsel for the Applicants rejected Local 2251's request for an adjournment. Attached hereto and marked as **Exhibit "A"** is a copy of the e-mail correspondence among counsel with respect to the adjournment request.

7. As a result of Algoma's response to the request for a consent adjournment, I am swearing this supplemental affidavit to respond to the Rennie Affidavit to the best of my ability in the circumstances.

The Current Health and Safety Regime

8. The Rennie Affidavit states that Algoma has attempted and continues to attempt to work with Local 2251 “in order to create a safe and effective work environment for its employees.” To the contrary, Algoma’s actions immediately before and after the Initial Order have eroded the health and safety procedures established by the Collective Agreement, and the regime is in a state of collapse.

9. Workplace health and safety procedures are critical to the well-being of employees, especially in an environment as inherently dangerous as steel manufacturing.

10. Article 10.02 of the Collective Agreement mandates Algoma and Local 2251 to establish a Joint Health and Safety Committee consisting of employee and management representatives. The representatives are required to work together and hold regular safety meetings to ensure that the requirements of the *Occupational Health and Safety Act* (“**OSHA**”) are upheld in the workplace.

11. Certified worker safety representatives from the union (“**Safety Representatives**”) would actively inspect the workplace for any health and safety issues. Safety Representatives inspected the workplace on a full-time basis, and did not otherwise perform other duties on the shop floor. Safety Representatives have traditionally reported to a Safety Chairman, who is a union representative, and any disagreement or disciplinary action taken against the Safety Representatives would go through the Safety Chairman. The Joint Health and Safety Committee has been productively operating in this manner since 1981.

12. In or about March 2015, the company unilaterally altered the structure of the Joint Health and Safety Committee so that the Safety Representatives would now report to newly-hired management representatives, in breach of the Collective Agreement. This breach is ongoing.

13. The fact that Safety Representatives report to management, as opposed to the Safety Chair, means that they are vulnerable and susceptible to reprisals from Algoma's supervisors and foremen. The ability of the Safety Representatives to conduct health and safety inspections without the threat of reprisals is critical to ensuring that occupational health and safety standards are upheld in the workplace.

14. Since this change has occurred, the company has not only thwarted the ability of the Safety Representatives to inspect the workplace by scheduling inspections without the involvement of the union, it has also threatened reprisals against the Safety Representatives, and taken reprisal action against two of these representatives.

15. In an e-mail dated July 2, 2015, Mr. Rennie writes to Safety Representatives mandating that they comply with the company's schedule for inspections, and threatening reprisals if they refuse: "Any employee refusing to comply with the schedule should be advised that such action will be taken as an act of insubordination or in the alternative a collective effort to refuse to work." Attached hereto and marked as **Exhibit "B"** is a copy of Mr. Rennie's July 2nd e-mail.

16. As a result of the company's reprisals, I had no choice but to release the Safety Representatives from their duties. They resumed their jobs on the shop floor.

17. In response to a complaint filed by Local 2251 with respect the above-mentioned health and safety issues, The Ministry of Labour made the following findings: "The company has

restructured the health and safety committee without joint agreement. The Union has released all health & safety representatives back to the workplace. The committee cannot reach consensus on a schedule of workplace inspections.” The Ministry of Labour concluded that: “the employer is not providing the necessary time for workplace inspections to be carried out,” and issued a corresponding order. Attached hereto and marked as **Exhibit “C”** is a copy of the Ministry of Labour’s response, dated July 14, 2015.

18. Despite the order from the Ministry of Labour, the company has continued to unilaterally shut Local 2251 out of the health and safety regime, the effect of which has been that there are currently no Safety Representatives inspecting the workplace.

Health and Safety Grievances

19. The Joint Health, Safety and Environment Manual (“**Joint Health and Safety Manual**”), which contains the practices and procedures by which the parties are to address health and safety issues, is incorporated into the Collective Agreement by virtue of Article 10.03. Attached hereto and marked as **Exhibit “D”** is a copy of the index for the Joint Health and Safety Manual.

20. Moreover, Arbitrator Parmar, an arbitrator appointed by the Ministry of Labour to deal with a grievance issued by Local 2251, held that the Joint Health and Safety Manual forms part of the Collective Agreement. Attached hereto and marked as **Exhibit “E”** is a copy of Arbitrator Parmar’s decision, dated January 17, 2011.

21. Since the Initial Order, Algoma has been placing the health and safety of the members of Local 2251 at risk by violating the terms of the Joint Health and Safety Manual at an accelerated pace. Examples of post-filing grievances relating to health and safety issues include:

- a. The company does not have a lock-out procedure to disable the machinery used to drill into the no. 7 blast furnace to release liquid iron. This was brought to light after a worker was disciplined by the company for allegedly failing to follow instructions. A grievance was filed with respect to this disciplinary action. Algoma did not proceed to investigate the grievance thoroughly as an investigation would have revealed the company had failed to develop the necessary lock-out procedure, which is critical to the safety of the workers. This grievance was filed as Grievance No. 16-007 on January 6, 2016.
- b. Algoma is denying workers operating mobile equipment, including mobile overhead cranes, the required medical assessments. This grievance was filed as Grievance No. 15-0850 on filed on December 31, 2015.
- c. Algoma failed to identify dangerous products used in the workplace with appropriate labels. This grievance is referred to as Grievance No. 15-082 and was filed on December 22, 2015.
- d. A machinist was seriously injured by a grinder. After-the-fact investigations revealed that Algoma had failed to conduct safety audits jointly, resulting in thirteen pieces of equipment being taken out of service as unsafe. This grievance was filed as Grievance No. 15-0856 on December 31, 2015.
- e. Management had instructed a worker to perform his task contrary to the manner in which he was trained, and in contravention of the job safe practice and safe work procedure. This grievance was filed as Grievance No. 15-0832 on December 29, 2015.

22. The actual filings for the above-referenced grievances are not appended to this affidavit so as to protect the privacy of the grievor.

Vacation Scheduling

23. On November 24, 2015, Local 2251 and Algoma entered into a Letter of Agreement with respect to alternate shift schedules. (“**Letter of Agreement**”). The Letter of Agreement identifies a number of specific issues associated with the scheduling of the workers and provides a number of options for scheduling vacations. Two of these options for scheduling vacations is either by the calendar week, or from days off to days off. Another option is for employees to choose to be aligned on crews. Attached hereto and marked as **Exhibit “F”** is a copy of the Letter of Agreement.

24. However, Algoma has unilaterally changed the terms of the Letter of Agreement so that all vacations would be booked by calendar week only (days off to days off was no longer an option), and that vacations would be booked as a group (no longer by crew). The result is that junior individuals on different crews would get the vacation time that senior employees were properly entitled to. In other words, an employee may not take time off if the result is that a crew of workers is short of a skill set, even if that employee is entitled to vacation time based on his or her seniority.

25. The Rennie Affidavit seeks to trivialize the grievances relating to vacation scheduling. However, as employees work demanding twelve hour shifts, often involving dangerous equipment and tasks, time off in between shifts is critical to ensuring the health and safety of the workforce. The company’s new rules for scheduling time off have had a negative impact on

morale, and have also damaged the trust between Local 2251 and its members, as union members feel they were misled when they were asked by Local 2251 to ratify the Letter of Agreement.

26. When I raised these issues with Teresa D'Angelo, a human resources manager at Algoma, I was informed that, in the company's view, the *CCAA* stay protected the company from any grievance that could be filed by Local 2251 to address the company's departure from the agreed upon scheduling practices. Attached hereto and marked **Exhibit "G"** is Ms. D'Angelo's e-mail, dated January 5, 2016.

Human Rights Violations

27. Historically, there have been a very small number of human rights applications filed by Local 2251. Since the Initial Order, Local 2251 has filed two applications with the Human Rights Tribunal of Ontario ("**HRTO**"), and one human rights grievance.

28. The first human rights application was filed on or about December 7, 2015. In this matter, the Applicant was disabled as a result of a snowmobile accident, and is permanently in a wheelchair. The Applicant was laid off on or about December 1, 2015, despite the fact that he has seniority to hold a job and there is a job that he can perform on his line of progression.

29. A second application was filed on or about January 1, 2016. The Applicant in this matter was injured on the job. He was accommodated by being moved from his 12 hour shift schedule to a day job. Management is now refusing to allow the Applicant to return to his 12 hour shift schedule and crew, despite the fact that the Applicant has court-ordered visitation rights for his child, which was based on his 12 hour schedule. In not being able to return to his job, the Applicant is missing out on visiting his child, and is also losing pay.

30. On or about February 17, 2016, a human rights grievance was filed relating to an employee that management is insisting should be subject to a functional capabilities evaluation, despite already being selected as the successful applicant for the job, and despite the fact that he does not have any medical restrictions.

31. These HRTO applications/grievance are not appended to this affidavit in order to preserve the privacy of the worker.

32. Local 2251 attempted to reach a consensual resolution with the company with respect to the human rights applications, but to no avail. Local 2251 was left with no recourse but to file applications to the HRTO to ensure that the employees' human rights would not continue to be compromised by the company.

Clarifications to the Rennie Affidavit

33. The Rennie Affidavit contends that contracting out relates to complaints that Algoma hired an outside worker to perform the work of Local 2251 members. This is incorrect. The majority of the contracting out grievances relate to the failure of the company to pay overtime pay (up to a specified number of hours) when work is contracted out, pursuant to the Collective Agreement.

34. The Rennie Affidavit further states that it is common for Local 2251 to file numerous grievances arising from the same set of facts. However, pursuant to s. 74 of the *Labour Relations Act*, Local 2251 has a duty of fair representation to its membership as the bargaining unit. As such, when an individual employees comes to the union to file a grievance against the company, the duty of fair representation requires the union to file the grievance on behalf of the employee.


35. Finally, the Rennie Affidavit states that Algoma has an “excellent track record with respect to health and safety.” As mentioned above, this is not accurate. Moreover, I have recently been advised that three incidents of collisions between locomotives and rail cars have not been reported by the company to the union. I am highly concerned that the company is giving the appearance a good track record by under-reporting health and safety issues. Attached hereto and marked as **Exhibit “H”** are copies of the three damage reports relating to these incidents.

Referral of Grievances to Arbitration

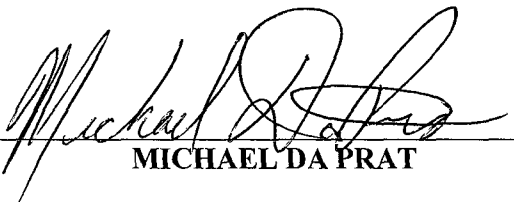
36. Since my Initial Affidavit, I have received additional correspondence from Arbitrator Bloch. Attached hereto and marked as **Exhibits “I”** and **“J”** are copies of letters from Arbitration Bloch, dated February 24, 2016 and March 2, 2016.

37. As is evidenced from the correspondence, Arbitrator Bloch is adjourning hearing dates pending the end of the *CCAA* stay period. Local 2251 recognizes the authority of Arbitrator Bloch to deal with the Referred Grievances in this manner, pending the end of the stay.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, this 10th day of March, 2016.



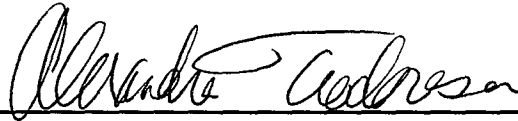
A Commissioner for Taking Affidavits, etc.
Alexandra Teodorescu



MICHAEL DA PRAT

TAB A

**THIS IS EXHIBIT "A" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL DA PRAT SWORN BEFORE
ME THIS 10th DAY OF MARCH, 2016.**

A handwritten signature in cursive script, appearing to read "Alexander Anderson", written over a horizontal line.

A Commissioner of Oaths

Alexandra Teodorescu

From: Ashley Taylor <ATAYLOR@stikeman.com>
Sent: Thursday, March 10, 2016 3:03 PM
To: Lou Brzezinski
Cc: Kathryn Esaw; Alexandra Teodorescu; clifton.prophet@gowlings.com; Brian M. Denega (brian.m.denega@ca.ey.com); Nancy Ramalho
Subject: RE: Grievance Procedure Order

Lou,

The Applicants do not consent to the adjournment. The evidence in the reply affidavit was filed on the record to respond to 2251's materials that the company says is incorrect or misleading. The fact is that none of that evidence really has any bearing on the motion.

Ash.

Ashley John Taylor
Tel (416) 869-5236
ataylor@stikeman.com

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From: Lou Brzezinski [<mailto:lbrzezinski@blaney.com>]
Sent: Thursday, March 10, 2016 2:54 PM
To: Ashley Taylor
Cc: Kathryn Esaw; Alexandra Teodorescu
Subject: Grievance Procedure Order

Ash,

We have had an opportunity to review your supplementary motion material, which we received last night at approximately 8pm, with our clients.

The executive of Local 2251 has been in Toronto since yesterday evening. They have advised us that they have a substantive amount of evidence, which contradicts the evidence of Mr. Rennie. In addition, it is their view that Mr. Rennie has mischaracterized the nature of the grievances, and has not provided a fair and balanced view with respect to the current health and safety system.

We have been instructed to file reply evidence with respect to the motion. However, since our clients are presently in Toronto, they cannot access the relevant documents until their return to Sue Saint Marie. They have made reasonable efforts to retrieve the material, but are unable to do so.

In this regard, we would request your consent to an adjournment of your motion, returnable tomorrow. We propose to have reply materials by March 21st or 22nd, with the motion to be scheduled the week of March 28th (except the 31st).

Regards,

Lou

Lou Brzezinski

Partner

TEL 416 593 2952 | DIRECT FAX 416 594 5084

lbrzezinski@blaney.com

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TAB B

**THIS IS EXHIBIT "B" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL DA PRAT SWORN BEFORE
ME THIS 10th DAY OF MARCH, 2016.**

A handwritten signature in black ink, appearing to read "Alexandre Tardieu", written over a horizontal line.

A Commissioner of Oaths

From: [Mike DaPrat](#)
To: [Alexandra Teodorescu](#)
Subject: Fwd. July Inspections
Date: Thursday, March 10, 2016 2:14:00 PM

Sent from Samsung Mobile

----- Original message -----

From: Ruth Morley
Date: 10-03-2016 11:34 AM (GMT-05:00)
To: Mike DaPrat
Cc: Rainer Schmitt
Subject: FW: July Inspections

From: Jim.Rennie@essar.com [mailto:Jim.Rennie@essar.com]
Sent: Thursday, July 02, 2015 5:00 PM
To: William.Denneny@essar.com; Lou.Buffone@essar.com; DL-L3OperMtce@essar.com
Cc: Michael.Fortin@essar.com; Wayne.Hubbard@essar.com; Dan.Cooper@essar.com; Dennis.Gagne@essar.com; John.Lepage@essar.com; Christopher.Izydorczyk@essar.com; Gordon.Irvine@essar.com; Dean.Law@essar.com; DL-Level4Employees@essar.com; Mike DaPrat <pres2251@usw2251.ca>, Ruth Morley <rmorley@usw2251.ca>; Pramod.Shukla@essar.com; Mark.Nogalo@essar.com; Paul.Chlebus@essar.com; Jody.Devoe@essar.com; jostroski@usw.ca
Subject: RE: July Inspections

To all L3/L4's

I would ask that you please disregard the attached note and instead continue to follow the inspection schedule that was sent by Lou Buffone on June 30, 2015 at 1 29 pm. It is also important to ensure that the employees required for the inspections are released. Any employee refusing to comply with the schedule should be advised that such action will be taken as an act of insubordination or in the alternative a collective effort to refuse to work. Please contact your HR Manager if either event should occur.

Regards,

JR

Jim Rennie | Vice President - Human Resources | Essar Steel Algoma Inc. |
105 West Street, Sault Ste Marie, Ontario, Canada P6A 7B4 |
T +1 - 705 - 945 4098 |
E Jim.Rennie@essar.com | Executive Assistant - Debbie Pereira +1 - 705 - 945 2218
| www.essarsteelalgoma.com |

From: Dennyeny, William

Sent: Thursday, July 02, 2015 6:59 AM

To: Buffone, Lou

Cc: Fortin, Michael; Hubbard, Wayne; Cooper, Dan; Gagne, Dennis; Lepage, John; Izydorczyk, Christopher; Irvine, Gordon; Law, Dean; DL-L3 Oper/Mtce; DL-Level 4 Employees; Mike DaPrat; Ruth Morley; Rennie, Jim; Shukla, Pramod; Nogalo, Mark; Chlebus, Paul; Devoe, Jody

Subject: July Inspections

Lou, the Union is providing a list of H&S reps and the audits and times that have been assigned to them

The Union is requesting that the reps be released for the following dates and times

Dennis Gagne

* July 6 th	Ironmaking Mech Material Movement	8 30am
* July 9	Ironmaking Mech #7 BF	8 30am
* July 10	Ironmaking Mech #6 BF	8 30am
* July 13	#6 BF	8 30am
* July 14	#6 Casthouse	8 30am
* July 15	#7 BF	8 30am
* July 16	#7 Casthouse	8 30am
* July 20	Dekish	8 30am
* July 21	Desulph	8 30am
* July 22	Ore Docks	8 30am
* July 23	Yard Services	8 30am

Gord Irvine

* July 7	Mechanical	8 30am
* July 9	#1 Machine Shop	8 30am
* July 10	#2 Machine Shop	8 30am
* July 13	Machine Shop Fitting and CSP	8 30am
* July 14	Welders, Blacksmiths, Cable Shop	8 30am
* July 15	Boiler Shop, Car Shop, Yards	8 30am
* July 16	Construction (QBI)	8 30am

Jody Devoe

* July 13	Slab Cast operations	9 30am
* July 15	Slab Cast Segment Repair	9 00am
* July 16	Slab Cast Slab Yard	9 00am
* July 17	CAS-OB/LMF	9 00am
* July 20	Ladles/Gradalls	9 30am
* July 21	Crane line	9 00am
* July 22	Mech #2 BOSP	9 00am
* July 23	Slab Cast Mech	9 00am
* July 24	Furnace line	9 00am

John Lepage

* July 6	Coke Mech BP/Coal	8 30am
* July 7	Coke Mech #8	 Batteries	8 30am
* July 8	#7Battery	8 30am
* July 9	#8Battery	8 30am
* July 10	Coke Mech #7 Battery	8 30am
* July 14	#9 Battery	8 30am
* July 15	Raw material Mets	8 30am
* July 16	By-Products	8 30am
* July 20	Coal handling	8 30am
* July 21	Coke Handling	8 30am

* July 22	Mobile	8 30am
* July 23	Cokemaking General	8 30am
* July 24	Heats	8 30am

Adam Stevenson

* July 13	Flamecut inspection	8 30am
* July 13	Roll Shops	1 00pm
* July 14	Heat Treat	8 30am
* July 14	Plate Transfer	1 00pm
* July 15	Plate Shipping	8 30am
* July 15	Furnaces	1 00pm
* July 16	Shear/Flamecut	8 30am
* July 17	Welders area	8 30am
* July 20	Strip Finishing	8 30am
* July 20	166 Mech	1 00pm
* July 21	Strip Shipping	8 30am
* July 21	106 Mech	1 00pm
* July 22	Welded Beam	8 30am
* July 22	Plate Finishing Mech	1 00pm
* July 23	166 Mill	8 30am
* July 23	Strip Finishing Mech	1 00pm
* July 24	106 Mill	8 30am
* July 24	46" Slab Yard	1 00pm

Dan Cooper

* July 6	Coke Oven Door Repair	8 30am
* July 7	Speciality Shop/Hot Gunning	8 30am
* July 8	Lime Plant	8 30am
* July 9	Material Handling	8 30am
* July 10	Ladles/Tundish	8 30am
* July 20	Hoisting and Processing	8 30am
* July 20	Auto Shop	1 00pm
* July 21	Production	8 30am
* July 22	Maint (west)	8 30am
* July 22	Yards	1 00pm
* July 23	Tracks	8 30am
* July 27	Auto shop east	8 30am
* July 28	Marine	8 30am
* July 29	Mobile equipment	8 30am
* July 30	Switching	8 30am
* July 31	Welfare	8 30am

Chris Izydorczyk

* July 13	DSPC Maint – Hot Mill	8 30am
* July 13	Coil Handling	1 00pm
* July 14	DSPC Maint – Thin Cast/WTP	8 30am
* July 14	DSPC Hot Strip Mill	1 00pm
* July 15	DSPC Roll Shop	8 30am
* July 16	DSPC Thin Cast	8 30am

Wayne Hubbard

* July 6	Boiler House	8 30am
* July 6	Central Erectors	1 00pm
* July 7	By-Products Utilities	8 30am
* July 7	Central Trades	1 00pm
* July 8	CoGen Plant	8 30am

* July 8	Central Welders	1 00pm
* July 9	Electronic Repair	8 30am
* July 10	Mechanical Services	8 30am
* July 14	Mech Maint Utilities	8 30am
* July 15	#7 BF Utilities	8 30am
* July 20	Steelmaking Utilities	8 30am
* July 21	MTD	8 30am
* July 22	Slurry Processing Plant	8 30am

Dean Law

* July 6	166 Elect	8 30am
* July 7	106 Elect	8 30am
* July 8	Plate Finishing Elect	8 30am
* July 8	Iron Elect #7 BF	1 00pm
* July 9	Strip Finishing Elect	8 30am
* July 9	Utilities Elect	1 00pm
* July 10	Utilities By-Products Elect	8 30am
* July 13	Utilities Steelmaking Elect	8 30am
* July 14	#2 BOSP Elect	8 30am
* July 15	DSPC Elect Thin Cast	8 30am
* July 15	Sub stations #1	1 00pm
* July 16	Trans-West Elect	8 30am
* July 16	Sub stations #2	1 00pm
* July 17	DSPC Elect Hot Mill	8 30am
* July 17	Cold Mill Elect	1 00pm
* July 20	Project & Field Services Elect	8 30am
* July 21	Elect Slurry and #7 BF	8 30am
* July 22	Iron Material Handling Elect	8 30am
* July 23	Coke Elect Auxillary	8 30am
* July 23	Elect Batteries	1 00pm
* July 24	Iron Elect #6 BF	8 30am
* July 27	Slab Cast Elect	9 00am

Paul Chlebus

* July 10	StoresMain warehouse	9 00am
* July 20	Chem Lab	9 00am
* July 20	Quality Assurance/Test Lab	1 00pm
* July 21	Truck and Tagona scales	8 30am
* July 21	P&S #78 Dr	1 00pm
* July 22	Admin Bldg	9 00am
* July 22	HR Bldg	1 00pm
* July 23	Met Lab	9 00am
* July 23	Hold & Release	1 00pm

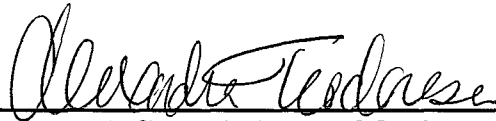
To be assigned – Cold Mill audits may need to be scheduled to a later week

* July 6	Cold Mill Anneal	8 30am
* July 6	Cold Mill Temper Mill	1 00pm
* July 7	Cold Mill Pickler	8 30am
* July 7	Cold Mill reduction Mill	1 00pm
* July 8	Cold Mill Roll Shop	8 30am
* July 8	Cold Mill Steel Flow	1 00pm
* July 9	Cold Mill Slitter	8 30am
* July 9	Cold Mill Mech Maint	1 00pm

William Denny | Ladle Metallurgy Operator | Steelmaking (Operations) | Essar Steel Algoma Inc. |
105 West Street, Sault Ste. Marie, Ontario, Canada P6A 7B4 |
T +1 - 705 - 945 3643 | F +1 - 705 - 945 3804 |
E William.Denny@essar.com | www.essarsteelalgoma.com |

TAB C

**THIS IS EXHIBIT "C" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL DA PRAT SWORN BEFORE
ME THIS 10th DAY OF MARCH, 2016.**

A handwritten signature in cursive script, appearing to read "Alexander Teodaresse", written over a horizontal line.

A Commissioner of Oaths

Operations Division Occupational Health and Safety

OHS Case ID: **02844JMLQ879**
 Field Visit no: **02844JMTN893** Visit Date: **2015-JUL-14** Field Visit Type: **CONTINUATION**
 Workplace Identification: **ESSAR STEEL - ADMINISTRATION BLDG** Notice ID:
105 WEST STREET, SAULT STE. MARIE, ON, CANADA P6A 7B4
 Telephone: **(705) 945-2351** JHSC Status: **Active** Work Force #: **3000** Completed %:

Persons Contacted: **LOU BUFFONE - GM SAFETY AND EMERGENCY SERVICES, MIKE DAPRAT - USW LOCAL 2251 PRESIDENT.**
 Visit Purpose: **PROVIDE RESPONSE TO COMPLAINT FILED JULY 7, 2015.**
 Visit Location: **HEALTH & SAFETY OFFICE**
 Visit Summary: **A COMPLAINT WAS FILED BY USW LOCAL 2251 UNION PRESIDENT MIKE DAPRAT ON JULY 7, 2015. A DETAILED RESPONSE IS PROVIDED BELOW.**

Detailed Narrative:

On July 7, 2015 the Ministry of Labour received a complaint filed by USW Local 2251 Union President Mike DaPrat. This inspector met with workplace parties on that day to obtain details related to the complaint and reported that a detailed response would be provided at a later date. Today's report is in response to the complaint.

Over the last several months there have been difficult relations between the company and union representatives of health & safety. The company has restructured the health & safety committee without joint agreement. The Union has released all health & safety representatives back to the workforce. The committee cannot reach consensus on a schedule of workplace inspections.

Part of the complaint filed refers to OHS Section 8 – Health & Safety Representatives.


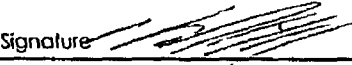

Ministry response - this section only applies when section 9 of OHS does not. Since the workplace has twenty or more workers, section 9 applies.

Part of the complaint filed refers to OHS Section 9(4) – Committee of "Like Nature"

The Ministry of Labour does not recognize Essar Steel Algoma Inc. as having such a committee at this time and therefore cannot enforce this sub-section.

Part of the complaint filed refers to OHS Section 9(8) – Selection of committee members

The complainant expressed disapproval of a schedule of inspections required by the employer using health & safety representatives appointed by the union for a different schedule of inspections. The complainant expressed that when the employer changed the schedule that the union is no longer the one selecting the members. The complainant expressed that the union has returned all worker members of the JHSC to the workforce and has selected health & safety representatives on a case by case basis for workplace inspections.

Recipient	Inspector Data	Worker Representative
Name <u>Lou Buffone</u>	MARK GRBICH OCCUPATIONAL HEALTH & SAFETY INSPECTOR PROVINCIAL OFFENCES OFFICER	Name <u>MICHAEL DAPRAT</u>
Title <u>GM - H&S</u>	70 FOSTER DR, SUITE 480 SAULT STE MARIE, ON P6A 6V4 Tel: 705-945-5707 Fax: 705-949-9796	Title <u>PRESIDENT</u>
Signature 	Signature 	Signature 

You are required under the Occupational Health and Safety Act to post a copy of this report in a conspicuous place at the workplace and provide a copy to the health and safety representative or the joint health and safety committee if any. Failure to comply with an order, decision or requirement of an inspector is an offence under Section 66 of the Occupational Health and Safety Act. You have the right to appeal any order or decision within 30 days of the date of the order issued and to request suspension of the order or decision by filing your appeal and request in writing on the appropriate forms with the Ontario Labour Relations Board, 505 University Ave., 2nd Floor, Toronto, Ontario M5G 2P1. You may also contact the Board by phone at (416) 326-7500 or 1-877-339-3335 (toll free), mail or by website at <http://www.olrb.gov.on.ca/english/homepage.htm> for more information.

Operations Division Occupational Health and Safety

OHS Case ID: **02844JMLQ879**
Field Visit no: **02844JMTN893** Visit Date: **2015-JUL-14** Field Visit Type: **CONTINUATION**

Workplace Identification: **ESSAR STEEL - ADMINISTRATION BLDG** Notice ID:
105 WEST STREET, SAULT STE. MARIE, ON, CANADA P6A 7B4

The Ministry of Labour does not see a violation of 9(8) as the union has selected JHSC members. The Ministry of Labour believes this complaint to be a labour relations issue. This concern may be resolved by the Ontario Labour Relations Board.

The final part of the complaint accuses the employer of reprisal under OHS Section 50.

The complainant is referred to Section 50(2) for assistance with complaints of reprisal.

"Each individual who feels reprimed against may have their matter settled by arbitration under the collective agreement or by filing the complaint with the board."

The complainant requested referral by this inspector with filing a complaint to OLRB.

This section does not apply for a referral from a union president representing those he reports have been reprimed against. As described in OHS Section 50 it is each individual who feels reprimed against who may file their complaint.

With information provided by both workplace parties, the employer is not providing the necessary time for workplace inspections to be carried out. An order is issued for the employer to provide such time forthwith under OHS 9-34(c).

The Occupational Health & Safety Act and its Regulations are statutory requirements which are the minimum standards for Health & Safety. In addition to these requirements, workplace parties may also be subject to provisions made under a collective agreement, negotiated under the Labour Relations Act. Essar Steel Algoma Inc. and United Steel Workers Union Local 2251 have a collective bargaining agreement and a health & safety manual embedded in that agreement.

Recipient	Inspector Data	Worker Representative
Name <u>Lou BUFFONE</u>	MARK GRBICH OCCUPATIONAL HEALTH & SAFETY INSPECTOR PROVINCIAL OFFENCES OFFICER	Name <u>MICHAEL DA PRAT</u>
Title <u>GM - H&S</u>	70 FOSTER DR, SUITE 480 SAULT STE MARIE, ON P6A 6V4 Tel: 705-945-5707 Fax: 705-949-9796	Title <u>PRESIDENT</u>
Signature <u>[Signature]</u>	Signature <u>[Signature]</u>	Signature <u>[Signature]</u>

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Operations Division Occupational Health and Safety

OHS Case ID: **02844JMLQ879**
 Field Visit no: **02844JMTN893** Visit Date: **2015-JUL-14** Field Visit Type: **CONTINUATION**

Workplace Identification: **ESSAR STEEL - ADMINISTRATION BLDG** Notice ID:
105 WEST STREET, SAULT STE. MARIE , ON, CANADA P6A 7B4

Order(s) /Requirement(s) Issued To:

To: **ESSAR STEEL ALGOMA INC.** Org/Ind Role **Primary Employer**

Mailing Address:
105 ST WEST, SAULT STE MARIE, ON, CANADA P6A 5J4

Order(s) /Requirement(s) Description:

You are required to comply with the order(s) /requirement(s) by the dates listed below.

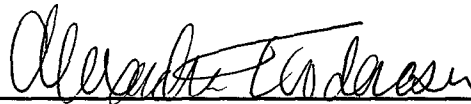
No	Type	Act/Reg	Year	Sec.	Sub Sec.	Clause	Text of Order/Requirement	Comply by Date
1	Fort	OHSA	1990	9	34	c	The employer shall provide members of the joint health & safety committee as much time as is necessary to carry out the member's duties under subsections (26), (27) and (31). Currently members are expressing they have insufficient time to complete physical inspections of the workplace as required.	

Recipient	Inspector Data	Worker Representative
Name <u>LEO BUEFONE</u>	MARK GRBICH OCCUPATIONAL HEALTH & SAFETY INSPECTOR PROVINCIAL OFFENCES OFFICER 70 FOSTER DR. SUITE 480 SAULT STE MARIE, ON P6A 6V4 Tel: 705-945-5707 Fax: 705-949-9796	Name <u>MICHAEL D'PRAT</u>
Title <u>PM - H&S</u>		Title <u>PRESIDENT</u>
Signature <u>[Signature]</u>	Signature <u>[Signature]</u>	Signature <u>[Signature]</u>

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TAB D

**THIS IS EXHIBIT "D" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL DA PRAT SWORN BEFORE
ME THIS 10th DAY OF MARCH, 2016.**

A handwritten signature in black ink, appearing to read "Alexander E. Anderson", written over a horizontal line.

A Commissioner of Oaths

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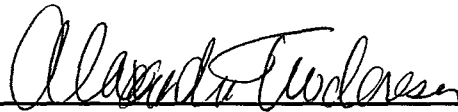
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TAB E

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**THIS IS EXHIBIT "E" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL DA PRAT SWORN BEFORE
ME THIS 10th DAY OF MARCH, 2016.**

A handwritten signature in black ink, appearing to read "Alexander Tudor", written over a horizontal line.

A Commissioner of Oaths

IN THE MATTER OF AN ARBITRATION
Pursuant to the Labour Relations Act, R.S. 1995

BETWEEN:

Algoma Steel Inc.

("Employer")

- and -

United Steelworkers, Local 2251

("Union")

(Grievance of B. Eddy – Preliminary Issue: Section F1-7)

ARBITRATOR: Jasbir Parmar

On Behalf of the Employer:

Michael Hines

On Behalf of the Union:

Merle Evans

Hearing held in Sault Ste. Marie on December 1, 21, and 22, 2010.

I. Introduction and Background

1. This decision deals with a preliminary issue raised by the Union in respect of a discharge grievance.

2. The relevant events leading up to the worker's discharge are not in dispute. The grievor was involved in an incident involving the operation of a crane on August 9, 2010, when it collided with another crane. On August 16, 2010, the Employer met with the Grievor to discuss the incident. A union steward, Mr. Wayne Mattalo, was present during the meeting. The Grievor was informed that discipline may result.

3. On August 17, 2010, the Employer met with the Grievor and issued discipline, by way of 50 demerit points, for this incident. As a result, the Grievor's total demerit points exceeded 100, which warrant termination in this workplace. Accordingly, he was then terminated. Merle Evans, a member of the grievance committee, was present when the Grievor was issued discipline and when he was terminated.

4. It is the Union's position that the discipline was imposed without following the proper procedure set out in the collective agreement, specifically in section F1-7 of the Health, Safety and Environment Manual (the "Manual") which is incorporated into the collective agreement pursuant to Article 10, because the Employer did not have a "F1-7 meeting" prior to imposing the discipline. There is no dispute that an F1-7 meeting did not take place. The Union submits the discipline should, therefore, be rendered null and void.

5. The Employer's position is that an F1-7 meeting was not required in the particular circumstances. Alternatively, the Employer submits the requirement to hold an F1-7 meeting is directory, and not mandatory. The Employer also submits that the appropriate approach, whether the requirement to have the meeting is directory or mandatory, is to consider the significance of not holding the meeting in the particular circumstances and determine the appropriate remedy in this specific case. It is submitted that the Grievor has suffered no prejudice and any information that

may have been brought forward in an F1-7 meeting can be brought forward during the arbitration process. In the further alternative, the Employer submits the Union should be estopped in relying on the requirement to hold an F1-7 meeting for failing to raise this issue in a timely fashion.

II. Relevant provisions

a) The collective agreement

Article 4.01 – Management

Except to the extent otherwise stated in the Collective Agreement, the Union recognizes that all functions, rights, powers, and authority which the Employer has not specifically abridged, delegated or modified by this Agreement are retained by the Employer. Management retains the right to discipline, but shall do so in a just, fair and reasonable manner consistent with the terms of this Collective Agreement.

Article 9.01.10

When it is the intention of the Company to meet with an employee to discuss any matter relating to discipline, or which may lead to discipline, the employee will be informed that he is entitled to be accompanied by the steward or committeeman available on shift.

Supervision shall meet with the employee and, where requested, the steward or committeeman on shift, prior to issuing discipline.

Article 9.01.20

When it is the Company's intention to discharge an employee for the accumulation of 100 demerit points, the company will first convene a meeting between Human Resources and the Union.....

Article 10

Algoma's Joint health, Safety and Environment Manual for the Joint health, Safety and Environment Committee contains the procedures and practices to be followed in implementing the provisions of the Occupational Health and Safety Act 1978/1990, along with other pertinent legislation as it related to the functioning of the Joint health and Safety Committee. The provisions of this manual will be considered as representing the commitments of the parties. Sections of the manual requiring Company and Union agreement may be amended from time to time by the agreement of the Joint health, Safety and Environment Committee Members representing the Company and the Union.

b) Health, Safety and Environment Manual

F1: Induction/Counselling/Discipline

F1-7 – Discipline

INTENTIONS

The intent of the following steps in dealing with violations of established safety procedures is to endeavour to correct an attitude or habit prior to the issuance of formal discipline. It provides, indeed ensures, that supervision takes an active role in the establishment of proper attitudes.

It ensures that before formal discipline, in the form of demerits, is issued, Management has taken the time to properly counsel the employee in a co-operative spirit. It further allows for the use formal discipline if the attitude or problem persists. It is compatible with the present Employee Conduct Rules*, specifically Item 5(a) and (b). When issuing the demerit points, the magnitude of the offence will be taken into account.

PROCEDURE

1. Supervision will first use instructive, constructive, verbal/written contacts and admonishments. Records of instruction (Safety Contact Codes 001, 002, etc.) and admonishments (Safety Contact Codes 008, 009) are to be kept in the Safety Contact System.
2. If an employee persists in breaking or ignoring the safety regulations, a written Safety Admonishment should be conducted with the employee, the Union health and Safety Representative and the Supervisor. The intent of this meeting is to review the employee's history of safety non-conformance and to inform the employee that upon additional violations of established safety practices and procedures, the employee will be subject to potential disciplinary action. This meeting is to be recorded in the Safety Contact system (Safety Admonishment Meeting, Code 030).
3. When an employee's attitude does not improve, despite the foregoing, and where generally acceptable department safety practices continue to be violated, the following procedure will apply:

A meeting will be held by the Department Manager or his representative, an Environment, Health and Safety Department Representative, the Union Division health, Safety and Environment Representative, the officially designated representatives (ie., Union Steward) and the employee to discuss the employee's attitude and failure to conform to acceptable department safety behaviour. Discipline, in the form of demerits, may then be issued where management considers such action to be necessary.
4. In an incident involving serious abuse of safety procedures or equipment by an employee, which exposes the employee or other employees to immediate danger, the Department Manager may proceed immediately to Step (3).

The above steps should be held regardless of any actions taken by the Union under Grievance Procedure.

*5(a) Violation of safety rules and regulations; 5(b) Carelessness, recklessness or failure to observe standard safety working practices.

THE ABOVE IS SUBJECT TO JOINT AGREEMENT

c) Unilateral Employer rules

EMPLOYEE CONDUCT RULES

The following list of acts detrimental to employee safety and plant welfare, together with the suggested corrective disciplinary measures set forth, will constitute the company rules governing employees' conduct while on plant property.

While these rules do carry designated penalties, it is within the discretion of the manager concerned to determine the final penalty.

...

5. (a) Violation of Safety Rules and Regulations:

Penalty:

Number of demerit points assessed will depend on the seriousness of the particular offence and can result in an assessment of up to 100 demerit points.

(b) Carelessness, Recklessness or Failure to Observe Standard Safe Working Practices:

This includes horseplay, carelessness, recklessness and other acts not covered in specific safety rules and regulations.

Penalty:

Number of demerit points assessed will depend on the seriousness of the particular offence and can result in an assessment of up to 100 demerit points.

(Note: there are 21 rules)

III. Analysis

a) Whether Section F1-7 Applies

6. The first issue to determine is whether section F1-7 applies in the present case. If it does not, the Union's preliminary objection, based on non-compliance with this section, cannot stand.

7. Article 4.01 confirms that the Employer has the right to discipline, and this right is only limited by the requirement to do so "in a just, fair and reasonable manner consistent with the terms of this Collective Agreement".

8. It is the Union's position that the collective agreement, namely section F1-7 of the Manual, requires the Employer to hold a F1-7 meeting prior to issuing discipline in the present case, and thus acts as a limitation on the Employer's express and residual management right to discipline.

9. Section F1-7 does address the issue of discipline. After all, it is titled "Discipline". However, I note that there are a myriad of circumstances for which the Employer may issue discipline. For example, the Employer may discipline an employee for such conduct as theft, unauthorized absenteeism, or insubordination, to name just a few. Section F1-7 does not address all these circumstances. Rather, the scope of section F1-7 is set out expressly therein. It is intended to deal with "violations of established safety procedures". Thus, section F1-7 does not abridge the Employer's right to discipline in all circumstances. It only does so where there have been, or rather alleged to have been, violations of "established safety procedures".

10. The parties are in agreement that the safety rules set out in the Manual are the “established safety procedures”. Thus, the issue is whether the incident for which the Grievor was disciplined involves the violation of such “established safety procedures”.

11. I begin by considering the actual Notice of Discipline issued to the Grievor. The Notice states that the rule violated by the Grievor is “5(b)”. In the narrative, it states that the Grievor “violated the above Employees’ Conduct Rule in that: you operated #312 crane in a careless and reckless manner when you collided with #317 crane during a back up change”.

12. The Employee Conduct Rules is a document that sets out the company’s rules for employee conduct in the workplace. It is a unilateral creation of the Employer. This document addresses two types of unsafe conduct. The first is addressed by Rule 5(a), a “Violation of safety rules and regulations”. The second, Rule 5(b), is “Carelessness, Recklessness or Failure to Observe Standard Safe Working Practices“. The document goes on to explain further this latter rule, as including horseplay, carelessness, recklessness “and other acts not covered in specific safety rules and regulations”. When these two rules are read together, they indicate a distinction between the two types of unsafe conduct. The first, addressed by Rule 5(a), is the unsafe conduct which is a violation of a specific “safety rule and regulation”. The latter, addressed by Rule 5(b) is conduct which is also unsafe, but not addressed by a specific “safety rule and regulation”.

13. It is the Employer’s position that Section F1-7 applies only to unsafe conduct which is a violation of an established safety rule. It is submitted that the established safety rules are the ones that are set out in the very broad and comprehensive Manual, and it is only those rules that are subject to Section F1-7. It is submitted that the Grievor was not disciplined for a violation of a specific safety rule set out in the Manual. Shawn Galey, the manager who issued the discipline to the Grievor, testified that he did not know of any specific safety rule that the Grievor had violated. He stated that in his view, the conduct was “plain carelessness”, and fell within the regular Employee Conduct Rules.

14. The Union submits that the Section F1-7 procedure applies to alleged violations of both Rule 5(a) and 5(b). This submission is based on the fact that Section F1-7 states that “it is compatible with the present Employee Conduct Rules, specifically Item 5(a) and (b)”. The Union further submits that the Manual does contain rules that address the operation of cranes in section F8, titled “Rules for Safe Operation of Overhead Cranes Operated by Authorized Personnel Only”. Rule 1 of section F8 states that “it is your responsibility to operate this crane as safely as possible”.

15. This particular rule was not cited in the Notice of Discipline issued to the Grievor. However, the Notice cannot be determinative in deciding whether the procedure set out in section F1-7 applies. If it were, it would allow the Employer’s characterization of the alleged misconduct to determine whether Section F1-7 applies. In my view, that would be an artificially technical approach. It is also inconsistent with the express objective of Section F1-7, which is to follow this procedure “in dealing with violations of established safety procedures”, and not just if the Employer expressly relies on a particular safety procedure.

16. In my view, the better approach would be to consider whether the essential nature of the misconduct alleged could, reasonably, be said to be a violation of an “established safety procedure”, which is what both parties agree section F1-7 addresses. Such an approach is consistent with the broader labour relations objective of addressing the essential nature of the dispute between the parties and not being tied to technical arguments.

17. In the present case, this particular section of the Manual was not put to Mr. Galey by the Union during cross-examination. However, as part of the Manual, it is part of the collective agreement and forms part of the evidence before me. Whether or not Mr. Galey turned his mind to this particular rule when deciding to issue discipline, such a rule does exist in the Manual. It is a broadly stated rule and could reasonably be said to include a prohibition against careless conduct in the operation of a crane. Certainly operating a crane carelessly and recklessly is a violation of a rule requiring the crane to be operated “as safely as possible”.

18. The alleged misconduct, which forms the basis of discipline in the present case, therefore involves an alleged “violation of established safety procedures”. As such, section F1-7 applies.

B) Failure to Comply with Section F1-7

19. There is no dispute that section F1-7 was not followed. There was no meeting which included the Department Manager, the Employer Health and Safety Representative, the Union Health and Safety Representative, a Union steward, and the employee.

20. The issue before me is whether, not having held that meeting, the Employer is prohibited from issuing any discipline to the Grievor.

21. The Union asserted that section F1-7, and the requirement to hold a meeting, is a mandatory and substantive provision. In support of this submission, the Union relied upon extrinsic evidence about the previous section F1-7 language and how it was amended to its current form. The Union asserted that discipline issued, as in the present case, without holding such a meeting should be considered null and void. The Union requested that I rescind the discipline issued to the Grievor on this basis.

22. The Employer submitted that section F1-7 was directory and not mandatory. Furthermore, the Employer submitted that the best approach, outlined in the cases upon which it relied, was to focus on the purpose of the provision from a remedial perspective. The Employer submitted that there was no evidence, nor any assertion by the Union, that the Grievor had been prejudiced in anyway by the failure to hold the meeting. The Employer submitted that if there was any additional information of a Health and Safety nature that the Union wished to rely upon, it could present that information at the arbitration hearing to be dealt with in whatever manner I determined appropriate in the circumstances.

23. The Union relied on three cases, to support its position that section F1-7 should be interpreted as being mandatory, warranting the discipline issued to the Grievor to be considered null and void. The first case is *Algoma Steel Coporation – and – United Steelworkers of America,, Local 2251)(Barbeau)*, (Knopf, January 15, 1987) , a decision between these same parties.

Arbitrator Knopf addressed a situation where the Employer issued discipline without first meeting with the employee to discuss the alleged misconduct. The Union requested the discipline be rendered void because the Employer did not provide the grievor with union representation and a right to a meeting with the Employer prior to issuing discipline, pursuant to Article 9.01 (which remains the same today). Arbitrator Knopf considered the purpose of Article 9.01, noting it enabled management to discuss the possibility of discipline with an employee and provided the employee an opportunity to give an explanation prior to the Employer deciding to issue discipline. She stated that this purpose could not be achieved if, as in that case, an employee was summoned to a meeting without being told its purpose and then issued discipline without any discussion. She concluded that Article 9.01 was a fundamental part of the disciplinary procedure and compliance with it was mandatory. Violation of that provision rendered the discipline void.

24. The second case is *Unimin Canada Ltd. – and- U.S.W.A., Local 5393*, (Luborsky, april 7, 2008). In this case, an employee was suspended for three days for unsafe work practices. However, the employer had issued the discipline without a union committeeperson or steward being present. The collective agreement provided that “warnings shall be given... in the presence” of union representation. Arbitrator Luborsky concluded that this provision was substantive and mandatory, on the basis that it was similar to language found in other awards to be substantive and mandatory. He also noted that the purpose of provisions requiring union representation at the point of discipline is to provide an opportunity to persuade the company not to take the action contemplated and of protecting the employee “against self-incrimination” by the presence of union representation. In this case, he found the grievor was prejudiced because he had lost the opportunity for the union representative to advocate on his behalf or counsel him on what he should or should not say. He concluded that in order to give proper effect to such language, the breach of such obligation must be held to nullify the discipline issued.

25. The third case is *Canadian National Railway – and – CAW, Local 1000*, (Albertyn, October 8, 2008). In this case, the union grieved that the employer failed to meet its obligations to provide

training to employees under a particular agreement. The employer took the position it had no such obligation. The agreement stated "The Company shall ensure all employees are properly trained to achieve tradesperson status." After considering extensive evidence about the negotiating history of the agreement, Arbitrator Albertyn concluded the agreement of the parties had both "mandatory and permissive aspects", in that the employer was obligated to provide the training, but it was up to the employees to choose to accept that training. I observe there is no analysis of the difference between mandatory and directory provisions in this decision.

26 The Employer submits that arbitral jurisprudence indicates that the question of whether a provision is directory or mandatory is not answered by whether the word "shall" or "will" is used. Rather, this question should be answered by considering whether the parties provided for consequences in the event of non-compliance with the provision. The Employer submitted a number of cases in support of this analysis.

27 In *Hamilton Terminal Operators Ltd – and - Int'l Longshoremen's Assn*, Loc 1879 (1966), 17 L.A.C. 181, the arbitration board, chaired by Arbitrator Arthurs, stated that mandatory provisions were those which expressly provide therein for the consequences of non-compliance. An example would be "no grievance shall be considered unless the procedure specified has been followed." A directory provision is one that does not provide for any particular consequences. Arbitrator Arthurs noted that in the latter situation, it was up to the arbitrator to determine whether to dismiss the grievance in the circumstances. A similar approach was followed in *Robin Hood Multifoods Inc – and- U F C W*, L 416-P and 342-P (1984), 14 L.A.C. (3d) 221 and *School District No 39 – and – Vancouver Teachers' Federation* (1995), 48 L.A.C. (4th) 108.

28 While those three cases dealt with non-compliance with grievance procedure time-limits, a similar interpretive approach was also followed in *Loblaws Ltd – and – U F C W*, Loc 1000A (1985), 20 L.A.C. (3d) 215, a case that dealt with the issuance of discipline. In that case, the collective agreement stated that notices of discipline were to be provided in writing, containing the reason for the discipline. The employer had not issued a written notice. The union argued that in

the absence of compliance with that provision, the employer was precluded from exercising the right to disciplinary action. Arbitrator Brown considered the purpose of the provision, noting it had a very practical objective of enabling the employee to know that he has been disciplined and the reason for the discipline. He concluded that while this provision was a benefit or right for the employee, the parties had not made this clause a condition of exercising the management right to discipline, noting that they did not provide for any penalty for non-compliance with that article. For this reason, he concluded that the clause was directory. Arbitrator Brown also noted that if the grievor had suffered any prejudice as a result of the non-compliance that could be addressed in consideration of the merits of the case.

29. The focus on the significance of the failure to comply with the collective agreement provision at issue, rather than the characterization as directory or mandatory, is supported in a number of other cases referred to by the Employer. In *Interior Roads Ltd. – and – B.C.G.E.U. (Glen)* (2003), 123 L.A.C. (4th) 171 , the employer disciplined an employee without providing advance notice of the investigation meeting so that the employee could consult with a union steward or select a steward to be present, as set out in the collective agreement. The Employer simply arranged for an available steward to be present. The arbitrator held that there was no indication there was any prejudice to the grievor, and even if the events that took place in the meeting had been different (ie. the grievor had acknowledged the conduct rather than denying it), it would not change the outcome of the dismissal grievance.

30. Similarly, in *Procor Ltd. – and – B.B.F., Loc. 75* (1991), 19 L.A.C. (4th) 145, the employer met with the grievor, in the presence of the afternoon union steward, to discuss an alleged assault. After the meeting, the grievor met with the union steward privately. The grievor was then advised in writing that he was suspended pending investigation. Subsequently, before making a final decision on the exact discipline to issue in this case, the employer had a meeting with the employee, the afternoon steward, and the chief steward. The collective agreement stated that all written suspension or dismissal notices shall be given in the presence of both the department

steward and chief steward. The arbitration board concluded that it did not matter whether the provision was characterized as mandatory or directory. The purpose of the provision was to provide the grievor with union representation, which he was provided. The Board also noted there was no evidence of any prejudice to the grievor. While there had been a breach of the collective agreement, it did not mean the discipline should be rendered null and void.

31 In *Toronto Hospital (General Division) - and - O N A* (1996), 52 L A C (4th) 1, the collective agreement provided that an employee would be given advance notice of right to representation in a discharge meeting. A prior arbitration award had already concluded that this provision was mandatory, providing a substantive right. The grievor had union representation at the discharge meeting, but had not been told of this right in advance. The arbitration board held that the purpose of the provision, union representation, had been met, and that the failure to comply with the advance notice provision did not render the discipline void.

32 With a similar focus on the appropriate remedy in the circumstances, the notion that discipline issued in breach of a collective agreement requiring union representation should automatically be rendered void was questioned by Arbitrator Johnston in *Kubota Metal Corp , Fahramet Devision – and – U S W , Loc 9393* (2009), 181 L A C (4th) 97. While agreeing that the right to union representation as set out in the collective agreement before her was a fundamental and substantive right, she noted that no specific penalty was set out by the parties for failure to comply with that provision. She questioned why, in such circumstances, there was any basis to conclude automatically that the discipline was void. She stated that in such circumstances, it falls to the arbitrator, as in the case of any breach of the collective agreement, to determine the appropriate remedy in all the circumstances of the case.

33 Turning to the issue before me, I observe my task in this case is the same as in all cases to interpret and apply the collective agreement in a manner that reflects the agreement of the parties. The issue is whether the parties intended that a failure to hold a section F1-7 preempted the Employer's ability to exercise its inherent and express management right to discipline.

34. In Section F1-7 the parties agreed to a certain procedure. Step 3 of the procedure is to hold a meeting, the F1-7 meeting. Step 3 states simply that a meeting will be held to discuss, and “Discipline...may then be issued where Management considers such action to be necessary”. There is nothing in this language which suggests that discipline may not be issued unless that meeting is held.

35. I also observe that section F1-7 does not contain any specific penalty for failure to hold a meeting. I accept the Employer’s submission that these parties certainly know how to include such penalties in a provision. In Article 13.05.10, the parties stated “the grievance shall not be carried further unless” certain steps were taken in the grievance process within a certain time-limit. Section F1-7 contains no such terminology. Consistent with the above-referenced cases, which indicate that the determination should be based on whether the parties specified the consequences of failure to comply, the absence of a specific penalty indicates the provision is directory and not mandatory.

36. I find that the meaning of section F1-7 is unambiguous and clear on its face. Thus, consistent with the principles of interpretation, there is no basis to rely upon extrinsic evidence to arrive at its meaning. That said, I will briefly comment on the Union’s extrinsic evidence relating to section F1-7.

37. The Union lead evidence relating to the history of how the current language in section F1-7 came to be in November 2005. This evidence was provided by two people, Steven Johnson, the Union Co-chair of Health and Safety Committee from 2003 to 2008, and Mike DaPrat, the President of the Union.

38. Mr. Johnson testified that prior to August 2005 there was a different version of section F1-7 in place, dated January 18, 2002. The Union had some concerns about the manner in which it was implemented in terms of “consistency to all employees and employees of both unions”. Of note, there is another bargaining unit in the workplace, United Steelworkers Local 2724, to which this section also applies. In August 2005, a particular a safety incident took place in 2005 and a F1-7

meeting was not called. As a result of the Union's concerns about that particular incident, a meeting took place. Mr. Johnson and Mr. DaPrat were present on behalf of the Union. Jerry Surrna, the Employer Co-Chair of the Health and Safety Committee, and Armando Plastino, the VP of Operations at the time, were present on behalf of the Employer. The Union's concerns about the implementation of the F1-7 procedure was discussed.

39. Subsequent to this meeting, the Union sent the Employer a letter, dated August 24, 2005, outlining its concerns regarding "the present process in calling and hold[ing] F1-7 meetings". The letter outlined concerns under three separate headings: the holding of Step 3 F1-7 meetings without first completing Steps 1 and 2; inconsistencies in calling the F1-7 meetings "for all individuals regardless of job function or title"; and the involvement of the Human Resource Department with regards to scheduling of F1-7 meetings.

40. Mr. Surrna responded, by letter dated September 2, 2005, to the Union's letter. With respect to the Union's concern about F1-7 meetings not being called or held with consistency, Mr. Suurna stated that the Employer "supports the consistency in addressing health & safety violations, regardless of the local union designation or job title" [*sic*].

41. The Union and the Employer then engaged in a process of drafting changes to section F1-7, with Mr. Surrna and Mr. Johnson exchanging drafts. The current section F1-7 was the result of this "back and forth" with final approval by Mr. Johnson and Mr. Suurna, as the Co-chairs of the Health and Safety Committee, and each of their superiors, Mr. DaPratt and Mr. Plastino.

42. Mr. DaPratt confirmed that the discussions leading up to changes of section F1-7 were prompted by the Union's concerns about "the way F1-7 was being implemented". He stated that in his view, section F1-7 was directory before the changes were made in 2005, but mandatory afterwards.

43. The following are the relevant changes made to section F1-7 in August 2005:

2002: "The intention of the following steps recommended in dealing with violations..."

2005: "The intent of the following steps in dealing with violations..."

2002 “It is, in our opinion, compatible with the present Employee Conduct Rules ”

2005 ‘It is compatible with the present Employee Conduct Rules ’

2002 “The intention is to endeavour to correct an attitude or habit early in a worker’s career or in the establishment of a new procedure ”

2005 ‘The intent is to endeavour to correct an attitude or habit prior to the issuance of formal discipline ’

2002 “The Foreman should first use instructive constructive, ”

2005 “Supervision will first use instructive, constructive, ”

44 First, I observe that value of extrinsic evidence is based on whether it sheds light on the mutual intention of the parties as to the proper interpretation of the provision at issue In the present case, the evidence from Mr Johnson and Mr DaPratt does not shed any light on the mutual intentions of the parties It simply indicates what the Union’s concerns were while it participated in the drafting of changes to section F1-7 The only consensus this evidence indicates is that the Employer agreed with the Union that there should be consistency in addressing health and safety violations That is not evidence of a mutual intention to require this process to be followed as a pre-condition of the exercise of the Employer’s right to issue discipline

45 Second, the changes made to the 2002 version of section F1-7 at best reflect a change from a process that was “recommended” to one which was to be consistently applied Again, the changes do not reflect any intention that the process was to be a pre-condition of the exercise of the Employer’s right to issue discipline

46 I would also like to comment on some extrinsic evidence the Union lead relating to another incident This related to a different health and safety incident involving another employee in 2004 Briefly, the evidence was that the Employer had scheduled a F1-7 meeting in that case The Union brought to the Employer’s attention that more than 21 days had passed since the incident Article 9 02 of the collective agreement provides that disciplinary action must be taken within 21 days of the incident at issue The F1-7 meeting was subsequently cancelled by the Employer

47. This is an incident that took place in 2004, prior to the changes made to section F1-7 in 2005. I reiterate that according to the evidence of Mr. DaPratt, prior to those changes the procedure set out in Section F1-7 was only directory and not mandatory. I cannot see how events that took place under a different version of F1-7, which even according to the Union was not mandatory, could possibly be used to draw any conclusions about the current section F1-7.

48. I also observe that most of the cases provided to me, by both the Union and the Employer, dealt with collective agreement provisions requiring union representation in the course of the disciplinary process. It was in that context that the purpose and value of union representation was addressed and determined to be a substantive right, warranting a determination that the provision was mandatory.

49. In the present case, the collective agreement does contain such provisions, specifically Articles 9.01.10 and 9.01.20. The Employer complied with these provisions. The Grievor had the very valuable benefit of union representation when the Employer discussed the crane incident with him and also when the Employer issued the discipline. As noted in the cases cited, this right to union representation has a very important purpose. It provides the employee with the opportunity to seek counsel and advice from his representatives, in order to put his best case forward while the Employer is considering discipline. It also permits the Union an opportunity to advocate on behalf of the employee at the time discipline is being considered and at the time discipline is being imposed. These are the universally recognized objectives of such provisions. They go to the heart of the union-employer-employee relationship, permitting the union to serve its function as a bargaining representative and the employee to gain the full benefit of union representation at the most critical time in the employment relationship, when discipline, including discharge, is a possibility.

50. Having reviewed section F1-7 closely, I note that its objectives are not the same as those provisions. The purpose of section F1-7 has been expressed clearly by the parties under the heading "Intentions". The intentions indicate that section F1-7 is a procedure designed to deal with

violations of safety procedures prior to discipline being issued, without regard to whether discipline is being or could be considered. Section F1-7 is intended to “correct an attitude or habit”, and “ensures, that supervision takes an active role in the establishment of proper attitudes”. It “ensures that before formal discipline...is issued, Management has taken the time to properly counsel the employee in a co-operative spirit”. Furthermore, the purpose of having the Step 3 meeting is set out clearly in Step 3: to discuss the employee’s attitude and failure to conform to the “acceptable safety behaviour”.

51. Thus, the purpose of the F1-7 process is to address the issues of safety and appropriate employee behaviour/attitude generally, and not as part of the Employer’s decision as to whether discipline should be issued or not. I appreciate that there is reference to the correction of attitudes, or counseling of employees “prior to the issuance of formal discipline”. However, that does not necessarily turn the F1-7 process into a precondition to the Employer exercising its right to discipline. The proactive steps outlined in section F1-7, of counselling and discussion, appear to be part of the Union and Employer’s bilateral attempt to improve safety behaviour in the workplace overall outside of the disciplinary context, not as part of the Employer’s decision-making process with respect to issuing discipline. There is nothing therein to indicate that the parties were agreeing that this process would form a requisite part of the Employer’s disciplinary process.

52. My conclusion in this respect is supported by the evidence of Mr. Johnson, who has been both the Union Co-chair and a Union representative on the Health and Safety Committee for many years. He stated that he wouldn’t necessarily know whether an employee for whom a F1-7 meeting was held was subsequently disciplined. No member of the Union Health and Safety Committee that participates in the Step 3 meeting is involved in the discipline. He stated that, if the Employer decides to discipline an employee after the F1-7 meeting, “the department goes to the next level...and doesn’t involve anyone in Health and Safety”. The separation between the disciplinary process and the Health and Safety process indicates that Section F1-7 was not

intended to form a requisite part of the disciplinary process, absent which the Employer was prohibited from taking disciplinary action.

53. The purpose of section F1-7 is a laudable one, to foster improvement in attitudes toward safety and encourage discussion about behaving in compliance with safety procedures. However, that is a very different purpose than that attributed to union representation clauses addressing discipline. Like Arbitrator Brown in *Loblaws, supra*, I find that while section F1-7 provides employees with a benefit, the parties did not make compliance with this clause a condition of the Employer's ability to exercise its right to discipline.

54. For these reasons, I find that section F1-7 is a directory provision, and not a mandatory one.

55. While the Employer did not follow this provision, that does not mean the Employer had no right to issue discipline to the Grievor. The Grievor had the benefit of union representation in two different meetings with the Employer relating to this incident. There is no indication of the Grievor having sustained any prejudice as a result of the failure to hold the F1-7 meeting. At most, the Union suggested, through its witness, Barry Mador, that in an F1-7 meeting the Union Health and Safety Representative may have been able to raise issues such as the completeness of training. The Union is, of course, able to raise such issues as part of its case on the merits.

IV. Disposition

56. The Union's preliminary motion, requesting the discharge be rendered null and void, is dismissed.


Dated at Oakville, Ontario, this 17th day of January, 2011.



Jasbir Parmar

TAB F

**THIS IS EXHIBIT "F" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL DA PRAT SWORN BEFORE
ME THIS 10th DAY OF MARCH, 2016.**

A handwritten signature in black ink, appearing to read "Alexandra Anderson", written over a horizontal line.

A Commissioner of Oaths

Letter of Agreement

Between

Essar Steel Algoma Inc.

And

USW Local 2251

Re: Alternate Shift Schedules

Employees shall be scheduled as provided in this Agreement for the work which is available. The Company and Union recognize there are situations where it may be beneficial for employees to establish special scheduling arrangements of up to twelve hours per shift and forty – eight hours per week. Where such a scheduling arrangement is implemented, it initially must be approved by the President of Local 2251 and the Manager of Human Resources in the form of this binding Letter of Agreement.

The decision by the Employees to go to or remain on a 12 hour schedule will be determined through a process consistent with the By-Laws of Local Union 2251.

It is agreed that the following guidelines satisfy Article 5.02.31 of the Collective Agreement:

1. Each scheduling area agreement will show the schedule pattern being worked and will have the shift start times identified. Such area agreement will be approved and signed off by Human Resources and President of Local Union 2251.
2. Schedule – Employees on a 21 turn (168 hours/week) or 15 turn (120 hour/week) schedule will work a combination of 12 hour day and 12 hour night shifts. Day shift start times will be determined by the Employees working the schedule and their Management. Night shift start times will be determined by the Employees working the schedule and their Management. However, the night shift start time must be consistent with the day shift start times.

Employees on a 20 turn (160 hours / week) schedule will work two eight hour shifts in a four week period. Day shift start times will be determined by the Employees working the schedule and their Management. Night shift start times will be determined by the Employees working the schedule and their Management. However, the night shift start time must be consistent with the day shift start times.

Attached as Appendix A are the agreed to alternate shift schedule patterns available under this letter of agreement. Either party may propose an alternate schedule pattern. Once both parties agree, it will be added to Appendix A.

Scheduling patterns for employees designated as vacation relief (floater) may not always follow the pattern above. Where this cannot occur the employee will be scheduled in accordance with the Hours of Work Averaging Agreement.

The 21st Turn (8 hours overtime, 4 hours regular time) must be shown on the schedule. Floater persons for vacation relief must be shown on the schedule.

3. **Shift Premium** – Will be paid on hours worked from 3:00 pm to 7:00am in accordance with Article 15.05.10
4. **First Turn** - In accordance with Article 5.01.20, the work day shall be a period of 24 hours beginning at 12:01 a.m., or the shift starting time closest thereto. For the purposes of Sunday premium pay and statutory holiday premium pay, all hours worked on the statutory holiday or the Sunday shall begin at 12:01 a.m. and end at 12 midnight.
5. **Lunch Breaks** - the first sentence of Article 5.10.11 will be deemed to read "...two periods of thirty minutes..." for eating lunch on 12-hour shifts.
6. **Overtime** - to be paid for all hours worked in excess of the regular shift pattern shown on the most recent schedule.
7. **On 20 and 21 turn schedules**, hours of work will be averaged over an 8 week period. The parties recognize that the scheduling pattern for 21 turns results in 8 hours overtime in each week. Therefore the Saturday Night shift (S) will be designated as a shift which is paid 4 hours at straight time rates and 8 hours overtime rates. The last 8 hours of the shift will be designated as the hours attracting overtime.

An employee who is absent from work on the S shift for any reason (vacation, sick, bereavement etc.) will not be entitled to any pay for the premium portion of the shift.

8. **Overtime Meal Allowance** - will take effect two hours beyond the end of the scheduled shift.
9. **Statutory Holiday Pay** – Employees will be paid eight hours statutory holiday pay in accordance with Article 6.03, with the exception of employees who are not required to report for a regular scheduled shift on the Statutory Holiday because the Company has curtailed the work force. These employees will be paid eight hours Statutory Holiday pay plus four hours so that the total pay for the week is not reduced.

The 8 hrs overtime associated with an S day which falls on a Statutory Holiday will be paid in accordance with Articles 6.04.10 and 6.04.20.

10. **Vacation**— Vacation time will be booked off within the department as agreed to below:
 - a) Days Off to Days Off (a day off does not include the single day between night shift and day shift).
 - b) By the Work Week (as defined by article 5.01.30).
 - c) Vacation time will be booked by Hours of Entitlement. For example, 36 hours of entitlement will be used to take 3 twelve hour shifts as vacation and 48 hours of entitlement will be used to take 4 twelve hour shifts as vacation. Vacation taken on a premium shift (S) will count as 4 hours vacation.
 - d) Vacation Hours of less than a week which remain after vacation booking may be taken in full shifts subject to operational requirements, or paid out at year end.
 - e) Vacation Hours of less than a full shift will be paid out at year end.

11. Movement In and Out of 12 Hour Schedules - An employee who moves to or from a normal eight hour shift schedule in the same work week will be paid overtime for any hours worked in excess of forty hours. However, the Company will not be required to schedule an employee for any shift which would result in the payment of overtime rates.
12. Crew Alignment - Where crews are established they shall be established by agreement of the employees concerned (through their steward) in order to provide equal opportunity for promotion on each crew. Where promotional opportunities are equal, vacation preference will be the deciding factor. Crew alignment will be done annually during the November review outlined in item 13. Permanent vacancies created through attrition, termination of employment, transfers out of line of sequence, department or bargaining unit, occurring during the term of this agreement will be filled in accordance with Article 7.06 of the Collective Agreement.
13. Termination - This agreement will be reviewed each year by November 1st by the Steward and Management, and unless otherwise agreed to by the President of Local 2251 and the Manager of Human Resources, it will be automatically renewed at the end of the current fifty-two week vacation schedule or the end of the shift cycle closest to January 1st.

Changes in operating levels may result in changes to the schedule within the term of this agreement. The parties are committed to address operating cycle changes which require schedule flexibility at peak periods such as month end and work life issues with the importance of schedule predictability. In that regard, the company will wherever possible, advise the Union Steward and the affected Employees of the need to change the schedule, 30 days in advance of the anticipated change.

DATED at Sault Ste. Marie, Ontario this 24th day of November, 2015.

ISSAR STEEL ALGOMA INC.

Per: Teresa D'Angelo

Per: W. Scott

USW LOCAL UNION 2251

Per: Michael D'Ala

Per: John Kallio

TAB G

,

**THIS IS EXHIBIT "G" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL DA PRAT SWORN BEFORE
ME THIS 10th DAY OF MARCH, 2016.**

A handwritten signature in cursive script, appearing to read "Alexandra Fodder". The signature is written in black ink and is positioned above a horizontal line.

A Commissioner of Oaths

Alexandra Teodorescu

From: Teresa.D'angelo@essar.com
Sent: Tuesday, January 05, 2016 6:06 PM
To: Mike DaPrat
Cc: Ruth Morley, John.DeLorenzi@essar.com; Terry.Scott@essar.com
Subject: Payment of grievances while in CCAA

Mike

This is to make you aware of the direction we have received in regard to payment of redress for grievances while we are in CCAA.

Grievances filed prior to November 9, 2015

All claims against the Company prior to the date of CCAA protection are stayed which includes any grievances referred to arbitration. The grievors become unsecured creditors and should the claim be valid will be dealt with through the CCAA process.

Grievances filed post November 9, 2015

Where the parties agree that there has been a violation of the collective agreement, redress will be paid only where there was a payment error for work performed. Examples of this may be if an employee was not promoted properly for a shift or if the employee was paid at regular time when he should have been paid a premium rate. Redress will not be paid if an employee claims payment for time not worked. An example of this is not being called for an overtime shift.

Where the parties do not agree on whether there has been a violation of the collective agreement, grievances can proceed up to the point of referral to arbitration. No grievances can be scheduled to arbitration while the Company is in CCAA, subject to those that are moved forward based upon the pending Consent Order. The current structure of the Consent Order draft limits the payment of any redress payments that are awarded. This is, of course, subject to further change through the court.

Please feel free to contact me if you have any questions regarding the above.

Teresa D'Angelo | Manager - HR - Steelmaking/Central Maint | Human Resources | Essar Steel Algoma Inc. |
105 West Street, Sault Ste. Marie, Ontario, Canada P6A 7B4 |
T +1 - 705 - 206 1829 | F +1 - 705 - 945 2348 |
E Teresa.D'angelo@essar.com | www.essarsteelalgoma.com |

Please don't print this e-mail unless you really need to.

Disclaimer: This email is subject to a disclaimer, please click on the following link or cut and paste the link into the address bar of your browser <
http://www.essarsteelalgoma.com/company_disclaimer>

TAB H

**THIS IS EXHIBIT "H" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL DA PRAT SWORN BEFORE
ME THIS 10th DAY OF MARCH, 2016.**

A handwritten signature in cursive script, reading "Alexandra Todorova", written in black ink over a horizontal line.

A Commissioner of Oaths

The main purpose of this Report is to -- PREVENT SIMILAR ACCIDENTS

ACCIDENTAL DAMAGE REPORT

If traffic accident
Emergency Services will also prepare
"Traffic Accident Report"

*AD REPORT	DEPARTMENT WHERE ACCIDENT OCCURRED	NUMBER OF ACCIDENT DAMAGE REPORT	EQUIP IDTY

A - PROPERTY

COST CENTRE	ACCT	PROPERTY DAMAGED	EST REPAIR COSTS	DAMAGE REPAIR NO	X
512111	281	Damage to #51 engine and lime car 1822	\$10,000 00	9 53-5803	1
	281			9	2
	281			9	3
	281			9	4
	281			9	5
	281			9	6

NOTE - USE COMPLETE ACCIDENTAL DAMAGE REPAIR NUMBER FOR COST COLLECTION

DEPT WHERE ACCIDENT OCCURRED Ironmaking	DATE & TIME OF ACCIDENT March 5th 2016 @ 16 20	AM <input type="checkbox"/>	PM <input checked="" type="checkbox"/>	TOTAL EST REPAIR COSTS \$10,000 00
Type of Damage <input type="checkbox"/> Fire <input type="checkbox"/> Flood <input type="checkbox"/> Explosion <input type="checkbox"/> Boiler <input checked="" type="checkbox"/> Vehicle <input type="checkbox"/> Other				
Location of Accident Dolly Track in front of by-products				
Describe Property Damage Damage to coupling on #51 Engine and coupling on #1822 lime car				

B - PERSONAL INJURIES (If any, also complete "REPORT OF INJURY" - S51-1902)

CLOCK NO	NAME	OCCUPATION	NATURE OF INJURY

C - INVESTIGATION OF ACCIDENT

Describe in detail persons involved, safety violations and/or unsafe conditions contributing to accident

On the above date and time Mr Darren Lidstone #2633 operating engine # 51 was traveling east leaving the tripper on the main track after operators (Donnie Deschamps #2312 Charles Chisolm #3285, Mike Mcleod #92830) in the #54 engine told him he could use the track and allowed him to pass by It was not relayed that the switch was still to the open track, Mr Lidstone was watching the west as he past the car not knowing he switched over to the dolly track rather then main and hit the lime cars sitting on the track FLS Steve Mason #86883 stated no post incident test would be required

What operations were delayed
No

Who and what in your opinion caused this accident
Mr Darren Lidstone #26

What can be done to prevent similar accidents in the future
Better communication between operators

ACCIDENT INVESTIGATED BY (Name & Clock No) D Boston #3787 DATE March 5th 2016

PHOTOS TAKEN

Approval Requirements

- Up to \$25,000 - Level 3
- Up to \$50,000 - Level 4
- Up to \$250,000 - Level 5
- Over \$100 000 - EAR Required

D - APPROVALS AND COMMENTS

<input type="checkbox"/> EXPENDITURE APPROVED	<input type="checkbox"/> EXPENDITURE NOT APPROVED	<input type="checkbox"/> INVESTIGATE FURTHER AND REPORT	Date _____	Signature - Level 3 _____
<input checked="" type="checkbox"/> EXPENDITURE APPROVED				
<input type="checkbox"/> EXPENDITURE NOT APPROVED	<input type="checkbox"/> INVESTIGATE FURTHER AND REPORT	Date _____	Signature - Level 4 _____	
<input type="checkbox"/> EXPENDITURE APPROVED	<input type="checkbox"/> EXPENDITURE NOT APPROVED	<input type="checkbox"/> INVESTIGATE FURTHER AND REPORT	Date _____	Signature - Level 5 _____

DISTRIBUTION

- 1) Emergency Services
- 2) Treasury (Insurance) Department
- 3) Level 3 (of Department Concerned)
- 4) Level 4 (of Area Concerned)
- 5) Level 5 (of Area Concerned)

The main purpose of this Report is to -- PREVENT SIMILAR ACCIDENTS

ACCIDENTAL DAMAGE REPORT

If traffic accident
Emergency Services will also prepare
Traffic Accident Report"

*AD REPORT	DEPARTMENT WHERE ACCIDENT OCCURRED	NUMBER OF ACCIDENT DAMAGE REPORT	EQUIP IDTY
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A - PROPERTY

COST CENTRE	ACCT	PROPERTY DAMAGED	EST REPAIR COSTS	DAMAGF REPAIR NO	
524105	281	Damage to Two Rail Cars in the North Rail Yard by #61 Engine	\$10,000 00	9	375811 1
	281			9	
	281			9	
	281			9	
	281			9	
	281			9	

NOTE - USE COMPLETE ACCIDENTAL DAMAGE REPAIR NUMBER FOR COST COLLECTION

DEPT WHERE ACCIDENT OCCURRED North Rail Yard		DATE & TIME OF ACCIDENT February 25, 2016 @ 10 00		AM <input checked="" type="checkbox"/>	PM <input type="checkbox"/>	TOTAL EST REPAIR COSTS \$10,000 00
Type of Damage	<input type="checkbox"/> Fire <input type="checkbox"/> Flood <input type="checkbox"/> Explosion <input type="checkbox"/> Boiler <input type="checkbox"/> Vehicle <input checked="" type="checkbox"/> Other			Other Rail Cars		
Location of Accident North Rail Yard East End						
Describe Property Damage #61 Engine - end skirting pushed inwards, step and handrail damage CIGX803848 rail car - side cat walks, lower support brackets steps and handrail damage FURX380824 rail car - side cat walk, lower brackets, steps and handrail damage						

B - PERSONAL INJURIES (If any, also complete "REPORT OF INJURY" - S51-1902)

CLOCK NO	NAME	OCCUPATION	NATURE OF INJURY

C - INVESTIGATION OF ACCIDENT

Describe in detail persons involved safety violations and/or unsafe conditions contributing to accident

#61 Engine operated by Reg Poirier #99031 was heading east, slowing down as he was approaching the IC2 switch which was turned to allow the oncoming #51 Engine operated by Gil Clement #59338 to proceed As Mr Poirier came to a stop he noticed he was too close to the intersection of the rail and the front end of his engine struck two rail cars off of #61 Engine (CIGX803848 and FURX380824) causing damage to both rail cars and #61 Engine

What operations were delayed
None

Who and what in your opinion caused this accident
#61 engine operator Reg Poirier caused the accident

What can be done to prevent similar accidents in the future
More caution while operating a engine

ACCIDENT INVESTIGATED BY (Name & Clock No) C Vincentini #2208 DATE February 25 2016

PHOTOS TAKEN

Approval Requirements. Up to \$25,000 - Level 3
Up to \$50,000 - Level 4
Up to \$250,000 - Level 5
Over \$100,000 - EAR Required

D - APPROVALS AND COMMENTS

<input type="checkbox"/> EXPENDITURE APPROVED	
<input type="checkbox"/> EXPENDITURE NOT APPROVED	
<input type="checkbox"/> INVESTIGATE FURTHER AND REPORT	Date _____ Signature - Level 3 _____
<input type="checkbox"/> EXPENDITURE APPROVED	
<input type="checkbox"/> EXPENDITURE NOT APPROVED	
<input type="checkbox"/> INVESTIGATE FURTHER AND REPORT	Date _____ Signature - Level 4 _____
<input type="checkbox"/> EXPENDITURE APPROVED	
<input type="checkbox"/> EXPENDITURE NOT APPROVED	
<input type="checkbox"/> INVESTIGATE FURTHER AND REPORT	Date _____ Signature - Level 5 _____

DISTRIBUTION

- 1) Emergency Services
- 2) Treasury (Insurance) Department
- 3) Level 3 (of Department Concerned)
- 4) Level 4 (of Area Concerned)
- 5) Level 5 (of Area Concerned)

Note If more space if required please use other side

The main purpose of this Report is to -- PREVENT SIMILAR ACCIDENTS

ACCIDENTAL DAMAGE REPORT

If traffic accident,
Emergency Services will also prepare
'Traffic Accident Report'

TAD REPORT	DEPARTMENT WHERE ACCIDENT OCCURRED	NUMBER OF ACCIDENT DAMAGE REPORT	EQUIP IDTY
X	9	53-5802	1

A - PROPERTY

COST CENTRE	ACCT	PROPERTY DAMAGED	EST REPAIR COSTS	DAMAGE REPAIR NO					
512111	281	Damage to #51 engine windows from hitting drags to fast	\$1,000 00	9	53-5802	1			
	281			9		2			
	281			9		3			
	281			9		4			
	281			9		5			
	281			9		6			

NOTE - USE COMPLETE ACCIDENTAL DAMAGE REPAIR NUMBER FOR COST COLLECTION

DEPT WHERE ACCIDENT OCCURRED Ironmaking		DATE & TIME OF ACCIDENT Feb 27 2016 @ 22:30hrs		AM <input type="checkbox"/>	PM <input checked="" type="checkbox"/>	TOTAL EST REPAIR COSTS \$1,000 00
Type of Damage	<input type="checkbox"/> Fire <input type="checkbox"/> Flood <input type="checkbox"/> Explosion <input type="checkbox"/> Boiler <input checked="" type="checkbox"/> Vehicle <input type="checkbox"/> Other					Other
Location of Accident Track heading toward tippler						
Describe Property Damage Five windows on the cab of #51 engine were cracked/ broken on impact of the engine attempting to connect to a set of drags						

B - PERSONAL INJURIES (If any, also complete "REPORT OF INJURY" - S51-1902)

CLOCK NO	NAME	OCCUPATION	NATURE OF INJURY
2417	Raymond Ingram	Ironmaking	Bump to head, bruising left knee, minor abrasion to right hand and forearm

C - INVESTIGATION OF ACCIDENT

Describe in detail persons involved, safety violations and/or unsafe conditions contributing to accident

Raymond Ingram #2417 operating #51 engine was traveling toward tippler pushing a drag of cars to attach to a second set of drags Mr Ingram had a Mr Adam Hamilton #2521 spotting the drags but the distance was never relayed to the operator and the impact of the two drags caused five windows in the cab of the engine to break

What operations were delayed
No

Who and what in your opinion caused this accident
Operator Raymond Ingram #2417 and spotter Adam Hamilton #2521 were the cause of the accident due to a communication break down between the two resulting in the impact of the two drags

What can be done to prevent similar accidents in the future
Better care and control by operators and spotters

ACCIDENT INVESTIGATED BY (Name & Clock No) D Boston #3787 DATE February 27, 2016

PHOTOS TAKEN

D - APPROVALS AND COMMENTS

Approval Requirements:

- Up to \$25,000 Level 3
- Up to \$50,000 - Level 4
- Up to \$250,000 - Level 5
- Over \$100,000 - EAR Required

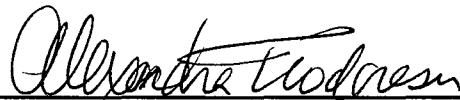
<input type="checkbox"/> EXPENDITURE APPROVED	
<input type="checkbox"/> EXPENDITURE NOT APPROVED	
<input type="checkbox"/> INVESTIGATE FURTHER AND REPORT	Date _____ Signature - Level 3 _____
<input type="checkbox"/> EXPENDITURE APPROVED	
<input type="checkbox"/> EXPENDITURE NOT APPROVED	
<input type="checkbox"/> INVESTIGATE FURTHER AND REPORT	Date _____ Signature - Level 4 _____
<input type="checkbox"/> EXPENDITURE APPROVED	
<input type="checkbox"/> EXPENDITURE NOT APPROVED	
<input type="checkbox"/> INVESTIGATE FURTHER AND REPORT	Date _____ Signature - Level 5 _____

- DISTRIBUTION:**
- 1) Emergency Services
 - 2) Treasury (Insurance) Department
 - 3) Level 3 (of Department Concerned)
 - 4) Level 4 (of Area Concerned)
 - 5) Level 5 (of Area Concerned)

Note: If more space is required, please use other side.

TAB I

**THIS IS EXHIBIT "I" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL DA PRAT SWORN BEFORE
ME THIS 10th DAY OF MARCH, 2016.**

A handwritten signature in black ink, appearing to read "Alexandre Rodres", written over a horizontal line.

A Commissioner of Oaths

**JULES B. BLOCH
MEDIATION/ARBITRATION INC.**

**44 Charles Street West, Suite 2815
Toronto, Ontario M4Y 1R7
416-469-0367 T 416-778-0097 F
jbloch@sympatico.ca**

February 24, 2016

VIA FAX ONLY

Mike Da Prat
United Steelworkers, Local 2251
8 Albert Street East
Sault Ste. Marie, Ontario P6A 2H6

Teresa D'Angelo
Essar Steel Algoma Inc.
105 West Street
Sault Ste. Marie, Ontario P6A 7B4

Dear Mike and Teresa,

RE: United Steelworkers 2251 and Essar Steel Algoma Inc.
Individual Grievances

By letter dated February 17, 2016, I have been appointed by the Minister of Labour to act as sole arbitrator pursuant to s.49(4) of the Labour Relations Act, 1995.

On January 22, 2016 I held a conference call to deal with my appointment of January 14, 2016. At that time, I established a process for dealing with those grievances. I also adjourned the hearing date of January 28, 2016. I am taking the same approach with these appointments. The hearing date of March 8, 2016 is adjourned pending the end of the stay. I intend to use the date of May 25, 2016 as the date to finalize the process discussed and to deal with any preliminary matters.

To refresh everyone's memory, the process is designed to do multiple cases in a day. Briefs are to be exchanged and they are to be less than five pages each. An attempt to settle the matters will be followed by quick decisions based on fact and argument. Where there is discrepancy between the parties' facts, a speedy process will be used to determine the facts necessary to render a decision.

Please be advised that the hearings will take place on the following dates commencing at 10:00 a.m. in Sault Ste. Marie:

May 25, 2016 @ Union Hall, 8 Albert St E.
August 11 and 12, 2016 @ Essar Steel Algoma Inc., 105 West St.
August 18 and 19, 2016 @ Union Hall, 8 Albert St E.
August 24 and 25, 2016 @ Essar Steel Algoma Inc., 105 West St.

On May 25, 2016 we will schedule further continuation hearing dates.

I look forward to seeing you on May 25.

Sincerely,

“ Jules B. Bloch “

Jules B. Bloch
Arbitrator
JB/lg

cc. Michael Hines, Hicks Morley

TAB J

**THIS IS EXHIBIT "J" REFERRED
TO IN THE AFFIDAVIT OF
MICHAEL DA PRAT SWORN BEFORE
ME THIS 10th DAY OF MARCH, 2016.**

A handwritten signature in black ink, appearing to read "Alyandra Todorova", written over a horizontal line.

A Commissioner of Oaths

**JULES B. BLOCH
MEDIATION/ARBITRATION INC.**

**44 Charles Street West, Suite 2815
Toronto, Ontario M4Y 1R7
416-469-0367 T 416-778-0097 F
jbloch@sympatico.ca**

March 2, 2016

VIA FAX ONLY

Mark Molinaro/Mike Da Prat
United Steelworkers, Local 2251
8 Albert Street East
Sault Ste. Marie, Ontario P6A 2H6

Teresa D'Angelo
Essar Steel Algoma Inc.
105 West Street
Sault Ste. Marie, Ontario P6A 7B4

Dear Mark/Mike and Teresa,

RE: United Steelworkers 2251 and Essar Steel Algoma Inc.
Individual Grievances

By letter dated March 2, 2016, I have been appointed by the Minister of Labour to act as sole arbitrator pursuant to s.49(4) of the Labour Relations Act, 1995.

On January 22, 2016 I held a conference call to deal with my appointment of January 14, 2016. At that time, I established a process for dealing with those grievances. I also adjourned the hearing date of January 28, 2016. I am taking the same approach with these appointments. The hearing date of March 22, 2016 is adjourned pending the end of the stay. I intend to use the date of May 25, 2016 as the date to finalize the process discussed and to deal with any preliminary matters.

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I look forward to seeing you on May 25.

Sincerely,

“ Jules B. Bloch “

Jules B. Bloch
Arbitrator
JB/lg

cc. Michael Hines, Hicks Morley

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

and

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF ESSAR STEEL ALGOMA INC. ET AL.**

Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**SUPPLEMENTAL AFFIDAVIT OF
MICHAEL DA PRAT
(Motion Returnable March 11, 2016)**

BLANEY McMURTRY LLP
Barristers and Solicitors
Suite 1500 - 2 Queen Street East
Toronto, ON M5C 3G5

Lou Brzezinski LSUC #19794M
Tel: (416) 593-2952
Fax: (416) 594-5084
Email: lbrzezinski@blaney.com

Alexandra Teodorescu LSUC #63889D
Tel: (416) 596-4279
Fax: (416) 593-5437
Email: ateodorescu@blaney.com

Lawyers for United Steelworkers Union Local 2251