

United States District Court

NORTHERN DISTRICT OF CALIFORNIA

IN RE SEABREEZE YACHT CENTER, INC. DEBTOR
 SUSAN UECKER, TRUSTEE
 V.
 MARK E. RUBKE

DEPOSITION SUBPOENA

CASE NUMBER: C 91 0336 CAL

TYPE OF CASE <input checked="" type="checkbox"/> CIVIL <input type="checkbox"/> CRIMINAL	SUBPOENA FOR <input type="checkbox"/> PERSON <input checked="" type="checkbox"/> DOCUMENT(S) or OBJECT(S)
---	--

TO: CUSTODIAN OF RECORDS
 ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH
 HAZARDOUS MATERIALS PROGRAM

YOU ARE HEREBY COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH HAZARDOUS MATERIALS PROGRAM 80 SWAN WAY, ROOM 200 OAKLAND, CALIFORNIA 94621	DATE AND TIME AUGUST 19, 1991 AT 9:00 A.M.
---	--

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE

Please see additional information on reverse

Any subpoenaed organization not a party to this suit is hereby admonished pursuant to Rule 30(b)(6), Federal Rules of Civil Procedure, to file a designation with the court specifying one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and setting forth, for each person designated, the matters on which he will testify or produce documents or things. The persons so designated shall testify as to matters known or reasonably available to the organization.

U.S. MAGISTRATE OR CLERK OF COURT <p style="text-align: center; font-size: 1.2em;">RICHARD W. WIEKING</p>	DATE <p style="font-size: 1.5em; text-align: center;">JUL 17 1991</p>
(BY) DEPUTY CLERK <p style="text-align: center; font-size: 1.2em;">TRACY LUCERO</p>	

This subpoena is issued upon application of the:

Plaintiff Defendant U.S. Attorney

99:4113

QUESTIONS MAY BE ADDRESSED TO:
 MICHAEL L. BOLI, ESQ.
 DEAN A. ALPER, ESQ. (415) 397-2222
 LONG & LEVIT
 101 CALIFORNIA STREET, SUITE 2300
 SAN FRANCISCO, CALIFORNIA 94111

*If not applicable enter none.

RETURN OF SERVICE (1)

RECEIVED BY SERVER	DATE 7-18-91	PLACE Long & Leavitt 101 California st SF. Ca
SERVED	DATE 7-18-91	PLACE 80 Swan Way Room # 200

SERVED ON (NAME) ARZO LEVI	FEE'S TENDERED <input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT \$ <u>0</u>
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SERVED BY CHARLES HARTY	TITLE CLERK
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STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
0	0	0

DECLARATION OF SERVER (2)

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 7-18-91
Date

Charles Harty
Signature of Server

1100 Fell st SF. Ca
Address of Server

ADDITIONAL INFORMATION

(1) As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.
 (2) "Fees and mileage need not be tendered to the deponent upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)".

1 MICHAEL L. BOLI
2 DEAN A. ALPER
3 LONG & LEVIT
4 101 California Street, Suite 2300
San Francisco, CA 94111
Telephone: (415) 397-2222

GEW

5 Attorneys for Defendant
6 MARK E. RUBKE

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 In re)
12 SEABREEZE YACHT CENTER, INC.)
13 Debtor.)
14 _____)
15 SUSAN UECKER, Trustee,)
16 Plaintiff,)
17 vs.)
18 MARK E. RUBKE,)
19 Defendant.)
20 _____)

No. C 91 0336 CAL

NOTICE OF TAKING DEPOSITION
OF THE CUSTODIAN OF RECORDS OF
THE ALAMEDA COUNTY DEPARTMENT
OF ENVIRONMENTAL HEALTH

21 TO PLAINTIFF SUSAN UECKER, TRUSTEE, AND HER ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE that defendant MARK E. RUBKE will
23 take the deposition of the Custodian of Records of the Alameda
24 County Department of Environmental Health, Hazardous Materials
25 Program on August 19, 1991, at 9:00 a.m. at The Alameda County /
26 Department of Environmental Health, Hazardous Materials Program,
27 80 Swan Way, Room 200, Oakland, California 94621.

28 Pursuant to Federal Rule 30(b)(1), Mark E. Rubke,

LONG & LEVIT

101 CALIFORNIA STREET
SUITE 2300
SAN FRANCISCO
CALIFORNIA 94111
(415) 397-2222

1 defendant in the above-captioned action requests that you
2 produce the following documents pursuant to the attached
3 deposition subpoena for the production of business records:

4 DEFINITIONS AND INSTRUCTIONS

5 1. The term "document" means any written, printed,
6 typed, recorded (including matters electronically recorded on
7 computers, diskettes and/or magnetic media), graphic
8 photographic or other matter containing information of any kind
9 or nature, however produced or reproduced, whether original or in
10 draft, and includes all copies of any documents that are marked
11 with any notation, or that are not identical in every respect to
12 the documents requested, and specifically includes, without
13 limitation.

14 DOCUMENTS REQUESTED

15 1. All documents pertaining to Seabreeze Yacht
16 Center, Inc. from January 1, 1985 to the present.

17 2. All records pertaining or in any way relating to
18 communications from the Port of Oakland to the San Francisco Bay
19 Conservation and Development Commission regarding the Seabreeze
20 Yacht Center, Inc. marina.

21 3. Inspection reports concerning the Seabreeze Yacht
22 Center, Inc. marina including but not limited to inspection
23 reports containing inventories of chemicals found at the
24 location.

25 4. All records pertaining or in any way relating to
26 communications with Baseline Environmental including but not
27 limited to the remediation work performed at the Seabreeze Yacht
28 Center, Inc. marina.

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5. All records pertaining or in any way relating to communications with Baseline Environmental including but not limited to the site safety plan regarding Seabreeze Yacht Center, Inc. marina.

6. All records pertaining or in any way relating to communications with Baseline Environmental including but not limited to records pertaining to the chain of custody, analytical results from the soil samples and manifests of the soil samples offhauled from the Seabreeze Yacht Center, Inc. marina.

7. Notices of Violation to Seabreeze Yacht Center, Inc. regarding the Seabreeze Yacht Center, Inc. marina.

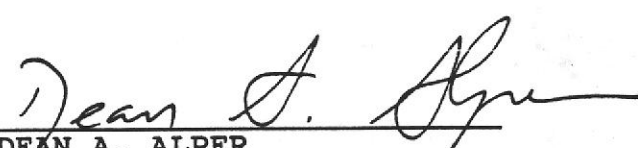
8. Citation Hearing regarding Seabreeze Yacht Center, Inc. marina.

9. All records reflecting communications with legal counsel for the Port of Oakland regarding Seabreeze Yacht Center, Inc. marina.

DATED: July 16, 1991

LONG & LEVIT

By:


DEAN A. ALPER
Attorneys for Defendant
MARK E. RUBKE

S6000.405\PL001905.905

LONG & LEVIT

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SUITE 2300
SAN FRANCISCO
CALIFORNIA 94111
(415) 397-2222

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PROOF OF SERVICE BY MAIL

4 I am a citizen of the United States and I am employed in
5 the City and County of San Francisco. I am over the age of 18
6 years and not a party to the within entitled action. My business
7 address is c/o Long & Levit, 101 California Street, Suite 2300,
8 San Francisco, California 94111. I am readily familiar with Long
9 & Levit's practice for collection and processing of correspondence
10 for mailing with the United States Postal Service.

11
12 On July 17, 1991, I served the within

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**NOTICE OF TAKING DEPOSITION OF CUSTODIAN OF
RECORDS OF THE ALAMEDA COUNTY DEPARTMENT OF
ENVIRONMENTAL HEALTH, HAZARDOUS MATERIALS
PROGRAM**

on the following attorney(s) of record, by depositing a true and
correct copy (copies) thereof in a sealed envelope addressed as
follows, for collection and mailing at said business address; the
correspondence will be deposited with the United States Postal
Service on the above date in the ordinary course of business.

Michael St. James, Esq.
Rosenblum, Parish & Bacigalupi
555 Montgomery Street, 15th Floor
San Francisco, CA 94111

I declare under penalty of perjury that the foregoing is
true and correct.

Executed on July 17, 1991, at San Francisco, California.



LYN DAVALY

LONG & LEVIT

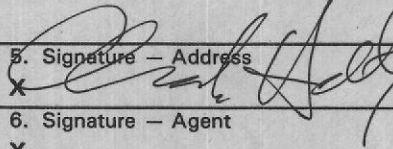
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SUITE 2300
SAN FRANCISCO
CALIFORNIA 94111
(415) 397-2222

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AL

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
 Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to: Michael L. Boli, ESQ. Dean A. Alper, ESQ. Long & Levit 101 California St., #2300 San Francisco, Ca 94111	4. Article Number 367 604 442
Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise	
Always obtain signature of addressee or agent and DATE DELIVERED.	
5. Signature - Address 	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent X	
7. Date of Delivery	

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 SAN FRANCISCO CA 94111
 U.S. POSTAGE

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EXHIBIT "A" TO DEPOSITION SUBPOENA FOR
PRODUCTION OF BUSINESS RECORDS

Pursuant to Federal Rule 30(b)(1), Mark E. Rubke, defendant in the above-captioned action requests that you produce the following documents pursuant to the attached deposition subpoena for the production of business records:

DEFINITIONS AND INSTRUCTIONS

1. The term "document" means any written, printed, typed, recorded (including matters electronically recorded on computers, diskettes and/or magnetic media), graphic photographic or other matter containing information of any kind or nature, however produced or reproduced, whether original or in draft, and includes all copies of any documents that are marked with any notation, or that are not identical in every respect to the documents requested, and specifically includes, without limitation.

DOCUMENTS REQUESTED

1. All documents pertaining to Seabreeze Yacht Center, Inc. from January 1, 1985 to the present.

2. All records pertaining or in any way relating to communications from the Port of Oakland to the San Francisco Bay Conservation and Development Commission regarding the Seabreeze Yacht Center, Inc. marina.

3. Inspection reports concerning the Seabreeze Yacht Center, Inc. marina including but not limited to inspection reports containing inventories of chemicals found at the location.

4. All records pertaining or in any way relating to communications with Baseline Environmental including but not

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1 limited to the remediation work performed at the Seabreeze Yacht
2 Center, Inc. marina.

3 5. All records pertaining or in any way relating to
4 communications with Baseline Environmental including but not
5 limited to the site safety plan regarding Seabreeze Yacht Center,
6 Inc. marina.

7 6. All records pertaining or in any way relating to
8 communications with Baseline Environmental including but not
9 limited to records pertaining to the chain of custody, analytical
10 results from the soil samples and manifests of the soil samples
11 offhauled from the Seabreeze Yacht Center, Inc. marina.

12 7. Notices of Violation to Seabreeze Yacht Center,
13 Inc. regarding the Seabreeze Yacht Center, Inc. marina.

14 8 . Citation Hearing regarding Seabreeze Yacht Center,
15 Inc. marina.

16 9. All records reflecting communications with legal
17 counsel for the Port of Oakland regarding Seabreeze Yacht Center,
18 Inc. marina.

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23 DATED: July 17, 1991.

LONG & LEVIT

24
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26 By: 

DEAN A. ALPER
Attorneys for Defendant
MARK E. RUBKE

27
28 S6000.405\PL002905.905

LONG & LEVIT

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ENDORSED
FILED

MAR 21 1989

RENE C. DAVIDSON, County Clerk
By DELAINE WILLIAMS, Deputy

1 RICHARD C. WOOTTON
2 DERBY, COOK, QUINBY & TWEEDT
3 333 Market Street, Suite 2800
4 San Francisco, California 94105
5 Telephone: (415) ---0505

6 Attorneys for Defendant
7 PACIFIC DRY DOCK AND REPAIR COMPANY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ALAMEDA

10 THE PEOPLE OF THE STATE OF CALIFORNIA,)
11 CALIFORNIA,)
12 Plaintiff,)
13 v.)
14 PACIFIC DRY DOCK AND REPAIR)
15 COMPANY, a wholly owned subsidiary)
16 of CROWLEY MARITIME CORPORATION)
17 a Delaware Corporation; and)
18 DOES ONE through TEN Inclusive,)
19 Defendants.)

No. 623104-8

STIPULATION FOR ENTRY
OF JUDGMENT

19 Come now, plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA,
20 appearing through ~~the~~ attorney John J. Meehan, District Attorney
21 of the County of Alameda, by Gilbert A. Jensen, Senior Deputy
22 District Attorney, ~~the~~ defendants PACIFIC DRY DOCK AND REPAIR
23 COMPANY and CROWLEY MARITIME CORPORATION, appearing through their
24 attorneys Derby, Cook, Quinby & Tweedt by Richard C. Wootton, and
25 without the taking ~~of~~ proof and without a trial and adjudication
26 of any facts or law herein, hereby stipulate:

STIPULATION FOR ENTRY OF JUDGMENT

DERBY, COOK, QUINBY & TWEEDT
COUNSELORS AT LAW
333 MARKET STREET
SUITE 2800
SAN FRANCISCO, CALIFORNIA 94103-2199

1 I.

2 The Superior Court of the State of California, County of
3 Alameda has jurisdiction over the subject matter of this action.
4 Defendants have been properly served with the summons and com-
5 plaint and acknowledge that this court has personal jurisdiction
6 over the defendants.

7
8 II.

9 The parties to this Agreement hereby expressly waive any
10 objection with regard to the procedural notice requirements of
11 California Code of Civil Procedure § 1005 and of California Rules
12 of Court Rule 317.

13
14 III.

15 This compromised, stipulated agreement shall settle and
16 conclude for all time all claims, demands, causes of action and
17 actions which the STATE OF CALIFORNIA and the COUNTY OF ALAMEDA
18 (hereinafter collectively referred to as "plaintiff") have, had
19 or may have against defendants PACIFIC DRY DOCK AND REPAIR
20 COMPANY and CROWLEY MARITIME CORPORATION and all parent, subsidi-
21 ary and related companies, stockholders, officers, directors,
22 employees, agents, attorneys, insurers, successors and assigns
23 (hereinafter collectively referred to as "defendants") for the
24 acts, failures to act and/or occurrences alleged in the complaint
25 (and for any other violation of any federal, state or local
26 statute, regulation or ordinance designed for the protection of

DERBY, COOK, QUINBY & TWEEDT
COUNSELORS AT LAW
333 MARKET STREET
SUITE 2800
SAN FRANCISCO, CALIFORNIA 94105-2199

1 the environment and/or human health and safety) which occurred,
2 or are alleged to have occurred, on or before September 11, 1986.

3
4 IV.

5 In order to resolve all claims and disputes between plain-
6 tiff and defendants with respect to defendant PACIFIC DRY DOCK
7 AND REPAIR COMPANY's operations within the State of California,
8 to provide defendants with a release and discharge of all claims
9 which have, or could have been asserted concerning defendants'
10 operations, and to assure defendants that plaintiff will not
11 hereafter prosecute or cause to be prosecuted any claims concern-
12 ing the operation of said defendant's business, plaintiff and
13 defendants, based on the good consideration described herein,
14 stipulate that the Superior Court of the State of California,
15 County of Alameda, may enter Final Judgment against defendants
16 PACIFIC DRY DOCK AND REPAIR COMPANY and CROWLEY MARITIME CORPORA-
17 TION providing as follows:

18 A. Plaintiff hereby releases, acquits and forever dis-
19 charges defendants from any and all claims, demands, causes of
20 action, actions, obligations, liabilities, damages, expenses,
21 fees, costs, interest, debts, penalties, and cross-claims of any
22 nature whatsoever which plaintiff had, has, or hereafter may have
23 or claim to have against defendants for the acts, failures to act
24 and/or occurrences alleged in the complaint (and for any other
25 violation of any federal, state or local statute, regulation or
26 ordinance designed for the protection of the environment and/or

1 human health or safety) which occurred or are alleged to have
2 occurred on or before September 11, 1986.

3 B. This settlement shall inure to the benefit of defen-
4 dants PACIFIC DRY DOCK AND REPAIR COMPANY and CROWLEY MARITIME
5 CORPORATION and all parent, subsidiary and related companies,
6 stockholders, directors, employees, agents, attorneys, insurers,
7 successors and assigns.

8 C. This stipulation constitutes the entire agreement
9 between the parties. It is expressly understood and agreed that
10 the stipulation may not be altered, amended, modified, or other-
11 wise changed in any respect or particular whatsoever except by a
12 writing duly executed by authorized representatives of each
13 party.

14 D. With plaintiff's approval Defendants have adopted and
15 will maintain the Procedure and Guideline attached hereto as
16 Exhibit "1" (or procedures substantially similar thereto) to
17 provide that all reasonable action will be taken at the premises
18 of Pacific Dry Dock and Repair Company to prevent water pollution
19 by paint solvents and overspray during painting operations over
20 water.

21 E. Defendants shall within thirty days from the entry of
22 judgment herein, pay the sum of Twenty-five Thousand Dollars
23 (\$25,000.00) by check made payable to the Treasurer of Alameda
24 County and sent to the Consumer and Environmental Protection
25 Division of the Alameda County District Attorney as costs in lieu
26 of civil penalties.

1 F. The parties agree that the receipt of the agreed
2 settlement payment and the execution of this stipulation are the
3 result of the compromise of a disputed claim and shall never for
4 any purpose be considered an admission of liability responsibili-
5 ty or wrongdoing for any of the claims released herein, which
6 liability is expressly denied.

7 G. Plaintiff agrees that this stipulation releases defen-
8 dants of liability of all claims, whether known or unknown, and
9 waives the provisions of California Civil Code § 1542, which
10 reads as follows:

11 A general release does not extend to claims
12 which the creditor does not know or expect
13 to exist in his favor at the time of
14 executing the release, which if known by
15 him must have materially affected his
16 settlement with the debtor.

17 V.

18 Judgment shall be entered by the Court in this action,
19 pursuant to this stipulation, on request of any party without
20 notice to the other parties.

21 /////
22 /////
23 /////
24 /////
25 /////

DERBY, COOK, QUINBY & TWEED
COUNSELORS AT LAW
333 MARKET STREET
SUITE 2800
SAN FRANCISCO, CALIFORNIA 94105-2199

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VI.

This settlement agreement shall be construed and enforced pursuant to the laws of the State of California.

DATED: March 14, 1989.

PEOPLE OF THE STATE OF CALIFORNIA

By: [Signature]

DATED: March 3, 1989.

PACIFIC DRY DOCK AND REPAIR COMPANY
and CROWLEY MARITIME CORPORATION

By: [Signature]

Richard C. Wootton
Attorneys For Defendants

DERBY, COOK, QUINBY & TWEEDT
COUNSELORS AT LAW
333 MARKET STREET
SUITE 2000
SAN FRANCISCO, CALIFORNIA 94105-2199

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ORDER

Upon the consent of the parties hereto, through their respective counsel of record, and it appearing to the Court that there is good cause for the entry of this Stipulated Final Judgment,

IT IS HEREBY ORDERED that the within judgment be and the same is hereby ENTERED.

MAR 21 1989

Dated: _____

MICHAEL E. DALLAGNEY

Judge of the Superior Court
of the State of California
for the County of Alameda



CROWLEY MARITIME
CORPORATION

PROCEDURE &
GUIDELINE

Title:

Title: Senior Vice President

No.

Date: 10/26/87

Supersedes:

Distribution: Supervisors

Subject: PACIFIC DRY DOCK & REPAIR COMPANY
PAINTING OVER WATER

Reference
Policy No.

PROCEDURE

It is the company's procedure to fully comply with Federal law and State statutes regulating the Clean Water Act. All reasonable action will be taken to assure that proper control measures are taken to prevent water pollution.

PURPOSE

The purpose of these procedures is to establish techniques and methods of painting over water that will prevent pollution of the waterway with paint, solvents and overspray in order to insure compliance with the applicable laws and regulations.

RESPONSIBILITY

The shipyard management shall insure that all concerned supervisors are instructed in the techniques and methods set forth below. These supervisors shall be responsible for insuring that these guidelines are followed when required.

GUIDELINES

- 1.) Painting shall be done from an appropriate float equipped with spill containment for paint containers and equipment. In case of a spill, emergency spill equipment shall be provided with the capability of immediate recovery and cleanup.
- 2.) A containment boom shall be made available for deployment in case of a spill which cannot be contained and cleaned up immediately with the emergency spill equipment.
- 3.) The paint float(s) shall be positioned as tightly as possible against the hull of the vessel to prevent any escaping paint from falling into the water.

GUIDELINES (Continued)

- 4.) When possible paint shall be applied by brush or with a roller. If a spray application must be used, airless spray equipment is the preferred method.
- 5.) When spray painting is necessary, wind conditions shall be monitored to insure that overspray is not being carried into the water. When wind conditions result in overspray reaching the water, suitable precautions shall be taken to prevent this or the spray painting shall be terminated until wind conditions change.