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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**WATERFRONT COMMISSION OF NEW
YORK HARBOR,**

Plaintiff,

v.

**PHILIP MURPHY, in his official capacity as
Governor of New Jersey,**

Defendant.

Civil Action No. _____

COMPLAINT

Plaintiff Waterfront Commission of New York Harbor (the “Commission”), located at 39 Broadway, 4th Floor, New York, New York 10006, by and through its undersigned attorneys, Proskauer Rose LLP, for its Complaint against defendant Philip Murphy, in his official capacity as Governor of New Jersey (the “Governor”), located at 125 W State Street, Trenton, New Jersey 08608, hereby alleges as follows:

PRELIMINARY STATEMENT

1. This is an action seeking a declaratory judgment and a preliminary and permanent injunction preventing the Governor from taking any action to implement or enforce New Jersey Senate Bill No. 3502 (the “New Jersey Law”), which Governor Chris Christie signed into law on

January 15, 2018, and which would unilaterally and illegally withdraw New Jersey from a bilateral compact with New York State and dissolve the Commission created by that compact.

2. The Commission was established by an interstate compact entered into by New York and New Jersey in 1953 and approved by an Act of Congress. The Commission's mandate is to investigate, deter, combat, and remedy criminal activity and influence in the Port of New York and New Jersey ("Port"), and to ensure fair hiring and employment practices.

3. The Commission's current administration has worked tirelessly to stamp out corruption and racketeering in the Port, as well as to combat continued discriminatory hiring practices, but there is more work to be done. Notwithstanding the very real need for the bi-state Commission, and the absence of New York's agreement to withdraw from the compact, the New Jersey Law the Governor seeks to implement would abolish the bi-state Commission and remove needed regulations over Port operations.

4. New Jersey lacks the power to withdraw from the Commission and its compact with New York. Once Congress approved the compact, it became a "law of the Union." *Pennsylvania v. Wheeling & Belmont Bridge Co.*, 54 U.S. 518, 566 (1851); *see also Texas v. New Mexico*, 482 U.S. 124, 128 (1987) ("[A] compact when approved by Congress becomes a law of the United States . . ."). Because a compact is a creature of federal law, a state cannot unilaterally modify or withdraw from a compact, absent a provision in the compact allowing it to do so. *See Ne. Bancorp, Inc. v. Bd. of Governors of Fed. Reserve Sys.*, 472 U.S. 159, 175 (1985) (noting that states' inability to unilaterally modify or repeal a bi-state compact is among "the classic indicia of a compact").

5. The Defendant's predecessor, Governor Chris Christie, has previously admitted that the New Jersey Law which purports to withdraw New Jersey from the compact and to

dissolve the Commission is unconstitutional and invalid. He stated as much in May 2015 when, citing a “concrete constitutional hurdle,” he vetoed a virtually identical Bill passed by the New Jersey legislature:

I am advised that federal law does not permit one state to unilaterally withdraw from a bi-state compact approved by Congress. As a result, it is premature for New Jersey to contemplate withdrawing from the Waterfront Commission until New York considers similar legislation.

6. In short, as Governor Christie has previously recognized, New Jersey is not permitted to unilaterally withdraw from its compact with New York, and it cannot by state statute nullify the compact, which has the force of federal law. Accordingly, the Commission seeks (i) a declaratory judgment that any actions taken or to be taken by the Governor to implement the New Jersey Law are invalid and void, and (ii) a preliminary and permanent injunction preventing the Governor from implementing the law.

PARTIES

7. Plaintiff is a bi-state commission, established by a compact between New York and New Jersey in 1953 through the enactment of identical statutes passed by the two states. *See* N.Y. Unconsol. Law § 9801 *et seq.*; N.J.S.A. § 32:23-1 *et seq.* The compact was approved by Congress and thus became federal law in 1953. *See* Act of Aug. 12, 1953, Pub. L. 252, ch. 407, 83d Congress, 1st Session, 67 Stat. 541.

8. Defendant Philip Murphy is the Governor of New Jersey and, as such, is responsible, in whole or in part, for the implementation and enforcement of the laws and policies complained of herein. Governor Murphy is sued in his official capacity.

JURISDICTION AND VENUE

9. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1337 because it involves the interpretation and construction of a bi-state compact,

which became federal law by virtue of congressional approval pursuant to the Compact Clause of the Constitution, art. I, § 10, cl. 3.

10. This Court is authorized to issue a declaratory judgment and a preliminary and permanent injunction pursuant to 28 U.S.C. §§ 2201 and 2202.

11. This Court has jurisdiction over Defendant because Defendant is a resident of New Jersey.

12. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1) and (2) because Defendant resides within the judicial district, and it is the judicial district in which a substantial part of the events giving rise to the claim occurred.

FACTUAL ALLEGATIONS

A. New York and New Jersey Create the Waterfront Commission of New York Harbor

13. In 1949, a Pulitzer Prize-winning series of articles entitled “Crime on the Waterfront” appeared in the *New York Sun*, detailing the corruption, extortion, racketeering, and organized crime in the Port. New York State’s Crime Commission thereafter undertook an investigation and issued a report in 1953 describing the pervasive corruption in the hiring practices for those who worked along the waterfront of the Port.

14. In response to these revelations, the states of New York and New Jersey entered into the Waterfront Commission Compact (the “Waterfront Compact”) by passing identical statutes in 1953. *See* N.Y. Unconsol. Law § 9801 *et seq.*; N.J.S.A. § 32:23-1 *et seq.*

15. The Waterfront Compact was approved by an Act of Congress and signed into federal law by President Dwight D. Eisenhower. *See* Act of Aug. 12, 1953, Pub. L. 252, ch. 407, 83d Congress, 1st Session, 67 Stat. 541. As the United States Supreme Court explained, “[t]his was no perfunctory consent” by Congress. *DeVeau v. Braisted*, 363 U.S. 144, 149-50 (1960).

To the contrary, before approving the Waterfront Compact, Congress held a series of hearings and issued findings endorsing the approach taken by New York and New Jersey in the Compact.

Id.

16. New York and New Jersey made several findings and declarations in the Waterfront Compact, including that:

the conditions under which waterfront labor is employed within the Port of New York district are depressing and degrading to such labor, resulting from the lack of any systematic method of hiring, the lack of adequate information as to the availability of employment, corrupt hiring practices and the fact that persons conducting such hiring are frequently criminals and persons notoriously lacking in moral character and integrity and neither responsive or responsible to the employers nor to the uncoerced will of the majority of the members of the labor organizations of the employees; that as a result waterfront laborers suffer from irregularity of employment, fear and insecurity, inadequate earnings, an unduly high accident rate, subjection to borrowing at usurious rates of interest, exploitation and extortion as the price of securing employment and a loss of respect for the law; that not only does there result a destruction of the dignity of an important segment of American labor, but a direct encouragement of crime which imposes a levy of greatly increased costs on food, fuel and other necessities handled in and through the Port of New York district;

* * *

many of the evils above described result not only from the causes above described but from the lack of regulation of the occupation of stevedores; that such stevedores have engaged in corrupt practices to induce their hire by carriers of freight by water and to induce officers and representatives of labor organizations to betray their trust to the members of such labor organizations; [and]

the occupations of longshoremen, stevedores, pier superintendents, hiring agents and port watchmen are affected with a public interest requiring their regulation and that such regulation shall be deemed an exercise of the police power of the two States for the protection of the public safety, welfare, prosperity, health, peace and living conditions of the people of the two States.

N.Y. Unconsol. Law §§ 9802-05; N.J.S.A. §§ 32:23-2-5.

17. The Waterfront Compact established a framework to combat the abusive hiring practices and deplorable work conditions on the Port's waterfront that resulted, in part, from an overabundance of available labor. The Waterfront Compact established the Commission to enforce the Waterfront Compact's provisions.

18. The Waterfront Compact gives the Commission jurisdiction over the Port, which comprises an area of approximately 1500 square miles covering both New York and New Jersey, centering around New York Harbor. The Port stretches from Westchester County in the north to Nassau County in the east, includes all five boroughs of New York City, and Bergen, Hudson, Union, and Essex Counties in New Jersey to the west and south.

19. The Waterfront Compact gives the Commission the power to license, register, and regulate the waterfront employment of pier superintendents, hiring agents, longshoremen, and port watchmen, and to license and regulate stevedores. N.Y. Unconsol. Law §§ 9810, 9819, 9827, 9839; N.J.S.A. §§ 32:23-10; 32:23-19; 32:23-27; 32:23-39.

20. The Waterfront Compact provides that no one in the professions listed in paragraph 19, above, may work in the Port without first being licensed and registered by the Commission. N.Y. Unconsol. Law §§ 9812, 9819, 9827, 9839; N.J.S.A. §§ 32:23-12; 32:23-19; 32:23-27; 32:23-39.

21. The Waterfront Compact gives the Commission the power to conduct background screening of those seeking registration or licensing to work on the waterfront, and to prevent individuals who, *inter alia*, pose a danger to the public peace or safety, lack good character and integrity, or who have associated with members of an organized crime or terrorist group from infiltrating the Port. N.Y. Unconsol. Law § 9906; N.J.S.A. § 32:23-86.

22. The Waterfront Compact grants the Commission the power to conduct

investigations, maintain a police force, and take action against violators, including removing them from the register of available labor, and to assess and collect fines. N.Y. Unconsol. Law §§ 9910, 9906; N.J.S.A. §§ 32:23-10, 32:23-86.

23. Section 5-p of the Waterfront Compact (the so-called “closed-register” provision), as amended by Acts of both New York and New Jersey (N.Y. Unconsol. Law § 9920; N.J.S.A. § 32:23-114), provides the Commission with the power to open and close the register of longshore workers and thereby regulate the size of the work force to minimize the abusive hiring and labor practices that historically resulted from a surplus of longshoremen laborers. Section 5-p also allows the Commission to add workers to the closed register of longshore workers through an employer sponsorship procedure so long as the employers certify that the selection of employees had been made in a fair and non-discriminatory manner consistent with state and federal law.

24. The Commission is not funded by the taxpayers of New York or New Jersey. Instead, the Waterfront Compact provides that the industry funds the Commission’s expenses. Pursuant to art. XIII, § 3 of the Waterfront Compact (N.Y. Unconsol. Law § 9858; N.J.S.A. § 32:23-58), the Commission’s budget comes from assessments on waterfront employers on the wages they pay to employees, not to exceed 2% of such wages.

B. The Commission’s Exercise of Its Authority and Responsibility Under the Compact

25. Many of the conditions that led to the formation of the Commission still continue to exist on today’s waterfront. As briefly set forth below, the Commission’s current administration has tirelessly strived to: effectuate economic growth in the Port; ensure a union of waterfront workers that represents its membership rather than a privileged few; maintain a ready supply of qualified labor immediately available to satisfy employers’ needs; safeguard the ability of employers to select their own workers and, consistent with their collective bargaining

agreements, assign their responsibilities and hold them accountable without the threat of disruption in the Port; severely limit the influence of organized crime, corruption and other criminal influence; and allow for a diverse workforce that reflects the makeup of the Port communities.

i. The Commission's Efforts to Root Out Corruption and Crime at the Port

26. The Commission has worked to effectuate a dramatic change in the culture of an industry which has been chronically plagued, historically and currently, by organized crime and labor racketeering. Among other things, the Commission has:

- a. undertaken scores of investigations that have led to the conviction of hundreds of individuals who were conducting illicit activities in the Port, including, but not limited to, drug trafficking, theft, racketeering, illegal gambling, loansharking, and murder;
- b. conducted thousands of background checks for those applying for work in the Port and prevented the infiltration of the Port by hundreds of people who had been convicted of serious crimes, but who failed to disclose those crimes in their applications, or who were members of, or associated with, organized crime families, including the Genovese, Gambino, Lucchese, Bonanno, Colombo, and Decavalcante Crime Families;
- c. suspended or revoked the registrations of Port workers who were convicted of serious crimes or found to be members of, or associated with, organized crime;
- d. The Commission's more recent efforts to prevent corruption have included:
 - i) In 2015, the Commission investigated and assisted in the prosecution and convictions of numerous union officials, shop stewards, and foremen for

extortion conspiracy of their own union members on behalf of the Genovese Organized Crime Family;

ii) In 2016, the Commission investigated and assisted in the prosecution of ten alleged members and associates of the Genovese Organized Crime Family who reaped millions of dollars from loansharking, unlicensed check cashing, gambling, and money laundering, including the laundering of drug proceeds;

iii) In 2017, the Commission investigated and assisted in the prosecution and conviction of a general foreman who fraudulently collected an annual salary of approximately \$500,000 for multiple years, most of which was for work he never performed.

ii. The Commission's Efforts to Expose and Overcome Corrupt Hiring Practices and Racial Discrimination at the Port

27. The Commission has also worked to expose the continued corrupt and discriminatory hiring practices on the waterfront and to implement measures to address them. In the Commission's Special Report issued in March of 2012, the Commission detailed its findings based on public hearings that were held concerning discriminatory employment practices within the Port. The Commission found that the International Longshoremen's Association, AFL-CIO (the "ILA"), the union that represents waterfront laborers, still exerts control over hiring in the Port, that waterfront employers have been forced to hire those that the ILA wants hired, and that the prime positions on the waterfront are given to those individuals with connections to the mainly all-white union leadership. And further, that this has resulted in serious disparate hiring practices on the waterfront.

28. The Special Report highlights the lack of diversity in waterfront employment and

lower pay for minorities. In short, it found that the local membership of the ILA was disproportionately comprised of white males, and was not representative of the demographics in the cities where commercial Port activity occurs.

29. The Commission determined that the hiring procedures set forth in the industry's collective bargaining agreements promote the very same deleterious conditions the Waterfront Compact was designed to address (*e.g.*, the lack of a systematic method of hiring, irregularity of employment, the lack of adequate information as to the availability of employment, and the selection of employees by those who are neither responsive nor responsible to the employers).

30. The Commission's efforts to combat these continued discriminatory practices in the Port have not been well received by some in the industry. For example, on September 9, 2013, under its authority granted by Section 5-p of the Waterfront Compact, the Commission amended its Rules and Regulations to require employers in the industry to submit a certification that the persons they are hiring have been selected in a fair and non-discriminatory basis, in accordance with state and federal equal employment opportunity laws. This was followed by a Determination issued on December 3, 2013, pursuant to which the Commission agreed to increase the size of the register of longshore workers so long as a representative of the board administering the hiring plan under the collective bargaining agreement between the New York Shipping Association, Inc. (the "NYSA")¹ and the ILA certified that each individual added had been selected in a fair and non-discriminatory manner.

31. Rather than cooperate, the ILA, NYSA and another entity, the Metropolitan

¹ The NYSA is a membership organization that purportedly represents marine terminal operators, stevedoring companies, and vessel operators engaged in international trade and commerce in the Port.

Marine Maintenance Contractors Association, Inc. (“MMMCA”)², filed suit, arguing that the Commission’s actions exceeded its authority. They not only challenged the new regulation, but also sought to eradicate Section 5-p, which empowers the Commission to safeguard fair and nondiscriminatory hiring in the Port. The United States District Court for the District of New Jersey dismissed the complaint in August 2014. *See N.Y. Shipping Ass’n, Inc. v. Waterfront Comm’n of N.Y. Harbor*, 2014 WL 4271630 (D.N.J. Aug. 27, 2014). The Third Circuit Court of Appeals affirmed, holding that the Waterfront Compact’s provisions were constitutional and the Commission was acting within its authority when it required employers to certify that their hiring practices were fair and non-discriminatory. *See N.Y. Shipping Ass’n, Inc. v. Waterfront Comm’n of N.Y. Harbor*, 835 F.3d 344 (3rd Cir. 2016).

32. Left without any further legal recourse, the NYSA and ILA vigorously lobbied in support of the New Jersey Law, which removes the ability of the Waterfront Commission to take preemptive or corrective action to combat discriminatory hiring.

iii. The Commission’s Efforts to Enhance Port Efficiency and Productivity

33. The Commission’s public hearings also revealed that the hiring, training and promotion practices of the industry have led to “no-show” or “no-work” or “low work” positions (referred to as “special deals” or “special packages”), which cost the Port operators more than \$100 million annually. These arrangements directly impact the competitiveness of the Port and ultimately lead to more expensive goods for consumers in both New York and New Jersey.

34. The Commission has investigated these practices in the industry and exposed hundreds of special deals for individuals connected to organized crime or to ILA leadership.

² The MMMCA is the membership organization that represents maintenance contractor employers in the Port.

35. The Commission has utilized its statutory powers to protect the industry against an overabundance of labor and, as set forth above, has investigated and assisted in the prosecution and conviction of individuals who have fraudulently collected salaries for work that they have not performed.

C. The Waterfront Compact Does Not Permit New Jersey to Unilaterally Withdraw — or Make Any Changes to the Waterfront Compact

36. Unlike many other interstate compacts, there is no provision in the Waterfront Compact that permits a member state to withdraw unilaterally.

37. The Waterfront Compact states that amendment may be made only by legislation approved by the legislatures of both states:

Amendments and supplements to this compact to implement the purposes thereof may be adopted by the action of the Legislature of either State concurred in by the Legislature of the other.

N.Y. Unconsol. Law § 9870; N.J.S.A. § 32:23-70. In fact, pursuant to Article XVI of the Compact, New York and New Jersey have amended the Waterfront Compact several times.

38. In approving the Waterfront Compact, Congress reserved for itself “the right to alter, amend, or repeal this Act.” 67 Stat. at 557.

39. Governor Christie has repeatedly acknowledged that, absent agreement between the states, changes to the Waterfront Compact made by one state are not effective. Indeed, in May of 2015, he acknowledged that a previous amendment to the Waterfront Compact passed by New Jersey, P.L. 2007, c.167, is ineffective because it “. . . has not been enacted by the State of New York and therefore, is not binding on the Waterfront Commission.” Likewise, in August 2017, when advising the Waterfront Commission of newly enacted legislation that would allow the governors of New York or New Jersey to veto actions taken by the Commission, Governor Christie wrote: “the measure I signed into law today will take effect upon the enactment of a

similar law by the State of New York.” To date, New York has not passed any corresponding legislation as required to modify the Compact, so that New Jersey law has not gone into effect.

40. In 2015, both houses of the New Jersey legislature passed Senate Bill 2277, a bill virtually identical to the New Jersey Law, which provided for New Jersey’s withdrawal from the Waterfront Compact and dissolution of the Commission.

41. While that bill was being considered, the New Jersey Office of Legislative Services concluded that “United States Supreme Court and lower federal court opinions appear to suggest that state action unilaterally nullifying a congressionally approved interstate compact raises issues regarding both the Supremacy Clause and the Contract Clause of the United States Constitution.”

42. On May 4, 2015, Governor Christie vetoed Senate Bill 2277, stating, as noted above, that “I am advised that federal law does not permit one state to unilaterally withdraw from a bi-state compact approved by Congress.” Governor Christie’s veto message was attested to, and signed by, Christopher Porrino, who was then Chief Counsel to Governor Christie and who, at the time Governor Christie signed the New Jersey Law, was the Attorney General for the State of New Jersey.

D. The New Jersey Law Unconstitutionally Seeks to Withdraw New Jersey from the Compact, Dissolve the Commission, and Abandon Important Anti-Corruption Tools.

43. The New Jersey Law was approved by the New Jersey Assembly on January 8, 2017 and by the New Jersey Senate on December 7, 2017. On January 15, 2018, Governor Christie signed the bill into law. Among other things, the New Jersey Law :

- a. directs the Governor, within 30 days of the Law’s signing, to notify New York, the Commission, and Congress that New Jersey will withdraw from the Waterfront Compact;

- b. dissolves the Commission and the Waterfront Compact 90 days after Governor provides the requisite notice;
- c. transfers the Commission’s powers over the New Jersey side of the Port to the New Jersey State Police;
- d. orders the Commission to cooperate in the transfer of such powers to the New Jersey State Police;
- e. orders the transfer of the Commission’s funds “applicable to [New Jersey]”;
- f. abandons the debts, liabilities, and contracts of the Commission unless they relate solely to New Jersey;
- g. removes certain provisions of the Waterfront Compact, such as (i) Section 5-p, which allows the Commission to regulate the register of available labor as well as to ensure that hiring is made in a fair and nondiscriminatory manner; and (ii) Section 8 (N.Y. Unconsol. Law § 9933; N.J.S.A. § 32:23-80), which allows the Commission to remove union officials convicted of a felony;
- h. changes the definition of “waterborne freight” so that the New Jersey State Police will not have jurisdiction (which the Commission currently has) over warehouses that perform services incidental to the handling of waterborne freight if those warehouses are not situated immediately within the marine terminal;
- i. permits the New Jersey State Police to hire Commission employees away from the Commission; and

- j. permits the New Jersey State Police to rescind any regulations promulgated by the Commission.

44. Under the Supremacy Clause of the United States Constitution, the “Laws of the United States” are “the supreme Law of the Land . . . , any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI, cl. 2. Once Congress approved the Compact between New York and New Jersey, it became a “law of the United States” *Texas*, 482 U.S. at 128. Because the Waterfront Compact is a federal law, any attempt by New Jersey to unilaterally modify or withdraw from it is invalid under the Supremacy Clause. *See Ne. Bancorp, Inc.*, 472 U.S. at 175.

E. The New Jersey Law Will Cause Severe Harm to the Commission and to New York State

45. The Commission, the persons and professions it was created to protect and regulate, and the State of New York, the Port, and the general public will be severely harmed if New Jersey is allowed to unilaterally withdraw from the Waterfront Compact.

46. The primary purpose of the New Jersey Law is to dissolve the bi-state Commission 90 days after the Governor issues a notice to that effect. Accordingly, not only will the bi-state Commission be harmed if New Jersey is allowed to take such an illegal step, the Commission will cease to exist.

47. Even if the Governor’s actions do not actually dissolve the Commission, those actions and the New Jersey Law will cripple the Commission and leave it unable to carry out the mandate given to it under the Waterfront Compact and under New York law.

48. For example, the New Jersey Law would take away the Commission’s primary revenue stream. As discussed above, the Commission is not funded with tax dollars, and its budget derives entirely from the assessments that it collects from Port employers. Inasmuch as

the vast majority of commercial Port operations occurs on the New Jersey side, the New Jersey Law – which purports to remove the Commission’s authority to assess fees on New Jersey employers – will virtually eliminate the Commission’s budget.

49. The New Jersey Law’s intention to significantly decrease the funding to which the Commission will have access will also prevent the Commission from meeting its current financial obligations. For example, Governor Christie’s office provided written approval for the Commission to enter into a ten year lease for its headquarters in Manhattan. The New Jersey Law and the Governor’s actions in implementing and enforcing it will cause the Commission to default on its obligations under the lease.

50. The New Jersey Law and the Governor’s actions in implementing and enforcing it will prevent the Commission from undertaking the important investigations and background checks it is required under New York law to do. This will cause increases in corrupt hiring practices, poor working conditions for employees on both sides of the Port, and organized crime and labor racketeering in the Port.

51. The New Jersey Law purports to divide between New York and New Jersey the authority to ensure fair hiring and employment practices and to investigate, deter, and combat criminal activity on both sides of the Port. Doing so will cause confusion, inefficiencies, and harm to the citizens of both New York and New Jersey because the Port is a unified whole, with workers, companies, and freight operating in, and moving through, both states. Many of the criminal organizations that continue to operate and seek to exert influence in the Port do so on both sides of the Port. Without a single entity authorized to oversee activity in both states, regulation of Port activity will suffer in terms of both efficiency (as a result of duplicative regulatory work by the two bodies) and effectiveness (due to jurisdictional constraints on

investigations).

52. The division of oversight of the Port between two bodies will also harm dock workers in both New York and New Jersey in numerous ways. As noted above, terminal operators conduct business on both sides of the Port and longshore workers who are backgrounded and registered to work Port-wide move back and forth between the two states according to where they are needed, with allocation occurring through a centralized system. The current system – in which Port employers hire from a pool of all eligible workers – would be unworkable if the two states maintained different eligibility requirements. Two agencies would have to perform two sets of background checks on the same individual or company. And what one agency considers acceptable, the other may not. Establishing two separate regulatory frameworks will result in major bureaucratic hurdles for these individuals by creating different rules for background checks, who can work, and how work is assigned.

53. Moreover, the New Jersey Law eliminates Section 5-p, which is the Commission's primary tool for ensuring fair and nondiscriminatory hiring practices, and for preventing extortion of Port workers. Eliminating this provision will result in a flooding of the labor supply, and the reemergence of extortion and other unfair and discriminatory hiring practices for workers in the Port.

54. New Jersey's removal of Section 5-p and the opening of the longshore worker's register in New Jersey will also harm New York citizens who are currently employed as longshore workers on both sides of the Port. There are approximately seven hundred New York citizens who work on the New York side of the Port. They primarily work at the Global Container Terminal in Staten Island, the Red Hook Container Terminal in Brooklyn, and the Manhattan and Brooklyn cruise ship terminals. However, there often is not enough work at these

terminals to keep them fully employed year-round. Accordingly, these New Yorkers supplement their incomes by also working on the New Jersey side of the Port. If New Jersey creates its own longshore workers' register and does not place a cap (similar to the Waterfront Compact's Section 5-p) on those eligible to work on the New Jersey side of the Port, it will make it impossible for New York's Port workers to find supplemental work in New Jersey.

55. In addition to harming Port workers, New Jersey's removal of Section 5-p will also harm the New York longshore industry and cruise ship terminals. By restricting the ability of workers to move back and forth between the two states, the New Jersey Law will cause many New York citizens who work in the Port to either leave for steadier employment in New Jersey, or to abandon the profession altogether as a result of the diminished earning opportunities. Either way, New York's container and cruise ship terminals will be forced to rely on untrained and inexperienced workers.

COUNT I – DECLARATORY JUDGMENT

56. The Commission repeats and realleges the allegations in the preceding paragraphs as if fully set forth herein.

57. The New Jersey Law seeks to nullify the Waterfront Compact in violation of the Supremacy Clause of the United States Constitution and the express terms of the Waterfront Compact, which is a federal law.

58. The Commission will be harmed if the Governor enforces the unconstitutional New Jersey Law.

59. By reason of the foregoing, the Commission is entitled to a judgment declaring that the New Jersey Law is invalid, void, and preempted by the Waterfront Compact.

60. The Commission is likewise entitled to an injunction blocking the Governor from enforcing the illegal law. Absent such relief, the Commission will suffer irreparable harm from

its destruction and attendant inability to exercise rights secured to it by federal law.

REQUEST FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court enter a judgment:

- A. Declaring that New Jersey Law is invalid, void, and without force and effect;
- B. Preliminarily and permanently enjoining the Governor from implementing or enforcing New Jersey Law.
- C. Awarding the Commission such other and further relief as the Court may deem just and proper.

CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2

Pursuant to Local Civil Rule 11.2, the undersigned hereby certifies that the matter in controversy in this action is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Dated: January 16, 2018

Respectfully submitted,

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** Pro hac vice application filed concurrently*

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