

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

CEMEX, INC.

and

**Cases 28-CA-22165
28-CA-22169
28-CA-22220
28-CA-22313
28-CA-22409
28-CA-22534
28-CA-22699
28-CA-22711
28-CA-22726
28-CA-22967**

**GENERAL TEAMSTERS (EXCLUDING
MAILERS), STATE OF ARIZONA,
LOCAL UNION NO. 104, AN AFFILIATE
OF THE INTERNATIONAL BROTHERHOOD
OF TEAMSTERS**

CEMEX, INC.

and

**Cases 28-CA-22267
28-CA-22419
28-CA-22823
28-CA-22894**

**INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 428, AFL-CIO**

SUPPLEMENTAL NOTICE OF ADMINISTRATIVE LAW JUDGE'S ORDER

On September 14, 2010, the undersigned Counsel for the Acting General Counsel (General Counsel) filed with the Board a Notice of Administrative Law Judge's Order Modifying Prior Order Granting Respondent's Motion for Protective Order (Notice), along with a copy of the Administrative Law Judge's Modified Protective Order, dated September 13, 2010 (Protective Order). In footnote 3 of the Notice, the General Counsel asserted that the last

sentence of paragraph 7 of the Protective Order applied to Exhibits admitted into evidence in this matter containing confidential information, requiring the return of such Exhibits to Respondent's counsel. On September 15, 2010, the Administrative Law Judge entered an Amended Protective Order, attached as Exhibit A, addressing certain issues raised by the General Counsel.

Furthermore, after the Notice was filed, the Administrative Law Judge clarified that the General Counsel misconstrued the Protective Order, and that the last sentence of paragraph 7 of the Protective Order does not apply to Exhibits admitted into evidence in this matter, and does not require the General Counsel to return any such Exhibits to Respondent's Counsel.¹

Dated at Phoenix, Arizona this 15th day of September 2010.

Respectfully submitted,

/s/John T. Giannopoulos
John T. Giannopoulos
Chris J. Doyle
Mary G. Davidson
Counsel for the Acting General Counsel
National Labor Relations Board
Region 28
2600 North Central Avenue, Suite 1800
Phoenix, AZ 85004-3099
Telephone: (602) 640-2198
Facsimile: (602) 640-2178

¹ The General Counsel maintains his objection to any order requiring the return of non-exhibit confidential documents at any time prior to the close of these proceedings, and any related compliance proceedings in these matters. Moreover, the General Counsel also maintains his objections regarding any restrictions to the Charging Party's ability to view documents and assist in the preparation of the General Counsel's case. See Counsel for the Acting General Counsel's Special Appeal dated August 16, 2010.

CERTIFICATE OF SERVICE

I hereby certify that a copy of SUPPLEMENTAL NOTICE OF ADMINISTRATIVE LAW JUDGE'S ORDER in CEMEX, INC., Cases 28-CA-22165 et al., was served by E-Gov, E-Filing, and e-mail on this 15th day of September 2010, on the following:

Via E-Gov, E-Filing:

Lester A. Heltzer, Executive Secretary
Office of the Executive Secretary
National Labor Relations Board
1099 14th Street, NW, Room 11602
Washington, DC 20570-0001

Via E-Mail:

Steven D. Wheelless, Attorney at Law
Elizabeth Townsend, Attorney at Law
Steptoe & Johnson, LLP
Collier Center
201 East Washington Street
Phoenix, AZ 85004
E-mail: SWheelless@steptoe.com
etownsend@steptoe.com

Elizabeth Rosenfeld, Attorney at Law
Wohlner, Kaplon, Phillips, Young & Cutler, PC
16501 Ventura Boulevard, Suite 304
Encino, CA 91438
E-mail: rosenfeld@wkpypc.com

Michael J. Keenan, Attorney at Law
Ward, Keenan and Barrett, PC
3838 North Central Avenue, Suite 1720
Phoenix, AZ 85012
E-mail: mkeenan@wardkeenanbarrett.com

/s/John T. Giannopoulos
John T. Giannopoulos, John.Giannopoulos@nlrb.gov
Chris J. Doyle, Christopher.Doyle@nlrb.gov
Mary G. Davidson, Mary.Davidson@nlrb.gov
Counsel for the Acting General Counsel
National Labor Relations Board
Region 28
2600 North Central Avenue, Suite 1800
Phoenix, AZ 85004-3099
Telephone: (602) 640-2198
Facsimile: (602) 640-2178

Exhibit A

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES – SAN FRANCISCO BRANCH**

CEMEX, INC.

and

**Cases 28-CA-22165
28-CA-22169
28-CA-22220
28-CA-22313
28-CA-22409
28-CA-22534
28-CA-22699
28-CA-22711
28-CA-22726
28-CA-22967**

**GENERAL TEAMSTERS (EXCLUDING
MAILERS), STATE OF ARIZONA,
LOCAL UNION NO. 104, AN AFFILIATE
OF THE INTERNATIONAL BROTHERHOOD
OF TEAMSTERS**

CEMEX, INC.

and

**Cases 28-CA-22267
28-CA-22419
28-CA-22823
28-CA-22894**

**INTERNATIONAL UNION OF OPERATING
ENGINEERS LOCAL 428, AFL-CIO**

AMENDED PROTECTIVE ORDER

The undersigned Administrative Law Judge Amends the Protective Order issued September 13, 2010, by deleting the “~~strikethrough~~” provisions and adding the underlined provision, as further set forth below.

The undersigned Administrative Law Judge finds that, for good cause shown, a Protective Order should issue to protect and control the production and use of Respondent's confidential and commercially-sensitive information throughout and after the completion of this

action. Accordingly, the Counsel for General Counsel, its staff, the parties, their representatives, attorneys, and agents, witnesses, and observers shall comply with the following:

1. Confidential information produced by Respondent shall be secured and maintained by Counsel for General Counsel in a manner so as to avoid disclosure or dissemination of its contents to any person not identified in this Order or in a manner not specifically authorized by this Order.
2. To control the significant potential for damaging disclosure or dissemination of Respondent's Confidential Information by the adverse Charging Parties, only Respondent, witnesses (if necessary), ~~the Counsel for General Counsel~~, the Charging Parties' counsel-of-record, and a single, non-attorney Charging Party representative designated by each of the Charging Parties' counsel-of-record may see or use Confidential Information, and only in the Hearing Room or the Counsel for the General Counsel's offices, and only to prepare to examine witnesses, to prepare aides for witness examination, to create possible documentary evidence, to examine/cross-examine witnesses, or to draft post-hearing or appellate briefs. Witnesses, ~~the Counsel for General Counsel~~, Charging Party attorneys, and their designated representatives shall not otherwise attempt to make copies, notes, or record Confidential Information, and shall not remove, use, or disclose Confidential Information for any purpose outside the Hearing Room or Counsel for General Counsel offices. The undersigned ALJ will instruct witnesses regarding this Order at the time they are shown Confidential Information.
3. Notwithstanding the foregoing, with regard to any Confidential Information that may involve profit and loss information, such Confidential Information shall be viewed or used during and after the Hearing only by witnesses (if necessary), Respondent, the Counsel for the General Counsel, and counsel-of-record for each of the Charging Parties. Likewise, if it becomes necessary for Counsel for the General Counsel or counsel-of-record for either of the

Charging Parties to view job ticket records described in paragraphs 21 (a)-(d), 33-35, 380r 39 of the subpoenas duces tecum, said documents shall be made available by Respondent at its facilities for viewing and secured copying only by said attorneys, if desired.

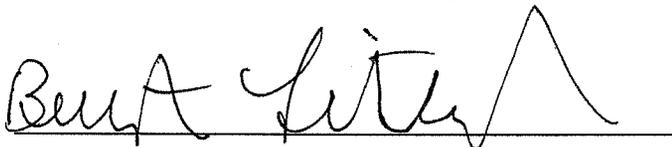
4. Respondent shall only produce one copy of the Confidential Information, if required, by an un-revoked or modified subpoena, excepting that Respondent need only make Job Tickets available for viewing on-site due to their voluminous nature.

5. Members of the public and all those not specifically allowed access to Confidential Information under this Order shall be excluded from the hearing at times when the Confidential Information is discussed.

6. Respondent may move to place any Confidential Information (either documents or testimony) under seal at the time offered at trial.

7. This Order shall continue to be binding throughout and after the final disposition of this action. All Confidential Information shall be used only for the prosecution and/or defense of this action. Within fifteen days (15) after receiving notice of a ruling by the undersigned, Counsel for General Counsel shall return all Confidential Information (including all copies, summaries, and excerpts) to Respondent's Counsel, except Confidential Information Exhibits admitted by the undersigned into evidence in this matter, which shall be returned to CEMEX's counsel within fifteen (15) days after the exhaustion of all appeals, if any.

Ordered this 15th day of Sept., 2010

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

Administrative Law Judge Burton Litvack