

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

CAPITAL IRON WORKS COMPANY

and

Case 17-CA-24499

BOILERMAKERS LOCAL LODGE 83,  
affiliated with INTERNATIONAL BROTHERHOOD  
OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS,  
FORGERS & HELPERS, AFL-CIO

**MOTION TO TRANSFER PROCEEDING TO BOARD  
AND FOR DEFAULT JUDGMENT**

Counsel for the General Counsel, pursuant to the provisions of Section 102.56 of the Rules and Regulations of the National Labor Relations Board, Series 8, as amended, files this Motion requesting that the National Labor Relations Board (Board) issue an Order transferring Case 17-CA-24499 to the Board, and, further moves that the Board issue an Order Granting Default Judgment sustaining all the allegations of the Compliance Specification issued herein. In support of this Motion, Counsel for the General Counsel states as follows:

1. On August 26, 2010, the Board issued a Decision and Order reported at 355 NLRB No. 138 (August 26, 2010), adopting its earlier findings reported at 355 NLRB No. 20 (March 15, 2010), that Capital Iron Works Company, Inc. (Respondent) violated Sections 8(a)(1) and (5) of the National Labor Relations Act, and directing Respondent to, *inter alia*, take the following actions to remedy its unfair labor practices: 1) make employees Darren Janssen, Gary King, and Christopher Ortega whole with interest, as set forth in *New Horizons for the*

*Retarded*, 283 NLRB 1173 (1987), for losses caused by Respondent's failure to grant them periodic wage increases in accordance with its collective-bargaining agreement with the Boilermaker's Local Lodge 83, affiliated with the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO (the Union); 2) make all required 401(k) contributions that were not made for hours worked by unit employees in 2008, including any additional amounts due the plan in accordance with *Merryweather Optical Co.*, 240 NLRB 1213, 1216 fn.7 (1979); and 3) make employee Kermit Schrenk whole for losses due to Respondent's failure to reimburse him for safety glasses at the monetary level specified in the collective-bargaining agreement, with interest as set forth in *New Horizons for the Retarded*, cited above. Thereafter, on October 12, 2010, the United States Court of Appeals for the Tenth Circuit, in an unreported decision, Case 10-9555, entered its judgment enforcing, in full, the provisions of the Board's Order.

2. On March 31, 2011, the Regional Director for Region 17 issued a Compliance Specification and Notice of Hearing in Case 17-CA-24499, liquidating the amounts owed by Respondent under the remedy found by the Board. The Compliance Specification and Notice of Hearing was served by certified mail on Respondent on the same date at the following addresses: 701 Southeast Adams Street, P.O. Box 2098, Topeka, Kansas 66607 (Certified Number 7009 2250 0002 6822 2128) and 5805 Sagamore Court, Lawrence, Kansas 66047 (Certified Number 7009 2250 0002 6822 2135). In the Compliance Specification paragraph titled, "Answer Requirement", Respondent was notified that pursuant to Sections 102.56 of the Board's Rules and Regulations, it was required to file an Answer to the Compliance Specification within 21 days from the date of service, and that failure to do so could result in

3. The United States Postal Service's "Track and Confirm" system confirms delivery of the Compliance Specification to Respondent at the Topeka, Kansas address on April 12, 2011, at 3:45 p.m. and the Lawrence, Kansas address on April 1, 2011, at 11:36 a.m..
4. By letter dated April 22, 2011, sent by regular mail to 701 Southeast Adams Street, P.O. Box 2098, Topeka, Kansas 66607 and 5805 Sagamore Court, Lawrence, Kansas 66047, Counsel for the General Counsel Mary G. Taves advised Respondent that an Answer had not been filed in response to the Compliance Specification, and further informed Respondent that Counsel for the General Counsel would file a Motion for Default Judgment with the Board unless Respondent filed an Answer to the Complaint by the close of business on May 6, 2011. Counsel for the General Counsel Taves' letter was not returned by the United States Postal Service.
5. On May 10, 2011, in a telephone conversation with Counsel for the General Counsel Taves, Respondent's registered agent Michael Buckner confirmed that Respondent had received the letter described above in paragraph 4. In a May 11, 2011 e-mail to Mr. Buckner from Counsel for the General Counsel Taves, Ms. Taves confirmed that the Region would file a Motion for Default Judgment on May 12, 2011 unless an Answer to the Compliance Specification was received.
6. To date, Respondent has not filed an Answer to the Compliance Specification.
7. Attached hereto and made a part of this Motion are the following documents, which are marked and described as follows:
  - a) G.C. Ex. A – Compliance Specification and Notice of Hearing, Case 17-CA-24499, dated March 31, 2011, signed by Daniel L. Hubbel, Regional Director.

- h) G.C. Ex. B – Affidavit of Service of Compliance Specification And Notice of Hearing, showing a date of mailing of March 31, 2011.
- i) G.C. Ex. C – Copy of the United States Postal Service’s “Track and Confirm” online results showing certified mailing results of the Compliance Specification to each of Respondent’s addresses – Topeka, KS/Certified Number 7009 2250 0002 6822 2128; Lawrence, KS/ Certified Number 7009 2250 0002 6822 2135.
- j) G.C. Ex. D – Counsel for the General Counsel Taves’ letter to Respondent, dated April 22, 2011.

8. Counsel for the General Counsel submits that an Order Granting Default Judgment is fully warranted and necessary in order to effectuate the purposes of the Act and to avoid unnecessary costs and delay. Respondent’s failure to file an Answer to the Compliance Specification warrants a finding that Respondent admits the allegations of the Compliance Specification and Notice of Hearing, and further that Respondent should be precluded from adducing evidence seeking to controvert the Compliance Specification’s allegations. Accordingly, Counsel for the General Counsel requests that the Board issue an Order Transferring this Proceeding to the Board, and an Order Granting Default Judgment on the allegations in the Compliance Specification and Notice of Hearing as a remedy for Respondent’s unfair labor practices.

Date: May 12, 2011

Respectfully submitted,



/s/ Mary G. Taves  
Mary G. Taves  
Counsel for the General Counsel  
National Labor Relations Board, Region 17  
8600 Farley, Suite 100  
Overland Park, Kansas 66212-4677

**STATEMENT OF SERVICE**

I hereby certify that I have this date served copies of the General Counsel's foregoing Motion To Transfer Proceeding To Board and for Default Judgment on all parties listed below by electronically filing with the Executive Secretary of the National Labor Relations Board, and by electronic email to Counsel for Charging Party. Respondent was served by overnight delivery service.

Dated: May 12, 2011

/s/ Mary G. Taves

Mary G. Taves

Counsel for General Counsel

**PARTIES RECEIVING ELECTRONIC MAIL:**

Ms. Angela M. Atkinson, Attorney  
Blake & Uhlig, P.A.  
475 New Brotherhood Bldg  
753 State Ave  
Kansas City, KS 66101  
ama@blake-uhlig.com

**PARTIES RECEIVING BY OVERNIGHT MAIL:**

Mr. Mike Buckner  
Capital Iron Works Company  
701 Southeast Adams Street  
P.O. Box 2098  
Topeka, KS 66607

Respondent  
Overnight Delivery No.  
1ZA40E260191993154

Mr. Mike Buckner, Registered Agent  
Capital Iron Works Company  
5805 Sagamore Court  
Lawrence, KS 66047

Respondent  
Overnight Delivery No.  
1ZA40E260190236965

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 17**

**CAPITAL IRON WORKS COMPANY, INC.**

**And**

**Case 17-CA-024499**

**BOILERMAKERS LOCAL LODGE 83, affiliated  
With INTERNATIONAL BROTHERHOOD OF  
BOILERMAKERS, IRON SHIP BUILDERS,  
BLACKSMITHS, FORGERS & HELPERS, AFL-CIO**

**COMPLIANCE SPECIFICATION AND NOTICE OF HEARING**

The National Labor Relations Board (the Board), on August 26, 2010, issued a Decision and Order reported at 355 NLRB No. 138 (2010), finding that Capital Iron Works Company, Inc. (Respondent) violated Sections 8(a)(1) and (5) of the National Labor Relations Act, and directing Respondent to, *inter alia*, take the following actions to remedy its unfair labor practices: 1) make employees Darren Janssen, Gary King, and Christopher Ortega whole with interest, as set forth in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), for losses caused by Respondent's failure to grant them periodic wage increases in accordance with its collective-bargaining agreement (CBA) with the Boilermaker's Local Lodge 83, affiliated with the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO (the Union); 2) make all required 401(k) contributions that were not made for hours worked by unit employees in 2008, including any additional amounts due the plan in accordance with *Merryweather Optical Co.*, 240 NLRB 1213, 1216 fn.7 (1979); and 3) make employee Kermit Schrenk whole for losses due to Respondent's failure to reimburse him for safety glasses at the monetary level specified in the CBA, with interest as set forth in *New Horizons for the Retarded*, cited above. Thereafter, on October 12, 2010, the United States Court of Appeals for the Tenth Circuit, in an unreported decision, Case 10-

9555, entered its judgment enforcing, in full, the provisions of the Board's Order.

Because a controversy exists regarding the amount of backpay and other remedial monies due under the terms of the enforced Board Order, as well as the make-whole computations underlying those amounts, the Regional Director of the National Labor Relations Board for the Seventeenth Region, pursuant to the authority conferred upon him by the Board, hereby issues this Compliance Specification and Notice of Hearing and alleges as follows.

## **I.**

### **Remedy for the Respondent's Failure to Grant Periodic Wage Increases**

The parties' current CBA, which commenced on July 7, 2008, provided at Article VII and Schedule A that bargaining unit employees that were not presently enjoying the maximum wage rate for their classification, as set forth in Schedule A, were to receive a raise of \$0.50 per hour every ninety (90) days, beginning with the commencement of the CBA on July 7, 2008.

For unit employees Darren Janssen, Gary King, and Christopher Ortega, Respondent failed to fully implement the contractual hourly increases. Instead of increasing Janssen, King and Ortega's wage rates by the contractually required \$0.50 per hour, increases were on the order of \$0.25 per hour. Moreover, in some instances, Respondent failed to grant raises altogether. As detailed specifically for each discriminatee below, an accurate and appropriate assessment of the net backpay due for each quarter is to multiply the arrearage in hourly earnings by the relevant amount of quarterly hours worked.

On October 29, 2010, the Region subpoenaed payroll records to assist in determining the backpay due. Respondent did not respond to the Region's subpoena and failed and refused to provide payroll records, as such, a 40 hour work week, or a 540 hour work quarter, was presumed.

#### **(a) Darren Janssen**

**(i)** Janssen's backpay period runs from July 7, 2008 (the beginning effective date of

the CBA) to May 20, 2009 (the date Janssen was laid off).

(ii) Janssen was employed as a certified welder. At the commencement of the CBA Janssen was earning approximately \$12.75 per hour. Under Schedule A of the CBA, the maximum wage rate for certified welders was \$16.44. Under the CBA, Janssen had not reached the maximum wage rate for his classification, and as such, pursuant to Schedule A of the CBA was due raises in the amount of \$0.50 per hour every 90 days.

(iii) Net backpay for Janssen was calculated by multiplying the arrearage in hourly earnings for each applicable quarter by the amount of quarterly hours worked by Janssen, which was presumed to be on the order of 540 hours per quarter for the reasons previously identified. Instead of receiving the \$0.50 per hour contractual raises for the fourth quarter of 2008 and first quarter of 2009, Janssen instead received a \$0.25 per hour raise per quarter. Prior to his layoff on May 20, 2009, Janssen received no contractual raise during the second quarter of 2009.

(iv) Attached **Appendix A** shows the net backpay owed to Janssen in connection with the Respondent's failure to grant periodic wage increases, which is \$662.00

**(b) Gary King**

(i) King's backpay period runs from July 7, 2008 (the beginning effective date of the CBA) to April 20, 2009 (the date King was laid off).

(ii) King was employed as a certified welder. At the commencement of the CBA King was earning approximately \$13.05. Under Schedule A of the CBA, the maximum wage rate for certified welders was \$16.44. Under the CBA, King had not reached the maximum wage rate in his classification, and as such, pursuant to Schedule A of the CBA was due raises in the amount of \$0.50 per hour every 90 days.

(iii) Net backpay for King was calculated by multiplying the arrearage in hourly earnings for each applicable quarter by the amount of quarterly hours worked by King, which was

presumed to be on the order of 540 hours per quarter for the reasons previously identified.

Instead of receiving the \$0.50 per hour contractual raises for the fourth quarter of 2008 and the first and second quarter of 2009, King instead received a \$0.25 per hour raise each quarter.

(iv) Attached **Appendix B** shows the net backpay owed to King in connection with the Respondent's failure to grant periodic wage increases, which is \$462.00

**(c) Christopher Ortega**

(i) Ortega's backpay period runs from July 7, 2008 (the beginning effective date of the CBA) to November 15, 2008 (the date Ortega was laid off). In testimony, Ortega was unable to pinpoint the date of his layoff, other than to identify that he was laid off in November of 2008. Because Respondent failed to provide payroll records to establish Ortega's actual layoff date, the Region used the mid-month average of November 15, 2008.

(ii) Ortega was employed as a Machine Operator. At the commencement of the CBA Ortega was earning approximately \$13.49. Under Schedule A of the CBA, the maximum wage rate for Machine Operators was \$16.27 per hour. Under the CBA, Ortega had not reached the maximum wage rate in his classification, and as such, pursuant to Schedule A of the CBA was due raises in the amount of \$0.50 per hour every 90 days.

(iii) Net backpay for Ortega was calculated by multiplying the arrearage in hourly earnings for each applicable quarter by the amount of quarterly hours worked by Ortega, which was presumed to be on the order of 540 hours per quarter for the reasons previously identified. Instead of receiving the \$0.50 per hour contractual raise for the fourth quarter of 2008 Ortega instead received a \$0.25 per hour raise for the fourth quarter of 2008.

(iv) Attached **Appendix C** shows the net backpay owed to Ortega in connection with the Respondent's failure to grant periodic wage increases, which is \$64.00.

## II.

### **Remedy for the Respondent's Failure to Make 401(k) Contributions in 2008**

(a) The parties' collective bargaining agreement effective by its terms from July 1, 2005 to June 30, 2008, and the successor agreement that commenced on July 7, 2008, provided at Article XVIII that the Respondent would contribute eight percent (8%) of each employee's gross earnings into a 401(k) account.

(b) Pursuant to the Board's Order, as enforced, unit employees were entitled to contributions by Respondent into their contractual 401(k) accounts in the amount of 8% of their gross earnings for calendar year 2008. There are twenty-one unit employees entitled to contractual 401(k) contributions based on their gross earnings in calendar year 2008. The gross earnings for the twenty-one unit employees were determined using the payroll records obtained from Respondent's third party payroll service.

(c) In addition to the amounts that the Respondent should have contributed for each unit employee, the discriminatees are entitled to any earnings on these amounts. An appropriate measure of these earnings is an average of each underlying fund's three (3) year annualized return, which is set forth in **Appendix D**.

(d) 401(k) contributions and the earnings on those amounts were calculated by multiplying the average earnings, as described above in paragraph II(c), by eight percent (8%) of each unit employee's gross earnings in 2008. These amounts are summarized in **Appendix E**.

## III.

### **Remedy for the Respondent's Failure to Make Kermit Schrenk Whole**

Schedule A of the CBA requires that Respondent reimburse employees up to \$175.00 for bifocal safety glasses. In or about February 2009, unit employee Kermit Schrenk purchased bifocal safety glasses at a cost of \$175.00. Respondent was billed for the \$175.00 bifocal safety glasses by

the provider. Instead of paying the contractually required amount of \$175.00, Respondent only paid \$125.00 to the provider, requiring Schrenk to pay \$50.00 for the safety bifocal glasses.

Accordingly, Schrenk is due \$50.00, as shown in **Appendix F**.

#### **IV.**

As outlined above in paragraph I, Respondent failed to provide the Region with payroll records to assist the Region in determining gross backpay owed to employees, even when served with subpoenas seeking such information. As such, the undersigned Regional Director, on behalf of the Acting General Counsel, seeks an order precluding Respondent from introducing previously demanded records in an effort to contest gross backpay.

#### **V.**

#### **Summary**

Summarizing the facts and calculations specified above, and in the Appendices, the obligation of the Respondent to make whole the above employees under the terms of the Board's enforced Order will be discharged by payment to them of the amounts set forth opposite their respective names, as summarized in **Appendix G**, in the overall amount of \$30,106.10, plus interest accrued to the date of payment, minus the tax withholdings required by Federal and State laws.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Section 102.56 of the Board's Rules and Regulations, it must file an answer to the compliance specification. **The answer must be received by this office on or before April 21, 2011, or postmarked on or before April 20, 2011.** Unless filed electronically in a pdf format, Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties. An answer may also be filed electronically by using the E-Filing system on the Agency's website. In order to file an answer electronically, access the Agency's website at

<http://www.nlr.gov>, click on **E-Gov**, then click on the **E-Filing** link on the pull-down menu.

Click on the “File Documents” button under “Regional, Subregional and Resident Offices” and then follow the directions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency’s website informs users that the Agency’s E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency’s website was off-line or unavailable for some other reason. The Board’s Rules and Regulations require that such answer be signed and sworn to by Respondent or by a duly authorized agent with appropriate power of attorney affixed. See Section 102.56(a). If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a compliance specification is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must be accomplished in conformance with the requirements of Section 102.114 of the Board’s Rules and Regulations. The answer may not be filed by facsimile transmission.

As to all matters set forth in the compliance specification that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of gross back pay, a general denial is not sufficient. See Section 102.56(b) of the Board’s Rules and Regulations, a copy of which is attached. Rather, the answer must state the basis for any disagreement with any allegations that are within Respondent’s knowledge, and set forth in detail

Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

If no answer is filed or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the compliance specification are true. If the answer fails to deny allegations of the compliance specification in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the compliance specification are true and preclude Respondent from introducing any evidence controverting those allegations.

**NOTICE OF HEARING**

**PLEASE TAKE NOTICE that on June 21, 2010 at 9:00 a.m. (CT) in the Sharon K. Evans Hearing Room, National Labor Relations Board, 8600 Farley Street, Suite 100, Overland Park, Kansas,** and on consecutive days thereafter, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Compliance Specification. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Overland Park, Kansas, this **31<sup>st</sup>** day of March 2011.

**/s/ Daniel L. Hubbel**

Daniel L. Hubbel, Regional Director  
National Labor Relations Board  
Seventeenth Region  
8600 Farley, Suite 100  
Overland Park, Kansas 66212-4677

## Appendix A

### BACKPAY CALCULATION

**CASE NAME:** Capital Iron Works Company, Inc.  
**CASE NUMBER:** 17-CA-24499  
**CLAIMANT:** Darren Janssen      **BACKPAY PERIOD:** 7/7/08 to 5/20/09

Year	Qtr.	Gross Backpay	Interim Earnings	Interim Expenses	Net Interim Earnings	Net Backpay	Medical / Other	Total Backpay
2008	3rd	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2008	4th	130.00	/1	0.00	0.00	130.00	0.00	130.00
2009	1st	260.00	/2	0.00	0.00	260.00	0.00	260.00
2009	2nd	272.00	/3	0.00	0.00	272.00	0.00	272.00
Totals:						<b><u>662.00</u></b>	<b><u>0.00</u></b>	<b><u>662.00</u></b>

**Notes:**

- /1 130 = .25\*520
- /2 260 = .5 \*520
- /3 272 = 1 \*272

## Appendix B

### BACKPAY CALCULATION

**CASE NAME:** Capital Iron Works Company, Inc.

**CASE NUMBER:** 17-CA-24499

**CLAIMANT:** Gary King

**BACKPAY PERIOD:** 7/7/08 to 4/20/09

Year	Qtr.	Gross Backpay	Interim Earnings	Interim Expenses	Net Interim Earnings	Net Backpay	Medical / Other	Total Backpay
2008	3rd	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2008	4th	130.00	/1	0.00	0.00	130.00	0.00	130.00
2009	1st	260.00	/2	0.00	0.00	260.00	0.00	260.00
2009	2nd	72.00	/3	0.00	0.00	72.00	0.00	72.00
Totals:						<b><u>462.00</u></b>	<b><u>0.00</u></b>	<b><u>462.00</u></b>

**Notes:**

/1 130 = .25\*520

/2 260 = .5 \*520

/3 72 = .75 \*96

## Appendix C

### BACKPAY CALCULATION

**CASE NAME:** Capital Iron Works Company, Inc.  
**CASE NUMBER:** 17-CA-24499  
**CLAIMANT:** Christopher Ortega      **BACKPAY PERIOD:** 7/7/08 to 11/15/08 /1

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Year	Qtr.	Gross Backpay	Interim Earnings	Interim Expenses	Net Interim Earnings	Net Backpay	Medical / Other	Total Backpay
2008	3rd	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2008	4th	64.00 /2	0.00	0.00	0.00	64.00	0.00	64.00
Totals:						<b><u>64.00</u></b>	<b><u>0.00</u></b>	<b><u>64.00</u></b>

**Notes:**

/1 Ortega testified that he was laid off in November 08, but failed to recall a specific date. Consequently, 11/15 was used as a reasonable approximation

/2 (64 = .25\*256)

## Appendix D

### Capital Iron Works 401(k) Performance Analysis

	<u>Fund Name</u>	<u>Ticker</u>	<u>3 yr. Annualized Return (Loss)</u>	<u>Notes</u>
1	Security Global A	SEQAX	-2.67%	
2	Security High Yield A	SIHAX	11.83%	
3	Security Large Cap Value A	SECIX	-2.11%	
4	Security Mid Cap Growth A	SECUX	4.03%	
5	Security Mid Cap Value A	SEVAX	8.15%	
6	Security Select 25 A	SEFAX	1.92%	
7	Security Small Cap Growth A	SSCAX	-0.34%	
8	Security Alpha Opportunity A	SAOAX	3.04%	
9	Security Capital Preservation A	SIPAX	0%	/1
10	Security Diversified Income A	SIUSX	1.06%	
11	Security Equity A	SECEX	-0.09%	
	<b><u>Portfolio Average</u></b>		<b><u>2.26%</u></b>	

\*All Performance information secured via Google Finance on 2/1/11

/1 Fund was apparently discontinued and performance information is not available.

## Appendix E

<u>First Name</u>	<u>Last Name</u>	<u>TOTAL 2008 (Gross Wages)</u>	<u>Total 2008 ER 401(k) Match</u>	<u>Total 2008 Return (Loss)</u>	<u>ER's Total 2008 Liability</u>
Arnulfo	Arizpe	26,066.98	2,085.36	47.13	2,132.49
William	Braumann	25,600.60	2,048.05	46.29	2,094.33
Billie	Cohee	26,326.59	2,106.13	47.60	2,153.73
Kyle	Cox	3,699.36	295.95	6.69	302.64
Brian	Dougan	2,586.63	206.93	4.68	211.61
Matthew	Duane	46,447.81	3,715.82	83.98	3,799.80
Leland	Essman	12,049.99	964.00	21.79	985.79
Robert	Garst	13,768.23	1,101.46	24.89	1,126.35
Marcus	Hayes	4,226.56	338.12	7.64	345.77
Darren	Janssen	19,955.02	1,596.40	36.08	1,632.48
Gary	King	27,147.96	2,171.84	49.08	2,220.92
Eric	Lemus	4,447.21	355.78	8.04	363.82
Jorge	Lopez, Jr.	5,883.69	470.70	10.64	481.33
Michael	Odell	29,711.41	2,376.91	53.72	2,430.63
Christopher	Ortega	17,774.51	1,421.96	32.14	1,454.10
Vence	Purdum	19,087.62	1,527.01	34.51	1,561.52
Kermit	Schrenk Jr	38,904.27	3,112.34	70.34	3,182.68
David	Siska	2,661.34	212.91	4.81	217.72
Brian	Stevenson	833.25	66.66	1.51	68.17
Andrew	Taylor	12,145.63	971.65	21.96	993.61
Billie	Todd	13,551.58	1,084.13	24.50	1,108.63
		<b><u>352,876.24</u></b>	<b><u>28,230.10</u></b>	<b><u>638.00</u></b>	<b><u>28,868.10</u></b>

## Appendix F

### BACKPAY CALCULATION

**CASE NAME:** Capital Iron Works Company, Inc.  
**CASE NUMBER:** 17-CA-24499  
**CLAIMANT:** KC Schrenk      **BACKPAY PERIOD:** February 2009 -- to date

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Year	Qtr.	Gross Backpay	Interim Earnings	Interim Expenses	Net Interim Earnings	Net Backpay	Medical / Other	Total Backpay
2009	1st	50.00	0.00	0.00	0.00	50.00	0.00	50.00
Totals:						<u>50.00</u>	<u>0.00</u>	<u>50.00</u>

## Appendix G

<u>First Name</u>	<u>Last Name</u>	<u>ER's Total 401(k) Liability</u>	<u>ER's Backpay Liability</u>	<u>Total</u>
Arnulfo	Arizpe	2,132.49		2,132.49
William	Braumann	2,094.33		2,094.33
Billie	Cohee	2,153.73		2,153.73
Kyle	Cox	302.64		302.64
Brian	Dougan	211.61		211.61
Matthew	Duane	3,799.80		3,799.80
Leland	Essman	985.79		985.79
Robert	Garst	1,126.35		1,126.35
Marcus	Hayes	345.77		345.77
Darren	Janssen	1,632.48	\$662.00	2,294.48
Gary	King	2,220.92	\$462.00	2,682.92
Eric	Lemus	363.82		363.82
Jorge	Lopez, Jr.	481.33		481.33
Michael	Odell	2,430.63		2,430.63
Christopher	Ortega	1,454.10	\$64.00	1,518.10
Vence	Purdum	1,561.52		1,561.52
Kermit	Schrenk Jr	3,182.68	\$50.00	3,232.68
David	Siska	217.72		217.72
Brian	Stevenson	68.17		68.17
Andrew	Taylor	993.61		993.61
Billie	Todd	1,108.63		1,108.63
		<b>28,868.10</b>	<b>\$1,238.00</b>	<b>30,106.10</b>

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

Capital Iron Works Company  
  
and  
  
Boilermakers Local Lodge 83, affiliated with International Brotherhood of  
Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO

Case 17-CA-024499

DATE OF MAILING March 31, 2011

**AFFIDAVIT OF SERVICE OF COMPLIANCE SPECIFICATION AND NOTICE OF HEARING**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid certified mail upon the following persons, addressed to them at the following addresses:

**PARTIES RECEIVING CERTIFIED MAIL:**

Mr. Mike Buckner  
Capital Iron Works Company  
701 Southeast Adams Street  
P.O. Box 2098  
Topeka, KS 66607  
Certified No. 7009 2250 0002 6822 2128

Mr. Mike Buckner, Registered Agent  
Capital Iron Works  
5805 Sagamore Court  
Lawrence, KS 66047  
Certified No. 7009 2250 0002 6822 2135

Boilermakers Local Lodge 83  
5910 East 86th Street  
Kansas City, MO 64138  
Certified No. 7009 2250 0002 6822 2142

**PARTIES RECEIVING REGULAR MAIL:**

Ms. Angela M. Atkinson  
Attorney  
Blake & Uhlig, P.A.  
475 New Brotherhood Bldg  
753 State Ave  
Kansas City, KS 66101

Subscribed and sworn to before me on  
April 4, 2011

DESIGNATED AGENT  
*Marion L. Murphy*  
Marion L. Murphy  
NATIONAL LABOR RELATIONS BOARD



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Your item was delivered at 3:42 pm on April 12, 2011 in TOPEKA, KS 66603.

#### Detailed Results:

- **Delivered, April 12, 2011, 3:42 pm, TOPEKA, KS 66603**
- **Notice Left, April 01, 2011, 10:05 am, TOPEKA, KS 66601**
- **Arrival at Unit, April 01, 2011, 7:16 am, TOPEKA, KS 66603**
- **Processed through Sort Facility, April 01, 2011, 5:38 am, TOPEKA, KS 66675**
- **Processed through Sort Facility, March 31, 2011, 4:43 pm, OVERLAND PARK, KS 66204**

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Your item was delivered at 11:36 am on April 01, 2011 in LAWRENCE, KS 66047.

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- **Delivered, April 01, 2011, 11:36 am, LAWRENCE, KS 66047**
- **Processed through Sort Facility, April 01, 2011, 2:17 am, KANSAS CITY, MO 64121**
- **Processed through Sort Facility, March 31, 2011, 4:43 pm, OVERLAND PARK, KS 66204**

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UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD

Kansas City Regional Office  
8600 Farley Street - Suite 100  
Overland Park, KS 66212-4677  
Telephone: 913-967-3000  
Fax Number: 913-967-3010  
Agent Assigned: (918)581-7949

Resident Office:  
224 South Boulder Ave. – Suite 318  
Tulsa, OK 74103-3006  
Telephone: 918-581-7952  
Fax Number 918-581-7970  
Brett.Huckell@nlrb.gov

April 22, 2011

Mike Buckner  
Capital Iron Works Company  
701 Southeast Adams Street  
P.O. Box 2098  
Topeka, KS 66607

Mike Buckner, Registered Agent  
Capital Iron Works Company  
5805 Sagamore Court  
Lawrence, KS 66047

Re: Capital Iron Works Company  
Case 17-CA-24499

Dear Mr. Buckner:

On March 31, 2011, a Compliance Specification and Notice of Hearing issued in the above-captioned case. Pursuant to Section 102.56 of the National Labor Relations Board's (the Board) Rules and Regulations, the Compliance Specification, set a deadline of April 21, 2011, for you to file a written answer stating the basis for any disagreement with any of the allegations of the Compliance Specifications, and setting forth in detail your position supporting your disagreement. The Compliance Specification also informed you that that absent a timely answer, pursuant to a Motion for Default Judgment, the Board could find that the allegations of the Compliance Specification are true and preclude you from presenting evidence. This office has not received your answer to the Compliance Specification.

I am enclosing another copy of the Compliance Specification issued on March 31, 2011. If you intend to file an answer, it must be filed by May 6, 2011. If you do not file an answer with this office by May 6, 2011, as Counsel for the General Counsel, I, intend to file a Motion for Default Judgment with the Board asking them to find that the allegations of the Compliance Specification are true and precluding you from introducing any evidence controverting any of the allegations.

Very truly yours,

/s/ Mary G. Taves

Mary G. Taves  
Counsel for the General Counsel

G.C. Ex. D