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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

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JOSE CERVANTES, an Individual;
JORGE MONTES, an Individual,

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Plaintiffs,

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v.

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CEMEX, INC., a Corporation; and DOES 1
16 through 50, inclusive,

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Defendants.

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CASE NO. 1:12-cv-01932-LJO-JLT

**JOINT STIPULATION AND REQUEST
FOR 3-BUSINESS DAY EXTENSION OF
NON-EXPERT DISCOVERY DEADLINE
FOR LIMITED PURPOSE OF TAKING
DEPOSITIONS OF FRANCISCO
RIVERA, MICHAEL CAMELLO AND
MATTHEW DAYLEY IN SACRAMENTO,
CALIFORNIA; DECLARATION OF
DOROTHY S. LIU IN SUPPORT
THEREOF; ORDER**

(Doc. 42)

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This Joint Stipulation is entered into by Defendant CEMEX, INC. ("Defendant")
21 and Plaintiffs JOSE CERVANTES and JORGE MONTES ("Plaintiffs") by and through
22 their respective counsel as follows:

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RECITALS

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1. WHEREAS, pursuant to the Scheduling Order filed by the Court on May 1,
25 2013, non-expert discovery deadline is Friday, April 25, 2014;

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2. WHEREAS, the parties have been diligent in conducting discovery and
27 taking depositions in this matter;

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1 3. WHEREAS, the parties have worked together to schedule and complete the
2 numerous necessary depositions in this case prior to discovery cut-off on April 25, 2014,
3 including completing the depositions of Plaintiff Jose Cervantes, Plaintiff Jorge Montes,
4 as well as the depositions of Area Manager Keith Stogdell, former Human Resources
5 Manager Cristina Alvarez, former Plant Manager Alan Light, and Operations Manager
6 Harry Ambrosini;

7 4. WHEREAS, Plaintiffs require three (3) depositions of high-level executives
8 of Defendant. Defendant disputes that the depositions of the three high-level executives
9 are required but has agreed to produce the witnesses for deposition, which cannot be
10 scheduled prior to April 29 and April 30, 2014. On Friday, March 21, 2014, Plaintiffs'
11 counsel personally served defense counsel with Third-Amended deposition notices for
12 Vice President and General Manager Francisco Rivera and Vice President and General
13 Manager Michael Camello, and a notice for Vice President Matthew Dayley, with
14 deposition dates noticed for April 1, 2 and 18, 2014, respectively, to be taken in
15 Sacramento, California;

16 5. WHEREAS, on the evening of March 25, 2014, Plaintiffs' counsel served
17 defense counsel with a Rule 30(b)(6) deposition notice set for April 16, 2014;

18 6. WHEREAS, pursuant to meet-and-confer discussions by the parties,
19 Defendant has agreed to produce Vice President and General Manager Francisco Rivera
20 and Vice President and General Manager Michael Camello for depositions in
21 Sacramento, California;

22 7. WHEREAS, Defendant will designate Vice President Matthew Dayley as
23 the witness for the Rule 30(b)(6) deposition;

24 8. WHEREAS, Francisco Rivera, Michael Camello and Matthew Dayley are
25 not available for deposition on the dates noticed (April 1, 2, 16 and 18) due to their pre-
26 scheduled business and travel commitments, including pre-planned vacations, during the
27 first, third and fourth weeks of April;

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1 9. WHEREAS, defense counsel is not available for depositions in Sacramento
2 during the first three weeks of April due to several pre-scheduled depositions (set for April
3 2, 4, 10, 14, 15, 17 and 18, 2014) in a putative class action lawsuit pending in Alameda
4 County Superior Court, *Requa, et al. v. The Regents of the University of California*, and
5 also due to child care responsibilities that preclude travel to Sacramento for full-day
6 depositions during the first three weeks of April;

7 10. WHEREAS, additional depositions in this case also have been set for April
8 2014, including the deposition of third party witness Justin McCright on April 19, 2014
9 and the parties are meeting and conferring on setting the deposition of James Hamilton
10 as he is now being represented by defense counsel in this case;

11 11. WHEREAS, the parties have met and conferred regarding mutually
12 agreeable dates and locations for the Rule 30(b)(6) deposition and for the depositions of
13 Francisco Rivera, Michael Camello, and Matthew Dayley, taking into consideration
14 witness and counsel availability, the pending depositions in this case set for April 19 in
15 Fresno and the deposition of James Hamilton also to be held prior to discovery cut-off;

16 12. WHEREAS, based on the above considerations, the only dates in April
17 2014 on which defense counsel and witnesses Francisco Rivera, Michael Camello and
18 Matthew Dayley are also available for depositions at the same time in Sacramento are
19 Tuesday, April 29 (for Michael Camello's and Francisco Rivera's depositions) and
20 Wednesday, April 30, 2014 (for Matthew Dayley's deposition);

21 13. WHEREAS, defense counsel has met and conferred with Plaintiffs' counsel
22 Maria Diaz regarding the above proposed schedule, and Ms. Diaz indicated that she was
23 available to take the depositions of Michael Camello and Francisco Rivera on April 29 in
24 Sacramento, and also available to take the deposition of Matthew Dayley on April 30 in
25 Sacramento;

26 14. WHEREAS, in light of the foregoing, the parties agree that there is good
27 cause to request a limited 3-business day extension of the non-expert discovery deadline
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1 until April 30, 2014, for the limited purpose of taking the depositions of Francisco Rivera,
2 Michael Camello and Matthew Dayley in Sacramento, California, as agreed.

3 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among
4 all parties, and the Court's approval is hereby requested for a limited 3-business day
5 extension of the non-expert discovery deadline until April 30, 2014, for the limited
6 purpose of taking the depositions of Francisco Rivera, Michael Camello and Matthew
7 Dayley in Sacramento, California, as agreed upon by the parties.

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9 DATED: April 2, 2014

HANSON BRIDGETT LLP

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By: /s/ Dorothy S. Liu

DOROTHY S. LIU
DAVID A. ABELLA
Attorneys for CEMEX, INC.

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15 DATED: April 2, 2014

THE DÍAZ LAW FIRM

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By: /s/ Maria G. Diaz

MARÍA G. DÍAZ
KIRBY FERNANDO CAÑON
Attorneys for PLAINTIFFS
JOSE CERVANTES AND JORGE MONTES

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DECLARATION OF DOROTHY S. LIU

I, DOROTHY S. LIU, hereby state and declare as follows:

1. I am an attorney admitted to practice in the State of California and before this Court. I am a partner in the law firm of Hanson Bridgett LLP, counsel of record for Defendant in this action. I make this declaration based on my own personal knowledge except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters set forth herein.

2. Several depositions have been taken and completed in this case, which has required travel by both Plaintiffs' counsel and defense counsel, with additional depositions (also requiring travel by the parties) scheduled in this matter for April 2014.

3. I took and completed the depositions of Plaintiff Jose Cervantes and Plaintiff Jorge Montes on December 17 and December 18, 2013, respectively, which were held in Bakersfield, California.

4. I defended the depositions of Area Manager Keith Stogdell and former Human Resources Manager Cristina Alvarez on March 5 and 6, 2014, respectively, which were held in this matter in Fresno, California.

5. I defended the deposition of former Plant Manager Alan Light on March 14, 2014, which was held in this matter in Yuma, Arizona.

6. I defended the deposition of Operations Manager Harry Ambrosini on March 21, 2014, which was held in this matter in Fresno, California.

7. The deposition of third party witness Justin McCright is scheduled in this matter for April 19, 2014, in Fresno, California.

8. I have been meeting and conferring with Plaintiffs' counsel Maria Diaz to schedule the deposition of former Human Resources Manager James Hamilton. On March 27, 2014, I informed Ms. Diaz that our office now represents Mr. Hamilton and that Mr. Hamilton has agreed to a deposition date of April 24, 2014, which had been an

1 alternate date proposed by Ms. Diaz in scheduling the remaining depositions. I also
2 informed Ms. Diaz on March 27, 2014 that Mr. Hamilton has driving constraints and is
3 unable to drive long distances. I further informed Ms. Diaz that my understanding is that
4 Mr. Hamilton's wife normally would drive him but she has not been in good health
5 recently and is also unable to drive him to Fresno, so that Mr. Hamilton's deposition
6 would need to take place in Modesto. Ms. Diaz and I subsequently exchanged several
7 emails between March 27 and March 31 regarding the depositions in this case, but
8 Ms. Diaz did not raise any issue with taking Mr. Hamilton's deposition in Modesto until the
9 afternoon of March 31, informing me for the first time that she is unwilling to take
10 Mr. Hamilton's deposition in Modesto because Mr. Hamilton has already cost her clients
11 significant undue expense. Mr. Hamilton remains willing to have his deposition taken in
12 this case and remains available on April 24, but I am informed and believe that he has
13 difficulty with his eyesight and has difficulty driving nearly 100 miles from Modesto to
14 Fresno for a deposition. I have asked Ms. Diaz to reconsider her position in light of the
15 above. In addition, I have proposed to Ms. Diaz that the deposition be held in Merced,
16 California, which is a practical midway point between Mr. Hamilton's residence and
17 Ms. Diaz's office.

18 9. On the afternoon of Friday, March 21, 2014, after the conclusion of Harry
19 Ambrosini's deposition, Plaintiffs' counsel served me with deposition notices for Vice
20 President and General Manager Francisco Rivera, Vice President and General Manager
21 Michael Camello, and Vice President Matthew Dayley, with deposition dates noticed for
22 April 1, 2 and 18, 2014, respectively, to be taken in Sacramento, California.

23 10. On the evening of March 25, 2014, I am informed and believe that our
24 offices received a Rule 30(b)(6) deposition notice in this matter set for April 16, 2014.

25 11. I have engaged in meet-and-confer discussions and correspondence with
26 Plaintiffs' counsel Maria Diaz and have agreed to produce Vice President and General
27 Manager Francisco Rivera and Vice President and General Manager Michael Camello for
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1 depositions in Sacramento, California.

2 12. I have informed Ms. Diaz that Defendant will designate Vice President
3 Matthew Dayley as the witness for the Rule 30(b)(6) deposition.

4 13. I am informed and believe that Francisco Rivera, Michael Camello and
5 Matthew Dayley are not available for deposition on the dates noticed (April 1, 2, 16 and
6 18) due to the witnesses' pre-scheduled business and travel commitments during the
7 first, third and fourth weeks of April.

8 14. I am not available for depositions in Sacramento during the first three
9 weeks of April due to several pre-scheduled depositions (set for April 2, 4, 10, 14, 15, 17
10 and 18, 2014) in a putative class action lawsuit pending in Alameda County Superior
11 Court, *Requa, et al. v. The Regents of the University of California*, and also due to child
12 care responsibilities that preclude travel to Sacramento for full-day depositions during the
13 first three weeks of April.

14 15. I have met and conferred with Ms. Diaz regarding mutually agreeable dates
15 and locations for the Rule 30(b)(6) deposition and for the depositions of Francisco Rivera,
16 Michael Camello, and Matthew Dayley, taking into consideration witness and counsel
17 availability, the pending depositions in this case set for April 19 and April 24, and also
18 taking into consideration that Plaintiffs' counsel will need to travel from Fresno to
19 Sacramento for the three (3) depositions.

20 16. Based on the above considerations, the only dates in April 2014 on which I
21 am available and on which witnesses Francisco Rivera, Michael Camello and Matthew
22 Dayley also are available for depositions at the same time in Sacramento are Tuesday,
23 April 29 (for Michael Camello's and Francisco Rivera's depositions) and Wednesday,
24 April 30, 2014 (for Matthew Dayley's deposition).

25 17. I have met and conferred with Ms. Diaz regarding the above proposed
26 schedule and she indicated that she was available to take the depositions of Michael
27 Camello and Francisco Rivera on April 29 in Sacramento, and also available to take the
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1 deposition of Matthew Dayley on April 30 in Sacramento.

2 I declare under penalty of perjury under the laws of the United States of America
3 that the foregoing is true and correct.

4 Executed on April 1, 2014, at San Francisco, California.

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By: _____

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DOROTHY S. LIU

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ORDER

Based upon the stipulation of counsel, the Court **ORDERS**:

1. The deadline for non-expert discovery deadline is extended to April 30 **only** to allow the taking of the depositions of Francisco Rivera, Michael Camello and Matthew Dayley.

No further amendments to the scheduling will be considered except upon the showing of exceptional good cause.

IT IS SO ORDERED.

Dated: April 2, 2014

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE