

1 RICHARD A. LEASIA, Bar No. 73397  
 rleasia@littler.com  
 2 KARIN M. COGBILL, Bar No. 244606  
 kcogbill@littler.com  
 3 LITTLER MENDELSON  
 A Professional Corporation  
 4 50 W. San Fernando, 15th Floor  
 San Jose, CA 95113.2303  
 5 Telephone: 408.998.4150  
 Facsimile: 408.288.5686  
 6

7 Attorneys for Defendant  
 CENTRAL CONCRETE SUPPLY CO., INC.

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN FRANCISCO DIVISION

11 OPERATING ENGINEERS LOCAL  
 UNION NO. 3,  
 12  
 Plaintiff,  
 13  
 v.  
 14  
 CENTRAL CONCRETE SUPPLY CO.,  
 15 INC.,  
 16  
 Defendant.

Case No. C09-04153 MHP

**STIPULATION AND ~~PROPOSED~~  
 ORDER MODIFYING ADR DEADLINE**

17  
 18  
 19 Pursuant to Local ADR Rule 6-5 and Local Rule 7-12, Plaintiff OPERATING  
 20 ENGINEERS LOCAL UNION NO. 3 and Defendant CENTRAL CONCRETE SUPPLY CO., INC.,  
 21 (collectively, the "Parties"), submit this Stipulation and Proposed Order to the Court:

22 **STIPULATION**

23 WHEREAS, on December 2, 2009, the Court issued an Order Selecting ADR Process  
 24 in the above-entitled action ("Order"); and

25 WHEREAS, the Court's Order approved the stipulation between the Parties to  
 26 participate in Mediation (ADR L.R. 6), and set a deadline for the Parties to hold the ADR session  
 27 within 120 days from the date of the order, or April 1, 2010; and  
 28

1           WHEREAS, the Parties were assigned to Mediator Jean C. Gaskill and conducted an  
2 initial telephone conference to discuss the mediation and scheduling on January 15, 2010; and

3           WHEREAS, the Parties agreed to conduct the Mediation on March 18, 2010; and

4           WHEREAS, on or about September 23, 2009, Defendant filed an unfair labor practice  
5 charge with the National Labor Relations Board alleging that Plaintiff was violating the provisions  
6 of Section 8(b)(4)(D) of the National Labor Relations Act, 29 U.S.C. §158(b)(4)(D); on October 23,  
7 2009, the NLRB commenced a hearing on Defendant's charge under the provisions of Section 10(k)  
8 of the Act, 29 U.S.C. §160(k); and on November 30, 2009 the parties filed post-hearing briefs; and

9           WHEREAS, in March 2010, the Parties requested that the ADR deadline be  
10 continued to June 30, 2010 to allow the Board time to issue a decision with respect to Defendant's  
11 charge, which decision the Parties agreed may resolve some or all of the issues underlying this  
12 matter, and make its settlement or resolution more likely; and

13           WHEREAS, on March 23, 2010 the Court approved the Parties' stipulation and  
14 continued the deadline to complete ADR to June 30, 2010; and

15           WHEREAS, the Parties agreed to conduct the Mediation on June 14, 2010; and

16           WHEREAS, the Board has not yet issued a decision with respect to Defendant's  
17 charge, and it is uncertain at this time when said decision will issue; and

18           WHEREAS, the Parties continue to believe that the Board's decision will have an  
19 effect on the merits of the instant action, and may resolve certain issues in the present matter, and  
20 therefore believe that it would be beneficial for settlement purposes if the Parties wait to attend  
21 mediation until the Board renders its decision; and

22           WHEREAS, for good cause, to promote resolution of this matter and ensure a more  
23 productive Mediation of this matter, and to avoid the possibility of duplicative and inconsistent  
24 proceedings, the Parties jointly request an extension to participate in Mediation until 60 days after  
25 the Board issues a decision with respect to Defendant's charge;

26           NOW, THEREFORE, Plaintiffs and Defendant, through their respective undersigned  
27 counsel, stipulate and request that the Court approve a revised deadline for the Parties to comply  
28 with its Order, and direct that they participate in and complete the directed ADR proceedings within

1 60 days after the Board serves its decision with respect to Defendant's charge. Defendant shall  
2 notify the Court and the ADR Unit once a decision has been rendered by the Board and will  
3 coordinate with Plaintiff's counsel and Mediator Gaskill to schedule Mediation.  
4

5 **IT IS SO STIPULATED.**

6 Dated: May 27, 2010  
7

8 /s/Richard A. Leasia  
9 RICHARD A. LEASIA  
10 LITTLER MENDELSON  
11 A Professional Corporation  
12 Attorneys for Defendant  
13 CENTRAL CONCRETE SUPPLY CO., INC.

14 Dated: May 31, 2010

15 /s/Michael D. Nelson  
16 MICHAEL D. NELSON  
17 LAW OFFICES OF MICHAEL D. NELSON  
18 Attorneys for Plaintiff  
19 OPERATING ENGINEERS LOCAL UNION  
20 NO. 3

21 **PURSUANT TO STIPULATION, IT IS SO ORDERED**

22 Dated: 6/3/2010

