

**PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION**

Date: [Insert Date]

To: [Client Name/Company Management]

From: [Attorney Name/Law Firm]

Re: Legal Strategy Regarding NLRB Representation Petition (Case No: [Insert Case Number])

I. EXECUTIVE SUMMARY

On [Date], the National Labor Relations Board (NLRB) notified [Company Name] that [Union Name] filed a petition seeking to represent a bargaining unit of your employees. This letter outlines our strategic approach to the pre-election hearing, unit determination, and the legal defense against the petition.

II. PROPOSED BARGAINING UNIT ANALYSIS

The Union seeks to represent: [Insert Union's Proposed Definition].

Our defense strategy will focus on the following challenges to this unit:

- **Community of Interest:** We will argue that the proposed unit is inappropriate because it [excludes/includes] employees with different supervision, skills, and working conditions.
- **Supervisory Status:** We have identified [Number] individuals (Title: [Job Title]) who meet the criteria under Section 2(11) of the Act and should be excluded from the unit.
- **Voter Eligibility:** We will challenge the inclusion of [temporary/seasonal/confidential] employees based on [Reasoning].

III. PRE-ELECTION HEARING AND TIMELINE

Under current NLRB "Quickie Election" rules, we must act according to the following timeline:

- **Statement of Position (SOP):** Due by [Date/Time]. Failure to raise an issue in the SOP generally waives our right to contest it later.
- **Non-Employer Posting:** The "Notice of Petition for Election" must be posted in conspicuous places and distributed electronically by [Date].
- **Pre-Election Hearing:** Scheduled for [Date]. We will present evidence regarding the unit scope and employee eligibility.

IV. VOLUNTARY RECOGNITION AND CEMEX CONSIDERATIONS

Pursuant to the *Cemex* framework, we advise against any actions that could be construed as a waiver of the right to an election. We will not engage in voluntary recognition and will insist on a Board-conducted secret ballot election to ensure employee free choice.

V. COMMUNICATION STRATEGY (THE "TIPS" AND "FOE" RULES)

While the petition is pending, management must adhere to strict guidelines to avoid Unfair Labor Practice (ULP) charges:

- **DO NOT (TIPS):** Threaten, Interrogate, Promise benefits, or Spy on employees.
- **DO (FOE):** Share Facts, Opinions, and Experiences regarding unionization and the collective bargaining process.

VI. NEXT STEPS

1. Gather payroll records and job descriptions for the SOP.
2. Identify potential witnesses for the Pre-Election Hearing.
3. Conduct supervisor training on NLRB compliance immediately.

Please contact us immediately to review the Statement of Position drafts.

Sincerely,

[Signature]

[Name of Counsel]