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National Labor Relations Board
1015 Half Street SE
Washington, D.C. 20570-0001

RE: Supplement to Petition for Rulemaking to Abrogate *Cemex*

Dear Honorable Members of the National Labor Relations Board:

On behalf of the Coalition for a Democratic Workplace, a collection of hundreds of members representing the interests of millions of employers nationwide, and twelve co-Petitioners, we write to supplement our March 12, 2026 Petition for Rulemaking asking the Board to abrogate *Cemex Construction Materials Pacific, LLC*, 372 NLRB No. 130 (2023). We do so because a proceeding currently before the Board involving Amazon.com Services LLC has generated sworn testimony raising serious questions about whether union authorization cards were forged, illustrating precisely the dangers that *Cemex* creates. *Cemex* allows unions to effectively circumvent secret-ballot elections and instead impose union representation through authorization cards gathered without the procedural safeguards of a secret ballot, practically immune from scrutiny, and, as the proceeding described below makes plain, potentially fraudulent. The Board should act now to restore the secret ballot as the foundation of workers' right to genuine free choice.

The *Amazon* proceeding illustrates exactly why authorization cards cannot be trusted as a reliable basis for union representation. The union's lead organizer testified that he and his team collected over 40 signed cards in roughly 15 minutes in a parking lot one April morning, but other witness testimony directly contradicts that account: that he never appeared at the parking lot that day, that no cards were signed that morning, and that fewer than 40 employees were present. Photographic evidence in the record further exposes the implausibility of the union's story. Yet the presiding Administrative Law Judge, who herself acknowledged the "inconsistent evidence" in the record, has refused to let Amazon examine the very cards at the center of the case, shielding potentially fraudulent evidence from any adversarial scrutiny. (See Amazon's March 24, 2026 request for special permission to appeal in NLRB Case No. 31-CA-317349.)

This is precisely what makes *Cemex* so dangerous. Under *Cemex*, a card showing like this one, potentially fabricated, can serve as the basis for a bargaining order that strips workers of their right to vote in a secret-ballot election. *Cemex* imposes that result after virtually any

unfair labor practice during the organizing period, without any meaningful inquiry into whether the cards are reliable or whether a fair election could be held. Workers deserve better. They deserve the right to cast a private ballot, not to have their representational rights decided by documents that may have been forged in a parking lot.

The Sixth Circuit has already weighed in, concluding that *Cemex* was improperly promulgated and carries no precedential weight, meaning bargaining orders built on *Cemex* face serious legal challenges on review, wasting agency resources and prolonging uncertainty for workers and employers alike. The case for abrogation has never been stronger.

The *Amazon* proceeding illustrates a broader truth: authorization cards are an inherently unreliable measure of what workers actually want, and *Cemex* makes that unreliability consequential by converting the bargaining order from an exceptional last resort into a routine outcome. Petitioners respectfully urge the Board to act now: grant the Petition, commence expedited rulemaking, and restore the secret-ballot election as the preferred basis for union representation in America. Workers' voices should be heard through the ballot box, not through cards that cannot be trusted to reflect them.

Respectfully submitted,

By: /s/ *Brian E. Hayes* /s/ *Ryan T. Sears*
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cc: Senate Committee on Health, Education, Labor, and Pensions
 House Committee on Education and the Workforce