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5 Attorneys for Party-Employer FLOORING
SOLUTIONS OF NEVADA, INC., d/b/a FSI
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7
8 UNITED STATES OF AMERICA
9 BEFORE THE NATIONAL LABOR RELATIONS BOARD

11	AREKEMA, INC.	Cases	16-CA-26371
12	and		16-CA-26392
13	UNITED STEEL WORKERS OF AMERICA, LOCAL 13-227		
14	ARKEMA, INC.		
15	Employer		
16	and		
17	GREG SCHRULL	Case	16-RD-1583
18	Petitioner		
19	UNITED STEEL WORKERS OF AMERICA, LOCAL 13-227		
20	Union		
21	STEVENS CREEK CHRYSLER JEEP DODGE, INC.	Cases	20-CA-33367
22	and		20-CA-33562
23			20-CA-33655
24	MACHINISTS DISTRICT LODGE 190, MACHINISTS AUTOMOTIVE LOCAL 1101, INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS OF AMERICA, AFL-CIO		
25	CUSTOM FLOORS, INC.	Case	28-CA-21226
26	and		
27	J&R FLOORING, INC. d/b/a J. PICINI FLOORING	Case	28-CA-21229
28	and		
	FREEMAN'S CARPET SERVICE, INC.	Case	28-CA-21230

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and
FCS FLOORING, INC.
and
FLOORING SOLUTIONS OF NEVADA, INC.
d/b/a FSI
and
INTERNATIONAL UNION OF PAINTERS AND
ALLIED TRADES, DISTRICT COUNCIL 15.

Case 28-CA-21231

Case 28-CA-21233

**BRIEF OF PARTY-EMPLOYER
FLOORING SOLUTIONS OF
NEVADA, INC. DBA FSI ON
INVITED QUESTION OF
ELECTRONIC POSTING OF
REMEDIAL NOTICES**

Flooring Solutions of Nevada, Inc., d/b/a FSI ("FSI") is an employer whose unfair labor practice case is consolidated with other employers in the above-captioned matter otherwise referred to as "Custom Floors." FSI responds to the Board's Notice and Invitation to File Briefs in the above-captioned matter, which FSI received by fax on May 25, 2010 from the Executive Secretary.

Electronic notice posting has not been an issue litigated in FSI's case. A passing mention was made in exceptions to the Board by the Charging Party Union. FSI respectfully takes the position that the issue is irrelevant to FSI's case.

FSI is a construction industry employer. FSI's construction industry employees perform field work, often away from the FSI facility. There is no evidence on record to suggest whether FSI uses electronic communications with its employees as suggested in Nordstrom, Inc., 346 NLRB 294 (2006). Nor is there any evidence to suggest that, in the event of an adverse ruling, FSI's employees would not have adequate notice of a remedial Notice through the current standard posting of a Notice to Employees or mailing of same to employees.

FSI parenthetically reconfirms that its employees have awaited the opportunity to vote in a pending RM election case for over three years as the pending unfair labor practice charges block election proceedings in Region 28 in Case 28-RM-604 (FSI Exh 3 in underlying unfair labor practice hearing).

Based on the record as thus far developed, FSI respectfully takes the following positions:

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1. Consistent with the findings and recommendations of the Administrative Law Judge, FSI has not violated the Act.
2. In the hypothetical event that the Board disagrees with the Administrative Law Judge and concludes that FSI has violated the Act, the record evidence does not support a conclusion that standard Notice posting and/or hard-copy mailing is inadequate to remedy any alleged unfair labor practice in the case.
3. In the hypothetical event that the Board disagrees with the Administrative Law Judge and concludes that FSI has violated the Act, the record evidence does not support a conclusion that electronic means exist or should be used to post a Notice intended to remedy any alleged unfair labor practice in the case.
4. In the hypothetical event that the Board determines that electronic Notice posting for alleged unfair labor practices should be ordered based upon the standard in Nordstrom, Inc., above, or otherwise, the Board should also require a Notice to Employees by equivalent (electronic or otherwise) means to inform employees of the status of a contemporaneously pending representation case affecting them and their Section 7 rights, in this case FSI's RM petition. Likewise equivalent electronic posting considerations would be warranted for notices to members in contemporaneously pending unfair labor practice cases brought against labor organizations. Specifically, such Notice in FSI's RM case should provide that "The National Labor Relations Board has a pending case which was filed so that you, the employees of Flooring Solutions of Nevada, Inc. dba FSI can vote by secret ballot your choice, yes or no, on whether to be represented by the Painters Union for purposes of collective bargaining over your wages, hours, and terms and conditions of employment. Because the Painters Union filed unfair labor practice charges, the National Labor Relations Board has determined to delay an election, if any, until after either the charges are resolved or other circumstances give the Board reason to go forward with your secret ballot election."

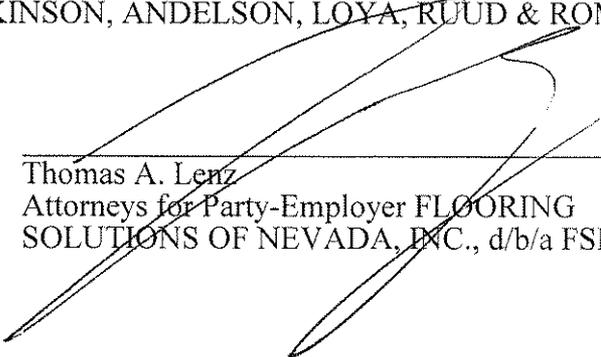
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DATED: June 11, 2010

Respectfully submitted,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By:


Thomas A. Lenz
Attorneys for Party-Employer FLOORING
SOLUTIONS OF NEVADA, INC., d/b/a FSI

PROOF OF SERVICE

(Code Civ. Proc. § 1013a(3))

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action; my business address is 12800 Center Court Drive, Suite 300, Cerritos, CA 90703.

On **June 11, 2010**, I served the following document(s) described as * **BRIEF OF PARTY-EMPLOYER FLOORING SOLUTIONS OF NEVADA, INC. DBA FSI ON INVITED QUESTION OF ELECTRONIC POSTING OF REMEDIAL NOTICES** * on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Lester A. Heltzer, Executive Secretary National Labor Relations Board 1099 14th Street, NW Washington, DC 20570	E-file	
Mara Anzalone, Esq. NLRB Region 28 600 Las Vegas Blvd. South, Suite 400 Las Vegas, NV 89101-6637	Via Email	Fax: 702/388-6248 Mara_louise.anzalone@nlrb.gov Counsel for the General Counsel
Mara Anzalone, Esq. NLRB Region 28 2600 N. Central Ave., Suite 1800 Phoenix, AZ 85004	Via Mail	Fax: 602/640-2178 Counsel for the General Counsel
David A. Rosenfeld, Esq. WEINBERG, ROGER & ROSENFELD 1001 Marina Village Parkway, Suite 200 Alameda, CA 94501-1091	Via Email	Fax: 510/337-1023 drosenfeld@unioncounsel.net csencer@unioncounsel.net Counsel for Charging Party- Union
Greg Smith, Esq. LIONEL SAWYER & COLLINS 1700 Bank of America Plaza 300 South 4th Street Las Vegas, NV 89101	Via Email	Fax: 702/383-8842 gsmith@lionelsawyer.com Counsel for Employers J&R Flooring, Inc. dba J. Picini Flooring; FCS Flooring, Inc.; Custom Floors, Inc.; and Freeman's Carpet Service, Inc.
A. John Harper II Morgan, Lewis & Bockius LLP 1000 Louisiana, Suite 4200 Houston, TX 77002	Via Email	aharper@morganlewis.com jharper@morganlewis.com Counsel for Arkema, Inc.
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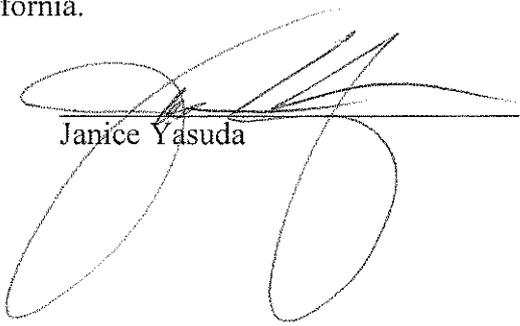
Daniel T. Berkley Gordon & Rees 275 Battery St., Suite 2000 San Francisco, CA 94111	Via Email	dberkley@gordonrees.com Counsel for Stevens Creek Chrysler Jeep Dodge, Inc.
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FCS Flooring, Inc. 6455 S. Industrial Road, Unit D Las Vegas, NV 89118	Via Email	bekki@fcsflooring.net
Freeman Carpet Services, Inc. 3150 Ponderosa Way Las Vegas, NV 89118	Via Email	freemancarpet@aol.com
Client	Via email	

BY MAIL: I am readily familiar with the firm's practice of collection and processing correspondence for mailing. The envelope(s) was deposited with the U.S. postal service that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY EMAIL: I sent such document by use of electronic mail to the above email address(es) on the date indicated above. (CCP § 1013(a)) Such document was scanned and emailed, without error, to such recipient whose e-address is indicated above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 11, 2010, at Cerritos, California.


Janice Yasuda