

PATRICIA S. DODSZUWEIT

CLERK



OFFICE OF THE CLERK

UNITED STATES COURT OF APPEALS

21400 UNITED STATES COURTHOUSE
601 MARKET STREET

PHILADELPHIA, PA 19106-1790

Website: www.ca3.uscourts.gov

TELEPHONE

215-597-2995

June 19, 2019

Chairman
National Labor Relations Board
1015 Half Street, S.E.
Washington, DC 20570

RE: NLRB v. Demza Masonry LLC
Case Number: 19-1978
District Court Case Number: 22-CA-208778
District Court Case Number: 22-CA-220318

Dear Sir or Madam:

Enclosed herewith is the certified judgment in the above-captioned case(s). The certified judgment is issued in lieu of a formal mandate and is to be treated in all respects as a mandate.

Counsel are advised of the issuance of the mandate by copy of this letter. The certified judgment or order is also enclosed showing costs taxed, if any.

For the Court,

s/ Patricia S. Dodszuweit,
Clerk

s/ pdb Case Manager

cc:
David Habenstreit
Michael T. Scaraggi

May 22, 2019

CCO-076

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD

No. 19-1978

Petitioner

v.

DEMZA MASONRY, LLC

Board Case Nos.:
22-CA-208778
22-CA-220318

Respondent

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

Before: CHAGARES, RESTREPO and SCIRICA, Circuit Judges

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Demza Masonry, LLC, its officers, agents, successors, and assigns, enforcing its order dated March 4, 2019, in Case Nos. 22-CA-208778 and 22-CA-220318, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent Demza Masonry, LLC, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Mandate shall issue forthwith.

BY THE COURT

s/ L. Felipe Restrepo
Circuit Judge



Certified as a true copy and issued in lieu
of a formal mandate on June 19, 2019

DATED: June 19, 2019
PDB/cc: All Counsel of Record

Teste: *Patricia A. Dodgworth*
Clerk, U.S. Court of Appeals for the Third Circuit

NATIONAL LABOR RELATIONS BOARD

v.

DEMZA MASONRY, LLC

ORDER

Demza Masonry, LLC, its officers, agents, successors and assigns, shall

1. Cease and desist from
 - (a) Discriminatorily discharging or otherwise disciplining employees for their union affiliation or union activities.
 - (b) In any like or related manner, interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act:
 - (a) Offer reinstatement to Jeff Dunleavy, John Smith, Jose Hernandez, and Marcello Ligerio Robert Weeks and Michael O'Leary to their former positions, or, if these positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights and privileges to which they would have been entitled had they not been discriminated against.
 - (b) Make Jeff Dunleavy, John Smith, Jose Hernandez, and Marcello Ligerio whole, with interest, for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of this order.
 - (c) Compensate Jeff Dunleavy, John Smith, Jose Hernandez, and Marcello Ligerio for the adverse consequences, if any, of receiving a lump backpay award, and file with the Regional Director of Region 22, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years for each employee.
 - (d) Compensate Jeff Dunleavy, John Smith, Jose Hernandez, and Marcello Ligerio for their search-for-work and interim employment expenses regardless of whether those expenses exceed interim earnings.

- (e) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge of Jeff Dunleavy, John Smith, Jose Hernandez, and Marcello Ligerio, and, within 3 days thereafter, notify the above individuals in writing that this has been done and the discharges will not be used against them in any way.
- (f) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of back pay due under the terms of this Order.
- (g) Within 14 days after service by the Region, post, at its Whitehouse Station, New Jersey facility, as well as all of its construction job sites, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 22, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places at the above locations, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent communicates with employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 27, 2017.
- (h) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this Notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection.
Choose not to engage in any of these protected activities

WE WILL NOT discriminatorily discharge or otherwise discipline employees because of their affiliation with or activities on behalf of Local 4, Bricklayers and Allied Craftworkers' Administrative District Council of New Jersey or any other union.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce employees in the exercise of the rights listed above.

WE WILL offer reinstatement to Jeff Dunleavy, John Smith, Jose Hernandez, and Marcello Ligerio to their former positions, or if these positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights and privileges to which they would have been entitled had they not been discriminated against.

WE WILL make Jeff Dunleavy, John Smith, Jose Hernandez, and Marcello Ligerio whole, with interest, for any loss of earnings and other benefits they suffered as a result of our discrimination against them.

Demza Masonry, LLC
(Employer)

Dated: By: (Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may

Speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov

20 Washington Place, 5th Floor, Newark, NJ 07102-3110
(973) 645-2100, Hours: 8:30 a.m. to 5 p.m.

The Administrative Law Judge's decision can be found at www.nlr.gov/case/22-CA-208778 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OF COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (862) 229-7055