

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

**In the Matter of:** ) Case No. 2009-MMC-02  
)  
FRANK PINHEIRO DAIRY dba PINHEIRO )  
DAIRY & MILANESIO FARMS, ) ORDER STAYING  
) MANDATORY MEDIATION  
) AND CONCILIATION  
                                  **Employer,** ) PROCESS  
)  
                                  **and** ) Admin Order No. 2010-1  
)  
UNITED FOOD AND COMMERCIAL )  
WORKERS, LOCAL 5, )  
)  
                                  **Petitioner.** )  
\_\_\_\_\_ )

On September 8, 2009, United Food and Commercial Workers, Local 5 (UFCW) filed a declaration with the Agricultural Labor Relations Board (ALRB or Board) requesting mandatory mediation and conciliation (MMC) pursuant to California Labor Code section 1164(a). On September 22, 2009, Frank Pinheiro Dairy dba Pinheiro Dairy and Milanesio Farms (Employer) filed its answer to the UFCW's request for MMC. The Board reviewed the UFCW's declaration and Employer's answer and found the statutory prerequisites for a referral to MMC were met and issued an order on October 1, 2009 directing the parties to participate in the process (35 ALRB No. 5).<sup>1</sup>

On October 8, 2009, Employer filed a Petition for Writ of Review and request for immediate stay of the Board's order directing the parties to mediation with

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<sup>1</sup> The first mandatory mediation and conciliation session between the parties began on January 6, 2010.

the Fifth District Court of Appeal. On October 9, 2009, the Court issued an order staying the Board's order in 35 ALRB No. 5 pending determination of the Employer's petition or further order of the Court.

On October 30, 2009, the Court issued an order dissolving the stay of the MMC process provided for in its October 9, 2009 order, but did not rule on the Employer's petition for review. On November 3, 2009 the Board filed a request for remand with the Court so that it could reconsider its Decision and Order found at 35 ALRB No. 5 and stay the mandatory mediation process in the interim. On December 28, 2009, the Court issued an order denying Employer's October 8, 2009 petition for review. As a result, there is no longer any question that jurisdiction over the matter lies with the Board.

Accordingly, on its own motion, the Board hereby stays the mandatory mediation process pending reconsideration by the Board of its Decision and Order in 35 ALRB No. 5. The record generated by the mediator up to this point shall be preserved. While this order removes any legal obligation to proceed with the MMC process at this time, this order should not be construed to prevent the parties from reaching a voluntary agreement with or without the assistance of the assigned mediator. By Direction of the Board.

Dated: January 21, 2010

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J. ANTONIO BARBOSA  
Executive Secretary, ALRB