

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

GERAWAN FARMING, INC.,	)	Case No.	2013-RD-003-VIS
	)		(39 ALRB No. 20)
Employer,)		
)		
and)		
)		
SILVIA LOPEZ,)		
	)	ORDER REJECTING GENERAL	
Petitioner,	)	COUNSEL’S REQUEST FOR	
	)	BOARD ACTION IN FOUR	
and	)	PENDING SPECIAL APPEALS	
)		
UNITED FARM WORKERS OF)		
AMERICA,)		
	)	Admin. Order No. 2014-37	
Certified Bargaining Representative.)		
)		
<hr/> GERAWAN FARMING, INC.,	)	Case Nos.	
)		
Respondent,	)	2012-CE-041-VIS	2013-CE-041-VIS
	)	2012-CE-042-VIS	2013-CE-042-VIS
and	)	2012-CE-046-VIS	2013-CE-043-VIS
	)	2012-CE-047-VIS	2013-CE-044-VIS
UNITED FARM WORKERS OF	)	2013-CE-007-VIS	2013-CE-045-VIS
AMERICA,	)	2013-CE-009-VIS	2013-CE-055-VIS
	)	2013-CE-025-VIS	2013-CE-058-VIS
Charging Party.	)	2013-CE-027-VIS	2013-CE-060-VIS
	)	2013-CE-030-VIS	2013-CE-062-VIS
	)	2013-CE-038-VIS	2013-CE-063-VIS
	)	2013-CE-039-VIS	

On October 21, 2014, the General Counsel of the Agricultural Labor Relations Board (“General Counsel”) filed a Request for Board Action in Four Pending Special Appeals (“Request”) in the above-entitled matters and requested that the

Agricultural Labor Relations Board (“Board”) issue rulings regarding four separate Requests for Special Permission to Appeal¹ rulings by the Administrative Law Judge (“ALJ”). The General Counsel asserted that immediate Board action was required to, “allow for a full and fair hearing.” (Request, p. 1.) In the Request, the General Counsel offered arguments in support for the underlying requests. Notably missing from this Request was any legal authority that would allow the General Counsel to file the Request, or to submit additional materials regarding the underlying requests.

Respondent subsequently filed an Objection to General Counsel’s Request for Board Action in Four Pending Special Appeals (“Objection”) on October 21, 2014. Respondent asserted that Board Regulation section 20242, subdivision (b) prohibited the submission of the General Counsel’s Request, and further asserted that the Request should be stricken and rejected. (Objection, p. 1.)

Board Regulation section 20242, subdivision (b) states in pertinent part, “A party applying for special permission for an interim appeal from any ruling by the executive secretary or an administrative law judge shall...[set] forth its position on the necessity for interim relief and on the merits of the appeal. The application shall be

¹ The Board has since ruled on the interim appeals in question, namely: (1) The General Counsel’s Request for Special Permission to Appeal Administrative Law Judge’s Order Striking Expert Witness, submitted on September 29, 2014, (2) Gerawan’s Request for Special Permission to Appeal Order of the ALJ Partially Denying Petition to Revoke Subpoena Duces Tecum, submitted on September 30, 2014, (3) Gerawan’s Request for Special Permission to Appeal the Administrative Law Judge’s Order Re the General Counsel’s Notice In Lieu of Subpoena, submitted on September 30, 2014, and (4) the General Counsel’s Application for Special Permission to Appeal the Exclusion of Evidence Based on Disputed Dates, submitted on October 14, 2014.

supported by declarations if the facts are in dispute and by such authorities as the party deems appropriate.” (Cal. Code Regs., tit. 8, § 20242, subd. (b).) The regulation further states that, “Any party may file a statement opposing such application.” (*Id.*) However, the regulation prohibits submission of any additional materials by stating, “*No further pleadings shall be filed* in support of or in opposition to the appeal unless requested by the Board through the executive secretary.” (*Id.*) (Emphasis added.)

The General Counsel’s Request fails to include legal authority to show that the Request is proper. Additionally, the Request includes arguments regarding the underlying requests, which have already been submitted to the Board. In light of Board Regulation section 20242, subdivision (b) and the absence of any authority for the General Counsel’s Request, the Board finds that the Request is improper.

PLEASE TAKE NOTICE that the General Counsel’s Request is REJECTED for the reasons discussed above.

Dated: October 31, 2014

William B. Gould IV, Chairman

Genevieve A. Shiroma, Member

Cathryn Rivera-Hernandez, Member