

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

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| ABATTI FARMS, INC. AND ABATTI |) | |
| PRODUCE, INC., |) | Case Nos. 78-RD-2-E |
| |) | 78-CE-53-E |
| Respondent, |) | 78-CE-53-1-E |
| |) | 78-CE-53-2-E |
| and |) | 78-CE-55-E |
| |) | 78-CE-56-E |
| UNITED FARM WORKERS OF AMERICA, |) | 78-CE-58-E |
| AFL-CIO, |) | 78-CE-60-E |
| |) | 78-CE-60-1-E |
| Charging Party. |) | 78-CE-61-E |
| |) | 79-CE-5-E |
| |) | |
| |) | 18 ALRB No. 3 |
| |) | (16 ALRB No. 17) |
| |) | (14 ALRB No. 8) |
| |) | (7 ALRB No. 36) |
| |) | |
| |) | (May 28, 1992) |

SUPPLEMENTAL DECISION AND ORDER ON REMAND

In 16 ALRB No. 17, issued on December 20, 1990, the Agricultural Labor Relations Board (ALRB or Board) reaffirmed its decisions in 14 ALRB No. 8 and 7 ALRB No. 36 ordering Abatti Farms, Inc. and Abatti Produce, Inc. (Respondent), inter alia, to pay designated sums, plus interest, to make employees whole for losses caused by Respondent's refusal to bargain with the United Farm Workers of America, AFL-CIO (UFW).

In 7 ALRB No. 36, the Board ordered Respondent to make employees whole for losses commencing on December 27, 1978, the date Respondent was found to have refused to bargain with the UFW.

The collective bargaining agreement between Respondent and the UFW was not due to expire until January 1, 1979. In Abatti Farms, Inc. v. ALRB, Case No. D013681, issued March 5, 1992, an unpublished opinion, the Court of Appeal for the Fourth Appellate District (Court), while essentially affirming the Board's decisions in 16 ALRB No. 17, 14 ALRB No. 8 and 7 ALRB No. 36,, modified the Board's order by ordering the makewhole period to commence on January 1, 1979, the date the collective bargaining agreement expired.

In 7 ALRB No. 36, the Board ordered Respondent to pay 7% per annum interest on the entire makewhole amount, which amount included money which would be withheld from employees and paid by Respondent to the federal government for PICA and SDI employee benefits. In a 1988 supplemental decision, 14 ALRB No. 8, the Board's order was modified by increasing the interest rate for makewhole accumulating after such decision. The Court held that Respondent did not have to pay interest on the amount of money it owed the federal government. The Court further held that the Board could not impose a rate of interest higher than the originally set rate.

ORDER

Pursuant to the Court's remand order, this matter is hereby remanded to the Regional Director of the El Centro Office of the ALRB for calculation, consistent with the Court's decision in this case, of the net amount of makewhole owed each employee. The Regional Director shall submit his calculations to the Board for review, and the Board will thereafter issue a supplemental

Order directing Respondent Abatti Farms, Inc. and Abatti Produce, Inc., its officers, agents, successors and assigns to make the employees involved in this proceeding whole by paying the amounts specified in said Order, plus interest thereon computed in accordance with the Court's decision.

DATED: May 28, 1992

BRUCE J. JANIGIAN, Chairman^{1/}

IVONNE RAMOS RICHARDSON, Member

JIM ELLIS, Member

1. The signatures of Board Members in all Board decisions appear with the signature of the Chairman first, if participating, followed by the signatures of the participating Board Members in order of their seniority.

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