

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

J. R. NORTON COMPANY	)	Case Nos.	
	)	80-CE-16-EC	80-CE-134-EC
Respondent,	)	80-CE-40-EC	80-CE-150-EC
	)	80-CE-98-EC	80-CE-150-1-EC
and	)	80-CE-132-EC	80-CE-157-EC
	)	80-CE-133-EC	80-CE-195-EC
UNITED FARM WORKERS	)		
OF AMERICA, AFL-CIO,	)		
	)	13 ALRB No. 21	
Charging Party.	)	(9 ALRB No. 18)	
	)		

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SUPPLEMENTAL DECISION AND MODIFIED ORDER

Pursuant to the provisions of Labor Code section 1146<sup>1/</sup> the Agricultural Labor Relations Board (ALRB or Board) has delegated its authority in this matter to a three-member panel.<sup>2/</sup>

In accordance with the remand order of the Court of Appeal for the Fourth Appellate District, Division Two, in J. R. Norton Company v. Agricultural Labor Relations Board (1987) 192 Cal.App.3d 874, the Board has reviewed and reconsidered the portion of its remedial Order designated for review on remand and hereby makes the following findings and modifications in its original remedial Order.

In our initial Decision in this proceeding, J. R. Norton Company (1983) 9 ALRB No. 18, the Board ordered J. R. Norton Company (Norton or Respondent) to mail copies of the Notice to all agricultural employees employed by Respondent at any time during

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<sup>1/</sup> All section references herein are to the California Labor Code unless otherwise specified.

<sup>2/</sup> 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.

the period from October 1979 until the date on which the Notice is mailed. The mailing remedy was deemed appropriate at the time in light of the nature and scope of the violations found. On appeal, the Court of Appeal annulled two of our findings: First, that Norton failed and refused to rehire Elodio Aguirre and Alberto Sanchez because of their support for the United Farm Workers of America, AFL-CIO (UFW), in violation of section 1153(a) and (c); and, second, that a Norton supervisor interfered with and engaged in surveillance of union activity in violation of section 1153(a). The court thereafter annulled our mailing order and remanded the same to the Board for reconsideration in light of its opinion.

After careful review and reconsideration of this remedy, we find that a modified mailing provision is appropriate. The mailing period shall be for a one-year period commencing on the date of the first affirmed unfair labor practice (i.e., period to extend from March 7, 1980 [date of unlawful threat to Atilano Jiminez Martinez] to March 7, 1981). The mailing is limited to the certified bargaining unit covering Norton's agricultural employees in the Imperial and Palo Verde Valleys as the unfair labor practices upheld by the court in this matter concern only that bargaining unit. (See, e.g., D'Arrigo Brothers Co. of California (1987) 13 ALRB No. 1, p. 2, n. 2.)

The revised mailing order serves to effectuate the Board's policy that workers, who were employed at the time of the unfair labor practices or who learned later of the Respondent's unlawful conduct, be informed of the outcome of the unfair labor practices. It also serves to dispel any lingering effects of the

Employer's unfair labor practices which would tend to inhibit employees in the future exercise of their statutory rights with this Employer or other employers.

REVISED ORDER

By authority of Labor Code section 1160.3 of the Agricultural Labor Relations Act (Act), the Agricultural Labor Relations Board (Board) hereby orders that Respondent J. R. Norton Company, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Failing or refusing to rehire, reassigning to more onerous work, or otherwise discriminating against, any agricultural employee in regard to hire or tenure of employment or any term or condition of employment because he or she has engaged in union activity or other concerted activity protected by section 1152 of the Act.

(b) Threatening any agricultural employee with any reprisal for filing charges with this Agency.

(c) In any like or related manner interfering with, restraining, or coercing any agricultural employee in the exercise of the rights guaranteed by section 1152 of the Act.

2. Take the following affirmative actions which are deemed necessary to effectuate the policies of the Act.

(a) Offer to Jose Espinoza immediate and full reinstatement to his former or substantially equivalent position, without prejudice to his seniority or other employment rights or privileges.

(b) Make whole Jose Espinoza for all losses of pay

and other economic losses he has suffered as a result of the discrimination against him, such amounts to be computed in accordance with established Board precedents, plus interest thereon computed in accordance with our Decision in Lu-Ette Farms, Inc. (1980) 8 ALRB No. 55.

(c) Preserve and, upon request, make available to this Board and its agents, for examination, photocopying, and otherwise copying, all payroll records, social security payment records, time cards, personnel records and reports, and all other records relevant and necessary to a determination, by the Regional Director, of the backpay period and the amount of backpay due under the terms of this Order.

(d) Sign the Notice to Agricultural Employees attached hereto and, after its translation by a Board agent into all appropriate languages, reproduce sufficient copies in each language for the purposes set forth hereinafter.

(e) Mail copies of the attached Notice, in all appropriate languages, within 30 days after the date of issuance of this Order, to all agricultural employees employed by Respondent at any time during the period from March 7, 1980, to March 7, 1981, in the certified bargaining unit covering its Imperial Valley and Palo Verde Valley operations.

(f) Post copies of the attached Notice, in all appropriate languages, in conspicuous places on its property for 60 days, the period(s) and places(s) of posting to be determined by the Regional Director, and exercise due care to replace any Notice which has been altered, defaced, covered or removed.

(g) Arrange for a representative of Respondent or a Board agent to distribute and read the attached Notice, in all appropriate languages, to all of its employees on company time and property at time(s) and place(s) to be determined by the Regional Director. Following the reading, the Board agent shall be given the opportunity, outside the presence of supervisors and management, to answer any questions the employees may have concerning the Notice or their rights under the Act. The Regional Director shall determine a reasonable rate of compensation to be paid by Respondent to all nonhourly wage employees in order to compensate them for time lost at this reading and during the question-and-answer period.

(h) Notify the Regional Director in writing, within 30 days after the date of issuance of this Order, of the steps Respondent has taken to comply with its terms, and continue to report periodically thereafter, at the Regional Director's request, until full compliance is achieved.

Dated: November 23, 1987

BEN DAVIDIAN, Chairman

JOHN P. MCCARTHY, Member

IVONNE RAMOS RICHARDSON, Member

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating charges that were filed in the El Centro Regional Office, the General Counsel of the Agricultural Labor Relations Board (ALRB or Board) issued a complaint which alleged that we had violated the law. After a hearing at which each side had an opportunity to present evidence, the Board found that we did violate the law by threatening an employee with reprisal for filing a charge and then assigning him to harder work, and by refusing to rehire one employee because of his union activity.

The Board has told us to post and publish this Notice. We will do what the Board has ordered us to do.

We also want to tell you that the Agricultural Labor Relations Act (Act) is a law that gives you and all other farm workers in California these rights:

1. To organize yourselves;
2. To form, join, or help unions;
3. To vote in a secret ballot election to decide whether you want a union to represent you;
4. To bargain with your employer about your wages and working conditions through a union chosen by a majority of the employees and certified by the Board;
5. To act together with other workers to help and protect one another; and
6. To decide not to do any of these things.

Because it is true that you have these rights, we promise that:

WE WILL NOT threaten any employee with reprisal for filing charges with the ALRB.

WE WILL NOT reassign any employee to less desirable work, or refuse to rehire any employee, because he or she has engaged in union activity or any other protected concerted activity.

WE WILL offer Jose Espinoza reinstatement to his former job without loss of seniority and we will pay him backpay for all economic losses he has suffered as a result of our refusal to rehire him.

Dated:

J. R. NORTON COMPANY

By: \_\_\_\_\_  
Representative      Title

If you have a question about your rights as farm workers or about this Notice, you may contact any office of the Agricultural Labor Relations Board. One office is located at 319 Waterman Avenue, El Centro, California, 92243. The telephone number is (619) 353-2130

This is an official Notice of the Agricultural Labor Relations Board, an agency of the State of California.

DO NOT REMOVE OR MUTILATE

CASE SUMMARY

J. R. Norton Company  
(UFW)

13 ALRB No. 21  
Case Nos. 80-CE-16-EC  
80-CE-40-EC  
80-CE-98-EC  
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80-CE-195-EC

BOARD DECISION

In *J. R. Norton Company v. Agricultural Labor Relations Board* (1987) 192 Cal.App.3d 874, the Court of Appeal for the Fourth Appellate District affirmed the Board's findings that Norton had discriminatorily failed to rehire one employee (Jose Espinoza) and unlawfully interrogated and threatened a second employee (Atilano Jiminez Martinez). The court annulled the Board's findings that Norton had discriminatorily refused to rehire two employees (Elodio Aguirre and Alberto Sanchez) and that a Norton supervisor had unlawfully engaged in surveillance of UFW organizing efforts. The court further annulled the Board's mailing order and remanded that portion of the Board's remedial Order to the Board for reconsideration, presumably in light of the court's rejection of two of the Board's findings.

The Board complied with the court's order by issuing a Supplemental Decision and Modified Order providing for a mailing of the notice to all of J. R. Norton's agricultural employees in the Palo Verde and Imperial Valleys (the bargaining unit in which the unfair labor practices occurred) for a one year period.

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This Case Summary is furnished for information only and is not an official statement of the case, or of the Agricultural Labor Relations Board.