

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

ABATTI FARMS, INC., and	)	Case Nos.	75-CE-60-E(R)
ABATTI PRODUCE, INC.,	)		76-CE-45-E(R)
	)		76-CE-48-E(R)
Respondent,	)		76-CE-51-E(R)
	)		76-CE-60-E(R)
and	)		76-CE-63-E(R)
	)		76-CE-72-E(R)
UNITED FARM WORKERS	)		76-CE-73-E(R)
OF AMERICA, AFL-CIO,)		
)		
Charging Party.	)	6 ALRB No. 57	
<hr/>	)	(5 ALRB No. 34)	

SUPPLEMENTARY DECISION AND REVISED ORDER

In accordance with the decision .of the Court of Appeal for the Fourth Appellate District, dated June 24, 1980, in Civil Case No. 18961, 5 ALRB No. 34 (1979), we hereby revise our previous Order in this matter by: (1) deleting paragraph 1(g), which required Respondent to cease and desist from "Engaging in surveillance of employees who are engaged in union activity or otherwise exercising their rights guaranteed by Labor Code section 1152;" and (2) by designating our previous paragraph 1(h) as 1(g).

We also take this opportunity to correct paragraph 2(e) of our previous Order by deleting the words "on a radio station in the southern San Diego County area," and substituting therefor the words "on a radio station in Imperial County."

REVISED ORDER

By authority of Labor Code section 1160.3, the Agricultural Labor Relations Board hereby orders that Respondent Abatti Farms, Inc., and Abatti Produce, Inc., its officers, agents,

successors, and assigns shall:

1. Cease and desist from:

(a) Laying off, discharging, or refusing to hire or rehire any employee, or otherwise discriminating against any employee in regard to his or her hire or tenure of employment or any term or condition of employment because of such employee's membership in, or activities on behalf of, the United Farm Workers of America, AFL-CIO, or any other labor organization.

(b) Discriminating against any employee in regard to his or her hire, tenure, or any other term or condition of employment because of his or her filing charges with, or giving testimony under the Agricultural Labor Relations Act.

(c) Denying access to its premises to UFW or other union representatives seeking to engage in organizational activity under the access provision of 8 Cal. Admin. Code 20900 and following.

(d) Preventing or interfering with communication between UFW or other union organizers and employees at places where employees congregate before or after work.

(e) Interrogating employees concerning their union affiliation or sympathy or that of any other employee.

(f) Threatening any employee with loss of employment, or reduced work opportunities, or with any other reprisal or adverse change in his or her wages, hours, or working conditions because of the employee's union membership, union activity, or other exercise of rights guaranteed by Labor Code section 1152.

(g) In any other manner interfering with,

restraining, or coercing employees in the exercise of rights guaranteed by Labor Code section 1152.

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

(a) Immediately offer Ramon Berumen, Reynaldo Bermea, Francisco Ortiz, Lorenzo Chavarria, Andres Montoya, Augustine Rodriguez, Miguel Lopez Chavez, Jr., Raul Jimenez, Abelino Ortega, Isidro Andrade Prieto, Jesus Solano, Elena Solano, and Herlinda Avitua reinstatement to their former or substantially equivalent jobs without prejudice to their seniority or other rights and privileges and make each of them whole for any loss of pay or other economic losses, plus interest thereon at a rate of seven per cent per annum, he or she may have suffered as a result of Respondent's layoff, discharge, or failure or refusal to rehire him or her.

(b) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records and other records necessary to analyze the amount of backpay due and the rights of reinstatement of the above-named employees under the terms of this Order.

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

(d) Distribute copies of the attached Notice in appropriate languages to all present employees and to all employees hired by Respondent during the 12-month period following issuance of this Decision.

(e) Mail copies of the attached Notice in all appropriate languages, within 30 days after issuance of this Order, to all employees employed by Respondent at any time during the period from December 13, 1975, to September 30, 1976. In the event that addresses of former employees are not maintained by Respondent, Respondent shall arrange for the Notice to be broadcast in all appropriate languages on a radio station in Imperial County once a week for four weeks during Respondent's next peak hiring season. The station or stations and the times of the broadcasts shall be determined by the Regional Director.

(f) Post copies of the attached Notice in all appropriate languages in conspicuous places on its property, including places where notices to employees are usually posted, for a 90 day period to be determined by the Regional Director. Respondent shall exercise due care to replace any copy or copies of the Notice which may be altered, defaced, covered, or removed.

(g) Arrange for a Board agent or a representative of Respondent to distribute and read the attached Notice in all appropriate languages to its employees assembled on company time and property, at times and places 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 employees' rights under the Act. The Regional Director shall determine a reasonable rate of compensation to be paid by Respondent to all nonhourly wage employees to compensate them for time lost at this reading and the

question-and-answer period.

(h) Notify the Regional Director in writing, within 30 days after the date of issuance of this Order, what steps have been taken to comply with it. Upon request of the Regional Director, Respondent shall notify him periodically thereafter in writing what further steps have been taken in compliance with this Order.

Dated: October 16, 1980

RONALD L. RUIZ, Member

HERBERT A. PERRY, Member

JOHN P. McCarthy, Member

NOTICE TO EMPLOYEES

After a trial at which each side had a chance to present its facts, the Agricultural Labor Relations Board has found that we interfered with the rights of our workers. The Board has told us to send out and post this Notice.

We will do what the Board has ordered and also tell you that:

The Agricultural Labor Relations Act is a law that gives all farm workers these rights:

1. To organize themselves.
2. To form, join, or help unions.
3. To bargain as a group and choose whom they want to speak for them.
4. To act together with other workers to try to get a contract or to help or protect one another.
5. To decide not to do any of these things.

Because this is true, we promise that:

WE WILL NOT do anything in the future that forces you to do, or stops you from doing, any of the things listed above.

Especially:

WE WILL NOT lay off, discharge, or refuse to hire or rehire, or otherwise discriminate against any employee because he or she exercised any of these rights.

WE WILL offer Ramon Berumen, Reynaldo Bermea, Francisco Ortiz, Lorenzo Chavarria, Andres Montoya, Augustine Rodriguez, Miguel Lopez Chavez, Jr., Raul Jimenez, Abelino Ortega, Isidro Andrade Prieto, Jesus Solano, Elena Solano, and Herlinda Avitua their old jobs back and will reimburse each of them any pay or other money they lost because we laid off, fired, or failed or refused to rehire them.

WE WILL NOT deny union organizers access to our premises under the Board's access rule, or prevent or interfere with conversations between organizers and employees in places on our property where employees gather or meet before or after work.

WE WILL NOT question you about whether you belong to or support the UFW or any other union.

WE WILL NOT threaten employees with loss of employment or threaten to plant crops which require us to hire fewer workers, or make any other threats of adverse changes in your wages, hours, or working conditions because of your joining or supporting the UFW or any other union or exercising any of the rights set forth in this Notice.

Dated: ABATTI FARMS, INC., and
ABATTI PRODUCE, INC.

By: _____
(Representative) (Title)

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

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Abatti Produce, Inc.

6 ALRB No. 57
Case Nos. 75-CE-60-E(R)
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(5 ALRB No. 34)

BOARD DECISION

The Court of Appeal returned this case to the Board after upholding all of the Board's conclusions except its finding of unlawful surveillance by Respondent. The Board modified its remedial Order by deleting surveillance from the activities from which Respondent is required to cease and desist. The Board also corrected an error in the remedial Order by deleting a provision referring to San Diego County and substituting a provision which required Respondent to arrange for the broadcast of its Notice to Employees on a radio station in Imperial County, where Respondent's operation is located and where its violations of the Labor Code occurred.