

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

GALLO VINEYARDS, INC.,)	
)	
Employer,)	Case No. 07-RD-1-SAL
)	
and)	34 ALRB No. 6
)	
ROBERTO PARRA,)	ORDER SETTING TIME FOR
)	RESPONSES TO CERTIFIED
Petitioner,)	BARGAINING
)	REPRESENTATIVE'S MOTION
and)	FOR RECONSIDERATION
)	
UNITED FARM WORKERS)	
OF AMERICA,)	
)	Admin. Order No. 2008-9
Certified Bargaining Representative.)	
_____)	

On November 12, 2008, the United Farm Workers of America (UFW) timely filed and served a Request for Reconsideration of this Agricultural Labor Relations Board's (ALRB or Board) Decision and Order in 34 ALRB No. 6 (November 7, 2008) pursuant to California Code of Regulations, title 8, section 20393(c). The UFW's request is based upon correspondence from the ALRB General Counsel to counsel for the UFW that was not considered by the Board. The General Counsel clarified in this correspondence that withdrawal of an unfair labor practice charge is not permitted as a matter of policy once that charge has been investigated. The dismissal of investigated unfair labor practice charges can result in the dismissal of

parallel election objections *if* those election objections are based on the same set of facts and cannot be adjudicated on an independent legal basis. Presumably, the UFW takes the position that the General Counsel's policy of prohibiting withdrawal of a class of unfair labor practice charges – those that have been investigated – presents an extraordinary circumstance having some bearing on either the reasoning or outcome in 34 ALRB No. 6, in particular the language in the decision that states:

Parties always have the option of filing ULPs or objections or both depending on the type of remedy sought. In addition, where a party withdraws ULP charges, the Board has stated that is it not precluded from litigating a parallel issue in an election proceeding. (*Richard's Grove, supra*, 33 ALRB No. 7 at p. 6 citing *Bayou Vista Dairy* (2006) 32 ALRB No. 6).

34 ALRB No. 6 at p. 23.

PLEASE TAKE NOTICE that, pursuant to California Code of Regulations, title 8, section 20393 (d), responses, if any, to the UFW's Motion for Reconsideration are due no later than December 1, 2008. The parties are requested to limit their responses to the issue whether the General Counsel's practice of prohibiting parties from withdrawing unfair labor practice charges once those charges have been investigated requires a difference in the reasoning or outcome of the Board's decision

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in 34 ALRB No. 6 in light of the General Counsel's jurisdiction over unfair labor practice charges under California Labor Code section 1149.

By Direction of the Board

Dated: November 19, 2008

J. ANTONIO BARBOSA
Executive Secretary, ALRB