

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

NURSERYMEN’S EXCHANGE, INC., )	)	Case No. 2010-RC-003-SAL
Employer, )	)	
and )	)	ORDER DENYING MOTION
)	)	FOR RECONSIDERATION
UNITED FARM WORKERS OF )	)	
AMERICA, )	)	
Petitioner. )	)	Admin. Order 2011-20
_____ )	)	

On Thursday, September 15, 2011, Nurserymen’s Exchange, Inc. (Employer) filed timely a Motion for Reconsideration of the Agricultural Labor Relations Board’s (Board) Administrative Order 2011-19 pursuant to California Code of Regulations, title 8, section 20393, subdivision (c) by which the Board denied NEI’s request for a continuance. NEI’s motion is without merit and is hereby DENIED.

Both section 20393, subdivision (c), and section 20286, subdivision (c) of the Board’s regulations allow parties to move for reconsideration of a Board decision in representation proceedings and unfair labor practice proceedings, respectively, *because of extraordinary circumstances*. NEI fails to argue that there are “extraordinary circumstances” such as newly discovered evidence or a change in existing law that merit reconsideration of this matter. NEI “merely raises[s] arguments previously addressed by the Board and has failed to cite any extraordinary circumstances justifying reconsideration.” (*Mario Saikhon, Inc.* (1991) 17 ALRB No. 6 at. pp. 4-5).

In sum, the arguments advanced by NEI's counsel amount to concern about payment for legal services provided and uncertainty about whether it continues to represent the entity formerly known as NEI, now known as Tally One. In Paragraph 11 of its Motion to Dismiss, counsel states that it remains employed in the Bankruptcy as Special Labor Counsel to the entity formerly known as NEI, now identified as Tally One. (Motion to Dismiss at ¶ 11, p. 4). Counsel claims to be in "unchartered waters" with respect to the entity formerly known as NEI because all fees and expenses incurred by counsel on behalf of the entity are subject to bankruptcy court approval. (Motion to Dismiss at ¶ 13, p. 5). Absent a motion for withdrawal or a notice of substitution of counsel, and without regard to whether counsel is paid for its services, counsel remains the legal representative of the entity formerly known as NEI in these proceedings. The issue of payment by the entity formerly known as NEI for services rendered by Counsel has no bearing on these proceedings.

ORDER

The Motion for Reconsideration filed September 15, 2011 is DENIED.

By Direction of the Board

Dated: September 16, 2011

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J. ANTONIO BARBOSA  
Executive Secretary, ALRB