

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)	
)	Case No. 2012-MMC-001
ACE TOMATO COMPANY, INC.,)	
A California Corporation,)	
)	
Employer,)	ORDER DIRECTING PARTIES
)	TO MANDATORY MEDIATION
and)	AND CONCILIATION
)	
UNITED FARM WORKERS OF)	Admin. Order No. 2012-5
AMERICA,)	
)	
Petitioner.)	
_____)	

On March 14, 2012, the United Farm Workers of America (UFW) filed a declaration requesting Mandatory Mediation and Conciliation (MMC) pursuant to Labor Code section 1164, subdivision (a), paragraph (1) and Section 20400, subdivision (a) of the Board's regulations.¹ Pursuant to those provisions, a declaration requesting referral to MMC must include a statement that the parties are subject to a certification issued prior to January 1, 2003, that there was a renewed demand to bargain at least 90 days prior to the request, that the parties have failed to reach agreement for at least one year after the union's initial demand to bargain, that the employer has committed an unfair labor practice, that the parties have not previously had a binding contract

¹ The Board's regulations are codified at Title 8, California Code of Regulations section 20100, et seq.

between them, and that the employer has employed or engaged 25 or more agricultural employees during a calendar week in the year preceding the filing of the declaration. The declaration must be accompanied by any documentary or other evidence that supports the above statements and establishes the date of the renewed demand to bargain.

The declaration filed by the UFW on its face meets all of the requirements listed above. The employer, Ace Tomato Company, Inc. (Ace), timely filed an answer to the declaration. In its answer, Ace does not dispute that any of the statutory prerequisites have been met.² Accordingly, pursuant to Labor Code section 1164(b) and section 20402 of the Board's regulations, the parties in the above-captioned matter are hereby directed to mandatory mediation and conciliation.

The mandatory mediation process is governed by Labor Code sections 1164-1164.13 and sections 20400-20408 of the Board's regulations. Upon the issuance of this Order, the Board shall request that a list of nine mediators be compiled by the California Mediation and Conciliation Service and be provided to the parties. The parties shall then have seven (7) days from the receipt of the list to select a mediator in

² The answer does contain several affirmative defenses commonly included as boilerplate language in answers to complaints in civil actions, such as laches, waiver, and estoppel. However, there is no explanation of the bases for these defenses and the answer clearly admits that the necessary prerequisites have been met. Accordingly, the Board attaches no legal significance to the affirmative defenses for the purpose of evaluating whether to refer the parties to mandatory mediation.

accordance with Labor Code section 1164 (b) and section 20403 of the Board's regulations.

By Direction of the Board.

Dated: March 29, 2012

J. ANTONIO BARBOSA
Executive Secretary, ALRB