

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

D. PAPAGNI FRUIT)	Case No.	2012-MMC-02
COMPANY,)		(11 ALRB No. 38)
)		
Employer,)	ORDER DIRECTING PARTIES	
)	TO MANDATORY MEDIATION	
and)	AND CONCILIATION	
)		
UNITED FARM WORKERS)	Admin. Order No.	2012-13
OF AMERICA,)		
)		
Petitioner.)		

The United Farm Workers of America (UFW) filed a declaration requesting Mandatory Mediation and Conciliation (MMC) on August 16, 2012 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 of representative issued prior to January 1, 2003, that there was a renewed demand to bargain at least ninety days prior to the request, that the parties have failed to reach an 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 between them, and that the employer has employed or engaged twenty-five or more agricultural employees during a calendar week in the year

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

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 the requirements listed above. The employer, D. Papagni Fruit Company (Employer), timely filed an answer to the declaration. Employer 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

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² Employer counsel Ronald H. Barsamian argues in his declaration in support of Employer’s response that the UFW abandoned the bargaining unit and did not correct its conduct by its renewed bargaining request in May 2012. “The presentation of an abandonment defense has no relevance after bargaining has resumed after a period of dormancy.” (*San Joaquin Tomato Growers, Inc.* (2011) 2011-MMC-00, 37 ALRB No. 5 at pp. 3-4; *Dole Fresh Fruit Company* (1996) 22 ALRB No. 4 at pp. 9-13).

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

By Direction of the Board.

Dated: August 24, 2012

J. ANTONIO BARBOSA
Executive Secretary, ALRB