

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

ACE TOMATO COMPANY, INC., ) Case No. 93-CE-037-VI  
) (20 ALRB No. 7)  
)  
Respondent, )  
) ORDER DENYING ACE  
and ) TOMATO COMPANY, INC.'S  
) APPLICATION FOR SPECIAL  
UNITED FARM WORKERS OF AMERICA, ) PERMISSION TO APPEAL  
) ADMINISTRATIVE LAW  
) JUDGE'S JANUARY 10, 2013  
Charging Party. ) ORDER REJECTING  
) RESPONDENT'S PETITION TO  
) REVOKE NOTICES  
) IN LIEU OF SUBPOENAS  
)  
) Admin. Order No. 2013-05  
)

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On January 17, 2013, Ace Tomato Company, Inc. (Respondent) filed an Application for Special Permission to Appeal Administrative Law Judge (ALJ) Mark Soble's January 10, 2013 Order Rejecting Respondent's Petition to Revoke Notices in Lieu of Subpoenas. The January 10, 2013 order at issue here addressed three Notices in Lieu of Subpoena, those issued to Ace Tomato Company, Inc., Kathleen Lagorio Janssen, and Dean Janssen.<sup>1</sup> On January 25, 2013, the General Counsel of the Agricultural Labor Relations Board filed its opposition to the Respondent's Application

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<sup>1</sup> The caption of this Order reflects the named parties as of the date of the Application for Special Permission to Appeal. On January 25, 2013, the General Counsel issued a Revised Notice of Hearing and Makewhole Specification specifically naming Kathleen Lagorio Janssen and Dean Janssen, as well as numerous other entities.

for Special Permission to Appeal. Included in the General Counsel's opposition is a request to seek a court order to enforce the notices in lieu of subpoenas.<sup>2</sup>

Respondent's interim appeal fails to state the necessity for interim review as required by Board Regulation 20242(b).<sup>3</sup> The Board will only hear interim appeals of interlocutory rulings pursuant to Regulation 20242(b) that cannot be addressed effectively through exceptions filed pursuant to Regulations 20282 or 20370(j). (*Premiere Raspberries, LLC dba Dutra Farms* (2012) 38 ALRB No. 11.) In the instant matter, the Respondent's interim appeal fails to meet this standard, as the subject of the appeal can be addressed effectively through the exceptions process.

PLEASE TAKE NOTICE that the Respondent's application for special permission to appeal the ALJ's ruling is DENIED, without prejudice to raising the subject of this application in exceptions to the ALJ's ultimate decision in the case in accordance with Regulation 20282.

PLEASE TAKE FURTHER NOTICE that the General Counsel's Request for Leave to Seek a Court Order to Enforce Notices in Lieu of Subpoenas is GRANTED.

By Direction of the Board

DATED: January 29, 2013

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J. ANTONIO BARBOSA  
Executive Secretary, ALRB

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<sup>2</sup> The Board notes that the Respondent has requested that the General Counsel be permitted to proceed with an enforcement action should the ALJ's order be upheld in any respect. (Respondent's Application for Special Permission to Appeal at pp. 12-13.)

<sup>3</sup> The Board's regulations are codified at Title 8, California Code of Regulations, section 20100, et seq.