

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

ACE TOMATO COMPANY,)
INC., a California Corporation,)
DELTA PRE-PACK CO., a)
California Company, BERENDA)
RANCH LLC, A Limited Liability)
Company, CHRISTOPHER G.)
LAGORIA TRUSTS, CREEKSIDE)
VINEYARDS, INC., A California)
Corporation, DEAN JANSSEN, An)
Individual, KATHLEEN LAGORIO)
JANSSEN, An Individual,)
KATHLEEN LAGORIO JANSSEN)
TRUST, K.L.J. LLC, Limited)
Liability Company, K.L. JANSSEN)
LIVING TRUST, JANSSEN & SONS)
LLC, Limited Liability Company,)
LAGORIO FARMING CO., INC.,)
A California, LAGORIO FARMS,)
LLC, A Limited Liability Company,)
LAGORIO LEASING CO., A)
California Company, LAGORIO)
PROPERTIES LP, A Limited)
Partnership, ROLLING HILLS)
VINEYARD LP, A Limited)
Partnership, QUAIL CREEK)
VINEYARDS, JANSSEN)
PROPERTIES LLC, JANN)
JANSSEN, and CHRISTOPHER G.)
LAGORIO,)
)
Respondents,)
)
and)
)
UNITED FARM WORKERS)
OF AMERICA,)
)
Charging Party.)

Case No. 93-CE-37-VI
(20 ALRB No. 7)

ORDER GRANTING
RESPONDENT’S APPLICATION
FOR SPECIAL PERMISSION TO
APPEAL ADMINISTRATIVE LAW
JUDGE’S MARCH 4 AND 7, 2013
ORDERS DENYING
RESPONDENT’S REQUEST FOR
DEPOSITION OF DR. PHILIP
MARTIN; ORDER DENYING
RESPONDENT’S REQUEST FOR
DEPOSITION

Admin. Order No. 2013-18

On March 7, 2013, Respondent, Ace Tomato Company, Inc. filed an Application for Special Permission to Appeal Administrative Law Judge (ALJ) Mark Soble's March 4 and 7, 2013 Orders Denying Respondent's Request for Deposition of Dr. Philip Martin. On March 18, 2013 the General Counsel of the Agricultural Labor Relations Board (ALRB or Board) filed an Opposition to Respondent's Request for Special Permission to Appeal Order Denying its Request for a Deposition of Dr. Philip Martin.

Respondent's request does meet the standard set forth in *Premiere Raspberries, LLC dba Dutra Farms* (2012) 38 ALRB No. 11, as it is an interim appeal of an interlocutory ruling pursuant to California Code of Regulations, title 8, section 20242 (b) that cannot be addressed effectively through exceptions filed pursuant to Regulation sections 20282 or 20370 (j). Therefore, Respondent's Request for Special Permission to Appeal the ALJ's ruling is granted. However, under section 20246 of the Board's regulations, deposition of a witness is permissible only where the witness will be unavailable for the hearing within the meaning of Evidence Code section 240, or where the existence of special circumstances makes it desirable in the interest of justice. The arguments set forth by Respondent do not demonstrate that such special circumstances exist. However, Respondent shall be given ample opportunity at the hearing to cross-examine Dr. Martin on the subject matter areas set forth in the Request for Deposition.

PLEASE TAKE NOTICE THAT Respondent's Request for Deposition of

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Dr. Philip Martin is DENIED for the reasons set forth above.

By Direction of the Board.

Dated: March 21, 2013

J. ANTONIO BARBOSA
Executive Secretary, ALRB