

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

GERAWAN FARMING, INC.,	)	Case No. 2013-MMC-003
	)	
Employer,	)	
	)	
and	)	ORDER DENYING EMPLOYER'S
	)	MOTION FOR STAY OF
UNITED FARM WORKERS	)	MANDATORY MEDIATION
OF AMERICA	)	AND CONCILIATION
	)	PROCEEDINGS
	)	
<u>Petitioner.</u>	)	Admin. Order No. 2013-34

On September 19, 2013, Gerawan Farming, Inc. (Employer or Gerawan) filed a Motion for Immediate Stay of Mandatory Mediation and Conciliation Proceedings Pending Decertification Election Proceedings in the above-titled matter. Employer cites as grounds for the stay that the issuance of the Mediator's report in this matter will taint employee free choice and create the appearance of the lack of neutrality. We DENY Employer's motion.

We are aware that a decertification petition was filed on September 18, 2013 by an employee of Gerawan to decertify the United Farm Workers of America (UFW) as the certified bargaining representative of Gerawan's employees, Case number 2013-RD-02-VIS. Gerawan characterizes the role of the Board in directing the Mandatory Mediation and Conciliation (MMC) process in this matter as creating the appearance of a lack of neutrality that would taint any election. Gerawan neglects to mention that the MMC process is not initiated by the Board; it is initiated by one or

both of the parties. The Board has no role in choosing the mediator (Labor Code Section 1164(a))<sup>1</sup> or facilitating or drafting the terms of any agreement reached by the parties or imposed by the mediator (Labor Code section 1164 (c) and (d)), and its review of any such agreement is limited by Labor Code section 1164.3(e). Gerawan has an obligation to bargain with the UFW while the UFW remains the certified bargaining representative of Gerawan's employees.

A stay is granted to maintain the status quo of the parties and avoid irreparable harm that would result from actions that might be illegal, (Labor Code § 1164.3(f)), or to maintain a reviewing court's jurisdiction by prohibiting the execution of a lower court's judgment. (Cf. Code of Civil Procedure § 916.) Neither of these situations is present. There is nothing illegal about the MMC process as it has been invoked in this matter, and there is no matter on review before the Board. The Employer's Motion is DENIED.

By Direction of the Board.

Dated: September 20, 2013

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J. ANTONIO BARBOSA  
Executive Secretary, ALRB

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<sup>1</sup> All statutory references are to the California Labor Code.