

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

GERAWAN FARMING, INC.,	)	Case No. 2013-RD-003-VIS
	)	(39 ALRB No. 20)
Employer,	)	
	)	ORDER TO EXPEDITE
and	)	SCHEDULING OF
	)	CONSOLIDATED ELECTION
SILVIA LOPEZ,	)	OBJECTION AND UNFAIR
Petitioner,	)	LABOR PRACTICE HEARING
	)	
and	)	
	)	
UNITED FARM WORKERS OF	)	
AMERICA,	)	
	)	Admin. Order No. 2014-22
<u>Certified Bargaining Representative.</u>	)	
	)	
GERAWAN FARMING, INC.,	)	Case No. 2013-CE-027-VIS
	)	
Respondent,	)	
	)	
and	)	
	)	
UNITED FARM WORKERS OF	)	
AMERICA,	)	
	)	
<u>Charging Party.</u>	)	

In *Gerawan Farming, Inc.* (2013) 39 ALRB No. 20, the Board ordered that, pursuant to section 1156.3(e)(2) of the Agricultural Labor Relations Act (ALRA), an investigative hearing on the following objections filed by the United Farm Workers of America (UFW) in the above-captioned matter be conducted on a date and place to be determined. The Board ordered that the

investigation be conducted in accordance with the provisions of Board regulation section 20370, and that the investigative hearing in the above-titled matter be held and the Investigative Hearing Examiner (IHE) take evidence on the following issues:

1. Did the Employer unlawfully initiate, assist in and support the gathering of signatures for the decertification petition and decertification campaign? Pursuant to Board regulation section 20335(c) the Board further ordered that this objection (UFW Objection 1) be consolidated with the hearing in case no. 2013-CE-027-VIS.
2. Did the Employer give preferential access to decertification supporters by allowing them to circulate the decertification petition during work time while prohibiting UFW supporters from circulating a pro-UFW petition during work time, and if so did this conduct have a tendency to affect free choice in the November 5, 2013 election to the extent that setting aside the election is warranted? (UFW Objection 2 to be consolidated with case no. 2013-CE-039-VIS should a complaint issue.)

A consolidated hearing in the above-captioned matters was previously set by the Board's Executive Secretary on March 12, 2014, but the Executive Secretary rescinded his order on April 11, 2014, when the General Counsel filed objections to the March 12, 2014 notice of hearing. At that time the General Counsel stated that unfair labor practice (ULP) charge no. 2013-CE-039-VIS was still under investigation and no complaint, dismissal letter or other appropriate determination by the Visalia Regional Office had issued.

On July 24, 2014, the General Counsel stated in her response to a motion by the UFW to schedule a hearing on consolidated ULP cases 2012-CE-041-VIS et al. (allegations also involving Gerawan Farming, Inc.) that she opposed the UFW's request to schedule the hearing on cases 2012-CE-041-VIS

et al. in August or September 2014 because that would delay the hearing on election-related case nos. 2013-CE-027-VIS and 2013-CE-039-VIS.<sup>1</sup> The General Counsel also stated that she expected the hearing on the election-related cases to go forward in late September 2014, that the election-related cases were a priority, and that a delay of the hearing in the election-related cases would be harmful due to the large number of potential employee witnesses and the possibility of their unavailability during the off-season.

Based on the General Counsel's representations, it appears that action on ULP charge no. 2013-CE-039-VIS is imminent.<sup>2</sup> Therefore, the Board

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<sup>1</sup> The Board denied the UFW's motion to schedule consolidated ULP cases 2012- CE-041-VIS et seq. for hearing in August or September 2014 on July 31, 2014 by Administrative Order No 2014-21.

<sup>2</sup> In her May 20, 2014 Status Report to the Executive Secretary, the General Counsel states the following:

“Obstacles in obtaining and interviewing witnesses could create delays. For example, after many months, counsel for the Petitioner has yet to provide dates of availability for an interview of Petitioner Silvia Lopez, and other decertification signature gatherers represented by that same counsel. Similarly, this counsel has refused to produce documents pursuant to the General Counsel's subpoena. His petition for review of the ALJ's order denying his petition to revoke the subpoena has been pending before the Board since January 13, 2014. The timely completion of these investigations will depend on cooperation by all the parties in the investigation process and on the rapid resolution of disputes over subpoenas and discovery matters.”

Of course, the Board has long-since disposed of the subpoena issue (Admin. Order 2014-02, March 28, 2014). It will be useful for the General Counsel to provide a new status report within five days at least, on the issues to which she alluded to in her May 20 report, given the central importance of resolving these proceedings expeditiously in consolidated form.

ORDERS that the Executive Secretary re-set the above-captioned matter for hearing beginning September 29, 2014.

PLEASE TAKE FURTHER NOTICE that the General Counsel is directed to file a status report <sup>3</sup> on the investigation of ULP charge no. 2013-CE-039-VIS no later than Tuesday, August 5, 2014.

Dated: July 31, 2014.

William B. Gould IV, Chairman

Genevieve A. Shiroma, Member

Cathryn Rivera-Hernandez, Member

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<sup>3</sup> Special consideration should be given to the matters which the General Counsel alluded to above.