

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

GERAWAN FARMING, INC.,	)	Case No.	2013-RD-003-VIS
	)		(39 ALRB No. 20)
Employer,)		
)		
and)		
)		
SILVIA LOPEZ,)		
	)	ORDER DENYING GENERAL	
Petitioner,	)	COUNSEL'S REQUEST FOR	
	)	HEARING DATE	
and)		
)		
UNITED FARM WORKERS OF)		
AMERICA,)		
	)	Admin. Order No. 2014-35	
Certified Bargaining Representative.)		
)		
<hr/> GERAWAN FARMING, INC.,	)	Case Nos.	
)		
Respondent,	)	2012-CE-041-VIS	2013-CE-041-VIS
	)	2012-CE-042-VIS	2013-CE-042-VIS
and	)	2012-CE-046-VIS	2013-CE-043-VIS
	)	2012-CE-047-VIS	2013-CE-044-VIS
UNITED FARM WORKERS OF	)	2013-CE-007-VIS	2013-CE-045-VIS
AMERICA,	)	2013-CE-009-VIS	2013-CE-055-VIS
	)	2013-CE-025-VIS	2013-CE-058-VIS
Charging Party.	)	2013-CE-027-VIS	2013-CE-060-VIS
	)	2013-CE-030-VIS	2013-CE-062-VIS
	)	2013-CE-038-VIS	2013-CE-063-VIS
	)	2013-CE-039-VIS	

On October 22, 2014, the General Counsel filed a Request for Hearing Date (“Request”) concerning specified charges in the above-entitled matters and requested that the Executive Secretary set a new hearing as to these charges “to trail

Gerawan hearing 2013-CE-027-VIS.” (Request, p. 3.)¹ On October 23, 2014, counsel for Respondent requested an opportunity to respond to the Request, which the Executive Secretary granted, allowing a response by October 27, 2014. Respondent filed its Objection to General Counsel’s Request for Hearing Date (“Objection”) on October 27, 2014. In its Objection, Respondent asks that the Request be denied based on the Board’s direction in Administrative Order No. 2014-32, footnote 1, and notes “the Board’s clearly stated priority that the ALJ issue a decision on the pre-election conduct at issue in 2013-RD-003-VIS et al., prior to reopening the hearing for any remaining ULP allegations.” (Objection, p. 2.)

By order dated September 19, 2014, and in response to the General Counsel’s Amended Consolidated Complaint, dated September 9, 2014, the Board directed that the matters pertaining to the election dispute be heard *and decided* without further delay so as to effectuate the rights of the employees under the Act to decide whether to elect a bargaining representative. (Admin. Order 2014-27, p. 7.). As we have repeatedly explained in the context of this election case, the Act, Board regulations, and ALRB case law establish the primacy of resolution of election issues. (*Ibid.*, citing *Gerwan Farming, Inc.* (2013) 39 ALRB No. 20.) As Respondent’s Objection correctly notes, citing Administrative Order No. 2014-32, we have already stated that the General Counsel’s Request for a hearing “to trail” the hearing on pre-

¹ The General Requests that the following cases be set “to trail”: Case Nos. 2012-CE-041-VIS, 2012-CE-042-VIS, 2012-CE-047-VIS, 2013-CE-007-VIS, 2013-CE-009-VIS, 2013-CE-010-VIS, 2013-CE-030-VIS, 2013-CE-038-VIS, 2013-CE-041-VIS, 2013-CE-043-VIS, and 2013-CE-045-VIS.

election conduct is “contrary to the clear priority stated by the Board in its September 19, 2014 order – that the ALJ is to issue a decision on pre-election conduct prior to reopening the hearing with respect to the remaining ULP allegations.” (Admin. Order No. 2014-32, p. 4, fn. 1.) Accordingly, because the General Counsel’s Request for a hearing on charges unrelated to the resolution of the election issue would, if granted, interfere with the prompt resolution of the pending election matters, the Board denies such Request.

We note that the scheduling of matters for hearing before the Board and its agents is placed in the Office of the Executive Secretary for initial review and disposition.² As the day-to-day manager of the Board’s business, the Executive Secretary is uniquely positioned to exercise his judgment and expertise to best allocate the Board’s limited judicial resources on a case-by-case basis and in view of the demands of justice.³ In view of these realities, the Board affirms and supports the Executive Secretary in this important role of gatekeeper.

² Board Regulation section 20224, subdivision (a) provides that the Chief Administrative Law Judge issues a notice of hearing after the General Counsel informs that the case is ready to proceed to hearing. (Cal. Code Regs., tit. 8, § 20224, subd. (a).) Given the lack of Board resources, the Executive Secretary, who supervises the Board’s administrative law judges, performs the chief administrative law judge hearing setting function.

³ We are keenly aware, as is the General Counsel, of the herculean task presently before the Executive Secretary in managing the Board’s limited resources to set and hear these cases. On October 22, 2014, alone, the General Counsel requested hearings to be set in *Gerawan Farming, Inc.*, Case No. 2012-CE-041-VIS (estimated 40 days); *Ace Tomato Company, Inc.*, Case No. 2012-CE-007-VIS (2 or more days, depending on issues for hearing); *Silent Springs, LLC*, Case No. 2013-CE-059-SAL (5 to 7 days); *Harbor View Farms*, Case No. 2013-CE-035-VIS (9 days). *Gerawan Farming, Inc.*, (Footnote continued....)

PLEASE TAKE NOTICE that the General Counsel's Request is DENIED for the reasons discussed above and the Board FURTHER ORDERS that the Executive Secretary exercise his judgment and expertise to schedule all pending matters as soon as practicable and in keeping with the Board's orders and policies.

Dated: October 29, 2014

William B. Gould IV, Chairman

Genevieve A. Shiroma, Member

Cathryn Rivera-Hernandez, Member

(Footnote continued)

2013-RD-003-VIS; 2013-CE-027-VIS (80 days), now in its fifth week of hearing, is scheduled through January 31, 2015. Other scheduled hearings are: *Ace Tomato Company, Inc.*, 93-CE-37-VI (26-30 days) and Herbco International, Inc., 2014-CE-001-VIS (2-3 days). An estimated additional 90 days are required for other cases pending scheduling.