

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

UNITED FARM WORKERS	)	Case Nos.	2013-CL-002-SAL
OF AMERICA,	)		2016-CL-004-SAL
	)		2016-CL-006-SAL
Respondent,	)		2016-CL-007-SAL
	)		
and,	)		
	)	ORDER DIRECTING	
SANDRA OLVERA,	)	RESPONDENT TO REFILE	
	)	EXCEPTIONS IN COMPLIANCE	
	)	WITH BOARD REGULATION	
and,	)	20282	
	)		
JOSE LUIS MAGAÑA,	)		
	)	Admin. Order No. 2017-08	
Charging Parties.	)		
	)	(September 8, 2017)	
	)		
	)		

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On August 4, 2017, Administrative Law Judge William L. Schmidt (the “ALJ”) issued a decision and recommended order in the above-captioned unfair labor practice case. On August 31, 2017, the General Counsel of the Agricultural Labor Relations Board (the “General Counsel”) and Respondent United Farm Workers of America (“Respondent”) filed exceptions to the ALJ’s decision along with supporting briefs pursuant to section 20282 of the Board’s regulations.<sup>1</sup> Because Respondent’s exceptions, on their face, fail to comply with the provisions of Board Regulation

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<sup>1</sup> The Board’s regulations are codified in Title 8 of the California Code of Regulations, section 20100 et seq.

20282(a)(1) governing the content of exceptions, Respondent is hereby directed to refile its exceptions to comply with said regulation. (See *Kawahara Nurseries, Inc.* (2014) 40 ALRB No. 11, p. 9.)

Board regulation 20282 (hereinafter “section 20282”) provides that parties to unfair labor practice proceedings may file exceptions to an ALJ’s decision along with briefs in support of the exceptions. Section 20282(a)(1) states that exceptions must “state the ground for each exception, identify by page number that part of the administrative law judge’s decision to which exception is taken, and cite to those portions of the record which support the exception.” The content identified in section 20282(a)(1) must appear in the exceptions themselves; inclusion of such content in the briefs alone is insufficient.<sup>2</sup> Compliance with the regulation is not merely a technical requirement. Specification of the grounds for each exception, the portion of the ALJ’s decision challenged, and the portions of the record relied upon aids the Board and the parties in understanding and evaluating exceptions.

Respondent’s exceptions fail to comply with the above-described requirements. Although the grounds for each exception are stated, and although each exception identifies the portions of the ALJ’s decision to which each exception relates,

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<sup>2</sup> The arguments in the supporting brief must, of course, also be supported by appropriate citations to the record. Although the Board has, on prior occasions, declined to strike or dismiss exceptions that failed to comply with the requirements of section 20282(a)(1) where the supporting brief enabled the Board to ascertain the basis for the exception, the Board more recently cautioned parties that compliance with the Board’s regulations, and with section 20282(a)(1) in particular, is required. (*Kawahara Nurseries, Inc.*, *supra*, 40 ALRB No. 11, p. 9.)

none of the exceptions cite to the portions of the record relied upon, although most, if not all, of the exceptions appear to involve issues of fact requiring citation to the record.

Accordingly, Respondent shall refile its exceptions so that they comply with the Board's regulations. Said exceptions shall be refiled on or before September 15, 2017.<sup>3</sup> No new or different exceptions may be raised in the refiled document. The supporting brief shall not be refiled. All parties' answering briefs shall be due on or before September 25, 2017.

DATED: September 8, 2017

GENEVIEVE A. SHIROMA, Chairwoman

CATHRYN RIVERA-HERNANDEZ, Member

ISADORE HALL III, Member

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<sup>3</sup> The General Counsel's exceptions, on their face, appear to be in compliance with section 20282(a)(1). However, the General Counsel may, optionally, refile those exceptions to include any record citations that may have been omitted, if any, within the same time period.

