

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)	Case Nos.: 00-CE-5-SAL
)	01-CE-16-SAL
D'ARRIGO BROS. CO. OF)	02-CE-14-SAL
CALIFORNIA,)	04-CE-18-SAL
)	04-CE-18-1-SAL
Respondent,)	
and)	ORDER DENYING RESPONDENT'S
)	APPLICATION FOR
)	ENFORCEMENT OF SUBPOENAS
)	
UNITED FARM WORKERS OF)	Admin. Order 2004-8
AMERICA, AFL-CIO,)	
)	
Charging Party.)	
)	
)	
)	
)	

On August 2, 2004, D'Arrigo Bros. Co. of California (Respondent or Employer) filed an application pursuant to Section 1151 (b) of the Agricultural Labor Relations Act, and section 20250(k) of the Board's regulations ¹ asking for orders authorizing enforcement of subpoenas duces tecum (subpoenas) served by the Respondent on the General Counsel of the Agricultural Labor Relations Board and on the United Farm Workers of America, AFL-CIO (UFW or Charging Party) on April 28, 2004.

After reviewing the Respondent's application for enforcement of its subpoenas, and the oppositions to the Respondent's application for enforcement filed by the UFW and the General Counsel, the Board found that it could not make

¹ The Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act is found at California Labor Code section 1140 *et seq.* The Board's regulations are codified at California Code of Regulations, Title 8 section 20100 *et seq.*

a determination as to whether there was non-compliance with the Respondent's subpoenas. For that reason, on August 30, 2004, the Board issued Admin. Order 2004-7, requesting that the Administrative Law Judge (ALJ) in the above matter conduct a hearing for the purpose of evaluating whether the Respondent's application for enforcement was appropriate. It was further ordered that at the conclusion of the hearing, the ALJ recommend to the Board whether or not the Board should seek enforcement of the Respondent's subpoenas in the appropriate superior court.

On September 2, 2004, the ALJ conducted a telephone hearing regarding Respondent's applications for enforcement. On September 9, 2004, the ALJ issued her recommendation, and based on the pleadings and papers filed and the arguments presented at the hearing, she recommended that the Board not seek enforcement of the Respondent's subpoenas.

Upon reviewing the ALJ's September 9, 2004 recommendation, the Board finds that the ALJ thoroughly addressed each discovery item for which Respondent contended it had not received an adequate response in its August 2, 2004 application for enforcement. Significantly, counsel for the Respondent could not provide the ALJ with any specifics as to what further discovery it was seeking from the General Counsel through its enforcement request. In addition, the Board is persuaded by the ALJ's finding that counsel for the Charging Party had consistently worked with counsel for Respondent to resolve any questions

involving discovery, and had not failed to comply with any of the ALJ's prior orders regarding discovery.

As enforcement of the Respondent's subpoenas is not appropriate or necessary in this situation, the Respondent's application for enforcement of the subpoenas duces tecum served by the Respondent on the General Counsel of the ALRB and on the UFW is hereby DENIED. If Respondent has further questions about the items requested in its subpoenas, the Board directs the parties to meet and confer about such questions.

By Direction of the Board

Dated September 14, 2004

J. ANTONIO BARBOSA
Executive Secretary, ALRB