

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 SPECIAL
UNITED FARM WORKERS OF	)	PERMISSION TO APPEAL RULING
AMERICA, AFL-CIO,	)	OF EXECUTIVE SECRETARY
)	
Charging Party.)	
	)	Admin. Order No. 2006-1
)	
)	
)	

PLEASE TAKE NOTICE that the Agricultural Labor Relations Board (ALRB or Board) hereby DENIES the application filed on January 12, 2006 by Respondent, D'Arrigo Bros. Co. of California (Respondent), requesting special permission to appeal the ruling issued by the Executive Secretary on January 5, 2006 in the above-captioned matter.

On January 3, 2006, Respondent filed a request with the ALRB's Executive Secretary to file replies to briefs filed by the ALRB's General Counsel and the United Farm Workers (UFW or Charging Party) answering Respondent's exceptions to the decision of the Administrative Law Judge (ALJ). In addition, Respondent simultaneously filed motions to strike all or part of the General

Counsel's and UFW's briefs answering Respondent's exceptions to the decision of the ALJ.

On January 5, 2006, the Executive Secretary issued an order denying Respondent's request to file reply briefs. On January 12, 2006, the Respondent filed an application for special permission to appeal the Executive Secretary's ruling denying its request to file reply briefs to the General Counsel's and UFW's answering briefs

The Executive Secretary denied the Respondent's request to file reply briefs under Board regulation section 20282 (c), which states that following the parties' exceptions and answering briefs, "no further brief shall be filed except as requested by the Board." The Executive Secretary also noted that "to the extent the motion [to file reply briefs] seeks to reply to content Respondent asserts is improperly included in the answering briefs, it is superfluous in light of the Respondent's motions to strike all or part of the answering briefs."

The Board finds that the Executive Secretary properly denied Respondent's request to file reply briefs. Board regulation section 20282 sets forth briefing procedures for filing exceptions to a decision of an ALJ, and section 20282 (c) clearly states that there will be no further briefing unless the Board requests it.

The mandate of section 1148 of the Agricultural Labor Relations Act, requiring that the ALRB follow applicable precedents of the National Labor Relations Board (NLRB), does not extend to procedural rules. (*Tex-Cal Land Management, Inc. v. ALRB* (1979) 24 Cal. 3d 335, 351 [citing *ALRB v. Superior*

Court of Tulare County, et. al. (1976) 16 Cal. 3d 392].) Thus, the Respondent's reliance on NLRB regulations in arguing that it is entitled to a further round of briefing is misplaced.

Further, the Respondent's application demonstrates no reason why interim relief is necessary. The Respondent's January 3, 2006 motions to strike the UFW's and General Counsel's answering briefs already outline its arguments that the UFW and General Counsel raised new matters not included in the Respondent's exceptions. The Board is currently reviewing the Respondent's motions to strike, and will address the merits of the motions to strike in its final decision and order.

Therefore, the Respondent's application to appeal the Executive Secretary's ruling is DENIED.

By Direction of the Board.

Dated: February 2, 2006

Genevieve A. Shiroma
Chairwoman, ALRB¹

¹ All numbered administrative orders are the product of Board deliberations and are drafted by the Board and its staff, though historically they have been signed in all cases by the Executive Secretary at the direction of the Board. Henceforth, in instances where an action of the Executive Secretary is being reviewed by the Board, the Chairperson of the Board will sign the administrative orders.