

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

UNITED FARM WORKERS OF)	Case No.	2018-CL-003-VIS
AMERICA,)		
)		
Respondent,)		
)		
and)		
)		
AGUSTIN GARCIA,)		
)		
Charging Party,)		
)		
and)	45 ALRB No. 8	
)		
GERAWAN FARMING, INC.,)		
)		
Intervenor.)	(November 26, 2019)	
_____)		

DECISION AND ORDER

This case is back before the Agricultural Labor Relations Board (ALRB or Board) following the recommended decision and order of administrative law judge (ALJ) Mary Miller Cracraft after the Board’s remand order in *United Farm Workers of America (Garcia)* (2019) 45 ALRB No. 4. The Board in that decision held respondent United Farm Workers of America (UFW) committed an unfair labor practice in violation of Labor Code section 1154, subdivision (h) when it demanded intervenor Gerawan Farming, Inc. (Gerawan) recognize and bargain with it, and threatened to picket Gerawan if it refused. The Board reversed the ALJ’s additional findings that the UFW’s

picketing threat violated Labor Code section 1154, subdivisions (a)(1) and (a)(2), and remanded those allegations for further proceedings. Finally, the Board reversed the ALJ's determination that notice mailing and reading remedies would be punitive in this case based on the UFW's so-called technical picketing threat, and found that the full range of standard notice remedies were appropriate.

On remand, the ALJ issued a decision dismissing the two allegations remanded by the Board.¹ The ALJ's recommended order includes the notice remedies ordered by the Board in its prior decision, including mailing, reading, and that the UFW provide a copy of the notice to agricultural employees hired at Gerawan during the 12-month period after a final Board order.

The UFW filed a single exception concerning the above-referenced notice remedies. No party filed a response. The Board has considered the ALJ's order and the record in this case, and we find the UFW's exception not well-taken. Accordingly,

¹ This matter originally came to the Board following the ALJ's ruling on a motion for judgment on the pleadings filed by the General Counsel. A motion for judgment on the pleadings generally is a test of the pleadings. (*Garcia, supra*, 45 ALRB No. 4, p. 7.) In the context of a plaintiff's motion, the issue is whether the complaint establishes a cause of action as a matter of law and there is no defense thereto. (Code Civ. Proc., § 438, subd. (c)(1)(A); see Code Civ. Proc., § 438, subd. (c)(2)(A) [motion may be made as to the entire complaint or any causes of action therein].) If this showing is made, then the plaintiff is entitled to a remedy. However, if it is not, the proper recourse is not to dismiss the cause of action outright but rather to deny the motion as to the cause of action so that further proceedings and development of a factual record may occur. (See *Hernandez v. County of San Bernardino* (2004) 117 Cal.App.4th 1055, 1057.) Following the Board's remand order, no "further proceedings" were held. The General Counsel did not move or request to dismiss the remanded causes of action, nor did any party move to dismiss them. The ALJ simply issued an order dismissing them. Ultimately, we need not consider the consequence of this procedural irregularity because no party has excepted to it.

we affirm the ALJ's order, as modified herein.²

DISCUSSION

The UFW recognizes the notice remedies set forth in the ALJ's recommended order on remand were "essentially ordered by the ALRB" in its decision in 45 ALRB No. 4. The UFW contends these notice remedies are punitive, despite the Board's finding in its earlier decision that these remedies are appropriate here. (*Garcia, supra*, 45 ALRB No. 4, pp. 19-20; see *UFW (Corralitos Farms, LLC)* (2014) 40 ALRB No. 6, pp. 11-13.)

We find the UFW's exception to the notice remedies is barred. When this matter first came before us, no party excepted to the ALJ's determination that notice reading and mailing remedies were not appropriate in this case based on the so-called "technical" nature of the unfair labor practice committed by the UFW. The Board reversed the ALJ's determination in this regard *sua sponte*, and ordered the full range of notice remedies for the UFW's unlawful picking threat in violation of Labor Code section 1154, subdivision (h). (*Garcia, supra*, 45 ALRB No. 4, pp. 19-20.) The UFW did not seek reconsideration of the Board's order pursuant to Board regulation 20286, subdivision (c).³

² The ALJ's recommended order purportedly requires the UFW to provide notice to agricultural employees "it employed," that "it hired for work," or otherwise speaks in terms of the employees entitled to receive notice as being employees of the UFW. It is Gerawan's agricultural employees who are entitled to notice, and we modify the order here to correct these references.

³ The Board's regulations are codified at California Code of Regulations, title 8, section 20100 et seq.

The ALJ merely complied with the Board's earlier decision when she ordered the notice remedies of which the UFW now complains. The UFW's proper recourse, if it disagreed with these remedies, was to assert its objections in a timely manner before the Board via a motion for reconsideration. (See *NLRB v. Legacy Health System* (9th Cir. 2011) 662 F.3d 1124, 1127 [judicial review of an objection to "a newly minted remedial order" is barred "when a party fails to move for reconsideration of the Board's *sua sponte* modification"].) Indeed, the Board's earlier remand order expressly directs that "[a]ny further proceedings and exceptions shall be limited to the section 1154, subdivision (a)(1) and (a)(2) violations alleged in the unfair labor practice complaint." (*Garcia, supra*, 45 ALRB No. 4, p. 21.) The UFW's current exception is unrelated to those two alleged violations (both of which were dismissed by the ALJ), but rather pertains to a remedy ordered by the Board based on the section 1154, subdivision (h) violation upheld in our earlier decision (and to which the UFW did not except). Accordingly, we find the UFW's exception is barred.

Even assuming the UFW's exception properly is before us, we still would find it lacks merit. The UFW contends that notice remedies to Gerawan's employees are unwarranted in this case because the only violation found is under section 1154, subdivision (h) — a violation the union now asserts is "directed only at Gerawan, not Gerawan's employees." Ironically, this contention that subdivision (h) protects only employers and not employees is the same argument Gerawan previously asserted in support of its claim that Gerawan employee and charging party Agustin Garcia lacked standing to file a charge based on that statute. The Board rejected that argument,

finding section 1154, subdivision (h) is intended to protect both employers *and employees* from recognitional picketing threats by noncertified unions. (*Garcia, supra*, 45 ALRB No. 4, pp. 9-11.) With respect to the Board's determination as to the appropriate notice remedies for such a violation, the Board further stated:

We do not view a decertified union's so-called technical picketing threat to an employer as any less serious than an employer's technical refusal to bargain with a labor organization certified to represent its employees. Both are an affront to employee free choice rights at the core of our Act.

(*Id.* at p. 20.)

The UFW also asserts its picketing threat did not violate any employee rights, pointing to our finding that the record before us in the earlier proceedings did not support a violation of section 1154, subdivision (a)(1). The subdivision (h) violation upheld by the Board, however, is a separate basis for unfair labor practice liability, and the Board explained in its earlier decision that that subdivision protects employees who have voted against union representation from recognitional picketing threats directed at their employer. (*Garcia, supra*, 45 ALRB No. 4, p. 10.) In sum, the UFW's belated objections to the notice remedies ordered in our earlier decision are addressed in that decision, and, even had the UFW presented its arguments in a timely manner, we would find no basis to reconsider them.

ORDER

As set forth in our earlier decision in *Garcia, supra*, 45 ALRB No. 4, respondent UFW violated section 1154, subdivision (h) of the Agricultural Labor Relations Act when it threatened to picket Gerawan if it did not recognize and bargain

with the union. Pursuant to Labor Code section 1160.3, respondent, its officers, agents, and representatives shall:

1. Cease and desist from:

(a) Demanding that Gerawan Farming, Inc. or any other agricultural employer recognize or bargain with it as a labor organization not certified as the bargaining representative of the employer's agricultural employees.

(b) Picketing or causing to be picketed, or threatening to picket or cause to be picketed, Gerawan Farming, Inc. or any other agricultural employer where the object thereof is to force or require the employer to recognize or bargain with it as a labor organization not certified as the bargaining representative of the employer's agricultural employees.

2. Take the following affirmative actions that are deemed necessary to effectuate the purposes of the Agricultural Labor Relations Act (Lab. Code, § 1140 et seq.):

(a) Within 30 days after this Order becomes final, sign the attached Notice to Agricultural Employees and after its translation by a Board agent into appropriate languages, reproduce sufficient copies in each language for the purposes set forth below.

(b) Within 30 days after this Order becomes final, post copies of the attached Notice, in all appropriate languages, in conspicuous places at respondent's business offices, meeting halls, and bulletin boards, as well as at locations provided to respondent by Gerawan Farming, Inc., such places to be determined by the Regional

Director, and exercise due care to replace any Notice which has been altered, defaced, covered or removed. Pursuant to Labor Code section 1151, subdivision (a), agents of the Board shall have access to confirm the posting of the Notices.

(c) Within 30 days after this Order becomes final, arrange for a representative of respondent or Board agents to distribute and read the attached Notice, in all appropriate languages, to all employees then employed by Gerawan Farming, Inc., at time(s) and place(s) to be determined by the Regional Director. Following the reading, the Board agents shall be given the opportunity, outside the presence of respondent's representatives, to answer any questions the employees may have concerning the Notice and their rights under the Act. Should any employee lose wages from Gerawan Farming, Inc. for time lost during the reading of the Notice and the question-and-answer period, respondent shall reimburse such losses. The Regional Director shall determine a reasonable rate of compensation to be paid to all non-hourly employees.

(d) Mail copies of the attached Notice, in all appropriate languages, within 30 days after this Order becomes final, or when directed by the Regional Director, to all agricultural employees of Gerawan Farming, Inc. employed during the period from November 13, 2018, to November 12, 2019.

(e) Provide a copy of the Notice to each agricultural employee hired to work for Gerawan Farming, Inc. during the twelve-month period following the date this Order becomes final.

(f) Notify the Regional Director in writing, within 30 days after the date this Order becomes final, of the steps respondent has taken to comply with its terms.

Upon request of the Regional Director, respondent shall notify the Regional Director periodically thereafter in writing of further actions to comply with the terms of this Order.

DATED: November 26, 2019

Isadore Hall, III, Member

Barry D. Broad, Member

Ralph E. Lightstone, Member

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating charges that were filed by Agustin Garcia in the Visalia Office of the Agricultural Labor Relations Board (ALRB), the General Counsel of the ALRB issued a complaint that we had violated the law. Based on the undisputed facts and record, the ALRB found that we had violated the Agricultural Labor Relations Act by demanding to bargain and threatening to picket Gerawan Farming, Inc. if it refused, even though we were not certified by the ALRB as your bargaining representative.

The ALRB has told us to post and publish this Notice.

The Agricultural Labor Relations Act is a law that gives you and all other farm workers in California these rights:

1. To organize yourselves;
2. To form, join or help a labor organization or bargaining representative;
3. To vote in a secret ballot election to decide whether you want a union to represent you;
4. To bargain with your employer about your wages and working conditions through a union chosen by a majority of the employees and certified by the Board;
5. To act together with other workers to help and protect one another; and
6. To decide not to do any of these things.

Because you have these rights, we promise that:

WE WILL NOT demand to bargain or picket or threaten to picket if an agricultural employer refuses to bargain if we have not been certified by the ALRB as the bargaining representative.

DATED:

UNITED FARM WORKERS OF AMERICA

By _____
Representative Title

If you have any questions about your rights as farm workers or about this Notice, you may contact any office of the Agricultural Labor Relations Board. One office is located at 1642 W. Walnut Avenue, Visalia, CA 93477. The telephone number is (559) 627-0995.

This is an official notice of the Agricultural Labor Relations Board, an agency of the State of California.

DO NOT REMOVE OR MUTILATE

CASE SUMMARY

UNITED FARM WORKERS OF AMERICA
(Agustin Garcia)

45 ALRB No. 8
Case No. 2018-CL-003-VIS
(45 ALRB No. 4)

Background

Respondent United Farm Workers of America (UFW) threatened to picket Gerawan Farming, Inc. (Gerawan) if Gerawan did not recognize and bargain with the union. In *UFW (Garcia)* (2019) 45 ALRB No. 4, the Board found the UFW's picketing threat violated Labor Code section 1154, subdivision (h). The Board remanded separate allegations that the picketing threat also violated section 1154, subdivisions (a)(1) and (a)(2) for further proceedings. In addition, the Board reversed the administrative law judge's (ALJ) determination that notice mailing and reading remedies were not appropriate, and ordered the full range of standard notice remedies based on the UFW's violation of section 1154, subdivision (h).

On remand, the ALJ issued a recommended decision and order dismissing the section 1154, subdivision (a)(1) and (a)(2) violations, and ordering the notice remedies directed by the Board in its prior decision.

Board Decision

The UFW filed a single exception to the notice mailing and reading remedies, as well as the requirement that it provide notice to employees hired by Gerawan for a 12-month period. The Board found the exception was barred because the UFW's proper recourse to challenge the notice remedies was to file a motion for reconsideration before the Board following its earlier decision in 45 ALRB No. 4. Even assuming the exception was properly before it, the Board rejected the UFW's arguments that section 1154, subdivision (h) is intended to protect only employers and the notice remedies were inappropriate. Pursuant to its decision in 45 ALRB No. 4, the Board reiterated that section 1154, subdivision (h) is intended to protect both employers and employees from recognitional picketing threats from noncertified unions, and thus standard notice remedies were appropriate.

This Case Summary is furnished for information only and is not an official statement of the case, or of the ALRB.

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STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

**UNITED FARM WORKERS OF
AMERICA,**

Respondent,

and

AUGUSTIN GARCIA,

Charging Party

GERAWAN FARMING, INC.

Intervenor

Case No.: 2018-CL-003-VIS

[45 ALRB No. 4]

**RECOMMENDED DECISION AND
ORDER ON REMAND**

On June 19, 2019, the Agricultural Labor Relations Board (the Board) issued its Decision and Order in this matter, reported at 45 ALRB No. 4. The Board affirmed certain recommended findings and conclusions and reversed others.

Thus, the Board affirmed the recommended conclusion of law that United Farm Workers of America (UFW) violated Labor Code section 1154(h),¹ the first cause of action set forth in the complaint. However, the Board reversed the recommended conclusion of law that UFW violated section 1154(a)(1) and (a)(2), the second and third causes of action set forth in the complaint. These two causes

¹ California Agricultural Labor Relations Act, Labor Code §§ 1140-1166.3 as amended, effective January 1, 2012.

1 of action were remanded for further proceedings consistent with the Board's
2 Decision.²

3 Further, the Board reversed the recommended conclusion that notice
4 mailing and reading remedies were not appropriate. Finally, the Board ordered that
5 UFW must provide a copy of the notice to agricultural employees hired in the
6 twelve-month period following the Board's final decision.

7 Pursuant to the Board's Decision, it is hereby recommended that the
8 second and third causes of action be dismissed for the reasons stated by the Board.
9 The following revised findings of fact, conclusions of law, remedy, recommended
10 Order, and recommended Notice are set forth pursuant to the remand.

11 Findings of Fact³

- 12 1. On December 10, 2018, agricultural worker Garcia properly filed and
13 served unfair labor practice charge (Charge) 2018-CL-003-VIS. The Charge
14 alleges that on November 13, 2018, the UFW violated the Act when it
15 threatened to picket Intervenor Gerawan Farming, Inc. (Gerawan) if it
16 should refuse to recognize and bargain with the UFW. The Charge was filed
17 within the statute of limitations contained in Labor Code §1160.2 and was
18 served on the UFW by certified mail return receipt requested on December
19 10, 2018.
- 20 2. At all material times, UFW was a labor organization within the meaning of
21 Labor Code §1140.4(f). However, on December 10, 2018, UFW was not the
22 certified representative of Gerawan agricultural employees, as defined by
23 Labor Code §1140.4(b), where charging party Garcia was employed.

24
25 ² The Board cited *Hernandez v. County of San Bernardino* (2004) 117 Cal.App.4th 1055, 1057
(lower court erred in granting motion for judgment on the pleadings based on undeveloped factual record).

26 ³ These findings of fact are substantively identical to those set forth in the prior ALJ Order
Granting General Counsel's motion for judgment on the pleadings.

- 1 3. At all material times, Garcia was an agricultural worker as defined in
2 §1140.4(b) of the Act, and employed by Gerawan.
- 3 4. On October 25, 2013, Silvia Lopez filed a petition to decertify UFW as the
4 bargaining representative of the agricultural employees of Gerawan. The
5 ALRB ordered that an election be held and the ballots cast in the election be
6 impounded. The election took place on November 5, 2013.
- 7 5. Following a hearing on election objections and related unfair labor practice
8 allegations, an administrative law judge (ALJ) determined that Gerawan
9 committed multiple unfair labor practices and engaged in other objectionable
10 conduct by providing unlawful assistance to the efforts to decertify the
11 UFW. Due to the pervasive nature of the misconduct found, the ALJ
12 recommended dismissing the decertification petition and setting aside the
13 election. The ALRB affirmed and reversed various of the ALJ findings
14 holding that Gerawan's unlawful and/or objectionable conduct tainted the
15 entire decertification process, thus dismissing the petition and setting aside
16 the election. (*Gerawan Farming, Inc.* (2016) 42 ALRB No. 1.)
- 17 6. On May 30, 2018, the California Court of Appeal for the Fifth Appellate
18 District issued an opinion reversing certain portions of the ALRB's unfair
19 labor practice findings in *Gerawan Farming, supra*, and vacating the
20 ALRB's order dismissing the decertification petition and setting aside the
21 election. (*Gerawan Farming, Inc. v. ALRB* (2018) 23 Cal.App.5th 1129.)
22 The appellate court remanded the matter to the ALRB to open and count the
23 ballots cast in the 2013 election and to reconsider the ALRB decision in light
24 of its opinion.
- 25 7. On September 14, 2018, the ALRB issued an intervening administrative
26 order directing the vote count and pursuant to that order, Regional Director

1 Chris Schneider directed that the votes be opened and counted on September
2 18, 2018, yielding the following results:

- 3 • 197 for the UFW
- 4 • 1098 for the “No Union” choice
- 5 • 660 unresolved challenged ballots
- 6 • 18 voided ballots

7 8. After the vote count, the ALRB evaluated the record on remand and found
8 that the unlawful and/or objectionable conduct committed by Gerawan did
9 not interfere with the employees’ free choice to such an extent that it
10 affected the outcome of the election. Therefore, the ALRB certified that a
11 majority of the valid ballots indicated “No Union” in the representation
12 election and decertified the UFW as the exclusive bargaining representative
13 of the Gerawan agricultural employees.

14 9. On September 27, 2018, the ALRB issued its supplemental decision and
15 order in *Gerawan Farming, Inc.* (2018) 44 ALRB No. 10 wherein it attested
16 to the decertification vote count and totals cited above.

17 10. On November 13, 2018, Armando Elenes, National Vice President of the
18 UFW sent a letter to Gerawan’s counsel Ron Barsamian in which Mr. Elenes
19 stated:

20 Pursuant to the UFW’s role as a collective bargaining
21 representative of Gerawan’s employees, we request to meet and
22 bargain in an attempt to finalize a collective bargaining agreement
23 between UFW and Gerawan Farming. As you know, we believe the
24 Board’s decertification of UFW was made in error, is invalid as a
25 matter of law, and has no legal force or effect. Should Gerawan
26 refuse to meet and bargain, UFW will file charges and will also
picket Gerawan at any and all public locations and retailers, in
order to be recognized as the lawful representative of Gerawan’s
employees.

1 11. On December 10, 2018, charging party Garcia filed charge 2018-CL-003-
2 VIS alleging that the UFW committed an unfair labor practice in threatening
3 to picket Gerawan absent a certification as the employees' collective
4 bargaining representative.

5 12. In a letter dated December 13, 2018, and addressed to Chris Schneider,
6 Regional Director of the ALRB in the Visalia region, UFW counsel Mario
7 Martinez stated:

8 UFW is in receipt of the . . . charge that UFW has violated the
9 ALRA by requesting that Gerawan recognize and bargain with
10 UFW and threatening to picket Gerawan. . . . UFW admits to
11 violating the Act, including Labor Code sections 1154(g) and/or (h)
12 as a means to seek review of the ALRB decision in *Gerawan*
13 *Farming, Inc.* (2018) 44 ALRB No. 10. . . . UFW believes that
14 decision by the ALRB was made in error and seeks to challenge
15 that decision. UFW has no other means to seek review of that
16 decision, other than by engaging in this technical violation of the
17 Act.

18 Revised Conclusions of Law

19 By the actions set forth in Findings of Fact 5-12, UFW committed an
20 unfair labor practice in violation of Section 1154(h) when it threatened to
21 picket at Gerawan thus threatening Gerawan with picketing to force or
22 require Gerawan to recognize UFW as the bargaining representative of
23 Gerawan employees despite its decertification pursuant to the 2013 election.

24 By the actions set forth in Findings of Fact 5-12, UFW did not commit
25 an unfair labor practice in violation of Section 1154(a)(1) and (a)(2) and it is
26 recommended that these allegations be dismissed. As the Board stated, the
27 complaint alleges no facts to support a finding the UFW's picketing threat to
28 Gerawan in any way restrained or coerced employees in their choice of a
29 labor organization. Further, as the Board stated, the complaint contains no

1 facts that would support a finding that UFW's picketing threat to Gerawan in
2 any way restrained or coerced Gerawan in the selection of its own
3 representatives for purposes of collective bargaining or adjusting
4 grievances.⁴

5 Revised Remedy

6 In addition to the cease and desist portions of the recommended order,
7 the Board found that mailing and reading of the notice was appropriate in
8 this case.⁵ The Board further found that UFW should be ordered to provide a
9 copy of the notice to agricultural employees hired at Gerawan during the
10 twelve-month period following the Board's final decision.⁶ The
11 recommended order below has been revised to add these remedies.

12 REVISED RECOMMENDED ORDER

13 Pursuant to Labor Code section 1160.3, Respondent United Farm
14 Workers of America, its officer, agents, successors, and assigns shall:

15 1. Cease and desist from:

16 (a) Threatening to picket or cause to be picketed Gerawan Farming,
17 Inc. or any other agricultural employer where the object thereof is
18 to force or require the employer to recognize or bargain with a
19 labor organization that is not currently certified as the bargaining
20 representative of its agricultural employees.

21 (b) In any like or related manner restrain or coerce employees in the
22 exercise of their rights guaranteed by section 1152 of the
23 Agricultural Labor Relations Act.

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25

⁴ *United Farm Workers of America* (2019) 45 ALRB No. 4, pp. 16-19.

26 ⁵ *Id.*, 45 ALRB No. 4, pp. 19-20.

27 ⁶ *Id.*, 45 ALRB No. 4 at p. 20.

1 2. Take the following affirmative actions that are deemed necessary to
2 effectuate the purposes of the Act:

3 (a) Within 30 days after this Order becomes final, sign the attached
4 Notice to Agricultural Employees and after its translation by an
5 ALRB agent into appropriate languages, reproduce sufficient
6 copies in each language for the purposes set forth below.

7 (b) Within 30 days after this Order becomes final, post copies of the
8 attached Notice, in all appropriate languages, in conspicuous
9 places at UFW's business offices, meeting halls, and bulletin
10 boards, as well as at locations provided to UFW by Gerawan
11 Farming, Inc., such places to be determined by the Regional
12 Director, and exercise due care to replace any Notice which has
13 been altered, defaced, covered, or removed. Pursuant to Labor
14 Code section 1151(a), agents of the ALRB shall have access to
15 confirm the posting of the Notices.

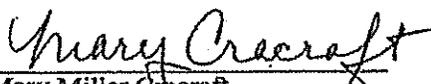
16 (c) Notify the Regional Director in writing, within 30 days after the
17 date this Order becomes final, of the steps UFW has taken to
18 comply with its terms. Upon request of the Regional Director,
19 UFW shall notify the Regional Director periodically thereafter in
20 writing of further actions to comply with the terms of this Order.

21 (d) Mail signed copies of the attached Notice in all appropriate languages
22 within 30 days after the date this Order becomes final or thereafter if
23 directed by the Regional Director to the last known address of all
24 agricultural employees it employed, including those employed by farm
25 labor contractors, during the planting and harvesting periods or other
26 relevant periods of employment from November 13, 2018 to date.

- 1 (e) Grant ALRB agents access to work sites where the agricultural
2 employees work at mutually arranged times in order to distribute and
3 read the attached Notice to them and to answer questions employees may
4 have about their rights under the Act outside the presence of supervisory
5 personnel.
- 6 (f) Compensate employees for the time spent during the Notice reading and
7 the following question and answer period at the employees' regular
8 hourly rates, or each employee's average hourly rate based on their piece-
9 rate production during the prior pay period.
- 10 (g) Provide access during the notice-posting period to ALRB agents to
11 ensure compliance with the notice-posting requirements of this Order.
- 12 (h) Provide a signed copy of the Notice to each person it hired for work as an
13 agricultural employee during the 12-month period following the issuance
14 of the Board's Order in this case.
- 15 (i) Notify the Regional Director in writing within thirty (30) days after the
16 date of issuance of this Order of the steps Respondents have taken to
17 comply with the terms and, on request, notify the Regional Director
18 periodically in writing of further actions taken to comply with the terms
19 of this Order until notified that full compliance has been achieved.
- 20

21 Dated: July 17, 2019

22 **SO ORDERED**

23 
24 Mary Miller Crecraft
25 Administrative Law Judge
26 Agricultural Labor Relations Board

1 **NOTICE TO AGRICULTURAL EMPLOYEES**

2 After investigating charges that were filed by Augustin Garcia with the Visalia office of the
3 Agricultural Labor Relations Board (ALRB), the General Counsel of the ALRB issued a
4 complaint that we had violated the law. Based on the admitted facts and record, the ALRB found
5 that we violated that Agricultural Labor Relations Act (ALRA) by threatening to picket if
6 Gerawan Farming, Inc. refused to bargain even though we were not certified by the ALRB as
7 your bargaining representative.

8 The ALRB has told us to post and publish this Notice.

9 The ALRA is a law that gives you and all other farm workers in California these rights:

- 10 1. To organize yourselves;
- 11 2. To form, join, or help a union or bargaining representative;
- 12 3. To vote in a secret ballot election to decide whether you want a union to represent you;
- 13 4. To bargain with your employer about your wages and working conditions through a
14 union chosen by a majority of the employees and certified by the ALRB;
- 15 5. To act together with other workers to help and protect one another; and
- 16 6. To decide not to do any of these things.

17 Because you have these rights, we promise that:

18 WE WILL NOT demand to bargain or threaten to picket if an agricultural employer refuses to
19 bargain if we have not been certified by the ALRB as the bargaining representative.

20 WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in
21 their exercise of rights guaranteed under the ALRA.

22 DATED:

23 UNITED FARM WORKERS OF AMERICA

24 By _____
25 Representative Title

26 If you have any questions about your rights as farm workers or about this Notice, you may
27 contact any office of the Agricultural Labor Relations Board. One office is located at 1642 West
28 Walnut Avenue, Visalia, California. The telephone number is 559-627-0995.

29 This is an official notice of the Agricultural Labor Relations Board, an agency of the State of
30 California.

31 **DO NOT REMOVE OR MUTILATE**

CASE SUMMARY ON REMAND

UNITED FARM WORKERS OF AMERICA
(Agustin Garcia)

45 ALRB No. 4
Case No. 2018-CL-003-VIS

Background

On June 19, 2019, the Board issued its Decision and Order affirming certain portions of the recommended Order of the Administrative Law Judge (ALJ) granting judgment on the pleadings. Specifically, the Board affirmed that charging party Agustin Garcia (Garcia) had standing to file the unfair labor practice charge. The Board also agreed that Gerawan Farming, Inc. (Gerawan) was not entitled to a hearing on its allegations of collusion between Garcia and United Farm Workers of America (UFW). Further, the Board concluded that UFW's picketing threat violated Labor Code section 1154(h).

The Board reversed the ALJ's recommended conclusion that UFW violated Labor Code section 1154(a)(1) and (a)(2) because the undisputed allegations failed to establish that UFW's conduct violated these provisions. Additionally, the Board concluded that Notice mailing and reading remedies were appropriate in this case and also required providing a copy of the Notice to employees hired during the twelve-month period after the final decision in this matter.

ALJ Decision

On remand, for the reasons stated by the Board, the ALJ entered a conclusion of law that UFW did not violate Labor Code section 1154(a)(1) and (a)(2). The ALJ also incorporated the Board's additional remedies requiring Notice mailing and reading as well as Notices to newly-hired employees for a twelve-month period.