

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

TUESDAY, JUNE 23, 2020

There was no physical meeting location. Attendance was by remote meeting only (meeting number 160 485 9411), via the attendee's choice of either Webex video-conference or teleconference

Time: 10:00 a.m.

Members Present: Chair Victoria Hassid

Members Barry Broad. Cinthia Flores, Isadore Hall,
and Ralph Lightstone

Others Present: General Counsel (GC) Julia Montgomery
Chief Board Counsel Todd Ratshin
Division of Administrative Services Chief Brian Dougherty
Executive Secretary Santiago Avila-Gomez
Senior Legal Typist Annamarie Argumedo
Executive Assistant to the Board Chair Ed Hass
Associate Governmental Program Analyst for GC Program Audrey Hsia
California Court-certified Interpreter Daniel Fattori

These meeting minutes include three Appendices, which provide additional information about topics that were addressed during this ALRB Public Board Meeting. Each Appendix is referenced at the appropriate place within these Minutes,

OPEN SESSION

1. Introduction of New Board Members

Presented by Victoria Hassid

Victoria Hassid introduced herself as the new Board Chair.

The Board Chair also introduced new Board Member Cinthia Flores; Board members Isadore Hall, Barry Broad, and Ralph Lightstone; and the technical support staff for the meeting, consisting of Executive Secretary Santiago Avila-Gomez, Assistant to the Chair Ed Hass, and AGPA to the General Counsel Audrey Hsia.

- New Board Member Cinthia Flores stated that she is looking forward to applying her understanding of immigration, and of labor law, acquired in previous positions, to her new position as an ALB Board Member.
- Board Chair Hassid stated that she is honored to have been appointed to this position by Governor Gavin Newsom, and that she strives to be worthy of the governor's trust. She also thanked her predecessors for the great work they did as Board Chair.
- Board Chair Hassid also discussed the different paths toward the American Dream taken by her immigrant parents, and how that background helps her own understanding of immigrant farmworkers.

The new Board Chair stated that her goals include:

- Ensuring access to justice for the half million farmworkers in California. Farm work is essential, and farmworkers and their families have dignity.
- Ensuring fair implementation and fair adjudication of the Agricultural Labor Relations Act (ALRA).
- Breathing life into the ALRA law.
- Ensuring that the ALRB is a healthy, well-run organization.

General Housekeeping Items

The Board Chair noted that the Board is committed to protecting the health and safety of both our staff and members of the public. That is why today's meeting is being held via video conference, with an option for members of the public to dial in.

The Board Chair provided instructions for how to participate and provide public comment.

Today's meeting consists of two main parts:

1. The open session business portion of the meeting, to address several items and to hear various reports from ALRB Staff.
2. An informational panel, with experts and government regulators, regarding Covid-19 and its impact on farmworkers and in the agricultural sector.

No comments were received from the Board or from the general public about these introductions and general housekeeping items.

2. Approval of Minutes

Presented by Isadore Hall

Board Member Isadore Hall moved for approval of the minutes from the January 30, 2019 Board meeting.

Minutes approved by a vote of five to zero.

No comments were received from the Board or from the general public about approval of the minutes.

3. Board Chair's Report

Presented by Victoria Hassid

The ALRB is currently responding to two major events: the Covid-19 pandemic, and systemic racism.

The meeting paused for a moment of silence for George Floyd and other victims of police brutality.

The Board takes seriously its oath to uphold both the U.S. and California constitutions, and its mission to fairly adjudicate cases under the ALRA law, to overcome systemic racism, and to alleviate stress and anxiety around current events.

The Board Chair has made a commitment that ALRB staff will attend training this year about unconscious bias.

No comments were received from the Board or from the general public about the Board Chair's report.

4. Executive Secretary's Report on Elections, Unfair Labor Practice Complaints, and Hearings

Presented by Santiago Avila-Gomez

The Executive Secretary's Report is included as **Appendix A**.

No comments were received from the Board or from the general public about the Executive Secretary's report.

5. Litigation Report

Presented by Todd Ratshin

The Litigation Report is included as **Appendix B**.

No comments were received from the Board or from the general public about the Litigation Report.

6. General Counsel's Report

Presented by Julia Montgomery

GC welcomed new Board members Victoria Hassid and Cinthia Flores, and congratulated Isadore Hall on his re-appointment

The GC program makes up the majority of total ALRB state-wide staff.

General Counsel response to Corona virus:

- Staff has been working from home.
- Offices were closed to the public.
- Services to public continued via staff cell phones.
- GC placed a sign on the door of each office, and posted on social media, that all offices are physically closed.
- GC is still available to help the public by phone, email, and social media.

Outreach to farmworkers, focused on:

- Farmworker rights and available resources.
- Sick leave.
- Unemployment.
- Effective referrals to available resources.
- Effects of the pandemic, and what resources are available.
- Agricultural industry has not stopped, is not sheltering in place, so farmworkers are at risk.

The ALRB reopened offices, with limited staff, on June 8 – each office abides by all federal and state health guidelines.

GC noted that farmworkers prefer face-to-face interaction – farmworkers tend to be less comfortable with phone and social media. Other issues include mistrust of government, and fears about immigration status.

Types of outreach efforts:

- Social media, including Facebook Live.
- TV and radio.
- Web site.
- Pre-recorded interviews.

Settlements:

ALRB collected over \$332,000 to compensate farmworkers for ALRA violations. Examples:

- Kale harvesters in Ventura County received \$12,000 in back pay.
- Cannabis workers in Santa Barbara County were wrongfully terminated, and received \$7,000 in back pay.
- In the Central Valley, almonds and pistachio workers were demoted for protected concerted activity, and received \$6,500 back pay.
- In a case involving a Monterey County spinach grower, retaliation for a complaint about hiring rules led to workers receiving back pay.

Comments on the General Counsel report:

Board Chair thanked both the GC staff and the Board staff, for having a public service mindset, and remarked that ALRB staff has also helped with unemployment claims, and will be helping with Covid-19 virus contact tracing.

In response to a question from the Board Chair about the types of communication that the GC has received since the pandemic began, GC noted that many communications are concerned about what obligations employers have to protect farmworker health. For example, providing masks, maintaining social distancing, and sanitary conditions.

The GC also provided additional information about the types of contacts that they are seeing due to the Covid-19 virus:

- Overall, there has been no increase in charges filed, as might be expected if growers are ignoring farmworker health concerns.
- Some regional offices are experiencing more complaints than others are.
- Many cases are working out the details between farmworkers and employers, without the need to elevate to the level of a Charge against Employer (CE) filed to the ALRB.
- Other farmworkers might be afraid to speak out about lack of masks, social distancing, and sanitation, for fear of immigration issues.

- GC is reaching out to educate farmworkers about their rights, especially regarding pandemic health issues.
- A large percentage of farmworkers don't use social media, email, smart phones, so that complicates relaying pandemic information to farmworkers.
- The number of farmworkers who do use social media is increasing.

7. Division of Administrative Services Report

Presented by Brian Dougherty

- Fiscal Year 2019-20 – ALRB had a \$11.3 million operating budget for the year, spent \$9.6 million through end of May, anticipating an \$860,000 surplus at end of FY 2019-20.
- Purchasing was cut off due to pandemic, except for essential purchases that are specifically related to the pandemic.
- Looking ahead to FY 2020-21 – submitted a Budget Change Proposal (BCP) requesting new resources – includes additional GC positions for outreach to farmworkers.
 - There will be \$20 million shared between three agencies over three years – the portion that will go to ALRB each year, vs. the other two agencies, is still to be determined.
 - Currently there are 66 ALRB staff total. There are five vacancies: one Admin, two each Board and GC. ALRB is actively recruiting.
 - When the Shelter in Place order was issued, Rafael Diaz quickly set up a new remote/secure VPN, so everyone at ALRB can work remotely
 - ALRB is providing hand sanitizer, masks, and gloves for those who have to work on site at regional offices.

No comments were received from the Board or from the general public about the Administrative Division report.

8. Regulations

Presented by Todd Ratshin

Nothing to report

Comments on the Regulations report:

Board Member Barry Broad suggested, and the Board Chair agreed, that the Executive Secretary should work with the Board Counsel to review regulations that might require updating.

9. Legislation

Presented by Todd Ratshin

Nothing to report

No comments were received from the Board or from the general public about the Legislation Report.

10. Personnel

Presented by Victoria Hassid

No personnel items to report

No comments were received from the Board or from the general public about personnel.

11. Informational Panel on Covid-19 and its Impact on the Agricultural Industry and Farmworkers

In addition to these panel presentations, more information about the effects of the Covid-19 virus on agriculture and farmworkers can be found in **Appendix C**.

Part 1 - presented by Dr. Kent Pinkerton and Heather Ridden both from Western Center for Agricultural Health and Safety at UC-Davis

Board Chair Victoria Hassid introduced the panel, stating that the Board is interested in learning about the effects of the pandemic on farmworkers. The Chair noted that several new laws and state guidance have been issued, which are specific to the agricultural industry. The Chair stated that this is the first of at least two sessions on this topic, so that all relevant information can be covered, without being rushed. The Chair specified that the Board intends to hold their next meeting in August, and that the Board hopes to hear from labor, employers, and community-based organizations about the pandemic at that time.

The Western Center at UC Davis is funded by the national Centers for Disease Control (CDC) – one of only 11 agricultural health centers nationwide.

The main efforts of this facility have traditionally been air quality, pesticides, and wildland fire, but the focus for the past three months has been on Covid-19.

- Covid-19 can be spread by talking, coughing, sneezing, unwashed hands, and lack of social distance (6+ feet apart).
- You can be contagious to others, even if you are pre-symptomatic or asymptomatic.
- Obese, diabetic, and elderly are more vulnerable.
- First outreach communication was in mid-March.
- March 31 – guidelines were sent to farmworkers, in English & Spanish.

- Farm work is an essential business – it has not shut down.
- Wash hands, mask, social distancing, and symptom checks when entering farm property.
- Economic status, which often means less access to services.
- Ten percent of farmworkers are obese, higher rates of diabetes, lower rates of health insurance coverage.
- Farmworkers are experiencing a six times higher death rate of Covid-19.
- Farmworkers – already more prone than others to heart disease, diabetes, and obesity – they live in crowded housing and use crowded transportation.
- Outbreaks in packing houses and in the fields – especially in Monterey and Solano counties.
- Monterey County - 1291 confirmed cases of Covid-19 – 475 in agriculture.
- Overwhelming to county departments of public health – unprecedented.
- Data collected does not always include ethnicity.
- Online survey of farmworkers and their supervisors about experiences with Covid-19.
- Web site: <https://aghealth.ucdavis.edu/>

Comments on UC Davis Covid-19 Presentation:

In response to a question from Board Member Cinthia Flores about how farms are implementing social distancing barriers, Heather Ridden provided the following additional details:

- Harvesting equipment often doesn't allow social distancing or use of plastic barriers, so masks become even more essential.
- Some farms are installing plastic dividers on equipment – especially for tomato planting and harvesting. The shield moves with the equipment, and is not carried by the farmworkers.
- Growers are coming up with novel ideas to protect workers and crops.
- Chronic diseases are more common on farms, and that makes farmworkers more vulnerable than the general population.
- Farmworkers who are in unions can bring informative pamphlets to their coworkers – about ALRFB and other resources.
- Provide training pamphlets that growers can distribute to their employees.

In response to a question from Board Member Barry Broad about who is advising growers and farm labor contractors about Covid-19, and how information is getting from supervisors to the field workers, Heather Ridden and Kent Pinkerton provided the following additional details:

- UC Davis distributes information through grower organizations, and has posted on 50 agriculture-oriented web sites.
- There is no concrete way to verify that information is getting to farmworkers in the field.

- The UC Davis team are trying to determine, which guidelines have not been implemented, why not, and how can we overcome those barriers?

In response to a question from Board Member Barry Broad about whether farms have had hot spots, such as meat packing plants have, Heather Ridden and Kent Pinkerton provided the following additional details:

- A hot spot was found at a fruit packing plant in Yakima, WA.
- Many farmworkers live in communal housing, and ride in crowded transit to the fields, so they face a level of exposure that other types of workers don't face.
- This is especially true of H2A (Temporary Agricultural Workers).
- Possible remedies: Fewer people per vehicle at a time.
- Don't introduce new workers in close proximity to those who may have already been exposed.
- Currently no systematic collection of data – working mostly from anecdotal data.

In response to a question from GC Julia Montgomery about H2A workers, Heather Ridden and Kent Pinkerton provided the following additional details:

- The UC Davis team are still working on data collection.
- There is more data in Oregon and on the east coast than in CA.
- Languages spoken, and greater distances within the state, are barriers to data collection than in smaller, less diverse states.

In response to a question from Board Chair Victoria Hassid about how we can overcome misinformation, lack of understanding, and lack of acknowledgement of the criticality of efforts to fight the pandemic, Heather Ridden and Kent Pinkerton provided the following additional details:

- Currently, nobody is tested unless they are suspected of having the infection.
- It is difficult to determine why there are lulls and spikes in the rate of positive test results, when so few are actually tested.
- Testing is increasing, including in the agricultural sector.
- A new type of effort, called Backpack Doctors, who drive to farms to test workers,
- Need to overcome farmworker distrust, especially fear of immigration issues.
- Need to improve contact tracing in the agricultural sector.

In response to a question from Board Member Ralph Lightstone about the agricultural hot-spot for Covid-19 in Yakima, WA, and about lack of this type of data for California farmworkers, Heather Ridden and Kent Pinkerton provided the following additional details:

- A hot-spot was found in Imperial County, consisting of 44 positive test results for the Covid-19 virus.
- Due to the focus on Imperial County, fewer resources are currently available for contact tracing and data collection in other agricultural regions in California.
- Imperial County has more border crossings both ways, harder to contain the spread.
- 174 cases in Tulare County.
- 46 in Sonoma-Napa vineyards.
- San Joaquin County.
- Fresno.

Additional details about the work that still needs to be done, provided by Irene de Barraicua, from Lideres Campesinas. This organization is a network of women who are farmworker leaders, and their families.

- Greater focus on Covid-19 prevention.
- Collect more data from farmworkers.
- More backpack doctors – they have been very effective.
- Build trust, and overcome fears about deportation.

Part 2 - presented by Brandon Hart - California Division of Occupational Safety and Health (Cal/OSHA)

Congratulated Victoria Hassid on her appointment as Board Chair.

Focused on the importance of education and licensing:

- Using existing health & safety standards for farmworkers.
- Collect statistics.
- Outreach to workers.
- How to file complaints about unsafe working conditions.
- Employers are required to provide information, and to implement health and safety measures.
- Employers provide soap and water, clean tools, clean utensils for meal breaks.
- Developed new informative videos and show it to farmworkers.
- Effective prevention for employers and employees.
- Information provided in English, Spanish Japanese, Chinese, Vietnamese, Punjabi, Mixteco.
- Checklists provided to employers.
- Informational web pages.

- Revising/updating with latest guidelines from June 18.
- Form provided to self-score compliance with guidelines.
- Worker training about pandemic guidelines.

Public enforcement:

- 3,150 complaints, 26 in agriculture.
- 185 illnesses, 145 in agricultural sector.
- 45 fatalities, 2 in agriculture industry.
- 2,575 telephone consultations with employers.

Coordinating with:

- UC Berkeley.
- Office of Emergency Services (OES).
- Insurance companies.
- Other colleges.

Worker outreach – coordinating with community organizations, Employment Development Department (EDD), social media, TV, radio – Public Service Announcements (PSAs).

Comments on Cal/OSHA Covid-19 Presentation:

In response to a question from Board Member Barry Broad about how Cal/OSHA distributes information to workers whose indigenous languages are spoken only, and not written, Brandon Hart provided the following additional details:

- Cal/OSHA is working with interpreters to provide farmworkers with videos in language that they understand.
- They have also translated written materials into audio format.

In response to a question from Board Member Barry Broad about whether the traditional reactive enforcement approach (such as citing growers for not providing masks) is sufficient in a pandemic, or whether Cal/OSHA can be more proactive (such as distributing masks to farmworkers), Brandon Hart provided the following additional details:

- Cal/OSHA can take immediate action to safeguard workers.
- Cal/OSHA doesn't hand out masks.
- Cal/OSHA can enforce social distancing and other preventive measures.
- Citation is still the main enforcement tool, after interviews and inspections are completed.
- Growers need to implement more frequent cleaning and disinfecting:
 - Restrooms.
 - Break rooms.
 - Eating utensils.

- Water bottles.
- Door and table surfaces.
- Employers need to be more vigilant – encourage and enforce health practices.
- The public needs to better understand the importance of masks:
 - Different sizes and comfort levels.
 - Establish a standard for masks in the fields?
 - Employee vs. employer provided.
 - Masks should be washed frequently.
 - Farmworker masks are not required to meet N-95 standard.
- Need an enforceable standard, stating that agricultural employees must wear face coverings.
- Covid-19 is- defined as a workplace hazard – under Title 8 – employer’s failure to identify and mitigate a workplace hazard:
 - Employers are required to report to Cal/OSHA if an employee tests positive for Covid-19.
 - Requirements, forms, and instructions are on the Cal/OSHA web site.

Part 3 - Presented by Connor Schmeding - California Labor Commissioner’s Office

Mission of the Labor Commissioner:

- Ensure a just day’s pay.
- Oversee economic justice for workers.
- Understand and respond to the impact of the pandemic on workers.

Labor Commissioner web site is at <https://www.dir.ca.gov/dlse/> and includes:

- FAQ
- Information about pandemic protections available to workers – at [https://www.dir.ca.gov/dlse/Coronavirus-\(COVID-19\)-Information.htm](https://www.dir.ca.gov/dlse/Coronavirus-(COVID-19)-Information.htm)

California’s Covid-19 Supplemental Paid Sick Leave Order, N-51-20, was issued on April 16:

- Fills gap in sick leave/paid family leave pay regulations.
- Provides supplemental pay, for workers who are subject to quarantine/isolation.

Agricultural workers are almost half of Covid-19 infections in Monterey County.

Farmworkers are working outside, not at home – includes workers in canning, freezing, preserving, post-harvest packing/processing, packing shed in field, other agricultural workers.

- Full-time workers – receive 80 hours of supplemental pay (two 40-hour weeks).
- Part-time workers – receive two weeks of pay at their normal weekly part-time amount (what they would have received for two weeks of working part-time).
- Total supplemental pay is capped at \$5,110 maximum – except if the employer

is already providing supplemental pay at or above the Cal/OSHA supplemental pay.

Employer can't retaliate against employees for collecting the state-issued supplemental pay, or for complaining about lack of health and safety measures to prevent the spread of the Covid-19 virus.

Stated that they are hearing from workers about loss of pay, that workers can't pay rent and are threatened with eviction.

Over 300 of Labor Commissioner's staff processed EDD unemployment claims over the Memorial Day weekend.

Leveraging technologies in outreach, and ensuring that workers are paid.

Using social media - especially Facebook - to educate workers about their rights and available services. It is difficult to locate workers:

- Can take years after initial complaint to get back pay to workers.
- Put money into an account, but workers are not reaching out to claim the money.
- Can't find the workers – changed address/phone number after years since initial complaint.

Comments on Labor Commissioner's Covid-19 Presentation:

Board Chair noted that workers can go on paid sick leave without doctor's notes, which is important when workers lack medical insurance, and provided the following additional details:

- Workers have been stopped in their cars for being out of their home.
- They have to explain to police that they are on their way to work.

12. Announcements

Victoria Hassid

- ALRB will hold a second panel on Covid-19 later this summer, where we hope to hear from labor, employers, and community-based organizations.
- ALRB will hold our Regional Directors meeting starting at 2:00 P.M. today. Please see the agenda posted on <http://www.alrb.ca.gov> under the *News and Information* portion of our homepage. The Webex address and dial-in are different than they are for this meeting.

13. Public Comment

Noe Paramo – CA Rural League Assistance

- Currently auditing Covid-19 illness, how workers are being protected, and statistics from packing houses.
- Focused on disease prevention and quarantining enforcement.
- Need better data collection on farms - only 20% of data has been collected statewide.
- Currently coordinating with Sacramento Immigration, ICE, police agencies.

Board Chair Victoria Hassid

- ALRB is collaborating with other state and local agencies to collect data and distribute information.
- Various state and local agencies are doing a great job working cooperatively with each other.
- Further discussion of Covid-19, and its effects on agriculture and farmworkers, is planned for the August ALRB Board meeting.

14. Meeting adjourned at 12:25 p.m.

APPENDIX A

EXECUTIVE SECRETARY'S REPORT

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**ALRB PUBLIC MEETING
EXECUTIVE OFFICER'S REPORT
ELECTIONS, UNFAIR LABOR PRACTICE COMPLAINTS, AND HEARINGS**

DATE: June 23, 2020
TO: Agricultural Labor Relations Board
FROM: Santiago Avila-Gomez, Executive Secretary

A. ELECTIONS: NOTICES OF INTENT TO TAKE ACCESS (NA)

Since the Board's last meeting on January 30, 2019, there have been thirteen (13) notices of intent to take access (NA's) filed.

1. On February 8, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Harkins Grow, LLC in Salinas, CA—a cannabis industry employer.

Case Name: Harkins Grow, LLC

Case Number: 2019-NA-001-SAL

Charging Party: United Food & Commercial Workers Union Local 5

2. On February 19, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Hands of Faith Association in Salinas, CA—a cannabis industry employer.

Case Name: Hands of Faith Association

Case Number: 2019-NA-002-SAL

Charging Party: United Food & Commercial Workers Union Local 5

3. On February 19, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Canex in Salinas, CA—a cannabis industry employer.

Case Name: Canex

Case Number: 2019-NA-003-SAL

Charging Party: United Food & Commercial Workers Union Local 5

4. On February 19, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Monterey Tilth FARM, LLC in Salinas, CA—a cannabis industry employer.

Case Name: Monterey Tilth FARM, LLC

Case Number: 2019-NA-004-SAL

Charging Party: United Food & Commercial Workers Union Local 5

5. On March 4, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at M.D. Farms, LLC in Salinas, CA—a cannabis industry employer.

Case Name: M.D. Farms, LLC

Case Number: 2019-NA-005-SAL

Charging Party: United Food & Commercial Workers Union Local 5

6. On March 19, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Flor, LLC in Salinas, CA—a cannabis industry employer.

Case Name: Flor, LLC

Case Number: 2019-NA-006-SAL

Charging Party: United Food & Commercial Workers Union Local 5

7. On March 26, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Highly Productive Enterprises, Inc. & Top Hat Flor, LLC in Salinas, CA—a cannabis industry employer.

Case Name: Highly Productive Enterprises, Inc. & Top Hat Flor, LLC

Case Number: 2019-NA-007-SAL

Charging Party: United Food & Commercial Workers Union Local 5

8. On April 8, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Von Monk Organics, LLC in Salinas, CA—a cannabis industry employer.

Case Name: Von Monk Organics, LLC

Case Number: 2019-NA-008-SAL

Charging Party: United Food & Commercial Workers Union Local 5

9. On August 21, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Monterey Tilth Farms, LLC in Salinas, CA—a cannabis industry employer.

Case Name: Monterey Tilth Farms, LLC

Case Number: 2019-NA-009-SAL

Charging Party: United Food & Commercial Workers Union Local 5

10. On August 21, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at M.D. Farms, LLC in Salinas, CA—a cannabis industry employer.

Case Name: M.D. Farms, LLC

Case Number: 2019-NA-010-SAL

Charging Party: United Food & Commercial Workers Union Local 5

11. On August 21, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Hands of Faith Association in Salinas, CA—a cannabis industry employer.

Case Name: Hands of Faith Association

Case Number: 2019-NA-011-SAL

Charging Party: United Food & Commercial Workers Union Local 5

12. On August 22, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Old Stage Partners, LLC in Salinas, CA—a cannabis industry employer.

Case Name: Old Stage Partners, LLC

Case Number: 2019-NA-012-SAL

Charging Party: United Food & Commercial Workers Union Local 5

13. On October 3, 2019, an NA was filed by United Food & Commercial Workers Union, Local 5 at Sensient Natural Ingredient, LLC in Turlock, CA—an agricultural employer who produces and supplies shelf-stable ingredients including garlic, onion, parsley, and chili pepper, as well as capsicums and vegetables.

Case Name: Sensient Natural Ingredient, LLC

Case Number: 2019-NA-002-VIS

Charging Party: United Food & Commercial Workers Union Local 5

B. ELECTIONS: NOTICES OF INTENT TO ORGANIZE (NO)

Since the Board's last meeting on January 30, 2019, there has been one (1) notice of intent to organize filed.

1. On October 4, 2019, an NO was filed by United Food & Commercial Workers Union, Local 5 at Sensient Natural Ingredient, LLC in Turlock, CA— an agricultural employer who produces and supplies shelf-stable ingredients including garlic, onion, parsley, and chili pepper, as well as capsicums and vegetables.

Case Name: Sensient Natural Ingredient, LLC

Case Number: 2019-NO-002-VIS

Charging Party: United Food & Commercial Workers Union Local 5

C. ELECTIONS: PETITIONS

Since the Board's last meeting on January 30, 2019, there have been two elections held.

1. On Friday, September 27, 2019, the United Food and Commercial Workers Union, Local 8 filed a Petition for Certification (2019-RC-001-SAL) seeking to hold an election to establish itself as the certified exclusive collective bargaining representative of agricultural employees at Fireworx Farms, LLC a cannabis industry company located in Sacramento, CA.

The election was held on Thursday, October 3, 2019. The tally of ballots cast was 21 votes for the United Food and Commercial Workers Union, Local 8, 0 votes for no union, and 1 unresolved challenged ballot. With no objections filed the results were certified on October 15, 2019, making United Food and Commercial Workers Union, Local 8 the exclusive representative of all agricultural employees at Fireworx Farms, LLC in the County of Sacramento.

2. On Friday, October 4, 2019, the United Food and Commercial Workers Union, Local 5 filed a Petition for Certification (2019-RC-001-SAL) seeking to hold an election to establish itself as the certified exclusive collective bargaining representative of agricultural employees at Sensient Natural Ingredients, LLC, an agricultural employer who produces and supplies shelf-stable ingredients including garlic, onion, parsley, and chili pepper, as well as capsicums and vegetables, located in Turlock, CA.

The election was held on Friday, October 11, 2019. The tally of ballots cast was 15 votes for the United Food and Commercial Workers Union, Local 5, 64 votes for no union, and 1 unresolved challenged ballot. With no objections filed the results were certified on October 25, 2019, certifying that no labor organization was the

exclusive representative of all agricultural employees of Sensient Natural Ingredients, LLC within the meaning of Section 1156 of the Agricultural Labor Relations Act.

D. COMPLAINTS

Since the Board's last meeting on January 30, 2019, the General Counsel has filed (23) complaints.

1. *Santa Clara Farms, LLC*, Case No. 2017-CE-083-SAL, filed on February 1, 2019 (grows and harvests strawberries in Ventura County, California).
2. *Rincon Pacific, LLC*, Case No. 2014-CE-044-SAL, filed February 1, 2019 (grows berries in Ventura County, California).
3. *Scarborough Farms, Inc.*, Case No. 2017-CE-007-SAL, et al., filed on February 20, 2019 (grows and harvests lettuce and other vegetables in Ventura County, California).
4. *Nunes Vegetables, Inc.*, Case No. 2017-CE-001-SAL, filed on May 8, 2019 (grows and harvests celery in Ventura County, California).
5. *Sun Pacific Farming Cooperative*, Case No. 2017-CE-020-VIS, filed on June 7, 2019 (grows, packs and ships fresh fruit in Fresno and Tulare counties).
6. *Dole Berry North, LLC*, Case No. 2018-CE-021-SAL, filed on June 28, 2019 (grows, harvests and packs strawberries and other berries in Santa Cruz County).
7. *L.N.B. Ventures Salinas, LLC*, Case No. 2019-CE-003-SAL, filed on June 28, 2019 (grows, harvests and packs cannabis in Monterey County).
8. *VBF Brands Inc. and Ocean Grown Horticulture, Inc.*, Case No. 2018-CE-066-SAL, filed on August 2, 2019 (grow and harvest cannabis in Monterey County)/
9. *Smith Packing, Inc.*, Case No. 2018-CE-048-SAL, filed on August 12, 2019; And amended and consolidated backpay specification on September 24, 2019 (growing and harvesting lettuce in Santa Barbara and Monterey counties).
10. *Ocean Mist Farms*, Case No. 2017-CE-006-VIS, filed on October 15, 2019 (growing and harvesting spinach in Riverside County, California).
11. *San Miguel Produce, Inc.*, Case No. 2018-CE-070-SAL, filed on November 15, 2019 (produces, grows, processes and markets conventional and organic collard

greens, turnips, kale, spinach, chard and other leafy cooking greens in Ventura County).

12. *Duda Farm Fresh Foods, LLC*, Case No. 2019-CE-011-SAL filed on December 23, 2019 (grows, harvests and sells various agricultural commodities, including celery with operations in Ventura and Monterey County, California).
13. *Eat Sweet Farms, LLC and Durant Harvesting, Inc.* Case No. 2016-CE-027-SAL filed on December 27, 2019 (Eat Sweet Farms is an agricultural employer).
14. *Lakeside Organic Gardens, LLC* Case No. 2018-CE-045-SAL filed on December 27, 2019 (owns properties in Monterey County, Santa Cruz County, and Imperial County, California, where it cultivates, harvest, and sells various agricultural commodities).
15. *Pacific Fresh Produce, Inc.* Case No. 2018-CE-009-SAL filed on December 27, 2019 (engaged in harvesting fresh fruits and vegetables in Ventura County).
16. *Etchandy Farms, LLC* Case No. 2019-CE-012-SAL filed on December 30, 2019 (grows and harvest strawberries in Ventura County).
17. *San Miguel Produce, Inc.* Case No. 2018-CE-062-SAL filed on January 28, 2020 (grows, processes and markets conventional and organic collard greens, turnips, kale, spinach, chard and other leafy cooking greens in Ventura County).
18. *Philip Verwey Dairy* Case No. 2019-CE-005-VIS filed on February 25, 2020 (dairy located in Kings County near Hanford, California).
19. *Yergat Packing*, Case No. 2019-CE-015-VIS filed on April 3, 2020 (picks, processes, and packs grape leaves in Fresno and Madera Counties).
20. *B&H Flowers, Inc.*, Case No. 2019-CE-013-SAL filed on April 14, 2020 (grows, processes, packages, and sells cannabis in Santa Barbara County).
21. *Terra Linda Dairy*, Case No. 2019-CE-018-VIS filed on May 21, 2020 (dairy located in Tulare County).
22. *Cinagro Farms, Inc.*, Case No. 2017-CE-008-SAL filed on June 10, 2020 (grew cilantro, spinach, kale, pumpkins, and other vegetables in Fillmore and Moorpark, California).

23. *Satellite Farms, LLC*, Case No. 2019-CE-042-SAL filed on June 11, 2020 (grew and harvested raspberries in Santa Barbara County).

E. POST-COMPLAINT SETTLEMENTS

Since the Board's last meeting on January 30, 2019, (14) complaints settled prior to hearing.

1. *Planasa, LLC*, Case No. 2018-CE-038-SAL. Informal bilateral settlement agreement was reached 2/15/19.
2. *Santa Clara Farms, LLC*, Case No. 2017-CE-083-SAL. Informal bilateral settlement agreement was reached 3/12/2019.
3. *Reiter Brothers, Inc.*, Case No. 2017-CE-073-SAL. Informal bilateral settlement agreement was reached 5/16/2019.
4. *Andrew Smith Company, LLC*, Case No. 2017-CE-011-SAL. Informal bilateral settlement agreement was reached 6/16/19.
5. *Coast King Packing*, Case No. 2018-CE-028-SAL et al. Informal bilateral settlement agreement was reached 6/20/2019.
6. *Bogle Vineyards, Inc.*, Case No. 2018-CE-044-SAL. Informal bilateral settlement agreement was reached 7/10/2019.
7. *Tissue-Grown Corporation*, Case No. 2018-CE-003-SAL et al. Informal bilateral settlement agreement was reached 8/7/2019.
8. *L.N.B. Ventures Salinas, LLC*, Case No. 2019-CE-003-SAL. Informal bilateral settlement agreement was reached 9/6/2019.
9. *Scarborough Farms, Inc.*, Case No. 2017-CE-007-SAL et al. Informal bilateral settlement agreement was reached 9/9/2019.
10. *Dole Berry North, LLC*, Case No. 2018-CE-021-SAL. Informal bilateral settlement agreement was reached 10/11/2019.
11. *VBF Brands Inc. and Ocean Grown Horticulture, Inc.* Case No. 2018-CE-066-SAL Informal bilateral settlement agreement was reached 10/31/2019.
12. *Nunes Vegetables, Inc.*, Case No. 2017-CE-001-SAL Informal bilateral settlement agreement was reached 01/02/2020.

13. *San Miguel Produce*, Case No. 2018-CE-070-SAL Informal bilateral settlement agreement was reached 01/17/2020.
14. *Duda Farm Fresh Foods, Inc.*, Case No. 2019-CE-011-SAL Informal bilateral settlement agreement was reached 03/10/2020.

F. HEARINGS

Since the Board's last meeting on January 30, 2019, six (6) hearings have been held.

1. Tuesday, April 9, 2019 – Hearing in *Saticoy Berry Farms*, Case No. 2017-CE-071-SAL. Hearing lasted four days.
2. Tuesday, May 14, 2019 – Hearing in *Rincon Pacific, LLC*, Case No. 2014-CE-044-SAL Hearing lasted three days.
3. Tuesday, June 4, 2019 – Hearing in *Wonderful Orchards, LLC*, Case No. 2016-CE-023-VIS. Hearing lasted one day.
4. Tuesday, November 5, 2019 – Hearing in *Sun Pacific Farming Cooperative, Inc.*, Case No. 2017-CE-020-VIS. Hearing lasted two days.
5. Tuesday November 5, 2019 – Hearing in *Smith Packing, Inc.*, Case No. 2019-CE-048-SAL. Hearing lasted one day.
6. Wednesday, January 22, 2020 Hearing in *Ocean Mist Farms*, Case No. 2017-CE-006-VIS Hearing lasted two days.

G. ALJ DECISIONS ISSUED

Since the Board's last meeting on January 30, 2019, nine (9) ALJ decisions have issued.

1. *Joe Pedro & Sons Dairy*, Case Nos. 2018-CE-004-VIS & 2018-CE-005-VIS ALJ decision issued on 3/1/2019.
2. *Reveille Farms, LLC*, Case No. 2017-CE-066-SAL. ALJ decision issued on 3/8/2019.
3. *UFW (Garcia)*, Case No. 2018-CL-003-VIS. ALJ decision issued on 4/4/2019.
4. *Fowler Packing Company, Inc.*, Case No. 2016-CE-003-VIS. ALJ decision issued on 6/13/2019.

5. *UFW (Garcia)*, Case No. 2018-CL-003-VIS. ALJ decision issued on 7/17/2019.
6. *Saticoy Berry Farms, Inc.*, Case No. 2017-CE-071-SAL. ALJ decision issued on 8/7/2019.
7. *Wonderful Orchards, LLC*, Case No. 2016-CE-023-VIS. ALJ decision issued on 9/12/2019.
8. *Sun Pacific Farming Cooperative, Inc.*, Case No. 2017-CE-020-SAL. ALJ decision issued on 2/26/2020.
9. *Smith Packing, Inc.*, Case No. 2018-CE-048-SAL. ALJ decision issued on 5/13/2020.

H. BOARD DECISIONS

Since the Board's last meeting on January 30, 2019, seven (7) Board decisions have issued.

1. On June 19, 2019, the Agricultural Labor Relations Board (Board) issued its decision and order in *UFW (Garcia)* (2019) 45 ALRB No. 4.
2. On July 1, 2019, the Agricultural Labor Relations Board (Board) issued its decision and order in *David Abreu Vineyard Management, Inc.* (2019) 45 ALRB No. 5.
3. On July 3, 2019, the Agricultural Labor Relations Board (Board) issued its decision and order in *Reveille Farms, LLC* (2019) 45 ALRB No. 6.
4. On July 30, 2019 the Agricultural Labor Relations Board (Board) issued its decision and order in *Gerawan Farming, Inc.* (2019) 45 ALRB No. 7
5. On November 26, 2019, the Agricultural Labor Relations Board (Board) issued its decision and order in *United Farm Workers of America (Garcia)* (2019) 45 ALRB No. 8.
6. On April 7, 2020, the Agricultural Labor Relations Board (Board) issued its decision and order in *Fowler Packing Company, Inc.* (2020) 46 ALRB No. 1.
7. On April 21, 2020, the Agricultural Labor Relations Board (Board) issued its decision and order in *Wonderful Orchards, LLC.* (2020) 46 ALRB No. 2.

I. BOARD ADMINISTRATIVE ORDERS

Since the Board's last meeting on January 30, 2019, (16) Board administrative orders have issued.

1. Admin Order No. 2019-01; *Coastal Vineyard Associates*, 2018-CE-067-SAL. On June 7, 2019, Order Setting Time for General Counsel to Amend Request for Subpoena Enforcement
2. Admin Order No. 2019-02; *Coastal Vineyard Associates*, 2018-CE-067-SAL. On June 11, 2019, Order Granting General Counsel's Request for Subpoena Enforcement
3. Admin Order No. 2020-01-P; *King City Nursery, LLC*, 2019-CE-040-SAL. On January 9, 2020, Order Denying Respondent's Appeal of Order Denying Petition to Revoke
4. Admin Order No. 2020-02; *Premiere Raspberries, LLC*, 2018-MMC-002. On January 28, 2020, Order Directing Employer Premiere Raspberries, LLC to Respond to Request for Board Enforcement of Mandatory Mediation and Conciliation Contract or Other Relief; Order Directing Supplemental Response for United Farm Workers of America
5. Admin Order No. 2020-03; *Premiere Raspberries, LLC*, 2018-MMC-002. On February 4, 2020, Order Directing Parties to Provide Supplemental Reports re: Contract Implementation
6. Admin Order No. 2020-04; *Premiere Raspberries, LLC*, 2018-MMC-002. On March 6, 2020, Order Denying United Farm Workers of America's Requests Re: Mandatory Medication and Conciliation Contract
7. Admin Order No. 2020-05-P; *Premiere Raspberries, LLC*, 2018-CE-004-SAL. On March 6, 2020, Order Modifying Duration of Bargaining Makewhole Period
8. Admin Order No. 2020-06; *Premiere Raspberries, LLC*, 2018-CE-004-SAL. On March 24, 2020, Order Directing Parties to Submit Purported Settlement Agreement to the Regional Director for Approval
9. Admin Order No. 2020-07; *Premiere Raspberries, LLC*, 2018-CE-004-SAL. On March 25, 2020, Order Reversing Executive Secretary's Order Denying Joint Request for an Extension of Time

10. Admin Order No. 2020-08; *Premiere Raspberries, LLC*, 2018-MMC-002. On April 3, 2020, Order Allowing Premiere Raspberries, LLC to Respond to United Farm Workers Of America's Motion For Reconsideration
11. Admin Order No. 2020-09; *Premiere Raspberries, LLC*, 2018-CE-004-SAL. On April 3, 2020, Order Allowing Respondent Premiere Raspberries, LLC to Respond to Charging Party's Motion for Reconsideration
12. Admin Order No. 2020-10; *Eat Sweet Farms, LLC*, 2016-CE-027-SAL. On April 27, 2020, Order Denying Application for Special Permission to Appeal Administrative Law Judge's Order on Statue of Limitations
13. Admin Order No. 2020-11; *Premiere Raspberries, LLC*, 2018-MMC-002. On May 12, 2020, Order Denying United Farm Workers of America's Motion for Reconsideration
14. Admin Order No. 2020-12; *Premiere Raspberries, LLC*, 2018-CE-004-SAL. On May 12, 2020, Order Denying Charging Party's Motion for Reconsideration
15. Admin Order No. 2020-13-P; *Premiere Raspberries, LLC*, 2018-CE-004-SAL. On May 19, 2020, Order Disapproving Parties' Proposed Settlement Agreement
16. Admin Order No. 2020-14; *Arnaudo Brothers, LP and Arnaudo Brothers, Inc.*, 2017-CE-003-VIS et al. On June 2, 2020, Order Approving Formal Bilateral Settlement Agreement

J. CASES PENDING BOARD DECISION OR ACTION

1. *Rincon Pacific, LLC*, 2014-CE-044-SAL, issued and served 12/9/2019. Exceptions filed 1/31/2020. Reply brief filed 2/21/2020 (briefing complete).
2. *Smith Packing, Inc.*, 2018-CE-048-SAL; Post-hearing briefs filed 1/3/2020. ALJ decision and transferred to Board 5/8/2020. Revised ALJ Decision & Order 5/13/2020, added page numbers, no other changes. Respondent's Exceptions to ALJ Decision, with Supporting Brief, filed 5/31/2020. Reply brief filed 6/15/2020 (briefing complete).

APPENDIX B

LITIGATION REPORT

AGRICULTURAL LABOR RELATIONS BOARD
OFFICE OF THE EXECUTIVE SECRETARY
1325 J STREET, SUITE 1900
SACRAMENTO, CA 95814-2944
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ALRB PUBLIC MEETING LITIGATION REPORT

DATE: June 22, 2020

TO: Agricultural Labor Relations Board

FROM: Todd M. Ratshin, Chief Board Counsel

This report discusses updates and developments that have occurred in litigation matters involving the Board since its January 30, 2019 meeting.

Petitions for Writ of Review of Unfair Labor Practice Decisions

California Supreme Court

- ***Premiere Raspberries, LLC v. ALRB*, California Supreme Court [Case No. S259773](#) [Sixth District Court of Appeal, [Case No. H046223](#)]**

Summary: Petition for review of the appellate court's order denying review of the Board's decision in 44 ALRB No. 9, in which the Board awarded bargaining makewhole relief for the employer's refusal to bargain with the United Farm Workers of America.

Status: The appellate court issued an order on December 17, 2019, denying Premiere's petition for writ of review. Premiere filed a petition for review in the California Supreme Court on December 23, 2019. The Court issued an order denying review on January 2, 2020. This litigation now is final.

California Appellate Courts

- ***Wonderful Orchards, LLC v. ALRB*, Fifth District Court of Appeal, [Case No. F081172](#)**

Summary: Petition for writ of review of the Board's decision in 46 ALRB No. 2, in which the Board found the employer unlawfully terminated a group of employees for engaging in protected concerted activity.

Status: Wonderful filed its petition for writ of review on May 21, 2020. The court issued a notice to the Board on May 28 directing the Board to prepare and file the certified record by June 8. On June 3, the court granted a request by the Board for a two-week extension of time to file the certified record. The Board filed the certified record on June 12.

Wonderful's opening brief is due 35 days after the certified record is filed (July 17). The Board's respondent's brief will be due 35 days after the opening brief is filed, and Wonderful's reply brief will be due 25 days thereafter.

► ***United Farm Workers of America v. ALRB*, Fifth District Court of Appeal, [Case No. F080469](#)**

Summary: Petition for writ of review of the Board's decisions in 45 ALRB Nos. 8 and 4, in which the Board found the United Farm Workers of America unlawfully threatened to picket Gerawan Farming, Inc. if it did not recognize and bargain with the union, which had been decertified as the employees' bargaining representative in the Board's decision in 44 ALRB No. 10.

Status: The UFW filed a petition for writ of review on December 23, 2019. On January 21, 2020, the court ordered the Board to prepare and file the certified record. The Board filed the certified record on January 31, 2020. After several extensions of time granted by the court, the UFW's opening brief now is due July 6, 2020. The Board's respondent's brief will be due 35 days after the opening brief is filed, and the UFW's reply brief will be due 25 days thereafter.

► ***P & M Vanderpoel Dairy v. ALRB*, Fifth District Court of Appeal, [Case No. F077513](#)**

Summary: Petition for writ of review of the Board's decision in 44 ALRB No. 4, involving an award of backpay to an unlawfully terminated employee.

Status: The court issued a writ of review on September 19, 2018. The court heard oral argument from the parties on April 22, 2020. On May 8, the court issued an unpublished opinion affirming the Board's decision. The opinion became final on June 7, and any petition for review in the California Supreme Court was due June 17. No such petition was filed, and the Board now is awaiting issuance of the appellate court's remittitur.

► ***Gerawan Farming, Inc.*, Fifth District Court of Appeal, [Case No. F077033](#)**

Summary: Petition for writ of review of the Board's decision in 44 ALRB No. 1, in which the Board found that Gerawan committed unfair labor practices by engaging in surface bargaining with the United Farm Workers of America and by insisting on the exclusion of workers employed by farm labor contractors from the terms of a collective bargaining agreement.

Status: On January 13, 2020, the court issued a letter requesting supplemental briefing from the parties regarding whether the UFW's decertification has any effect on the issues in this case. Gerawan filed its letter brief on January 23. The Board and UFW each filed responsive letter briefs on February 3. Gerawan did not file a reply. On March 13, the court issued an oral argument waiver notice, and all parties filed requests for oral argument on March 18. On May 6, the court issued a scheduling order notifying the parties the matter was set for oral argument on June 16, 2020, at 1:30 p.m. The court heard oral arguments on June 16, and the case was submitted. The parties now are awaiting issuance of the court's opinion.

Mandatory Mediation and Conciliation Litigation

California Supreme Court

- ***Premiere Raspberries, LLC v. ALRB*, California Supreme Court [Case No. S259772](#) [Sixth District Court of Appeal, [Case No. H046221](#)]**

Summary: Petition for review of the appellate court's order denying review of the Board's decision in 44 ALRB No. 8, in which the Board ordered a collective bargaining agreement determined through mandatory mediation and conciliation into effect.

Status: The appellate court issued an order on December 17, 2019, denying Premiere's petition for writ of review. Premiere filed a petition for review in the California Supreme Court on December 23, 2019. The Court issued an order denying review on January 2, 2020. This litigation now is final.

- ***Gerawan Farming, Inc. v. ALRB*, California Supreme Court, [Case No. S258961](#) [Fifth District Court of Appeal, [Case No. F076148](#) (Consolidated with *Lupe Garcia v. ALRB*, Fifth District Court of Appeal, Case No. F076150)]**

Summary: Petition for review from appellate court opinion holding there is no constitutional right of access to mandatory mediation and conciliation proceedings under the Agricultural Labor Relations Act.

Status: On July 19, 2019, the appellate court issued a letter to the parties requesting briefing on whether the decertification of the United Farm Workers of America as the exclusive representative of Gerawan's agricultural employees had any effect on the issues in this case. Gerawan and Garcia filed a joint letter brief on July 30, and the Board filed its letter brief on August 2. The appellate court heard oral arguments on September 17, 2019, and issued an opinion certified for publication on September 24, 2019. (*Gerawan Farming, Inc. v. ALRB* (2019) 40 Cal.App.5th 241.) The court concluded Gerawan lacked standing in this litigation, and dismissed its claims. On the merits of Garcia's access claims, the court held there is no constitutional right of public access to MMC proceedings. The opinion became final on October 24, 2019. Both Gerawan and Garcia filed petitions for review in the California Supreme Court on November 4, 2019. The Board filed an answer to the petitions for review on November 22. Gerawan and Garcia filed a joint reply brief on December 2. On January 2, 2020, the Court extended its time for granting or denying review to January 31. On January 15, the Court issued an order denying the petitions for review. The appellate court issued its remittitur on January 16, and this litigation now is final.

Other Board Litigation

United States Court of Appeals

- ***Cedar Point Nursery and Fowler Packing Co. v. Shiroma, et al.*, U.S. Court of Appeals, Ninth Circuit, Case No. 16-16321**

Summary: Complaint for injunctive and declaratory relief seeking an order to overturn the Board's access regulation (Cal. Code Regs., tit. 8, § 20900) on constitutional grounds under

the Fourth and Fifth Amendments. Plaintiff growers appeal from the district court's order dismissing their constitutional claims.

Status: The appellate court issued an opinion on May 8, 2019, rejecting the growers' constitutional claims. (*Cedar Point Nursery v. Shiroma* (9th Cir. 2019) 923 F.3d 524.) The growers filed a petition for rehearing en banc on June 21, 2019, and the California Farm Bureau Federation filed an amicus brief in support of the petition on July 8. On July 15, the court issued an order directing the Board to file a response to the petition. The Board filed its response on September 4. On April 29, 2020, the court issued an order denying the petition for rehearing en banc. (*Cedar Point Nursery v. Shiroma* (9th Cir. 2020) 956 F.3d 1152.) The deadline to file a petition for writ of certiorari in the United States Supreme Court is July 28, 2020.

California Appellate Courts

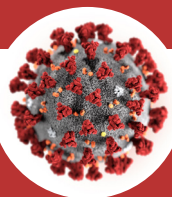
► ***Gerawan Farming, Inc. v. ALRB*, Fifth District Court of Appeal, [Case No. F074423](#)**

Summary: Petition for writ of mandate to compel Board to reverse an administrative law judge's ruling revoking subpoenas served by Gerawan in an unfair labor practice proceeding. Gerawan appeals the superior court's judgment dismissing the case after sustaining a demurrer filed by the Board without leave to amend.

Status: On February 6, 2019, the court issued an unpublished opinion granting the Board's motion to dismiss the appeal as moot. The deadline for a petition for review to be filed in the California Supreme Court was March 18, 2019, and no petition was filed. The court issued its remittitur on April 8, 2019, and the litigation is complete.

APPENDIX C

CORONA VIRUS EFFECTS ON FARMWORKERS



Coronavirus/COVID-19 Agricultural Worksite Checklist*

Maintain a Healthy Workforce

Symptoms often include a **fever, cough, shortness of breath or difficulty breathing, chills, muscle pain, sore throat, or new loss of taste and smell**. Individuals infected with COVID-19 and those exhibiting symptoms **should not work**. COVID-19 is primarily spread from person-to-person contact and is highly contagious.

- ☐ Create a plan for screening workers for COVID-19 symptoms when they arrive at work:
 - Establish consistent policies and procedures for screening workers, which may include checking temperatures of workers at the start of each shift to identify anyone with a fever of 100.4°F or greater, verbal screening in appropriate language(s) to determine whether workers have symptoms, and reasons for sending someone home.
 - Designate and train personnel to perform screening activities and provide PPE, such as gloves, a gown, a face shield, and, at a minimum, a face mask (such as N95 or more protective filtering facepiece respirator).
 - Implement physical barriers, dividers, or rope to maintain at least 6 feet of distance between screeners and workers being screened.
- ☐ Clearly communicate your plan and the symptoms you will be screening for to workers.
 - Inform workers that they must stay home if they have symptoms.
 - Encourage workers to tell their supervisor if they start to feel sick and let workers know they won't get into trouble for doing so.
- ☐ Observe workers for symptoms as they arrive to work and throughout the day in the event symptoms emerge.
- ☐ Send workers who have symptoms home and advise them to call their health care provider.

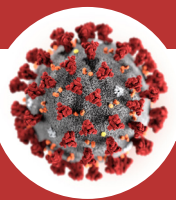
Sanitation & Hygiene

Good sanitation and personal hygiene can help minimize exposure to COVID-19.

- ☐ Increase cleaning and sanitizing of shared spaces and frequently touched areas, such as restrooms, tools, equipment, doorknobs/handles, water jug spigots, chairs, benches, tables, working surfaces, and trash cans.
- ☐ Ensure adequate supplies of soap, water, and disposable towels for more frequent handwashing.
- ☐ Make hand sanitizer stations available where needed.
- ☐ Instruct workers on handwashing (20 seconds with soap and water, front and back of hands, in between fingers, and under fingernails).
- ☐ Allow time for handwashing throughout the day, including at the beginning, during, and the end of their shift, and before and after meal breaks.
- ☐ Remind workers to cough and sneeze into their elbows and avoid touching their faces and eyes.
- ☐ Instruct workers not to share tools and equipment and/or to sanitize them between uses.
- ☐ Instruct workers on how to assess workplace hazards, how to put on and remove PPE, and how to use cleaners and disinfectants safely by following label directions.

continued on page 2





Coronavirus/COVID-19 Agricultural Worksite Checklist*

Physical or Social Distancing & Respiratory Protection

In addition to proper hygiene, it is critical for workers to maintain a distance of **six (6) feet** from each other and to wear respiratory protection, such as cloth face coverings or masks, to help minimize exposure for the safety of all.

- ☐ Use a tape measure or measuring stick to demonstrate the 6-foot distance and remind workers to maintain this distance throughout their shift.
- ☐ Advise workers to avoid social greetings such as handshakes or hugs.
- ☐ Provide additional time and space for workers to clock in/out and during breaks and meal periods.
- ☐ Hold meetings and trainings in small groups so workers can maintain 6 feet of distance between each other and still hear the speaker.
- ☐ When in fields, orchards, vineyards, or packing houses, each worker should maintain a minimum of 6 feet from each other at all times.
 - Stagger workers over and within rows.
 - Adjust product flow for adequate inspection or sorting with fewer workers on the line.
 - Install shields or barriers, such as Plexiglass between workers, when a 6-foot distance is not possible.

