

# **Agricultural Labor Relations Board**

## **Report to the Legislature and to the Governor**



### **Fiscal Year 2018-2019**

#### **Members of the Board**

**Victoria Hassid, Chair<sup>1</sup>**  
**Barry Broad, Member<sup>2</sup>**  
**Cynthia Flores, Member<sup>3</sup>**  
**Isadore Hall III, Member**  
**Ralph Lightstone, Member<sup>4</sup>**  
**Cathryn Rivera-Hernandez, Member<sup>5</sup>**  
**Genevieve Shiroma<sup>6</sup>**

**Santiago Avila-Gomez, Executive Secretary**  
**Julia L. Montgomery, General Counsel**

**Date Submitted September 18, 2020**

<sup>1</sup> Victoria Hassid was appointed Chair on February 19, 2020.

<sup>2</sup> Barry Broad was appointed May 30, 2019.

<sup>3</sup> Cynthia Flores was appointed on February 19, 2020.

<sup>4</sup> Ralph Lightstone was appointed on October 23, 2019.

<sup>5</sup> Cathryn Rivera-Hernandez served as a Board Member for Fiscal Year 2018-19 until departing on July 30, 2019 to serve as the Governor's Appointments Secretary.

<sup>6</sup> Genevieve Shiroma served as Board Chair for part of Fiscal Year 2018-19 until departing on January 30, 2019 to serve on the California Public Utilities Commission.

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## **I. Introduction**

More than 40 years ago, the California State Legislature enacted the Agricultural Labor Relations Act (ALRA or Act), a law granting certain rights to California farmworkers in order to “...ensure peace in the agricultural fields by guaranteeing justice for all agricultural workers and stability in labor relations.” The Act’s purpose is simple: Guarantee farmworkers full freedom of choice, and prevent and redress unfair labor practices. A groundbreaking law, the essential Act continues to serve California with its unique vision of agricultural labor peace.

This report is submitted by the Agricultural Labor Relations Board (ALRB or Board) pursuant to Labor Code section 1143. The report covers ALRB activities for fiscal year 2018-2019 ending June 30, 2019.<sup>7</sup> The following is a summary of activities covered in this report:

- The Board issued 11 decisions and 12 administrative orders.
- As a result of legal challenges, the Board saw two new legal filings in state and federal courts, and a continuation of 13 court cases.
- At the beginning of the 2018-2019 fiscal year, the General Counsel’s office had 119 pending unfair labor practice (ULP) charges.<sup>8</sup>
- Throughout fiscal year 2018-2019, the General Counsel’s office received an additional 103 ULP charges filed, for a total of 222 ULP charges that were active at some point during this fiscal year.
- The General Counsel issued 23 ULP complaints encompassing 32 charges; while 35 charges were settled either pre-complaint or post-complaint.
- Monetary remedies to farmworkers in the amount of \$162,588.33 were collected from 17 cases.
- In non-monetary remedies, regional office staff completed:
  - A notice reading for 26 cases involving 4,303 farmworkers.
  - A notice mailing for 25 cases involving 11,521 farmworkers.
  - A notice posting for 24 cases.
  - Supervisor training for 12 cases involving 129 supervisors.
- In election activity, the Board, through its regional offices:
  - Processed 0 petitions for certification.
  - Conducted 0 elections.
  - Issued 0 certifications of representation.
  - Received 24 Notices of Intent to Take Access filings.
  - Received two Notices of Intent to Organize filings.
- The ALRB conducted extensive outreach activities to both workers and employers.

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<sup>7</sup> All information in this report is as of June 30, 2019.

<sup>8</sup> Pending ULP Charges are defined here as charges that have not been either issued as complaints, dismissed, settled, or withdrawn.

This report reflects the hard work, commitment, and accomplishments of the staff and members of the ALRB in implementing the Act, and I thank my colleagues and staff for their dedication. The ALRB remains firm in its commitment to enforce the Act.

Victoria Hassid  
Chair, Agricultural Labor Relations Board

## **II. Election Activity**

Farmworkers have the right to choose whether or not they want a union to represent them. Elections are held to allow farmworkers to select or terminate representation by a labor organization. The ALRB is the state department charged with administering and conducting all aspects of farmworker representation elections.

One of the important protections under the Act is that farmworkers have the right to be contacted at their workplace so that they may receive information about a prospective or existing union. The employer is required to give the union organizers access, namely, to allow the organizers onto its property to meet directly with the farmworkers. A notice of intent to take access is commonly abbreviated as NA. In the table below, NA appears as part of each case number.

- 24 notices of intent to take access were filed during fiscal year 2018-2019.

### ***List of Notices to Intent to Take Access:***

<b>No.</b>	<b>Case Number</b>	<b>Employer Name</b>	<b>Filing Date</b>
1.	2018-NA-017-SAL	Faith Family Farm, LLC.	07/26/2018
2.	2018-NA-018-SAL	Monterey Botanicals, LLC.	08/09/2018
3.	2018-NA-019-SAL	Fuji Fire Flowers, LLC. / Pacific Reserve Nursery, LLC	08/10/2018
4.	2018-NA-001-VIS	Sweetwoods Farm Inc. dba Red Rooster Co.	08/15/2018
5.	2018-NA-021-SAL	Riverview Farms/ DBA Riverview Farms	09/13/2018
6.	2018-NA-020-SAL	Riverview Farms/ DBA Satsuma Farms	09/13/2018
7.	2018-NA-024-SAL	Monterey Ocean Grown	10/11/2018
8.	2018-NA-023-SAL	Monterey Valley Pride	10/11/2018
9.	2018-NA-022-SAL	MOTU LLC.	10/11/2018
10.	2018-NA-027-SAL	VBF Brands, Inc./Von Baron Farms	11/07/2018
11.	2018-NA-026-SAL	Ocean Grown Horticulture, Inc.	11/07/2018
12.	2018-NA-025-SAL	Hands of Faith Association	11/07/2018
13.	2018-NA-029-SAL	Cypress Manufacturing	11/30/2018
14.	2018-NA-028-SAL	Wave Rider Nursery, LLC	11/30/2018
15.	2018-NA-030-SAL	L.N.B Venture Salinas, LLC.	12/26/2018
16.	2019-NA-001-VIS	The Wonderful Company	01/15/2019
17.	2019-NA-001-SAL	Harkins Grow, LLC	02/08/2019
18.	2019-NA-004-SAL	Monterey Tilth Farms LLC	02/19/2019
19.	2019-NA-003-SAL	CanEx	02/19/2019
20.	2019-NA-002-SAL	Hands of Faith Association	02/19/2019

No.	Case Number	Employer Name	Filing Date
21.	2019-NA-005-SAL	M.D. Farms, LLC	03/04/2019
22.	2019-NA-006-SAL	Flor LLC	03/19/2019
23.	2019-NA-007-SAL	Highly Productive Enterprises, Inc. and Top Hat Flor, LLC	03/26/2019
24.	2019-NA-008-SAL	Von Monk Organics, LLC	04/08/2019

When a labor organization files a notice of intent to organize, accompanied by confidential signature cards signed by at least 10 percent of the farmworkers, it may obtain a list of presently employed farmworkers and their home addresses. A notice of intent to organize is commonly abbreviated as NO. In the table below, NO appears as part of each case number.

- During fiscal year 2018-2019, two notices of intent to organize were filed.

***List of Notices of Intent to Organize:***

No.	Case Number	Employer Name	Filing Date
1.	2019-NO-001-SAL	LNB Ventures SAL, LLC	01/03/2019
2.	2019-NO-001-VIS	The Wonderful Company	01/15/2019

A certification election determines whether a majority of employees in a bargaining unit supports the certification of a labor organization, as the exclusive representative of the employees in that bargaining unit. This election is triggered by the filing of a petition for certification of representative (commonly referred to as an RC petition) with the ALRB. Along with the petition, the petitioner must provide proof of support from a majority of the currently employed workers in the bargaining unit.

The RC petition may be filed by an employee, a group of employees, or a labor organization.

- During fiscal year 2018-2019, no RC petitions were filed with the ALRB.



A decertification election determines whether a majority of employees in a bargaining unit supports the decertification of a labor organization that is currently certified as the exclusive representative of the employees in that bargaining unit. Decertification includes replacement either with no union, or with a different labor organization as the certified representative. A decertification election is triggered by the filing of a petition for decertification of representative (commonly referred to as an RD petition), along with proof of support from the requisite percentage of workers in the bargaining unit.

- During fiscal year 2018-2019, no RD petitions were filed with the ALRB.

### **Elections Conducted**

Following the filing of an RC or RD petition, the ALRB conducts an investigation to determine if the statutory prerequisites for holding an election have been met. Where these prerequisites are met, the ALRB is required to conduct an election within the time specified under the Act.

- During fiscal year 2018-2019, no elections were conducted.
- No decertification elections were held during fiscal year 2018-2019.

If a labor organization prevailed in the election, a representative certification is issued, certifying that organization as the employees' exclusive bargaining representative.

- During fiscal year 2018-2019, no certifications were issued.

### **III. Decisions and Orders Issued by the Board**

The Board hears a variety of different types of cases. The most common type of case is an Unfair Labor Practice (ULP) case. ULP cases typically involve alleged violations of a farmworker's rights under the Act by an employer or union, such as retaliation for engaging in the type of concerted activity protected under the Act, or allegations of bad faith bargaining between a union and employer. A critical Board function is hearing all challenges and objections related to a representation election. The Board may also hear appeals of rulings issued by mediators in mandatory mediation and conciliation (MMC) proceedings, and petitions seeking to clarify the scope of union representation.

#### **A. Board Decisions**

The Board issued eleven decisions in fiscal year 2018-2019. A list of decisions with brief summaries follows. The full text of each Board Decision listed here, can be found on the ALRB website (<https://www.alrb.ca.gov/legal-searches/decision-index/>), under the Volumes/Years 44-2018 and 45-2019.

#### ***List of Board Decisions Issued:***

<b>No.</b>	<b>Issuance Date</b>	<b>Board Decision Number</b>	<b>Case Name</b>
1.	7/24/2018	44 ALRB No. 6	United Farm Workers (Lopez)
2.	8/16/2018	44 ALRB No. 7	Arnaudo Brothers, LP and Arnaudo Brothers, Inc.
3.	8/27/2018	44 ALRB No. 8	Premiere Raspberries, LLC
4.	8/29/2018	44 ALRB No. 9	Premiere Raspberries, LLC
5.	9/27/2018	44 ALRB No. 10	Gerawan Farming, Inc.
6.	10/11/2018	44 ALRB No. 11	Gerawan Farming, Inc.
7.	11/16/2018	44 ALRB No. 12	Jacob Diepersloot, Individual, and dba JD Farms; Jacobo D. Farms; JD Farms Management, Inc.
8.	01/02/2019	45 ALRB No. 1	Monterey Mushrooms, Inc.
9.	01/22/2019	45 ALRB No. 2	GJ Farms, Inc.
10.	01/24/2019	45 ALRB No. 3	Gerawan Farming, Inc.
11.	06/19/2019	45 ALRB No. 4	United Farm Workers of America (Garcia)

## ***Descriptions of Board Decisions Issued:***

### ***1. United Farm Workers (Lopez) (2018) 44 ALRB No. 6, July 24, 2018***

#### **Background**

On April 28, 2014, Administrative Law Judge (ALJ) Mark R. Soble issued a decision finding that Respondent United Farm Workers of America (UFW) violated section 1154, subdivision (a)(1) of the ALRA by directing or misleading hotel security into excluding anti-UFW agricultural workers from an ALRB public hearing. The ALJ ordered the UFW to cease and desist from violating the Act, to post a notice at all of its offices in the San Joaquin Valley for a sixty-day period, to post a notice at Gerawan Farming, Inc. (Gerawan) for a sixty-day period, and also to cooperate with the Visalia Region to arrange for notice mailing and notice reading to crews employed by the UFW during the time period of September 1, 2015 to September 16, 2015. The ALJ also ordered training on the Act for all San Joaquin-Valley based UFW coordinators, organizers, and their immediate supervisors.

#### **Board Decision**

The Board affirmed the ALJ's findings of fact, in part, and affirmed the ALJ's legal conclusion that the UFW violated the Act by directing or misleading hotel security into temporarily excluding anti-UFW workers from engaging in protected, concerted activity at a public hearing held by the ALRB. The Board found that that the blue-shirted, anti-UFW workers engaged in concerted, protected activity. The Board also affirmed the ALJ's credibility determinations. The Board did not adopt the ALJ's conclusion that there was widespread dissemination of information, whether by word of mouth or through smart phones or online platforms, among Gerawan employees regarding the temporary exclusion of the blue-shirted workers. Additionally, the Board clarified the ALJ's order to state that the mailing and notice readings be provided to crews employed by Gerawan, and not Respondent, UFW. Finally, the Board overturned the ALJ's order for training for all San Joaquin-Valley based UFW coordinators, organizers, and their immediate supervisors, and denied a media noticing remedy requested by the charging party.

**2. *Arnaudo Brothers, LP and Arnaudo Brothers, Inc.* (2018) 44 ALRB No. 7, August 16, 2018**

**Background**

On March 29, 2018 ALJ Mary Miller Cracraft issued a decision finding that respondents Arnaudo Brothers, LP and Arnaudo Brothers, Inc. (Arnaudo) unlawfully failed to bargain with charging party UFW over wage rates for a mandatory mediation and conciliation (MMC) contract in 2014-2015 and over the discretionary aspects of Arnaudo's implementation of an employee medical plan in 2016. The ALJ did not order monetary remedies for either violation. The General Counsel of the ALRB filed exceptions arguing that makewhole should have been awarded for both violations.

**Board Decision**

The Board affirmed in part, and reversed in part, the ALJ's recommended remedy. With respect to the 2014-2015 violation, the Board found that the General Counsel's complaint conceded that Arnaudo paid all wages required by the MMC contract, which overlapped with the makewhole period and, thus, precluded a makewhole award. The Board also found that, under the rationale of *Gerawan Farming, Inc.* (2018) 43 ALRB No. 1, bargaining makewhole could not be awarded because awarding makewhole within the effective dates of an MMC contract would result in a punitive remedy. With respect to the 2016 medical plan implementation, the Board held that the proper measure of the monetary remedy for a discrete unilateral change is the difference between the affected employees' earnings and benefits under the unilaterally changed terms of employment and the earnings and benefits they would have received absent those changes, rejecting the General Counsel's argument that a bargaining makewhole measure should be applied. The Board held that, because there was not an adequate record to support the ALJ's conclusion that employees could not have suffered economic losses resulting from the implementation of the medical plan, a monetary remedy should be included and the amount of economic losses, if any, should be determined in compliance proceedings.

**3. *Premiere Raspberries, LLC* (2018) 44 ALRB No. 8, August 27, 2018**

**Background**

On March 8, 2018, the UFW, the certified bargaining representative of the agricultural employees of Premiere Raspberries, LLC (Premiere), filed a declaration with the ALRB pursuant to Labor Code section 1164 et seq. and Board Regulation section 20400, requesting that the Board issue an order directing the parties to MMC of their issues. The Board ordered the parties to MMC in its decision, *Premiere Raspberries, LLC* (2018) 44

ALRB No. 3. In this decision, the Board also denied Premiere's request for an order staying the MMC process pending judicial review of the certification based on its technical refusal to bargain with the UFW. Labor Code section 1158 specifically states that the filing of a petition for review in an unfair labor practice case to obtain indirect review of a Board certification in a representation proceeding (such as in the case of a technical refusal to bargain) "shall not be grounds for a stay of proceedings conducted pursuant to" the MMC statute. The mediator in the MMC case filed his report with the Board on August 11, 2018. Premiere's counsel attended the MMC session which was held on July 9, 2018 solely for the purpose of stating her objection to the MMC process. Premiere did not present proposals or counterproposals or any testimony or evidence in support of any bargaining position. The mediator accepted the UFW's proposals in their entirety and recommended that they comprise a collective bargaining agreement with a term of three years. Premiere filed a petition for review of the mediator's report with the Board.

### **Board Decision**

The Board dismissed the petition for review, finding that Premiere had not established that any of the statutory grounds exist for the Board to grant review of the Mediator's Report. The mediator's refusal to stay MMC was not arbitrary or capricious under Labor Code 1158, and Premiere's decision not to avail itself of the opportunity to participate in MMC did not support a violation of due process. The Board ordered that the Mediator's Report take immediate effect as a final order of the Board.

#### ***4. Premiere Raspberries, LLC (2018) 44 ALRB No. 9, August 29, 2018***

### **Background**

Following a representation petition filed by the UFW to represent workers at Premiere, the Board held an election on August 9, 2017. The ballot count showed that a majority of employees voted in favor of representation by the UFW. Premiere filed four election objections. The Board dismissed all four objections in *Premiere Raspberries, LLC (2017) 43 ALRB No. 2*. Premiere thereafter requested reconsideration of that decision, which the Board denied in *Premiere Raspberries, LLC (2017) ALRB Admin. Order No. 2017-20*. After the Board certified the UFW as the exclusive bargaining representative, the UFW requested bargaining with Premiere. Premiere responded that it was engaging in a technical refusal to bargain in order to obtain judicial review of the Board's Decision in *Premiere Raspberries, supra*, 43 ALRB No. 2. The ALRB's General Counsel issued a complaint alleging that Premiere refused to bargain with the UFW in violation of the ALRA. The parties entered into a Stipulation of Facts and agreed to waive their rights to a hearing provided by section 1160.2 of the Act.

## **Board Decision**

The Board found that Premiere had not shown any new evidence or demonstrated extraordinary circumstances justifying reconsideration of the earlier representation case. The Board found that Premiere's admitted refusal to bargain with the UFW was a violation of Labor Code section 1153, subdivisions (e) and (a). The Board ordered bargaining makewhole as a remedy for the violation, finding that while the record contained no evidence that Premiere was seeking judicial review in bad faith, Premiere's litigation posture was unreasonable.

### **5. *Gerawan Farming, Inc.* (2018) 44 ALRB No. 10, September 27, 2018**

#### **Background**

On October 25, 2013, Silvia Lopez (Petitioner) filed a petition to decertify the UFW as the bargaining representative of the agricultural employees of Gerawan. The Board ordered that an election be held and the ballots cast in the election be impounded. The election was held on November 5, 2013. Following a hearing on election objections and related unfair labor practice (ULP) allegations, an ALJ determined that Gerawan committed multiple unfair labor practices and engaged in other objectionable conduct by providing unlawful assistance to the efforts to decertify the UFW. Due to the pervasive nature of the misconduct found, the ALJ recommended dismissing the decertification petition and setting aside the election. On April 15, 2016, the Board issued a decision upholding the ALJ's order dismissing the decertification petition and setting aside the election. (*Gerawan Farming, Inc.* (2016) 42 ALRB No. 1.) On May 30, 2018, the California Court of Appeal for the Fifth Appellate District issued an opinion reversing certain portions of the Board's unfair labor practice findings in *Gerawan Farming, Inc.*, *supra*, 42 ALRB No. 1, and vacating the Board's order dismissing the decertification petition and setting aside the election. (*Gerawan Farming, Inc. v. ALRB* (2018) 23 Cal.App.5th 1129.) The appellate court remanded the matter to the Board to open and count the ballots cast in the election and to reconsider the Board decision in light of its opinion. On September 18, the ballots were opened and counted with the following tally: 197 for the Certified Bargaining Representative (UFW); 1,098 for the No Union choice; 660 unresolved challenged ballots; and 18 void ballots.

#### **Board Decision**

Under the appellate court's findings in this matter, Gerawan committed several unlawful acts prior to the November 5, 2013 election. First, Gerawan engaged in direct dealing with its employees by unilaterally implementing two wage increases in March 2013 and distributing flyers to its employees advising that Gerawan had made the decision to grant

the wage increases on its own and that it hoped the union would not delay or obstruct the increases. Next, Gerawan provided unlawful assistance to the circulation of the decertification petition: (1) when a crew boss gathered his crew together on one occasion in October 2013 during worktime and allowed the collection of signatures on the petition, and (2) by disparately enforcing its attendance policy and allowing Petitioner Lopez and her daughter extended absences from work to gather signatures for the showing of interest for almost two-and-a-half months. Finally, Gerawan unilaterally implemented a temporary wage increase to grape packing employees on October 25, 2013. The Board evaluated the record on remand, and found that the unlawful and/or objectionable conduct committed by Gerawan did not interfere with the employees' free choice to such an extent that it affected the outcome of the election. Therefore, the Board certified that a majority of the valid ballots were cast for No Union in the representation election, and that the UFW lost its prior status as the exclusive representative of the employees for the purpose of collective bargaining.

## **6. *Gerawan Farming, Inc.* (2018) 44 ALRB No. 11, October 31, 2018**

### **Background**

The UFW was certified as the representative of the agricultural employees of Gerawan. An ALJ found that Gerawan unlawfully failed to respond to four separate UFW requests for information and failed to provide notice and an opportunity to bargain over benefit changes in violation of the ALRA. After the ALJ's decision issued, the Board certified the results of a decertification election that had occurred in November 2013. As a result, the UFW was decertified.

### **Board Decision**

The Board affirmed the ALJ's conclusion that Gerawan violated the Act by failing to respond to an information request issued by the UFW prior to the November 2013 election. While Gerawan argued that the request at issue was only part of a much broader request, compliance with which would have been very burdensome, the Board agreed with the ALJ that Gerawan had failed to raise the alleged burden at the time of the request and had failed to negotiate with the union over its response. Rather, Gerawan provided no response whatsoever. However, the Board found that dismissal of the remaining unfair labor practice allegations was required because the conduct at issue took place after the November 2013 decertification election. Although the results of the election were not certified until October 2018, under *Nish Noroian Farms* (1982) 8 ALRB No. 25, the certification of results relates back to the date of the election, and no bargaining violation could be found after that date.

**7. *Jacob Diepersloot, Individual, and dba JD Farms; Jacobo D. Farms; JD Farms Management, Inc. (2018) 44 ALRB No. 12, November 16, 2018***

**Background**

On June 28, 2018, ALJ John J. McCarrick issued a decision granting a Motion to Deem Allegations in the First Amended Complaint Admitted and Motion for Default Judgment filed by the General Counsel of the ALRB against Respondent Jacob Diepersloot, individually, and dba JD Farms; Jacobo D. Farms; JD Farms Management, Inc. (collectively, Respondent). A First Amended Complaint alleged that Respondent violated the ALRA by threatening, terminating, and by refusing to rehire charging party Antonio Renteria (Renteria) after he engaged in activity protected by the Act. Respondent did not file a timely answer to the First Amended Complaint, contending that it mistakenly believed that its agent, JSV Farm Labor, Inc. (JSV) was the employer, and that JSV would be handling the matter on Respondent's behalf. In finding that the Respondent did not demonstrate good cause, the ALJ ordered that Renteria be reinstated and awarded backpay for lost wages, along with a cease and desist order and notice posting, mailing, and reading remedies.

**Board Decision**

The Board found that the Respondent failed to establish good cause to excuse the untimely filed answer. Concluding that the ALJ relied on applicable precedent in making its determination, the Board affirmed the ALJ's decision to grant the General Counsel's Motion to Deem Allegations in the First Amended Complaint Admitted and Motion for Default Judgment and affirmed the ALJ's recommended order.

**8. *Monterey Mushrooms, Inc. (2019) 45 ALRB No. 1, January 2, 2019***

**Background**

Respondent Monterey Mushrooms, Inc. (Respondent) planned to implement a new scaffolding system for the harvesting of mushrooms. It scheduled a meeting to introduce the new system to one of its crews. As the crew gathered prior to the meeting, charging party Francisco Lopez discussed the scaffolds with other employees. In the course of the conversation, he stated his opinion that the scaffolds would be difficult for shorter or smaller employees to use and that they would slow down harvesting, leading to lower wages for piece-rate employees. Supervisor Raul Aguilar approached Mr. Lopez and told him not to "opine on anything" at the meeting due to his "vocabulary" (meaning his use of profanity). An ALJ credited Mr. Lopez' account over Mr. Aguilar's claim that Mr. Lopez



was only instructed not to use profanity and concluded that, by instructing Mr. Lopez not to speak at the meeting, Respondent violated section 1153, subdivision (a)(1) of the ALRA.

### **Board Decision**

The Board considered exceptions filed by Respondent and the ALRB's General Counsel. Respondent argued that the time card of one of the witnesses who testified showed that he could not have been present at the relevant time. The Board found it unnecessary to resolve this issue because Mr. Lopez' account was corroborated by two additional witnesses. The Board agreed with the ALJ that Mr. Lopez was engaged in protected concerted activity when he was approached by Mr. Aguilar and Mr. Aguilar's instruction would reasonably tend to restrain employees in the exercise of their rights under the Act. The Board rejected Respondent's argument that the noticing remedy should be limited to Mr. Lopez' crew and ordered noticing of all members of the bargaining unit. The Board corrected certain errors in the ALJ's recommended order but otherwise adopted the order.

### ***9. GJ Farms, Inc. (2019) 45 ALRB No. 2, January 22, 2019***

### **Background**

On September 4, 2018, ALJ John J. McCarrick issued a decision granting a Motion to Deem Allegations in the Complaint Admitted and Motion for Default Judgment filed by the General Counsel of the ALRB against Respondent GJ Farms, Inc. (Respondent). The Complaint alleged that Respondent violated the Act by terminating the employment of charging party Damian Fuentes (Fuentes) after he engaged in activity protected by the ALRA. Under the Board's regulations, Respondent was required to file an answer on or before May 24, 2018. On June 1, 2018, the Executive Secretary of the ALRB received what Respondent styled as an answer to the Complaint. The envelope containing the answer was postmarked May 29, 2018. The ALJ found: Respondent did not file a timely answer to the Complaint; Respondent failed to demonstrate good cause to excuse the untimely filing; and the answer failed to deny the allegations in the Complaint. The ALJ ordered that Fuentes be reinstated and awarded backpay for lost wages, along with a cease and desist order and notice posting, mailing and reading remedies.

### **Board Decision**

The Board affirmed the ALJ's finding that Respondent's answer was untimely filed. The Board found that Respondent's answer was not received by the Board by the filing deadline and Respondent could not rely upon the Board's postmark rule, because the answer was not mailed using registered or certified mail and was not postmarked by the filing deadline. Additionally, the Board found that Respondent failed to provide a reason to excuse its

untimely filing and therefore Respondent was not entitled to relief from default judgment. In reaching these conclusions, the Board affirmed the ALJ's decision to grant the General Counsel's Motion to Deem Allegations in the Complaint Admitted and Motion for Default Judgment and affirmed the ALJ's recommended order. Because the Board found that the answer was untimely filed, it did not reach the issue of whether the answer failed to deny the allegations in the Complaint.

## ***10. Gerawan Farming, Inc. (2019) 45 ALRB No. 3, January 24, 2019***

### **Background**

Respondent Gerawan maintains a workplace rule that prohibits employees from taking photographs or recordings on Gerawan's property. On July 24, 2014, Gerawan crew boss Martin Elizondo Cruz saw farmworker Pablo Gutierrez holding a cell phone like he was taking pictures or video-recording during his lunch break. Elizondo reported this violation of Gerawan's no-camera rule, and Gutierrez's employment with Gerawan was terminated following this incident. The ALJ found Gerawan unlawfully promulgated its no-camera rule in response to the UFW's renewed bargaining demand and increased activity in the late 2012 to 2013 timeframe. The ALJ further found Gerawan's termination of Gutierrez's employment for violating this unlawfully promulgated rule also was unlawful.

### **Board Decision**

The Board considered Gerawan's exceptions, and reversed the ALJ's unfair labor practice findings. The Board determined that the General Counsel did not plead or litigate a claim that Gerawan unlawfully promulgated its no-camera rule, but rather adopted a narrow theory of violation based solely on Gerawan's ongoing maintenance of the rule. The Board thus reversed the ALJ's finding Gerawan unlawfully promulgated the rule because that claim was neither alleged nor fully litigated. The Board then upheld Gerawan's maintenance of its no-camera rule under the National Labor Relations Board's decision in *The Boeing Co.* (2017) 365 NLRB No. 154. With respect to Gerawan's termination of Gutierrez's employment, the Board concluded the General Counsel failed to establish a prima facie case that Gerawan terminated him in retaliation for his alleged support for the UFW. Accordingly, the Board dismissed the unfair labor practice complaint in its entirety.

## ***11. United Farm Workers of America (Garcia) (2019) 45 ALRB No. 4, June 19, 2019***

### **Background**

Respondent UFW threatened to picket Gerawan if Gerawan did not recognize and bargain with the union. The UFW asserts it made this threat to commit an unfair labor practice from which it would then seek judicial review of the Board's decision in *Gerawan Farming, Inc.* (2018) 44 ALRB No. 10. The Board in that decision certified the results of an election by which the UFW was decertified as the exclusive bargaining representative of Gerawan's agricultural employees. The UFW admitted the material allegations of the General Counsel's unfair labor practice complaint. The ALJ granted Gerawan's motion to intervene in the proceeding, and subsequently granted the General Counsel's motion for judgment on the pleadings. The ALJ rejected Gerawan's arguments that the charging party, Agustin Garcia, did not have standing to file an unfair labor practice charge alleging a violation of Labor Code section 1154, subdivision (h). The ALJ also denied Gerawan's request to hold an evidentiary hearing at which it could elicit evidence concerning its allegations of collusion between Garcia and the UFW. The ALJ thereupon granted judgment on the pleadings on each of the three causes of action alleged in the General Counsel's complaint, and concluded the UFW's picketing threat violated Labor Code section 1154, subdivision (h), as well as subdivisions (a)(1) and (a)(2).

### **Board Decision**

On exceptions filed by Gerawan, the Board concluded Garcia had standing to file the unfair labor practice charge. The Board further found Gerawan was not entitled to a hearing on its allegations of collusion between Garcia and the UFW. With respect to the causes of action alleged in the General Counsel's complaint, the Board found the UFW's picketing threat violated Labor Code section 1154, subdivision (h). However, the Board reversed the ALJ's findings that the UFW violated section 1154, subdivisions (a)(1) and (a)(2), as the undisputed allegations unfair labor practice complaint failed to establish that the UFW's conduct violated either provision. Accordingly, the Board remanded those causes of action to the ALJ for further proceedings consistent with its decision. Finally, the Board reversed the ALJ's determination that notice mailing and reading remedies were not appropriate in this case, and the Board ordered the full range of standard notice remedies based on the UFW's violation of section 1154, subdivision (h).

## **B. Board Administrative Orders**

The Board, in addition to issuing board decisions, also issues Administrative Orders or interlocutory rulings in response to motions filed by parties regarding procedural issues in connection with investigations, hearings, elections, or mandatory mediation and conciliation proceedings. Many of the motions filed by parties are appeals of decisions rendered by either an ALJ or the Executive Secretary. In fiscal year 2018-2019, the Board issued 12 administrative orders. The full text of each Administrative Order listed here, can be found on the ALRB website (<https://www.alrb.ca.gov/legal-searches/admin-orders/>), under the Years 2018 and 2019.

No.	Administrative Order Number	Case Name	Case Number	Issue Date	Description
1.	2018-07	Premiere Raspberries, LLC	2018-CE-004-SAL	7/10/2018	Order Granting Parties' Motion to Submit Stipulated Facts; Order Setting Due Date for Briefs
2.	2018-08	T.T. Miyasaka, Inc.	2016-CE-011-SAL (42 ALRB No. 5)	7/10/2018	Order Granting Joint Motion to Amend Notice to Agricultural Employees
3.	2018-09	Premiere Raspberries, LLC	2016-CE-010-SAL (42 ALRB No. 4)	8/2/2018	Order Granting Joint Motion to Amend Notice to Agricultural Employees
4.	2018-10	Palma's Produce, Inc.	2017-CE-081-SAL 2017-CE-082-SAL	8/23/2018	Order Setting Time for Response to General Counsel's Request for Board Action to Enforce Subpoena Duces Tecum
5.	2018-11	Palma's Produce, Inc.	2017-CE-081-SAL 2017-CE-082-SAL	9/5/2018	Order Granting General Counsel's Request for Board Action to Enforce Subpoena Duces Tecum
6.	2018-12	Gerawan Farming, Inc.	2013-RD-003-VIS (39 ALRB No. 20) (42 ALRB No. 1)	9/14/2018	Order Directing the Opening and Counting of Ballots

No.	Administrative Order Number	Case Name	Case Number	Issue Date	Description
7.	2018-13	Gerawan Farming, Inc.	2013-RD-003-VIS (39 ALRB No. 20) (43 ALRB No. 1) (44 ALRB No. 10)	10/11/2018	Order Denying United Farm Workers of America's Motion for Reopening of the Record or Reconsideration
8.	2018-14	Gerawan Farming, Inc.	2015-CE-007-VIS 2015-CE-008-VIS 2015-CE-014-VIS 2015-CE-064-VIS	10/16/2018	Order Denying General Counsel's Motion to Consolidate Liability and Compliance Proceedings Prior to Issuance of Final Order
9.	2018-15	Gerawan Farming, Inc.	2013-RD-003-VIS (39 ALRB No. 20) (42 ALRB No. 1) (44 ALRB No. 10)	11/19/2018	Order Denying Gerawan Farming, Inc.'s Motion for Costs and Attorneys' Fees
10.	2018-16	Four Seasons Vineyard Management	2018-CE-040-SAL	11/30/2018	Order Denying General Counsel's Request for Board Action to Enforce Subpoena Duces Tecum
11.	2019-01	Coastal Vineyard Care Associates	2018-CE-067-SAL	6/7/2019	Order Setting Time for General Counsel to Amend Request for Subpoena Enforcement
12.	2019-02	Coastal Vineyard Care Associates	2018-CE-067-SAL	6/11/2019	Order Granting General Counsel's Request for Subpoena Enforcement

#### **IV. Board and General Counsel Litigation**

Board decisions generally are reviewable in the California courts of appeal, with review triggered by the timely filing of a petition for review. Litigation in California superior courts may include applications for injunctive relief, the enforcement of subpoenas issued in connection with an ALRB investigation or hearing, or petitions for writ of mandate asserting constitutional challenges to actions of the Board. Cases in federal court typically involve constitutional challenges to the Act or its enforcement.

## **A. Board Litigation**

The tables in this section identify litigation matters involving the Board, including the judicial forum in which a matter was pending at the conclusion of the 2018-2019 fiscal year. Generally, the Board is a respondent or defendant in such litigation cases, which typically involve appeals of Board Decisions, actions under the California Public Records Act (PRA), or petitions for writ of mandate or complaints for declaratory relief and injunctive relief asserting constitutional challenges to actions taken by the Board. For fiscal year 2018-2019, two new litigation matters involving the Board were filed in state and federal courts, as follows:

### **Two (2) New Litigation Matters (Filed/Initiated During FY18/19):**

<b>No.</b>	<b>Filing Date</b>	<b>Case Name</b>	<b>Summary</b>
1.	9/24/18	<i>Premiere Raspberries, LLC v. ALRB</i> <ul style="list-style-type: none"><li>• Sixth District Court of Appeal, Case No. H046621</li></ul>	Petition for writ of review of the Board's decision (44 ALRB No. 8) ordering mandatory mediation and conciliation contract into effect.
2.	9/24/18	<i>Premiere Raspberries, LLC v. ALRB</i> <ul style="list-style-type: none"><li>• Sixth District Court of Appeal, Case No. H046623</li></ul>	Petition for writ of review of the Board's decision (44 ALRB No. 9) finding employer unlawfully refused to bargain with a certified union and awarding bargaining makewhole relief.

**Thirteen (13) Pending Litigation Matters (Filed Pre-FY18/19 but Remained Pending During At Least Some Portion of FY18/19):**

No.	Filing Date	Case Name	Summary
1.	05/6/13	<p><i>Gerawan Farming, Inc. v. ALRB</i></p> <ul style="list-style-type: none"> <li>• Fresno County Superior Court, Case No. 13-CECG-01408</li> <li>• On Appeal (filed 1/5/14): Fifth District Court of Appeal, Case No. F068676</li> <li>• On Review (filed 6/22/15): California Supreme Court, Case No. S227243 (remanded to appellate court 1/4/18)</li> <li>• Petition for Writ of Certiorari (filed 2/7/18): United States Supreme Court, Case No. 17-1375</li> </ul>	<p>Action challenging the Board’s order (39 ALRB No. 5) directing the employer and union to MMC proceedings. (Note: Order dismissing petition for writ of certiorari filed 10/1/18; order dismissing appeal in case no. F068676 filed 11/6/18.)</p>
2.	05/17/13	<p><i>Lupe García v. ALRB</i></p> <ul style="list-style-type: none"> <li>• Fresno County Superior Court, Case No. 13-CECG-01557</li> </ul>	<p>Petition for writ of mandate; constitutional challenge by Gerawan employee to MMC proceedings and the Board’s order (39 ALRB No. 5) directing the employer and union to MMC. (Note: Request for dismissal filed and entered 11/16/18.)</p>
3.	10/28/13	<p><i>Gerawan Farming, Inc. v. ALRB</i></p> <ul style="list-style-type: none"> <li>• Fresno County Superior Court Case No 13-CECG-03374</li> <li>• On Appeal (filed 8/15/14): Fifth District Court of Appeal, Case No. F069896 (remanded to superior court 9/6/16)</li> <li>• On Appeal (filed 8/2/17): Fifth District Court of Appeal, Case No. F076148</li> </ul>	<p>Petition for writ of mandate; First Amendment challenge to the Board’s decision (39 ALRB No. 13) denying an employee’s petition to intervene in MMC proceedings and regarding public access to MMC.</p>

No.	Filing Date	Case Name	Summary
4.	12/16/13	<p><i>Gerawan Farming, Inc. v. ALRB</i></p> <ul style="list-style-type: none"> <li>• Fifth District Court of Appeal, Case No. F068526</li> <li>• On Review (filed 6/22/15): California Supreme Court, Case No. S227243 (remanded to appellate court 1/4/18)</li> <li>• Petition for Writ of Certiorari (filed 2/7/18): United States Supreme Court, Case No. 17-1375</li> </ul>	<p>Petition for writ of review of Board’s decision (39 ALRB No. 17) approving an MMC contract between the employer and union. (Note: Order dismissing petition for writ of certiorari filed 10/1/18; order dismissing appeal in case no. F068526 filed 11/6/18.)</p>
5.	12/20/13	<p><i>Lupe Garcia v. ALRB</i></p> <ul style="list-style-type: none"> <li>• Fresno County Superior Court, Case No. 13-CECG-03374</li> <li>• On Appeal (filed 9/19/14): Fifth District Court of Appeal, Case No. F070287 (remanded to superior court 9/6/16)</li> <li>• On Appeal (filed 8/3/17): Fifth District Court of Appeal, Case No. F076150</li> </ul>	<p>Complaint-in-Intervention filed by Gerawan employee asserting First Amendment challenge to Board’s decision (39 ALRB No. 13) denying employee’s petition to intervene in MMC proceedings between his employer and union.</p>
6.	02/09/16	<p><i>Gerawan Farming, Inc. v. ALRB</i></p> <ul style="list-style-type: none"> <li>• Fresno County Superior Court, Case No. 16-CECG-00411</li> <li>• On Appeal (filed 9/14/16): Fifth District Court of Appeal, Case No. F074423</li> </ul>	<p>Petition for writ of mandate challenging administrative law judge’s decision revoking administrative subpoenas seeking disclosure of communications between the Board and the General Counsel concerning an injunctive relief request in May 2015. (Note: Opinion dismissing appeal as moot filed 2/6/19.)</p>
7.	02/16/16	<p><i>Cedar Point Nursery and Fowler Packing Co. v. Gould, et al.</i></p> <ul style="list-style-type: none"> <li>• U.S. Dist. Court, E.D. Cal., Case No. 1:16-cv-00185-LJO-BAM</li> <li>• On Appeal (filed 7/27/16): U.S. Court of Appeals, Ninth Circuit, Case No. 16-16321</li> </ul>	<p>Constitutional challenge on Fourth and Fifth Amendment grounds to the Board’s access regulation (Cal. Code Regs., tit. 8, § 20900). (Note: Opinion issued 5/8/19 affirming dismissal of constitutional challenge; <i>Cedar Point Nursery v. Shiroma</i> (9th Cir. 2019) 923 F.3d 524. Petition for rehearing filed 6/21/19.)</p>



No.	Filing Date	Case Name	Summary
8.	05/16/16	<i>Gerawan Farming, Inc. v. ALRB</i> <ul style="list-style-type: none"> <li>• Fifth District Court of Appeal, Case No. F073720</li> <li>• On Review (filed 7/9/18): California Supreme Court, Case No. S249865 (Order denying review 9/12/18)</li> </ul>	Petition for writ of review of the Board's decision (42 ALRB No. 1) finding the employer unlawfully assisted efforts to decertify the union. (Note: Remittitur issued by appellate court 9/13/18.)
9.	05/17/16	<i>Silvia Lopez v. ALRB</i> <ul style="list-style-type: none"> <li>• Fifth District Court of Appeal, Case No. F073730</li> </ul>	Petition for writ of mandate alleging constitutional challenges to the Board's decision (42 ALRB No. 1) dismissing a decertification petition and setting aside a decertification election held at Gerawan Farms. (Note: Order denying petition for writ of mandate filed 7/26/18.)
10.	05/23/16	<i>Gerawan Farming, Inc. v. ALRB</i> <ul style="list-style-type: none"> <li>• Fifth District Court of Appeal, Case No. F073769</li> </ul>	Petition for writ of mandate alleging constitutional challenges to the Board's decision (42 ALRB No. 1) dismissing a decertification petition and setting aside a decertification election held at Gerawan Farms. (Note: Order denying petition for writ of mandate filed 7/26/18.)
11.	2/21/18	<i>Gerawan Farming, Inc. v. ALRB</i> <ul style="list-style-type: none"> <li>• Fifth District Court of Appeal, Case No. F077033</li> </ul>	Petition for writ of review of the Board's decision (44 ALRB No. 1) finding employer engaged in bad faith bargaining.
12.	4/24/18	<i>Premiere Raspberries, LLC v. ALRB</i> <ul style="list-style-type: none"> <li>• Monterey County Superior Court, Case No. 18CV001447</li> <li>• On Appeal (filed 6/14/18): Sixth District Court of Appeal, Case No. H044175</li> </ul>	Action challenging Board's decision (44 ALRB No. 3) ordering parties to mandatory mediation and conciliation and seeking to enjoin such proceedings. (Note: Request for dismissal filed 11/1/18; dismissal ordered and remittitur issued 11/1/18.)

No.	Filing Date	Case Name	Summary
13.	5/18/18	<i>P&amp;M Vanderpoel Dairy v. ALRB</i> • Fifth District Court of Appeal, Case No. F077513	Petition for writ of review of Board's decision (44 ALRB No. 4) awarding backpay to an unlawfully terminated employee.

**B. General Counsel Litigation**

Litigation matters handled by the General Counsel's office typically involve injunctive relief requests or enforcement of administrative subpoenas. During fiscal year 2018-2019, the General Counsel did not handle any litigation matters.

**V. Unfair Labor Practice Charges**

ULP charges alleging violations of the Act may be filed by agricultural employees against agricultural employers or labor organizations, or may be filed by agricultural employers or labor organizations against one another. ULP charges are investigated by the General Counsel's office. The General Counsel program decides whether to dismiss the charge (if no merit) or to file a ULP complaint. Many charges are settled, both before and after the General Counsel's filing of a ULP complaint. ULP complaints are scheduled for a case management conference, a pre-hearing conference, and an evidentiary hearing before an ALRB ALJ. After the hearing, the ALJ issues a written decision, which includes a remedial order when violations of the Act are found. The ALJ decision can be appealed to the Board for de novo review. The subsequent Board decision, if any, can be appealed to a District Court of Appeal, and to the California Supreme Court. Once all appeals have been exhausted, and if the Board's decision is upheld or if the ALJ's decision is not appealed, it is released for compliance with the order of the decision. The Board relies on the Regional staff to effectuate compliance, which can include monetary remedies, as well as readings, noticing, and mailings to farmworkers regarding their rights.

In some instances, a separate Compliance Hearing occurs, to establish the amount of the monetary award to compensate the charging party for lost wages and other economic losses resulting from a violation of the Act. The ULP charges are typically handled entirely within the ALRB's administrative framework, but the General Counsel occasionally utilizes the courts to enforce subpoenas and to seek injunctive relief when she determines that an immediate court order is needed to remedy an unfair labor practice.

### **A. ULP Charges**

At the beginning of the 2018-2019 fiscal year, the General Counsel’s office had a total of 119 pending ULP charges. Throughout fiscal year 2018-2019, an additional 103 ULP charges were filed for a total of 222 pending ULP charges. Of the 222 ULP charges, 12 charges were withdrawn, 60 charges were dismissed, 35 charges were settled, and 30 new charges went to complaint. At the end of fiscal year 2018-2019, the General Counsel’s office had a total of 100 pending ULP charges.

	<b>Salinas Regional Office</b>	<b>Visalia Regional Office</b>	<b>Total<sup>9</sup></b>
Charges Filed	72	31	103
Withdrawn	9	3	12
Dismissed	34	26	60
Settled	26	9	35
Charges to Complaint	25	5	30

### **B. ULP Investigation-Subpoena Enforcement**

In fiscal year 2018-2019, the General Counsel did not file any subpoena enforcement actions.

### **C. ULP Complaints**

During fiscal year 2018-2019, the General Counsel issued 21 new complaints, and 2 amended complaints encompassing 32 charges.<sup>10</sup> Of the 23 complaints issued, 3 went to hearing within the fiscal year. For a complete list of all 6 ULP complaint hearings conducted during fiscal year 2018-2019, including hearings for complaints filed in previous fiscal years, see *Section F, Unfair Labor Practice and Compliance Hearings*, on page 28.

	<b>Salinas Regional Office</b>	<b>Visalia Regional Office</b>	<b>Total</b>
Complaints Issued	19	4	23
Complaints Withdrawn	1	0	1
Complaints Dismissed	0	0	0
Complaints Settled	7	0	7
Complaints to Compliance	0	1	1

<sup>9</sup> Totals for withdrawn, dismissed, settled, and charges to complaints, each include charges filed *prior* to fiscal year 2018-2019. Total for Charges Filed lists *only* charges filed during fiscal year 2018-2019.

<sup>10</sup> Thirty of the charges that went to complaint were from fiscal year 2018-2019. Two charges on which complaints issued during 2017-2018, were later consolidated with charges on which complaints issued in 2018-2019.

No.	Case No.	Respondent	Complaint Date	Status as of June 30, 2019 <sup>11</sup>
1.	2016-CE-028-SAL 2016-CE-038-SAL	Golden West Veg, Inc. & Cobian Labor Services, Inc.	08/03/2018	Settled 10/17/2018
2.	2018-CE-012-SAL 2018-CE-035-SAL	Premiere Raspberries, LLC	09/17/2018	Hearing taken off calendar, pending decision of Appellate Court
3.	2017-CE-074-SAL	Monterey Mushrooms, Inc.	10/18/2018	Settled 01/28/2019
4.	2017-CE-011-SAL	Andrew Smith Company, LLC	10/19/2018	Settled 06/19/2019
5.	2017-CE-071-SAL 2017-CE-072-SAL 2018-CE-011-SAL	Saticoy Berry Farms, Inc.	11/28/2018	Hearing held 04/09/2019; Pending before the Board
6	2016-CE-023-VIS	Wonderful Orchards, LLC and Family Ranch, Inc.	12/26/2018	Hearing held 06/04/2019; Pending before the Board
7.	2017-CE-007-SAL	Scarborough Farms, Inc.	12/28/2018	Hearing taken of calendar, pending settlement
8.	2018-CE-038-SAL	Planasa, LLC	12/28/2018	Settled 02/15/2019
9.	2018-CL-003-VIS	United Farm Workers of America	12/28/2018	Board Decision issued 06/19/2019
10.	2018-CE-003-SAL 2018-CE-005-SAL 2018-CE-007-SAL 2018-CE-027-SAL	Tissue Grown Corporation	12/28/2018	Hearing scheduled 09/10/2019
11.	2018-CE-044-SAL	Bogle Vineyards, Inc.	12/28/2018	Hearing scheduled 07/30/2019

<sup>11</sup> The purpose of this table is to list *complaints* issued during the fiscal year. The *status* column is for information only, and is not meant to document the total number of hearings held. This column lists only the hearings held during fiscal year 2018-2019 for complaints issued between July 1, 2018 and June 30, 2019. As of June 30, 2019, some complaints issued between July 1, 2018 and June 30, 2019 were scheduled for hearings to be held during fiscal year 2018-2019. Hearings were also held during fiscal year 2018-2019 for complaints issued in previous fiscal years. See Section F, *Unfair Labor Practice and Compliance Hearings*, on page 28 for a complete list of the seven ULP complaint hearings held during fiscal year 2018-2019.

No.	Case No.	Respondent	Complaint Date	Status as of June 30, 2019 <sup>11</sup>
12.	2018-CE-028-SAL 2018-CE-058-SAL	Coast King Packing, LLC	12/28/2018	Settled 06/20/2019
13.	2017-CE-066-SAL	Reveille Farms, LLC	12/28/2018	Default judgment entered 03/08/2019; Pending before the Board
14.	2018-CE-004-VIS 2018-CE-005-VIS	Joe Pedro & Sons Dairy	12/31/2018	Default judgment entered 03/01/2019; Released for Compliance 04/10/2019
15.	2017-CE-073-SAL	Reiter Brothers, Inc.	12/31/2018	Settled 05/16/2019; Complaint Withdrawn
16.	2017-CE-083-SAL	Santa Clara Farms, LLC	01/31/2019	Settled 03/12/2019
17.	2014-CE-044-SAL	Rincon Pacific, LLC	02/01/2019	Hearing held 05/14/2019
18.	2017-CE-042-SAL	Scarborough Farms, Inc.	02/20/2019	Consolidated with 2017-CE-007-SAL; Hearing taken off calendar pending settlement
19.	2017-CE-039-SAL	Scarborough Farms, Inc.	02/20/2019	Consolidated with 2017-CE-007-SAL; Hearing taken off calendar pending settlement
20.	2017-CE-001-SAL	Nunes Vegetables, Inc.	05/08/2019	Hearing scheduled 10/22/2019
21.	2017-CE-020-VIS	Sun Pacific Farming Cooperative, Inc.	06/07/2019	Hearing scheduled 11/05/2019
22.	2018-CE-021-SAL	Dole Berry North, LLC	06/28/2019	Hearing scheduled 10/15/2019
23.	2019-CE-003-SAL	L.N.B. Ventures, LLC	06/28/2019	Complaint filed

#### **D. Injunctive Relief**

During fiscal year 2018-2019, the General Counsel did not seek injunctive relief.

## **E. ULP Settlements**

During fiscal year 2018-2019, the General Counsel achieved 25 settlement agreements which resolved 35 unfair labor practices charges. Of these settlement agreements, 9 were achieved pre-complaint and 16 were achieved post-complaint.

Informal settlements are those that occur prior to hearing, as opposed to formal settlements that occur after hearing. A bilateral settlement is one in which both the charging party and the respondent are parties to a settlement with the ALRB. A Unilateral Settlement is one in which only the respondent is a party to the settlement with the ALRB and not the charging party.

### ***Pre-Complaint Settlements***

During fiscal year 2018-2019, the General Counsel reached 9 pre-complaint settlements encompassing 10 charges.

No.	Case No.	Respondent	Settlement Type	Settlement Date
1.	2017-CE-032-SAL	C&E Farms, Inc.	Informal Bilateral	09/13/2018
2.	2017-CE-011-VIS	Shalini's Ag, LLC	Informal Bilateral	09/25/2018
3.	2018-CE-041-SAL 2018-CE-043-SAL	Pacific Reserve Nursery, LLC, Fuji Fire Flowers, LLC	Informal Bilateral	10/09/2018
4.	2018-CE-013-SAL	Dutton Ranch Corporation	Informal Bilateral	10/15/2018
5.	2018-CE-060-SAL	L.N.B. Ventures Salinas, LLC	Informal Bilateral	11/14/2018
6.	2017-CE-062-SAL	Apio, Inc.	Informal Bilateral	01/17/2019
7.	2019-CE-001-VIS	Maddox Farms	Informal Bilateral	05/06/2019
8.	2019-CE-006-VIS	Fowler Packing Company, Inc., Denken Farms, LP, and G4 Enterprises, Ltd. LP	Informal Unilateral	05/31/2019
9.	2018-CE-056-SAL	E. Berry Farms	Informal Bilateral	06/07/2019

### ***Post-Complaint Settlements***

During fiscal year 2018-2019, the General Counsel reached 16 post-complaint settlements encompassing 25 charges.

<b>No.</b>	<b>Case No.</b>	<b>Respondent</b>	<b>Settlement Type</b>	<b>Settlement Date</b>
1.	2015-CE-045-VIS 2016-CE-018-VIS 2016-CE-019-VIS	Papagni Fruit Company	Informal Bilateral	07/21/2018
2.	2017-CE-012-VIS 2017-CE-036-VIS	KR Thermal Middleton, LLC	Informal Bilateral	08/14/2018
3.	2016-CE-044-SAL	Catalinos Berry Farms, LLC	Informal Bilateral	09/07/2018
4.	2016-CE-012-VIS	WMJ Farms, Inc.	Informal Bilateral	09/18/2018
5.	2016-CE-037-SAL	Channel Island Berry Farms, Inc.	Informal Bilateral	09/26/2018
6.	2016-CE-002-SAL	West Coast Berry Farms, LLC	Informal Bilateral	10/15/2018
7.	2016-CE-028-SAL 2016-CE-038-SAL	Golden West Veg, Inc./Cobian Labor Services, Inc.	Informal Bilateral	10/17/2018
8.	2017-CE-074-SAL	Monterey Mushrooms, Inc.	Informal Bilateral	01/28/2019
9.	2018-CE-038-SAL	Planasa, LLC	Informal Bilateral	02/15/2019
10.	2018-CE-040-SAL 2018-CE-072-SAL	Four Seasons Vineyard Management, John Marcucci Vineyards, Inc., and Ridge Vineyards, Inc.	Informal Bilateral	03/06/2019
11.	2017-CE-083-SAL	Santa Clara Farms, LLC	Informal Bilateral	03/12/2019
12.	2018-CE-065-SAL 2018-CE-063-SAL	North Coast Vineyard Management, Inc., Gallo Vineyards, Inc., and Deridere Aper Vinea, LLP	Informal Unilateral	05/06/2019
13.	2017-CE-073-SAL	Reiter Brothers, Inc.	Informal Bilateral	05/16/2019
14.	2017-CE-011-SAL	Andrew Smith Company, LLC	Informal Bilateral	06/19/2019
15.	2018-CE-073-SAL 2019-CE-007-SAL 2019-CE-015-SAL	Monterey Tilth, LLC	Informal Bilateral	06/19/2019
16.	2018-CE-028-SAL 2018-CE-058-SAL	Coast King Packing, LLC	Informal Unilateral	06/20/2019

## **F. Unfair Labor Practice and Compliance Hearings**

During fiscal year 2018-2019, the ALRB held three hearings conducted by an Administrative Law Judge in ULP cases and compliance cases, entered two default judgments without a hearing, and had one judgment entered on the pleadings.

<b>No.</b>	<b>Case No.</b>	<b>Respondent</b>	<b>Hearing Opened</b>	<b>Hearing Closed</b>	<b>No. of Hearing Days</b>
1.	2015-CE-027-VIS	Jacobo D. Farms	Default Judgment	Default Judgment	0
2.	2017-CE-026-SAL	David Abreu Vineyard	09/18/2018	09/18/2018	1
3.	2017-CE-071-SAL 2017-CE-072-SAL 2018-CE-011-SAL	Saticoy Berry Farms, Inc.	04/09/2019	04/12/2019	4
4.	2016-CE-023-VIS	Wonderful Orchards, LLC	06/04/2019	06/04/2019	1
5.	2018-CL-003-VIS	United Farm Workers of America	Judgment on Pleadings	Judgment on Pleadings	0
6.	2018-CE-004-VIS 2018-CE-005-VIS	Joe Pedro & Sons Dairy	Default Judgment	Default Judgment	0
<b>TOTAL</b>					<b>6</b>

## **VI. Remedies and Disbursements**

The Board is empowered to order a wide range of remedies to effectuate the purposes of the Act and to make whole the victims of unfair labor practices. These remedies may include reinstatement of an unlawfully discharged employee, an award of lost wages and benefits, various non-monetary remedies--including orders to cease and desist from engaging in similar conduct that violates the Act--and the issuance of notices to employees.

Once a Board decision awarding backpay (the lost earnings resulting from an unlawful discharge) and/or other remedies is final (appeals have been exhausted and the decisions have been upheld), the Board releases the case back to the applicable region to effectuate the remedies of that decision. Amounts received from parties ordered to provide backpay are transmitted by the ALRB to the farmworkers. The General Counsel staff expends significant effort to locate all farmworkers who are entitled to backpay. If the ALRB is unable to locate a farmworker entitled to backpay for a period of two years following the collection of the amount owed, this amount may be deposited into the Agricultural Employee Relief Fund (AERF), and monies in that fund are used by the ALRB to pay



farmworkers the unpaid balance of any monetary relief ordered by the Board in other matters that cannot be collected from the violator. Thus, there is usually a disparity between the amounts collected and amounts disbursed as monetary remedies in a given year.

**A. Remedies**

In fiscal year 2018-2019, the Board released 10 cases encompassing 20 charges for compliance:

No.	Case No.	Respondent Name	Date to Compliance	Amount
1.	2013-CL-002-SAL 2016-CL-004-SAL 2016-CL-006-SAL 2016-CL-007-SAL	United Farm Workers of America	07/26/2018	N/A
2.	2012-CE-030-VIS	Arnaudo Brothers	07/26/2018	TBD
3.	2015-CL-006-VIS	United Farm Workers of America	10/09/2018	TBD
4.	2015-CE-006-VIS 2017-CE-003-VIS	Arnaudo Brothers	10/09/2018	TBD
5.	2015-CE-027-VIS	Jacobo Farms Management, Inc.	11/16/2018	\$27,477.00
6.	2013-CE-011-VIS 2014-CE-023-VIS 2014-CE-024-VIS 2015-CE-003-VIS 2015-CE-022-VIS 2015-CE-024-VIS	Gerawan Farming, Inc.	12/24/2018	N/A
7.	2014-CE-015-VIS	Gerawan Farming, Inc.	01/24/2019	N/A
8.	2016-CE-032-SAL	Monterey Mushrooms, Inc.	02/11/2019	N/A
9.	2017-CE-020-SAL	GJ Farms	03/20/2019	\$9,989.75
10	2018-CE-004-VIS 2018-CE-005-VIS	Joe Pedro & Sons Dairy	04/10/2019	\$53,499.00

**Monetary Remedies**

In fiscal year 2018-2019, the General Counsel collected payments in 17 cases encompassing 24 charges for a total of \$162,588.33. Of that total, \$97,044.86 was collected pursuant to settlement agreements that were achieved during current and prior fiscal years. Of the original total, \$65,543.47 was collected pursuant to a Board Order.

**Monies Collected During Fiscal Year 2018-2019**

The following table is listed in chronological order of when each settlement agreement was reached. Although some of these settlement agreements were reached in prior fiscal years, all money listed in this table was collected during fiscal year 2018-2019.

Sometimes there is a time lapse between accomplishing the settlement and receiving the actual check. As a result, money collected near the end of a fiscal year is sometimes deposited during the subsequent fiscal year. Additionally, not all monies collected are deposited into an ALRB account, but are instead paid directly to farmworkers.<sup>12</sup>

No.	Case No.	Respondent Name	Amount Collected
1.	2017-CE-012-VIS 2017-CE-036-VIS	KR Thermal Middleton, LLC	\$ 38,885.84
2.	2016-CE-044-SAL	Catalinos Berry Farms, LLC	\$ 4,707.82
3.	2016-CE-012-VIS	WMJ Farms, Inc.	\$ 1,530.62
4.	2016-CE-037-SAL	Channel Island Berry Farms, Inc.	\$ 4,103.98
5.	2017-CE-011-VIS	Shalini's Ag, LLC	\$ 170.00
6.	2016-CE-002-SAL	West Coast Berry Farms, LLC	\$ 2,457.34
7.	2016-CE-028-SAL 2016-CE-038-SAL	Golden West Veg, Inc./Cobian Labor Services, Inc.	\$ 11,917.21
8.	2018-CE-060-SAL	L.N.B Ventures Salinas, LLC	\$ 6,717.36
9.	2018-CE-040-SAL 2018-CE-072-SAL	Four Seasons Vineyard Management, John Marcucci Vineyards, Inc., and Ridge Vineyards, Inc.	\$ 1,070.99
10.	2017-CE-083-SAL	Santa Clara Farms	\$ 1,954.28
11.	2019-CE-001-VIS	Maddox Farms	\$ 3,745.35
12.	2018-CE-065-SAL 2018-CE-063-SAL	North Coast Vineyard Management, Inc., Gallo Vineyards, Inc., and Deridere Aper Vinea, LLP	\$ 3,661.79
13.	2018-CE-056-SAL	E. Berry Farms	\$ 70.00
14.	2018-CE-073-SAL 2019-CE-007-SAL 2019-CE-015-SAL	Monterey Tilth, LLC	\$ 16,052.28
15.	2015-CE-027-VIS	Jacobo Farms Management, Inc.	\$27,477.00
16.	2017-CE-020-SAL	GJ Farms, Inc.	\$ 6,233.47
17.	2018-CE-004-VIS 2018-CE-005-VIS	Joe Pedro & Sons Dairy	\$ 31,833.00
<b>TOTAL</b>			<b>\$162,588.33</b>

<sup>12</sup> For these reasons, the amount of money collected does not match the amounts deposited for fiscal year 2018-2019.

**Payments Awarded**

Payments were awarded in 19 cases encompassing 23 charges, as a result of an Informal Settlement Agreement, a Formal Settlement Agreement, or a Board Order.<sup>13</sup>

<b>No.</b>	<b>Case No.</b>	<b>Respondent Name</b>	<b>Amount Ordered</b>
1.	2017-CE-012-VIS 2017-CE-036-VIS	KR Thermal Middleton, LLC	\$ 38,885.84
2.	2016-CE-044-SAL	Catalinos Berry Farms, LLC	\$ 6,046.90
3.	2016-CE-012-VIS	WMJ Farms, Inc.	\$ 1,713.72
4.	2016-CE-037-SAL	Channel Island Berry Farms, Inc.	\$ 5,344.13
5.	2017-CE-011-VIS	Shalini's Ag, LLC	\$ 160.76
6.	2016-CE-002-SAL	West Coast Berry Farms, LLC	\$ 3,491.00
7.	2016-CE-028-SAL 2016-CE-038-SAL	Golden West Veg, Inc. & Cobian Labor Services, Inc.	\$ 18,000.00
8.	2018-CE-060-SAL	L.N.B Ventures Salinas, LLC	\$ 8,186.52
9.	2018-CE-040-SAL 2018-CE-072-SAL	Four Seasons Vineyard Management, John Marcucci Vineyards, Inc., and Ridge Vineyards, Inc.	\$ 1,434.59
10.	2017-CE-083-SAL	Santa Clara Farms	\$ 2,308.00
11.	2019-CE-001-VIS	Maddox Farms	\$ 4,100.00
12.	2018-CE-065-SAL 2018-CE-063-SAL	North Coast Vineyard Management, Inc., Gallo Vineyards, Inc., and Deridere Aper Vinea, LLP	\$ 4,414.00
13.	2018-CE-056-SAL	E. Berry Farms	\$ 70.00
14.	2017-CE-011-SAL	Andrew Smith Company, LLC	\$ 11,377.00
15.	2018-CE-073-SAL 2019-CE-007-SAL 2019-CE-015-SAL	Monterey Tilth, LLC	\$ 19,500.00
16.	2018-CE-028-SAL 2018-CE-058-SAL	Coast King Packing, LLC	\$ 14,500.00
17.	2015-CE-027-VIS	Jacobo Farms Management, Inc.	\$27,477.00
18.	2017-CE-020-SAL	GJ Farms, Inc.	\$ 9,989.75
19.	2018-CE-004-VIS 2018-CE-005-VIS	Joe Pedro & Sons Dairy	\$53,499.00
<b>TOTAL</b>			<b>\$230,498.21</b>

<sup>13</sup> The number of payments awarded during fiscal year 2018-2019 is not necessarily the same as the number of payments collected by ALRB during this fiscal year. These figures differ for various reasons, including the lag in time between when an award is made to when payment is actually collected, and the fact that some payments are paid directly to the charging party and not to the ALRB.

**Checks Issued by ALRB to Farmworkers**

In fiscal year 2018-2019, the ALRB issued 272 checks from 17 cases to farmworkers as a result of findings of liability in unfair labor practice cases, or as a result of settlement agreements:

<b>No.</b>	<b>Case No.</b>	<b>Respondent Name</b>	<b>Number of Checks Issued by ALRB</b>	<b>Total Net Amount Issued</b>
1.	2012-CE-024-VIS	Ace Tomato Growers, Inc.	15	\$3,508.01
2.	93-CE-037-VIS	Ace Tomato Growers, Inc.	103	\$31,244.96
3.	2015-CE-044-VIS	Robert Johnson Farms	1	\$132.60
4.	2016-CE-044-SAL	Catalinos Berry Farms, LLC	2	\$4,707.82
5.	2017-CE-012-VIS 2017-CE-036-VIS	KR Thermal Middleton	4	\$38,885.84
6.	2017-CE-070-SAL 2017-CE-078-SAL	Monterey Tilth, Inc.	10	\$17,528.13
7.	93-CE-38-VIS	San Joaquin Tomato Growers, Inc.	78	\$27,161.14
8.	2011-CE-004-SAL 2011-CE-005-SAL 2011-CE-006-SAL	Kawahara Nurseries, Inc.	1	\$82,161.00
9.	2016-CE-014-VIS	Castle Rock Vineyards	2	\$228.62
10.	2016-CE-037-SAL	Channel Island Berry Farms, Inc.	1	\$4,103.98
11.	2013-CE-038-SAL	Fanciful Company	1	\$138.09
12.	2009-CE-063-VIS 2009-CE-064-VIS 2009-CE-067-VIS 2009-CE-068-VIS 2010-CE-017-VIS	H&R Gunlund Ranches, Inc.	45	\$15,607.94
13.	2017-CE-051-SAL 2017-CE-048-SAL	Redwood Empire Vineyard Management, Inc.	2	\$986.58
14.	2016-CE-030-SAL	Reiter Berry Farms	4	\$786.53
15.	2016-CE-002-SAL	West Coast Berry Farms, LLC	1	\$2,457.34
16.	2016-CE-010-VIS 2016-CE-017-VIS	Western Packing Inc., & Jones Farms, Inc.	1	\$514.62
17.	2017-CE-083-SAL	Santa Clara Farms, LLC	1	\$1,954.28
<b>TOTAL</b>			<b>272</b>	<b>\$232,107.48</b>

**Non-Monetary Remedies**

In cases where the Board finds a violation, it generally orders noticing remedies in addition to monetary awards. A negotiated settlement signed by the parties may also include noticing remedies in addition to monetary awards. A noticing remedy requires the employer to post, mail, and/or read a prepared notice to all agricultural employees, so they can become aware of the outcome of the case.

The ALRB conducted a *notice reading* to 4,303 agricultural employees in 26 cases encompassing 49 charges in fiscal year 2018-2019.

No.	Case No.	Respondent Name	Date of Notice Reading	Number of Employees at Reading
1.	2016-CE-015-VIS	Scoto Brothers Farming	07/19/2018	97
2.	2017-CE-034-SAL 2017-CE-036-SAL 2017-CE-040-SAL 2017-CE-064-SAL 2017-CE-069-SAL	Premiere Raspberries, LLC	08/09/2018	240
3.	2016-CE-010-VIS 2016-CE-017-VIS	Western Packing/Jones Farms Inc.	08/13/2018	23
4.	2015-CE-044-VIS	Robert Johnson Farms	09/04/2018	136
5.	2015-CE-045-VIS 2016-CE-018-VIS 2016-CE-019-VIS	Papagni Fruit	09/04/2018	136
6.	2017-CE-012-VIS 2017-CE-036-VIS	KR Thermal Middleton, LLC	09/28/2018	120
7.	2017-CE-062-SAL	Apio, Inc.	10/14/2018	45
8.	2016-CE-044-SAL	Catalinos Berry Farms, LLC	10/16/2018	213
9.	2016-CE-037-SAL	Channel Island Berry Farms, Inc.	10/18/2018	7
10.	2018-CE-041-SAL 2018-CE-043-SAL	Pacific Reserve Nursery LLC, Fuji Fire Flowers LLC	10/30/2018	20
11.	2018-CE-013-SAL	Dutton Ranch Corporation	11/01/2018	147
12.	2018-CE-060-SAL	L.N.B. Ventures Salinas, LLC	11/20/2018	36
13.	2018-CE-017-SAL	Foothill Packing, Inc. and Monterey Pacific, Inc.	02/11/2019	22
14.	2017-CE-074-SAL 2016-CE-032-SAL	Monterey Mushrooms, Inc.	03/14/2019 03/20/2019 03/26/2019	425
15.	2013-CL-002-SAL 2016-CL-004-SAL 2016-CL-006-SAL 2016-CL-007-SAL	United Farm Workers of America	3/14/2019 3/20/2019 3/27/2019	425
16.	2017-CE-083-SAL	Santa Clara Farms	03/29/2019	132

No.	Case No.	Respondent Name	Date of Notice Reading	Number of Employees at Reading
17.	2017-CE-020-SAL	GJ Farms, Inc.	04/24/2019	20
18.	2016-CE-012-VIS	WMJ Farms, Inc.	05/02/2019	19
19.	2018-CE-004-VIS 2018-CE-005-VIS	Joe Pedro & Sons Dairy	05/17/2019	6
20.	2018-CE-038-SAL	Planasa, LLC	05/23/2019	5
21.	2016-CE-002-SAL	West Coast Berry Farms, LLC	06/04/2019	11
22.	2016-CE-028-SAL 2016-CE-038-SAL	Golden West Veg, Inc. & Cobian Labor Services, Inc.	06/04/2019	75
23.	2017-CE-011-SAL	Andrew Smith Company, LLC	06/12/2019	17
24.	2019-CE-006-VIS	Fowler Packing Company, Inc., Denken Farms, LP, and G4 Enterprises, Ltd., LP	06/13/2019	28
25.	2015-CE-027-VIS	Jacobo D. Farms	06/27/2019	33
26.	2013-CE-009-VIS 2013-CE-044-VIS 2013-CE-011-VIS 2014-CE-023-VIS 2014-CE-024-VIS 2015-CE-003-VIS 2015-CE-022-VIS 2015-CE-024-VIS 2014-CE-015-VIS	Gerawan Farming, Inc.	09/24/2019 09/25/2019	1865
<b>TOTAL</b>				<b>4,303</b>

The ALRB issued a *notice mailing* to 11,521 agricultural employees in 25 cases encompassing 50 charges.

No.	Case No.	Respondent Name	Date of Notice Mailing	Number of Employees Received Mailing
1.	2017-CE-021-VIS 2017-CE-022-VIS 2017-CE-023-VIS 2017-CE-024-VIS 2017-CE-025-VIS 2017-CE-026-VIS 2017-CE-027-VIS 2017-CE-028-VIS 2017-CE-029-VIS 2017-CE-030-VIS 2017-CE-031-VIS	Munger Farms, LLC	07/16/2018	278

<b>No.</b>	<b>Case No.</b>	<b>Respondent Name</b>	<b>Date of Notice Mailing</b>	<b>Number of Employees Received Mailing</b>
2.	2016-CE-015-VIS	Scoto Brothers Farming	08/08/2018 08/13/2018	429
3.	2017-CE-034-SAL 2017-CE-036-SAL 2017-CE-040-SAL 2017-CE-064-SAL 2017-CE-069-SAL	Premiere Raspberries, LLC	08/09/2018	1125
4.	2015-CE-044-VIS	Robert Johnson Farms	09/04/2018	756
5.	2017-CE-012-VIS 2017-CE-036-VIS	KR Thermal Middleton, LLC	09/19/2018	469
6.	2016-CE-044-SAL	Catalinos Berry Farms, LLC	09/19/2018	253
7.	2015-CE-045-VIS 2016-CE-018-VIS 2016-CE-019-VIS	Papagni Fruit Company	10/03/2018	188
8.	2016-CE-037-SAL	Channel Island Berry Farms, Inc.	10/12/2018	23
9.	2017-CE-032-SAL	C&E Farms	10/16/2018	14
10.	2016-CE-010-VIS 2016-CE-017-VIS	Western Packing/Jones Farms Inc.	10/23/2018 11/20/2018	4184
11.	2018-CE-041-SAL 2018-CE-043-SAL	Pacific Reserve Nursery LLC & Fuji Fire Flowers LLC	11/13/2018	33
12.	2018-CE-060-SAL	L.N.B. Ventures Salinas, LLC	11/20/2018	50
13.	2013-CL-002-SAL 2016-CL-004-SAL 2016-CL-006-SAL 2016-CL-007-SAL	United Farm Workers of America	01/19/2019	1260
14.	2017-CE-074-SAL	Monterey Mushrooms, Inc.	02/28/2019	640
15.	2016-CE-032-SAL	Monterey Mushrooms, Inc.	03/26/2019	800
16.	2018-CE-040-SAL 2018-CE-072-SAL	Four Seasons Vineyard Management, John Marcucci Vineyards, Inc., and Ridge Vineyards, Inc.	03/27/2019	67
17.	2015-CE-027-VIS	Jacobo D. Farms	04/09/2019	182
18.	2017-CE-083-SAL	Santa Clara Farms	04/16/2019	26
19.	2017-CE-020-SAL	GJ Farms, Inc.	04/25/2019	9

No.	Case No.	Respondent Name	Date of Notice Mailing	Number of Employees Received Mailing
20.	2018-CE-004-VIS 2018-CE-005-VIS	Joe Pedro & Sons Dairy	04/29/2019	24
21.	2017-CE-011-VIS	Shalini's Ag, LLC	05/16/2019	373
22.	2018-CE-038-SAL	Planasa LLC	05/23/2019	9
23.	2019-CE-001-VIS	Maddox Farms	05/31/2019	40
24.	2018-CE-056-SAL	E. Berry	06/21/2019	51
25.	2018-CE-065-SAL 2018-CE-063-SAL	North Coast Vineyard Management, Inc., Gallo Vineyards, Inc., and Deridere Aper Vinea, LLP	06/22/2019	238
<b>TOTAL</b>				<b>11,521</b>

The ALRB completed a *notice posting* in 24 cases encompassing 39 charges.

No.	Case No.	Respondent Name	Date of Notice Posting
1.	2016-CE-015-VIS	Scoto Brothers Farming	07/19/2018
2.	2017-CE-034-SAL 2017-CE-036-SAL 2017-CE-040-SAL 2017-CE-064-SAL 2017-CE-069-SAL	Premiere Raspberries, LLC	08/09/2018
3.	2016-CE-010-VIS 2016-CE-017-VIS	Western Packing/Jones Farms Inc.	08/09/2018 08/13/2018
4.	2015-CE-044-VIS	Robert Johnson Farms	09/04/2018
5.	2015-CE-045-VIS 2016-CE-018-VIS 2016-CE-019-VIS	Papagni Fruit Company	09/04/2018
6.	2017-CE-012-VIS 2017-CE-036-VIS	KR Thermal Middleton, LLC	09/28/2018
7.	2016-CE-044-SAL	Catalinos Berry Farms, LLC	10/16/2018
8.	2016-CE-037-SAL	Channel Island Berry Farms, Inc.	10/18/2018
9.	2018-CE-013-SAL	Dutton Ranch Corporation	11/01/2018
10.	2018-CE-060-SAL	L.N.B. Ventures Salinas, LLC	11/20/2018
11.	2018-CE-041-SAL 2018-CE-043-SAL	Pacific Reserve Nursery LLC & Fuji Fire Flowers LLC	12/30/2018
12.	2017-CE-062-SAL	Apio Inc.	03/01/2019
13.	2017-CE-074-SAL 2016-CE-032-SAL	Monterey Mushrooms, Inc.	03/14/2019 03/20/2019 03/26/2019



No.	Case No.	Respondent Name	Date of Notice Posting
14.	2016-CE-002-SAL	West Coast Berry Farms, LLC	03/14/2019
15.	2013-CL-002-SAL 2016-CL-004-SAL 2016-CL-006-SAL 2016-CL-007-SAL	United Farm Workers of America	03/14/2019 03/20/2019 03/27/2019
16.	2017-CE-083-SAL	Santa Clara Farms	03/29/2019
17.	2017-CE-020-SAL	GJ Farms, Inc.	04/24/2019
18.	2016-CE-012-VIS	WMJ Farms, Inc.	05/02/2019
19.	2018-CE-004-VIS 2018-CE-005-VIS	Joe Pedro & Sons Dairy	05/17/2019
20.	2018-CE-038-SAL	Planasa, LLC	05/23/2019
21.	2016-CE-028-SAL 2016-CE-038-SAL	Golden West Veg, Inc. & Cobian Labor Services, Inc.	06/04/2019
22.	2017-CE-011-SAL	Andrew Smith Company, LLC	06/12/2019
23.	2019-CE-006-VIS	Fowler Packing Company	06/13/2019
24.	2015-CE-027-VIS	Jacobo D. Farms	06/27/2019

The ALRB *trained* 129 supervisors of farmworkers in 12 cases encompassing 19 charges.

No.	Case No.	Respondent Name	Date Training Held	Number of Supervisors Received Training
1.	2017-CE-034-SAL 2017-CE-036-SAL 2017-CE-040-SAL 2017-CE-064-SAL 2017-CE-069-SAL	Premiere Raspberries, LLC	07/31/2018	30
2.	2017-CE-012-VIS 2017-CE-036-VIS	KR Thermal Middleton, LLC	09/28/2018	9
3.	2016-CE-044-SAL	Catalinos Berry Farms, LLC	10/11/2018	14
4.	2016-CE-037-SAL	Channel Island Berry Farms, Inc.	10/12/2018	3
5.	2018-CE-013-SAL	Dutton Ranch Corporation	11/01/2018	15
6.	2018-CE-060-SAL	L.N.B. Ventures Salinas, LLC	11/15/2018	7
7.	2016-CE-028-SAL 2016-CE-038-SAL	Golden West Veg, Inc. & Cobian Labor Services, Inc.	12/08/2018	4
8.	2016-CE-002-SAL	West Coast Berry Farms, LLC	01/17/2019	21
9.	2017-CE-062-SAL	Apio Inc.	03/14/2019	8
10.	2018-CE-038-SAL	Planasa, LLC	05/23/2019	3

No.	Case No.	Respondent Name	Date Training Held	Number of Supervisors Received Training
11.	2018-CE-065-SAL 2018-CE-063-SAL	North Coast Vineyard Management, Inc., Gallo Vineyards, Inc., and Deridere Aper Vinea, LLP	06/05/2019	6
12.	2017-CE-083-SAL	Santa Clara Farms	06/15/2019	9
<b>TOTAL</b>				<b>129</b>

### **B. Deposits and Disbursements**

Payments collected from settlements or board-ordered monetary remedies are deposited into the ALRB trust fund before being distributed to the charging parties, unless the checks are made out directly in the name(s) of the charging parties. During fiscal year 2018-2019, the ALRB deposited payments from 24 cases, encompassing 53 separate charges.

### **Monies Deposited and Disbursed from the Agency Trust from July 1, 2018 to June 30, 2019**

#### **DEPOSITS**

No.	Case No.	Respondent Name	Deposits
1.	2016-CE-037-SAL	Channel Island Berry Farms	\$4,103.98
2.	2017-CE-012-VIS	KR Thermal Middleton, LLC	\$38,885.84
3.	2017-CE-048-SAL 2017-CE-051-SAL	Redwood Empire Vineyard Management	\$986.58
4.	2017-CE-083-SAL	Santa Clara Farms	\$1,954.28
5.	2016-CE-002-SAL	West Coast Berry Farms	\$2,457.34
<b>TOTAL</b>			<b>\$48,388.02</b>

**DISBURSEMENTS**

<b>No.</b>	<b>Case No.</b>	<b>Respondent Name</b>	<b>Amount of Net Payment Issued</b>
1.	93-CE-37-VIS 2012-CE-024-VIS	Ace Tomato Growers, Inc.	\$34,752.97
2.	2016-CE-014-VIS	Castle Rock Vineyards	\$ 228.62
3.	2016-CE-044-SAL	Catalinos Berry Farms, LLC	\$ 4,707.82
4.	2016-CE-037-SAL	Channel Island Berry Farms	\$ 4,103.98
5.	2013-CE-038-SAL	Fanciful Company	\$ 138.09
6.	2009-CE-063-VIS	H&R Gunlund Ranches	\$15,607.94
7.	2011-CE-4,5,6-SAL	Kawahara Nurseries	\$82,161.00
8.	2017-CE-012-VIS	K&R Thermal Middleton, LLC	\$38,885.84
9.	2017-CE-070-SAL 2017-CE-078-SAL	Monterey Tilth, Inc.	\$17,528.14
10.	2017-CE-021-VIS	Munger Farms	\$ 1,130.00
11.	2015-CE-044-VIS	R. Johnson Farms	\$ 132.60
12.	2017-CE-048-SAL 2017-CE-051-SAL	Redwood Empire Vineyard Mgmt., Inc.	\$ 986.58
13.	2016-CE-030-SAL	Reiter Berry Farms	\$ 786.53
14.	93-CE-038-VIS	San Joaquin Tomato Growers	\$27,161.14
15.	2016-CE-002-SAL	West Coast Berry Farms	\$ 2,457.34
16.	2016-CE-010-VIS 2016-CE-017-VIS	Western Packing Inc., Jones Farms	\$ 514.62
<b>TOTAL</b>			<b>\$231,283.21</b>

### **C. Agricultural Employee Relief Fund**

Effective January 1, 2002, pursuant to Labor Code section 1161, the Agricultural Employee Relief Fund (AERF or Fund), establishes a trust fund, administered by the Board, to pay agricultural employees entitled to monetary relief under the Act. California Code of Regulations, title 8, section 20299, governs the administration of the AERF.

In fiscal year 2018-2019, no cases were referred to the Fund and there were no disbursements from the Fund. As of June 30, 2019, \$23,468.65 remains in the Fund for distribution.

### **VII. Mandatory Mediation and Conciliation**

The Act authorizes certified labor organizations or employers to petition the Board for an order directing the parties to Mandatory Mediation and Conciliation (MMC) of disputed issues. When certain statutory prerequisites are met, the Board will order the parties to participate in the MMC process. A mediator is then appointed to assist the parties in resolving their outstanding issues, and failing such resolution, to issue a determination as to how the issues should be resolved. The mediator's determination is reviewable by the Board, and the Board's decision is reviewable by the courts.

During fiscal year 2018-2019, the ALRB did not receive any requests for referral to mandatory mediation and conciliation. The Board issued one decision during fiscal year 2018-2019 ordering into effect the terms of a MMC contract recommended by a mediator in *Premiere Raspberries, LLC* (2018) 44 ALRB No. 8.

## **VIII. Outreach Activities**

The ALRB is actively conducting ongoing outreach activities, designed to educate farmworkers, labor organizations, and agricultural employers about their rights and obligations under the Act, and the role of the ALRB.

General Counsel program staff conducted and participated in various events throughout California, to better inform stakeholders about their rights and obligations under the Act, and the role of the ALRB in enforcing such rights. Highlights of outreach activities include:

- ALRB's statewide outreach coordinator traveled throughout the state and met with ALRB staff in regional offices, local stakeholders, and other government service providers, to evaluate outreach needs and to develop a plan for improved outreach statewide.
- ALRB staff appeared on multiple radio and television programs in Spanish and Mixteco throughout the state, and discussed workers' rights under the Agricultural Labor Relations Act and services that the ALRB provides.
- ALRB staff conducted outreach at multiple community fairs attended by thousands of farmworkers, including Indigenous cultural festivals in Santa Rosa and Fresno, Dia del Trabajador in Greenfield, and EDD's Farmworker Appreciation Day in Dinuba and Porterville.
- Outreach to grower groups, including at the National Hmong American Farmers Conference, and to supervisory and human resources staff of a Central Coast agricultural employer.
- Presentations to migrant parent groups in Sonoma County and the Coachella Valley.
- Participated in cross-cultural trainings and events regarding cultures of Indigenous farmworkers.
- General Counsel program staff and Board Members attended and assisted with the annual Farmworker Appreciation Breakfast in Calexico, CA.

## **IX. Employee and Salary Information**

### **Information from Fiscal Year 2018-2019**

#### **ALRB EMPLOYEES, ALPHABETICAL BY LAST NAME**

Acevedo, Kenia	Martinez, Delia
Ahmad, Aqsa	Massie, Sharon
Alejandro, Frank	McCarrick III, John
Arciniega, Jessica	Melgar, Jessica
Argumedo, Annamarie	Miranda, Rosario
Avila-Gomez, Santiago	Molumby, Caroline
Barba, Lumi	Mondino, Monica
Barrera, Merced	Montgomery, Julia
Blanco, Eduardo	Murillo, Mariela
Broad, Barry	Nava, Joaquin
Brock, Melissa	Ordonez, Jose
Bueno, Sylvia	Padilla, Margarita
Burton-Burch, Brandy	Ratshin, Todd
Camero, Laura	Rivera-Hernandez, Cathryn
Cervantes, Veronica	Rodrigues, Kristine
Cisneros, Jessica	Rodriguez, Krishna
Coffee, James	Rodriguez, Rodolfo
Cracraft, Mary	Saephan, Kao
Craig, Nancy	Sanchez, Xavier
Diaz, Rafael	Santana Ruiz, Karen
Espinoza, Enrique	Schneider, Chris
Fountain, Sheila	Shawver, Silas
Garcia, Andres	Shiroma, Genevieve
Gibson, Rochelle	Shores, Janice
Gonzalez, Cassidie	Soble, Mark
Gonzalez, Melissa	Thornton, Laura
Granda, Melosa	Torrez, Victoria
Hall III, Isadore	Vega, Gabriela
Hass, Edward	Venegas, Berenice
Herrera, Franchesca	Ventura, Santiago
Heyck, Laura	Yasin, Ghada
Hsia, Audrey	Zamora, Marcela
Inciardi, Scott	Zaragoza, Leslie
Lane, Jenna	
Mandarano, Christopher	
Marsh, Michael	

<b>CLASSIFICATION</b>	<b>SALARY<sup>14</sup></b>
Chair	\$13,214.00
Member	\$12,807.00
Member	\$12,807.00
Member	\$12,807.00
Associate General Counsel, Regional Director	\$11,926.00
Associate General Counsel, Regional Director	\$12,037.00
Associate Governmental Program Analyst (Board)	\$ 6,228.00
Associate Governmental Program Analyst (GC)	\$ 5,485.00
Associate Governmental Program Analyst (Admin)	\$ 5,224.00
Associate Governmental Program Analyst (Board)	\$ 6,228.00
Associate Personnel Analyst	\$ 6,415.00
Attorney	\$ 8,089.00
Attorney	\$ 9,609.00
Attorney	\$ 8,908.00
Attorney	\$ 8,089.00
Attorney	\$ 8,089.00
Attorney	\$ 9,860.00
Attorney	\$ 5,827.00
Attorney	\$ 7,836.00
Attorney	\$ 7,609.00
Attorney III (General Counsel)	\$10,155.00
Attorney IV	\$13,062.00
Attorney IV	\$13,162.00
Career Executive Assignment	\$11,924.00
Executive Secretary	\$12,138.00
Field Examiner I	\$ 3,186.00
Field Examiner I	\$ 4,443.00
Field Examiner I	\$ 3,537.00
Field Examiner I	\$ 4,236.00
Field Examiner I	\$ 5,128.00
Field Examiner II	\$ 6,328.00
Field Examiner II	\$ 5,810.00
Field Examiner II	\$ 5,585.00
Field Examiner III	\$ 6,941.00
Field Examiner III	\$ 6,639.00
Hearing Officer I	\$11,300.00
Hearing Officer II	\$12,458.00
Hearing Officer II	\$12,458.00
Information Technology Specialist I	\$ 7,012.00

<sup>14</sup> Salaries shown are monthly, unless otherwise indicated.

<b>CLASSIFICATION</b>	<b>SALARY</b>
Legal Analyst	\$ 4,992.00
Legal Secretary	\$ 4,617.00
Legal Secretary	\$ 4,517.00
Legal Secretary	\$ 3,607.00
Senior Accounting Officer (Specialist)	\$ 5,826.00
Senior Board Counsel	\$11,815.00
Senior Board Counsel	\$11,815.00
Senior Legal Typist	\$ 4,093.00
Senior Legal Typist	\$ 3,852.00
Senior Legal Typist	\$ 4,093.00
Staff Services Analyst	\$ 4,343.00
Staff Services Analyst	\$ 3,450.00
Staff Services Manager I	\$ 6,213.00

BLANKET POSITIONS

Attorney IV	\$ 72.27/hr.
Student Assistant	\$ 14.70/hr.
Student Assistant	\$ 12.00/hr.



## **DESCRIPTION OF DUTIES**

### **CHAIR BOARD MEMBERS**

Delegate powers to the Office of the Executive Secretary and the field offices to administer, interpret, and enforce the Agricultural Labor Relations Act. The Office of the Board holds evidentiary hearings and adjudicates disputes in unfair labor practices cases, as well as disputes arising out of representation elections. The Office of the Board also administers the mandatory mediation law, and is vested with the authority to promulgate regulations to implement the Act. The Office of the Board may initiate and oversee litigation before the Court of Appeal, and grants authority to the General Counsel to take action in Superior Court. The Board, where appropriate, conducts education and outreach activities.

### **GENERAL COUNSEL**

The General Counsel is the chief prosecutor. The General Counsel's Office enforces the Act in unfair labor practice proceedings before the Board, and the General Counsel supervises and coordinates personnel in regional offices who are responsible for: conducting elections, investigating unfair labor practice charges, prosecuting unfair labor practice cases, settling or dismissing cases, and seeking compliance with final Board orders. The General Counsel also supervises and oversees litigation before administrative law judges, the Board, and the Superior Courts. The General Counsel's office also conducts education and outreach activities on behalf of the Board.

### **ACCOUNTING ADMINISTRATOR SPECIALIST (Retired Annuitant)**

Provides training and mentorship of Accounting Officers, and training on accounting processes.

### **ACCOUNTING OFFICER – SPECIALIST SENIOR ACCOUNTING OFFICER - SPECIALIST**

Responsibilities extend over all accounting functions. Works in a highly independent manner performing the most complex fiscal and accounting duties requiring a comprehensive understanding of State and federal rules, regulations, accounting processes, procedures, and reporting responsibilities.

### **ASSOCIATE GENERAL COUNSEL, Regional Director**

The Regional Director is responsible for the overall administration and operation of the regional field offices. This position directly supervises staff working in the regional offices. It also ensures compliance with the policies and procedures of the General Counsel's Office, and with applicable provisions of the Act.

### **ASSOCIATE GOVERNMENTAL PROGRAM ANALYST (Board Chair)**

Executive assistant to the Chair of the ALRB Board. Responsible for drafting Board related reports, correspondence, and keeping the Chair apprised of upcoming deadlines. Coordinates with the General Counsel, Executive Secretary, and Chief Administrative Officer to research, analyze, and report on various projects related to moves, budgets, hiring, legislation and regulations, requisitions and contracts, outreach events, and meetings with control agencies and other Board stakeholders.

### **ASSOCIATE GOVERNMENTAL PROGRAM ANALYST (Board)**

Executive assistant to the Executive Secretary, providing technical and analytical staff services. This position works independently, and applies discretion and initiative in performing assigned duties, including compliance of Brown Act and Bagley-Keene Open Meeting Laws, reporting requirements of the Agricultural Labor Relations Act, departmental website maintenance, and development and maintenance of various departmental publications.

### **ASSOCIATE GOVERNMENTAL PROGRAM ANALYST STAFF SERVICES ANALYST (General Counsel)**

Responsible for analytical staff work for the General Counsel program or Regional Offices. Researches, reviews, and analyzes surveys, policy reports, analytical studies, legislation and data, including demographic, economic, and population statistics. Creates spreadsheets and tracks workload data, composes reports and responses from stakeholders. Provides research and analytical support for projects, and handles confidential, sensitive assignments and inquiries with diplomacy and tact.

### **ASSOCIATE GOVERNMENTAL PROGRAM ANALYST (Admin)**

Responsible for providing ALRB's annual budget updates and expenditure reports. Provides budget updates to Department of Finance and California Labor and Workforce Development Agency (LWDA) as needed.

### **ASSOCIATE GOVERNMENTAL PROGRAM ANALYST (Admin)**

Provides business services functions for the ALRB. Independently performs a variety of technical and analytical business service tasks, which include procurement, fleet, facilities, telecommunications, records retention, and property control.

### **ASSOCIATE PERSONNEL ANALYST**

Responsible for all aspects of the personnel functions within the ALRB, including technical personnel work related to compensation, classification, benefits, workers' compensation, recruitment, hiring, special projects, and is involved in all aspects of personnel.

### **ATTORNEY**

#### **GRADUATE LEGAL ANALYST**

Responsible for investigating and prosecuting unfair labor practices under the Agricultural Labor Relations Act.

### **ATTORNEY IV (Board)**

Lead attorney in development of new regulations, revises existing regulations and rule-making initiatives. Provides expert advice to the Board on legal questions in unfair labor practice cases, representation cases, and jurisdictional disputes, as well as policy and legislative issues. The Attorney IV oversees all state and federal court litigation, conducts the most complex litigation, appears, and presents oral argument on behalf of the Office of the Board.

### **ATTORNEY IV (Board)**

Retired Annuitant

Lead attorney on advising the Board on the cannabis statute. Prepares and coordinates the strategic planning of the Board's outreach, including preparation of outreach materials; development of partnerships with members of the public, non-profit organizations, members of the State Bar of California, and other governmental entities.

### **ATTORNEY III/IV (General Counsel)**

Provides broad program policy direction to the General Counsel. Provides support, guidance, and training to field operations, unfair labor practice matters, and court litigation activities, including strategic and legal advice on the conduct of investigations. Also assists in the training and mentoring of regional staff.

### **CAREER EXECUTIVE ASSIGNMENT**

As a member of the executive management team, and under the direction of the Agricultural Labor Relations Board and General Counsel, the Chief for the Division of Administrative Services is responsible for the development and implementation of departmental administrative policy and procedures. Also advises the Board, General Counsel, and Executive Secretary on ways to maximize existing funding and operations to meet the ALRB's mission. Provides leadership and oversight to the statewide support services, including planning, organizing, and directing the functions of Fiscal Services, Business Services, Contracts, Human Resources, Information Technology, and Policy Development and Management.

### **EXECUTIVE SECRETARY**

Executive Secretary of the Board is an attorney level position, providing professional consultation on major legal and policy matters in unfair labor practice cases, representation cases, and jurisdictional disputes. The Executive Secretary plans and directs the management of the Board's caseload incident to its statutory functions, which includes administrative and functional responsibility for all case processing activities before the Board. Also responsible for the decision-making authority of Regional Directors in representation cases delegated by the Board.

## **FIELD EXAMINER I/II/III**

Handles cases involving unfair labor practice investigations, representation matters, and compliance-related activities. Independently investigates unfair labor practice cases, interviews parties and witnesses, and takes declarations. Also prepares investigative reports, case status reports, and other case-related correspondence. Assists in representation elections, and participates in pre-election conferences and post-election challenge ballot investigations. Assists in preparing back pay calculations and make whole specifications on compliance cases. Meets with the public, answers inquiries, makes appropriate referrals, conducts interviews, accepts charges, and docket ULPs and petitions.

## **HEARING OFFICER I/II**

The Hearing Officer presides over quasi-judicial hearings concerning representation issues, unfair labor practice charges, representation matters, and other matters under the jurisdiction of the Act. The Hearing Officer also conducts legal research in preparation of hearing cases and issuing case decisions.

## **INFORMATION TECHNOLOGY SPECIALIST I**

Provides a variety of information technology support to all of ALRB.

## **LEGAL ANALYST**

Assists attorneys in case preparation.

## **LEGAL SECRETARY SENIOR LEGAL TYPIST (Board)**

Assists the Board Members and Board Counsel in a variety of administrative, legal, and office functions. Types, formats, files, and serves legal pleadings in multiple jurisdictions, including State, Federal, and appellate courts. Performs complex clerical work, coordinates and schedules court-related services.

**LEGAL SECRETARY  
SENIOR LEGAL TYPIST (General Counsel)**

Assists the General Counsel program Regional Directors, attorneys, or Field Examiners in a variety of administrative, legal, and office functions. Types, formats, files, and serves legal documents in a variety of jurisdictions. Performs complex clerical work, coordinates and schedules court-related services.

**SENIOR BOARD COUNSEL  
ATTORNEY III**

The senior board counsel is responsible for the most difficult and complicated legal issues arising in labor relations matters. The senior board counsel exercises broad discretion and independent legal judgment in conducting legal research and analysis.

**STAFF SERVICES MANAGER I**

Manages the accounting, business services, and budget functions under the direction of the Career Executive Assignment as the Chief, Division of Administration