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**ALRB PUBLIC MEETING  
LITIGATION REPORT**

DATE: August 10, 2021  
TO: Agricultural Labor Relations Board  
FROM: Todd M. Ratshin, Chief Board Counsel

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This report discusses updates and developments that have occurred in litigation matters involving the Board since its June 8, 2021 meeting.

**Petitions for Writ of Review of Unfair Labor Practice Decisions**

California Appellate Courts

- ▶ ***California Artichoke and Vegetable Growers Corp. dba Ocean Mist Farms v. ALRB, Sixth District Court of Appeal, [Case No. H048797](#)***

**Summary:** Petition for writ of review of the Board's decision in 46 ALRB No. 5, in which the Board found the employer unlawfully suspended a group of employees for engaging in protected concerted activity.

**Status:** Petitioner filed its reply brief on June 11, and the matter now is fully briefed and pending issuance of an order dismissing the petition or issuing a writ of review.

## Other Board Litigation

### Federal Court

- ▶ ***Cedar Point Nursery and Fowler Packing Co., Inc. v. Hassid, et al.*, U.S. Supreme Court, [Case No. 20-107](#) / U.S. Court of Appeals, Ninth Circuit, Case No. 16-16321 / U.S. District Court, Eastern District of California, Case No. 1:16-cv-00185-NONE-BAM**

**Summary:** The growers sought review of the Ninth Circuit's opinion rejecting their argument the Board's access regulation (Cal. Code Regs., tit. 8, § 20900) violates the Fifth Amendment's Takings Clause. (*Cedar Point Nursery v. Shiroma* (9th Cir. 2019) 923 F.3d 524; see also *Cedar Point Nursery v. Shiroma* (9th Cir. 2020) 956 F.3d 1152 [order denying petition for rehearing en banc].)

**Status:** The United States Supreme Court issued an opinion on June 23, 2021, holding the Board's access regulation effects a taking of the growers' property and remanding the case for further proceedings. (*Cedar Point Nursery v. Hassid* (2021) 141 S.Ct. 2063.) On July 26, the Court issued a certified copy of its judgment to the Clerk of the United States Court of Appeals for the Ninth Circuit. Also on July 26, the district court issued an order directing the parties to submit a joint status report by August 9. On August 4, the Ninth Circuit issued an order formally remanding the case to the district court. On August 6, the parties filed a joint status report in the district court pursuant to that court's July 26 order.