



## News Release

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FOR IMMEDIATE RELEASE

Contact: Santiago Avila-Gomez, ALRB Executive Secretary, (916) 894-6840

[ALRB.Communications@alrb.ca.gov](mailto:ALRB.Communications@alrb.ca.gov)

### **Agricultural Labor Relations Board Issues Landmark Decision on Farmworker Misclassification**

SACRAMENTO, Calif. – The California Agricultural Labor Relations Board (ALRB) on July 28 issued a unanimous Board decision, [48 ALRB No. 2 \*Cinagro Farms, Inc.\*](#), in which it ruled on several issues of first impression relating to misclassification of farmworkers. This decision marks the first time ALRB has assessed penalties for willful misclassification under Labor Code section [226.8](#). In the decision, the Board also:

- Found that misclassification of workers may constitute a standalone unfair labor practice, in violation of [Labor Code section 1153\(a\)](#), declining to apply a National Labor Relations Board decision that misclassification alone does not violate the federal National Labor Relations Act.
- Recognized an exception to the general rule that the protections of the Agricultural Labor Relations Act do not extend to supervisors. The Board established that prospectively, the protections of the Act extend to supervisors in instances when the supervisor serves as a conduit for employee complaints regarding misclassification.

This case involves an employer, respondent Cinagro Farms, Inc., that, by its own admission, misclassified its workers as independent contractors. A crew of workers complained about not receiving proper paystubs with their weekly paychecks for tax purposes, proof of medical insurance, or to prove Medi-Cal eligibility for their children. Cinagro Farms did not resolve the crew's complaints and instead terminated the crew.

The Board's decision affirms the October 2021 [Administrative Law Decision](#) of Administrative Law Judge (ALJ) Mark Soble.

On appeal, the Board issued [Administrative Order 2022-01](#) inviting parties and amici to submit briefing on three questions relating to misclassification.

A copy of the decision is available [here](#). Parties have 30 days to appeal the Board's decision to the Court of Appeal.

### **Background Information on the ALRB and ALRA**

The ALRB protects the rights of agricultural employees to engage in collective action, with or without a labor union, to improve their wages and other terms and conditions of employment. Agricultural employees or others acting on their behalf may file unfair labor practice charges with the ALRB if they believe these rights were violated. Agricultural employers or labor unions also may file unfair labor practice charges if they believe the other has engaged in unlawful conduct.

The Agricultural Labor Relations Act was enacted in 1975 to create labor peace in one of California's largest and most critical industries, agriculture. The ALRA is analogous to the National Labor Relations Act (NLRA) and provides a framework for workers to organize themselves and work for their mutual aid and protection. Farmworkers are excluded from protection under the NLRA.

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