

STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD

ZABALA FARMS OF SALINAS, LLC,	) Case No. 2021-CE-018-SAL
	)
Respondent,	) (49 ALRB No. 1)
	)
and	) ORDER TO SHOW CAUSE WHY THE
	) REGIONAL DIRECTOR’S REQUEST
	) TO SEEK ENFORCEMENT
BERENICE VARGAS MARTINEZ,	) PURSUANT TO LABOR CODE
	) SECTION 1160.8 SHOULD NOT BE
Charging Party.	) GRANTED
	)
	) Admin. Order No. 2023-10
	)
	) (November 3, 2023)
	)

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On July 12, 2021, respondent Zabala Farms of Salinas, LLC (Zabala) terminated the employment of charging party Berenice Vargas Martinez (Martinez) after she and other workers protested a reduction in their piece-rate wages. The General Counsel issued a complaint alleging Zabala violated the Agricultural Labor Relations Act (ALRA or Act) by terminating her in retaliation for engaging in concerted activity protected under the Act. Zabala did not answer the complaint, and the General Counsel moved for entry of default, which the administrative law judge (ALJ) granted. No party filed exceptions.

On February 21, 2023, the Agricultural Labor Relations Board (ALRB or Board) issued its decision and order *Zabala Farms of Salinas, LLC (2023)* 49 ALRB No. 1, affirming the ALJ’s findings and adopting the recommended remedies,

which include both monetary and non-monetary remedies. No petition for review of the Board's decision was filed, and the matter was released for compliance on March 27, 2023.

On September 9, 2023, the Regional Director filed with the Board a request to seek court enforcement of the Board's order pursuant to Labor Code 1160.8.<sup>1</sup> The Regional Director states that Zabala has failed to comply with any of the terms of the Board's order. The request outlines the regional staff's efforts to obtain voluntary compliance with the Board's order between April 28, 2023, and the present. Documentary evidence supporting the allegations of noncompliance is attached to the Regional Director's request.<sup>2</sup>

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<sup>1</sup> Section 1160.8 states, in pertinent part, that "if time for review of the board order has passed, and the [Respondent] has not voluntarily complied with the board's order, the board may apply to the superior court in any county in which the unfair labor practice occurred or wherein [Respondent] resides or transacts business for enforcement of its order."

<sup>2</sup> The Regional Director's request did not indicate whether a backpay specification for the charging party's lost wages is in progress. We encourage the Regional Director, if it is able, to proceed with the calculation of the specification with the information available to it, despite Zabala's failure to respond to inquiries. We note the National Labor Relations Board's Case Handling Manual, Part 3, Section 10648.4, states:

In cases where the respondent has not cooperated by providing records needed to determine or calculate backpay, allegations should be based on other sources of information or fair approximations. Any doubts should be resolved against the respondent. The respondent's noncooperation should be pled and the General Counsel should ask the Board for an order precluding the respondent from introducing previously demanded records in order to contest gross backpay. ... The respondent's failure to cooperate also provides a basis for concluding that the Region has satisfied its burden of establishing that the gross backpay calculations are reasonable and not arbitrary.

PLEASE TAKE NOTICE that based on the foregoing information, the Board hereby ORDERS that respondent Zabala Farms of Salinas, LLC show cause, if any exists, why the Board should not grant the Regional Director's request to seek enforcement of our order in 49 ALRB No. 1 pursuant to Labor Code section 1160.8. The response, if any, must be received by close of business on Thursday, November 9, 2023.

DATED: November 3, 2023

Victoria Hassid, Chair

Isadore Hall, III, Member

Barry D. Broad, Member

Ralph Lightstone, Member

Cinthia N. Flores, Member

**STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD**

**PROOF OF SERVICE**

(Code Civ. Proc., §§ 1013a, 1013b, 2015.5)

Case Name: ZABALA FARMS OF SALINAS, LLC, Respondent, and  
BERENICE VARGAS MARTINEZ, Charging Party

Case No.: 2021-CE-018-SAL (49 ALRB No. 1)

I am over the age of 18 years and not a party to this action. I am employed in the County of Sacramento. My business address is 1325 J Street, Suite 1900-B, Sacramento, California 95814.

On November 03, 2023, I served the within **ADMINISTRATIVE ORDER 2023-10** on the parties in this action as follows:

- **By Email** to the parties pursuant to Board regulation 20169 (Cal. Code Regs., tit. 8, § 20169) from my business email address [Angelica.Fortin@alrb.ca.gov](mailto:Angelica.Fortin@alrb.ca.gov).

Alejandro H. Herrera, Esq.  
Herrera Clifton Hess, P.C.  
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Farms of Salinas, LLC

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Deputy General Counsel

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- **By Certified Mail** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, with return receipt requested, in the United States mail at Sacramento, California, addressed as follows:

Berenice Vargas Martinez  
11305 Del Monte Avenue # 18  
Watsonville, CA 95012  
Certified U.S. Mail # 70221670000151583446

Executed on November 3, 2023, at Sacramento California. I certify under penalty of perjury that the foregoing is true and correct.

*Angelica Fortin*  
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Angelica Fortin  
Legal Secretary