

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

ZABALA FARMS OF SALINAS,	)	Case No.	2021-CE-018-SAL
LLC,	)		(49 ALRB No. 1)
)		
Respondent,)		
)		
and)		
	)	51 ALRB No. 1	
	)	(March 27, 2025)	
BERENICE VARGAS)		
MARTINEZ,)		
)		
Charging Party.)		
_____)		

DECISION AND ORDER

In *Zabala Farms of Salinas, LLC* (2023) 49 ALRB No. 1, the Board issued a default decision and order affirming the Administrative Law Judge’s (ALJ’s) findings that Zabala Farms, LLC (Zabala) violated section 1153, subd. (a) and (c) of the Agricultural Labor Relations Act (ALRA or Act)¹ when it terminated charging party, Berenice Vargas Martinez (Martinez) after she and other workers protested a reduction in their piece rate wages. The Board adopted the ALJ’s recommended remedies, which included 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.

¹ The ALRA is codified at Labor Code section 1140 et seq.

A backpay specification in the amount of \$4,149.00 for the backpay period July 13, 2021 to October 29, 2021, plus interest calculated from July 13, 2021 to January 3, 2025 was issued on January 31, 2025. The due date for Zabala's answer to the backpay specification was February 20, 2025. No answer was filed.

On February 21, 2025, the Regional Director filed a motion to deem admitted the allegations contained in the backpay specification, and a motion for default judgment. On March 4, 2025, the ALJ issued a proposed decision and order granting the motion to deem admitted allegations in the backpay specification. No party filed exceptions to the ALJ's decision and order.

We review this matter *sua sponte* to request that the Regional Director move expeditiously to seek collection of the backpay awarded pursuant to our order, including through obtaining a final judgment in Monterey County Superior Court Case No. 24CV001347.² If, despite diligent efforts at collection, there is no reasonable likelihood that full compliance with the Board's order will be achieved, the Regional Director is encouraged to request that the order be satisfied from the Agricultural Employee Relief Fund. (Labor Code section 1161, subd. (c)(2); Board regulation section 20299, subd. (b); See *John V. Borchard, et al.* (2001) 27 ALRB No. 1; *Andreas Farms, LLC* (2005) 31 ALRB No. 2, p.3.)

² On November 16, 2023, the Board issued an order granting the Regional Director's request to seek enforcement in Monterey County Superior Court pursuant to Labor Code section 1160.8. On June 8, 2024, the court granted the Regional Director's application for injunctive relief and issued an order to show cause. On January 14, 2025, the Regional Director requested a continuance of the hearing on the order to show cause to provide additional time to investigate the amount of back pay owed. The court granted the continuance until July 15, 2025.

ORDER

It is hereby ordered that respondent, Zabala Farms of Salinas, LLC, its officers, agents, labor contractors, successors, and assigns shall pay Berenice Vargas Martinez (Martinez) backpay in the amount of \$4,149.00, plus interest to be computed in accordance with *Kentucky River Medical Center* (2010) 356 NLRB No. 8 and excess tax liability to be computed in accordance with *Tortillas Don Chavas* (2014) 361 NLRB No. 10, minus tax withholdings required by federal and state laws. Compensation shall be issued to Martinez and sent to the Region, which thereafter will disburse payment to Martinez.

DATED: March 27, 2025

Victoria Hassid, Chair

Isadore Hall, III, Member

Barry D. Broad, Member

Ralph Lightstone, Member

Cinthia N. Flores, Member

CASE SUMMARY

**ZABALA FARMS OF
SALINAS, LLC**

51 ALRB No. 1

Berenice Vargas Martinez,
Charging Party

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

Background

In *Zabala Farms of Salinas, LLC* (2023) 49 ALRB No. 1, the Board issued a default decision and order affirming the Administrative Law Judge's (ALJ's) findings that Zabala Farms, LLC (Zabala) violated the Agricultural Labor Relations Act (ALRA or Act) when it terminated charging party, Berenice Vargas Martinez (Martinez) after she and other workers engaged in protected concerted activity. The Board adopted the ALJ's recommended remedies, which included both monetary and non-monetary remedies.

A backpay specification was issued on January 31, 2025. Zabala did not file an answer to the backpay specification. The Regional Director then filed a motion to deem admitted the allegations contained in the backpay specification, and a motion for default judgment.

Administrative Law Judge (ALJ) Decision

On March 4, 2025, the ALJ issued a proposed decision and order granting the motion to deem admitted allegations in the backpay specification. No party filed exceptions to the ALJ's decision and order.

Board Decision and Order

The Board review the matter *sua sponte* to affirm the ALJ's decision and order and to request that the Regional Director move expeditiously to seek collection of the backpay awarded pursuant to the Board's order, including through obtaining a final judgment in superior court.

This Case Summary is furnished for information only, and is not the official statement of the case, or of the ALRB.

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

ZABALA FARMS OF SALINAS, LLC,	)	Case No. 2021-CE-018-SAL
)	
Respondent,	)	49 ALRB No. 1
)	
And.)	
)	
BERENICE VARGAS MARTINEZ,	)	ORDER GRANTING MOTION TO
	)	DEEM ADMITTED ALLEGATIONS
	)	IN BACKPAY SPECIFICATION,
Charging Party.	)	DECISION AND PROPOSED ORDER
	)	ON COMPLIANCE
_____)	

This case comes on General Counsel’s motion to deem admitted the allegations in the backpay specification. For the reasons below, I grant the General Counsel’s motion and issue the following decision and proposed order on compliance.

A. Procedural History

Respondent Zabala Farms LLC (Zabala) violated section 1153, subdivisions (a) and (c) of the Agricultural Labor Relations Act (ALRA or Act)¹ in July 2021 when it terminated Charging Party Berenice Vargas Martinez (Martinez) after she and other workers protested a reduction in their piece-rate wages. *Zabala Farms of Salinas, LLC*, (2023) 49 ALRB No. 1.

¹ Cal. Lab Code section 1140 et seq.

The General Counsel issued a complaint in June 2022. Zabala Farms did not file an answer, and the General Counsel filed a motion for default. The Decision and Order granting the motion specifically determined that the General Counsel properly served the charge and complaint. The General Counsel served the charge on Zabala's principal place of business and the complaint on the Zabala's registered agent for service of process. *Zabala Farms of Salinas, LLC*, (2023) 49 ALRB No. 1, Default Decision and Order at p. 7.

The Board issued its decision on February 21, 2023. The Board corrected the date defining the notice mailing period, modified the recommended cease and desist order, modified the notice, and encouraged the General Counsel to consolidate backpay specifications with complaints in cases with small groups of employees, *id.* at p.2-3, fn. 2, 3, and 4. The Board otherwise adopted the recommended order. The Board served Zabala's place of business and Zabala's agent for service of process, Alejandro H. Herrera, at an address on Wilshire Boulevard in Los Angeles. This is Zabala's corporate service agent designated by the Secretary of State's Office. No attorney has filed a notice of appearance in this matter. Despite this, the Board also served Mr. Herrera at his office on Harbor Boulevard in Ventura². Zabala did not appeal.

On November 16, 2023, the Board issued an order granting the Regional Director's request to seek enforcement in superior court pursuant to Labor Code section

² The Board also served its decision on several other Zabala bankruptcy related agents that are no longer relevant. Zabala filed for bankruptcy on May 2, 2022. That case was dismissed shortly thereafter on May 26, 2022.

1160.8. On June 28, 2024, Monterey County Superior Court granted the Regional Director's application for injunctive relief and issued an order to show cause. On January 14th, 2025, the Regional Director requested a continuance to provide additional time to investigate the amount of back pay. The Court granted the continuance until July 15, 2025. The Regional Director served the Court's orders on Respondent's counsel, Alejandro H. Herrera on July 2, 2024.³

On January 31, 2025, the General Counsel on behalf of the Regional Director issued a request for hearing and back pay specification. Zabala's last day to file an answer was February 20, 2025.⁴ Zabala Farms did not respond.

On February 21, 2025, General Counsel filed the instant motion to deem admitted the allegations contained in the request for hearing and backpay specification, motion for a default judgment, and declaration of Michael I. Marsh.

B. Findings and Decision

Based on *Zabala Farms of Salinas, LLC*, (2023) 49 ALRB No. 1, the documents and pleadings on file, the request for hearing and backpay specification, and Declaration of Michael I. Marsh, I find the following:

1. The Executive Secretary of the Board's release of the case to the Region for compliance was proper and in compliance with Board law and regulations.
2. The back pay period is July 13, 2021, through October 29, 2021.

³ Declaration of Micheal I. Marsh, February 21, 2025, paragraph 17.

⁴ Cal. Code Regs., tit. 8 section 20292 (a) (15 days); Section 20170(c) (5 days for mailing).

3. On December 24, 2021, the Regional Director requested payroll records from Valle Dorado Harvest, Inc., the farm labor contractor Zabala used during the relevant time, including April 27, 2021, through October 29, 2021.

4. Valle Dorado Harvest, Inc. provided payroll records to the Region on January 27, 2022.

5. Region staff used those documents to determine the average of earnings of five employees. Three trimmed similar amounts during the period April 27, 2021, through October 29, 2021, to what Martinez trimmed when she worked for Zabala. Two employees trimmed the entire back pay period.

6. This method of calculation reasonably calculates what Martinez would have earned had Zabala not terminated her in violation of the act.

7. After deducting interim earnings from Martinez' gross wages, the net back pay for Martinez is \$4159.00.

8. Total interest⁵ owed from July 13, 2021, through January 3, 2025, is \$979.00.

9. The amount to make Martinez whole is therefore \$5138.00

10. The Regional Director's back pay specification is reasonable and consistent with well-established Board precedent. *Pleasant Valley vegetable Co-op* (1990) 16 ALRB No.12 p. 7- 8.

⁵ The amount of interest is compounded daily based on the amount of back pay due and the length of time for which it has been unpaid. *Kentucky River Medical Center* (2010) 356 NLRB No.8, p. 9.

11. The General Counsel served the Regional Director's January 31, 2025, back pay specification and the instant motion for default three ways: By U.S. Mail, Alejandro H. Herrera, Agent for service of process for Zabala Farms of Salinas LLC, 100 Wilshire Blvd. Ste. 700 Santa Monica CA 90401. By email, Alex@HCH.law. By certified mail, Zabala Farms of Salinas LLC 50 Zabala Rd. Salinas CA 93908.

12. Neither Mr. Herrera nor any other attorney has filed a notice of appearance for Zabala in the proceedings before the Board in the instant case.

13. The service of process complies with relevant due process requirements and the law of the case. Process was served on the agent for service of process and the Respondent's place of business.

14. Respondent has actual notice of the instant motion. The record reveals notice in three ways. First, Respondent was served in the enforcement action in Superior Court for Monterey County, State of California Agricultural Labor Relations Board v. Zabala Farms of Salinas, LLC, 24CV001347. Counsel for the General Counsel declares that Respondent's attorney received notice. Any party in that action would have notice that the instant compliance proceeding is pending. Second, if Respondent had not appeared in Superior Court, default proceedings would have followed. The record reveals none. Third, the Regional Director prevailed on her enforcement motion but sought and received a stay pending the outcome of the compliance process. A superior court cannot issue such orders in an enforcement action or a labor dispute without an actual appearance, completion of default procedures, or use of an ex parte

process. The absence of default or ex parte motion practice in Superior Court indicates that Zabala appeared.

C. Proposed Order

It is ordered that a default judgment is issued against Respondent Zabala Farms of Salinas, LLC, its agents, officers, successors and assigns. This judgment requires the following:

1. Pay make whole to Martinez in the amount of \$5138.00
2. Pay interest to Martinez on that amount which shall continue to accrue until payment pursuant to *Kentucky River Medical Center* (2010) 356 NLRB No.8, p. 9.
3. Excess tax liability, if any, to be computed in accordance with *Tortillas Don Chavas* (2014) 361 NLRB No. 10.
4. Compensation shall be issued to Martinez and sent to the Region, which thereafter will disburse payment to Martinez.
5. Comply with the non-monetary remedies issued in Zabala Farms of Salinas, LLC, 49 ALRB No. 1.

IT IS SO ORDERED.

Dated March 4, 2025



Matthew J. Gauger
Administrative Law Judge
Agricultural Labor Relation Board