

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

GERAWAN FARMING, INC.,	)	Case Nos.	2012-CE-041-VIS
	)		2013-CE-007-VIS
Respondent,	)		2013-CE-010-VIS
	)		(44 ALRB No. 1)
)		
and	)	ORDER CERTIFYING GOOD	
	)	CAUSE EXISTS TO EXCEED	
	)	TIME LIMIT IN ALRA SECTION	
UNITED FARM WORKERS OF	)	1149.3	
AMERICA,)		
)		
Charging Party.	)	Administrative Order No. 2021-10	
	)	(October 29, 2021)	
)		

On October 30, 2020, the Executive Secretary released the above-captioned case for compliance with the Agricultural Labor Relations Board’s (Board) Decision and Order, *Gerawan Farming, Inc.* (2018) 44 ALRB No.1. In its decision, the Board concluded that Gerawan Farming, Inc. (Gerawan) violated Labor Code section 1153, subdivision (e) by engaging in bad faith surface bargaining in the period from January 2013 to August 2013, and by proposing and insisting on the exclusion of workers supplied by farm labor contractors from the terms of any collective bargaining reached between Gerawan and the United Farm Workers (UFW). The Board awarded bargaining makewhole relief, among other remedies, for these violations.

On October 21, 2021, the Regional Director filed a request with the Board for certification of good cause to exceed the one-year period for processing the amount of the bargaining makewhole award as set forth in Labor Code section 1149.3.¹ Labor Code section 1149.3, subdivision (b) specifies that the one-year period begins on the date that a reviewing court dismisses an employer's appeal or decides in favor of the Board concerning the employer's liability. In this case, the one-year period began October 30, 2020.²

In his request, the Regional Director states good cause exists for exceeding the one-year period for a number of reasons. Specifically, that this is a complicated matter involving 4,618 workers eligible for bargaining makewhole. Moreover, regional staff had to obtain and review a large volume of documents, and an expert witness had to be hired to develop an appropriate makewhole methodology for computing the amount owed. In addition, the COVID-19 pandemic caused a number of delays. Also, the parties

¹ Under Labor Code section 1149.3, subdivision (b), if the Board has made a finding that an employer is liable for a makewhole, backpay, or other monetary award, and a compliance proceeding is necessary to determine the specific amount owed by the employer, "the board shall process to final board order a decision concerning the amount or amounts owed within one year of the time that a final decision on employer liability has been made by the board, unless the board certifies to the parties that there is good cause for exceeding this time limit and provides a reasoned explanation for the assertion of good cause."

² The Board issued its decision (44 ALRB No. 1) on January 22, 2018. Gerawan filed a petition for writ of review in the Fifth District Court of Appeal, which affirmed the Board's decision. (*Gerawan Farming, Inc. v. ALRB* (2020) 52 Cal.App.5th 141.) The California Supreme Court denied Gerawan's subsequent petition for review, and the appellate court issued its remittitur on October 30, 2020.

are scheduled meet with a mediator on November 30, 2021, to try and reach voluntary resolution of this matter rather than go through the formal compliance process.

PLEASE TAKE NOTICE that for the reasons set forth in the Regional Director's Request for Certification of Good Cause Pursuant to Labor Code Section 1149.3, the Board hereby CERTIFIES that there is good cause for exceeding the one-year time limit to process to a final board order a decision concerning the amount of bargaining makewhole owed to eligible employees in the above-captioned matter. We encourage the region to move this matter expeditiously from this point forward to ensure that farmworkers already determined entitled to monetary relief receive that relief as soon as possible.

DATED: October 29, 2021

Isadore Hall, III, Member

Barry D. Broad, Member

Ralph Lightstone, Member

Cinthia N. Flores, Member