

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

UNITED FARM WORKERS OF AMERICA,)	Case No. 2024-RM-002
)	
)	ORDER DENYING PETITIONER
Petitioner Labor)	UNITED FARM WORKERS OF
Organization,)	AMERICA’S REQUEST FOR
)	RECONSIDERATION
and,)	
)	
WONDERFUL NURSERIES,)	
LLC,)	
)	Administrative Order No. 2024-14
Employer.)	(May 10, 2024)
_____)	

On April 22, 2024, the general counsel of the Agricultural Labor Relations Board (ALRB or Board) filed a motion to consolidate an unfair labor practice complaint with objections previously set for hearing in this matter. (See *Wonderful Nurseries, LLC* (Mar. 18, 2024) ALRB Administrative Order No. 2024-04.) The Board denied that motion in an order dated April 30. (*Wonderful Nurseries, LLC* (Apr. 30, 2024) ALRB Admin. Order No. 2024-11.) After we issued that order, petitioner labor organization United Farm Workers of America (UFW) promptly filed the underlying request for reconsideration. Although styled as a reconsideration motion, the UFW relies on arguments made in a joinder it filed on April 29 to the general counsel’s consolidation motion.

Due to an administrative error, the UFW’s joinder was not transmitted to the Board. Having now considered the UFW’s filing, the Board DENIES the UFW’s

reconsideration request.

As we stated in our order, “[t]he consolidation of unfair labor practice complaints and objections in a representation proceeding for purposes of hearing is a function of rules derived from *Mann Packing Co., Inc.* (1989) 15 ALRB No. 11 (*Mann Packing*).” (*Wonderful Nurseries, LLC, supra*, ALRB Admin. Order No. 2024-11, p. 3.) In a previous reconsideration request in this matter involving Administrative Order No. 2024-08, the UFW expressly stated its agreement with the Board’s clarification of *Mann Packing* rules. We stated in that order the Board “never ha[s] applied *Mann Packing* deference or preclusion rules to charges filed by a party other than the party objecting to a representation proceeding, nor would it be appropriate to do so.” (*Wonderful Nurseries, LLC, supra*, ALRB Admin. Order No. 2024-08, p. 14.) We then concluded “the only charge relevant to an inquiry under *Mann Packing* is Wonderful’s charge against the UFW, and *Mann Packing* concepts potentially are triggered in this case because Wonderful has elected to pursue identical claims both before the Board in its objections and before the general counsel in its charge.” (*Id.* at pp. 14-15.) We added: “The charges filed by the UFW against Wonderful, or by the two farmworker charging parties against the UFW, do not enter the equation.” (*Id.* at p. 15.)

In reaching these conclusions, we noted a party to a contested representation proceeding often is faced with a choice how it wishes to proceed. (*Wonderful Nurseries, LLC, supra*, ALRB Admin. Order No. 2024-08, p. 14, discussing *Gallo Vineyards, Inc.* (2008) 34 ALRB No. 6, pp. 23-24.) A party may file objections to the election and pursue remedies before the Board. Alternatively, a party may file unfair

labor practice charges with the general counsel and seek remedies available through that process. (§ 1160 et seq.) When a party chooses to pursue both avenues, however, *Mann Packing* rules are triggered.

Relying on these principles, the UFW asserts it elected to pursue unfair labor practice charges against Wonderful, and insists the general counsel must be allowed to prosecute unfair labor practices in connection with the UFW's pursuit of any available relief under section 1156.37, subdivision (j).¹ The UFW repeats in its joinder filing: "UFW chose to pursue this remedy through the filing of an unfair labor practice charge and the only method of proving an unfair labor practice is through a hearing on a complaint." The general counsel has issued a consolidated unfair labor practice complaint based on several charges filed by the UFW, as the union acknowledges. The complaint also seeks any available relief the Board deems proper under section 1156.37. However, under our recent orders in this case, consolidation of the unfair labor practice complaint involving the UFW's charges with the employer objections previously set for hearing is not available. (*Wonderful Nurseries, LLC, supra*, ALRB Admin. Order No. 2024-11, pp. 3-5; *Wonderful Nurseries, LLC* (Apr. 18, 2024) ALRB Admin. Order No. 2024-10, pp. 7-8; *Wonderful Nurseries, LLC, supra*, ALRB Admin. Order No. 2024-08, pp. 14-15; see *Ho Sai Gai Farms, Inc.* (Apr. 18, 2024) ALRB Admin. Order No. 2024-09, p. 2, fn. 2.)

¹ Subdivision (j) states, in relevant part: "If an employer commits an unfair labor practice or misconduct ... during a labor organization's Majority Support Petition campaign, and the employer's unfair labor practice or misconduct would render slight the chances of a new majority support campaign reflecting the free and fair choice of employees, the labor organization shall be certified by the board as the exclusive bargaining representative for the bargaining unit."

ORDER

For the foregoing reasons, the Agricultural Labor Relations Board DENIES petitioner United Farm Workers of America's request for reconsideration of the Board's order denying the general counsel's motion to consolidate the consolidated unfair labor practice complaint regarding charge nos. 2024-CE-013, 2024-CE-014, and 2024-CE-015 with the objections set for hearing in this matter.

IT IS SO ORDERED.

DATED: May 10, 2024

Victoria Hassid, Chair

Isadore Hall, III, Member

Barry Broad, Member

Ralph Lightstone, Member

Cynthia N. Flores, Member