Somis, California

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

RASTEGAR FARMS MANAGEMENT,	)	Case No. **2024-CE-107**
Respondent,	)	
and	)	
	)	**52 ALRB No. 2**
	)	(May 13, 2026)
MIGUEL MILIAN ORTEGA,	)	
Charging Party.	)	

DECISION AND ORDER

On December 26, 2025, the General Counsel of the Agricultural Labor Relations Board (ALRB or Board) issued an unfair labor practice (ULP) complaint against Rastegar Farms Management (Rastegar or Respondent), alleging Rastegar violated section 1153, subdivision (a) of the Agricultural Labor Relations Act (ALRA or Act).[1] The complaint alleged Respondent laid off three employees, and failed to recall two of those employees, in retaliation for the employees' concerted complaints that Respondent had failed to provide clean bathrooms and access to drinking water.

The General Counsel's office attempted to serve the complaint via certified mail on two occasions, December 26, 2025, and January 13, 2026. On December 26, 2025, staff sent the complaint and attached documents via certified mail to Respondent's

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

principal address identified in its current Statement of Information on file with the California Secretary of State, which was in Somis, CA. This was one of the two addresses where the charge had been served, and the address Respondent used to communicate with ALRB staff during the investigation of the charge. Counsel for the General Counsel's office also emailed a courtesy copy of the complaint to the email address Respondent used to correspond with the ALRB during the investigation. Respondent failed to file a timely answer to the complaint, and on January 27, 2026, the General Counsel filed a motion to deem allegations in the complaint admitted and a motion for default judgment.

On February 4, 2026, the Administrative Law Judge (ALJ) issued an order to show cause (OSC) why the General Counsel's motion should not be granted. The OSC was served on Respondent at its principal address by certified mail. The OSC directed the parties to file arguments no later than February 17, 2026, why the motion should not be granted. The Respondent did not file any argument opposing the motion.

Finding no good cause for Respondent's failure to file an answer, on February 27, 2026, the ALJ issued an order granting the General Counsel's motion to deem allegations in the complaint admitted and partially granted a motion for entry of default judgment filed by the General Counsel.[2] The ALJ ordered Respondent to offer reinstatement to the discriminatees, ordered Respondent to pay backpay to the discriminatees, and ordered Respondent to pay a civil penalty to the State, pursuant to Labor Code section 1160.10, subdivisions (a)(1) and (a)(2), in an amount to be

[2] The ALJ granted the General Counsel's motion for default judgment as to the first cause of action in the complaint, but not as to the second and third causes of action.

determined in compliance proceedings.

On April 6, 2026, Respondent filed exceptions to the ALJ's order. The Respondent claims it did not receive the complaint or subsequent documents on the dates indicated in the proofs of service. The Respondent admits receiving the January 13, 2026 service of the complaint when an "agent of the business" at the Somis address put the documents in Respondent's P.O. Box.

Respondent also argues it was not sufficiently made aware of the necessity of filing an answer to the complaint within 10 days because the information about filing an answer provided with the complaint was on the tenth page of the packet in small font. Respondent did not submit any declaratory or other evidentiary support for its claims about the service of the complaint along with its exceptions.

Respondent further argues the alleged discriminatees were laid off for business necessity not because of their protected concerted activity. Respondent denies any knowledge of the protected concerted activity, and asserts other employees who made complaints were not laid off. Respondent argues it only owes backpay to discriminate Guadalupe Salazar for the period November 15 to November 20, 2024, because Respondent allegedly made an offer of reinstatement to Salazar on November 20, 2024.

Respondent's last exception is that the imposition of civil penalties pursuant to Labor Code 1160.10 exceeds the Board's remedial authority and violates due process, and the Equal Protection and Excessive Fines Clauses of the U.S. Constitution. In addition, Respondent argues the imposition of penalties under Labor Code section 1160.10, subdivision (a)(2) is inappropriate as part of the default judgment because the

General Counsel's complaint only requested civil penalties pursuant to Labor Code section 1160.10, subdivision (a)(1).

As discussed below, we affirm the ALJ's conclusion Respondent has not established good cause to excuse its failure to file an answer to the complaint, and we uphold the ALJ's conclusion that, based on the facts alleged in the complaint, Respondent violated Section 1153, subdivision (a) of the Act.

The Board looks to precedent under Code of Civil Procedure section 473 for guidance in determining whether to grant a party relief from a default judgment. (*GJ Farms, Inc*. (2019) 45 ALRB No. 2, p. 6; *Jacob Diepersloot, et al*. (2018) 44 ALRB No. 12, p. 5; *All Star Seed Co*. (2003) 29 ALRB No. 2, p. 3) Subdivision (b) of section 473 states, in relevant part:

> The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect.

Under this statute, a party seeking relief from default "has the burden of showing good cause." (*Davis v. Thayer* (1980) 113 Cal.App.3d 892, 904.) "Our precedent similarly assesses whether a party has established good cause to support granting relief." (*Jacob Diepersloot, supra*, 44 ALRB No. 12, pp. 5-6, and cases cited therein.) "When there is no good cause to excuse a party's failure to file a timely answer, a motion to deem the allegations in the complaint admitted and for default judgment should be granted." (*Id*. at p. 6; *Lu-Ette Farms, Inc*. (1985) 11 ALRB No. 4, at ALJ Dec. p. 5 ["Before the Board will accept a late answer, the respondent must establish good cause for its failure to abide the time limits established in section 20230"], citing *John Gardoni*

(1982) 8 ALRB No. 62, p. 2.) While the Board's policy is to favor adjudication on the merits rather than through default judgment (*Allstar Seed Co., supra*, 29 ALRB No. 2, p. 4, citing *Weitz v. Yankosky* (1966) 63 Cal. 23 849, 854), the party seeking relief from default "must present a reasonable excuse" explaining the grounds for its mistake, inadvertence, surprise, or neglect. (*Davis v. Thayer, supra*, 113 Cal.App.3d at p. 905; see *Cochran v. Linn* (1984) 159 Cal.App.3d 245, 252.)

First, we note Respondent did not submit any declaratory or other evidentiary support for its claims regarding lack of service along with its exceptions. (See *Rincon Pacific, LLC* (2020) 46 ALRB No. 4, pp. 7-8, FN 7 citing *Gdowski v. Gdowski* (2009) 175 Cal.App.4th 128, p. 139 ["Statements and arguments by counsel are not evidence"]; *Davenport v. Blue Cross of California* (1997) 52 Cal.App.4th 435, p. 454 ["These unsworn averments in a memorandum of law prepared by counsel do not constitute evidence"].)

Respondent concedes it received the complaint, admitting the January 13, 2026, service "was received by Respondent," through its business agent located at Respondent's principal address in Somis, who placed the copy in Respondent's P.O. Box. Complaints may be served personally, by registered mail, by telegraph, or by leaving a copy at the principal office or place of business of the party to be served. (Cal. Lab. Code § 1151.4, subd. (a).) Service to only one address of a party is sufficient. (Cal. Code Regs., tit. 8, § 20164.)[3] In this case, the General Counsel served the complaint on Respondent's principal addresses as well as on its agent for service of process. However, Respondent

[3] The Board's regulations are codified at California Code of Regulations, title 8, section 20100 et seq.

never claimed any of the three packages served by certified mail that contained the complaint. A respondent cannot claim lack of service where it willfully disregards certified mail sent to its address and the surrounding circumstances support an inference that the party knew the nature of the correspondence. (*Valley Farming Co.* (1994) 20 ALRB No. p. 5.) Respondent does not dispute it communicated with the General Counsel's investigative team via email after the ULP charge was filed, and was aware of the investigation, so it is reasonable to infer Respondent was aware of the nature of the contents of the certified mail packages.

Respondent's claim the complaint failed to adequately alert a layperson to the filing deadline does not establish good cause for its failure to file an answer. The General Counsel served with the ULP complaint a packet containing excerpts from ALRB regulations to inform unrepresented parties or their counsel of the ALRB's ULP hearing procedures, including the requirements for answering a complaint and seeking extensions of time. In addition, ALRB regulations are readily accessible online. Board regulation 20230, which was provided in the complaint packet, clearly states "[t]he respondent shall file an answer within 10 days of service of the complaint." Furthermore, the exceptions do not state Respondent made any effort to contact the General Counsel to clarify or determine whether any action was required in response to the complaint once it received the courtesy email or the package forwarded to its P.O. Box.

The Board has consistently rejected arguments that a respondent's unfamiliarity with ALRB procedures warrants relief from default judgment. (*Cyma Orchids, Corp*. (2025) 51 ALRB No. 2, p. 3; *Allstar Seed Co., supra*, 29 ALRB No. 2, p. 3; *Jacob Diepersloot, et al., supra*, 44 ALRB No. 12, p. 7, *Reveille Farms, LLC* (2019)

45 ALRB No. 6, pp. 3-4.)

Respondent's failure to file an answer means every factual allegation in the complaint is deemed admitted. (Cal. Code Regs., tit. 8, § 20232.) The admitted allegations establish the discriminatees discussed Respondent's failure to provide clean bathrooms and adequate drinking water, one discriminatee voiced the group complaints to Respondent's supervisors, and Respondent laid off the three discriminatees while retaining another worker who had not complained. The ALJ correctly analyzed these admitted facts and found they satisfied the General Counsel's prima facie burden.

Respondent's assertion the layoffs served "business necessity purposes" introduces facts outside the record and they have not been considered. In a fully litigated case, the burden to prove a legitimate business justification shifts to the respondent after the General Counsel establishes a prima facie case. Here Respondent forfeited the opportunity to carry that burden by failing to file an answer to the complaint.

Respondent's argument that "others who engaged in protected concerted activity and actually lodged complaints, are not noted to have been laid off" is not substantiated by evidence in the record, and would in any event be unpersuasive. An employer's failure to retaliate against every worker who engaged in protected activity does not disprove discriminatory motive toward workers who were targeted. (*Ruline Nursery Co. v. ALRB* (1985) 169 Cal.App.3d 247, 270; *Aerotek, Inc*. (2016) 365 NLRB 8, 9 & fn. 12.)

Respondent's third exception asks the Board to limit Salazar's backpay to the period of November 15 through November 20, 2024, on the grounds that Respondent offered Salazar work on November 20, 2024. This exception presents factual questions

such as whether the alleged offer was bona fide offer of reinstatement sufficient to toll backpay, and is properly resolved in compliance proceedings, not at this stage of the case.

Finally, we find Respondent's exceptions regarding the civil penalties imposed lack merit. Labor Code section 1160.10 requires the Board to impose civil penalties. Respondent relies on case law existing prior to the enactment of Labor Code section 1160.10 in support of its argument that the imposition of civil penalties exceeds the Board's authority.

First, the Board lacks authority to declare a statute enacted by the Legislature unconstitutional or to refuse to enforce it. (*Gerawan Farming, Inc*. (2013) 39 ALRB No. 5, p. 4; *Hess Collection Winery* (2003) 29 ALRB No. 6, pp. 6-7.) Article III, section 3.5 of the California Constitution provides that an administrative agency "shall not declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional." (Cal. Const., art. 3, § 3.5.)

Additionally, the statute imposes a mandatory obligation to assess the penalty upon a finding that an employer has committed an unfair labor practice.[4] (*Cinagro Farms* (2022) 48 ALRB No. 2, p. 45, citing *The TJX Companies, Inc. v. Superior Court* (2008) 163 Cal.App.4th 80, 86 ["'Shall be subject to' imposes an

[4] Labor Code section 1160.10, subdivision (a) (1) reads "Any employer who commits an unfair labor practice **shall**, in addition to any remedy ordered by the board, be subject to a civil penalty in an amount not to exceed ten thousand dollars ($10,000) for each violation." Similarly, Labor Code section 1160.10, subdivision (a)(2) reads "In cases involving violations of subdivision (c) or (d) of Section 1153, or involving any violation of Section 1153 that results in the discharge of an employee or other serious economic harm to an employee, the board **shall** double the amount of the penalty to an amount not to exceed twenty-five thousand dollars ($25,000)." (Emphasis added.)

obligation"]; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1211 [department's refusal to assess penalties under a similar statute "renders nugatory the statutory directive that [a] violation 'shall be subject to a civil penalty'"].)

Respondent's citation to *Republic Steel Corp. v. NLRB* (1940) 311 U.S. 7 and its progeny for the proposition that NLRB and ALRB remedies cannot be punitive is unavailing. The California Legislature enacted section 1160.10 in 2022, expressly granting the Board power to impose civil penalties, not just remedy ULPs. This legislative act abrogates prior case law that interpreted the ALRA as limiting the Board's remedial authority. Moreover, as the Board has previously noted, civil penalties are not necessarily "punitive" in nature, but rather serve remedial purposes. (*Cinagro Farms, supra*, 48 ALRB No. 2, p. 46, fn. 28 citing *Nationwide Biweekly Administration, Inc. v. Superior Court* (2020) 9 Cal.5th 279, 326 [describing civil penalties as "a type of remedy" with a "preventative" focus]; *Cal. Assn. of Health Facilities v. Dept. of Health Services* (1997) 16 Cal.4th 284, 294 [civil penalties are "not essentially penal in nature but remedial" because "their primary purpose is to secure obedience to statutes and regulations imposed to assure important public policy objectives"].)

Finally, Respondent contends the ALJ exceeded the relief requested in the complaint by ordering penalties under both subdivisions (a)(1) and (a)(2) of Labor Code section 1160.10, when the complaint sought penalties only under subdivision (a)(1). We reject this argument. Respondent has been found to have committed "a violation of Section 1153 that resulted in the discharge of an employee." (Lab. Code § 1160.10, subd. (a)(2).) Additionally, matters of remedy are within the province of the Board and may be considered by the Board sua sponte. (*Cinagro Farms, supra*, 48 ALRB No. 2, p. 44, fn.

27; *United Farm Workers of America (Garcia)* (2019) 45 ALRB No. 4, p. 19; *Premiere Raspberries, LLC* (2018) 44 ALRB No. 9, p. 5, fn. 3; *J & R Flooring, Inc*. (2010) 356 NLRB 11, 12, fn. 5 ["It is well settled that the Board has the authority to consider remedial issues sua sponte"]; *Care Initiatives, Inc*. (1996) 321 NLRB 144, 144, fn. 3; *Salem Hospital Corp*. (July 23, 2014) 2014 NLRB LEXIS 572, *2.)

Accordingly, in addition to the amount of the backpay remedy to be determined during subsequent compliance proceedings, the amount of the penalty to be assessed pursuant to Labor Code section 1160.11, subdivisions (a)(1) and (2) should be calculated in light of the factors set forth in section 1160.11, subdivision (b). (Cal. Code Regs., tit. 8, § 20294.)

ORDER

The ALJ's Order Granting General Counsel's Motion to Deem Allegations of Complaint Admitted, and Granting in Part General Counsel's Motion for Default Judgment as well as his recommended remedial order are **AFFIRMED**.

DATED: May 13 2026

Victoria Hassid, Chair

Isadore Hall, III, Member

Barry D. Broad, Member

Ralph Lightstone, Member

CASE SUMMARY

RASTEGAR FARMS MANAGEMENT

Miguel Milian Ortega,
Charging Party

52 ALRB No. 2

Case No. 2024-CE-107

Background

On December 26, 2025, the General Counsel of the Agricultural Labor Relations Board (ALRB or Board) issued an unfair labor practice complaint against Rastegar Farms Management (Rastegar or Respondent), alleging that Respondent violated section 1153, subdivision (a) of the Agricultural Labor Relations Act (ALRA or Act). The complaint alleged Respondent laid off three employees, and failed to recall two of those employees, in retaliation for the employees' concerted complaints that Respondent had failed to provide clean bathrooms and access to drinking water.

Administrative Law Judge (ALJ) Order

Respondent failed to file an answer to the complaint. On January 27, 2026, the General Counsel filed a motion to deem allegations in the complaint admitted and a motion for default judgment. On February 27, 2026, the Administrative Law Judge (ALJ) issued an order granting the motion to deem allegations in the complaint admitted, and partially granted the motion for entry of default judgment. The ALJ concluded that Respondent did not establish good cause for its failure to file an answer to the complaint. The ALJ ordered Respondent to offer reinstatement to the discriminatees, pay backpay to the discriminatees, and pay a civil penalty to the State, pursuant to Labor Code section 1160.10, subdivisions (a)(1) and (a)(2), in an amount to be determined in compliance proceedings.

Board Decision and Order

On April 6, 2026, Respondent filed exceptions to the ALJ's order. The Board affirmed the ALJ's conclusions Respondent had not established good cause to excuse its failure to file an answer to the complaint, and that, based on the facts alleged in the complaint, Respondent violated Section 1153, subdivision (a) of the Act. The Board found Respondent's exceptions regarding the civil penalties imposed lacked merit. Labor Code section 1160.10 requires the Board to impose civil penalties, and Respondent relied on case law existing prior to the enactment of Labor Code section 1160.10 in support of its argument that the imposition of civil penalties exceeds the Board's authority.

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STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

RASTEGAR FARMS MANAGEMENT Respondent, and **MIGUEL MILIAN-ORTEGA** Charging Party.	Case No. **2024-CE-107** **ORDER GRANTING GENERAL COUNSEL'S MOTION TO DEEM ALLEGATIONS OF COMPLAINT ADMITTED, AND GRANTING IN PART GENERAL COUNSEL'S MOTION FOR DEFAULT JUDGMENT**

I. BACKGROUND FACTS

On December 26, 2025, the General Counsel issued a complaint in this matter alleging that Rastegar Farms Management (Respondent) laid off three employees – and failed to recall two of those employees – in retaliation for the employees' protected concerted complaints that Respondent had failed to provide clean bathrooms and access to drinking water. The complaint seeks backpay and reinstatement, among other remedies.

Counsel for the General Counsel attempted to serve the complaint via certified mail on two occasions, December 26, 2025, and January 13, 2026. On December 26, 2025, counsel for the General Counsel sent the complaint and attached documents via certified mail to Respondent's principal address identified in its current Statement of Information on file with the California Secretary of State:

3379 Somis Rd, Suite I
Somis, CA 93066

This was one of the two addresses where the charge had been served, and the address that Respondent used to communicate with the Agricultural Labor Relations Board (ALRB or Board) during the course of the investigation. Counsel for the General Counsel's office also emailed a courtesy copy of the complaint to the email address that Respondent used to correspond with the Board during the investigation.[1] According to the United States Postal Service's (USPS) tracking system, the December 26, 2025, package was initially delivered and left with an individual, but later was characterized as unclaimed, being returned to sender, and moving through network.

On January 13, 2026, counsel for the General Counsel again attempted service of the complaint on Respondent via certified mail. The complaint was sent to two addresses: Respondent's principal address in Somis, California, and Respondent's agent for service of process identified on its most recent Statement of Information on file with the California Secretary of State:

Jacob Rastegar, Agent for Service of Process
Rastegar Farms Management
808 N. Bedford Drive
Beverly Hills, CA 90210

The USPS tracking system reflects that the USPS left notice at both addresses

[1] It is not clear the email address to which the complaint was sent or whether that email was received by Respondent.

about the certified mail, but that Respondent did not claim the mail at either address. [2]

On January 27, 2026, the General Counsel filed a Motion to Deem Allegations in the Complaint Admitted and Motion for Default Judgment (Motion) accompanied by a declaration of Xavier R. Sanchez with exhibits. The Motion requests that all allegations in the complaint be deemed admitted and that default judgment be granted in favor of the General Counsel. On February 3, 2026, the General Counsel filed a supplemental declaration of Xavier R. Sanchez attaching additional evidence in support of the Motion.[3] Both the Motion and the supplemental declaration were served by certified mail on Respondent's principal place of business.[4]

On February 4, 2026, I issued an Order to Show Cause why the Motion should not be granted (OSC) that was served on Respondent at its principal address by certified mail.[5] The OSC directed the parties to file arguments no later than February 17, 2026, why the Motion should not be granted. Respondent did not file any argument opposing the Motion.

II. THE COMPLAINT WAS PROPERLY SERVED

Respondents are required to file an answer within 10 days of the service of a

[2] The tracking information in this chart was obtained using the "search or track packages" tool at the USPS website at https://www.usps.com.
[3] This was in response to an order to show cause that I issued on February 2, 2026.
[4] According to the USPS tracking system, the Motion was delivered and left with an individual in Oxnard on January 30, 2026. It is unclear why it reflects delivery in Oxnard. The Motion was also served via certified mail to the charging party, who resides in Oxnard, though the tracking number associated with service on the charging party on the proof of service cannot be located in the USPS tracking system. With respect to the supplemental declaration and evidence in support of the Motion, the USPS tracking system reflects it was delivered and left with an individual in Somis on February 6, 2026.
[5] The USPS tracking system tool reflects that the OSC was delivered and left with an individual in Somis on February 6, 2026.

complaint. (Board regulation § 20230).[6] When a document is served by mail, 5 days are added to the prescribed period for response. (Board regulation § 20170(c).) "The answer shall state which facts in the complaint are admitted, which are denied, and which are outside the knowledge of the respondent or its agents. . . . Any allegation not denied shall be considered admitted." (Board regulation § 20232). For the complaint served on December 26, 2025, Respondent's answer was due January 12, 2026. Using the January 13, 2026, service date, the answer to the complaint was due January 28, 2026. In any event, Respondent has not filed an answer to the complaint to date.

The first question to address is whether the complaint was properly served on Respondent. For the reasons discussed below, I find that it was. Complaints may be served personally, by registered mail, by telegraph, or by leaving a copy at the principal office or place of business of the party to be served. (Cal. Lab. Code § 1151.4(a).) Service to only one address of a party is sufficient. (Board regulation § 20164.) In this case, counsel for the General Counsel served the complaint on Respondent's principal addresses as well as on its agent for service of process. However, Respondent never claimed any of the three packages served by certified mail that contained the complaint. Nor does it appear that Respondent claimed the packages containing the Motion, the supplemental declaration of Xavier Sanchez, or the two orders to show cause I issued.

[6] The Board's regulations are codified at Cal. Code of Regs, tit. 8, § 20100 et seq.

It is well-settled that an addressee cannot assert failure of service where it willfully disregards notice of certified mail sent to its address and it can reasonably be inferred that the addressee was aware of the nature of the correspondence. (*Valley Farming Co.* (1994) 20 ALRB No. 4, p.5.) In *Valley Farming*, the Board relied on cases decided under the National Labor Relations Act (NLRA) and California law to determine that service of an administrative law judge's decision was perfected despite the respondent's refusal -- according to the USPS's notation -- to accept the certified mail. (*Id*. at p.4-5; *Powell & Hunt Coal Co.* (1990) 293 NLRB 842, fn. 1; *Hankla v. Governing Board* (1975) 46 Cal. App. 3d 644, 655.)

Here, the surrounding circumstances support the inference that Respondent was aware that the certified mail packages sent on December 26, 2025, and January 13, 2026, included the complaint. Respondent received the unfair labor practice charge and was clearly aware that an investigation was ongoing since Respondent had corresponded with the ALRB during the investigation. On the date the complaint was initially sent via certified mail to Respondent's principal address, the complaint was also sent via email to the email address Respondent had used during the investigation. Counsel for the General Counsel's second service of the complaint was also sent to Respondent's registered agent for service of process. Finally, the California Secretary of State's website reflects no change of address for either the Respondent's principal address or its agent for service of process.[7] In these

[7] The most recently form available for Rastegar Farms Management online with the California Secretary of State (https://bizfileonline.sos.ca.gov/search/business) is the same that is attached to the Motion (Sanchez Decl., Exhibit B).

circumstances, Respondent's repeated failure to collect certified mail sent to its principal place of business and/or its agent for service of process, indicates a knowing refusal to accept service.

The National Labor Relations Board (NLRB) recently found that service had been perfected in a strikingly similar case. (*California Truck Driving Academy, LLC* (2024) 374 NLRB No. 95.) There, the NLRB regional office had attempted service of a complaint on a respondent by e-service and certified mail on the agent for service of process and address listed for Respondent on the California Secretary of State website. The USPS tracking information did not reflect the certified mail was delivered but rather showed it as "moving through the network." The NLRB's e-service system reflected that the employer's representative never opened the email with the attached complaint. Regardless, the NLRB deemed service sufficient because it was "reasonably calculated" to give the employer notice of the NLRB's proceedings. (*Id*. at p.2, fn.1.)

Similarly, the General Counsel's efforts here were reasonably calculated to provide Respondent with notice of the ALRB's proceedings. Based on the totality of circumstances in the instant matter, I find substantial evidence supports the inference that Respondent was aware that the General Counsel attempted to serve the complaint and that Respondent refused to accept service of those documents. Accordingly, I find that counsel for the General Counsel properly served Respondent with the complaint on December 26, 2025, and again on January 13, 2026.

Because there is no good cause for Respondent's failure to file an answer, the

General Counsels' motion to deem the complaint allegations admitted is **GRANTED**. Based on this, I make the following findings of fact.

III. FINDINGS OF FACT

1. On November 26, 2024, Charging Party Miguel Milian-Ortega properly and timely filed unfair labor practice charge 2024-CE-107 against Rastegar Farms Management alleging that on or about November 15, 2024, Rastegar Farms Management through its agents Foreman Roberto Munoz, Supervisor Manuel Dubon, and others retaliated against him, Miguel Ortiz, and Guadalupe Salazar by laying them off because they engaged in protected concerted activity.

2. On November 26, 2024, ALRB Region 1 staff served Rastegar Farms Management with unfair labor practice charge 2024-CE-107 via certified mail.

3. At all material times, Rastegar Farms Management (Rastegar Farms) grew and harvested crops including avocados, cilantro, and lemons in Ventura County, California, and thus was an agricultural employer within the meaning of Section 1140.4, subdivisions (a) and (c), of the Act. Rastegar Farms is a corporation organized under the laws of the State of California.

4. At all material times, Miguel Milian-Ortega performed irrigation, spraying and weeding work for Respondent, and thus was an agricultural employee as defined in Labor Code section 1140.4, subdivision (b).

5. At all material times, Miguel Ortiz performed irrigation and weeding work for Respondent, and thus was an agricultural employee as defined in Labor Code section 1140.4, subdivision (b).

6. At all material times, Guadalupe Salazar performed irrigation and weeding work for Respondent and thus was an agricultural employee within the meaning of Labor Code section 1140.4, subdivision (b).

7. At all material times, Supervisor Manuel Dubon (Supervisor Dubon) had the authority to hire, discharge, and discipline agricultural employees and thus was a statutory supervisor for Rastegar Farms within the meaning of Labor Code section 1140.4, subdivision (j).

8. At all material times, Roberto Piña Muñoz (Foreman Muñoz) had the authority to direct the work, discipline, and effectively recommend the hire or discharge of agricultural employees and thus was a statutory supervisor within the meaning of Section 1140.4, subdivision (j) of the Act.

9. At all material times, Lead Israel Sanchez Mendoza (Lead Mendoza) directed the daily work of other employees, following a schedule that he did not formulate. Lead Mendoza did not have authority to hire, fire, or discipline employees.

10. At all material times, Rastegar Farms owned Zachary Ranch.

11. Between January 2, 2024, and August 2024, Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar worked together for Fresh Venture Farms, LLC (Fresh Venture) at Zachary Ranch.

12. In or about August 2024, Fresh Venture ceased operations at Zachary Ranch, and Mr. Milian-Ortega, Mr. Ortiz and Mr. Salazar were laid off.

13. Between approximately September 3, 2024, and October 17, 2024, Mr. Milian- Ortega, Mr. Ortiz, Mr. Salazar, and Lead Mendoza worked for Rastegar Farms at

Zachary Ranch.

14. On September 3, 2024, Mr. Milian-Ortega started working for Rastegar Farms.

15. That day he met with Supervisor Dubon.

16. Supervisor Dubon told Mr. Milian-Ortega that Rastegar Farms planned to expand the crops grown at Zachary Ranch and that consistent work would be available. Dubon did not state that the work was temporary.

17. Supervisor Dubon told Mr. Milian-Ortega that he would be performing the same tasks that he had performed for Fresh Venture.

18. On or about September 5, 2024, Mr. Ortiz and Mr. Salazar commenced employment at Rastegar Farms.

19. Rastegar Farms assigned Lead Mendoza, Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar to work in the cilantro crop while other Rastegar Farms' agricultural employees worked in other crops, including the avocado and lemon orchards.

20. Beginning on September 3, 2024, until on or about October 25, 2024, the only restroom available to Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar was a portable restroom that Fresh Venture left behind when it ceased operations at Zachary Ranch.

21. The restroom was dirty, lacked toilet paper, and was not serviced or maintained by Rastegar Farms.

22. Employees who worked in the orchards at Zachary Ranch were provided an all-terrain vehicle (ATV) to access a restroom inside Foreman Muñoz's home, located approximately one mile from the cilantro crop.

23. Mr. Milian-Ortega, Mr. Ortiz, Mr. Salazar, and Lead Mendoza were not provided an ATV to access the restroom at Foreman Muñoz's home.

24. Beginning in or about early September 2024 and continuing, Mr. Milian-Ortega, Mr. Ortiz, Mr. Salazar, and Lead Mendoza discussed amongst themselves the dirty condition of the restroom and lack of supplies.

25. On approximately six or seven occasions in September 2024 and October 2024, Mr. Milian-Ortega complained to Foreman Muñoz about the dirty restroom and requested a clean restroom.

26. In September 2024, on multiple occasions, Lead Mendoza informed Foreman Muñoz and Supervisor Dubon via telephone and in person about the need for a clean restroom.

27. Foreman Muñoz told Lead Mendoza that the restrooms belonged to Fresh Venture, and that he would order clean restrooms.

28. On or about September 16, 2024, Mr. Milian-Ortega and Foreman Muñoz told Supervisor Dubon that the restroom available to Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar was dirty.

29. On or about October 15, 2024, Rastegar hired additional workers to harvest the cilantro.

30. On or about October 15, 2024, several of the newly hired harvest workers complained to Supervisor Dubon and Foreman Muñoz about the restroom conditions and cleanliness.

31. Supervisor Dubon told Mr. Milian-Ortega that he, Mr. Ortiz and Mr.

Salazar could use the bathrooms in the office.

32. On or about October 25, 2024, Rastegar Farms delivered a new portable restroom to Zachary Ranch for the first time.

33. Beginning in or about September 2024 and continuing, Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar discussed amongst themselves that Rastegar Farms did not provide adequate drinking water for them.

34. Mr. Milian-Ortega complained directly to Foreman Muñoz and Supervisor Dubon about the lack of drinking water on or about October 21, 2024, and about six other times throughout September and October 2024.

35. On or about September 16, 2024, Lead Mendoza told both Foreman Muñoz and Supervisor Dubon that he, Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar had no access to drinking water during the workday.

36. Foreman Muñoz and Supervisor Dubon responded to Lead Mendoza that they were working on the issue.

37. On or about October 21, 2024,Mr. Milian-Ortega again complained to Foreman Muñoz about the lack of drinking water.

38. On Friday, November 15, 2024, Foreman Muñoz gathered Mr. Milian-Ortega, Mr. Ortiz, Mr. Salazar, and one other agricultural worker (Worker 1) and told the four workers that work had slowed, and that there was no more work for them.

39. After the layoff announcement, Foreman Muñoz asked Worker 1 to stay back and help him unload something. Away from the others, Foreman Muñoz told Worker 1 that he was not laid off.

40. Worker 1 continued to work at Rastegar after November 15, 2024.

41. Worker 1 did not engage in any group complaint about working conditions.

42. On or about November 20, 2024, Foreman Muñoz offered Mr. Salazar work at Rastegar Farms.

43. Foreman Muñoz never recalled or offered work to Mr. Milian-Ortega or Mr. Ortiz after November 15, 2024.

IV. MOTION FOR DEFAULT JUDGMENT

Even where every allegation in a complaint is deemed admitted, an order granting default judgment is not automatic — default with respect to a cause of action can be denied if it is not sufficiently pled. (*CYMA Orchids Corp.* (2025) 51 ALRB No. 2, fn.3.) Counsel for the General Counsel cites *Tri Fanucchi Farms* (2014) 40 ALRB No. 4, p. 5 for the proposition that "once the allegations are deemed admitted, the unfair labor practices alleged in the Complaint are established." (Motion at p.5). However, that case did not involve a motion for default judgment. Nor did the Board state or imply that unfair labor practices are established once allegations are deemed admitted. Rather, the Board described that the ALJ "found" the allegations to been established after he dismissed the employer's affirmative defenses. (*Tri Fanucchi Farms, supra,* 40 ALRB No. 4, p.5.) This is consistent with the Board's more recent decision upholding the administrative law judge's decision denying the General Counsel's motion for default judgment with respect to one of the causes of action set forth in that complaint. (*CYMA Orchids Corp., supra,* fn.3.)

The complaint alleges three separate causes of action addressed in turn below.

A. First Cause of Action (Unlawful Retaliatory Layoff): The General Counsel asserts that Respondent violated Section 1153(a) of the Act when it laid off employees Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar in retaliation for their protected concerted activity.

In cases alleging discrimination against employees in violation of Section 1153(a) of the Agricultural Labor Relations Act (Act or ALRA), the General Counsel has the initial burden of establishing a prima facie case. The General Counsel must show by a preponderance of the evidence that the employees engaged in protected concerted activity, the employer knew of or suspected such activity, and there was a causal relationship between the employees' protected activity and the adverse employment action on the part of the employer (i.e., the employee's protected activity was a 'motivating factor' for the adverse action). (*Gerawan Farming, Inc.,* (2019) 45 ALRB No. 7, pp. 3-4.) Once the General Counsel has established a prima facie case of discrimination, the burden shifts to the respondent to prove that it would have taken the same action in the absence of the protected conduct. (*Id.*)

There can be no doubt that Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar (the discriminatees) were engaged in concerted activity that was protected by the Act. To be concerted, an employee's actions must be linked to those of his or her coworkers. The discriminatees acted in concert when they discussed amongst themselves Respondent's failure to provide them with a clean and stocked bathroom and adequate drinking water. Although Mr. Milian-Ortega was the only one of the three

discriminatees to voice these concerns to Foreman Muñoz and Supervisor Dubon, this conduct was the logical outgrowth and/or continuation of the employees' group concerns. (*The Elmore Co.* (2002) 28 ALRB No. 3, p. 10.) The employees' discussions were also protected, since they had the goal of seeking mutual aid or protection to improve terms and conditions of employment. The Board has long held that employee complaints about access to drinking water and clean bathrooms are protected. (*Tex-Cal Land Management, Inc.* (1982) 8 ALRB No. 85, p. 8, ALJD pp. 45-46.)

The admitted complaint allegations also establish Respondent's knowledge of the discriminatees' protected concerted activity. Both Mr. Milian-Ortega and Lead Mendoza raised complaints to Respondent's supervisors about the bathrooms and available drinking water not only for themselves, but also on behalf Mr. Ortiz, and Mr. Salazar. Respondent had direct knowledge of Mr. Milian-Ortega's protected concerted activity. Although there is no direct evidence that Respondent knew of Mr. Salazar's and Mr. Ortiz's protected concerted activities, knowledge should be inferred here given the surrounding circumstances. Mr. Milian-Ortega and Lead Mendoza's brought their complaints on behalf of themselves, as well as for Mr. Ortiz and Mr. Salazar. Further, Mr. Ortiz and Mr. Salazar were laid off at the same time as Mr. Milian-Ortega. In contrast, Worker 1, who had not engaged in protected concerted activity, was not laid off. (*Approved Electric Corp.* (2010) 356 NLRB 238 (employer knowledge of employee's protected concerted activity inferred when he was discharged for same pretextual reasons and at same time as an employee known

to employer to have engaged in protected concerted activity).)

The complaint also alleges ample evidence to support the finding that Respondent had a discriminatory motive for the layoffs, which may be inferred from direct or circumstantial evidence. Factors that the Board and courts have considered in order to infer the true motive for the adverse employment action include: (1) the timing or proximity of the adverse action to the activity; (2) disparate treatment; (3) failure to follow established rules or procedures; (4) cursory investigation of alleged misconduct; (5) false or inconsistent reasons given for the adverse action, or the belated addition of reasons for the adverse action; (6) the absence of prior warnings; and (7) the severity of punishment for alleged misconduct. (*Gerawan Farming, Inc.* (2019) 45 ALRB No. 7, p.3.) Here, an inference that Respondent had a discriminatory motive is supported by timing, disparate treatment, and inconsistent reasons. The three discriminatees were laid off on November 15, 2024, about two months after Mr. Milian-Ortega had first raised his complaints, but only a few weeks from the continued complaints on October 21, 2024. (*Premiere Raspberries, LLC* (2013) 39 ALRB. No. 6, p.3 (temporal proximity between January 24 protected concerted activity and February 4 discharge supported inference of animus).) Also, the discriminatees were treated differently than Worker 1, who did not engage in protected concerted activities and was not selected for layoff on November 15, 2024. (*Centerline Construction, Co.* (2006) 347 NLRB 322 fn. 2, 337 (affirming ALJ's finding that disparate selection of employee for layoff supported inference that layoff unlawfully motivated).) Finally, the layoff of the three discriminatees was

inconsistent with Respondent's earlier representation that work would be consistently available, and its initial representation on November 15, 2024, that Worker 1 was also going to be laid off. (*GATX Logistics, Inc.* (1997) 323 NLRB 328, 335-36 (inconsistent rationales support finding of pretext).)

Based on the facts deemed admitted, Respondent violated section 1153(a) of the Act when it laid off employees Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar on November 15, 2024, in retaliation for their protected concerted activity.

B. Second Cause of Action (Unlawful Interference and Coercion with ALRA Rights): The General Counsel asserts that Respondent violated Section 1153(a) of the Act because its retaliation against Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar interfered with and chilled its employees' rights under Section 1152 of the Act. I do not view this as an independent violation of the Act since this allegation is derivative of the first cause of action. Section 1153(a) of the Act makes it unlawful for an employer to "interfere with, restrain, or coerce agricultural employees in the exercise of the rights guaranteed in section 1152." The finding that Respondent violated Section 1153(a) of the Act by laying off Mr. Milian-Ortega, Mr. Ortiz, and Mr. Salazar in retaliation for their protected concerted activity is necessarily based on the conclusion that the layoffs interfered with, restrained, or coerced employees in the exercise of their rights guaranteed by Section 1152 of the Act. I see no case law supporting a separate cause of action, and counsel for the General Counsel cites none. As the second cause of action is insufficiently pled, I decline to grant default

judgment on this theory of a violation.[8]

C. Third Cause of Action (Unlawful Retaliatory Layoff): The General Counsel asserts that Respondent violated Section 1153(a) of the Act by failing to recall Mr. Milian-Ortega and Mr. Ortiz after their layoff because they had raised group complaints about drinking water and clean bathrooms. In cases alleging a failure to recall employees as an adverse employment action, the General Counsel's prima face case "must also include a showing that the employee applied for an available position for which he/she was qualified and was unequivocally rejected." *Gerawan Farming, Inc.* (2019) 45 ALRB No. 7, p.4; *McCaffrey Goldner Roses* (2002) 28 ALRB No. 8, p. 6.) In situations where the employer had a practice or policy of contacting former employees to offer re-employment, this requirement can be satisfied by proof of the employer's failure to do so at a time when work was available. (*McCaffrey-Goldner Roses, supra*, 28 ALRB No. 8, p.6). The complaint does not allege that Respondent had a practice or policy of contacting former employees to offer them re-employment. Nor does the complaint allege that there was work available for the two discriminatees who were not recalled.[9] The admitted facts are insufficient to establish the alleged violation. As the third cause of action is insufficiently pled, default judgment is inappropriate.[10]

[8] The denial of default judgment on the second cause of action has no material impact on the language of the order or notice posting.

[9] The fact that Respondent offered one of the three discriminatees reinstatement does not reflect that there was work available for the two discriminatees who were not recalled.

[10] The failure to grant default judgment with respect to the third cause of action will not materially affect the remedy since the remedy for the layoff allegation already requires Respondent to offer reinstatement to the discriminatees and make them whole.

Based on the foregoing, General Counsel's motion for default judgment is **GRANTED** with respect to the first cause of action and **DENIED** with respect to the second and third causes of action.

ORDER

Pursuant to Labor Code section 1160.3, Respondent Rastegar Farms Management, its officers, agents, labor contractors, successors and assigns are hereby ordered to do the following:

1. Immediately cease and desist from:

a) Discharging or otherwise retaliating against any agricultural employee with regard to hire or tenure of employment because the employee has engaged in concerted activity protected under section 1152 of the Agricultural Labor Relations Act (Act).

b) In any other like or related matter, interfering with, restraining or coercing any agricultural employee in the exercise of their rights guaranteed by section 1152 of the Act.

2. Take the following affirmative actions, which are deemed necessary to effectuate the policies of the Act:

a) Offer Miguel Milian-Ortega, and Miguel Ortiz immediate reinstatement to their former or substantially equivalent employment without prejudice to their seniority or other rights and privileges of employment.

b) Make Miguel Milian-Ortega, Miguel Ortiz, and Guadalupe Sanchez whole for all wages and other economic losses incurred since November 15,

2024, as a result of their unlawful layoffs, with amounts due to be determined in accordance with established Board precedent. The awards shall include interest to be determined in accordance with *Kentucky River Medical Center* (2010) 356 NLRB 6, and excess tax liability to be computed in accordance with *Don Chavas, LLC d/b/a Tortillas Don Chavas* (2014) 361 NLRB 101, minus tax withholdings required by federal and state laws. Compensation shall be issued to Miguel Milian-Ortega, Miguel Ortiz, and Guadalupe Sanchez, and sent to the ALRB's Oxnard Regional Office, which will thereafter disburse the payments to them.

c) Pay a civil penalty to the State, pursuant to Labor Code section 1160.10, subdivisions (a)(1) and (a)(2), in an amount to be determined in compliance proceedings giving due consideration to the factors enumerated in section 1160.10, subdivision (b).

d) In order to facilitate the determination of lost wage and other economic losses, if any, for the period commencing November 15, 2024, preserve and, upon request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, time cards, personnel records, and all other records relevant and necessary for a determination by the Regional Director of economic losses due under the terms of this order. Upon request of the Regional Director, the records shall be provided in electronic form if they are customarily maintained in that form.

e) Upon request of the Regional Director, sign the attached Notice to Employees and, after its translation by a Board agent into all appropriate

languages, reproduce sufficient copies in each language for the purposes set forth below.

f) Post copies of the attached Notice, in all appropriate languages, in conspicuous places on its property for 60 days, the period(s) and place(s) to be determined by the Regional Director, and exercise due care to replace any Notice which has been altered, defaced, covered, or removed. This posting shall commence within 30 days after this Order becomes final unless the Regional Director determines that commencement on a later date would more appropriately effectuate the purposes of the ALRA.

g) Arrange for a representative of Respondent or a Board agent to distribute and read the attached Notice, in all appropriate languages, to all employees then employed, on company time and property, at time(s) and place(s) to be determined by the Regional Director. Following the reading, the Board agent shall be given the opportunity, outside the presence of supervisors and management, to answer any questions the employees may have concerning the Notice or their rights under the ALRA. Respondent shall compensate employees for time during the reading of the Notice and the question- and-answer period at not less than their regular hourly rate of ay (including piece rate earnings for any pay period during which those employees receive any piece-rate payments, to be calculated in accordance with Labor Code section 226.2(a)(3)(A).)

h) Mail copies of the attached Notice, in all appropriate languages within 30 days after this Order becomes final or when directed by the Regional

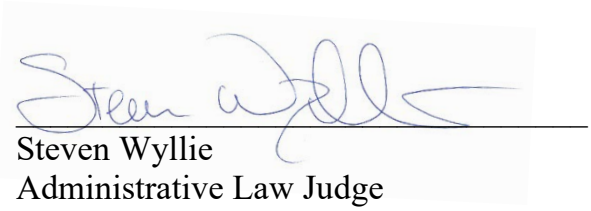
Director, to all agricultural employees employed by Respondent at any time during the period from November 15, 2024, to November 14, 2025, at their last known addresses.

i) Provide a copy of the Notice to each agricultural employee hired to work for Respondent during the twelve-month period following the date this Order becomes final.

j) Notify the Regional Director in writing, within 30 days after the date this Order becomes final, of the steps Respondent has taken to comply with its terms. Upon the request of the Regional Director, the Respondent shall notify the Regional Director periodically in writing of further actions taken to comply with the terms of this Order.

IT IS SO ORDERED

Dated: February 27, 2026



Steven Wyllie
Administrative Law Judge
Agricultural Labor Relations Board

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating a charge that was filed in the Oxnard Office of the Agricultural Labor Relations Board (ALRB), the General Counsel of the ALRB issued a complaint alleging that we had violated the law. Because we did not contest such charges by filing a timely answer to the complaint, the ALRB deemed the allegations to be true and found that we violated the Agricultural Labor Relations Act (ALRA) by laying off three employees for complaining about terms and conditions of employment.

The ALRB told us to publish and post this Notice. We will do what the ALRB has ordered us to do.

We also want to inform you that the ALRA is a law that gives you and all other farm workers in California the following rights:

1. To organize yourselves;
2. To form, join or help a labor organization or bargaining representative;
3. To vote in a secret ballot election or by signing union authorization cards to decide whether you want a union to represent you;
4. To bargain with your employer about your wages and working conditions through a union chosen by a majority of the employees and certified by the ALRB;
5. To act together with other workers to help and protect one another; and
6. To decide not to do any of these things.

Because it is true that you have these rights, we promise that:

WE WILL NOT lay you off or otherwise retaliate against you for complaining about your terms and conditions of employment.

WE WILL NOT in any like or related manner, interfere with, restrain, or coerce employes in the exercise of rights guaranteed to you under the ALRA.

WE WILL offer Miguel Milian-Ortega and Miguel Ortiz reinstatement to their former or substantially equivalent positions of employment and make them whole for all losses of pay and other economic losses suffered as a result of our unlawful conduct.

DATED: _____

BY:_____
(Representative)

(Title)

If you have questions about your rights as farm workers or about this Notice, you may contact any office of the ALRB. One office is located at 1901 Solar Drive, Suite 240, Oxnard, California. The telephone number is (805) 973-5062.

This is an official notice of the Agricultural Labor Relations Board, an agency of the State of California.

DO NOT REMOVE OR MUTILATE