STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

GRIMMWAY ENTERPRISES, INC.,	Case No. **2025-CE-028**
Respondent,	**ORDER GRANTING GENERAL COUNSEL'S REQUEST FOR SPECIAL PERMISSION TO APPEAL ADMINISTRATIVE LAW JUDGE'S PRE-HEARING CONFERENCE ORDER; ORDER PARTIALLY REVERSING ADMINISTRATIVE LAW JUDGE'S PRE-HEARING CONFERENCE ORDER; ORDER DENYING RESPONDENT'S REQUEST FOR SPECIAL PERMISSION TO APPEAL ADMINISTRATIVE LAW JUDGE'S ORDER DENYING REQUEST FOR CONTINUANCE**
and	
GERARDO SAAVEDRA,	
Charging Party.	**Admin. Order No. 2026-14**
	(October 29, 2026)

BACKGROUND

On April 30, 2025, Gerardo Saavedra (charging party) filed an unfair labor practice against Grimmway Enterprises, Inc. (Grimmway). The charge generally alleged that Grimmway retaliated against the charging party and other workers by terminating their employment on April 4, 2025, for protesting about untimely payment of wages. On June 26, 2026, the General Counsel issued a complaint in this matter identifying several discriminatees other than the charging party by circumstance rather than by name.

Grimmway served a request for particulars seeking the identities of the seven unnamed discriminatees on July 22, 2026. The General Counsel did not provide the names, maintaining that prehearing disclosure of the agricultural workers' names was unwarranted under Board case law and the Board's regulations.[1] (*Giumarra Vineyards Corporation* (1977) 3 ALRB No. 21; Board regulation 20236, subd. (a).) The Administrative Law Judge (ALJ) ordered additional briefing from the parties on this dispute.

On October 13, 2026, the (ALJ) issued a prehearing conference order following a case management conference held on October 9, 2026 regarding the dispute over whether the General Counsel should be required to disclose the identities of unnamed discriminatees prior to the hearing. The ALJ initially ordered the General Counsel to produce the names by 5:00 pm on October 14, 2026. The ALJ also denied a request for continuance of the hearing filed by Grimmway.

In his order, the ALJ rejected Grimmway's argument that the civil penalties mandated in Labor Code section 1160.10 distinguish this case from *Giumarra Vineyards Corporation, supra,* 3 ALRB No. 21 and render Board Regulation 20236, subdivision (a) inapplicable. He stated that while "respondent has a slightly higher interest in defending itself than in a case without civil penalties," that "slightly enhanced interest does not outweigh the interests the Act generally protected in *Giumarra* and Board Regulation 20236(a)."

However, the ALJ went on to find that on the narrow facts of this case, "the interests balance in favor of revealing the names of the discriminatees. *Giumarra* and Board

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

Regulation 20236(a) protect agricultural employees from retaliation during the time between filing the charge and the hearing. Here, the procedural part of the hearing began on October 9, and the testimonial part of the hearing opens in two weeks. The ability for Grimmway to retaliate against the discriminatees in that short time is remote." (ALJ's October 13, 2026 Prehearing Conference Order, p. 4.)

The General Counsel notified the ALJ she would be appealing his order to the Board. On the morning of October 14, 2026, the ALJ sent an email to the parties staying the portion of his order requiring the General Counsel to produce the names until October 27, 2026, which was the original start date of the hearing in this matter. The ALJ also denied Grimmway's renewed request for a hearing continuance.

On October 19, 2026, Grimmway filed an application for special permission to appeal the ALJ's denial of its request for a continuance. On October 20, 2026, the General Counsel filed an application for special permission to appeal the merits of the ALJ's October 13, 2026 prehearing conference order requiring the production of the names of the unnamed discriminatees prior to the hearing.

On October 23, 2026, the Board issued an order continuing the hearing until November 2, 2026 in order to provide adequate time for the parties to file responses and/or oppositions to the applications for special permission to appeal the ALJ rulings. (*Grimmway Enterprises, Inc*. (Oct. 23, 2026) ALRB Admin. Order 2026-12.)

On October 26, 2026 the General Counsel filed an opposition to Grimmway's application to appeal the ALJ's order denying its request for a continuance of the hearing. Grimmway filed an opposition to the General Counsel's Request for Special Permission to

Appeal ALJ's Prehearing Conference Order after 9:00 p.m. on October 27, 2026.[2]

DISCUSSION

I. The General Counsel's Request for Special Permission to Appeal the ALJ's Prehearing Conference Order

The General Counsel argues her request for special permission to appeal the ALJ's prehearing conference order meets the standard for interlocutory review set forth in section 20242, subdivision (b) of the Board's regulations because the improper disclosure of information cannot be addressed effectively through post-decision exceptions. The order requires disclosure of non-supervisory agricultural workers' names prior to hearing, and the General Counsel argues this potentially endangers worker witnesses and imperils the ALRB's ability to secure worker witness cooperation.

Under Board regulation section 20242, subdivision (b), interlocutory appeals are not allowed except upon special permission from the Board. The Board's standard provides for interim review of ALJ orders only where the issue is "effectively unreviewable" on exceptions. (*Premiere Raspberries, LLC* (2012) 38 ALRB No. 11, p. 11.) In other words, the Board will entertain an interlocutory appeal only when the issues raised cannot be addressed effectively through exceptions pursuant to regulations 20282 or 20370, subdivision (j). (Board reg. §

[2] Under Board regulation sections 20242, subdivision (b) and 20170, subdivision (b), any party may file a response or opposition to an application for special permission to appeal an ALJ ruling within five business days. Grimmway's response to the General Counsel's application was due October 27, 2026. Under Board regulation section 20169, subdivision (a)(2), documents filed electronically with the Board after 5:00 p.m. on a business day are deemed filed on the next regular business day. Grimmway's opposition was filed after 5:00 p.m. on October 27, 2026, and therefore was deemed filed on October 28, 2026. As Grimmway's opposition was untimely, the Board has not considered it.

20242, subd. (b); *Premiere Raspberries, LLC, supra*, 38 ALRB No. 11, pp. 2-3; *King City Nursery, LLC* (Jan. 9, 2020) ALRB Admin. Order No. 2020-01-P, pp. 3-4.) A party applying for special permission to appeal an interlocutory ruling must "set[] forth its position on the necessity for interim relief." (8 CCR § 20242, subd. (b).)

We find the General Counsel's request meets the standard for granting interim review because the order requiring disclosure of non-supervisory agricultural workers' names prior to hearing cannot be effectively addressed through exceptions. (*King City Nursery, LLC*, *supra*, ALRB Admin. Order No. 2020-01-P, p. 3.)

Turning to the merits of the General Counsel's arguments, the General Counsel argues the ALJ's order directly conflicts with section 20236, subdivision (a) of the Board's regulations and misconstrues the nature of the prehearing conference. Board regulation section 20236, subdivision (a) provides a party may obtain witness names before a hearing except workers "whose primary source of income is non-supervisory employment in agriculture," and it requires that any witness statement "likely to identify" an agricultural worker "be excised."[3]

In addition, the General Counsel takes issue with the ALJ's assertion that the prehearing conference starts the "procedural part" of a hearing. Rather, the prehearing conference mandated by regulation section 20249, subdivision (a) is a conversation between parties and the ALJ before a hearing to discuss procedural and evidentiary matters. It does not

[3] Section 20236 is part of Chapter 2 of the Board's regulations governing Unfair Labor Practices. Section 20236 prescribes the rules governing "Matters Discoverable." Section 20236 Subdivision (c) also requires excising the identity of nonsupervisory employees from documents discoverable through a request for production (with the exception of business records that are otherwise unprotected or unprivileged.)

mark the beginning of the hearing.

We do not agree with the ALJ's statement in the order that "for all practical purposes, the hearing started on October 9, 2026 at the prehearing conference." The first sentence of regulation section 20249, subdivision (a) reads "[p]rior to any hearing held pursuant to section 20260, a pre-hearing conference shall be held." (8 CCR § 20249, subd. (a).) Accordingly, the holding of the prehearing conference was not a proper basis for ordering the disclosure of the names of the discriminatees prior to the original hearing start date.

We also agree the ALJ erred in ordering the identities of the discriminatees be provided prior to their testimony at the hearing. In *Giumarra Vineyards*, the Board stated "the Board must preserve as confidential the identity of workers assisting this agency in the investigation and litigation of unfair labor practices. The names and statements of workers who are complainants, proposed witnesses, or who give information to the ALRB is information which respondents may not receive in advance of trial." (*Giumarra Vineyards Corp., supra*, 3 ALRB No. 21, p. 2-3.) The Board explained the restriction on revealing the identity and statements of employee witnesses was necessary to ensure the cooperation of such witnesses in the investigation and prosecution of unfair labor practices. The Board further pointed out it makes no difference how great the reality of intimidation of witnesses is because the fear of retaliation among such employees is very real. The Board's regulations affording prehearing protection to the identities of non-supervisory farmworker witnesses, including the relevant portions of Board regulation 20236, represent a codification of the *Guimarra* holding. (*Dole Farming, Inc*. (1996) 22 ALRB No. 8, p. 2, fn. 2.)

Here, the ALJ reasoned that the ability for Grimmway to retaliate against the

discriminatees in the two-week period between the prehearing conference and the start of the hearing was remote, and therefore the interests balanced in favor of revealing the names of the discriminatees. He further stated "the interest in avoiding a due process problem outweighs the General Counsel's narrow interest in maintaining secrecy for two more weeks."

However, the Board's precedent and regulations protecting worker identities prior to their testimony at hearing do not contain an exception where retaliation is claimed to be unlikely. Furthermore, it has been long established that "pretrial discovery is not required as a matter of due process in […] administrative proceedings existing under California law." (*Giumarra Vineyards Corp., supra*, 3 ALRB No. 21, pp. 3-4; *P&M Vanderpoel Dairy* (2014) 40 ALRB No. 8, pp. 23-24, affd. (2015) 2015 Cal. App. Unpub. Lexis 7251, p. 33.)

Grimmway will be able to fairly present its position at the hearing based on the current discovery and allegations in the Complaint. The ALJ has the authority to grant recesses in the hearing to allow for review of declarations and preparation for cross-examination. In addition, during a hearing the ALJ has the authority to grant continuances of up to ten working days upon a showing of good cause. (8 CCR § 20190, subd. (d).) Thus, the Board's regulations give ALJs ample discretion to address situations where a party claims genuine surprise from the testimony of a witness and the consequent need for additional time to prepare for cross-examination and rebuttal. To the extent Grimmway believes that the hearing is conducted in a manner that infringes its due process rights, it may raise such claims through the exceptions process.

II. Grimmway's Request for Permission to Appeal the ALJ's Denial of its

Request for Continuance

In its initial motion for continuance filed on October 9, 2026, Grimmway argued that because the issue of whether the General Counsel was obligated to provide the identities of the unnamed discriminatees prior to the hearing was unresolved, its trial preparation had been "stalled," and in the event the identities were ordered disclosed, it would need more time to investigate and prepare its case. The ALJ denied the motion in his October 13, 2026 prehearing conference order.

Grimmway renewed its motion for continuance when the ALJ granted a stay of his ruling on the provision of workers' identities until October 27, 2026. The ALJ denied the renewed request.

Grimmway's request to the Board for permission to appeal the ALJ's denial of its request for a continuance was filed in anticipation of the General Counsel filing her appeal to the Board as she indicated she would on October 14, 2026. Grimmway requested the hearing be continued until the General Counsel's request for permission to appeal could be resolved.

The Board issued Administrative Order No. 2026-12 on October 23, 2026 continuing the hearing to November 2, 2026, to allow it to "consider the appeals of the ALJ's pre-hearing conference order" as required under Board regulation sections 20242, subdivision (b) and 20170, subdivision (b). (*Grimmway Enterprises, Inc*. (Oct. 23, 2026) ALRB Admin. Order 2026-12.)

In her opposition to Grimmway's request for special permission to appeal the ALJ's order denying its request for a continuance of the hearing, the General Counsel argues Grimmway's request is now moot. We agree, and deny Grimmway's request on that basis.

(*Woodward Park Homeowners Assn. v. Garreks, Inc*. (2000) 77 Cal.App.4th 880, 888 ["A case is moot when any ruling . . . can have no practical impact or provide the parties effectual relief"].)

ORDER

PLEASE TAKE NOTICE that the General Counsel's Request for Special Permission to Appeal the ALJ's Prehearing Conference Order filed on October 20, 2026 is GRANTED. The portions of ALJ's Prehearing Conference Order and his October 14, 2026 email to the parties ordering the General Counsel to reveal the identities of unnamed discriminatees prior to their testimony in the unfair labor practice hearing currently scheduled to begin November 2, 2026, are REVERSED. The Request for Special Permission to Appeal the ALJ's Denial of its Request for a Continuance filed by Grimmway Enterprises, Inc. on October 19, 2026 is DENIED.

IT IS SO ORDERED.

DATED: October 29, 2026

VICTORIA HASSID, Chair

BARRY D. BROAD, Member

RALPH LIGHTSTONE, Member