

2016

Report to the Legislature and to the Governor, FY 2015-2016

Agricultural Labor Relations Board

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Agricultural Labor Relations Board

Report to the Legislature and to the Governor



Fiscal Year 2015-2016

Members of the Board

William B. Gould IV, Chairman¹
Genevieve A. Shiroma²
Cathryn Rivera-Hernandez
Isadore Hall III³

J. Antonio Barbosa, Executive Secretary⁴
Santiago Avila-Gomez, Executive Secretary⁵

Mark Woo-Sam, Acting General Counsel⁶
Julia L. Montgomery, General Counsel⁷

Date Submitted: December 21, 2018

¹ William B. Gould IV separated on February 22, 2017.

² Genevieve Shiroma was reappointed to the Board on January 7, 2016, and was designated Chairwoman on January 13, 2017.

³ Isadore Hall III was appointed on January 13, 2017.

⁴ On August 1, 2017, J. Antonio Barbosa announced he would be out on leave until his retirement from the ALRB on October 1, 2017.

⁵ Santiago Avila-Gomez was appointed to Executive Secretary on August 1, 2017.

⁶ Mark Woo-Sam served as Acting General Counsel from July 1, 2015, through April 3, 2016.

⁷ Julia L. Montgomery has served as General Counsel from April 4, 2016, to the present.

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I. Introduction

More than forty years ago, the Legislature enacted the Agricultural Labor Relations Act (Act or ALRA), a law granting certain rights to California farmworkers in order to “...ensure peace in the agricultural fields by guaranteeing justice for all agricultural workers and stability in labor relations.” The Act’s purpose is simple: Guarantee farmworkers full freedom of choice, and prevent and redress unfair labor practices. A groundbreaking law, the essential Act continues to serve California with its unique vision of agricultural labor peace.

This report is submitted pursuant to Labor Code section 1143. The report covers activities for Fiscal Year 2015-2016, ending June 30, 2016. The Board issued five decisions and 20 administrative orders. As a result of legal challenges, the Board saw eight new legal filings in state and federal courts, and a continuation of 16 court cases. At the beginning of the 2015-2016 fiscal year, the General Counsel’s office had a total of 115 pending ULP charges. Throughout fiscal year 2015-2016, the General Counsel’s office received an additional 115 ULP charges filed for a total of 230 pending ULP charges. Of the 230 ULP charges, 22 charges were withdrawn, 39 charges were dismissed, 44 charges were settled, and 10 charges went to complaint. Monetary remedies to farmworkers in the amount of \$467,210.81 were received from 16 companies pursuant to settlement agreements or Board orders. Payments were ordered in 18 cases as a result of an Informal Settlement Agreement or Private Party Agreement in the amount of \$380,649.06. No funds were required to be distributed from the Agricultural Employees Relief Fund. In non-monetary remedies, a “notice posting” was completed at worksites for 20 different employers; a “notice reading” was conducted at 23 worksites involving 5,229 farmworkers; and a “notice mailing” was completed for 14 employers involving 8,789 farmworkers. Supervisor training was completed in 19 cases involving 229 supervisors. In election activity, the Board, through its regional offices, processed 52 notices to take access and conducted three elections. The ALRB also engaged in outreach activities to make the safeguards of the Act known to workers and employers alike.

In September 2015, the Board conducted a series of statewide informational hearings in key agricultural areas to gather information on whether the ALRB needs to take additional steps to ensure farmworkers are aware of their rights and protections under the Act against retaliation. In these hearings, the ALRB heard testimony that agricultural workers remain largely unaware of their labor rights because of a number of communication barriers. First, reaching employees directly offsite is difficult because of the long hours that agricultural employees work. Second, many workers are not literate in Spanish or English, and lack access to the internet because of the high cost of data plans and computers. Further, the ALRB heard testimony that agricultural workers were fearful about exercising their rights and that face-to-face communication is important to help them overcome these fears. While ALRB staff continued to attend farmworker education and outreach events, staff efforts

also continued at the direction of the Board on fashioning a proposed regulation to address the findings.

In 2016, for the first time, the ALRB devised timelines designed to foster efficient and expeditious handling of Unfair Labor Practice cases, including timelines for the Board itself. The Board also issued proposed rules which (1) foster and promote electronic processing of cases (Cal. Code Regs., tit. 8, § 20169); and (2) expedite proceedings where ULP cases are consolidated with election objections (Cal. Code Regs., tit. 8, § 20335, subd. (c)). All of these initiatives are designed to promote efficiency and to make ALRB procedures work more expeditiously.

This report reflects the hard work, commitment, and accomplishments of the staff, the General Counsel, and the members of the Agricultural Labor Relations Board (ALRB) in implementing the Act. The ALRB remains firm in its commitment to enforce the Act.

Genevieve A. Shiroma
Chairwoman, Agricultural Labor Relations Board

II. Election Activity

Farmworkers have the right to choose whether or not they want a union to represent them. Elections are held to allow farmworkers to select or terminate representation by a labor organization. The ALRB is the state department charged with administering and conducting all aspects of farmworker representation elections.

One of the important protections under the Act is that farmworkers have the right to be contacted at their workplace so that they may receive information about a prospective or existing union. The employer is required to give the union organizers “access,” namely, to allow the organizers onto its property to meet directly with the farmworkers.

During fiscal year 2015-2016, labor organizations filed 52 notices of intent to take access. A notice of intent to take access is commonly abbreviated as an “NA”.

List of Notices of Intent to Take Access:

No.	Date Filed	Type of Filing	Labor Organization	Employer
1.	07//07/15	NA	UFW	Valley Garlic, Inc. dba Sequoia Packing
2.	07/08/15	NA	UFW	Aptos Berry Farms
3.	07/08/15	NA	UFW	Reiter Berry Farms
4.	07/08/15	NA	UFW	Fernandez Bros., Inc.
5.	07/08/15	NA	UFW	Scurich Berry Farm
6.	07/09/15	NA	UFW	Fowler Packing Co.
7.	07/09/15	NA	UFW	Pappas & Co.
8.	07/09/15	NA	UFW	Stamoules Produce Company
9.	07/09/15	NA	UFW	Martinelli Vineyards
10.	07/10/15	NA	UFW	John H. Kautz dba John Kautz Farms aka Diversified Farms
11.	07/10/15	NA	UFW	Vino Farm, Inc.
12.	07/13/15	NA	UFW	Sonoma Cutrer Vineyards
13.	07/13/15	NA	UFW	Tanimura & Antle, Inc.
14.	07/16/15	NA	UFW	Saticoy Berry Farms
15.	07/17/15	NA	UFW	Ito Bros., Inc.
16.	07/21/15	NA	UFW	Mandalay Berry Farms
17.	07/23/15	NA	UFW	Marz Farms, Inc.

No.	Date Filed	Type of Filing	Labor Organization	Employer
18.	07/23/15	NA	UFW	Colorado Farms, LLC
19.	07/24/15	NA	UFW	Camarillo Berry Farms
20.	07/27/15	NA	UFW	Ortega Berry Farms
21.	07/30/15	NA	UFW	Springfield Farms
22.	07/30/15	NA	UFW	Dimare Fresh
23.	07/31/15	NA	UFW	Live Oak Farms
24.	07/31/15	NA	UFW	Stellar Distributing, Inc.
25.	08/03/15	NA	UFW	Logoluso Farms, Inc.
26.	08/04/15	NA	UFW	Specialty Crop Co.
27.	08/06/15	NA	UFW	Harvest Moon Agricultural Services
28.	08/07/15	NA	UFW	T.T. Miyasaka, Inc.
29.	08/10/15	NA	UFW	Desert Best Farms
30.	08/17/15	NA	UFW	Aptos Berry Farms
31.	08/17/15	NA	UFW	Providence Farms, Inc.
32.	08/17/15	NA	UFW	Merrill Farms, LLC
33.	08/20/15	NA	UFW	PV Farming Operations, LLC
34.	08/20/15	NA	UFW	Sunset Farming, Inc.
35.	08/20/15	NA	UFW	Paraiso Organics, Inc.
36.	08/24/15	NA	UFW	J. Marchini Farms
37.	08/25/15	NA	UFW	Fernandez Brothers, Inc.
38.	09/08/15	NA	UFW	Camarillo Berry Farms
39.	09/10/15	NA	UFW	Rio Mesa Organics Farms
40.	09/10/15	NA	UFW	Royal Oaks Farms. LLC
41.	09/10/15	NA	UFW	Sakakihara Farms
42.	09/17/15	NA	UFW	Elkhorn Berry Farms, LLC
43.	09/17/15	NA	UFW	Elkhorn Berry Organic Farms, LLC

No.	Date Filed	Type of Filing	Labor Organization	Employer
44.	10/29/15	NA	UFW	Cedar Point Nursery
45.	11/09/15	NA	UFW	Tanimura & Antle, Inc.
46.	11/09/15	NA	UFW	Dutra Farms dba Premiere Raspberries, LLC
47.	11/09/15	NA	UFW	Harvest Moon Agricultural Services
48.	11/09/15	NA	UFW	Larse Farms, Inc.
49.	11/09/15	NA	UFW	T.T. Miyasaka, Inc.
50.	11/09/15	NA	UFW	Providence Farms, LLC
51.	04/18/16	NA	UFW	Hiji Bros., Inc. and Seaview Growers, Inc.
52.	05/18/16	NA	UFW	Klein Management, Inc.

When a labor organization files a notice of intent to organize, accompanied by confidential signature cards signed by at least 10 percent of the farmworkers, it may obtain a list of presently employed farmworkers and their home addresses. During fiscal year 2015-2016, labor organizations filed four notices of intent to organize. A notice of intent to organize is commonly abbreviated as an “NO”.

List of Notices of Intent to Organize:

No.	Date Filed	Type of Filing	Labor Organization	Employer
1.	08/10/15	NO	UFW	The Specialty Crop Co.
2.	08/17/15	NO	UFW	Stellar Distributing, Inc.
3.	11/03/15	NO	UFW	Cedar Point Nursery
4.	05/18/16	NO	UFW	Klein Management, Inc.

An election to determine whether a majority of employees in a bargaining unit support the certification of a labor organization as the exclusive representative of the employees in that bargaining unit is triggered by the filing of a petition. The petition for certification of representative (commonly referred to as an “RC” petition) is filed with the ALRB, along with proof of support from a majority of the currently employed workers in the bargaining unit. An employee, a group of employees or a labor organization, may file the RC petition. During fiscal year 2015-2016, one RC petition was filed with the ALRB.

List of Petition for Certification:

No.	Date Filed	Type of Filing	Petitioner	Employer
1.	05/18/16	RC	UFW	Klein Management, Inc.

An election to determine whether a majority of employees in a bargaining unit support the decertification of a labor organization that is currently certified as the exclusive representative of the employees in that bargaining unit, and its replacement with either no union or with a different labor organization as the certified representative, is triggered by the filing of a petition. The petition for decertification of representative (commonly referred to as an “RD” petition) is filed with the ALRB, along with proof of support from the requisite percentage of workers in the bargaining unit. During fiscal year 2015-2016, three RD petitions were filed with the ALRB.

List of Petitions for Decertification of Representative:

No.	Date Filed	Type of Filing	Petitioner	Labor Organization(s)	Employer
1.	09/22/15	RD	D. Morales	UFW - incumbent	Demetrio Papagni Fruit, DP Enterprises LP
2.	12/28/15	RD	J. Flores	UFW - incumbent UFCW, Local 5 - intervenor	Mushroom Farms, Inc.
3.	04/14/16	RD	O. Sanchez	UFCW, Local 5 - incumbent UFW - intervenor	Hiji Bros., Inc. and Seaview Growers, Inc.

Following the filing of an RC or RD petition, the ALRB conducts an investigation to determine if the statutory prerequisites for holding an election have been met. Where these prerequisites are met, the ALRB is required to conduct an election within the time specified under the ALRA. During fiscal year 2015-2016, the ALRB conducted three elections.

List of Elections Conducted:

No.	Election Date	Type of Filing	Labor Organization(s)	Employer
1.	01/04/16	RD	UFW - incumbent UFCW, Local 5 - intervenor	Mushroom Farms, Inc.
2.	04/20/16	RD	UFCW, Local 5 - incumbent UFW - intervenor	Hiji Bros., Inc. and Seaview Growers, Inc.
3.	05/21/16	RC	UFW	Klein Ranch, Inc.

Once the election is held and the votes are tallied, the period of time for filing objections to the election begins to run. In the absence of the timely filing of any objections, or upon the final resolution of any timely filed objections, the ALRB is required to certify the election results. If a labor organization prevailed in the election, a representative certification is issued, certifying that organization as the employees' exclusive bargaining representative. During fiscal year 2015-2016, the ALRB issued certifications for all three of the elections conducted.

List of Certifications Issued:

No.	Certification Date	Type of Certification	Labor Organization	Employer
1.	01/19/16	Representative	UFCW, Local 5	Mushroom Farms, Inc.
2.	04/29/16	Representative	UFW	Hiji Bros., Inc. and Seaview Growers, Inc.
3.	05/31/16	Representative	UFW	Klein Ranch, Inc.

III. Decisions Issued by the Board

The Board hears a variety of different types of cases. The most common type of case is an unfair labor practice (“ULP”) case. ULP cases typically involve alleged violations of a farmworker’s rights under the Act by an employer or union, such as retaliation for engaging in the type of concerted activity protected under the Act, or allegations of bad faith bargaining between a union and employer. A critical Board function is hearing all challenges and objections related to a representation election. The Board may also hear appeals of rulings issued by mediators in mandatory mediation and conciliation proceedings and petitions seeking to clarify the scope of union representation.

The Board issued five decisions in fiscal year 2015-2016. A list of decisions with brief summaries follows (the full text of decisions can be found on the ALRB website (www.alrb.ca.gov)).

List of Board Decisions Issued:

No.	Issuance Date	Board Decision Number	Case Name
1.	09/10/15	41 ALRB No. 5	Ace Tomato Company, Inc., Delta Pre-Pack Co., and Kathleen Lagorio Janssen
2.	09/10/15	41 ALRB No. 6	Arnaudo Brothers, LP and Arnaudo Brothers, Inc.
3.	12/15/15	41 ALRB No. 7	Ace Tomato Company, Inc.
4.	04/15/16	42 ALRB No. 1	Gerawan Farming, Inc.
5.	04/28/16	42 ALRB No. 2	Sabor Farms

Descriptions of Board Decisions Issued:

ACE TOMATO COMPANY, INC., DELTA PRE-PACK CO., and KATHLEEN LAGORIO JANSSEN (2015) 41 ALRB No. 5

Background

This case arose when Ace Tomato Company, Inc. (Respondent Ace) engaged in a technical refusal to bargain to test the certification of the United Farm Workers of America (UFW) as the collective bargaining representative of Respondent Ace’s agricultural employees. In 1994, the ALRB found Respondent Ace’s refusal to bargain violated the ALRA, and the Board ordered that bargaining makewhole be paid to the employees for the period during which Respondent Ace refused to bargain, June 14, 1993, through July 27, 1994. (*Ace Tomato Company, Inc.* (1994) 20 ALRB No. 7.) Ace’s petition to the 3rd District Court of

Appeal was summarily denied in 1995. The General Counsel issued a final revised makewhole specification on January 9, 2015. The methodology used to calculate the specification was based on a contract averaging approach developed by Dr. Philip Martin, a professor of agricultural economics at U.C. Davis. The total bargaining makewhole in the specification was an increase over the amount of wages that had been paid of 24.76 percent for 1993 and 27.15 percent for 1994. This resulted in a total of \$943,472 in makewhole principal, and interest in the amount of \$1,235,665 as calculated through January 30, 2015, to be distributed to approximately 2,554 workers.

Administrative Law Judge's Decision

The Administrative Law Judge (ALJ) rejected Respondent Ace's contention that the case should be dismissed due to agency bias, and also due to the lengthy delay in the issuance of a makewhole specification, finding that the Board had previously ruled against this laches defense in an administrative order. With respect to the size of the makewhole class, the ALJ found the number of workers included in the specification had been overstated, reducing the number of workers entitled to distributions to 1,825. However, under the ALJ's decision, persons not included on the list of those entitled to makewhole would be allowed to establish a right to makewhole proceeds based on the production of documentary evidence establishing employment during the makewhole period. The ALJ upheld the General Counsel's contract averaging methodology, noting that it was reasonable and consistent with the Board's decision in *San Joaquin Tomato Growers, Inc.* (2012) 38 ALRB No. 4. But the ALJ found the General Counsel incorrectly calculated medical and pension benefits as a percentage of wages, rather than as a fixed hourly amount for each worker; and recommended eliminating paid vacations and miscellaneous fringe benefits as too speculative. Also, the ALJ recommended restricting holiday pay to only those employees who worked at least five days in the two weeks preceding the holiday, with eligibility to be determined on the basis of a review of payroll records. The ALJ determined the amount of makewhole owed per eligible employee equaled a 2.73 percent increase for wages paid during the makewhole period in 1993, a 5.12 percent increase for wages paid during the makewhole period in 1994, \$0.99 per hour worked for health plan contributions, \$0.11 per hour worked for pension plan contributions, and eight hours of holiday pay for each established holiday.

Finally, the ALJ dismissed derivative liability allegations against Kathleen Lagorio Janssen (Respondent Janssen), applying the fact specific test for derivative liability set forth in *Dole Food Company v. Patrickson* (2003) 538 U.S. 468, 475, and *White Oak Coal* (1995) 318 NLRB 732. The ALJ found no basis for derivative liability in that (1) there was no unity of interest between Respondent Ace and Respondent Janssen such that the separate personalities of the two no longer existed, and (2) adherence to the fiction of the separate existence of the corporation did not, under the facts presented, sanction fraud or promote injustice.

Board Decision

The Board, in its decision issued on September 10, 2015, upheld the ALJ's recommended decision and order, with some modifications. First, the Board ruled that Respondent Ace failed to show adequate prejudice to support its laches defense, noting that much of the delay resulted from Ace's own misconduct in destroying payroll records and refusing to provide requested records. Moreover, the Board reasoned that it would be unfair and contrary to controlling case law to punish innocent employees for delays caused by other parties or by the agency itself. The Board also found that Respondent Ace's claims of agency bias had no merit. The Board affirmed the ALJ's findings regarding the size of the makewhole class, and approved the procedure set out by the ALJ for allowing persons not listed as makewhole class members to establish their eligibility for makewhole. The Board approved the use of contract averaging, noting that the absence of any comparable contracts necessitated the use of this methodology, and concluded that the contract averaging method applied in this case provided a reasonable, equitable estimation of what the parties would have negotiated had Ace not engaged in an unlawful refusal to bargain. However, the Board rejected the ALJ's method for determining eligibility for holiday pay, as the lack of sufficient data in existing payroll records would make it difficult if not impossible to accurately verify employment during the two-week period preceding any holiday. Instead, the Board ruled that all employees in the makewhole class are entitled to pay for two holidays during the makewhole period, in an amount equal to 1.6 percent of each employee's earnings during the makewhole period. The Board affirmed the ALJ's findings with respect to other benefits.

The Board held that interest should be awarded on the makewhole principal, but found as it had in *San Joaquin Tomato Growers, Inc., supra*, 38 ALRB No. 4, that based on the unique circumstances presented by the extraordinary delay in enforcement, the award of interest would be contingent on the employees being located. Employees who are located will receive the makewhole principal plus interest; for employees who are not located, the principal only – without any interest – will be deposited into the Agricultural Employee Relief Fund (AERF). Chairman Gould noted that he did not participate in the Board's decision in *San Joaquin Tomato Growers*, and he dissented from the reasoning under which the Board conditioned imposition of interest on locating the employee entitled to makewhole relief, and instead urged that funds deposited with the AERF should include interest.

With respect to the issue of derivative liability, the Board concluded that the record did not support any finding of commingling of funds or other assets of Respondents Ace and Janssen. In addition, there was no evidence of undercapitalization, disregard of corporate formalities, misappropriation of funds, or misuse of the corporate form. The Board determined that adhering to the corporate form and not piercing the corporate veil in this matter would not permit a fraud, promote injustice or lead to an evasion of legal obligations.

The Board remanded the matter to the ALRB Regional Office for issuance of a revised makewhole specification calculated in accordance with its decision.

ARNAUDO BROTHERS, LP and ARNAUDO BROTHERS, INC. (2015)
41 ALRB No. 6

Background

On September 26, 2013, an ALJ found Respondents Arnaudo Brothers, LP and Arnaudo Brothers, Inc. violated sections 1153(a) and 1153(e) of the ALRA by failing to provide the certified bargaining representative, the UFW with requested information relevant to bargaining, and by failing to meet with the UFW in collective bargaining negotiations. Respondents filed numerous exceptions to the ALJ's decision, with one exception being that the ALJ had prevented them from introducing evidence that the UFW had disclaimed interest in representing Respondent's employees.

On April 4, 2014, the Board in its decision reported at 40 ALRB No. 3, dismissed the bulk of Respondents' exceptions, but ordered the record reopened to allow Respondents to present evidence on the issue of disclaimer. In a subsequent Administrative Order, issued on October 15, 2014, the Board granted the UFW's request for permission to brief the issue of the appropriateness of a bargaining makewhole award, and directed the ALJ to include a ruling on this issue in his supplemental decision following the remand hearing.

Administrative Law Judge's Supplemental Decision

The ALJ found there was no disclaimer of interest by the UFW, and that statements allegedly made to Respondents' president by UFW representatives did not clearly and unequivocally establish a disclaimer. Regarding makewhole, the ALJ rejected Respondents' argument that the parties' subsequent participation in the Mandatory Mediation and Conciliation (MMC) process pursuant to ALRA section 1164 rendered the issue of makewhole moot. The ALJ reasoned that the MMC mediator's report was not retroactive to the date of the pre-MMC refusal to bargain, and that under section 1164, the mediator has no power to find that unfair labor practices occurred, to remedy them, or to issue a makewhole award. The ALJ noted that during compliance proceedings, Respondents could attempt to show that no contract for higher wages and benefits would have been reached even if Respondents had engaged in good faith bargaining. The ALJ concluded that a makewhole award was proper, and that the makewhole period began on September 27, 2012, (when Respondents ignored the UFW's requests for bargaining and instead chose to challenge the UFW's status as the bargaining representative), and ended on May 24, 2013, the date of the first MMC mediation session. The ALJ's recommended order directed Respondents to cease and desist from failing to provide information and refusing to bargain, awarded makewhole to all bargaining unit employees for the

makewhole period, and required the posting, mailing and reading of a notice to Respondents' employees.

Board Decision

The Board affirmed the ALJ's findings and conclusions in full, and adopted the ALJ's recommended order. The Board concluded that Respondents' *Dal Porto* defense (*William Dal Porto & Sons, Inc. v. ALRB* (1987) 191 Cal.App.3d 1195) that the parties would not have agreed to a contract even absent Respondents' unlawful refusal to bargain was irrelevant to this case, as that defense is only applicable to cases involving surface bargaining, rather than an outright refusal to bargain. The Board clarified that the ALJ's statement that Respondents could be allowed, during subsequent compliance proceedings, to present evidence that no contract for higher wages or benefits would have been reached, was dicta and not controlling. The Board concluded that the ALJ properly found that the makewhole period ended with the first MMC mediation session because this statutory dispute resolution system is akin to interest arbitration, and thus, part and parcel of the bargaining process.

Member Rivera-Hernandez' Concurrence and Dissent

Member Rivera-Hernandez wrote a concurring and dissenting opinion. With respect to the Majority's decision to end the makewhole period as of the parties' first MMC session, Member Rivera-Hernandez stated that it was unclear why the commencement of MMC would terminate a makewhole period that would otherwise continue until the employer began bargaining in good faith when there was not sufficient evidence in the record to reach a conclusion as to whether or when good faith bargaining occurred. Member Rivera-Hernandez further noted that assuming the correctness of the Majority's makewhole cut-off date, no *Dal Porto* defense would be available because no bargaining occurred during the makewhole period, and in any event, such a defense must be established by the employer at the liability stage, rather than the compliance phase, as the ALJ had suggested.

ACE TOMATO COMPANY, INC. (2015) 41 ALRB No. 7

Background

This decision is a follow-up to *Ace Tomato Company, Inc., et al.* (2015) 41 ALRB No. 5, which is reported above, under which this compliance matter was remanded to the ALRB Regional Office for issuance of a revised makewhole specification. On November 13, 2015, the Acting Regional Director issued the revised makewhole specification, in accordance with the instructions set out in the Boards' prior decision, resulting in a total award of \$510,469 in makewhole principal, plus interest.

Board Decision

The Board reviewed the revised makewhole specification and found that it accurately reflected the prior decision and order in *Ace Tomato Company, Inc.*, supra, 41 ALRB No. 5. The Board rejected Respondent's contention that it was entitled to a reversion of makewhole principal that could not be distributed due to an inability to locate employees entitled to makewhole payments, restating its prior ruling that under Labor Code section 1161, any such undistributed amounts must be deposited in the Agricultural Employees Relief Fund (AERF). The Board noted that Respondent waived this argument by failing to raise it as an exception to the ALJ's decision preceding the issuance of the Board's interim order, and in any event, the argument lacks merit. The legislative creation of the AERF, several years after the original Board decision finding Respondent liable for makewhole, did nothing to change Respondent's liability for the makewhole.

Consequently, the Board ordered that Respondent, Ace Tomato Company Inc., pay bargaining makewhole as set forth in the revised makewhole specification.

GERAWAN FARMING, INC. (2016) 42 ALRB No. 1

Background

On October 25, 2013, Silvia Lopez (Petitioner) filed a petition to decertify the UFW as the bargaining representative of the agricultural employees of Gerawan Farming, Inc. (Gerawan). An election was held on November 5, 2013. The ballots were impounded pending resolution of election objections and related unfair labor practice complaints, which were consolidated for hearing.

Administrative Law Judge's Decision

Following a 105-day hearing, on September 17, 2015, the ALJ issued a decision, finding that although Gerawan did not instigate the decertification effort, it nonetheless violated the ALRA by supporting and assisting the gathering of signatures for the decertification petition. This assistance and support included giving preferential access to decertification supporters by allowing them to circulate the decertification petition during worktime while prohibiting UFW supporters from circulating a pro-UFW petition during worktime, and by granting Petitioner a "virtual sabbatical" from work to run the decertification campaign. In addition, the ALJ found that Petitioner's group of decertification proponents violated the rights of other workers by blocking company entrances and preventing those other workers from reporting to work on September 30, 2013, as a means to collect signatures on the decertification petition.

The ALJ found that Petitioner received an unlawful \$20,000 donation from the California Fresh Fruit Association (CFFA); that Gerawan knew about this donation before and that it

was complicit with the CFFA. The ALJ found that the CFFA's conduct in this regard violated section 1155.4 of the ALRA. The ALJ also found that Gerawan committed unfair labor practices by its enhanced efforts to directly solicit employee grievances so as to bypass the UFW, and by making a well-timed unilateral wage increase.

The ALJ concluded that given the totality of the circumstances, it was impossible to know whether the signatures gathered in support of the decertification petition represented the workers' true sentiments; and that the misconduct created an environment which would have made it impossible for employees to freely choose when it came time to vote. As the ALJ concluded that Gerawan's objectionable and unlawful conduct tainted the entire decertification process, he recommended dismissing the decertification petition, setting aside the election, and otherwise remedying Gerawan's unfair labor practices.

Board Decision

The Board affirmed the ALJ's conclusion that Gerawan committed numerous unfair labor practices in connection with the decertification process, and that its conduct so tainted the process as to warrant dismissal of the decertification petition and the setting aside of the election.

The Board affirmed the ALJ's conclusion that while the evidence did not support a finding that Gerawan instigated the decertification effort, once the effort began, Gerawan improperly inserted itself into the campaign by discriminatorily permitting decertification petition signature gathering during worktime while prohibiting pro-UFW activity of the same nature. In addition, Gerawan did not discipline decertification petition signature gatherers for missing work, but continued to enforce its absence policies among the rest of the workers in its crews. The Board affirmed the ALJ's findings that Gerawan tacitly approved an unlawful work blockage which, although instigated by the decertification petition supporters, directly facilitated the gathering of signatures for the showing of interest necessary to trigger the election. The Board also affirmed the ALJ's findings that Gerawan unlawfully granted a unilateral wage increase during the decertification campaign, and unlawfully solicited employee grievances in derogation of the UFW, the certified bargaining representative.

In addition, the Board found that there was worktime decertification petition signature gathering in two additional crews beyond those found by the ALJ. The Board also found that Gerawan was liable for the violations committed by the decertification supporters during the work blockage, as Gerawan knew of the unlawful blockage and took no action to allow workers who wished to report to work to do so. With respect to the ALJ's finding that the CFFA violated section 1155.4, the Board concluded this finding was beyond the ALJ's authority as the CFFA is not a party to the instant case. However, the Board held Gerawan liable for the financial support and assistance provided by the CFFA to the decertification proponents in connection with a bus trip and pro-decertification protest in

Sacramento. The Board found that Gerawan colluded with the CFFA to make arrangements to enable the decertification proponents to travel to and attend this protest, and condoned the employees' taking time off from work for this purpose, in violation of Labor Code section 1155.4.

Chairman Gould's Concurrence

Chairman Gould concurred with the majority and wrote separately to highlight the fact that this case presented no novel issues and that the remedies imposed were quite ordinary, in that hundreds, if not thousands of cases presenting the same legal issues have come before the NLRB and the ALRB over the past eight and four decades, respectively, and that the legislative history of the enactment of the NLRA makes clear that it was intended to prohibit precisely the sort of conduct that was engaged in by Gerawan herein.

SABOR FARMS (2016) 42 ALRB No. 2

Background

This case arose when two employees of Respondent Sabor Farms protested what they contended was an unfair work assignment by refusing to perform the assignment and leaving work. The next day, Sabor informed the employees that they were being terminated for job abandonment. The employees filed an unfair labor practice charge alleging that they had been terminated for engaging in protected concerted activities in violation of section 1153(a) of the ALRA.

Administrative Law Judge's Decision

On October 5, 2015, the ALJ issued his decision, finding that under Sabor's normal assignment rotation system, the employees should have been assigned to work in the rear of Sabor's cilantro harvesting machine. However, a foreman directed the employees to work in front of the machine, an assignment that was appreciably more difficult than working behind the machine. The ALJ found that the employees initially complained that it was not their turn to work in front of the machine, and when their complaints went unheeded, they refused to perform the assignment and left work. The ALJ found that the employees' conduct constituted concerted activity protected under the ALRA, and that Sabor's termination of the employees on the basis of that conduct violated the Act. The ALJ ordered reinstatement of the employees, with backpay.

Board Decision

The Board issued its decision on April 28, 2016, affirming the ALJ's rulings, findings and conclusions in full, and adopted the ALJ's recommended order. The Board expressly rejected Sabor's argument under the rationale of *Nash-De-Camp Co. v. ALRB* (1983) 146

Cal.App.3d 92, the employees’ conduct did not constitute concerted activity. The Board observed that the analysis of protected concerted activity in *Nash* is inconsistent with the decisional precedent of the National Labor Relations Board under the National Labor Relations Act (NLRA), and that under Labor Code section 1148, the Board is statutorily required to follow the applicable precedents of the NLRA. Furthermore, the Board found that *Nash* is inapplicable as it involved different facts. *Nash* concerned an employee who complained about an error in his paycheck (and that of his wife), conduct which the court characterized as a “mere inquiry of a possible bookkeeping error” and thus, of a “personal character” and not protected. In contrast, the instant case involved a concerted refusal to work based on a dispute concerning working conditions.

Board Administrative Orders

The Board, in addition to issuing board decisions, also issues “administrative orders” or interlocutory rulings in response to motions filed by parties regarding procedural issues in connection with investigations, hearings, elections, or mandatory mediation and conciliation proceedings. Many of the motions filed by parties are appeals of decisions rendered by either an ALJ or the Executive Secretary. In fiscal year 2015-2016, the Board issued 20 administrative orders.

List of Board Administrative Orders:

No.	Administrative Order Number	Case Name	Case Number	Issue Date	Description
1.	2015-10	Bud Antle, Inc., dba Bud of California, Inc., and Dole Fresh Vegetables, Inc.	2012-CE-056-SAL 2013-CE-001-SAL	07/16/15	Order Denying Respondent’s Application for Special Permission to Appeal the Order Granting in Part Petitions to Revoke Subpoenas Duces Tecum and Denying the Remainder; and Order Denying Petitions to Revoke Subpoenas Ad Testificandum

No.	Administrative Order Number	Case Name	Case Number	Issue Date	Description
2.	2015-11	Associated Tagline, Inc., dba Ag Services	2012-CE-006-SAL 2013-CE-040-SAL	08/20/15	Order Granting General Counsel's Request to Seek Court Order Enforcing Subpoena Duces Tecum
3.	2015-12	Bud Antle, Inc., dba Bud of California, Inc., and Dole Fresh Vegetables, Inc.	2012-CE-056-SAL 2013-CE-001-SAL	09/02/15	Order Denying Respondent's Motion for Reconsideration and Granting General Counsel's Request for Enforcement of Subpoenas
4.	2015-13	Perez Packing, Inc.	2012-CE-003-VIS 2012-CE-004-VIS	09/21/15	Order Granting Approval to Seek Court Enforcement of Board Order
5.	2015-14	Bud Antle, Inc.	2012-CE-007-SAL	10/06/15	Order Granting General Counsel's Request to Seek Court Order Enforcing Subpoena Duces Tecum
6.	2015-15	George Amaral Ranches, Inc.	2013-CE-019-SAL, et al.	11/17/15	Order Denying Charging Party's Application for Special Permission to Appeal ALJ's Orders
7.	2015-16	Gerawan Farming, Inc.	2015-CE-11-VIS 2015-CE-12-VIS	12/08/15	Order Setting Time for Responses to Application for Special Permission to Appeal Order Granting Petitions to Revoke Subpoenas

No.	Administrative Order Number	Case Name	Case Number	Issue Date	Description
8.	2015-17	Sabor Farms	2013-CE-047-SAL	12/09/15	Order Directing Respondent to Refile Exceptions in Compliance With Board Regulations 20282
9.	2015-18	Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming	2012-CE-010-VIS	12/21/15	Order Approving Bilateral Formal Settlement Agreement
10.	2015-19	Gerawan Farming, Inc.	2015-CE-011-VIS 2015-CE-012-VIS	12/22/15	Order Denying Application for Special Permission to Appeal Order Granting Petitions to Revoke Subpoenas
11.	2015-20	Gerawan Farming, Inc.	2013-RD-003-VIS, et al.	12/29/15	Order Setting Time for Responses to Application for Special Permission to Appeal Executive Secretary's Order Denying Motion for Leave to File Report of Jerome Sapiro, Jr.
12.	2016-01	Gerawan Farming, Inc.	2013-RD-003-VIS, et al.	01/15/16	Order Denying Application for Special Permission to Appeal Executive Secretary's Order Denying Motion for Leave to File Report of Jerome Sapiro, Jr.

No.	Administrative Order Number	Case Name	Case Number	Issue Date	Description
13.	2016-02	Boavista Harvest, Inc.	2015-CE-010-SAL 2015-CE-011-SAL	01/20/16	Order Setting Response Time on General Counsel's Request for Enforcement of Investigative Subpoenas
14.	2016-03	Boavista Harvest, Inc.	2015-CE-010-SAL 2015-CE-011-SAL	02/01/16	Order Granting General Counsel's Request to Seek Court Order Enforcing Subpoena Duces Tecum
15.	2016-04	Ace Tomato Company, Inc., et al.	93-CE-37-VI	02/26/16	Order Approving Bilateral Formal Settlement Agreement
16.	2016-05	Gerawan Farming, Inc.	2012-CE-041-VIS, et al.	03/08/16	Order Setting Time for Responses to Application for Special Permission to Appeal ALJ's Order Denying Respondent's Request to Disqualify ALJ
17.	2016-06	Gerawan Farming, Inc.	2012-CE-041-VIS, et al.	03/17/16	Order Denying Respondent's Application for Special Permission to Appeal ALJ's Order Denying Respondent's Request to Disqualify ALJ

No.	Administrative Order Number	Case Name	Case Number	Issue Date	Description
18.	2016-07	Premiere Raspberries, LLC dba Dutra Farms	2016-CE-010-SAL	04/27/16	Order Denying Respondent's Application for Special Permission to Appeal Executive Secretary's Order Denying Continuance
19.	2016-08	T. T. Miyasaka, Inc.	2016-CE-011-SAL	04/27/16	Order Denying Respondent's Application for Special Permission to Appeal Executive Secretary's Order Denying Continuance
20.	2016-09	Gerawan Farming, Inc.	2013-RD-003-VIS	05/03/16	Order Denying Petitioner Sylvia Lopez's Petition for Reconsideration of Decision and Order 42 ALRB No. 1

IV. Board and General Counsel Litigation

Board decisions generally are reviewable in the California courts of appeal, with review triggered by the timely filing of a petition for review. Litigation in California superior courts may include applications for injunctive relief, the enforcement of subpoenas issued in connection with an ALRB investigation or hearing, or petitions for writ of mandate asserting constitutional challenges to actions of the Board. Cases in federal court typically involve constitutional challenges to the Act or its enforcement.

A. Board Litigation

The tables below identify litigation matters involving the Board, including the judicial forum in which a matter was pending at the conclusion of the 2015-2016 fiscal year. Generally, the Board is a respondent or defendant in such litigation cases, which typically involve appeals of Board Decisions, actions under the California Public Records Act, or petitions for writ of mandate or complaints for declaratory relief and injunctive relief asserting constitutional challenges to actions taken by the Board. For fiscal year 2015-2016, eight new litigation matters involving the Board were filed in state and federal courts as follows:

No.	Filing Date	Case Name	Summary
1.	09/30/15	<i>Arnaudo Brothers, LP and Arnaudo Brothers, Inc. v. ALRB</i> <ul style="list-style-type: none">• Fifth District Court of Appeal, Case No. F072420	Petition for writ of review of the Board's decision (41 ALRB No. 6) rejecting employer's claim that the union disclaimed interest in representing the bargaining unit and awarding bargaining makewhole relief.
2.	10/14/15	<i>Pauline Alvarez v. ALRB, et al.</i> <ul style="list-style-type: none">• Sacramento County Superior Court, Case No. 2015-34-00185535	Civil action filed by Pauline Alvarez, an ALRB employee in the General Counsel's office, alleging employment discrimination and harassment.

No.	Filing Date	Case Name	Summary
3.	02/09/16	<i>Gerawan Farming, Inc. v. ALRB</i> • Fresno County Superior Court, Case No. 16-CECG-00411	Petition for writ of mandate challenging administrative law judge's decision revoking administrative subpoenas seeking disclosure of communications between the Board and the General Counsel concerning an injunctive relief request in May 2015.
4.	02/16/16	<i>Cedar Point Nursery and Fowler Packing Co. v. Gould, et al.</i> • U.S. Dist. Court, E.D. Cal., Case No. 1:16-cv-00185-LJO-BAM	Constitutional challenge on Fourth and Fifth Amendment grounds to the Board's access regulation (Cal. Code Regs., tit. 8, § 20900).
5.	05/16/16	<i>Gerawan Farming, Inc. v. ALRB</i> • Fifth District Court of Appeal, Case No. F073720	Petition for writ of review of the Board's decision (42 ALRB No. 1) finding the employer unlawfully assisted efforts to decertify the union.
6.	05/17/16	<i>Silvia Lopez v. ALRB</i> • Fifth District Court of Appeal, Case No. F073730	Petition for writ of mandate alleging constitutional challenges to the Board's decision (42 ALRB No. 1) dismissing a decertification petition and setting aside a decertification election held at Gerawan Farms.
7.	05/23/16	<i>Gerawan Farming, Inc. v. ALRB</i> • Fifth District Court of Appeal, Case No. F073769	Petition for writ of mandate alleging constitutional challenges to the Board's decision (42 ALRB No. 1) dismissing a decertification petition and setting aside a decertification election held at Gerawan Farms.

No.	Filing Date	Case Name	Summary
8.	05/27/16	<i>Sabor Farms, LLC v. ALRB</i> <ul style="list-style-type: none"> • Sixth District Court of Appeal, Case No. H043618 	Petition for writ of review of the Board's decision (42 ALRB No. 2) finding the employer unlawfully terminated two employees in retaliation for engaging in protected concerted activity.

The 16 matters identified in the table below were filed before July 1, 2015, but remained pending for some or all of fiscal year 2015-2016:

No.	Filing Date	Case Name	Summary
1.	08/24/12	<i>Ace Tomato Company, Inc. v. ALRB</i> <ul style="list-style-type: none"> • Fifth District Court of Appeal, Case No. F065589 	Employer seeks review and stay of Board's decision (38 ALRB No. 6) affirming the mediator's report fixing the terms of a collective bargaining agreement between the employer and the union. (Note: Request for dismissal was granted on 3/29/16, and case was dismissed after voluntary settlement.)
2.	05/6/13	<i>Gerawan Farming, Inc. v. ALRB</i> <ul style="list-style-type: none"> • Fresno County Superior Court, Case No. 13-CECG-01408 • On Appeal (filed 1/5/14): Fifth District Court of Appeal, Case No. F068676 • On Review (filed 6/22/15): California Supreme Court, Case No. S227243 	Action challenging the Board's order (39 ALRB No. 5) directing the employer and union to MMC proceedings.

No.	Filing Date	Case Name	Summary
3.	05/17/13	<i>Lupe García v. ALRB</i> <ul style="list-style-type: none"> • Fresno County Superior Court, Case No. 13-CECG-01557 	Petition for writ of mandate; constitutional challenge to MMC proceedings and the Board's order (39 ALRB No. 5) directing the employer and union to MMC. (Gerawan employee challenge.)
4.	10/28/13	<i>Gerawan Farming, Inc. v. ALRB</i> <ul style="list-style-type: none"> • Fresno County Superior Court Case No 13-CECG-03374 • On Appeal (filed 8/15/14): Fifth District Court of Appeal, Case No. F069896 	Petition for writ of mandate; First Amendment challenge to the Board's order (39 ALRB No. 13) denying an employee's petition to intervene in MMC proceedings and regarding public access to MMC. (Note: Opinion issued 5/9/16; pending issuance of remittitur.)
5.	11/22/13	<i>San Joaquin Tomato Growers, Inc. v. ALRB</i> <ul style="list-style-type: none"> • Fifth District Court of Appeal, Case No. F068406 • Petition for Review (filed 6/22/15): California Supreme Court, Case No. S227250 	Petition for writ of review of Board's decision (39 ALRB No. 15) and order awarding bargaining makewhole relief. (Note: Opinion issued 5/14/15 affirming Board decision; Petition for Review in California Supreme Court denied 8/24/15.)
6.	12/16/13	<i>Gerawan Farming, Inc. v. ALRB</i> <ul style="list-style-type: none"> • Fifth District Court of Appeal, Case No. F068526 • On Review (filed 6/22/15): California Supreme Court, Case No. S227243 	Statutory and constitutional challenges to Board's decision (39 ALRB No. 17) approving a MMC contract between the employer and union.
7.	02/20/14	<i>Silvia Lopez v. Shiroma, et al.</i> <ul style="list-style-type: none"> • U.S. Dist. Court, E.D. Cal., Case No. 1:14-CV-00236-LJO-GSA • On appeal (filed 8/22/14): U.S. Court of Appeals, Ninth Circuit, Case No. 14-16640 	Civil rights action under 42 USC § 1983 arising out of a decertification election held at Gerawan Farms.

No.	Filing Date	Case Name	Summary
8.	05/23/14	<i>Tri-Fanucchi Farms v. ALRB</i> <ul style="list-style-type: none"> • Fifth District Court of Appeal, Case No. F069419 • On Review (filed 6/23/15): California Supreme Court, Case No. S227270 	Petition for writ of review of Board's decision (40 ALRB No. 4) rejecting employer's contention that the union abandoned the bargaining unit and awarding makewhole relief.
9.	06/18/14	<i>United Farm Workers v. ALRB (Corralitos Farms, LLC)</i> <ul style="list-style-type: none"> • Sixth District Court of Appeal, Case No. H041113 	Petition for writ of review of Board's decision (40 ALRB No. 6) finding union unlawfully picketed for representative status.
10.	09/15/14	<i>Francisco Acon v. ALRB, et al.</i> <ul style="list-style-type: none"> • Sacramento County Superior Court, Case No. 34-2014-00168939 	Civil action filed by Francisco Acon, an ALRB employee in the General Counsel's office, alleging employment discrimination and harassment.
11.	09/26/14	<i>P & M Vanderpoel Dairy v. ALRB</i> <ul style="list-style-type: none"> • Fifth District Court of Appeal, Case No. F070149 • Petition for Review (filed 11/19/15): California Supreme Court, Case No. S230401 • Petition for Certiorari (filed 4/26/16): U.S. Supreme Court, Case No. 15-1322 	Petition for writ of review of Board's decision (40 ALRB No. 8) finding employer wrongfully fired dairy workers for protected concerted activity (requesting pay raise). (Note: Unpublished opinion issued 11/3/15 affirming Board decision; petition for review denied by California Supreme Court; petition for certiorari denied by U.S. Supreme Court.)

No.	Filing Date	Case Name	Summary
12.	10/20/14	<p><i>Lupe Garcia v. ALRB</i></p> <ul style="list-style-type: none"> • Fresno County Superior Court, Case No. 13-CECG-03374 • On Appeal (filed 9/19/14): Fifth District Court of Appeal, Case No. F070287 	<p>Appeal by Gerawan employee who intervened in trial court proceedings challenging the trial court's denial of petition for writ of mandate alleging constitutional challenge to MMC proceedings, including right of public access. (Note: Opinion issued 5/9/16; pending issuance of remittitur.)</p>
13.	11/26/14	<p><i>Kawahara Nurseries, Inc. v. ALRB</i></p> <ul style="list-style-type: none"> • Sixth District Court of Appeal, Case No. H041686 	<p>Petition for writ of review of Board's decision (41 ALRB No. 11) finding that employer unlawfully laid off employees based on their union activity and refused to rehire workers based on their union activity and for having given testimony in an ALRB proceeding. (Note: Order denying petition filed 6/17/16.)</p>
14.	05/07/15	<p><i>California Artichoke and Vegetable Growers Corp., dba Ocean Mist Farms v. ALRB</i></p> <ul style="list-style-type: none"> • Fourth District Court of Appeal, Case No. E063489 • Petition for Review (filed 12/1/15): California Supreme Court, Case No. S230890 • Petition for Certiorari (filed 4/12/16): U.S. Supreme Court, Case No. 15-1272 	<p>Petition for writ of review of Board's decision (41 ALRB No. 2) finding that employer unlawfully terminated and discriminated against employees based on their union activity and refused to rehire workers based on their union activity. (Note: Unpublished opinion issued 11/18/15 affirming Board decision; petition for review denied by California Supreme Court; petition for certiorari denied by U.S. Supreme Court.)</p>

No.	Filing Date	Case Name	Summary
15.	05/29/15	<i>Arnaudo Brothers, LP and Arnaudo Brothers, Inc. v. ALRB</i> <ul style="list-style-type: none"> • Fifth District Court of Appeal, Case No. F071598 	Petition for writ of review of the Board’s decision (41 ALRB No. 3) approving the terms of a MMC collective bargaining agreement between the employer and union. (Note: Order dismissing petition filed 8/6/15.)
16.	06/02/15	<i>Gerawan Farming, Inc. v. ALRB</i> <ul style="list-style-type: none"> • Sacramento County Superior Court, Case No. 34-2015-80002100 • On Appeal (filed 2/24/16): Third District Court of Appeal, Case No. C081373 	Public Records Act litigation seeking disclosure of communications between the Board and General Counsel relating to a request by the General Counsel for authority to seek injunctive relief against Gerawan Farming, Inc. in connection with unfair labor practice charges.

B. General Counsel Litigation

For fiscal year 2015-2016, the table below lists and describes superior court and appellate courts actions being handled by General Counsel staff. Litigation matters handled by the General Counsel’s office typically involve injunctive relief requests or enforcement of administrative subpoenas.

No.	Filing Date	Case Name	Summary
1.	11/23/15	<i>ALRB v. Bud Antle & Dole Fresh Vegetables</i> Monterey County Superior Court, Case No. 15CV000487	Subpoena enforcement action filed by the General Counsel relating to unfair labor practice charges involving Bud Antle and Dole Fresh Vegetables (2012-CE-056-SAL and 2013-CE-001-SAL). The court granted the General Counsel’s motion to enforce the subpoena.

V. Unfair Labor Practice Charges

Unfair Labor Practice (ULP) charges, alleging violations of the Act, may be filed by agricultural employees, labor organizations against agricultural employers, or by agricultural employers against labor organizations. ULP charges are investigated by the General Counsel's office. The General Counsel then decides whether to dismiss the charge (if no merit) or to issue a ULP complaint. Some charges are settled, both before and after the filing of a ULP complaint. Cases with ULP complaints are scheduled for a case management conference, a pre-hearing conference and an evidentiary hearing before an ALRB ALJ. After the hearing, the ALJ issues a written decision, which includes a remedial order if violations of the Act are found.

In some instances, a separate "compliance hearing" occurs to establish the amount of the monetary award to compensate the charging party for lost wages and other economic losses resulting from a violation of the Act. The ULP charges are typically handled entirely within the ALRB's administrative framework, but the General Counsel occasionally utilizes the courts to enforce subpoenas and to seek injunctive relief for an immediate court order remedying an egregious unfair labor practice.

A. ULP Charges

At the beginning of the 2015-2016 fiscal year, the General Counsel's office had a total of 115 pending ULP charges. Throughout fiscal year 2015-2016, an additional 115 ULP charges were filed creating a total of pending 230 ULP charges. Of the 230 ULP charges, 22 charges were withdrawn, 39 charges were dismissed, 44 charges were settled, and 10 charges went to complaint.

	Salinas Regional Office	Visalia Regional Office	Total
Charges Filed	67	48	115
Withdrawn	7*	15*	22
Dismissed	15*	24*	39
Charges Settled	36*	8*	44
Charges to Complaint	8*	2*	10

*Encompasses charges filed before fiscal year 2015-2016.

B. ULP Investigation-Subpoena Enforcement

In fiscal year 2015-2016, the General Counsel sought to enforce a subpoena in Superior Court in connection with one unfair labor practice charge.

A Subpoena Enforcement action was filed with the Monterey County Superior Court on November 23, 2015, in the matter of Bud Antle and Dole Fresh Vegetables (2012-CE-056-SAL and 2013-CE-001-SAL). A hearing was held on this matter on January 8, 2016. The General Counsel's motion was granted and Respondent was ordered to comply with the Subpoena.

No.	Filing Date	Case Name	Summary
1.	11/23/15	<i>ALRB v. Bud Antle & Dole Fresh Vegetables</i> Monterey County Superior Court, Case No. 15CV000487	Subpoena enforcement action filed by the General Counsel relating to unfair labor practice charges involving Bud Antle and Dole Fresh Vegetables (2012-CE-056-SAL and 2013-CE-001-SAL). The court granted the General Counsel's motion to enforce the subpoena.

C. ULP Complaints

During the fiscal year 2015-2016, the General Counsel issued nine new complaints encompassing 10 charges.

	Salinas Regional Office	Visalia Regional Office	Total
Complaints Issued	7	2	9
Withdrawn	0	0	0
Dismissed	0	0	0
Complaints Settled	20*	6*	26*

*Encompasses complaints filed before fiscal year 2015-2016.

List of Complaints:

No.	Case No.	Respondent	Complaint Date	Status as of 6/30/16
1.	2014-CE-022-SAL	Express Harvesting	12/22/15	Settlement agreement reached on 02/09/2016
2.	2015-CE-001-SAL 2015-CE-002-SAL	Ventura Terra Garden	12/31/15	Settlement agreement reached on 04/05/2016
3.	2015-CE-011-SAL	Boavista Harvest	12/31/15	Settlement agreement reached on 05/20/2016
4.	2016-CE-010-SAL	Premiere Raspberries, LLC dba Dutra Farms	03/02/2016	Hearing conducted 05/05/2016, pending ALJ Decision.
5.	2016-CE-011-SAL	T.T. Miyasaka, Inc.	03/10/2016	Hearing conducted 05/03/2016, pending ALJ decision.
6.	2015-CE-034-SAL	Vasvision Berry Farms	04/01/2016	Settlement agreement reached on 05/02/2016.
7.	2015-CE-022-SAL	J. Lohr Vineyards	06/30/2016	Pending hearing scheduling.
8.	2015-CE-048-VIS	Konark Ranches	06/30/2016	Pending hearing scheduling.
9.	2015-CL-006-VIS	UFW	06/30/2016	Pending hearing scheduling.

D. Injunctive Relief

During the fiscal year 2015-2016, the General Counsel sought no injunctive relief.

E. ULP Settlements

During the fiscal year 2015-2016, the General Counsel achieved 26 settlement agreements, which resolved 44 unfair labor practice charges. Of these settlement agreements, 9 were achieved pre-complaint and 17 were achieved post-complaint.

Pre-Complaint Settlements

During the fiscal year 2015-2016, the General Counsel reached nine pre-complaint settlements encompassing 12 charges.

No.	Case No.	Respondent	Settlement Type⁸	Settlement Date
1.	2014-CE-002-SAL	Success Valley	Informal Bilateral	07/20/2015
2.	2013-CE-041-SAL	Vasvision Berry	Informal Bilateral	09/07/2015
3.	2014-CE-028-SAL	Suncoast Nursery	Informal Bilateral	09/24/2015
4.	2013-CL-005-SAL	UFW	Informal Bilateral	11/02/2015
5.	2015-CE-017-SAL 2015-CE-018-SAL	Premier Raspberry	Informal Bilateral	12/30/2015
6.	2015-CE-040-SAL 2015-CE-050-SAL	J&E Berry	Informal Bilateral	02/10/2016
7.	2013-CL-002-SAL	UFW	Informal Bilateral	02/12/2016
8.	2016-CE-005-SAL 2016-CE-007-SAL	Etchandy Farms	Informal Bilateral	06/27/2016
9.	2014-CE-014-VIS	WM Bolthouse	Informal Bilateral	07/16/15

⁸ Informal settlements are those that occur prior to hearing, as opposed to formal settlements that occur after hearing. A bilateral settlement is one in which both the charging party and the respondent are parties to a settlement with the ALRB. A Unilateral Settlement is one in which only the respondent is a party to the settlement with the ALRB and not the charging party.

Post-Complaint Settlements

During the fiscal year 2015-2016, the General Counsel reached 17 post-complaint settlements encompassing 32 charges.

No.	Case No.	Respondent	Settlement Type	Settlement Date
1.	2014-CE-042-SAL	Eclipse Berry Farms	Informal Bilateral	07/15/2015
2.	2014-CE-021-SAL	T-Y Nursery, Inc.	Informal Bilateral	08/14/2015
3.	2014-CE-024-SAL 2014-CE-025-SAL	Rincon Pacific, LLC	Informal Unilateral	08/26/2015
4.	2013-CE-013-VIS	Frank Pinheiro Dairy	Informal Bilateral	10/27/2015
5.	2013-CE-019-SAL 2013-CE-023-SAL 2013-CE-024-SAL 2013-CE-026-SAL 2014-CE-027-SAL 2015-CE-013-SAL 2015-CE-014-SAL	George Amaral Ranches	Informal Bilateral	11/05/2015
6.	2015-CE-003-SAL 2015-CE-004-SAL	Muranaka Farm Inc.	Informal Bilateral	11/05/2015
7.	2014-CE-007-VIS	Sun Pacific	Informal Bilateral	11/09/2015
8.	2012-CE-010-VIS	Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, a sole proprietorship	Formal Bilateral	12/11/2015
9.	2014-CE-022-SAL	Express Harvesting	Informal Bilateral	02/09/2016
10.	2012-CE-006-SAL 2013-CE-040-SAL	Associated Tagline	Informal Bilateral	02/09/2016
11.	2013-CE-026-SAL	Monterey Mushrooms, Inc.	Informal Bilateral	02/11/2016
12.	1993-CE-37-VIS	Ace Tomato Company	Formal Bilateral	02/16/2016
13.	2012-CE-007-VIS 2012-CE-028-VIS 2012-CE-029-VIS 2012-CE-024-VIS	Ace Tomato Company	Informal Bilateral	02/16/2016

No.	Case No.	Respondent	Settlement Type	Settlement Date
14.	2012-CE-056-SAL 2013-CE-001-SAL	Bud Antle	Informal Bilateral	03/02/2016
15.	2015-CE-001-SAL 2015-CE-002-SAL 2015-CE-052-SAL ⁹	Ventura Terra Garden	Informal Bilateral	04/05/2016
16.	2015-CE-034-SAL	Vasvision Berry Farms	Informal Bilateral	05/02/2016
17.	2015-CE-011-SAL	Boavista Harvest, Inc.	Informal Bilateral	05/20/2016

F. Unfair Labor Practice and Compliance Hearings

During fiscal year 2015-2016, the Board held three hearings before an ALJ in ULP cases and no hearing(s) on compliance. Cases are listed by Hearing Closed date.

No.	Case No.	Respondent	Hearing Opened	Hearing Closed	No. of Hearing Days
1.	2013-CE-047-SAL	Sabor Farms	08/18/15	08/19/15	2
2.	2016-CE-010-SAL	Premiere Raspberries, LLC dba Dutra Farms	05/03/16	05/03/16	1
3.	2016-CE-011-SAL	T.T. Miyasaka Inc.	05/04/16	05/04/16	1
TOTAL					4 Days

⁹ A complaint was not issued on this charge but it was settled along with the immediately preceding two charges that went to complaint.

VI. Remedies and Disbursements

The Board is empowered to order a wide range of remedies to effectuate the purposes of the Act and to “make whole” the victims of unfair labor practices. These remedies may include reinstatement of an unlawfully discharged employee, an award of lost wages and benefits, various non-monetary remedies--including orders to cease and desist from engaging in similar conduct that violates the Act--and the issuance of notices to employees as discussed below.

Once a Board decision is final and the decision awards backpay (the lost earnings resulting from an unlawful discharge) and/or other remedies (appeals have been exhausted and the decisions have been upheld), the Board releases the case back to the applicable region for compliance to effectuate the remedies of that decision. Amounts received from parties who have been ordered to make backpay payments are transmitted by the ALRB to the farmworkers in the amounts awarded to them. Efforts are made to locate all farmworkers who are entitled to backpay. If the ALRB is unable to locate a farmworker entitled to backpay for a period of two years following the collection of the amount owed, this amount is deposited into the Agricultural Employee Relief Fund ("AERF"). Monies in the AERF fund are used by the ALRB to pay farmworkers the unpaid balance of any monetary relief ordered by the Board in other matters that cannot be collected from the violator. Thus, on a year-to-year basis, there may not be a direct comparison between the amounts collected and amounts disbursed as monetary remedies.

A. Remedies

In fiscal year 2015-2016, the Board released three cases for compliance:

No.	Case No.	Respondent Name	Date of Compliance	Award Amount
1.	2013-CE-016-VIS	P&M Vanderpoel Dairy	02/04/2016	N/A
2.	2012-CE-044-VIS 2013-CE-012-VIS	California Artichoke and Vegetable Growers Corp., dba Ocean Mist Farms	02/04/2016	N/A
3.	2011-CE-005-SAL	Kawahara Nursery, Inc.	06/05/2016	TBD

Monetary Remedies

In fiscal year 2015-2016, the ALRB obtained 19 payments in 17 cases encompassing 34 charges for a total of \$467,210.81. Of that total, \$69,454.85 was collected pursuant to settlement agreements that were achieved during current and prior fiscal years. Of the original total, \$397,755.96 was collected pursuant to a Board Order.

Monies Collected

No.	Case No.	Respondent Name	Deposits
1.	93-CE-037-VIS	Ace Tomato	\$200,000.00
2.	2012-CE-007-VIS 2012-CE-028-VIS 2012-CE-029-VIS 2012-CE-024-VIS	Ace Tomato	90,000.00
3.	93-CE-038-VIS	San Joaquin Tomato Growers	100,000.00
4.	2015-CE-011-SAL	Boavista Harvest	457.25
5.	2015-CE-017-SAL 2015-CE-018-SAL	Premiere Raspberry	2,792.77
6.	2014-CE-042-SAL	Eclipse Berry Farms	7,406.25
7.	2013-CE-019-SAL 2013-CE-023-SAL 2013-CE-024-SAL 2014-CE-026-SAL 2014-CE-027-SAL 2015-CE-013-SAL 2015-CE-014-SAL	George Amaral	1,583.24
8.	2014-CE-030-VIS	KC Ag, LLC	4,721.90
9.	2014-CE-024-SAL 2014-CE-025-SAL	Rincon Pacific	7,267.46
10.	2012-CE-010-VIS	Sandhu Brothers	5,142.64
11.	2012-CE-010-VIS	Sandhu Brothers	2,571.32
12.	2012-CE-010-VIS	Sandhu Brothers	42.00
13.	2013-CE-062-SAL 2013-CE-063-SAL 2013-CE-064-SAL 2013-CE-065-SAL 2013-CE-066-SAL	Santa Paula Berry Farms	14,028.66
14.	2014-CE-007-VIS	Sun Pacific Farming Co-op	3,681.22
15.	2014-CE-028-SAL	Suncoast Nursery	7,866.57
16.	2014-CE-021-SAL	T-Y Nursery	15,000.00
17.	2013-CL-005-SAL	UFW	1,825.04
18.	2013-CE-041-SAL	Vasvision Berry Farms	191.67
19.	2015-CE-001-SAL 2015-CE-002-SAL 2015-CE-052-SAL	Ventura Terra Garden Inc.	2,632.82
TOTAL			\$467,210.81

Payments were ordered in 18 cases encompassing 33 charges as a result of an Informal Settlement Agreement or Private Party Agreement.¹⁰

Payments Ordered

No.	Case No.	Respondent Name	Settlement Type	Award Amount
1.	2014-CE-042-SAL	Eclipse Berry Farms	Informal Bilateral	\$ 7,406.00
2.	2014-CE-014-VIS	WM Bolthouse	Informal Bilateral	1,998.00
3.	2014-CE-021-SAL	T-Y Nursery, Inc.	Informal Bilateral	15,000.00
4.	2014-CE-024-SAL 2014-CE-025-SAL	Rincon Pacific	Informal Unilateral	7,267.46
5.	2013-CE-041-SAL	Vasvision Berry Farms	Informal Bilateral	191.00
6.	2014-CE-028-SAL	Suncoast Nursery	Informal Bilateral	7,866.57
7.	2013-CE-013-VIS	Frank Pinheiro Dairy	Informal Bilateral	15,000.00
8.	2013-CL-005-SAL	UFW	Informal Bilateral	1,825.04
9.	2013-CE-019-SAL 2013-CE-023-SAL 2013-CE-024-SAL 2013-CE-026-SAL 2014-CE-027-SAL 2015-CE-013-SAL 2105-CE-014-SAL	George Amaral	Informal Bilateral	1,583.00
10.	2014-CE-007-VIS	Sun Pacific Farming Co-op	Informal Bilateral	3,681.22
11.	2012-CE-010-VIS	Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, a sole proprietorship	Formal Bilateral	10,000.00

¹⁰ The number of payments ordered during fiscal year 2015-2016 is not necessarily the same as the number of payments collected by ALRB during the fiscal year. These figures differ for various reasons, including the lag in time between when an order is obtained to when payment is actually collected, the fact that some payments are paid directly to the charging party and not the ALRB.

No.	Case No.	Respondent Name	Settlement Type	Award Amount
12.	2015-CE-017-SAL 2015-CE-018-SAL	Premier Raspberry	Informal Bilateral	2,792.77
13.	2015-CE-040-SAL 2015-CE-050-SAL	J&E Berry	Informal Bilateral	450.00
14.	2012-CE-007- VIS 2012-CE-028- VIS 2012-CE-029- VIS 2012-CE-024- VIS	Ace Tomato Co.	Informal Bilateral	90,000.00
15.	93-CE-037-VIS	Ace Tomato Co.	Formal Bilateral	200,000.00
16.	2015-CE-001-SAL 2015-CE-002-SAL 2015-CE-052-SAL	Ventura Terra Garden	Informal Bilateral	3,442.00
17.	2015-CE-011-SAL	Boavista Harvest	Informal Bilateral	500.00
18.	2016-CE-005-SAL 2016-CE-007-SAL	Etchandy Farms	Informal Bilateral	11,646.00
TOTAL				\$380,649.06

In fiscal year 2015-2016, the ALRB issued 87 checks from 15 cases to farmworkers as a result of findings of liability in unfair labor practice cases or as a result of settlement agreements:

Checks Issued to Farmworkers

No.	Case No.	Respondent Name	Number of Checks Issued	Total Net Amount Issued
1.	2013-CE-062-SAL 2013-CE-063-SAL 2013-CE-064-SAL 2013-CE-065-SAL 2013-CE-066-SAL	Santa Paula Berry Farms	7	\$ 8,948.59
2.	2014-CE-030-VIS	KC Ag, LLC	2	4,721.90
3.	2014-CE-042-SAL	Eclipse Berry Farms	1	7,406.25
4.	2014-CE-021-SAL	T-Y Nursery	1	15,000.00
5.	2014-CE-024-SAL 2014-CE-025-SAL	Rincon Pacific	37	5,860.04
6.	2013-CE-041-SAL	Vasvision Berry Farms	1	191.67

No.	Case No.	Respondent Name	Number of Checks Issued	Total Net Amount Issued
7.	2014-CE-028-SAL	Suncoast Nursery	5	7,866.57
8.	2013-CL-005-SAL	UFW	16	290.54
9.	2012-CE-019-SAL 2012-CE-023-SAL	George Amaral	1	1,583.24
10.	2014-CE-007-VIS	Sun Pacific Farming Co-op	2	3,681.22
11.	2015-CE-017-SAL 2015-CE-018-SAL	Premiere Raspberries	2	2,792.77
12.	2012-CE-010-VIS	Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, a sole proprietorship	3	7,755.96
13.	2015-CE-011-SAL	Boavista Harvest	1	457.25
14.	2013-CE-002-VIS	RBI Packing	1	644.09
15.	2013-CE-059-SAL	Silent Springs	7	2,770.92
		TOTAL	87	\$69,971.01

Non-Monetary Remedies

In cases where a violation is found, the Board generally orders noticing remedies in addition to monetary awards. A negotiated settlement signed by the parties may also include noticing remedies in addition to monetary awards. A noticing remedy requires the employer to post, mail and/or read a prepared notice to all agricultural employees so they can become aware of the outcome of the case.

The ALRB conducted a **notice reading** to 5,229 agricultural employees in 24 cases encompassing 44 charges in fiscal year 2015-2016.

No.	Case No.	Respondent Name	Date of Notice Reading	Number of Employees at Reading
1.	2014-CE-030-VIS	KC Ag, LLC	07/16/2015	75
2.	2014-CE-017-VIS	Richter Brothers	08/07/2015	170

No.	Case No.	Respondent Name	Date of Notice Reading	Number of Employees at Reading
3.	2013-CE-035-SAL 2013-CE-045-SAL 2013-CE-046-SAL 2013-CE-048-SAL 2013-CE-049-SAL 2013-CE-050-SAL 2013-CE-055-SAL 2014-CE-003-SAL	Harbor View Farms	07/17/2015	107
4.	2015-CE-020-SAL	Dynasty Farms	07/16/2016	100
5.	2014-CE-042-SAL	Eclipse Berry Farms	10/02/2015	150
6.	2014-CE-014-VIS	WM Bolthouse	10/01/2015	175
7.	2014-CE-002-SAL	Success Valley Farms	10/13/2015	200
8.	2014-CE-021-SAL	T-Y Nursery, Inc.	09/22/2015	200
9.	2014-CE-024-SAL 2014-CE-025-SAL	Rincon Pacific	09/18/2015	220
10.	2013-CE-041-SAL	Vasvision Berry Farms	09/15/2015	201
11.	2014-CE-028-SAL	Suncoast Nursery	10/23/2015	45
12.	2013-CE-013-VIS	Frank Pinheiro Dairy	12/01/2015	15
13.	2013-CL-005-SAL	UFW	05/13/2016	300
14.	2013-CE-019-SAL 2013-CE-023-SAL 2013-CE-024-SAL 2014-CE-026-SAL 2014-CE-027-SAL 2015-CE-013-SAL 2015-CE-014-SAL	George Amaral	05/05/2015	140
15.	2015-CE-003-SAL 2015-CE-004-SAL	Muranaka Farms	12/15/2015	182
16.	2012-CE-010-VIS	Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, a sole proprietorship	09/30/2015	63
17.	2012-CE-006-SAL 2013-CE-040-SAL	Associated Tagline	01/27/2016	9
18.	2014-CE-022-SAL	Express Harvest	05/05/2016	99
19.	2015-CE-040-SAL 2015-CE-050-SAL	J&E Berry	04/13/2016	120
20.	2013-CE-026-SAL	Monterey Mushrooms, Inc.	02/25/2016	493
21.	2013-CL-002-SAL	UFW	03/17/2016	547

No.	Case No.	Respondent Name	Date of Notice Reading	Number of Employees at Reading
22.	2012-CE-056-SAL 2013-CE-001-SAL	Bud Antle	04/21/2016	1403
23.	2015-CE-001-SAL 2015-CE-002-SAL 2015-CE-052-SAL	Ventura Terra Garden	05/17/2016	34
24.	2015-CE-034-SAL	Vasvision Berry Farms	06/01/2016	181
	TOTAL			5,229

The ALRB issued a **notice mailing** to 8,789 agricultural employees in 15 cases encompassing 32 charges.

No.	Case No.	Respondent Name	Date of Notice Mailing	Number of Employees Received Mailing
1.	2014-CE-030-VIS	KC Ag, LLC	09/16/2015	75
2.	2013-CE-035-SAL 2013-CE-045-SAL 2013-CE-046-SAL 2013-CE-048-SAL 2013-CE-049-SAL 2013-CE-050-SAL 2013-CE-055-SAL 2014-CE-003-SAL	Harbor View Farms	07/20/2015	400
3.	2014-CE-042-SAL	Eclipse Berry Farms	10/02/2015	1191
4.	2014-CE-014-VIS	WM Bolthouse	08/21/2015	1850
5.	2014-CE-021-SAL	T-Y Nursery, Inc.	09/15/2015	69
6.	2014-CE-024-SAL 2014-CE-025-SAL	Rincon Pacific	09/23/2016	1700
7.	2013-CE-041-SAL	Vasvision Berry Farms	10/02/2015	925
8.	2013-CL-005-SAL	UFW	02/17/2016	559
9.	2013-CE-019-SAL 2013-CE-023-SAL 2013-CE-024-SAL 2014-CE-026-SAL 2014-CE-027-SAL 2015-CE-013-SAL 2015-CE-014-SAL	George Amaral	11/06/2015	347

No.	Case No.	Respondent Name	Date of Notice Mailing	Number of Employees Received Mailing
10.	2015-CE-003-SAL 2015-CE-004-SAL	Muranaka Farm	04/06/2016	165
11.	2012-CE-010-VIS	Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, a sole proprietorship	07/17/2015	315
12.	2015-CE-040-SAL 2015-CE-050-SAL	J&E Berry	04/28/2016	104
13.	2013-CL-002-SAL	UFW	05/13/2016	741
14.	2015-CE-001-SAL 2015-CE-002-SAL	Ventura Terra Garden	06/16/2016	82
15.	2015-CE-034-SAL	Vasvision Berry Farms	06/01/2016	266
	TOTAL			8,789

The ALRB completed a *notice posting* in 21 cases encompassing 41 charges.

No.	Case No.	Respondent Name	Date of Notice Posting
1.	2014-CE-030-VIS	KC Ag, LLC	07/16/2015
2.	2013-CE-035-SAL 2013-CE-045-SAL 2013-CE-046-SAL 2013-CE-048-SAL 2013-CE-049-SAL 2013-CE-050-SAL 2013-CE-055-SAL 2014-CE-003-SAL	Harbor View Farms	07/17/2015
3.	2015-CE-020-SAL	Dynasty Farms	07/16/2015
4.	2014-CE-042-SAL	Eclipse Berry Farms	10/02/2015
5.	2014-CE-014-VIS	WM Bolthouse	10/01/2015
6.	2014-CE-021-SAL	T-Y Nursery, Inc.	09/22/2015
7.	2014-CE-024-SAL 2014-CE-025-SAL	Rincon Pacific	09/18/2015
8.	2013-CE-041-SAL	Vasvision Berry Farms	09/15/2015
9.	2014-CE-028-SAL	Suncoast Nursery	10/23/2015
10.	2013-CE-013-VIS	Frank Pinheiro Dairy	12/01/2015

No.	Case No.	Respondent Name	Date of Notice Posting
11.	2013-CE-019-SAL 2013-CE-023-SAL 2013-CE-024-SAL 2014-CE-026-SAL 2014-CE-027-SAL 2015-CE-013-SAL 2015-CE-014-SAL	George Amaral	11/09/2015
12.	2015-CE-003-SAL 2015-CE-004-SAL	Muranaka Farms	12/15/2015
13.	2012-CE-010-VIS	Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, a sole proprietorship	09/30/2015
14.	2015-CE-017-SAL 2015-CE-018-SAL	Premier Raspberry	03/07/2016
15.	2012-CE-006-SAL 2013-CE-040-SAL	Associated Tagline	01/27/2016
16.	2014-CE-022-SAL	Express Harvest	05/05/2016
17.	2015-CE-040-SAL 2015-CE-050-SAL	J&E Berry	04/13/2016
18.	2013-CE-026-SAL	Monterey Mushrooms, Inc.	02/17/2016
19.	2013-CL-002-SAL	UFW	03/15/2016
20.	2015-CE-001-SAL 2015-CE-002-SAL 2015-CE-052-SAL	Ventura Terra Garden	05/17/2016
21.	2015-CE-034-SAL	Vasvision Berry Farms	06/01/2016

The General Counsel **trained 229 supervisors** of farmworkers in 19 cases encompassing 30 charges.

No.	Case No.	Respondent Name	Date Training Held	Number of Supervisors Received Training
1.	2015-CE-017-VIS	Joe Parreira Dairy	07/05/2015	16
2.	2014-CE-030-VIS	KC Ag, LLC	07/16/2015	2

No.	Case No.	Respondent Name	Date Training Held	Number of Supervisors Received Training
3.	2013-CE-035-SAL 2013-CE-045-SAL 2013-CE-046-SAL 2013-CE-048-SAL 2013-CE-049-SAL 2013-CE-050-SAL 2013-CE-055-SAL 2014-CE-003-SAL	Harbor View Farms	07/17/2015	10
4.	2015-CE-020-SAL	Dynasty Farms	07/16/2015	9
5.	2014-CE-042-SAL	Eclipse Berry Farms	10/02/2015	14
6.	2014-CE-014-VIS	WM Bolthouse	10/01/2015	14
7.	2014-CE-002-SAL	Success Valley Farms	10/13/2015	10
8.	2014-CE-021-SAL	T-Y Nursery, Inc.	09/22/2015	16
9.	2014-CE-024-SAL 2014-CE-025-SAL	Rincon Pacific	09/18/2015	8
10.	2013-CE-041-SAL	Vasvision Berry Farms	09/15/2015	22
11.	2014-CE-028-SAL	Suncoast Nursery	10/23/2015	5
12.	2013-CE-013-VIS	Frank Pinheiro Dairy	12/01/2015	3
13.	2015-CE-003-SAL 2015-CE-004-SAL	Muranaka Farms	12/15/2015	13
14.	2014-CE-022-SAL	Express Harvest	05/05/2016	8
15.	2015-CE-040-SAL	J&E Berry	04/13/2016	11
16.	2013-CE-026-SAL	Monterey Mushrooms, Inc.	02/17/2016	30
17.	2013-CL-002-SAL	UFW	03/15/2016	15
18.	2015-CE-001-SAL 2015-CE-002-SAL 2015-CE-052-SAL	Ventura Terra Garden	05/17/2016	8
19.	2015-CE-034-SAL	Vasvision Berry Farms	06/01/2016	15
	TOTAL			229

B. Deposits and Disbursements

All payments collected from settlements or board-ordered monetary remedies are deposited into the ALRB trust fund before being distributed to the charging parties, unless the checks are made out directly in the name(s) of the charging parties. During

fiscal year 2015-2016, the ALRB deposited payments from 19 cases, encompassing 34 separate charges.

DEPOSITS

No.	Case Name	Case No.	Deposits
1.	Ace Tomato	93-CE-037-VIS	\$200,000.00
2.	Ace Tomato	2012-CE-007-VIS 2012-CE-028-VIS 2012-CE-029-VIS 2012-CE-024-VIS	90,000.00
3.	Boavista Harvest	2015-CE-011-SAL	457.25
4.	Premiere Raspberry	2015-CE-017-SAL 2015-CE-018-SAL	2,792.77
5.	Eclipse Berry Farms	2014-CE-042-SAL	7,406.25
6.	George Amaral	2013-CE-019-SAL 2013-CE-023-SAL 2013-CE-024-SAL 2014-CE-026-SAL 2014-CE-027-SAL 2015-CE-013-SAL 2015-CE-014-SAL	1,583.24
7.	KC Ag, LLC	2014-CE-030-VIS	4,721.90
8.	Rincon Pacific	2014-CE-024-SAL 2014-CE-025-SAL	7,267.46
9.	San Joaquin Tomato Growers	93-CE-038-VIS	100,000.00
10.	Sandhu Brothers	2012-CE-010-VIS	5,142.64
11.	Sandhu Brothers	2012-CE-010-VIS	2,571.32
12.	Sandhu Brothers	2012-CE-010-VIS	42.00
13.	Santa Paula Berry Farms	2013-CE-062-SAL 2013-CE-063-SAL 2013-CE-064-SAL 2013-CE-065-SAL 2013-CE-066-SAL	14,028.66
14.	Sun Pacific Farming Co-op	2014-CE-007-VIS	3,681.22
15.	Suncoast Nursery	2014-CE-028-SAL	7,866.57
16.	T-Y Nursery	2014-CE-021-SAL	15,000.00
17.	UFW	2013-CL-005-SAL	1,825.04
18.	Vasvision Berry Farms	2013-CE-041-SAL	191.67

No.	Case Name	Case No.	Deposits
19.	Ventura Terra Garden, Inc.	2015-CE-001-SAL 2015-CE-002-SAL 2015-CE-052-SAL	2,632.82
	TOTAL		\$467,210.81

DISBURSEMENTS

No.	Respondent Name	Case No.	Total Net Amount Issued
1.	Santa Paula Berry Farms	2013-CE-062-SAL 2013-CE-063-SAL 2013-CE-064-SAL 2013-CE-065-SAL 2013-CE-066-SAL	\$ 8,948.59
2.	KC Ag, LLC	2014-CE-030-VIS	4,721.90
3.	Eclipse Berry Farms	2014-CE-042-SAL	7,406.25
4.	T-Y Nursery	2014-CE-021-SAL	15,000.00
5.	Rincon Pacific	2014-CE-024-SAL 2014-CE-025-SAL	5,860.04
6.	Vasvision Berry Farms	2013-CE-041-SAL	191.67
7.	Suncoast Nursery	2014-CE-028-SAL	7,866.57
8.	UFW	2013-CL-005-SAL	290.54
9.	George Amaral	2012-CE-019-SAL 2012-CE-023-SAL	1,583.24
10.	Sun Pacific Farming Co- op	2014-CE-007-VIS	3,681.22
11.	Premiere Raspberries	2015-CE-017-SAL 2015-CE-018-SAL	2,792.77
12.	Gurinder S. Sandhu dba Sandhu Brothers Poultry and Farming, a sole proprietorship	2012-CE-010-VIS	7,755.96
13.	Boavista Harvest	2015-CE-011-SAL	457.25
14.	RBI Packing	2013-CE-002-VIS	644.09
15.	Silent Springs	2013-CE-059-SAL	2,770.92
	TOTAL		\$69,971.01

VII. Agricultural Employee Relief Fund

Effective January 1, 2002, pursuant to Labor Code section 1161, the Agricultural Employee Relief Fund (AERF or Fund), establishes a trust fund, administered by the Board, to pay agricultural employees entitled to monetary relief under the Act. California Code of Regulations, title 8, section 20299, governs the administration of the AERF.

In fiscal year 2015-2016, no cases were referred to the Fund and there were no disbursements from the Fund. As of June 30, 2016, \$23,468.65 remains in the Fund for distribution.

VIII. Mandatory Mediation and Conciliation

The Act authorizes certified labor organizations or employers to petition the Board for an order directing the parties to “mandatory mediation and conciliation” of disputed issues. If supporting documents establish the existence of certain statutory prerequisites, the Board will order the parties to participate in the mandatory mediation and conciliation process, under which a mediator is appointed to assist the parties in resolving their outstanding issues, and failing such resolution, to issue a determination as to how the issues should be resolved, with the mediator’s determination reviewable by the Board, and the Board’s decision reviewable by the courts.

During fiscal year 2015-2016, the ALRB did not receive any requests for referral to mandatory mediation and conciliation. The Board continued to process three MMC petitions received in prior years in Arnaudo Brothers, Inc., Ace Tomato Company, Inc., and Gerawan Farming, Inc.

A brief summary of the three MMC petitions:

On April 23, 2015, the Board issued its decision in Arnaudo Brothers, Inc., 2013-MMC-001 dismissing the Employer’s petition for review and ordering the mediator’s report in effect. On May 29, 2015, Arnaudo filed its petition for review of 41 ALRB No. 3. On October 30, 2015, the court dismissed the petition as untimely and all litigation in this matter has been completed.

On August 24, 2012, Ace Tomato Company (Ace) filed a petition for writ of review in the Fifth District Court of Appeal seeking appellate review of the Board’s decision in 38 ALRB No. 6 and a stay of that decision. On March 25, 2016, the employer filed a notice of settlement and request to dismiss the appeal in view of a global settlement. On March 29, 2016, the court granted the petitioner’s request for dismissal of the petition and all litigation in this matter has been completed.

On December 16, 2013, Gerawan Farming, Inc. filed a petition for writ of review and stay of the Board's decision in 39 ALRB No. 17 in the Fifth District Court of Appeal, in which the Board approved a collective bargaining agreement reached through the Mandatory Mediation and Conciliation process. On May 14, 2015, the court issued a published decision reversing the Board and finding the MMC unconstitutional and an improper delegation of statutory authority. On June 22, 2015, the ALRB and the UFW filed separate petitions for review with the California Supreme Court. Both petitions were granted, briefing is in progress and oral argument and a decision by the Court is pending.

IX. Outreach Activities

The ALRB is actively engaged in conducting ongoing outreach activities, designed to educate farmworkers, labor organizations and agricultural employers about their rights and obligations under the Act, and the role of the ALRB.

The General Counsel staff attended various events throughout California with the goal of informing workers about their rights under the ALRA and the role of the ALRB in enforcing such rights. ALRB staff distributed outreach materials, made presentations, answered workers' questions, and collaborated with other agencies in order to educate farmworkers and others who serve the farmworker community about the availability of services from the ALRB. Highlights of outreach activities include:

- Multiple community fairs and outreach events attended by an estimated 1,335 farmworkers, including *Día del Trabajador Agrícola* (Day of the Farm Worker) in Greenfield, California.
- Attendance at a week-long event at *La Semana de los Derechos Laborales* ("Labor Rights Week") which was sponsored by the Mexican Consulate that takes place throughout the State of California.
- Continued partnership with AgSafe: ALRB appeared at various AgSafe events as one of the primary presenters and conducted numerous trainings in Spanish and English throughout California. AgSafe is a network of farmers, farm labor contractors, packers, shippers and processors. Educational classes provided information and resources to employers, supervisors and foremen, needed to prevent injuries, illnesses and fatalities. ALRB staff reached approximately 350 employer representatives through AgSafe and other employer outreach.
- Participation in a radio program called Radio Indígena on multiple occasions, broadcasting to thousands of farmworkers. The program focused on the rights of farmworkers to form or decertify unions and to participate in protected concerted activities.
- Attendance at a Forum on Labor Rights, together with the Mexican Consulate and Santa Maria Food Bank to provide information to farmworkers and employers.