

**STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

BOARD MEETING MINUTES

**Employment Development Department Auditorium
722 Capitol Mall
Sacramento CA 95814**

April 24, 2015

Time: 10:04 a.m.
Members Present: Chairman Gould, Members Shiroma and Rivera-Hernandez
Staff Present: Executive Secretary Barbosa, Special Board Counsel Starkey; Board Counsel Heyck, Dixit and Inciardi; Analysts Cooper and Massie
Others Present: Chief of Administration Saldivar; General Counsel Attorneys Gaitan and Hurtado; Labor and Workforce Development Agency: Undersecretary Schoorl, April Kleine, Susie Cano-Guzman, and Vianey Garcia

OPEN SESSION

1. **Approval of Minutes:** Board approved 3-0 the minutes of January 22, 2015.
2. **Public Comment:** None.
3. **Chairman's Report:**
 - **Budget.** The Governor's proposed budget that issued in January 2015 proposes two limited-term administrative law judges for the Board and one limited-term attorney position for the Office of the Executive Secretary. It also calls for funding of the relocation of the El Centro Sub-Regional office to the Coachella Valley and a new Northern California sub-regional office, each staffed with one attorney, one field examiner, and one secretary under the general supervision of the General Counsel. The plan also provides one-time monies for the acquisition of cars for staff travel related to investigations.
 - **Audit.** In late 2014 and early 2015, the Department of Finance, Office of State Audits and Evaluations, conducted a performance audit of the Agricultural Labor Relations Board. On February 4, 2015, the Department of Finance issued the findings and recommendations as a result of its audit. The report is published on the Department of Finance webpage.

In its report, the Department of Finance requested that the ALRB provide a Corrective Action Plan, referred to as a CAP, by April 6, 2015. The CAP was timely filed. By letter dated April 22, 2015, the ALRB received confirmation that the CAP was reviewed and accepted. The ALRB is implementing the plan and will provide an updated CAP by July 31, 2015.

- **Annual Report.** On February 6, 2015, the Agricultural Labor Relations Board (ALRB) submitted its Annual Report to the Office of the Governor and the Legislature. The annual report for the fiscal year ending June 30, 2014, contains summaries of the work performed by the ALRB. The report is posted on the ALRB website: www.alrb.ca.gov.
- **ALRB 40th Anniversary Conference.** On April 17, 2015, the Agricultural Labor Relations Board (ALRB or Board), in collaboration with U.C. Davis College of Agricultural and Environmental Sciences, sponsored a day-long academic conference, "Farm Labor and the ALRA at 40." The informative conference, held at U.C. Davis Law School, recognized the 40th anniversary of the enactment of the Agricultural Labor Relations Act (ALRA) in 1975. Through sessions of expert panels, the conference examined changes in the farm labor market and changes in labor relations over the last 40 years. Topics addressed included: "Agricultural and Farm Labor since 1975," moderated by former ALRB Board Member Herbert "Bert" Mason; "The ALRA & ALRB since 1975," moderated by Board Member and past ALRB Chair Genevieve A. Shiroma; "New Issues: MMC and Immigration", led by ALRB Chairman William B. Gould IV; and "Perspective Past and Present", moderated by Board Member Cathryn Rivera-Hernandez. Among other interesting subjects addressed, the Board and panelists discussed the ALRA's mandatory mediation and conciliation, issues around immigration and the migrant farmworker population, and ways to expedite matters before the Board. Selected presentation materials and papers are available on the U.C. Davis website at <http://migration.ucdavis.edu/cf>. Member Shiroma expressed her appreciation of the presentations made by such a large cross-section of the agricultural labor and academic community. Member Rivera-Hernandez thanked her fellow Board members for their work on putting together the conference.

4. Executive Officer Report

ELECTION REPORT

There have been no new notices of intent to take access, notices of intent to organize or election petitions filed since the Board's last meeting on January 22, 2015. We have only one unresolved election matter, Gerawan Farming, Inc. and UFW. There,

the hearing closed on March 12, 2015, and the post-hearing briefs are due May 15, 2015.

NOTICE OF INTENT TO TAKE ACCESS (NA) AND NOTICE OF INTENT TO ORGANIZE (NO)

None.

PENDING ELECTION MATTERS

Gerawan Farming, Inc., 2013-RD-003-VIS

On October 25, 2013, Sylvia Lopez (Petitioner) filed a petition to decertify the United Farm Workers of America (UFW) as the bargaining representative of the agricultural employees of Gerawan Farming, Inc. (Employer). An election was held on November 5, 2013, and the ballots were impounded. A hearing on the consolidated election objection and unfair labor practice amended consolidated complaint commenced on September 29, 2014, and ended on March 12, 2015. The post-hearing briefs are due May 15, 2015.

COMPLAINT REPORT

Since the Board's last meeting on January 22, 2015, the General Counsel has issued four complaints, withdrawn one complaint and settled one complaint at hearing.

COMPLAINTS ISSUED

Eclipse Berry Farms LLC, 2014-CE-042-SAL, issued February 10, 2015

Santa Paula Berry Farms LLC, 2014-CE-062-SAL, issued March 6, 2015

T-Y Nursery, Inc., 2014-CE-021-SAL, issued March 12, 2015

KC Ag, LLC, 2014-CE-030-VIS, issued April 9, 2015

COMPLAINTS WITHDRAWN

Ramos Farms, 2014-CE-011-SAL

On March 24, 2014, Regional Director Algeria De La Cruz withdrew the complaint as the General Counsel, Charging Party and the Charged Party entered into an informal bilateral settlement agreement that was approved by the General Counsel.

CASES SETTLED AT HEARING

Harbor View Farms, 2013-CE-035-SAL

The hearing previously scheduled for April 27-May 1, 2015 settled on April 23, 2015

as the parties reached an informal bilateral settlement agreement.

HEARINGS IN PROGRESS

None.

HEARINGS SCHEDULED

There are five hearings currently scheduled: one in July, one August, one in September and two in October.

Santa Paula Berry Farms, LLC 2014-CE-062-SAL

Pre-hearing Conference: June 15, 2015 @ 1 p.m.

Hearing: July 6, 2015 (5 days)

Eclipse Berry Farms, LLC 2014-CE-042-SAL

Pre-hearing Conference: July 20, 2015 @ 1 p.m.

Hearing: August 10, 2015 (5 days)

Rincon Pacific, LLC, 2014-CE-024-SAL

Pre-hearing Conference: September 8, 2015 @ 1 p.m.

Hearing date requested: September 28, 2015 and continuing

Bud Antle, Inc. dba Bud of CA, and Dole Fresh Vegetables, Inc., 2012-CE-056-SAL

Pre-hearing Conference: September 14, 2015

Hearing: October 1, 2015 (3 days)

T-Y Nursery, Inc., 2014-CE-021-SAL

Pre-hearing Conference: October 5, 2015

Hearing: October 26, 2015 (3 days)

HEARINGS HELD

Three hearings have been completed since our last Board meeting: Ace Tomato Company, Arnaudo Brothers and Gerawan Farming.

Ace Tomato Company, Inc., 93-CE-37-VIS

The hearing ended on February 3, 2015, and the post-hearing briefs were received March 30, 2015. The ALJ decision issued April 14, 2015. The exceptions to the decision are due May 7, 2015. The reply briefs are due May 21, 2015.

Arnaudo Brothers, LP and Arnaudo Brothers, Inc., 2012-CE-030-VIS

The matter was remanded to the ALJ for issuance of a supplemental decision on the question of whether a disclaimer of interest occurred. A hearing was held on March 10, 2015, and the post-hearing briefs were received April 17, 2015. The matter is pending ALJ decision.

Gerawan Farming, Inc., 2013-RD-003-VIS

The hearing on the consolidated election objection and unfair labor practice amended consolidated complaint ended March 12, 2015. The post-hearing briefs previously due March 18, 2015, are now due May 15, 2015.

CASES PENDING TRANSCRIPTS, POST-HEARING BRIEFS OR ALJ/IHE DECISION

We have two cases that are pending ALJ decision.

Arnaudo Brothers, LP and Arnaudo Brothers, Inc., 2012-CE-030-VIS

The matter is pending ALJ decision.

Gerawan Farming, Inc., 2013-RD-003-VIS

The post-hearing briefs are now due May 15, 2015, with the ALJ decision to follow.

ONE ALJ/IHE DECISIONS ISSUED

Ace Tomato Company, Inc., 93-CE-37-VIS

The ALJ decision issued April 14, 2015.

Exceptions are due May 7, 2015.

Reply briefs are due May 21, 2015.

CASES PENDING EXCEPTIONS OR REPLY/REQUEST FOR REVIEW:

None.

CASES PENDING BOARD DECISION OR ACTION:

Arnaudo Brothers, 2012-CE-028-VIS

The hearing was held October 14 and 15, 2014. The ALJ's decision issued December 22, 2014. The respondent filed exceptions to the decision on February 9, 2015, and the General Counsel filed an answering brief on March 3, 2015. The matter is pending Board decision.

CASES REFERRED TO COMPLIANCE

None.

COMPLIANCE CASES CLOSED:

None.

BOARD DECISIONS/ADMINISTRATIVE ORDERS:

The Board has issued two board decisions and five administrative orders since its last Board meeting.

Board Decisions

- **California Artichoke and Vegetable Growers Corp. dba Ocean Mist Farms, 2012-CE-044-VIS, 41 ALRB No. 2**
The Board's decision in this case issued April 7, 2015. Any petition for writ of review is due within 30 days, i.e., May 7, 2015.
- **Arnaudo Brothers, Inc., 2013-MMC-001, 41 ALRB No. 3**
The Board's decision in this case issued April 23, 2015. Any petition for writ of review is due within 30 days, i.e., May 25, 2015.

Administrative Orders

- Ace Tomato Company, Inc., et al., 93-CE-37-VI, Admin. Order 2015-01
- Ace Tomato Company, Inc., et al., 93-CE-37-VI, Admin. Order 2015-02
- Gerawan Farming, Inc., 2013-RD-003-VIS, et al., Admin. Order 2015-03
- Arnaudo Brothers, LP, and Arnaudo Brothers, Inc., 2013-MMC-001, Admin. Order 2015-04
- Arnaudo Brothers, LP, and Arnaudo Brothers, Inc., 2013-MMC-001, Admin. Order 2015-05

REQUESTS UNDER MANDATORY MEDIATION AND CONCILIATION LAW:

Arnaudo Brothers, Inc., 2013-MMC-001

On April 6, 2015, the mediator filed its supplemental report with the Board. On April 13, 2015, the Employer filed its petition for review of the Mediator's Second Supplemental Report. On April 23, 2015, the Board issued its decision dismissing the Employer's petition for review and ordering that the Mediator's initial report, as modified by the Second Supplemental Report and the Board's decisions and orders in the case would go into immediate effect as a final order of the Board. Pursuant to Labor Code section 1164.5, an aggrieved party may seek judicial review of the Board's final order within 30 days, i.e., May 25, 2015.

ALRB BOARD LITIGATION

Federal Appeals Court

► ***Lopez v. Shiroma, et al.*, United States Court of Appeals, Ninth Circuit, Case No. 14-16640**

United States District Court, E.D. Cal., Case No. 1:14-CV-00236-LJO-GSA

Assigned Counsel: Deputy Attorney General Aaron Jones; Special Board Counsel Paul M. Starkey

Other Counsel: Paul Bauer (Silvia Lopez, employee)

Filing Date: August 22, 2014

Summary: Board's appeal from district court ruling on ALRB's motion to dismiss that denied ALRB's immunity defenses in a 42 USC § 1983 action for alleged civil rights violations arising out of representation election.

Description: Action below filed February 20, 2014, by Gerawan employee, Silvia Lopez, seeking an order to have the Board tally and disclose the ballots in the decertification election involving Gerawan Farming, Inc. and the United Farm Workers of America (UFW) (ALRB Case No. 2013-RD-003-VIS). The action names, as individuals, Board Members Genevieve Shiroma and Cathryn Rivera Hernandez, Executive Secretary J. Antonio Barbosa, and Regional Director Silas Shawver.

Status and Last Action Date: Notice of appeal filed August 22, 2014. By order dated October 3, 2014, the case was not sent to mediation. Opening brief of the Board defendants was filed on December 31, 2014; Ms. Lopez's opposition brief was filed on February 27, 2015. The ALRB defendants' reply brief was filed on April 13, 2015. The matter is fully briefed.

Federal District Court

► ***Lopez v. Shiroma, et al.*, United States District Court, E.D. Cal., Case No. 1:14-CV-00236-LJO-GSA**

On Appeal: *Lopez v. Shiroma, et al.*, United States Court of Appeals, Ninth Circuit, Case No. 14-16640

Assigned Counsel: Deputy Attorney General Aaron Jones; Special Board Counsel Paul M. Starkey

Other Counsel: Paul Bauer (Silvia Lopez, employee)

Filing Date: February 20, 2014

Summary: 42 USC § 1983 action for alleged civil rights violations arising out of representation election.

Description: Action filed February 20, 2014, by Gerawan employee, Silvia Lopez, seeking an order to have the Board tally and disclose the ballots in the decertification election involving Gerawan Farming, Inc. and the United Farm Workers of America (UFW) (ALRB Case No. 2013-RD-003-VIS). The action names, as individuals, Board Members Genevieve Shiroma and Cathryn Rivera Hernandez, Executive Secretary J. Antonio Barbosa, and Regional Director Silas Shawver.

Upon stipulation and order for extension of time, a motion to dismiss was filed on April 21, 2014, on behalf of the named defendants. Hearing on the motion was continued by stipulation from May 19, 2014, to June 16, 2014. After initial briefing, the court ordered the matter submitted, without hearing. On July 24, 2014, the court issued its ruling granting the demurrer in part, but allowing the matter to proceed on claims of interference with First Amendment right of association. On August 8, 2014, upon stipulation of the parties, the court vacated the case conference and other deadlines and granted a stay of proceedings. On August 19, 2014, plaintiff filed a motion to appoint a special master to take and count the impounded ballots. The ALRB defendants filed a Notice of Appeal on August 22, 2014 on jurisdictional grounds (immunity defenses). In response to plaintiff's intention to engage in discovery, the Board defendants filed a motion to stay proceedings on August 26, 2014.

Status and Last Action Date: By order dated September 23, 2014, the court granted the ALRB's motion to enforce stay of proceedings pending the appeal and denied plaintiff's motion to appoint a special expert master.

California Appellate Courts

Fifth District Court of Appeal

► *Ace Tomato Company, Inc.*, Fifth District Court of Appeal No., Case No. F065589

38 ALRB No. 6 (2013)

Assigned Counsel: Scott Inciardi, Senior Board Counsel

Other Counsel: Robert K. Carroll, Nixon & Peabody (employer); Mario Martinez, Marcos Camacho Law Firm (union)

Filing Date: August 24, 2012

Summary: Petitioner Employer seeks review and stay of Board's decision affirming the mediator's report fixing the terms of a collective bargaining agreement between the employer and the union.

Description: 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. In that decision, pursuant to the Mandatory Mediation and Conciliation (MMC) provisions of the Agricultural Labor Relations Act, the Board in 38 ALRB No. 6 affirmed the mediator's report fixing the terms of a collective bargaining agreement between Ace and the United Farm Workers of America (UFW), the certified representative.

In August 2012, the Board and the UFW separately opposed the appeal. On September 12, 2012, the court ordered briefing on the issues of the stay and venue. On October 17, 2012, the court issued two orders. One order denied the request to transfer the case to the Third District Court of Appeals, without prejudice to filing a request directly with the California Supreme Court. The other order granted Ace's request to stay the Board's decision pending court review. On February 13, 2013, after briefing by the parties, the court issued a writ to have the case heard. The court denied the Board's rehearing petition on venue, and kept the stay in effect.

On September 24, 2013, the court directed the parties to inform the court about the status of the case and whether it had settled. On October 23, 2013, the Board informed the court of the status of settlement and asked leave to file a status update. On November 4, 2013, the Board issued its order (Admin. Order No. 2013-48) granting the General Counsel's motion for an extension of time to November 19, 2013, to file a formal bilateral settlement agreement in compliance with Administrative Orders 2013-35 and 2013-42. On November 12, 2013, the Board informed the court of the settlement status. On November 25, 2013, the Board further informed the court that the parties were unable to reach settlement and that the Board had decided to meet directly with the parties to facilitate settlement. At the Board's request, the court agreed to place the case in abeyance pending settlement attempts. ALJ Thomas Sobel has served as settlement judge. To date, no settlement has been reached. On May 14, 2014, the court inquired about the status of the case. The Board reviewed the matter and on May 29, 2014, requested that the court take the case out of abeyance.

Status and Last Action Date: On January 7, 2015, the appellate court requested a status update, which the Office of the Executive Secretary provided to the court on January 20, 2015. The Board restated its request for the court to take the matter out of abeyance. As of March 31, 2015, the matter is pending with the court.

► ***San Joaquin Tomato Growers, Inc. v. ALRB, Fifth District Court of Appeal, Case No. F068406***

39 ALRB No. 15 (2013)

Assigned Counsel: Laura Heyck, Senior Board Counsel

Other Counsel: George Tichy, Littler (employer); Mario Martinez, Marcos Camacho Law Firm (union)

Filing Date: November 22, 2013

Summary: Writ of Review of Board's decision and order in 39 ALRB No. 15, concerning the makewhole remedy.

Description: On November 22, 2013, San Joaquin Tomato Growers filed a petition for writ of review of the Board's decision in 39 ALRB No. 15 with the Fifth District Court of Appeal. The matter was fully briefed as of August 25, 2014.

Status and Last Action Date: On February 6, 2015, the court issued a writ of review. After hearing on oral argument on April 14, 2015, the matter was submitted.

► ***Gerawan Farming, Inc. v. ALRB, Fifth District Court of Appeal, Case No. F068526***

39 ALRB No. 17 (2013)

Assigned Counsel: Benjamin Glickman, Deputy Attorney General; Paul M. Starkey, Special Board Counsel

Other Counsel: Ronald H. Barsamian (Barsamian Saqui and Moody) (Employer); C. Russell Georgeson, Georgeson, Belardinelli & Noyes (Employer); David Schwarz, Irell & Manela (Employer); Mario Martinez, Marcos Camacho Law Firm (union); Scott Alan Kronland, Altshuler Berzon (union); Luke A. Wake, (NFIB Small Business Legal Center, amicus); Anthony Caso (Western Growers Ass'n, amicus); Anthony P. Raimondo (Silvia Lopez, amica).

Filing Date: December 16, 2013

Summary: Various statutory and constitutional challenges to Board's Decision in 39 ALRB No. 17, where the Board approved an MMC contract between the Employer and the Union.

Description: On December 16, 2013, Gerawan filed in the Fifth District Court of Appeal a petition for writ of review and stay of the Board's decision in 39 ALRB No. 17, in which the Board approved a collective bargaining agreement reached through the Mandatory Mediation and Conciliation process. On December 23, 2013, the Board filed its opposition to Gerawan's request for temporary stay. On January 7, 2014, Gerawan filed its response to the Board's opposition. Also on January 7, 2014, UFW filed its opposition to the request for stay and preliminary opposition to petition for writ of review. On January 14, 2014, Gerawan filed its response to the UFW's

opposition to the stay request and preliminary opposition to petition for writ of review. On February 10, 2014, the parties requested to consolidate cases nos. F068526 and F068676. On February 11, 2014, the court denied Gerawan's request for temporary stay. Also on February 11, 2014, the court granted Gerawan's request for judicial notice filed February 10, 2014 and deferred the parties' request for expedited schedule due to the pending request for consolidation of cases nos. F068526 and F068676. After briefing by the parties, the court on May 1, 2014, granted requests for briefing by amici (NFIB Small Business Association, Western Growers Association, and Silvia Lopez). The UFW and the Board filed separate response to amici briefs on May 27 and May, 28, 2014, respectively.

As of May 28, 2014, the matter was briefed. On September 23, 2014, the court *sua sponte* asked the parties to report about mediation and settlement, to which the parties replied by separate letters. On November 3, 2014, the court asked for briefing by December 7 on three questions relating to the impact of the ongoing administrative hearing relating to the Gerawan election dispute and the impounding of ballots. The Board filed its letter brief on November 26, 2014. Gerawan and the UFW filed separate letter briefs on December 1, 2014. With leave of court, Silvia Lopez filed a letter brief on December 5, 2014.

Status and Last Action Date: On February 23, 2015, the case was consolidated with F068676. After hearing on oral argument on April 14, 2015, the matter was submitted.

► ***Gerawan Farming, Inc. v. ALRB, Fifth District Court of Appeal, Case No. F068676***

Fresno Superior Court Case No. 13CECG01408

Assigned Counsel: Benjamin Glickman, Deputy Attorney General; Paul M. Starkey, Special Board Counsel

Other Counsel: C. Russell Georgeson, Georgeson, Belardinelli & Noyes (Employer); David Schwarz, Michael A. Behrens, Irell & Manela (Employer) Mario Martinez, Marcos Camacho Law Firm (union).

Filing Date: January 15, 2014

Summary: Appeal from Fresno County Superior Court ruling denying petition for writ of mandate challenging the MMC process for lack of jurisdiction.

Description: On January 15, 2014, Gerawan Farming Inc. (Gerawan) appealed from the September 26, 2013 order of the Fresno County Superior Court (Judge Black) denying its petition for writ of mandate, which the court denied for lack of jurisdiction. On January 27, 2014, Gerawan requested consolidation of cases. On February 10, 2014, the court deferred ruling on appellant's January 27, 2014 request for consolidation of cases nos. F068526 and F068676 and directed that the cases be

briefed separately but coordinated so that they may be considered by the same panel for hearing. The record on appeal was filed on April 10, 2014. On September 23, 2014, the court *sua sponte* asked the parties to report about mediation and settlement, to which the parties replied by separate letters. As of October 13, 2014, the matter was fully briefed.

Status and Last Action Date: On February 23, 2015, the case was consolidated with F068676. After hearing on oral argument on April 14, 2015, the matter was submitted.

► ***Perez Packing, Inc., Fifth District Court of Appeal, Case No. F068697***
39 ALRB No. 19 (2013)

Assigned Counsel: Raj Dixit, Senior Board Counsel

Other Counsel: Ronald Barsamian, Barsamian & Moody (employer), Mario Martinez, Marcos Camacho Law Firm (union)

Filing Date: January 17, 2014

Summary: Writ of Review of Board's decision and order in 39 ALRB No. 19.

Description: On January 17, 2014, Perez Packing, Inc. filed a petition for writ of review of the Board's decision in 39 ALRB No. 19, in which the Board found the Employer engaged in bad faith bargaining by failing to provide information to the union. The certified record was filed with the court on February 3, 2014. The matter was fully briefed on May 6, 2014. On May 8, the Court of Appeal issued a writ of review and a corrected writ on May 12, 2014. On September 24, 2014, the court notified the parties of the right to request oral argument. Upon separate requests of the parties for oral argument, the court had set hearing for November 5, 2014, in Fresno, which was continued on the court's own motion to January 27, 2015. On December 19, 2014, the court on its own motion took the hearing off calendar.

Status and Last Action Date: The case has been set for oral argument in the California Court of Appeal, Fifth Appellate District, Fresno, on May 20, 2015.

Summary: Writ of Review of Board's decision in 39 ALRB No. 19, where the Board found the Employer engaged in bad faith bargaining by refusing to provide information to the Union.

► ***Tri-Fanucchi Farms, Fifth District Court of Appeal, Case No. F069419***
40 ALRB No. 4 (2014)

Assigned Counsel: Scott Inciardi, Senior Board Counsel

Other Counsel: Howard Sagaser (employer), Mario Martinez, Marcos Camacho
Law Firm (union)

Filing Date: May 23, 2014

Summary: Writ of Review of Board's decision and order in 40 ALRB No. 4.

Description: On May 23, 2014, Tri-Fanucchi Farms filed a petition for writ of review of the Board's decision in 40 ALRB No. 4, in which the Board upheld the ALJ decision finding a refusal to bargain. The Employer challenges the union's status as certified exclusive representative. The certified record was filed with the court on June 12, 2014. Briefing was completed on September 15, 2014. After court-ordered briefing on whether the case should be expedited, the court on October 30, 2014, decided not to expedite the matter. On November 3, 2014, the Court deferred ruling on the Board's request for judicial notice pending consideration of the petition on the merits

Status and Last Action Date: On February 10, 2015, the court issued a writ of review. After hearing on oral argument on April 14, 2015, the matter was submitted.

► ***Gerawan Farming, Inc. v. ALRB, et al., Fifth District Court of Appeal, Case No. F069896***

Fresno County Superior Court, Case No 13-CECG-03374

Assigned Counsel: Deputy Attorney General Nelson Richards; Paul M. Starkey,
Special Board Counsel

Other Counsel: David Schwarz, Irell & Manela (Employer); Paul Bauer, Walter & Wilhelm Law Group (intervenor)

Filing Date: August 15, 2014

Summary: Gerawan challenges the Board's August 21, 2013 order that MMC proceedings are closed to the public. Gerawan brings this direct appeal from the superior court order granting the Board's demurrer to Gerawan's complaint for declaratory and injunctive relief.

Description: On July 16, 2014, Gerawan filed its notice of appeal.

Status and Last Action Date: Appellant's opening brief was filed on February 13, 2015. The Board's opposition brief, which was extended by stipulation to April 15, is due 15 days after issuance of a letter of notice from the court. As of April 21, 2015, the court letter has not issued.

► ***P & M Vanderpoel Dairy v. ALRB, et al., Fifth District Court of Appeal, Case No. F070149***

40 ALRB No. 8

Assigned Counsel: Laura Heyck, Senior Board Counsel

Other Counsel: Howard Sagaser, Sagaser, Watkins & Wieland PC (Employer); Sylvia Torres Guillen, ALRB General Counsel; Mario Martinez, Marcos Camacho Law Firm (union)

Filing Date: September 26, 2014

Summary: Petition for writ of review of Board's decision finding employer wrongfully fired dairy workers for protected concerted activity (requesting pay raise).

Description: On September 26, 2014, P & M Vanderpoel Dairy filed its petition for review of 40 ALRB No. 8. Record on appeal was filed October 3, 2014. Petitioner filed its opening brief on December 23, 2014.

Status and Last Action Date: The Board filed its brief on January 27, 2015. The UFW failed to file its responsive brief. Petitioner's reply brief was filed on March 3, 2015. The matter is fully briefed.

► ***Lupe Garcia v. California Agricultural Labor Rel. Bd., et al., Fifth District Court of Appeal, Case No. F070287***

Fresno County Superior Court, Case No. 13-CECG-03374

39 ALRB No. 5 (2013-MMC-003)

Assigned Counsel: Deputy Attorney General Nelson Richards; Paul M. Starkey, Special Board Counsel

Other Counsel: Paul Bauer, Walter & Wilhelm Law Group (Petitioner); Mario Martinez, Marcos Camacho Law Firm (union)

Filing Date: October 20, 2014

Summary: Appeal of Denial of Petition for Writ of Mandate challenging the Board's April 16, 2013 order in 2013-MMC-003 (39 ALRB No. 5) (constitutionality of MMC) (Gerawan employees challenge).

Description: On October 20, 2014, Lupe Garcia, an individual worker employed by Gerawan, filed an appeal of the trial court's denial of his petition and complaint.

Status and Last Action Date: Appellant's opening brief was filed on March 16, 2015, by stipulated extension. The Board brief is due May 20, 2015, by stipulated extension.

Sixth District Court of Appeal

► *United Farm Workers (Corralitos Farms, LLC), Sixth District Court of Appeal, Case No. H041113*

40 ALRB No. 6

Assigned Counsel: Raj Dixit, Senior Board Counsel

Other Counsel: Ana Cristina Toledo, Noland, Hamerly, Etienne & Hoss (employer), Mario Martinez, Marcos Camacho Law Firm (union)

Filing Date: June 18, 2014

Summary: Petition for writ of review of Board's decision finding union unlawfully picketed for representative status.

Description: On June 18, 2014, petitioner United Farm Workers of America (UFW or Union) filed its petition for review. The Board filed the administrative record on July 28, 2014. The UFW's opening brief due date was extended by stipulation from September 2, 2014, to October 2, 2014. The UFW then obtained another extension, and filed its opening brief on November 14, 2014.

Status and Last Action Date: After two 30-day extensions requested by the Employer, opposition briefs for the Board and Employer were filed on February 17 and 18, respectively. The UFW's reply brief is due by stipulated extension on May 5, 2015.

► *Kawahara Nurseries, Inc., Sixth District Court of Appeal, Case No. H041686*

40 ALRB No. 11

Assigned Counsel: Scott P. Inciardi, Senior Board Counsel

Other Counsel: Patrick S. Moody, Barsamian & Moody (Employer)

Filing Date: November 26, 2014

Summary: Petition for writ of review of Board's decision 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.

Description: On November 26, 2014, petitioner Kawahara Nurseries, Inc. filed its petition for review of the Board's decision in 40 ALRB No. 11. The certified record was filed on December 16, 2014. Petitioner's opening brief was filed on January 20, 2015. The Board filed its opposition brief on March 26, 2015.

Status and Last Action Date: The Employer's reply brief is due May 18, 2015, by stipulated extension.

California Superior Courts

► **Francisco Acheron v. ALRB, et al. (3rd DCA)**

Sacramento County Superior Court, Case No. 34-2014-00168939

Assigned Counsel: Andrea Austin, Deputy Attorney General; Paul M. Starkey, Special Board Counsel; Jorge Gaitan (for the ALRB General Counsel)

Other Counsel: Paul A. Greenberg, Greenberg & Weinmann

Filing Date: September 15, 2014

Summary: Francisco Acheron, a current ALRB employee with the Office of the General Counsel, filed a Complaint for Discrimination and Harassment arising out of employment.

Description: The action is against the ALRB, as a government agency, and named individual defendants for alleged harassment and retaliation arising from employment.

Status and Last Action Date: Plaintiff's counsel voluntarily filed an amended complaint on December 16, 2014. Defendants' answer was filed on January 15, 2015. Discovery is ongoing.

Fresno County Superior Court (5th DCA)

► ***Gerawan Farming, Inc. v. California Agricultural Labor Rel. Bd., et al.,***

Fresno County Superior Court, Case No. 13-CECG-01408

On Appeal: Fifth District Court of Appeal, Case No. F08676

Assigned Counsel: Benjamin Glickman, Deputy Attorney General; Paul M. Starkey, Special Board Counsel

Other Counsel: David Schwarz, Irell & Manella, LLP (employer); Mario Martinez, Marcos Camacho Law Firm (union)

Filing Date: May 13, 2013

Summary: Action challenges the Board's April 16, 2013 order for mandatory mediation and conciliation.

Description: The action filed by Gerawan Farming, Inc. (Gerawan) claims the Board exceeded its authority when it ordered Gerawan to mandatory mediation and conciliation ("MMC") with the United Farm Workers of America ("UFW") on April 16, 2013. Gerawan further claims that the MMC process violates its constitutional due process rights and seeks a declaration that the MMC statutes are unconstitutional.

On May 17, 2013, Gerawan Farming filed an ex parte application to stay the Board's April 16, 2013 order directing the employer to engage in MMC with the union. On May 20, 2013, Tri-Fanucchi Farms filed a request to appear as amicus curiae on

behalf of the petitioner. On May 24, 2013, the Board opposed both the request for stay and Tri-Fanucchi Farm's request to appear as amicus curiae. On May 24, 2013, the UFW also filed its opposition to Gerawan's Farming's request for stay. After hearing on June 10, 2013, the court denied the request for stay on June 19, 2013.

On June 18, 2013, the Board filed the certified record with the court. The Board filed its answer to the petition and complaint on June 20, 2013. On July 29, 2013, the Board filed its opposition brief to Gerawan's writ of administrative mandate.

Status and Last Action Date: The superior court denied the writ on September 26, 2013. Petitioner appealed. (See above.)

► ***Lupe Garcia v. California Agricultural Labor Rel. Bd., et al.,***
Fresno County Superior Court, Case No. 13-CECG-01557
39 ALRB No. 5 (2013-MMC-003)

Assigned Counsel: Deputy Attorney General Benjamin Glickman; Paul M. Starkey, Special Board Counsel

Other Counsel: Paul Bauer, Walter & Wilhelm Law Group (Petitioner); Mario Martinez, Marcos Camacho Law Firm (union)

Filing Date: May 17, 2013

Summary: Petition for Writ of Mandate challenging the Board's April 16, 2013 order in 2013-MMC-003 (39 ALRB No. 5) (constitutionality of MMC) (Gerawan employees challenge).

Description: On May 17, 2013, Lupe Garcia, an individual worker employed by Gerawan, filed a petition and complaint, alleging the Board's April 16, 2013 order referring the parties to MMC (39 ALRB No. 5) is facially invalid under the Due Process Clause of the U.S. and California Constitutions. The petition also alleges that the Board's ruling violates the workers' First Amendment rights to freedom of speech and association, as well as equal protection rights. On August 7, 2013, Garcia asked the court to stay MMC proceedings pending resolution of his request to intervene in the MMC proceedings, which the court denied for lack of standing. On August 30, 2013, the Board filed its answer to the petition and complaint.

Status and Last Action Date: Board's counsel filed papers to stay all proceedings, including discovery, which the court granted on September 24, 2014, and dates for pretrial conferences and trial in November 2014 have been vacated.

► *Gerawan Farming, Inc. v. ALRB, et al.*

On Appeal: Fifth District Court of Appeal, Case No. F069896

Fresno County Superior Court Case No 13-CECG-03374

Assigned Counsel: Deputy Attorney General Nelson Richards; Paul M. Starkey, Special Board Counsel

Other Counsel: David Schwarz, Irell & Manela (Employer); Paul Bauer, Walter & Wilhelm Law Group (intervenor)

Filing Date: October 28, 2013

Summary: Writ of mandate (First Amendment challenge to MMC; public participation issue).

Description: On October 28, 2013, Gerawan filed an action in Fresno County Superior Court against the Board, its individual members, and its Executive Secretary, in which Gerawan claims that the Board violated the U.S. and California Constitutions by denying a worker's request to attend MMC sessions between Gerawan and the UFW. The lawsuit seeks a declaration that the Board's August 21, 2013 decision and order is unconstitutional, a declaration that the MMC proceedings conducted pursuant to the Board's April 16, 2013 decision and order are null and void, orders for preliminary and permanent injunctive relief, and for damages, costs, and attorney fees.

The Board filed its demurrer on December 17, 2013. Gerawan filed its opposition on February 5, 2014. After continuances, the court heard the Board's demurrer on March 13, 2014, and then allowed supplemental briefing, which was filed on March 20, 2014.

On December 20, 2013, Lupe Garcia filed a motion to intervene in the case, alleging that his individual rights had been denied. The court granted the motion and the Board filed its opposition to the motion to intervene on January 8, 2014. On June 2, 2014, the court in a tentative decision granted the demurrer without leave to amend and the motion to strike, separately finding that the complaint was untimely (Lab. Code, § 1164.5), the court lacked jurisdiction to hear the matter (Lab. Code, § 1164.9), and the Board has immunity from liability for the 42 U.S.C. section 1983 action. On the motion to strike, the court ruled certain allegations impermissibly expanded the complaint. After hearing, on June 3, 2014, the court took the matter under submission.

Status and Last Action Date: On May 15, 2014, the court granted the Board's demurrer to Gerawan's lawsuit, without leave to amend, for lack of jurisdiction and immunity from suit. By minute order of July 7, 2014, the court affirmed the dismissal of the motion to intervene, which was entered as a judgment on July 25, 2014. On July 16, 2014, Gerawan filed its notice of appeal. Note: On September 19, 2014,

Garcia filed a separate appeal. *Lupe Garcia v. California Agricultural Labor Rel. Bd., et al.*, Fifth District Court of Appeal, Case No. **F070287**. (See above.)

5. GENERAL COUNSEL'S REPORT:

Assistant General Counsel Hurtado conveyed General Counsel Torres-Guillen's request that the Board place on the agenda for its next Board meeting a vote regarding the relocation of the El Centro sub-regional office to Coachella, the relocation of the Visalia Regional Office to Fresno, and the opening of a Northern California sub-regional office. The General Counsel requested the vote on the El Centro office so she could begin restaffing the office. Additionally, the General Counsel would like to relocate the Visalia office to Fresno due to the lack of sufficient office space and easier accessibility to farm workers. The General Counsel is studying areas to locate a Northern California office and will report on her findings when complete. She recommended the Board conduct its own study of a Northern California office location.

Chairman Gould welcomed Ms. Hurtado. He explained the Board's authority in regards to the opening and closing of offices. Chairman Gould described that the Board agreed previously with the relocation of the El Centro office and has already directed Administration to research viable locations in the Coachella area.

Administration is in the process of identifying these locations. Once a location is identified, the Board will vote. Administration is engaged in the process. The Board will place this item on the agenda when a specific location that meets the Department of Finance criteria is located. Member Shiroma suggested the Board consider Professor Saucedo's comments and statistics regarding the importance of the El Centro area in relation to the Imperial Valley presented at the *Farm Labor and the ALRA at 40* conference held at UC Davis on April 17, 2015.

Board Member Rivera-Hernandez added that she met in February with the General Counsel, Administration and staff where all of these issues were discussed and additional steps that would incur costs were scheduled closer to the passage of the budget. At that meeting, the General Counsel proposed a 3,000 square foot office for the Coachella Valley in contrast to the previous approximately 550 square foot office, the costs of which would far exceed the Governor's Budget. Member Rivera-Hernandez also noted that the Board agrees that Visalia staff require additional space but that the General Counsel's proposal to fund this move was denied by Finance. The Governor's proposed budget authorizes the relocation of the El Centro Sub-Regional office to the Coachella Valley and opening a new Northern California sub-regional office, each staffed with one attorney, one field examiner and one secretary, and each no larger than 1000 square feet. As soon as Administration reports back on possible Northern California office locations, we will move forward. We were directed to first explore co-locating with existing State offices that serve the farm worker population.

If we are unable to co-locate, we will search for office space that complies with the Governor's Budget.

The General Counsel asked General Counsel Attorney Gaitan to convey that she wants to move forward with a new case management system and has decided that Pro-Law is a good choice.

Member Shiroma responded that any system for the ALRB needs to have the capabilities of the existing system and must be used by both programs.

6. CHIEF OF ADMINISTRATION REPORT

Chief of Administration Saldivar reported that 12 reports have been completed since the beginning of the year. Currently 7 reports are scheduled for completion in the upcoming months.

Regarding the General Counsel's questions and comments, Mr. Saldivar stated that preliminary steps have commenced regarding the proposed relocation of the El Centro office. Closure of the current El Centro office is dependent upon finding acceptable climate-controlled storage space in the Indio/Coachella area. No such storage facility has been located at this time. Co-location is being sought in the Coachella area including State, community colleges and local municipality facilities. If co-location is not available, a 12-18 month private lease will be considered. That process may take up to 12-18 months. Re-location will not be finalized until after the Governor signs the 2015-2016 Budget.

Regarding the opening of a Northern California office, it was agreed by both the General Counsel and Board to table the matter at this time. No potential counties or cities have been provided to commence the search.

Member Rivera-Hernandez indicated sister departments are seeing some inventory in Northern California. We need to define our search to certain cities and counties in Northern California.

Options to the case management and case time systems to correct deficiencies as outlined in the Department of Finance Corrective Action Plan are being explored and findings will be presented in May. Administration is working on question and answer sessions with various vendors. Administration remains cautious that no obligations are entered into prior to passage of the budget for next fiscal year. Due to the technological nature of the systems, it is necessary to work with the California Department of Technology and the Agency Information Officer regarding any acquisition. Proper assessments and evaluations of the systems will be conducted

prior to entering into any agreements with vendors. This has been outlined in correspondence to the General Counsel.

7. REGULATIONS

Board Counsel Heyck presented a brief overview of the proposed regulations. The Board will vote on the proposed rulemaking package to be submitted to the Office of Administrative Law (OAL) at its next public meeting. Once OAL issues its notice, public rulemaking will begin. The Board will have one year to complete the public review process with a minimum 45-day comment period. The Board can either set a public hearing or a request can be made for a public hearing.

a. Proposed rulemaking for electronic filing of documents – update

Assistant General Counsel Attorneys Hurtado and Gaitan presented comments on behalf of ALRB General Counsel Torres-Guillen. The General Counsel is generally in agreement that e-service is an improvement to the regulations. However, the amendments need additional clarity. Comments were provided to the following proposed sections:

(a) The General Counsel would abolish fax filing as the National Labor Relations Board has done. The General Counsel believes facsimile service on the Board should be discretionary since she believes fax filing can be difficult.

(a)(1) The proof of service requirements seem onerous. The proof of service should not add requirements that are unnecessary and may be burdensome. An example of unnecessary information is the place where a person works or lives. The proof of service should mirror the form posted on the ALRB website.

(b) There is no specification for the online e-filing platform. The General Counsel would like the procedure to be user-friendly and provide a receipt after filing.

The General Counsel believes that the filing of notices to take access (NAs) and notices to organize (Nos) require personal service unless waived. Personal service of an NA on a grower would accommodate the potential situation where a union files an NA on Friday afternoon and plans to take access Saturday morning. Personal service is a critical role of regional office staff to establish contacts. An e-filing requirement would impair this process. The General Counsel would like to maintain the requirement of personal service of notices to take access and to organize so staff has this essential function preserved.

(c) Regarding the notice of acceptance of e-service, the language would be clearer if it required notice to the Board of acceptance of service. The current language is redundant when it reads that all parties must be served.

Chairman Gould indicated the proposed rule would be optional and there would be no mandate to e-file. Member Shiroma inquired about current regulations regarding fax service and documents and was told fax service is allowed now if the filing is less than 15 pages.

Chairman Gould thanked the General Counsel staff for their thoughtful comments. He reminded everyone that implementing new regulations is a multi-step process. The proposed regulations are sent to the Office of Administrative Law for review and are then noticed for public comment. The Board does not want to mandate personal service. If an organizer is in Brawley or Blythe and the closest ALRB office is in Coachella, the organizer would have to drive a great distance. If the ALRB had 11 offices, as in 1980, that might work. The Board understands the General Counsel would like to abolish fax filing except for notices to take access or to organize. If the ALRB has an e-filing option, that would probably be used, but the Board would like to leave the fax option available. The Board would also like to receive comments from the public and will review all comments.

Member Rivera-Hernandez deferred to her fellow Board members to serve on the regulations committee. She would like staff to review how the NLRB has implemented e-filing. She will reflect on all comments received between now and the next meeting.

Member Shiroma deferred to Chairman Gould to work with staff on the project.

Chairman Gould moved that the Board vote to direct staff to proceed with drafting the formal rulemaking documents regarding electronic filing of documents that will ultimately be submitted to OAL. The Board approved the motion 3-0.

b. Proposed rulemaking to amend Board regulations to facilitate meeting SB 126 timelines (Cal. Code Regs., tit. 8, section 20335)

Chairman Gould indicated that, from a personal perspective, this regulation is very important. The maxim that justice delayed is justice denied has particular significance in this process for employees who wait sometimes a very substantial period of time as well as for employers who want to get on with business. We subvert labor law if we do not act in a timely manner. Chairman Gould learned from all the problems that afflicted the National Labor Relations Board (NLRB). The ALRB should learn from the NLRB and be looking for ways to overcome delay. The statute was amended in 2011 to require the expeditious hearing of election problems. Judge Levy in Fresno said it seems so many cases that come before the court involve enormous delay and the issue of delay was brought up at the ALRB 40th Anniversary conference.

Comments from the General Counsel

As represented by General Counsel staff, the General Counsel's understanding of the proposed amendment is that the General Counsel will have 21 days from the filing of election objections to file a complaint and seek consolidation of any ULPs that mirror the election objections. In the event that the General Counsel cannot finish its investigation and/or issue a complaint within that 21 day period, the General Counsel can, with good cause, ask for an additional 30 days to conclude her investigation, file a complaint and move for consolidation. The parties may stipulate to the additional 30-day time period. No other continuance will be granted. If there is no complaint or motion to consolidate after the additional 30-day period expires, the Board will proceed to hearing on the election objections or challenges with or without the consolidated charges. The General Counsel or her representative may participate in such hearing only when an unfair labor practice has been consolidated with the objections.

The General Counsel appreciates the spirit of the regulation to expedite election objections. The General Counsel has a mandate to expedite backlogs and avoid unnecessary delay. While the General Counsel's office is capably staffed, she has sought additional resources to fulfill that mandate. The General Counsel believes more resources will be necessary to comply with the proposed time periods.

The fiscal impact of the amendment needs to be considered. The General Counsel joins in the effort to find a solution to expedite objections. However, we must be able to effectuate the regulation. The General Counsel urges the Board to support the General Counsel's request for additional staffing.

Additionally, the General Counsel is concerned about two possible outcomes from the proposed amendments.

A Potential for Conflicting Decisions: Where there is inadequate staffing to meet the proposed timelines, there is a higher likelihood that election proceedings will move forward prior to the finalization of related unfair labor practice investigations (ULP). The result is that ULP investigations may later reveal facts and evidence not available at the time of the determinations on the representation issues. The department may be placed in the situation of having conflicting decisions based on the same or similar facts.

Duplication of Litigation: Where the Board moves forward on representation issues because the time for consolidation has lapsed, there could be a duplication of efforts related to the litigation of identical issues thereby delaying resolution of unrelated ULP and compliance cases.

The General Counsel commented on the following sections:

Section 20335(c)(1) suggests that you can only consolidate an objection with a charge that has gone to complaint. This is because even though it says that the General Counsel is to determine if there are charges that mirror the objections, she can only move to ask that a ULP complaint be consolidated. You can no longer consolidate a charge that has not gone to complaint. The interchangeable use of “charge” and “complaint” makes this regulation confusing. If the intention is only to allow the consolidation of complaints, the regulation should be more specific and consistently reference ULP complaints as opposed to charges.

Section 20335(c)(2) adds to the confusion by setting up procedures for determining whether the investigation or issuance of a complaint cannot occur before the 21-day period. Based on (c)(1), it doesn't matter what happens with an investigation. It only matters if a complaint has issued based on which the General Counsel can file a motion to consolidate. Any reference to investigation is confusing and should be removed.

Section 20335(c)(3) language about the General Counsel not being a party seems superfluous. It is unclear why it is present in the regulation.

Comments from the Board Discussion

Member Rivera-Hernandez commented that she has provided written comments to this proposed regulation. She stated that she agreed with the goal of expediting the processing of election cases but does not believe the proposed regulations improve on the current process and is concerned that the regulations limit the Board's authority and freedom to respond to circumstances presented by particular cases.

In particular, Member Rivera-Hernandez noted that the Board already possessed the authority to proceed with hearings in election matters without awaiting resolution of overlapping unfair labor practice charges. Accordingly, the proposed regulation does not give the Board any authority it does not already have. However, the proposed regulation deleted the language of the existing regulation stating the Board's authority over consolidation of election matters with unfair labor practice matters and replaced it with language that assigned responsibility for identifying overlapping ulp charges and election objections along with the discretion to place the issue of consolidation before the Board exclusively in the hands of the General Counsel. Member Rivera-Hernandez expressed concern that election matters are solely within the Board's authority and in her estimation the proposed regulation yielded the Board's jurisdiction over matters of consolidation to the General Counsel. Furthermore, she pointed out, the proposed regulation binded the Board to proceed with hearings in all cases where an overlapping investigation could not be completed within a relatively short period of time, regardless of the circumstances. In her view, this is an unnecessary limitation of the Board's authority. Member Shiroma expressed her appreciation for the Chairman's effort to move this regulation forward and her respect for Member Rivera Hernandez' position.

Chairman Gould assured those present that the regulation committee is open to comments and will look at the problem of language issues presented by both the General Counsel and Member Rivera-Hernandez. The proposal is designed to promote an expeditious process. It in no way limits the Board's authority to handle election matters. The Board has ultimate authority. It is an attempt to allow the General Counsel to initiate the process so the Board can consolidate matters. In any event, the Board makes the final decision. The Chairman would be interested in the General Counsel's and Member Rivera-Hernandez' ideas about what would constitute extraordinary circumstances. Chairman Gould indicated his desire to reflect on the comments received regarding the proposed amended regulations. We want to move forward expeditiously, but we do not want to create dual proceedings. Neither do we want to hold proceedings in abeyance for 4-5 years.

Chairman Gould moved that that Board vote to direct staff to proceeding with the drafting of the formal rulemaking documents that would amend Board regulations to facilitate meeting SB 126 timelines (Cal. Code Regs., tit. 8, § 20335) and ultimately be submitted to the Office of Administrative Law (OAL). The Board voted in favor of the motion 2-1 with Member Rivera-Hernandez dissenting.

8. LEGISLATION –

- **AB 103 (Weber); SB 69 (Leno) (2015-2016 Budget Bills)**
 - Introduced January 9, 2015
 - Appropriates for support of Agricultural Labor Relations Board (ALRB): \$8.3 M (Line Item 7300-001-0001)
 - Appropriates for support of ALRB, payable from the Labor and Workforce Development Fund: \$ 1.2 M (Line Item 7300-001-3078)
 - Amount payable from the Farmworker Remedial Account: \$ 2.9 M (Line Item 7350-001-0023)
 - Status:
 - April 30, 2015, 9:30 a.m., hearing before Senate Budget and Fiscal Review Subcommittee No. 2 on Resources, Environmental Protection, Energy and Transportation, Room 112.
 - **AB 266 (Cooley) (Medical Marijuana; definition of agricultural employer; labor peace agreements)**
 - Introduced February 10, 2015
 - This bill would establish minimum statewide standards for the control and regulation of medical marijuana in its cultivation and distribution.
 - As concerns the ALRB, the bill amends Labor Code section 1155.7 (sec. 7) to define “agricultural employer” to include a licensed cultivation site or a licensed dispensing facility, as defined. The bill also adds Labor Code section 1158.5 (sec. 8), which would authorize the Division of Occupational Safety and Health (Cal/OSHA) to develop regulations, including provisions for the establishment of labor peace agreements and
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rules to govern “agreements whereby the licensee has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the licensee’s employees.”

- Status:
 - April 14, 2015, re-referred to Business & Professions Committee; April 21 hearing postponed, continued to April 28, 2015.

 - **SB 281 (Stone) (Board salaries)**
 - Introduced February 19, 2015
 - This bill would set the annual salary at \$12,000 per year for members appointed on or after January 1, 2016, of designated boards and commissions, including the ALRB.
 - March 5, 2015 referred to Senate Government & Operations Committee
 - March 9, 2015, set for hearing on April 14, 2015, cancelled by author and
 - Status:
 - Re-set for April 28, 2015 hearing in Government & Operations Committee.

 - **AB 561 (Campos) (Authority for compliance with Board’s remedial monetary awards; time to process compliance; employer bonds on appeal)**
 - Introduced February 24, 2015
 - The bill adds Labor Code section 1149.3 to require a final Board order for compliance within one year of any compliance decision.
 - The bill adds Labor Code section 1164.8 to require an employer who seeks appellate review of any Board order to post a bond for the entire economic value of the Board’s order, as determined by the Board.
 - April 8, 2015, heard in Assembly Labor & Employment Committee: The author removed language that would amend Labor Code section 1149 to establish primary authority in the General Counsel for calculation and prosecution of the Board’s remedial monetary awards, subject to Board review for negligence or delay; other proposed amendments, described above, remain. Passed to Appropriations on 5-2 vote (Noes: Patterson, Harper).
 - Status:
 - April 14, 2015, read second time and amended (technical, non-substantive changes); pending hearing date in Assembly Appropriations Committee.

 - **AB 1389 (Patterson) (Co-authors, Grove, Chavez) (Mandatory Mediation and Conciliation)**
 - Introduced February 27, 2015
 - This bill, as drafted, would require Mandatory Mediation and Conciliation (MMC) agreements would not be effective without ratification by the employees affected.
 - Status:
 - Set for hearing on May 6, 2015, in Assembly Labor & Employment Committee.
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9. PERSONNEL – January 23 to April 24, 2014.

Appointments:

Bintou Coulibaly; Accountant Trainee, Administration Unit, Sacramento HQ Office
Susanna Naranjo; Attorney, Visalia Regional Office
Michael Marsh, Attorney, Salinas Regional Office
Karen Casillas; Personnel Specialist

Separations:

Cristina Peña; Attorney, Office of the General Counsel
Nancy Craig; Attorney, Office of the General Counsel

Position Reclassifications/Transfers:

Arcelia Hurtado; Attorney Visalia Regional Office transferred to the Office of the General Counsel, Sacramento HQ Office

Abdel Nassar; Attorney Visalia Regional Office transferred to the Oxnard Sub-Regional Office

Current Recruitment/Job Opportunity Bulletins:

Law Student Intern (Volunteer); Office of the Executive Secretary
Legal Secretary, Salinas Regional Office
Hearing Officer I (1/2 Time, Permanent); Office of the Executive Secretary

10. ANNOUNCEMENTS

None

The public meeting adjourned at 11:51 a.m.