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STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

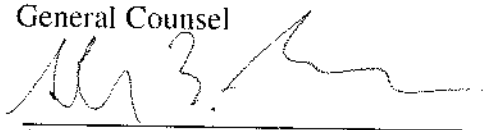
In the Matter of: GERAWAN FARMING, INC. Respondent, and UNITED FARM WORKERS OF AMERICA, Charging Party.	Case Nos.: 2012-CE-041-VIS 2012-CE-047-VIS 2013-CE-007-VIS 2013-CE-009-VIS 2013-CE-025-VIS **ORDER TO CONSOLIDATE CASES**

Charges were duly filed in the above-captioned cases, pursuant to Labor Code section 1160.2 and California Code of Regulations, title 8, section 20220, *et seq*. The undersigned has considered the matter and deems it necessary to consolidate these cases to effectuate the purposes of the Act and to avoid unnecessary costs or delay.

IT IS HEREBY ORDERED, pursuant to section 20244 of the Board's Regulations, that these cases be, and they hereby are, consolidated.

Dated this 30th day of October, 2013, at Visalia, California.

AGRICULTURAL LABOR RELATIONS BOARD
SYLVIA TORRES-GUILLÉN
General Counsel



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AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of: GERAWAN FARMING, INC. Respondent, and UNITED FARM WORKERS OF AMERICA, Charging Party.	Case Nos.: 2012-CE-041-VIS 2012-CE-047-VIS 2013-CE-007-VIS 2013-CE-009-VIS 2013-CE-025-VIS **CONSOLIDATED COMPLAINT**

The General Counsel of the Agricultural Labor Relations Board ("ALRB"), pursuant to Section 1160.2 of the Agricultural Labor Relations Act of 1975, California Labor Code section 1140 *et seq.* (the "Act") and California Code of Regulations, title 8, section 20220, hereby issues this Complaint against Gerawan Farming, Inc. ("Gerawan"). This complaint alleges that Gerawan committed unfair labor practices as follows:

JURISDICTION AND PARTIES

1. On December 5, 2012, the UFW properly filed charge 2012-CE-041-VIS, alleging that on or about November 2, 2012 and continuing, the employer by its officers, agents, and representatives, including Dan Gerawan, Mike Gerawan, Ray Gerawan, and others, is actively engaging in bad faith bargaining.

2. On December 18, 2012, the UFW properly filed charge 2012-CE-047-VIS, alleging that on or about November 13, 2012, and continuing to date, the employer, through its owners, supervisors, agents, and/or representatives, has sought to undermine the UFW's status as the exclusive bargaining representative of its employees through various written and oral communications with bargaining unit members, in violation of the Act.

3. On February 26, 2013, the UFW properly filed charge 2013-CE-007-VIS, alleging, in pertinent part, that on or about February 22, 2013, and continuing to date, Gerawan Farming violated the Agricultural Labor Relations Act in the following ways: (1) Gerawan used identifying information of workers on the UFW's negotiating committee in a manner that is threating and coercive; (2) Gerawan engaged in surveillance; (3) Gerawan undermined the UFW's status as the exclusive bargaining representative of employees; and (4) Gerawan engaged in direct dealing with employees.

4. On March 18, 2013, the UFW properly filed charge 2013-CE-009-VIS, alleging that on or about February 12, 2013, and continuing to date, the employer has refused to provide accurate employee contact information to the UFW, who is the exclusive bargaining representative, which is a violation of the Act.

5. On July 9, 2013, the UFW properly filed charge 2013-CE-025-VIS, alleging that on

or about June 2013, the above named employer through its supervisors, representatives, and agents, unilateraly implemented a wage increase for FLC employees, without providing the UFW with notice or an opportunity to bargain over this change. While all Gerawan employees deserve wage increases, including those Gerawan employees hired by farm labor contractors, Gerawan is required to bargain with the UFW over any such changes.

6. At all times material herein, the UFW was a labor organization within the meaning of Section 1140.4(f) of the Act, and was engaged in efforts to negotiate a contract on behalf of Gerawan's employees.

7. At all times material herein, Gerawan was an agricultural employer within the meaning of Sections 1140.4(a) & (c) of the Act. Gerawan is a corporation duly organized and existing under the laws of California. Gerawan's principal place of business is in Fresno, California. Gerawan is engaged in growing, packing and shipping fresh fruit.

8. At all times material herein, the UFW was the certified bargaining representative for Gerawan's agricultural employees in Fresno County, California.

FACTS

The UFW's Bargaining and Information Requests

9. The UFW was certified as the exclusive bargaining representative of Gerawan's agricultural employees in 1992. On October 12, 2012, the UFW contacted Gerawan to renew negotiations for a CBA and to request information related to bargaining. The last negotiation meeting prior to the UFW's October 12, 2012 letter was in 1995. No collective bargaining agreement has existed between the UFW and Gerawan from the time that the UFW was certified through the time that the UFW recommenced its negotiation efforts in October, 2012.

10. During the same period that the UFW renewed its attempts to negotiate with Gerawan, it began to contact Gerawan's agricultural employees to form a negotiation committee and to inform members of the bargaining unit about the union and its efforts to obtain a union contract for the workers.

11. Gerawan responded to the UFW's renewed attempts at negotiations on November

13, 2012 by sending a notice to all of its employees informing them that although the union won an election twenty-two years ago, it had only contacted the company one time since the election and that was twenty years ago. In this notice, Gerawan's owners, Ray, Mike and Dan Gerawan, expressed that the union had "demanded" that the company turn over its employees' personal information and stated that Gerawan did not want to turn over the information, but that it was required to do so. Gerawan informed the workers that they were not required to speak to the union representatives if they showed up at the workers' home. Gerawan ended the notice by stating that "The UFW *says* they represent you, even though you probably did not even work here 22 years ago and some of you were not even born yet." (emphasis added).

12. On November 16, 2012, Gerawan partly complied with the UFW's information request by providing the union with a 2012 employee list for its direct hire employees and with addresses, as well as information about wages and benefits and the employee manual.

13. Gerawan provided the union with employee contact information for its farm labor contractors ("FLC") on December 14, 2012 for one group of FLCs, and on December 23, 2012 for another group of FLCs. Gerawan did not complete turning over employee lists to the UFW until approximately January 2013.

14. From mid-November 2012 through mid-January 2013, UFW organizers visited and attempted to visit Gerawan employees at the addresses that Gerawan provided. The UFW organizers kept records of their visits and documented addresses that did not exist or that were incorrect for any other reason, such as the address being non-residential, the worker not living there or the worker having moved to another address.

15. During the period of November 2012 to January 2013, the UFW documented over 2,000 addresses provided by Gerawan that were either non-existent, non-residential or where the employee did not live.

16. On January 25, 2013 the UFW informed Gerawan that the employee list provided contained over 2000 bad addresses and identified the specific addresses that were not correct. The UFW asked that Gerawan provide it with correct addresses.

17. On March 6, 2013, the UFW sent Gerawan another request for correct employee

addresses. The letter also asked Gerawan to provide the UFW with further information about the employee addresses discussed in Gerawan's February 12, 2013 letter to the UFW.

18. On April 29, 2013, the UFW asked Gerawan again for correct employee addresses and information.

19. On May 15, 2013, the UFW attempted yet again to obtain the correct employee addresses from Gerawan.

20. To date, Gerawan has not provided the UFW with a single corrected address of the more than 2000 incorrect addresses submitted by the UFW. Gerawan's failure to provide correct addresses has hindered the UFW's ability to communicate with its members and interfered with Gerawan's employees' ability to communicate with their bargaining representative.

Gerawan's Anti-Union Campaign

21. Prior to commencing negotiations with the UFW in January 2013, Gerawan engaged in an anti-union campaign with its employees for the purpose of discrediting and undermining the UFW's status as the exclusive bargaining representative for Gerawan's agricultural employees.

22. On November 22, 2012, Gerawan issued a notice to its employees stating that the UFW *says* that it represents the employees. It is notice, Gerawan never acknowledges the UFW's status as the actual certified bargaining representative of its employees. The notice further stated that the employees will probably have to give money to the UFW in the form of dues or fees and stated that the company does not want this to happen.

23. Approximately one week later on November 30, 2012, Gerawan sent another notice to employees stating again that the UFW *says* it represents Gerawan's employees. The notice then has a heading that says "When do we vote?" in large font and informs employees that they can call the ALRB to find out about how elections are scheduled and conducted. The notice again mentions that the UFW will probably require a payment of dues or fees and that the company does not want this to happen.

24. In early December 2012 Gerawan held captive audience meetings with all of its

agricultural employees where a human resources manager, Jose Erevia, read a notice to employees stating again that "the UFW *says* they represent you, even though you probably did not even work here 22 years ago and some of you were not even born yet." (emphasis added). Erevia continued to state that the UFW would probably require workers to pay money, that the owners did not want "this to happen" and that "some of you have said" that "it makes no sense that the UFW can claim to represent" the workers.

25. Later in December, Gerawan distributed another flyer to its employees titled "Important Notice to All Field Employees." The first sentence of the notice states, "The UFW *says* they represent you even though they went away 20 years ago and have not done anything at our company since then." (emphasis added).

26. At no time prior to the commencement of bargaining in January 2013 did Gerawan ever acknowledge or inform its employees that the UFW was their actual bargaining representative or that they were, in fact, represented by the UFW for purposes of collective bargaining.

Gerawan's Bad Faith Bargaining

27. Negotiations between the UFW and Gerawan began in January 2013 and the parties began to regularly meet in Fresno, California with their respective bargaining teams.

28. After approximately one month of negotiations with the UFW, on February 22, 2013, Gerawan distributed another notice to all its employees with the heading "Important Notice to All Field Employees." This notice purported to share "information" with all of Gerawan's agricultural employees about the UFW's bargaining team. The notice states that there are 24 different workers who have attended negotiations and are speaking on behalf of the workers. The notice then comments that only 18 of those individuals have been confirmed to be employees. The notice failed to mention that Gerawan never checked its farm labor contractor employee lists to determine if the other six were employees hired through farm labor contractors. Gerawan never performed a reasonable inquiry with the employees on the bargaining committee about their employment status and history with Gerawan.

29. The same February 22, 2013 notice then states that of the 18 confirmed employees,

there is a group of 15 whose average service to the company is just a little over one year. It then states that from the 15 workrs who have served the company for about one year, the majority (nine to be exact) have worked less than 5 months.

30. The information provided by Gerawan about the negotiations committee was false and intentionally or negligently under-stated the seniority and experience that the members of the bargaining committee had with the company. In providing these misleading and inadequately investigated statistics, Gerawan intentionally misled its employees about the status of the the UFW's negotiations committee and subjected its employees to additional scrutiny because of their participation in contract negotiations.

31. In approximately March 2013, Gerawan announced to its employees that it had proposed significant wage increases for all of its employees because it wanted to "make sure" its employees are paid more than what other employers in the industry pay. In its March 28, 2013 notice, Gerawan makes no mention of the UFW or the raise being negotiated with the union.

32. In approximately June 2013, Gerawan unilaterally gave a wage increase to its agricultural employees hired through farm labor contractors ("FLC"). Gerawan provided no notice to the UFW of the intended wage increase to FLC employees, nor did it provide the union with an opportunity to bargain over their wages.

33. In approximately July 2013, Gerawan sent another notice to its employees, titled "Important Notice To All Gerawan Farming Field Employees." This notice stated that Gerawan's door is always open to workers to speak directly to an owner or the H.R. director about any questions or problems. The notice further states that Gerawan told the union that "they should not force you [employees] to give them some of your money, but they [the union] disagreed and told us that if you refuse, they will try to make us fire you."

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First Cause of Action

California Labor Code § 1153(a)

(Interference, Restraint and Coercion of Agricultural Employees in the Exercise of their Rights Under the Act)

34. By the acts set forth in paragraphs 9 through 33 above, the Gerawan has committed unfair labor practices under section 1153(a) of the Act by failing to bargain in good faith with its employees' union and by impeding its employees' ability to communicate with their union, and by failing to provide relevant and accurate employee information to the UFW, Gerawan's agricultural employees' certified bargaining representative.

35. Gerawan has further restrained and coerced its employees' rights under Section 1152, through the acts set forth above, by intimidating them in the exercise of their right to participate in negotiations, by misrepresenting and undermining the UFW's representative status to its workforce, and by leading its employees to believe that the collective bargaining process is futile.

Second Cause of Action

California Labor Code §1153(e)

(Failure to Bargain in Good Faith, Failure to Provide Information, Refusal to Bargain)

36. By the acts set forth in paragraphs 9 through 33 above, Gerawan has committed unfair labor practices under section 1153(e) of the Act by refusing to provide relevant and accurate information to the UFW, by delaying in providing accurate employee information to the UFW, by undermining the UFW's status as the bargaining representative, by coercing and restraining members of the bargaining committee, and by making unilateral changes to the wage rates of bargaining unit members.

37. By engaging in the acts as set forth above, the Gerawan has failed to bargain in good faith with the UFW, in violation of the Act.

REQUEST FOR RELIEF

As the remedy for the unfair labor practices set forth above, the General Counsel seeks an Order requiring Gerawan, their officers, agents, successors and assigns to:

A. Cease and desist from refusing to bargain in good faith with the UFW by denying its requests for information;

B. Cease and desist from implementing unilateral changes to the terms and conditions of employment;

C. Cease and desist from disseminating false information about the UFW's representative status and about the work experience of employees involved in union activities;

D. Provide the UFW with a complete and accurate employee list for its 2012, 2013 and current employees.

FURTHER, the General Counsel requests all such other relief available under the Act that may be just and proper to remedy the unfair labor practices alleged herein.

Dated this 30th day of October, 2013, at Visalia, California.

AGRICULTURAL LABOR RELATIONS BOARD
SYLVIA TORRES-GUILLÉN
General Counsel

SILAS M. SHAWVER
Regional Director

EXCERPTS FROM ALRB REGULATIONS

WHAT TO INCLUDE IN AN ANSWER

Section 20230 – Answer; Time for Filing
The respondent shall file an answer within 10 days of the service of the complaint or any amendment to the complaint. If a hearing is set sooner than 10 days after the service of the complaint, the answer shall be filed no later than the day of the hearing. All allegations in amended complaints served after an answer is filed are deemed denied except for those matters which were admitted in the answer and which have not been changed in the amended complaint.

Section 20232 – Contents of Answer
The answer shall state which facts in the complaint are admitted, which are denied, and which are outside the knowledge of the respondent or any of its agents. The answer may make any appropriate explanation of the circumstances surrounding the facts set forth in the complaint.
Any allegation not denied shall be considered admitted.

Section 20234 – Filing
The answer shall be filed with the Executive Secretary and the regional office that issued the complaint. The answer shall be filed and served as required by sections 20160 and 20166. Any requests to extend the time for filing an answer shall be filed with the Executive Secretary pursuant to section 20240.

MANNER IN WHICH PAPERS ARE TO BE FILED AND SERVED

Section 20164 – Service of Papers by the Board or on the Board
All papers filed by the Board or any of its agents shall be served, together with a copy of a proof of service, on the attorney or representative of each party and on each unrepresented party either (i) personally, by leaving a copy at the principal office, place of business, or, if none, at the residence of the person(s) required to be served, or (ii) by registered or certified mail, with return receipt requested, addressed to the principal office, place of business or, if none, to the residence of the person(s) required to be served, together with an appropriate proof of service.
All papers filed by a party with the Board, the executive secretary, an administrative law judge, an investigative hearing examiner, any regional office of the Board, or the general counsel, may be filed in accordance with any of the methods prescribed above with a certificate of mailing, or by deposit with a common carrier promising overnight delivery.
Service need only be made at one address of a party, or attorney or representative of a party and only to one attorney or representative of each party. Service shall be established by a written declaration under penalty of perjury, setting forth the name and address of each party, attorney or representative served and the date and manner of their service. The Board or the party shall retain the original proof of service.

Section 20166 – Service on Others of Papers Filed with the Board
Whenever a party files papers with the Board, the executive secretary, an administrative law judge, an investigative hearing examiner, any regional office of the Board, or the general counsel, it shall serve the same, together with a copy of a proof of service, on the attorney or representative of each party and on each unrepresented party in the same manner as set forth in section 20164, with the exception of an unfair labor practice charge, which, in accordance with section 20206, must be served personally or by a method that includes a return receipt. Service need only be made at one address of an unrepresented party or an attorney or representative of a party and to only one attorney or representative of each party.
(a) Service on other parties shall be made prior to, or simultaneously with, the filing with the Board, and proof of such service shall be attached to the papers when filed with the Board. Service shall be proven by means of written declaration signed under penalty of perjury, setting forth the name and address of each unrepresented party, attorney or representative of a party served and the date and manner of service.
(b) No proof of service will be required when papers are served by one party on another at the hearing when the fact of such service is stated on the record and in the presence of the party being served, or his or her attorney or representative of record.

RIGHTS OF THE PARTIES TO A HEARING

Section 20269 – Rights of Parties to a Hearing
Any necessary party and any person granted party status pursuant to section 20268 shall have the right to appear at the hearing in person, or by counsel or other representative; to call, examine, and cross-examine witnesses; to introduce all relevant and material evidence, except that the participation of any intervening party may be limited by the administrative law judge.

HOW HEARINGS ARE SET

Section 20224 – Notice of Hearing
(a) When a case is ready to proceed to hearing, the general counsel will notify the chief administrative law judge, who will cause a notice of hearing to issue, specifying the time and place of hearing. In the alternative, the general

counsel may arrange with the chief administrative law judge to include the time and place of hearing in the complaint.

(b) Except where circumstances warrant an expedited hearing, no hearing shall be scheduled to commence less than fifteen (15) days after the issuance of the complaint, and no prehearing conference shall be scheduled to commence less than ten (10) days after the issuance of the complaint.

DISCOVERY RIGHTS

Section 20235 – Request for Particulars.

Where a complaint lacks specificity as to the time, place or nature of the alleged conduct, or the identity of the persons who engaged in it, or fails sufficiently to identify the individual or group against whom the conduct was specifically directed, a written request for particulars may be made by the respondent in accordance with section 20237 to obtain such information; provided, however, that in responding the general counsel need not disclose the identity of any potential witness whose primary source of income is non-supervisory employment in agriculture.

Section 20236 – Matters Discoverable

(a) Upon written request, a party to a hearing is entitled to obtain from any other party to the hearing the names, addresses and any statements (as defined in section 20274(b)) of all witnesses, other than those whose primary source of income is non-supervisory employment in agriculture; provided, however, that any portion of a statement likely to identify a potential witness whose primary source of income is non-supervisory employment in agriculture shall be excised.

(b) Upon written request, a party to a hearing is entitled to obtain from any other party to the hearing the name, address, field of expertise, qualifications, and a brief description of expected testimony of any expert whom it intends to call as a witness. The responding party shall also make available any report prepared for it by such expert concerning the subject matter of the testimony to be given. The failure, without good cause, to comply with the requirements of this subsection shall be grounds for excluding such expert testimony.

(c) Upon written request, a party to a hearing shall be afforded a reasonable opportunity to examine, inspect and copy, and, where appropriate, to photograph and/or test, any writing or physical evidence in the possession or control of the party to the hearing to whom the request is directed which that party intends to introduce into evidence at hearing; provided, however, that any portion of a writing which identifies a potential witness whose primary source of income is non-supervisory employment in agriculture shall be excised, except that this proviso shall not apply to otherwise unprotected or unprivileged business records. Where the writing or physical evidence to be introduced is not yet in the possession or control of the responding party, it shall be identified with reasonable specificity.

(d) Upon written request, general counsel shall disclose to respondent any evidence which is purely and clearly exculpatory.

(e) In compliance proceedings, the general counsel shall, upon written request, make available to the requesting party to the hearing all information in its files, which tends to verify, clarify or contradict the items and amounts alleged in the backpay or bargaining makewhole specification unless the information is absolutely privileged, e.g., income tax returns, form W-2 (wage and tax statement), . . . etc.

Section 20237 – Requests for Discovery

(a) Requests pursuant to sections 20235 and 20236 shall be in writing and directed to the party from whom the information is sought. Copies need not be served on the Board.

(b) Requests shall be made no later than 15 days following service of the answer, and responses shall be due 15 days after receipt of the request; except that, for good cause shown, the chief administrative law judge or the executive secretary, as appropriate in accordance with sections 20240 and 20241, may extend or shorten the time to request or respond.

(c) Requests shall be deemed continuing. Any requested information which becomes available or is discovered after the initial response is to be provided as soon as reasonably possible.

Section 20238 – Order Compelling Discovery Sanctions

(a) A requesting party who believes that the responding party has failed, in whole or part, to comply with a proper request pursuant to sections 20235, 20236, or 20237 may apply in writing to the chief administrative law judge for an order requiring compliance. No application will be entertained unless the applying party establishes that it first made a reasonable effort to resolve the matter by contacting or attempting to contact the responding party. The application shall include copies of the request and any response received, and shall be served on the responding party. If the responding party desires to oppose the application, he or she shall immediately notify the office of the chief administrative law judge. Depending on the proximity to hearing, the chief administrative law judge shall determine whether the opposition will be written or oral, when it will be due, and whether to assign the matter to an administrative law judge. When the dispute concerns the propriety of excising or failing to turn over a statement containing the name of a potential witness whose primary income is from non-supervisory agricultural employment, the privilege created

by Evidence Code Section 1040(b)(2) is waived to the extent of allowing the chief administrative law judge or the assigned administrative law judge to examine the entire unexcised document in camera to determine what, if any, portions should be disclosed.

(b) If a party or its representative fails to comply with an order requiring compliance or otherwise fails to comply with the requirements of section 20235, 20236, or 20237, appropriate sanctions may be imposed either by the chief administrative law judge or, if the matter has been assigned for hearing, by the assigned administrative law judge. Sanctions may include refusing to receive testimony or exhibits, striking evidence received, dismissing claims or defenses, or such other action as may be appropriate, but shall not include imposition of financial penalties.

EXTENSIONS OF TIME AND CONTINUANCES

Section 20190 – Continuances of Hearing Dates

(a) An initial hearing date will be scheduled as soon as a case is ready for presentation. Once that hearing date has been finalized as provided below, the case should proceed to hearing as scheduled. Hearing dates will be assigned so that all cases set for a particular date can proceed on that date. Finalized hearing dates should therefore be regarded by counsel as firm dates.

(b) When a notice of hearing issues for an unfair labor practice or representation case, the dates indicated in the notice of hearing and any scheduled prehearing conference will be finalized unless the executive secretary receives a written communication within ten (10) days of the issuance of the notice of hearing, indicating that the parties have mutually agreed to a new hearing and/or prehearing date. It is the responsibility of the party objecting to the initial date(s) to contact the other parties and obtain their agreement for a modification. The objecting party is also responsible for communicating the new, agreed upon date(s) to the executive secretary.

(1) If a new date for the hearing and/or prehearing is mutually agreed to and communicated to the executive secretary within the ten day period, that date will be finalized by the issuance of a confirming notice of hearing.

(2) If the parties are unable to agree on a new date for the hearing and/or prehearing, the objecting party may submit a written request to the executive secretary within the ten day period, with copies to the other parties, indicating the reasons the initial date(s) are objected to and requesting date(s) which are more convenient. The request will be treated as a motion to continue, and all parties will be contacted by telephone and given an opportunity to respond. No further pleading in support of or in opposition to the continuance shall be filed unless requested by the executive secretary. In ruling on the request, the executive secretary may grant the continuance to the date(s) requested, select other date(s), or retain the initial date(s). The executive secretary's ruling will be finalized by issuance of a confirming notice of hearing.

(3) If the dates set for the hearing and/or prehearing in the initial notice of hearing are not objected to within the ten-day period, they will be finalized by the issuance of a confirming notice of hearing.

(4) In unusual situations where it is urgent that the hearing be held as soon as possible, (e.g., related court proceedings involving interlocutory relief), or when the agreed to dates would create scheduling conflicts, the executive secretary may decline to accept the dates mutually agreed to by the parties and instead select other dates.

(5) In computing the ten-day period, section 20170(b) allowing three additional days to respond to papers served by mail, shall not apply. The date(s) mutually agreed to must be communicated to the executive secretary within the ten-day period.

(c) Once the dates for the hearing and any scheduled prehearing conference have been finalized as provided in (b) above, the scheduled dates will not be subject to change unless extraordinary circumstances are established.

(1) The party seeking a continuance for extraordinary circumstances shall do so by written motion directed to the executive secretary with proof of service on all parties.

(2) The motion shall contain: (i) the dates presently assigned for hearing and prehearing and the dates to which continuance is sought; (ii) the facts on which the moving party relies, stated in sufficient detail to permit the executive secretary to determine whether the conditions set forth in the applicable guidelines have been met; and (iii) the positions of all other parties or an explanation of any unsuccessful attempt made to contact a party or the circumstances excusing such attempt.

(3) Where required by this regulation or where appropriate under the circumstances, supporting declarations shall accompany the motion.

(4) Motions for continuance shall be made as soon as possible after the moving party learns the facts necessitating the motion. Except in emergencies, motions shall be received no less than five (5) calendar days prior to the scheduled hearing.

(5) Once a motion for continuance has been ruled on by the executive secretary, a motion based on the same grounds shall not again be requested at the hearing.

(6) Any party opposing a motion for continuance shall notify the executive secretary as soon as possible. Depending on the proximity to the hearing, the opposing party will be allowed to respond in writing or orally as the executive secretary may determine. Written responses shall be served on the other parties.

(7) Where there is agreement on the terms of a settlement but there is insufficient time to file a written continuance motion, the moving party may present it orally by telephone to the executive secretary. The moving party shall thereafter

promptly reduce the motion to writing and serve it on the executive secretary and the other parties.

(d) After the opening of hearing, continuances of up to two working days may be granted by the assigned administrative law judge or investigative hearing examiner upon oral motion for good cause. The record of the hearing shall reflect the reasons given for the request, the agreement or absence of agreement of the other parties to the hearing, the reasons given for the granting or denial of the motion, and the date, time and location to which the hearing is continued. Requests for continuances for periods longer than two working days shall be in writing directed to the executive secretary with proof of service on all parties. The procedures set forth in subsection (c) above shall be followed and the guidelines set forth in subsection (e), (f) and (g) below, shall apply.

(e) In ruling on a motion for continuance, all matters relevant to a proper determination of the motions will be taken into consideration, including:

(1) The official case file and any supporting declaration submitted with the motion.

(2) The diligence of counsel in bringing the extraordinary circumstances to the attention of the executive secretary and opposing counsel at the first available opportunity and in attempting otherwise to meet those circumstances.

(3) The extent of and reasons for any previous continuances, extensions of time or other delay attributable to any party.

(4) The proximity of the hearing date.

(5) The condition of the hearing calendar.

(6) Whether the continuance may properly be avoided by the substitution of attorneys or witnesses, or by some other method.

(7) Whether the interests of justice are best served by a continuance, by proceeding to hearing, or by imposing conditions on the continuance.

(8) Any other facts or circumstances relevant to a fair determination of the motion.

(f) The following circumstances shall not constitute extraordinary circumstances warranting a continuance:

(1) The fact that all parties have agreed to continue a hearing which has already been set pursuant to a notice of hearing.

(2) Scheduling conflicts which could have been avoided by prompt action either during or after the ten-day period, or which can still be avoided by rescheduling.

(3) Circumstances which would normally constitute good cause, as described below, but which were known or should have been known to the requesting party prior to the expiration of the ten-day period or prior to the granting of any previous continuance.

(4) The willingness of the parties to enter into settlement negotiations. Continuances for settlement will only be granted to consummate a settlement, the basic terms of which have already been agreed to.

(g) The following circumstances will normally be considered extraordinary circumstances warranting the granting of a continuance; provided, however, that the conditions specified for each have been met:

(1) Unavailability of a witness only where: (i) the witness has been subpoenaed and will be absent due to an unavoidable emergency of which that counsel did not know, and could not reasonably have known, when the hearing date was finalized or any previous continuance was granted; (ii) the witness will present testimony essential to the case, and (iii) it is not possible to obtain a substitute witness.

(2) Illness that is supported by an appropriate declaration of a medical doctor, or by bona fide representations of parties or their counsel or representative, stating the nature of the illness and the anticipated period of any incapacity under the following circumstances: (i) the illness of a party or of a witness who will present testimony essential to the case except that, when it is anticipated that the incapacity of such party or witness will continue for an extended period, the continuance should be granted on condition of taking the deposition of the party or witness in order that the hearing may proceed on the date set; with respect to such an essential witness, it must also be established that there is insufficient time to obtain a substitute witness; (ii) the illness of the hearing attorney or representative, except that the substitution of another attorney should be considered in lieu of a continuance depending on the proximity of the illness to the date of hearing, the anticipated duration of the incapacity, the complexity of the case, and the availability of a substitute attorney.

(3) Death of the hearing attorney or representative where, because of the proximity of such death to the date of hearing, it is not feasible to substitute another attorney or representative. The death of a witness only where the witness will present testimony essential to the case and where, because of the proximity of death to the date of hearing, there has been no reasonable opportunity to obtain a substitute witness.

(4) Unavailability of administrative law judge or investigative hearing examiner where there is no other available administrative law judge or investigative hearing examiner or where there is insufficient time for an otherwise available administrative law judge or investigative hearing examiner to become familiar with the case in time for the hearing. The executive secretary may act sua sponte in continuing a hearing pursuant to this subparagraph.

(5) Substitution of trial counsel or representative only where there is an affirmative showing that the substitution is required in the interests of justice, and there is insufficient time for the new counsel or representative to become familiar with the case prior to the scheduled hearing date.

(6) A significant change in the status of the case where, because of the addition of a named party or the need to amend the pleadings to add a new issue or allegation, a continuance is required in the interests of justice. The executive secretary may act sua sponte in continuing a hearing pursuant to this paragraph.

Section 20192 – Extensions of Time

(a) Extraordinary circumstances do at times occur which prevent parties or their counsel or representative from complying with the time limits contained in the regulations or orders of the Board for the filing and service of papers. In those situations, parties, or their counsel or representatives, may apply for extensions of time by written motion directed to the executive secretary or assigned administrative law judge, as appropriate in accordance with sections 20240 and 20241, with service on all other parties.

(b) Requests for extensions of time shall be filed or presented in the same manner as motions for continuances, except that, absent good cause shown, they are to be received at least three (3) calendar days before the due date of the papers to be filed. The request shall include the due date, the length of extension sought, the grounds for the extension, and the position of the other parties, in the same manner as required for continuances in subsection 20190(c)(2) above.

(c) Requests for extensions of time will be processed and ruled on by the executive secretary or assigned administrative law judge, as appropriate in accordance with sections 20240 and 20241, based on considerations similar to those described in subsections 20190(e), (f), and (g).

RIGHT TO APPEAR

Section 20370 – Investigative Hearings--Types of Hearings and Disqualification of IHE's

Investigative Hearings--Powers of IHE's

(b) The parties shall have the right to participate in such investigative hearing as set forth in Labor Code Sections 1151, 1151.2, and 1151.3. Any party shall have the right to appear at such investigative hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses and to introduce into the record documentary evidence, except that participation of any party shall be limited to the extent permitted by the investigative hearing examiner, and provided further, that documentary evidence shall be submitted in duplicate. The investigative hearing examiner shall have the duty to inquire fully into all matters in issue and to obtain a full and complete record. In furtherance of this obligation, the investigative hearing examiner shall have all of the powers that an administrative law judge has in an unfair labor practice proceeding as enumerated in section 20262, where applicable.

Section 20402 – Evaluation of the Declaration and Answer

(d) Where an evidentiary hearing is ordered by the Board pursuant to subdivision (c) above, the hearing shall be in accordance with the following procedures:

(1) Notice of hearing shall be served in the manner required by Section 20164.

(2) Parties shall have the right to appear in person at the hearing, or by counsel or other representative, to call, examine and cross-examine witnesses, and to introduce all relevant and material evidence. All testimony shall be given under oath.

(3) The hearings shall be reported by any appropriate means designated by the Board.

(4) The hearing shall be conducted by a member(s) of the Board, or by an assigned Administrative Law Judge, under the rules of evidence, so far as practicable; while conducting a hearing the Board member(s) or Administrative Law Judges shall have all pertinent powers specified in Section 20262.

(5) Requests for discovery and the issuance and enforcement of subpoenas shall be governed by the provisions of section 20406 of these regulations, with the exception that references to "notice of mediation" shall mean notice of hearing, "mediator" shall mean the Board member(s) or assigned Administrative Law Judges who will conduct the hearing, references to "mediation" shall mean the expedited evidentiary hearing provided for in this section.

(6) The assigned Administrative Law Judge or member(s) of Board who conducted the hearing shall file a decision with the Executive Secretary within ten (10) days from receipt of all the transcripts or records of the proceedings. The decision shall contain findings of fact adequate to support any conclusions of law necessary to decide the matter. If the hearing was conducted by the full Board, the decision shall constitute that of the Board.

(A) Upon the filing of the decision, the Executive Secretary shall serve copies of the decision on all parties pursuant to section 20164.

(B) Within ten (10) days after the service of the decision of the Administrative Law Judge, or of less than the full Board, any party may file with the Executive Secretary for submission to the Board the original and six (6) copies of exceptions to the decision or any part of the proceedings, with an original and six (6) copies of a brief in support of the exceptions, accompanied by proof of service, as provided in sections 20160 and 20168. The exceptions shall state the ground of each exception, identify by page number that part of the decision to which exception is taken, and cite to those portions of the record that support the exception. Briefs in support of exceptions shall conform in all ways to the requirements of sections 20282(a)(2). The Board shall issue its decision within 10 days of receipt of the exceptions.

(7) Upon its resolution of the disputed facts, the Board either shall issue an order dismissing the declaration or an order directing the parties to mandatory mediation and conciliation and request a list of mediators from the California State Mediation and Conciliation Service, in accordance with Labor Code section 1164, subdivision (b)

State Of California

Agricultural Labor Relations Board

PROOF OF SERVICE BY MAIL
(8 Cal.Code Regs. Sec. 20164)

I am a citizen of the United States and a resident of the County of Sacramento. I am over the age of eighteen years and not a party to the within entitled action. My business address is. 1325 J Street, Suite 1900 A, Sacramento, California 95814-2944

On **October 30, 2013**, I served the within **ORDER TO CONSOLIDATE CASES AND CONSOLIDATED COMPLAINT, GERAWAN FARMING, INC.,** Case No. **2013-CE-041-VIS et al**, and FACT SHEET (re: requirements for an Answer, the right to a hearing, and the manner in which hearings are scheduled) and EXCERPTS FROM ALRB REGULATIONS, 8 Cal. Code Regs., Sections 20232, 20166, 20164, 20224, 20235-20238, 20192, 20190, on the parties in said action, by placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Visalia, California, addressed as follows:

HAND-DELIVERY
Antonio Barbosa, Executive Secretary
Agricultural Labor Relations Board
1325 J Street, Suite 1900 B
Sacramento, California 95814-2944

Sylvia Torres-Guillen, General Counsel
Agricultural Labor Relations Board
1325 J Street, Suite 1900 A
Sacramento, California 95814-2944

Executed on **October 30, 2013**, at Sacramento, California. I declare under penalty of perjury that the foregoing is true and correct

Marilu Garcia

State Of California

Agricultural Labor Relations Board

PROOF OF SERVICE BY MAIL
(8 Cal.Code Regs. Sec. 20164)

I am a citizen of the United States and a resident of the County of Tulare. I am over the age of eighteen years and not a party to the within entitled action. My business address is: 1642 W. Walnut Avenue, Visalia, California 93277

On **October 30, 2013**, I served the within **ORDER TO CONSOLIDATE CASES AND CONSOLIDATED COMPLAINT, GERAWAN FARMING, INC.,** Case No. **2013-CE-041-VIS et al, VIS** and FACT SHEET (re requirements for an Answer, the right to a hearing, and the manner in which hearings are scheduled) and EXCERPTS FROM ALRB REGULATIONS, 8 Cal. Code Regs., Sections 20232, 20166, 20164, 20224, 20235-20238, 20192, 20190, on the parties in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Visalia, California, addressed as follows:

CERTIFIED MAIL
Ron Barsamian
Barsamian and Moody
1141 W. Shaw Avenue, Suite 104
Fresno, California 93711-3704

Mario Martinez
United Farm Workers of America
Legal Department
1227 California Avenue
Bakersfield, California 93304

Executed on **October 30, 2013**, at Visalia, California. I declare under penalty of perjury that the foregoing is true and correct.

Laura Camero