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MEDIA ADVISORY

California State Appellate Court Orders ALRB, UFW to Suspend Efforts to Enforce State-Ordered Labor Contract on Gerawan Pending Judicial Review

*Justices Find “Good Cause” to Consider Gerawan’s
Challenge to the State’s MMC Process*

FRESNO, CA – On Monday, November 3, the California Court of Appeal in Fresno asked Gerawan and the California Agricultural Labor Relations Board to explain whether the ALRB “abused its discretion” by ordering Gerawan to comply with a Board-ordered, compulsory “collective bargaining agreement” “at a time when an election had been recently held that may have decertified the UFW as the employees’ bargaining representative” at Gerawan.

This request followed the Court’s grant last week of Gerawan’s petition to review the constitutionality of the Board’s forced contracting scheme. Finding “good cause” to hear Gerawan’s appeal, the Court stayed all proceedings to enforce the Board’s order pending review by the Court. Both the ALRB and the UFW opposed Gerawan’s petition.

“We are gratified that the Court accepted our case. Our family, our workers, and our industry need an answer to the fundamental question raised by this appeal – whether the state can legally write a contract and force it on employers without their consent, or impose the UFW on workers without their vote,” said Dan Gerawan, Co-Owner of Gerawan Farming.

After winning a contested election in 1990 and being certified by the ALRB in 1992, the UFW abandoned Gerawan employees without ever negotiating a collective bargaining agreement. Nearly twenty years later, the union resurfaced, declared itself

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to be Gerawan employees' exclusive representative, and compelled Gerawan into the forced contracting process under state labor law. The Board then drafted and imposed a contract on Gerawan and its workers.

Following the Board's order, thousands of Gerawan employees successfully petitioned for the right to hold an election to determine whether to oust the UFW. That election was held one year ago. The ballots still have not been counted, pending objections to the election filed by the UFW and the ALRB's General Counsel.

The Court requested further briefing on two, related questions: "1. Should this court stay this appeal pending the ALRB's determination of the decertification election? 2. In the event that the Board counts the ballots and finds that the UFW was decertified prior to the Board's final order (to approve the CBA), would that fact nullify the CBA?"

The workers will not be told the outcome of the election or whether their ballots will be counted for months. Nonetheless, Gerawan stated: "I believe that the Court's decision should give hope to thousands of workers who are still waiting for their votes to be counted before – not after – a forced contract may be imposed on them."

The Court stayed further attempts by the UFW and the General Counsel of the Board to compel immediate contract enforcement pending this appeal. Gerawan called this decision a "victory for the rule of law." The ALRB and the UFW previously asked two different trial courts to immediately enforce the contract. On both occasions the trial courts refused. "The Board and the UFW sought 'enforcement first, judgment later.' No person should be forced to submit to an order of a state agency without the right of judicial review. The Court of Appeal's order vindicates that right."

You can [find copies of the Court's orders, and more background information here](#) on the ALRB's efforts to force a contract on Gerawan employees before ballots have been counted in the decertification election.

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