



**For Immediate Release**  
**June 2, 2015**

**CONTACT: David A. Schwarz, Irell & Manella LLP**  
**(310) 277-1010, DSchwarz@irell.com**

***MEDIA ADVISORY***

## **CALIFORNIA NEWSPAPER PUBLISHERS FILE BRIEF TO SUPPORT LAWSUIT TO OPEN LABOR AGENCY PROCEEDINGS TO FARM WORKERS**

FRESNO, CA, June 2, 2015 – In a court filing today, the California Newspaper Publishers Association, the Reporters Committee for Freedom of the Press, and the First Amendment Coalition asked the California Court of Appeal to strike down an order of the California Agricultural Labor Relations Board (ALRB) that bars workers, the public, and the press from attending “on the record” hearings conducted as part of the Board’s compulsory contracting process. Siding with fruit grower Gerawan Farming and farmworker Lupe Garcia, the reporters and publishers argue that “the exclusion of the public” from ALRB proceedings “should be held to violate the First Amendment.”

The “friend of the court” brief was filed in the California Court of Appeal for the Fifth District in Fresno in a proceeding challenging an ALRB decision (39 ALRB No. 13 (August 21, 2013)). That order barred farm worker Lupe Garcia from attending a Mandatory Mediation and Conciliation (MMC) proceeding. Under the MMC proceedings, the ALRB dictates the terms and conditions of a compulsory “contract” between Gerawan, its workers, and the United Farm Workers union.

Today’s filing challenges the constitutionality of the Board’s denial of public access to the press, and the ALRB’s holding that “the public interest . . . is not served by public presence” during the on the record portion of this forced contracting process.

A coalition of publishers, journalists, and First Amendment advocates urged the Court to determine that the MMC proceedings are a matter of public concern and should be “presumptively open to the public,” and “The public may be understandably

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suspicious of a closed process that keeps out the people whose rights the process adjudicates.” The amicus parties explain that courts have routinely ruled that similar proceedings must be open.

“I am pleased that reporters and publishers are supporting the rights of farm workers to attend these ALRB proceedings,” said Gerawan Farming co-owner Dan Gerawan. “Sadly, the Board decided that farm workers should be excluded from these proceedings where, behind closed doors, the UFW was demanding a right to tax workers, even those who don’t want any part of the union.”

David A. Schwarz, counsel for Gerawan, explained: “Both the U.S. and California constitutions require that the ALRB decision be struck down. Article 1 of the California Constitution, as amended by the voters in 2004, makes clear that these proceedings must be open. As the amicus brief underscores, the result is the same under the First Amendment to the U.S. Constitution.”

On May 14, 2015, a unanimous three-judge panel in the same Court struck down the MMC Statute as unconstitutional. Today’s filing challenges the constitutionality of the Board’s denial of public access to the MMC proceedings. Said Schwarz: “The Board’s decision to cloak its forced contracting process in secrecy not only violates the rights of farmers and farm workers. It erodes public trust in our government.”

The amici are represented by Professor Eugene Volokh of UCLA Law School. Volokh is one of the nation’s leading First Amendment scholars. He is the author of “The First Amendment and Related Statutes, Problems, Cases and Policy Arguments” published by University Casebook Series and used in law schools across the country. He is the founder of the 13-year-old Volokh Conspiracy, one of the most widely read legal blogs in the world, which is now affiliated with the Washington Post.

See:

[Amicus Brief of Reporters Committee and Publishers Association](#)

[ALRB Decision - Gerawan Farming v. UFW, 39 ALRB No. 13 \(Aug. 21, 2013\)](#)

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