

Key Facts in the History between Gerawan Farming, Inc. and the United Farm Workers

Refuting the Falsities

GERAWAN FARMING, INC.

2013

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The UFW makes false statements as part of an effort to deflect criticism of the union's long abandonment of Gerawan's employees. The UFW is making these statements as part of a campaign to deflect attention from worker protests against UFW's representation. These workers have asked for the chance to choose for themselves whether the UFW can bind them to a contract. Gerawan favors an election. The UFW does not want workers to make their own choice. While it tells Gerawan "to respect its employee wishes to remain represented by the UFW," the union does everything possible to make sure the employees do not have an election.

In response to worker protests against the Union, the UFW claims that it has "been representing the workers and it's because of [the UFW's] efforts that they have health benefits and have seen a wage increase." KFSN-TV (ABC 30), "Many workers with Gerawan Farming protest United Farm Workers union" (September 30, 2013).

At the same time, the UFW falsely blames Gerawan for the union's near two-decade failure to represent the workers, claiming that it "always tried to work out a contract but ran into roadblocks for the last 20 years." KSEE 24 News, "Kerman Farm Workers Protest Unions, Walk off Job" (September 30, 2013). When confronted with these false (and contradictory) statements, the UFW blames the reporters, claiming that they "misquoted" the UFW or used "imprecise language." The last time the union made similar untrue statements (in the Fresno Business Journal), it also claimed it was misquoted. The Business Journal disagreed, and went on record that it accurately quoted the UFW.

This is now the third time that the UFW claims that a reporter "got it wrong." The excuse has begun to wear thin.

Here are the facts.

The UFW Abandoned Gerawan's Workers

- The UFW was certified as the bargaining representative for Gerawan's agricultural employees in July 1992. This certification came as a result of a 1990 election in which the UFW received 564 votes out of 1,077 cast. Since then, Gerawan has more than doubled in size and currently employs approximately 2,600 farmworkers. Of Gerawan's current workforce, few, if any, voted in the 1990 election.
- The UFW and Gerawan held one preliminary negotiating session in February 1995. At that session, Gerawan asked, and the UFW agreed, to submit a proposed contract relevant to Gerawan's operations and industry. But the UFW never did.
- Following that initial meeting, the UFW did not contact Gerawan regarding representation or negotiation matters until October 2012. For almost two decades, there was no UFW presence at Gerawan and no union activity.
- During its absence, the UFW never negotiated a single wage increase for any Gerawan worker. It didn't bargain for a contract. It didn't ask for a seat at the bargaining table. It didn't collect dues or file a single grievance on behalf of Gerawan's workers. It didn't lift a finger to help Gerawan's workers.
- And while the UFW was absent, Gerawan on its own chose to offer higher wages and better benefits than any other grower in the Central Valley. All of this happened without the UFW's involvement.
- The UFW reappeared at Gerawan in October 2012. As required by law, Gerawan then bargained in good faith in response to the UFW's demands for negotiations. After just eight bargaining sessions over a three-month period, the UFW compelled Gerawan into a compulsory arbitration process under a 2003 law by which a single decision maker is empowered to draft the terms of a binding collective bargaining agreement. The workers do not get to approve this contract. It will imposed upon them by the ALRB. Some Gerawan farmworkers attempted to participate in this process. The UFW objected, and the Board-empowered decision maker barred them from participating in these proceedings. The Board then rejected the workers' appeal, refusing to allow these workers to even attend the "on the record" portion of these proceedings.
- The arbitrator's final report was just released. Gerawan workers will not be given the chance to ratify the arbitration's resulting contract. Their efforts to hold a decertification election represent their only opportunity to have a formal voice in whether the UFW continues as their bargaining representative.

The UFW Cannot Explain or Justify Its 20-Year Absence

- The UFW has consistently refused to offer any explanation as to why it abandoned Gerawan workers or failed to contact Gerawan for the better part of 20 years. It claims that it has no “legal obligation to explain to the employer anything about the last 20 years,” deeming Gerawan’s claims of abandonment to be “irrelevant.”
- Instead, in court filings it offered excuses for its inaction. These include:
 - It walked away from the bargaining table in 1995 because it believed Gerawan made a “patently unacceptable,” “take it or leave it” proposal concerning the use of farm labor contractors. While not explaining what was “patently unacceptable” about the proposal, the UFW cannot justify why it refused to participate in the bargaining process.
 - It claims that it asked a U.S. Congressman in 2004 to contact Gerawan with an “invitation to meet” with the UFW. Despite the fact that both the Congressman and Gerawan refute the bizarre story, the UFW does not explain why it did not contact Gerawan directly, as it claims the right and power to bargain on behalf of Gerawan’s workers. Instead, UFW said that it “concluded that meaningful bargaining negotiations with Gerawan Farming would not be possible” and “decided to focus its resources elsewhere.” Gerawan did not receive any call from the UFW in 2004 – or at any time in the next eight years.
 - Although the UFW could have sought to compel compulsory arbitration against Gerawan as early as 2003, it decided to do nothing, and now offers the dubious justification of that it “would be better to wait until the law was better established to invoke it.” This cannot explain why the UFW, which championed this law, waited a decade to ask for compulsory arbitration against Gerawan.

The UFW Repeats False Claims Because It Cannot Explain Its Abandonment

- On Monday, September 30, 2013, the UFW told KFSN-TV (ABC 30) that it “has been representing the workers and it’s because of their efforts that they have health benefits and have seen a wage increase.” KFSN-TV (ABC 30), “Many workers with Gerawan Farming protest United Farm Workers union.”
- That same day the UFW falsely blamed Gerawan for the union’s near two decade failure to represent the workers. On Monday, September 30, 2013, KSEE 24 News in Fresno reported that the UFW made following statement: “The UFW says it’s always tried to work out a contract, but ran into roadblocks for the last 20 years.” KSEE 24 News, “Kerman Farm Workers Protest Unions, Walk off Job”
- The UFW has in the past made false statements as part of an attempt to deflect criticism by concocting and repeating the untrue story that Gerawan has somehow been “fighting” or “objecting” or throwing up “roadblocks” for the last 20 years. When called on these false statements, the UFW has retracted or “corrected” its statements, or claimed not to have made them. For example:
 - On January 18, 2013, the UFW told the Fresno Business Journal that “it tried to negotiate with Gerawan many times over the years but it was not cooperative. “Instead of negotiating, they continued fighting for 20 years,” stated Maria Machuca, UFW spokesperson. “It’s been so long because they’ve been raising so many objections.”
 - These statements were false. Armando Elenes, National Vice-President of the UFW, claimed that it “appears” that the UFW spokesperson was misquoted, thus accusing the reporter of unprofessionalism. The Fresno Business Journal responded: “Elenes asserts that The Business Journal misquoted UFW spokesperson Maria Machuca. We maintain that Machuca was quoted accurately.”
 - When confronted with the September 30 statements attributed to the UFW by two network news channels, the UFW again denied making these statements, again accusing the reporters of sloppy reporting, and claiming that “our experience is that reporters often use imprecise language.”
 - Yet, the UFW has yet to ask these reporters to immediately correct what it claims were misattributions and “imprecise language,” even after Gerawan pointed out these false statements to the union’s attorney.

The UFW Falsely Grabs Credit for Negotiating Gerawan's Highest Wages and Benefits

- During the UFW's absence, Gerawan not only grew substantially in size, but also became the market leader in paying the highest fruit farming wages in the region. While the UFW was absent, Gerawan on its own chose to offer higher wages and better benefits than any other grower in the Central Valley. All of this happened without the UFW's involvement.
- Now the UFW website states "the 25-member union negotiating committee selected by Gerawan's workers negotiated wage increases for all Gerawan workers of between \$1 to \$2.50 an hour that have already been implemented."
- The UFW wants to take credit for something it never did. The UFW's National Vice President, Armando Elenes, was quoted on Monday, September 30, 2013 as stating that Gerawan "workers have already benefited from having the union here." The story continues: "the UFW says they've been representing the workers since the 1990s and it's because of their efforts that they have health benefits and have seen a wage increase." September 30, 2013, KFSN-TV ABC 30, "Farm workers Near Kerman Protest United Farm Workers Union".
- The UFW has never been involved in any wage or benefit decision made by Gerawan. This includes the two wage increases Gerawan has implemented since the union's reappearance last year totaling an additional \$1.00 per hour. The UFW did not propose these increases. It didn't "fight" for them. Gerawan gave the UFW notice of its intention to increase wages and an opportunity to negotiate. The UFW agreed to the increases proposed by the company. It agreed to them only after Gerawan notified the UFW of Gerawan's intention to give the increases as the law requires.
- Before it started taking credit for wage increases, the UFW filed charges against Gerawan for raising its wages without their involvement. On July 9, 2013, the UFW filed an "unfair labor practice charge" with the ALRB, in which it alleged that Gerawan "unilaterally implemented a wage increase" for farm labor contractor employees, "without providing [sic] the UFW with notice or an opportunity to bargain over this change." In reality, the farm labor contractors had already set their rates when they performed work for other agricultural employers and continued paying the same rates when they began providing labor to Gerawan.

CONCLUSION

The UFW's false statements constitute a continuing pattern of deception designed to misdirect the conversation, obfuscate its own failures, and distract the ALRB and many other interested parties from answering the only question that really matters: If the UFW truly believes that Gerawan "workers have already benefited from having the union here," then why isn't the UFW asking for an election?

Thousands of workers have asked the ALRB for their right to hold an election. That is the best way for the workers to decide whether they have "benefited" from the UFW. They ought to have the choice before they are forced to pay three percent of their wages to the UFW or lose their job if they don't. As Gerawan has stated repeatedly, it supports free and fair employee choice. Gerawan will accept the outcome of a secret-ballot vote.

As stated in the Wall Street Journal on October 3, 2013: "All workers are asking for is the opportunity to vote by secret ballot over whether they want to be represented by the United Farm Workers. What is the union and farm board afraid of?"

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