

Latest 28-page complaint from ALRB chief prosecutor details Gerawan's 'intensive and ongoing' drive since 2013 to prevent workers from 'ever' winning a union contract

Fifth complaint—tantamount to an indictment—for serious and repeated violations

In a blistering new 28-page complaint—similar to an indictment—the chief prosecutor for the state Agricultural Labor Relations Board detailed how the United Farm Workers' renewed attempt to win a union contract with Gerawan Farming "in October 2012 sparked an intensive and ongoing campaign by Gerawan to undermine the UFW's status as its employees bargaining representative; to turn it employees against the union; to promote decertification of the UFW; and to prevent the UFW from ever representing its employees under a collective bargaining agreement." (Remember, these aren't charges against Gerawan from the UFW; they are from the state of California following extensive investigations by state agents.)

• **Fifth ALRB general counsel complaint Sept. 9, 2014**

The consolidated complaint was issued by ALRB General Counsel Sylvia Torres Guillen, who said in an agency news release that, "No employee in the fields should be coerced by their employers when it comes to deciding whether union representation is best for them."

—New allegations in this complaint involve Sylvia Lopez, leader of the drive to decertify, or get rid, of the UFW. "Sylvia Lopez began her involvement in anti-union activities at Gerawan **before** she started working for the company in late June 2013," the complaint states and "**by late June 2013, [she] began to work sporadically for Gerawan** (emphasis added)." The complaint continues:

By mid-July 2013, Sylvia Lopez, [other of her family members] and other employees were actively engaged in a campaign of gathering signatures to support the decertification of the UFW at Gerawan. Sylvia Lopez and other employees, including supervisory personnel, began to approach employees in Gerawan's crews...on a regular basis, during work hours, after work hours, and during breaks, to gather signatures to decertify the UFW. **During this period, Sylvia Lopez rarely worked a full day in her crew** (emphasis added). Several other employees also took significant amounts of time off to engage in decertification signature gathering during work hours.

Gerawan Crew Boss Reynaldo Vilavicencio allowed employees Sylvia Lopez and Belen Solanto [Lopez's daughter] to miss work approximately 75 percent of the time during the period of approximately July 1, 2013 through October 25, 2013, without

requiring justification and without employee discipline (emphasis added).

—“Gerawan supported protest activities to decertify the UFW,” the newest complaint alleges. It continues:

In September 2013 and October 2013, **Gerawan...actively recruited and encouraged** employees to join in protests against the ALRB and the UFW. During this period, **Gerawan’s supervisory employees cancelled work and directed workers to protests** in Kerman, Visalia and Fresno in support of the decertification effort (emphasis added)...**Gerawan’s crew bosses...directed employees to protest against the ALRB an the UFW instead of allowing employees to work...Gerawan made sure that employees would not be able to access fields and work on September 30, 2013, thus coercing them into participating in protests in support of decertification** (emphasis added)...

On October 25, 2013, **Gerawan provided support to a media event** in support of the decertification petition...encourag[ing] several hundred workers to leave work in the middle of the day to attend a protest in Fresno. Upon their return to work, Gerawan paid for the workers who participated in the protest to receive free pizza and tacos (emphasis added)...

On multiple days...Gerawan employees, with direction and support from Gerawan and its supervisors, stopped work and engaged in anti-UFW and anti-ALRB protests for the purpose of gathering signatures on the decertification petition and gaining support among employees, the public and state government officials for decertification (emphasis added).”

—Gerawan’s directly supported decertification efforts

“During the course of the decertification signature gathering effort...Gerawan, through its owners, supervisors, and crew bosses, regularly made statements that encouraged and assisted in the effort to decertify the union and coerced employees in their ability to choose whether to support decertification,” the complaint states. It continues:

...Gerawan set up a website (helpfarmworkers.com) to promote the decertification effort...

Gerawan discriminatorily used attendance policies to support decertification...**Gerawan...regularly allowed employees supporting the decertification effort to arrive late to work, leave early, access Gerawan fields on days the employee did not work, take extended breaks during the work day, and to avoid work altogether to engage in signature**

gathering, protests and other activities in furtherance of the decertification effort (emphasis added).

[Meantime,] during the period of Gerawan’s negotiations with the UFW in 2013 and during the period of July 2013 through October 25, 2013, **Gerawan applied strict attendance policies for union supporters** and for employees whose absences were unrelated to decertification activities (emphasis added).

- **Fourth ALRB general counsel complaint April 4, 2014**

Alleging that Gerawan broke the law by refusing to implement the union contract issued in 2013 by a neutral state mediator the company helped select and approved by the Agricultural Labor Relations Board.

- **Third ALRB general counsel complaint Oct. 30, 2013**

This 10-page complaint accuses Gerawan of bad faith bargaining and ‘intimidating’ workers from participating in negotiations. It states the company of “**failing to bargain in good faith with its employees’ union,**” “**impeding its employees ability to communicate with their union**” and “**failing to provide relevant and accurate employee information**” to the UFW. Gerawan has “**intimidat[ed] [its employees] in the exercise of their right to participate in negotiations,**” the ALRB general counsel stated in the complaint (emphasis added).

Gerawan also took credit for a “significant” pay hike for its workers **without mentioning the UFW or that the raise was “negotiated with the union,”** according to the complaint (emphasis added).

- **Second ALRB general counsel complaint Oct. 25, 2013**

Accusing Gerawan of illegally “**instigating and encouraging the gathering of signatures for a decertification petition,**” having its supervisors circulate petitions and telling workers to sign them, “**unlawfully interrogating workers about their union activities**” and “**surveiling**” its workers, the farm labor board general counsel stated (emphasis added).

The complaint also states that an attorney for some of Gerawan’s farm labor contractors—and therefore an agent/lawyer of Gerawan—illegally represented the petitioner and other workers behind the decertification effort.

- **First ALRB general counsel complaint May 17, 2013**

It accuses Gerawan of **illegally excluding some of its farm workers “from the benefits of a [union contract]”** because they are supplied by farm labor contractors and of “**insisting that the UFW agree to an unlawful contract**

proposal that contravenes the purposes of the [law],” according to the ALRB general counsel. State law clearly provides that the right to bargain is enjoyed by all farm workers, even employees of labor contractors engaged by Gerawan (emphasis added).

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Rulings by ALRB regional director dismissing decertification petitions Sept. 25, 2013 and Oct. 31, 2013

In September 2013, ALRB Regional Director Silas M. Shawver dismissed the first Gerawan petition to decertify the UFW after a thorough investigation exposed “**a large number of forged signatures**” and “significant unlawful assistance by the employer in the circulation of the petition,” according to the regional director (emphasis added). He dismissed the second petition in October 2013, citing the outstanding three recent complaints against the company for repeated multiple violations of the law. The regional director concluded that **it is “impossible to conduct an election in an atmosphere where employees can exercise their choice in a free and uncoerced manner** (emphasis added).”

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