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19 Attorneys for the General Counsel

20 STATE OF CALIFORNIA

21 AGRICULTURAL LABOR RELATIONS BOARD

22 In the Matter of:

23 WONDERFUL NURSERIES LLC

24 Respondent,

25 and

26 UNITED FARM WORKERS OF AMERICA,

27 Charging Party.

28 Case No.: 2024-CE-013  
2024-CE-014  
2024-CE-015

**ORDER TO CONSOLIDATE CASES:  
CONSOLIDATED COMPLAINT**

1 Unfair labor practice charges having been duly filed in the above-captioned cases,  
2 pursuant to Sections 1160.2 of the Agricultural Labor Relations Act, Labor Code Section 1140,  
3 et seq., and Section 20220, et seq. of the Agricultural Labor Relations Board's Regulations, and  
4 the undersigned having duly considered the matter and deeming it necessary to effectuate the  
5 purposes of the Act and to avoid unnecessary costs or delay.

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

8 Respectfully Submitted,

9  
10 Dated: April 22, 2024

11 AGRICULTURAL LABOR RELATIONS BOARD  
12 JULIA MONTGOMERY  
13 General Counsel

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16 YESENIA DE LUNA  
17 Regional Director  
18 Region 2  
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1 The General Counsel of the Agricultural Labor Relations Board (“ALRB”), pursuant to  
2 Section 1160.2 of the Agricultural Labor Relations Act of 1975, California Labor Code section  
3 1140 *et seq.* (the “Act”) and California Code of Regulations, title 8, section 20220, hereby issues  
4 this Complaint against Wonderful Nurseries, LLC (“Wonderful Nurseries” or “Respondent”).  
5 This Complaint alleges that Respondent committed an unfair labor practice, as described below.

### 6 **JURISDICTION AND PARTIES**

7 1. On March 1, 2024, the United Farm Workers of America (“UFW”) properly and  
8 timely filed unfair labor practice charge 2024-CE-013 alleging that, in relevant part, on or about  
9 February 26 and 28, 2024, Wonderful Nurseries coerced workers in the exercise of their rights  
10 by requiring workers to attend a mandatory “captive audience” meeting to urge employees to  
11 reject representation by UFW.

12 2. On March 1, 2024, the United Farm Workers of America (“UFW”) properly and  
13 timely filed unfair labor practice charge 2024-CE-014 alleging that, in relevant part, on or about  
14 February 26, 2024, and continuing, Wonderful Nurseries circulated a blank anti-union petition  
15 during captive audience meetings during work hours and coerced employees into signing such  
16 anti-union petition to revoke their UFW authorization cards, in violation of the ALRA.

17 3. On March 1, 2024, the United Farm Workers of America (“UFW”) properly and  
18 timely filed unfair labor practice charge 2024-CE-015 alleging that, in relevant part, on or about  
19 February 29, 2024 and continuing to date, Wonderful Nurseries, through its agents,  
20 representatives, supervisors, and/or foremen, including Foreman Eduardo (last name unknown),  
21 falsely misrepresented to Wonderful Nurseries workers during a mandatory captive audience  
22 meeting that the UFW deducts \$200 a paycheck and that there are no benefits to having a union  
23 contract.

24 4. On March 1, 2024, the Visalia Regional Office served Wonderful Nurseries with  
25 the unfair labor practice charges 2024-CE-013, 2024-CE-014, and 2024-CE-015 via certified  
26 mail and by email to their counsel of record, Barsamian & Moody.

27 5. Wonderful Nurseries, LLC (“Wonderful Nurseries”) grows, grafts, and harvests  
28 grapevines and trees in Kern County, including at 27920 McCombs Road, Wasco, CA 93280

1 (“Wasco Facility”), 30904 Merced Avenue, Shafter, CA 93263 (“Merced Facility”), 15644  
2 Zerker Road, McFarland, CA 93250 (“Zerker Facility”) and at various other locations in Kern  
3 County, and thus is an agricultural employer within the meaning of Labor Code Sections  
4 1140.4(a) and (c) of the Act.

5 6. At all material times, Guerrero Farm Labor (“Guerrero FLC”) was a farm labor  
6 contractor that provided agricultural labor to Wonderful Nurseries, LLC within the meaning of  
7 Labor Code section 1140.4(c)

8 7. At all material times, Production Supervisor Fidel Garcia (“Production  
9 Supervisor Garcia”) was the production supervisor for Guerrero FLC overseeing the work of  
10 agricultural employees and thus was a statutory supervisor for Wonderful Nurseries within the  
11 meaning of Labor Code section 1140.4(j). Production Supervisor Garcia was, and continues to,  
12 have, the authority to investigate and recommend discipline of agricultural workers.

13 8. At all material times, Foreperson Brenda Chaidez-Sanchez (“Foreperson  
14 Chaidez-Sanchez”) was a foreperson for Guerrero Farm Labor and a statutory supervisor for  
15 Wonderful Nurseries within the meaning of Labor Code Section 1140.4(j). Foreperson Chaidez-  
16 Sanchez was, and continues to be, a foreperson for Guerrero Farm Labor, a farm labor contractor  
17 contracted by Wonderful Nurseries. Foreperson Chaidez-Sanchez had, and continues to have,  
18 the authority to investigate and recommend discipline of agricultural workers.

19 9. At all material times, Labor Consultant Raul Calvo (“Consultant Calvo”) was  
20 contracted by Wonderful Nurseries to assist with general labor issues resulting from the United  
21 Farm Workers of America’s union campaign. Consultant Calvo was responsible for employee  
22 relations, including addressing employees on behalf of Wonderful Nurseries and is, thus, an  
23 agent of the Wonderful Nurseries.

24 10. At all material times, Human Resources Generalist Maria Salamanca (“HR  
25 Salamanca”) was an agent of Wonderful Nurseries serving as the Human Resource Generalist  
26 responsible for employee relations. HR Salamanca acted on behalf of Wonderful Nurseries when  
27 she spoke to agricultural workers regarding the majority support petition, their signatures on  
28 authorization cards and prepared declarations on behalf of employees.

1           11.     At all material times, Human Resource personnel Anna Saldivar (“HR Saldivar”) was an agent of Wonderful Nurseries serving as the Human Resource officer responsible for employee relations and ensuring farm labor contractors contracted by Wonderful Nurseries are aware of, and comply with, labor requirements. HR Saldivar acted on behalf of Wonderful Nurseries when she spoke to agricultural workers regarding the majority support petition, their signatures on authorization cards and prepared declarations on behalf of employees.

7           12.     At all material times, Associate Human Resources Manager Angie Carranza (“HR Angie Carranza”) was an agent of Wonderful Nurseries serving as the Associate Human Resource Manager. HR Angie Carranza acted on behalf of Wonderful Nurseries when she spoke to agricultural workers regarding the majority support petition, their signatures on authorization cards and prepared declarations on behalf of employees.

12          13.     At all material times, Senior Human Resources Manager Monica Cervantes (“HR Cervantez”) was an agent of Wonderful Nurseries serving as the Senior Human Resources Manager responsible for employee relations. HR Cervantes acted on behalf of Wonderful Nurseries when she spoke to agricultural workers regarding the majority support petition, their signatures on authorization cards and prepared declarations on behalf of employees.

17          14.     At all material times, Director of Wage and Hour Compliance Carina Maceira (“Compliance Director Maceira”) was a statutory supervisor for Wonderful Nurseries within the meaning of Labor Code Section 1140.4(j). Compliance Director Maceira was, and continues to be, a Director of Wage and Hour Compliance for Wonderful Nurseries. Compliance Director Maceira acted on behalf of Wonderful Nurseries when she spoke to agricultural workers regarding the majority support petition, their signatures on authorization cards and prepared declarations on behalf of employees.

24          15.     At all material times, Liliana Del Aguila (“Ms. Aguila”) acted on behalf of Wonderful Nurseries when she spoke to agricultural workers regarding the majority support petition, their signatures on authorization cards and prepared declarations on behalf of employees and thus was an agent of Wonderful Nurseries.

1           16.     At all material times, Yaqueline Aragon (“Ms. Aragon”) acted on behalf of  
2 Wonderful Nurseries when she spoke to agricultural workers regarding the majority support  
3 petition, their signatures on authorization cards and prepared declarations on behalf of employees  
4 and thus was an agent of Wonderful Nurseries.

5           17.     At all material times, Attorney Estefani Rodriguez (“Attorney Rodriguez”) was  
6 an agent of Wonderful Nurseries serving as an Attorney responsible for assisting in representing  
7 Wonderful Nurseries in legal matters related to the United Farm Workers of America’s union  
8 campaign. Attorney Rodriguez acted on behalf of Wonderful Nurseries when she spoke to  
9 agricultural workers regarding the majority support petition, their signatures on authorization  
10 cards and prepared declarations on behalf of employees.

11           18.     At all material times, Attorney Sean Sullivan (“Attorney Sullivan”) was an agent  
12 of Wonderful Nurseries serving as an Attorney responsible for assisting in representing  
13 Wonderful Nurseries in legal matters related to the United Farm Workers of America’s union  
14 campaign. Attorney Sullivan acted on behalf of Wonderful Nurseries when he spoke to  
15 agricultural workers regarding the majority support petition, their signatures on authorization  
16 cards and prepared declarations on behalf of employees.

17           19.     At all material times, Attorney Seth Mehrten was an agent of Wonderful  
18 Nurseries serving as an Attorney responsible for assisting in representing Wonderful Nurseries  
19 in legal matters related to the United Farm Workers of America’s union campaign.

20           20.     At all material times, Paralegal Jacqueline Hernandez (“Paralegal Hernandez”) was  
21 an agent of Wonderful Nurseries serving as a Paralegal assisting in representing Wonderful  
22 Nurseries in legal matters related to the United Farm Workers of America’s union campaign.  
23 Paralegal Rodriguez acted on behalf of Wonderful Nurseries when she spoke to agricultural  
24 workers regarding the majority support petition, their signatures on authorization cards and  
25 prepared declarations on behalf of employees.

26           21.     At all material times, Unnamed Discriminatees 1-3 performed agricultural work  
27 for Wonderful Nurseries and were agricultural workers as defined in Labor Code section  
28 1140.4(b).

**FACTS**

22. On February 23, 2024, the United Farm Workers of America filed Majority Support Petition 2024-RM-002, seeking to be the exclusive bargaining representative of all agricultural workers at Wonderful Nurseries.

23. On February 26, 2024, Wonderful Nurseries hired Consultant Calvo to speak with its agricultural workers regarding the majority support petition filed by the UFW.

24. On February 26, 2024, Consultant Calvo met with Wonderful Nurseries management, including HR Salamanca and HR Saldivar, regarding the majority support petition filed by the UFW.

25. During this February 26, 2024, meeting, Consultant Calvo, HR Salamanca, and HR Saldivar discussed a script prepared by Wonderful Nurseries' legal team that they planned to use in their meetings with agricultural workers ("Spanish language script").

**Meetings Conducted By Consultant Calvo**

26. On February 27, 2024, at around 12:30 p.m., Consultant Calvo held a meeting with between 25 and 45 agricultural workers at Wonderful Nurseries' Merced Facility. The meeting lasted approximately 35 to 45 minutes. Supervisors stopped workers from working and directed them to attend a meeting with Consultant Calvo. Workers were not told that they could leave the meeting.

27. On February 28, 2024, Consultant Calvo continued to hold meetings with Wonderful Nurseries agricultural workers at work locations during work hours.

28. For each meeting, workers were directed by their respective supervisors to stop their work and attend the meeting.

29. On February 28, 2024, Consultant Calvo held meetings with workers in the conference room and in a greenhouse at Wonderful Nurseries' Wasco Facility.

30. Between 15 and 60 agricultural workers attended each of Consultant Calvo's February 28, 2024, meetings.

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1 31. In each meeting with workers, Consultant Calvo used the Spanish language script  
2 as a guide, but also addressed topics not on the script. He explained to workers that he was hired  
3 by Wonderful Nurseries to inform workers about the majority support petition filed by the UFW.

4 32. Consultant Calvo told workers that the law changed. He told workers that the  
5 union could use their signed card as a vote and that workers could not vote in a confidential  
6 environment. He explained that if they signed a card but didn't understand what they were  
7 signing then they could revoke their vote.

8 33. Consultant Calvo told workers that the union could obtain their signatures  
9 through other means like food stamps, signatures on other documents, receipts and online  
10 signatures.

11 34. At the end of each meeting, Consultant Calvo told the workers to write their  
12 names on a piece of paper if they wanted assistance in revoking their votes.

13 35. During some meetings with workers, Consultant Calvo told workers that in his  
14 previous meetings with workers he was told that some people signed an authorization card  
15 because they thought it was required to receive the \$600 Farm and Food Worker Relief program  
16 (FFWR) government aid through the UFW. Consultant Calvo prompted workers to disclose  
17 whether they signed an authorization card because they too were confused or tricked.

18 36. Consultant Calvo told workers that if they wanted to know if their signature had  
19 been used, he could help them check.

20 37. Consultant Calvo told workers that if they believed that the UFW used their  
21 signature without their permission, then they could request it be revoked. He told workers that  
22 he could help with this.

23 Meeting with Forewoman Chaidez's Crew

24 38. In a meeting with Forewoman Chaidez's crew on February 28, 2024, Consultant  
25 Calvo advised workers they could provide their names to him, and he could check if their names  
26 were among the signatures submitted by the UFW.

27 Meeting with Unnamed Discriminatee 1's Crew

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1           39.     In a meeting with Unnamed Discriminatee 1’s crew on February 28, 2024, in  
2 addition to providing workers the information in the Spanish language script, Consultant Calvo  
3 asked workers if they had “signed” authorization cards.

4           40.     Unnamed Discriminatee 1 asked Consultant Calvo if there was a phone number  
5 to call to request her name be taken off the list.

6           41.     Consultant Calvo did not answer Unnamed Discriminatee 1’s question and  
7 instead told workers to write their names on a piece of paper so that he could provide them further  
8 assistance.

9 Meeting with Unnamed Discriminatee 2’s Crew

10          42.     In a meeting with Unnamed Discriminatee 2’s crew on February 28, 2024, in  
11 addition to providing workers the information in the Spanish language script, Consultant Calvo  
12 informed the workers the UFW had their signatures for representation.

13          43.     During that meeting, workers asked how they could find out if the UFW had their  
14 signature.

15          44.     Consultant Calvo advised that those who wanted to know, could write down their  
16 names and he would help them.

17 Meeting with Unnamed Discriminatee 3’s Crew

18          45.     In a meeting with Unnamed Discriminatee 3’s crew on February 28, 2024, in  
19 addition to providing workers the information in the Spanish language script, Consultant Calvo  
20 told workers that by signing cards, they became union members and the union was going to  
21 become their representative.

22          46.     Consultant Calvo then asked workers if they signed papers.

23          47.     In response to his questioning, many workers told Consultant Calvo they signed  
24 cards.

25 HR Salamanca’s Meetings with Workers

26          48.     HR Salamanca held meetings with workers on February 28, 2024, during work  
27 hours at Wonderful Nurseries work locations, including the Zerker Location.

1           49.     During each meeting, HR Salamanca read the Spanish language script verbatim  
2 to workers. HR Salamanca did not make any additions to the Spanish language script.

3           50.     In each meeting, HR Salamanca read the following statement from the Spanish  
4 language script<sup>1</sup>: “Now, the law has changed. The union can use your signed authorization or  
5 petitions signed by groups of workers as real votes. There will not be a secret ballot election and  
6 you will not have the opportunity to vote in a confidential environment.”

7           51.     In each meeting, HR Salamanca read the following statement from the Spanish  
8 language script: “If you signed but you didn’t understand that signing an authorization card or  
9 petition was a real vote and that was not your intention, or if you’re not sure if you signed an  
10 authorization card or petition, you can revoke it by writing a letter to the UFW. If you need  
11 information about it, let us know.”

12          52.     In each meeting, HR Salamanca read the following statement from the Spanish  
13 language script: “The union organizers can obtain your signature in diverse ways to use it on an  
14 authorization card. For example, they can obtain it through food stamps, receipts, documents,  
15 etc., or including through an online signature.”

16          53.     In each meeting, HR Salamanca read the following statement from the Spanish  
17 language script: “We ask each one of you firmly not to sign an authorization card.”

18          54.     In each meeting, HR Salamanca read the following statement from the Spanish  
19 language script: “By giving your signature to the UFW, you’re giving them the capacity to  
20 represent and speak with the company on your behalf without giving you the opportunity of  
21 voting in an election.”

22          55.     In each meeting, HR Salamanca read the following statement from the Spanish  
23 language script: “The company wants to make sure there are no misunderstandings in our  
24 philosophy to remain free of the union. We want to be able to work one on one with you without  
25 the interference of a union.”

26 HR Saldivar’s Meetings with Workers

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<sup>1</sup> Translated into English from the Spanish script.

1           56.     HR Saldivar held meetings with workers were held on February 28, 2024, during  
2 work hours at Wonderful Nurseries' Wasco Facility.

3           57.     During each meeting, HR Saldivar read the Spanish language script verbatim. HR  
4 Saldivar did not make any additions to the Spanish language script.

5           58.     In each meeting, HR Saldivar read the following statement from the Spanish  
6 language script<sup>2</sup>: “Now, the law has changed. The union can use your signed authorization or  
7 petitions signed by groups of workers as real votes. There will not be a secret ballot election and  
8 you will not have the opportunity to vote in a confidential environment.”

9           59.     In each meeting, HR Saldivar read the following statement from the Spanish  
10 language script: “If you signed but you didn't understand that signing an authorization card or  
11 petition was a real vote and that was not your intention, or if you're not sure if you signed an  
12 authorization card or petition, you can revoke it by writing a letter to the UFW. If you need  
13 information about it, let us know.”

14           60.     In each meeting, HR Saldivar read the following statement from the Spanish  
15 language script: “The union organizers can obtain your signature in diverse ways to use it on an  
16 authorization card. For example, they can obtain it through food stamps, receipts, documents,  
17 etc., or including through an online signature.”

18           61.     In each meeting, HR Saldivar read the following statement from the Spanish  
19 language script: “We ask each one of you firmly not to sign an authorization card.”

20           62.     In each meeting, HR Saldivar read the following statement from the Spanish  
21 language script: “By giving your signature to the UFW, you're giving them the capacity to  
22 represent and speak with the company on your behalf without giving you the opportunity of  
23 voting in an election.”

24           63.     In each meeting, HR Saldivar read the following statement from the Spanish  
25 language script: “The company wants to make sure there are no misunderstandings in our  
26 philosophy to remain free of the union. We want to be able to work one on one with you without  
27 the interference of a union.”

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<sup>2</sup> Translated into English from the Spanish script.

1           64.     At the conclusion of the meetings, HR Saldivar asked workers to write their name  
2 on a blank sheet of paper if they wanted additional help from Consultant Calvo.

3           65.     At the end of the day, HR Saldivar gave the sheet of paper with workers' names  
4 to Consultant Calvo.

5 Worker Meetings with Consultant Calvo

6           66.     On February 29, 2024, and March 1, 2024, Consultant Calvo held additional  
7 meetings with workers in a small conference room at the Wasco Facility main office.

8           67.     On February 29, 2024, and March 1, 2024, during work hours, HR Salamanca  
9 and HR Saldivar called workers, from the list of names collected during the February 28, 2024  
10 meetings, into the Wasco Facility office to meet with Consultant Calvo.

11           68.     On February 29, 2024, and March 1, 2024, HR Salamanca and HR Saldivar called  
12 workers from the list of names collected during the February 28, 2024, meetings, into the Wasco  
13 Facility office to meet with Consultant Calvo. They called each worker's supervisor and  
14 instructed them to send the worker to the office.

15           69.     The workers called into the office met with Consultant Calvo in small groups in  
16 a conference room at the Wasco Facility main office.

17           70.     On February 29, 2024, and March 1, 2024, Consultant Calvo told the workers  
18 they could write a letter or declaration to check if their name was used by the UFW and if so, to  
19 revoke their vote. He further told workers that signing the declaration was voluntary and neither  
20 their coworkers nor their supervisors would not know if they participated.

21           71.     Consultant Calvo told workers who were interested in giving a declaration that  
22 HR Salamanca and HR Saldivar would take them to a room to give their declaration.

23           72.     HR Salamanca and HR Saldivar then directed the workers who wanted to help  
24 with a declaration or letter to a large conference room on the second floor of the Wasco Facility  
25 main office and directed others to two offices on the first floor of the Wasco Facility main office.

26           73.     Workers could see what other workers in their small group agreed to sign a  
27 declaration.

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1 74. The second-floor conference room of the Wasco Facility main office was set up  
2 with tables spread out, but with no physical barriers or dividers. At least 5 stations were set up.  
3 At each station was a Wonderful agent prepared to help the worker to draft the declaration.  
4 Workers were able to see who else was obtaining help in the room.

5 75. On February 29, 2024, and/or March 1, 2024, Attorney Rodriguez, Attorney  
6 Sullivan, Paralegal Hernandez, Compliance Director Maceira, Associate HR Manager Carranza,  
7 Sr. Human Resources Manager Cervantes, Ms. Aragon, and Ms. Aguilar met with agricultural  
8 workers to prepare their declarations.

9 76. Workers understood that these individuals were attorneys for Wonderful or  
10 Wonderful Human Resources staff.

11 77. Some of the agents took notes of the workers' statements. They then typed a  
12 declaration and gave the worker the declaration to sign.

13 78. The workers signed the declarations.

14 79. After signing the declaration, the workers returned to their work.

15 80. Wonderful Nurseries paid workers for the time spent giving their declaration.

16 81. Seth Mehrten, counsel for Wonderful Nurseries, transmitted these declarations to  
17 the ALRB. The declarations were not submitted to the UFW.

18 **FIRST CAUSE OF ACTION**

19 **California Labor Code § 1153 (a) and (c)**

20 *(Unlawful Assistant in Revocation of Authorization Cards)*

21 82. By the acts set forth in paragraphs 22 through 81 above, Wonderful Nurseries  
22 committed an unfair labor practice, in violation of Sections 1153(a) of the Act, when it interfered  
23 with, restrained, and coerced their employees in the exercise of their right to engage in concerted  
24 activity for the purpose of mutual aid or protection.

25 83. By unlawfully assisting workers to revoke their authorization cards, namely  
26 drafting declarations for workers, Wonderful Nurseries violated the workers' rights under the Act.

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## 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)

# HEARING ACTION REQUEST FORM

<p>1. Case Name: <u>Wonderful Nurseries, LLC</u> Case Numbers: <u>2024-CE-013; 2024-CE-014; 2024-CE-015</u></p> <p>Region: <u>Visalia</u> Violations: <u>1153 (a) (c)</u> Priority (10=High, 1=Low): _____</p> <p>Complexity: <u>No</u> Settlement Potential: _____</p> <p>Prehearing Date Requested: _____ Prehearing Location: _____ Hearing Estimate (Days): _____ Hearing Dates Requested: <u>Consolidation Requested</u> Hearing Location: <u>ALRB Visalia Regional Office</u> Language Requested: <u>Spanish</u></p> <p>G.C.'s Counsel: <u>Rosalia Garcia; Anibal Lopez</u> Field Examiner: <u>Margarita Padilla</u> Respondent's Counsel: <u>Barsamian &amp; Moody</u> Charging Party's Counsel: _____</p>	<p>4. Language Requested: <u>Yes (Spanish)</u> Interpreter: _____ Telephone: _____ Confirmation Sent: _____</p>
<p>2. ALJ – Prehearing: _____ ALJ – Hearing: _____</p>	<p>5. Reporter: _____ Confirmation Sent: _____</p>
<p>3. Hearing Dates: <u>Consolidation requested</u> _____ _____</p> <p>Hearing Time(s): First day only: <u>10:00 a.m. to 5:00 p.m. All other days</u> <u>9:00 a.m. to 5:00 p.m.</u> _____ _____</p>	<p>6. Pre-Hearing Conference: _____ Settlement Conference: _____ DATE: _____ TIME: _____ LOCATION: <u>TELEPHONE CONFERENCE CALL</u> (unless otherwise stated)</p>
	<p>7. Hearing Location: <u>ALRB Visalia Regional Office</u> <u>in Visalia, CA.</u></p>
	<p>8. Contact Person for Location: Name: _____ Telephone &amp; FAX: _____ Confirmation Sent: _____</p>

## NOTES

DATE: April 22, 2024

## Complaint Summary Form

<b>Date To Complaint</b>	04/22/2024
<b>Case Number</b>	2024-CE-013; 2024-CE-014; 2024-CE-015
<b>Case Name</b>	Wonderful Nurseries, LLC
<b>Number of Discriminatees</b>	1
<b>Violation(s)</b>	[Section Violation, 1153 (a)(c)]

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**State of California**  
**Agricultural Labor Relations Board**  
**PROOF OF SERVICE**  
(Cal. Code Regs., tit. 8, § 20164)

I am a citizen of the United States and a resident of the County of Riverside. I am over the age of eighteen years and not a party to the within titled action. My business address is: ALRB, 81-713 Hwy 111, Ste. A, Indio, CA, 92201.

On **April 22, 2024**, I served a copy of the following document(s):

**ORDER TO CONSOLIDATE CASES: CONSOLIDATED COMPLAINT**

Case Name: **WONDERFUL NURSERIES, LLC**; Case Number: **2024-CE-013; 2024-CE-014; 2024-CE-015**; on the Parties in said action, in the following manner:

**By Electronic File:** The above-referenced documents were e-filed on the Agricultural Labor Relations Board;

**By Electronic Mail:** The above-referenced document was e-mailed to the following Parties at the listed e-mail addresses:

**Via Electronic File:**

Santiago Avila-Gomez  
Executive Secretary  
Agricultural Labor Relations Board  
1325 J Street, Suite 1900-B  
Sacramento CA 95814  
E-File: Efile@ALRB.ca.gov

**Via Electronic Mail:**

Julia Montgomery  
General Counsel  
Agricultural Labor Relations Board  
1325 J Street, Suite 1900A  
Sacramento, CA 95814  
julia.montgomery@alrb.ca.gov

**Via Electronic Mail:**

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jpereda@theemployerslawfirm.com  
cdemera@theemployerslawfirm.com  
laborlaw@theemployerslawfirm.com



1 Executed on April 22, 2024, at Indio, California. I declare under penalty of perjury under the  
2 laws of the State of California that the foregoing is true and correct.

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4 Rosario Miranda

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