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11 **STATE OF CALIFORNIA**  
12 **AGRICULTURAL LABOR RELATIONS BOARD**

13 GERAWAN FARMING, INC.,	)	Case Nos.	2012-CE-041-VIS
14 Employer,	)		2012-CE-007-VIS
	)		2013-CE-010-VIS
15 and	)		
	)		
16 UNITED FARM WORKERS OF	)	<b>UNITED FARM WORKERS OF</b>	
17 AMERICA,	)	<b>AMERICA'S OPPOSITION TO</b>	
18 Certified Bargaining Representative.	)	<b>GERAWAN FARMING, INC.'S</b>	
	)	<b>MOTION TO DISQUALIFY MEMBER</b>	
	)	<b>ISADORE HALL AND FOR A STAY</b>	
19 GERAWAN FARMING, INC.,	)		
20 Respondent,	)		
	)		
21 and	)		
	)		
22 UNITED FARM WORKERS OF	)		
23 AMERICA,	)		
24 Charging Party.	)		
	)		

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1 **INTRODUCTION**

2 United Farm Workers of America (“UFW”) hereby submits its Opposition to the  
3 Employer’s Motion to Disqualify Member Isadore Hall and for a Stay (“Opposition”), dated  
4 April 27, 2017, in the above-captioned matter.  
5

6 **FACTS**

7  
8 Employer Respondent Gerawan Farming Inc.’s (“Gerawan”) Motion to Disqualify Member  
9 Isadore Hall and for a Stay (“Motion”) is riddled with factual distortion and mischaracterization.  
10 Gerawan bases its request for disqualification of Member Hall on claims that, in October 2014,  
11 “Hall marched in support of a UFW-sponsored resolution” that covered “the precise unfair labor  
12 practice charges in this dispute,” and, as part of this event, “urged adoption of a resolution  
13 condemning Gerawan for the alleged violations at issue in the Decision,” and even “wav[ed] a  
14 UFW flag alongside [the] UFW [p]resident . . .” [Motion, at 8, 10].<sup>1</sup> After the event, as Gerawan  
15 recounts it, Hall “thanked those who spoke” at the march, and the UFW “thank[ed] him for  
16 marching with them and supporting the resolution” on Facebook. [Motion, at 11, 12].  
17

18 The evidence that Gerawan has presented to support this version of events is as follows.  
19 Gerawan has presented photos of the march from UFW’s webpage [Decl. of Schwarz, Ex. A, B],  
20 and a posting from Hall’s Facebook page about the march [Decl. of Schwarz, Ex. C]. It has  
21 provided a copy of the Los Angeles City Council resolution passed in conjunction with the  
22 march [Decl. of Schwarz, ex. D], and a letter from Republican Senator Andy Vidak to  
23  
24

25  
26 <sup>1</sup> All citations to Gerawan’s Motion to Disqualify Board Member Isadore Hall and for a Stay will  
27 be referred to as “Motion,” with corresponding page number; all citations to exhibits to the  
28 Declaration of David A. Schwarz, filed in support of Gerawan’s Motion, will be referred to as  
“Decl. of Schwarz,” along with the corresponding exhibit letter.

1 Democratic Senate President Pro Tempore Kevin De Leon in which Vidak accuses Hall of  
2 having threatened farmers [Decl. of Schwarz, Ex. E]. Finally, Gerawan has offered further  
3 postings from Hall's Facebook, this time on the topic of Hall's campaign endorsements [Decl. of  
4 Schwarz, Ex. F and G].

5  
6 Far from supporting Gerawan's version of events, upon closer analysis, the evidence that  
7 Gerawan has presented shows the following, and nothing more. First, in the social media  
8 postings Gerawan has offered as Decl. of Schwarz, Ex. A and B, Hall is pictured almost  
9 exclusively with UFW supporters and officials, many of whom who wear red shirts and carry red  
10 flags. Gerawan claims that these photos demonstrate intractable pro-UFW sentiments on Hall's  
11 part. However, such an interpretation of these photos fails to recognize that they were taken for  
12 and posted on the UFW web page, for the purpose of promoting UFW, not to chronicle Hall's  
13 activities during the march. As a politician on campaign on the day of the march (at which  
14 various other organizations and public figures were also present, according to Decl. of Schwarz,  
15 Ex. C), Hall would have stopped to engage in amicable photo opportunities and handshakes with  
16 many different people and groups that day. As such, these UFW publicity photos offered by  
17 Gerawan in Decl. of Schwarz, Ex. A and B do not and could not demonstrate an even close to  
18 complete, accurate portrayal of Hall's activities, associations, and /or sentiments during the  
19 march that day. They certainly do not establish that, in conjunction with the march, Hall  
20 developed or stated opinions about any specific pending administrative or court proceedings.  
21  
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23  
24 Next, as Ex. C to Decl. of Schwarz, Gerawan offers a posting from Hall's Facebook page,  
25 dated about one week after the march. This posting, ostensibly written by (or at least approved  
26 for publication by) Hall, does provide insights into Halls goals and reasons for participating in  
27 the march, and the opinions that he held in conjunction with that participation. Notably, Hall, in  
28

1 this writing about the march, did not voice any opinions on (or in fact, even indicate that he had  
2 even gained familiarity with) the pending Gerawan matters. Instead, Hall expressed that he had  
3 participated in the march because of his sentiments of support for former Los Angeles County  
4 Department of Labor Executive Secretary Maria Elena Durazno. Durazno, at the time, was  
5 moving into a position at UNITE HERE, a union that is separate and unaffiliated with UFW.  
6

7 Hall stated that his reasons for supporting Durazno in the march were that he believed that,  
8 generally, both he and Durazno “share a vision for a working class in California that is able to  
9 live with dignity, afford a decent living, and enjoy a healthy life.” He mentioned nothing about  
10 the Gerawan cases, about the UFW’s fight against Gerawan, about the resolution specifically,  
11 nor did he even reference the UFW.  
12

13 Gerawan’s Exhibit D to Decl. of Schwarz is a copy of the Los Angeles City Council  
14 resolution passed in conjunction with the march. Although Gerawan claims in this Motion that  
15 Hall “urged adoption” of this resolution, none of the evidence it has presented, including this  
16 copy of the resolution itself, provide any proof of Hall having personally done so. Further, the  
17 resolution document shows that the resolution itself was not drafted or signed by Hall in any  
18 way, although it was signed by various other politicians present.  
19

20 Turning to Gerawan’s Exhibit E to Decl. of Schwarz, this is a copy of a letter, written by  
21 Republican Senator Vidak to Democratic Senator and Senate President Pro Tempore De Leon, in  
22 which Vidak accuses Hall of having made certain negative statements directed at farmers,  
23 although Vidak himself was not present when these statements were made, nor did he produce  
24 any witnesses who were (as he recognizes in the letter). Vidak, in the letter, attempts to vilify  
25 Hall before his colleagues by describing Hall’s alleged utterances as “obscen[e],” and as  
26 “threat[s]” to “get” certain farmers who had opposed Hall’s confirmation to the ALRB. These  
27  
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1 “threat[s]” did not make any mention of Gerawan or any legal proceedings. The only information  
2 provided in this letter about the factual circumstances under which these purported “threat[s]”  
3 were made was that they were supposedly uttered at a Hyatt hotel on a specified date.  
4

5 Given the highly vague description of these threats, together with the fact that the only  
6 evidence of them having been made was a third-hand hearsay statement by Vidak, an opposing  
7 party politician who would likely stand to benefit from causing Hall to look bad, it would be  
8 legally inappropriate to credit these statements as true. It would be well beyond inappropriate to  
9 deem them sufficient to form the basis for the disqualification of a Board member from his  
10 duties.  
11

12 As for Decl. of Schwarz Ex. F, this is a posting from Hall’s Facebook, also from around a  
13 week after the march, in which Hall outlines a number of successes and campaign endorsements  
14 that had occurred in the previous week. Hall wrote two full paragraphs in which he publicized  
15 his excitement over California Democratic Party Chair John Burton’s endorsement of him. After  
16 this, Hall then proceeded to enumerate a list of around 40 other endorsements he had received,  
17 all of which were allotted only one-line mentions, which endorsers varied from “newspapers,” to  
18 a dozen or so different unions, to police associations, and which also included, in the middle of  
19 the list, United Farm Workers of America. Just as it could hardly be concluded from this list that  
20 Hall now holds a level of bias in favor of all “newspapers” or police associations, such that he  
21 could not act impartially toward them, the same is true of UFW.  
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24 Finally, Decl. of Schwarz Ex. G is another Facebook posting by Hall, also from late October  
25 2014 as he continued on the campaign trail. In this posting Hall thanked UFW for its  
26 endorsement of his candidacy, as is common between candidates and endorsers. No mention of  
27 Gerawan or any legal proceedings was made. No evidence of any other UFW or Gerawan  
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1 themed writings at any other time by Hall have been offered into evidence by Gerawan. This  
2 supports an inference that UFW and Gerawan were not a recurring or significant themes in  
3 Hall's mind or campaign, but rather, for Hall, UFW was just one of many political endorsers that  
4 he politely thanked for their support, given that he was interested in winning the race. Further, in  
5 this posting, Hall quoted UFW President Arturo Rodriguez as having recognized Hall *not* for  
6 having carried out any pro-UFW work, but rather for Hall's work in favor of civil rights, Latino  
7 rights, and healthcare rights.  
8

### 9 ARGUMENT

10  
11 In its Motion, Gerawan requests that Member Hall's disqualification from this instant case  
12 based on an argument that Hall could not rule on this matter without violating Gerawan's due  
13 process rights. Gerawan cites various cases and statutory law that stand for the principal that  
14 parties subject to administrative proceedings have the right to be judged by an impartial and  
15 unbiased tribunal. *See e.g. Nick v. City of Lake Forest* (2014) 232 Cal.App.4th 87; *Morongo*  
16 *Band of Mission Indians v. State Water Resources Control Board* (2009) 45 Cal. 4th 731; *Haas*  
17 *v. County of San Bernardino* (2002) 27 Cal.4th 1017; *Withrow v. Larkin* (1975) 421 U.S. 35;  
18 *Matter of Murchison* (1955) 349 U.S. 133; *see also* Cal. Gov't Code § 11425.40.  
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20

21 Most notably, the one ALRB case that Gerawan cites for to support its due process  
22 argument for the disqualification of Board Member Hall, *Andrews v. ALRB* (1981) 28 Cal.3d  
23 781, 792 falls far from supporting Gerawan's position on the instant matter. It is worth noting  
24 that *Andrews* did not deal with allegations directed at a Board member, but rather at a lower level  
25 administrative official. *Id.* Furthermore, in *Andrews*, the court ultimately affirmed the Board's  
26 decision *not* to disqualify the administrative official, despite the employer-petitioner's  
27 contentions that administrative official's prior political and professional activities, including  
28



1 having represented farmworkers as clients in various legal proceedings earlier in his career,  
2 demonstrated an improper bias that deprived them of fair and impartial adjudication. *Id.*

3 In arriving at its decision *not* to disqualify the administrative official based on his alleged  
4 political leanings or past legal clients, the court recognized that “[t]he right to an impartial trier  
5 of fact is not synonymous with the claimed right to a trier completely indifferent to the general  
6 subject matter of the claim before him.” *Andrews, supra*, at 790. “Bias,” the court reasoned, “in  
7 the sense of crystallized point of view about issues of law or policy is almost universally deemed  
8 no ground for disqualification.” *Id.* (internal citations and quotation marks omitted).

9  
10  
11 If there were a requirement that there be no “preconceptions in the mind of the judge, then  
12 no one has ever had a fair trial and no one ever will. The human mind, even at infancy, is no  
13 blank piece of paper. We are born with predispositions; and the process of education, formal and  
14 informal, creates attitudes in all men [and women] which affect them in judging situations,  
15 attitudes which precede reasoning in particular instances and which, therefore, by definition, are  
16 pre-judices. . . . Interests, points of view, preferences, are the essence of living. Only death yields  
17 complete dispassionateness, for such dispassionateness signifies utter indifference.” *Id.*, at 790-  
18 791. Thus, the court determined “it would be untenable for this court to insist upon selection only  
19 of ALOs who have never thought about or expressed an opinion on the broad social, economic or  
20 legal issues that inherently underlie a labor dispute.” *Id.*, at 791. *See also Laird v. Tatum* (1972)  
21 409 U.S. 824, 835, *accord Andrews*, at 791 (“[p]roof that a Justice's mind at the time he joined  
22 the Court was a complete tabula rasa in the area of constitutional adjudication would be evidence  
23 of lack of qualification, not lack of bias”).  
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1 Here, all in all, the evidence presented on this Motion show a set of circumstances that is a  
2 far cry from having established that Hall formed or expressed any prejudgement of the instant  
3 legal proceedings, or bias against any of the parties to it. The combination of documents,  
4 Facebook postings, and photographs that Gerawan has provided in support of its allegations  
5 show nothing more than that, in October 2014, Isadore Hall was a (Democrat) politician on the  
6 campaign trail, engaging in photo opportunities and friendly with organizations, individuals and  
7 public figures who would support him.  
8

9 As part of these efforts, he participated in the march of October 22, 2014 where the  
10 resolution (which there is no evidence that he drafted, signed, or disseminated spoken or written  
11 arguments in favor of) was ultimately passed. However, as reflected in Hall's social media  
12 postings, Hall participated in this march due his desire to be associated with the many other  
13 politicians and organizations present at the march who, in general, and in the public eye, stood  
14 for the civil rights and human rights issues that Hall sought to stand for and represent. There is  
15 no evidence that his participation in this march in any way reflected a deep-seeded passion for  
16 UFW, a bias against Gerawan, or, by any means, prejudgment of the instant legal matters.<sup>2</sup>  
17

18 It is true that the evidence Gerawan has presented reflects Hall's commitment to and desire  
19 to be associated with "a vision for a working class in California that is able to live with dignity,  
20  
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23 <sup>2</sup> Also in support of its arguments for Hall's disqualification, Gerawan cites case law  
24 standing for the principal that a public agency official who makes "public statements touching on  
25 the facts of a proceeding create special problems," as such statements require that that the official be  
26 "disqualified on the grounds of prejudgement." *1616 Second Ave. Restaurant v. NY State Liquor*  
27 *Authority* (1990) 75 N.Y.2d 158, 162. This case, beyond being a New York State case, is utterly  
28 distinguishable from the instant matter, inasmuch as, in *1616 Second Ave. Restuarant*, the official at  
issue had engaged in a detailed discussion of the same restaurant licensing case and his opinion on it,  
before he was slated to adjudicate the same case for the parties, whereas, here, Gerawan has offered  
no proof of Hall himself having made any statements whatsoever about the Gerawan legal matters at  
issue, much less his opinion on how they should be resolved.

1 afford a decent living, and enjoy a healthy life” [Decl. of Schwarz, at C] (which, perhaps,  
2 Gerawan may view as anathematic to its interests). However, as the *Andrews* court wrote,  
3 “points of view, preferences, are the essence of living. Only death yields complete  
4 dispassionateness” and it would be preposterous to require that parties before the ALRB “only be  
5 judged [by those] who have never thought about or expressed an opinion on the broad social,  
6 economic or legal issues that inherently underlie a labor dispute.” *Andrews, supra*, at 791.  
7

8  
9 **CONCLUSION**

10  
11 For all of the foregoing reasons, United Farm Workers of America urges this court to deny  
12 Gerawan’s Motion to Disqualify Board Member Isadore Hall and for a Stay.  
13

14 Dated: May 8, 2017  
15

16  
17 Respectfully submitted by,

18 

19 \_\_\_\_\_  
20 Margaret W. Serrano, Esq.  
21 Edgar Iván AguilaSocho, Esq.  
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23 Attorneys for United Farm Workers of America  
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28

**PROOF OF SERVICE**

1 **CASE NAME: Gerawan Farming, Inc. and UFW**

2 **CASE NUMBER: 2012-CE-041-VIS; 2013-CE-007-VIS; 2013-CE-010-VIS**

3 I am over eighteen years of age and not a party to the within the entitled action. I am a resident of  
4 Kern County, State of California. My business address is P.O. Box 11208, Bakersfield,  
5 California, 93389.

6 On May 8, 2017, I served the following document:

7 **UFW's OPPOSITION TO GERAWAN FARMING, INC.'s MOTION TO DISQUALIFY**  
8 **MEMBER ISADORE HALL AND FOR A STAY**

9  X  (BY U.S. MAIL) by placing the document(s) listed above in a sealed envelope with  
10 postage thereon fully prepaid, in the United States mail at Keene, California addressed as set  
11 forth below.

12   (BY FACSIMILE) by transmitting via facsimile the document(s) listed above to the fax  
13 number(s) set forth below on this date before 4:00 p.m., and the transmission was reported as  
14 complete and without error.

15  X  (BY E-MAIL SERVICE) by transmitting via e-mail the document(s) listed above to the  
16 email address(es) shown below.

17 **See Attached Service List**

18 I declare under penalty of perjury and under the laws of the State of California, that the  
19 foregoing is true and correct. Executed May 8, 2017, Kern County, California.

20   
21 Molly Hart

**PROOF OF SERVICE**

**SERVICE LIST**

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