IN THE SUPREME COURT OF CALIFORNIA

TRI-FANUCCHI FARMS, Petitioner and Respondent, v. AGRICULTURAL LABOR RELATIONS BOARD, Respondent and Petitioner, and UNITED FARM WORKERS OF AMERICA, Real Party in Interest.	)	Case No. S227270 (Fifth District Court of Appeal; Case No. F069419)

REPLY IN SUPPORT OF PETITION FOR REVIEW

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DATED: July 23, 2015
#[1825]

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The Agricultural Labor Relations Board (the "ALRB" or the "Board") hereby files its reply in support of its petition for review in the above-captioned case. In its petition for review, the Board set forth the reasons why this Court should grant review in this case and the Board will not restate those reasons herein except insofar as necessary to respond to the faulty arguments presented in the answer filed by Tri-Fanucchi Farms ("Tri-Fanucchi").[1]

I. TRI-FANUCCHI'S ARGUMENT THAT IT WAS PROPER FOR THE COURT OF APPEAL TO SUBJECT THE BOARD'S REMEDIAL ORDER TO DE NOVO REVIEW IS UNTENABLE

As shown in the Board's petition for review, there is abundant authority, both from this Court and the United States Supreme Court, affirming the principle that, because the Board is constituted as an expert agency with primary and exclusive jurisdiction over unfair labor practices, the Board's remedial orders are entitled to great deference and are not to be overturned on review "unless it can be shown that the order is a patent attempt to achieve ends other than those which can be fairly said to effectuate the policies of the [Agricultural Labor Relations Act (the "ALRA" or the "Act")]." (See, e.g., *Karahadian Ranches v. ALRB* (1985) 38 Cal.3d 1, 16; *Virginia Electric & Power Co. v. NLRB* (1943) 319 U.S. 533, 540 and see ALRB's Petition for Review pp. 13-18.)

[1] Although Tri-Fanucchi styled its filing as an "opposition," it will be referred to as an "answer" herein. (Cal. Rules of Court, Rule 8.115.)

Under this standard of review, the Court of Appeal was not permitted to assess, *de novo*, the appropriateness of makewhole. (*Jasmine Vineyards, Inc. v. ALRB* (1980) 113 Cal.App.3d 968, 982; *Sure-Tan, Inc. v. NLRB* (1984) 467 U.S. 883, 898-899.)

Tri-Fanucchi claims in its answer that review by this Court is unnecessary because the Court of Appeal applied the correct standard of review. However, significantly, Tri-Fanucchi's principal argument is *not* that the Court of Appeal applied the well-established deferential standard of review. Rather, Tri-Fanucchi's principal argument is that the Court of Appeal was *not required* to afford deference to the Board's remedial decision and, instead, properly applied a *de novo* standard of review because the issue was one of law. This argument is plainly incorrect and ignores the Board's role, as established by the Legislature in the ALRA, to decide agricultural labor relations policy in California.

A. The Board's Assessment of Tri-Fanucchi's Justification for Refusing to Bargain Was a Component of the Broader Determination of Whether Makewhole Was "Appropriate," a Discretionary Determination Legislatively Vested in the Board, Implicating the Board's Expertise in Agricultural Labor Relations, and Subject to a Deferential Standard of Review

A determination by the Board that an award of makewhole is an "appropriate" remedy for a violation of the ALRA is a fundamentally discretionary exercise of the Board's legislatively vested authority over unfair labor practices and to formulate agricultural labor relations policy. Thus, in *J.R.*

Norton Co. v. ALRB (1979) 26 Cal.3d 1, 38, this Court examined the legislative history of the makewhole remedy and noted its essentially discretionary nature.[2]

A determination of whether makewhole is "appropriate" also necessarily requires the Board to apply its legislatively assigned role as the expert agency charged with developing state agricultural labor relations policy. Thus, in exercising its discretion over makewhole determinations in the context of non-"technical" refusals to bargain, the Board applies the "*F&P Growers* standard," under which Board balances the public interest in the employer's position against the harm done to employees through the refusal to bargain and considers whether the employer's position furthers the policies and purposes of the Act.[3] (*F&P Growers Assoc. v. ALRB* (1985) 168 Cal.App.3d 667, 682.)[4]

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[2] Tri-Fanucchi concedes this in its answer. (Answer p. 10 ("This Court has emphasized that pursuant to the clear language of the statute, make whole relief is *discretionary in nature* and is to be applied only where *the Board* determines it is appropriate under the circumstances.") (Emphasis supplied.)

[3] Tri-Fanucchi has now discarded what had been the centerpiece of its argument against an award of makewhole before the Board and the Court of Appeal; that it was engaged in a good faith "technical refusal to bargain." It now concedes that its refusal to bargain was not "technical" and, therefore, the *F&P Growers* standard applies. (Answer p. 10 fn. 2.)

[4] Tri-Fanucchi erroneously states that the Court of Appeal found that the Board failed to follow the *F&P Growers* standard. (Answer p. 12.) In fact, the Court of Appeal stated that the Board "explicitly followed" the *F&P Growers* standard. (*Tri-Fanucchi Farms v. ALRB* (2015) 236 Cal.App.4th 1079, 1097.) It was the policy conclusions reached by the Board pursuant to that standard with which the Court disagreed.

As noted above, and as fully discussed in the Board's petition for review, the courts that have examined the standard that applies to judicial review of these types of remedial matters have consistently held that a highly deferential standard is required. Deference is particularly appropriate in the specific context of makewhole under the ALRA, involving as it does both an express legislative grant of discretionary authority to the Board and the exercise of the Board's expertise in labor relations policy.

Despite this, Tri-Fanucchi argues that the Court of Appeal properly applied a *de novo* standard of review to not only reverse the Board's makewhole determination but to make the policy determination that a makewhole award was *not* appropriate in this case. Tri-Fanucchi argues that this was proper because the issue of whether Tri-Fanucchi's refusal to bargain furthered the policies and purposes of the ALRA was a "legal conclusion." This argument is unsupported by the record. Although Tri-Fanucchi and the Court of Appeal characterized the Board's assessment of Tri-Fanucchi's litigation as a "legal conclusion" it was, in fact, only one component of a discretionary policy determination; one that the Board is vested with the exclusive authority to make.

Contrary to the contention of Tri-Fanucchi and the erroneous conclusion of the Court of Appeal, the Board's analysis did not consist "solely" of its assessment of Tri-Fanucchi's legal defense. Rather, the Board considered the facts and circumstances generally, including, in particular, the equitable

arguments against makewhole raised by Tri-Fanucchi.[5] [CR 406-407.] The Board found that the considerations raised by Tri-Fanucchi, which consisted of allegations that the United Farm Workers of America (the "UFW") and the ALRB's General Counsel had frustrated Tri-Fanucchi's effort to expedite resolution of the case, did not render makewhole inappropriate. However, the Board expressly stated that, had the circumstances been different, the Board could have found makewhole to be inappropriate *notwithstanding the invalidity of Tri-Fanucchi's defense*. [CR 406 fn. 6.] Indeed the Board's Chairman wrote a concurring opinion in which he stated that "under other facts showing delay, the Board risks giving up important remedies," but that "the facts of this particular case do not show that there was a delay that would warrant denying the remedy ordered by the Board."[6] [CR 409-410.] The Board's makewhole

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[5] Tri-Fanucchi's contentions to the Board on the issue of makewhole were limited to arguments that it was engaged in a good faith "technical refusal to bargain" and that the UFW and/or General Counsel engaged in dilatory tactics. [CR 198-200.] Tri-Fanucchi cannot challenge the Board's order on grounds it did not assert in its exceptions. (*Lindeleaf v. Agricultural Labor Relations Board* (1986) 41 Cal.3d 861, 869-870.)

[6] Tri-Fanucchi argues that, because the Board rejected Tri-Fanucchi's asserted defenses of laches and unclean hands, the Board could not have weighed equitable considerations in the course of its makewhole determination. The issue of whether a set of facts constitutes a defense to the duty to bargain is, however, different than the issue of whether those facts show that makewhole is inappropriate. This is why the fact that an employer unlawfully refused to bargain does not, *ipso facto*, mean that makewhole is appropriate. In any event, the Board's decision makes clear that it did, in fact, consider the equitable arguments against makewhole that Tri-Fanucchi asserted. [CR 406-407.]

determination was expressly not predicated solely on the invalidity of Tri-Fanucchi's defense. Tri-Fanucchi and the Court of Appeal are simply incorrect on this point, rendering their analysis of the makewhole issue fundamentally flawed.

Furthermore, even if the Board's assessment of Tri-Fanucchi's defense as it relates to the appropriateness of makewhole were viewed in isolation, Tri-Fanucchi's argument, and the Court of Appeal's conclusion, that the Board's consideration of that issue was a "legal conclusion" subject to *de novo* review is incorrect because the Board rendered a remedial decision, which is a policy decision within the purview of the Board, and not a legal conclusion involving statutory interpretation.

Although the Board correctly ruled that Tri-Fanucchi's abandonment defense was not viable under the ALRA, it is well-established that makewhole may not be awarded in every case where an employer refuses to bargain without legal justification. (*J.R. Norton Co. v. ALRB* (1979) 26 Cal.3d 1, 9.) Rather, makewhole must be "appropriate" in light of the particular facts and circumstances and in light of the polices and purposes of the Act. The Board concluded that, under the circumstances, the assertion of an abandonment defense did not further the policies and purposes of the Act. [CR 405-406.] This was principally based on the fact that, by the time Tri-Fanucchi asserted the defense, its invalidity had become well-established in the Board's precedents. However, the Board also cited the fact that Tri-Fanucchi had previously refused

to bargain based upon an abandonment defense. [*Ibid.*] The litigation of that defense had resulted in a Board ruling against Tri-Fanucchi and an award of makewhole, *both of which had been upheld by the Court of Appeal.* (*Joe G. Fanucchi & Sons/Tri-Fanucchi Farms* (1986) 12 ALRB No. 8; *Tri-Fanucchi Farms v. ALRB* (Nov. 21, 1987, F008776) ([nonpub. opn.])

Furthermore, the Board did not simply reach a "legal conclusion" concerning Tri-Fanucchi's defense, it made a policy determination concerning whether Tri-Fanucchi's refusal to bargain based on that defense furthered the policies and purposes of the Act. Thus, it is not appropriate to ignore (as the Court of Appeal did) that the expressly stated legislative purpose of the ALRA is to protect the right of employees to choose their own representatives and to eliminate employer interference in those choices.[7] (Lab. Code, § 1140.2.) Tri-Fanucchi's attempt to supplant its employees' representational choice with its own choice ran directly counter to these fundamental statutory purposes.

The Court of Appeal's characterization of the Board's and its own analysis as "legal conclusion[s]" cannot change the character of what the Court

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[7] Epitomizing Tri-Fanucchi's misunderstanding (or disregard) of the proper roles of the Board and the reviewing court, Tri-Fanucchi states that the Board's conclusions concerning these policy matters are "of no significance." (Answer p. 28.)

of Appeal actually did.[8] It is significant that the Court of Appeal did not rely on the statutory language of Labor Code section 1160.3 *at all*. Rather, it cited factors such as the absence of published appellate decisions on abandonment, the purported novelty and "controversial" nature of the abandonment issue, and the purported benefits of Tri-Fanucchi's litigation. (*Tri-Fanucchi Farms v. ALRB, supra,* 236 Cal.App.4th 1079, 1098.) The Court of Appeal was clearly not engaged in statutory construction. Rather, it overrode the Board's policy determination that, under the circumstances presented, Tri-Fanucchi's assertion of the abandonment defense did not further the legislative policies of protecting employee choice and eliminating employer interference and imposed its own policy choice: that litigation that "confirms" the law on a "controversial" issue through a published appellate decision furthers the statutory goal of labor relations stability, and, implicitly, that this policy goal should take precedence over the policies relied upon by the Board.[9]

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[8] The Court of Appeal's statement that it gave "all due deference" to the Board's policy determinations does not override the fact that it is clear that the Court of Appeal actually afforded the Board's decision no deference.

[9] As the Board explained in its petition for review, the Court of Appeal was not correct that encouraging appellate litigation of matters that are settled as a matter of Board law furthers the goal of stabilizing agricultural labor relations. However, even assuming, *arguendo*, that the Court of Appeal were correct, it is clear that its opinion represents a policy choice, not a "legal conclusion." Thus, the failure to apply a deferential standard of review was error.

Thus, the Court of Appeal could not avoid its duty to apply a deferential standard of review to what was fundamentally a discretionary policy-based determination vested exclusively in the Board by focusing on a single component of the Board's determination and erroneously characterizing it as a "legal conclusion." In order to preserve the legislatively mandated and judicially recognized role of the Board, this Court's review is required.

B. The Board's Decision Is Entitled to Deference Even With Respect to Issues of Law

As shown above, Tri-Fanucchi's argument that the Board's makewhole determination was based "solely" on a "legal conclusion" is incorrect. However, even if the issue were one of law, Tri-Fanucchi is not correct that the Board is entitled to no deference on such matters. Rather, while the cases confirm that the courts have the ultimate responsibility to construe the law, and sometimes describe their review of legal issues raised by agency decisions as "*de novo*," they have made clear that, even where review of an administrative decision involves a pure question of law subject to *de novo* review, the agency's interpretation of the statute is accorded "great weight." (*Prentice v. Board of Administration* (2007) 157 Cal.App.4th 983, 989; *NLRB v. City Disposal Systems, Inc.* (1984) 465 U.S. 822, 829 ("on an issue that implicates its expertise in labor relations, a reasonable construction by the Board is entitled to considerable deference").)

In *Highland Ranch v. ALRB* (1981) 29 Cal.3d 848, 859, this Court cautioned against minimiz[ing] the significance to be accorded an administrative agency's interpretation of a statute within its sphere of expertise" and stated that, [a]lthough the ultimate interpretation of legislation rests, of course, with the courts, both this court and the United States Supreme Court have recognized on numerous occasions that "[the] construction of a statute by the officials charged with its administration must be given great weight . . ." (Bracketed material supplied.) Likewise, a federal court of appeals stated that "[l]egal conclusions based upon the [NLRB's] expertise should receive, pursuant to longstanding Supreme Court precedent, considerable deference." (*NLRB v. Starbucks Corp.* (2d Cir. 2012) 679 F.3d 70, 77) (bracketed material supplied; internal punctuation omitted); *D.R. Horton, Inc. v. NLRB* (5th Cir. 2013) 737 F.3d 344, 349-350 "[w]hile the NLRB's legal conclusions are reviewed de novo . . . its interpretation of the NLRA will be upheld 'so long as it is rational and consistent with the Act.'") (And see *NLRB v. Erie Register Corp.* (1963) 373 U.S. 221, 236 ("we must recognize the [NLRB's] special function of applying the general provisions of the Act to the complexities of industrial life."); *Republic Aviation Corp. v. NLRB* (1945) 324 U.S. 793, 799-800; *NLRB v. Hearst Publications, Inc.* (1944) 322 U.S. 111, 130-131.)

The cases cited by Tri-Fanucchi in support of its argument are not on point. (Answer p. 13.) None of the cited cases involve review of agency decisions in general or ALRB/NLRB decisions in particular. Rather they involve

standards applicable to issues such as whether a state statute adopted federal standards for the labeling of milk products (*People ex rel. Lockyer v. Shamrock Foods Co.* (2000) 24 Cal.4th 415), interpretation of a statute of limitations to determine when "actual injury" occurred for purposes of the running of the statute (*International Engine Parts v. Feddersen & Co.* (1995) 9 Cal.4th 606), and whether a statute permitted a party to recover fees in a breach of contract action (*Topanga and Victory Partners v. Toghia* (2002) 103 Cal.App.4th 775).[10] As discussed above, this Court has ruled that the Board's construction of the ALRA is entitled to deference, just as the NLRB is afforded deference in its construction of the NLRA. The cases cited by Tri-Fanucchi arising in inapplicable contexts offer no guidance here.

Tri-Fanucchi cites this Court's decision in *Bodinson Mfg. Co. v. California Employment Com.* (1941) 17 Cal.2d 321, 325-327. That decision states the principle, which the Board has never disputed, that the courts have the ultimate responsibility to construe the law, including laws administered by state agencies. Tri-Fanucchi cites the Court's statement that an administrative interpretation of a statute is "tentative" and "makes no pretense at finality."

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[10] However, it should be noted that the *Topanga and Victory Partners* case, cited by Tri-Fanucchi, states that a *de novo* standard applied, in part, because "the determination of the trial court did not require an exercise of discretion." (*Id.* at 779-780.) Here, the Board's authority has been recognized as being discretionary in nature. (*J.R. Norton Co. v. ALRB* (1979) 26 Cal.3d 1, 38.)

However, this statement was made in the context of the Court's rejection of the proposition that the California Energy Commission's statutory interpretations should be treated as final and not subject to judicial review. This Court confirmed that notwithstanding the ultimate judicial authority, "administrative interpretation of a statute will be accorded great respect by the courts . . ." (*Id.* at 325.)

Accordingly, even if Tri-Fanucchi were correct that the issue before the Court of Appeal were one of "statutory interpretation and legal conclusion" (Answer p. 14), its argument that the Board's decision was, for that reason, entitled to no deference is flatly contradicted by the applicable case law, particularly because the Board's decision clearly "implicate[d] its expertise in labor relations." (*NLRB v. City Disposal Systems, Inc.*, *supra*, 465 U.S. 822, 829.)

II. THE COURT OF APPEAL FAILED TO APPLY THE REQUIRED DEFERENTIAL STANDARD OF REVIEW AND SUBSTITUTED ITS JUDGMENT FOR THAT OF THE BOARD

Although, as discussed above, Tri-Fanucchi's principal argument is that the Court of Appeal was not required to apply a deferential standard of review to the Board's makewhole award, Tri-Fanucchi also argues that the Court of Appeal did, in fact, apply the proper deferential standard of review. This, however, is clearly incorrect.

The Court of Appeal never ruled that the Board's makewhole award was a patent attempt to achieve ends other than those which can be fairly said to effectuate the policies of the Act. In fact, the Court of Appeal never even cited this well-established standard. Rather, it proceeded to assess the *F&P Growers* test *de novo*. This is shown clearly by examining the factors that the Court of Appeal considered in reaching its conclusion. As discussed above, these consisted of matters such as, whether there were published appellate decisions on the issue, the novelty of Tri-Fanucchi's defense, and whether other employers were raising similar issues at the Board and appellate levels. (*Tri-Fanucchi Farms v. ALRB, supra,* 236 Cal.App.4th 1079, 1098.) Rather than evaluating whether the Board's decision patently failed to effectuate the policies of the Act (such as protecting employee choice and eliminating employer interference therein) the Court arrived at its own policy conclusion and substituted its conclusion for that of the Board.

A further important indication that the Court of Appeal took upon itself the role of applying the *F&P Growers* test *de novo* is the fact that the Court of Appeal chose not to remand the matter to the Board for further proceedings. Had the Court of Appeal merely reached a narrow conclusion that the Board erred on a "legal issue" as Tri-Fanucchi claims, then the Court of Appeal should have remanded the matter to the Board so that the Board could exercise its primary and exclusive jurisdiction to assess the appropriateness of makewhole consistent with the Court of Appeal's order. (See e.g. *J.R. Norton Co. v. ALRB, supra,* 26

Cal.3d 1, 38-39) (Because the Board applied the wrong standard . . . the case must be returned to the Board so that it can apply the proper standard"); *William Dal Porto & Sons, Inc. v. ALRB* (1987) 191 Cal.App.3d 1195, 1212-1214 ("Since the Board may have been unaware of the correct legal standard for application of the make-whole remedy in this case, the case ordinarily should be referred to the Board so it may reconsider its decision.").) However, the Court of Appeal did not do this. Rather, it considered the facts and circumstances presented, weighed them against the policies and purposes of the ALRA, and reached its own conclusion that a makewhole award was not appropriate. Thus did the Court of Appeal overstep the proper scope of review and substitute its judgment for that of the Board.

III. TRI-FANUCCHI'S ATTEMPT TO REARGUE THE MERITS OF ITS DEFENSES TO THE REFUSAL TO BARGAIN CHARGE IN THE GUISE OF CONTESTING MAKEWHOLE SHOULD BE DISREGARDED

In arguing against the appropriateness of makewhole, Tri-Fanucchi argues that reversal of the Board's makewhole award was proper because the Board dismissed Tri-Fanucchi's laches and unclean hands defenses to the duty to bargain. (Answer pp. 15-16.) The Court of Appeal agreed with the Board's rejection of those defenses and, although Tri-Fanucchi petitioned for review of the Court of Appeal's ruling on abandonment, it did not challenge the Court's ruling on laches and unclean hands. Accordingly, Tri-Fanucchi's argument that the dismissal of those defenses was improper should not be heard. Tri-Fanucchi

also argues that the Board and the Court of Appeal erred in rejecting its abandonment defense. (Answer pp. 16-19.) While Tri-Fanucchi has petitioned for review of the Court of Appeal's decision on this issue, these arguments on the merits of the abandonment defense are not relevant to the issues raised by the Board's petition and should be disregarded.

Tri-Fanucchi also argues that it was denied the opportunity to present evidence on the issue of makewhole. As discussed above, however, the Board considered the equitable arguments actually advanced by Tri-Fanucchi and concluded that, even if the facts sought to be proved by Tri-Fanucchi were true, it would not tip the balance against an award of makewhole. [CR 406-407.]

IV. THE COURT OF APPEAL'S DECISION WOULD HAVE NEGATIVE PUBLIC POLICY IMPACTS, CONTRARY TO TRI-FANUCCHI'S ARGUMENTS

In its petition for review, the Board discussed the reasons why the Court of Appeal's decision was not only erroneous, but would create significant public policy effects of state-wide impact. (ALRB Petition for Review pp. 23-34.) Tri-Fanucchi disputes this, but its arguments are unconvincing. In particular, Tri-Fanucchi claims that the Court of Appeal's decision does not state or imply that the Board cannot develop and rely upon its own body of precedent. (Answer p. 26.) In fact, the decision does exactly that. The Court of Appeal held that, notwithstanding the established Board precedent on the issue of abandonment, which was "consistent with how California Courts have construed the ALRA," and although the Board and the Court of Appeal itself (in an unpublished

decision) had previously rejected an abandonment defense asserted by Tri-Fanucchi, the state of the law in this area remained "unsettled" absent a published appellate decision. This, along with the decision of the Court of Appeal to subject the Board's policy-based remedial order to a *de novo* standard of review, clearly threatens the Board's role as an expert agency with primary and exclusive jurisdiction to remedy unfair labor practices. The flawed ruling thus undermines stable labor relations, which stability the Legislature intended to be achieved through Board administrative decision making, and promotes litigation in the courts.

V. CONCLUSION

Tri-Fanucchi's employees have exercised their right under the ALRA to maintain the UFW as their representative and have taken no action to decertify the UFW or replace it with another union. Those employees have been waiting since 2012 for Tri-Fanucchi to comply with its legal obligation to bargain with their representative. Tri-Fanucchi's refusal to do so has deprived its employees of the benefits of collective bargaining. The Board, in its discretion, determined that it was appropriate that those employees be made whole for any losses they may have suffered as a result of Tri-Fanucchi's violation of the ALRA. However, this case implicates much more than the issue of whether this particular employer will be required to make its employees whole (as important as that issue may be for the agricultural employees concerned). Rather, this case

involves the broad issue of the jurisdiction and competence of the ALRB and the relationship between the agency and the judiciary. Rather than permitting the Board to apply its institutional expertise and legislatively vested discretion to determine the appropriate remedy for Tri-Fanucchi's violation of the ALRA, the Court of Appeal discarded the Board's decision and treated the ALRB's jurisprudence, now a 40-year-old body of law, as having no weight, even while confirming that the Board's abandonment rulings were consistent with, and even required by, the Act. The Court of Appeal's decision, if left intact, would seriously disrupt the legislative scheme and turn the Board's makewhole determinations (and potentially other remedial determinations) into mere advisory opinions awaiting plenary *de novo* review at the appellate level. This result is inconsistent with established law and contrary to the legislative intent.

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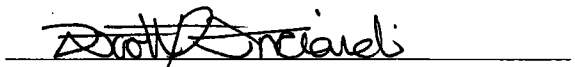
For these reasons, and for the other reasons set forth herein and in the Board's petition for review, the Board submits that this Court's review is necessary and respectfully requests that the petition for review be granted.

DATED: July 23, 2015

Respectfully submitted,

J. ANTONIO BARBOSA
Executive Secretary

PAUL M. STARKEY
Special Board Counsel



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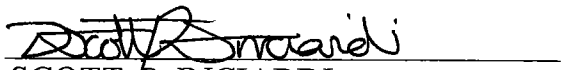
CERTIFICATION OF WORD COUNT

Pursuant to California Rule of Court 8.504(d)(1), the undersigned hereby certifies that the Agricultural Labor Relations Board's Petition for Review contains 4194 words according to the word count function included in Microsoft Word software with which the brief was written.

DATED: July 23, 2015



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Tri-Fanucchi Farms v. ALRB
S227270

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

PROOF OF SERVICE BY MAIL
(1013a, 2015.5 C.C.P.)

I am a citizen of the United States and a resident of the County of Sacramento. I am over the age of eighteen years and not a party to the within entitled action. My business address is: 1325 J Street, Suite 1900-B, Sacramento, California 95814.

On **July 23, 2015**, I served the within **REPLY IN SUPPORT OF PETITION FOR REVIEW** on parties in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California, addressed as follows:

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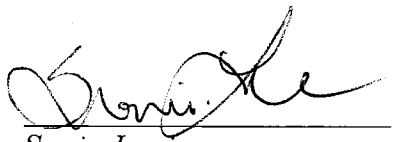
Executed on **July 23, 2015**, at Sacramento, California. I certify (or declare), under penalty of perjury that the foregoing is true and correct.



Sonia Louie