

Fresno County labor conflict keeps Gerawan workers in limbo

By Robert
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United Farm Worker members demonstrate in front of the B.F. Sisk Courthouse, in support of the union at a recent civil court case involving Gerawan Farming. SPECIAL TO THE BEE

A months-long battle between one of Fresno County's largest fruit growers and the United Farm Workers union is coming to a head: Both sides will soon square off at an administrative hearing that could decide whether the union will represent more than 3,000 of the company's workers.

The hearing to be held on Sept. 29 in Fresno may end one of the most contentious and unconventional labor fights in recent San Joaquin Valley agricultural history.

The battle has involved numerous protests, including hundreds of workers representing both sides, the use of social media sites like Facebook, and even interest from an East Coast anti-union group.

But unlike previous struggles where workers have fought for union representation, many of the Gerawan Farming workers don't want to join the union and have openly protested against it.

They won the right from the state's Agricultural Labor Relations Board to vote on whether to keep the union. The results of that November vote have been impounded pending the investigation of numerous charges of unfair labor practices against Gerawan. Among the charges leveled at the employer are that the company supported the campaign to decertify the union, which would be a violation of labor rules.

"I don't know of any other situation where the votes in a duly decertification election remained uncounted for more than nine months," said Howard Rosenberg, a retired agriculture labor management specialist at the University of California at Berkeley.

Labor officials say the Sept. 29 hearing before an administrative law judge -- which could be lengthy -- will determine if the unfair labor charges are true and whether the petition to decertify the union will be tossed out. If not, the ballots will be counted and the fate of the union will be determined.

Dan Gerawan, one of the principals in the company, has his doubts about the entire process.

"The ALRB system has been biased against employee choice so far, so we do not have much confidence that it will change," he said. "But we haven't given up all hope."

Union leaders say they have ample support among many of the company's field workers and remain optimistic.

"We are here to improve the conditions for farmworkers," said Armando Elenes, United Farm Workers national vice president. "And that is what we are doing."

What ignited this fight was a nearly forgotten UFW victory at Gerawan more than 20 years ago. The contract, however, was never negotiated and the union's status as the workers' representative remained in limbo. That is, until 2012, when it again requested to bargain on behalf of its members.

This time, the union had political leverage. A new state law made it easier to resolve stalled contract talks. If both sides can't come together after 90 days, the issue goes to mandatory mediation where an employee contract is created.

That's what happened in Gerawan's case. But the company's leaders disagreed with the decision of the state-appointed arbitrator and filed a lawsuit claiming, among other things, that the process was unconstitutional. That argument sits before the Fresno-based 5th District Court of Appeal, which has yet to rule on the case.

As the Sept. 29 hearing approaches, both sides have turned up the public pressure. The union recently sent out a news release alleging that a Gerawan employee was forced to lie about a pesticide exposure incident involving several workers, a claim the company denies.

Last week, nearly 1,000 people descended on the Visalia offices of the Agriculture Labor Relations Board demanding that the decertification vote be counted. Also, a website and Facebook page, titled Farmworker Rights, has been created by Fresno attorney Paul Bauer to support the Gerawan employees.

Bauer, who is representing Gerawan employee Silvia Lopez, says he is doing it for free because he believes the employees should have a right to choose who represents them. He has also filed a civil rights lawsuit against the ALRB's board members and has also asked for attorney's fees.

"What is happening in this case is unprecedented," Bauer said. "We have never seen anything like this where the workers aren't fighting against the employer, they are fighting against the union."

Gerawan, who recently spoke at the Sanger Rotary about his fight with the UFW, denies orchestrating the social media campaigning or being connected to the Center for Worker Freedom in Washington, D.C. The group describes itself as a "nonprofit, educational organization dedicated to warning the public about the causes and consequences of unionization." The organization has advocated on behalf of the anti-union employees.

UFW leaders say they aren't surprised at the efforts to stop it from organizing workers.

"We are used to going up against goliaths," Elenes said. "That is what the UFW has done all along."

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