

Opinion: UFW dealt big setback by judges

By Dan Walters

dwalters@sacbee.com

Thirteen years ago, the Capitol's Democrats tried to resuscitate the United Farm Workers Union's moribund efforts to organize California agriculture by enacting a union-friendly mediation process.

The bills that Assembly Speaker Herb Wesson and Senate President Pro Tem John Burton carried and Gov. Gray Davis signed empowered the Agricultural Labor Relations Board to order mandatory mediation in a contract impasse and impose terms subject only to court review.

Two years ago, the UFW invoked the law vis-à-vis a very large agribusiness firm in Fresno County, Gerawan Farming, claiming the right to represent its 3,000 workers on the basis of an election held in 1992.

Gerawan resisted, saying that the union had abandoned contract talks after winning the representation election and therefore had ceded its right to negotiate for current workers, most of whom were not on its payroll in 1992.

The ALRB backed the union, ordered mediation and has tried to impose a contract settlement. Many current Gerawan workers side with the company in the dispute, now making its way through the courts.

Last week, the 5th District Court of Appeal handed Gerawan and its loyalists a major victory, declaring that the ALRB erred by refusing to consider whether the UFW had given up representational rights.

Even more importantly, it ruled that the mandatory mediation law is unconstitutional because it "violates equal protection principles and constitutes an improper delegation of legislative authority."

If upheld by the state Supreme Court, the unanimous appellate court decision is an immense blow to the UFW, which has failed to achieve the industrywide unionization envisioned in 1975 when Jerry Brown signed the Agricultural Labor Relations Act.

One would think that the Gerawan dispute could be settled by simply having another election among current workers.

In fact, such an election was held, but the ALRB has refused to count ballots because of allegations that the company interfered with voting. Gerawan says the charges were trumped up to block decertification.

Meanwhile, Brown, now in his second stint as governor, has put some distance between himself and the UFW.

Last year, he vetoed another bill giving the ALRB even more power, saying he wanted a "fair and balanced process" and adding: "We should look at the entire process before making further changes."

Brown also appointed a new ALRB chairman, William Gould, a former National Labor Relations Board chairman, who has been sparring with the board's Brown-appointed general counsel, Sylvia Torres-Guillén. He wants to take back some of the wide powers she had been granted previously.

Given the adverse court ruling and Brown's less supportive attitude, the UFW may be facing an even darker future.