

# The New ALRB and the Renewed UFW: *The Challenges Ahead*

**Presented by:** Rob Roy, Esq. & Jason Resnick, Esq.



# What Would You Do?

You are standing near the lunch truck when you hear two field workers complaining about low wages. One employee says, “Maybe the union could help get us better pay.”

***How do you respond?***

# What Would You Do?

- An employee asks you how **YOU** feel about unions?
- How do you respond?



# Internal Resolution

- Foreman
- Supervisor or Crew Leader
- Human Resources



# External Resolution

- CRLA
- UFW
- Private Attorney
- DLSE
- Cal/OSHA
- DFEH
- EEOC



# Communication

How do you **talk** with employees?  
How do you **listen** to employees?  
How do you **respond** to employees?



- Which one of these steps do you think your company needs to work on?
- Which one of these steps is your company's strength?

# Management's role - the “enlightened” supervisor:

- Recognizes there are problems in every group of employees.
- Brings problems to the attention of top management for resolution - writes them down.
- Solves problems either by explaining the policy or taking steps to correct the situation.
- Seeks to learn what employees think of the Company.
- Sells Company's benefits.

# Management's role - the “enlightened” supervisor:

- Knows employees' backgrounds and relationships.
- Looks for opportunities to suggest promotion of qualified employees. Points out weaknesses of employees so that they can advance with the Company.
- Disciplines evenhandedly: avoids favoritism in scheduling, assignments, overtime, etc. Knows what discipline has been imposed in the past and puts past practice to use.
- Cultivates leadership among the employees.



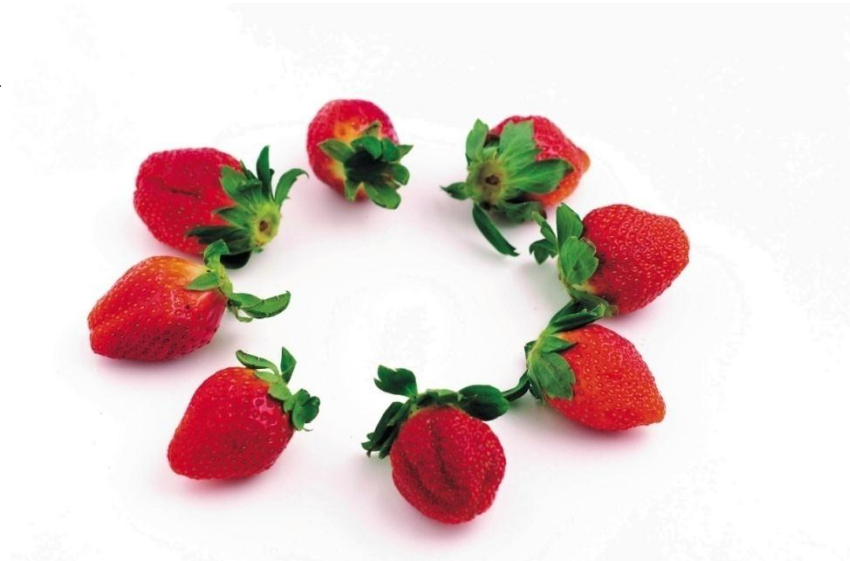
# Employees' Perspective

Employees who understand and appreciate the facts about unions, generally decide to stay union-free.

- **Financial**
  - Unions **cost** a lot of money (e.g., initiation fee, dues, fines, extra assessments)
- **Control**
  - **Lost control** over work lives; extra union rules to follow
  - Union **speaks in employees' place** regarding important work issues
- **Negotiations**
  - Current **wages and benefits** are put at **risk**
- **Possible Strike**
  - Employees can be called **on strike** (without pay or Company-paid benefits) and can be replaced!

# How Unions Organize

- Notice of Intent to Take Access
- Notice of Intent to Orga
- Petition for Certification
- Strike Elections
- Injunctive relief



# Authorization Cards

- Allow a union to act on employee's behalf in asking for an election
- Allow a union to obtain home addresses of employees upon a showing of 10%
- Generally valid for a period on 12 months
- An expression of support for the union
- Cannot be obtained through intimidation, threats, coercion or misrepresentation

# What the Union Wants

## Union Access Rights



Union access to Company property and employee home addresses

## Dues Deducted from Your Paycheck



Dues and fees deducted weekly from paycheck just like taxes

## Union Security



Workers must pay Union dues or be terminated at the request of union

# What Happens During a Strike?

- Wages & Company-paid Benefits stop
- Economic vs. unfair labor practice strikes
- Permanent replacement vs. temporary
- No unemployment insurance, unless permanently replaced for the season
- Possibility of mandatory picket line duty
- Bills and mortgage payments don't stop
- Reinstatement rights of strikers

# Supervisor's Free Speech

“The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.”

Agricultural Labor Relations Act



# You MAY Express:

- Facts
- Opinions
- Examples



# The ONLY Limits on Your Communications:

- Threats
- Interrogation
- Promises/bribes
- Spying / Surveillance
  - Soliciting Grievances



# Can You Say It?

1. Union dues are very expensive. You may also have to pay initiation fees, fines, and assessments. I wouldn't want that much of my hard-earned money going to them.

Legal

Illegal

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# Can You Say It?

2. If a contract has to be negotiated with the union, nothing is guaranteed. You may end up with more, you may end up with less, or nothing may change. But you'll still have to pay dues to them.

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# Can You Say It?

2. If a contract has to be negotiated with the union, nothing is guaranteed. You may end up with more, you may end up with less, or nothing may change. But you'll still have to pay dues to them.

Legal      Illegal

# Can You Say It?

3. I think the union would hurt whatever relationship management has been able to achieve with the employees. I don't think a union could make it better. We won't agree to give more than what is in the best interests of the Company or our customers.

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# Can You Say It?

3. I think the union would hurt whatever relationship management has been able to achieve with the employees. I don't think a union could make it better. We won't agree to give more than what is in the best interests of the Company or our customers.

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# Can You Say It?

4. During good faith bargaining, the Company does not have to agree to a demand or proposal the union might make.

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# Can You Say It?

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**Legal**

illegal



# Can You Say It?

5. Be careful if you sign a card. We'll be able to figure out who signed and who didn't, and we'll remember who did what.

Legal

Illegal



# Can You Say It?

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# Can You Say It?

6. No union activity is allowed on our farm.

Legal

Illegal

# Can You Say It?

6. No union activity is allowed on our farm.

Legal

Illegal



# Can You Say It?

7. If you sign a union card, you'll get what you deserve.

Legal

Illegal



# Can You Say It?

7. If you sign a union card, you'll get what you deserve.

Legal

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# Can You Say It?

8. If a union ever gets in, layoffs will be inevitable.

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Illegal

# Can You Say It?

8. If a union ever gets in, layoffs will be inevitable.

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# Can You Say It?

9. This union doesn't care about the company and they don't know anything about our business; I don't think we need a union.

Legal

Illegal

# Can You Say It?

9. This union doesn't care about the company and they don't know anything about our business; I don't think we need a union.

**Legal**

Illegal



# Can You Say It?

10. Say “NO” to the union and we will match whatever the union is promising you.

Legal

Illegal



# Can You Say It?

10. Say “NO” to the union and we will match whatever the union is promising you.

Legal

**Illegal**



# Can You Say It?

11. Blanca, I'd like to discuss the union further with you.

Legal

Illegal

# Can You Say It?

11. Blanca, I'd like to discuss the union further with you.

Legal

Illegal

# Can You Say It?

12. Our position is that being unionized is not in the best interests of the Company and customers from both a cost and competitiveness standpoint.

Legal

Illegal



# Can You Say It?

12. Our position is that being unionized is not in the best interests of the Company and customers from both a cost and competitiveness standpoint.

**Legal**

**Illegal**



# Can You Say It?

13. I have been learning all I can about this union, and intend to learn more. If you have any questions about the union, come and see me in my office.

Legal

Illegal



# Can You Say It?

13. I have been learning all I can about this union, and intend to learn more. If you have any questions about the union, come and see me in my office.

Legal

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# Can You Say It?

14. I believe the union and its leaders are irresponsible people who only want your money. They don't care about you and know nothing about our business. Why take chances?

Legal

Illegal

# Can You Say It?

14. I believe the union and its leaders are irresponsible people who only want your money. They don't care about you and know nothing about our business. Why take chances?

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# Can You Say It?

15. If the union forces you to go out on strike, we have the right to stop paying your health insurance premiums. If that happens, you would have to pay the whole monthly premium for you and your family. It's possible.

Legal

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# Can You Say It?

15. If the union forces you to go out on strike, we have the right to stop paying your health insurance premiums. If that happens, you would have to pay the whole monthly premium for you and your family. It's possible.

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# Early Warning Signs

- What are they?
- How can I spot them?
- What should I do if I see them?



# Early Warning Signs

- Employees congregating in areas they would not normally be
- Groups form of employees that don't normally associate it with each other
- Avoidance of Supervision
- Argumentative questions being asked at tailgate meetings and training sessions
- Supervisors receive unusual amount of questions about company policies
- Nature/frequency of worker complaints about workplace changes, including wages, benefits and fairness



# Early Warning Signs (cont.)

- Exit interviews: employees are leaving to escape unpleasant environment
- Workers requesting higher wages, etc.
- Significant change in employee turnover
- Hostile graffiti or cartoons in the workplace
- News clippings about union successes are posted
- Employees wearing Union buttons or hats

# Early Warning Signs (cont.)

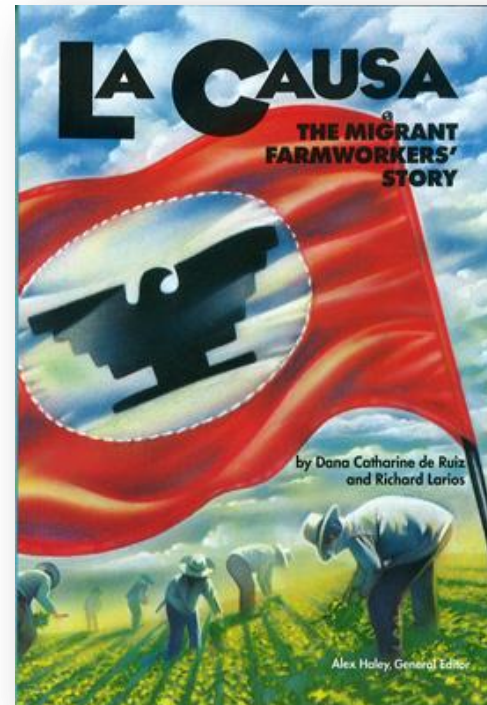
- Complaints made by groups of employees, not individuals, or individuals acting on behalf of fellow workers
- Union authorization cards, handbills, leaflets appear on premises or in parking areas
- Workers adopt union jargon (unfair labor practice, grievance, seniority, etc.)
- Union reps visit workers at home, church or other off-site locations

# Employer Proactive Actions

- Avoid nepotism
- Strict adherence to wage and hour and safety laws
- Uniform application of work/safety rules and discipline
- Positive reinforcement of workers' performance
- Respect and recognition of workers

# Responding to Union Organizing

- “Jefe, should I sign this union authorization card?”



# Questions?

- Rob Roy, Esq., Ventura County Agricultural Association
- Jason Resnick, Esq., Western Growers

