

1 Christopher J. Schulte (D.C. Bar No. 500878) (*Pro Hac Vice Pending*)
2 SMITH, GAMBRELL & RUSSELL, LLP
3 1055 Thomas Jefferson Street, NW
4 Suite 400
5 Washington, DC 20007
6 Phone: 202-263-4344
7 Fax: 202-263-4322
8 Email: cschulte@sgrlaw.com

9 Patrick J. Cain, CSB #105331
10 Smith, Gambrell & Russell, LLP
11 444 South Flower Street, Suite 1700
12 Los Angeles, CA 90071
13 Tel: (213) 358-7213; Fax: (213) 358-313
14 Email: pcain@sgrlaw.com

15 Robert P. Roy (SBN 74982)
16 Ventura County Agricultural Association
17 916 W. Ventura Blvd., Suite 101
18 Camarillo, CA 93010
19 Tel.: (805) 388-2727
20 Fax: (805) 388-2767
21 Email: rob-vcaa@pacbell.net

22 *Attorneys for the Intervenors*

23 **UNITED STATES DISTRICT COURT**
24 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
25 **FRESNO DIVISION**

26 UNITED FARM WORKERS, et al.,

27 Plaintiff,

28 vs.

29 THE UNITED STATES DEPARTMENT OF
30 LABOR, et al.,

31 Defendant

Case No.: 1:20-cv-01690-DAD-JLT

**NOTICE OF MOTION AND JOINT
MOTION TO INTEREVE NE OF
NATIONAL COUNCIL OF
AGRICULTURAL EMPLOYERS and
WESTERN GROWERS ASSOICATION**

32 **JOINT MOTION TO INTERVENE**

1 Pursuant to Federal Rules of Civil Procedure 24(a)(2) and 24(b)(1)(B), the National
2 Council of Agricultural Employers and Western Growers Association (hereinafter
3 “Intervenors”) move to intervene jointly in this case.

- 4 1. This motion is a joint motion. Intervenors are represented by the same counsel and share the
5 same interests. Neither anticipates that any divergence of interests relative to this litigation
6 will develop. They therefore ask that they be treated as if they were one party rather than
7 four for the purposes of this motion, specifically, and of this litigation, in general.
- 8 2. Intervenors accompany this Joint Motion with a Brief in Support, a proposed Motion for
9 Reconsideration and supporting memorandum and order (Exhibit 1), and a proposed Order
10 granting the relief requested herein.
- 11 3. Intervenors consulted with counsel for the current parties with respect to this motion as a
12 courtesy. Defendants have not provided a position on the Joint Motion to Intervene. At this
13 time, Plaintiffs oppose this motion to intervene.

14 **Intervention as a Right – Federal Rules of Civil Procedure 24(a)(2)**

- 15 4. Intervenors Joint Motion is timely because Intervenors first became aware that the parties to
16 this action would undoubtedly not make all of Intervenors’ arguments and do not share the
17 same ultimate objective through the recent Stipulation and Proposed Order to Extend
18 Deadline to Comply with the Courts Order jointly filed by the parties to this action. *United*
19 *Farm Workers v. Dep’t of Labor*, No. 20-cv-1690 (E.D. Cal. May 14, 2021), ECF 60.
- 20 5. The National Council of Agricultural Employers and Western Growers Association
21 represents a significant majority of agricultural employers who utilize the H-2A temporary
22 nonimmigrant visa program who are affected by the Court’s adjudication of this matter by
23 the Court’s adjudication of this matter through their current usage of the H-2A temporary
24 nonimmigrant program, their interests are directly at stake.
- 25 6. The disposition of this action in the absence of the Intervenors would impair or impede their
26 members’ interests.

1 7. The existing parties to this action will not adequately represent the Intervenors interest as
2 evidenced through the recent Stipulation and Proposed Order to Extend Deadline to Comply
3 with the Courts Order jointly filed by the parties to this action. *United Farm Workers v. Dep't*
4 *of Labor*, No. 20-cv-1690 (E.D. Cal. May 14, 2021), ECF 60.

5
6
7 **Permissive Intervention – Federal Rules of Civil Procedure 24(b)(1)(B)**

8 8. Alternatively, Intervenors should be allowed to intervene permissively because their claim
9 shares common questions of law and fact with that of the main action.

10 9. Intervention is therefore proper under either Rule 24(a)(2) and (b)(1)(B).

11 For the foregoing reasons and such others as may appear to the Court, Intervenors
12 respectfully request that their Joint Motion to Intervene be granted.

13
14 DATED: June 10, 2021

Respectfully submitted,

SMITH, GAMBRELL & RUSSELL, LLP

15
16
17
18 /s/. Patrick J. Cain

Patrick J. Cain

19 *Attorney for the Intervenor*
20
21
22
23
24
25
26
27
28

EXHIBIT 1

1 Christopher J. Schulte (D.C. Bar No. 500878) (*Pro Hac Vice Pending*)
SMITH, GAMBRELL & RUSSELL, LLP
2 1055 Thomas Jefferson Street, NW
3 Suite 400
Washington, DC 20007
4 Phone: 202-263-4344
Fax: 202-263-4322
5 Email: cschulte@sgrlaw.com

6 Patrick J. Cain, CSB #105331
7 Smith, Gambrell & Russell, LLP
444 South Flower Street, Suite 1700
8 Los Angeles, CA 90071
Tel: (213) 358-7213; Fax: (213) 358-313

9 Robert P. Roy (SBN 74982)
10 Ventura County Agricultural Association
916 W. Ventura Blvd., Suite 101
11 Camarillo, CA 93010
12 Tel.: (805) 388-2727
Fax: (805) 388-2767
13 Email: rob-vcaa@pacbell.net

14 *Attorneys for the Intervenors*

15
16 **UNITED STATES DISTRICT COURT**
FOR THE EASTERN DISTRICT OF CALIFORNIA
17 **FRESNO DIVISION**

18 UNITED FARM WORKERS, ET AL.,

19 PLAINTIFFS,

20 VS.

21 THE UNITED STATES DEPARTMENT OF
22 LABOR, ET AL.,

23 DEFENDANTS

Case No.: 1:20-cv-01690-DAD-JLT

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
JOINT MOTION TO INTERVENE OF
NATIONAL COUNCIL OF
AGRICULTURAL EMPLOYERS and
WESTERN GROWERS ASSOCIATION**

24
25 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF JOINT
MOTION TO INTERVENE**

26 **INTRODUCTION**

27 The National Council of Agricultural Employers (NCAE) and Western Growers
28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.