

U.S. Supreme Court Decision Affects California Agricultural Growers

by Michael Droke and Jack Sullivan

On-farm agriculture operations have been excluded from federal labor law since 1935. California filled this gap by creating its own law in 1975, the California Agricultural Labor Relations Act ("ALRA"). The ALRA differs from federal law in several key areas. Most important among them, the ALRA gives union organizers the right to physically access the farm property in order to solicit support for unionization. Agricultural employers must allow union organizers onto their property for up to three hours per day, 120 days per year. In *Cedar Point Nursery v. Hassid*, two growers objected when the United Farm Workers union organizers demanded access to their property. The growers challenged this regulation as a state-sponsored "taking" of their property rights, without the just compensation guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution. In a 6-3 decision today, the U.S. Supreme Court agreed with the growers, holding that the ALRA's access regulations were a *per se* violation because they allowed "physical invasion" of the land without compensation. (See links below)

- This case applies to agricultural employers only. Non-agricultural employers are governed by the federal National Labor Relations Act (NLRA). The NLRA allows employers to prohibit non-employee access to their property.
- Agricultural employers should immediately review their policies and practices regarding on-farm access. Access should be limited to employer-approved business. The policy/practice should also specify who is authorized to allow access. (See *Kroger Limited Partnership | Mid Atlantic*, 368 NLRB No. 64 (2019))
- Agricultural employers should clearly delineate what property is theirs, in order ensure that they can establish their property lines for purposes of union access.
- Unions are still allowed to contact employees off the grower's premises. It is often easy to see where the grower's employees are located, because employee cars are parked at the side of the field. However, bussing workers to the job site may create wage and hour risk under generally-applicable California law. *Morillion v. Royal Packing Co.*, 22 Cal.4th 575 (2000).

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- Michael Droke
- Jack Sullivan

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Supreme Court decision, its impact on your agribusiness and what you need to do to be prepared.

California Agricultural Labor Relations Act (ALRA) Summary: [ALRB Handbook \(ca.gov\)](#)

Supreme Court Decision: [20-107 Cedar Point Nursery v. Hassid \(06/23/2021\)](#)

[\(supremecourt.gov\)](#)