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## **Agriculture and Business Coalition Challenge Cal/OSHA Emergency Standards to Protect Nation's Food Supply**

**LOS ANGELES, Calif. (December 31, 2020)** – A coalition of agricultural and business employers has filed a lawsuit in Los Angeles Superior Court challenging the COVID-19 related emergency temporary standards (ETS) recently approved by the California Occupational Safety and Health Standards Board (Board). The complaint alleges, among other things, that the Board lacks statutory authority to impose many of the sweeping measures of the ETS on California employers.

For California's multi-generational farmers, the health and safety of their employees and the consumers they serve is their top priority.

"In the weeks and months following Governor Newsom's emergency declaration in March, California farmers and processors moved quickly to implement dramatic new safety practices aimed at mitigating the spread of COVID-19 in the workplace," said Dave Puglia, President & CEO of Western Growers. "While these measures helped reduce transmission in workplaces, this virus has swept through communities large and small in spite of lockdown orders and mask mandates, and through every sector of the economy as well despite extraordinary efforts by employers and employees alike. The Board imposed unrealistic, unfounded and economically harmful standards in total disregard of these realities. We have no choice but to seek judicial relief."

The standards promulgated by the Board are unprecedented and sweeping. They were adopted with little public notice or opportunity for comment based on a purported "finding of emergency" and a declared need for immediate action, even though it took the Board nine months to enact these rules. Furthermore, Cal/OSHA staff insisted the ETS were not necessary for the agency to enforce the continually evolving general and industry-specific guidelines for the prevention of COVID-19. As stated in the complaint, "the ETS does not solve a crisis as much as it creates one."

"We take this unfortunate yet serious action because we believe there are unconsidered mitigation steps that have and would continue to better protect farm workers while allowing our farmers to continue to produce a consistent supply of fruits and vegetables," said Christopher Valadez, President of the Grower-Shipper Association of Central California. "As this pandemic has shown us over the last several months, it is imperative that science and data drive policy. That is at the core of what we seek in this lawsuit."

The ETS create significant new obligations and liabilities for employers, and subject well-meaning California farmers and other businesses to additional enforcement actions and substantial penalties. The practical effect of these emergency standards is to shift the public health and economic costs of COVID-19 monitoring, investigation, compliance and remediation onto employers, all without any consideration of the financial damage inflicted on businesses already struggling to recover from the pandemic.

"These regulations will disrupt food supply operations all along the line, but it will be especially hard on our 20,000 small family farming members," said Jamie Johansson, President of the California Farm Bureau Federation. "They and their employees are the unsung heroes of the pandemic but once again, they must react to a rule handed down by fiat instead of going through a deliberate regulatory process where the voices of farmers would be heard. We hope the court forces government to follow the law."

It is important to note that the ETS will have a disproportionate impact on California farmers and their employees since one aspect of the regulations is to substantially reduce and eliminate vitally needed agricultural housing during a statewide housing crisis. A reduction in already-scarce housing will directly impact farmworker communities and harm rural economies across the state that depend on agriculture.

The lawsuit filed by lead attorney David A. Schwarz, Kent R. Raygor and Barbara Taylor, with Sheppard Mullin, argues that in enacting the emergency regulations without due process, the Board failed to explain the causal link between the ETS and the emergency situation to be addressed, or to adequately justify the necessity of the new rules. Additionally, the complaint contends that many of the regulations have nothing to do with workplace health or occupational safety but are designed to address non-work-related COVID-19 exposure risks.

[\*\*Click here for a fact sheet that details the basis for the legal challenge.\*\*](#)

The six plaintiff organizations and media contacts are listed below:

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#### **About California Association of Winegrape Growers:**

The [California Association of Winegrape Growers](#) protects and promotes the interests of California winegrape growers by providing members a unified voice, effective advocacy and strong leadership. CAWG promotes the winegrowing industry's long-term success by advancing the adoption of sound public policies, and fostering awareness and understanding of winegrape growers' contributions to the economy, environment and California communities.

#### **About California Business Roundtable:**

The [California Business Roundtable](#) is a non-partisan organization comprised of the senior executive leadership of the major employers throughout the state – with a combined workforce of more than half a million employees. For more than thirty-five years the Roundtable has identified the issues critical to a healthy business climate and provided the leadership needed to strengthen California's economy and create jobs.

#### **About California Farm Bureau Federation:**

The [California Farm Bureau Federation](#) works to protect family farms and ranches on behalf of nearly 32,000 members statewide and as part of a nationwide network of more than 5.5 million Farm Bureau members.

#### **About Grower-Shipper Association of Central California:**

[Grower-Shipper Association of Central California](#) is a regional trade association, offering advocacy, programs and services to over 300 members. Founded in 1930, today the organization's membership consists primarily of growers, shippers, harvesters and processors of vegetables and fruits produced in the Central Coast region of California, encompassing Monterey, Santa Cruz, San Benito and Santa Clara Counties; united around a core mission of advancing solutions benefitting families, food and farming.

**About Ventura County Agricultural Association:**

Ventura County Agricultural Association is a trade association dedicated to supporting agriculture businesses in the California counties of Ventura and Santa Barbara. The association provides a wide variety of services to its members, but most significantly in labor relations and employee safety training programs.

**About Western Growers:**

Founded in 1926, [Western Growers](#) represents local and regional family farmers growing fresh produce in Arizona, California, Colorado and New Mexico. Our members and their workers provide over half the nation's fresh fruits, vegetables and tree nuts, including nearly half of America's fresh organic produce. Some members also farm throughout the U.S. and in other countries so people have year-round access to nutritious food. For generations, we have provided variety and healthy choices to consumers. Connect with and learn more about Western Growers on our [Twitter](#) and [Facebook](#).

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