



# NATIONAL GRANGE OF THE ORDER OF PATRONS OF HUSBANDRY

1616 H ST. NW, WASHINGTON, DC 20006 | PHONE (202) 628-3507 | FAX (202) 347-1091

*American Values. Hometown Roots.*

## **What Do the Recent Court Rulings in California Mean to Your Grange?**

September 22, 2015

Brothers and Sisters,

Since mid-July, there have been two major rulings issued concerning the lawsuits between the National and former California State Grange. I am happy to say that in all the cases that we brought, or were brought against us, the National Grange prevailed on every point. This means the cases could now come to an end, provided that the other side doesn't choose to drag us through pointless appeals.

In an attempt to explain what these rulings mean and their importance to your Grange, we are writing to you. If you wish to have a copy of either of these two rulings, please download them from the website or request them from your State or National Grange Master.

These cases involved disagreements between the former California State Grange and the National Grange. It is important to note that local Granges have never been involved in these cases and the National Grange is asserting no claim against local property.

Nothing in either ruling changes how you and the National Grange have operated for decades. What these opinions do is reaffirm that the rules of the Grange, and the obligations of our members, are meaningful and binding, and they are not in conflict with state or federal law. A summary of (1) the Federal case and (2) the state court orders is listed below. The upshot of the orders is that we have won every point of fact and law. According to our lawyers, it is nearly unprecedented for two separate judges to make two nearly identical rulings within weeks of each other.

The parties can now meet and confer to reach a settlement that implements this order. The National Grange is ready for that meeting.

I am told, however, that Mr. McFarland is now threatening to drag this litigation out for "several more years, or until one side or the other runs out of money." They have had their day in court, and they lost. Any appeals will be fruitless. No matter how much Grange money Mr. McFarland insists on wasting on hopeless appeals, the two court rulings will not be overturned. It could take another two years to win any appeals. Every attorney who has read these decisions (and there have been hundreds) would agree that they will not be overturned. I would urge anyone who agrees with this, please ask Mr. McFarland to stop any appeals and come to the settlement table, instead.

**1. Federal.** On July 14, Judge William B. Shubb granted our Motion for Summary Judgment in the Trademark case in Federal District Court, Eastern District of California filed by the National Grange against Robert McFarland acting as the California State Grange.

The Court agreed with the National Grange, and rejected every argument made by the former California State Grange.

- First, the judge clearly stated that the National Grange's "Grange" trademark belongs to our organization only - and its use is restricted to recognized Granges and parties authorized by the Grange. The judge found that if outsiders use it, there would be confusion among our membership and the community at large. (This is consistent with other court rulings in our favor nationwide - and is a very powerful precedent).

- Second, the Court's ruling also confirms that when a Grange's Charter is surrendered or revoked, it is no longer entitled to use the Grange name or emblems, even if it was previously authorized to do so.

- Third, the Court observed that "there is a total absence of evidence in the record that [the National Grange] failed to exercise adequate quality control over its licensing." In fact, the National Grange continuously monitors the quality of the goods and services offered by its licensees, and continues to strengthen and improve these measures.

- Finally, the judge noted that "it is not genuinely disputed that [the National Grange] was acting within its rights and in accordance with its bylaws when it revoked defendant's charter."

- The whole ruling can be summarized in one sentence: if you are a Grange you can use our name and logo, and if you are not part of our organization you may not use our name or logos without explicit permission.

**2. State.** On August 18, Judge Brown granted the National Grange's motion for summary judgment filed in Sacramento Superior Court. In his words, he clearly and unequivocally ruled in favor of the National Grange.

The Judge ruled that because the California State Grange's Charter was revoked under the Bylaws of the Order - and Mr. McFarland and the other defendants have acknowledged their voluntary disaffiliation from the Order - they have no right to keep the real and personal property they took that belonged to the Grange.

- This means that even though the Unchartered State Grange was incorporated, the rules of the Grange have no conflict with any other California state laws.

- The Judge ruled that the reorganized California State Grange is the only Grange entity entitled to use and control State Grange property in California pursuant to the National Grange's Digest of Laws. This does not change California's structural relationships with local Granges, it just ensures that the local Granges will be working with Grange members. And there is nothing in the Judge's opinion that affects how local Grange property is owned by Community or Pomona Granges. We didn't ask for any changes - we are happy with the way things are.

- He also ruled that all the State Grange property should revert to the control of the Newly Chartered State Grange. Judge Brown relied on precedent from a Masonic court case, which held that, "the assets of a fraternal association are the property of all the members, not of any number less than all of them." This confirms our view all along: a person cannot angrily walk away from the Grange and take years and years of state Grange property with them to set up a new organization. They are free to leave, but they have to go with empty pockets and have to start their organization from scratch. This ruling boils down to common sense: if you are a member of a large group and you leave it - for whatever reason - you must leave behind the organization's property because it doesn't belong to you.

These rulings were easy for the Judges to make because they are consistent with years of settled precedent.

This victory, however, was costly, time-consuming, and could have been avoided if everyone just followed the rules that they agreed to as a Grange member. But having been forced into this situation, it was necessary to preserve our Order. These rulings in real terms mean that the rules of the National Grange, your State Grange, and your Community Granges have not changed. These judicial decisions reaffirm Grange rules that allow every Grange to own real and personal property, and use the trademarks of the Grange, while ensuring that those assets always remain within the Grange organization.

I am happy to say that we have preserved the right of our Order to exist in the same way it has since 1867. Nothing has changed. No property is being taken by the National Grange, so please do not believe anyone who says that it is. The only difference is the California State Grange Master is Brother Ed Kowski and not Mr. Bob McFarland. What's left is for Mr. McFarland to give back the Grange property he took when he left the Grange. It's that simple.

I want to thank every member who aided by donating \$10 or more, and every Grange that made a donation toward these legal efforts. If anyone wishes to donate at this time, it will be greatly appreciated as the National Grange has incurred substantial debt due to the litigation costs it was forced to incur protecting our name and structure.

Now I ask that you refocus on the more important issue of expanding our organization. New members in your Grange and in neighboring Granges must be our highest priority. New Granges in communities that are not currently being served by our organization are also critical. Let us begin to celebrate our 150th anniversary with increases in both membership and activity.

For your files, I am attaching the current code of conduct for web and social media sites, as well as a copy of the privacy policy of the National Grange. If the posts mentioned above appear on sites overseen by the National Grange, we will have them removed. However, for the Community and Pomona Grange sites/pages that are under your jurisdiction, I will leave that decision to your discretion.

[Click here to view the National Grange Code of Conduct.](#)

[Click here for view the National Grange Privacy Policy.](#)

Expect more information on the legal situation of the California cases in the near future.

If you have any questions, please do not hesitate to contact me.

Fraternally Yours,

Ed Luttrell, Master  
National Grange

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