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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177301
Party	Plaintiff Cake Divas
Correspondence Address	Anthony M. Keats, Esq. Keats, McFarland & Wilson LLP 9720 Wilshire Boulevard, Penthouse Suite Beverly Hills, CA 90212 UNITED STATES kgatien@kmwlaw.com, dorme@kmwlaw.com, akeats@kmwlaw.com
Submission	Testimony For Plaintiff
Filer's Name	Konrad K. Gatien
Filer's e-mail	kgatien@kmwlaw.com, mklafter@kmwlaw.com
Signature	/kkg/
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CAKE DIVAS, etc.,)	
)	
Opposer,)	TTAB OPPOSITION NO.
)	91177301
)	
vs.)	
)	
CHARMAINE JONES, etc.,)	
)	
Applicant.)	
)	
)	

DEPOSITION OF MAJBRIIT ALMSKOU

May 1, 2009

Cheryl L. Marquis, CSR # 6731
⊗ 281480

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Applicant.)	
)	
)	

THE TESTIMONY DEPOSITION OF MAJBRIIT ALMSKOU,
taken on behalf of Opposer at 9720 Wilshire Boulevard,
Penthouse Suite, Beverly Hills, California, commencing
at 12:16 p.m., Friday, May 1, 2009, before Cheryl L.
Marquis, Certified Shorthand Reporter, No. 6731.

1 APPEARANCES OF COUNSEL:

2
3 For Opposer:

4 KEATS MCFARLAND & WILSON LLP
5 BY: KONRAD GATIEN, ESQ.
6 MATTHEW KLAFTER, ESQ.
7 9720 Wilshire Boulevard
8 Penthouse Suite
9 Beverly Hills, California 90212
10 (310) 248-3830
11 kgatien@kmwlaw.com
12 mklafter@kmwlaw.com

13 For Applicant:

14 FOLEY & LARDNER LLP
15 BY: JEFFREY A. KOBULNICK, ESQ.
16 555 South Flower Street
17 Suite 3500
18 Los Angeles, California 90071-2411
19 (213) 972-4500
20 jkobulnick@foley.com

21 and

22 (Present via teleconference)

23 FOLEY & LARDNER LLP
24 BY: DANA RUNDLOF, ESQ.
25 90 Park Avenue
New York, New York 10016
(212) 682-7474
drundlof@foley.com

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I N D E X

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BEVERLY HILLS, CALIFORNIA, FRIDAY, MAY 1, 2009

12:16 P.M.

-o0o-

MR. KOBULNICK: Hi, Dana. Resent are myself, Konrad, Matthew, the court reporter and the witness. The court reporter has asked that you state your name, even though we have given it to her, and then confirm if there is anybody else on the phone.

MS. RUNDLOF: Okay, my name is Dana Rundlof for Foley & Lardner. First name is D-a-n-a; last name R-u-n-d-l-o-f, and I'm the only one on the phone.

DEPOSITION OFFICER: Shall I swear her in now?

MR. GATIEN: Please do.

(The witness, MAJBRIIT ALMSKOU, was placed under oath by the Deposition

Officer as follows:

DEPOSITION OFFICER: Would you raise your right hand, please?

Do you solemnly state that the testimony you will give in this matter will be the truth, the whole truth and nothing but the truth, so help you God?

MS. ALMSKOU: Yes, I do.

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DIRECT EXAMINATION

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BY MR. GATIEN:

Q Okay, so we are free to get started then. I wanted to ask you a couple of preliminary questions before we get, you know, started today. And I just wanted to know, have you ever had your deposition taken before?

A No.

Q Well, then I want to go over a couple of things before the deposition gets started. Let you know something about the format here today.

The format will be, I will be asking you questions, and then opposing counsel, Jeff Kobulnick and Dana Rundlof, will have the ability to ask you questions about the same matters that I asked you on my questions.

A Uh-huh.

Q I want you to wait until each question is fully asked before you respond.

Please answer each question to the best of your knowledge. If you don't know the answer to a particular question, simply state, "I don't know."

If you don't understand or are confused by a particular question, please either let the person know who is asking the question, or request that the

1 question be clarified or repeated.

2 If you need to take a break for any reason at
3 any time, please feel free to request one and we'll let
4 you take a break.

5 It's also important that you remember to speak
6 clearly and audibly.

7 A Uh-huh.

8 Q So please don't shake your head for a yes or
9 no response; please just say yes or no. Please also
10 don't say "uh-huh" or mumble, because it is important
11 that the court reporter hears you so that she can take
12 down your testimony.

13 A Yes.

14 Q Because the only record will be as transcribed
15 by the court reporter after the deposition is over.

16 You will have an opportunity to review the
17 transcript from today and to make any changes, but I
18 must warn you that any changes that you make may affect
19 the credibility of your testimony.

20 Okay, do you have any questions?

21 A No.

22 Q I want you to remember that you are under oath
23 today

24 A Uh-huh.

25 Q -- and that you have sworn to tell the truth.

1 A Yes.

2 Q Are you currently taking any medications that
3 may affect your testimony today?

4 A No.

5 Q Do you have any other questions before we
6 begin?

7 A No.

8 Q Okay. Are you aware of any events for which
9 the Cake Divas have provided any services?

10 A Yes.

11 Q Okay. What is the oldest event that you can
12 recall, meaning oldest in time?

13 A The oldest event is -- probably it's going to
14 be in '99 of May. End of May '99.

15 Q The end of May '99. What event was that?

16 A That is a big birthday event in Florida.

17 Q Does the event have a name?

18 A No, other than Ma Jaya's birthday celebration,
19 but I don't think it's

20 Q Who is Maja?

21 A Ma Jaya Bhagavati is an interfaith spiritual
22 leader, and her ashram is in Florida.

23 Q Okay. Where in Florida?

24 A Sebastian.

25 Q Is that where the event took place?

1 A Yes.

2 Q And you said May of '99. How do you know
3 that?

4 A Because that's her birthday.

5 Q Do you remember the exact day of her birthday?

6 A Her birthday is May 26th.

7 Q Okay, and what do you remember, if anything,
8 about that event?

9 A It takes place under a big tent on the
10 property of -- Kashi Ashram property, and there is a
11 lot of people, and it is often they give out awards to
12 -- humanitarian awards to different spiritual leaders
13 or people who does work for, for good work, for service
14 of humanitarian charity projects.

15 Q Okay, approximately how many people were
16 there?

17 A I would say about 3- to 500.

18 Q Do you remember

19 A It's grown over the years, but, yes.

20 Q 300 to 500?

21 A Yes.

22 Q Do you remember any particular people who were
23 there?

24 A Not any particular people, other than me and
25 my partner, and there is a -- after the birthday

1 ceremony, there is a ceremony where people take
2 ^{SANYASAN} sengashi (phonetic), where people become Swami. So one
3 of them that became Swami that year was a friend of
4 ours who lives in Los Angeles, his name is Peter Nava,
5 and he became Swami that year. So that's why I
6 remember that clearly.

7 Q And do you remember if the Cake Divas were
8 there?

9 A They were there, yeah.

10 Q How do you know that?

11 A Because they are there every birthday, and
12 they always make the cake and the desserts the whole
13 weekend, so...

14 Q And who are the Cake Divas?

15 A The Cake Divas are Leigh Grode and Joan
16 Spitler.

17 Q Okay, and how do you know they were -- were
18 they called the Cake Divas at that event?

19 A Yes.

20 Q And how do you know that?

21 A Because they come in from the kitchen with the
22 cake, present the special cake to the spiritual leader,
23 and they go up to the stage, and Ma is always very
24 happy about the Cake Divas, so she always yells out,
25 these are the Cake Divas from Los Angeles, and she is

1 always very happy about that, and she always presents
2 them as the Cake Divas.

3 Q Does anybody else refer to them as the Cake
4 Divas?

5 A Everybody else does.

6 Q Do they refer to themselves as the Cake Divas
7 at that event?

8 A Yes.

9 Q How long did the event last?

10 A It lasts the whole -- it starts Friday night
11 with a "Dasain", basically where there is teaching and
12 preaching; and then on Saturday it's the whole birthday
13 celebration, and then the ^{SANYASAN}Sengashian (phonetic)
14 celebration; and Sunday is a day off for relaxation.
15 So it's basically the whole weekend.

16 Q Do you recall if the Cake Divas were there the
17 whole weekend that you were there?

18 A Yes, they were.

19 Q Okay, and what services, if any -- you
20 mentioned they bake the cake for the

21 A Yes.

22 Q Was it for the Ma Ja?

23 A Ma Jaya.

24 Q Ma Jaya?

25 A Yes, but we just called her Ma.

1 Q Okay. Do they provide any other services,
2 other than that cake?

3 A Yeah, they make big sheet cakes for the rest
4 of us, and they do arugulas, all the cookies, simply
5 take care of all the sweets for that weekend.

6 Q Okay. Do you remember anything else about
7 that event with

8 A No.

9 Q -- that the Cake Divas did, other than those
10 services?

11 A No.

12 Q And -- that's fine.

13 MR. GATIEN: That's all the questions that I
14 have. Thank you very much.

15 THE WITNESS: Thank you.

16 MR. GATIEN: Jeff, would you like to take a
17 break or what?

18 MR. KOBULNICK: No, I will go ahead and start.
19 I may take a break once I start though.

20

21 CROSS-EXAMINATION

22 BY MR. KOBULNICK:

23 Q So, Miss Almskou, my name is Jeff Kobulnick,
24 and I'm with Foley & Lardner, and I represent Charmaine
25 Jones in these proceedings.

1 I'm going to ask you questions about testimony
2 you have just given. First of off, it's my
3 understanding that you are an employee with Cake Divas,
4 is that correct?

5 A That is correct.

6 Q And how long have you been working for Cake
7 Divas?

8 A For about three years.

9 Q When did you start with them?

10 A About three years ago.

11 Q And do you recall what month?

12 A Hmmm...

13 Q It was in 2006, right?

14 A Yeah, it was probably around -- I think it was
15 in the spring. I don't recall what month.

16 Q Okay. And did you have a personal
17 relationship with Leigh Grode before you started
18 working for Cake Divas?

19 A I have known them for many years.

20 Q How long have you known Leigh Grode and Joan
21 Spitler?

22 A Since '93, I think.

23 Q You have known both of them since '93?

24 A Yes.

25 Q And how have you known them? What is your

1 relationship with them?

2 A They are acquaintances. We met through the
3 teachings of Ma Jaya, and we became more friends with
4 them.

5 Q When you say you met through the teaching of
6 Ma Jaya, do you mean that you were part of a spiritual
7 class?

8 A Yes, part of a spiritual community. Ma Jaya
9 used to come to Los Angeles and in West Hollywood, and
10 that's where we met.

11 Q So you have been friends with Leigh Grode and
12 Joan Spitler since 1993?

13 A Yes.

14 Q But you started working with them in spring of
15 2006?

16 A Yes.

17 Q What did you do to prepare for today's
18 deposition?

19 A Nothing.

20 Q Did you read any documents to prepare for
21 today's deposition?

22 A No.

23 Q Did you review anything else to recall any
24 details of the event you just testified about in 1999?

25 A No.

1 Q Did you talk to anybody about today's
2 deposition?

3 A No.

4 Q Did you know that Leigh Grode was deposed in
5 this case recently?

6 A What does that mean, "deposed"?

7 Q Like you are giving your deposition testimony
8 today, did you know that Leigh Grode was also deposed a
9 few weeks ago?

10 A No.

11 Q No one told you that Leigh Grode had
12 testified?

13 A Oh, that she had testified, yeah. I think
14 not Leigh Grode. I know that Joan came and said that
15 they had testified.

16 Q So Joan told you that

17 A Yes.

18 Q -- that Leigh and Joan had both testified?

19 A Yes.

20 Q Did Joan tell you what Leigh or Joan testified
21 about?

22 A I don't know the specifics, no.

23 Q What details did Joan share with you?

24 A Other than it took a long time downtown, like
25 because she works in the kitchen back there, and we

1 were kind of needing her hands, so she was upset it
2 took a long time. That's basically what she said to
3 me.

4 Q Okay. Did Joan talk about your deposition
5 today?

6 A No, not necessarily, other than, you know,
7 thank you for doing that.

8 Q Who first asked you to give a deposition
9 testimony today?

10 A Leigh did.

11 Q Why did Leigh ask you to testify?

12 A Because she knew that I was in Florida
13 because she knew that I was in Florida in '99 and I go
14 there often.

15 Q And when Leigh asked you if you would testify,
16 what did Leigh tell you about this case?

17 A She told me that there is someone that has the
18 same name in New Jersey or something, somewhere around
19 there, and they are trying to figure out who is going
20 to have the name. I think that's what it is about.
21 I'm not quite sure, actually, because they really
22 haven't talked to me about it.

23 Q Okay. Did you discuss this case with anybody
24 else besides Joan or Leigh?

25 A No.

1 Q Have you discussed this case with any of the
2 attorneys in this room?

3 A No.

4 Q Did you meet with the attorneys in this room
5 before you gave your testimony today?

6 A Just before, yeah, a half an hour before.

7 Q Okay. Let's go back to this event in 1999.
8 The name of the person who is having the birthday, I'm
9 not sure if I caught it. Is it Ma Jaya?

10 A Ma Jaya Sati Bhagavati.

11 MR. GATIEN: Do we want to have a spelling
12 clarification, if possible?

13 THE WITNESS: You want me to spell it for you?

14 MR. GATIEN: Yes, please.

15 THE WITNESS: M-a J-a-y-a, Sati, S-a-t-i,
16 Bagava -- Baga -- I have to write this down myself,
17 sorry.

18 MR. GATIEN: This is three words?

19 THE WITNESS: No, it's all one word.

20 BY MR. KOBULNICK:

21 Q That's all one word?

22 A The last -- that's like her last name.

23 Q Oh, but the Ma Jaya

24 A The Ma Jaya Sati that

25 MR. GATIEN: That's three words?

1 THE WITNESS: Yeah.

2 MR. KOBULNICK: Okay.

3 THE WITNESS: So it's four words in all. Of
4 course, it is coming from Hindi.

5 MR. GATIEN: Wait, you just said four words?

6 THE WITNESS: Yeah, four words totally.

7 MR. GATIEN: What are the four words?

8 THE WITNESS: Ma Jaya Sati Bhagavati.

9 BY MR. KOBULNICK:

10 Q And who is Ma Jaya Sati Bhagavati?

11 A She is an interfaith spiritual teacher. I
12 think the ashram has been there for almost thirty years
13 in Florida, so all kinds of faiths and non-faiths come
14 there, you know.

15 Q What birthday number was it? How old was she
16 in 1999?

17 A Well, she's turning 69 on this year, so assume
18 it's 59? Yeah, 59.

19 Q You said the celebration was held at the end
20 of May?

21 A Uh-huh.

22 Q Do you know the dates?

23 A It's the weekend around May 26, because that's
24 her actual birthday.

25 Q Was it a Memorial Day weekend?

1 A I assume -- I don't know, because I don't
2 really celebrate the American holidays, so I don't
3 know. I assume so, yeah. It's around there.

4 Q And you said the event was held in Sebastian,
5 Florida?

6 A Yes.

7 Q And the event is always in Sebastian, Florida?

8 A Yes.

9 Q What is the name of the facility or location
10 that you said you met for the celebration?

11 A Kashi Ashram. K-a-s-h-i.

12 Q And the second word?

13 A Ashram.

14 Q Can you spell that?

15 A A-s-h-r-a-m.

16 Q Is that the city or is that a residence?

17 A That's a community.

18 Q How long have you been attending that event?

19 A I have been going there since she was 57, so
20 two years before, I guess.

21 Q And you go every year?

22 A I go every year.

23 Q I'm sorry, is Ma Jaya a woman or a male?

24 A It's a woman.

25 Q Who else went with you from Los Angeles in May

1 of 1999 to this event?

2 A My partner Janice Engel, and I know that Peter
3 Nava took Sengashi (phonetic).
SANYASAN

4 DEPOSITION OFFICER: Took what?

5 THE WITNESS: Sengashi. He became Swami.
SANYASAN

6 That's probably easier, because I can't spell the name.

7 BY MR. KOBULNICK:

8 Q You say his name is Peter Nava?

9 A Peter Nava.

10 Q And he was there that year to become Swami?

11 A Yes.

12 Q Did you travel to this event with Peter Nava?

13 A No.

14 Q Did you travel to this event with Leigh Grode?

15 A No.

16 Q Did you travel to this event with Joan

17 Spitler?

18 A No.

19 Q Did you travel to this event with Janice

20 Engel?

21 A Yes.

22 Q Did you travel to this event with anybody

23 else?

24 A Not that I recall.

25 Q Did you have any family or friends living in

1 Florida in May of 1999 as well?

2 A Friends.

3 Q Or family?

4 A Friends I have, yes.

5 Q So when you went in May of 1999, were you
6 already going, not only for this birthday celebration,
7 but to visit any friends in Florida as well?

8 A No, I went for the birthday celebration.

9 Q And why do you personally attend this event
10 every year?

11 A Because it gives me a chance to travel, and it
12 gives me a chance to be there.

13 Q When was the first time that you met Ma Jaya?

14 A In '92. Yeah, '92. End of '92.

15 Q Where was that?

16 A In West Hollywood.

17 Q How did you travel to Florida for the event in
18 1999?

19 A How?

20 Q Yes.

21 A I took a plane.

22 Q What airline?

23 A That I don't know.

24 Q And who paid for your travel expenses?

25 A I did.

1 Q Did you have a specific role as part of this
2 birthday celebration?

3 A No.

4 Q You were just there as a guest?

5 A Uh-huh. Yes.

6 Q Were you performing any employment duties for
7 Cake Divas while you were there?

8 A Not -- no, not at that time.

9 Q Did you have to serve the cake?

10 A No.

11 Q So this was a spiritual event for you, as well
12 as to participate in it?

13 A Yes. Yes.

14 Q Was there a printed program at this event?

15 A I don't -- I don't recall if they -- later on
16 there became a printed program, but I don't remember if
17 they had any at that time.

18 Q Were there any printed materials sent out in
19 advance advertising the event? Was there an
20 invitation?

21 A There probably was, but I don't remember any.

22 Q So just so that I'm clear, you don't recall
23 seeing any printed materials

24 A No.

25 Q -- advertising the May 1999 event?

1 A No, I don't.

2 Q Were Leigh Grode and Joan Spitler guests at
3 this event as well?

4 A Yeah, they were guests, but they also
5 presented the cake, but they -- I guess -- I don't know
6 if they were guests or not. But they presented the
7 cake.

8 Q So you have stated that -- and I want to make
9 sure I'm not misstating this.

10 Is it correct to say that both Joan Spitler
11 and Leigh Grode also followed the teachings of Ma Jaya?

12 A Yes.

13 Q So you studied Ma Jaya's teachings here in
14 Los Angeles with Leigh Grode and Joan Spitler?

15 A Yes.

16 Q So they went to this birthday celebration to
17 have a spiritual event like you did?

18 MR. GATIEN: I'm going to object. That's
19 speculation. It wouldn't be from her personal
20 knowledge.

21 BY MR. KOBULNICK:

22 Q If you know. Why do Leigh Grode and Joan
23 Spitler attend this event?

24 A They attend this event because they want to
25 provide the cake to the Ma Jaya, because they provide

1 the cakes and desserts as a gift.

2 Q And they gave this cake as a gift to the Ma
3 Jaya?

4 A I believe so, yes.

5 Q How many cakes did Cake Divas present at this
6 event in 1999 to the Ma Jaya?

7 A They presented one for her, and they made
8 other cakes for the rest of the guests, but I don't
9 know if that's gifts per se.

10 Q And do I understand that they brought out one
11 large cake on a tray of some kind

12 A Yes.

13 Q -- to the Ma Jaya

14 A Yes.

15 Q -- for the presentation?

16 A Yes.

17 Q And then how did they serve the additional
18 desserts to the other guests?

19 A There was long tables, and they cut them up.

20 Q So on long tables, not on trays being walked
21 around the room?

22 A No, long buffet tables.

23 Q Are these -- what desserts were specifically
24 served at this event in 1999?

25 A That I don't remember. That I don't remember.

1 Q But you just testified, I believe

2 A They normally do arugulas and cookies and
3 sheet cakes, but what particularly they served in 1999,
4 I don't know.

5 Q Are these ever individually wrapped? Or are
6 they just out on trays, but cut up?

7 A They are out on trays.

8 Q Is there any packaging on the tables with any
9 of these desserts?

10 A Not that I know of.

11 Q Is there any written material on the tables
12 with these desserts? Or was there just food on the
13 tables?

14 A That I don't know.

15 Q Did the Cake Divas' mark appear on anything
16 that was passed out to any guests at this event?

17 A That I don't know. Of course I don't pay
18 attention to that, so I don't know that.

19 Q Did you see the Cake Divas' mark used anywhere
20 at this event in May of 1999?

21 A I didn't see it, no.

22 Q Was that the first one of these spiritual
23 birthday celebrations that either Leigh Grode or Joan
24 Spitler attended?

25 A I don't know.

1 Q Do you know who organizes these spiritual
2 teacher's birthday events?

3 A Kashi Ashram.

4 Q The community?

5 A Yeah.

6 Q Do you know who at Kashi Ashram would have
7 placed an order with Cake Divas for the desserts to be
8 provided at that event?

9 A No, I don't.

10 Q Were you involved, as an employee of Cake
11 Divas, in putting together an order for this event?

12 A No.

13 Q Do you know who might have been?

14 A No.

15 Q Do you have any personal knowledge at all that
16 any order for desserts was placed by Kashi Ashram, or
17 anyone planning this birthday event in May of 1999,
18 with Cake Divas?

19 A No.

20 Q Did Cake Divas charge anybody any money for
21 any of the desserts that they provided at that event?

22 A No.

23 Q Do you know if -- I'm sorry. Let me go back.
24 I believe you said it's your understanding
25 that the cake was presented as a gift.

1 A Yes, that's my understanding.

2 Q And is it also your understanding that the
3 desserts that were passed out to the remaining guests
4 were also provided as gifts?

5 A That I don't know.

6 Q But you didn't see anybody get charged to
7 partake in any of the desserts that were presented?

8 A No, not the guests.

9 Q Do you know if, at this birthday celebration,
10 is there a charge to attend the event?

11 A There is not a charge, but there is a donation
12 that you could donate -- you can buy a table donation.

13 Q Are these voluntary donations?

14 A They are voluntary donations.

15 Q So you are not required to make a donation to
16 attend the birthday event?

17 A No.

18 Q You said this event started on a Friday night?

19 A Yeah.

20 Q Was the cake presented on the Friday night?

21 A No, it's presented on Saturday, you know,
22 under the tent the next day.

23 Q Was it in the evening or in the middle of the
24 day towards lunch?

25 A It was after lunch. You know, it's probably

1 around 2 or 3:00 or 4:00, around that area.

2 Afternoons.

3 Q I assume, but correct me if I'm wrong, that
4 you do not know if there was ever an invoice sent from
5 Cake Divas to the

6 A Kashi Ashram.

7 Q -- Kashi Ashram?

8 A No, I don't know what their deal is, so I
9 don't know that.

10 Q And have you ever seen any documents at all
11 that would indicate that there was a written proposal
12 for an order for this event

13 A No.

14 Q -- made from Cake Divas?

15 A No.

16 Q Have you ever seen any documents at all that
17 would indicate that there was an invoice that was sent
18 from Cake Divas to the community planning the event?

19 A No. Of course I don't work for them. No, I
20 don't.

21 Q Can you give me a better idea as to the type
22 of people that attended this event? You said 300 to
23 500 people were there?

24 A Yeah.

25 Q Where are these people from?

1 A They are from Los Angeles; they are from
2 Atlanta; and sometimes, I don't recall that particular
3 time, but often there is -- they give out an award to
4 people who have done something for the community,
5 whatever that may be, either from this country or
6 another country.

7 Q And

8 A And then there is also -- from the community
9 of Sebastian, there is often the police commissioner,
10 you know, local community people.

11 Q Okay. When Leigh Grode and Joan Spitler
12 presented the cake to Ma Jaya

13 A Uh-huh.

14 Q -- who announced them as the Cake Divas from
15 Los Angeles?

16 A Ma Jaya does.

17 Q And Ma Jaya was referring to them individually
18 as the Cake Divas from Los Angeles?

19 A She always -- yes, she always called them the
20 divas, the Cake Divas.

21 Q Did Ma Jaya ever indicate the business name
22 was Cake Divas or did she only refer to the individual
23 women, Leigh and Joan, as the Cake Divas from Los
24 Angeles?

25 A She referred to them as Cake Divas. I don't

1 remember if she referred to them as that or them. I
2 don't know.

3 Q Were there any take-home gifts for people who
4 attended this event?

5 A I cannot not say about this event, but often
6 there is something at the tables, little gifts.

7 Q But in May of 1999, you don't recall if there
8 was anything specifically given out to people attending
9 that event?

10 A No, I don't recall that.

11 Q And do you recall if -- I think you answered
12 this question, but just let me make sure.

13 Do you recall that Leigh Grode or Joan Spitler
14 gave out anything at the event, other than the desserts
15 at the event itself?

16 A I don't recall that.

17 MR. KOBULNICK: I think I would like to take a
18 break

19 MR. GATIEN: Okay.

20 MR. KOBULNICK: -- and make a call, and then
21 we'll be done.

22 MR. GATIEN: Sure. I just have just one or
23 two questions after the break.

24 MR. KOBULNICK: Sure.

25 MR. GATIEN: But take a break first, and

1 THE WITNESS: Yeah, I would like to take a
2 break.

3 (Recess taken.)

4 MR. GATIEN: Just a reminder that despite the
5 break, you are still under oath.

6 THE WITNESS: Yes, of course.

7 BY MR. KOBULNICK:

8 Q Okay, so I wanted to ask you just a few
9 follow-up questions again regarding this event in May
10 1999 that was held at this ashram community.

11 Where was the cake made that was presented as
12 a gift to Ma Jaya?

13 A That was made in the kitchen that is just
14 adjacent to the big tent. You put a big tent outside
15 the kitchen and dining room that is located on the
16 ashram.

17 Q Is this like a community kitchen?

18 A Yes, it's a big industrial kitchen.

19 Q And who actually made the cake?

20 A They did.

21 Q Who is they?

22 A The Cake Divas, Joan Spitler and Leigh Grode.

23 Q Did anyone else help them?

24 A Not that I recall.

25 Q Did they bring anyone else who worked at Cake

1 Divas with them to help make this cake?

2 A I don't think so.

3 Q Did anyone else who works for Cake Divas come
4 with them to the birthday celebration?

5 A I did last year, but I came first of all
6 because I am part of the community as well.

7 Q So in May 1999 only Leigh and Joan from Cake
8 Divas were at the event?

9 A Yes, I think so.

10 Q So you don't know if -- well, let me re-ask
11 this.

12 Did Joan and Leigh involve other members of
13 the community who were attending the celebration then
14 to help them put the cake together in any way?

15 A Not the cake for Ma Jaya. They normally take
16 care of that themselves. But sometimes with the
17 desserts, they have some help.

18 Q So does everyone sort of pitch in? As part of
19 this weekend

20 A Yes.

21 Q -- does everyone just sort of pitch in and do
22 everything as one community together?

23 A Not with the cake for the Ma Jaya. But for
24 the other things, yeah, often they help out.

25 Q I see. How does the ashram community get by

1 financially? Do they rely upon donations primarily?

2 A Most of the people who lives on the ashram,
3 there is about a hundred people that lives there, they
4 normally -- most of them have work outside the ashram.
5 So they just live there and pay rent. That's how that
6 works.

7 Q Do they only pay rent or are they also
8 expected to help with whatever chores need to be done
9 within the community?

10 A Some people do, yeah.

11 Q Is the rent that is collected by the ashram
12 enough to keep the ashram going?

13 A I think they pay the rent, and I think they
14 pay some sort of a fee also as part of the -- you know,
15 it's a church foundation, basically. So I think they
16 pay something, but I'm not sure, because I have only
17 been there.

18 Q Do you know if the rent that is paid to live
19 on the ashram is lower than rent they would typically
20 pay in Sebastian, Florida?

21 A That I don't know.

22 Q And is this additional payment that you
23 referred to, it's a donation every month?

24 A I don't know exactly how that works.

25 Q Do you know if it's a monthly donation or an

1 annual donation?

2 A I think it's probably monthly, but I'm not
3 sure.

4 Q And are there any other sources of income to
5 the ashram besides the rent and donations or fees in
6 the form of donations that members provide them?

7 A At one point, they had a business. I don't
8 know if think still do, but they had a business called
9 ^{MACHO} Maja (phonetic) which they made Tae Kwon Do equipment,
10 stuff like that. But I don't know if they have that
11 any more.

12 Q When you attended this event, did you have to
13 pay to stay at the ashram?

14 A If I stayed at the ashram, yes, you do pay
15 something, but I stayed across the street with some
16 friends of ours, so I did not pay. But, otherwise, you
17 pay per day for lodging and food.

18 Q And approximately how much did they charge for
19 that in May of 1999?

20 A That I don't know.

21 Q How much did they charge for that this year?

22 A I don't know, because we always stay -- me and
23 my friends always stay with our friends, so we don't
24 pay, because we stay for free.

25 Q And you are going again this month?

1 A Yes.

2 Q How long do people typically live at the
3 ashram community?

4 A How long?

5 Q Yes.

6 A Well, it's been there for over 30 years I
7 think. So I'm -- and some people have been there since
8 30 years.

9 Q Are most of the people who live there, there
10 for a very long time?

11 A Yes.

12 MR. KOBULNICK: I may circle back, but I will
13 hand it back over to you at this point.

14

15 REDIRECT EXAMINATION

16 BY MR. GATIEN:

17 Q Okay. I just had a couple of quick follow-up
18 questions for you

19 A Uh-huh.

20 Q -- Maya. And one of them is, I wasn't really
21 clear, based on what you were saying earlier today,
22 whether you had any personal knowledge of whether the
23 cake that was delivered that year was given as a gift.

24 Could you please let me know whether you know
25 whether it was given as a gift or whether they -- the

1 ashram was charged for that cake?

2 A I don't know.

3 Q Okay. Do you know, based on your personal
4 knowledge, whether the other baked goods that the Cake
5 Divas provided at that event were a gift or they
6 charged the ashram for those goods?

7 A That I don't know either.

8 Q Okay. You mentioned just now that the people
9 who lived at the ashram or who attended this
10 celebration helped out, I believe that was your words
11

12 A Uh-huh.

13 Q -- with the baked goods. What do you mean by
14 helped out?

15 A I think sometimes that they ask if someone can
16 help, you know, because there is a lot of -- it's a lot
17 of cake. It's a lot of baked goods. So I think they
18 ask if someone can help them.

19 Q Do you mean help

20 A I don't know if they actually do get help or
21 not.

22 Q Do you remember from that year whether anyone
23 helped them bake those goods?

24 A That I don't know.

25 Q Do you know for certain that year whether

1 anybody helped them place those goods on the tables?

2 A That I don't know.

3 MR. GATIEN: Okay. I don't have any further
4 questions.

5

6

RECROSS-EXAMINATION

7

BY MR. KOBULNICK:

8

Q Just one last question.

9

Do you remember what desserts were served in
10 May of 1999?

11

A No.

12

Q None of them?

13

A No, because I don't actually eat deserts, so I
14 don't know.

15

MR. KOBULNICK: Okay. That's all I have.

16

Dana, do you have any other questions from New York?

17

MS. RUNDLOF: I don't.

18

MR. KOBULNICK: Okay.

19

20

REDIRECT EXAMINATION

21

BY MR. GATIEN:

22

Q Okay, so I have one more, based on that.

23

You mentioned earlier in your testimony that
24 there was arugula and what other baked goods?

25

A I assume probably cookies. I cannot say for

1 sure because I don't remember, but that's normally what
2 they serve is cookies and arugulas.

3 Q Okay. So to confirm, that's what they
4 normally served?

5 A Right.

6 Q But you don't know whether they served them
7 that year?

8 A No, I do not.

9

10 RE CROSS-EXAMINATION

11 BY MR. KOBULNICK:

12 Q And is it just arugulas and cookies normally
13 served or anything else?

14 A Big sheet cakes, baked cakes, you know,
15 layered cakes. They serve sheet cakes.

16 Q Okay.

17 A I don't know what else.

18 Q But you don't recall if there were actually
19 sheet cakes there or any other specific desserts in May
20 of 1999?

21 A I don't recall for sure, but they always have
22 some sheet cakes. Of the other -- you know, the
23 following years, I remember they always have sheet
24 cakes, so I assume, but I don't recall. I'm not sure
25 in 1999 what was served.

1 MR. KOBULNICK: Okay.

2 MS. RUNDLOF: I have nothing further.

3 MR. KOBULNICK: I think Konrad is
4 contemplating whether he has any other questions.

5 MR. GATIEN: Okay, one more.

6

7

REDIRECT EXAMINATION

8 BY MR. GATIEN:

9 Q Do you remember for certain that the cake was
10 presented because the Ma Jaya

11 A Ma Jaya.

12 Q -- Ma Jaya was presented it?

13 A Yeah.

14 Q And identified the Cake Divas?

15 A Yes.

16 Q And you stated you remember the Cake Divas
17 were there the whole time you were there?

18 A Yes.

19 Q Okay. So is it your -- are you guessing or do
20 you know for sure that they provided other goods,
21 because there had to be something for the people to eat
22 while they were there?

23 MS. RUNDLOF: Objection. Leading.

24 MR. GATIEN: You can answer the question.

25 THE WITNESS: Well, I know that they always

1 have -- they don't just give cake to one person and the
2 rest are not getting anything. So I am fairly sure
3 that that was -- that they had sheet cakes for the rest
4 of the people.

5 MR. KOBULNICK: I have another question.

6

7

RECROSS-EXAMINATION

8 BY MR. KOBULNICK:

9 Q How large was this cake that was presented to
10 Ma Jaya?

11 A How large it was?

12 Q Yes.

13 A That year, I don't know how large it was, but
14 it's normally a fairly large cake. It usually is a
15 full sheet cake at least.

16 Q And how many people does a full sheet cake
17 feed?

18 A I would say around -- probably around a
19 hundred people.

20 Q And if a large cake like that were served with
21 cookies and arugula

22 A Uh-huh.

23 Q -- would that be sufficient desserts for the
24 total number of people attending this birthday event?

25 A No. No, because the cake that is presented to

1 Ma, she normally takes in with her and serves to other
2 people in her areas. So the rest of the -- the normal
3 guests that comes to the event normally don't eat that
4 cake. They serve other sheet cakes that is made with
5 the same inside fillings and given to the rest of the
6 guests that is there, and there was at least 3- to 500
7 people, so that would definitely not be enough.

8 Q So in this community spirited event

9 A Yeah.

10 Q -- nobody gets to touch the cake that is
11 presented to Ma Jaya except for Ma Jaya?

12 A That is normally -- that is normally being
13 presented to her, yes.

14 Q As a gift?

15 A I don't know if it's a gift or not, but that
16 is presented to her. That's what they do. That's how
17 it is, so I don't know -- but, you know, that's what
18 they do. That's their thing.

19 MR. KOBULNICK: Okay. Thank you.

20 MR. GATIEN: Thank you very much. If you
21 don't have any other questions, that will conclude your
22 testimony today.

23 THE WITNESS: Thank you.

24 MR. GATIEN: Thank you very much for coming
25 today.

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At 1:09 p.m. the deposition was
adjourned.)

//
//

I have read the foregoing deposition
transcript and by signing hereafter, approve same.

Dated 5/28/09 .



(Signature of Deponent)

1 STATE OF CALIFORNIA)
2)
3 COUNTY OF LOS ANGELES)

4 On May 28, 2009 before me, (*Grace Nassar, a notary* (here insert name and *public*
5 title of the officer),

6 personally appeared Majbritt Almskou
7 _____
8 _____

9 who proved to me on the basis of satisfactory evidence
10 to be the person(s) whose name(s) is/are subscribed
11 to the within instrument and acknowledged to me that
12 he/she/they executed the same in his/her/their
13 authorized capacity(ies), and that by his/her/their
14 signature(s) on the instrument the person(s), or the
15 entity upon behalf of which the person(s) acted,
16 executed the instrument.

17 I certify under PENALTY OF PERJURY under the laws of the
18 State of California that the foregoing paragraph is true
19 and correct.

20
21 WITNESS my hand and official seal.



22
23 Signature Grace Nassar (Seal)

24
25

1 DEPOSITION OFFICER'S CERTIFICATE

2
3 STATE OF CALIFORNIA)
4 COUNTY OF LOS ANGELES) ss.

5
6 I CHERYL L. MARQUIS, hereby certify:

7 I am a duly qualified Certified Shorthand
8 Reporter in the State of California, holder of
9 Certificate Number CSR 6731 issued by the Court
10 Reporters Board of California and which is in full
11 force and effect. (Fed. R. Civ. P. 28 (a).)

12 I am authorized to administer oaths or
13 affirmations pursuant to California Code of Civil
14 Procedure, Section 2093(b) and prior to being examined,
15 the witness was first duly sworn by me. (Fed. R. Civ.
16 P. 28(a), 30(f)(1).)

17 I am not a relative or employee or attorney or
18 counsel of any of the parties, nor am I a relative or
19 employee of such attorney or counsel, nor am I
20 financially interested in this action. (Fed. R. Civ.
21 P. 28.)

22 I am the deposition officer that
23 stenographically recorded the testimony in the
24 foregoing deposition, and the foregoing transcript is a
25 true record of the testimony given by the witness.

1 (Fed. R. Civ. P. 30(f)(1).)

2 The persons who appeared at the deposition are
3 set forth on page 3 of the foregoing transcript.

4 The deposition was taken at 9720 Wilshire
5 Boulevard, Penthouse Suite, Beverly Hills, California,
6 and began at 12:16 p.m., Friday, May 1, 2009.

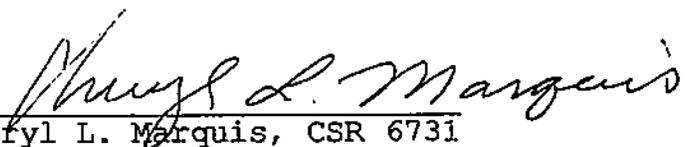
7 Before completion of the deposition, review of
8 the transcript was requested. Any changes made by the
9 witness (and provided to the reporter) during the
10 period allowed, are appended hereto. (Fed. R. Civ. P.
11 30(e).)

12

13 Dated May 18, 2009

14

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Cheryl L. Marquis, CSR 6731

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STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SS.

I, Mary Badillo, hereby certify:

I am an employee of Barkley Court Reporters,
duly authorized agent for the deposition officer that
stenographically recorded the testimony in the foregoing
proceeding and authorized to execute this copy
certificate.

The foregoing is a true and correct copy of
the original transcript of the stated proceeding.

Dated 5-18-09.

Mary Badillo

CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2009, I served the following document(s) entitled:

- 1) **OPPOSER'S NOTICE OF ERRATA; AND**
- 2) **DEPOSITION OF MAJBRITT ALMSKOU (MAY 1, 2009),**

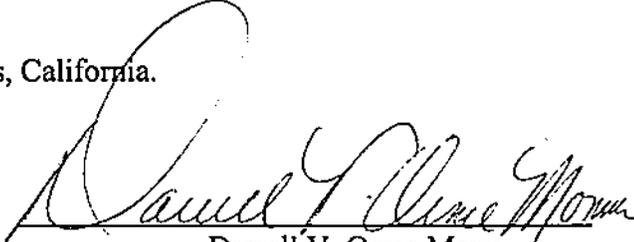
upon counsel for Applicant named below:

Karin Segall
Foley & Lardner LLP
90 Park Avenue
New York, NY 10016
E-mail: ksegall@foley.com
Facsimile: (212) 687-2329

by placing a true and correct copy thereof in a sealed envelope, postage prepaid, in First Class U.S. mail, for collection and mailing with the United States Postal Service on the same date.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 28, 2009, at Beverly Hills, California.


Darrell V. Orme Mann

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 76/529,077
Published in the *Official Gazette* of May 8, 2007

Cake Divas,)	
)	Opposition No. 91177301
Opposer,)	
)	
v.)	
)	
Charmaine V. Jones,)	
)	
Respondent.)	
)	
_____)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

OPPOSER’S NOTICE OF ERRATA

Opposer, Cake Divas (“Opposer”), hereby gives notice of the errata (“Notice”), and corrections thereto which have been made by Majbritt Almskou, to the transcript of her deposition testimony taken on May 1, 2009. This Notice is attached to, and is being filed concurrently with, a certified copy of Ms. Almskou’s deposition transcript.

ERRATA

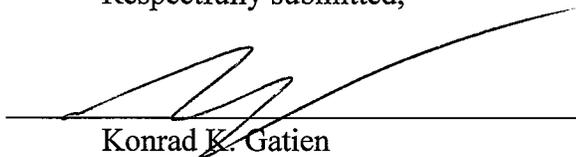
1. Page 10, line 2:
 - a. Currently states: “sengashi (phonetic), where people become Swami. So one”
 - b. As corrected: “Sanyasan, where people become Swami. So one”
 - c. Correction handwritten on transcript by deponent Majbritt Almskou.

2. Page 11, line 11:
 - a. Currently states: “with a ‘Dasain’, basically where there is teaching and”
 - b. As corrected: “with a ‘Darshan’, basically where there is teaching and”
 - c. Correction handwritten on transcript by deponent Majbritt Almskou.
3. Page 11, line 13:
 - a. Currently states: “celebration, and then the Sengashian (phonetic)”
 - b. As corrected: “celebration, and then the Sanyasan”
 - c. Correction handwritten on transcript by deponent Majbritt Almskou.
4. Page 20, line 3:
 - a. Currently states: “Nava took Sengashi (phonetic).”
 - b. As corrected: “Nava took Sanyasan.”
 - c. Correction handwritten on transcript by deponent Majbritt Almskou.
5. Page 20, line 5:
 - a. Currently states: “Sengashi. He became Swami.”
 - b. As corrected: “Sanyasan. He became Swami.”
 - c. Correction handwritten on transcript by deponent Majbritt Almskou.
6. Page 30, line 5:
 - a. Currently states: “I cannot not say about this event, but often”
 - b. As corrected: “I cannot say about this event, but often”
 - c. Correction confirmed by deponent Majbritt Almskou, but not handwritten on transcript.
7. Page 34, line 9:
 - a. Currently states: “Maja (phonetic) which they made Tae Kwon Do equipment,”

- b. As corrected: "Macho which they made Tae Kwon Do equipment,"
- c. Correction handwritten on transcript by deponent Majbritt Almskou.

Respectfully submitted,

Dated: May 28, 2009



Konrad K. Gatien
KEATS MCFARLAND & WILSON LLP
Attorneys for Opposer
Cake Divas
9720 Wilshire Blvd., Penthouse Suite
Beverly Hills, CA 90212
Telephone: (310) 248-3830