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Filing date: **08/27/2014**

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

Proceeding	92053501
Party	Plaintiff Christian M. Ziebarth
Correspondence Address	KELLY K PFEIFFER AMEZCUA-MOLL ASSOCIATES PC LINCOLN PROFESSIONAL CENTER, 1122 E LINCOLN AVE SUITE 203 ORANGE, CA 92865 UNITED STATES kelly@amalaw.net
Submission	Other Motions/Papers
Filer's Name	Kelly K. Pfeiffer
Filer's e-mail	kelly@amalaw.net
Signature	/Kelly K. Pfeiffer/
Date	08/27/2014
Attachments	KKP Declaration with exhibits (sm).pdf(4134172 bytes)

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

In the Matter of Registration No. 1043729
Date of Registration: July 13, 1976

CHRISTIAN M. ZIEBARTH
Petitioner,

Cancellation No.: 92053501

v.

DEL TACO, LLC
Registrant.

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

DECLARATION OF KELLY K. PFEIFFER
(RE-FILING PETITIONER'S EXHIBITS H, L AND M)

I, Kelly K. Pfeiffer, declare as follows:

1. I am an attorney at law duly licensed to practice before all of the courts of the State of California, and I am the attorney of record for Petitioner CHRISTIAN M. ZIEBARTH ("Petitioner") in this proceeding.
2. I have personal knowledge of the facts herein and could and would testify regarding the same if called upon to do so.
3. On or about October 4, 2013, I filed with the Board Petitioner's affidavit direct testimony, which included, among others, Exhibits H, L and M. (Doc. 57).

4. On or about October 28, 2013, Registrant Del Taco's counsel conducted a live cross-examination of Petitioner. I was present for the event. Del Taco's counsel used copies of Exhibits H, L and M to question Petitioner which she said were taken from TTABVUE. When I reviewed the documents, I realized the resolution was very low and, therefore, the documents were difficult to read. I briefly mentioned to her at this time that I may re-file a few of the exhibits at a higher resolution at a later date.

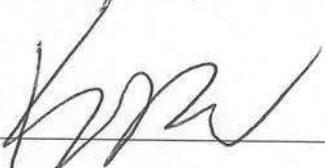
5. On July 14, 2014, I sent Del Taco's counsel and email, letting her know of my intention to re-file some exhibits and asking if she objected. Del Taco's counsel requested to review the documents I intended to re-file, and I obliged by sending over via email higher resolution versions of Petitioner's Exhibits H, L and M.

6. Attached to this declaration are copies of Petitioner's Exhibits H, L and M in a higher resolution than were initially filed. My hope is that these versions will make it easier for the Board to review the evidence contained therein.

7. Re-filing these documents will not cause any harm or prejudice to Del Taco. All of these documents were served on Del Taco in hard copies via US Mail during Petitioner's Trial Period and were used by Del Taco's counsel as the basis of cross-examination for both Petitioner and witness Rob Hallstrom without objection.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of August 2014 in Aliso Viejo, California.



Kelly K. Pfeiffer

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **DECLARATION OF KELLY K. PFEIFFER (RE-FILING PETITIONER'S EXHIBITS H, L AND M)** was served upon April L. Besl, DINSMORE & SHOHL, LLP , attorney of record for the Registrant in this action by depositing one copy thereof in the United States mail, first-class postage prepaid on August 27, 2014 and addressed as follows:

April L. Besl, Esq.
DINSMORE & SHOHL, LLP
255 East Fifth Street
Cincinnati, OH 45202

/Kelly K. Pfeiffer/
Kelly K. Pfeiffer
AMEZCUA-MOLL & ASSOCIATES, P.C.
Lincoln Professional Center
1122 E. Lincoln Ave., Suite 203
Orange, CA 92865
Attorney for Petitioner CHRISTIAN M. ZIEBARTH

EXHIBIT H

to Petitioner's Testimony Affidavit of Christian Ziebarth

Christian Ziebarth <[redacted]>

naugles

2 messages

Rob Hallstrom <[redacted]>
To: Christian Ziebarth <reviews@ocmexfood.com>

Tue, Jan 12, 2010 at 9:22 AM

Best to hire a trademark or patent attorney or consult with one. They will tell you everything you need to know and where to look to find expiration status, etc. I believe the way it works is if they are not actively using the trademark or patent it is up for grabs after a certain length of time.

On 1/12/10 9:16 AM, "Christian Ziebarth" <reviews@ocmexfood.com> wrote:

"Or better yet see when they are set to expire..."

Hmm, that's an angle I never thought of. I always just assumed they owned it from here on out. But maybe they don't. I'll ask Jeff Naugle about that.

On Tue, Jan 12, 2010 at 8:32 AM, Rob Hallstrom <[redacted]> wrote:

Your last email to naugles nephew? Still think it's good idea, but I would see about buying rights to the name from del taco. Or better yet see when they are set to expire...

On 1/11/10 10:07 PM, "Christian Ziebarth" <reviews@ocmexfood.com>
<mailto:reviews@ocmexfood.com> wrote:

Either my last e-mail didn't go through or the whole Naugles thing was a bad idea. I think I will work with some people who have some taco trucks then because it might be best to try the concept out with a food truck first.

On Mon, Jan 4, 2010 at 2:54 PM, Rob Hallstrom <[redacted]>
<[redacted]> wrote:

Yea. I practically grew up there having lived a mile or so from the one in Riverside at Brockton and 14th. Loved the green burritos and fries. We were always broke so we often ordered the all-cheese burritos. Otherwise, you got the double wrap macho burrito or the naugleburger. Oh, and the chocolate shakes rocked! The receipts had a little cartoon character brief message at the bottom that read "Dick Naugles says" and then there would be a little note about the food or something related. It was open late night, as was the one on the other end of town so it became the popular cruise night hang and "turnaround" spot. It would be great timing to resurrect the brand. In this economy people are all about eating cheap, especially if it's good. Also, there's the historical factor that would resonate with many generations of past customers. Great idea!

On 1/4/10 2:24 PM, "Christian Ziebarth" <reviews@ocmexfood.com>
<http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>
> wrote:

I don't want to act all "top secret" about it except that I

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think it would be wise if we shared information with others when it's necessary to bring it up to others. Do you remember the old Naugles chain?

On Mon, Jan 4, 2010 at 1:02 PM, Rob Hallstrom

<[redacted]> <[redacted]>
<[redacted]> > wrote:

Hello Christian,
There is always interest. Please let me know when you can share more info and we can discuss further. Thank you.
Rob.

Rob Hallstrom

| 714 Media

[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

111 n. harbor, 2nd fl
fullerton, ca 92832

714media.com <http://714media.com>
<http://714media.com>
<http://714media.com>

facebook/714media.com

<http://714media.com>
<http://714media.com>
<http://714media.com>

Twitter @714media.com

<http://714media.com>
<http://714media.com>
<http://714media.com>

On 1/4/10 12:57 PM, "Christian Ziebarth"

<review@acmexfood.com>
<http://reviews@acmexfood.com>
<http://reviews@acmexfood.com>
<http://reviews@acmexfood.com>

wrote:

Rob, does your group have any interest in helping a new restaurant open? I stumbled into something like an opportunity that I am quite sure would be very profitable and am trying to find the right people to help pull it off. I'll give more details if any interest is shown. For now I will say that it's actually kind of a fast food concept, or maybe more of a blend

between fast food and fast casual.

On Wed, Dec 30, 2009 at 10:04 AM, Rob Hallstrom

<[redacted]>
<[redacted]>
<[redacted]>
<[redacted]>
> wrote:

Tkx! Happy new year!

On 12/29/09 11:20 PM, "Christian Ziebarth" <[redacted]>
<[redacted]> <[redacted]> <[redacted]> <[redacted]> > wrote:

Getting an entry put together here:

<http://zomeshood3days.com/2009/12/new-year-resolutions/>

On Wed, Dec 9, 2009 at 7:13 PM, Rob Hallstrom <[redacted]>
<[redacted]> > wrote:

Christian,
Can you pls post this on your site? Tkx.
Rob.

Rob Hallstrom

| 714 Media

[redacted]
[redacted]
[redacted]

111 n harbor, 2nd fl

fullerton, ca 92832

714media.com <[redacted]> <[redacted]> <[redacted]> <[redacted]>
<[redacted]> <[redacted]>

facebook/714media.com <[redacted]> <[redacted]> <[redacted]> <[redacted]>
<[redacted]> <[redacted]>

Twitter @714media.com <[redacted]> <[redacted]> <[redacted]> <[redacted]>
<[redacted]> <[redacted]>

Christian Ziebarth <reviews@ccmexfood.com>
To: Rob Hailstrom <[REDACTED]>

Tue, Jan 12, 2010 at 9:28 AM

Thanks. That's an excellent point. Should've realized that on my own but it's good that you brought it up.
[Quoted text hidden]

Christian Ziebarth [REDACTED]

Naugles

Rob Hallstrom [REDACTED]
To: Christian Ziebarth <reviews@ocmexfood.com>

Thu, May 27, 2010 at 12:52 PM

Great! Let's meet up to discuss my official involvement.
Rob.

On 5/27/10 11:30 AM, "Christian Ziebarth" <reviews@ocmexfood.com> wrote:

Just letting you know I have recently filled out an Intent to Use application for the Naugles trademark and am getting ready to take the next legal step.

On Thu, Apr 22, 2010 at 10:27 AM, Rob Hallstrom <[REDACTED]> wrote:

Great, what are his terms?

On 4/21/10 9:29 PM, "Christian Ziebarth" <reviews@ocmexfood.com>
<http://reviews@ocmexfood.com> wrote:

Finally got a lawyer on the case...

On Wed, Apr 21, 2010 at 7:20 PM, Rob Hallstrom <[REDACTED]>
<[REDACTED]> wrote:

Yea, great location. Too bad it was made into a del taco. They'll be there forever...

On 4/21/10 7:16 PM, "Christian Ziebarth" <reviews@ocmexfood.com>
<http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>
> wrote:

Here's a picture of the Brookhurst and Hamilton location with flags in place of lanterns:

<http://www.flickr.com/photos/ziebarth/3741262007/>

Somehow I lost a much better quality version of this. This is one of the most mentioned former Naugles locations there is.

On Tue, Apr 13, 2010 at 10:03 PM, Rob Hallstrom <[REDACTED]>
<[REDACTED]> wrote:

Can u post something on the matador anniversary next thurs? And naturally cinco?

On 4/5/10 11:38 AM, "Christian Ziebarth"

<reviews@pc-mexfood.com>
<http://reviews@pc-mexfood.com>
<http://reviews@pc-mexfood.com>
<http://reviews@pc-mexfood.com>

wrote:

Ended up making a very unexpected trip out to Riverside on Friday night for reasons unrelated to Del Taco/Naugles and ended up stopping by the 14th and Brockton spot. They had very clearly done everything they could to thoroughly and deliberately sweep away any possible remembrance of Naugles there. But interestingly enough the friend I rode out there with asked one of the employees if she knew what it used to be before it was a Del Taco and she said, "Yeah, I get a bunch of people coming through the drive-thru every single day telling me it used to be a place called 'Naugles.' I'm getting kind of tired of them talking about it." They also didn't know what the combo cup was there and didn't know that the bun taco was originally a Naugles item.

I know you wanted to go but it was kind of a bummer to see that they had stripped away every single hint that it had ever been anything other than a Del Taco. Not even a plaque on the wall or a photo of what it used to look like, which in a way is good for our case and further proof of the abandonment of the trademark, but still disappointing.

On Mon, Mar 29, 2010 at 4:41 PM, Rob Hallstrom
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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> wrote:

Next sat may be good. Let's touch base later in week.

On 3/29/10 4:29 PM, "Christian Ziebarth" <reviews@nchmexfood.com <http://reviews.nchmexfood.com>>
<http://reviews.jocmexfood.com> <http://reviews.gocmexfood.com> <http://reviews.focmexfood.com> > wrote:

Tell me what times are generally good for you. Saturdays are best for me although this Saturday would be bad but the next one should be fine. Sundays tend to not work at all for me and weekdays are hard too but every once in a while things change and I find I have some free time on a weekday.

On Mon, Mar 29, 2010 at 3:24 PM, Rob Hallstrom <[REDACTED]> > wrote:

Let me know if you want me to join you for the ride to riverside.

On 3/29/10 3:01 PM, "Christian Ziebarth" <reviews@nchmexfood.com <http://reviews.nchmexfood.com>>
<http://reviews.jocmexfood.com> <http://reviews.gocmexfood.com>
<http://reviews.focmexfood.com> <http://reviews.pocmexfood.com>
<http://reviews.bocmexfood.com> > wrote:

Well, I'm thinking that any location that used that architecture probably did have the lanterns when it was a Naugles. The location at Brookhurst and Hamilton has little orange flags in their place now, or at least it did. But the lawyers want to find every possible use that Del Taco makes of the name "Naugles" so we can have a very clear cut idea of the complete extent of their usage. They realize we would never be able to go to every Del Taco location but if somebody could make it to the original Naugles location and see if perhaps they have hanging on a wall inside a picture of what it used to look like as Naugles then we would know that that is one instance of their usage, even if it's only a small one. But if I get there and see, as I suspect to be the case, that that they have completely abandoned anything Naugles-related at even the original flagship Naugles location then that will be a good indicator that it is the same at every other location and leave their usage at the one bare-bones mention of Naugles on their website, which would then strengthen the case to move ahead with a cancellation of trademark proceeding.

On Mon, Mar 29, 2010 at 2:07 PM, Rob Hallstrom <[REDACTED]> > wrote:

The only location that still has the lanterns in place is the one at brookhurst and malvern. I wonder if they were only at select locations?

On 3/29/10 12:58 PM, "Christian Ziebarth" <reviews@nchmexfood.com <http://reviews.nchmexfood.com>>
<http://reviews.jocmexfood.com> <http://reviews.gocmexfood.com>
> <http://reviews.focmexfood.com>
<http://reviews.pocmexfood.com>
<http://reviews.bocmexfood.com>
<http://reviews.socmexfood.com>
<http://reviews.dcmexfood.com> > wrote:

So you were right there at the beginning of Naugles. Going to try to make it there soon and see if there is any vestige of Nauglesness remaining. Here's a Jack in the Box at Warner and Harbor near the Fountain Valley/Santa Ana border that used to be a Naugles:

<http://www.flickr.com/photos/ziebarth/4474402644/>
(25 Feb 2010 11:38 AM - 216385)

On Sat, Mar 27, 2010 at 7:26 PM, Rob Hallstrom <[REDACTED]>

[REDACTED]
[REDACTED]
[REDACTED] > wrote:

Yup. That's the one on 14th and Brockton. I went to the elementary school across the street. The 1st vans shoe store was up the street too.

Sent from my iPhone

On Mar 27, 2010, at 10:52 AM, Christian Ziebarth <reviews@oztmeatood.com>

<<http://reviews@oztmeatood.com>>
<<http://reviews@oztmeatood.com>>
<<http://reviews@oztmeatood.com>>
<<http://reviews@oztmeatood.com>>
<<http://reviews@oztmeatood.com>>
<<http://reviews@oztmeatood.com>>
<<http://reviews@oztmeatood.com>>

wrote:

Is this the Naugles you used to go to in Riverside?

<<http://www.city-data.com/forums/showthread.php?p=173822206>>
<<http://www.city-data.com/forums/showthread.php?p=173822206>>

The trademark lawyers have advised me to go there and see if they possibly have anything on display that could be related to Naugles.

On Wed, Mar 17, 2010 at 6:20 PM, Rob Hallstrom <[REDACTED]>

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] >> wrote:

Really? That's surprising. I thought it would have sat empty or much longer in this economy. Expensive rent too! See how long they last... How are things going with Naugles?

On 3/17/10 1:03 PM, "Christian Ziebarth" <[http://reviews@oztmeatood.com](mailto:reviews@oztmeatood.com)> <reviews@oztmeatood.com>
<<http://reviews@oztmeatood.com>> <<http://reviews@oztmeatood.com>> <<http://reviews@oztmeatood.com>>

> <http://reviews@oxford.com>
 <http://reviews@oxford.com>
 <http://reviews@oxford.com>
 <http://reviews@oxford.com> <
 <http://reviews@oxford.com> <http://reviews@oxford.com>
 <http://reviews@oxford.com>
 <http://reviews@oxford.com> > wrote:

I think she said 2100 sq. ft. Does that sound like it might be about right? Can't imagine they are getting a lot of interested parties for that spot. Kind of concerned because I haven't heard from Jeff in almost three weeks.

On Thu, Mar 4, 2010 at 1:19 PM, Rob Hallstrom <
 <[REDACTED]> <[REDACTED]>
 <[REDACTED]> <[REDACTED]>
 <[REDACTED]> <[REDACTED]> <
 <[REDACTED]> <[REDACTED]> <
 <[REDACTED]> <[REDACTED]> > wrote:

That seems high. What is sq ft? I'm sure it is highly negotiable. I don't see anyone going in there anytime soon. Yea, I don't recall when or if it ever went all the way through, but it certainly appears that way. I know they started building on the property in-between only a few years back. Regardless, it would be cool to kick it off again at an original location. With the type of cult following it has, people may seek it out no matter where.

On 3/4/10 12:57 PM, "Christian Ziebarth" <
 <http://reviews@oxford.com> <http://reviews@oxford.com>
 <http://reviews@oxford.com> <http://reviews@oxford.com>
 > <http://reviews@oxford.com>
 <http://reviews@oxford.com>
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 <http://reviews@oxford.com> <
 <http://reviews@oxford.com> <http://reviews@oxford.com>
 > wrote:

Yes, you are #3. Just called about the Brookhurst and Commonwealth spot. They said it is \$6250 a month ("includes tax, title, license, etc., etc.") to lease. Almost wonder if that spot died down because of Naugles leaving. But I guess you said Brookhurst used to continue through until the train tracks were put there?

On Thu, Mar 4, 2010 at 12:31 PM, Rob Hallstrom <
 <[REDACTED]> <[REDACTED]>
 <[REDACTED]> <[REDACTED]>
 <[REDACTED]> <[REDACTED]> <
 <[REDACTED]> <[REDACTED]> <
 <[REDACTED]> <[REDACTED]> > wrote:

Wow! That's vey cool. I figured it was. Looked exactly the way I remembered it. A bit surprised it was one of the top performers though...

I like the idea of jeff being named as plaintiff. Have you looked into drawing up corp paperwork yet? Maybe Naugles, Inc. ask the attorney if proceeding with a corp name like this is smart idea when representing jeff as plaintiff or if it really matters. The new corp can have a board of directors, maybe listing jeff as president, you as vp, etc. for the record, i'm obviously interested in being on board as well.

On 3/4/10 12:03 PM, "Christian Ziebarth" <[redacted]> [redacted] wrote:

Now I have to see if Jeff could front the \$10,000 attorney fee. This trademark attorney has suggested that Jeff be listed as the plaintiff. It'll make the case stronger if a "Naugle" is on it.

Last night I saw the friend that rode with me out to Visalia. I said, "Rob was wondering if the Bob's Burgers on Brookhurst and Commonwealth used to be a Naugles..." and before I could say much more my friend goes, "Yes, it was. Jeff told us it was and that it was one of their best locations."

On Thu, Mar 4, 2010 at 11:53 AM, Rob Hallstrom <[redacted]> [redacted] wrote:

Interesting. So it seems the green light is becoming even brighter.

On 3/4/10 11:20 AM, "Christian Ziebarth" <[redacted]> [redacted] wrote:

Here's a little extra insight. This comes from a patent attorney who I think works in South County. He specializes in patents and I have been talking with him about trademarks (which clearly are two different things). We had been sort of butting heads in our discussion with him coming at it from the angle of somebody who knows a lot about patents and thinks he knows some about trademarks and me coming at it from the angle of somebody who is not a legally oriented person at all but has done some relatively in-depth research on trademark issues. He told me a while back that about once every two weeks an actual trademark lawyer comes into his office so here is what he has to say now (I italicized the interesting part):

Our Trademark attorney just walked in and I talked with her about this... finally.

We looked up a few things and you very well might have a good case for cancellation of the Naugles mark owned by Del Taco.

Del Taco appears to have filed Old pictures of the Naugles restaurant front for their

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<[REDACTED]> <[REDACTED]>
 <[REDACTED]> <[REDACTED]> >> wrote:
 That's so cool! I knew I remembered they all had lanterns. So there
 you go, that particular location IS one of the original Naugles...

On 2/25/10 8:53 PM, "Christian Ziebarth" <
 <http://reviews@princeofnaugles.com> reviews@princeofnaugles.com
 <http://reviews@princeofnaugles.com> <http://reviews@princeofnaugles.com>
 > <http://reviews@princeofnaugles.com>
 <http://reviews@princeofnaugles.com>
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 <http://reviews@princeofnaugles.com>
 http://reviews@princeofnaugles.com <
 <http://reviews@princeofnaugles.com> http://reviews@princeofnaugles.com
 > wrote:

Thanks for the correction on the mija wrap. Always want to make sure
 I'm portraying things accurately. Sent out a new tweet on it.

Checked out the Bob's Burgers and took a picture from the side and I
 think it probably had been a Naugles. Check out this photo:

<http://www.flickr.com/photos/cziebarth/4385457447/sets/
 72157627305316285/> http://www.flickr.com/photos/
 cziebarth/4385457447/sets/72157627305316285/

then this one:

<http://www.flickr.com/photos/cziebarth/4389228014/sets/
 72157627305316285/> http://www.flickr.com/photos/
 cziebarth/4389228014/sets/72157627305316285/

and also this one of the Del Taco at Brookhurst and Hamilton that I
 know was a Naugles:

<http://local.yahoo.com/info-21030317-
 del-taco-brookhurst-beach?tab=photos#photos (this picture doesn't
 show the lanterns, but oddly enough, I think they might've added the

On 2/25/10 10:04 AM, "Christian Ziebarth" <<http://reviews@ocmexfood.com>
 reviews@ocmexfood.com <http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>
 > <http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>
 <http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com> <
 <http://reviews@ocmexfood.com> http://reviews@ocmexfood.com> > wrote:

Great. I'll probably be there just after noon.

On Thu, Feb 25, 2010 at 8:49 AM, Rob Hallstrom <<[REDACTED]>
 <[REDACTED]> <[REDACTED]>
 <[REDACTED]> > wrote:

Today around noonish is fine.

On 2/24/10 10:16 PM, "Christian Ziebarth" <
 <http://reviews@ocmexfood.com> reviews@ocmexfood.com
 <http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>
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 <<http://reviews@ocmexfood.com>
 <http://reviews@ocmexfood.com> <
 <http://reviews@ocmexfood.com> http://reviews@ocmexfood.com>
 <<http://reviews@ocmexfood.com>
 http://reviews@ocmexfood.com> > wrote:

EXHIBIT L

to Petitioner's Testimony Affidavit of Christian Ziebarth

Naugles Tacos Burgers

The Naugles fast food restaurant chain was founded by Dick Naugle in 1970 and lasted until 1988. It had an American and a Mexican kitchen. Popular items included the cheese burrito, the bun taco, the combo cup w/ chips, the Naugleburger, the Ortega burger and more. Plans are being made for bringing the chain back.

Comeback Progress

23rd August 2012

From the [@naugles Twitter feed](#):

To the many devoted fans of Naugles: We are working hard on bringing the beloved chain and its food back to you. We are currently involved in a legal case to procure the Naugles trademark. However, a prior owner of the trademark is asserting current ownership while failing to substantiate claims of their continued, current and publicly recognized usage. Their last usage of the trademark was circa 1994/95. Their final usage at this time fulfilled their pledge made in 1989 to phase out the Naugles chain. United States trademark law clarifies that three consecutive years of non-use of a trademark constitutes abandonment of that trademark, so in this case there has been approximately 17 years of abandonment. Since we respect their prior affiliation with the Naugles trademark and since we believe in creating win-win solutions that benefit all we have made them an offer that they would financially profit from and that would also allow Naugles to return but they have turned down our offer and proposed one that would allow Naugles to return but only in an extremely limited fashion that would severely curtail our ability to provide Naugles food to its devoted fans as well as to a new generation. Their counteroffer would not even financially profit *them* as our initial offer would. Since little benefit would be created for any party by their counteroffer it was an offer which we could not in good faith accept, so the legal case continues...

<http://www.twitlonger.com/show/08db4>

Commercials:





Buns & Torts

If you're looking for Naugles food right now it can be found at [Buns & Torts](#) in Visalia, CA, which serves the same menu Naugles used to serve using the same recipes from the Naugles family.

Motto:

Dick Naugle Says

- Prepare Food Fresh
- Serve Customer Fast
- Keep Place Clean

Links:

- [Naugles Facebook Fan Page - Fan Page #2](#)
- [Naugles on Twitter](#)
- [Wikipedia Entry](#)

Contact Us:

Please fill out the following contact form with your questions or comments for us:

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EXHIBIT M

to Petitioner's Testimony Affidavit of Christian Ziebarth

Christian Ziebarth <[REDACTED]>

 **taco bell comment**Nancy Luna <[REDACTED]>
To: Christian Ziebarth <[REDACTED]>

Mon, Jan 18, 2010 at 5:12 PM

Please make sure you quote OC Register...if you use What a sad day. I remember this.

Adios to Naugles Fast-food chain to switch to Del Taco**Jeff Rowe****Published:** , 5/17/1989

Hola Del Taco, adios Naugles.

Restaurant magnate Anwar Soliman, who owns both chains, said Tuesday he will convert most of the 171 Naugles restaurants into Del Tacos by the end of the summer.

Soliman said the Del Taco name has a stronger Mexican food connotation than Naugles, which was named for its founder, Richard Naugle.

Soliman's company, AWR II Acquisition Corp., converted two Naugles, at 2300 N. Tustin Avenue in Santa Ana and in Long Beach, about two months ago as a test.

Conversion of the other Naugles restaurants is under way, said Soliman. He is chairman and chief executive of both AWR II and American Restaurant Group, which operates about 360 other restaurants, including the Velvet Turtle, Black Angus, Spoons and Grandy's chains.

AWR II has not quite figured out what to do with the approximately 20 Naugles that are near Del Taco outlets. For the immediate future, those will remain Naugles, Soliman said.

Menus from the two restaurants already have been combined, and thus the egg burrito, Naugles' breakfast staple, will continue at Del Taco.

Many other items from Naugles' menu will either survive or be reformulated for the Del Taco menu.

Soliman said an ad campaign focusing on the quality of Del Taco and Naugles food will continue. A strategy for announcing the change has not been decided.

AWR II purchased Naugles and the 202 Del Taco outlets in February 1988.

"The first thing we worked on was the combination of the menu, and that is done," Soliman said.

Next, the company formed its management team, naming Wayne Armstrong, president of Del Taco, as president of the combined company, which operates out of Del Taco headquarters in Costa Mesa.

Soliman declined to discuss how much it will cost to renovate the Naugles restaurants, which will include new signs and seating.

In the fast-food world of burgers, tacos and chicken nuggets, Del Taco will have one of the largest menus.

The new Del Taco menu has several varieties of tacos, burritos, fajitas, quesadillas, nachos, salads and burgers. In addition, there are complete meal platters, designed to lure customers for supper, and a self-service drink bar, popularized in recent years at Carl's Jr. restaurants.

Coming up with all these menu concoctions was a difficult task, Soliman insisted.

"It took almost eight months to make the menu adjustments," he said. "For example, with the fajitas, you keep tasting and testing. You put in a little more of this, a little more of that, then another item. By the time you are finished, you have tried nine of them. I gained 30 pounds in the test kitchen.

"But I lost it all," he added.

Soliman was president of the W.R. Grace Restaurant Group in 1977 when it bought the rights to expand Del Taco outside of California. Del Taco was founded in the early 1960s and, like Naugles, its outlets are concentrated in California.

Grace also owned Naugles -- which was founded in the early 1970s -- but sold it in 1980. Naugles then went public but foundered when it expanded too rapidly. Collins Foods International purchased a majority stake in the company in 1985 and bought the remaining shares in 1987.

Del Taco will still be a distant second in the Mexican fast-food business behind Taco Bell, which has about 2,700 restaurants and an estimated 57 percent of the nation's \$2.3 billion Mexican fast-food market.

As both Naugles and Del Taco did, the reborn Del Taco will focus on its larger menu and what it describes as better-quality food.

In discussing his prime competition, Soliman did not mention Taco Bell by name but rather referred to the taco giant as "the elephant."

"We're not in the business of price discounting," Soliman said. "Have you ever had their 59-cent taco?" he asked, referring to Taco Bell's recent campaign for the low-priced taco. "It's worth 59 cents, believe me."

Taco Bell did not return phone calls.

Nancy Luna

Staff writer/Orange County Register

Restaurants, Food, Supermarkets

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██████████

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From: cmziebarth ██████████ [mailto:██████████] **On Behalf Of** Christian Ziebarth

Sent: Monday, January 18, 2010 4:54 PM

To: Nancy Luna
Subject: Re: taco bell comment

If you can . . . at your convenience only . . . see if you can find one from May 17, 1989, called "Adios to Naugles." I always get a lot of Naugles-related traffic but I'm getting an unusually high amount today and there's something I want to check.

Let me know when you want to do lunch. Might have Eric join us.

On Mon, Jan 18, 2010 at 4:25 PM, Nancy Luna <[redacted]> wrote:

Yes. I think so. I looked in our archive today for Glen stuff, but we didn't have much. I think it goes back to 1984, but I could be wrong.

Why?

Nancy Luna
Staff writer/Orange County Register
Restaurants, Food, Supermarkets
Life, Food, Business sections
[redacted]

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From: cmziebarth [redacted] [mailto:[redacted]], **On Behalf Of** Christian Ziebarth
Sent: Monday, January 18, 2010 4:14 PM

To: Nancy Luna
Subject: Re: taco bell comment

Are you able to locate Register stories from 1989?

On Mon, Jan 18, 2010 at 10:32 AM, Nancy Luna <[redacted]> wrote: