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

Proceeding	92063674
Party	Plaintiff Consueloongpauco-Cauton
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Signature	/Melvin N.A. Avanzado/
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Attachments	2017-03-11 Exh 3 0 to Avanzado Decl - Cauton.pdf(212779 bytes)

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

CONSUELO ONGPAUCO-CAUTON,

Petitioner,

v.

JUNE FRANCIS RONO, ASHLEY KRISTEN
C. RONO AND JUSTIN CHRISTIAN C.
RONO,

Registrants.

Cancellation No. 92063674

In the Matter of Registration No. 4,034,365
Mark: BARRIO FIESTA EXPRESS
Date Issued: October 4, 2011

*[Motion for Summary Judgment; Separate
Statement of Undisputed facts; Request for Judicial
Notice; Declaration of Melvin N.A. Avanzado filed
concurrently herewith]*

EXHIBIT 3 TO DECLARATION OF MELVIN N.A. AVANZADO

THE AVANZADO LAW FIRM

MELVIN N.A. AVANZADO (Bar No. 137127)
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Attorneys for Defendant and Counterclaimant
Northridge Foods International, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

BARRIO FIESTA, LLC, a California Limited
Liability Company,

Plaintiff,

v.

NORTHRIDGE FOODS INTERNATIONAL
INC., and DOES 1 through 10, inclusive,

Defendants.

NORTHRIDGE FOODS INTERNATIONAL
INC., a California corporation,

Counterclaimant,

v.

BARRIO FIESTA, LLC, a California Limited
liability company,

Counterdefendant,

CASE NO. 4:15-CV-02669-JSW
**[Before the Honorable Jeffrey S. White,
United States District Judge]**

DECLARATION OF MELVIN N.A.
AVANZADO IN SUPPORT OF DEFENDANT
NORTHRIDGE FOODS INTERNATIONAL,
INC.'S MOTION FOR SUMMARY
JUDGMENT AND ALTERNATIVE MOTION
FOR PARTIAL SUMMARY JUDGMENT

DATE: October 14, 2016

TIME: 9:00 a.m.

PLACE: Courtroom 5

(Courtroom of the Honorable Jeffrey S. White)

*[Motion for Summary Judgment and Partial Summary
Judgment; Declarations of Erlinda Alianan and Ronald
Yu; Request for Judicial Notice; [Proposed] Order filed
concurrently herewith]*

1 **DECLARATION OF MELVIN N.A. AVANZADO**

2 I, Melvin N.A. Avanzado, declare as follows:

3 1. I am an attorney-at-law licensed to practice before all courts of the State of
4 California and a member of the bar of this Court. I am the principal of The Avanzado Law Firm,
5 APLC, counsel of record for Defendant and Counterclaimant Northridge Foods International, Inc.
6 (“Northridge”). I first appeared as counsel of record for Northridge on February 29, 2016 in this
7 action. I have personal knowledge of the facts contained in this declaration and, if called, could and
8 would testify competently thereto under oath.

9 2. Northridge conducted the deposition of Bonifacio E. Ongpauco, Jr. on April
10 18, 2016 in Los Angeles, California. I took Mr. Ongpauco’s deposition on April 18. The transcript
11 of Mr. Ongpauco’s deposition was transcribed, and certified as an accurate transcription, by court
12 reporter Jeanine Curcione. Attached as Exhibit “A” hereto is a true and correct copy of relevant
13 portions of Mr. Ongpauco’s deposition transcript that are cited in Northridge’s moving papers and
14 the reporter’s certification thereof. Specifically, Exhibit “A” includes the following pages from the
15 certified copy of Mr. Ongpauco’s deposition transcript: 8-12, 18-54, 59-60, 63-64, 69, 72-74, 78, 84-
16 85, 87, 89, 91-93.

17 3. Northridge conducted the deposition of Cesar Cauton on April 20, 2016 in
18 Los Angeles, California. I took Mr. Cauton’s deposition. The transcript of Mr. Cauton’s deposition
19 was transcribed, and certified as an accurate transcription, by court reporter Jeanine Curcione.
20 Attached as Exhibit “B” hereto is a true and correct copy of relevant portions of Mr. Cauton’s
21 deposition transcript that are cited in Northridge’s moving papers and the reporter’s certification
22 thereof. Specifically, Exhibit “B” includes the following pages from the certified copy of Mr.
23 Cauton’s deposition transcript: 7-24, 29-46, 49-51, 54-58.

24 4. Northridge conducted the deposition of Erwin Santos on April 19, 2016 in Los
25 Angeles, California. I took Mr. Santos’ deposition. The transcript of Mr. Santos’ deposition was
26 transcribed, and certified as an accurate transcription, by court reporter Jeanine Curcione. Attached
27 as Exhibit “C” hereto is a true and correct copy of relevant portions of Mr. Santos’ deposition
28 transcript that are cited in Northridge’s moving papers and the reporter’s certification thereof.

1 Specifically, Exhibit “C” includes the following pages from the certified copy of Mr. Santos’
2 deposition transcript: 6-19, 22-24, 26, 28-39.

3 5. Northridge conducted the deposition of Ramar Foods International, Inc.
4 (“Ramar”) on April 7, 2016 in San Francisco, California. Ramar designated Susie Quesada as its
5 corporate witness designee. I took Ramar’s deposition. The transcript of Ramar’s deposition was
6 transcribed, and certified as an accurate transcription, by court reporter Louise Marie Sousoures.
7 Attached as Exhibit “D” hereto is a true and correct copy of relevant portions of Ramar’s deposition
8 transcript that are cited in Northridge’s moving papers and the reporter’s certification thereof.
9 Specifically, Exhibit “D” includes the following pages from the certified copy of Ramar’s deposition
10 transcript: 2-3, 8-9, 12, 79-101, 103, 106.

11 6. Northridge conducted the first volume of the deposition of Plaintiff Barrio
12 Fiesta, LLC on January 5, 2016 in San Jose, California. Plaintiff designated June Francis Rono as its
13 corporate witness designee. Prior counsel for Northridge took Plaintiff’s deposition. The transcript
14 of the first volume of Barrio Fiesta, LLC’s deposition was transcribed, and certified as an accurate
15 transcription, by court reporter Michelle D. Knowles. Attached as Exhibit “E” hereto is a true and
16 correct copy of relevant portions of the first volume of Plaintiff’s deposition transcript that are cited
17 in Northridge’s moving papers and the reporter’s certification thereof. Specifically, Exhibit “E”
18 includes the following pages from the certified copy of the first volume of Barrio Fiesta, LLC’s
19 deposition transcript: 6, 10, 14-15, 17-19, 20-22, 24-31, 33-34, 36-44, 46-47, 49, 55-56, 58-60, 62-
20 72, 75-85, 88-89, 92-103, 104-111, 117, 120-124, 127.

21 7. Northridge conducted the second volume of the deposition of Plaintiff Barrio
22 Fiesta, LLC on May 12, 2016 in San Jose, California. Plaintiff designated June Francis Rono as its
23 corporate witness designee. I took Plaintiff’s deposition. The transcript of the second volume of
24 Barrio Fiesta, LLC’s deposition was transcribed, and certified as an accurate transcription, by court
25 reporter Linda Vaccarezza. Attached as Exhibit “F” hereto is a true and correct copy of relevant
26 portions of the second volume of Barrio Fiesta, LLC’s deposition transcript that are cited in
27 Northridge’s moving papers and the reporter’s certification thereof. Specifically, Exhibit “F”
28 includes the following pages from the certified copy of the second volume of Barrio Fiesta, LLC’s

1 deposition transcript: 132-133, 138-141, 143-145, 147, 150-151, 159-193, 201-216, 217-229, 232-
2 244, 247, 270-283, 294-299.

3 8. Northridge conducted the deposition of Justin Christian Rono (“Justin Rono”)
4 on January 6, 2016 in San Jose, California. Prior counsel for Northridge took Justin Rono’s
5 deposition. The transcript of Justin Rono’s deposition was transcribed, and certified as an accurate
6 transcription, by court reporter Michelle D. Knowles. Attached as Exhibit “G” hereto is a true and
7 correct copy of relevant portions of Justin Rono’s deposition transcript that are cited in Northridge’s
8 moving papers and the reporter’s certification thereof. Specifically, Exhibit “G” includes the
9 following pages from the certified copy of Justin Rono’s deposition transcript: 4-6, 11-15, 19-24, 27-
10 29, 31, 34-41, 44.

11 9. Northridge conducted the deposition of Ashley Kirsten Rono (“Ashley Rono”)
12 on January 6, 2016 in San Jose, California. Prior counsel for Northridge took Ashley Rono’s
13 deposition. The transcript of Ashley Rono’s deposition was transcribed, and certified as an accurate
14 transcription, by court reporter Michelle D. Knowles. Attached as Exhibit “H” hereto is a true and
15 correct copy of relevant portions of Ashley Rono’s deposition transcript that are cited in
16 Northridge’s moving papers and the reporter’s certification thereof. Specifically, Exhibit “H”
17 includes the following pages from the certified copy of Ashley Rono’s deposition transcript: 7-8, 10-
18 13, 15-17, 21-22, 24-26, 30-33, 35-37, 41.

19 10. Northridge conducted the deposition of Michelle Villanueva on May 13, 2016
20 in San Jose, California. I took Ms. Villanueva’s deposition. The transcript of Ms. Villanueva’s
21 deposition was transcribed, and certified as an accurate transcription, by court reporter Catherine M.
22 Meyer. Attached as Exhibit “I” hereto is a true and correct copy of relevant portions of Ms.
23 Villanueva’s deposition transcript that are cited in Northridge’s moving papers and the reporter’s
24 certification thereof. Specifically, Exhibit “I” includes the following pages from the certified copy
25 of Ms. Villanueva’s deposition transcript: 8-16, 32, 34-38, 40-42, 44-50, 54-59, 61-74, 79-84, 88,
26 90-91, 97.

27 11. During the first volume of Barrio Fiesta LLC’s deposition, we marked the
28 January 4, 2012 trademark license agreement between Ashley Kirsten Rono and Justin Christian

1 Rono and Barrio Fiesta, LLC as Exhibit 2 to that deposition. Testimony concerning this Exhibit 2
2 first appears in the certified copy of the first volume of Barrio Fiesta LLC's deposition transcript at
3 page 20-21. Attached as Exhibit "J" hereto is a true and correct copy of the January 4, 2012
4 trademark license agreement between Justin Rono and Ashley Rono and Barrio Fiesta, LLC as
5 marked as Exhibit 2 to the first volume of Barrio Fiesta LLC's deposition.

6 12. During the first volume of Barrio Fiesta LLC's deposition, we marked copies
7 of menus from the Barrio Fiesta restaurant in Milpitas, California as Exhibit 3 to that deposition.
8 Testimony concerning this Exhibit 3 first appears in the certified copy of the first volume of Barrio
9 Fiesta LLC's deposition transcript at page 29. Attached as Exhibit "K" hereto is a true and correct
10 copies of menus from the Barrio Fiesta restaurant in Milpitas, California (the "Milpitas BF
11 Restaurant") as marked as Exhibit 3 to the first volume of Barrio Fiesta LLC's deposition.

12 13. During the first volume of Barrio Fiesta LLC's deposition, we marked Barrio
13 Fiesta, LLC's website as Exhibit 4 to that deposition. Testimony concerning this Exhibit 4 first
14 appears in the certified copy of the first volume of Barrio Fiesta LLC's deposition transcript at page
15 33. Attached as Exhibit "L" hereto is a true and correct copy of Barrio Fiesta, LLC's website as
16 marked as Exhibit 4 to the first volume of Barrio Fiesta LLC's deposition.

17 14. During the first volume of Barrio Fiesta LLC's deposition, we marked the
18 August 26, 2013 trademark license agreement between Justin Christian Rono and Ashley Kirsten
19 Rono and TRiGroup, Inc. as Exhibit 5 to that deposition. Testimony concerning this Exhibit 5 first
20 appears in the certified copy of the first volume of Barrio Fiesta LLC's deposition transcript at page
21 38. Attached as Exhibit "M" hereto is a true and correct copy of the August 26, 2013 trademark
22 license agreement between Justin Rono and Ashley Rono and TRiGroup, Inc. as marked as Exhibit 5
23 to the first volume of Barrio Fiesta LLC's deposition.

24 15. During the first volume of Barrio Fiesta LLC's deposition, we marked the
25 August 30, 2010 purchase agreement of the Milpitas BF Restaurant, the June 10, 1994 purchase
26 agreement of the Milpitas BF Restaurant and the July 7, 2007 purchase agreement of the Milpitas BF
27 Restaurant as Exhibit 10 to that deposition. Testimony concerning this Exhibit 10 first appears in
28 the certified copy of the first volume of Barrio Fiesta LLC's deposition transcript at pages 75-76.

1 Attached as Exhibit “N” hereto is a true and correct copy of the purchase agreements for the Milpitas
2 BF Restaurant dated August 30, 2010; June 10, 1994; and July 7, 2007 as marked as Exhibit 10 to
3 the first volume of Barrio Fiesta LLC’s deposition.

4 16. During Ashley Rono’s deposition, we marked the updated October 4, 2011
5 trademark registration certificate from the United States Patent and Trademark Office (“USPTO”)
6 that was issued to Ashley Kirsten C. Rono, Justin Christian C. Rono and June Francis Rono as
7 Exhibit 18 to that deposition. Testimony concerning this Exhibit 18 first appears in the certified
8 copy of Ashley Rono’s deposition transcript at page 35. Attached as Exhibit “O” hereto is a true and
9 correct copy of the October 4, 2011 trademark registration certificate marked as Exhibit 18 to Ashley
10 Rono’s deposition.

11 17. During Ashley Rono’s deposition, we marked the November 24, 2014
12 trademark assignment of the “Barrio Fiesta Express” trademark from Ashley Kirsten C. Rono and
13 Justin Christian C. Rono to June Francis Rono, Ashley Kirsten C. Rono and Justin Christian C. Rono
14 as Exhibit 19 to that deposition. Testimony concerning this Exhibit 19 first appears in the certified
15 copy of Ashley Rono’s deposition transcript at page 35. Attached as Exhibit “P” hereto is a true and
16 correct copy of the November 24, 2014 trademark assignment of the “Barrio Fiesta Express”
17 trademark as marked as Exhibit 19 to Ashley Rono’s deposition.

18 18. During Ramar’s deposition, we marked the July 15, 2015 email thread titled
19 “Collaboration Exploration” between June Rono and Susie Quesada of Ramar as Exhibit 32 to that
20 deposition. Testimony concerning this Exhibit 32 first appears in the certified copy of Ramar’s
21 deposition transcript at page 79. Attached as Exhibit “Q” hereto is a true and correct copy of July
22 15, 2015 email thread titled “Collaboration Exploration” as marked as Exhibit 32 to Ramar’s
23 deposition.

24 19. During Bonifacio E. Ongpauco, Jr.’s deposition, we marked a picture of
25 Barrio Fiesta Manufacturing Corporation’s salted shrimp fry as Exhibit 35 to that deposition.
26 Testimony concerning this Exhibit 35 first appears in the certified copy of Mr. Ongpauco’s
27 deposition transcript at page 13. Attached as Exhibit “R” hereto is a true and correct copy of picture
28

1 of Barrio Fiesta Manufacturing Corporation's ("BFMC") salted shrimp fry as marked as Exhibit 35
2 to Mr. Ongpauco's deposition.

3 20. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked a picture of the
4 exterior of the Milpitas BF Restaurant as Exhibit 36 to that deposition. Testimony concerning this
5 Exhibit 36 first appears in the certified copy of Mr. Ongpauco's deposition transcript at page 15.
6 Attached as Exhibit "S" hereto is a true and correct copy of picture of the exterior of the Milpitas BF
7 Restaurant as marked as Exhibit 36 to Mr. Ongpauco's deposition.

8 21. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked BFMC's By-
9 Laws that were filed with the Republic of the Philippines Securities and Exchange Commission on
10 November 17, 1987 under registration number 146893 as Exhibit 37 to that deposition. Testimony
11 concerning this Exhibit 37 first appears in the certified copy of Mr. Ongpauco's deposition transcript
12 at page 19. Attached as Exhibit "T" hereto is a true and correct copy of picture of BFMC's By-Laws
13 that were filed with the Republic of the Philippines Securities and Exchange Commission.

14 22. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked BFMC's Articles
15 of Incorporation that were filed with the Republic of the Philippines Securities and Exchange
16 Commission on November 17, 1987 under registration number 146893 as Exhibit 38 to that
17 deposition. Testimony concerning this Exhibit 38 first appears in the certified copy of Mr.
18 Ongpauco's deposition transcript at page 19. Attached as Exhibit "U" hereto is a true and correct
19 copy of picture of BFMC's Articles of Incorporation that were filed with the Republic of the
20 Philippines Securities and Exchange Commission.

21 23. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked the November 27,
22 1987 affidavit of Sixta Evangelista Ongpauco permitting BFMC to operate as Exhibit 39 to that
23 deposition. Testimony concerning this Exhibit 39 first appears in the certified copy of Mr.
24 Ongpauco's deposition transcript at page 21. Attached as Exhibit "V" hereto is a true and correct
25 copy of the November 27, 1987 affidavit as marked as Exhibit 39 to Mr. Ongpauco's deposition.

26 24. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked as Exhibit 40 to
27 that deposition the Business Entity detail from the website of the California Secretary of State for
28 Town Fiesta Trading, Inc. which shows the filing date of August 3, 1990. Testimony concerning

1 this Exhibit 40 first appears in the certified copy of Mr. Ongpauco's deposition transcript at page 31.
2 Attached as Exhibit "W" hereto is a true and correct copy of the California Secretary of State's
3 Business Entity detail for Town Fiesta Trading, Inc.

4 25. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked as Exhibit 41 to
5 that deposition the Business Entity detail from the website of the California Secretary of State for
6 BEO Trading Corporation which shows the filing date of November 2, 1992. Testimony concerning
7 this Exhibit 41 first appears in the certified copy of Mr. Ongpauco's deposition transcript at page 35.
8 Attached as Exhibit "X" hereto is a true and correct copy of the California Secretary of State's
9 Business Entity detail for BEO Trading Corporation.

10 26. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked as Exhibit 42 to
11 that deposition the corporate resolution and articles of incorporation for BEO Trading Corporation
12 filed November 2, 1992. Testimony concerning this Exhibit 42 first appears in the certified copy of
13 Mr. Ongpauco's deposition transcript at page 41. Attached as Exhibit "Y" hereto is a true and
14 correct copy of the corporate resolution and articles of incorporation for BEO Trading Corporation.

15 27. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked the August 3,
16 2011 consent agreement between BFMC and Barrio Fiesta International, Inc. as Exhibit 43 to that
17 deposition. Testimony concerning this Exhibit 43 first appears in the certified copy of Mr.
18 Ongpauco's deposition transcript at page 47. Attached as Exhibit "Z" hereto is a true and correct
19 copy of the August 3, 2011 consent agreement as marked as Exhibit 43 to Mr. Ongpauco's
20 deposition.

21 28. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked the July 28, 2011
22 consent agreement between BFMC and Barrio Fiesta International, Inc. as Exhibit 44 to that
23 deposition. Testimony concerning this Exhibit 44 first appears in the certified copy of Mr.
24 Ongpauco's deposition transcript at page 48. Attached as Exhibit "AA" hereto is a true and correct
25 copy of the July 28, 2011 consent agreement as marked as Exhibit 44 to Mr. Ongpauco's deposition.

26 29. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked the certificate of
27 registration of trademark from the Secretary of State of the State of California for "Barrio Fiesta" for
28 trademark registration number 097662 as Exhibit 45 to that deposition. Testimony concerning this

1 Exhibit 45 first appears in the certified copy of Mr. Ongpauco's deposition transcript at page 54.
2 Attached as Exhibit "**BB**" hereto is a true and correct copy of the California Secretary of State's
3 certificate of trademark registration for trademark registration number 097662 marked as Exhibit 45
4 to Mr. Ongpauco's deposition.

5 30. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked trademark
6 application serial number 78/886,373 filed by Mr. Ongpauco on May 18, 2006 with the USPTO as
7 Exhibit 46 to that deposition. Testimony concerning this Exhibit 46 first appears in the certified
8 copy of Mr. Ongpauco's deposition transcript at page 59. Attached as Exhibit "**CC**" hereto is a true
9 and correct copy of Mr. Ongpauco's trademark application serial number 78/886,373 marked as
10 Exhibit 46 to Mr. Ongpauco's deposition.

11 31. During Bonifacio E. Ongpauco, Jr.'s deposition, we marked trademark
12 application serial number 77/179,318 that Mr. Ongpauco caused to be filed on May 11, 2007 with
13 the USPTO as Exhibit 47 to that deposition. Testimony concerning this Exhibit 47 first appears in
14 the certified copy of Mr. Ongpauco's deposition transcript at page 78. Attached as Exhibit "**DD**"
15 hereto is a true and correct copy of trademark application serial number 77/179,318 marked as
16 Exhibit 47 to Mr. Ongpauco's deposition.

17 32. During Cesar Cauton's deposition, we marked the certificate of registration
18 for service mark registration number 28689 for "Barrio Fiesta" from the Secretary of State of the
19 State of California as Exhibit 51 to that deposition. Testimony concerning this Exhibit 51 first
20 appears in the certified copy of Mr. Cauton's deposition transcript at page 35. Attached as Exhibit
21 "**EE**" hereto is a true and correct copy of the certificate of registration for service mark number
22 28689 marked as Exhibit 51 to Mr. Cauton's deposition.

23 33. During Cesar Cauton's deposition, we marked the application for registration
24 of service mark registration number 28689 for "Barrio Fiesta" from the Secretary of State of the
25 State of California as well as the assignment of service mark registration number 28689 filed by The
26 Manila Restaurant, Inc. as Exhibit 52 to that deposition. Testimony concerning this Exhibit 52 first
27 appears in the certified copy of Mr. Cauton's deposition transcript at page 36. Attached as Exhibit
28

1 “**FF**” hereto is a true and correct copy of the application for registration for service mark number
2 28689 marked as Exhibit 52 to Mr. Cauton’s deposition.

3 34. During Cesar Cauton’s deposition, we marked the October 3, 2001 application
4 for registration as well as the May 26, 2011 renewal of service mark registration number 055400 for
5 “The Original Barrio Fiesta of Manila” from the Secretary of State of the State of California filed by
6 Consuelo Ongpauco-Cauton as Exhibit 53 to that deposition. Testimony concerning this Exhibit 53
7 first appears in the certified copy of Mr. Cauton’s deposition transcript at page 37. Attached as
8 Exhibit “**GG**” hereto is a true and correct certified copy of the application for the registration and
9 renewal of service mark number 055400 marked as Exhibit 53 to Mr. Cauton’s deposition.

10 35. During Cesar Cauton’s deposition, we marked the May 26, 2011 certificate of
11 renewal of service mark registration number 055400 for “The Original Barrio Fiesta of Manila” from
12 the Secretary of State of the State of California as Exhibit 54 to that deposition. Testimony
13 concerning this Exhibit 54 first appears in the certified copy of Mr. Cauton’s deposition transcript at
14 page 37. Attached as Exhibit “**HH**” hereto is a true and correct copy of the May 26, 2011 certificate
15 of renewal of service mark registration number 055400 marked as Exhibit 54 to Mr. Cauton’s
16 deposition.

17 36. During Cesar Cauton’s deposition, we marked the July 9, 2013 petition for
18 cancellation of trademark registration 1,712,454 filed by Consuelo Ongpauco-Cauton with the
19 USPTO as Exhibit 55 to that deposition. Testimony concerning this Exhibit 55 first appears in the
20 certified copy of Mr. Cauton’s deposition transcript at page 44. Attached as Exhibit “**II**” hereto is a
21 true and correct copy of the July 9, 2013 petition for cancellation marked as Exhibit 55 to Mr.
22 Cauton’s deposition.

23 37. During the second volume of Plaintiff’s deposition, we marked the February
24 15, 2011 application serial number 85/243,004 to register the mark “Barrio Fiesta Express” in the
25 fast-food restaurants classification filed by Ashley Kirsten C. Rono and Justin Christian C. Rono as
26 Exhibit 58 to that deposition. Testimony concerning this Exhibit 58 first appears in the certified
27 copy of the second volume of Plaintiff’s deposition transcript at page 176. Attached as Exhibit “**JJ**”
28

1 hereto is a true and correct copy of the February 15, 2011 application serial number 85/243,004
2 marked as Exhibit 58 to the second volume of Plaintiff's deposition.

3 38. During the second volume of Plaintiff's deposition, we marked the December
4 24, 2014 application serial number 86/490,510 to register the mark "Barrio Fiesta Express" in the
5 frozen and packaged foods classification filed by Ashley Rono, Justin Rono and June Rono as
6 Exhibit 59 to that deposition. Testimony concerning this Exhibit 59 first appears in the certified
7 copy of the second volume of Plaintiff's deposition transcript at page 229. Attached as Exhibit
8 "KK" hereto is a true and correct copy December 24, 2014 application serial number
9 86/490,510 marked as Exhibit 59 to the second volume of Plaintiff's deposition.

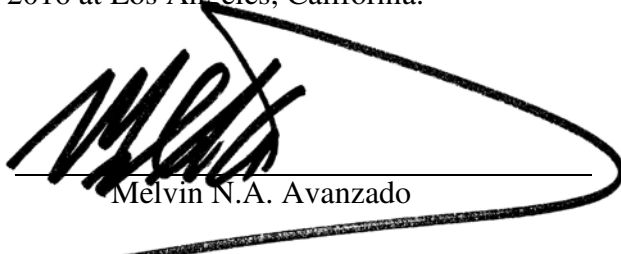
10 39. During the second volume of Plaintiff's deposition, Plaintiff recognized a
11 picture depicting the exterior of the Milpitas BF Restaurant that was contained in a document
12 previously marked as Exhibit 30. Testimony concerning this Exhibit 30 first appears in the certified
13 copy of the second volume of Plaintiff's deposition transcript at page 139. Attached as Exhibit
14 "LL" hereto is a true and correct copy of the picture of the Milpitas BF Restaurant exterior marked
15 as Exhibit 30.

16 40. During Michelle Villanueva's deposition, we marked the pictures of takeout
17 items from the Milpitas BF Restaurant as Exhibit 61 to that deposition. Testimony concerning this
18 Exhibit 61 first appears in the certified copy of Ms. Villanueva's deposition transcript at page 82.
19 Attached as Exhibit "MM" hereto is a true and correct copy of the pictures of takeout items from the
20 Milpitas BF Restaurant as marked as Exhibit 61 to Ms. Villanueva's deposition.

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

23 Executed this 9th day of September, 2016 at Los Angeles, California.

24
25
26
27
28



Melvin N.A. Avanzado

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing document:

EXHIBIT 3 TO DECLARATION OF MELVIN N.A. AVANZADO

has been served on Registrants by mailing said copy on date set forth below via priority United States Mail, postage prepaid, to:

James Cai, Esq.
SAC Attorneys LLP
111 North Market Street, Suite 1020
San Jose, California 95113

Executed on March 10, 2017 at Los Angeles, California.

A handwritten signature in cursive script, appearing to read 'Keiko Kawana', is written over a horizontal line.

Keiko Kawana