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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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**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]*

EXHIBITS E THROUGH I OF EXHIBIT 3 TO
DECLARATION OF MELVIN N.A. AVANZADO

EXHIBIT “E”

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

BARRIO FIESTA, LLC, a California
Limited Liability Company,

Plaintiff/Counter-Defendant,

vs.

Case No. 15-CV-02669-JSW

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

Defendant/Counter-Plaintiff.

_____ /

DEPOSITION OF BARRIO FIESTA, LLC

JUNE FRANCIS RONO

Date: Tuesday, January 5, 2016

Time: 9:09 a.m.

Location: Valorem Law Group
55 South Market Street
Suite 1500
San Jose, CA 95113

Reported By: Michelle D. Knowles, CSR, RPR, CRR, CCRR
License Number CSR-8979/CCRR-023

5001
43158

Bell & Myers

COURT REPORTERS AND LEGAL VIDEOGRAPHERS

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ALSO PRESENT:

JUSTIN CHRISTIAN RONO

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---oOo---

1 Are you prepared to testify on behalf of
2 Barrio Fiesta, LLC as to all the topics in the notice?

3 A. Yes.

4 Well, let me read the --

5 Q. Yeah.

6 A. -- notice.

7 Q. Okay.

8 A. Yes, I have read it.

9 Q. Okay. What is your affiliation with Barrio
10 Fiesta, LLC?

11 A. I'm the president and chief executive officer
12 of Barrio Fiesta, LLC.

13 Q. Okay. We have a few preliminary questions
14 just to make sure everybody is on the same page about
15 depositions.

16 Is there anything that will prevent you from
17 understanding my questions or answering truthfully
18 today?

19 A. No.

20 Q. Are you taking any medication today?

21 A. I have not taken it, but I do -- yeah. I have
22 not taken it.

23 Q. Okay. Does taking the medication or not
24 taking the medication impact your ability to understand
25 my questions or answer questions today?

1 Q. Okay. So those have been produced to us as
2 part of the litigation --

3 A. Yes.

4 Q. -- the documents that you reviewed?

5 Is there anything that wasn't produced to us
6 that you reviewed in preparation for today?

7 A. Not that I know of.

8 Q. Okay. So what is your education background
9 post high school?

10 A. I have a Bachelor of Science in business
11 administration, I have a master's in business
12 administration, and a Doctor of Philosophy in
13 management.

14 Q. And what schools did you attend, sir?

15 A. International Academy of Management and
16 Economics.

17 Q. Okay. I'm not familiar with that school.
18 Where is that?

19 A. That's in the Philippines.

20 Q. Okay. Were all of your degrees obtained from
21 that school?

22 A. Yes.

23 Q. How long have you lived in the United States?

24 A. Since 1982.

25 Q. Okay. What has been your work experience

1 since college?

2 A. I served as a logistics supervisor for
3 San Jose Job Corps, which is a Department of Labor --
4 U.S. Department of Labor program.

5 Q. Uh-huh.

6 A. And then after that, I served as the assistant
7 director for school facilities for Berryessa Union
8 School District six months after I was promoted to
9 director of school facilities.

10 And then after that, I moved to Alum Rock
11 Elementary School District as director of facilities and
12 planning, and then I moved to become the director of
13 facilities and planning and operations for East Side
14 Union High School District.

15 Q. Okay. How long have you worked with Barrio
16 Fiesta, LLC?

17 A. Since 2010.

18 Q. Okay. So when the restaurant was purchased,
19 that's when you began your affiliation with the Barrio
20 Fiesta Restaurant in Milpitas?

21 A. That's correct.

22 Q. Okay. Have -- well, we sort of discussed
23 this, but has Barrio Fiesta, LLC been involved in
24 litigation before?

25 I know you've been deposed before, but has the

1 company been involved in other litigation before?

2 A. By "litigation," we have been involved with
3 the U.S. Department of Labor doing an audit for us which
4 subsequently resulted in a consent agreement. So I take
5 it that that would be considered litigation.

6 Q. What was that about?

7 A. It was payment of overtime and -- calculation
8 of payment of overtime and hours.

9 Q. And that was resolved by settlement, you said,
10 or by consent?

11 A. By consent. Yeah, it was resolved by
12 settlement which resulted to a consent agreement.

13 Q. Has there been any other litigation involving
14 Barrio Fiesta, LLC?

15 A. No.

16 Q. Who was the attorney helping you in that other
17 matter with the Department of Labor?

18 A. Well, we had some help from Charles Standard,
19 who helped review the consent agreement for us.

20 Q. Were you deposed in that matter?

21 A. No.

22 Q. And about what time frame was that?

23 A. I would -- if I recall, about June/July of
24 2014.

25 Q. Okay. Did you talk to anyone besides your

1 attorneys in preparing for the deposition today?

2 A. No.

3 Q. Did you look for additional documents for this
4 litigation in advance of the deposition today?

5 A. No.

6 Q. Were you involved in preparing Barrio Fiesta,
7 LLC's responses to the document requests?

8 A. Yes.

9 Q. Okay. And I saw that you reviewed the -- or
10 signed off on the certification for the company's
11 responses to the interrogatories and the supplemental
12 responses to the interrogatories.

13 That was you; correct?

14 A. Yes.

15 Q. Okay. Who have you discussed this lawsuit
16 with?

17 A. Say it again.

18 Q. Who have you discussed this lawsuit with?
19 Anyone outside of your attorneys?

20 A. My attorneys and our management team.

21 Q. Who is on your management team?

22 A. Michelle Villanueva, our chief operations
23 officer, and Eva Lonzanida, our business operations
24 manager.

25 Q. To help our court reporter, could you spell

1 Q. Do you assert rights in "Barrio Fiesta"
2 without the word "Express"?

3 A. Well, I don't know what the legal answer to
4 that is, but to the degree that I think that we can, we
5 should.

6 Q. So as president, do you have an ownership
7 interest, a stock share in Barrio Fiesta, LLC?

8 A. Yes.

9 Q. Who else owns portions of Barrio Fiesta, LLC?
10 Who are your stockholders?

11 A. Just myself.

12 Q. Okay. Who reports to you?

13 A. In terms of --

14 Q. Barrio Fiesta.

15 A. -- day-to-day operations?

16 Q. Right.

17 A. Michelle Villanueva, the chief operations
18 officer, and Eva Lonzanida, the business operations
19 manager.

20 Q. Is there a -- you said there was a management
21 team, and that's -- you've told us that --

22 A. Yes.

23 Q. -- that those -- okay.

24 Is there a board of directors?

25 A. No.

1 Q. Are there other outside advisors to Barrio
2 Fiesta, LLC?

3 A. No.

4 Q. About how many employees work for Barrio
5 Fiesta, LLC?

6 A. It depends, depending on traffic flow of the
7 business, but it typically ranges between -- well,
8 historically, it's between 19 to 29 employees.

9 Q. Okay. You have, as I understand it, two
10 locations for the company's restaurants; is that
11 correct?

12 A. No.

13 Q. No. Okay.

14 What are the locations for the restaurants?

15 A. 1790 Milmont Drive, Milpitas, California
16 95035.

17 Q. Is that the sole restaurant location?

18 A. For a Barrio Fiesta, LLC-owned restaurant,
19 yes.

20 Q. Okay. Who is TRiGroup, or what is TRiGroup?

21 A. TRiGroup owns another location of Barrio
22 Fiesta Express in San Jose.

23 Q. Okay. Is TRiGroup part of this litigation in
24 any way?

25 A. No.

1 "TRiGroup."

2 Q. Okay. Do you have offices at any location for
3 Barrio Fiesta, LLC besides Milpitas, Milmont Road?

4 A. No.

5 Q. Do you have offices for TRiGroup at any
6 location besides -- I don't remember the street -- in
7 San Jose?

8 A. Yes.

9 Q. Where are the offices for TRiGroup?

10 A. It's 1250 Ames Avenue -- that's A-m-e-s
11 Avenue -- Milpitas, California 95035.

12 Q. Does TRiGroup manage or have other focuses
13 besides the operation of the restaurant in San Jose?

14 A. Yes.

15 Q. What are the other focuses of TRiGroup?

16 A. The TRiGroup provides business and management
17 consulting services.

18 Q. So you have clients besides Barrio Fiesta,
19 LLC?

20 A. Yes.

21 Q. Okay. Can you name those clients?

22 MR. CAI: You don't have to if it's a trade
23 secret.

24 THE WITNESS: Well, I can name our current
25 client, is Anselmo Vineyards, a winery, and right now,

1 that's the only client that we're working with.

2 BY MS. ROGOWSKI:

3 Q. Okay. Does that entity have anything to do
4 with distribution of Barrio Fiesta Express or Barrio
5 Fiesta food?

6 A. No.

7 Q. How is the accounting done between Barrio
8 Fiesta, LLC and TRiGroup? I mean, do you have one
9 combined financial statement?

10 A. No.

11 Q. Okay. So there are separate financial
12 statements for Barrio Fiesta, LLC, and that entity pays
13 its own taxes?

14 A. That's correct.

15 Q. All right. So if I'm concerned with finding
16 out which of your entities offers restaurant services or
17 sells food as Barrio -- with the mark "Barrio Fiesta" or
18 "Barrio Fiesta Express," the entities I would be
19 interested in are Barrio Fiesta, LLC and TRiGroup; is
20 that correct?

21 A. Yes.

22 Q. Okay. And TRiGroup, its involvement is the
23 restaurant in San Jose, operating that restaurant?

24 A. Yes.

25 Q. And Barrio Fiesta, LLC operates the restaurant

1 in Milpitas and supplies employees to the restaurant in
 2 San Jose?

3 A. Yes.

4 Q. Okay. Thank you.

5 A. You're welcome.

6 Q. We show in the documents produced -- I don't
 7 know if we have them yet from Dave -- that Barrio
 8 Fiesta, LLC was created in 2010.

9 Is that -- which I think is right before you
 10 purchased the restaurant from Mr. -- I'm going to get
 11 the names confused, so maybe we'll wait until I have a
 12 document to show you.

13 A. Okay.

14 Q. Okay. Does Barrio Fiesta, LLC have a document
 15 retention or document destruction policy? How long do
 16 you keep documents is really what I want to understand.

17 A. If it's important documents, we keep them
 18 forever, as much as we could keep them. If it's, you
 19 know, mundane, not critical documents, we don't really
 20 have a set policy when to destroy them. But if it's
 21 mundane documents, we don't really keep -- keep it for
 22 too long.

23 Q. So is there a written policy of the company
 24 for how long documents are kept?

25 A. No.

1 Q. No.

2 So you're guided by what seems to be critical
3 documents for the company, those are kept longer,
4 perhaps indefinitely, and other things could be
5 destroyed.

6 And who makes that decision?

7 A. I do.

8 Q. Okay. So do employees delete e-mails, or do
9 they keep them indefinitely?

10 A. We don't control -- I certainly don't control
11 the employees' e-mail. So when they delete them, if
12 they even do, I don't know that.

13 Q. What is the relationship between Barrio
14 Fiesta, LLC and you and Justin and Ashley Rono?

15 A. Ashley Rono and Justin Rono were the original
16 trademark owners, and they gave Barrio Fiesta, LLC the
17 license to use the trademark to operate Barrio Fiesta
18 Restaurant.

19 MS. ROGOWSKI: Okay. Can you get me the
20 license agreements?

21 MS. LABUTTA: Uh-huh.

22 (Exhibit 2 marked for identification.)

23 BY MS. ROGOWSKI:

24 Q. I'm showing you what is titled "Trademark
25 License Agreement between Justin Christian Rono and

1 Ashley Kirsten Rono (jointly called 'Licensor') and
2 Barrio Fiesta, LLC (called 'Licensee')." That's been
3 marked as Exhibit 2. It is Barrio supplemental
4 production pages 6 through 15.

5 So do you see this document that we've marked
6 as Exhibit 2? Is this the trademark license agreement
7 that you referred to insofar as the license between
8 Justin and Ashley Rono and Barrio Fiesta, LLC?

9 A. Yes.

10 Q. Okay. If we look at -- if we look at the
11 first page of the document, which is production marked
12 supplemental page 6, it shows that it's a license for
13 the licensee to use the license marks in the
14 United States. And that's at paragraph 1.a. of "GRANT
15 OF LICENSE." And in the recitals, there's a definition
16 of "Licensed Marks" that are set forth in Exhibit A.

17 Do you see that?

18 A. Yes.

19 Q. Okay. So if we look at Exhibit A, which is
20 page SUPP 15, the last page of that document, it appears
21 that the marks that were licensed were "Barrio Fiesta
22 Express"; is that correct?

23 A. Yes.

24 Q. And a logo that also is "Barrio Fiesta
25 Express" combined with an image; is that correct?

1 A. Yes.

2 Q. And then it says, "Other TRADE NAMES and LOGOS
3 developed by Licensor hereafter and added to the
4 Licensed Rights by notice of Licensor."

5 Have there been any other trade names or logos
6 added to this agreement?

7 A. Not that I know of.

8 Q. Okay. It also says, "Logos of Purchasing
9 Network members as permitted by separate agreement."

10 Have there been other logos of purchasing
11 network members added to this agreement?

12 A. No.

13 Q. When it says "Logos of Purchasing Network," do
14 you understand -- or can you explain more about what
15 that meant?

16 A. That meant the suppliers to the Barrio Fiesta
17 products that we use in terms of raw materials that we
18 use.

19 Q. Okay. So you have sourced some of the food
20 products that then are prepared in the restaurant, or
21 what are we talking about when you say "Purchasing
22 Network"?

23 A. Meat products -- pork, beef, seafood -- dry
24 goods, packaging materials, to-go containers, that sort.

25 Q. Okay. So where do you source your sauces that

1 materials.

2 Q. Okay. Okay. So you would do your own
 3 pickling to make pickled vegetables?

4 A. That's correct.

5 Q. Okay.

6 A. We don't pickle, but that is a good example.

7 Q. Okay. So shrimp paste, you're making your own
 8 shrimp paste or you're buying shrimp paste?

9 A. We're buying the shrimp paste, and then we
 10 prepare it into our recipe.

11 Q. Okay. What's the source of your shrimp paste?

12 A. We buy it from an Asian grocery store.

13 Q. What Asian grocery store sells your shrimp
 14 paste?

15 A. Lion Supermarket.

16 Q. Okay. Returning back to the license
 17 agreement, looking at -- where is it? I'm looking at
 18 supplemental page 10, which is page 5 of the document,
 19 and paragraph 5.

20 I see here that the consideration paid for
 21 this license appears to be \$100; is that correct?

22 A. That's correct.

23 Q. And then if I refer down to paragraph 6, I see
 24 that the initial term of this trademark license
 25 agreement is for ten years.

1 So the consideration of \$100 gives Barrio
2 Fiesta, LLC the right to use this trademark for ten
3 years; is that correct?

4 A. Yes.

5 Q. Okay. It also appears that in paragraph 6,
6 Barrio Fiesta, LLC can renew this license for three
7 ten-year terms -- so they've got a lot more time if they
8 want it -- each time paying \$100 for the license; is
9 that correct?

10 A. Yes.

11 Q. Okay. And I understand that, looking at this
12 agreement, if there's awareness of infringement by
13 Barrio Fiesta, LLC, a notice is to be given to the
14 Ronos.

15 Was written notice given to the Ronos?

16 I'm looking at paragraph 4.a. on page 4 of the
17 document, Bates-marked supplemental 9.

18 A. What was the question? I'm sorry.

19 Q. The question was, was written notice given to
20 Justin and Ashley Rono by Barrio Fiesta, LLC about an
21 infringement?

22 A. No.

23 Q. Okay. Is -- so we wouldn't -- if we're asking
24 for production of a written notice, there wasn't one?

25 A. (Nodding head.)

1 Q. Okay. What is the basis for Barrio Fiesta,
2 LLC serving as the plaintiff in the litigation today --
3 or the current litigation, I should say?

4 MR. CAI: Objection. Calls for a legal
5 conclusion, speculation.

6 You can answer if you can.

7 THE WITNESS: Well, the basis is, as a
8 licensee, Barrio Fiesta, LLC believes that it has a
9 right under the trade- -- as I understand, for a -- has
10 a right to -- to make that claim.

11 BY MS. ROGOWSKI:

12 Q. Is Barrio Fiesta, LLC an exclusive licensee of
13 the Barrio Fiesta Express trademark?

14 A. What do you mean by "exclusive licensee"?

15 Q. The only entity that can use that brand.

16 A. Not that I know of.

17 Q. So who else is able to use Barrio Fiesta,
18 LLC -- or Barrio Fiesta Express as their brand? Excuse
19 me.

20 A. Any individual or entity that would be granted
21 such license by the trademark owners.

22 Q. Are you aware of other licenses being granted
23 to companies by the Ronos to use Barrio Fiesta Express?

24 A. Yes.

25 Q. Okay. What are those other licenses?

1 A. One to TRiGroup, Inc., operating as Barrio
2 Fiesta Express.

3 Q. Okay. Are there any others?

4 A. No.

5 Q. Okay. So as I look at page 4, supplemental
6 Bates number page 9, paragraph 4.a., Barrio Fiesta, LLC
7 will retain any proceeds or damages or awards that may
8 come from this litigation -- this current litigation; is
9 that correct?

10 A. Yes.

11 Q. So there won't be an apportionment or a
12 sharing with the Ronos?

13 A. It has not been discussed.

14 Q. Well, I know from our initial question that
15 you went to school in the Philippines; so one of my
16 questions was, "Have you traveled to the Philippines?"
17 but I'll still ask it.

18 Have you traveled to the Philippines?

19 A. Yes.

20 Q. Okay. So you grew up there?

21 A. Yes.

22 Q. And then you said in 1982, you moved to the
23 United States?

24 A. Yes.

25 Q. Yes.

1 Have you ever visited any of The Original
2 Barrio Fiesta of Manila Restaurants in the Philippines?

3 A. Yes.

4 Q. So have you visited any of them recently?

5 A. Not recently, no.

6 Q. So when was the last time you had visited one
7 of those restaurants?

8 A. Sometime in 2011.

9 Q. Is that what prompted you to have interest in
10 purchasing the Milpitas restaurant?

11 A. No.

12 Q. What interested you in purchasing the Milpitas
13 restaurant?

14 A. Well, I believe that Filipino cuisine is a
15 cuisine that's -- really has not reached the
16 United States yet compared to Chinese food, Japanese,
17 Italian, Korean food. I believe that there is a market
18 for Filipino cuisine. I think Filipino food is great
19 food to have, but a lot of people just are not aware of
20 it.

21 So having the opportunity to hopefully
22 introduce Filipino cuisine to the western palate, I
23 think, is an endeavor worth pursuing.

24 Q. And there was a restaurant in the location at
25 Milpitas when you purchased it --

1 A. Yes.

2 Q. -- offering Filipino food?

3 A. Yes.

4 Q. Did you modify the menu from that restaurant?

5 A. Not at first.

6 MS. ROGOWSKI: Okay. Can you give me the
7 first menu?

8 MS. LABUTTA: Yes.

9 (Exhibit 3 marked for identification.)

10 BY MS. ROGOWSKI:

11 Q. What has been marked as Defendant's Exhibit 3
12 was produced to us as Barrio production 10001 to 10016.
13 I'm not sure if this is all one document or if it's
14 multiple documents; so I'd like your help to explain
15 what I'm looking at in this collection that's been
16 marked as DX 3.

17 A. The first page that says "The Original Barrio
18 Fiesta Manila" is the menu that's used inside the
19 restaurant, and the "Barrio Fiesta Express" is the to-go
20 menu that's used for the restaurant. And the succeeding
21 pages just enumerates the menu items or the dishes that
22 are sold at the restaurant.

23 Q. Okay. So please look at all of it.

24 Is this a current menu or a -- what -- can you
25 verify what year, approximately, this menu is from?

1 A. This menu was current at the time of
2 production. We have -- in fact, just January 1st --
3 revised the menu.

4 Q. Okay. So documents were produced to us in the
5 fall of 2015, so this is a menu from the fall of 2015?

6 A. Let me double-check.

7 Q. Okay.

8 A. Well, there are some menu items here that we
9 were not selling in the fall of 2015.

10 Q. Okay. So let's parse this document one page
11 at a time just to make sure we're all understanding.

12 So what's been marked Barrio 10001, that is
13 the cover of a menu from fall of 2015?

14 A. No.

15 Q. No.

16 What is that a -- is that a menu from another
17 year? What is this?

18 A. Yeah, this is the menu cover from prior to the
19 fall of 2015.

20 Q. So can you tell me what year this would have
21 been used?

22 A. I would say 2014, early '15. I don't recall
23 the specific dates.

24 Q. Okay. So then if I look at what's the next
25 page of DX 3, which is marked 10002 -- a little hard to

1 see -- this, you said, was a to-go menu cover?

2 A. Yes.

3 Q. Do you know what year this was from?

4 A. About 2014, I believe.

5 Q. Okay. If I look at what's marked as part of
6 DX 3 at page 10004, can you tell me about the cover of
7 this menu cover, what year this is from?

8 A. This is a current menu for Barrio Fiesta
9 Express up until December 31st of 2015.

10 Q. Okay. So if we ask to see the menu that just
11 came out this week --

12 A. Yes.

13 Q. -- will that be produced to us?

14 A. Yes.

15 Q. Okay. Are all the rest of the pages that
16 follow 10004 till 10016 part of this 2015-era menu?

17 A. Yes.

18 Q. Okay. Besides the Milpitas and San Jose
19 restaurants that are operated by Barrio Fiesta, LLC and
20 TRiGroup, have you visited any other Barrio Fiesta or --
21 Barrio Fiesta Restaurants in the United States?

22 A. No.

23 Q. Have you visited any of the other The Original
24 Barrio Fiesta of Manila Restaurants in the
25 United States?

1 conclusion, speculation.

2 You can answer.

3 BY MS. ROGOWSKI:

4 Q. You need to answer.

5 A. Yes.

6 Q. Has any effort been made to abate the
7 infringement by the restaurants in Glendale or
8 outside of -- the other one outside of Los Angeles?

9 A. We have not taken any formal action to date.

10 Q. I understand -- well, let's go to a different
11 topic first.

12 (Exhibit 4 marked for identification.)

13 BY MS. ROGOWSKI:

14 Q. All right. What is the basis for the
15 statement on your website that there's "a history dating
16 back to 1952, Barrio Fiesta continues to provide its
17 customers with the authentic taste of true Filipino
18 cuisine"?

19 A. Say that again.

20 Q. What's the basis for the statement on your
21 website that "With a history dating back to 1952, Barrio
22 Fiesta continues to provide its customers with the
23 authentic taste of true Filipino cuisine"?

24 A. It just speaks to the history of Barrio Fiesta
25 and the cuisine that it provides to its customers.

1 Q. Okay. So is this talking about The Original
2 Barrio Fiesta of Manila Restaurant in Manila,
3 Philippines?

4 A. Yes.

5 Q. So you are using the history of the Ongpauco
6 family as part of the history of your restaurant.

7 Is that how you see it?

8 A. Well, with respect to when we purchased the
9 restaurant, it went with that purchase, the history of
10 that restaurant, which their history dates back to that
11 time period.

12 Q. If I look at the document that's been marked
13 as DX 4, I see at the bottom that "The cooks at Barrio
14 Fiesta were all trained extensively the 'Barrio Fiesta
15 Way.'"

16 What is meant by "the 'Barrio Fiesta Way'"?

17 A. Well, since we purchased the restaurant, we
18 have instituted better quality control and staff
19 training, and so we called that training our "Barrio
20 Fiesta Way."

21 Q. So this is something that you've developed
22 since 2011?

23 A. That's correct.

24 Q. Okay. Do any of your cooks go back to the
25 Philippines to be trained in any of the restaurants in

1 and legal conclusion.

2 THE WITNESS: It was just to emphasize the
3 point that we have a reserve Filipino cuisine that
4 tastes -- the quality is like eating at home.

5 BY MS. ROGOWSKI:

6 Q. What do you know about Barrio Fiesta
7 Manufacturing Corporation?

8 A. As I understand it, they produce shrimp paste
9 products -- originally, shrimp paste products, and we've
10 seen, I think, some -- at least one mixes -- or mix that
11 I'm aware of. And recently, I've seen fish -- fish
12 sauce as well.

13 Q. Uh-huh.

14 A. So my understanding is they produce these
15 products.

16 Q. Are they available for purchase in the
17 United States, the Barrio Fiesta Manufacturing
18 Corporation products?

19 A. Yes.

20 Q. Have you purchased any of those?

21 A. Not in the last five years, but previously, I
22 have.

23 Q. So you purchased them for home use --

24 A. Yes.

25 Q. -- before?

1 So what's your memory of the earliest time you
2 would have purchased Barrio Fiesta Manufacturing Corp.
3 food for home use?

4 A. I don't recall.

5 Q. So would it have been be- -- as you said, it
6 was before 2011, and we know that you said you moved to
7 the U.S. in 1982. So we bound it, I guess, between
8 those two years.

9 Can you make a guess as to a time frame?

10 MR. CAI: Objection. Calls for speculation.

11 THE WITNESS: I don't recall, but if I were to
12 guess --

13 MR. CAI: You cannot guess.

14 THE WITNESS: Okay.

15 I don't recall specifically.

16 BY MS. ROGOWSKI:

17 Q. Are you able to estimate a date that you
18 purchased Barrio Fiesta food products of Barrio Fiesta
19 Manufacturing Corporation in the United States?

20 A. Again, I don't recall specifically. I do
21 remember, perhaps, buying it mid- -- mid-2000s, perhaps.

22 Q. Okay. But certainly before you purchased the
23 Barrio Fiesta Restaurant located in Milpitas?

24 A. Yes.

25 Q. Where might I purchase Barrio Fiesta

1 Manufacturing Corporation products in California?

2 A. I don't know specifically where they are
 3 marketed, but I know when I bought it, it was at an
 4 Asian store.

5 Q. Uh-huh. Okay.

6 (Exhibit 5 marked for identification.)

7 BY MS. ROGOWSKI:

8 Q. All right. You've been handed a document
 9 that's been marked Defendant's Exhibit 5, which has
 10 production numbers supplemental 00016.

11 It's entitled "Trademark License Agreement
 12 between Justin Christian Rono and Ashley Kirsten Rono
 13 and TRiGroup, Inc."; is that correct?

14 A. Yes.

15 Q. Okay. Again, I -- I look at paragraph 1 of
 16 the recitals, and it references that the licensor owns
 17 certain trademarks.

18 And if we look at Exhibit A to this agreement
 19 on page 10 of the agreement but supplemental production
 20 20- -- 00024, I see "Barrio Fiesta Express" is one of
 21 the licensed marks; is that correct?

22 A. Yes.

23 Q. I see the logo, "Barrio Fiesta Express" with a
 24 design, as another of the licensed marks; is that
 25 correct?

1 A. Yes.

2 Q. I see "Other TRADE NAMES and LOGOS developed
3 by Licensor hereafter and added to the Licensed Rights
4 by notice of Licensor."

5 Has TRiGroup received license of other trade
6 names and logos?

7 A. No.

8 Q. Are you aware of any other trade names and
9 logos that have been developed by licensor?

10 A. No.

11 Q. Okay. And, again, this one says, "Logos of
12 Purchasing Network members as permitted by separate
13 agreement."

14 Are we again talking about suppliers'
15 branding?

16 A. Yes.

17 Q. Okay. Both DX 5 and DX -- Defendant's
18 Exhibit 5 and Defendant's Exhibit 2, both of these
19 trademark licenses reference an Exhibit B; however, we
20 do not see Exhibit B attached to either of them. If we
21 look at the first page of each license agreement at
22 "GRANT OF LICENSE," 1, subpart b, it appears that each
23 of these licensees has rights to grant third-party
24 licenses.

25 You do see that, "GRANT OF LICENSE," part

1 1.b., as in "boy"?

2 A. Yes.

3 Q. Okay. Do Exhibit Bs exist for either of these
4 license agreements?

5 A. No.

6 Q. Have -- have sublicenses been granted by
7 Barrio Fiesta, LLC?

8 A. No.

9 Q. Have sublicenses been granted by TRiGroup --

10 A. No.

11 Q. -- Inc.?

12 No. Okay.

13 What is the earliest date that you offered
14 restaurant service as using Barrio Fiesta or Barrio
15 Fiesta Express?

16 A. January -- the first week of January 2011.

17 Q. What's the earliest date that you offered
18 packaged foods using Barrio Fiesta or Barrio Fiesta
19 Express branding?

20 A. Since the first week of January 2011.

21 Q. So when we talk about packaged foods, do you
22 see that as takeout food from the Barrio Fiesta Express
23 Restaurant?

24 A. Yes.

25 Q. Okay. So a customer comes in and orders a

1 dish and wishes to take it out, so you're going to
 2 package it in a bag that says "Barrio Fiesta Express,"
 3 but what does the takeout container look like?

4 A. It depends on the dish that is ordered. We
 5 have several kinds of packaging materials.

6 Q. Are any of them vacuum-packed?

7 A. No.

8 Well, let me take it back. For the most part,
 9 no, but we have sold other items that we vacuum-pack.

10 Q. Such as -- what's been sold in a vacuum pack?

11 A. Crispy pata, which is the pork hock. Lumpia
 12 shanghai, which is the egg rolls.

13 Q. Okay.

14 (Exhibit 6 marked for identification.)

15 BY MS. ROGOWSKI:

16 Q. All right. I'm handing you what's been marked
 17 as Defendant's Exhibit 6, which is -- was produced to us
 18 as BARRIO 10019 through 10025. I don't know if all of
 19 these go together, but I'd like to walk through the
 20 document and have you tell me what I'm looking at.

21 A. Okay.

22 Q. Okay. So on page 10019, what is this?

23 A. This is the crispy pata, the pork trotters or
 24 ham hock, that we sell. Page --

25 Q. Do you have -- yeah. Okay. All right.

1 So looking at this, are these on display in
 2 your restaurants?

3 A. No.

4 Q. So if a customer comes in and orders crispy
 5 pata to eat to consume on premises, they're not going to
 6 see this package?

7 A. No.

8 Q. If they order crispy pata to take home, will
 9 they see this package?

10 A. Not necessarily. Depends on what you would
 11 define as "home."

12 Q. Okay. If they're going to consume the crispy
 13 pata off your premises, so they want it to go, what
 14 would the packaging look like?

15 A. If they're going to consume it at home --
 16 "home" being nearby home -- then it would have a
 17 different packaging. We have customers that would come
 18 and buy it, and they live in New Jersey or Washington.
 19 Then we would package it this way.

20 Q. Okay. So you do a mail order business for
 21 some of your customers?

22 A. No.

23 Q. No.

24 How would a customer from New Jersey make a
 25 purchase from you?

1 A. They would visit the restaurant, either eat at
2 the restaurant or just buy it to go.

3 Q. Uh-huh.

4 A. And then if they say, you know, they're flying
5 out of California, then we would make arrangement to
6 package it this way.

7 Q. Okay. Understood.

8 Do you have a freezer case where products are
9 displayed within your store -- or your restaurant?

10 A. No.

11 Q. Okay. Looking at Defendant's Exhibit 6,
12 page 10020, can you tell me what this is a photograph
13 of?

14 A. Yeah. This is a photograph of our pata sauce,
15 which is the sauce for the pork trotters or the pork ham
16 hock.

17 Q. So if I'm a customer at your restaurant, is
18 one of these bottles on the table in the restaurant?

19 A. No.

20 Q. How would I see this product? If I was
21 sitting in your restaurant, would the pata sauce be in a
22 little container, I guess, or a jar or something?

23 A. Yes. If you're eating dining in, it would be
24 in a sauce container.

25 Q. Uh-huh. So when would I see the pata sauce

1 package in this way?

2 A. So if you want to buy, you know, more sauce
3 than the typical serving, we would actually sell -- sell
4 you the sauce.

5 Q. Okay. So someone -- a restaurant employee has
6 a stash of these behind the counter to give people, like
7 a ketchup container or something, or do they have to
8 package it to order each time?

9 A. We would have to package it to order each
10 time.

11 Q. Okay. All right. If I look at the next page
12 of Defendant's Exhibit 6, which is marked 10021, what am
13 I looking at?

14 A. This is a dish called "Beefsteak Tagalog."

15 Q. This document has a date in print on it of
16 12/17/2011.

17 Is that significant?

18 A. It's just when the photo was taken.

19 Q. Is this a photo of a dish that was going to be
20 displayed in advertising or on your menu or...

21 A. At the time that this was taken, I think we
22 were just taking a photo shoot of our food.

23 Q. Okay. I don't see a display of Barrio Fiesta
24 Express or Barrio Fiesta other than the stamping about
25 the production for the litigation.

1 A. This is an appetizer called "Lumpia Shanghai."
2 That's l-u-m-p-i-a; shanghai is s-h-a-n-g-h-i -- -h-a-i.

3 Q. Okay. Page 10017 of Defendant's Exhibit 6
4 appears to be a portion of a menu.

5 What am I looking at?

6 A. These are the individual meals that we serve
7 at the restaurant.

8 Q. Can you tell me a time frame for when these
9 are on your menu?

10 Is this a current menu or --

11 A. This is a current menu.

12 Q. At 2015 time frame?

13 A. Yes.

14 Q. All right. And on page 10018, what am I
15 looking at here?

16 A. This is the lumpia shanghai, which is the mini
17 egg rolls.

18 Q. Okay. This appears to be a vacuum-packaged
19 product.

20 Is that comparable to the crispy pata you
21 would -- if I'm eating at your restaurant, I don't see
22 this packaging?

23 A. (Nodding head.)

24 Q. Who sees this packaging?

25 A. Again, any customers that would have a long

1 way to go home, and then we would package it for them.

2 Q. Would this product be on display in your
3 store --

4 A. No.

5 Q. -- or in your retail restaurant?

6 Okay. Page BARRIO 10025, this one is --
7 appears to be date-marked 12/16/2011.

8 Can you tell me what I'm looking at?

9 A. This is the cooked ready-to-eat version of
10 crispy pata, the pork hock.

11 Q. Okay. Are there any outlets where Barrio
12 Fiesta Express packaged food is available to purchase in
13 California other than the two restaurants?

14 A. Not currently, no.

15 Q. Are you in progress in setting up distribution
16 of packaged food products in other locations other than
17 your two restaurants?

18 A. Yes.

19 Q. Can you tell me about that?

20 A. We were in discussion with a food manufacturer
21 that would produce our food and to be sold at Asian
22 supermarkets, and that was all set to go until the
23 company was given notice to be deposed or to be involved
24 in this lawsuit. So the president of that company has
25 decided to put things on hold until we resolve this

1 restaurants?

2 A. Well, we have been attempting to contact other
3 distribution companies such as Sysco Foods and have a
4 discussion about having our products distributed through
5 those avenues. We've pursued a conversation with bakery
6 shops to carry Barrio Fiesta bread and pastries. Of
7 course, we've talked to Asian supermarkets as well to
8 put our products in their -- in their stores.

9 Q. When were these efforts made? Are these all
10 2015 efforts, or did this start when you purchased the
11 restaurant? What's the time frame for your discussion?

12 A. The putting it in Asian supermarkets, that
13 conversation started in 2013.

14 Q. Okay.

15 A. The bakery portion, we've started pursuing
16 that in 2015.

17 Q. So today if I wished to purchase Barrio Fiesta
18 Express food at a location other than the restaurant in
19 Milpitas or the restaurant in San Jose, where might I do
20 so?

21 A. We don't have any products outside of our
22 current locations to date.

23 Q. Okay. Are we expected to have that
24 opportunity in 2016?

25 A. Well, we were expecting to actually roll it

1 Q. Okay. And then I look at Defendant's
2 Exhibit -- BARRIO 10095 -- or 10096. Excuse me. At the
3 bottom, it looks like later on that same day of
4 July 21st, 2015, you responded to Ms. Quesada. And you
5 say, "In brief and I will further expound in our
6 meeting, we are not related to the current line of
7 bagoong in the market."

8 Am I reading that correctly?

9 A. Yes.

10 Q. Is that what you wrote to Ms. Quesada on
11 July 21st, 2015?

12 A. Yes.

13 Q. Okay. And then if I look at page 10097, I see
14 the e-mail from you to Ms. Quesada goes on, "We are the
15 only one who holds the trademark rights to the brand and
16 we have taken actions to preserve and protect our
17 trademark rights."

18 What did you mean there?

19 A. At the moment that I wrote this e-mail, I
20 believed that we are the only one that has a registered
21 trademark and, therefore, has a right to that trademark.

22 Q. Okay. So you were looking at this in terms of
23 a registration for Barrio Fiesta Express?

24 A. Well, I think it's both because we -- when we
25 bought the restaurant, it dates back to -- as I

1 understand, it was 1992, but some of the City of
2 Milpitas shows 1994 as their record. When we bought it,
3 I think it predates even our trademark registration to
4 the brand. So I think I was -- I was not clear, but I
5 believe my frame of mind was to the registered trademark
6 and to the trademark itself.

7 Q. Okay. So there's a registered trademark for
8 Barrio Fiesta Express for fast-food restaurant services;
9 correct?

10 A. Yes.

11 Q. Okay. Are there any other registered
12 trademarks that you're relying on?

13 A. No.

14 Q. Okay. So you acknowledge in the prior
15 sentence of this e-mail to Ms. Quesada that Barrio
16 Fiesta Express is not related to the current line of
17 bagoong in the market.

18 So you're aware that there was other product
19 being sold as Barrio Fiesta in the United States?

20 A. Yes.

21 Q. Okay. What are the actions you took to
22 preserve and protect your trademark rights as mentioned
23 on this exhibit, Defendant's Exhibit 7 at page 10097?

24 Obviously, we have filed a -- a claim or a
25 case against Northridge Foods who currently distributes

1 MS. ROGOWSKI: Okay. We've been going about
2 an hour and a half, so I think it would be a good time
3 to take a break.

4 Do you agree?

5 THE WITNESS: I agree.

6 MS. ROGOWSKI: All right. Let's take a
7 ten-minute break.

8 (Recess taken: 10:34 a.m. until 10:36 a.m.)

9 BY MS. ROGOWSKI:

10 Q. Looking at the trademark license agreements
11 which were marked Defendant's Exhibit 5 and Defendant's
12 Exhibit 2, I noted that the owners of the Barrio Fiesta
13 Express trademark and the Barrio Fiesta Express logo
14 trademark are Justin Christian Rono and Ashley Kirsten
15 Rono.

16 How did they come to be the owners of the
17 trademark?

18 A. When we applied for a trademark, I felt it was
19 important to have them become -- be the owners as,
20 obviously, they're younger and, relatively speaking,
21 hope to have more years than I do.

22 Q. Okay. So they have involvement in running the
23 restaurants?

24 A. They worked at the restaurant, the management
25 of which they're not really involved in the day-to-day

1 operations.

2 Q. What efforts do they take to make sure that
3 the quality of products sold at the restaurant -- the
4 quality of food is maintained at the level that is the
5 "Barrio Fiesta Way" or however that was worded?

6 A. Uh-huh. Well, since they work at the
7 restaurant, they're able to see -- visually see and
8 inspect the food that comes out.

9 Q. Okay. So day to day, one of them is each --
10 is working at each restaurant?

11 A. Not day to day. When they are there.

12 Q. Okay. How frequently do they work at the
13 restaurant?

14 A. Before, they had more days that they spent
15 there when they were still going through school.

16 Q. Uh-huh.

17 A. Now that they are done with school, they have
18 other work outside of the restaurant, but they're still
19 available to help when needed.

20 Q. Okay. We noticed, as an attachment to the
21 complaint, that ownership of the trademark registration
22 for Barrio Fiesta Express was assigned from Justin
23 Christian Rono and Ashley Kirsten Rono to include a
24 group of three persons.

25 So now it appears that at the records of the

1 trademark office -- I'll show you this; we'll mark it in
2 a second -- the owners of the Trademark Registration
3 4034365 are June Francis Rono, Ashley Kirsten Rono, and
4 Justin Christian Rono; is that correct?

5 A. That's correct.

6 Q. Has there been a new trademark license
7 agreement issued to either Barrio Fiesta, LLC or
8 TRiGroup, Inc. after this assignment occurred?

9 A. No.

10 Q. Okay. So can you tell me the date of -- the
11 effective date of the assignment to -- between
12 Justin Christian Rono and Ashley Kirsten Rono to Barrio
13 Fiesta, LLC, which is Defendant's Exhibit 2,
14 supplemental pages 000006 to 15?

15 A. The document shows January 4th, 2012.

16 Q. Okay. And if I look back at this assignment
17 of the entire interest -- it's an abstract, I
18 acknowledge, attached as an exhibit to the complaint --
19 it would appear that signed on November 24th, 2014, the
20 ownership of this trademark registration changed; is
21 that correct?

22 A. Yes. According to the document, yes.

23 MS. ROGOWSKI: Okay. So what I'd like to do
24 is just have the reporter apply the next exhibit number
25 to the complaint so we can talk more about the

1 a lot of Barrio Fiestas, the company name as well as the
 2 mark.

3 So you're asserting your rights in the
 4 registered trademark Barrio Fiesta Express have been
 5 infringed; correct?

6 A. That's correct.

7 Q. And you're asserting that rights in the common
 8 law trademark Barrio Fiesta without the "Express" --

9 A. Yes.

10 Q. -- as part of the mark has been infringed?

11 A. Yes.

12 Q. Okay. Do you, Barrio Fiesta, LLC, ever use
 13 "Barrio Fiesta" as your branding without adding the
 14 "Express"?

15 A. Yes.

16 Q. What are the instances where that occurs?

17 A. Our menu has just "Barrio Fiesta"; our website
 18 also just has "Barrio Fiesta"; our communication in
 19 terms of signature block has "Barrio Fiesta"; and in
 20 most of our discussions, we only use the words "Barrio
 21 Fiesta."

22 Q. Okay. So when we looked at the packaged foods
 23 that I saw in Defendant's Exhibit 6, those ones, to the
 24 extent they had labeling, used "Barrio Fiesta Express."

25 Are there any packaged foods that are sold

1 that do not -- that use "Barrio Fiesta" without the
2 "Express"?

3 A. No.

4 Q. Okay. All right. Is it your contention that
5 Northridge Foods began selling or assisting Barrio
6 Fiesta Manufacturing Corp. in selling food products in
7 the United States after your earliest priority for use
8 of Barrio Fiesta or Barrio Fiesta Express?

9 A. Would you repeat the question again?

10 Q. I hope I can.

11 MS. LABUTTA: Here (indicating).

12 BY MS. ROGOWSKI:

13 Q. Is it your contention that Northridge Foods
14 began selling or assisting Barrio Fiesta Manufacturing
15 Corporation in selling food products in the
16 United States after your earliest priority for use of
17 Barrio Fiesta or Barrio Fiesta Express?

18 A. As far as I know.

19 Q. Okay. So is -- the earliest date that you
20 purchased the restaurant, we know, is in 2011?

21 A. No.

22 Q. No.

23 2010?

24 A. Yes.

25 Q. Okay. And you're relying on an earlier date

1 than 2010 for your use of Barrio Fiesta or Barrio Fiesta
2 Express?

3 A. Yes.

4 Q. Okay. What is the early date that you're
5 relying on?

6 A. I -- I was under the impression it was 1992
7 when the restaurant opened, but apparently, the City
8 does not have a record of 1992; although, the
9 employees -- the original employees tells me -- or told
10 me that they opened in 1992. The record shows that --
11 according to the City of Milpitas, that the business
12 permit was dated 1994.

13 Q. So there was a business permit for the Barrio
14 Fiesta in Milpitas, California, in 1994?

15 A. Yes.

16 Q. Okay. Has that been produced to us?

17 A. Yes, as far as I know.

18 Q. Okay. All right. What -- what evidence do
19 you have that the restaurant operated each year since
20 1994?

21 A. Because it has been operating since 1994. We
22 still have an original employee that was there when it
23 opened, and he's still there.

24 Q. And who is that?

25 A. Gaspar de Guzman, d-e, G-u-z-m-a-n.

1 Q. Okay. So he's worked there continuously since
2 1992/'4?

3 A. He tells me 1992, but the record shows 1994.

4 Q. Okay. So if --

5 A. Oh, if I may add.

6 Q. Yeah.

7 A. Also, the City of Milpitas records would show
8 that it's been in continuous operations through a
9 business permit since 1994.

10 Q. Okay. So they at least paid their business
11 permit fee through the City?

12 A. Yes.

13 Q. Okay. But you have no personal knowledge
14 whether the restaurant was open from 1994 through the
15 year that you purchased it.

16 What's your personal knowledge?

17 A. My personal knowledge would be from 1996 up to
18 the time that we purchased it.

19 Q. Okay. So you were a patron of the restaurant?

20 A. Yes.

21 Q. Okay. There's an allegation called "Count IV"
22 in the complaint, looking at Defendant's Exhibit 8, on
23 page 8 of the complaint, paragraph 40, alleging unfair
24 competition.

25 Is there any activity that you are alleging

1 beyond the use of "Barrio Fiesta" on packaged food by
2 Northridge Foods?

3 A. I think that is the basis of our claim, is
4 that they're using it for Barrio Fiesta products.

5 Q. Okay. So there's no other activity being
6 conducted by Northridge Foods that forms the basis of
7 your complaint for unfair competition against Northridge
8 Foods other than the fact that Northridge Foods
9 facilitates distribution of Barrio Fiesta packaged food
10 products in the United States?

11 A. If there is, I'm not currently aware of it.

12 Q. Okay. One of the topics that you were asked
13 to testify about, sir, is the allegations of the
14 complaint.

15 So I ask again, is there any other activity by
16 Northridge Foods that forms the basis of the alleged
17 common law unfair competition other than Northridge
18 Foods facilitating the sale of Barrio Fiesta food
19 products in the United States?

20 A. No. That is the -- just the basis of our
21 claim.

22 Q. All right. Is it your contention that Barrio
23 Fiesta Express is a famous trademark?

24 A. Yes.

25 Q. What advertising expense have you -- what

1 amount of advertising have you invested in each year for
2 Barrio Fiesta Express?

3 A. I don't know the exact amount, but it's -- I
4 can say that it's not very much because we have not
5 started any major advertising yet.

6 Q. Okay. So we know about the website, which I
7 guess is the barriofiesta.com website.

8 That's --

9 A. Yes.

10 Q. -- from Barrio Fiesta, LLC; correct?

11 A. Yes.

12 Q. Okay. Is there any other advertising that the
13 company engages in?

14 A. We have barriofiestaexpress.com, another
15 website.

16 Q. Okay.

17 A. We've obviously invested in menus, business
18 cards. We've been featured on local television.

19 Q. Uh-huh.

20 A. And we're pursuing other discussions to get
21 our -- our brand advertised through other means.

22 Q. Okay. What would those other means be?

23 A. We've had conversations with The Filipino
24 Channel, a local -- well, it's not local, but it's
25 locally shown; and it shows Filipino movies, a variety

1 of shows, and we had discussions about advertising
2 there. We've had conversations with Power ng Pinoy,
3 which is another show on a different network. And we've
4 had discussions with Manila Mail, a print media
5 publication that caters to Filipinos.

6 Q. Is the audience for those opportunities
7 primarily California?

8 A. Well, these channels are -- are shown
9 throughout the entire United States. So...

10 Q. Okay.

11 A. Yeah, it's -- the exposure is within the
12 entire United States.

13 Q. Have any of those programs been broadcast?

14 A. No.

15 Q. Have any advertisements been broadcast
16 nationally for Barrio Fiesta or Barrio Fiesta Express or
17 Barrio Fiesta, LLC?

18 A. Just one that's been advertised, I think,
19 beyond the Bay Area of California, which is Check,
20 Please! Bay Area by KQED, a public television.

21 Q. Okay. Yeah, the PBS station here.

22 A. Yes. Uh-huh.

23 Q. That's a famous one in terms of the station.

24 A. Uh-huh.

25 Q. Do you know if that has been broadcast

1 throughout the U.S.?

2 A. I don't know that for a fact.

3 Q. Is there any -- do you allege that Northridge
4 Foods has made any disparaging statements about Barrio
5 Fiesta, LLC?

6 A. I'm not aware of any.

7 Q. Do you allege that Northridge Foods has made
8 any disparaging statements about TRiGroup?

9 A. I'm not aware of any.

10 Q. Are you alleging that Barrio Fiesta
11 Manufacturing Corp. has made any disparaging statements
12 about Barrio Fiesta, LLC?

13 A. No, I'm not aware of any.

14 Q. Are you aware of any -- or are you alleging
15 that -- are you aware of any statements by Barrio Fiesta
16 Manufacturing Corp. that disparage TRiGroup?

17 A. I'm not aware of any.

18 Q. Are you aware that in the complaint, which has
19 been marked as Defendant's Exhibit 8, that the date
20 alleged in terms of first use of the Barrio Fiesta
21 trademark is as early as January of 2011?

22 A. Yes.

23 Q. Okay. But today you're alleging that you
24 believe you are able to rely on an earlier date for
25 priority?

1 A. Yes.

2 Q. And you're alleging that earlier date is 1994,
3 possibly 1992?

4 A. Yes.

5 Q. Okay. You don't have evidence of an earlier
6 use date for Barrio Fiesta or Barrio Fiesta Express by
7 Barrio Fiesta, LLC or any of its predecessors?

8 A. Say that again.

9 Q. You don't have evidence to substantiate that
10 Barrio Fiesta or Barrio Fiesta Express were used as
11 trademarks by Barrio Fiesta, LLC or one of its
12 predecessors in interest prior to 1994, possibly 1992?

13 A. That's correct.

14 Q. Okay. And you are relying on your
15 understanding that there was use prior to 2011 based on
16 the fact that you were a patron of the restaurant
17 starting in 1996 until you purchased it --

18 A. (Nodding head.)

19 Q. -- and because the employee has said that he
20 also worked there starting in 1992 or 1994?

21 A. (Nodding head.)

22 Q. Okay.

23 A. And, in addition, the City records also shows
24 that.

25 Q. Also City records. Okay.

1 How did you select to file the complaint
2 against Northridge Foods International?

3 A. I conferred with my legal counsel.

4 MR. CAI: You don't have to disclose any
5 communication between your legal counsel and yourself.

6 (Exhibit 9 marked for identification.)

7 BY MS. ROGOWSKI:

8 Q. All right. So what's been marked as
9 Defendant's Exhibit 9 is a copy of Plaintiff Barrio
10 Fiesta, LLC's Responses to Defendant Northridge Foods
11 International, Inc.'s First Set of Interrogatories. And
12 this is the response that's dated "served October 21,
13 2015." And I'd like to turn to page 6 of the document
14 and Interrogatory No. 9.

15 Okay. Here I see "Revenues per year (based on
16 sales figures submitted to the California Board of
17 Equalization)" in response to the question, "For each
18 calendar year since the date of first use of each of
19 Your Marks in the United States, state the total
20 revenues derived from the products and services provided
21 under each of Your Marks in the United States."

22 Can you tell me what the California Board of
23 Equalization is?

24 A. They're the governing body that each business
25 has to report their sales and pay sales taxes on those

1 sales.

2 Q. Okay. So it's the sales tax --

3 A. Yes.

4 Q. -- aspect of California?

5 A. Yes.

6 Q. Okay. So when you submitted these figures to
7 the California Board of Equalization, these are your
8 gross revenue figures?

9 A. Yes.

10 Q. Okay. Can you tell me what portion of sales
11 for each year would have been vacuum-packaged food?

12 A. Would you repeat the question?

13 Q. Can you tell me what portion of the sales
14 listed -- sales revenues listed in Response to
15 Interrogatory 9 would have been vacuum-packaged food?

16 A. 2011, we were not using the -- the vacuum --
17 food vacuum. I think we used part of it in 2012. I
18 don't know what percentage but not -- I would say not
19 substantial. And for 2013, 2014, we've -- or to
20 current, we've used it, but again, it's only for those
21 people that would go out of the country.

22 Q. Or out of the state?

23 A. Or out of the state.

24 Q. Okay. So operating -- are these responses by
25 Barrio Fiesta, LLC only giving us the revenues for

1 when we took over, there's a lot of stuff that we needed
2 to do; so we rolled some of that profit back into the
3 restaurant improvements.

4 Q. What kind of improvements?

5 A. We put in a -- a new HVAC system, heating and
6 cooling. We put in walk-in refrigerators, walk-in
7 freezers. We bought, basically, all new equipment --
8 well, not equipment but utensils, glasses, pots and
9 plans, plates, and other new equipment.

10 Q. Okay. Are you able to identify what portion
11 of the sales were food served to patrons in the
12 restaurant versus the packaged food?

13 I think I'm reasking, in a sense, but I want
14 to understand if there's a way we can determine that.

15 A. You know, we do have records that would show
16 our POS. We have a machine that would identify whether
17 it's eaten inside of the restaurant or to go, but
18 there's no delineation between -- within the to-go
19 orders, whether it's packaged, vacuum-sealed, or just
20 regular packaging.

21 Q. Okay. Do you keep a record of all those
22 expenses that we discussed?

23 A. Yes.

24 Q. Okay.

25 (Exhibit 10 marked for identification.)

1 BY MS. ROGOWSKI:

2 Q. All right. So what has been marked as
3 Defendant's Exhibit 10 is a series of purchase
4 agreements. The production numbers are BARRIO 10073
5 through 10086.

6 And looking at these, I believe these are the
7 purchase agreements you told me you had reviewed before
8 the deposition today?

9 A. Yes.

10 Q. Okay. All right. So the first agreement
11 is -- let's see.

12 All right. So looking at page BARRIO 10078 to
13 10081, this appears to be a purchase agreement between
14 The Original Barrio Fiesta Restaurant of Manila,
15 Milpitas branch, by Reynaldo Ongpauco and Gregorio L.
16 Rufino and Prescilla N. Rufino.

17 Do you see that?

18 A. Yes.

19 Q. Okay. So it appears that in 1994 --
20 June 10th, 1994 -- the Rufinos purchased the Milpitas
21 branch Original Barrio Fiesta Restaurant of Manila from
22 Reynaldo Ongpauco, and it appears that his wife also
23 signed this agreement, Maria Cecilia Ongpauco; is that
24 correct?

25 A. Yes.

1 Q. Okay. As I see it, the purchase price for
2 that restaurant at that time was \$150,000; is that --
3 paragraph 1 on page 10078; is that correct?

4 A. Yes.

5 Q. All right. Do you have the management
6 policies and procedures of the other Barrio Fiesta
7 Restaurants that's mentioned in paragraph 4 of this
8 document on page 10079?

9 A. No.

10 Q. What evidence do you have that Reynaldo
11 Ongpauco operated The Original Barrio Fiesta of Manila
12 Restaurant in Milpitas?

13 A. The original employee who worked for Reynaldo,
14 which he actually brought the employee from the
15 Philippines, has stated that -- that it was operating in
16 1992.

17 Q. Okay. Do you know Reynaldo Ongpauco?

18 A. No.

19 Q. Have you ever met Reynaldo Ongpauco?

20 A. No.

21 Q. Have you ever met Maria -- have you ever met
22 Maria Cecilia Ongpauco?

23 A. No.

24 Q. Do you know if Reynaldo Ongpauco used Barrio
25 Fiesta or The Original Barrio Fiesta of Manila as a

1 trademark for any other purpose than operating the
2 restaurant in Milpitas?

3 A. I don't know that for certain.

4 Q. Have you met any of the brothers or sisters of
5 Reynaldo Ongpauco?

6 A. No.

7 Q. As I look at page 10079 of Defendant's
8 Exhibit 10, it appears that paragraph 8 indicates that
9 Mr. Reynaldo Ongpauco agreed that he would not compete
10 within a 15-mile radius of the Milpitas restaurant.

11 Do you see that?

12 A. Yes.

13 Q. Does this indicate that there will be other
14 Original Barrio Fiesta of Manila Restaurants in
15 California?

16 A. I don't know that.

17 Q. You are aware of other Barrio Fiesta --
18 Original Barrio Fiesta of Manila Restaurants operating
19 in California?

20 A. Yes.

21 Q. And I think we discussed earlier today that at
22 least the Glendale location, you have not taken effort
23 to stop that --

24 A. That's correct.

25 Q. -- location from operating?

1 Are there any other Barrio Fiesta Restaurants
2 in the San Jose area besides the ones that Barrio
3 Fiesta, LLC and TRiGroup operate?

4 A. No.

5 Q. Okay. If I look now at -- if I look now at
6 Defendant's Exhibit 10 at pages 10073 to 10077, this
7 appears to be a purchase agreement between George Rufino
8 and Prescilla Rufino and Albert Zamora and Judith Zamora
9 dated July 7th, 2004; is that correct?

10 A. Yes.

11 Q. Okay. All right. If I look at page 10073 at
12 paragraph 1, subpart c, as in "Charley," I see mention
13 of the purchase of the proprietary name Barrio Fiesta of
14 Manila and Barrio Fiesta Restaurant, its logo, are being
15 transferred and all other conditions set forth in the
16 original purchase agreement between Reynaldo Ongpauco,
17 Maria Cecilia Ongpauco, and Gregorio and Prescilla
18 Rufino dated January -- or June 10th, 1994 as it relates
19 to the goodwill of Barrio Fiesta.

20 That's what's been transferred; is that
21 correct?

22 A. Yes, whatever is stated in paragraph 1.c.

23 Q. Okay. All right. I'm switching back and
24 forth, and I apologize for that, but if we look at the
25 earlier agreement between the Ongpaucos and the Rufinos

1 at page 10079, we see an obligation at paragraph 4 for
 2 the Rufinos, the second party, to maintain the good name
 3 of Barrio Fiesta and the excellent quality of food and
 4 services in accordance with the management policies and
 5 procedures of the other Barrio Fiesta Restaurants.

6 Do you see that?

7 A. Yes.

8 Q. So I understand that to mean that there was a
 9 management policies and procedures of the other Barrio
 10 Fiesta Restaurants at least existing in June of 1994.

11 Do you agree with that?

12 MR. CAI: Objection.

13 THE WITNESS: I don't know that.

14 MR. CAI: Calls for speculation.

15 THE WITNESS: I don't know that for a fact.

16 BY MS. ROGOWSKI:

17 Q. All right. So if we look at the Defendant's
 18 Exhibit 10 at BARRIO 10073 -- let's see -- there's an
 19 incorporation by reference at this paragraph 1.c. so
 20 that the conditions -- all other conditions set forth in
 21 the original purchase agreement between the Ongpaucos
 22 and the Rufinos is part of this purchase agreement
 23 between the Rufinos and the Zamoras.

24 Do you disagree with that?

25 A. That's what the document stated. So...

1 Q. Okay. And I see here that the purchase price
2 for the restaurant, on page 0- -- 10074, at paragraph 3
3 of the agreement in 2004, is now \$75,000; is that
4 correct?

5 A. Yes.

6 Q. Okay. So in 1994, the location was at a
7 purchase price of \$150,000 between the Ongpaucos and the
8 Rufinos, and now the Rufinos are selling for -- the same
9 location restaurant for 75,000; is that correct?

10 A. Yes.

11 Q. Okay. Do you have any understanding why the
12 price would have gone down?

13 A. I don't.

14 Q. All right. So, now, if I look at the
15 agreement where you purchased the restaurant, which is
16 Defendant's Exhibit 10 at pages 10082 to 10086, this is
17 titled "PURCHASE AGREEMENT AND CONTRACT For The Original
18 Barrio Fiesta of Manila Restaurant," and it's an
19 agreement between Albert Zamora, Judith Zamora, and
20 June Francis Rono.

21 The June Francis Rono is you; correct?

22 A. Yes.

23 Q. Okay. This agreement is dated August 30th,
24 2010, but it would appear that the title of the
25 restaurant transferred on January 2nd, 2011; is that

1 correct?

2 A. Yes.

3 Q. Okay. And looking at this agreement, I see
4 now that the purchase price for the Barrio Fiesta
5 Restaurant business is \$135,000.

6 This is on page 10083 at paragraph 3; is that
7 correct?

8 A. Yes.

9 Q. Okay. And then looking at paragraph 1,
10 subpart c, on page 10082 of Defendant's Exhibit 10, I
11 see again what I would -- what looks like an
12 incorporation by reference.

13 This time, both the 1994 agreement and the
14 2004 agreement are mentioned; is that correct?

15 A. Yes.

16 Q. Okay. And as I read paragraph 1, subpart c,
17 it says, "and all" -- that "The purchase price includes
18 the use of the proprietary name BARRIO FIESTA RESTAURANT
19 OF MANILA, BARRIO FIESTA RESTAURANT, THE ORIGINAL BARRIO
20 FIESTA RESTAURANT OF MANILA, its logo, menu, utensils,"
21 and then it says, "and all other conditions set forth in
22 the original PURCHASE AGREEMENT AND CONTRACT between
23 Reynaldo Ongpauco, Maria Cecilia Ongpauco,
24 Gregorio Rufino, Prescilla Rufino DATED June 10th,
25 1994."

1 So -- "and all other conditions," so I read
2 that as the conditions of the 1994 agreement are part of
3 this agreement in 2010/2011; is that correct?

4 MR. CAI: Objection. Calls for speculation.
5 Argumentative.

6 BY MS. ROGOWSKI:

7 Q. You need to answer.

8 MR. CAI: You can answer.

9 THE WITNESS: As I understand it, it includes
10 that plus what's written in the rest of the document.

11 BY MS. ROGOWSKI:

12 Q. And you did, in fact, pay all of the purchase
13 price to the Zamoras as per the contract here specified?

14 A. There was an amendment to the contract price.

15 Q. Where would I find the amendment?

16 A. I would have to locate it.

17 Q. What is your recollection of the amendment?

18 A. That regarding the amount due, both parties
19 agreed that the amount would be less than what's stated
20 in this document, the 120,000.

21 Q. Okay. So there was a payment -- upon signing
22 the agreement, there was a \$5,000 payment.

23 A. Yes.

24 Q. That did occur?

25 A. Yes.

1 Q. Okay. Then there was a payment due of \$10,000
2 on January 2nd, 2011.

3 Did that payment occur?

4 A. Yes.

5 Q. Okay. So then there was a subsequent payment
6 to be made in January of 2012, and that payment did not
7 occur, or what --

8 A. The payment -- the payment occurred, but it's
9 less than \$120,000.

10 Q. Okay. So what caused the purchase price for
11 the Barrio Fiesta Restaurant to be changed from what's
12 stated in this agreement?

13 A. The -- one of the sellers who -- who -- upon
14 us taking over, we retained her as a manager. And
15 during the course of her employment with us, we found
16 out that she was making disparaging remarks about the
17 management of the restaurant. And I felt that she was
18 having a tough time letting go of what used to be her
19 restaurant.

20 Q. Uh-huh.

21 A. And so we felt that was a breach of the
22 agreement that we signed.

23 Q. Uh-huh.

24 A. And so we met with -- I met with Albert Zamora
25 and told him that what his wife was doing was not

1 proper, I believed it was a breach of the agreement, and
2 that either he takes the restaurant back or we pay a
3 discounted rate for that restaurant.

4 Q. Okay. Was that commemorated in writing --

5 A. Yes.

6 Q. -- that amendment?

7 A. Yes.

8 Q. Okay. To my knowledge, that has not been
9 produced to us; so we need to find that.

10 A. Sure.

11 Q. What kind of disparaging remarks were made
12 about the management?

13 A. She made some comments to some of the patrons
14 that the quality of the food has gone down since new
15 management took over. She made some disparaging remarks
16 with employees. I'm not sure all of the things that she
17 said, but those comments were made.

18 Q. Okay. And that occurred in 2011?

19 A. Yes.

20 Q. Did that hurt the business? Did her comments
21 hurt your business?

22 A. Well, to the degree that we have customers
23 that she spoke with and made those remarks, telling us
24 that they will never go back to the restaurant.

25 Q. When did the branding change from The Original

1 don't know if it even existed, quite frankly; so I don't
2 know.

3 Q. Okay. Do you know if the Rufinos sold
4 packaged foods apart from takeout food at the
5 restaurant?

6 A. I don't know.

7 Q. Do you know if the Zamoras sold packaged food
8 apart from takeout food when they operated the
9 restaurant?

10 A. I do not know.

11 Q. Prior to filing the complaint in this
12 litigation, was any effort made to contact Northridge
13 Foods about its infringement?

14 A. No.

15 Q. Have either of Barrio Fiesta, LLC or TRiGroup
16 notified Justin and Ashley Rono about other
17 infringements of the Barrio Fiesta trademark?

18 A. Only with respect to the two restaurants in
19 Southern California and our recent knowledge about one
20 in Calumet City, Illinois.

21 Q. Okay. Have you ever met Erlinda or
22 Alex Alianan?

23 A. No.

24 Q. Have you ever been contacted by anyone from
25 Northridge Foods?

1 A. No.

2 Q. Are you aware that Northridge Foods has an
3 exclusive arrangement with Barrio Fiesta Manufacturing
4 Corporation to sell packaged food in the United States
5 using the Barrio Fiesta trademark?

6 A. I don't know that.

7 Q. Has Barrio Fiesta, LLC entered any franchising
8 agreements?

9 A. No.

10 Q. Have the Ronos, Justin and Ashley -- Justin or
11 Ashley Rono, entered any franchising agreements?

12 A. No.

13 Q. Have you entered any franchising agreements?

14 A. No.

15 Q. What is the Barrio Fiesta, LLC business in the
16 Greenhills branch in Manila?

17 A. I have no idea.

18 (Exhibit 11 marked for identification.)

19 BY MS. ROGOWSKI:

20 Q. What has been marked as DX 11, Defendant's
21 Exhibit 11, appears to be an e-mail coming from someone
22 who is interested in opening a Barrio Fiesta Restaurant,
23 and they mention, about the fourth line down, having a
24 sumptuous meal at your Greenhills branch in Manila.

25 Do you know what they're referencing?

1 AFTERNOON SESSION

1:06 P.M.

2 ----oOo----

3 MS. ROGOWSKI: Okay. Let's begin again.

4 EXAMINATION (RESUMED)

5 BY MS. ROGOWSKI:

6 Q. So looking at Defendant's Exhibit 6, which I
7 hope is still there, are the packaged foods of this type
8 with the vacuum pack available from both the Milpitas
9 location and the San Jose location?

10 A. Actually, it's more in the Milpitas location.

11 Q. Okay. So if folks want what you were
12 describing as takeout that's in vacuum packaging, that's
13 available from Milpitas --

14 A. Yes.

15 Q. -- but not from San Jose?

16 A. That's correct.

17 Q. Okay. If folks want takeout that's not
18 vacuum-packaged, is that available from Milpitas and
19 San Jose?

20 A. Yes.

21 MS. ROGOWSKI: Okay. All right. I had a
22 question about the websites. I think this might already
23 be marked, but let's do it again so we can talk
24 together.

25 So I need two.

1 MS. LABUTTA: Sure.

2 (Exhibits 13 and 14 marked for
3 identification.)

4 BY MS. ROGOWSKI:

5 Q. All right. So I'll hand you these two pages.

6 All right. So looking at what's been marked
7 as Defendant's Exhibit 13, the top of which has "Barrio
8 Fiesta Express San Jose" in the banner, it says, "Barrio
9 Fiesta Restaurant is part of TRiGroup, Inc.'s Food
10 Service Division focused on creating a truly unique and
11 memorable dining experience for all our customers."

12 Okay. So what is the relationship between
13 TRiGroup, Inc. and Barrio Fiesta Express in San Jose?

14 A. TRiGroup, Inc. is the company that operates
15 Barrio Fiesta San Jose.

16 Q. Okay. What is TRiGroup, Inc.'s relationship
17 to Barrio Fiesta, LLC?

18 A. There is no relationship other than Barrio
19 Fiesta, LLC provides the labor force for the San Jose
20 location.

21 Q. Okay. All right. Then looking at what's been
22 marked as Defendant's Exhibit 14, this one has a banner
23 that says "Barrio Fiesta Milpitas."

24 In looking at this, I see "Barrio Fiesta
25 Milpitas." It does not say "Barrio Fiesta Express"; is

1 that correct?

2 A. That's correct.

3 Q. Okay. So the Milpitas location uses "Barrio
4 Fiesta" without the "Express"?

5 A. Well, we use both. The regular menu is
6 "Barrio Fiesta," and our to-go menu, we use "Barrio
7 Fiesta Express."

8 Q. So is there a to-go menu that customers can
9 pick up from the counter or something at --

10 A. Yes.

11 Q. Yeah?

12 A. Yes.

13 Q. And that's at both the Milpitas and
14 San Jose --

15 A. Yes.

16 Q. -- locations?

17 A. Yes.

18 Q. Okay. Let's see.

19 So the signage at Barrio Fiesta, the
20 restaurant location in Milpitas, says "The Original
21 Barrio Fiesta of Manila"?

22 A. Yes.

23 Q. Is there signage that says "Barrio Fiesta
24 Express"?

25 A. Well, let me clarify. There are two signage

1 in front of the restaurant: One just says "Barrio
 2 Fiesta," and to the left of that sign is "The Original
 3 Barrio Fiesta of Manila."

4 Q. Okay. So I don't have a photo of the front.
 5 Is it like the front -- the signage out front
 6 or something that --

7 A. Yes. Yes.

8 Q. Okay. So it says "The Original Barrio Fiesta
 9 of Manila," and then it says "Barrio Fiesta," like, on
 10 the door? Where --

11 A. Yeah, "Barrio Fiesta" in huge signage letters,
 12 and then in the smaller signage letters, it says "The
 13 Original Barrio Fiesta of Manila."

14 Q. Okay. Is there any signage in the Milpitas
 15 restaurant that says "Barrio Fiesta Express"?

16 A. Other than what's on the to-go menu.

17 Q. Okay.

18 A. Yeah.

19 Q. Okay. So -- and then on the websites, like,
 20 they link to one another, but when we're talking about
 21 the Milpitas restaurant, we use the banner "Barrio
 22 Fiesta Milpitas"; is that correct?

23 A. On the website, yes.

24 Q. And then when we're referring to the San Jose
 25 location, it uses "Barrio Fiesta Express"?

1 A. Yes.

2 Q. Okay. In your restaurants, do you use
3 containers or bags printed with "Barrio Fiesta" or
4 "Barrio Fiesta Express" when folks have takeout?

5 A. No.

6 Q. So the -- they get their takeout in plain
7 containers and plain bags?

8 A. That's correct.

9 Q. Okay. Are there different menus available in
10 San Jose from Milpitas?

11 A. Yes.

12 Q. Okay. What are the differences?

13 A. The San Jose location has a smaller kitchen,
14 so it doesn't have the capacity to bring all of the menu
15 items that we would like.

16 Q. Uh-huh.

17 A. And so we've compressed the menu to have menu
18 items that we believe are the ones that sells -- that we
19 sell the most.

20 Q. Okay. So it's a condensed version of the more
21 fuller menu that's available in the Milpitas location?

22 A. Exactly.

23 Q. Okay. So if I'm doing a chart of the
24 ownership structure of the restaurants, do I -- do I
25 have TRiGroup on one side of that and Barrio Fiesta, LLC

1 on the other side of that, or am I understanding that
2 Barrio Fiesta, LLC is below TRiGroup?

3 A. No.

4 Q. Okay.

5 A. Each company is distinct and separate on its
6 own.

7 Q. Uh-huh.

8 A. One operates the -- Barrio Fiesta, LLC
9 operates the Milpitas location, and then TRiGroup
10 operates the San Jose location. They're not -- they're
11 not subservient or over each other.

12 Q. Okay. So they're not affiliates of one
13 another or --

14 A. They're not affiliates to one another.

15 Q. Okay. The relationship, then, is that you
16 have some employees that are provided by Barrio Fiesta,
17 LLC to the TRiGroup's location in San Jose, but
18 otherwise, they're separate companies, totally operated
19 separately --

20 A. That's correct.

21 Q. -- is what I'm hearing.

22 A. Yes.

23 Q. Okay. Do they have overlapping officers?

24 A. Yes.

25 Q. Okay. But you've set them up to be distinct

1 companies?

2 A. Yes, they are distinct companies.

3 Q. Okay. Let's see. All right. DX 2 is --
4 Defendant's Exhibit 2 and Defendant's Exhibit 5 are the
5 two trademark licenses, and Defendant's Exhibit 8 is the
6 complaint.

7 And so what I see referring to ownership of
8 the registration for Barrio Fiesta Express are -- in the
9 complaint, the attachment at Exhibit A indicates that we
10 have Ashley Rono and Justin Rono who have assigned so
11 that the three -- so that the ownership is now three
12 persons -- June Francis Rono, Ashley Kirsten Rono, and
13 Justin Christian Rono -- for that trademark
14 registration. And then I see that the trademark
15 assignments mention Justin Rono and Ashley Rono as
16 making those assignments.

17 Do you have any other documents that reflect
18 the own- -- concern the ownership for that U.S.
19 Trademark Registration 4034365 for Barrio Fiesta
20 Express?

21 A. No.

22 Q. Okay. So we have the universe of documents
23 concerning the ownership but for we don't have the
24 assignment itself. We're showing you a summary of it or
25 the recordation of it.

1 A. (Nodding head.)

2 Q. So we need that assignment.

3 But once we get that assignment, that would be
4 the universe of documents that reflect ownership of the
5 Trademark Registration 4034365 for Barrio Fiesta
6 Express?

7 A. Yes.

8 Q. Okay. All right. When -- I think when I was
9 asking you questions about Defendant's Exhibit 3, which
10 is this set of menus, I guess I didn't appreciate that
11 Barrio Fiesta Express, the to-go menu, this lists the
12 Milpitas location but is using the Barrio Fiesta Express
13 logo trademark; correct?

14 A. Yes.

15 Q. Okay. So is this available in the -- is this
16 version of the menu available in the Milpitas location?

17 A. A new version of that, of the menu, is
18 available. We changed the pricing, so -- there was a
19 change in pricing, so we could not use the old pricing
20 of this old menu.

21 Q. Okay. But the menu would have a page that
22 says "The Original Barrio Fiesta of Manila"?

23 A. Not the current menu.

24 Q. Not the current one?

25 A. No.

1 Q. Okay. So all the menus now have "Barrio
2 Fiesta Express" or they just say "Barrio Fiesta"?

3 A. It just says "Barrio Fiesta."

4 Q. Okay.

5 A. Other than the to-go menu which has the
6 "Express."

7 Q. All right. And the to-go menu we can get
8 online or we could get in the restaurant?

9 A. Yes.

10 Q. Okay. All right. I'd like to look at the
11 interrogatory responses, which are Defendant's
12 Exhibit 9, the original ones, and we also have the
13 supplementals. We haven't marked them yet.

14 So this is Defendant's Exhibit 9, and I'm
15 looking at Interrogatory No. 14, which is on page 8 of
16 Defendant's Exhibit 9. And it says that "Responding
17 Party," which is Barrio Fiesta, LLC, "has a minimum of
18 \$1 million in damages," in response to the interrogatory
19 "State the amount(s) and the basis for your calculation
20 of damages due to alleged infringement of Your Marks by
21 Northridge."

22 How do you arrive at \$1 million in damages?

23 A. We have -- well, I have not really quantified
24 exactly what the value is of the trademark, but I
25 believe that the trademark is very valuable, and I

1 believe that, at a minimum, that should have at least
2 that value, if not more.

3 Q. When you say "the trademark" -- be specific
4 now -- are we talking about The Original Barrio Fiesta
5 of Manila?

6 A. I'm talking about the Barrio Fiesta, that
7 trademark in -- yes.

8 Q. All right. So I want to make sure I
9 understand.

10 When we say "the trademark" in your response,
11 you're talking about Barrio Fiesta or Barrio Fiesta
12 Express or The Original Barrio Fiesta of Manila?

13 Is that -- are you lumping all of those
14 together?

15 A. I'm lumping all of those together.

16 Q. Okay. So you're asserting that Barrio Fiesta,
17 LLC owns rights that are enforceable against others as
18 to The Original Barrio Fiesta of Manila?

19 A. I think our trademark has the words "Barrio
20 Fiesta." I haven't really thought with respect to "The
21 Original Barrio Fiesta of Manila," that complete words.
22 I do know that in the minds of consumers, whether it's
23 the whole -- the several words or just Barrio Fiesta.
24 To them, it's one in the same; it's synonymous.

25 Q. Okay. So when consumers see "Barrio Fiesta,"

1 they're linking that to what?

2 A. They're linking that to Barrio Fiesta.

3 Q. And is that Barrio Fiesta, LLC?

4 A. Yes.

5 Q. Is it Barrio Fiesta Manufacturing Corp.?

6 A. Not in our experience, no.

7 Q. Is it The Original Barrio Fiesta of Manila,
8 the restaurant from the 1950s?

9 A. No.

10 Q. No.

11 Is it The Original Barrio Fiesta of Manila in
12 California in Glendale?

13 A. No.

14 MR. CAI: I'm sorry. You're asking the
15 perspective from customers or from himself, I mean,
16 those impressions?

17 MS. ROGOWSKI: I'm asking -- he said that the
18 trademark --

19 MR. CAI: Uh-huh.

20 MS. ROGOWSKI: -- is -- "in the minds of the
21 consumers, whether it's the whole -- the several words
22 or just Barrio Fiesta."

23 MR. CAI: Objection. He's not a consumer;
24 he's the supplier. He should not even answer the
25 question.

1 MS. ROGOWSKI: Are you instructing him not to
2 answer?

3 MR. CAI: Right.

4 I'm instructing you not to answer.

5 MS. ROGOWSKI: May I ask some more questions
6 around that?

7 MR. CAI: Sure. Yeah.

8 MS. ROGOWSKI: Because I don't think that's a
9 proper instruction. It's not privileged, and it's not
10 any other basis I can see.

11 BY MS. ROGOWSKI:

12 Q. You indicated that you had visited The
13 Original Barrio Fiesta of Manila Milpitas location prior
14 to your purchase of the restaurant.

15 A. Yes.

16 Q. Would you consider yourself a customer of that
17 restaurant at that time?

18 A. At that time, yes.

19 Q. Okay. So I ask again, what do customers --
20 when they are confronted with Barrio Fiesta, is it
21 your -- is it your answer that they are linking the mark
22 "Barrio Fiesta" to what?

23 MR. CAI: You should not guess, unless you
24 have personal experience, what the consumer is thinking.

25 THE WITNESS: Well, I'll only answer to the

1 respect that I, as a consumer, don't even pronounce or
2 say the entire "The Original Barrio Fiesta of Manila."
3 It's just "Barrio Fiesta."

4 BY MS. ROGOWSKI:

5 Q. And that comes from your experience in the
6 Philippines?

7 A. It comes from my experience here as a
8 consumer.

9 Q. Okay. So here, as a consumer in San Jose?

10 A. In Milpitas.

11 Q. In Milpitas?

12 A. Yes.

13 Q. Okay. So if I'm a consumer in another state,
14 I may associate Barrio Fiesta with something else.

15 Is that a fair assumption?

16 A. I don't --

17 MR. CAI: Objection. Speculative.

18 You can answer.

19 THE WITNESS: I don't know that.

20 BY MS. ROGOWSKI:

21 Q. Have you been -- have you purchased Barrio
22 Fiesta-branded food in other locations besides
23 California?

24 A. No.

25 Q. So getting back, in Response to Interrogatory

1 No. 14, you have attributed a value to the Barrio Fiesta
2 mark of \$1 million in damages; is that correct?

3 A. Yes.

4 Q. All right. And at the time you purchased the
5 restaurant location in Milpitas, did you pay a million
6 dollars for that restaurant location?

7 A. No.

8 Q. Did -- in fact, we were told you paid less
9 than the stated amount in the copy of the agreement we
10 have.

11 A. That's correct.

12 Q. Okay. Why should Northridge Foods pay Barrio
13 Fiesta, LLC \$1 million in damages if that's the value of
14 the Barrio Fiesta trademark?

15 MR. CAI: Objection. Argumentative. Calls
16 for speculation.

17 You can answer.

18 THE WITNESS: Could you repeat the question,
19 please?

20 BY MS. ROGOWSKI:

21 Q. Why should Northridge Foods pay \$1 million in
22 damages to Barrio Fiesta, LLC if \$1 million is the value
23 of the trademark?

24 A. Well, I believe the value of the trademark is
25 more than \$1 million. We have always wanted to expand

1 and have our own product lines, the Barrio Fiesta
 2 product lines. So we believe that, you know, it's worth
 3 that, if not more, but -- I'm not an expert on
 4 valuation, but I believe that it's worth at least that.

5 Q. What trademark has Barrio Fiesta, LLC licensed
 6 to use?

7 A. Barrio -- oh, Barrio Fiesta, LLC is licensed
 8 to use? None.

9 Q. No, has it received a license to use.

10 A. Barrio Fiesta Express.

11 Q. All right. How are you calculating lost
 12 profits and lost market share?

13 A. I don't -- again, I don't know the exact
 14 answer in coming up with the lost -- exact answer in
 15 calculating that at the moment.

16 Q. You feel that Barrio Fiesta has lost profits
 17 by virtue of Northridge Foods arranging to sell Barrio
 18 Fiesta packaged foods in the United States?

19 A. Can you repeat the question?

20 Q. Do you feel that Barrio Fiesta, LLC has lost
 21 profits by virtue of Northridge Foods arranging to sell
 22 Barrio Fiesta packaged foods in the United States?

23 A. I'm sure that, to some degree, there's some
 24 lost profit. How much, I don't know.

25 Q. So is it your position that customers who

1 purchase packaged foods from a grocery store would have
2 purchased packaged foods from your restaurant?

3 A. It's my contention that several of our
4 customers believe that the bagoong product that they
5 find at the grocery stores are actually our products.

6 Q. Has there been a defect with the product, the
7 bagoong product of Barrio Fiesta Manufacturing Corp.

8 A. I would not know that.

9 Q. Has there been a complaint lodged about the
10 Barrio Fiesta Manufacturing Corp. products that are
11 available in grocery stores?

12 A. I don't know that either.

13 Q. How will you quantify your lost market share
14 due to Northridge Foods' sale of packaged foods under
15 the Barrio Fiesta trademark in the United States?

16 A. Well, as we continue our expansion and we put
17 our products in different locations, I believe that
18 there would be that confusion from consumers. So, in
19 that sense, there is that lost market share.

20 Q. Okay. So it's a future -- a future
21 possibility?

22 A. I wouldn't say it's a possibility. We've
23 taken action to implement that action.

24 Q. Okay. Let's make sure I today understand
25 that.

1 What action have you taken to distribute food
2 in other retail establishments besides your restaurants?

3 A. We have spoken with supermarket stores, and
4 they have agreed to actually put our products in their
5 stores as soon as we have our products, which we, again,
6 had planned for rollout in January, and that is
7 currently on hold.

8 Q. And that's on hold because why?

9 A. Because of the -- as I understand it from the
10 president of Ramar, it's because of the notice that they
11 received from the opposing counsel. I'm not
12 particularly sure who sent it, but that's what she
13 articulated to me.

14 Q. Okay. So this is Ms. Quesada --

15 A. Yes.

16 Q. -- said, "We won't do business with you until
17 the lawsuit is concluded"? Is that what she said?

18 A. No. What she said is, "We will put this
19 project on hold until this" -- "this is" -- "lawsuit
20 is" -- "is resolved."

21 Q. Did -- we don't have copies today of
22 agreements signed with Ramar Foods. That has not been
23 produced to us.

24 Did you have agreements with Ramar Foods?

25 A. The only agreement that we have to date is the

1 non-disclosure agreement.

2 Q. Okay. And am I understanding you had a verbal
3 commitment of some kind from Ramar Foods to do business
4 with you?

5 A. We have written communication, e-mails, that
6 speaks to the fact that we are proceeding on this
7 engagement pending the costing or what they're going to
8 charge us.

9 Q. Were those produced to us?

10 A. I believe those e-mails were.

11 Q. So are these e-mails from the summertime?
12 August? One of the ones I showed you, is it that?

13 A. That's some of the e-mails.

14 Q. Okay. If we look at Defendant's Exhibit 7 --
15 it should be in your pile. It's BARRIO 10095. It
16 should be a grouping. That's Defendant's Exhibit 7.

17 A. 8.

18 Q. Excuse me. I just want to make sure. Here we
19 go. It got clipped to this one.

20 All right. So if I look at page 10097, it
21 looks like in July of 2015 -- July 21st, you proposed a
22 meeting with Ms. Quesada in August. In fact, the e-mail
23 says, "I am not available next week, but the week of
24 August 3rd will work if it's okay with you."

25 And then it looks like you -- on July 29th, it

1 was agreed that there would be a meeting on August 5th
2 of 2015 at 1:30.

3 Did that meeting occur?

4 A. Yes.

5 Q. What documentation followed from that meeting?

6 A. Our chief operations officer,
7 Michelle Villanueva, was the one who actually had a
8 subsequent meeting with Susie's designated individual,
9 and both -- both of those parties had subsequent
10 meetings.

11 Q. Are there written commemorations of those
12 meetings? Do we have e-mails or any other
13 correspondence?

14 A. I believe that there are e-mails from Michelle
15 and Anavi that relates to that meeting.

16 Q. Was there a purchase agreement ever prepared?

17 A. No.

18 Q. Was there a joint venture agreement ever
19 prepared?

20 A. No.

21 Q. Was there a formal agreement of any kind ever
22 prepared between Barrio Fiesta, LLC and Ramar Foods?

23 A. No.

24 Q. Was there a formal agreement of any kind
25 between TRiGroup and Ramar Foods?

1 A. No.

2 Q. Was there a formal agreement of any kind
3 between yourself personally and Ramar Foods?

4 A. No.

5 Q. Was there a formal agreement between Justin or
6 Ashley Rono --

7 A. No.

8 Q. -- and Ramar Foods --

9 A. No.

10 Q. -- or any combination of Justin, Ashley, and
11 yourself, June Rono, and Ramar Foods?

12 A. No.

13 Q. No.

14 Okay. So there wasn't an agreement written,
15 so how do you know that there was a meeting of the minds
16 with Ramar Foods?

17 A. Just based on conversations that we've had.

18 Q. Okay. Okay. So that's as far as it's gotten
19 so far.

20 Some possible distribution was discussed or
21 they were going to -- what was discussed?

22 A. What was discussed was that they're willing to
23 proceed; we're willing to proceed. We gave them our
24 recipe. They were costing the recipe in terms of what
25 their cost is going to be to us, and that's where it --

1 BY MS. ROGOWSKI:

2 Q. What has been the advantage for having Barrio
3 Fiesta, LLC own the Milpitas location and TRiGroup own
4 the San Jose location?

5 A. What has been the advantage?

6 Q. Uh-huh.

7 A. Well, I think -- for us, I think it just makes
8 sense to separate those two operations. From, you know,
9 a liability standpoint, I think one stands on its own.
10 So I think, primarily, that's --

11 Q. Okay. So you wanted to have separate
12 corporate entities --

13 A. Yes.

14 Q. -- owning those two locations?

15 A. Yes.

16 Q. What is Barrio Fiesta, LLC's relationship with
17 Lion Supermarkets?

18 A. We buy some of our supplies at Lion
19 Supermarket.

20 Q. Is Lion Supermarket one of the retailers that
21 would carry Barrio Fiesta packaged food?

22 A. Yes.

23 Q. Do they carry Barrio Fiesta Manufacturing
24 Corporation packaged food?

25 A. Yes.

1 again?

2 Q. Yes.

3 A. And which paragraph are you referring to?

4 Q. Okay. I'm sorry. In paragraph 3 on page 4 --
 5 I garbled my question before -- I want to understand the
 6 evidence that you have to prove the affirmative
 7 defenses. So the one I'm starting with is actually the
 8 one in paragraph numbered 3 on page 4, the affirmative
 9 defense of statute of limitations.

10 So what evidence do you have that Northridge
 11 Foods should not assert its own claims of unfair
 12 competition against Barrio Fiesta, LLC based on the
 13 statute of limitations?

14 A. As I understand the question, again, I don't
 15 believe that Northridge Foods has any permission or
 16 authorization from us to use the trademark.

17 Q. Okay. The statute of limitations affirmative
 18 defense refers to a lack of timeliness of making a
 19 claim.

20 Do you have any evidence that Northridge Foods
 21 contacted Barrio Fiesta, LLC, in any way, before the
 22 complaint was filed in this litigation?

23 A. No, they have not contacted us.

24 Q. What evidence do you have to assert -- well,
 25 what evidence do you have to prove the affirmative

1 defense in paragraph 4 of Plaintiff's Answer to
2 Defendant's Counter-Claim, which is doctrine of unclean
3 hands?

4 A. Would you ask the question again?

5 Q. What evidence will Barrio Fiesta, LLC rely
6 upon to prove its affirmative defense of doctrine of
7 unclean hands, which is paragraph 4 on page 4 of
8 Defendant's Exhibit 16?

9 A. I don't think I understand the question.

10 Q. Do you -- does Barrio Fiesta, LLC assert that
11 Northridge Foods acted improperly, in any way, in its
12 conduct with Barrio Fiesta, LLC?

13 A. Yes.

14 Q. Okay. And explain your answer.

15 A. I'll explain it from my standpoint.

16 Q. Uh-huh.

17 A. If I'm a businessman and I would take a
18 product on, I certainly would do the due diligence and
19 find out whether the product I'm about to distribute,
20 that I could actually legally do that.

21 Q. Uh-huh.

22 A. And I don't know if they did that.

23 Q. And what evidence do you have to show that
24 they didn't do that?

25 A. They certainly have not communicated with us

1 at all about their use or distribution of the products.

2 Q. So as I understand your articulation of this
3 aspect of this defense, Northridge Foods should have
4 known that Barrio Fiesta, LLC had rights to Barrio
5 Fiesta for packaged foods in the United States before
6 Northridge Foods did?

7 A. Yes.

8 Q. All right. And you're basing that on only the
9 activity of Northridge Foods and not of Barrio Fiesta
10 Manufacturing Corp.?

11 A. I would attribute that to anyone that uses the
12 mark.

13 Q. And we're going to circle back.

14 "The mark" --

15 A. Uh-huh.

16 Q. -- when you answer "anyone that uses the
17 mark," do you mean Barrio Fiesta?

18 A. Yes.

19 Q. Do you also mean Barrio Fiesta Express?

20 A. Yes.

21 Q. Do you also mean The Original Barrio Fiesta of
22 Manila?

23 A. Yes.

24 Q. Okay. So if there is a restaurant in
25 Glendale, California, that was opened prior to the

1 earliest date of operation of the Milpitas location,
2 does that mean that restaurant owner has rights to
3 assert against Barrio Fiesta, LLC?

4 A. I'm not aware -- I'm not aware of a restaurant
5 prior to the Barrio Fiesta Restaurant in Milpitas.

6 Q. You personally are not aware of --

7 A. I'm not -- personally not aware.

8 Q. Okay. Is anyone at Barrio Fiesta, LLC aware
9 of a restaurant that claims priority of use of Barrio
10 Fiesta, The Original Barrio Fiesta of Manila, or Barrio
11 Fiesta Express before Barrio Fiesta, LLC?

12 A. I don't know.

13 Q. Are you here today to answer for Barrio
14 Fiesta, LLC?

15 A. Yes.

16 Q. Are you also today answering on behalf of
17 TRiGroup?

18 A. Yes.

19 Q. What is the basis for your assertion that
20 you're representing TRiGroup today?

21 A. I'm the president and CEO of TRiGroup, Inc.

22 Q. So you're answering on behalf of both
23 companies, then?

24 A. With respect to the question that pertains to
25 each of the respective companies.

1 MS. ROGOWSKI: Okay. We're going to have to
2 leave the deposition open because of the supplemental
3 production that we've requested.

4 MR. CAI: Yep.

5 BY MS. ROGOWSKI:

6 Q. All right. Not to confuse things, but what
7 we'd like to do is continue on to ask you a few
8 questions just so that you don't have to come back on
9 Thursday to be deposed --

10 A. Yes.

11 Q. -- in your personal capacity.

12 All right. We've talked about a lot of things
13 today, and what I'd like to know is if any of the
14 answers that you answered on behalf of Barrio Fiesta,
15 LLC that you would answer differently if I asked the
16 questions of June Francis Rono?

17 A. No.

18 Q. So, as I understand it, the answers you gave
19 today in your capacity as the representative for Barrio
20 Fiesta, LLC are the same as you would have given if we
21 had asked them of you as an individual,
22 June Francis Rono?

23 A. That's correct.

24 MS. ROGOWSKI: Okay. All right. Well, we'll
25 see you tomorrow for the other depositions --

CERTIFICATE OF REPORTER

I, MICHELLE D. KNOWLES, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition is a true record and was taken in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript [] was [X] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for any of the parties to the said deposition, nor in any way interested in the events of this cause, and that I am not related to any of the parties thereto.

Dated: January 15, 2016

Michelle D. Knowles

MICHELLE D. KNOWLES, CSR No. 8979

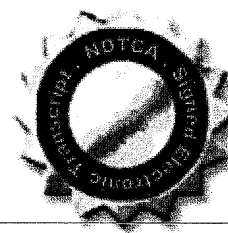


EXHIBIT “F”

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

BARRIO FIESTA, LLC, a California
Limited Liability Company,

Plaintiff/Counter-Defendant,

vs.

NO. 4:15-cv-02669-JSW

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

Defendant/Counter-Plaintiff.

_____/

DEPOSITION OF JUNE FRANCIS RONO
Volume II - Pages 128 through 302
San Jose, California
Thursday, May 12, 2016

Reported By:

LINDA VACCAREZZA, RPR, CLR, CRP, CSR. NO. 10201

JOB NO. 247300

Page 129

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May 12, 2016

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10:27 a.m.

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Deposition of JUNE FRANCIS RONO, held at 111

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N. Market Street, Suite 1020, San Jose,

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, California, pursuant to Notice, before Linda

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Vaccarezza, a Certified Shorthand Reporter of the

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State of California.

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1 A P P E A R A N C E S:

2 FOR THE DEFENDANT/COUNTER-PLAINTIFF:

3 THE AVANZADO LAW FIRM

4 By: Melvin N. Avanzado, Esq.

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9

10 FOR THE PLAINTIFF/COUNTER-DEFENDANT:

11 SAC Attorneys, LLC

12 By: Marc Guedenet, ESQ.

13 111 N. Market Street, Suite 1020

14 San Jose, California 95113

15 Mguedenet@sacattorneys.com

16

17

18

19

20

21

22 Also present: Justin Rono

23

24 Legal videographer: Kevin McMann

25

1 JUNE FRANCIS RONO,

2 THE VIDEOGRAPHER: Good morning. We are now
3 on the record. This begins Videotape Number 1 in the
4 deposition of Barrio Fiesta LLC, June Francis Rono,
5 Volume 2, in the matter of Barrio Fiesta LLC versus
6 Northridge Foods International, Inc. and
7 counterclaims. The United States District Court,
8 Northern District of California, Oakland Division,
9 case number 4:15 CV 02669 JSW.

10 Today is Thursday, May 12, 2016. The time
11 is 10:27 a.m. This deposition is being taken at SAC
12 Attorneys, LLP, 111 North Market Street, Suite 1020,
13 San Jose, California, at the request of the Avanzado
14 law firm. The videographer is Kevin McMann of Magna
15 Legal Services, and the court reporter is Linda
16 Vaccarezza of Magna Legal Services. Will counsel and
17 all parties present state their appearance and whom
18 they represent.

19 MR. AVANZADO: This is Mel Avanzado, and
20 with me is Elaine Yu. We represent Northridge Foods
21 International.

22 MR. GUEDENET: Mark Guedenet, and we are SAC
23 Attorneys, and we represent Barrio Fiesta LLC. With
24 us in the room is Justin Rono.

25 THE VIDEOGRAPHER: Will the court reporter

1 please swear in the witness.

2 JUNE FRANCIS RONO,

3 Having been duly sworn by the Certified
4 Shorthand Reporter, was examined and testified as
5 follows:

6 EXAMINATION

7 BY MR. AVANZADO:

8 Q. Is it Rono?

9 A. Rono. Well, it's Rono in the Philippines,
10 but it's Rono.

11 Q. That's what I thought. And so how would you
12 prefer to be called? Rono or --

13 A. Rono or Rono is fine, whatever is easier.

14 Q. Well, I will honor your true name, so I'll
15 call you Rono.

16 A. Thank you.

17 Q. Were you born here, sir?

18 A. I was born in the Philippines.

19 Q. When did you immigrate to the United States?

20 A. 1982.

21 Q. What is your first/native language?

22 A. Tagalog.

23 Q. And did you speak English while you were
24 still at the Philippines?

25 A. Yes.

1 for the school district?

2 A. 2012.

3 Q. So '91 to 2012, you worked in some form of
4 school districts?

5 A. Yes.

6 Q. And you said three at the same time at one
7 point?

8 A. Not at the same time, but I left one and
9 then went to another school district, and then yes.

10 Q. So Berryessa was followed by which school
11 district?

12 A. Alum Rock Union School District.

13 Q. Alum Rock?

14 A. Yes.

15 Q. And then what followed Alum Rock?

16 A. East Side Union High School District.

17 Q. Did you do the same thing for each of those
18 school districts within like director of planning and
19 facilities?

20 A. Yes. Just the scope sort of was magnified
21 as I moved along.

22 Q. And in '87, you starred your consulting
23 company for what purpose?

24 A. Just doing consulting work. If someone
25 needs resume writing, they just need advice, business

1 advice. Just general business related matters.

2 Q. What's the name of your consulting company?

3 A. TRI Group, Inc.

4 Q. Is that the same entity that runs the San
5 Jose restaurant?

6 A. Yes.

7 Q. How many employees does TRI Group have?

8 A. Just myself, and then if I need additional
9 consultants, I bring them on board.

10 Q. On a temporary basis?

11 A. On a per-project basis.

12 Q. Does TRI Group have a website?

13 A. Yes.

14 Q. What is it?

15 A. It's TRI Group.U.S.

16 Q. When you say that your main source of income
17 is your consulting practice?

18 A. No.

19 Q. What is your main source of income?

20 A. It will be through the restaurant.

21 Q. Which one?

22 A. Barrio Fiesta restaurant in Milpitas.

23 Q. Now, the -- let me show you what we
24 previously marked as Exhibit 30, and ask if you
25 recognize this picture?

1 A. Yes, I do.

2 (Exhibit 56 previously marked for
3 identification.)

4 BY MR. AVANZADO:

5 Q. Is that the frontage of the Milpitas
6 restaurant?

7 A. Yes.

8 Q. Now, let me ask you a couple questions about
9 this. After you acquired the Milpitas restaurant,
10 did you change the signage?

11 A. Well, no. The direct answer is no, but with
12 a caveat that the Barrio Fiesta on the very top, that
13 was changed with the same exact design and language,
14 just because the lighting went out. And so that was
15 replaced with LED lighting, but same exact signage.

16 Q. You're talking about the signage in the
17 tower portion of this picture?

18 A. That's correct.

19 Q. When you acquired the restaurant, did it
20 have a similar looking facade?

21 A. Yes.

22 Q. And so you changed it because the lights
23 went out, and you changed it -- you modernized it?

24 A. We changed the lighting into -- well, the
25 same exact one, but it was converted to LED bulbs.

1 Q. Got you. Do you claim -- no, strike that.

2 This restaurant is the one that's owned by
3 the plaintiff in this case, Barrio Fiesta LLC; is
4 that right?

5 A. That's correct.

6 Q. Do you claim ownership to that trademark?

7 A. Yes.

8 Q. On the signage?

9 A. Not on that signage, but on the words.

10 Q. Which words?

11 A. "Barrio Fiesta."

12 Q. Do you claim ownership in the words "The
13 original" and "Of Manila"?

14 A. No.

15 Q. So you claim ownership of the words "Barrio
16 Fiesta"?

17 A. Yes.

18 Q. Were you aware at the time you purchased the
19 Milpitas restaurant that this logo, both logos that
20 are on Exhibit 30 existed elsewhere in the United
21 States?

22 A. At that time, no, I was not aware.

23 Q. Were you aware that there were other
24 restaurants in the United States in addition to the
25 Milpitas restaurant bearing the words "Barrio

1 restaurant, were you aware of any other restaurants
2 bearing this signage and these logos anywhere else in
3 the United States?

4 A. At that time, my awareness was that there
5 was no existing operational restaurant at that time.

6 Q. Were you aware that there were other
7 restaurants that preceded the Milpitas restaurant,
8 whether or not they were existing at that time?

9 A. Yes.

10 Q. What was your -- tell me what you knew in
11 that regard.

12 A. What I knew was that there was a Barrio
13 Fiesta that in Daly City, California, that had since
14 closed. I'm not sure when.

15 Q. Any other places?

16 A. No.

17 Q. So is it your testimony that you were not
18 aware of the southern California restaurants that had
19 opened and either were still existing or had closed?

20 A. Not in 2011.

21 Q. And that's when you purchased the
22 restaurant?

23 A. Yes, yes.

24 Q. Now, the purchase of Milpitas, the Milpitas
25 restaurant, the agreement was signed in 2010?

1 A. Yes.

2 Q. Why is that? That's a vague questions.

3 Why was there a delay from the time you
4 executed the purchase agreement and the time you
5 actually took over the restaurant?

6 A. The previous owner wanted to finish the
7 calendar year before we take over. Or took over.

8 Q. And that's the only reason?

9 A. Yes.

10 Q. I want to show you what was previously
11 marked as your prior deposition session as Exhibit 4.
12 I'll get copies for the court reporter later.

13 (Exhibit 4 previously marked for
14 identification.)

15 BY MR. AVANZADO:

16 Q. Do you remember seeing this at your prior
17 deposition?

18 A. Yes, I believe I did.

19 Q. I have a couple questions just on this that
20 weren't asked before. First of all, is this a true
21 and correct copy of the Milpitas restaurant's
22 website?

23 A. Yes.

24 Q. Who maintains that website?

25 A. We do.

1 Q. And by "we," you mean who?

2 A. I do, with the help of our web person.

3 Q. Who is your web person?

4 A. Ruel Tan.

5 Q. Is he an employee of yours?

6 A. No. He provides web consulting to us.

7 Q. What company does Ruel work for?

8 A. Welwix, W-E-L-W-I-X.

9 Q. So he's a third-party provider?

10 A. Yes.

11 Q. That Barrio Fiesta LLC pays?

12 A. Yes.

13 Q. Now, you see down at the bottom, there's a
14 copyright logo. Do you see that?

15 A. Yes.

16 Q. And it shows that the web design is by TRI
17 Group, Inc.?

18 A. Yes.

19 Q. Or TRI Group, Inc.?

20 A. Yes.

21 Q. Why is that?

22 A. Well, TRI Group, we also do web design, but
23 we subcontract the actual work.

24 Q. So does Ruel work for TRI Group?

25 A. No.

1 of your companies, would I see any charges between
2 one company to the other, TRI Group to Barrio Fiesta
3 LLC, for example?

4 A. With respect to this website?

5 Q. With respect to any services you provide to
6 each other.

7 A. Yes, you will see services paid by TRI Group
8 to Barrio Fiesta LLC.

9 Q. Which services are those that you can
10 recall?

11 A. That would be for providing staff to TRI
12 Group's restaurant in San Jose.

13 Q. So the employees of the San Jose restaurant
14 owned by TRI Group are provided by Barrio Fiesta LLC?

15 A. Was provided by Barrio Fiesta LLC.

16 Q. When did it stop?

17 A. January of this year.

18 Q. When did the San Jose restaurant open?

19 A. I believe April 4, 2014.

20 Q. So from then to the end of 2015, Barrio
21 Fiesta LLC's employees ran the restaurant?

22 A. Yes.

23 Q. And for which TRI Group paid?

24 A. Yes.

25 Q. Did it pay Barrio Fiesta LLC or the

1 Q. Does Barrio Fiesta LLC use the logo depicted
2 in Exhibit 56?

3 A. Yes.

4 Q. So you wanted to create your own logo for
5 both companies?

6 A. Yes.

7 Q. Why didn't you change the Milpitas signage?

8 A. Why did we not change? Well, the cost to
9 change all of that is actually in the thousands of
10 dollars, so we didn't think that it makes sense to do
11 that, plus that was the original sign that was there.

12 Q. Is there any other reason other than cost
13 for you not to change the signage in Milpitas?

14 A. Well, there was no -- we felt that there was
15 no need because the second sign is -- the one, the
16 lower one is still functional.

17 Q. When did you repair -- we are talking about
18 -- we were looking at Exhibit 30 again?

19 A. Yes.

20 Q. So when did you repair and update the tower
21 sign on the left?

22 A. I don't remember the exact date, but I would
23 -- so sometime between around 2013, 2014.

24 Q. Did you -- strike that.

25 Had you designed the logo in Exhibit 56 by

1 then?

2 A. Yes.

3 Q. Is there a reason you didn't change it?

4 A. A cost issue.

5 Q. That's the only reason?

6 A. Yes.

7 Q. It was cheaper to just repair the sign than
8 to replace it?

9 A. Exactly.

10 Q. Now, has the San Jose restaurant been open
11 continually since April 2014?

12 A. Yes.

13 Q. Do you remember the banner shown on Exhibit
14 56, it says "Now open." Do you remember when that
15 was or how long that was up?

16 A. Since April 4, 2014.

17 Q. Is it still up today?

18 A. Yes. We were actually planning to remove it
19 a couple weekends ago because it's old, but it's
20 still up there.

21 Q. Now, in the windows shown on Exhibit 56, you
22 will see other banners. Do you see those?

23 A. Yes.

24 Q. Is the lettering of Barrio Fiesta in the
25 banners in the windows the same style as the one on

1 you recognize that?

2 A. Yes.

3 Q. Do you recognize that graphic to be the same
4 as the one on the sign in Milpitas?

5 A. Based upon these pictures, it would appear
6 so, but then again, I've never literally spent a
7 whole lot of time looking at that signage in Milpitas
8 in the particular pot.

9 Q. Well, I'll tell you that they are the same.
10 But you don't need to take my word for it. But we'll
11 get to that in some other date. The question I have
12 for you is: Have you ever noticed that the flame
13 under that pot in that graphic is the letters "BF"?

14 A. I actually never noticed that.

15 Q. Do you know who created the graphic in
16 Exhibit 35?

17 A. No.

18 Q. Do you know who created the style of the
19 letters and the words "Barrio Fiesta" in Exhibit 35?

20 A. No.

21 Q. Same question for the signage in Milpitas in
22 Exhibit 30. Do you know who created those?

23 A. No.

24 Q. Now, let's turn back to your -- the prior
25 exhibit on the website, Exhibit 4. Who wrote the

1 content to that website?

2 A. Part of it, I did. Yes, part of it, I did.

3 Q. Who did the other part?

4 A. Well, the other part, when we bought the
5 Milpitas restaurant, they had -- on their previous
6 menu, they had some of these verbiage, so we just
7 sort of incorporated that verbiage into the revised
8 language.

9 Q. Which parts did you write?

10 A. I wrote from "Milpitas, California" all the
11 way to the end, and maybe -- I don't remember exactly
12 what I did on the first three paragraphs. I may have
13 just rephrased certain things, but pretty much
14 captured what was in the original materials at the
15 restaurant.

16 Q. Is it your testimony that the source
17 materials you got for Exhibit 4 was the menu that was
18 at the restaurant prior to your purchase?

19 A. The first three paragraphs, yes.

20 Q. And then everything after the section
21 entitled "Milpitas, California," that's something
22 that you wrote?

23 A. Yes.

24 Q. Now, the first three paragraphs are under a
25 heading "Our history." Do you see that?

1 A. Yes.

2 Q. Do you have any personal knowledge of the
3 facts relating to, say, the first paragraph?

4 A. No, not personal knowledge.

5 Q. So you're unaware of the history -- strike
6 that.

7 Are you aware personally of "a history
8 dating back to 1952"?

9 A. Not personally, other than what was in the
10 restaurant.

11 Q. The menu?

12 A. The menu, yes.

13 Q. And you're clear that it was '52 in the
14 menu?

15 A. I don't recall.

16 Q. Do you still have the old menus?

17 A. No.

18 Q. Now, regardless of whether you're aware of
19 when Barrio Fiesta was created in the '50s, are you
20 aware of where Barrio Fiesta was created in the '50s?

21 A. No.

22 Q. Well, you're aware that there are Barrio
23 Fiesta restaurants in the Philippines?

24 A. Yes.

25 Q. And you're aware that -- were you aware at

1 the time you purchased your restaurant that those
2 restaurants in the Philippines had been in existence
3 for decades?

4 A. Yes.

5 Q. Had you eaten at one those before you bought
6 the Milpitas restaurant?

7 A. In the Philippines?

8 Q. Yes.

9 A. Yes.

10 Q. About how many times?

11 A. Maybe two, two or three times.

12 Q. Which ones?

13 A. I think there was one on Edsa Boulevard and
14 one in Mega Mall, I believe.

15 Q. In Manila?

16 A. In Manila, in Ortegis.

17 Q. In Ortegis. O-R-T-E-G-A-S.

18 A. Actually, it's O-R-T-I-G-A-S. Ortigas.

19 Q. Really?

20 A. Yeah, I think so.

21 Q. Okay. Sorry. Do you know who owns those
22 restaurants in the Philippines?

23 A. No.

24 Q. Have you ever met any members of the family
25 that owns the restaurants in the Philippines?

1 A. No.

2 Q. Would you acknowledge that the restaurants
3 in the -- well, strike that.

4 There are many Barrio Fiesta restaurants in
5 the Philippines, right?

6 A. Yes.

7 Q. And even if you had eaten at more than two
8 or three, as you said, you've seen them driving
9 around Manila?

10 A. I've seen some, yes.

11 Q. More than the ones that you've eaten at?

12 A. Actually, probably just have seen just one
13 more.

14 Q. Oh?

15 A. Yeah.

16 Q. Well, would you say that there are a few
17 restaurants in the Philippines that have become
18 famous?

19 MR. GUEDENET: Objection. Calls for
20 speculation.

21 THE WITNESS: Can you repeat the question?

22 MR. AVANZADO: Let me lay some foundation.

23 Q. Since you immigrated to the United States in
24 '82, how often have you returned home?

25 A. Generally, every four or five years.

1 Q. And in '82, you were what? How old were you
2 when you came here?

3 A. 17.

4 Q. And had you -- you had already -- strike
5 that.

6 How did you graduate from the colleges in
7 the Philippines after you came here?

8 A. I actually went back and re-enrolled myself
9 in the Philippines.

10 Q. So was there a period of time that you
11 resided in the Philippines after you came to the
12 United States?

13 A. No, not resided. I would just go back and
14 visit and go to school.

15 Q. How often -- strike that.

16 Long would your visits be to go to school?

17 A. Typically, it could be between three weeks
18 to four weeks.

19 Q. And so I take it then you earned your
20 degrees, your bachelor's and your Ph.D., over time?

21 A. Yes.

22 Q. How long did it take you to earn those
23 degrees?

24 A. Six years.

25 Q. Six years each?

1 A. No, no, no. Total of six years.

2 Q. So in your travels to the Philippines, I
3 take it you have become familiar with some of the
4 restaurant brands in the Philippines?

5 A. Some, yes.

6 Q. Can you tell me some of the more -- some of
7 the larger, more famous restaurants in the
8 Philippines that you've encountered?

9 A. I hop. Obviously, Dencio's Grill. Gerry's
10 Grill. Of course, Barrio Fiesta.

11 Q. Max's of Manila?

12 A. Max's of Manila.

13 Q. Aristocrat?

14 A. Aristocrat, yeah. I don't know how large
15 Aristocrat, is but I know there's one on Rojas
16 Boulevard.

17 Q. Jollibee?

18 A. Jollibee, Chow King, yeah.

19 Q. So would you agree with me there's a number
20 of Filipino created restaurants that have become
21 famous?

22 A. In the Philippines, yes.

23 Q. Would you consider Barrio Fiesta to be one
24 of them?

25 A. In the Philippines, yes.

1 Q. Would you consider Barrio Fiesta to be
2 famous in the United States?

3 A. I don't know if they are famous in the
4 United States; I think a lot of Filipinos are
5 familiar with Barrio Fiesta.

6 Q. In the United States?

7 A. In the United States.

8 Q. Why is that?

9 A. I think they, coming from the Philippines,
10 they may have eaten themselves in at a Barrio Fiesta
11 restaurant in the Philippines.

12 Q. There are a few Filipino restaurants that
13 were created in the Philippines that are now in the
14 United States. Would you agree?

15 A. Yes.

16 Q. Can you identify some of those?

17 A. Chow king, Jollibee and Max's.

18 Q. Would you say that Filipinos in the United
19 States associate those brands, those restaurant
20 brands from their time in the Philippines?

21 MR. GUEDENET: Objection. Lacks personal
22 knowledge.

23 THE WITNESS: I don't know.

24 BY MR. AVANZADO:

25 Q. Well, would you?

1 A. It's possible. I mean, I would imagine so.

2 Q. Does the food taste the same here as
3 Jollibee as it did in the Philippines?

4 A. I think it's subjective. Some people say it
5 not like Max's fried chicken. They say it's very
6 different.

7 Q. What about Barrio Fiesta? Would you say the
8 food is different here than in the Philippines?

9 A. I don't know.

10 Q. Well, you've eaten in the Philippines,
11 right?

12 A. Yes.

13 Q. How is it compared to your food in Milpitas,
14 for example?

15 A. I think ours is better.

16 Q. Why is that?

17 A. I think in general, I think ours is better.
18 I've tried the food in the Philippines. I just don't
19 think is it's as good.

20 Q. There is a significant debate about that
21 among Filipinos. Would you agree?

22 A. I don't know if there is.

23 Q. Well, some Filipinos believe our food in the
24 Philippines taste better than our food, our Filipino
25 food in the U.S. Would you agree with that?

1 A. I think that's a fair general statement.

2 Q. And but Filipinos still eat in Filipino
3 restaurants in the U.S. because they remind us of
4 home. Would you agree with that?

5 A. Yes.

6 Q. Now, the decor in the Milpitas restaurant,
7 is it the same as when you purchased it?

8 A. Yes.

9 Q. You have not changed it at all?

10 A. Other than we replaced some curtains,
11 generally, it's the same.

12 MR. AVANZADO: Let me mark as Exhibit 57
13 another picture for you.

14 (Exhibit 57 was marked for identification.)

15 BY MR. AVANZANO:

16 Q. Do you recognize Exhibit 57?

17 A. Yes.

18 Q. What is it?

19 A. It's the interior photo of the restaurant in
20 Milpitas.

21 Q. Now, to the left of this picture out of
22 frame, there's an ice cream cart. Right?

23 A. Yes.

24 Q. Where did you get the ice cream cart?

25 A. It was there when we bought it.

1 Q. Can you describe for us what the history of
2 the ice cream cart is as it relates to Filipinos and
3 Filipino food?

4 A. I actually don't know what the history is of
5 the ice cream cart. I know it's called a dirty ice
6 cream in the Philippines. It's a cart that people,
7 some people would push around in the cities, selling
8 ice cream. I don't know if that still exists of now,
9 because I haven't seen them, but a long time ago,
10 that was there.

11 Q. There are street vendors in the Philippines,
12 right?

13 A. Yes.

14 Q. A lot of them?

15 A. Yes.

16 Q. And they sell everything from hot dogs to
17 ice creams to --

18 A. Yes.

19 Q. And the cart that's in your restaurant,
20 would you say it depicts a cultural thing, for lack
21 of a better word, from the Philippines?

22 A. I'm not sure if it depicts a cultural thing,
23 but it certainly depicts a point in time where that
24 was common in the Philippines.

25 Q. In other words, it's something that, again,

1 reminds people of home?

2 A. Yes.

3 Q. Now, the cart in the Milpitas restaurant has
4 the Barrio Fiesta logo on it?

5 A. Yes.

6 Q. It's the same one that's on Exhibit 30, the
7 signage on the front of the restaurant, correct?

8 A. I believe so, yes.

9 Q. In terms of the styling of the letters?

10 A. Yes.

11 Q. Did it also -- does it also have the graphic
12 of the pot with the BF flame on it?

13 A. I actually don't recall.

14 Q. Now, Exhibit 57, would you agree with me
15 that this style of decor is very Filipino?

16 A. Yes.

17 Q. The bamboo chairs, right?

18 A. Yes.

19 Q. And the seashell lampshades or covers?

20 A. Yes.

21 Q. These are things that evoke a tropical
22 Filipino setting?

23 A. Yes.

24 Q. Did you make any efforts to change the
25 decor?

1 A. No.

2 Q. Why not?

3 A. I didn't think that there was a need to
4 change it.

5 Q. Even though you created your own logo to be
6 different?

7 A. Yes.

8 Q. Do you remember -- strike that.

9 Are the restaurants in the Philippines
10 decorated in the same manner?

11 A. The ones that I've been to, not exactly like
12 that, but it does carry a Philippines theme of some
13 sort.

14 Q. Meaning the bamboo furniture?

15 A. I actually don't recall what they have. I
16 just know that it has some Philippine theme. I don't
17 believe, at least the ones that I've been in to, that
18 they have bamboo furniture; they just have regular
19 chairs.

20 Q. So maybe you can explain to non-Filipinos
21 what Filipino theme would be, in your mind, anyway?

22 A. In my mind, it would be what I would
23 associate as native Filipinos. It would have like
24 pictures of bananas, banana leaves. Picture of
25 bamboo leaves, or bamboo in general.

1 Q. Now, with respect to the websites that you
2 maintain for Milpitas and San Jose, Exhibit 4 is the
3 Milpitas page. Has it changed?

4 A. No.

5 Q. So if I go on to it today, it would have the
6 same language?

7 A. Yes.

8 Q. Let's back up to some more mundane things.
9 How many employees does Barrio Fiesta LLC have?

10 A. Right now, I think about 15.

11 Q. Are they all working at the restaurant?

12 A. Yes.

13 Q. Your son who is present here, is he an
14 employee?

15 A. Yes.

16 Q. What is his position?

17 A. He's director of logistics.

18 Q. Your daughter Ashley, is she an employee?

19 A. She's still on payroll. Not anymore. But
20 she has not worked there for a while.

21 Q. What do you mean she's on payroll, but not
22 anymore?

23 A. She's on payroll. She's not getting paid,
24 but if she works, if we need her to help, then she
25 would help. But she's not actively working.

1 Q. When did she stop actively working?

2 A. August 2015.

3 Q. Who were the -- are you familiar with the
4 concept of an officer of a corporation?

5 A. Yes.

6 Q. Who are the officers of Barrio Fiesta LLC?

7 A. Myself.

8 Q. Are you the only one?

9 A. Yes.

10 Q. Who is on the board?

11 A. I'm the only one.

12 Q. Are there any members?

13 A. No.

14 Q. Are there any other executives or what you
15 would term executives of that company?

16 A. By that, you mean executive in an ownership
17 role, or just executive meaning as management role?

18 Q. In a management role.

19 A. Yes. We do have a management person.

20 Q. Who is that?

21 A. Michelle Villanueva.

22 Q. What's her title?

23 A. Chief operations officer.

24 Q. Does she have any ownership interest?

25 A. No.

1 Q. Does she have any profit sharing interest?

2 A. No.

3 Q. Is the only owner of Barrio Fiesta LLC you?

4 A. Yes.

5 Q. So let me ask you this: The trademark that
6 we are here for, Barrio Fiesta Express, was not
7 registered by you, correct?

8 A. That's correct.

9 Q. Why is that?

10 A. "Registered" meaning under my name, is that
11 what you mean?

12 Q. The original registration and the
13 application, was that filed by you or Barrio Fiesta
14 LLC; is that correct?

15 A. I actually filed the original, the Barrio
16 Fiesta Express.

17 Q. You did?

18 A. Yes.

19 Q. How come the owners did not include you at
20 the beginning?

21 A. Well, at that time, I felt that I'm
22 certainly a lot older than my children. I wanted
23 them to own the trademark.

24 Q. So the actual application is something that
25 you did?

1 A. Yes.

2 Q. Personally?

3 A. Yes.

4 Q. Did you hire anyone to assist you?

5 A. No.

6 Q. So the application, Barrio Fiesta Express,
7 which -- when did you file that, do you remember?

8 A. I believe in February 2011.

9 Q. So right after you took over the restaurant?

10 A. Yes.

11 Q. Several months after you signed the
12 agreement to purchase the restaurant?

13 A. Yes.

14 Q. And okay. So you filed it but didn't take
15 ownership of it?

16 A. That's correct.

17 Q. And then subsequently, you filed an
18 amendment to take back ownership in conjunction with
19 your children?

20 A. Yes. At that point, I had -- a law firm
21 helped me with that.

22 Q. So can you explain to me why you had your
23 children assign it back so that the three of you were
24 joint owners?

25 A. Well, I think part of the reason is that I

1 wasn't really quite sure whether both my children
2 would actually take on the business after they
3 graduated from college. So i wasn't really sure what
4 their intentions were.

5 Q. When you filed for the registration of that
6 trademark in February of 2011, had they graduated
7 already?

8 A. No. I'm not sure what -- if my son
9 graduated. I don't remember what year he graduated
10 from college.

11 Q. But the intent was for them to take over?

12 A. Yes.

13 Q. And then subsequently, you weren't sure?

14 A. Yes.

15 Q. Which is why they signed it back?

16 A. Yes. Or added me.

17 Q. Are you sure now if they are going to take
18 over?

19 A. I'm not really sure.

20 Q. Fair enough. They are both still quite
21 young, so you never know.

22 A. Yeah.

23 MR. AVANZADO: Let me mark as Exhibit 58
24 this document.

25 (Exhibit 58 was marked for identification.)

1 BY MR. AVANZANO:

2 Q. Mr. Rono, I'll tell that you Exhibit 58 is a
3 printout for the application of the registration of
4 the mark "Barrio Fiesta Express." Can you flip
5 through it, and let me know if you recognize this
6 document as that application?

7 A. Yes.

8 Q. It is that application?

9 A. Yes.

10 Q. So let me ask you a couple of questions. On
11 the second page of Exhibit 58, there's an e-mail
12 address, jfrono@gmail.com?

13 A. Yes.

14 Q. Is that yours?

15 A. Yes.

16 Q. So how did you select the classifications in
17 which to apply for this mark?

18 A. I just did my research with USPTO.

19 Q. On the Internet?

20 A. Yes. On their website.

21 Q. And did your children consent to your
22 registration under their names?

23 A. Yes.

24 Q. And they signed the application, I take it?

25 A. Yes.

1 Q. Both your children have a middle initial C?

2 A. Yes.

3 Q. Are they the same name, the C?

4 A. Cardenas. That's my wife's maiden name.

5 Q. And so attached to the application in

6 Exhibit 58 is a depiction of the mark "Barrio Fiesta

7 Express." Do you see that?

8 A. Yes.

9 Q. It's this page?

10 A. Yes.

11 Q. This page?

12 A. Yes.

13 Q. Did you create that yourself?

14 A. Yes.

15 Q. It's a single page with "Barrio Fiesta

16 Express" in a typical Roman, Times Roman font?

17 A. Yes.

18 Q. You made that?

19 A. Yes.

20 Q. What did you create that on?

21 A. It's a Word document.

22 Q. And you didn't mean for the font to be

23 included. It was just a word?

24 A. Just the words, yes.

25 Q. Now, if you flip to the next page, you'll

1 see that there appears to be a menu?

2 A. Yes.

3 Q. Now, the menu, would you agree, has the logo
4 "Barrio Fiesta" with the pot and the BF flame on it?

5 A. Yes.

6 Q. That's the same logo as Exhibit 30, which is
7 the signage to your Milpitas restaurant?

8 A. Yes.

9 Q. Why did you include that?

10 A. Well, at that time, that was the menu that
11 was there. And I just added the word "Express."

12 Q. So the logo itself, the Barrio Fiesta logo
13 with the BF flame and the pot, that was already in
14 existence at the restaurant?

15 A. That's correct.

16 Q. And you're unaware of where it came from?

17 A. That's correct.

18 Q. But you inherited it when you purchased the
19 restaurant?

20 A. That's correct.

21 Q. The "Express " in red underneath that logo,
22 is that just something you typed in?

23 A. Yes.

24 Q. Did you receive any help in preparing
25 Exhibit 58?

1 A. No.

2 Q. Did any of your children help you?

3 A. No. I don't recall them helping.

4 Q. Now, the first use on the third page of
5 Exhibit 58, there are two first use dates. Do you
6 see those?

7 A. Yes.

8 Q. There's the first use anywhere date and a
9 first use in commerce date?

10 A. Yes.

11 Q. You filled those in?

12 A. Yes.

13 Q. And your children attested to it when they
14 signed it?

15 A. That's correct.

16 Q. What is the date that you filled in?

17 A. January 3, 2011.

18 Q. At the time you applied for this
19 registration, had you created your own menus by then?

20 A. I think we looked at the menus. We didn't
21 -- at that time, we didn't really make any changes to
22 the menu.

23 Q. Does the menu that you attached to Exhibit
24 58, the application, Exhibit 58, have that history
25 section we were discussing earlier in the website

1 with respect to the website?

2 A. Say that again, please.

3 Q. Does this menu that you attached to your
4 application in Exhibit 58 contain the source material
5 for your website information regarding the history of
6 Barrio Fiesta?

7 A. I think some of this was there, yes. The
8 original menu that was there at that time, yes.

9 Q. Well, I'm trying to get at is where -- I'm
10 trying to get the source of your statement in the
11 website on Exhibit 4 that the history dates back to
12 1952, and you said that your source was the menus?

13 A. Yes.

14 Q. Is it in this menu?

15 A. No. Not in this menu.

16 Q. Was there another menu that you received
17 when you purchased the Milpitas restaurant other than
18 this one that's attached?

19 A. There were actually several iterations of
20 this menu before, because it had gone through several
21 ownership. So there were several iterations of the
22 menu.

23 Q. What was this one?

24 A. I think this was the most up-to-date when we
25 came in.

1 Q. So it was the last one the restaurant was
2 using?

3 A. Yes.

4 Q. Before you purchased?

5 A. Well, there was -- this was the last one
6 that they were actively using at that time. There
7 were others that were just laying around there at
8 that time that were old menus.

9 Q. Would you agree with me, sir, that the logo
10 on the menu in Exhibit 58 of Barrio Fiesta with the
11 pot and the BF flame was not something that you
12 created?

13 A. That's correct.

14 Q. And it's not something that BF LLC created?

15 A. That's correct.

16 Q. And it's not something that TRI Group
17 created?

18 A. That's correct.

19 MR. AVANZADO: Why don't we take a little
20 break.

21 THE VIDEOGRAPHER: We're off the record.

22 The time is 11:27 a.m. Please remove your
23 microphones if you walk away from the table. We are
24 off the record.

25 (Recess taken from 11:27 a.m. to 11:45 a.m.)

1 THE VIDEOGRAPHER: We are back on the
2 record. The time is 11:45 a.m. Please proceed.

3 BY MR. AVANZANO:

4 Q. Mr. Rono, you understand you're still under
5 oath?

6 A. Yes.

7 Q. Going back to Exhibit 58, this is the
8 trademark application. Did your children, Justin and
9 Ashley, review the application before you filed it?

10 A. Yes.

11 Q. Did they make any changes?

12 A. No.

13 Q. So Exhibit 58 is as you personally prepared
14 it?

15 A. Yes.

16 Q. Other than the menu and the Word document
17 with the words "Barrio Fiesta Express" on it, did you
18 submit any other specimens to the U.S. Patent and
19 Trademark Office?

20 A. No.

21 Q. Those are the only two?

22 A. As I can recall, yes.

23 Q. Did you conduct any searches for trademarks
24 regarding to Barrio Fiesta before you filed this
25 application?

1 A. At the time, yes.

2 Q. What did you search?

3 A. For Barrio Fiesta.

4 Q. And what did you find?

5 A. I found that there was one trademark at that
6 time for restaurant services.

7 Q. Which trademark was that?

8 A. I believe it was BF, the original Barrio
9 Fiesta of Manila.

10 Q. And what did you do with that information?

11 A. Nothing.

12 Q. You filed Exhibit 58 anyway?

13 A. Yes.

14 Q. Would you say that BF, the original Barrio
15 Fiesta Manila, is -- would be confused for the
16 trademark Barrio Fiesta Express?

17 A. No.

18 Q. You think they are different?

19 A. Yes.

20 Q. Would you think the original Barrio Fiesta
21 Manila is different than Barrio Fiesta Express?

22 A. Yes.

23 Q. What about Barrio Fiesta, a mark that was
24 just Barrio Fiesta. Would you consider that to be
25 confusing with Barrio Fiesta Express?

1 A. I don't know that.

2 Q. You don't have an opinion one way or the
3 other?

4 A. No.

5 Q. You know that in this litigation, you and
6 your company have taken the position that Barrio
7 Fiesta Express conflicts with Barrio Fiesta
8 Manufacturing Corporation's product?

9 A. Yes.

10 Q. And would you agree with me that Barrio
11 Fiesta Manufacturing Corporation's products contain
12 just the words "Barrio Fiesta"?

13 A. Yes.

14 Q. And they contain the logo that we have
15 talked about that's on the signage on your Milpitas
16 restaurant?

17 A. Yes.

18 Q. But you don't consider Barrio Fiesta to be
19 confusing with Barrio Fiesta Express. Is that your
20 testimony?

21 A. Say that again. I just want to make sure I
22 understand.

23 Q. You, I believe you just testified that a
24 mark with the words "Barrio Fiesta" is not confusing
25 with the mark "Barrio Fiesta Express"?

1 MR. GUEDENET: Objection. Misstates
2 witness's testimony.

3 BY MR. AVANZADO:

4 Q. Did I state that correctly?

5 A. Let me just make sure that I understand
6 that. If you repeat that.

7 Q. Well, let me ask the question again. Would
8 a mark containing the word "Barrio Fiesta," just the
9 word "Barrio Fiesta," be confusing with your mark
10 "Barrio Fiesta Express"?

11 MR. GUEDENET: Objection. Calls for
12 speculation.

13 THE WITNESS: I think it can be confusing,
14 yes.

15 BY MR. AVANZADO:

16 Q. And that's the position that you've taken in
17 this litigation, correct?

18 A. Yes, yes, yes.

19 Q. Now, but you just testified that the
20 original Barrio Fiesta Manila is not confusing with
21 Barrio Fiesta Express. Is that your testimony still?

22 A. Repeat the question, just to make sure I
23 understand.

24 Q. Is it your testimony that the words, that
25 the mark "Barrio Fiesta" -- the original Barrio

1 Fiesta Manila is not confusing with the mark Barrio
2 Fiesta Express"?

3 A. I mean, I think there's a possibility of
4 confusion with those two.

5 Q. So when you filed Exhibit 58, your testimony
6 was that you found a registration for BF, the
7 original Barrio Fiesta of Manila?

8 A. Yes.

9 Q. Did you consider your application to be
10 confusing with that mark?

11 A. No. Not at that time.

12 Q. Did that change over time?

13 A. No.

14 Q. And do you consider the other applications
15 for marks that contain the words "Barrio Fiesta"?
16 That's a bad question. Sorry, strike that.

17 Did you see other applications for marks
18 that contain the words "Barrio Fiesta" when you filed
19 Exhibit 58.

20 A. What I saw were other applications that were
21 not live at that time.

22 Q. But you saw that there were filed?

23 A. Yes.

24 Q. Did you consider whether any of those marks,
25 whether live or dead, were being used in commerce?

1 A. No.

2 Q. Did you search for any use of the words
3 "Barrio Fiesta" in commerce prior to your filing
4 Exhibit 58?

5 A. At that time, I was not aware that other
6 Barrio Fiesta at all were in existence.

7 Q. That wasn't my question. My question was
8 whether you had made any search or effort to
9 determine whether the words "Barrio Fiesta" was used
10 in commerce on any products or any services?

11 A. No.

12 Q. And are you aware that the use of a mark
13 constitutes a proper trademark usage?

14 MR. GUEDENET: Objection. Calls for a legal
15 conclusion.

16 THE WITNESS: I'm not -- I don't know what
17 the right answer to that is.

18 BY MR. AVANZANO:

19 Q. Well, let me ask it this way. Are you aware
20 that you can use a name and a mark, or a mark, not
21 register it, and still have trademark rights?

22 A. At that time, no.

23 Q. At that time meaning what time?

24 A. When I filed the application.

25 Q. So for example, if you had been conducting

1 your restaurant, the Milpitas restaurant, the
2 original Barrio Fiesta Manila, which is what the sign
3 says, that your use of that gave you trademark
4 rights? Did you know that?

5 A. Not at that time. No.

6 Q. When did you find that out?

7 A. Well, during the course of part of this
8 litigation, I was doing my own research. So I
9 realized that that is a possibility.

10 Q. That use of a name and mark gives rise to
11 trademark rights?

12 A. Or certain rights.

13 Q. What right are those?

14 A. My understanding is, based on my own
15 research, is that if they were using it, and then,
16 subsequently a trademark has been registered, then
17 the jurisdiction of where that original one was
18 working at remains there, and the registrants then
19 has jurisdiction on all the other areas.

20 Q. I don't think I understood what you just
21 said. What do you mean?

22 A. So just case in point. If someone is using
23 ABC Company in San Jose, and someone decides to
24 register ABC Company then with the registration, the
25 registrant then has the ability or owns that mark

1 anywhere else outside of San Jose.

2 Q. So it's your testimony that the use of a
3 trademark only gives you rights to where you use it,
4 the geographic location where you use it?

5 A. Depends on how you're using that particular
6 trademark.

7 Q. How would that affect anything?

8 A. Well, as I understand your question, the use
9 of a trademark, if you're using a mark that is not
10 registered, then my understanding is that it limits
11 the geographical area that you can use that mark
12 after a registration is made.

13 Q. So you believe that the registration trumps
14 that use in every place other than where it was used?

15 A. Yes.

16 Q. Who told you that?

17 A. Just my research.

18 Q. Certainly not your lawyers, right?

19 MR. GUEDENET: Objection to the extent it
20 calls for attorney-client privilege. And I instruct
21 you not to answer that.

22 (Instruction not to answer.)

23 BY MR. AVANZADO:

24 Q. So under your scenario, you believe that the
25 prior use is limited by a subsequent registration

1 only to the places in which it was used?

2 A. Yes.

3 Q. In your research, did you have any legal
4 authority for that proposition?

5 A. I don't understand your question.

6 Q. When you made -- when you researched -- just
7 so that I'm clear. You did all that research on your
8 own?

9 A. Yes.

10 Q. Without the help of your lawyers?

11 A. That's correct.

12 Q. So your understanding here is your lay
13 person's understanding of trademark law without the
14 assistance of lawyers?

15 A. Yes.

16 Q. So I don't want to infringe on your
17 communications with your lawyers. So this legal
18 stuff is stuff that you came up with independently?

19 A. Yes.

20 Q. What are the legal authorities that you
21 discovered that supports what you just told me is
22 your belief?

23 A. I don't remember the legal authorities,
24 other than certain case laws that was cited in the
25 article that I have read.

1 Q. Do you remember what articles you read?

2 A. I've read many, so I don't remember all of
3 them.

4 Q. Okay. Now, you -- your application, Exhibit
5 58, ultimately was granted, correct?

6 A. Yes.

7 Q. In October 2011?

8 A. Yes.

9 Q. And this was -- Exhibit 58, your
10 application, was for restaurant services?

11 A. For fast food restaurant business.

12 Q. Is that different in your mind?

13 A. Yes.

14 Q. What's the difference?

15 A. I think there are some differences. I mean,
16 a restaurant is just restaurant services of full
17 scale, sit-down restaurant, whereas a fast food,
18 there's an element of certainly speed. Certainly,
19 the way it's laid out. I think there are distinct
20 differences between the two.

21 Q. At the time of Exhibit 58, the only
22 restaurant that you owned and operated was the
23 Milpitas restaurant?

24 A. That's correct.

25 Q. And so would you consider the Milpitas

1 restaurant a fast food restaurant?

2 A. Well, it's both. We made it into both.

3 Q. How?

4 A. Well, we have the sit-down, and then through
5 our to-go menus, we have our Barrio Fiesta Express
6 that dealt with to-go orders.

7 Q. And how was the Barrio Fiesta to-go orders
8 -- excuse me. How is the Barrio Fiesta Express to-go
9 orders different than a to-go order at a regular
10 sit-down restaurant as you described it?

11 A. Well, certainly in our case, we worked on
12 trying to get our to-go orders faster than how it was
13 managed prior to our taking over the business.

14 Q. That's a processing issue?

15 A. That's a processing issue, yes.

16 Q. Any other differences?

17 A. Well, we have a menu that just basically
18 pertains to Barrio Fiesta Express. We have two
19 separate menus. We have, of course, the dine-in
20 menu, and then we have our to-go menus that
21 specifically says "Barrio Fiesta Express."

22 Q. And can you describe for us again what the
23 difference is between that arrangement that you
24 created and any other restaurant in which they allow
25 to-go orders?

1 A. That's correct.

2 Q. So I can order a complete meal?

3 A. Yes.

4 Q. You believe that to be fast food?

5 A. Yes.

6 Q. Why do you say that?

7 A. Well, it's faster to make. It's no
8 different than you go to Ohano or Hawaiian barbeque.
9 Those are fast casual, fast food. It's a meal,
10 basically, a complete meal.

11 Q. You've never gone to a sit-down non-fast
12 food restaurant where the order was a complete meal?

13 A. No, I have.

14 Q. So what makes this more fast food than
15 regular restaurant fare?

16 A. Because in the Barrio Fiesta restaurant, it
17 has always been served family style. And so this is
18 distinctly different than how it was being served
19 before.

20 Q. When you -- when I order, let's say your
21 tocino, tocino is tocino with egg, right?

22 A. Yes. We call it tocino meal but it's the
23 same.

24 Q. So your tocino meal, when I order it to go,
25 how is it packaged?

1 A. It's packaged in a to-go container with a
2 rice, the egg and the meat in the same container.

3 Q. When I order it to dine in, how is it
4 packaged?

5 A. It's not packaged. It's just served in a
6 traditional Filipino palali or pan.

7 Q. In a plate?

8 A. No. It's actually in a --

9 Q. Pan?

10 A. A pan, the Filipino pan.

11 Q. If I wanted, let's say I ordered that to
12 dine in and I ate half of it. And, as Filipinos do,
13 we take the rest to go?

14 A. Yes.

15 Q. How do you package that?

16 A. We give the customer a to-go container.

17 Q. Is it the same one that you would have used
18 to package the meal itself?

19 A. No.

20 Q. What's different about it?

21 A. It would be -- a to-go order would have a
22 container that would actually be able to accommodate
23 the rice and the egg and all of that. If it's just
24 to-go leftovers, and it's called a quarter, a quart
25 container, like typical Chinese container.

1 Q. What if I had left over a lot of food, would
2 you give me the bigger container?

3 A. It depends on what you have as a leftover.

4 Q. But the same containers in back that you use
5 for a to-go order can also be used for leftovers?

6 A. Certainly, yes.

7 Q. And people have done that?

8 A. Yes.

9 Q. Do the containers have any sort of
10 identification on them?

11 A. No.

12 Q. It's just a normal Styrofoam container?

13 A. Yes.

14 Q. Is there any logos on your bags?

15 A. No.

16 Q. Your to-go bags?

17 A. No.

18 Q. Is there anything -- is there any to-go
19 order that contains a Barrio Fiesta Express logo or
20 identification?

21 A. Yes.

22 Q. What is that?

23 A. When we have customers that would travel out
24 of town or out of the state and they know they are
25 going to bring it, then we would normally put a logo

1 there.

2 Q. In your prior deposition, they marked as
3 Exhibit 6 these pictures. Let me show you those. Is
4 that what you're talking about?

5 A. Yes.

6 Q. What's that first picture?

7 A. It's crispy pata or pork trotters, ham hock.

8 Q. Is it cooked?

9 A. Yes.

10 Q. When is it cooked?

11 A. Well, there's a process that we use.

12 Q. Strike that. Let me -- that was a bad
13 question.

14 The pictures on Exhibit 6, the first picture
15 is the crispy pata packaging that you talked about in
16 your last deposition?

17 A. Yes.

18 Q. Right?

19 A. Yes.

20 Q. It's a vacuum sealed package?

21 A. That's correct.

22 Q. Where is the crispy pata cooked before you
23 vacuum pack?

24 A. It's cooked before it was vacuum packed. I
25 mean, there's a cooking process that we use. This

1 particular dish actually goes through three different
2 cooking processes. And so it's part of that process
3 that every time it gets packaged, it's already
4 cooked, where the customer will take it home and then
5 re-fry it.

6 Q. So this is my question. When I order a
7 to-go, crispy pata to go from you, do you cook it and
8 then vacuum pack it on site?

9 A. No. If you're in the area and you're going
10 to basically take it home and eat it, then we would
11 re-fry it at that time, so any time you get home, you
12 can eat it. If you're going out of the area or if
13 you're going out of the state, then we would not
14 complete the cooking process. So the last cooking
15 process is re-frying the pata again.

16 Q. I got you. So is this picture in Exhibit 6
17 the first page of an uncooked crispy pata?

18 A. No, it is cooked. It's not -- it has not
19 gone through the last stage of cooking.

20 Q. The final stage?

21 A. The final stage.

22 Q. Which is the frying?

23 A. Well, this has also been fried, but there's
24 a second frying that occurs.

25 Q. So if I took that product from you, the one

1 that's vacuum packed, I couldn't just open it and eat
2 it, right?

3 A. You can, if you want to, but it's not going
4 to be crispy.

5 Q. And it's not going to be as good?

6 A. I think it's still good, but it's not going
7 to be crispy.

8 Q. Is your instruction to customers who
9 purchased that vacuum packed crispy pata to re-fry
10 it?

11 A. Yes.

12 Q. And that's what they were supposed to do
13 with it?

14 A. Yes.

15 Q. Does the crispy pata that you cook in the
16 restaurant to serve in the restaurant originate from
17 this vacuum sealed package?

18 A. Yes.

19 Q. So the restaurant has a bunch of these
20 vacuum sealed crispy patas?

21 A. Well, we would seal it at the time it's
22 ordered. It's not regularly just all sealed.

23 Q. So where does the underlying meat come from?

24 A. I don't understand the question.

25 Q. Before you vacuum pack it, where do you get

1 the crispy pata?

2 A. From the kitchen.

3 Q. Is it cooked?

4 A. Yes.

5 Q. So it's pre-cooked?

6 A. Yes.

7 Q. Pre-cooked where?

8 A. In the restaurant.

9 Q. And then what happens to it?

10 A. Then it's basically stored in the
11 restaurant, and when someone orders it, then it gets
12 re-fried again.

13 Q. So there are a bunch -- strike that.

14 There are a number of pre-cooked crispy
15 patas stored at the restaurant?

16 A. That's correct.

17 Q. If I order it to dine in, you re-fry it
18 there?

19 A. Yes.

20 Q. And give it to me?

21 A. Yes.

22 Q. To eat?

23 A. Yes.

24 Q. If I'm taking it to go, you just vacuum seal
25 it and give it to me?

1 A. No. If you're taking to go and you live in
2 the area, then we would re-fry it and give it to you
3 hot. If you tell us -- and we have many customers
4 say, I'm going to bring this out of town or bring
5 this out of state -- then we would not re-fry it. It
6 will be room temperature. We will vacuum seal it and
7 then give it to them.

8 Q. So you have a vacuum sealer on site?

9 A. Yes.

10 Q. Where do get the labels?

11 A. We had it made.

12 Q. Is it part of the vacuum sealer package or
13 is it separate that you stick on?

14 A. We stick it on.

15 Q. How many of those have you sold in that
16 package?

17 A. I don't know.

18 Q. Do you sell a lot of them that way?

19 A. I don't know the number. I know that we
20 have sold several that would go out of state by the
21 customers. We don't sell direct out of state, but
22 the customers will bring out of state.

23 Q. Is it only for out-of-state travel?

24 A. No. Just within the state if it's -- they
25 live far away.

1 Q. So if I went into the restaurant and said,
2 "I'm going to Los Angeles and I want it to go," you
3 would vacuum pack it?

4 A. Yes.

5 Q. You know I did that once?

6 A. Uh-huh.

7 Q. And I didn't get it vacuumed packed. Do you
8 know that?

9 A. No.

10 Q. What's the policy on how to do that in your
11 restaurant?

12 A. Well, they are told that if the customer
13 specifically say that they are going out of town,
14 then we would vacuum seal it.

15 Q. Who is told that?

16 A. Well, our chief operations officer and our
17 business operations manager.

18 Q. Do you have any written guidelines or
19 procedures on how to handle crispy pata specifically
20 for to-go orders?

21 A. No.

22 Q. And these are all just oral instructions
23 you're talking about?

24 A. Yes.

25 Q. And so you're talking about Michelle

1 Villanueva?

2 A. Yes.

3 Q. Is she there every day?

4 A. No.

5 Q. Who else is in charge of that restaurant?

6 A. Eva Lonzanida.

7 Q. Is she told that?

8 A. Yes.

9 Q. How do you spell Lonzanida?

10 A. L-O-N-Z-A-N-I-D-A.

11 Q. Do you keep, and by "you," I mean Barrio
12 Fiesta LLC, written records of the number of sales
13 for vacuum packed crispy pata?

14 A. No.

15 Q. Is there any way to determine how many of
16 those units you've sold?

17 A. No.

18 Q. If any?

19 A. No.

20 Q. Do you have QuickBooks?

21 A. No.

22 Q. What do you use for your accounting?

23 A. Excel.

24 Q. How do you keep track of your inventories
25 and sales?

1 A. We have a point of sale system.

2 Q. What system is that?

3 A. It's called Amber Systems Technologies.

4 Q. Does Amber Systems Technologies' point of
5 sales system track products sold?

6 A. Yes.

7 Q. So if I ordered a crispy pata, some pancit
8 and your tocino meal, it would all show up on the
9 point of sales system?

10 A. Yes.

11 Q. On the records?

12 A. Yes.

13 Q. Including -- strike that.

14 Does Amber Systems, is that what it was?

15 A. Yes.

16 Q. Does Amber Systems provide you with a
17 report?

18 A. No.

19 Q. How do you obtain a report on what was sold
20 in your restaurant?

21 A. We print it out.

22 Q. From what?

23 A. From the computer or the POS system that's
24 on site.

25 Q. How long do you keep those records?

1 A. We keep them forever.

2 Q. So is if I said, "Mr. Rono, I need what
3 products you sold in October 2012," you can get that?

4 A. I don't know if that particular time period,
5 because we did have a problem with the hard drive,
6 hard disc. But certainly in recent years, we have
7 all of it.

8 Q. So if I asked you for records in February
9 2016, you could get that?

10 A. Yes.

11 Q. Who is in charge of maintaining your
12 electronic records?

13 A. I am.

14 Q. Even at the restaurant?

15 A. Yes.

16 Q. And how often are you at the restaurant?

17 A. Quite often. Every, at least every evening.
18 Well, most evenings.

19 Q. And how -- strike that.

20 Do you have a practice of archiving or
21 destroying data from your restaurant computers?

22 A. No.

23 Q. Do you destroy or archive data?

24 A. No.

25 Q. So everything that's on it is on it?

1 A. Everything that's on it is on it.

2 Q. You said you had a problem with the hard
3 drive before?

4 A. Yes.

5 Q. When was that?

6 A. I think 2012. I'm not sure.

7 Q. Is the hard drive -- you replaced the hard
8 drive, I take it?

9 A. Yes.

10 Q. Is it the same ever since?

11 A. Yes. Whatever that time period is, but it
12 was fixed, so it's the same.

13 Q. And so it's your testimony that BF -- BF --
14 strike that.

15 It's your testimony that Barrio Fiesta LLC
16 keep all of its electronic data, and specifically on
17 the point of sale system, forever?

18 A. Yes.

19 Q. So unless there's a problem, it's there?

20 A. Yes.

21 Q. Now -- so I take it, then -- strike that.

22 Is there a different code or SKU for a
23 vacuum packed crispy pata versus a crispy pata that I
24 either took to go hot?

25 A. No.

1 A. Everything that's on it is on it.

2 Q. You said you had a problem with the hard
3 drive before?

4 A. Yes.

5 Q. When was that?

6 A. I think 2012. I'm not sure.

7 Q. Is the hard drive -- you replaced the hard
8 drive, I take it?

9 A. Yes.

10 Q. Is it the same ever since?

11 A. Yes. Whatever that time period is, but it
12 was fixed, so it's the same.

13 Q. And so it's your testimony that BF -- BF --
14 strike that.

15 It's your testimony that Barrio Fiesta LLC
16 keep all of its electronic data, and specifically on
17 the point of sale system, forever?

18 A. Yes.

19 Q. So unless there's a problem, it's there?

20 A. Yes.

21 Q. Now -- so I take it, then -- strike that.

22 Is there a different code or SKU for a
23 vacuum packed crispy pata versus a crispy pata that I
24 either took to go hot?

25 A. No.

1 Q. Or ate there?

2 A. No. Well, if you ate there, that would be a
3 dine-in order. If it's to go, then it goes into the
4 to-go order.

5 Q. But you can't -- can you tell the difference
6 between the vacuum packed one with the label and the
7 hot to-go one --

8 A. No.

9 Q. That doesn't have a label?

10 A. No.

11 Q. And I'm correct, right? The hot to-go
12 crispy pata, the one that you give to someone who is
13 going down the block, does not have a Barrio Fiesta
14 Express label on it?

15 A. That's correct.

16 Q. So I take it, then, the only record --
17 strike that.

18 The records that you maintain identify to-go
19 orders of crispy pata?

20 A. Yes.

21 Q. But there's another subset within that
22 category that has the vacuum packed with the label?

23 A. No. There is no subset. A to-go is a
24 to-go.

25 Q. I'm sorry. But, okay. Your records

1 indicate all to-go?

2 A. Yes.

3 Q. And your records cannot distinguish between
4 those to go that were hot and those to go that were
5 vacuum packed at room temperature?

6 A. That's correct.

7 Q. So how do you know how many were sold?

8 A. I don't know how many were sold.

9 Q. But it's in your testimony that at least
10 some were sold?

11 A. Yes.

12 Q. Do you know where they were sold? In other
13 words, where their destination was going?

14 A. I know New Jersey, Washington, Texas. I
15 think we even had an order in Florida.

16 Q. How do you know that?

17 A. Because the customer told us.

18 Q. So it's anecdotal?

19 A. Yes.

20 Q. Any records of that?

21 A. No.

22 Q. Do you ship it?

23 A. No.

24 Q. Do you ship anything?

25 A. No.

1 Q. So am I able to call you from Los Angeles
2 where I live and say, you know, "Mr. Rono, I really
3 like your crispy pata. Send me one."

4 A. No.

5 Q. And no one has ever done that?

6 A. No.

7 Q. Is that right?

8 A. Well, I don't know if anyone has called.
9 I'm not aware of any calls like that.

10 Q. Are you aware of any shipments of product
11 bearing the Barrio Fiesta Express label?

12 A. No.

13 Q. Now, going back to Exhibit 6. If you could
14 flip the page, I think there's another packaged
15 product. A picture of a packaged product which is
16 lumpia Shanghai?

17 A. Uh-huh.

18 Q. Is that right?

19 A. Yes.

20 Q. Is what you describe for crispy pata the
21 same for the lumpia or different?

22 A. In terms of?

23 Q. How you vacuum pack?

24 A. It's the same. The process is the same.

25 Q. So you have stored pre-cooked lumpia that if

1 I'm saying I'm taking it to New Jersey, you would
2 give it to me in a vacuum pack seal?

3 A. Yes. We would put it and vacuum it.

4 Q. With the label?

5 A. Yes.

6 Q. If I said I'm going --

7 A. Well, yes.

8 Q. You would put a label on it?

9 A. Yes.

10 Q. So if I said, "Well, I'm going down the
11 street," you would cook it for me hot and give it to
12 me?

13 A. Yes.

14 Q. Not in a vacuum seal?

15 A. That's correct.

16 Q. And not with a label?

17 A. That's correct.

18 Q. So just like the crispy pata?

19 A. Yes.

20 Q. Other than those two that I saw in Exhibit
21 6, is there any other products that you vacuum seal
22 and put a label on it?

23 A. No.

24 Q. And with the lumpia Shanghai, are you aware
25 of any orders where you and your restaurant ship it

1 based on a phone order?

2 A. No.

3 Q. So neither were shipped?

4 A. That's correct.

5 Q. Is your answer different for the San Jose
6 restaurant?

7 A. It's the same.

8 Q. Do you have products like Exhibit 6, the
9 pictures in Exhibit 6 in the San Jose restaurant?

10 A. Yes.

11 Q. Same thing?

12 A. Yes.

13 Q. Same process?

14 A. Well, in the San Jose restaurant, we're not
15 quite equipped yet to sell a lot of these that we
16 vacuum seal with, yes. I mean, we are -- it's a new
17 restaurant, so we are just getting started.

18 Q. Does that mean you don't have a vacuum seal
19 machine in San Jose?

20 A. No.

21 Q. Is that right?

22 A. Yes.

23 Q. Other than purchases from either restaurant,
24 have you, meaning Barrio Fiesta LLC, sold any
25 products with a Barrio Fiesta Express label other

1 than those that are purchased at the store, at the
2 restaurant?

3 A. I mean, we may have sold, but not -- very,
4 very limited, our sauces. Like the pata sauce.

5 Q. I think there's a picture of that in Exhibit
6 6 as well?

7 A. Yes. That's correct.

8 Q. And so that's -- is it bottled off site?

9 A. No, it's on site.

10 Q. Can you turn to that picture so that I can
11 refresh my memory?

12 A. (Witness complies.)

13 Q. What kind of container is that?

14 A. It's a regular plastic container.

15 Q. Like a Tupperware-ish?

16 A. Not really. Softer than a Tupperware.

17 Q. With a seal? Is it sealed or is it just the
18 lid?

19 A. It's, you actually sort of screw the lid.

20 Q. How many much those have you sold?

21 A. Not very many.

22 Q. Is there --

23 A. I mean, the ones that were labeled, not very
24 many.

25 Q. So let me go back to the point of sale

1 documentation system. Is there, with respect to
2 lumpia, can I tell on your point of sale system
3 whether it's vacuum packed or not?

4 A. No.

5 Q. Same -- so the answers are the same?

6 A. That's correct.

7 Q. As with the crispy pata?

8 A. That's correct.

9 Q. What about the pata sauce? Can I tell when
10 you've sold one of those?

11 A. No. Well, you can tell, but it doesn't say
12 whether it's labeled or not.

13 Q. Or whether it's in that packaging?

14 A. That's correct.

15 Q. How else would it come?

16 A. We have another container.

17 Q. Without a label?

18 A. Without a label.

19 Q. And just for the record, for those of us,
20 for those people who are not familiar, what is pata
21 sauce?

22 A. It's actually the sauce that you would dip
23 with the port trotters, the ham hock.

24 Q. With the crispy pata?

25 A. With the crispy pata.

1 Q. When I order crispy pata to dine in, you
2 give me that sauce, right?

3 A. Yes.

4 Q. It comes with the meal?

5 A. That's correct.

6 Q. Does this come with the meal?

7 A. No.

8 Q. So the packaged pata sauce is sold
9 separately from the crispy pata itself?

10 A. That's correct.

11 Q. If I bought the crispy pata to go, would you
12 give me a container of pata sauce?

13 A. It would be a different container. It comes
14 with the order.

15 Q. That's the one that's not labeled?

16 A. That's correct.

17 Q. So the labeled ones are specifically
18 purchased? In other words, I come in and I say I
19 want a a bottle of pata sauce?

20 A. Yes. In a way. If the person is -- again,
21 similar to the pata. If it's just they are in the
22 neighborhood, they want extra pata sauce, we just use
23 a regular Styrofoam container.

24 Q. Is there -- strike that.

25 I take it the pata sauce can only be bought

1 at the restaurant?

2 A. Yes.

3 Q. Similar to the crispy pata and the lumpia?

4 A. Yes.

5 Q. Who makes the packaging for the pata sauce
6 for you?

7 A. We do. I mean, employees are -- there's a
8 sticker there.

9 Q. So you just take a normal container and put
10 a sticker on it?

11 A. Yes.

12 Q. It's not sealed in any way?

13 A. No.

14 Q. Like in a bottling company?

15 A. No. No.

16 Q. And these are done by your regular employees
17 at the restaurant?

18 A. Yes.

19 Q. Do you have any employees who are
20 specifically hired for product packaging?

21 A. No.

22 Q. Or for products for sale?

23 A. No.

24 Q. So is there any employee whose job is
25 specifically to vacuum pack foods for you?

1 A. No.

2 Q. We can put those away now. I'll fix them
3 later.

4 A. Do you want them all together?

5 Q. This is on top of that one. So let me ask
6 you some more general questions about how you conduct
7 your business. As it stands, you are one of three
8 owners of the trademark Barrio Fiesta Express; is
9 that right?

10 A. Yes.

11 Q. You and your children?

12 A. Yes.

13 Q. Who makes the decision among the three of
14 you relating to the use of that mark?

15 A. The three of us.

16 Q. Together?

17 A. Together.

18 Q. At all times?

19 A. Yes.

20 Q. Do your children have any ownership interest
21 in Barrio Fiesta LLC?

22 A. No.

23 Q. Do your children have any ownership interest
24 in TRI Group, Inc.?

25 A. No.

1 Q. Do they have any ownership interest in the
2 Milpitas restaurant?

3 A. No.

4 Q. Or in the San Jose restaurant?

5 A. No.

6 Q. So what benefit do your children derive from
7 ownership of the Barrio Fiesta Express mark?

8 A. Well, other than being my children, and the
9 income of the restaurant has helped support them.

10 Q. But that's not as a right; that's because
11 you're the parent?

12 A. Yes.

13 Q. Is there any arrangement between the three
14 of you on decision making power or revenue division
15 of the trademark Barrio Fiesta Express?

16 A. No.

17 Q. Do you have any written agreements between
18 the three of you relating to the mark other than the
19 assignment agreement and the actual applications
20 themselves?

21 A. Would you repeat the question?

22 Q. Is there any written agreement amongst you
23 and your children relating to the mark? Let's put it
24 that way.

25 A. No.

1 Q. Who decided to license the mark Barrio
2 Fiesta Express to Barrio Fiesta LLC?

3 A. Justin and Ashley and -- well, you know, in
4 consultation with myself.

5 Q. So let me show you what has been marked
6 previously at the depo as Exhibit 2.

7 A. Uh-huh.

8 (Exhibit 2 previously marked for
9 identification.)

10 BY MR. AVANZADO:

11 Q. This is the trademark license agreement to
12 Barrio Fiesta LLC; is that correct?

13 A. Yes.

14 Q. Who prepared that agreement?

15 A. An attorney.

16 Q. Retained by who?

17 A. By Barrio Fiesta LLC.

18 Q. And your children ended up signing that,
19 correct?

20 A. Yes.

21 Q. Granting trademark rights to Barrio Fiesta
22 LLC?

23 A. Yes.

24 Q. At the time of Exhibit 2, they were the only
25 owners of the mark, correct?

1 A. That's correct.

2 Q. And how did they decide to license it to
3 your company?

4 A. I think we had a discussion about that, and
5 since I'm the only owner of Barrio Fiesta LLC and
6 they own the trademark rights to the trademark, it
7 was agreed that they would grant Barrio Fiesta LLC
8 the right to that trademark, to use the trademark.

9 Q. Did you pay them?

10 A. Yes.

11 Q. How much?

12 A. I don't recall.

13 Q. Do you have any guess or estimate?

14 A. I would have to look at the document.

15 Q. So whatever the document says is what you
16 paid?

17 A. Yes. Uh-huh.

18 Q. And Barrio Fiesta LLC was not the only
19 licensee of that mark, correct?

20 A. That's correct.

21 Q. TRI Group was also a licensee?

22 A. That's correct.

23 Q. So that's Exhibit 5, correct?

24 A. Yes.

25 Q. At the time of Exhibit 5, were you an owner

1 at that point?

2 A. Of the trademark?

3 Q. Yes.

4 A. I don't recall exactly when this was signed.
5 I don't believe I was, no.

6 Q. So -- and, again, you were the sole
7 officer/owner of TRI Group?

8 A. Yes.

9 Q. And so your children license it to you
10 essentially?

11 A. Yes.

12 Q. Has TRI Group licensed Barrio Fiesta Express
13 to any other entity?

14 A. No.

15 Q. Has Barrio Fiesta LLC licensed Barrio Fiesta
16 Express to any other entity?

17 A. No.

18 Q. Or person?

19 A. No.

20 Q. Okay. Under your arrangement through these
21 two license agreements, Exhibits 2 and 5, those
22 companies are not exclusively entitled to use Barrio
23 Fiesta Express; is that correct?

24 A. I would have to refresh my memory on the
25 document.

1 Q. Well, why don't do you that? My question
2 is: Neither Barrio Fiesta LLC nor TRI Group are
3 exclusive licensees are Barrio Fiesta Express; is
4 that correct?

5 A. Again, I would have to look exactly what was
6 -- what was in the document.

7 Q. Your knowledge would arise only from the
8 documents?

9 A. Yes.

10 Q. Did you guide your children on trademark
11 rights that they held and licensed?

12 A. In what way?

13 Q. Well, did you tell them, "If you sign this,
14 I get X rights; if you don't sign it, I get anything
15 else"?

16 A. I think there's just a conversation in terms
17 of what the document is about.

18 Q. And they consented?

19 A. Yes.

20 Q. Are TRI and Barrio Fiesta LLC the only two
21 licensees of that mark?

22 A. Yes.

23 Q. Other than the San Jose restaurant, is TRI
24 Group using Barrio Fiesta Express in any other way?

25 A. No.

1 Q. Other than the Milpitas restaurant, is
2 Barrio Fiesta LLC using the Barrio Fiesta Express
3 mark in any other way?

4 A. No.

5 Q. Now, your prior deposition was in January of
6 this year. Do you remember that?

7 A. Yes.

8 Q. Did you read your transcript?

9 A. No.

10 Q. Did you make any corrections to your
11 transcript? I take it no?

12 A. No.

13 Q. So have you read any of the other
14 transcripts in this case?

15 A. No.

16 Q. Were any of the other transcripts in this
17 case described for you?

18 MR. GUEDENET: Objection to the extent that
19 it calls for attorney-client privilege.

20 MR. AVANZADO: You can answer the question.

21 THE WITNESS: Not in detail, no.

22 BY MR. AVANZANO:

23 Q. Does that mean it was described to you in
24 some fashion?

25 A. Well, only to the extent that there was a

1 deposition; I don't know the contents of the
2 responses.

3 Q. So then let me ask you more specifically so
4 I know what your frame of mind is. Were you told
5 what Justin said in his deposition?

6 A. Yes. Well, I was not told; I was at his
7 deposition.

8 Q. Were you at Ashley's also?

9 A. Yes.

10 Q. Were you told the content of any other
11 depositions that you were not present for?

12 A. No.

13 MR. AVANZADO: Let me mark as Exhibit 59
14 another trademark application.

15 Q. Do you need a break?

16 A. No, no. I'm okay.

17 (Exhibit 59 was marked for identification.)

18 BY MR. AVANZANO:

19 Q. This is the application filed by you and
20 your children relating to a different classification.
21 Do you recognize it?

22 A. Yes.

23 Q. Is this something that you retained lawyers
24 to file?

25 A. Yes.

1 THE VIDEOGRAPHER: We're going off the
2 record. The time is 12:42 p.m. We need a few
3 minutes to change the DVD. We are off the record.

4 (Luncheon recess was taken from 12:42 p.m.
5 to 1:42 p.m.)

6 THE VIDEOGRAPHER: We are back on the
7 record. The time is 1:42 p.m. and this is the
8 beginning of Media Number 2 in the deposition of June
9 Rono, Volume 2, on May 12, 2016. Please proceed.

10 BY MR. AVANZANO:

11 Q. Mr. Rono, you're still under oath?

12 A. Yes.

13 Q. Let me talk about Ramar Foods.

14 A. Yes.

15 Q. How did you hear about that company?

16 A. They are a supplier to us.

17 Q. Meaning what?

18 A. They supply certain products.

19 Q. To the restaurant?

20 A. To the restaurant, yes.

21 Q. Both restaurants?

22 A. Yes.

23 Q. And how long have they been a supplier?

24 A. I don't know exactly when they started, but
25 for many, many years.

1 Q. Were they a supplier when you purchased the
2 restaurant?

3 A. Yes.

4 Q. So at some point in 2015, you approached
5 them?

6 A. Yes.

7 Q. Concerning perhaps manufacturing some
8 packaged foods for you?

9 A. Yes.

10 Q. And I think all of this has gone through in
11 your prior deposition, but a couple things. A couple
12 of things that weren't clear to. Are you the
13 primary point of contact with Ramar Foods?

14 A. I'm one of the contacts.

15 Q. Who is the other?

16 A. Michelle. Michelle Villanueva.

17 Q. And so would Ms. Villanueva have contact
18 with Ramar Foods outside your presence?

19 A. Yes.

20 Q. And outside your knowledge?

21 A. Not outside of my knowledge, no.

22 Q. You would know about it?

23 A. Yes.

24 Q. And would she just be doing what you told
25 her to do?

1 A. Yes.

2 Q. In other words, does she have any
3 independent ability to make a deal without you?

4 A. No. We would have to confer and talk about
5 it.

6 Q. Okay. So I think in your prior deposition,
7 you said that there was a conversation in December
8 2015 with Ramar Foods where everything was put on
9 hold?

10 A. That's correct.

11 Q. And so in between the time it was put on
12 hold and the time when you first approached them
13 about making packaged foods, what happened relating
14 to that deal?

15 A. Well, we had a conversation. They were
16 excited to work with us. They asked us for our menu,
17 or a recipe, actually, for one of the products. And
18 they at that point were doing their due diligence in
19 terms of applying with U.S.D.A., I guess is the
20 agency, for our own label. So they talked about the
21 design of the label. And we subsequently sent them
22 our recipe. That recipe was being priced out and
23 everything was going forward until I receive a call
24 from Susie Quesada that it's on hold.

25 Q. So let's back up. When you say going after

1 your label, are you talking about the same labels we
2 discussed in the vacuum packed foods in Exhibit 6?

3 A. The same logo, yes.

4 Q. And so what does the U.S.D.A. have anything
5 to do with those labels?

6 A. Well, when you sell frozen product, frozen
7 food, plus I understand that you have to get a
8 separate permit from the U.S.D.A. for your label.

9 Q. And Ramar was going to do that for you?

10 A. Yes.

11 Q. What steps were taken in between the time
12 you first contacted Ramar to the time Ms. Quesada
13 told you it was on hold to further that process?

14 A. There was a subsequent meeting between
15 Michelle and one of the managers from Ramar. I don't
16 remember her name offhand. And they met, and just
17 tried to work out the details of what we need to move
18 the project forward.

19 Q. Did you sign an agreement?

20 A. There was no agreement.

21 Q. Did you have a verbal agreement?

22 A. With respect to, yes. They said that they
23 would like to go ahead and proceed. In fact, we have
24 an e-mail from Susie, saying that they are excited to
25 move forward with this project.

1 Q. Okay. What were the terms of your verbal
2 agreement?

3 A. That they would produce the product for us
4 under our name and our recipe. We would be
5 responsible for the distribution. The only thing
6 that was not agreed upon was the unit prices for the
7 product.

8 Q. Did you agree upon where it would be
9 manufactured?

10 A. I don't know if there was specific
11 conversation where, but when we met in their office,
12 the statement -- actually, now I remember the name of
13 the manager. Anavi, A-N-A-V-I. And she said that
14 that was going to be produced in their Pittsburgh
15 facilities.

16 Q. In Pittsburgh, California?

17 A. Yes.

18 Q. And what quantities did you agree to?

19 A. We did not agree on a quantity, but they did
20 have a minimum quantity.

21 Q. What distribution vehicles did you agree to?

22 A. Well, there was no discussion about the
23 distribution. It would be once the products are
24 made, it would be given to us and we would distribute
25 it.

1 Q. Were you aware that Ramar Foods, when they
2 produce private label products, have a plan in place
3 with their clients as to where the distribution are?

4 A. No, I was not aware of that.

5 Q. And so is it your testimony that you did not
6 have those discussions with Ms. Quesada or anyone at
7 Ramar Foods?

8 A. In terms of the distribution, no. Other
9 than what I've said, that we would be responsible for
10 our distribution.

11 Q. Did you have a plan of distribution?

12 A. Yes.

13 Q. What's the plan?

14 A. That we would distribute it to supermarkets.

15 Q. That's your plan?

16 A. Yes.

17 Q. Which supermarkets?

18 A. Lion Supermarket and Ocean Supermarket.

19 Q. Just those two supermarkets?

20 A. Well, Lion's represent eight supermarkets or
21 nine.

22 Q. Where?

23 A. In San Jose, Milpitas, Fremont. I don't
24 know where the others are.

25 Q. Is Lion's a Filipino supermarket?

1 A. No.

2 Q. An Asian supermarket?

3 A. An Asian supermarket.

4 Q. What was the other one?

5 A. Ocean Supermarket.

6 Q. Is that a Filipino supermarket?

7 A. No.

8 Q. An Asian supermarket?

9 A. An Asian supermarket.

10 Q. Did you have an agreement with Lion's
11 Supermarket for distribution of your products?

12 A. Yes. Well, we had a verbal agreement and
13 e-mail correspondence.

14 Q. Did you produce those e-mails to your
15 lawyers?

16 A. Yes.

17 Q. So just so I'm clear, somewhere in the
18 production that I received, there is e-mails between
19 you and Lions Supermarket relating to the terms of
20 their distribution of your products?

21 A. No. It was an e-mail from me to Lion's,
22 just summarizing the verbal conversation that we had.
23 The Lion's representative actually never responded in
24 writing. But every time we had a verbal
25 conversation, he would confirm that we are proceeding

1 up until it was put on hold.

2 Q. As best as you can, tell me what the content
3 of your e-mail was to the Lion's representative?

4 A. My recollection is that I thanked him for
5 being willing to put our products in their stores.

6 Q. That's it?

7 A. Yes.

8 Q. Anything about quantities?

9 A. It was not about -- not in the e-mail. On
10 the verbal conversation, we have had conversations
11 about where exactly, what placement it's going to get
12 at the store.

13 Q. I didn't ask you about placement or
14 location. I asked about quantities.

15 A. No.

16 Q. Did you have discussions about quantities?

17 A. No.

18 Q. Did you have discussion about pricing?

19 A. No.

20 Q. Did you have discussions about timing?

21 A. Preliminarily, yes. We had some
22 conversation about timing.

23 Q. Well, you either had conversations or you
24 didn't. It's not preliminary.

25 A. Well, no. Preliminary -- we had

1 conversations about preliminary timing as to when the
2 product would be placed.

3 Q. When is that?

4 A. January.

5 Q. Of?

6 A. Of 2000 -- this year, '16.

7 Q. And your testimony is that it didn't happen
8 because of the suspension?

9 A. Yes.

10 Q. The suspension was imposed by Ramar?

11 A. Yes.

12 Q. To you?

13 A. Yes.

14 Q. Is it your testimony that absent Ramar's
15 suspension of this proceeding, you would be producing
16 and selling products now?

17 A. That's what we were -- we had agreed to do,
18 yes.

19 MR. AVANZADO: Move to strike as
20 nonresponsive.

21 Q. Is it your testimony that other than --
22 without Ramar's suspension of this process, you would
23 be -- "you" meaning Barrio Fiesta LLC, would be
24 selling products now?

25 A. Yes.

1 Q. And it -- strike that.

2 As best as you can, describe for me the
3 conversation that you had with Ramar where they told
4 you they were suspending this process?

5 A. I got a call from Susie, left a message. I
6 called her back, and she told me that she was just
7 served with a subpoena. One to produce documents,
8 and two, I guess for a deposition. And she told me
9 that given that, that she's going to put the project
10 on hold until I'm able to clear, resolve this matter.

11 Q. Did she tell you anything else?

12 A. No.

13 Q. Did she tell you what their internal process
14 was relating to that suspension?

15 A. No.

16 Q. Did you read her transcript?

17 A. No.

18 Q. You know she's been deposed in this case?

19 A. I understand that she was.

20 Q. Were you told what she said of why they
21 suspended?

22 A. No.

23 Q. You would agree with me that Susie Quesada
24 is in a better position than you are to know why
25 Ramar decided what they did? Would you agree with

1 that proposition?

2 A. Say that again.

3 Q. Would you agree that the proposition that
4 Susie Quesada knows better why Ramar Foods told you
5 what they told you than you are?

6 A. I would imagine so. She was the one that
7 gave me the message.

8 Q. And she's in charge?

9 A. Yes.

10 Q. Now, Lion's and Ocean, those supermarkets,
11 you said that they're Asian supermarkets?

12 A. Yes.

13 Q. And Lion's has eight stores?

14 A. Eight or nine.

15 Q. How many does Ocean have?

16 A. One.

17 Q. You're aware that there are Filipino
18 supermarket chains, right?

19 A. Yes.

20 Q. What are the largest ones that you're aware
21 of in terms of chains?

22 A. Seafood City and Island Pacific.

23 Q. And do you have any contacts with those
24 people?

25 A. No.

1 Q. Did you -- strike that.

2 Now, the products you were discussing with
3 Ramar was limited to the lumpia Shanghai?

4 A. Yes.

5 Q. Did you discuss the crispy pata with them?

6 A. Yes.

7 Q. And they told you it couldn't be done?

8 A. They did not tell me it could not be done.

9 Q. You're aware that Susie Quesada believes it
10 can't be done, right?

11 A. She never expressed that in the meeting. In
12 fact, it was her manager that said that they wanted
13 to do that.

14 Q. But couldn't?

15 A. No. Did not say could not.

16 Q. And, again, would you agree with me that
17 Ramar Food and Susie Quesada are more experienced in
18 the packaging of packaged food than you or your
19 company?

20 A. Yes.

21 Q. So if they said it couldn't be done, would
22 you believe them?

23 A. If they had said that to me at the time,
24 then yes, I would have believed them.

25 Q. So why did you not pursue crispy pata as a

1 product line?

2 A. It's not that we were not pursuing crispy
3 pata. Because this was our initial venture with
4 them, we wanted to start with something that's easier
5 to do. Hence, the lumpia Shanghai.

6 Q. Now, lumpiang Shanghai is something, would
7 you agree, that would be marketable to the Filipino
8 consumers?

9 A. I think.

10 Q. That's a bad question. Let me start again.
11 Would you agree with me that lumpiang Shanghai, the
12 target consumer was generally Filipino?

13 A. No.

14 Q. Why not?

15 A. Because based on our own customer
16 experience, lumpia Shanghai is actually one of the
17 popular ones, whether it be Filipino, non-Filipinos.

18 Q. It's a cross-over product?

19 A. It's a cross-over product, yes.

20 Q. But Filipinos love lumpia Shanghai, too?

21 A. Right. And it's a fair statement. And so
22 does everybody else that have tried it.

23 Q. So why didn't you approach the two largest
24 Filipino supermarkets for your planned product?

25 A. We already have a relationship with Lion's

1 recipe and the label.

2 Q. So you and Susie were the high level people?

3 A. Yes.

4 Q. And then you delegated to your subordinates?

5 A. Yes.

6 Q. Did you get to the pricing of what the
7 lumpia would cost to you to have Ramar Foods produce
8 it?

9 A. Yes. They gave us a pricing, but there was
10 not an agreement on the pricing.

11 Q. You mean they told you what they thought
12 they would charge you?

13 A. Yes.

14 Q. And you not agreed to that yet?

15 A. That's correct.

16 Q. How much were they going to charge you per
17 package?

18 A. I don't remember offhand.

19 Q. Is it in the e-mails?

20 A. I don't recall if it's in the e-mails.

21 Q. And what type of package were they going to
22 produce for you? In other words, is it going to be a
23 tray pack? Is it going to have a specific number of
24 lumpia?

25 A. Yes. It was not a tray pack, but it would

1 A. Tocino.

2 Q. Did you provide your tocino and longganisa
3 recipes to Ramar Foods?

4 A. No, we didn't. The conversation was that at
5 that time that we would get there. We would look at
6 their base recipe and tweak it to our recipe.

7 Q. Who is "their" in that response?

8 A. It was Anavi. I'm not sure if Susie was in
9 that conversation, but certainly Anavi was.

10 Q. You mean you would look at Ramar's base
11 recipe and then tweak it?

12 A. Yes.

13 Q. For both longganisa and tocino?

14 A. Yes. To make it our recipe.

15 Q. Did they price that for you?

16 A. No.

17 Q. Did you reach that point?

18 A. No.

19 Q. So those were preliminary stages?

20 A. Yes. We wanted to get started with the
21 first product line, of occurs.

22 Q. And that would have been the Shanghai?

23 A. The Shanghai, yes.

24 Q. Ramar does make tocino?

25 A. Yes.

1 Q. And do they make Shanghai?

2 A. At that time, I didn't -- I did not know
3 that they did, but after that, I believe that they do
4 on one of those product lines.

5 Q. Do they make longganisa?

6 A. Yes.

7 Q. So these are things that they already make?

8 A. Yes.

9 Q. Okay. Now, are you aware of the history of
10 the Milpitas restaurant?

11 A. Somewhat. I believe.

12 Q. What are you aware of?

13 A. My understanding is that Reynaldo Ongpaucoa,
14 one of the children of Evangelista, opened that
15 restaurant with his wife, Cecilia, in 1992, as I
16 understand it. And then I believe three years later,
17 it was sold to another family, the Rufino family.
18 And then in 2000, it was sold to the Zamoras. And
19 then in 2010, it was sold to us.

20 Q. Effective '11.

21 A. Effective '11, yes. Yes.

22 Q. Now, when did you hear about this history?

23 A. I don't recall the exact date.

24 Q. Did you hear about it before you bought it?

25 A. Yes.

1 Q. In your last session, they marked a series
2 of purchase agreements as Exhibit 10. And so I think
3 you've seen this exhibit before.

4 A. Yes.

5 (Exhibit 10 previously marked for
6 identification.)

7 BY MR. AVANZADO:

8 Q. Do you see the Bates stamp numbering down at
9 the bottom?

10 A. Yes.

11 Q. Barrio 1000 -- 10073?

12 A. Yes.

13 Q. That indicates that was produced by your
14 lawyers. Okay.

15 A. Yes.

16 Q. I'll represent that to you. These were
17 produced by your lawyers. So these were documents in
18 your possession, correct?

19 A. Correct.

20 Q. Did you have these documents at the time you
21 bought the restaurant?

22 A. Yes.

23 Q. All of them?

24 A. Yes.

25 Q. So the first top document starting at 10073

1 is the purchase agreement between Rufino and Zamora,
2 right?

3 A. Yes.

4 Q. The second on Page 10078 is the agreement
5 between Ongpaucoa and Rufino?

6 A. Yes.

7 Q. And then the final agreement of the three on
8 10082 is the agreement that you signed, purchasing it
9 from Zamora?

10 A. Yes.

11 Q. You agree with all that, right?

12 A. Yes.

13 Q. On page -- the last page of this Exhibit
14 10086, is that your signature?

15 A. Yes.

16 Q. So at the time you signed the purchase
17 agreement and contract for the original Barrio Fiesta
18 of Manila restaurant, Barrio 10082 through 86, is it
19 your testimony that you had the two purchase
20 agreements?

21 A. At the time that I signed this?

22 Q. Yes.

23 A. I don't recall that I had the Ongpaucoas
24 one, no.

25 Q. Where did you get that?

1 A. I think I received that after, and I don't
2 know the date when I received it.

3 Q. You're talking about 10078, that agreement?

4 A. Yes. Between Ongpaucoa and Rufino, that's
5 correct.

6 Q. But you did get it at some point?

7 A. Yes.

8 Q. And you got it at some point prior to this
9 litigation?

10 A. Yes.

11 Q. Were you aware of -- strike that.

12 10073, the agreement between Rufino and
13 Zamora, you had at the time you signed your
14 agreement?

15 A. I believe I did, or at least saw a copy.

16 Q. Were you represented by counsel in this
17 transaction?

18 A. No.

19 Q. You did it on your own?

20 A. Why.

21 Q. Was Ramar represented by counsel?

22 A. No.

23 Q. He did it on his own?

24 A. Yeah.

25 Q. Who prepared the document?

1 A. We both did.

2 Q. Well, who prepared the first draft of it?

3 A. I did.

4 Q. And then you went back and forth?

5 A. Yes.

6 Q. Did you keep the drafts?

7 A. No, I don't recall.

8 Q. Did you have the Rufino-Zamora purchase
9 agreement in front of you when you were drafting your
10 contract?

11 A. I think so. Yes.

12 Q. Did you use it as a model?

13 A. Yes.

14 Q. And then obviously, the differences are
15 differences you intended to make?

16 A. Yes. We both agreed to make.

17 Q. Is there any part of your agreement, 10082
18 on, that you insisted upon that was different from
19 the Rufino-Zamora agreement?

20 A. I don't particularly recall.

21 Q. Did you keep -- I'm sorry. I don't know if
22 I asked you this. Did you keep any drafts?

23 A. No.

24 Q. Did you communicate with him, with the
25 Zamoras by e-mail?

1 A. I believe so.

2 Q. Did you produce those e-mails?

3 A. No.

4 Q. Why not?

5 A. At that time, what I was asked to produce
6 was the contract agreement. I didn't think -- on the
7 e-mail, my conversation with Mr. Zamora, which is way
8 before I had this, the Barrio Fiesta.com e-mail, was
9 through my Gmail account, if I remember correctly.

10 Q. Do you have a document destruction practice
11 with respect to your Gmail address?

12 A. No. No.

13 Q. So all those e-mails should still be there?

14 A. Yes.

15 Q. And did you negotiate by e-mail with Zamora?

16 A. No.

17 Q. So how did you agree upon language?

18 A. We actually had a face-to-face meeting.

19 Q. So can you describe the process? You
20 drafted the first draft?

21 A. Yes.

22 Q. Then what?

23 A. Then I believe I sent it to him. He
24 reviewed it. I'm not sure what his comments were at
25 that time. And then we set up a meeting to further

1 discuss the purchase.

2 Q. Do you recall any changes, significant
3 changes?

4 A. I don't recall.

5 Q. If you look at the -- if you look at your
6 agreement, 10082, and compare it to the Rufino-Zamora
7 agreement 10073, would you agree with me that the
8 format looks similar?

9 A. Yes.

10 Q. And was that intentional?

11 A. Yes.

12 Q. And you were the one who made that
13 similarity?

14 A. Yes.

15 Q. In Page 10073, there's a description of what
16 the purchase price included in Paragraph 1-C. Do you
17 see that?

18 A. Yes.

19 Q. Now, yours is different on Page 10082.
20 Right?

21 A. Let me just read that. Yes, there's some
22 difference.

23 Q. This was created by you?

24 A. Yes.

25 Q. And specifically, the bolded last sentence,

1 that was your writing?

2 A. Yes.

3 Q. Can you read that bolded last sentence for
4 me?

5 A. In the original --

6 Q. No, no, no. The whole thing.

7 A. The whole thing. "The purchase price
8 includes the use of the proprietary name Barrio
9 Fiesta."

10 MR. GUEDENET: The one below it.

11 MR. AVANZADO: No. The one below it. The
12 last sentence in Paragraph 1-C.

13 THE WITNESS: Sorry. "This purchase
14 agreement and contract effectively causes the buyer
15 to own all the rights and interest without limits to
16 the goodwill and proprietary name of Barrio Fiesta
17 Restaurant of Manila. Barrio Fiesta Restaurant, the
18 original Barrio Fiesta Manila, its logo and marks."

19 Q. You missed a word there. The original
20 Barrio Fiesta of Manila Restaurant?

21 A. Restaurant.

22 Q. Its logos and marks?

23 A. And marks.

24 Q. That's something that you created, that
25 language?

1 A. I believe so, yes.

2 Q. Would you agree with me that that does not
3 appear in -- strike that.

4 Did you see that in the 10078 agreement,
5 that language?

6 A. No.

7 Q. You added some language to the one in the
8 Rufino-Zamora contract, right?

9 A. I think the only additional was "The
10 original Barrio Fiesta of Manila."

11 Q. Restaurant?

12 A. Restaurant. Original Barrio Fiesta of
13 Manila Restaurant.

14 Q. Now, do you know if Zamora had changed the
15 signage on the Milpitas restaurant?

16 A. I don't know.

17 Q. Do you know -- strike that.

18 On your document, on your agreement, it
19 references the June 10, 1994 Ongpaucoa-Rufino
20 contract?

21 A. Yes.

22 Q. That was included in the Zamora-Rufino
23 contract in 2004?

24 A. Yes.

25 Q. Do you see that?

1 A. Yes.

2 Q. Are you sure you did not have the
3 Ongpaucoa-Rufino contract?

4 A. That's my recollection.

5 Q. Was it not attached to the Zamora-Rufino
6 contract?

7 A. I do not recall that.

8 Q. So is the statement that the
9 Ongpaucoa-Rufino contract was "subsequently included
10 in full in the contract of the purchase between," and
11 then Zamora and Rufino, is that incorrect?

12 A. Well, let me just read it. I won't say it's
13 incorrect. I would say that I believe that there was
14 a conversation that there was that contract, but I
15 don't recall actually seeing it at that time.

16 Q. Well, I guess what I'm trying to ask is,
17 doesn't "subsequently included in full" mean that it
18 was part of the agreement?

19 A. I don't know the legal answer to that, but I
20 would imagine from a laymen's term that yes.

21 Q. Well, you wrote the language?

22 A. Yeah.

23 Q. So what you did mean by it?

24 A. That it was included.

25 Q. And what did you mean by it was included?

1 A. Well, at that time, again, I don't recall.
2 I just don't recall that I had the contract in front
3 of me other than what Mr. Zamora had told me at that
4 time.

5 Q. You don't recall either way?

6 A. I don't recall either way.

7 Q. Is it possible that it was attached to the
8 Zamora-Rufino contract?

9 A. I do not recall.

10 Q. I said is it possible?

11 A. Anything is possible.

12 Q. Is that what you meant by it's included in
13 full in the contract of the Zamora-Rufino
14 transaction?

15 A. I think the contents of the agreement is
16 what I had in mind at that time that this was
17 written.

18 Q. How do you know what the contents were if
19 you hadn't seen it?

20 A. Based on what he told me or represented to
21 me.

22 Q. As best you can tell, when you saw the
23 Ongpaucoa-Rufino contract, the first -- sorry. As
24 best as you can, please tell me the first time you
25 saw the Ongpaucoa-Rufino contract?

1 A. I do not recall.

2 Q. But you were told what the terms were?

3 A. Yes.

4 Q. Which is why you said that it was included
5 in full in the Zamora-Rufino contract?

6 A. Yes.

7 Q. In the Ongpaucoa-Rufino agreement, 10078,
8 did you see any references to trademark?

9 A. No, not that word exactly, no.

10 Q. How about that word inexactly?

11 A. I mean, can you ask the question again?

12 Q. There's no mention of trademarks in that
13 agreement, right?

14 A. No. That's correct.

15 Q. Nor is there a mention of any logos?

16 A. No. There is a mention of a logo.

17 Q. Where is that?

18 A. Paragraph, the first Page 1 under "witnesses
19 that."

20 Q. Okay. The purchase includes the use of the
21 proprietary name "Barrio Fiesta," its logo, menu,
22 equipment, utensils, furniture and fixtures, et
23 cetera?

24 A. Yes.

25 Q. That's what you're talking about?

1 A. Yes.

2 Q. There's no transfer of a trademark in this
3 document, correct?

4 A. I don't see that. No.

5 Q. So I'm correct? My statement is correct?

6 A. Yes.

7 Q. There is no transfer of a trademark in that
8 document?

9 A. That's correct.

10 Q. Mr. Rono, in your prior session, there was
11 some talk about a proceeding regarding labor issues?

12 A. Yes.

13 Q. Is that the only proceeding that has been
14 instituted against you relating to this restaurant?

15 A. Yes.

16 Q. Just the labor proceedings?

17 A. Just the labor proceedings.

18 Q. Was there any immigration issues?

19 A. No.

20 Q. So you never had an I-9 audit?

21 A. No.

22 MR. AVANZADO: Let me mark as Exhibit 60
23 this document.

24 (Exhibit 60 was marked for identification.)

25 BY MR. AVANZADO:

1 family, Sixta Evangelista Ongpaucoa, is the one who
2 opened the first Barrio Fiesta restaurant?

3 A. That's what I understand.

4 Q. How do you understand that?

5 A. Just based on history that I've read about
6 that restaurant in the Philippines.

7 Q. Are you familiar with publications in the
8 Philippines that talk about the iconic brands of the
9 Philippines?

10 A. No.

11 Q. Are you at least aware that the Ongpaucoa
12 family is the family behind Barrio Fiesta throughout
13 the majority of its history?

14 A. My understanding is that the siblings -- I
15 don't know what the arrangements were, but the
16 siblings on their own are operating Barrio Fiesta
17 restaurants.

18 Q. Using the same signage that we have
19 discussed in Exhibit -- what exhibit was that? The
20 one depicting your restaurant, Exhibit 30?

21 A. Yes.

22 Q. And you would agree that these logos and
23 signage, Exhibit 30, exist in Manila?

24 A. As I understand it, yes.

25 Q. Have you seen it?

1 A. I've seen at least in the restaurants that
2 I've been into, yes.

3 Q. And those were all created before '92?

4 A. Yes.

5 Q. Now, I asked you earlier if you conducted a
6 search for Barrio Fiesta related registration. Do
7 you remember that?

8 A. Yes.

9 Q. Did you do any searches in the state of
10 California?

11 A. No. Well, not at that time. Not until
12 after the litigation started.

13 Q. Well, I'm more concerned about 2011, when
14 you applied for the Barrio Fiesta Express Mart, did
15 you do anything in California then?

16 A. No.

17 Q. You've done some since, I take it?

18 A. Since after the litigation was filed, yes.

19 Q. What have you done to search?

20 A. After one of the siblings, Consuelo, moved
21 to cancel her brother's trademark, I started, and I
22 looked at the basis of her claim that she had prior
23 use. So certainly, in looking at the USPTO, there
24 was nothing there that she owns any registration.
25 And just to make sure, I decided to go ahead and call

1 the state trademark office. And I asked, by
2 telephone, if they have any registration of the
3 original Barrio Fiesta Manila. They said no. I said
4 how about Barrio Fiesta? They said no, or anything
5 that has the word "Barrio Fiesta," and they said no.

6 Q. Let me show you what's been previously
7 marked as Exhibit 45. BFMC 946 and 947.

8 (Exhibit 45 previously marked for
9 identification.)

10 BY MR. AVANZADO:

11 Q. Have you ever seen that?

12 A. No.

13 Q. Would you agree with me that that's a 1993
14 California registration of a Barrio Fiesta related
15 mark?

16 A. According to this document, yes.

17 Q. Let me show you what's -- strike that.
18 Have you ever been seen that before today?

19 A. This is the first time.

20 Q. Let me show you what's been previously
21 marked as Exhibit 51. Carlton 1.

22 (Exhibit 51 previously marked for
23 identification.)

24 BY MR. AVANZADO:

25 Q. Have you ever seen that before today?

1 A. No. No.

2 Q. Would you agree with me that that is a
3 reproduction -- it's actually a photo -- of a 1986
4 California registration for a Barrio Fiesta related
5 mark.

6 A. According to this document, yes.

7 Q. You've never seen that before today?

8 A. No.

9 Q. Are you aware that that registration is
10 still in existence?

11 A. I'm not aware of -- I believe that my
12 counsel may have mentioned that, but I don't actually
13 recall.

14 Q. So let me ask you a couple questions to make
15 sure that you don't have knowledge of certain things.
16 Do you have any knowledge or evidence to contradict
17 testimony of other witnesses that Barrio Fiesta
18 Manufacturing Corporation began its existence in
19 1987?

20 A. No.

21 Q. Do you have any knowledge or evidence that
22 would contradict testimony and documents from other
23 witnesses that Barrio Fiesta Manufacturing
24 Corporation started importing products into the
25 United States in or about '87 or the late '80s?

1 A. You know, again, not knowing what they said
2 or their documents, but just based on how you phrase
3 it, I don't have any.

4 Q. That's my point.

5 A. Yes.

6 Q. I know what my witnesses say; I want to know
7 if you have any evidence to contradict it.

8 A. Not that I'm aware of, no.

9 Q. Do you have any knowledge or evidence that
10 contradicts testimony from other witnesses that one
11 of the Ongpaucoa siblings started a Los Angeles
12 restaurant in 1986?

13 A. Do I have any knowledge, no.

14 Q. That contradicts that?

15 A. No.

16 Q. In other words, can you dispute it from your
17 own personal knowledge or evidence that you have?

18 A. I cannot dispute anything that I'm -- I'm
19 not even aware that that was in existence.

20 Q. Understood. Do you have any knowledge or
21 evidence that would dispute or contradict testimony
22 that Barrio Fiesta restaurants have been in operation
23 continuously since 1986 in one form or another in the
24 United States?

25 A. I do not know that.

1 Q. Or contradict that?

2 A. I don't know the answer to that.

3 Q. Can you contradict it?

4 A. I don't have enough information to
5 contradict that.

6 Q. Do you have any evidence to the contrary?
7 In other words, do you have any evidence that shows
8 such restaurants weren't in existence since 1986?

9 A. Since 1986. No.

10 Q. Do you have any knowledge or evidence that
11 contradicts testimony and documents that Barrio
12 Fiesta branded products have been sold in the United
13 States since at least 1989?

14 A. No.

15 Q. And do you have any knowledge or evidence
16 that would contradict evidence and testimony that
17 retailers have been selling Barrio Fiesta branded
18 products to consumers in the United States since at
19 least the late '80s?

20 A. No. I do not know that.

21 MR. AVANZADO: Thank you very much. I think
22 I have nothing further.

23 THE WITNESS: Thank you.

24 THE VIDEOGRAPHER: This concludes today's
25 deposition of June Rono on May 12, 2016. We are

C E R T I F I C A T E

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO)

I, LINDA VACCAREZZA, a Certified Shorthand
Reporter for the State of California, do hereby
that the above-named deponent, whose
deposition is hereinbefore set forth, was duly
sworn by me and that such deposition is a true
record of the testimony given by such witness.

I further certify that I am not related to
any of the parties to this action by blood or
marriage; and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my

Hand this _____ day of JUN 17 2016 2015.


LINDA VACCAREZZA, CSR. NO. 10201

EXHIBIT “G”

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BARRIO FIESTA, LLC, a California
Limited Liability Company,

Plaintiff/Counter-Defendant,

vs.

Case No. 15-CV-02669-JSW

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

Defendant/Counter-Plaintiff.

**CERTIFIED
COPY**

DEPOSITION OF JUSTIN CHRISTIAN RONO

Date: Wednesday, January 6, 2016

Time: 10:31 a.m.

Location: Valorem Law Group
55 South Market Street
Suite 1500
San Jose, CA 95113

Reported By: Michelle D. Knowles, CSR, RPR, CRR, CCRR
License Number CSR-8979/CCRR-023

5003
43155

Bell & Myers

COURT REPORTERS AND LEGAL VIDEOGRAPHERS

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---oOo---

1 JUSTIN CHRISTIAN RONO,
2 being first duly affirmed by the Certified Shorthand
3 Reporter to tell the truth, the whole truth, and nothing
4 but the truth, testified as follows:

5 EXAMINATION

6 BY MS. ROGOWSKI:

7 Q. Okay. Please say and spell your name.

8 A. My name is Justin Christian Rono, J-u-s-t-i-n,
9 C-h-r-i-s-t -- I forgot how to spell my name -- -i-a-n,
10 Rono, R-o-n-o.

11 MS. ROGOWSKI: Thank you.

12 All right. We're going to mark the notice as
13 the next exhibit.

14 (Exhibit 20 marked for identification.)

15 BY MS. ROGOWSKI:

16 Q. All right. I'm handing you -- well, it's been
17 handed to you -- Defendant's Exhibit 20, which is the
18 Northridge Foods International's notice of deposition to
19 Justin Rono.

20 Do you see that document?

21 A. Yes.

22 Q. Okay. And the purpose of our deposition today
23 is pursuant to this notice; correct?

24 A. Yes.

25 Q. Okay. All right. Who is your current

1 employer?

2 A. Barrio Fiesta, LLC.

3 Q. Okay. What is your current job title at
4 Barrio Fiesta, LLC?

5 A. It's director of logistics.

6 Q. So what are your responsibilities as director
7 of logistics?

8 A. Just making sure that all of the supplies that
9 we buy from our vendors come in timely and properly.

10 Q. Do you have an office location?

11 A. I -- I don't.

12 Q. Okay. So do you work outside the home, or how
13 do you -- where do you perform your duties for Barrio
14 Fiesta, LLC?

15 A. I drive a van.

16 Q. Okay.

17 A. Yeah.

18 Q. So you're out picking up the supplies for the
19 restaurants?

20 A. Yeah. That's right.

21 Q. Okay. On a daily basis, you work at Barrio
22 Fiesta, LLC?

23 A. Just when I'm needed, so not -- not daily.

24 Q. Okay. Do you have any other employers?

25 A. Not -- not that I know of currently.

1 Q. Okay. So you say that you work for Barrio
2 Fiesta, LLC on an as-needed basis?

3 A. I do.

4 Q. About how many -- is it weekly, or is it --
5 how many times would you say that you worked for Barrio
6 Fiesta, LLC in 2015?

7 A. Maybe three days, four -- it's kind of hard to
8 say because I was there randomly, so -- every week.

9 Q. Okay. How is your schedule determined?

10 A. I just go. And also, we have designated days
11 for when we pick up supplies.

12 Q. Okay. So there's a schedule, and you know you
13 have to accommodate that schedule?

14 A. Yes. On top of that, there's the other days
15 that I just show up randomly.

16 Q. Okay. How is the schedule determined?

17 A. Just based on need. So...

18 Q. Did you have input in preparing that schedule?

19 A. Yeah, some. Yeah.

20 Q. Who else had input in preparing that schedule?

21 A. My dad.

22 Q. All right. Is there anything that will
23 prevent you from understanding my questions or answering
24 truthfully today?

25 A. No.

1 Q. Is 1629 Wharton Road your address --

2 A. Yes.

3 Q. -- in San Jose?

4 A. (Nodding head.)

5 Q. Do you have an ownership interest in Barrio
6 Fiesta, LLC?

7 A. Not that I know of.

8 Q. Who would you ask to determine that?

9 A. My attorney.

10 Q. To whom do you report in your role at Barrio
11 Fiesta, LLC?

12 A. Michelle Villanueva, who is our business
13 operations manager -- or I don't know what her title is.

14 Q. Yeah.

15 A. She's the boss.

16 Q. Okay. Do any employees report to you?

17 A. No.

18 Q. Is there a board of directors at Barrio
19 Fiesta, LLC?

20 A. No.

21 Q. Do you have a salary at Barrio Fiesta, LLC?

22 A. No.

23 Q. How are you compensated for your work?

24 A. Hourly wages.

25 Q. How long are documents retained by Barrio

1 Fiesta, LLC?

2 A. I -- I don't know.

3 Q. Is there a document retention policy for the
4 company?

5 A. To my knowledge, I don't know.

6 Q. Who would you ask if you wanted to find that?

7 A. My attorney or my father.

8 Q. Do you have any involvement with the financial
9 recordkeeping for Barrio Fiesta, LLC?

10 A. No.

11 Q. Are the financial statements of Barrio Fiesta,
12 LLC audited?

13 A. I'm not sure. I don't know.

14 Q. So how frequently are you on location at the
15 Milpitas restaurant?

16 A. Not too much anymore.

17 Q. So in your role as logistics, you pick up the
18 materials that are needed by the restaurant and you drop
19 them off?

20 A. Uh-huh.

21 Q. Do you stay in the restaurant after you drop
22 them off?

23 A. Not for too long.

24 Q. In your role as logistics person for Barrio
25 Fiesta, LLC, do you also supply -- deliver materials to

1 the San Jose restaurant location?

2 A. Sometimes.

3 Q. Is there another person who handles your
4 logistics role for the San Jose location?

5 A. If I'm not available, it's my dad.

6 Q. Who approves the labels that are used for the
7 packaged foods that sometimes are sold as takeout from
8 the Milpitas restaurant location?

9 A. I'm not sure.

10 Q. Do you have any involvement in designing the
11 labels that are used on the packaging?

12 A. I do not.

13 Q. Who approves the advertising that is done for
14 Barrio Fiesta, LLC?

15 A. I -- I think my dad does.

16 Q. Do you have any involvement in advertising of
17 the Barrio Fiesta Express trademark?

18 A. No.

19 Q. Do you have any involvement in advertising
20 Barrio Fiesta?

21 A. No.

22 Q. Who approves the advertising that is done for
23 TRiGroup?

24 A. I'm not sure.

25 I'm sorry. Could I back up, like, a question

1 ago?

2 Q. Sure.

3 A. Driving the van has the logo.

4 Does that count?

5 Q. Okay.

6 A. I don't know if it's --

7 Q. But that's not approving the advertising.

8 A. Yeah, okay.

9 Q. Okay. The logo is on the side of the van?

10 A. Yeah.

11 Q. Okay. That's a form of advertising. I'll
12 give you that, sure.

13 A. Okay.

14 Q. But did you decide to put it on the van?

15 A. No.

16 Q. What foods do you believe are the most popular
17 sold at the Milpitas restaurant?

18 A. Crispy pata, which has been mentioned before.
19 Lumpia shanghai, that's our appetizer dish. I think
20 those are the big two.

21 Q. Okay. Do you have any oversight of any of the
22 employees who work for Barrio Fiesta, LLC?

23 A. No.

24 Q. When was the restaurant in San Jose,
25 California, opened?

1 A. That's a good question. I don't recall the
2 exact date.

3 Q. Was it after 2011 when the Milpitas restaurant
4 was purchased?

5 A. Yes.

6 Q. So it's sometime between 2011 and 2016?

7 A. That is correct.

8 Q. Are you able to tell me, has it been a couple
9 of years or more than that?

10 A. I think it's been a couple years.

11 Q. Did you ever work as a server at the Milpitas
12 restaurant?

13 A. Yes.

14 Q. Did you have any involvement with the labor
15 dispute filed by the Department of Labor against Barrio
16 Fiesta, LLC?

17 A. No.

18 Q. Did you have any recovery in the labor dispute
19 filed by the Department of Labor against Barrio Fiesta,
20 LLC?

21 A. No.

22 Q. Do you have responsibility for the content of
23 the Barrio Fiesta, LLC or TRiGroup websites?

24 A. No.

25 Q. Do you have any involvement in the content

1 A. My father or the attorney -- our attorney.

2 Q. What's your responsibility to ensure that the
3 food served by the Milpitas restaurant are within the
4 standards?

5 A. When I was there, it would be just to have a
6 visual inspection of whatever came out, and then
7 sometimes we do taste tests to ensure that it's up to
8 standard.

9 Q. Is there any training of the employees that
10 you participate in?

11 A. Not -- no.

12 Q. Have you established any trademark usage
13 guidelines for Barrio Fiesta, LLC?

14 A. Not to my knowledge. I'm not sure.

15 Q. Have you established any trademark usage
16 guidelines for TRiGroup?

17 A. I don't know.

18 Q. If you were looking for trademark usage
19 guidelines, who would you ask?

20 A. My father or my attorney.

21 Q. What is your understanding of the first date
22 that Barrio Fiesta, LLC began offering restaurant
23 services under the Barrio Fiesta Express trademark?

24 A. My understanding is that we acquired -- or we
25 entered into a contract for purchase of the restaurant

1 in 2010, and that executed in 2011, the first year of
 2 our official operation. But the restaurant has been in
 3 continuous existence since 1992, but we only have
 4 documents from the City of Milpitas showing 1994.

5 Q. What's the earliest date that Barrio Fiesta,
 6 LLC offered packaged foods using Barrio Fiesta or Barrio
 7 Fiesta Express as the trademark?

8 A. I actually don't know.

9 Q. You indicated that the restaurant at the
 10 Milpitas location had been in operation at least since
 11 1994, possibly as early as 1992.

12 What evidence do you have to support that?

13 A. The records with the City of Milpitas.

14 Q. Okay. Had you ever visited the restaurant
 15 before your family owned it?

16 A. Yes.

17 Q. About what time did you -- would you say --
 18 can you remember visiting the restaurant?

19 A. Growing up, multiple times.

20 Q. Why was it decided that you and your sister
 21 would file the trademark application to register Barrio
 22 Fiesta Express for fast-food restaurant services?

23 A. I'm sorry. Could you repeat the question?

24 Q. Yeah.

25 Why was it decided that you and your sister

1 would file the trademark application to register Barrio
2 Fiesta Express for fast-food restaurant services?

3 A. Well, that's to keep it in the family.

4 Q. What was your involvement in the trademark
5 application process?

6 A. I looked over the -- the filing.

7 Q. Was the filing prepared by you or by someone
8 else?

9 A. No. It -- it was prepared by someone else.

10 Q. Okay. Why was it decided to assign rights
11 from yourself and your sister to a group of three
12 persons: yourself; your sister, Ashley; and your
13 father, June Francis Rono?

14 A. We felt it was important to keep it in the
15 family. And with him, he's an important part of our
16 business; so we wanted to keep him in.

17 Q. Why was it decided that you and your sister
18 would file the trademark application to register Barrio
19 Fiesta Express for foods in classes 29 and 30 in
20 December of 2014?

21 A. I'm not entirely sure.

22 Q. Is there an advantage -- maybe you already
23 expressed this, but is there any other advantage to
24 having the trademark registration and the trademark
25 application owned by yourself, Ashley, and your father?

1 A. Just keeping it in the family.

2 Q. Have there been any other trademark
3 assignments pertinent to Barrio Fiesta or Barrio Fiesta
4 Express trademarks since November of 2014?

5 A. To my knowledge, no.

6 Q. Do you have any other agreements concerning
7 Barrio Fiesta or Barrio Fiesta Express trademarks
8 besides the assignment in 2014 and the trademark license
9 agreements to Barrio Fiesta, LLC and TRiGroup?

10 A. Not that I know of.

11 Q. Have you taken any action to stop others from
12 infringing the Barrio Fiesta or Barrio Fiesta Express
13 trademarks?

14 A. As far as I know, it's a cease and desist
15 letter we sent to someone -- an entity using the name in
16 Calumet City, Illinois, and then this current matter.

17 Q. Okay. Have you taken any action to stop
18 anyone from using Barrio Fiesta or Barrio Fiesta Express
19 for restaurants other than the restaurant in Calumet
20 City?

21 A. Not to my knowledge, no.

22 Q. Do you have involvement in decisions with
23 respect to the conduct of the current litigation against
24 Northridge Foods?

25 A. No.

1 Q. Have you or your attorneys contacted
2 Consuelo Ongpauco Cauton concerning her application to
3 register The Original Barrio Fiesta of Manila for
4 restaurant services in the United States?

5 A. To my knowledge, no.

6 Q. Do you know Consuelo Ongpauco Cauton?

7 A. No.

8 Q. Do you know Reynaldo Ongpauco?

9 A. No.

10 Q. Have you ever met Reynaldo Ongpauco?

11 A. No.

12 Q. Do you stand to benefit if there's a financial
13 recovery in the litigation against Northridge Foods?

14 A. I'm not sure.

15 Q. As owner of the trademark, will you receive a
16 financial benefit if there's a recovery in this
17 litigation against Northridge Foods?

18 A. I'm not entirely sure.

19 Q. What do you know about Barrio Fiesta
20 Manufacturing Corporation?

21 A. Other than the name, that's -- not too much,
22 no.

23 Q. Where might I -- well, where might someone
24 purchase Barrio Fiesta packaged foods of Barrio Fiesta
25 Manufacturing Corporation in the United States?

1 A. Asian supermarkets, I think.

2 Q. When is the first time you had seen a Barrio
3 Fiesta packaged food product of Barrio Fiesta
4 Manufacturing Corporation in a supermarket in the
5 United States?

6 A. I don't recall exactly when.

7 Q. Would it have been before your family
8 purchased the restaurant in 2010/2011?

9 A. That's a good question. I don't -- I don't
10 know.

11 Q. Would it have been after your family purchased
12 the restaurant in 2010/2011?

13 A. Yeah.

14 Q. You see it currently?

15 A. Yeah.

16 Q. Okay. Do you know Maria Cecilia P. Ongpauco?

17 A. No.

18 Q. Have you met any of the siblings, brothers or
19 sisters, of Reynaldo Ongpauco?

20 A. No.

21 Q. I'm handing you what was marked as --
22 previously marked as Defendant's Exhibit 10, which is a
23 series of copies of three purchase agreements related to
24 the Milpitas restaurant with Bates stamps BARRIO 10073
25 to 10086.

1 purpose other than operating their restaurant in
2 Milpitas?

3 A. I'm not sure.

4 Q. All right. Handing you what were previously
5 marked Defendant's Exhibits 2 and 5.

6 Defendant's Exhibit 2 is a trademark license
7 agreement between Justin Christian Rono and
8 Ashley Kirsten Rono and Barrio Fiesta, LLC with
9 production numbers SUPP 000006 to 000015.

10 All right. Do you see this document?

11 A. Yes.

12 Q. All right. It mentions that one of the
13 licensors is Justin Christian Rono.

14 Is that you?

15 A. Yes, that is me.

16 Q. On page 8 of the document, which is stamped
17 000013, there's a signature block for "LICENSOR" where
18 there's a signature for Justin Christian Rono.

19 Did you sign this document?

20 A. I did.

21 Q. At paragraph 5 of the license, which is on
22 page 5 of the agreement but Bates-numbered 0000110 -- or
23 10, it indicates that there was a license fee of \$100.

24 Did you receive a license fee?

25 A. I'm not sure.

1 Q. Do you have any evidence to indicate you did
2 not receive a license fee?

3 A. No, not to my knowledge.

4 Q. Do you think your sister received a license
5 fee?

6 A. I -- probably, yeah. It's likely, yeah.

7 Q. Likely?

8 A. Yeah. I'm pretty sure because -- yeah.

9 Q. You don't recall receiving it?

10 A. No. It's been a while since -- since we
11 signed this, so I -- I don't -- I don't know.

12 Q. How was the amount determined in January of
13 2012, that the amount of this license should be \$100 for
14 ten years of use of the Barrio Fiesta Express
15 trademarks?

16 A. That was just what we determined. Just that.

17 Q. Were there any outside advisors consulted to
18 determine the amount?

19 A. No.

20 Q. Do you agree that \$100 is fair consideration
21 for a ten-year license for use of the Barrio Fiesta
22 Express trademark?

23 A. In this particular case, for this particular
24 contract, yes.

25 Q. How do you determine that that's reasonable?

1 A. The relationship of the parties.

2 Q. Okay. Looking at page 1 of the trademark
3 license agreement, which is marked 00006, it's mentioned
4 that -- at "1. GRANT OF LICENSE," that "Licensor hereby
5 grants a license to the Licensee to use the Licensed
6 Marks in the territory of the United States."

7 Is this an exclusive license?

8 A. I don't believe so.

9 Q. In paragraph 1.b., it indicates that Barrio
10 Fiesta, LLC, as licensee, is allowed to grant
11 sublicenses of the licensed marks.

12 To your knowledge, has Barrio Fiesta, LLC
13 granted any sublicenses?

14 A. To my knowledge, no.

15 Q. If I wanted to find out if there were any
16 sublicenses granted, who would I ask?

17 A. My father or attorney.

18 Q. Do you have access to Exhibit B to this
19 agreement called third-party license agreement?

20 A. No.

21 Q. If I wanted to find Exhibit B called "Third
22 Party License Agreement," who would I ask?

23 A. My father or our attorney.

24 Q. Turning to page 3 of the agreement, at
25 paragraph 3, subpart (d), as in "dog," it mentions that

1 Q. Okay. So the restaurant of Barrio Fiesta, LLC
2 at Milpitas does not have any obligations in how it
3 conducts its business as per this quality paragraph?

4 A. Well, it would need to be up to the proper
5 standards of quality. So good service, good food,
6 things like that.

7 Q. Does it say that here?

8 A. From what I can see, no.

9 Q. How do you police that Barrio Fiesta, LLC uses
10 the trademark Barrio Fiesta Express appropriately?

11 A. I actually -- I don't. Me personally, I
12 don't.

13 Q. Looking at Defendant's Exhibit 5, which is the
14 trademark license agreement between Justin Christian
15 Rono and Ashley Kirsten Rono and TRiGroup, Inc., are you
16 the Justin Christian Rono mentioned here?

17 A. Yes.

18 Q. Okay. Looking at page 8 of the agreement,
19 which is Bates-marked SUPP 000022, there's a signature
20 block for "LICENSOR," and "LICENSOR" is -- the first
21 name here is Justin Christian Rono.

22 Is that your signature, sir?

23 A. Sorry. Is this the Bates stamp 000022?

24 Q. Correct.

25 A. Yes, that's me.

1 A. My father and our attorney.

2 Q. Have you discussed this litigation with anyone
3 outside of Barrio Fiesta, LLC --

4 A. No.

5 Q. -- or their attorneys? I'll give you that.

6 A. Right.

7 Q. Have you ever met anyone from Northridge
8 Foods?

9 A. No.

10 Q. Do you know Erlinda Alianan?

11 A. No.

12 Q. Do you know Alex Alianan?

13 A. No.

14 Q. Have you ever been contacted by anyone from
15 Northridge Foods?

16 A. No.

17 Q. Are you aware that Northridge Foods has an
18 exclusive arrangement with Barrio Fiesta Manufacturing
19 Corporation to sell packaged foods in the United States?

20 A. No.

21 Q. Did you have any involvement in negotiations
22 with Ramar Foods?

23 A. No.

24 Q. Besides Barrio Fiesta Manufacturing
25 Corporation's packaged food products in grocery stores,

1 is any other packaged food product being sold in food
2 markets in the United States under the Barrio Fiesta
3 trademark?

4 A. Not to my knowledge.

5 Q. Are Barrio Fiesta Express trademark products
6 sold in grocery stores or other retailers other than the
7 Milpitas and San Jose restaurants?

8 A. No.

9 Q. Which supermarkets are -- well, let's say, as
10 logistics person, where -- what is your route for the
11 supply of the products that you purchase for use at the
12 restaurant?

13 A. So we go to a place called -- for some things,
14 we go to a place called Restaurant Depot.

15 Q. Uh-huh.

16 A. And then, depending on the day, we may go to
17 Costco for some things, Lion Supermarket.

18 Q. Uh-huh.

19 A. And sometimes -- there's another restaurant --
20 or supermarket, Ocean Supermarket.

21 Q. Okay. So what do you purchase at Restaurant
22 Depot?

23 A. Just -- there's a lot of stuff that we
24 purchase.

25 Q. Maybe give me categories. That would be fine.

1 A. Yeah. There's just sometimes dining ware,
2 utensils, sometimes meats, sometimes vegetables,
3 sometimes fruits, spices, just raw -- just a lot of raw
4 materials.

5 Q. What do you purchase at Lion's?

6 A. Meats, vegetables, raw materials. Yeah,
7 that's pretty much it, actually.

8 Q. What do you purchase at Ocean Supermarket?

9 A. Also the same: meats, vegetables, raw
10 materials sometimes.

11 Q. And what do you purchase at Costco?

12 A. Just raw materials also.

13 Q. Food stuffs, primarily?

14 A. Yeah, food stuffs, some foil sometimes.

15 Q. Okay. Are Barrio Fiesta Manufacturing
16 Corporation products bearing the Barrio Fiesta trademark
17 available for purchase at Ocean Supermarket?

18 A. I -- I don't know. I'm not sure.

19 Q. Have you ever observed them on the shelves at
20 Ocean Supermarket?

21 A. I might have. I can't be too sure.

22 Q. Okay. I'm showing you what's been marked as
23 Defendant's Exhibit 8, which is a copy of the complaint
24 in the current litigation.

25 Did you have any involvement in the

1 preparation of this complaint?

2 A. No.

3 Q. Did you review the complaint before it was
4 filed?

5 A. No.

6 Q. Looking at Exhibit A to the complaint,
7 Exhibit A is (indicating).

8 A. Oh, okay.

9 Q. All right. Exhibit A is showing an abstract
10 of -- assignment abstract of title from the trademark
11 office that the assignment from yourself and your sister
12 to yourself, your sister, and your father was recorded
13 at the U.S. Patent and Trademark Office on December 8th,
14 2014.

15 Do you see that?

16 A. Yes.

17 Q. Okay. Now I'm showing you what was marked as
18 Defendant's Exhibit 19.

19 MS. ROGOWSKI: Do you have that copy?

20 MS. LABUTTA: I'm sorry.

21 MS. ROGOWSKI: The trademark assignment.

22 MS. LABUTTA: Uh-huh.

23 BY MS. ROGOWSKI:

24 Q. All right. So this document is captioned
25 "Trademark Assignment" and appears to be dated

1 November 24th, 2014.

2 I'm looking at that document, and I see a
3 signature line for Justin Christian C. Rono.

4 Is that you?

5 A. Yes.

6 Q. Did you sign this document?

7 A. Yes, I did.

8 Q. Okay. Have you or your sister ever licensed
9 to anyone other than Barrio Fiesta, LLC or TRiGroup,
10 Inc. to use the Barrio Fiesta Express trademarks?

11 A. Not to my knowledge.

12 Q. Have you or your sister ever licensed to
13 anyone other than Barrio Fiesta, LLC or TRiGroup to use
14 Barrio Fiesta as the trademark?

15 A. Not to my knowledge.

16 Q. Are there any other agreements that pertain to
17 the use of the Barrio Fiesta Express trademarks other
18 than the two license agreements before you and the
19 assignment agreement?

20 A. Not that I know of.

21 Q. Do you have an understanding of the value of
22 the Barrio Fiesta Express trademark?

23 A. I think only a cursory understanding.

24 Q. Where does that come from, sir?

25 A. Our own experience here with how customers

1 have expressed how they perceive our brand as well as
 2 how they perceived the brand overseas in the Philippines
 3 originally.

4 Q. Is there a difference between how the brand is
 5 perceived in the Philippines versus how the brand is
 6 perceived in the United States?

7 A. Yes.

8 Q. How do you characterize that difference?

9 A. It's -- the brand is more powerful and
 10 widespread in the Philippines.

11 Q. And what efforts are you making to make the
 12 brand more widespread in the United States?

13 A. Expansion of the restaurant chain, just
 14 helping out with that.

15 Q. Why do you feel that the brand is more
 16 well-known in the Philippines?

17 A. It has an established history there dating
 18 back to the '50s, if I'm correct. I may be wrong about
 19 the date, but that, and it's been seen in the
 20 Philippines, to my knowledge, as the place you want to
 21 eat at.

22 Q. Uh-huh.

23 A. So I'd say it's -- I'd say it's akin to some
 24 of the fancy restaurant chains that we have here that
 25 are -- that are located across the U.S., just in that

1 country.

2 Q. Okay. Now, when I asked you about visiting
3 the Philippines, you said you hadn't been there.

4 So you're taking this information about the
5 type of restaurant that is known as The Original Barrio
6 Fiesta of Manila as a thirdhand understanding from
7 others?

8 A. Yes.

9 Q. So customers have expressed to you that
10 they're familiar with the restaurants in the
11 Philippines?

12 A. Yes, that's right.

13 Q. And they come to your restaurant with an
14 expectation of the same level of food and service?

15 A. Yes.

16 Q. Have there been any complaints lodged against
17 Barrio Fiesta, LLC about the quality of the food?

18 A. We're talking official complaints that are
19 filed or just...

20 Q. Have people been snarky about the food?

21 A. Yeah. I think with any restaurant, that's an
22 inevitability. So...

23 Q. Do you feel the restaurant receives a
24 significant number of complaints in Milpitas?

25 A. No.

1 Q. What's the level of complaint that has been,
2 in your experience, received at the Milpitas restaurant?
3 Is it one per month or a couple per year or more
4 frequently than that?

5 A. Yeah, I would just -- you have a lot of
6 unreasonable people show up at any restaurant; so it
7 differs.

8 Q. Have any of those complaints been to the level
9 of discerning you're not the same as the restaurants in
10 the Philippines?

11 A. Not that I can recall.

12 Q. Okay. Do you consider Barrio Fiesta Express a
13 famous trademark?

14 A. I do.

15 Q. How did it become famous?

16 A. The first two parts of the name, Barrio
17 Fiesta, which people would -- and I've seen associated
18 with our restaurant in Milpitas and also because of
19 people's reminder that that name is from the
20 Philippines.

21 Q. Okay. You were present in attendance during
22 the deposition of June Francis Rono on January 5th; is
23 that correct?

24 A. Yes.

25 Q. Are there any answers that he gave to

CERTIFICATE OF REPORTER

I, MICHELLE D. KNOWLES, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

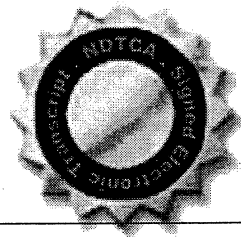
That said deposition is a true record and was taken in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript [] was [X] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for any of the parties to the said deposition, nor in any way interested in the events of this cause, and that I am not related to any of the parties thereto.

Dated: January 18, 2016

Michelle D. Knowles



MICHELLE D. KNOWLES, CSR No. 8979

EXHIBIT “H”

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

**CERTIFIED
COPY**

BARRIO FIESTA, LLC, a California
Limited Liability Company,

Plaintiff/Counter-Defendant,

vs.

Case No. 15-CV-02669-JSW

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

Defendant/Counter-Plaintiff.

DEPOSITION OF ASHLEY KIRSTEN RONO

Date: Wednesday, January 6, 2016

Time: 9:19 a.m.

Location: Valorem Law Group
55 South Market Street
Suite 1500
San Jose, CA 95113

Reported By: Michelle D. Knowles, CSR, RPR, CRR, CCRR
License Number CSR-8979/CCRR-023

5003
43155

Bell & Myers

COURT REPORTERS AND LEGAL VIDEOGRAPHERS

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JUNE FRANCIS RONO

JUSTIN CHRISTIAN RONO

THE REPORTER:

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---oOo---

1 Q. What is your job title there?

2 A. Credit analyst.

3 Q. Okay. Does your work at Upstart have anything
4 to do with the Barrio Fiesta trademarks --

5 A. No.

6 Q. -- or the Barrio Fiesta, LLC --

7 A. No.

8 Q. -- entity or the TRiGroup entity?

9 A. No.

10 Q. Okay. What is your education background since
11 high school?

12 A. I graduated from San Jose State University
13 with a bachelor in business, a focus management.

14 Q. Since college -- do you have any other degrees
15 post college?

16 A. No.

17 Q. What's been your work experience since
18 college?

19 A. At the restaurant and then at Upstart.

20 Q. Okay. So by "the restaurant," do you mean at
21 the Milpitas location of Barrio Fiesta, LLC?

22 A. Yes.

23 Q. Okay. And then do you also work at the
24 San Jose location of --

25 A. No.

1 Q. No. Okay.

2 So how long did you work with Barrio Fiesta,
3 LLC?

4 A. I'm still there on call.

5 Q. Okay. So you started working there during
6 high school or before that?

7 A. The first year of college.

8 Q. So approximately how long have you worked with
9 Barrio Fiesta, LLC?

10 A. Five years.

11 Q. Do you have any involvement with TRiGroup?

12 A. No.

13 Q. Have you been involved in litigation before?

14 A. No.

15 Q. What did you do to prepare for the deposition
16 today?

17 A. Not much.

18 Q. A truthful answer, we like that.

19 All right. Did you talk to anyone besides
20 your attorney?

21 A. No.

22 Q. Did anyone ask you to look for documents?

23 A. No.

24 Q. Did you look for documents?

25 A. No.

1 A. No.

2 Q. What would you say your role is at Barrio
3 Fiesta, LLC?

4 A. Server, and then when I'm there, it's just
5 focusing on the quality of the food.

6 Q. How do you focus on the quality of the food?

7 A. Just making sure its appearance is right and
8 there's no -- like, so nothing bad could happen to
9 customers with it health-wise.

10 Q. Okay. So you make a look -- when you're
11 serving the food, you look at it and make sure it's
12 appropriate to serve?

13 A. Pretty much.

14 Q. Is there a board of directors at Barrio
15 Fiesta, LLC?

16 A. I don't know.

17 Q. Do you get a salary from Barrio Fiesta, LLC?

18 A. No.

19 Q. So you do service work when called upon due to
20 demand, and then you're not compensated for that?

21 A. I am but not salary.

22 Q. Okay. How are you compensated?

23 A. Just hourly.

24 Q. So they'll pay you a paycheck at the end of
25 the week or the end of the month for work done that

1 prior month?

2 A. Yes.

3 Q. Yeah. Okay.

4 Do you have any involvement with the financial
5 record keeping of Barrio Fiesta, LLC?

6 A. No.

7 Q. Any involvement with the financial record
8 keeping of the restaurant?

9 A. No.

10 Q. How frequently do you say that you are in the
11 Milpitas restaurant?

12 A. Not so much anymore.

13 Q. So, in 2015, do you know how many times you
14 were in the Milpitas restaurant working?

15 A. Maybe -- I don't know -- five, six times a
16 week.

17 Q. Five, six times a week every week, that's
18 quite a lot.

19 Okay. It was more before?

20 A. Yes.

21 Q. All right. So you work in the evenings, I
22 guess?

23 A. Yeah.

24 Q. Do you have a schedule for when you're there?

25 A. No.

1 Q. I think you said before you don't work at the
2 San Jose restaurant location; is that true?

3 A. Yes.

4 Q. Okay. Who approves the labels that are used
5 for the vacuum-packaged foods that sometimes are sold as
6 takeout items at the Barrio Fiesta Restaurants?

7 A. I don't know.

8 Q. Do you have any involvement in the advertising
9 that is done for Barrio Fiesta Restaurants?

10 A. No.

11 Q. Do you have any involvement in the advertising
12 that is done for TRiGroup or TRiGroup?

13 A. No.

14 Q. What foods do you believe are the most popular
15 sold at the Milpitas restaurant?

16 A. Crispy pata.

17 Q. Are there any others?

18 A. I don't know. Mostly that.

19 Q. Do you know who determines the source of the
20 products that are purchased in for resale at the
21 Milpitas restaurant?

22 A. I don't know.

23 Q. For example, the produce or the meats or...

24 A. I don't know.

25 Q. Do you have any oversight of any of the

1 employees who work for Barrio Fiesta, LLC?

2 A. No.

3 Q. Who does have oversight of the employees?

4 A. I don't know.

5 Q. Are you not an employee?

6 A. Yes, I am.

7 Q. Who do you report to?

8 A. The manager.

9 Q. Who is the manager?

10 A. Michelle.

11 Q. Michelle Villanueva?

12 A. Villanueva, uh-huh.

13 Q. Okay. Do you know when the restaurant in
14 San Jose was opened?

15 A. I don't remember.

16 Q. Was it recently or years ago or --

17 A. A few years ago.

18 Q. Did you have any involvement with the labor
19 dispute filed by the Department of Labor against Barrio
20 Fiesta, LLC?

21 A. I don't know.

22 Q. Are you familiar with the labor dispute that
23 was filed against Barrio Fiesta, LLC in 2014?

24 A. I don't really remember.

25 Q. Did you receive compensation as being one of

1 the San Jose restaurant?

2 A. No.

3 Q. Do you have any responsibility for the content
4 of the Barrio Fiesta -- websites of Barrio Fiesta, LLC
5 or TRiGroup?

6 A. No.

7 Q. Do you know if Barrio Fiesta, LLC's
8 restaurants were awarded any honors?

9 A. I don't know.

10 Q. Did you have any involvement in designing the
11 Barrio Fiesta Express logo?

12 A. No.

13 Q. What standards have been established for the
14 quality of the food served at the Barrio Fiesta, LLC
15 restaurant in Milpitas?

16 A. I don't really know the standard.

17 Q. Well, earlier this morning you mentioned that
18 it was one of your responsibilities to make sure that
19 the food was of sufficient quality to be served to
20 patrons.

21 I might have paraphrased it a little bit
22 differently than you said, but I'm questioning, how do
23 you measure that? What are you measuring that against?

24 A. I'm not really too sure.

25 Q. Were you trained to look for certain standards

1 involved in the food served at the restaurant?

2 A. Mostly in appearance.

3 Q. Okay. Are there any minimum standards of
4 quality for the food served at the Milpitas restaurant?

5 A. I don't know.

6 Q. Do you think the quality of the food served at
7 the Milpitas restaurant would differ from the quality of
8 the food served at the San Jose restaurant?

9 A. I don't know.

10 Q. Have you established any trademark usage
11 guidelines for Barrio Fiesta, LLC?

12 A. I don't know.

13 Q. Have you established any trademark usage
14 guidelines for TRiGroup?

15 A. I don't know.

16 Q. If I wanted to find out if there were
17 trademark usage guidelines for the Barrio Fiesta Express
18 trademark, who would I ask?

19 A. I don't know.

20 Q. Do you have any information as to the date
21 that Barrio Fiesta, LLC first offered restaurant
22 services using Barrio Fiesta or Barrio Fiesta Express?

23 A. No.

24 Q. Do you have any information on the earliest
25 date that Barrio Fiesta, LLC offered packaged foods

1 using Barrio Fiesta or Barrio Fiesta Express as the
2 trademark for those foods?

3 A. No.

4 Q. Do you have any information on the earliest
5 date that TRiGroup offered packaged foods using Barrio
6 Fiesta Express or Barrio Fiesta as a trademark for those
7 foods?

8 A. No.

9 Q. I understand that you and your brother were
10 the applicants for the trademark application to register
11 Barrio Fiesta Express.

12 Are you aware of that?

13 A. Yes.

14 Q. Why was it decided that you and your brother
15 would file the application to register Barrio Fiesta
16 Express?

17 A. Can you repeat that?

18 Q. Why was it decided that you and your brother
19 would own the trademark application to register Barrio
20 Fiesta Express?

21 A. To keep it in the family.

22 Q. A similar question: Why was it decided that
23 you and your brother would file the trademark
24 application to register Barrio Fiesta Express for foods
25 as opposed to restaurant services in 2014?

1 Manufacturing Corporation?

2 A. Nothing.

3 Q. Have you visited Lion Supermarket?

4 A. Yes.

5 Q. Have you had occasion to purchase any packaged
6 foods that are bearing the trademark "Barrio Fiesta" at
7 Lion Supermarket?

8 A. No.

9 Q. Have you observed packaged foods bearing the
10 Barrio Fiesta trademark at Lion Supermarket?

11 A. Like seen them on shelves?

12 Q. Uh-huh. Seen them on the shelf, uh-huh.

13 A. Yes.

14 Q. Okay. When was the first time that you
15 believe you saw packaged food bearing the Barrio Fiesta
16 trademark on shelves in Lion's or another supermarket?

17 A. I don't remember.

18 Q. If you wanted to refresh your recollection,
19 how would you do so?

20 A. I don't know.

21 Q. Has it been within the time that your family
22 has operated the Barrio Fiesta Restaurant in Milpitas?

23 A. I don't remember.

24 Q. Was it before the time that your family began
25 operating the restaurant in Milpitas?

1 A. I don't know.

2 Q. Do you know Reynaldo Ongpauco?

3 A. No.

4 Q. Do you know Maria Cecilia P. Ongpauco?

5 A. No.

6 Q. Have you ever met Reynaldo or Maria Cecilia
7 Ongpauco?

8 A. No.

9 Q. Have you met any of the brothers or sisters of
10 Reynaldo Ongpauco?

11 A. No.

12 Q. Does Reynaldo Ongpauco -- does the name
13 Reynaldo Ongpauco signify anything to you?

14 A. No.

15 Q. Do you know Gregorio or Prescilla Rufino?

16 A. No.

17 Q. Do the names Gregorio and Prescilla Rufino
18 mean anything to you?

19 A. No.

20 Q. Do you know Albert or Judith Zamora?

21 A. No.

22 Q. Do the names Albert or Judith Zamora mean
23 anything to you?

24 A. No.

25 Q. Have you ever met Albert or Judith Zamora?

1 A. I don't know.

2 Q. Have you granted license to anyone besides
3 Barrio Fiesta, LLC and TRiGroup to use the Barrio Fiesta
4 Express trademark?

5 A. No.

6 Q. To your knowledge, have your brother or father
7 licensed anyone to use the Barrio Fiesta Express
8 trademark other than Barrio Fiesta, LLC and TRiGroup?

9 A. No.

10 Q. Did you receive the license payment when the
11 trademark license was granted to Barrio Fiesta, LLC?

12 A. I don't know.

13 Q. You don't recall if you received payment when
14 the license was granted to you and your brother?

15 A. I just don't remember.

16 Q. All right. So showing you what was previously
17 marked as Defendant's Exhibit 2, which is the trademark
18 license agreement produced to us as BARRIO SUPP 000006
19 through 15, which is captioned "Trademark License
20 Agreement between Justin Christian Rono and Ashley
21 Kirsten Rono and Barrio Fiesta, LLC."

22 Do you see that?

23 A. Yes.

24 Q. Are you Ashley Kirsten Rono mentioned on this
25 trademark license agreement?

1 A. Yes.

2 Q. Okay. All right. And looking at page 9 of
3 the document, which has the production number 14, is
4 that your signature on the document?

5 Page 9 of the license --

6 A. Oh.

7 Q. -- and page 14 of the -- yeah.

8 A. Yes.

9 Q. Okay. So you did sign this as licensor?

10 A. Yes.

11 Q. Okay. Looking at -- looking at, now, page 5
12 of the agreement, which is Bates-numbered 10. At
13 paragraph 5, it indicates that there were license fees:
14 "Upon the execution of this Agreement, the Licensee
15 shall pay the Licensor License Fee of \$100 for the
16 Initial Term of this Agreement."

17 Do you see that?

18 A. Yeah.

19 Q. Okay. Does this reflect -- refresh your
20 recollection that you received payment for the trademark
21 license that was granted?

22 A. I don't remember.

23 Q. You have no recollection of receiving payment
24 from the trademark license that was granted?

25 A. I just can't remember.

1 Q. Do you believe that you did receive
2 consideration of \$100 or a portion thereof when this
3 license was granted?

4 A. I don't know.

5 Q. Okay. How did you and your brother determine
6 the amount that would be charged for the license for
7 using the Barrio Fiesta Express trademark?

8 A. I don't know.

9 Q. Did you consult with anyone as to what would
10 be the correct amount?

11 A. No.

12 Q. All right. What was previously marked as
13 Defendant's Exhibit 5, which was produced to us as
14 BARRIO SUPP 00016 through 00025, is titled "TRADEMARK
15 LICENSE AGREEMENT."

16 "This Trademark License Agreement was entered
17 between Justin Christian Rono and Ashley Kirsten Rono
18 and TRiGroup, Inc."

19 Do you see that?

20 A. Yes.

21 Q. Referring to page 9 of this document, which is
22 Bates-marked 000023, there's a signature by
23 Ashley Kirsten Rono.

24 Is that your signature?

25 A. Yes.

1 Barrio Fiesta Express trademarks?

2 A. I don't know.

3 Q. The -- this paragraph mentions an Exhibit B
4 called "Third Party License Agreement"; however, what
5 was produced to us does not have a third-party license
6 agreement.

7 Are you aware of any third-party license
8 agreements?

9 A. I don't know.

10 Q. Were you consulted before Barrio Fiesta, LLC
11 filed the trademark infringement litigation against
12 Northridge Foods?

13 A. No.

14 Q. Did Barrio Fiesta, LLC notify you in writing
15 of the alleged infringement by Northridge Foods before
16 the current litigation was filed?

17 A. I don't know.

18 Q. When you say "I don't know," is it that you
19 don't recall or is it that it didn't happen?

20 A. I don't recall.

21 Q. Who would I ask if I want to find out if
22 Barrio Fiesta, LLC notified you or your brother in
23 writing of the alleged infringement by Northridge Foods?

24 A. I'm not sure.

25 Q. Did you notify Barrio Fiesta, LLC of the

1 alleged trademark infringement by Northridge Foods at
2 any time before the complaint was filed?

3 A. No.

4 Q. Who has authority to negotiate a settlement of
5 the current litigation with Northridge Foods?

6 A. I don't know.

7 Q. Have you discussed this litigation with anyone
8 outside of Barrio Fiesta, LLC, TRiGroup, or their
9 attorneys?

10 A. No.

11 Q. Have you discussed this litigation with your
12 co-owners, Justin Rono and June Rono?

13 A. No.

14 Q. What do you know about Northridge Foods?

15 A. Nothing.

16 Q. How was Northridge Foods selected as the party
17 for Barrio Fiesta, LLC to sue for infringement of the
18 Barrio Fiesta Express trademark?

19 A. I don't know.

20 Q. Have you ever met anyone from Northridge
21 Foods?

22 A. No.

23 Q. Do you know Erlinda Alianan?

24 A. No.

25 Q. Do you know Alex Alianan?

1 A. No.

2 Q. Have you ever been contacted by anyone from
3 Northridge Foods?

4 A. No.

5 Q. Are you aware that Northridge Foods has an
6 exclusive arrangement with Barrio Fiesta Manufacturing
7 Corp. to sell packaged food in the United States?

8 A. No.

9 Q. Were you involved in any negotiations with
10 Ramar Foods?

11 A. No.

12 Q. Were you involved with any arrangements with
13 Ramar Foods to sell packaged foods bearing the Barrio
14 Fiesta Express trademark in the United States?

15 A. No.

16 Q. Do you have any relationship with Barrio --
17 with Ramar Foods?

18 A. No.

19 Q. To your knowledge, what packaged foods bearing
20 the Barrio Fiesta trademark are available in the
21 United States?

22 A. Crispy pata and lumpia shanghai.

23 Q. And how are those made available to customers
24 in the United States?

25 A. I'm not really sure.

1 Q. Are they originated with Barrio Fiesta, LLC?

2 A. I don't know.

3 Q. You answered right away, so I want to
4 understand the source of the crispy pata and the lumpia.

5 A. Uh-huh.

6 Q. What is the source of those products?

7 A. Can you explain the question?

8 Q. Who sells the products that you say are
9 available to customers for purchase in the
10 United States?

11 A. Oh, the restaurant.

12 Q. Okay. So we're talking about the Milpitas
13 location of the restaurant of Barrio Fiesta, LLC?

14 A. Yes.

15 Q. Okay. Are any of those packaged foods
16 available in supermarkets?

17 A. No.

18 Q. Are any of those foods available in other
19 locations besides the restaurant?

20 A. No.

21 Q. Were you involved at all when the restaurant
22 was purchased from the Zamoras?

23 A. No.

24 Q. All right. I'm showing you what's been marked
25 as Defendant's Exhibit 8, which is the complaint in the

1 exhibit, please.

2 (Exhibit 18 marked for identification.)

3 BY MS. ROGOWSKI:

4 Q. Okay. So looking at what has been handed to
5 you, it's Defendant's Exhibit 18, which is U.S. -- a
6 copy of U.S. Trademark Registration No. 4034365 for
7 Barrio Fiesta Express.

8 Do you see that? Do you see that?

9 A. Yes.

10 Q. Okay. And we see, initially, when this
11 registration was granted, it shows that June Francis
12 Rono, Ashley Kirsten Rono, and Justin C. Rono were
13 identified as the owners; is that correct?

14 A. Yes.

15 Q. Okay. So this is showing a corrected version
16 of the trademark effective January 6th, 2015.

17 Do you see that?

18 A. Uh-huh.

19 Q. Okay.

20 (Exhibit 19 marked for identification.)

21 BY MS. ROGOWSKI:

22 Q. All right. I'm handing you what's been marked
23 Exhibit 19, which we just received today, so I don't
24 have copies.

25 A. Oh.

1 Q. But I want to -- that's fine.

2 It's identified as a trademark assignment that
3 was signed on November 24th, 2014, and it looks to be
4 signed by Ashley Kirsten C. Rono and Justin Christian C.
5 Rono.

6 Is that your signature?

7 A. Yes.

8 Q. Okay. And this appears to be a trademark
9 assignment by Ashley and Justin Rono to June Francis
10 Rono, Ashley Kirsten C. Rono, and Justin Christian C.
11 Rono to own the rights to the trademark; is that
12 correct?

13 A. Yes.

14 Q. Okay. All right. So I just wanted to make
15 sure we linked up that you are a signatory here, so
16 thank you.

17 A. Uh-huh.

18 MS. ROGOWSKI: All right. I'd like a minute
19 to see what you brought to see if there's anything else.

20 MR. CAI: Sure, please.

21 BY MS. ROGOWSKI:

22 Q. Do you have any involvement in training of any
23 personnel at the restaurant?

24 A. No.

25 Q. Do you have any involvement in designing the

1 menus at the restaurant?

2 A. None.

3 Q. Did you pay for the attorneys who helped
4 register the trademark "Barrio Fiesta Express"?

5 A. I don't know.

6 Q. Do you know who paid for obtaining the
7 trademark registration in Defendant's Exhibit 18?

8 A. I don't know.

9 Q. Do you have any responsibility to manage the
10 registration -- U.S. trademark registration shown in
11 Defendant's Exhibit 18?

12 A. I don't know.

13 Q. Who would you ask to find out who has
14 responsibility for managing the maintenance of that
15 registration?

16 A. My attorney.

17 Q. Okay. Were you involved in the negotiation of
18 the trademark licenses that were marked as Defendant's
19 Exhibit 2 and Defendant's Exhibit 5?

20 A. Can you repeat that?

21 Q. Were you involved in the negotiation of the
22 trademark licenses that were marked as Defendant's
23 Exhibit 5 and Defendant's Exhibit 2, the license to
24 TRiGroup and the license to Barrio Fiesta, LLC?

25 A. I don't know.

January 6, 2016

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CERTIFICATE OF REPORTER

I, MICHELLE D. KNOWLES, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition is a true record and was taken in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript [] was [X] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for any of the parties to the said deposition, nor in any way interested in the events of this cause, and that I am not related to any of the parties thereto.

Dated: January 18, 2016

Michelle D. Knowles

MICHELLE D. KNOWLES, CSR No. 8979

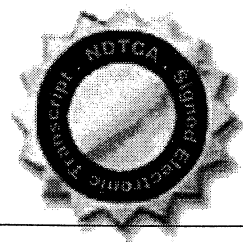


EXHIBIT “I”

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---o0o---

BARRIO FIESTA, LLC, a California
Limited Liability Company,

COPY

Plaintiff,

vs.

No. 4:15-CV-02669-JSW

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

Defendants.

NORTHRIDGE FOODS INTERNATIONAL
INC., a California corporation,
Counter-Claimant,

vs.

BARRIO FIESTA, LLC, a California
Limited Liability Company,

Counter-Defendant.

VIDEOTAPED DEPOSITION OF MICHELLE VILLANUEVA

Taken before Catherine M. Meyer, RPR, CSR
CSR No. 11596
May 13, 2016

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EXAMINATION BY MR. AVANZADO

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DEFENDANTS'

PAGE

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Exhibit 61

Photocopy of photographs,
three pages

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1 VIDEOTAPED DEPOSITION OF MICHELLE VILLANUEVA
2

3 BE IT REMEMBERED, that pursuant to Notice, and on
4 the 13th day of May 2016, commencing at the hour of
5 10:29 a.m., in the Law Offices of SAC Attorneys, LLP,
6 111 North Market Street, Suite 1020, San Jose,
7 California, before me, Catherine M. Meyer, a Certified
8 Shorthand Reporter, personally appeared MICHELLE
9 VILLANUEVA, produced as a witness in said action, and
10 being by me first duly sworn, was thereupon examined as
11 a witness in said cause.
12

13 ---o0o---

14 APPEARANCES:

15 For the Plaintiff:

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24 elaine@avanzadolaw.com
25

Page 4

1 Also Present:

2 David Manzo, videographer;

3 June Francis Roño.

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1 She's going to transcribe it for us in addition to
2 the videotape. And so we need to slow down so that
3 she, you know, doesn't get upset at us. Will you
4 do that?

5 A. Yes. 10:32

6 Q. Okay. So tell me please, who is your
7 current employer?

8 A. Current employer is Barrio Fiesta, LLC.

9 Q. Do you have an office address?

10 A. Yes. 10:32

11 Q. What is it?

12 A. 1719 Milmont Drive.

13 Q. What city?

14 A. Milpitas.

15 Q. That's the restaurant? 10:33

16 A. Yes.

17 Q. Now, prior to -- well, when did you become
18 employed by Barrio Fiesta, LLC?

19 A. February 1, 2011.

20 Q. Do you work for anybody else? 10:33

21 A. No.

22 Q. Barrio Fiesta, LLC, is your current and
23 only employer?

24 A. Yes.

25 Q. Who did you work for prior to that? 10:33

1 A. I worked at Bank of the Philippine Islands
2 Remittance Center.

3 Q. Where was that?

4 A. It's located at McKee Road, San Jose.

5 Q. That company is generally known as BPI 10:33
6 Remittance?

7 A. That's right.

8 Q. And how long did you work for BPI?

9 A. I don't remember.

10 Q. Were you born here in the United States? 10:34

11 A. No.

12 MR. WATTERS: Objection. Relevance.

13 THE WITNESS: No.

14 BY MR. AVANZADO:

15 Q. When did you move to the United States? 10:34

16 A. 2009.

17 Q. How old were you when you moved here?

18 A. I don't remember.

19 Q. When were you born?

20 A. June 7, 1976. 10:34

21 Q. Okay. So describe for me your educational
22 background.

23 A. Okay. I graduated bachelor of science in
24 commerce major in business management in
25 St. Scholastica's College, Manila, Philippines. 10:34

1 Q. What year?

2 A. 1974. Oh, sorry. Sorry. 1990 -- I
3 forgot. Sorry.

4 Q. In the '90s?

5 A. Yes. Oh, I remember. 1997. 10:35

6 Q. Okay. And do you have -- did you have any
7 work history after college in the Philippines?

8 A. Yes.

9 Q. In the Philippines?

10 A. Yes. 10:35

11 Q. Where did you work?

12 A. I worked at Far East Bank & Trust Company.

13 Q. Doing what?

14 A. I was processor of trade -- trade
15 operations. 10:35

16 Q. Processor?

17 A. Yes.

18 Q. And what are trade operations?

19 A. That's export and import transactions.

20 Q. How long did you work for Far East Bank? 10:35

21 A. I don't remember.

22 Q. Did you work for anybody else in the
23 Philippines?

24 A. Yes.

25 Q. Who else? 10:36

1 A. Bank of the Philippine Islands.

2 Q. Doing what?

3 A. The same thing, processor of trade
4 operations.

5 Q. Again, that's an export import issue? 10:36

6 A. That is right.

7 Q. How long did you work for BPI in the
8 Philippines?

9 A. Eleven years.

10 Q. What was your next employment? 10:36

11 A. East West Bank.

12 Q. Where?

13 A. Makati, Philippines.

14 Q. What did you do for East West Bank?

15 A. I was a trade officer. 10:36

16 Q. And what does that mean?

17 A. Import and export transactions.

18 Q. So the same thing?

19 A. Yes.

20 Q. Is a trade officer a step up from a 10:36
21 processor of trade operations?

22 A. Yes.

23 Q. How long did you work for East West Bank?

24 A. I don't remember.

25 Q. Did you have any other employers in the 10:36

1 Philippines?

2 A. No.

3 Q. So just Far East Bank, BPI and East West
4 Bank after college?

5 A. Yes. 10:37

6 Q. Then you moved to the U.S.?

7 A. Yes.

8 Q. What was your first job?

9 A. In BPI Remittance Center.

10 Q. Did you have any other jobs in the U.S. 10:37
11 other than BPI Remittance and then Barrio Fiesta,
12 LLC?

13 A. No.

14 Q. What was your job at BPI Remittance?

15 A. Sending -- sending remittances to the 10:37
16 Philippines.

17 Q. Did you have a title?

18 A. Processor.

19 Q. So you worked for BPI Remittance from 2009
20 to 2011? 10:37

21 A. I don't remember.

22 Q. Was it -- did you -- strike that.

23 Did you start working for BPI Remittance
24 immediately after you became a resident of the
25 U.S.? 10:38

1 A. I don't recall.

2 Q. Did you have any other employment
3 besides -- strike that.

4 Did you have any other employers other
5 than BPI Remittance before working for Barrio 10:38
6 Fiesta, LLC?

7 A. No.

8 Q. Okay. And other than your bachelor of
9 science -- I'm sorry. What degree did you get?

10 A. Bachelor of science in commerce major in 10:38
11 business management.

12 Q. Degree says bachelor of science of
13 commerce?

14 A. Uh-huh.

15 Q. Yes? 10:38

16 A. Yes.

17 Q. So do you have any other postgraduate
18 education?

19 A. No.

20 Q. Remember to slow down for me. 10:38

21 A. Okay.

22 Q. So Barrio Fiesta, LLC, hired you in
23 February 2011?

24 A. Yes.

25 Q. What was your first job title? 10:38

1 A. Assistant manager.

2 Q. What were your duties?

3 A. Assistant daily operations of the
4 restaurant.

5 Q. How long were you an assistant manager? 10:39

6 A. I don't recall.

7 Q. More than a year?

8 A. I'm not sure.

9 Q. When -- what was your next job position?

10 A. Business operations manager. 10:39

11 Q. After that what was your next job
12 position?

13 A. Chief operations officer.

14 Q. That's your current title?

15 A. That is right. 10:39

16 Q. When did you become chief operations
17 officer?

18 A. January 1, 2014.

19 Q. How long were you business operations
20 manager? 10:39

21 A. I'm sorry?

22 Q. How long -- you became business operations
23 manager after being an assistant manager?

24 A. Uh-huh, yes.

25 Q. How long were you business operations 10:39

1 manager?

2 A. I don't remember.

3 Q. Okay. You've been COO for over two years
4 now?

5 A. That is right. 10:40

6 Q. Okay. Tell me what your duties were as
7 business operations manager.

8 A. Business operations manager?

9 Q. Yes.

10 A. Okay. Dealing with the daily operations 10:40
11 of the restaurant.

12 Q. How was that different from your role as
13 an assistant manager?

14 A. I only assist in the daily operations of
15 the restaurant. 10:40

16 Q. As an assistant manager?

17 A. Yes.

18 Q. So now you are in charge of the daily
19 operations --

20 A. That is right. 10:40

21 Q. -- of the restaurant?

22 A. Yes.

23 Q. You also have to wait for me to finish.

24 A. Oh, sorry.

25 Q. So as business operations manager you were 10:40

1 in charge of the restaurant's daily operations?

2 A. Yes.

3 Q. What is your responsibilities as chief
4 operations -- strike that.

5 What are your responsibilities as COO? 10:41

6 A. Okay. I am in charge of the overall
7 operations of both restaurants.

8 Q. When you say both restaurants, what do you
9 mean?

10 A. The Milpitas branch and the San Jose 10:41
11 branch.

12 Q. And when you say you're in charge of the
13 daily operations, can you be more specific?

14 A. I am in charge of the inventories,
15 manpower, the training, supplies. That's it. 10:41

16 Q. Do you hire vendors?

17 A. Yes.

18 Q. Is it your decision making
19 responsibilities --

20 A. No. 10:41

21 Q. -- to select vendors?

22 A. Sorry. No.

23 Q. Who does that?

24 A. Dr. June Roño.

25 (The reporter speaks.)

1 A. Eight hours.

2 Q. Okay. Do you know a company called Ramar
3 Foods?

4 A. Yes.

5 Q. Tell me about them, what you know about 10:58
6 them.

7 MR. WATTERS: Objection. Vague.

8 BY MR. AVANZADO:

9 Q. What do you know about Ramar Foods?

10 A. Ramar Foods, they're one of our suppliers. 10:59

11 Q. What do they supply to you?

12 A. Tocino, longganisa, sweet ham, ice cream.

13 Q. Which ice cream? Magnolia?

14 A. Yes.

15 Q. Okay. Now, the tocino that's provided to 10:59
16 you by Ramar, is it their formulation?

17 A. I don't know.

18 Q. Tell me how it comes in a package.

19 A. It's already packed in plastic.

20 Q. Vacuum packed? 10:59

21 A. Yes.

22 Q. Is there a label on it?

23 A. Yes.

24 Q. What's the label?

25 A. Of the tocino? 10:59

1 A. That's the longganisa.

2 Q. Oh, I thought it was different. Okay.

3 Anything else besides tocino, longganisa

4 and magnolia that they provide?

5 A. Oh, the mango puree and calamansi juice. 11:01

6 Q. What brands?

7 A. The mango puree is Manila Gold. Calamansi

8 I don't remember.

9 Q. Do you get bagoong from someone?

10 A. No. 11:01

11 Q. Do you make it?

12 A. Yes.

13 Q. How do you make it?

14 A. What do you mean?

15 Q. How does Barrio Fiesta restaurant, your 11:01

16 Barrio Fiesta restaurant prepare bagoong?

17 A. From raw materials. From raw ingredients.

18 Sorry.

19 Q. Cooked or uncooked? Is the bagoong cooked

20 or uncooked? 11:02

21 A. Uncooked first. We are the one who is

22 cooking it.

23 Q. No, I'm not talking about the raw

24 materials. Do you prepare cooked bagoong or

25 uncooked bagoong? 11:02

1 A. I'm sorry.

2 Q. Bagoong can be cooked or uncooked; you're
3 aware of that, right?

4 A. Uh-huh.

5 Q. There can be raw bagoong and cooked 11:02
6 bagoong?

7 A. Yeah.

8 Q. Is yours cooked or uncooked?

9 A. Oh, we get the uncooked one, and then we
10 are the one who cooks it. 11:02

11 Q. Do you get the raw bagoong from some other
12 company?

13 A. Yes.

14 Q. Which company?

15 A. Supermarket. 11:02

16 Q. What brand do you use?

17 A. I don't remember.

18 Q. Have you ever seen Barrio Fiesta branded
19 bagoong?

20 A. Say that again, please. 11:02

21 Q. Have you ever seen Barrio Fiesta branded
22 Bagoong?

23 A. Yes.

24 Q. Do you use that?

25 A. Yes. 11:03

1 Q. In the restaurant?

2 A. No. Personally.

3 Q. Got you.

4 Do you remember when the first time you

5 saw Barrio Fiesta branded food products like 11:03

6 bagoong?

7 A. I don't remember.

8 Q. Did you see them in the Philippines?

9 A. Yes.

10 Q. And when you lived in the Philippines, did 11:03

11 you ever eat at Barrio Fiesta restaurants?

12 A. Yes.

13 Q. So you're aware that there are a number,

14 many actually, Barrio Fiesta restaurants in the

15 Philippines? 11:03

16 A. Yes.

17 Q. When you came to the United States, when

18 were you first -- when did you first become

19 familiar with Barrio Fiesta restaurants in the

20 United States? 11:03

21 A. Can you repeat that?

22 Q. Yeah. It was a bad question.

23 You came to the United States in 2009 you

24 said.

25 A. Yes. 11:03

1 Q. Did you -- where did you first live in the
2 United States?

3 A. Where?

4 Q. Yes.

5 A. San Jose. 11:04

6 Q. Were you -- when you first came to the
7 United States, did you see Barrio Fiesta
8 restaurants in the United States?

9 A. I don't remember.

10 Q. In other words, did you see either the 11:04
11 Milpitas restaurant or any other Barrio Fiesta
12 restaurant?

13 A. Yes.

14 Q. In the United States?

15 A. Yes. 11:04

16 Q. Which one did you see?

17 A. Milpitas.

18 Q. Did you eat there before you were employed
19 there?

20 A. Yes. 11:04

21 Q. When did you first eat at the Barrio
22 Fiesta Milpitas restaurant?

23 A. Oh, I don't remember.

24 Q. Was it -- well, you did eat there before
25 you were employed there you say? 11:04

1 A. Yes.

2 Q. Do you shop at Filipino supermarkets?

3 A. Yes.

4 Q. For your personal supplies?

5 A. Yes. 11:04

6 Q. What city do you shop in?

7 A. The one Seafood City in Landess.

8 Q. What is Seafood City?

9 A. It's a Filipino supermarket.

10 Q. Are you familiar with that chain -- 11:05

11 A. No.

12 Q. -- of supermarkets?

13 A. No.

14 Q. You just know the one in Landess?

15 A. Yes. And also the one in McKee Road, 11:05

16 San Jose.

17 Q. Landess is in Milpitas, right?

18 A. Yes.

19 Q. There's a mall there where Seafood City is

20 located in Milpitas? 11:05

21 A. A mall?

22 Q. Yes.

23 A. Yes.

24 Q. There are a number of Filipino businesses

25 in that location? 11:05

1 A. Yes.

2 Q. Do you notice what type of products are
3 being sold at those restaurants, in other words,
4 package foods and whatnot?

5 A. No. 11:06

6 Q. You don't?

7 A. No.

8 Q. You don't buy to-go items at other
9 restaurants?

10 A. No. 11:06

11 Q. Now, Seafood City, how often -- strike
12 that.

13 You said that you have bought Barrio
14 Fiesta bagoong at a supermarket before.

15 A. Yes. 11:07

16 Q. Have you seen any other Barrio Fiesta
17 products for sale at a supermarket?

18 A. Yes.

19 Q. When did you first see those products?

20 A. I do not remember. 11:07

21 Q. Did you see them before you were employed
22 by Barrio Fiesta, LLC?

23 A. Did you say before?

24 Q. Before.

25 A. No. 11:07

1 Q. You had never -- just so I'm clear, the
2 Barrio Fiesta food products that were we're talking
3 about, are those for sale in supermarkets?

4 A. Yes.

5 Q. Do you understand me? 11:07

6 A. Uh-huh.

7 Q. Yes?

8 A. Yes.

9 Q. Okay. Have you -- did you see those
10 products at supermarkets before you became employed 11:07
11 by Barrio Fiesta, LLC?

12 A. Yes. Only the bagoong.

13 Q. Are you aware of the other products?

14 A. No.

15 Q. Now, while in the Philippines did you see 11:07
16 any other products for sale in supermarkets under
17 the Barrio Fiesta brand?

18 A. Other than?

19 Q. When you were in the Philippines --

20 A. Yes. 11:08

21 Q. -- did you see Barrio Fiesta branded
22 products for sale in supermarkets?

23 A. Yes. The bagoong.

24 Q. Did you see any other products?

25 A. I do not remember. 11:08

1 Q. Like vinegar, for example?

2 A. No.

3 Q. Or fish sauce?

4 A. No.

5 Q. Shrimp paste? 11:08

6 A. Yes, the shrimp paste, the bagoong, yes.

7 Q. Okay. Now, at some point -- strike that.

8 In your position as chief operations
9 officer, do you have any duties for Barrio Fiesta,

10 LLC, other than the daily operations of the 11:08
11 restaurant?

12 A. Could you say that again, please?

13 Q. Do you have any other responsibilities for
14 the corporation other than operating or supervising
15 the operations of the restaurants? 11:09

16 A. Yes.

17 Q. What are your other duties?

18 A. Help the company grow.

19 Q. In what way?

20 A. Of course, we -- we are pursuing to -- to 11:09
21 expand our restaurant and also put some of our
22 products in the market.

23 Q. Let's take those one at a time. What are
24 you doing to pursue to expand your restaurant?

25 A. Of course, we wanted to open another 11:09

1 necessary?

2 A. No.

3 Q. Did you have anything to do with the money

4 required?

5 A. No.

11:11

6 Q. So again, all that you were doing was

7 handling the operations of the restaurant itself?

8 A. Yes.

9 Q. Are you involved in the accounting for

10 that restaurant?

11:11

11 A. No.

12 Q. Or reviewing profits and loss of that

13 restaurant?

14 A. No.

15 Q. Okay. What did you do -- what were your

11:11

16 responsibilities to, quote, put some of our

17 products in the market?

18 A. I had a conversation -- we had

19 conversation with Ramar Foods.

20 Q. Who is we?

11:11

21 A. Dr. June Roño.

22 Q. Who made --

23 A. And Justin Roño.

24 Q. Okay. Who made the initial contact with

25 Ramar Foods for that?

11:11

1 A. Dr. June Roño.

2 Q. How do you know that?

3 A. Through e-mail.

4 Q. You learned of that contact through an

5 e-mail?

11:12

6 A. Yes.

7 Q. What was your role in those conversations

8 with Ramar Foods?

9 A. What do you mean?

10 Q. What did you do?

11:12

11 A. I was just cc'd on the -- on the e-mail.

12 Q. Okay. In the communications with Ramar

13 Foods, what was your role for Barrio Fiesta, LLC?

14 A. Okay. My role was to get in touch with

15 Anavi who is the one handling the food service of

11:12

16 Ramar so we can go about the project of, you know,

17 of producing our -- we started off or we planned to

18 start with lumpia Shanghai first. They will be the

19 one to produce that.

20 Q. They being Ramar?

11:13

21 A. Yes.

22 Q. So your role was communicating with Anavi?

23 A. That is right, yes.

24 Q. What was -- what part of that conversation

25 were you handling?

11:13

1 A. Can you say that again?

2 Q. I understand that you were the one that's
3 communicating with Anavi.

4 A. Yes.

5 Q. What were you providing to Anavi; what was 11:13
6 he providing to you?

7 A. We had a conversation of how we will go
8 about the project, to start with the project.

9 Q. What does that mean?

10 A. We discussed about the recipe for the 11:13
11 labeling the packaging. And it's just the dry run
12 of how to produce the lumpia Shanghai.

13 Q. You discussed the dry run?

14 A. Yes.

15 Q. Did you do a dry run? 11:14

16 A. No.

17 Q. Let me show you what's previously marked
18 as Exhibit 32. Exhibit 32 is a series of e-mails
19 produced by Ramar Foods in this case that appear to
20 be communications with people from BF, LLC, Barrio 11:14
21 Fiesta, LLC. Have you seen these e-mails before?

22 A. Yes.

23 Q. All of them?

24 A. No.

25 Q. Not all of them? 11:15

1 A. Not all of them. There's a lot.

2 Q. It is a lot. But you'll see that most of
3 them are just copies of the other ones.

4 A. Yes.

5 Q. So you were copied on the initial e-mail 11:15
6 from Dr. Roño to Susie Quesada, right?

7 A. Yes.

8 Q. When was your next involvement?

9 A. I got in touch with Anavi.

10 Q. By? How did you get in touch with Anavi? 11:15

11 A. Through e-mail.

12 Q. Okay. Did you participate in any
13 meetings?

14 A. Yes.

15 Q. How many? 11:15

16 A. Once. One time.

17 Q. Where was that?

18 A. Union City.

19 Q. Where in Union City?

20 A. Chipotle. 11:15

21 Q. Who was in the meeting?

22 A. Anavi and I.

23 Q. What did you discuss at the meeting?

24 A. We discussed about the first step in this
25 project. 11:16

1 Q. And what was the first step?

2 A. First step, of course, we exchange, you
3 know, ideas. And I asked about the pricing, the
4 labeling, the packaging. And then what is next.

5 Q. What do you mean you exchanged ideas? 11:16

6 A. Ideas. She -- like, you know, it was my
7 first time to, you know, talk about this kind of
8 project. So she was the one. She even advised
9 what to do with the -- or advised or suggested what
10 to do with the recipe because she needed the 11:16
11 recipe. So she even suggested to take out some of
12 the ingredients so it will be easier to produce.

13 Q. You said this is the first time you did
14 one of these projects I think you said.

15 A. Yes. 11:17

16 Q. You mean this is the first time you were
17 involved in creating a food product for sale to a
18 supermarket?

19 A. Yes.

20 Q. Okay. So did you have any prior 11:17
21 experience in communicating with someone to mass
22 produce food for sale --

23 A. No.

24 Q. -- to consumers?

25 A. No. 11:17

1 Q. And so did you have any experience on
2 producing food in this kind of scale?

3 A. Yes. I'm sorry? Sorry.

4 Q. My questions are long. I'm sorry.

5 Did you have any prior experience 11:17
6 producing food on this kind of scale, quantity?

7 A. No.

8 Q. All right. And so when you engage a
9 company like Ramar to produce food, you're talking
10 about producing mass quantities of food? 11:18

11 A. Yes.

12 Q. Thousands and thousands of lumpia?

13 A. Yes.

14 Q. To be packaged and frozen for sale in
15 supermarkets? 11:18

16 A. Yes.

17 Q. So what kind of things are involved in
18 that kind of process?

19 A. What do you mean?

20 Q. Well, what do you have to consider when 11:18
21 you're talking about producing food in that kind of
22 quantity?

23 A. Well, of course, we have to consider the
24 pricing first of producing that, the packaging, the
25 labeling. 11:18

1 Q. Anything else?

2 A. That's it.

3 Q. Did Anavi talk to you about any other
4 factors that go into producing food of that kind
5 that needs to be frozen and delivered to 11:18
6 supermarkets?

7 A. I don't recall.

8 Q. So in this meeting is there anything else
9 discussed other than pricing?

10 A. During the -- our meeting? 11:19

11 Q. Yes.

12 A. Pricing and the labeling.

13 Q. Anything else?

14 A. That's it.

15 Q. How long after the first contact between 11:19
16 Dr. Roño and Ms. Quesada on Exhibit 32 was this
17 meeting with Anavi?

18 A. I don't remember.

19 Q. Was it within weeks?

20 A. I don't remember. 11:19

21 Q. Within months?

22 A. I don't remember.

23 Q. Certainly after the e-mail from Dr. Roño;
24 is that right?

25 A. Yes. 11:19

1 so you kind of refresh your memory on dates for me.

2 A. Okay.

3 Q. Do you have a better idea of the timeline
4 now?

5 A. Yes. September. 11:23

6 Q. Okay. So at some point you met with
7 Anavi?

8 A. Yes.

9 Q. Sometime after this e-mail in Exhibit 34,
10 yes? 11:24

11 A. Yes.

12 Q. Okay. Does your answer change with what
13 happened at that meeting? In other words, now that
14 you looked at Exhibit 34 --

15 A. Uh-huh. 11:24

16 Q. -- can you tell me what happened at that
17 meeting other than what you already testified to
18 already?

19 A. No.

20 Q. So the same thing, basically pricing and 11:24
21 the labeling?

22 A. Yes.

23 Q. Okay. Did you talk about a distribution
24 plan at your meeting?

25 A. No. 11:24

1 Q. Did you have a distribution plan by the
2 time of your meeting?

3 A. I don't recall.

4 Q. Do you know what a distribution plan is?

5 A. Yes. 11:24

6 Q. What is it?

7 A. Oh, distributing our products to
8 supermarkets.

9 Q. Do you have any -- by the time of your
10 meeting -- strike that. 11:25

11 At the time of your meeting with Anavi,
12 was there a distribution plan for these products
13 you planned or you were trying to get Ramar to
14 produce?

15 A. A final plan of distribution? 11:25

16 Q. Any plan.

17 A. Yes.

18 Q. What was the plan?

19 A. After -- after this project going to
20 distribute it to -- we will be the one to 11:25
21 distribute it to supermarkets.

22 Q. And how were you going to do that?

23 A. That is, of course, through Dr. June Roño.

24 Q. Did you have a plan in place even
25 preliminarily on how to distribute to supermarkets? 11:25

1 A. Yes.

2 Q. What was it?

3 A. Put our products in two supermarkets.

4 Q. That's it?

5 A. Yes. 11:26

6 Q. What are the other details of this plan?

7 A. The final -- the details?

8 Q. Yes.

9 A. I don't know yet.

10 Q. Any preliminaries of the plan other than 11:26

11 we're going to sell to supermarkets?

12 A. No.

13 Q. Any pricing?

14 A. No.

15 Q. Any delivery schedules? 11:26

16 A. No.

17 Q. Any production schedules?

18 A. No.

19 Q. Any targeted supermarkets?

20 A. Yes. 11:26

21 Q. Which ones?

22 A. Ocean Supermarkets and Lion Supermarkets.

23 Q. Those are Asian supermarkets?

24 A. Yes.

25 Q. Any plan to target Filipino supermarkets? 11:26

1 A. I don't recall.

2 Q. There are Filipino supermarkets?

3 A. Yes.

4 Q. What are some of the -- what are the

5 largest Filipino supermarkets you're aware of? 11:26

6 A. The largest?

7 Q. Chains.

8 A. Chains of Filipino or Asian?

9 Q. Filipino.

10 A. Filipino? Seafood City. 11:27

11 Q. Anything else?

12 A. No. That's it.

13 Q. Island Pacific?

14 A. No.

15 Q. Do you know them? 11:27

16 A. I know them, yes.

17 Q. You're not aware how big Island Pacific
18 is?

19 A. No.

20 Q. Any plans to target Seafood City or any 11:27
21 other Filipino supermarket?

22 A. Not as of the moment, no.

23 Q. I'm talking at the time in August 2015.

24 A. Oh. No.

25 Q. Did you know anyone Seafood City? 11:27

1 A. No.

2 Q. In terms of people who would buy products
3 from a vendor?

4 A. No.

5 Q. Were you responsible for this distribution 11:27
6 plan?

7 A. No.

8 Q. Did you have any role in it?

9 A. No.

10 Q. Are there -- let me ask a more general 11:27
11 question. When you manufacture a product for sale
12 to the consumers through supermarkets, what are the
13 elements of a typical distribution plan?

14 A. Say that again, please.

15 Q. When a company produces food products for 11:28
16 sale to consumers through supermarkets, what are
17 the elements of a typical distribution plan?

18 A. Typical elements?

19 Q. What are the elements of a distribution
20 plan? 11:28

21 A. I don't know.

22 Q. Have you ever created a distribution plan
23 for the sale of products, food products to
24 consumers?

25 A. No. 11:28

1 Q. The only thing you've done is operate a
2 restaurant?

3 A. Yes.

4 Q. Are you aware of any experience Dr. Roño
5 or his children have of distributing food products 11:28
6 for sale to consumers through retail outlets like a
7 supermarket?

8 A. No.

9 Q. They have none, correct?

10 A. I don't know. 11:29

11 Q. What did -- how did Anavi react to you at
12 this meeting?

13 A. Oh, she was very excited to start the
14 project with us.

15 Q. Okay. Did she ask you for any 11:29
16 information?

17 A. Like what?

18 Q. Like anything.

19 A. Like about the -- of course, she asked
20 about what -- what -- what are the first product 11:29
21 we're planning to produce.

22 Q. So prior to your meeting, Anavi didn't
23 know what product you had been planning to have
24 produced; is that right?

25 A. Yes. 11:29

1 nondisclosure agreement?

2 A. She e-mailed me the nondisclosure
3 agreement.

4 Q. Before or after your meeting?

5 A. After our meeting. 11:30

6 Q. And then that's the one that Dr. Roño
7 signed?

8 A. Yes.

9 Q. Did she ask you for anything else at this
10 meeting? 11:31

11 A. No.

12 Q. For example, did she ask for your
13 distribution plan?

14 A. No.

15 Q. Did she ask you for your expected quantity 11:31
16 of product?

17 A. No.

18 Q. Or the type of packaging, frozen or
19 refrigerated, that you would want?

20 A. Say that again. 11:31

21 Q. The kind of product, refrigerated or
22 frozen, that you would want?

23 A. Yes, she asked that.

24 Q. And what did you respond?

25 A. Frozen. 11:31

1 Q. So Anavi, at your meeting, for the first
2 time was hearing that you wanted lumpia, frozen to
3 be delivered to supermarkets under a plan you would
4 create; is that right?

5 A. Yes. 11:31

6 Q. Prior to your meeting Anavi and Ramar had
7 no idea what you wanted; is that right?

8 A. Yes.

9 Q. What happened after your meeting?

10 A. After the meeting she sent the NDA, 11:32
11 nondisclosure agreement, have it-- signed it. And
12 she also e-mailed their signed nondisclosure
13 agreement. And then I sent the recipe for the
14 lumpia Shanghai.

15 Q. Anything else? 11:32

16 A. That's it.

17 Q. Do you have another meeting with Anavi?

18 A. No.

19 Q. Other than this one meeting with Anavi at
20 Chipotle, did you have any other meetings, 11:32
21 in-person meetings with Ramar personnel?

22 A. No.

23 Q. Have you ever met Susie Quesada?

24 A. Yes.

25 Q. When was that? 11:32

1 A. I don't recall.

2 Q. So you did have another meeting with Ramar
3 personnel?

4 A. Yes, before -- after -- sorry.

5 Q. Okay. Other than Anavi, have you met with 11:33
6 anyone else at Ramar?

7 A. Yes, with Susie, yes.

8 Q. When was that?

9 A. I don't recall.

10 Q. Before or after your meeting with Anavi? 11:33

11 A. That was before our meeting with Anavi.

12 Q. So was it an introductory meeting?

13 A. Yes.

14 Q. Who was present?

15 A. Dr. June Roño and Justin Roño. 11:33

16 Q. Who was present for Ramar?

17 A. Susie and Anavi.

18 Q. What was discussed at that meeting?

19 A. Typically the collaboration and our
20 intention of having this exploratory project or 11:33
21 this project to go on.

22 Q. You prefaced your answer with the word
23 "typically." Are you remembering or is this what
24 you think happened?

25 A. Say that again, please. 11:33

1 Q. You prefaced your prior answer with the
2 word "typically." Did you mean that that's what
3 usually happens at this kind of meeting or is this
4 what actually happened at that meeting?

5 A. Sorry. That is what actually happened in 11:34
6 the meeting.

7 Q. Okay. And where did that meeting take
8 place?

9 A. Ramar's -- where is that? Pittsburg,
10 California. 11:34

11 Q. The production facility in Pittsburg?

12 A. That's right.

13 Q. Okay. And that's where Ramar produces all
14 of their food products for sale?

15 A. Yes. 11:34

16 Q. Including their private label products
17 they sell for other people?

18 A. Yes.

19 Q. Or produce for other people, correct?

20 A. Yes. 11:34

21 Q. Were you given a tour of the facility?

22 A. No.

23 Q. It was just a meeting?

24 A. Yes.

25 Q. What was the purpose of the meeting? 11:34

1 A. The purpose of the meeting is to -- this
2 collaboration between Barrio Fiesta and Ramar in
3 producing the -- in producing our products in the
4 market.

5 Q. I don't know what that means, the purpose 11:35
6 was the collaboration.

7 A. Of course, it was our first meeting with
8 Susie and Anavi. So we discussed about our
9 intention of working with them in producing this --
10 our products, for them to produce our products and 11:35
11 then sell it to the market.

12 Q. It was your first introduction to them,
13 correct?

14 A. Yes.

15 Q. And so you were trying to explore this 11:35
16 collaboration?

17 A. Yes.

18 Q. Okay. Were terms discussed?

19 A. No.

20 Q. Was pricing discussed? 11:35

21 A. No.

22 Q. Was anything other than your desire to
23 have food products produced by them discussed?

24 A. No.

25 Q. Okay. You are familiar with the company 11:35

1 Ramar Foods, right?

2 A. Yes.

3 Q. And you are familiar with their
4 capabilities?

5 A. Yes. 11:36

6 Q. Were they familiar with yours?

7 A. I don't know.

8 Q. Were they asking you any questions --

9 THE VIDEOGRAPHER: Can you raise up your
10 mike? Raise it up a little bit. You keep touching 11:36
11 it.

12 THE WITNESS: Sorry.

13 THE VIDEOGRAPHER: Thank you.

14 BY MR. AVANZADO:

15 Q. Was Ramar Foods familiar with your 11:36
16 company's abilities?

17 A. I don't know.

18 Q. Did they ask you for any information
19 regarding the capabilities of Barrio Fiesta, LLC,
20 to enter into this collaboration? 11:36

21 A. I don't know.

22 Q. You don't know if they asked you?

23 A. I don't remember.

24 Q. Okay. In the meeting did they ask you for
25 financials? 11:36

1 A. No.

2 Q. Or any sort of credentials for lack of a
3 better word?

4 A. I don't know.

5 Q. Okay. Who led the meeting on behalf of 11:37
6 Barrio Fiesta, LLC?

7 A. Dr. June Roño.

8 Q. Did you speak?

9 A. Speak? With specific?

10 Q. Well, were you part of the conversation or 11:37
11 were you just watching?

12 A. I was just watching.

13 Q. In contrast to your meeting with Anavi
14 where you were the only one?

15 A. Yes. 11:37

16 Q. Okay. Any other meetings with -- or
17 strike that.

18 At this initial meeting is it your
19 testimony that Dr. June Roño it is one for Barrio
20 Fiesta who is doing all of the talking? 11:37

21 A. Yes.

22 Q. What about Justin; did he talk?

23 A. No.

24 Q. Now, in your meeting with Anavi, it was
25 just the two of you, right? 11:37

1 A. Yes.

2 Q. Did you participate in any other meetings
3 with Ramar personnel other than this first
4 exploratory meeting and your meeting with Anavi?

5 A. No. 11:38

6 Q. What happened after your meeting with
7 Anavi besides the exchange of documents?

8 A. I was waiting for -- actually it's her
9 turn now to do the -- to check on our recipe for --
10 I mean, approval of the government, the labeling. 11:38
11 So I was waiting for her to provide me with the
12 draft of the -- what will the packaging will look
13 like and the labeling.

14 Q. When you say it was her job to check or
15 get approval from the government, what do you mean? 11:38

16 A. The government approval on the ingredients
17 and the product, yes.

18 Q. That you were planning?

19 A. I'm sorry?

20 Q. The product that you were planning to have 11:39
21 Ramar --

22 A. Yes.

23 Q. -- produce?

24 A. Yes.

25 Q. Had there been a signed agreement between 11:39

1 the two companies by this point?

2 A. Just the nondisclosure agreement.

3 Q. Anything relating to the production of the
4 product?

5 A. No. 11:39

6 Q. Did Ramar -- strike that.

7 Did Barrio Fiesta, LLC, pay Ramar Foods
8 any money at this point?

9 A. No.

10 Q. And you're sure of that? 11:39

11 A. Yes.

12 Q. So you're saying that Ramar Foods was
13 going through the government approval process
14 without a signed contract relating to the product?

15 A. Yes. 11:39

16 Q. And without any payment?

17 A. Yes.

18 Q. Why would they do that?

19 A. I don't know.

20 Q. Okay. And you would know if Barrio 11:39

21 Fiesta, LLC, had paid Ramar any money; is that
22 right?

23 A. Yes.

24 Q. Even though that payment would be handled
25 by Dr. Roño? 11:40

1 A. Yes.

2 Q. What did you do to prepare for this
3 deposition?

4 A. What do you mean?

5 Q. Huh? 11:40

6 A. What do you mean?

7 Q. Well, did you do anything to prepare for
8 this deposition?

9 A. Nothing.

10 Q. Have you ever seen the lawsuit, the 11:40
11 pleadings in the lawsuit?

12 A. No.

13 Q. Have you ever seen any documents relating
14 to the lawsuit?

15 A. No. 11:40

16 Q. Have you ever been told what the
17 contentions are in the lawsuit?

18 A. No.

19 Q. Do you know what the contentions are?

20 A. No. 11:40

21 Q. Do you know what I mean when I say
22 contentions in the lawsuit?

23 A. No.

24 Q. Do you know what Barrio Fiesta, LLC, is
25 accusing Northridge Foods of in this lawsuit? 11:41

1 A. No.

2 Q. And have you seen these e-mails to prepare
3 for this deposition?

4 A. No.

5 Q. Now, what was your role -- strike that. 11:41

6 What was your role supposed to be with
7 respect to package foods to be sold by Barrio
8 Fiesta, LLC?

9 A. What was my role?

10 Q. Yeah. Did you have a role in this lumpia 11:41
11 Shanghai project other than communicating with
12 Anavi?

13 A. No. That's it.

14 Q. In other words, were you going to oversee
15 the production? 11:41

16 A. Probably, yes.

17 Q. Had that been discussed with you?

18 A. No.

19 Q. And were you going to oversee the sales?

20 A. No. 11:42

21 Q. Were you going to oversee the distribution
22 agreements?

23 A. I don't know.

24 Q. Was that discussed with you?

25 A. With whom? 11:42

1 Q. Well, were you told you were going to be
2 responsible for getting the distribution in place
3 for these products?

4 A. No.

5 Q. Were you expecting to handle the 11:42
6 distribution of these products?

7 A. Maybe.

8 Q. I'm asking if you were expecting not
9 whether you were.

10 A. Yes. 11:42

11 Q. So what did you do to prepare yourself at
12 this point for distributing these products to
13 supermarkets?

14 A. Nothing.

15 Q. And have you ever sold products to 11:42
16 supermarkets before?

17 A. No.

18 Q. Do you know anyone who did?

19 A. No.

20 Q. In other words, do you have any family 11:43
21 that are on the sale side of food products?

22 A. No.

23 Q. Do you have any friends who do this
24 business?

25 A. No. 11:43

1 Q. Do you have any experience that you could
2 draw upon relating to the sale of package foods to
3 supermarket?

4 A. No.

5 Q. Or to consumers? 11:43

6 A. No.

7 Q. In doing your job for Barrio Fiesta, LLC,
8 is there anyone that you consult outside the
9 company?

10 A. No. 11:43

11 Q. In other words, do you have a relative,
12 friends, husband, boyfriend, girlfriends who are
13 experienced in this industry that you consult with?

14 A. No.

15 Q. Is there anyone close to you who has 11:43
16 experience that's relevant to the sale of food
17 products to supermarkets?

18 A. No.

19 Q. Is your family here now in the U.S.?

20 A. Yes. 11:44

21 Q. And do you have family in the Philippines
22 still?

23 A. Yes. Cousins.

24 Q. Do any of them have any experience in the
25 Philippines selling food products to supermarkets 11:44

1 or consumers?

2 A. No.

3 Q. Do you have anybody -- and I'm using this
4 as broadly as possible because I don't want to
5 intrude upon your private life. But is there
6 anybody in your life who has experience relating to
7 selling food products to consumers or supermarkets?

11:44

8 A. No.

9 MR. AVANZADO: Why don't we take the first
10 break. I might not be too much longer.

11:44

11 THE VIDEOGRAPHER: We are going off the
12 record at 11:44 a.m.

13 (Break taken from 11:44 a.m. to 11:55
14 a.m.)

15 THE VIDEOGRAPHER: We're back on the
16 record at 11:55 a.m.

11:55

17 BY MR. AVANZADO:

18 Q. Ms. Villanueva, if you could get
19 Exhibit 34 back in front of you?

20 A. Okay.

11:56

21 Q. You've flipped through this stack of
22 e-mails; have you not?

23 A. Yes.

24 Q. Okay. Is this a true and correct copy of
25 the e-mails between you and Anavi and others at the

11:56

1 A. Yes.

2 Q. Typical recipe?

3 A. Yes.

4 Q. All one page?

5 A. Yes. 12:01

6 Q. How many recipes are in the compilation?

7 A. I don't remember.

8 Q. More than a hundred?

9 A. No.

10 Q. More than ten? 12:01

11 A. Yes, more than ten.

12 Q. So somewhere between ten and a hundred?

13 A. Yes.

14 Q. Okay. This is an exhibit that was marked

15 as Exhibit 6 before. And I want to show that to 12:01

16 you. And there are two pictures in there that

17 appear to have a label with some vacuum packed

18 items. The first one is on the top. Do you

19 recognize that?

20 A. Yes. 12:01

21 Q. What is that?

22 A. It's crispy Pata.

23 Q. And do you recognize the packaging?

24 A. Yes.

25 Q. What is the packaging? 12:01

1 A. It's vacuum sealed and labeled.

2 Q. Okay. How many of those has Barrio
3 Fiesta, LLC, sold?

4 A. I don't remember.

5 Q. Do they sell that in that packaging? 12:02
6 Strike that.

7 Does your restaurant sell crispy Pata in
8 that packaging?

9 A. Yes.

10 Q. On a regular basis? 12:02

11 A. What do you mean regular basis?

12 Q. On some periodic regular schedule.

13 A. Yes.

14 Q. How many?

15 A. I don't recall. 12:02

16 Q. How many in a given week?

17 A. I don't recall.

18 Q. How many in a given day?

19 A. I cannot remember.

20 Q. Is there any -- are there any records of 12:02
21 those sales?

22 A. No.

23 Q. Is that product identified in some other
24 way?

25 A. No. 12:02

1 Q. Now, Dr. Roño explained that when a
2 customer comes in and says I needed a to-go crispy
3 Pata and I'm traveling and I'm going to take it
4 with me that the crispy Pata is sold thin vacuum
5 sealed package; is that correct? 12:03

6 A. Yes.

7 Q. Do you take issue with his answer?

8 A. Unless the customer specifically says
9 that, you know, I'm going really far or another
10 state and can I buy this crispy Pata and cook and 12:03
11 we'll be the one to cook it, can you do that, yes,
12 of course.

13 Q. Okay. So that's raw crispy Pata?

14 A. Yes.

15 Q. They have to cook it again? 12:03

16 A. Yes.

17 Q. Is it precooked?

18 A. It is precooked, yes.

19 Q. So there are some cooking in it?

20 A. Yes. 12:03

21 Q. Can I open it and just eat it?

22 A. No.

23 Q. You have to cook it some more?

24 A. Yes.

25 Q. So it's not fully cooked? 12:03

1 A. Yes.

2 MR. AVANZADO: Okay. Let me have marked
3 as Exhibit 61 a set of pictures.

4 (Defendants' Exhibit 61 marked for
5 Identification.)

12:04

6 BY MR. AVANZADO:

7 Q. Do you recognize what these pictures are?

8 A. Yes.

9 Q. What is it?

10 A. It's our to-go -- it's our -- our product
11 in a to-go plastic bag.

12:04

12 Q. Why are they all the same? Hang on. One
13 second. I may have miscollated. Let's try that
14 again.

15 A. Okay.

12:05

16 Q. Sorry. I've corrected Exhibit -- here,
17 fix it, please. Give him one set. I've corrected
18 Exhibit 61 for the witness. It's a series of three
19 pictures.

20 Now, can you identify what those pictures
21 are for me?

12:05

22 A. Yes. It's our crispy Pata.

23 Q. And how you wrap it to go?

24 A. Yes.

25 Q. So when a customer comes in and orders

12:05

1 crispy Pata to go, typically Exhibit 61 is how you
2 would wrap it?

3 A. Yes.

4 Q. So how do you get what's depicted on
5 Exhibit 6 in the vacuum pack?

12:05

6 A. I'm sorry?

7 Q. How do I get what's in Exhibit 6 if I come
8 to your restaurant?

9 A. Okay. If you wanted -- if you're going to
10 bring it with you in -- far -- from far away place,
11 like you're going to another -- I mean, L.A. or
12 somewhere, other state, and you want to be the one
13 who -- you'll be the one to cook it, then we vacuum
14 sealed it.

12:06

15 Q. Do you recognize me?

12:06

16 A. No.

17 Q. When I came to the restaurant and ordered
18 crispy Pata and said that I was going back to L.A.
19 that day, I was served what was Exhibit 61. Is
20 that typically what happens?

12:06

21 A. Yes.

22 Q. Okay. So I have to specially ask for the
23 vacuum packed in order to get it?

24 A. You have to specifically say that you want
25 to be the one to cook the crispy Pata.

12:06

1 Q. Ah. So if I say I'm going to L.A. and I
2 want crispy Pata, I'd still get 61, Exhibit 61
3 unless I say I'm the one to cook it?

4 A. Yes.

5 Q. If I don't say I'm the one to cook it, I 12:07
6 get Exhibit 61?

7 A. Yes.

8 Q. Now, let me show you what's been
9 previously marked as Exhibit 12. I'm so confused.
10 Sorry. 12:07

11 Do you remember receiving Exhibit 12?

12 A. Yes.

13 Q. Can you give me any further background on
14 how you received Exhibit 12?

15 A. I don't recall. 12:07

16 Q. Do you know a Bunny Malik?

17 A. No.

18 Q. Let me ask a more general question. In
19 your role for Barrio Fiesta, LLC, are you asked to
20 monitor unsolicited inquiries about business 12:08
21 issues?

22 A. Yes.

23 Q. Tell me about what you do in that regard.

24 A. If I receive these inquiries about -- like
25 this one, Exhibit 12, I forward it to Dr. June 12:08

1 e-mail address?

2 A. Dr. June Roño.

3 Q. Do you know if he delegates that to
4 anyone?

5 A. I don't know. 12:11

6 Q. Does he delegate it to you?

7 A. Sometimes.

8 Q. What do you mean sometimes?

9 A. If I need to respond to the e-mail, he
10 forwards it to me. 12:11

11 Q. Not quite my question. Does Dr. Roño ask
12 you to monitor the e-mails in the info at the
13 barriofiesta.com e-mail box?

14 A. No.

15 Q. So if needs you to respond to something, 12:12
16 he'll tell you or ask you?

17 A. Yes.

18 Q. That's the extent of your involvement with
19 that e-mail address?

20 A. Yes. 12:12

21 Q. Show you what's previously marked as
22 Exhibit 30. It's a picture. Do you recognize it?

23 A. Yes.

24 Q. What is it?

25 A. It's our Milpitas branch. 12:12

1 Q. Who did that?

2 A. Dr. June Roño.

3 Q. Whatever happened to the Ramar Foods
4 discussions?

5 A. It was put on hold. 12:13

6 Q. By who?

7 A. I don't know.

8 Q. How did you find out it was put on hold?

9 A. It was -- Anavi e-mailed me.

10 Q. And said what? 12:14

11 A. That the project was put on hold.

12 Q. Did he say who made that decision?

13 A. No.

14 Q. Did you learn who made that decision?

15 A. No. 12:14

16 Q. Was it a decision made by Barrio Fiesta,
17 LLC?

18 A. I don't know.

19 Q. Have you had any conversations with

20 Dr. Roño about that? 12:14

21 A. No.

22 Q. Okay. So as you sit here today, you don't
23 know why it was put on hold?

24 A. Yes.

25 Q. Is that correct? 12:14

1 A. Yes.

2 Q. Have you ever spoken to anyone at
3 Northridge Foods?

4 A. No.

5 Q. Do you know anyone at Northridge Foods? 12:14

6 A. No.

7 Q. Do you know Erlinda Alianin?

8 A. No.

9 Q. Or Alex Alianin?

10 A. No. 12:14

11 Q. Do you know anyone from Barrio Fiesta,
12 LLC? I'm sorry. Of course, you do.

13 Do you know anyone from Barrio Fiesta
14 Manufacturing Corporation?

15 A. No. 12:15

16 Q. Have you ever met anyone from the
17 Philippines who is involved in the production of
18 Barrio Fiesta food products?

19 A. No.

20 Q. And you say that you've seen the bagoong 12:15
21 manufactured by Barrio Fiesta Manufacturing
22 Corporation, correct?

23 A. Yes.

24 Q. Have you talked to anyone about those food
25 products? 12:15

REPORTER'S CERTIFICATE

I, CATHERINE M. MEYER, a Shorthand Reporter,
State of California, do hereby certify:

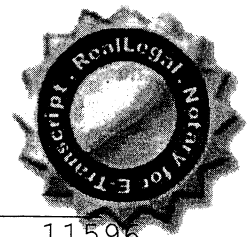
That MICHELLE VILLANUEVA, in the foregoing
deposition named, was present and by me sworn as a
witness in the above-entitled action at the time and
place therein specified;

That said deposition was taken before me at said
time and place, and was taken down in shorthand by me, a
Certified Shorthand Reporter of the State of California,
and was thereafter transcribed into typewriting, and
that the foregoing transcript constitutes a full, true
and correct report of said deposition and of the
proceedings that took place;

That before completion of the proceedings,
review of the transcript [X] was [] was not requested.

IN WITNESS WHEREOF, I have hereunder subscribed
my hand this 25th day of May 2016.

Catherine M. Meyer
CATHERINE M. MEYER, CSR NO. 11596
State of California



PROOF OF SERVICE

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

EXHIBITS E THROUGH I OF 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