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

Proceeding	91235706
Party	Defendant Ziebarth Holdings, LLC
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Submission	Testimony For Defendant
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Date	12/30/2019
Attachments	Feuerstein Testimony.pdf(343284 bytes )

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

DEL TACO, LLC,	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91235706
	)	Application Serial No. 85040746
ZIEBARTH HOLDINGS, LLC,	)	Mark: "NAUGLES"
Applicant.	)	
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	)	CONSOLIDATED WITH
NAUGLES CORP.,	)	
Petitioner,	)	Cancellation No. 92064091
	)	Registration No. 4261951
v.	)	Mark: "NAUGLES"
	)	
DEL TACO, LLC,	)	
Registrant.	)	

**TESTIMONY DECLARATION OF EVE FEUERSTEIN**

Pursuant to Section 2.a. of the Stipulation entered into by all parties on August 1, 2019 (21 TTABVUE), Applicant ZIEBARTH HOLDINGS, LLC and Petitioner NAUGLES CORP. hereby submit the declaration of Eve Feuerstein with exhibits, previously submitted in support of their Opposition and Cross-Motion for Summary Judgment, as trial testimony and evidence.

Dated: December 30, 2019



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Kelly K. Pfeiffer  
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1122 E. Lincoln Ave., Suite 203  
Orange, CA 92865

Attorneys for Petitioner NAUGLES CORP. and  
Applicant ZIEBARTH HOLDINGS, LLC

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

In the matter of United States Trademark Application Serial No. 85040746  
Mark: "NAUGLES"

_____	)	
DEL TACO, LLC,	)	
Opposer,	)	Opposition No. 91235706
	)	
v.	)	
	)	
ZIEBARTH HOLDINGS, LLC,	)	
Applicant,	)	

DECLARATION OF EVE FEUERSTEIN

I, Eve Feuerstein, swear as follows:

1. My name is Eve Feuerstein. I live at [REDACTED] Huntington Beach, CA 92646. I have personal knowledge of the facts stated herein.
2. During 2011 and 2012, I worked for a company in Huntington Beach, California called Page One Priority as a contract writer. My job included internet writing search engine optimization.
3. At the time I worked for Priority One, Christian Ziebarth was a co-worker of mine. Mr. Ziebarth was also a contractor and performed a lot of the behind-the-scenes programming for Priority One.
4. During the time that Mr. Ziebarth and I were co-workers, I talked with Mr. Ziebarth numerous times about his Naugles venture and his intentions to offer restaurant services under the NAUGLES name. I remember that, in or about approximately March 2012, Mr. Ziebarth was very excited after a meeting he had with a member of the Naugle family. At this meeting, Mr. Ziebarth obtained some Naugles sauces and was hopeful he could eventually obtain the original recipes for the sauces that had been used at the original Naugles restaurant chain when it was owned by the Naugles family.
5. On March 20, 2012, Mr. Ziebarth served Naugles food restaurant-style for me and various other co-workers and friends. Mr. Ziebarth made sure everyone knew that it was being done for the purpose of promoting his Naugles restaurant business. I remember that the food Mr. Ziebarth served did, in fact, taste like the food I remember eating at the original Naugles fast-food restaurants back in the 1980's.
6. At the March 20, 2012 event, Mr. Ziebarth has signs on display indicating that this was a Naugles event. Mr. Ziebarth also had menus he circulated at this event listing the Naugles food items that were being served. Attached here to as Exhibit A is a copy of the menu I remember Mr. Ziebarth circulating at his March 20, 2012 event.
7. Mr. Ziebarth's March 20, 2012 Naugles event took place at our work offices of Priority One in Huntington Beach, California during lunchtime. Mr. Ziebarth did not charge attendees for the food he served at this event. To the best of my recollection, at least 7 to 10 people were present at the same time I was.

I, Eve Feuerstein, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 35 U.S.C. 25 and 18 U.S.C. 1001 of the United States Code, and that such willful false statements may jeopardize the validity of the foregoing statements, declare that all statements are made of my own knowledge and are true, and all statements made on information and belief are believed to be true.

Executed on April 17, 2018 in Huntington Beach California

Eve Feuerstein

ZH005203



Eve Feuerstein

2-Feuerstein Declaration

# **EXHIBIT A**



**March 20, 2012**

Today we are serving:

**Naugles Tacos**

- large Taco Shell
- our own special ground beef
- shredded lettuce
- diced tomatoes
- grated cheddar cheese
- Naugles red sauce

**Bun Tacos**

- Same as above but with a hamburger bun instead of a taco shell

**Beef & Cheese Burritos**

- Flour tortilla
- our own special ground beef
- grated cheddar cheese

**Dick Naugle Says:**

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

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **TESTIMONY DECLARATION OF EVE FEUERSTEIN** was served upon DINSMORE & SHOHL LLP, counsel for Del Taco, by emailing one copy on December 30, 2019 to the following individuals listed as counsel of record for Registrant Del Taco, LLC in this proceeding:

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