

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)
)
CINAGRO FARMS, INC.) Case Nos.: 2017-CE-008-SAL
)
Respondent,)
)
and)
)
MARISOL JIMENEZ,)
)
)
Charging Party.)

VOLUME 2

HEARING

Remote via WebEx

Wednesday, February 24, 2021

Location: ALRB Oxnard Sub-Regional Office
1901 North Rice Avenue
Suite 300
Oxnard, California 93030

Reported by:
Martha Nelson

APPEARANCES

BEFORE: THE HONORABLE MARK SOBLE,
Administrative Law Judge

On behalf of Respondent:

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Spanish-To-English Interpreter: Rosario Lucas

I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS	ALJ
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Charging Party:

Hector Cruz Vasquez	2-D	16-R			44
Maria Duarte Melgoza	52-A	79-R		113-R	111
Yolanda Antonio Garcia	112-A	140-R			152

LEGEND:

D = Ms. Deyoung-Dominguez

A = Ms. Arciniega

R = Mr. Roy

EXHIBITSMARKEDADMITTEDWITHDRAWNGeneral Counsel:

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P R O C E E D I N G S

8:38 A.M.

CALIFORNIA, WEDNESDAY, FEBRUARY 24, 2021

(Spanish Interpreter is present and has been
previously sworn.)

(Witness is present.)

ADMINISTRATIVE LAW JUDGE SOBLE: Okay, we will
then go on the record. It is 8:38 a.m. Mr. Cruz has
returned and is in the Oxnard hearing room.

Mr. Cruz, you understand that your testimony is
still under oath?

THE WITNESS (Through Interpreter): Yes.

ADMINISTRATIVE LAW JUDGE SOBLE: And since we
ended yesterday at approximately 5:00 p.m. have you spoke
with any of the attorneys in this matter?

THE WITNESS: But none.

ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

The General Counsel can ask her next question of
this witness.

MS. DEYOUNG-DOMINGUEZ: Thank you, Your Honor.
Whereupon,

HECTOR CRUZ VASQUEZ

was called as a witness herein and, having been previously
duly sworn, was examined and testified in Spanish as
follows:

1 DIRECT EXAMINATION (CONT.)

2 BY MS. DEYOUNG-DOMINGUEZ:

3 Q. And good morning, Hector. Yesterday -- yesterday
4 when we ended, we were talking about the last two meetings
5 that you had with Supervisor Rene at Cinagro.

6 A. Okay.

7 Q. Now, I want to talk to you about the very last
8 time your crew met with Supervisor Rene while you worked at
9 Cinagro.

10 A. That's fine.

11 Q. When was the last time your crew had a meeting
12 with Supervisor Rene?

13 A. At the end of February.

14 Q. Do you recall what day of the week?

15 A. It was a Monday or a Tuesday. I don't remember
16 very well.

17 Q. What was the meeting about?

18 A. Again it was to ask him about the paycheck stuff,
19 the insurance, and the water.

20 Q. Who was present?

21 A. It's Rigoberto Perez, Yolanda Antonio, Victor
22 Mendoza, Marisol Jimenez, and Maria Duarte. Those are the
23 only ones I remember.

24 Q. Did you speak?

25 A. No.

1 Q. Did anyone else speak?

2 A. Yes, but I don't remember who.

3 Q. Okay. Do you remember what was said about the
4 water?

5 A. Yes. Yes, they were talking about the water.

6 Q. What did they say?

7 A. They asked Rene again what day he was going to
8 bring the crew water.

9 Q. Do you remember what was said about the
10 insurance?

11 A. His usual reply when he would reply that it was a
12 small company and that they were barely in the process of
13 getting the insurance and the paperwork.

14 Q. And when you say insurance, do you know what kind
15 of insurance they were talking about?

16 A. The medical insurance, the worker's comp
17 insurance that the companies have to have.

18 Q. Do you remember what was said about the paystubs?

19 A. Yes, we also asked him about the paycheck stub.
20 And Rene replied for us to be patient that they were
21 processing them.

22 Q. What specifically were you asking about the
23 paystubs?

24 A. Well, we needed them -- the ladies needed them
25 because of personal issues and I needed them to file my

1 taxes at the end of the year.

2 Q. Was there anything else that was said at this
3 meeting?

4 A. No.

5 Q. Okay. Okay, yesterday afternoon you and I spoke
6 and you told us that at one of your meetings with Rene he
7 told you that -- and your coworkers that he would give you
8 applications for work, so you could get proper paystubs.
9 Do you recall that?

10 THE INTERPRETER: Counsel, I am so sorry, you
11 broke up a couple of times and I lost it. Can you please
12 repeat that?

13 MS. DEYOUNG-DOMINGUEZ: Of course.

14 BY MS. DEYOUNG-DOMINGUEZ:

15 Q. Yesterday afternoon, Hector, you and I spoke and
16 you told us that at one of your meetings with Rene he told
17 you and your coworkers that he would give you applications
18 for work so you could get proper paystubs. Do you recall
19 that?

20 A. Exactly.

21 Q. During that meeting did Rene talk about any
22 differences in conditions that would occur now that you
23 worked for Cinagro?

24 MR. ROY: Your Honor, I'm going to object. I'm
25 sorry.

1 THE INTERPRETER: That's okay.

2 ADMINISTRATIVE LAW JUDGE SOBLE: At this point
3 I'll have the Interpreter finish her translation and then
4 I'll hear Mr. Roy's objection.

5 MR. ROY: Thank you, Your Honor.

6 THE INTERPRETER: What he mentioned was that we
7 were going to have a better salary and better working
8 conditions.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And what
10 is the objection?

11 MR. ROY: Well, the objection is vague as to
12 time. He originally was talking about the last meeting he
13 had sometime in February, and then the question reverted
14 back to when they started at Cinagro what they would get in
15 terms of benefits.

16 MS. DEYOUNG-DOMINGUEZ: Yes, Your Honor, may we -
17 -

18 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.
19 The objection's overruled. But when counsel asks her next
20 question, you may want to go into what time period the
21 witness was referring to.

22 MS. DEYOUNG-DOMINGUEZ: Thank you, Your Honor.

23 BY MS. DEYOUNG-DOMINGUEZ:

24 Q. When Rene gave you those applications and told
25 you that information, when did that meeting happen?

1 A. More or less in the second week in February --
2 I'm sorry, excuse me, in October.

3 Q. At that time did Rene explain exactly what the
4 payment of your boxes would be at Cinagro?

5 A. I don't exactly remember, but I do remember it
6 was ten cents more than what it was with the contractor.

7 Q. Thank you. You also testified that workers
8 complained about water during the last two crew meetings
9 you just spoke about?

10 A. Yes, that's correct.

11 Q. Did workers complain about water before that?

12 A. Yes.

13 Q. When did your crew start complaining?

14 A. Like at the beginning of November.

15 Q. While you worked at Cinagro did you or anyone you
16 know ever buy water for the whole crew?

17 A. On one occasion I went.

18 Q. Can you tell us about that?

19 A. Of course. It was one day we were eating
20 breakfast, with Marisol Jimenez in my car. And then, Rene
21 came and said good morning to us. And Marisol asked him if
22 he was going to send out for water because the water that
23 we had brought had run out. He replied that he didn't have
24 cash on hand and if we could do him the favor to go across
25 the street from the ranch. There's a pharmacy called Rite-

1 Aid and that's where I went to pick up the five gallons of
2 water and that's what we drank.

3 Should I go on?

4 Q. Yes, please.

5 A. Okay. We came back with the water and I showed
6 him the receipt. And he said I don't have cash right now,
7 I'll pay you later.

8 Q. Did anyone from Cinagro ever pay you for this
9 water?

10 A. No, no one.

11 Q. When was your last day working at Cinagro?

12 A. It was at the end of February, the beginning of
13 March, I don't have the exact date.

14 Q. Do you remember what day of the week it was?

15 A. It would have been a Friday.

16 Q. And how many hours did you work on this last day?

17 A. Approximately six.

18 Q. And what ranch were you working on?

19 A. Tierra Rejada.

20 Q. How do you know it was your last day of work?

21 A. As a matter of fact we didn't know it, simply the
22 fact that after that day they never called us back to work.

23 Q. Did you see any other workers were working beside
24 your crew that day?

25 A. Yes.

1 Q. What were they doing?

2 A. Picking -- I'm not really sure what fruit, I'm
3 sorry, what vegetable.

4 Q. After your last day of work did you report to
5 work the next day?

6 A. No.

7 Q. Why not?

8 A. Because Rene told Victor that he would let him
9 know when we're going to go into work or not.

10 Q. Did you report to work the following day after
11 that?

12 MR. ROY: Objection, vague.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained. The
14 Sunday that followed the last day that you worked, did you
15 report to work on that Sunday?

16 THE WITNESS: We didn't work on Sundays.

17 BY MS. DEYOUNG-DOMINGUEZ:

18 Q. Okay. Did you report to work on Monday?

19 A. On Sunday Victor told us that Rene had told him
20 that there was not going to be work for us on Monday.

21 Q. What did you do on Monday?

22 A. I rested at home.

23 Q. Did you ever look for work?

24 A. Yes, but not on Monday.

25 Q. What happened when you looked for work?

1 A. It was Wednesday of the same week.

2 Q. What happened that day?

3 A. Marisol Jimenez, Maria Duarte and I went to look
4 for work and we looked for work at the blueberry towards
5 Fillmore.

6 Q. Anything else?

7 A. On the way back we drove by Tierra Rejada Ranch
8 and we noticed that the other crew was working.

9 Q. What did you do after that?

10 A. We went around the ranch and then to the front,
11 and then Maria Duarte took out her camera and took a
12 picture of the crew that was working. Marisol Jimenez
13 called Rene Macias and asked him when he was going to give
14 us back our job and he replied that he didn't know because
15 the cooler was full and there had not been any vegetable
16 sales. And that no one else was working at the ranch.
17 Then Marisol Jimenez told him that another lady that she
18 knows from the other crew had called her to ask if we were
19 okay or we were working at another ranch because they were
20 there.

21 MR. ROY: Objection hearsay.

22 MS. DEYOUNG-DOMINGUEZ: Your Honor, may I
23 respond.

24 ADMINISTRATIVE LAW JUDGE SOBLE: No. I agree
25 that it's hearsay but I'm going to allow it in that regard.

1 MR. ROY: Relevance, Your Honor, also.

2 ADMINISTRATIVE LAW JUDGE SOBLE: That objection's
3 overruled.

4 BY MS. DEYOUNG-DOMINGUEZ:

5 Q. And did anyone say anything else?

6 MR. ROY: Objection hearsay and vague. We
7 verified the clearance out of court.

8 ADMINISTRATIVE LAW JUDGE SOBLE: It may be
9 hearsay but that objection is still overruled. That it's
10 vague, I'll overruled that as well if the witness thinks he
11 understands the question as being a continuation of the
12 same conversation that he was asked the one question
13 earlier then he can answer, so overruled.

14 THE WITNESS: Okay procedo?

15 ADMINISTRATIVE LAW JUDGE SOBLE: Yes, you can.

16 THE WITNESS: Okay.

17 MS. DEYOUNG-DOMINGUEZ: Your Honor, I can't hear
18 the Interpreter.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Yeah, I sent a
20 request for Ms. Lucas to unmute.

21 MS. DEYOUNG-DOMINGUEZ: I have no idea how that
22 happened.

23 THE WITNESS (Through Interpreter): Rene Macias
24 replied to Marisol Jimenez that he did not understand why
25 anybody would be lying to her because there was no one

1 working at the ranch. But then we saw him, he was standing
2 by the other crew answering the call.

3 ADMINISTRATIVE LAW JUDGE SOBLE: And by him, who
4 is it that you mean, Mr. Cruz?

5 THE WITNESS: Rene Macias.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

7 BY MS. DEYOUNG-DOMINGUEZ:

8 Q. How did you hear this conversation?

9 A. Because Marisol Jimenez put her phone on speaker.

10 Q. Did Marisol respond to that?

11 A. She told him, so when will you call us back to
12 work with you guys again? What Rene Macias replied to
13 Marisol Jimenez was that he was certain when but for us to
14 wait for his call.

15 Q. Besides Rene Macias did you talk to anyone else
16 that day?

17 MR. ROY: Objection, Your Honor.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

19 MR. ROY: The testimony was that his wife spoke
20 to Mr. Rene, not him.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I
22 sustained the objection, but I'd prefer not to have you
23 actually state what it was. So, with that in mind, though,
24 it's sustained.

25 THE WITNESS: Okay --

1 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment,
2 hold on. So, I sustained the objection, Counsel can ask
3 her next question.

4 BY MS. DEYOUNG-DOMINGUEZ:

5 Q. Did you hear Marisol speak with anyone else that
6 day?

7 A. Yes, she called Victor Mendoza.

8 Q. And what did she say?

9 A. She asked him if Rene had called about the work
10 and when we were going to be returning.

11 Q. And what did he say?

12 A. He said that he had talked to him on Tuesday and
13 that nobody was going to work Tuesday or Wednesday until he
14 called us.

15 Q. Did you hear them say anything else?

16 A. That Victor was going to call Rene to ask him
17 when we were going to come back.

18 Q. And how did you hear this conversation between
19 Marisol and Victor?

20 A. I'm sorry, I did not hear. (Interpreter
21 translates) Again, her phone was on speaker.

22 Q. Did Cinagro ever call you to tell you that there
23 was work available?

24 A. No.

25 Q. Did you quit?

1 A. No.

2 MS. DEYOUNG-DOMINGUEZ: One moment, Your Honor, I
3 just want to check my notes for anything.

4 That's all I have for this witness, Your Honor.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Would the
6 Respondent's counsel like a couple of minutes or would you
7 like to proceed now?

8 MR. ROY: I'd like to proceed, Your Honor.

9 ADMINISTRATIVE LAW JUDGE SOBLE: It's your
10 witness, you can ask you first question.

11 CROSS-EXAMINATION

12 BY MR. ROY:

13 Q. Mr. Cruz, you were just asked if you quit your
14 employment at Cinagro and you said no. Is that correct?

15 A. Correct.

16 Q. Let's look at the circumstances of what really
17 happened on that week of the 6th. You stayed home all day,
18 correct?

19 A. On Monday, yes.

20 Q. And you did not report to work at all that day?

21 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor,
22 this is restating Mr. Cruz's prior testimony.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Objection's
24 overruled. You can answer the question if you understand
25 it. If you don't, let us know.

1 THE WITNESS: No, I don't understand the
2 question.

3 BY MR. ROY:

4 Q. Did you report to work on Monday, the 6th or the
5 5th excuse me -- the 6th yes?

6 A. No.

7 Q. How about on Tuesday, the 7th, did you report to
8 work?

9 A. No because Rene had notified us that not to show
10 up at the ranch.

11 Q. But nevertheless, you, your wife, and Maria all
12 went to the blueberry farm and filed application for
13 employment. Isn't that right?

14 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.

15 ADMINISTRATIVE LAW JUDGE SOBLE: What is the
16 objection?

17 MS. DEYOUNG-DOMINGUEZ: Vague as to time.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained. It
19 wasn't clear to me if Mr. Roy was asking whether they did
20 that on the Tuesday or if they did it at some time during
21 the week, or if they just did it at all. He can ask any of
22 those questions, he just needs to specify which.

23 MR. ROY: Understood, Your Honor, but I did say
24 on Tuesday, the 7th. I'll ask it again.

25 ADMINISTRATIVE LAW JUDGE SOBLE: I did not hear

1 it on that question.

2 MR. ROY: I'll ask it again.

3 BY MR. ROY:

4 Q. On Tuesday, the 7th, you, your wife or your
5 partner Marisol, and Maria Duarte went to the blueberry
6 ranch to apply for work. Correct?

7 A. I don't remember the date exactly, I'm not sure
8 if it was Tuesday or Wednesday, but we did go.

9 Q. Uh-hum. And I'm looking at documents from Silent
10 Springs that say you and your wife were employed as of
11 Tuesday, March 7th. Would that be a correct statement?

12 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
13 This is asked and answered as he already testified that he
14 did not remember exactly.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. You
16 can answer the question.

17 THE WITNESS: Okay. It is when you submit the
18 application to work at this blueberry place they don't give
19 you the job that day. They don't call you until the next
20 day because there's a long line of applications.

21 BY MR. ROY:

22 Q. So, it's clear that you did apply on Tuesday, the
23 7th and started actual work on the following day, Wednesday
24 the 8th. Isn't that right?

25 A. Correct.

1 Q. So, then that was the same day that you testified
2 that you and your wife, and Maria had called Rene to still
3 see if there was work available for you at Cinagro. Isn't
4 that right?

5 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
6 object to that as being vague. I don't know if you're
7 asking about Tuesday or Wednesday.

8 Do you recall, Mr. Cruz, if the day that Marisol
9 called Mr. Macias was the day that you applied for work for
10 Blueberry's or, instead was the first day that you worked
11 at the ranch with blueberries or something different?

12 (Speaking Spanish)

13 THE WITNESS: It was the day that we went to fill
14 out the application.

15 BY MR. ROY:

16 Q. So, you filed an application for employment at
17 the blueberry farm. Why were you still inquiring as to
18 whether work was available at Cinagro?

19 MS. DEYOUNG-DOMINGUEZ: Objection Your Honor,
20 this is speculation to what he was -- why -- I don't
21 understand the relevance of this.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, overruled.
23 Whatever counsel is attempting to elicit is something you
24 can certainly argue at some point, or you can as about on
25 redirect, but the objection's overruled.

1 THE WITNESS: So, the reason was because of
2 personal issues we cannot stop working. So, the fact that
3 we filled out the application at the blueberry farm, that
4 doesn't mean that we were going to get the job.

5 BY MR. ROY:

6 Q. Nevertheless, your original testimony was that on
7 Wednesday the 8th, the day that you were working your wife
8 called Rene. Isn't that right?

9 A. What I mentioned was that I did not remember if
10 it was Tuesday or Wednesday, the day that Marisol Jimenez
11 called.

12 Q. So, since you didn't remember it could have been
13 Wednesday. Isn't that right?

14 THE INTERPRETER: Counsel, what was the first
15 part of your question?

16 BY MR. ROY:

17 Q. Because you don't remember it could have been
18 Wednesday. Isn't that correct?

19 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.

20 MR. ROY: Come on, man.

21 ADMINISTRATIVE LAW JUDGE SOBLE: What is the
22 objection?

23 MS. DEYOUNG-DOMINGUEZ: The question is
24 argumentative.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

1 THE WITNESS: What I mentioned was that it was on
2 Tuesday that we called him because we couldn't have been
3 working and at the ranch at Tierra Rejada.

4 BY MR. ROY:

5 Q. And when did you go to seek applications on
6 Tuesday, the 7th at the blueberry ranch?

7 A. When? I did not understand the question.

8 Q. What time of the day did you go to the blueberry
9 ranch to file your applications for employment?

10 A. The offices at the blueberry ranch opens at 7:00,
11 but you had to be there around 5:00 because there was a lot
12 of people.

13 Q. And when did your wife call Rene that day?

14 A. Around 10:00 a.m. or 11:00, I don't remember
15 exactly.

16 Q. So, it was after you were already applying for
17 work, correct?

18 A. Filling out the application, yes.

19 Q. And besides you and your partner, Marisol, Maria
20 Guadalupe Duarte also was hired at the blueberry ranch, is
21 that right?

22 A. Yes.

23 Q. And also Yolanda Cruz Antonio was also hired
24 there at the ranch, isn't that right?

25 A. No, and the lady is not named Yolanda Cruz

1 Antonio. Her name is Yolanda Antonio.

2 Q. Okay. Oh, did you see Yolanda Antonio there at
3 the blueberry ranch?

4 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor,
5 vague as to time.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. I'm
7 taking the question as being at any time.

8 THE WITNESS: No.

9 BY MR. ROY:

10 Q. If I told you your wife testified yesterday that
11 she saw Yolanda Antonio there at the blueberry ranch, would
12 your testimony change?

13 A. I personally never saw Yolanda Antonio at the
14 blueberry farm.

15 Q. Were there any other workers from your Cinagro
16 crew that you are aware of that went to work at the
17 blueberry farm?

18 A. Yes.

19 Q. Can you tell me the names, please?

20 A. One is Maria Lauriano. And the other one I don't
21 remember the name. We knew her as Maria Sanchez, but I
22 don't know.

23 Q. Did Ignacia Sanchez work there with you at the
24 blueberry ranch?

25 A. Yes.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Do you under --
2 just a moment, Mr. Roy. Do you understand Maria Sanchez
3 and Ignacia Sanchez to be the same person?

4 THE WITNESS: Yes.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you. Mr.
6 Roy.

7 BY MR. ROY:

8 Q. Did Maria Santiago work there at the blueberry
9 ranch?

10 A. I can't place her, I don't remember Maria
11 Santiago.

12 Q. How about Rigoberto Perez, did he work there?

13 A. No.

14 Q. How about Maria Duarte, did she work there?

15 MS. DEYOUNG-DOMINGUEZ: Objection, this is
16 already asked and answered.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I did not
18 hear the first name clearly that he said before Duarte.
19 Mr. Roy, what was the first thing that you said in your
20 question?

21 MR. ROY: Maria Duarte.

22 THE WITNESS: Okay, Maria Duarte --

23 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.
24 With respect to the objection I believe it's been answered,
25 but not asked. I'm going to allow it as part of cross-

1 examination. I think the witness has already said this,
2 but this precise question hasn't been asked so I'll allow
3 it.

4 Mr. Cruz, did Maria Duarte work at the blueberry
5 ranch, if you know?

6 THE WITNESS: She went to fill out an application
7 but she was never called to go into work.

8 BY MR. ROY:

9 Q. Okay. How many crew members did you have in your
10 crew at Cinagro?

11 A. At the beginning they started with about 13 to
12 15, but then they left.

13 Q. Isn't it correct that the last week you worked
14 there were only eight crew members, plus Victor, Victor the
15 foreman, is that right?

16 A. I don't exactly remember but most likely less.

17 Q. And that five employees went to work for the
18 blueberry ranch, but Maria Duarte applied and didn't get
19 called, is that right?

20 A. Yes.

21 Q. Let's go back, Mr. Cruz, because you seemed to
22 imply that there was a period of time that your crew and
23 the other crew that was supervised by Mr. Miranda worked
24 together. And so, I have some questions on that.

25 MS. DEYOUNG-DOMINGUEZ: Objection Your Honor.

1 MR. ROY: This is preparatory.

2 ADMINISTRATIVE LAW JUDGE SOBLE: What is the
3 objection that --

4 MS. DEYOUNG-DOMINGUEZ: It is I think foundation.
5 This witness has never testified --

6 ADMINISTRATIVE LAW JUDGE SOBLE: Let me hear Mr.
7 Roy's whole question before I rule on the objection. So,
8 let's hear the whole question and then I'll decide if the
9 objection's appropriate or not.

10 Mr. Roy?

11 MR. ROY: Do you want me to repeat it, Your
12 Honor?

13 ADMINISTRATIVE LAW JUDGE SOBLE: No, you
14 indicated that you were not through with your question and
15 that your comment was just a preface to the question. So,
16 I'm not going to rule on the objection until I hear the
17 whole question.

18 MR. ROY: I thought my question was based upon
19 his testimony he had implied that the other crew and his
20 crew worked together at Cinagro. All right.

21 BY MR. ROY:

22 Q. And so now my question is, when did you first see
23 the other crew working at Cinagro near your crew?

24 A. I don't remember exactly.

25 Q. Was it in November of 2016?

1 MS. DEYOUNG-DOMINGUEZ: Objection Your Honor.

2 THE WITNESS: I'm not sure.

3 ADMINISTRATIVE LAW JUDGE SOBLE: And what was the
4 objection?

5 MS. DEYOUNG-DOMINGUEZ: It's been asked and
6 answered.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. I
8 don't really need counsel to editorialize the objections,
9 but it is overruled.

10 MR. ROY: I understand, Your Honor. I just keep
11 getting objections every time the witness is going to
12 testify. That's my frustration.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I will
14 decide if I think objections are appropriate. And I would
15 prefer, even when counsel are frustrated that they don't
16 articulate it except directed to me, rather than sort of
17 indirectly or passively. So, thank you.

18 MR. ROY: Very good. Thank you.

19 BY MR. ROY:

20 Q. Did this other crew work in proximity to your
21 crew in December of 2016?

22 A. Again, I don't remember exactly what date the
23 other group came in.

24 Q. How about in January of 2017, Mr. Cruz, did the
25 other crew work in proximity to your crew at Cinagro Farms?

1 A. Yes, I think around that time they were already
2 there.

3 Q. So, just to be clear you saw the other crew
4 working at Cinagro in January of 2017, correct?

5 A. I did see them, but I'm not sure if they started
6 on that date or before.

7 Q. What about in February 2018, did they work with
8 your crew for a couple of weeks?

9 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
10 object that that assumes facts not in evidence. You said
11 2018, Mr. Roy, if you're wondering why.

12 MR. ROY: Sorry, I meant 2017, Your Honor.

13 ADMINISTRATIVE LAW JUDGE SOBLE: I assumed that.
14 You can ask the same question with 2017.

15 MR. ROY: Okay.

16 BY MR. ROY:

17 Q. In February of 2017 did you see the other crew
18 working in proximity to your crew towards the end of
19 February 2017?

20 A. Yes.

21 Q. Okay. And was that for a couple of weeks only?

22 A. No, it was about two months or three months that
23 they were working with us. But like I'm going to repeat
24 again, I don't remember the date.

25 Q. Isn't it true, Mr. Cruz that that other crew only

1 started working in proximity to your crew during the last
2 two weeks of February of 2017? Is that true, yes or no?

3 A. No.

4 Q. Okay.

5 ADMINISTRATIVE LAW JUDGE SOBLE: I just want to
6 indicate I think the last question was a little bit vague
7 because when you said the last two weeks of 2017 I assume
8 you mean the last two weeks that he was there, rather than
9 in December of 2017.

10 MR. ROY: I thought I said February of 2017, Your
11 Honor.

12 ADMINISTRATIVE LAW JUDGE SOBLE: If you did, then
13 I didn't hear it and my apology. But in any event, Mr.
14 Cruz when he asked you I think he was referring to the last
15 couple of weeks that -- of February 2017. Did you
16 understand that?

17 THE WITNESS: Yes.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

19 BY MR. ROY:

20 Q. At any time that your crew worked in proximity to
21 this other crew were there occasions when workers would
22 transfer from one crew to the other?

23 A. No.

24 Q. So, they were a separate crew altogether, isn't
25 that right?

1 A. Yes.

2 Q. And did they always work that way the entire time
3 that you saw them?

4 A. There was times that we would interact but we
5 were -- even though we would work together, for example if
6 we wouldn't be able to finish then they would bring them
7 over, but we would not -- they were separate.

8 Q. Okay. All right. So, there were a couple
9 occasions when your crew couldn't finish up the daily
10 production that the other crew came in and finished it. Is
11 that what you're saying?

12 A. It was the other way around. They weren't
13 finished and then we would go help them.

14 Q. Okay. But you did not become members of their
15 crew, you kept your separate identity, isn't that right?

16 A. Exactly, we never merged.

17 Q. Do you recall the difficult rains that we had in
18 February of 2017?

19 MS. DEYOUNG-DOMINGUEZ: Objection Your Honor as
20 to vague, as to who he's referring to we.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

22 BY MR. ROY:

23 Q. Mr. Cruz, do you remember excessive rains
24 occurring in February 2017?

25 A. I don't remember February, but in January I do.

1 Q. And were the field conditions very poor in terms
2 of being very muddy?

3 A. Yes.

4 Q. Were there days that you couldn't work because
5 they were so muddy?

6 A. Exactly.

7 Q. Were there days where there was no production and
8 your crew went to do weeding?

9 A. Yes.

10 Q. And your partner testified that at one time she
11 and some crew members complained to Rene Macias about
12 mileage issues, I believe going from Moorpark to Fillmore.
13 Do you recall that meeting?

14 MS. DEYOUNG-DOMINGUEZ: Objection Your Honor,
15 this misstates Marisol's testimony about having issues with
16 mileage. She --

17 ADMINISTRATIVE LAW JUDGE SOBLE: The objection is
18 overruled. It's cross-examination. I'm not taking the
19 attorney's statement as evidence that there was such a
20 thing, but I'm permitting the question.

21 THE WITNESS: As far as I recall it was an issue
22 more of from Oxnard to Tierra Rejada. They wouldn't let us
23 know and we would show up and there was no work.

24 BY MR. ROY:

25 Q. And do you remember Mr. Macias reimbursing your

1 partner and the rest of the crew regarding such
2 transportation?

3 A. On one occasion he told us he was going to
4 reimburse us gas from Oxnard to Tierra Rejada. And what I
5 remember is that he gave us \$10.00.

6 Q. Okay. Let's go back to September and October of
7 2016. I believe you testified yesterday that you worked at
8 Howling Nursery. Is that right?

9 A. Yes, it is.

10 Q. Were you working for a labor contractor that was
11 hired by Howling?

12 A. Yes.

13 Q. And do you recall the name of that contractor?

14 A. I started with Michael Farms and a few days later
15 Arturo Labor or Arturo Farms took over.

16 Q. Okay. The Mike's Farm you're referring to, is
17 that Mike's Farm Labor?

18 A. Yes.

19 Q. And then after a few days you went to work for
20 Art Vasquez labor service, correct?

21 MS. DEYOUNG-DOMINGUEZ: Objection Your Honor, I
22 believe this is asked and answered. And also this is, I
23 believe, confusing Mr. Cruz about his employers.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Objection. I'm
25 not taking what the witness says about a legal

1 interpretation of who was his employer, but rather just his
2 understanding of the chronology. And with that in mind I'm
3 allowing the question.

4 THE WITNESS: Can you repeat that because I'm not
5 sure Arturo Vasquez is.

6 BY MR. ROY:

7 Q. Okay. At some point after you left Mike's labor
8 you went to work for Art Vasquez Labor, is that right?

9 A. Yes.

10 Q. And while you were at Art Vasquez Labor were you
11 still working at Howling?

12 A. Yes.

13 Q. Okay. And did you continue working for Art's
14 Labor and Howling until around the middle of November 2016?

15 A. No.

16 Q. No, you don't know or you don't remember?

17 A. What I remember is starting at Cinagro in
18 October.

19 Q. Okay, so Vasquez Labor, which had you in their
20 crew, went to work for Cinagro in October of 2016, correct?

21 A. Correct.

22 Q. And did you continue in the employ of Vasquez
23 Labor until you were hired directly by Cinagro?

24 A. Yes.

25 Q. And can you tell us what month that occurred in

1 2016?

2 A. Maybe at the beginning of November.

3 Q. Okay. Could it have been mid-November 2016?

4 A. Maybe it was at the beginning of November.

5 Q. Okay. And your foreman was Victor, is that

6 correct?

7 A. Excuse me?

8 Q. The foreman of your crew was Victor?

9 A. Yes.

10 Q. That's Victor Mendoza, correct?

11 A. Yes, correct.

12 Q. And at some point when you went to work for
13 Cinagro in the beginning of November 2016, Victor continued
14 to be your foreman at Cinagro, correct?

15 A. Yes. Yes.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Just a question
17 to clarify. Did you ever have a foreman at Cinagro who was
18 someone different than Victor Mendoza?

19 THE WITNESS: It was a bit confusing because for
20 about a two-week period Victor gave up the foreman position
21 to a guy we named, we called Lago (phonetic), but I don't
22 know his name.

23 BY MR. ROY:

24 Q. And was that towards the end of February 2017?

25 A. No.

1 Q. Did you observe Victor not showing up at work on
2 any days?

3 A. That I remember he just didn't show up one day.

4 Q. And did you observe occasions when he would leave
5 work early?

6 A. I don't remember.

7 Q. Do you remember the occasion --

8 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Ray, I am
9 going to interject that that might be outside the scope.
10 And as long as you're not calling Mr. Cruz back as a
11 witness a second time, then it's permissible.

12 MR. ROY: I'm not calling him back, Your Honor.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, you can
14 proceed.

15 BY MR. ROY:

16 Q. Were there any occasions where you observed
17 Victor not showing up on time in the morning?

18 A. Victor all the time showed up before all of us.

19 Q. Uh-hum. Your testimony was that on a number of
20 occasions you met with Macias or talked to Macias about
21 alleged lack of water, lack of insurance, and lack of wage
22 statements. Is that a fair statement?

23 A. It wasn't to complain, it was just to request the
24 things because we needed them.

25 Q. Were those personal meetings with Mr. Macias or

1 over the phone?

2 A. In person.

3 Q. And during those occasions was Victor present
4 with Mr. Macias?

5 A. In total we made about five or six meetings with
6 the whole group, but I asked Rene and a couple of times in
7 person.

8 Q. Did you ask Victor, your foreman, about those
9 same issues?

10 A. Yes.

11 Q. And did he ever give you any results?

12 A. No.

13 Q. And neither did Mr. Macias, correct?

14 A. He didn't either.

15 Q. Did you ever observe Mr. Victor negotiating your
16 complaints with Mr. Macias?

17 A. No.

18 Q. So is that mister -- to your knowledge, Victor
19 would merely convey any complaints that you had in your
20 crew to Mr. Macias, is that right?

21 MR. ROY: I'm sorry, Your Honor, I got diverted.
22 What was the answer?

23 THE INTERPRETER: I didn't hear the answer.

24 THE WITNESS: So as I know, Victor would let Rene
25 Macias know everything that we had said.

1 BY MR. ROY:

2 Q. Okay, let's talk about some of those complaints.
3 Did you have a field portable potty there at the ranch?

4 THE INTERPRETER: Again, Counsel?

5 BY MR. ROY:

6 Q. Did you see a field portable potty at the ranch?

7 MS. DEYOUNG-DOMINGUEZ: Objection Your Honor.

8 THE WITNESS: Yes, only one.

9 BY MR. ROY:

10 Q. And were --

11 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment, I
12 wasn't sure if I heard an objection or not. But if I did,
13 I didn't hear what it was.

14 MS. DEYOUNG-DOMINGUEZ: Yeah, I was about to
15 object to relevance and that this was outside of the scope.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I've
17 already determined I'm going to allow questions outside of
18 the scope because Mr. Roy isn't bringing them back.

19 MS. DEYOUNG-DOMINGUEZ: Okay.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Isn't bringing,
21 excuse me, Mr. Cruz back again as a witness. And your
22 objection to relevance is overruled, if that was the second
23 one.

24 MS. DEYOUNG-DOMINGUEZ: Yes, Your Honor.

25 MR. ROY: Thank you, Your Honor.

1 BY MR. ROY:

2 Q. So, there was at least one occasion you saw a
3 field portable unit there at the field, correct?

4 A. In Tierra Rejada there was only one portable
5 potty.

6 Q. Uh-huh. And what about Moorpark?

7 A. There were two bathrooms.

8 Q. How about in Fillmore?

9 A. Only one. In Tierra Rejada only one.

10 Q. My question, Mr. Cruz, was were there any
11 portable potties in Fillmore?

12 A. Yes.

13 Q. Okay. And was there a water facility attached to
14 the portable potty at each of those locations?

15 A. No.

16 Q. Did Victor have large 15- or 10-gallon yellow
17 canisters in his truck for water?

18 A. Yes.

19 Q. Did he also provide you cups?

20 A. Yes.

21 Q. I believe you testified earlier this morning that
22 in one of the meetings that you had with Rene that only one
23 of the female crew workers wanted the wage statements for
24 personal reasons. Is that a fair statement?

25 A. All the women wanted the paycheck stubs.

1 Q. Do you know whether the company provided them
2 with any documentation in support of their request?

3 A. No.

4 Q. How about health insurance. When you were at Art
5 Vasquez, the labor contractor, working at Cinagro did Mr.
6 Vasquez provide you with any medical insurance?

7 THE INTERPRETER: Counsel, I'm sorry, I missed
8 the first part of your question. Can you please repeat
9 that?

10 MR. ROY: I'll go back.

11 THE INTERPRETER: Thank you.

12 BY MR. ROY:

13 Q. When you were working with Art Vasquez while at
14 the Cinagro Ranches, did Mr. Vasquez provide you with any
15 medical insurance?

16 A. Yes.

17 MR. ROY: One moment, Your Honor.

18 BY MR. ROY:

19 Q. Mr. Cruz, have you ever looked at the unfair
20 labor practice charge filed by your wife -- I mean by your
21 partner, Marisol?

22 A. No.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy, do you
24 anticipate you have more than say 10 more minutes with this
25 witness, most likely you do?

1 MR. ROY: Probably yes, Your Honor.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Just for
3 you to anticipate, then we'll probably be taking our
4 midmorning break in about four minutes. You can proceed
5 until then.

6 MR. ROY: Your Honor, I'm requesting you take
7 judicial notice of that charge, but I'm sure it's in your
8 file. Is that correct?

9 ADMINISTRATIVE LAW JUDGE SOBLE: Let me break
10 those things down. I believe that it may even be one of
11 the General Counsel's exhibits. Let me take a look for a
12 second.

13 The General Counsel marked it as Hearing Exhibit
14 -- as a hearing exhibit. It's Number 1 on their binder. I
15 mention that for two reasons. One, if you intend to show
16 it to the witness and, two to answer your question. When
17 you ask whether or not it's in our file, I'm not exactly
18 sure what you mean with respect to that. And in terms of
19 whether or not I take notice of it, I mean I don't think
20 there's any dispute as to the fact that the charge was
21 filed so --

22 MS. DEYOUNG-DOMINGUEZ: Correct, Your Honor. We
23 -- the charges are part of our exhibits and we can
24 stipulate that into evidence.

25 MR. ROY: Thank you. That's Exhibit 2, GC-2 or

1 1?

2 ADMINISTRATIVE LAW JUDGE SOBLE: It isn't
3 numbered right now, but it's under the divider 1 on their
4 binder.

5 MR. ROY: Okay.

6 ADMINISTRATIVE LAW JUDGE SOBLE: So, I'm going to
7 go ahead and mark and admit that as GC-1.

8 (Whereupon, General Counsel GC-1 was marked
9 for identification and admitted into evidence.)

10 MS. DEYOUNG-DOMINGUEZ: Your Honor, can we
11 clarify. I believe there's confusion between the word
12 medical insurance and workman's comp insurance. I think --

13 ADMINISTRATIVE LAW JUDGE SOBLE: I don't think
14 now is the time to do that. You can certainly do that
15 during your examination or if there's a time when Mr. Roy
16 has a question you can object at that time. But he's got
17 about two minutes before we take a break, so I'm included
18 to let him use them if he wants to ask one or two more
19 questions. Otherwise, we'll take our break.

20 MS. DEYOUNG-DOMINGUEZ: Understood, thank you.

21 BY MR. ROY:

22 Q. Mr. Cruz, you had worked for Art Vasquez at
23 Cinagro for at least a couple of months in 2016, correct?

24 A. For Arturo's Labor I did not work two months.
25 Maybe two weeks.

1 Q. And then you went to work for Cinagro directly?

2 A. Yes.

3 Q. And while you were --

4 MR. ROY: I don't know if we ever got an answer
5 to this, Your Honor.

6 BY MR. ROY:

7 Q. But while you were at Art's Labor did you get any
8 health insurance?

9 A. Yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: And to answer
11 your question Mr. Roy, he had answered that and it was the
12 same answer before.

13 MR. ROY: Okay.

14 BY MR. ROY:

15 Q. Why did you have any expectations that at Cinagro
16 Farms you would get health insurance?

17 A. All the companies provide them.

18 Q. I see. And for worker's comp insurance, do you
19 know whether or not Cinagro Farms had worker's comp
20 insurance in 2016 and '17?

21 A. I don't know about that. I never found out about
22 that.

23 Q. But you were claiming as a complaint against the
24 company that you wanted worker's compensation, isn't that
25 correct?

1 A. It was an insurance for accidents or something
2 like that. But as far as I know, because of many things
3 that we saw Cinagro did not have that.

4 Q. And how do you know they didn't have it?

5 A. For the simple reason that there was a coworker
6 there that got cut and instead of sending him to the
7 hospital, they gave him a personal check so that he could
8 go on to his own at the hospital and say that he had gotten
9 cut at home, but that's not what happened.

10 Q. What's the name of this employee?

11 A. I don't have it, maybe Victor Mendoza has it.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy, one
13 more question then we're going to take out break.

14 MR. ROY: If we could take the break now, that
15 would be fine Your Honor.

16 ADMINISTRATIVE LAW JUDGE SOBLE: That's also
17 acceptable. It is 10:04 a.m. We'll come back at 10:25
18 a.m. Thank you.

19 THE WITNESS: Okay.

20 (Off the record at 10:04 a.m.)

21 (On the record at 10:27 a.m.)

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, we're back
23 on the record. Mr. Roy, you can ask your next question.

24 MR. ROY: Thank you.

25 BY MR. ROY:

1 Q. Just to clarify, Mr. Cruz, your testimony was
2 that the company did not usually work on Sundays because
3 that was a day off. Is that right?

4 A. Correct.

5 Q. And when you spoke to Rene on either Tuesday,
6 March 7th or Wednesday, March 8th did he tell you that you
7 were fired?

8 A. No.

9 Q. You said you were hearing the conversation
10 between your wife, I mean your partner, Marisol and Mr.
11 Macias, and there was another employee there. I think it
12 was Maria Duarte. Did you hear him at any time say that
13 you were all fired or terminated?

14 A. He never told us that.

15 Q. In fact on that -- in that conversation he was
16 talking to you about trying to get your crew back together,
17 but you didn't have a sufficient number of people at that
18 moment. Isn't that right?

19 A. No.

20 Q. Okay. What did he say?

21 A. About?

22 Q. Respecting about you going back to work? Because
23 you said that your wife had called him to find out when you
24 were going back to work.

25 A. He said to stand by, he was going to call us and

1 let us know when to go back to work.

2 Q. Okay. Thank you. You also testified that your
3 partner, Marisol, called Victor, the foreman and talked to
4 him about what she had spoken to Mr. Macias about. Is that
5 right?

6 A. She called Victor to tell him to let Rene know
7 when she -- so that he can let us know when we were coming
8 back. She didn't mention anything about the conversation
9 with Rene.

10 Q. And in that conversation that she had with
11 Victor, your foreman, did Victor say that you, and Marisol,
12 and Maria were all terminated?

13 A. No, he never told us that.

14 Q. Would it be fair to say that no one from Cinagro
15 Farms has ever told you that you were terminated?

16 A. Exactly, nobody communicated to me that I was
17 fired.

18 Q. Did anyone else in your crew ever tell you that
19 the company had fired them?

20 A. No, no one.

21 MR. ROY: All right, thank you, I appreciate your
22 testimony.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Cruz, I have
24 a couple of quick questions.

25 THE WITNESS: Okay. The first month that you

1 worked for Cinagro did you have water available in the
2 field?

3 THE WITNESS: Because we would purchase it
4 ourselves, yes, but from the company never.

5 ADMINISTRATIVE LAW JUDGE SOBLE: And did your
6 crew sometimes pay Victor to get the water?

7 THE WITNESS: We would pay half and Victor would
8 pay half.

9 ADMINISTRATIVE LAW JUDGE SOBLE: And in the first
10 month who was it who picked up the water?

11 THE WITNESS: All the time it was Victor Mendoza.

12 ADMINISTRATIVE LAW JUDGE SOBLE: And the water
13 that Victor brought was it in a store container or was it
14 in the yellow containers on his truck?

15 THE WITNESS: The yellow jugs.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you. I
17 have no further questions. Is there any redirect by the
18 Assistant General Counsel?

19 MS. DEYOUNG-DOMINGUEZ: No further questions at
20 this time. Thank you. I just want to thank him for your
21 time.

22 ADMINISTRATIVE LAW JUDGE SOBLE: And does
23 Respondent's counsel have any questions limited to the area
24 that I asked?

25 MR. ROY: No questions Your Honor.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Mr. Cruz
2 thank you for your time. There is a small, but unlikely
3 possibility you could be called back as a witness before
4 this hearing ends. But most likely we won't need to have
5 you come back.

6 Just a reminder, you cannot discuss your
7 testimony with anyone else who is a possible witness in
8 this matter. That would include everybody who was on your
9 Cinagro crew, or who was on the other crew that you saw at
10 Cinagro, or who is a supervisor or owner of Cinagro.
11 Please, until this hearing is over do not speak with any of
12 those people. You can tell them that you came to the
13 hearing, but other than that it is inappropriate to speak
14 about it.

15 THE WITNESS: Okay. Okay that's fine.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you very
17 much.

18 MS. DEYOUNG-DOMINGUEZ: Thank you.

19 (Witness excused)

20 ADMINISTRATIVE LAW JUDGE SOBLE: If I had known
21 it was going to be that quick, we might have tried to
22 finish with him before we took our break. In any event, is
23 the General Counsel ready to call their next witness?

24 MS. DEYOUNG-DOMINGUEZ: I'm so ready. Yes, Your
25 Honor.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And who
2 is the next witness?

3 MS. DEYOUNG-DOMINGUEZ: The next witness is Maria
4 Duarte, Your Honor. And I believe you'll need to let her
5 in, admit her into the hearing room. I mean into the
6 virtual room.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Is she
8 our out-of-state witness?

9 MS. DEYOUNG-DOMINGUEZ: Yes, Your Honor.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Nobody is
11 seeking admission right now, but as soon as that occurs I
12 will let you know.

13 MS. DEYOUNG-DOMINGUEZ: Great.

14 ADMINISTRATIVE LAW JUDGE SOBLE: While we're
15 waiting I'll ask the same question. As to Mr. Cruz, the
16 General Counsel didn't have what the Regional Director
17 might refer to as anything like a Jencks statement, any
18 sort of written statement that has been previously
19 regarding his testimony.

20 MS. DEYOUNG-DOMINGUEZ: No, Your honor.

21 ADMINISTRATIVE LAW JUDGE SOBLE: No, okay.

22 MS. DEYOUNG-DOMINGUEZ: Your Honor, if I may,
23 just as a form of information Gabriella went to go let Mr.
24 Cruz out of the hearing room one, and when she returns to
25 her desk I believe she'll send a message that Maria Duarte

1 can use the WebEx to log on.

2 ADMINISTRATIVE LAW JUDGE SOBLE: That's fine.
3 I'm just -- to let you know, so far nobody is seeking
4 admission under any user name. It is my intention if I see
5 a name of any sort seeking to enter, I will admit them.

6 MS. DEYOUNG-DOMINGUEZ: Thank you.

7 ADMINISTRATIVE LAW JUDGE SOBLE: And in the event
8 that this witness was not here do you have your next
9 witness available?

10 MS. DEYOUNG-DOMINGUEZ: Yes, Your Honor I believe
11 we do.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm not
13 at all suggesting we'll need to go that route, but just to
14 know in case.

15 MS. DEYOUNG-DOMINGUEZ: I understand.

16 ADMINISTRATIVE LAW JUDGE SOBLE: I'm sorry. I'm
17 fine with staying on the record. If it's more convenient
18 for the court reporter, we can go off the record for a
19 minute. But I'm assuming that we'll be resuming as soon as
20 Ms. Vega makes it back to her office.

21 While we're waiting, does the General Counsel
22 have an estimate as to how many additional witnesses you
23 would be calling after Mr. Duarte? I'm not asking for any
24 names, just the total number.

25 MS. DEYOUNG-DOMINGUEZ: You're muted, Jessica.

1 ADMINISTRATIVE LAW JUDGE SOBLE: I now have
2 someone in the lobby, so you can save your answer to the --
3 ah, they were in the lobby, but then they disappeared.
4 Again to clarify, I had someone in the lobby for a split
5 second, but before I could click them they were gone.

6 We'll go off the record for a second.

7 (Off the record at 10:42 a.m.)

8 (On the record at 10:42 a.m.)

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, we'll go
10 back on the record. Right now I see Ms. Duarte's forehead.

11 MS. DEYOUNG-DOMINGUEZ: Would you like me to
12 instruct her, Your Honor, or would you be doing that?

13 ADMINISTRATIVE LAW JUDGE SOBLE: I'll have the
14 interpreter translate what I say.

15 Ms. Duarte, can you adjust your phone or
16 electronic device so that we can see your face? Thank you.

17 Ms. Duarte, would you please state your full name
18 for the record?

19 THE WITNESS (Through Interpreter): Maria
20 Guadalupe Duarte Mendoza.

21 THE INTERPRETER: Mendoza.

22 ADMINISTRATIVE LAW JUDGE SOBLE: M-E-L-D-O-Z-A?

23 THE WITNESS: It's Melgoza, M-E-L-G-O-Z-A.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Is it
25 okay if I call you Ms. Duarte?

1 THE WITNESS: Yes, that's fine.

2 ADMINISTRATIVE LAW JUDGE SOBLE: What is the
3 language that you speak the best, Ms. Duarte?

4 THE WITNESS: Spanish.

5 ADMINISTRATIVE LAW JUDGE SOBLE: And what is the
6 language you speak the most at home and at work?

7 THE WITNESS: Spanish.

8 Whereupon,

9 MARIA DUARTE MELGOZA

10 was called as a witness herein and, having been duly sworn,
11 was examined and testified in Spanish as follows:

12 THE WITNESS: Yes, agreed.

13 ADMINISTRATIVE LAW JUDGE SOBLE: And are you
14 presently somewhere in the United States, other than in the
15 State of California?

16 THE WITNESS: Yes, I'm in Utah.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. What will
18 happen this morning, Ms. Duarte, is that some of the
19 attorneys and possibly myself will ask questions in
20 English. After we ask a question, the interpreter will
21 translate the question from English to Spanish. After the
22 interpreter translates the question please, before you
23 answer, pause for a couple of seconds. This is because
24 once in a while one of the attorneys or myself may object
25 to a question. In that event (indiscernible) to answer the

1 question or whether to instead wait for the next question.

2 If you have a particularly long answer, like the
3 statement that I just made, please talk a little bit more
4 slowly so that the interpreter can keep up with you.

5 And if you have a very long answer, it is usually
6 helpful if after a few sentence you pause for the
7 interpreter to translate that portion of your answer before
8 you continue.

9 For all of your answers, it's important that you
10 answer orally or audibly. This is because if you simply
11 nod your head or gesture with your hands the court reporter
12 is unable to get that into the record or to get it fully
13 into the record as well as if you answer orally or audibly.

14 If any point you do not understand a question,
15 please just let me know and I'll determine if there's a way
16 that the attorney an rephrase the question so you better
17 understand it.

18 If at any point you need to take a break to get a
19 drink or water, to use the restroom, or to stand up and
20 stretch, please let me know because that's permitted.

21 During your testimony please do not communicate
22 with any other person by text, or messages, or emails as
23 that may interfere with your testimony.

24 We anticipate sometime between 12:00 and 12:15
25 taking a lunch break for 80 minutes. It's unlikely we will

1 finish your testimony before the lunch break, but I never
2 know for sure until the attorneys have gone.

3 Who is going to be the Assistant Attorney General
4 asking questions of this witness?

5 MS. ARCINIEGA: I will, Your Honor.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, go ahead.

7 MS. ARCINIEGA: Thank you.

8 DIRECT EXAMINATION

9 BY MS. ARCINIEGA:

10 Q. Good morning Ms. Duarte. I am Jessica Arciniega,
11 an Assistant General Counsel, and I'm going to ask you some
12 questions right now.

13 I just want to let you know that if you encounter
14 any problems on your end with the technology, please let us
15 know if you cannot hear us or see us and we'll try to
16 figure something out.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Once again, Ms.
18 Duarte if you could adjust your phone because we are only
19 able to see from your eyes up. If you can try to get it so
20 that there's a view of your head and shoulders, that is
21 ideal.

22 THE WITNESS: Is this good?

23 ADMINISTRATIVE LAW JUDGE SOBLE: It's better.
24 But if you could even have the camera go a few inches
25 lower, that would be better.

1 THE WITNESS: Give me one moment, please.

2 ADMINISTRATIVE LAW JUDGE SOBLE: That's good,
3 thank you.

4 MS. ARCINIEGA: May I proceed, Your Honor?

5 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Arciniega.

6 MS. ARCINIEGA: Thank you.

7 BY MS. ARCINIEGA:

8 Q. Good morning Ms. Duarte. Did you work at
9 Cinagro?

10 A. Yes.

11 Q. And when did you start working at Cinagro?

12 A. I'm not too sure if it was in February.

13 Q. Do you recall the year?

14 A. It was 2017 I believe.

15 Q. Okay. And when you worked at Cinagro who was the
16 foreman of the crew you worked in?

17 A. Okay, it was Victor.

18 Q. What kind of work did you perform at Cinagro?

19 A. It was in the field, we picked vegetables.

20 Q. And after you picked the vegetables what did you
21 do with them?

22 A. I just worked with them out in the field.

23 Q. Okay. And do you know how you were paid for your
24 work?

25 A. It was a personal check thing.

1 Q. Okay. How many ranches did you work at when you
2 worked at Cinagro?

3 A. Two.

4 Q. Okay. And do you know where they were located?

5 A. One in Moorpark and the other one in Fillmore.

6 Q. Okay. And how did you know where to report to
7 work each day?

8 A. Victor would let us know.

9 Q. And when would he let you know?

10 A. Sometimes he would call us the day before or in
11 the morning.

12 Q. Okay. And was there a supervisor when you worked
13 at Cinagro?

14 A. Rene.

15 Q. Was that his name?

16 A. Yes.

17 Q. And while you were working at Cinagro did you
18 receive any complaints about the way you performed your
19 work?

20 A. Meaning that I wasn't doing my job correctly or
21 what do you mean?

22 Q. Any -- yes. Anything of those -- yeah, that's
23 fine.

24 A. No.

25 Q. Did you ever receive a disciplinary ticket while

1 you worked at Cinagro for anything related to your work?

2 A. No.

3 Q. Okay. Now, you just said that you were paid with
4 a personal check when you worked at Cinagro. Do you know
5 what a paystub is?

6 A. If I know what?

7 MS. ARCINIEGA: Your Honor, I would like to
8 address you about the interpretation, if I may.

9 ADMINISTRATIVE LAW JUDGE SOBLE: We can, but why
10 don't you first try asking the question again.

11 MS. ARCINIEGA: Okay.

12 ADMINISTRATIVE LAW JUDGE SOBLE: If that doesn't
13 work, then we can see if there's an interpretation issue.

14 MS. ARCINIEGA: Okay.

15 BY MS. ARCINIEGA:

16 Q. When you received the personal check did you
17 receive a wage statement with it?

18 A. I received something but it didn't include any of
19 the deductions or anything like that.

20 Q. Okay. What was the information that was missing
21 -- what more information was missing from what you
22 received?

23 A. In that paper the year-to-date total was missing,
24 the deductions for Medi-Cal, Social Security, and all that
25 type of information.

1 Q. Okay. And was that a problem for you that that
2 information was not on there?

3 A. Yes, because regularly on the other checks it
4 lists them out that they have deducted the amounts that we
5 have earned and those types of things.

6 MR. ROY: Objection, Your Honor, vague that she's
7 referring to other checks. I don't know if that's at
8 another company where she had worked for --

9 ADMINISTRATIVE LAW JUDGE SOBLE: The objection is
10 overruled, but I agree with you that from the answer it's
11 unclear what the witness was making reference to. And
12 that's something that either the Assistant General Counsel
13 or yourself can ask questions to flesh out, if you're so
14 inclined.

15 BY MS. ARCINIEGA:

16 Q. At other jobs that were not Cinagro, did you
17 receive a wage statement with your paycheck?

18 A. That's right.

19 Q. Okay. And when you told -- oh, sorry. Okay.
20 When you received your paycheck at Cinagro with the paper,
21 did you talk to anybody about what was missing on there?

22 A. I talked to them and I told them that I needed a
23 paycheck stub, like a regular paycheck stub and they said
24 that they were working on that at the office.

25 Q. And who did you talk to, Ms. Duarte?

1 A. One time I asked Rene.

2 Q. Was anybody else with you when you talked to
3 Rene?

4 A. No.

5 ADMINISTRATIVE LAW JUDGE SOBLE: When you spoke
6 with Rene what language were the two of you speaking in?

7 THE WITNESS: Spanish, I only speak Spanish.

8 ADMINISTRATIVE LAW JUDGE SOBLE: And when you
9 asked him for something, did you ask for a "talon de pago"
10 or did you use different words?

11 THE WITNESS: A paycheck stub.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

13 BY MS. ARCINIEGA:

14 Q. And did Rene respond to you?

15 A. Yes.

16 Q. And what did he say to you?

17 A. That they were working on that still at the
18 office.

19 Q. Okay. And did you talk to any of your coworkers
20 about your need for a paystub?

21 A. A few of them were discontent with that, they
22 needed a regular paycheck stub.

23 MR. ROY: Your Honor, I object as being
24 nonresponsive.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

1 BY MS. ARCINIEGA:

2 Q. Can you tell -- can you tell us the names of your
3 coworkers who you talked to about this?

4 A. Marisol, Hector, Rigo, Yolanda, and also Victor.

5 Q. Was there a time when you and your coworker --
6 coworkers, excuse me, talked to somebody about Cinagro
7 about wanting a check stub?

8 A. There was one occasion when there was a meeting
9 and we talked about this.

10 Q. Okay. And who from Cinagro was at the meeting?

11 A. It was all of the coworkers.

12 Q. Okay. You mean the coworkers from your crew?

13 A. Yes, we were all there.

14 Q. Was your foreman present?

15 A. Yes.

16 Q. Was Rene, the supervisor, present?

17 A. Yes.

18 Q. And do you recall when this meeting occurred?

19 A. I don't remember the exact date.

20 Q. Do you remember what month?

21 A. I don't remember, honestly.

22 Q. Do you remember if it was near the time before
23 you stopped working at Cinagro?

24 A. It was a little bit close.

25 Q. Okay. And did you speak at this meeting?

1 A. Yes.

2 Q. Can you tell me what you said?

3 A. That I needed a paycheck stub. And the water was
4 not good.

5 Q. Did you say anything else about the water?

6 A. Well, just that the water wasn't good and Victor
7 was the one that would bring good water.

8 Q. Okay. And did Rene respond to what you said
9 about the water?

10 A. He didn't say anything.

11 Q. And did you hear any of your coworkers talk about
12 -- say something, excuse me, to Rene about what they needed
13 for a paystub?

14 A. No, but they would mention it amongst themselves
15 in the group.

16 Q. Okay. At this meeting with Rene you said you
17 spoke, did any of your coworkers speak?

18 A. They all said that they needed better water and
19 that they needed the correct paycheck stubs.

20 Q. Okay. And did Rene respond about needing better
21 check stubs?

22 A. He just said that they were working on that in
23 the office.

24 Q. Okay, thank you. Why did you stop working at
25 Cinagro?

1 A. Because they said that the work had decreased and
2 that they were going to call us back.

3 Q. And who told you that?

4 A. Victor told us and then one time Rene told us
5 that the work had decreased.

6 Q. Okay. Do you remember what day of the week was
7 your last day that you worked at Cinagro?

8 A. It was the first Saturday of March, I believe.

9 Q. Okay. Do you -- oh, sorry, one second. And do
10 you recall how many hours you worked that day?

11 A. I don't remember.

12 Q. Okay. And at the end of that workday did Victor
13 tell you where you would work on Monday?

14 A. No. He said he was going to call us.

15 Q. Okay. And did you talk to Victor again before
16 Monday?

17 A. I spoke to him before and I asked him when he
18 thought we were going to come back and he said that he
19 didn't know, because he said that Rene was going to call
20 him and let him know when we would be back.

21 Q. Okay. So, on Monday what did you do?

22 THE INTERPRETER: I'm sorry, I didn't hear you?

23 BY MS. ARCINIEGA:

24 Q. On Monday what did you do?

25 A. On Monday we went to look for a job, waiting for

1 Victor to call us back, and that's when we went to apply at
2 the blueberry.

3 Q. And when you say we, who are you talking about?

4 A. Hector and Marisol. And by the way, we went by
5 the ranch where we previously worked.

6 Q. The ranch, are you talking about Cinagro's ranch?

7 A. Yes.

8 Q. Okay. And what ranch, because you said there
9 were two, are you talking about?

10 A. The one in Moorpark.

11 Q. Okay. And what did you see when you were at the
12 Moorpark Ranch?

13 A. We went because we were curious to see if the
14 other crew was working and we took some pictures. I took
15 some pictures.

16 Q. Okay.

17 MS. ARCINIEGA: Your Honor, I would like the
18 witness to look at what has been identified as General
19 Counsel's exhibit, under the Tab 4 in your binder, Your
20 Honor. And Ms. Duarte also has the pages. They're the
21 hardcopies that were sent to her, so I'd like to instruct
22 her to look at them as well.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Explain
24 to me how you sent the documents to Ms. Duarte?

25 MS. ARCINIEGA: They were mailed, Your Honor, by

1 our field examiner.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

3 MS. ARCINIEGA: And she can --

4 ADMINISTRATIVE LAW JUDGE SOBLE: When you get to
5 your first question, if you would ask her just to sort of
6 hold the document in front of the phone, I would appreciate
7 that.

8 MS. ARCINIEGA: Yes.

9 ADMINISTRATIVE LAW JUDGE SOBLE: You can proceed.

10 MS. ARCINIEGA: Thank you.

11 BY MS. ARCINIEGA:

12 Q. Ms. Duarte --

13 THE INTERPRETER: I'm sorry, before we proceed, I
14 do have the .PDF files but I was not able to print all of
15 the documents because I thought it might be too much to
16 print. So, if you give me a second so that I can find it,
17 I'd appreciate that.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Although
19 I think for purposes of translation you may not even need
20 to receive the document, but I don't know that for sure
21 until I hear Counsel's questions.

22 THE INTERPRETER: Yes, Your Honor, that's where I
23 was hesitant in printing so much.

24 MS. ARCINIEGA: I'm waiting to be instructed to
25 proceed.

1 ADMINISTRATIVE LAW JUDGE SOBLE: And I'm just
2 waiting because I don't see Mr. Roy anymore and once he
3 returns --

4 MR. ROY: I'm right here, Your Honor.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Perfect. You
6 can proceed, Ms. Arciniega.

7 MS. ARCINIEGA: Thank you.

8 BY MS. ARCINIEGA:

9 Q. Ms. Duarte, do you have in front of you photos,
10 the copies of photos?

11 A. Yes, I have them.

12 Q. Can you please hold up the first page to the
13 screen?

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay and Ms.
15 Duarte, do you see a number at the top right of the page?

16 THE WITNESS: Yes.

17 ADMINISTRATIVE LAW JUDGE SOBLE: What is that
18 number?

19 THE WITNESS: Twelve.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
21 see a combination of letters and numbers that might be two
22 letters followed by five numbers?

23 THE WITNESS: Yes.

24 ADMINISTRATIVE LAW JUDGE SOBLE: And could you
25 read that for us?

1 (Colloquy between Interpreter and Witness)

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I was
3 asking only for the one page you showed us, the first page.

4 THE WITNESS: It's CP-00012.

5 MS. ARCINIEGA: May I proceed, Your Honor?

6 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

7 MS. ARCINIEGA: Thank you.

8 BY MS. ARCINIEGA:

9 Q. Okay, Ms. Duarte can you take a look at that page
10 that you just said CP-00012?

11 A. Uh-hum.

12 Q. Thank you. And do you recognize this photo?

13 A. Yes.

14 Q. Can you tell me what this is, please?

15 A. Okay, it's a picture that I took and on that
16 picture you could see the bathrooms, and the truck of the
17 foreman of that crew.

18 Q. Okay. And is this what you saw when you were
19 with Marisol and Hector at the Moorpark Ranch on that
20 Monday?

21 A. Yes.

22 Q. And when you said on this picture you can see the
23 foreman's truck, can you tell us what color it is?

24 A. White.

25 Q. Okay. And on this -- in looking at this picture

1 I see a fence post in a white truck. Is that the truck
2 that you indicate is the foreman's?

3 A. Of course.

4 Q. Okay. Can I ask you to turn to the next page
5 that you have and tell us what --

6 ADMINISTRATIVE LAW JUDGE SOBLE: Before we go to
7 the next page, I have a couple questions for Ms. Duarte.
8 Am I correct in understanding that you took this
9 photograph?

10 THE WITNESS: Yes.

11 ADMINISTRATIVE LAW JUDGE SOBLE: And did you use
12 a camera or a telephone to take the photograph?

13 THE WITNESS: A telephone.

14 ADMINISTRATIVE LAW JUDGE SOBLE: And is the
15 telephone that you used a telephone that you still own?

16 THE WITNESS: No. Yes, I have been -- no, but I
17 have been checking my messages and we sent that message to
18 Marisol and I checked the date and it was March 9th at 1:00
19 a.m. of 2017 when I resent it.

20 ADMINISTRATIVE LAW JUDGE SOBLE: 1:00 a.m.
21 wouldn't it usually be dark?

22 THE WITNESS: No, we sent her the pictures that I
23 already had I sent them at that time.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, so that's
25 when you texted or emailed the photo?

1 THE WITNESS: Yes, through Messenger.

2 ADMINISTRATIVE LAW JUDGE SOBLE: So, what I
3 wondered is if you have anything that will tell you the
4 date and time that you took the photograph?

5 THE WITNESS: No.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, thank you.
7 Ms. Arciniega, you can ask your next question.

8 MS. ARCINIEGA: Thank you, Your Honor.

9 BY MS. ARCINIEGA:

10 Q. Marisol [sic], can you turn to the next page and
11 tell us the number on top, please?

12 ADMINISTRATIVE LAW JUDGE SOBLE: I apologize for
13 them referring to you as Marisol, Ms. Duarte.

14 The interpreter actually did her job because she
15 quoted that correctly from the attorney. So.

16 THE WITNESS: This is the other photograph.

17 BY MS. ARCINIEGA:

18 Q. Can you read to us the number at the top, Ms.
19 Duarte?

20 A. CP-00011.

21 Q. Okay. And can you tell us what this photo shows?

22 A. This one is the same thing. It's the bathrooms,
23 the foreman's truck, and the ranch where they're working in
24 Moorpark.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Duarte, is

1 it your understanding that all five of these photos were
2 taken on the same day?

3 THE WITNESS: Yes.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, thank you.

5 BY MS. ARCINIEGA:

6 Q. And Ms. Duarte, where were you -- what part of
7 the ranch, excuse me, were you at when you took these
8 photos?

9 A. On the side of the road.

10 Q. Do you recall the name of the road?

11 A. I don't know the name of the street.

12 Q. Okay. Can you turn -- see if you can find the
13 picture that has CP00009 on top, please? Do you mind
14 holding it up to the camera? Okay. And what were you
15 capturing in this photo?

16 A. In this photograph you can kind of see the people
17 that were working.

18 Q. Okay. Did you have to do something on your phone
19 with your camera to capture this picture?

20 A. No, I just had to zoom in and that's why it's
21 blurry.

22 Q. Okay.

23 MS. ARCINIEGA: Your Honor, I'd like to move the
24 photos into evidence. They're true, and correct, and
25 accurate representations of what Ms. Duarte testified that

1 she saw that day.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Are there any
3 objections?

4 MR. ROY: Yes, Your Honor, a number I think.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Because I
6 don't have a different process, I'm inclined to let counsel
7 address the objections in the presence of the witness. Any
8 objection to that?

9 MS. ARCINIEGA: I don't, Your Honor.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, Mr. Roy,
11 proceed.

12 MR. ROY: Yes. First of all I don't think --

13 THE INTERPRETER: You don't want me to interpret
14 this? I'm sorry, Mr. Roy, I just want to clarify --

15 ADMINISTRATIVE LAW JUDGE SOBLE: I don't think
16 you need to interpret it unless somebody asks me to have
17 you interpret it and then I'll decide at that time. For
18 now, no.

19 THE INTERPRETER: Perfect, thank you. Thank you.

20 MR. ROY: First of all, Your Honor, during the
21 testimony I sent an email to both Ms. Gabriela and Jessica
22 trying to get copies of these photos. They were not
23 subject to our stipulation, so she's going to be trying to
24 enter them in today.

25 I would need those for cross-examination.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment,
2 let me take a step back because I think I understand what
3 you're saying but I'm not sure. I was under the
4 understanding that you had been sent .PDF copies of all of
5 the General Counsel's exhibits. Are you telling me that
6 you were not sent .PDF copies of their Exhibit Number 4?

7 MR. ROY: Yes, I don't find one here in my file,
8 Your Honor, and I was trying to check my email records for
9 those photos. I received a number of wage statements for
10 this particular crew through April and May, but not the
11 photos. And I need the photos to do an effective cross-
12 examination.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I am going
14 to forward that to you right now. So, we're going to take
15 a -- go off the record for one minute.

16 (Off the record at 11:29 a.m.)

17 (On the record at 11:31 a.m.)

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, we'll go
19 back on the record.

20 Mr. Roy, hopefully you will get an email. I sent
21 it to you and cc'd it to Ms. Arciniega that has the .PDF
22 attached.

23 MR. ROY: Thank you, Your honor.

24 ADMINISTRATIVE LAW JUDGE SOBLE: I thought that
25 the email that was sent to me was cc'd to you. I am

1 looking at it right now to check.

2 MS. ARCINIEGA: Your Honor, if you'll allow me to
3 be heard, whenever you're --

4 ADMINISTRATIVE LAW JUDGE SOBLE: Can you wait
5 moment? I'm going to check my email anyhow.

6 MS. ARCINIEGA: Sure. Of course.

7 ADMINISTRATIVE LAW JUDGE SOBLE: But once I've
8 done that, certainly.

9 The email -- the exhibit I received was sent by
10 Ms. Vega on Thursday, February 18th, at 3:05 p.m., and I do
11 see Mr. Roy on the email distribution list.

12 MR. ROY: Okay. And the four attachments to that
13 are all payroll records, Your Honor, and a copy of the
14 Cinagro corporate paychecks

15 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I have far
16 more than four exhibits on that email. I show 12 of them.
17 So, you may need to click on something to see all of the
18 .PDFs.

19 MR. ROY: Could we just have them resent to me by
20 Jessica Arciniega?

21 ADMINISTRATIVE LAW JUDGE SOBLE: All 12 of them?

22 MR. ROY: Well, they're all in one email, aren't
23 they?

24 MS. ARCINIEGA: Your Honor?

25 ADMINISTRATIVE LAW JUDGE SOBLE: So, again, you

1 should have -- have you received the email that I sent you?

2 MR. ROY: I'm checking now.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Because I am
4 also going to forward the whole email that they sent to me
5 as well, again.

6 MR. ROY: Okay. I'm downloading your email right
7 now. Okay. Yes, your email has these photos. Okay, this
8 is sufficient for me to ask questions on.

9 ADMINISTRATIVE LAW JUDGE SOBLE: And I have also
10 forwarded Ms. Vega's entire email to you to save time.

11 MR. ROY: Okay.

12 ADMINISTRATIVE LAW JUDGE SOBLE: In case there
13 are some of those that you need to look at again.

14 So, with that in mind did you have some
15 objections that you want to offer now, or would you like a
16 minute to look at the photographs first?

17 MR. ROY: Your Honor, I have a general objection
18 as to relevance. I mean, without explaining --

19 ADMINISTRATIVE LAW JUDGE SOBLE: The objection
20 based on relevance is overruled. I'm open to hearing
21 additional objections, if there are some.

22 MR. ROY: I'll take it up on cross.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I am
24 going to admit this at this time, without indicating what
25 weight, if any, I will give it. So, Ms. Arciniega, you can

1 ask your next question.

2 MS. ARCINIEGA: Thank you, Your Honor. Can I
3 have one moment just to look at my notes? Okay, so you are
4 admitting them, Your Honor, to clarify and I believe we'll
5 be admitting them as General Counsel's Exhibit -- I have
6 them in our notebook as 4, Your Honor.

7 ADMINISTRATIVE LAW JUDGE SOBLE: That's correct.
8 And I'm now at the juncture where I have to decide if I
9 want to use the numbers you have in your tabs, which are
10 not marked on the exhibits, or if I want to number them
11 sequentially as we have had them go into the hearing. Do I
12 have a preference by either or both counsel as to which way
13 to do that?

14 MR. ROY: I don't see CCP exhibit numbers on
15 these photos, Your Honor, so it's going to be hard to ask
16 the witness to refer to a particular photo other than in
17 sequence, which is 1 through 5 of these photos in the
18 report.

19 ADMINISTRATIVE LAW JUDGE SOBLE: I'll address
20 that if you separately -- because I do see Bates numbers on
21 the top right corner of each page. But more significantly,
22 my question was do either counsel have a preference as to
23 whether or not I number them based on the tabs in the
24 General Counsel binder as opposed to the sequential number
25 that they have appeared during this hearing?

1 MS. ARCINIEGA: Your Honor --

2 MR. ROY: Your Honor, I'd prefer that they be as
3 part of the GC Exhibit 4.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Arciniega,
5 the same?

6 MS. ARCINIEGA: Yes, Your Honor because we have
7 the stipulation as to other -- another GC exhibit that we'd
8 like to --

9 ADMINISTRATIVE LAW JUDGE SOBLE: That's fine.
10 That's what we'll do then. Then, this is GC-4. It was
11 offered and admitted 2-24-2021.

12 (Whereupon, General Counsel GC-4 admitted
13 into evidence.)

14 ADMINISTRATIVE LAW JUDGE SOBLE: Again, my
15 admitting the exhibit is not necessarily stating that I
16 could tell from this photo what city it was in or what was
17 taking place in the photographs, or anything like that.
18 But I'm admitting it and allowing at whatever point is
19 appropriate to argue whether it's relevant either as an
20 illustration of the witness's testimony or for some other
21 purpose.

22 But I believe the witness has authenticated it as
23 the photographs that she took and so I am going to admit it
24 at this time.

25 MR. ROY: Your Honor, could I impose upon you to

1 give me the CP-000 whether it's 10, or 9, or 11 after each
2 photo so I know which one to refer to on cross?:

3 ADMINISTRATIVE LAW JUDGE SOBLE: There are, to my
4 understanding, 1, 2, 3, 4, 5 pages that go from CP, like
5 cat peter, followed by triple 0s --

6 MR. ROY: Yes.

7 ADMINISTRATIVE LAW JUDGE SOBLE: -- on every page
8 and then they are sequential from 8 to 12.

9 MR. ROY: Okay, 8 to 12. Okay, that's very
10 helpful.

11 ADMINISTRATIVE LAW JUDGE SOBLE: We're going to
12 take a pause for ten seconds while I look at my email
13 version of that again. I just want to confirm, I just
14 assumed that my email version also showed them being
15 visible with the Bates numbers. I know the paper copy they
16 are.

17 MR. ROY: Yes, I can now see those Bate numbers,
18 thank you. All right.

19 MS. ARCINIEGA: Your Honor, the General Counsel
20 would like to be heard when you have a moment.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Yes. And those
22 numbers are clearly visible on the .PDF as well.

23 MR. ROY: Yes.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Arciniega.

25 MS. ARCINIEGA: Just for the clarity of the

1 record, Your Honor, I do want to say that after you
2 instructed the Respondent and I -- or General Counsel's
3 Office, excuse me, to exchange our exhibit lists on
4 February 8th, we had a conversation with Mr. Roy and
5 Gabriella Vega sent him the photos on February 9th, as well
6 as they were sent to him on February 17th. And those
7 photos did have Bates numbers on them, Your Honor.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well,
9 whether they were sent on the 9th and the 17th is not
10 information I need at this time. What is clear is that
11 they were sent on the 18th, with the Bates numbers that are
12 the ones that were the specific exhibits that I asked to be
13 exchanged and sent to me pursuant to my prehearing
14 conference order.

15 So, for my purposes there's no issue that they
16 were provided to everyone. And I think at this point Mr.
17 Roy is not stating that, either. I think what perhaps
18 happened, if I was to speculate, which witnesses should
19 never do, he may not have clicked where sometimes if you
20 have more than four or five exhibits, you have to click
21 something to see all of them.

22 But regardless, we're where we are and he's not
23 asking for any additional time before doing this witness's
24 cross-examination.

25 And so, I've admitted these as an exhibit and

1 we're ready for your next question.

2 MS. ARCINIEGA: Thank you for that.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Since they're
4 being admitted I am going to state on the record just to
5 describe the totality of the exhibit a little bit better.

6 The first page and the fourth and fifth page look
7 somewhat similar. In the center there is a metal fence
8 post and a metal wire fence. And in the distance it's an
9 optical illusion because the fence post is significantly
10 closer than the vehicles there is what appears to be a
11 white pickup truck which is partially obstructed in the
12 photograph by that metal fence post.

13 If you were to look at the second and third
14 pages, they are blurrier photos which the witness has
15 testified might involve a zoom, at least as to CP-00009.
16 There are little dots that may or may not be workers
17 harvesting some sort of crop.

18 And on 10 there are blurry spots and you can see
19 what appears to be part of a telephone pole in that
20 picture. I'm not -- my description of these is not meant
21 for any purpose other than for someone to be able to
22 ascertain that these are the five pages that are a part of
23 the exhibit, not to describe anything as -- my description
24 is not evident itself.

25 So, Ms. Arciniega you can ask your next question.

1 MS. ARCINIEGA: Thank you.

2 BY MS. ARCINIEGA:

3 Q. Ms. Duarte, after you took these photos what did
4 you do?

5 A. After that we left and we told Victor that they
6 were working.

7 Q. Who told Victor that -- well, who told Victor --
8 oh, who told Victor that they were working?

9 A. We told him. Well, I called him and between the
10 three of us we told him.

11 Q. Okay. Did you -- when you say the three of us,
12 who else are you referring to?

13 A. Just the three of us.

14 Q. Are you referring to Marisol and Hector?

15 A. And myself.

16 Q. Okay. And was your phone on speaker when you
17 called Victor?

18 A. Yes.

19 Q. Okay. And who spoke to Victor?

20 A. I told him no, they were not working but, yes
21 they were working.

22 Q. Did you tell him where you were?

23 A. We told him that we had gone and we had taken
24 some pictures.

25 Q. And when you say gone, do you mean to the ranch,

1 Cinagro's ranch?

2 A. Yes, in Moorpark.

3 Q. Okay. And did Victor respond to you?

4 A. He said that Rene had told him that there was no
5 work and that there was nothing he can do.

6 Q. Did he mean that there was no work that day?

7 MR. ROY: Objection calls for speculation.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.

9 So, let's let the interpreter translate the question then
10 I'll rule on the objection.

11 MR. ROY: Thank you.

12 THE INTERPRETER: I'm going to ask to repeat it.
13 I thought I had interpreted it but --

14 ADMINISTRATIVE LAW JUDGE SOBLE: And you may
15 have. But if so, I didn't catch it in between the question
16 and the objection.

17 THE INTERPRETER: And I didn't write it down
18 because I did it simultaneously, sorry.

19 MS. ARCINIEGA: I think I'm having a hard time
20 recalling it as well.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I'll ask a
22 different question then. At the time Victor indicated that
23 there was no more work did you have any indication whether
24 he was referring to that day or to a different period of
25 time?

1 THE WITNESS: They said, well what Rene told
2 Victor is that they would let us know when we would work
3 again.

4 MS. ARCINIEGA: Okay.

5 BY MS. ARCINIEGA:

6 Q. And did anybody from Cinagro call you to return
7 to work?

8 A. No.

9 MS. ARCINIEGA: Can I have a minute, Your Honor
10 just to review my notes?

11 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

12 MS. ARCINIEGA: I don't have any further
13 questions, Your Honor.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy would
15 you like a couple minutes or would you like to begin?

16 MR. ROY: I'm ready, Your Honor.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. We will
18 be, in approximately 20 minutes or so taking our lunch
19 break. With that in mind, if you have a natural breaking
20 point that's between 15 and 25 minutes from now, just let
21 me know. You may proceed.

22 CROSS-EXAMINATION

23 BY MR. ROY:

24 Q. Ms. Duarte, I'm representing Cinagro as their
25 attorney in this proceeding. And I have a number of

1 questions concerning your testimony here today. Before
2 coming here today have you reviewed any documents provided
3 to you by the ALRB office?

4 A. What's that?

5 Q. Did you review any coworkers' statements in a
6 letter or declaration?

7 MS. ARCINIEGA: Your Honor, I want to object that
8 that misstates any prior testimony. I mean we've gone over
9 the issue of the fact that there are no declarations or
10 statements.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. One, the
12 objection is overruled. Two, I prefer that you just simply
13 state the objection rather than sort of providing the --
14 your reasoning for it until that's needed. The objection
15 is overruled.

16 BY MR. ROY:

17 Q. To be clear, Ms. Duarte, before coming here today
18 did you review any documents related to this case and your
19 testimony today?

20 A. No.

21 Q. Okay. So, everything that you're providing today
22 is from your memory, is that correct?

23 A. Yes, it's what I remember.

24 Q. I believe you testified that you started working
25 for Cinagro in February 2017, is that correct?

1 A. Something like that.

2 Q. Okay and before that date in February did you
3 ever work for Cinagro Farms before that date?

4 A. No.

5 Q. Can you tell us your experience in the
6 agricultural industry harvesting these vegetables before
7 you came to Cinagro?

8 MS. ARCINIEGA: Objection, Your Honor.

9 ADMINISTRATIVE LAW JUDGE SOBLE: I'll sustain the
10 objection. That calls for a pretty broad narrative. Let's
11 just break it down to a few little pieces because otherwise
12 I think we might get a really long-winded answer.

13 MR. ROY: All right.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Duarte, did
15 you work for some farms before you worked for Cinagro?

16 THE WITNESS: Previously I had worked with
17 vegetables also.

18 MR. ROY: Can you tell her not to --

19 ADMINISTRATIVE LAW JUDGE SOBLE: For many years?

20 THE INTERPRETER: I didn't hear you, Counsel, I'm
21 sorry.

22 ADMINISTRATIVE LAW JUDGE SOBLE: For many years?

23 THE WITNESS: About three years back.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, Mr. Roy.

25 BY MR. ROY:

1 Q. And what companies were those?

2 THE INTERPRETER: IDO?

3 Q. ITO, I-T-O.

4 A. ITO was Mikey's. We used to work for ITO, but
5 through Mikey's.

6 Q. So, it would be fair to say that your prior
7 experience dealt with working for Mike, a farm labor
8 contractor, is that right?

9 A. In vegetables, just like there, too.

10 Q. How did you come to meet Marisol Jimenez?

11 A. I knew her before this job already.

12 Q. Did you work together in another company?

13 A. Yes.

14 Q. Would you say that you're very close friends?

15 A. Yes.

16 Q. All right. When you worked at Cinagro did anyone
17 ever tell you that you were terminated?

18 A. No. They told us that they were going to call us
19 back. They never told us that we were fired, but we never
20 received a call to come back, either.

21 MR. ROY: Your Honor I'm going to object and move
22 to strike as nonresponsive. The question basically was did
23 anyone from the company tell you you were terminated.
24 That's a simple yes or no.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Your motion to

1 strike that is denied. You can ask the next question.

2 BY MR. ROY:

3 Q. Do you recall if it was raining in February of
4 2017, Ms. Duarte?

5 A. I don't remember.

6 Q. Do you remember days when you couldn't go to work
7 because the field was muddy?

8 A. I don't remember, really.

9 Q. Were there any days you were assigned to do
10 weeding work instead of harvesting?

11 A. There was one or another, a couple of days.

12 Q. Uh-hum. Okay. Did Victor ever advise you that
13 there would be limited work because of the field conditions
14 and market conditions in February of 2017?

15 A. No, they told us that it was because the sales
16 had decreased, something like that.

17 Q. I think you're referring to after your last day
18 of employment on that Monday, the 6th. I'm asking whether
19 prior to your last day Victor ever advised you that there
20 were bad field conditions or lack of orders that reduced
21 your workday?

22 A. No.

23 Q. So, Victor never told you anything like that?

24 A. No.

25 MS. ARCINIEGA: Objection Your Honor, asked and

1 answered.

2 ADMINISTRATIVE LAW JUDGE SOBLE: The objection's
3 overruled and I've already heard an answer.

4 BY MR. ROY:

5 Q. When you worked in your crew how many employees
6 were there beside yourself?

7 THE INTERPRETER: Was the question when you began
8 working with your crew?

9 MR. ROY: Yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: And I'm
11 interpreting that question as when she began working with
12 her crew with Cinagro.

13 MR. ROY: Correct.

14 THE WITNESS: I don't remember how many of us it
15 was. It was about seven or eight, around there.

16 BY MR. ROY:

17 Q. Okay, plus Victor?

18 A. Yes.

19 Q. Okay. Let's go back to that photo that you said
20 you took on I believe it was Monday, the 6th of March 2017.
21 It's GC Exhibit 4, and it's up on the top right hand CP-
22 00008. Can you please look at that document?

23 A. Yes.

24 Q. Now, did you take this photo or did Marisol take
25 it?

1 A. I took it.

2 Q. Did Marisol have your camera or her phone with
3 her at that time?

4 A. Her phone, she always had it with her.

5 Q. Did Marisol drive you over to that field?

6 A. I drove.

7 Q. Did she drive in a separate car?

8 A. No, we were in the same car.

9 Q. And who was in your car with you?

10 A. It was me, Marisol, and Hector.

11 Q. Isn't it true that Hector stayed at home all day
12 on Monday, March 6, 2017 and he wasn't with you?

13 A. He was with us.

14 Q. All right, let's look at that photo. I'd like
15 you to describe from the left middle of the page, where
16 that white truck is. Can you look at any company lettering
17 on that truck?

18 A. No.

19 Q. Did you know the foreman of that crew?

20 A. No.

21 Q. Did you know whether the company had provided him
22 with a truck?

23 A. No, but we would see that he would arrive in that
24 truck.

25 Q. And right next to this truck what do you see?

1 A. I really can't really distinguish where you can
2 -- what is shown there. But next to that it's the
3 bathrooms.

4 Q. Okay. And how many bathrooms do you see?

5 A. Two, men and women.

6 Q. Okay. And do you notice any water facilities
7 related to the bathrooms?

8 A. No, you can only see where you place the trash
9 close to the bathrooms.

10 Q. You're referring to those two black marks on the
11 left-hand "bano", is that correct?

12 A. Yes.

13 Q. And on the right side, just past the second
14 bathroom what do you see there?

15 A. I really can't make anything out.

16 Q. Let's go to a photo that is CP-00009. That would
17 be the second photo in your package, please.

18 A. Can you give me a minute so I can charge my
19 phone?

20 Q. Sure.

21 MR. ROY: I'm sorry, Your Honor, that wasn't my
22 call.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Again, what is
24 likely to occur is sometime in the next five minutes we're
25 going to be taking our lunch break anyhow. So, if you wish

1 to ask a couple of more questions we can do that now, or if
2 you prefer we could just jump to our lunch break now and
3 she could charge her phone during the entire break.

4 MR. ROY: Well, why don't we do that, the latter.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Ms.
6 Duarte, we're actually going to take our lunch break now,
7 from 12:05 and we will resume at 1:30 exactly. So, please
8 charge your phone the best you can during all of that time
9 because I'm sure the attorneys and perhaps myself will have
10 some more questions.

11 THE WITNESS: Okay.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I will see
13 everybody back at 1:30. Thank you so much and we'll go off
14 the record.

15 (Off the record at 12:05 p.m.)

16 (On the record at 1:41 p.m.)

17 ADMINISTRATIVE LAW JUDGE SOBLE: With that in
18 mind, I believe Mr. Roy has some additional questions. You
19 can proceed.

20 BY MR. ROY:

21 Q. Ms. Duarte, I'd like to refer you to GC Exhibit
22 4, the second photo with the CP-00009. Would you please
23 put that in front of you? Do you have it in front of you?
24 Okay, and that is the photo that you said you took of the
25 employees from the road where it was closer to see the

1 employees, correct?

2 We didn't hear you, Ma'am. I didn't hear her.

3 She said yes, but it was no audible.

4 A. Yes, that's the picture.

5 Q. Okay. And looking at that photo right now, Ms.

6 Duarte, how many employees do you see in that photo?

7 A. Like six.

8 Q. Okay. I see four -- I see four what appear to be
9 people with apparent white shirts on in the middle of that.
10 That would be four employees, is that correct?

11 A. And the one that is wearing an orange sweater or
12 shirt.

13 Q. Do you know if that's the foreman, Mr. Miranda or
14 not?

15 A. I don't remember.

16 Q. And the two other what you think are employees,
17 when you blow it up it almost looks like they could be a
18 couple of animals, like sheep or a steer. How do you
19 determine that those are employees?

20 A. Because I took those pictures.

21 Q. We understand that, Ms. Duarte, but this photo is
22 very, very blurry and it does not clearly demonstrate that
23 those dark figures are two workers. Would you agree with
24 that?

25 A. Yeah, the street was far away so I couldn't take

1 any closer.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Duarte, was
3 your -- what you actually saw with your eyes more or less
4 clear than what your telephone was able to photograph?

5 THE WITNESS: Of course.

6 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not sure
7 what you mean by of course. Do you mean that it was more
8 or less clear for your eyes than for the photograph taken
9 by your telephone or the same?

10 THE WITNESS: It was more clear for me since I
11 was there than the way it came out in the picture.

12 BY MR. ROY:

13 Q. And so --

14 ADMINISTRATIVE LAW JUDGE SOBLE: And when you
15 were there, would you have remembered if you saw sheep in
16 the fields?

17 THE WITNESS: No, there wasn't any.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, Mr. Roy.

19 BY MR. ROY:

20 Q. Okay, so according to your testimony how many
21 employees did you observe in that photo we're talking
22 about?

23 MS. ARCINIEGA: Objection Your Honor, asked and
24 answered.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. You

1 can answer.

2 THE WITNESS: I don't know exactly how many
3 people there were, but there were people working.

4 BY MR. ROY:

5 Q. But that's very important Ms. Duarte because you
6 pointed out earlier that there were six people in the photo
7 and the company's records that day of Mr. Miranda's crew
8 only show that there were five employees working a long
9 with Mr. Miranda. So, are you sure about that six number
10 of employees?

11 MR. ROY: I'm trying to -- by the way, just for
12 the General Counsel, I'm referring to GC Number 6, which
13 are the payroll records for Caesar Miranda's crew starting
14 on 3/6/17 to 3/12/17.

15 THE INTERPRETER: Can you repeat those dates,
16 Counsel, please?

17 MR. ROY: Yes, 3/6/17 to 3/12/17. This was the
18 payroll period following the week that Saturday.

19 MS. ARCINIEGA: Objection Your Honor,
20 argumentative.

21 ADMINISTRATIVE LAW JUDGE SOBLE: I guess the
22 routine is we're going to let the interpreter finish and
23 then I'll hear your objection.

24 THE INTERPRETER: I couldn't hear what she said.
25 I'm going to ask her to repeat or did you want to --

1 MS. ARCINIEGA: You're going to hear the answer
2 before my objection?

3 ADMINISTRATIVE LAW JUDGE SOBLE: No, I would hear
4 the interpretation of the question first and I'm not sure I
5 hear all of that before you began.

6 THE INTERPRETER: No that I finished.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And I'm
8 sorry I'm just confusing myself now. There wouldn't have
9 been an -- the interpretation of the question, in other
10 words from the attorney to the witness, and Ms. Lucas is
11 saying she completed that.

12 So, what is your objection?

13 MS. ARCINIEGA: Argumentative, Your Honor. And
14 if I may, I can elaborate.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy, can you
16 paraphrase your question for me again?

17 MR. ROY: Yes.

18 Ms. Duarte you claimed that on March 6th you took
19 a photo of Mr. Miranda's crew and that there were six
20 employees and Mr. Miranda in the photo that you saw. Is
21 that a correct statement of your testimony?

22 ADMINISTRATIVE LAW JUDGE SOBLE: Do you still
23 have the same objection?

24 MS. ARCINIEGA: I have an objection that it
25 misstates testimony. She never identified by name. Mr.

1 Roy did --

2 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on. If
3 your objection is not that it's argumentative but that it
4 misstates her testimony, I'm going to allow the question.
5 It's cross-examination. The fact that Mr. Roy indicates
6 that does not necessarily mean that that's what the witness
7 testified. And so, I'm going to do this in two parts.

8 First, Ms. Duarte, when you saw the people
9 working did you know if any of those people were the crew
10 foreman or not?

11 THE WITNESS: No.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And then
13 the attorney is asking if you knew for sure whether the
14 total number of workers was six or if it was a different
15 number?

16 THE WITNESS: I'm not really sure. The only
17 reason I said six is because to me that's what it looks
18 like in this picture, but I really can't ascertain.

19 ADMINISTRATIVE LAW JUDGE SOBLE: And do you
20 remember if there might have been workers who were outside
21 of the photographic image?

22 THE WITNESS: I don't remember, honestly.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Mr. Roy,
24 you can either ask your previous question and I'll allow
25 it, or you can ask a different one as you prefer.

1 MR. ROY: Okay. And Your Honor, for the record I
2 believe she previously responded to my question as to the
3 person with the orange cap on their head was the foreman.

4 BY MR. ROY:

5 Q. Let me ask you the question, Ms. Duarte. You
6 claimed originally in your testimony that there were six
7 people and that the foreman had the orange hat on. Now,
8 you're claiming that you don't remember, really, how many
9 there are in the photo. But you did testify that from a
10 visual stand point you saw six people. Now -- go ahead.

11 A. I said that I saw six photos on the photo. I
12 never said that the foreman was wearing a cap. I just
13 said that I saw six people in the photo.

14 BY MR. ROY:

15 Q. Okay. And had you seen that crew working at the
16 same field with your regular crew with Marisol and Hector?
17 Have you seen that same crew working in the two weeks
18 before your employment ended?

19 A. I saw them before but I don't know how much time
20 before that. I did see them again closer to the time when
21 we stopped.

22 Q. Okay. And on those other, prior occasions isn't
23 it true that they had many more employees in the crew?

24 THE INTERPRETER: What was it? Can you repeat
25 the first part, please?

1 BY MR. ROY:

2 Q. Isn't it true that on the prior occasions you saw
3 this crew it was much larger?

4 A. I don't remember if it was bigger or smaller than
5 our group.

6 Q. Okay. Can we place in front of the witness GC-6,
7 which is a payroll record for the week of 3/6/17-3/12/17?

8 MS. ARCINIEGA: Your Honor, may I be heard?

9 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
10 need to take a one-minute recess, maybe two or three
11 minutes before I hear that. So, we're going to take a two-
12 minute off the record.

13 (Off the record at 1:55 p.m.)

14 (On the record at 2:19 p.m.)

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, we'll back
16 on the record.

17 I, unfortunately, did not hear the last question
18 before the objection. So, I don't know if Mr. Roy would
19 like to rephrase that or if I'm going to have to need to
20 hear it replayed.

21 MR. ROY: I may come back to it, Your Honor.
22 I've got some other issues first.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, then you
24 can proceed.

25 BY MR. ROY:

1 Q. From your testimony it's clear that you did not
2 work Sunday, March 5th and Monday, March 6, 2017, correct?

3 A. That's correct.

4 Q. And on Monday morning you testified that you went
5 to look for other work with Hector and Marisol, is that
6 right?

7 A. Yes, that's when I took the pictures.

8 Q. Right. And did you file an application for
9 employment along with Marisol and Hector?

10 A. We showed up at the jobsite and then they told us
11 to come back the next day.

12 Q. Okay. So, did you start working on March 7th?

13 A. I think it was the 8th.

14 Q. Okay.

15 A. I don't remember if was the 7th or 8th, but
16 around those days.

17 Q. Do you remember any other employees from your
18 Cinagro crew, other than Marisol and Hector that also went
19 to work for the blueberry farm?

20 A. With us, no.

21 Q. No, I mean during your employment with the
22 blueberry farm did you see or realize that other employees
23 from your Cinagro crew were also employed there?

24 A. Just Hector and Marisol.

25 Q. Yesterday, Marisol testified that Ignacia Sanchez

1 and Maria Lauriano from your Cinagro crew also worked with
2 them at the blueberry ranch. Does that job your
3 recollection?

4 A. No because we were in different crews.

5 Q. And with regard to Yolanda Antonio, who also
6 worked with you at Cinagro, did you know that she was also
7 working at the blueberry farm?

8 A. The only one that I had contact with was Marisol
9 and Hector, the rest I don't know.

10 Q. Okay. So, on Tuesday the 6th you go to the
11 blueberry farm and they told you to come back to work on
12 the 7th, but you came on the 8th. And after that you went
13 to the Moorpark Ranch out of curiosity and took the photos.
14 Is that fair?

15 MS. ARCINIEGA: Objection, Your Honor.

16 THE WITNESS: (Responds in Spanish)

17 BY MR. ROY:

18 Q. Yes, I understand that you went to the Moorpark
19 Ranch on the 6th. And the next day Marisol and Hector
20 started work and you started the following day on March
21 8th, is that correct?

22 THE INTERPRETER: Counsel, I'm sorry, can you
23 repeat that?

24 BY MR. ROY:

25 Q. Let me start over. Let's start over. Okay, we

1 understand that on Monday, which was the 6th, you went to
2 look for a job at the berry farm and then afterwards you
3 went to the crew of Mr. Miranda in Moorpark, correct?

4 A. Uh-huh.

5 Q. Okay. And you took photos at that time, correct?

6 A. Yes.

7 Q. And after you took the photos you had occasion to
8 speak with Victor, your foreman, is that right?

9 A. Yes.

10 Q. And then you said that you also -- oh, excuse me,
11 strike that.

12 Victor informed you that Rene had said there was
13 no work. Did you understand that to mean no work for your
14 crew or no work altogether in the company?

15 A. We understood that there was no work at all.

16 Q. All right. Didn't Rene tell you that he would
17 call you when work came available?

18 A. Victor told us that Rene told him that they would
19 call us when there was work again.

20 Q. Okay. Do you know how many workers were working
21 in the other crew on Monday, March 6th?

22 A. I don't know exactly how many there were.

23 Q. Okay.

24 MR. ROY: Your Honor, can we put up GC-6, please,
25 which is a payroll roster for the week of 3/6/17, in front

1 of the witness?

2 ADMINISTRATIVE LAW JUDGE SOBLE: So, if the
3 General Counsel sent that in the same format they sent it
4 to everyone else, then Ms. Duarte would look at group
5 number 6 of the documents.

6 MS. ARCINIEGA: I did not instruct staff at our
7 office to send that document. It's a document that I want
8 to object to this line of questioning. I think the witness
9 --

10 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment,
11 before you object to the line of questioning, it was my
12 understanding that you were going to provide all of the
13 documents to Ms. Duarte, not only yours but also Mr. Roy's
14 as well.

15 MS. ARCINIEGA: I'm sorry, Your Honor if I
16 misunderstood if that was an instruction. I only sent
17 those hardcopies as extra caution because we'd also
18 practiced sharing on the screen documents, so I didn't send
19 the other documents to --

20 ADMINISTRATIVE LAW JUDGE SOBLE: I thought we
21 would only be using the sharing on the screen for those
22 that were used for either impeachment, or rebuttal, or that
23 were not exchanged by Thursday.

24 MS. ARCINIEGA: I'm sorry.

25 ADMINISTRATIVE LAW JUDGE SOBLE: So, we'll

1 address how we'll deal with that in a moment.

2 MS. ARCINIEGA: Sure.

3 ADMINISTRATIVE LAW JUDGE SOBLE: In a couple of
4 works what type of objection do you have to him having the
5 witness look at the documents?

6 MS. ARCINIEGA: Well, it's a document that she's
7 never seen before, and she had no role in preparing it. I
8 don't think that --

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, but they
10 generally tell you in law school you can refresh a witness
11 with a plate of pasta primavera. I'm not sure that this
12 exhibit is significantly different, even if it's less
13 favorable.

14 So, I would allow Mr. Roy to do it,
15 notwithstanding the fact that -- and I'm ready to concede
16 right now, as I'm sure Mr. Roy is, that she did not have
17 anything to do with the preparation of that document.
18 However, she doesn't have it in front of her and I don't
19 have a way to remedy that. Do you have a proposal?

20 MS. ARCINIEGA: Well, I think Mr. Roy can share
21 it on his screen.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Well, that part
23 isn't a difficulty for either of you to go ahead and share
24 it on the screen. I just don't now for Ms. Duarte.

25 Ms. Duarte, how big is the view screen on your

1 cell phone?

2 THE WITNESS: It's a little bit small.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. What type
4 of phone do you have?

5 THE WITNESS: A Samsung A51.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So, I'm
7 going to go out on a limb and say that if someone does
8 share that, she might or might not be able to read it. We
9 won't know until someone tries it.

10 MR. ROY: Your Honor, may I make just an offer of
11 proof because this document has already been authenticated
12 pursuant to stipulation, and it's subject to it being
13 admitted into evidence. Okay, and --

14 ADMINISTRATIVE LAW JUDGE SOBLE: Well, let me
15 take a step back. Is this a document that both sides are
16 going to stipulate to the admission of?

17 MR. ROY: No.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

19 MR. ROY: For different reasons.

20 ADMINISTRATIVE LAW JUDGE SOBLE: That's fine.

21 MR. ROY: But we are authenticating them. But my
22 offer of proof --

23 ADMINISTRATIVE LAW JUDGE SOBLE: I understand, I
24 just was asking a different question to see if it might
25 take us somewhere, but it does not.

1 MR. ROY: Okay.

2 ADMINISTRATIVE LAW JUDGE SOBLE: So, we'll just
3 continue.

4 MR. ROY: All right. May I make that offer of
5 proof?

6 ADMINISTRATIVE LAW JUDGE SOBLE: At least
7 initially, until it seems like -- please, go ahead.

8 MR. ROY: Okay. Well, the offer of proof would
9 be on the first day of work that week, on the 6th, there
10 were only five employees working and the foreman, Mr.
11 Miranda. And that was for every day during that workweek.
12 And the documents clearly show that there was no work on
13 Tuesday the 7th, March 7th, 2017.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I'm
15 assuming that if you want to show that, that you're either
16 going to need to use that document or a witness to
17 establish that. This witness is not going to be able to
18 tell you whether someone did work on the 6th and 8th, but
19 not the 7th, or something different. So --

20 MR. ROY: Well, it's essentially --

21 ADMINISTRATIVE LAW JUDGE SOBLE: She's already
22 conceded that she was not able to identify all of the
23 people in her picture and I haven't even heard any
24 testimony that suggests that she would know who all of
25 those six people are. And I've even heard some questions

1 by counsel that are not evidence, but that implied that at
2 some point there may have been more than six people in that
3 crew prior to that month. So, I'm not sure showing her
4 that document will add very much and perhaps it may simply
5 be cured by having one of your witnesses simply present
6 evidence that will indicate that those people worked on the
7 6th and the 8th, but not the 7th, and the number of people
8 who worked.

9 MR. ROY: There is a witness that's available for
10 that, Your Honor.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

12 MR. ROY: All right, so --

13 ADMINISTRATIVE LAW JUDGE SOBLE: So, what is it
14 -- I'm just trying to figure out what it is -- I mean I
15 think you could ask her without showing her the document.
16 You can simply say, well, if there's a payroll record that
17 says that the workers worked on the 6th and the 8th, but
18 not the 7th, do you think that it's likely that it wasn't
19 the 7th that you took your photos? I mean or things to
20 that effect.

21 MR. ROY: No, that's fine.

22 ADMINISTRATIVE LAW JUDGE SOBLE: That's up to
23 you.

24 MR. ROY: That's fine, I don't think that helps.
25 Thank you.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm not
2 sure what it is that you're trying to do. I'm just trying
3 to facilitate the unfortunate fact that I thought that all
4 of these documents would have been provided to Ms. Duarte
5 and they have not been.

6 Obviously, they could send a .PDF to her phone
7 and have her look at them while we take a break, and then
8 you could ask questions. Or, any of us can try putting it
9 on the share screen and we'll find out if she can see it.

10 MR. ROY: That's okay, Your Honor, we'll move on.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

12 BY MR. ROY:

13 Q. Ms. Duarte, do you know whether or not the other
14 crew worked on Tuesday, Marcy 7, 2017, yes or no?

15 A. I don't know.

16 Q. Okay. But you are sure that by Wednesday Marisol
17 and her partner, Hector were working, and you were working
18 on the 8th, is that correct?

19 A. I'm not sure, but I know they went the day before
20 that I went into apply.

21 Q. Okay. They've already testified, Ms. Duarte that
22 they started on the 7th. Does that clarify it for you?

23 A. Because we were in different crews, really I
24 don't know.

25 Q. You said that you went to work at the berry farm,

1 how were you paid there?

2 MS. ARCINIEGA: Objection, Your Honor, this goes
3 beyond the scope of direct. I know that you've issued a
4 ruling on this, but I'm wondering how far beyond the scope
5 of direct. Mr. Roy didn't subpoena any of these witnesses
6 and he knew all of them were members of the --

7 ADMINISTRATIVE LAW JUDGE SOBLE: He can go as far
8 beyond the scope of direct as he likes, subject only to my
9 concluding that it's relevant and doesn't take up more time
10 than it adds value. So, right now I'm going to allow a
11 couple of questions on this. But at some point, if it's
12 taking a little bit of time I may ask Mr. Roy why he's
13 asking the questions. But for now, I'll permit it.

14 MR. ROY: I'll request it.

15 BY MR. ROY:

16 Q. Ms. Duarte, when you were employed at the
17 blueberry farm were you paid by the hour or piece rate?

18 A. If I had enough production then it was through
19 piecework, but if not then it was by hour.

20 Q. So, if you didn't make minimum wage, you'd be
21 paid 14, but if you earned more you would get the higher
22 amount, correct?

23 A. If I made the contract, then they would pay me by
24 the contract rate. And if not, they would pay me by the
25 regular hour.

1 Q. Did they offer to provide you --

2 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.

3 I am going to clarify I'm not allowing questions like this
4 because this hearing isn't for purposes of determining the
5 amount of make whole or back pay due, if any. I am
6 allowing questions to the extent that they might indicate
7 whether or not the witness had an interest in returning to
8 her work of whether she had found something that was more
9 desirable for some reason which would have eliminated a
10 desire to go back. With that in mind, you can proceed.

11 MR. ROY: Precisely right, Your Honor.

12 BY MR. ROY:

13 Q. Ms. Duarte, when you were at the blueberry farm
14 did they offer you any benefits? And by benefits I mean
15 medical insurance, or paid sick leave, those types of
16 benefits.

17 A. Yes, they offered me all of that, something that
18 they never offered me in Cinagro.

19 Q. Correct. And did they also give you payroll
20 checks with wage statements showing deductions?

21 A. Exactly.

22 Q. And at that farm you could earn as much as you
23 were able to produce, is that right?

24 A. If I was producing under contract, they would pay
25 me what I was earning.

1 Q. Okay. Let me ask you this, in light of all these
2 better benefits, and pay, and medical benefits that were
3 offered you, did you have any intent to return to Cinagro?

4 MS. ARCINIEGA: Objection, Your Honor, relevance.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

6 THE WITNESS: Yes, but they never called me.

7 BY MR. ROY:

8 Q. Do you think maybe they had decided that you went
9 to work at another employer and therefore you did not want
10 to come back at Cinagro? Did that cross your mind?

11 MS. ARCINIEGA: Objection Your Honor, calls for
12 speculation. It's argumentative.

13 ADMINISTRATIVE LAW JUDGE SOBLE: I don't agree
14 it's argumentative but I do agree it calls for speculation.

15 Ms. Duarte, do you have any reason to know that
16 Cinagro knew at that time you were working for the
17 blueberry farm?

18 THE WITNESS: I think that they didn't know that
19 I was working.

20 BY MR. ROY:

21 Q. So, you did not inform your prior employer, who
22 you were waiting for work, that you were working at another
23 company? Is that your testimony?

24 My question, Ms. Duarte was --

25 THE INTERPRETER: Counsel I'm sorry, there was a

1 delay and I -- when you were speaking, I didn't get that.
2 I'm going to ask her to repeat it.

3 THE WITNESS: Can you ask the question again,
4 please?

5 MR. ROY: Yes.

6 THE WITNESS: Okay.

7 BY MR. ROY:

8 Q. Ms. Duarte, did you inform anyone, during that
9 week, at Cinagro that you had another job with the adjacent
10 blueberry farm, yes or no?

11 A. No, because I was interested in returning to
12 Cinagro.

13 Q. And you were interested in returning even though
14 they gave you know wage check statements, they gave you
15 personal checks, they didn't have water, and they didn't
16 give you medical benefits, is that right?

17 MS. ARCINIEGA: Objection Your Honor,
18 argumentative.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

20 THE WITNESS: I --

21 MR. ROY: Objection, Your Honor as -- sorry, go
22 ahead.

23 THE WITNESS: Because I had always worked with
24 the vegetables that's why I was interested in returning
25 there.

1 BY MR. ROY:

2 Q. But you, while working at the berry farm you had
3 medical, you had paid sick leave, you had high wages from
4 piece rate production, you had water, and none of this
5 happened at Cinagro. Why would you want to go back there?

6 MS. ARCINIEGA: Objection, asked and answered.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. You
8 can answer.

9 THE WITNESS: There I didn't always meet the
10 contract. However, in the vegetables because I was already
11 familiar with that I most often met the contract.

12 BY MR. ROY:

13 Q. Okay. And did you ever fail to meet the contract
14 levels at Cinagro and were paid by the hour?

15 A. I always, always met the contract that's why I
16 liked that work like that.

17 Q. So, you liked the wages at Cinagro, but you
18 didn't like all of the lack of wage statements, medical,
19 water, et cetera, is that correct?

20 A. Exactly.

21 Q. All right and you worked at the blueberry place
22 until May 31st, 2017, is that correct?

23 MS. ARCINIEGA: Objection Your Honor, relevance.

24 ADMINISTRATIVE LAW JUDGE SOBLE: The objection is
25 overruled, but I'm not sure what was in the question and

1 the answer for the month.

2 MR. ROY: Yes, it should have been May 31st,
3 2017.

4 THE WITNESS: Okay.

5 BY MR. ROY:

6 Q. Was that the last day you worked at the berry
7 farm?

8 A. It's been a very long time, I don't know exactly
9 the last day I worked there.

10 Q. Okay. And from the last time you spoke with Mr.
11 Macias on or about the 6th of March 2017, during the entire
12 period that you worked for the blueberry farm did you ever
13 call Rene to see if there was available work?

14 A. No.

15 MR. ROY: No, Your Honor, there's nothing
16 pending.

17 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
18 allow the witness to continue her answer, so they can
19 proceed.

20 MR. ROY: The question asked for did she call
21 anyone and she said no.

22 ADMINISTRATIVE LAW JUDGE SOBLE: She said no and
23 then she began to speak. I have no idea if her answer will
24 be responsive or not until I hear it, so she can answer.

25 THE WITNESS: I never called Rene, but he didn't

1 call us either to say to come back to work.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I'll allow
3 that.

4 MR. ROY: Can you give me just a moment, Your
5 Honor.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Of course.

7 BY MR. ROY:

8 Q. Ms. Duarte, you testified that the water was not
9 good at Cinagro. Do you remember testifying about that
10 this morning?

11 A. That day it wasn't. But previously I had
12 testified to that.

13 Q. What day are you talking about and when did this
14 occur?

15 A. I don't know what day it was exactly --

16 THE INTERPRETER: And after that she cut off.

17 BY MR. ROY:

18 Q. Did you complain --

19 THE INTERPRETER: Counsel, she's cutting in and
20 out and I don't get that.

21 MR. ROY: I know. Well, let me ask this
22 question, then.

23 BY MR. ROY:

24 Q. You complained that the water was not good to
25 Victor and then you said that Victor brought some good

1 water. Was that in response to your complaint that the
2 water wasn't good?

3 A. When we were there he started bringing good
4 water. And when we told him about the water it had been at
5 a meeting.

6 Q. So, is it fair to say that Victor brought water
7 to the crew every day in his truck?

8 A. For ours he did. I'm not sure who brought the
9 other crew water.

10 Q. Well, I was only referring to your crew, Ms.
11 Duarte.

12 A. Okay.

13 Q. So, your answer is that he regularly brought
14 water every day in his trucks, in those jugs, correct?

15 A. Yes.

16 Q. And he also provided you with cups, is that
17 right?

18 A. Yes.

19 MR. ROY: I have no further questions, Your
20 Honor.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Duarte, I
22 just have a couple of questions.

23 THE WITNESS: Okay.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Did anybody ever
25 ask you to pay money for the water on Victor's truck?

1 THE WITNESS: No. I don't know if they bought it
2 out of pocket or how they got it.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And the
4 photographs that you took, did you take those on the day
5 that you applied to work for the blueberry farm or on the
6 first day that you worked at the blueberry farm?

7 THE WITNESS: Before I started working at the
8 blueberry.

9 ADMINISTRATIVE LAW JUDGE SOBLE: When you applied
10 to be on the blueberry farm did you drive Marisol and
11 Hector back and forth with you?

12 THE WITNESS: Yes.

13 ADMINISTRATIVE LAW JUDGE SOBLE: On the first day
14 that you actually worked at the blueberry farm, not the day
15 that you applied, did you also drive Marisol and Hector
16 with you both ways on that day?

17 THE WITNESS: I don't remember.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

19 MR. ROY: Your Honor --

20 ADMINISTRATIVE LAW JUDGE SOBLE: When is the last
21 day that you spoke with Marisol Jimenez this year?

22 THE WITNESS: On January 15th I went to
23 California and I was with her for a few days.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Thank
25 you. I don't have any additional questions for Ms. Duarte.

1 Ms. Arciniega, do you have any additional questions?

2 MS. ARCINIEGA: I do not, Your Honor.

3 ADMINISTRATIVE LAW JUDGE SOBLE: And Mr. Roy, do
4 you have any additional questions for Ms. Duarte?

5 MR. ROY: Just a couple, Your Honor.

6 RE-CROSS-EXAMINATION

7 BY MR. ROY:

8 Q. Ms. Duarte, you said you visited Marisol in
9 January this year. Did you talk about your case?

10 A. We hadn't talked about that. She had just talked
11 about that we were going to have the hearing.

12 Q. Okay. And just to clarify, following on the
13 Judge's question, Monday, March 6th was when you went to
14 apply at the blueberry farm early that morning, and then
15 after that you went that day to the field in Moorpark to
16 take the photos. Is that correct?

17 MS. ARCINIEGA: Objection, asked and answered.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

19 THE WITNESS: Yes.

20 MR. ROY: Thank you.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Do you have any
22 additional questions, Ms. Arciniega?

23 MS. ARCINIEGA: No.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Ms.
25 Duarte, none of the attorneys or myself have any additional

1 questions for you. It's very unlikely, but not impossible,
2 so maybe one percent that someone could call you back as a
3 witness at a later time in this hearing. In that event,
4 someone will contact you to let you know.

5 In the interim, you need to know that you should
6 not discuss anything that you heard at this hearing,
7 anything that you were asked, anything that you testified
8 about to anybody else who is a potential witness in this
9 hearing. That means you shouldn't talk to anybody who was
10 in Victor's crew at Cinagro, not to Marisol, Hector, any of
11 the other people in that crew.

12 And you also should not talk to anybody who works
13 for Cinagro, like its owner, its supervisor, or the former
14 foreman Victor Mendoza.

15 If anybody asks you if you attended the hearing,
16 you can say yes, but you cannot comment on anything that
17 you heard.

18 THE WITNESS: Okay.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Duarte, we
20 thank you for your time and you're free to go.

21 THE WITNESS: Okay, thank you.

22 (Witness excused)

23 ADMINISTRATIVE LAW JUDGE SOBLE: Let's go off the
24 record for a second.

25 (Off the record at 3:01 p.m.)

1 (On the record at 3:02 p.m.)

2 ADMINISTRATIVE LAW JUDGE SOBLE: So, okay in that
3 case let's go on the record.

4 Okay, the General Counsel has indicated their
5 next witness is Yolanda Antonio. So, we'll have Ms. Vega
6 go to escort that witness to the hearing room.

7 And while we're waiting, we'll go off the
8 record.

9 (Off the record at 3:03 p.m.)

10 (On the record at 3:07 p.m.)

11 ADMINISTRATIVE LAW JUDGE SOBLE: We'll go back on
12 the record.

13 Would you please state your full name for the
14 record?

15 THE WITNESS: My name is Yolanda Antonio Garcia.

16 ADMINISTRATIVE LAW JUDGE SOBLE: And what is the
17 language that you speak the best?

18 THE WITNESS: Spanish.

19 ADMINISTRATIVE LAW JUDGE SOBLE: And what is the
20 language you speak the most at home and at work?

21 THE WITNESS: Spanish.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
23 prefer Ms. Antonio or Ms. Garcia? Ms. Antonio is fine?

24 THE WITNESS: Yes, that's fine.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

1 Whereupon,

2 YOLANDA ANTONIO GARCIA

3 was called as a witness herein and, having been duly sworn,
4 was examined and testified in Spanish as follows:

5 ADMINISTRATIVE LAW JUDGE SOBLE: What will happen
6 this afternoon and possibly continuing until tomorrow
7 morning, we'll have to wait and see, is that some of the
8 attorneys and possibly myself will ask some questions in
9 English. After we ask a question, the interpreter will
10 translate the question from English to Spanish.

11 THE WITNESS: Okay.

12 ADMINISTRATIVE LAW JUDGE SOBLE: After -- thank
13 you. After the interpreter translates the question please,
14 before you answer, pause for just a couple of seconds.
15 This is because once in a while one of the attorneys or
16 myself may object to one of the questions. If that
17 happens, either myself or the interpreter will let you know
18 whether it's appropriate to answer the question or to,
19 instead, wait for the next question.

20 If you have a particularly long answer, there's
21 two things that I would ask. The first is to try to talk
22 slowly. That way the interpreter can keep up with you.

23 The second thing is after a few sentences pause
24 so that the interpreter can translate those sentences
25 before you finish your answer if it's very long.

1 For all of your responses it's important that you
2 answer orally or audibly. This is because if you simply
3 nod your head or gesture with your hands, the court
4 reporter will be unable to get that on the transcript or
5 will be unable to fully reflect that on the transcript.

6 If at any point you do not understand a question,
7 please let me know and I'll determine if there's a way that
8 the attorney can rephrase the question that you better
9 understand it.

10 If at any point you need to take a break to get a
11 drink of water, to use the restroom, or to stand up and
12 stretch please let me know because that is permitted.

13 Today we will end at approximately 5:00 p.m. And
14 if we do not finish your testimony today, then we apologize
15 but we would need you to come back tomorrow morning at
16 8:30.

17 Okay, which Assistant General Counsel is going to
18 be asking questions of Ms. Antonio?

19 MS. ARCINIEGA: I am, Your Honor.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, you can
21 proceed.

22 MS. ARCINIEGA: Thank you.

23 DIRECT EXAMINATION

24 BY MS. ARCINIEGA:

25 Q. Good afternoon, Ms. Antonio.

1 A. Yes.

2 Q. My name is Jessica Arciniega and I'm an Assistant
3 General Counsel. I'm going to be asking you questions
4 today. If you experience any issues where you're at with
5 the television or the sound, please let us know.

6 A. Yes, that's fine.

7 Q. Did you work at Cinagro Farms?

8 A. Yes, I worked.

9 Q. And when did you start work at Cinagro?

10 A. Around October.

11 Q. Do you remember which year?

12 A. No.

13 Q. Okay. And what was your job at Cinagro?

14 A. I would pick vegetables.

15 Q. Who was your foreman?

16 A. Victor Mendoza.

17 Q. And how were you paid for the vegetables you
18 harvested?

19 A. By contract.

20 Q. Okay. And how did Cinagro -- well, sorry, Your
21 Honor. Did you keep track of the number of boxes you
22 completed each day?

23 A. Yes.

24 Q. And did you give that information to your
25 foreman?

1 A. No, every time that we would pick, he would write
2 down the boxes.

3 Q. Okay. And while you were working at Cinagro were
4 you ever given a warning because of the way that you
5 performed your work?

6 MR. ROY: Objection Your Honor, vague and
7 relevance because we're talking about October of 2016, when
8 she was working for Mr. Vasquez who worked at Cinagro.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. The
10 witness can answer the question and counsel can address the
11 issue of who was the employee, if needed on further either
12 direct or cross-examination.

13 THE WITNESS: Excuse me?

14 BY MS. ARCINIEGA:

15 Q. You can answer the question.

16 A. Can you please repeat it?

17 Q. Yes. During the entire time that you worked at
18 Cinagro were you ever given a warning about the way that
19 you performed your work?

20 A. No.

21 Q. Okay. And while you worked at Cinagro what were
22 the days of the week that you worked?

23 A. Monday through Saturday.

24 Q. Okay. And how many ranches did you work at for
25 Cinagro?

1 A. Two ranches.

2 Q. Do you know the names of the ranches?

3 A. Tierra Rejada and Fillmore.

4 Q. And how would you know where you were going to
5 work each day?

6 A. Victor would call us.

7 Q. And when would he call you?

8 A. He would call me Saturday -- he would call us
9 Saturday or Sunday when Rene let him know.

10 Q. Okay. Did he call you the night before the next
11 day that you were going to work?

12 A. Yes, he would call us early, like at 5:00.

13 Q. Okay. If he called you early at 5:00, was that
14 the day of the day that you would work?

15 A. When Rene wouldn't call him in the afternoon
16 then, yes, he would call us early before going into work.

17 Q. Thank you. When you worked at Cinagro was there
18 a supervisor?

19 A. I think so, it's Rene.

20 Q. And how did you first meet Rene?

21 A. When we started at Cinagro he made a meeting and
22 told us how we were going to work at Cinagro.

23 Q. Who else was at that meeting?

24 A. All of the ones that entered in the crew.

25 Q. Can you tell me the names of those that you

1 remember?

2 A. Marisol, Hector, Maria, Rigoberto, the rest of
3 them I don't remember their names anymore.

4 Q. Okay. Was Victor at this meeting with Rene?

5 A. Yes.

6 Q. And what else did Rene say at this meeting?

7 A. He just said how he wanted the vegetables.

8 Q. And how did he say he wanted the vegetables?

9 A. Before we used to work with a contractor and he
10 said he wanted us to do it the same as with the contractor,
11 but it was going to be directly with Cinagro, not with a
12 contractor anymore.

13 Q. Okay. Did he tell you about how Cinagro was
14 going to pay you?

15 A. He said that by contract.

16 Q. Did he tell you about any changes to your working
17 conditions?

18 A. No.

19 Q. Did Rene tell you if Cinagro was going to pay you
20 gross wages, without deductions?

21 MR. ROY: Objection leading, Your Honor.

22 MS. ARCINIEGA: I can --

23 THE WITNESS: Yes, he said he was going to pay us
24 with personal --

25 MS. ARCINIEGA: (Indiscernible) is not on, you're

1 muted.

2 THE INTERPRETER: I am.

3 MS. ARCINIEGA: No, the Judge.

4 ADMINISTRATIVE LAW JUDGE SOBLE: I was. I
5 sustained the objection but I had my microphone off. So,
6 the question was leading. You can ask it in a different
7 way.

8 BY MS. ARCINIEGA:

9 Q. When you worked -- you testified that you worked
10 for the farm labor contractor at Cinagro before Rene told
11 you that you were going to be working for Cinagro directly.
12 When you received payment from the farm labor contractor
13 what did you receive with the check from the farm labor
14 contractor?

15 ADMINISTRATIVE LAW JUDGE SOBLE: The question is
16 sort of vague and confusing. I have no problem with what
17 you're trying to ask, but if you were to ask me that my
18 answer might have been something like an envelope or -- I
19 mean, who knows. So, I just -- I don't want you to ask a
20 leading question, but I just felt like that might be
21 confusing for the witness.

22 MS. ARCINIEGA: Okay, I can try it a different
23 way.

24 BY MS. ARCINIEGA:

25 Q. How were you paid when Cinagro told you that you

1 were working for Cinagro directly?

2 A. They gave us personal checks.

3 Q. And was that different from the way that you were
4 paid from the farm labor contractor?

5 A. Yes, it is different.

6 Q. And what was the difference?

7 A. With the contractor they used to give us checks
8 with pay check stubs that listed the deductions for the
9 state, for the medical.

10 Q. And when you were hired directly for Cinagro, you
11 said you got a personal check. Did it have any wage
12 statements with the personal check?

13 A. I'm sorry, I did not hear.

14 MS. ARCINIEGA: She translated -- Your Honor, I'm
15 not sure that that translation was accurate.

16 ADMINISTRATIVE LAW JUDGE SOBLE: The one that she
17 didn't hear or --

18 MS. ARCINIEGA: Oh, the witness didn't hear the
19 question.

20 ADMINISTRATIVE LAW JUDGE SOBLE: That's what I
21 thought the witness said.

22 MS. ARCINIEGA: Okay, I'm sorry.

23 BY MS. ARCINIEGA:

24 Q. With the personal checks that you received from
25 Cinagro did you get any type of wage statement?

1 A. No.

2 MS. ARCINIEGA: Your Honor, may I address a point
3 before asking my next question?

4 ADMINISTRATIVE LAW JUDGE SOBLE: Without knowing
5 what it is I can't -- just go ahead.

6 MS. ARCINIEGA: It's just as to the translation.
7 Throughout the day I've heard the interpreter use different
8 -- she's used talon (phonetic Spanish) and then she's used
9 other forms of the word. So, I'm just -- I think Your
10 Honor brought out talon and I'm just curious as to whether
11 or not we can agree to how the word is going to be
12 translated.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Lucas, I
14 don't want to have a lengthy conversation about this right
15 now with this question pending for the witness. So, I
16 think maybe I'm going to ask one or two questions on this
17 same topic and then we can talk about if there's a
18 streamlined, standard sort of word we can be using for
19 that, for the duration of the hearing.

20 THE INTERPRETER: Yes.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Antonio,
22 when you received the personal check did you receive with
23 it any sort of attachment or paper that told you if any
24 money was being withheld or deducted?

25 THE WITNESS: The only thing that was included

1 was the piece of paper that had the number of boxes that we
2 do.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

4 MS. ARCINIEGA: Your Honor, would you like to
5 take a break now or would you like me to continue?

6 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I'm going
7 to ask two more questions.

8 MS. ARCINIEGA: Oh, I'm sorry.

9 ADMINISTRATIVE LAW JUDGE SOBLE: I was just
10 pausing.

11 Ms. Antonio, do you know what is the word
12 "paystub" in English?

13 THE WITNESS: No.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

15 MR. ROY: Your Honor, could I just stipulate with
16 you and the court reporter, and General Counsel, I believe
17 you used the correct statement, talon de pago the other
18 day. That's the correct way to -- I used to teach Spanish,
19 okay. That is the correct statement.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Certainly,
21 that's the one that I've heard the most over the years.
22 I'm not perhaps in a position as Ms. Lucas, Mr. Roy, or Ms.
23 Arciniega as to say it's the best, but it's the one I've
24 heard the most. And so, I'm open to trying to use that
25 initially, unless Ms. Lucas thinks there's a reason that's

1 an incorrect interpretation. And then, if the witness
2 doesn't recognize that one, we can then explore others down
3 the road.

4 THE INTERPRETER: You know, actually "talon de
5 cheques" is the correct translation for paycheck stub.
6 However, for wage statement it's "declaracion de salario".
7 And that might become really confusing even though
8 "explication de luxiones" comes across. But if you want
9 for wage statement, I will continue using "declaracion de
10 salario" and then you may clarify.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

12 THE INTERPRETER: But for paycheck stub "talon"
13 is agreed.

14 ADMINISTRATIVE LAW JUDGE SOBLE: So, Ms.
15 Arciniega you can ask your next question and I think all
16 the interpreter is suggesting is that counsel should
17 distinguish whether they're asking about a paystub versus a
18 wage statement.

19 MS. ARCINIEGA: Okay.

20 ADMINISTRATIVE LAW JUDGE SOBLE: And --

21 THE INTERPRETER: Because I didn't want to use
22 the same term for both because they're -- I mean it could
23 be -- but by wage statement do you mean the paycheck stub?

24 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I'll let
25 counsel ask the question in the way that they choose. And

1 so, I would not necessarily, if I was asking the question
2 necessarily think those mean the same thing. But there's
3 no -- what I'm thinking isn't what's important. What's
4 important is that the attorney and the witness are
5 communicating on the same wavelength and nobody is thinking
6 about a W-2 or something that has nothing to do with the
7 question. You can proceed.

8 MS. ARCINIEGA: I'm going to try to clarify, Your
9 Honor.

10 BY MS. ARCINIEGA:

11 Q. Ms. Antonio, when you received your first
12 personal check from Cinagro was there a paycheck stub with
13 that check?

14 A. There was no paycheck stub.

15 Q. Okay. And did you need a paycheck stub?

16 A. Yes.

17 Q. And what was the reason?

18 A. Because my children have Medi-Cal and Medi-Cal
19 needed to see it.

20 Q. Okay. Do you know if -- strike that.

21 Did you talk to any of your coworkers in your
22 crew about needing a paycheck stub?

23 MR. ROY: Objection vague, Your Honor, as to the
24 person. Did anyone?

25 MS. ARCINIEGA: Your Honor, if I may be heard?

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

2 MS. ARCINIEGA: I asked if she talked to anybody
3 in her crew.

4 ADMINISTRATIVE LAW JUDGE SOBLE: I don't recall
5 if you did or didn't, but let's just have that be the
6 question, whether if she spoke with anyone in her crew.
7 And then, if you have a different question, you can ask
8 that in addition.

9 THE INTERPRETER: Should I repeat it?

10 ADMINISTRATIVE LAW JUDGE SOBLE: Please.

11 THE WITNESS: Yes, Victor Mendoza.

12 BY MS. ARCINIEGA:

13 Q. Okay. And did you and Victor decide to do
14 anything about the --

15 MR. ROY: Objection leading, Your Honor.

16 MS. ARCINIEGA: I think we're supposed to wait
17 until after the translation.

18 MR. ROY: All right.

19 MS. ARCINIEGA: I hadn't even finished my
20 question in English.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Why don't you
22 finish your question first. In this instance, before we
23 even get to the interpretation I may rule, but let's hear
24 the whole question first.

25 BY MS. ARCINIEGA:

1 Q. Did you and Victor discuss doing something about
2 the fact that you didn't have a paystub?

3 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on. To the
4 extent that there's still an objection to this question,
5 I'll overrule it and you can answer.

6 THE WITNESS: I told Victor Mendoza when are you
7 going to give us a paycheck stub.

8 BY MS. ARCINIEGA:

9 Q. Okay. And were you by yourself when you asked
10 Victor that?

11 A. With my husband, Rigoberto.

12 Q. Okay. And what did Victor respond?

13 A. He said we should ask Rene.

14 Q. Okay. And did you ask Rene?

15 A. Yes.

16 Q. Okay. And do you recall if anybody was with you
17 when you talked with Rene?

18 A. Also with my husband, Rigoberto.

19 Q. Do you recall what month you and Rigoberto talked
20 to Rene?

21 A. Yes.

22 Q. What month was it?

23 A. It was around February.

24 Q. Okay. And where were you and your husband when
25 you talked to Rene?

1 A. At the Tierra Rejada Ranch.

2 Q. Okay, Ms. Antonio, can you tell me what you said
3 to Rene?

4 A. When was he going to give us the paycheck stub
5 because we needed it for Medi-Cal?

6 Q. Did Rene respond to you?

7 A. He said they were working on that. He didn't
8 know when, but they were working on it.

9 Q. Okay. When you received your paycheck after you
10 talked to Rene, was there a paystub, a paycheck stub with
11 that check?

12 A. No, I would just call it a paper that counted the
13 boxes. It wasn't a paycheck stub.

14 Q. Okay. And did you -- after receiving the paper
15 that you just told us about, did you talk to Rene again?

16 A. Yes.

17 Q. Was anybody with you?

18 A. I was the only one that spoke to Rene.

19 Q. And what did you tell him?

20 A. I told him that that paper that he gave me, Medi-
21 Cal did not accept it because it wasn't a paycheck stub.

22 Q. And did Rene respond to you?

23 THE INTERPRETER: Was it what did Rene respond to
24 you?

25 BY MS. ARCINIEGA:

1 Q. Did he respond to you?

2 A. He said they were working on that.

3 Q. Okay.

4 MS. ARCINIEGA: Your Honor, I'd like to ask that
5 we break. I think it's --

6 ADMINISTRATIVE LAW JUDGE SOBLE: That's fine.
7 This was approximately the time period we were going to do
8 that. So, I had assumed we would be doing it around now.
9 So, it's 3:42. We will come back at 4:02.

10 (Off the record at 3:42 p.m.)

11 (On the record at 4:04 p.m.)

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, let's go
13 back on the record.

14 I believe Ms. Arciniega has some additional
15 questions for Ms. Antonio. So, you can proceed.

16 MS. ARCINIEGA: Thank you, Your Honor.

17 BY MS. ARCINIEGA:

18 Q. Ms. Antonio, did you take paycheck stubs that you
19 received from Cinagro to the Medi-Cal office?

20 A. Yes.

21 Q. And what did the person at the office tell you
22 about the paycheck stub?

23 MR. ROY: Your Honor, before she testifies this
24 is hearsay, it's a third-party, unidentified person. And I
25 don't -- and also relevance. I don't know what the

1 relevance is. We already know the cheques talons were not
2 provided.

3 ADMINISTRATIVE LAW JUDGE SOBLE: With respect to
4 it being hearsay I will sometimes consider hearsay to
5 supplement or bolster other evidence.

6 In terms of it being relevant, I think it is
7 relevant to show that this witness had a motivation to
8 request the information. But at this point I think it's
9 cumulative and doesn't add additional value.

10 Until I hear something from the Respondent
11 disputing that they asked for the paystubs, I don't think
12 we need additional testimony to show why Ms. Antonio wanted
13 it. I think it's sufficient she's testified, thus far
14 undisputed, that she needed it for Medi-Cal. And until I
15 hear someone say something to the contrary I think it would
16 be cumulative and redundant to ask further.

17 So, not for Mr. Roy's reasons but rather because
18 at this point I think it's cumulative and it's just adding
19 time. So, it's sustained.

20 MS. ARCINIEGA: Okay.

21 BY MS. ARCINIEGA:

22 Q. You've said that you talked to Rene after
23 receiving the paycheck stub you talked to Rene. Can you
24 tell us what you told him?

25 A. He said that since this company is barely started

1 and they're working on it.

2 Q. Did you tell Rene the information that you needed
3 to be on your paystub?

4 A. It's like all the other paycheck stubs where it
5 lists what they deduct for the Medi-Cal, for the state, all
6 of that.

7 MR. ROY: Your Honor, I object. It calls for a
8 legal conclusion as to what is included on a wage
9 statement. We don't seriously dispute -- Your Honor, we --
10 the Respondent's not going to dispute all this.

11 ADMINISTRATIVE LAW JUDGE SOBLE: The objection is
12 overruled as to what the witness is saying is a legal
13 conclusion. She's simply saying, describing what it is
14 that she was seeking. However, again, I think while this
15 is a little bit less redundant than the earlier part, I
16 think it's already been -- there's been adequate testimony
17 that this request was made by multiple crew members to both
18 Mr. Mendoza and to Mr. Macias. So, you can proceed with
19 your next question.

20 MS. ARCINIEGA: I can move on, Your Honor.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

22 BY MS. ARCINIEGA:

23 Q. Ms. Antonio, were there any other times that you
24 and your coworkers talked to Rene about the information you
25 wanted on your paystub?

1 A. Yes, there was a meeting with the whole crew.

2 Q. And do you recall when that meeting occurred?

3 A. Like at the beginning of February, I believe.

4 Q. Okay. And was Victor Mendoza at the meeting?

5 A. Yes.

6 Q. And did you speak at this meeting?

7 A. Yes, I did, too.

8 Q. What did you say, Ms. Antonio?

9 A. For him to provide us with a date as to when he
10 was going to give us a paycheck stub.

11 Q. And when you say here a paycheck stub, do you
12 mean a stub that has more of the information that you told
13 him you needed?

14 A. Yes.

15 Q. Did you say anything else at the meeting?

16 A. No.

17 Q. And did Rene respond?

18 A. He would always say that they were on it.

19 Q. Okay. Did he give you a date on which the
20 paystub, with the information you needed would be
21 available?

22 A. He said, yes, at that time he told us that next
23 week he would give it to us.

24 Q. Okay. And did you hear any of your coworkers
25 speak at this meeting?

1 A. Yes, a few of them spoke, but I don't remember
2 who spoke first.

3 Q. Do you know the names of the people who you
4 remember that spoke?

5 A. Marisol spoke. I don't remember who else. I do
6 remember that Marisol spoke.

7 Q. Okay. And after that meeting did you speak to
8 Rene Macias any other time about getting a paystub with
9 more information on it?

10 A. Before we had already explained to him the
11 information that we needed and his response was always to
12 say that they're working on it and then next week.

13 Q. I think the witness was still responding.

14 A. Then he gave us the paper that came in the same
15 manner, but now the information was listed twice.

16 Q. Do you recall or do you know what the information
17 was?

18 A. It was box counts, but it was listed twice.

19 Q. Okay. When you received that paycheck stub did
20 you talk to Rene again?

21 A. After that time I didn't have time to do so
22 because that's when he said that until further notice.

23 Q. Okay. Who told you until further notice?

24 A. Victor.

25 Q. Okay. Do you recall when he told you that?

1 A. We called him on a Sunday because we didn't know
2 where we were going to be at on a Monday, and he said that
3 Rene had said not until further notice.

4 Q. Okay. And what did you do on Monday?

5 MR. ROY: Your Honor can I object on vagueness,
6 can we get a date?

7 ADMINISTRATIVE LAW JUDGE SOBLE: What did you do
8 on the Monday that immediately followed that conversation?

9 THE WITNESS: Monday we waited. But Marisol
10 called me because she went to look for work and she saw
11 people working at the ranch where we used to work.

12 BY MS. ARCINIEGA:

13 Q. And did you do anything when Marisol told you
14 that?

15 A. Yes, I called Rene.

16 Q. Did he answer?

17 A. No, I dialed twice and he didn't answer.

18 Q. Okay. Did you --

19 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.
20 When you were doing the weeding that day who was your
21 foreperson?

22 MS. ARCINIEGA: Objection, Your Honor.

23 THE WITNESS: Victor Mendoza.

24 MS. ARCINIEGA: Sorry, may I ask a point of
25 clarification, Your Honor?

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

2 MS. ARCINIEGA: I didn't hear the witness testify
3 that they were -- that she was weeding.

4 MR. ROY: No, she wasn't.

5 MS. ARCINIEGA: I thought I heard Your Honor ask
6 that but I --

7 ADMINISTRATIVE LAW JUDGE SOBLE: I did because I
8 thought I heard that and I didn't expect to hear that so --

9 MS. ARCINIEGA: I don't think that I heard that.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, let me ask
11 a question or two to clarify. Ms. Antonio --

12 THE INTERPRETER: I think she said she was
13 waiting, maybe waiting.

14 MS. ARCINIEGA: I did hear her say waiting.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Oh. Ms.
16 Antonio, did you mention you were weeding that day or
17 waiting that day?

18 THE INTERPRETER: Meaning Monday, correct?

19 MR. ROY: Yes.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

21 THE WITNESS: Yes, I was in my house waiting for
22 their call.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, terrific.
24 I just -- it sounded like weeding to me. But for the
25 record, I think everybody else agrees that she most likely

1 said waiting. And so, thank you.

2 THE INTERPRETER: Perhaps my accent's coming in,
3 it's 4:20.

4 ADMINISTRATIVE LAW JUDGE SOBLE: It doesn't
5 matter. Waiting is the consensus here.

6 THE INTERPRETER: Okay.

7 BY MS. ARCINIEGA:

8 Q. Ms. Antonio, did Rene ever call you back?

9 A. No.

10 Q. And did you voluntarily quit your job at Cinagro?

11 A. No.

12 MS. ARCINIEGA: Just can I have a moment, Your
13 Honor.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

15 BY MS. ARCINIEGA:

16 Q. Okay. Ms. Antonio, besides talking to Victor and
17 Rene about what you needed on your check, paycheck stub,
18 did you talk to anybody else at Cinagro?

19 A. One time Tony showed up when he brought bread to
20 the company and I approached him, and Rene was with him,
21 and he said that they were on it.

22 Q. And who is Tony?

23 A. I think he's Rene's boss because he always goes
24 to Rene when he comes.

25 ADMINISTRATIVE LAW JUDGE SOBLE: And when Tony

1 spoke did he speak in English or Spanish?

2 THE WITNESS: He spoke to Rene in English and
3 Rene told me in Spanish that they were on it.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, counsel
5 can ask the next question.

6 BY MS. ARCINIEGA:

7 Q. What month did that happen?

8 A. I don't remember.

9 Q. Do you know how much time it was before your last
10 day of working at Cinagro?

11 THE INTERPRETER: Counsel, I'm sorry I didn't
12 quite hear that.

13 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
14 object to the question as vague.

15 Ms. Antonio, on the last day that you worked for
16 Cinagro, do you know how many hours you worked?

17 THE WITNESS: I don't remember how many hours it
18 was.

19 MS. ARCINIEGA: Can I ask my question, another
20 question?

21 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

22 MS. ARCINIEGA: Okay.

23 BY MS. ARCINIEGA:

24 Q. When you had this conversation with Tony, do you
25 know how much time after that conversation passed until

1 your last day of work?

2 A. I think it was like two weeks.

3 Q. Okay.

4 MS. ARCINIEGA: I believe that's all the
5 questions I have, Your Honor.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Mr. Roy,
7 do you think there's any chance you're going to finish your
8 questions for this witness in 36 minutes or less?

9 MR. ROY: Yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Would you
11 like a minute or two or would you like to proceed?

12 MR. ROY: I'm fine.

13 ADMINISTRATIVE LAW JUDGE SOBLE: You can proceed.

14 MR. ROY: Thank you.

15 CROSS-EXAMINATION

16 BY MR. ROY:

17 Q. Ms. Yolanda, you answered the question as to
18 whether you voluntarily quit at Cinagro and you said you
19 did not, is that right?

20 A. Yes.

21 Q. Yet, you went to work across the street at the
22 blueberry farm and worked until August -- I mean until June
23 18th -- June 8, 2017, isn't that right?

24 A. I didn't work there.

25 Q. You're stating that you didn't work at Silent

1 Springs, LLC performing berry work?

2 A. After they didn't give me work at Cinagro I went
3 to a company where I used to pick vegetables also.

4 Q. Well, I'm looking at a record, your pay record
5 from Silent Springs, Ms. Yolanda, and it says you were
6 hired on 3/13/2017 and you quick on 6/8/2017. Are you
7 claiming that that is incorrect?

8 A. In what company was it?

9 Q. Silent Springs, LLC performing blueberry harvest
10 for Giant?

11 A. I never once worked at the blueberry.

12 Q. Well, your good friend Marisol testified
13 yesterday that you did, but you were employed later in the
14 season.

15 MS. ARCINIEGA: Objection, Your Honor, I think it
16 misstates her testimony and it's argumentative.

17 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
18 overrule the objection and I don't construe it as
19 argumentative as to characterizing whether they were
20 friends or not. And because it's cross-examination, I
21 construe it as the counsel is asking whether or not she
22 worked there. And for now, although a very similar
23 question was asked, I'll allow it.

24 Ms. Antonio, do you remember if you ever worked
25 for a company harvesting blueberries in 2017?

1 THE WITNESS: I've never worked in that.

2 BY MR. ROY:

3 Q. Let me ask you, Ms. Yolanda --

4 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to ask
5 one more question, Mr. Roy. Do you remember, Ms. Antonio,
6 what was the first job you got after you stopped working
7 for Cinagro that was in agriculture?

8 THE WITNESS: It was picking vegetables.

9 BY MR. ROY:

10 Q. Where, what company?

11 THE INTERPRETER: What company was the question?

12 MR. ROY: Yes.

13 THE WITNESS: Theodore Farms.

14 BY MR. ROY:

15 Q. Was that in the county or somewhere else?

16 A. It's here in Oxnard.

17 Q. I'm sorry, I've been here 44 years and I've never
18 heard of a Theodore Farms. Are you correct with that name?

19 MS. ARCINIEGA: May I offer --

20 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to say
21 that that would be borderline argumentative.

22 Ms. Arciniega, if you're going to suggest another
23 name that that might be, I'm going to say that that's not
24 appropriate unless Mr. Roy wants to allow it, in which case
25 he's welcome to. But otherwise, it's his time to ask

1 questions. And you can certainly go into that on redirect,
2 if needed.

3 MS. ARCINIEGA: As you wish.

4 BY MR. ROY:

5 Q. What are the last four digits of your Social
6 Security number?

7 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
8 object to that question only in that we're going to need to
9 go off, first outside of the presence of the witness to
10 discuss whether or not we're going to put that on the
11 record.

12 I do have a proposal, though, that I might be
13 willing to do which is this, rather than having part of her
14 Social Security number as part of the transcript, let's go
15 off the record for a moment and discuss if there's some
16 other way we can get to the information that you need. So,
17 we're going to go off the record for a second.

18 (Off the record at 4:31 p.m.)

19 (On the record at 4:38 p.m.)

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, Mr. Roy,
21 you can ask your next question.

22 BY MR. ROY:

23 Q. Okay. How long after your last day at work at
24 Cinagro did you find alternative work?

25 A. I waited a week.

1 Q. Okay. And then the following week you went to
2 work for a company, isn't that correct?

3 A. Yes, a vegetable company.

4 Q. And the date --

5 ADMINISTRATIVE LAW JUDGE SOBLE: Can I interrupt
6 by asking one question in the hope that it maybe helps on
7 this.

8 Did you say that your husband is Rigoberto?

9 THE WITNESS: Yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Do you recall if
11 Rigoberto went to work at the vegetable company or the
12 blueberry company after he left Cinagro, if you know?

13 THE WITNESS: We both went into the vegetable
14 company.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, thank you.
16 Mr. Roy?

17 BY MR. ROY:

18 Q. And was that on March 13th, 2017?

19 A. I don't remember the date.

20 Q. Where was the ranch located --

21 ADMINISTRATIVE LAW JUDGE SOBLE: I'm sorry I'm
22 going to interrupt with something different that isn't Mr.
23 Roy's question.

24 I thought I saw Ms. Vega taking a photograph.
25 And I just want to confirm that it was not of the computer

1 screen or of the hearing?

2 MS. VEGA: Oh, I apologize, Your Honor. No, I'm
3 on this. It was I was taking a picture of something else
4 off the -- off the way.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

6 MS. VEGA: Sorry.

7 ADMINISTRATIVE LAW JUDGE SOBLE: From the angle,
8 I'm taking what you're saying at face value. But I would
9 ask that you don't do that during the hearing because it
10 might be misconstrued by someone. So, with that in mind my
11 apology for interrupting Mr. Roy. It had nothing to do
12 with your question.

13 BY MR. ROY:

14 Q. Where was this vegetable ranch located in
15 proximity to Cinagro Farms?

16 A. Cinagro Ranch?

17 Q. Yes, the farms.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, actually,
19 I don't think this is the witness's confusion, but I've
20 heard testimony that Cinagro had two different locations.

21 MR. ROY: This (indiscernible) -- Your Honor,
22 just two different ranches where they harvest.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Correct.

24 BY MR. ROY:

25 Q. I'll ask it once again, Ms. Antonio, where was

1 this vegetable company that you went to work for located in
2 proximity to Cinagro Farms?

3 A. Where I went to work is here in Oxnard.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Could you
5 describe how you would drive to the vegetable company in
6 Oxnard, if you know?

7 THE WITNESS: We were looking for work field by
8 field and then that's how we found it.

9 BY MR. ROY:

10 Q. Uh-hum. And when did you start looking for work
11 field to field?

12 What date did you start looking for alternative
13 work?

14 MS. ARCINIEGA: Objection asked and answered.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

16 THE WITNESS: I don't understand.

17 BY MR. ROY:

18 Q. I'll say it again. On what date in 2017 did you
19 seek alternative work after your employment at Cinagro
20 Farms?

21 A. One week after working at Cinagro.

22 Q. And what did you do during that next week before
23 you went to find alternative work?

24 THE INTERPRETER: I'm hearing some background
25 noise and she's having a hard time hearing me.

1 ADMINISTRATIVE LAW JUDGE SOBLE: I agree. I
2 heard two different sounds. One like someone was moving
3 desk drawers and I also thought maybe for a split second I
4 even heard a dog. The dog would be harder to control, but
5 the moving of the drawers and stuff wouldn't.

6 BY MR. ROY:

7 Q. Ms. Antonio, are you having a difficult time at
8 the moment remembering things?

9 A. No.

10 Q. Okay. All right, and so, what crop did you start
11 harvesting at this vegetable company?

12 A. Green kale, the same as what I would pick in
13 Cinagro.

14 Q. Any other crops?

15 A. Cilantro.

16 Q. And do you have any paychecks from this company
17 that you can produce?

18 A. No, but I can go get it at that office.

19 Q. Okay. And did you receive a Form W-2 from this
20 vegetable company the following year?

21 A. Yes, I filed my taxes.

22 Q. Did you receive a W-2 form from the vegetable
23 company?

24 A. Yes, it's Deardorff Farms, that's the name of the
25 company.

1 Q. Would it be fair to say it's called Deardorff
2 Family Farms?

3 A. It's called Deardorff Farms.

4 Q. Okay. And what street was it located on?

5 A. The office is located on Lombard, here in Oxnard.

6 Q. I understand that. Where is the field located,
7 on what streets?

8 A. Around 5th.

9 Q. Are you asking me or telling me?

10 ADMINISTRATIVE LAW JUDGE SOBLE: Argumentative.

11 THE WITNESS: Yes, it's by 5th Street.

12 BY MR. ROY:

13 Q. And what's the cross street?

14 A. Pleasant Valley, I believe.

15 Q. Is your birthday June 15, 1986?

16 MS. ARCINIEGA: Objection, Your Honor.

17 ADMINISTRATIVE LAW JUDGE SOBLE: At this point
18 I'm going to sustain that objection because I don't think
19 that that will assist what you're trying to identify. I am
20 comfortable based upon the questions that you're asking
21 that someone submitted information with her name and her
22 birthday there, and I think you can try other questions to
23 determine if it was her and she recalls the dates
24 incorrectly as to when she was at Deardorff Farms, or if it
25 was someone else.

1 And I would encourage you to ask more questions
2 on that topic, but I don't think given what she's said thus
3 far that you need her birthday to do that.

4 MR. ROY: Well, I guess I'll just call the
5 company bookkeeper and introduce this document and we'll
6 get it straight.

7 ADMINISTRATIVE LAW JUDGE SOBLE: I am not
8 discouraging you from doing that, but I can tell you if you
9 don't, I will certainly want to ask questions of the
10 witness to try to further figure out whether or not she's
11 correct or mistaken as to the timing of when she worked for
12 Deardorff. Can I just -- why don't I interject with a
13 couple of questions.

14 At any time in your life, Ms. Antonio, have you
15 ever picked blueberries, in any year?

16 THE WITNESS: Never.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Were you
18 aware that at some time period that Marisol Jimenez and
19 Hector Cruz went to work for a company picking blueberries?

20 THE WITNESS: Yes, they told me once.

21 ADMINISTRATIVE LAW JUDGE SOBLE: And when they
22 worked for the company picking blueberries, you did not
23 work for the same company?

24 THE WITNESS: No.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, thank you.

1 Mr. Roy.

2 BY MR. ROY:

3 Q. Okay. In your testimony -- excuse me?

4 ADMINISTRATIVE LAW JUDGE SOBLE: You can ask your
5 next question, whatever it is, similar or different.

6 BY MR. ROY:

7 Q. Based upon your testimony today it appears that
8 on multiple occasions you attempted to get a remedy to the
9 company not providing you with a paystub. Is that a fair
10 assessment of your testimony?

11 A. Yes and they never resolved that issue.

12 Q. Okay. And even after multiple times that you
13 brought this to the attention of Victor and he referred you
14 to Rene Macias, nothing got resolved, isn't that correct?

15 A. Yes.

16 Q. Is that the only complaint that you had at the
17 company, the lack of the itemized check stub?

18 A. It wasn't the only.

19 Q. And what was the other one?

20 A. They didn't give us water and the bathrooms were
21 dirty.

22 Q. Okay. And a prior witness testified that Mr.
23 Victor, your foreman, brought water to the field every day
24 in the back of his truck. So, is that correct or not?

25 A. It is true, but the company did not provide it.

1 Q. Okay. But the issue I'm trying to resolve is
2 there was water at the field each day that was provided by
3 Victor, no matter where it came from, correct?

4 A. Yes.

5 Q. When you worked for Deardorff did you receive a
6 good pay?

7 A. Yes.

8 Q. Did you get itemized wage statements each week in
9 your paycheck?

10 A. Yes. We also had insurance.

11 Q. And when you refer to insurance you're talking
12 about medical or health insurance, correct?

13 A. Yes.

14 Q. And it's fair to say that none of these benefits
15 were provided by Cinagro Farms, correct?

16 A. No.

17 Q. It's not correct?

18 A. No, they didn't provide insurance at Cinagro.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy, you've
20 got about two more minutes to ask questions of this
21 witness.

22 MR. ROY: I think we ought to go into tomorrow,
23 Your Honor.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Oh, we will go
25 into tomorrow even if you're done because I have some

1 questions.

2 MR. ROY: Okay. If you want to ask your
3 questions now, that's fine with me.

4 ADMINISTRATIVE LAW JUDGE SOBLE: I wouldn't be
5 able to finish my questions now, anyhow. So, I was
6 thinking you can ask another question or two or, if you
7 want, you can pause now.

8 I can ask one or two questions if we're just
9 filling up a minute or two but --

10 MR. ROY: Yeah, go ahead, please.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. If you
12 know, the water that was on Victor's truck, who paid for
13 that water?

14 THE WITNESS: Victor.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Did anybody ever
16 ask you to give money for the water on Victor's truck?

17 THE WITNESS: No, they would ask us to leave the
18 recyclables there so that they can use that to buy water.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Who was
20 your foreperson at Deardorff Farms?

21 THE WITNESS: Lionel was his name. I don't
22 remember his last name.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. That will
24 be all of the questions we're going to ask you today, Ms.
25 Antonio. We'll need you to come back tomorrow morning at

1 8:30 a.m.

2 Please, between now and 8:30 a.m. do not speak
3 with any of the attorneys in this matter and do not talk to
4 anyone about either what you testified at this hearing or
5 the questions that you were asked. If someone asks you if
6 you attended the hearing, you may say yes or you can choose
7 not to answer them. But other than telling them that you
8 attended the hearing, you may not say anything about what
9 you heard or saw at the hearing.

10 Do you understand that, Ms. Antonio?

11 THE WITNESS: Yes, that's fine.

12 ADMINISTRATIVE LAW JUDGE SOBLE: And finally,
13 please note that one of the people who you should not be
14 discussing your testimony with is your spouse, Rigoberto.
15 But you can tell him that you are coming back tomorrow, but
16 you cannot discuss anything else that you heard.

17 THE WITNESS: We don't talk about work at home.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

19 Okay, does anybody have any other topics they
20 wish to discuss before we end for the day today? I have
21 one question that I'm going to ask when the witness is no
22 longer here, but I don't know if I'll -- no, I won't, I'll
23 wait until tomorrow.

24 So, does anybody have anything else they wish to
25 bring up today?

1 MR. ROY: Yes, Your Honor. I'd like to know
2 whether General Counsel's going to finish up tomorrow. I
3 know she only has one more, at least one more employee
4 witness, perhaps the bookkeeper for Cinagro and maybe Mr.
5 Victor Mendoza, the foreman. So, I think -- well, that's
6 up to them, but I think that they should be able to finish
7 by tomorrow. I'm trying -- I'm trying to line up --

8 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I'm not
9 interested if you think they should finish. I'm interested
10 in whether you or they think they will finish.

11 MR. ROY: Well, Jessica can answer that.

12 MS. ARCINIEGA: We had a conversation, I had a
13 proposal. It wasn't amenable to Mr. Roy and so that's
14 fine. We have stated the number of witnesses we have
15 remaining. We'll continue with Ms. Antonio in the morning
16 and then we have four more witnesses.

17 So I'm, you know, going to do my best and I'm
18 hopeful, but I can't guarantee that we will finish
19 tomorrow.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy, if I
21 was going to predict, which I'm not any better at than any
22 of you, I will say they will not finish tomorrow.

23 MR. ROY: Okay, thank you.

24 ADMINISTRATIVE LAW JUDGE SOBLE: And I will be --

25 MR. ROY: Even if it does -- even it does, Your

1 Honor, I'd assumed that you would allow me the opportunity
2 to start our case the next day.

3 ADMINISTRATIVE LAW JUDGE SOBLE: It depends when
4 they finish. If they are finished somehow, tomorrow by
5 prior to 3:00 p.m., I'll expect you to have a witness
6 available the same day.

7 If they finish after 3:00 p.m., I'm not going to
8 have you trot someone over there at that point unless you
9 want to.

10 MR. ROY: Okay.

11 ADMINISTRATIVE LAW JUDGE SOBLE: That will be my
12 cutoff.

13 MR. ROY: Thank you.

14 ADMINISTRATIVE LAW JUDGE SOBLE: So, and that's
15 pretty consistent with how I've done hearings over the
16 years. It's important not to waste a huge block of time.
17 So, if they finish a few minutes after lunch, I apologize
18 for the inconvenience of pulling a witness on short notice.
19 You can decide which of your witnesses to inconvenience at
20 that time.

21 But I personally don't think they're going to be
22 done by then based on the number of witnesses. The sole
23 exception being if their next witness they like so much
24 they then decide not to call another two or three people,
25 and I've had that happen. But if they actually do three or

1 four more witnesses, then this isn't moving quick enough
2 for them to finish that soon.

3 So, I appreciate everyone's time and I will see
4 you all tomorrow at 8:30. Thank you very much.

5 MR. ROY: Thank you.

6 MS. ARCINIEGA: Thank you.

7 (The hearing was adjourned at 5:02 p.m.)

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CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of March, 2021.



MARTHA L. NELSON, CERT**367

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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of March, 2021.



Barbara Little
Certified Transcriber
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