

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 4

HEARING

Remote via WebEx

Friday, February 26, 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	VOIR DIRE
<u>Charging Party:</u>			
Maria Santiago	5	10	29
	33	38	
	51	57	58
	60	60	63
Victor Mendoza	75		143

EXHIBITS

	ADMITTED
<u>Charging Party:</u>	
GC-00002	120

P R O C E E D I N G S

8:38 A.M.

CALIFORNIA, FRIDAY, FEBRUARY 26, 2021

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

(Witness is present and has been previously
sworn.)

ADMINISTRATIVE LAW JUDGE SOBLE: Let's go back on
the record.

Good morning, Ms. Angelica.

THE WITNESS: Good morning.

ADMINISTRATIVE LAW JUDGE SOBLE: Do you
understand that your testimony is still under oath?

THE WITNESS: Yes.

ADMINISTRATIVE LAW JUDGE SOBLE: And I trust none
of the attorneys spoke with you since yesterday at 5:00
p.m.?

THE WITNESS: No.

ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

THE WITNESS: You're welcome.

ADMINISTRATIVE LAW JUDGE SOBLE: I believe, if my
memory is correct, the Assistant General Counsel had one or
two questions left but I could be wrong.

MS. DEYOUNG-DOMINGUEZ: Your Honor, I have a few
more questions.

1 ADMINISTRATIVE LAW JUDGE SOBLE: You can proceed.

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

3 CONTINUED DIRECT EXAMINATION

4 BY MS. DEYOUNG-DOMINGUEZ:

5 Q. Ms. Angelica, when we stopped talking yesterday
6 we were talking about your last day of work at Cinagro. I
7 just have a few more questions.

8 You told us about a conversation you had with
9 Rene and Tony after you cut yourself. Do you remember
10 that?

11 A. Yes.

12 Q. Was that conversation in English or Spanish?

13 A. In Spanish.

14 Q. Did Rene speak or did Tony speak?

15 A. Rene spoke.

16 Q. What did you hear Rene say?

17 A. That I should take the days that I needed for my
18 finger to heal. And that they were going to give me some
19 creams to use at home.

20 Q. Did you hear Tony say anything?

21 MR. ROY: Objection. She said that -- objection;
22 misstates the evidence. Tony was not present. Rene and
23 Victor were.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.

25 That is more information than I would like on an objection

1 until I've indicated anything.

2 Did the Interpreter finish the translation of the
3 question?

4 THE INTERPRETER: Yes. The question? Yes.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. The
6 objection is overruled.

7 THE WITNESS: Tony spoke with Rene in English and
8 Rene told me in Spanish.

9 BY MS. DEYOUNG-DOMINGUEZ:

10 Q. When Rene told you to stay at home to heal your
11 finger, was that because Tony told Rene to tell you that?

12 A. I don't know what they said because they spoke in
13 English and then Rene spoke to me.

14 Q. Okay. So it wasn't clear to you if Tony was
15 trying to speak to you directly?

16 MR. ROY: Objection.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

18 MS. DEYOUNG-DOMINGUEZ: I'll rephrase the
19 question, Your Honor.

20 ADMINISTRATIVE LAW JUDGE SOBLE: I wasn't even --
21 I was deciding whether it was because it was calling for
22 speculation or leading, and I would say it's a little bit
23 of both.

24 MS. DEYOUNG-DOMINGUEZ: I'll change the question,
25 Your Honor. Thank you.

1 BY MS. DEYOUNG-DOMINGUEZ:

2 Q. Who said that they did not want to take you to
3 the emergency room?

4 MR. ROY: Your Honor, objection; relevance.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. But
6 I'll sustain the objection as to leading.

7 BY MS. DEYOUNG-DOMINGUEZ:

8 Q. Who gave you the creams to take care of your
9 wound?

10 A. Rene.

11 Q. Did Rene tell you anything else?

12 A. No, that's all he said.

13 Q. Did you go back to work the next day?

14 A. No. I came back, like on a Tuesday.

15 Q. You came back to work?

16 A. No.

17 Q. Where did you go?

18 A. I went to the field to drop off the paper that
19 the doctor had given me.

20 Q. When you say you went to the field, do you mean
21 the office at Cinagro?

22 ADMINISTRATIVE LAW JUDGE SOBLE: I'll object to
23 that as leading.

24 BY MS. DEYOUNG-DOMINGUEZ:

25 Q. When you say you went back to the field, where

1 did you go exactly?

2 A. In Fillmore.

3 Q. And what did you do in Fillmore?

4 A. Excuse me?

5 Q. Who did you give the paper to in Fillmore?

6 A. When I go there, there was nobody except a guy
7 that worked with the forklifts. And he said he -- I could
8 drop off the paper and he would give it to Rene.

9 Q. Okay. Do you know if Rene got that paper?

10 MR. ROY: Objection; calls for speculation.

11 ADMINISTRATIVE LAW JUDGE SOBLE: The objection is
12 overruled.

13 Ms. Angelica, you can answer the question if at
14 some point, for example, Rene told you that he received the
15 paper or you have some other reason to know but, please, do
16 not guess.

17 THE WITNESS: I left the paper with the forklift
18 driver. I don't know if he gave it to him or he received
19 it. I don't know.

20 BY MS. DEYOUNG-DOMINGUEZ:

21 Q. Did you speak with Rene about returning to work?

22 MR. ROY: Objection; vague as to time.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

24 After you gave the piece of paper to the forklift
25 driver did you have a conversation with Rene as to going

1 back to work?

2 THE WITNESS: When he called -- when two weeks
3 had passed and he called me so that I could go pick up the
4 check for the week that they were paying me, that's when I
5 asked him if I was going to be able to come back.

6 BY MS. DEYOUNG-DOMINGUEZ:

7 Q. What did he say?

8 A. Right now -- he said, "Right now we're not
9 working. I don't know if there's going to be work down the
10 line but right now there is no work."

11 So I told him, "So -- so now what?"

12 Q. Did you respond?

13 A. So I asked him, "So there's not going to be work
14 down the line?"

15 And he said, "We don't know. I wouldn't be able
16 to tell you."

17 Q. Did anyone from Cinagro ever call you to tell you
18 there was work available?

19 MR. ROY: Objection; vague as to time.

20 ADMINISTRATIVE LAW JUDGE SOBLE: After the
21 conversation with Rene that you just told us about, after
22 that did anyone from Cinagro ever call you to say that work
23 was available?

24 THE WITNESS: No.

25 BY MS. DEYOUNG-DOMINGUEZ:

1 Q. Did you quit your job?

2 A. No.

3 MS. DEYOUNG-DOMINGUEZ: One moment, Your Honor.
4 That's all the questions I have at this point. Thank you.

5 THE WITNESS: You're welcome.

6 ADMINISTRATIVE LAW JUDGE SOBLE: And does the
7 General Counsel have any written statements or declarations
8 for this witness?

9 MS. DEYOUNG-DOMINGUEZ: Sorry, Your Honor. One
10 more time. You cut out for me.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Does the General
12 Counsel have any declarations or written statements for
13 this witness?

14 MS. DEYOUNG-DOMINGUEZ: No, we don't, Your Honor.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Mr. Roy,
16 would you like a minute or two or would you like to
17 proceed?

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

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

20 CROSS-EXAMINATION

21 BY MR. ROY:

22 Q. Good morning, Ms. Duarte [sic].

23 A. Let me ask you, after your last work -- day of
24 work --

25 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy, this is

1 not Ms. Duarte. This is Maria Angelica Santiago.

2 MR. ROY: Santiago; right?

3 BY MR. ROY:

4 Q. Ms. Santiago, the last day you worked for Cinagro
5 was Saturday, March 4th; is that right?

6 A. Yes.

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

8 BY MR. ROY:

9 Q. Okay. And you testified that you returned --
10 ADMINISTRATIVE LAW JUDGE SOBLE: Hold up.

11 MR. ROY: -- to the ranch --

12 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy? Mr.
13 Roy, there was an objection.

14 What is the objection?

15 MS. DEYOUNG-DOMINGUEZ: My objection is that this
16 is misstating Ms. Santiago's previous testimony. She never
17 said which --

18 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

19 MS. DEYOUNG-DOMINGUEZ: -- day.

20 ADMINISTRATIVE LAW JUDGE SOBLE: And I think -- I
21 don't know if I heard an answer or not.

22 THE INTERPRETER: There was no answer.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. The
24 witness can answer the question.

25 THE WITNESS: Yes.

1 BY MR. ROY:

2 Q. And then the following Tuesday, three days later
3 on March 7th, you returned to the field to drop off your
4 doctor's note; is that correct?

5 A. Yes.

6 Q. At that time, did you see any crews working?

7 A. Where I went on the field, no.

8 Q. It was just the forklift driver; right?

9 A. Yes.

10 Q. Do you remember what date you received your
11 check? Was it on March 10th, 2017, on Friday?

12 A. Yes.

13 Q. And on that day you received your check, who gave
14 it to you?

15 A. Rene.

16 Q. Was Victor also present?

17 A. No.

18 Q. And did you have a conversation with Rene about
19 when there might be available work?

20 A. Yes.

21 Q. And is it fair to say that they didn't know at
22 that time when there would be available work?

23 A. They didn't know when there was going to be work.

24 Q. Did you seek work elsewhere following your last
25 day of work at Cinagro?

1 A. Yes.

2 Q. Was that at the blueberry ranch called Silent
3 Springs?

4 A. Yes. Blueberries? Yes.

5 Q. And do you remember what day you applied for work
6 there after your last day at Cinagro?

7 A. It was three weeks later.

8 Q. Three weeks after your last day at Cinagro?

9 A. Yes.

10 Q. Okay. After you received your check the
11 following week, what did you do?

12 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor;
13 it's vague as to time.

14 MR. ROY: Your Honor, may I be heard.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Well, it sort of
16 calls for a narrative to ask every single thing she did. I
17 mean, I suppose she could say, well, she went to sleep, she
18 got up in the morning, she got dressed, she brushed her
19 teeth. So maybe make --

20 MR. ROY: I'll clarify it.

21 BY MR. ROY:

22 Q. Ms. Santiago, in the week following your receipt
23 of your check on March 10, 2017, did you seek work at
24 another place the following week?

25 A. Yes.

1 Q. Was that at Silent Springs, the blueberry ranch?

2 A. Yes.

3 Q. Did you have to wait after applying in order to
4 get your work?

5 THE INTERPRETER: Counsel, I'm sorry, you cut in
6 and out.

7 MR. ROY: Okay. All right.

8 BY MR. ROY:

9 Q. Did you obtain employment at Silent Springs on
10 the same day you applied?

11 A. No, not the same day.

12 Q. How many days thereafter?

13 A. We had to be checking in every day to see what
14 day they were going to give us.

15 Q. Okay. But it's fair to say that you intended to
16 work for Silent Springs; is that correct?

17 A. Yes.

18 Q. And at Silent Springs, did you get payroll
19 wagering statements?

20 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor;
21 relevance.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

23 THE WITNESS: What is the question?

24 BY MR. ROY:

25 Q. When you employed -- when you were employed at

1 Silent Springs, did you receive paycheck statements with
2 your checks?

3 A. Yes.

4 Q. And were you also registered for health
5 insurance?

6 A. Yes.

7 Q. And did you also have available drinking water
8 each day?

9 A. Yes.

10 Q. And these were, according to your testimony, all
11 unavailable while you worked at Cinagro; is that correct?

12 A. Yes.

13 Q. And when you were at -- picking blueberries, did
14 you make more money each week?

15 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor;
16 relevance.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

18 THE WITNESS: What is the question?

19 ADMINISTRATIVE LAW JUDGE SOBLE: Of the two
20 companies, was there one where you made more, either the
21 blueberry farm or Cinagro?

22 THE WITNESS: The blueberries.

23 MR. ROY: Thank you.

24 THE WITNESS: You're welcome.

25 BY MR. ROY:

1 Q. At any time after your last day of work at
2 Cinagro, did Victor tell you you were terminated?

3 A. Victor told us that there was no work. And he
4 told us, "Until further notice."

5 Q. That is a no. I will take that as a no; is that
6 correct? He did not advise you you were discharged?

7 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor. I
8 just want to make a standing objection. I know Your Honor
9 has ruled on this already but I do, at this point, want to
10 make a standing objection as to the relevance of this line
11 of questioning for the record.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, and the
13 objection is noted but it's overruled.

14 MR. ROY: Can the witness answer the question?

15 ADMINISTRATIVE LAW JUDGE SOBLE: I think she
16 needs to hear the question again.

17 MR. ROY: All right, Your Honor.

18 BY MR. ROY:

19 Q. Let me ask this again, Ms. Santiago. At no time
20 did Victor tell you you were discharged; is that correct?

21 A. Yes.

22 Q. And at no time after your last day of work did
23 Rene Macias ever tell you you were discharged; is that
24 correct?

25 A. Yes.

1 Q. Yes, meaning he did not tell you?

2 A. No.

3 MR. ROY: Let me clarify that, Your Honor.

4 BY MR. ROY:

5 Q. Did Rene ever tell you you were terminated; yes
6 or no?

7 A. No.

8 Q. Thank you.

9 Did Tony Cinagro ever tell you you were
10 terminated; yes or no?

11 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
12 object to that question as confusing. I have yet to hear
13 of any person with the name Tony Cinagro. But at least
14 you're being consistent by calling your client and not just
15 the other witnesses by a different name.

16 MR. ROY: Your Honor, I believe she testified
17 earlier this morning that she had a meeting with Victor,
18 Tony and Macias, inquiring about some issues, and that
19 there was a conversation in English between Tony and
20 Macias. So, clearly, she met.

21 ADMINISTRATIVE LAW JUDGE SOBLE: I did not hear
22 the witness refer to anyone as Tony Cinagro. And I have
23 yet to hear anyone refer to a Tony Cinagro. There is a
24 Tony with a different last name. And that's the gentleman
25 who sat near you the other day.

1 MR. ROY: That's Tony Cinagro, Your Honor, my
2 client.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm not
4 going to spend time further discussing it but I've heard
5 him referred to with a different last name.

6 MR. ROY: Okay. His name is Tony Dighera. I'm
7 sorry. All right. Let me ask the question.

8 BY MR. ROY:

9 Q. At any time after your last day at Cinagro Farms,
10 did Tony Dighera, the owner of the company, tell you you
11 were terminated; yes or no?

12 A. No.

13 Q. You said earlier in your testimony that the
14 company, did not bring water for the crew; is that your
15 testimony?

16 A. Yes.

17 Q. Isn't it true that your foreman Victor would
18 bring a couple of water jugs each day on his truck with
19 potable drinking water; isn't that true?

20 A. If he brought some?

21 Q. Yes.

22 A. He would bring some.

23 Q. Let's go back before you worked for Cinagro, back
24 to 2016. Did you work for Art Vasquez Labor in November of
25 2016?

1 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
2 This is going outside the scope of my direct examination.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. The
4 objection is overruled. If Mr. Roy is representing that
5 he's not going to be calling back Ms. Angelica Santiago, he
6 can ask the question.

7 And so that's correct, Mr. Roy, you don't intend
8 to call this witness back?

9 MR. ROY: No, Your Honor. This is purely cross.

10 MS. DEYOUNG-DOMINGUEZ: Your Honor, may I --

11 ADMINISTRATIVE LAW JUDGE SOBLE: I didn't hear
12 Mr. Roy's word after purely us.

13 Did you say cross or something different?

14 MR. ROY: Cross. I'm only going to be engaging
15 in cross-examination, no recall.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Then
17 whether I construe this as cross-examination or if I
18 construe it instead as Respondent's direct examination
19 really doesn't matter because he could be doing either at
20 this juncture.

21 MS. DEYOUNG-DOMINGUEZ: May I be heard?

22 ADMINISTRATIVE LAW JUDGE SOBLE: Briefly.

23 MS. DEYOUNG-DOMINGUEZ: I would just -- can I
24 have a standing objection for the record in regards to this
25 line of questioning being outside the scope?

1 ADMINISTRATIVE LAW JUDGE SOBLE: I suppose. But,
2 I mean, I don't think there's any confusion here. I
3 indicated at the pre-hearing conference that the Respondent
4 unquestionably could ask questions outside of the scope of
5 cross if they were not going to call the witness back
6 themselves. So while I might or might not agree with you
7 whether this would be outside the scope of cross, it's
8 completely unnecessary for me to think about it because
9 either way I would be permitting the question.

10 MS. DEYOUNG-DOMINGUEZ: For the record, the
11 worker is not under subpoena for the Respondent. And that
12 is why I would like to make this standing objection. Thank
13 you, Your Honor.

14 ADMINISTRATIVE LAW JUDGE SOBLE: That makes no
15 difference for my purposes. One, if this was an in-person
16 hearing, he would be able to hand something to the witness
17 while you had them on the stand. But more importantly,
18 nobody is requiring someone to subpoena a witness. If I
19 had said that someone needed to do that, I would have said
20 that at the pre-hearing conference. The same is true
21 throughout this hearing. I'm not going to -- so without
22 any further comment on that, the objection is overruled.

23 To the extent that you see a reason to have a
24 standing objection to questions that are outside of cross-
25 examination, my ruling would consistently be that I would

1 be permitting that if I have a representation from Counsel
2 that they're not calling the witness back.

3 MS. DEYOUNG-DOMINGUEZ: Okay, Your Honor.

4 MR. ROY: Thank you, Your Honor.

5 BY MR. ROY:

6 Q. Ms. Santiago, did you work for Art's Labor
7 Service at any time during 2016?

8 A. I don't remember.

9 Q. Do you remember working with Marisol and
10 Rigoberto, along with Victor?

11 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
12 object to that question as being vague because it doesn't
13 specify a time period or a place, so I don't know whether
14 that would include, for example, the time she was directly
15 employed by Cinagro.

16 BY MR. ROY:

17 Q. Ms. Santiago, when did you first start working
18 for Cinagro as a direct-hire employee?

19 A. I don't remember the date exactly but it was in
20 2016.

21 Q. At the time was Mr. Victor your foreman?

22 A. Yes.

23 Q. And did you have a meeting with Mr. Rene about
24 coming over to work directly --

25 THE INTERPRETER: I lost you --

1 MR. ROY: -- for --

2 THE INTERPRETER: -- Counsel.

3 MR. ROY: -- Cinagro Farms?

4 BY MR. ROY:

5 Q. Did you have a meeting with Mr. Macias when you
6 came to work for Cinagro Farms?

7 A. Yes.

8 Q. And did he tell you that the company was just
9 starting up?

10 A. I don't remember him saying that.

11 Q. Okay. Do you remember you and Marisol and others
12 asking about payroll stubs (indiscernible)?

13 A. The paychecks or the paycheck stubs?

14 Q. Paycheck stubs, Ms. Santiago.

15 A. We always complained about the paycheck stubs
16 because they didn't give them to us.

17 Q. So does that mean, yes, you spoke to him about
18 the (speaking Spanish)?

19 A. Yes.

20 Q. And did he respond that they were working on it?

21 A. That they were working on it. But I'm not really
22 sure how they worked with the office on that.

23 THE INTERPRETER: Your Honor, just to let
24 everybody know, I've lost Mr. Roy's video. I can still
25 hear him but just giving you a heads-up on that.

1 ADMINISTRATIVE LAW JUDGE SOBLE: And right now I
2 do not see Mr. Roy. I do not see Ms. Vega. And I do not
3 see the Court Reporter. Ms. Vega just came back.

4 MR. ROY: Well, Your Honor, I've always been here
5 in the bottom right, Your Honor. I advised you at the
6 beginning and you said it was okay as long you could hear
7 me.

8 ADMINISTRATIVE LAW JUDGE SOBLE: I don't know
9 that everybody's screen on WebEx shows everyone in the same
10 physical location. For example, on my monitor, I see
11 myself on the bottom right. So it could be that WebEx puts
12 the user in the bottom right intentionally.

13 MR. ROY: Right. Well, in any event, you can
14 hear me; correct?

15 ADMINISTRATIVE LAW JUDGE SOBLE: I have heard you
16 the entire time. And I have seen you at times flicker in
17 and flicker out. And so I could tell from what I saw on
18 the participant box that you had your video feed going the
19 entire time. So it would appear to be either something
20 with your computer processor or your Wi-Fi, one or the
21 other, why it's going. And I didn't see the need to stop
22 it so long as the Interpreter was able to still interpret
23 what you were saying.

24 If anybody wishes, we can wait while Mr. Roy
25 tries to resolve that. Otherwise, I am fine with

1 proceeding the way that we were.

2 MS. DEYOUNG-DOMINGUEZ: Your Honor, may I
3 suggest, maybe he just try once to log off and back on? I
4 know that helps me sometimes.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well,
6 since he's back right now -- well, he was and now he's not.

7 MR. ROY: I'm done with my cross. I don't see
8 the need for seeing me if I'm being heard.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I think
10 it's appropriate for the witness and the Interpreter to be
11 able to see you. And sometimes it makes interpreting
12 easier.

13 Are you almost done with your cross-examination?

14 MR. ROY: Yes, Your Honor.

15 ADMINISTRATIVE LAW JUDGE SOBLE: So --

16 MR. ROY: Do you want me to proceed?

17 ADMINISTRATIVE LAW JUDGE SOBLE: I'm just waiting
18 to see if it resolves itself on its own and so far it
19 hasn't. Right now I just see, for you, a gray rectangle
20 with a circle spinning. I don't know why that's happening
21 with you and not happening with my boxes for other people.
22 And now I'm thoroughly confused because where I saw Mr.
23 Roy, I saw someone other than Mr. Roy sitting at his
24 computer for a split second and then it went away.

25 MR. ROY: That's not me. It's only me.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I
2 definitely see no one there with respect to Mr. Roy.

3 Yeah, now where it says Mr. Roy, I see someone
4 who is not Mr. Roy. Is there someone else in your office,
5 Mr. Roy?

6 MR. ROY: Your Honor, it's just me, I swear on
7 the bible.

8 ADMINISTRATIVE LAW JUDGE SOBLE: I believe,
9 because I see like something yellow hanging to the right of
10 the person, that the person who I saw in Mr. Roy's box was
11 actually Ms. DeYoung-Dominguez. Now it's back to a
12 rectangle for Mr. Roy. So, yeah, right now for some reason
13 I -- it's flashing between nothing and Ms. Dominguez in
14 Robert Roy's box. So I can't explain that other than
15 everybody else is where they should be.

16 MR. ROY: Your Honor, if you recall, this
17 happened to me yesterday. And I logged in and did
18 everything that was appropriate this morning. And I'm
19 still on the bottom right of the screen. But you can see
20 me. I can see all of you. And you can all hear me.

21 ADMINISTRATIVE LAW JUDGE SOBLE: No, I cannot see
22 you and I can see everyone else. And the momentary split
23 second where I saw Ms. DeYoung-Dominguez in your box was
24 just for a second or so. She is in her box now. But your
25 box is black, not gray, and no longer spinning.

1 MR. ROY: (Indiscernible?)

2 ADMINISTRATIVE LAW JUDGE SOBLE: I'm sorry?

3 MR. ROY: Can you allow me to enter the meeting?

4 ADMINISTRATIVE LAW JUDGE SOBLE: I can have you
5 leave the meeting and reenter it, sure.

6 MR. ROY: Look, I just have a couple of
7 questions, Your Honor. May we --

8 ADMINISTRATIVE LAW JUDGE SOBLE: Why don't we go
9 ahead and try to have you exit and reenter before doing the
10 last couple of questions?

11 MR. ROY: Okay. Whatever. I lost everyone for a
12 moment. Can anyone hear me?

13 ADMINISTRATIVE LAW JUDGE SOBLE: We can hear you
14 but not see you.

15 MR. ROY: All right. May we finish the last
16 couple of questions and then try to resolve this during
17 break? I'll log off and log back in.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Well, we're not
19 going to have our break for a while. Certainly, I don't
20 expect us to break until after we've started the next
21 witness. And so --

22 MR. ROY: All right. Would you allow me the
23 opportunity right now to log off and log back in and see if
24 that works?

25 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

1 MR. ROY: Thank you.

2 (Colloquy between Administrative Law Judge Soble and
3 the Court Reporter.)

4 ADMINISTRATIVE LAW JUDGE SOBLE: If it's easier
5 for you, we can go off the record right now.

6 (Off the record at 9:18 a.m.)

7 (On the record at 9:20 a.m.)

8 (Spanish Interpreter is present.)

9 (Witness is present.)

10 ADMINISTRATIVE LAW JUDGE SOBLE: We'll go back on
11 the record.

12 We had about a two-minute gap during which Mr.
13 Roy reconnected to the WebEx meeting. And we also
14 requested the witness to wave her hand so the light would
15 go back on in the room that she's sitting in that has a
16 motion detector.

17 Mr. Roy indicated he has a few more questions and
18 he can proceed when he's ready.

19 MR. ROY: Thank you.

20 BY MR. ROY:

21 Q. At any time during the fall of 2016, did you work
22 in a crew where Art was your foreman?

23 A. Yes. Yes.

24 Q. Okay. Was that while you were working for
25 Cinagro Farms?

1 THE INTERPRETER: Was that why you were working
2 at Cinagro Farms?

3 MR. ROY: While. While she was working.

4 THE WITNESS: Yes.

5 MR. ROY: Okay.

6 BY MR. ROY:

7 Q. And at any time during January and February until
8 the first week of March 2017, was there another crew that
9 would work at the same ranch with you?

10 A. I'm sorry, the question, I couldn't hear it.

11 Q. Yes. I'll repeat it.

12 At any time during January, February, and the
13 first of March 2017, while you were working, did you ever
14 see another harvest crew at the same field?

15 A. Yes.

16 Q. And when was that, in January, February or March?

17 A. In January and February.

18 Q. Um-hmm. Isn't it true it was only the last
19 couple of weeks before your last day at Cinagro?

20 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
21 This question has been asked and she's already answered.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

23 THE WITNESS: What is the question please?

24 BY MR. ROY:

25 Q. Isn't it true that you only saw that other crew

1 during the two weeks before you no longer worked at
2 Cinagro?

3 A. The last two weeks?

4 Q. Yes.

5 A. Yes.

6 Q. So, yes, you did see the other crew there the
7 last two weeks before you were no longer at Cinagro;
8 correct?

9 A. Yes.

10 MR. ROY: No further questions, Your Honor.

11 Thank you.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Angelica, I
13 have a couple of questions for you.

14 VOIR DIRE

15 BY ADMINISTRATIVE LAW JUDGE SOBLE:

16 Q. How long was the gap or time period from your
17 last day of work at Cinagro until your first day of work at
18 the blueberry ranch?

19 A. What is the question? I didn't understand. I
20 can't hear you very well.

21 Q. How many days or weeks took place between your
22 last day of work at Cinagro and your first day of work at
23 the ranch with blueberries?

24 A. After three weeks.

25 Q. Do you know if anybody in your crew at Cinagro

1 started working at the blueberry farm before you did?

2 A. From our group?

3 Q. Correct. Your crew with Victor Mendoza at
4 Cinagro, did anybody from that crew start working at the
5 blueberry farm before you?

6 A. I don't know.

7 Q. Okay. Do you know if anybody from your crew with
8 Victor Mendoza at Cinagro ever worked for the blueberry
9 farm?

10 A. I don't know.

11 Q. Do you know if Marisol Jimenez ever worked for
12 the blueberry farm?

13 A. Yes, I believe she did.

14 Q. She was not in the same crew as you at the
15 blueberry farm?

16 A. In the same crew? Yes.

17 Q. Ms. Jimenez was in the same crew as you at the
18 blueberry farm or she was not in the same crew as you at
19 the blueberry farm?

20 A. She wasn't in the same crew but she was in the
21 field, yes.

22 Q. And at the blueberry farm, were you in the field
23 or did you do something different?

24 A. In the field, picking the blueberries.

25 Q. So your job at the blueberry farm was the same as

1 Marisol Jimenez's job at the blueberry farm?

2 A. Yes.

3 MS. DEYOUNG-DOMINGUEZ: Your Honor, I --

4 ADMINISTRATIVE LAW JUDGE SOBLE: Yes?

5 MS. DEYOUNG-DOMINGUEZ: -- I would just say that
6 this calls for speculation.

7 ADMINISTRATIVE LAW JUDGE SOBLE: I'm about to ask
8 how she knows that, so we'll find out.

9 BY ADMINISTRATIVE LAW JUDGE SOBLE:

10 Q. How do you know if the job you had at the
11 blueberry farm was the same as that for Marisol Jimenez?

12 A. Yes.

13 Q. Did you ever see Marisol Jimenez picking
14 blueberries?

15 A. Yes.

16 Q. Okay. Do you know if Marisol Jimenez started
17 working at the blueberry farm on the same day that you did
18 or do you not know when she started?

19 A. No, I don't know when she started working.

20 Q. Okay. Were there any other members of your crew
21 at Cinagro who also worked in your crew at the blueberry
22 farm?

23 A. I don't remember.

24 Q. Okay. You told us a little bit about when you
25 cut your finger at Cinagro; is that correct?

1 A. Yes.

2 Q. And you told us that you provided a document to
3 Cinagro from a doctor; is that correct?

4 A. Yes.

5 Q. Do you still have that document?

6 A. No, I don't have it.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Thank you
8 very much, Ms. Angelica. I don't have any additional
9 questions.

10 Does the Assistant General Counsel have some more
11 questions for Mr. Angelica?

12 THE WITNESS: Thank you.

13 MS. DEYOUNG-DOMINGUEZ: Yes, Your Honor, I do
14 have some follow-up questions.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Before
16 you ask them, I realized I had one question that I forgot.

17 BY ADMINISTRATIVE LAW JUDGE SOBLE:

18 Q. The company's attorney asked if you worked for
19 Cinagro Farms with a person named Art as your foreman; do
20 you recall that?

21 A. Yes.

22 Q. And was Art a different person than Victor?

23 A. I don't remember.

24 Q. Okay. When you worked at Cinagro, did you have
25 the same foreman the whole time?

1 A. Yes.

2 Q. Do you recall what the name of that foreman was?

3 A. Victor.

4 Q. And when was the first time you met Victor?

5 A. It was in 2016.

6 Q. Okay. What company did you work for, if you
7 remember, when you first met Victor?

8 A. I don't remember the name right now but to was
9 something like Gustavo.

10 Q. Do you recall if you ever worked for a labor
11 supplier?

12 A. Yes, with a contractor.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Thank
14 you. I have no further questions now for Ms. Angelica.

15 MS. DEYOUNG-DOMINGUEZ: May I begin with my
16 questions, Your Honor?

17 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

18 MS. DEYOUNG-DOMINGUEZ: Thank you.

19 REDIRECT EXAMINATION

20 BY MS. DEYOUNG-DOMINGUEZ:

21 Q. Ms. Angelica, I want to ask you some questions
22 about when you talked to Rene after your last day of work.

23 A. Yes.

24 Q. Did Rene ask you anything about how he treated
25 the workers?

1 MR. ROY: Objection; leading.

2 THE INTERPRETER: How he treated the workers?

3 (Speaking Spanish).

4 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained as to
5 leading.

6 BY MS. DEYOUNG-DOMINGUEZ:

7 Q. When you spoke with Rene to pick up the check,
8 did he say anything else to you, besides what you just
9 shared with us earlier?

10 MR. ROY: Objection; vague.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. The
12 witness can answer the question if she understands it.

13 THE WITNESS: No.

14 BY MS. DEYOUNG-DOMINGUEZ:

15 Q. Did he ask you anything about a lawsuit?

16 MR. ROY: Objection; leading, Your Honor.

17 ADMINISTRATIVE LAW JUDGE SOBLE: I'll allow it
18 for the following reason. Because some of your questions
19 were outside of the scope of the General Counsel's exam,
20 those questions I treat more like they were direct
21 examination questions by you. So if I view the General
22 Counsel's question to be more an examination or more
23 analogous to a cross-examination of the testimony that you
24 elicited, then I may, on occasion, allow them to ask a
25 leading question, so --

1 MR. ROY: May I be heard, Your Honor?

2 ADMINISTRATIVE LAW JUDGE SOBLE: More
3 significantly in this case, I think it's going to save us
4 time to get to the -- that will be appropriate here.
5 Depending upon the witness's answer, we can then see what
6 the next question is.

7 MR. ROY: Your Honor, may I be heard?

8 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

9 MR. ROY: It's vague. We don't know what a
10 lawsuit is that Rene was referring to. It was leading,
11 asking if Rene asked about a lawsuit. And none of the
12 prior witnesses have ever testified --

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

14 MR. ROY: -- about any lawsuit.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Well, there's --
16 I have a variety of responses but I don't want to put words
17 into the witness's mouth, other than to say that if Counsel
18 made the question less vague, then it might be more
19 leading, so that's where I'm trying to balance. So -- but
20 there has been some testimony that could at least elicit a
21 possibility of why Rene could have asked that question of
22 this witness but not of other witnesses.

23 So with that in mind, I'm not going to say
24 anything more specific and I'll allow the question.

25 THE WITNESS: No.

1 MR. ROY: Thank the Lord.

2 BY MS. DEYOUNG-DOMINGUEZ:

3 Q. Based on what Rene told you, that there was no
4 work, did you believe that Cinagro was going to call you
5 back to work?

6 ADMINISTRATIVE LAW JUDGE SOBLE: I heard Mr. Roy
7 object but I did not hear what his objection was.

8 MR. ROY: It calls for speculation.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.
10 Sustained.

11 BY MS. DEYOUNG-DOMINGUEZ:

12 Q. What Rene told you about there not being work,
13 did you wait for Cinagro to call you back?

14 THE INTERPRETER: Counsel, I missed the first
15 part of your question. Can you please repeat that?

16 BY MS. DEYOUNG-DOMINGUEZ:

17 Q. Based on what Rene told you, that there was no
18 work, did you wait for Cinagro to call you back to work?

19 A. Yes.

20 ADMINISTRATIVE LAW JUDGE SOBLE: I need to pause
21 for a moment, so we're going to take a one-minute break.

22 (Pause)

23 ADMINISTRATIVE LAW JUDGE SOBLE: We're going to
24 take our 20-minute break now.

25 MR. ROY: Okay, Your Honor.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

2 (Off the record at 9:45 a.m.)

3 (On the record at 10:17 a.m.)

4 (Spanish Interpreter is present.)

5 (Witness is present.)

6 ADMINISTRATIVE LAW JUDGE SOBLE: We'll go back on
7 the record.

8 MS. DEYOUNG-DOMINGUEZ: Your Honor, may I
9 continue with my questions?

10 ADMINISTRATIVE LAW JUDGE SOBLE: I'm sorry?

11 MS. DEYOUNG-DOMINGUEZ: May I continue with my
12 questions?

13 ADMINISTRATIVE LAW JUDGE SOBLE: I am just
14 looking at my notes to see where we were on the last
15 question and, yes, I believe that, yes, you can proceed.

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

17 BY MS. DEYOUNG-DOMINGUEZ:

18 Q. Ms. Santiago, you saw the other crew working with
19 your crew at Cinagro; do you recall that?

20 A. Yes.

21 Q. Did you see that crew in January 2017?

22 A. I don't remember that.

23 Q. You testified earlier that you worked for a
24 contractor before; do you recall that?

25 A. Yes.

1 Q. Do you know the contractor's name?

2 A. The contractor? No.

3 Q. So the contractor that you worked with before
4 Cinagro, you don't recall that name?

5 A. No.

6 Q. Okay. After you cut your finger, how long did it
7 take you to heal your cut?

8 MR. ROY: Objection; relevance.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

10 THE WITNESS: It was two to three weeks.

11 BY MS. DEYOUNG-DOMINGUEZ:

12 Q. Once your cut healed were you ready to return to
13 work at Cinagro?

14 A. Yes.

15 MS. DEYOUNG-DOMINGUEZ: Thank you, Your Honor.
16 Those are my questions.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Does
18 Respondent's Counsel have some additional questions?

19 MR. ROY: Yes. I have a number. Thank you.

20 RE-CROSS-EXAMINATION

21 BY MR. ROY:

22 Q. Ms. Santiago, you testified to a question raised
23 by the Administrative Law Judge that you went to work at
24 the blueberry farm approximately three weeks after your
25 last day of work; is that your testimony?

1 A. Yes.

2 Q. Okay. And how many days after your last day of
3 work at Cinagro, did you apply for work at the blueberry
4 ranch?

5 A. How many days?

6 Q. Yes.

7 A. Two to three days.

8 Q. Okay. So when you went to seek employment at the
9 blueberry farm, they didn't need workers at that moment; is
10 that correct?

11 A. Yes.

12 Q. And you had to wait --

13 MS. DEYOUNG-DOMINGUEZ: Objection. Objection,
14 Your Honor. That calls for speculation.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled, but I
16 certainly allow you, on redirect, to ask how she would know
17 that.

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

19 BY MR. ROY:

20 Q. How many days after you applied did you actually
21 start working?

22 A. I don't remember that, how many days after.

23 Q. Okay. But after you applied you had to wait a
24 certain period to get called to work; is that right?

25 A. Yes.

1 Q. I know that because Marisol testified that not
2 everyone got work right away because there were long lines
3 waiting to get employed; do you recall that?

4 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor;
5 argumentative.

6 ADMINISTRATIVE LAW JUDGE SOBLE: I didn't hear
7 your objection but I'm sustaining it because the Attorney's
8 question is whether or not the witness knows how Mr. Roy
9 knew something, and so that question needs to be rephrased.

10 BY MR. ROY:

11 Q. How did you find out about the job at the
12 blueberry ranch, Ms. Santiago?

13 A. When we go by the different fields, that's when
14 we go in and check to see if they give us work.

15 Q. Did Marisol or anyone from your crew tell you
16 that there was work available there?

17 A. Yes.

18 Q. Is that why you went to work at the blueberry
19 ranch?

20 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor;
21 relevance.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

23 THE WITNESS: Yes.

24 MR. ROY: Thank you.

25 THE WITNESS: You're welcome.

1 BY MR. ROY:

2 Q. Notwithstanding the fact that you were working at
3 another company picking blueberries, is it your testimony
4 that you were still waiting around to hear from Cinagro?

5 A. Yes.

6 Q. And that's your answer, even though you were
7 waiting to go back to another company that paid you less
8 and had less benefits than the blueberry ranch?

9 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor;
10 argumentative, and asked and answered.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

12 Ms. Angelica, you can answer the question if you
13 understand it.

14 THE WITNESS: Can you repeat the question please?

15 BY MR. ROY:

16 Q. Ms. Santiago, notwithstanding the fact that you
17 were employed at the blueberry company, making more money
18 and more benefits, is it your testimony that you were still
19 waiting around to hear from Cinagro?

20 A. Yes.

21 Q. Let me ask you this, Ms. Santiago, did you at any
22 time after your last day of employment ever call Victor
23 about employment?

24 ADMINISTRATIVE LAW JUDGE SOBLE: I just want to
25 clarify. I think the attorney is asking you, Ms. Angelica,

1 after your last day of employment at Cinagro?

2 MR. ROY: Yes.

3 THE WITNESS: Yes.

4 BY MR. ROY:

5 Q. When did that occur?

6 A. After the two weeks after my injury.

7 Q. But you were working at the blueberry farm at
8 that time; isn't that right?

9 A. It isn't until they lay us off at the other place
10 that we're working at that we can be released. We have to
11 wait for them to call us back or let us know that they're
12 laying us off.

13 Q. Did you file for unemployment benefits while you
14 were waiting?

15 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor;
16 relevance.

17 ADMINISTRATIVE LAW JUDGE SOBLE: On that
18 objection, I think it's appropriate for me to hear argument
19 from Counsel. I'm not going to sustain an objection as to
20 relevance. But is there some other basis that you think
21 it's inappropriate for Counsel to ask that?

22 MS. DEYOUNG-DOMINGUEZ: Yes, Your Honor. It's --
23 are you asking me or asking Rob, Your Honor?

24 ADMINISTRATIVE LAW JUDGE SOBLE: I'm asking first
25 for General Counsel. And then I'll allow the Respondent's

1 Counsel to respond.

2 MS. DEYOUNG-DOMINGUEZ: Absolutely, Your Honor.
3 This would, potentially, reveal personal private
4 information. It could open the door to confidential issues
5 and chill worker participation in these proceedings.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And, Mr.
7 Roy, your response? I'd appreciate it if you wait until I
8 ask you, rather than just sort of making facial expressions
9 and sounds. But what would be your response to that?

10 MR. ROY: The witness testified that she was
11 waiting around because, under usual circumstances, you wait
12 until someone has laid you off or terminated you from your
13 employee. And I'm asking her whether she applied for
14 unemployment because she had no work during that two-week
15 period, fine, which she would have been eligible for. I'm
16 not getting into any specifics about it. I just wanted to
17 know if she had filed and she answered, "No."

18 ADMINISTRATIVE LAW JUDGE SOBLE: I think it's
19 actually a close call but I'm going to allow the question,
20 so -- and I believe I did hear the answer, "No," so you can
21 proceed with your next question.

22 BY MR. ROY:

23 Q. You -- Ms. Santiago, you did work for a labor
24 contractor in 2016; isn't that right?

25 A. Yes.

1 Q. And was Victor Mendoza your foreman at that labor
2 contractor crew?

3 A. Yes.

4 Q. And were you working at Cinagro Farms with that
5 labor contractor and Victor?

6 A. Yes.

7 Q. Okay. Was there a period of time when the
8 contractor was no longer paying you?

9 A. Yes.

10 Q. And to your best recollection, when was that,
11 what month in 2016?

12 A. I don't remember.

13 Q. Could it have been mid-November of 2016?

14 A. Yes.

15 MR. ROY: Thank you. I have no further
16 questions.

17 MS. DEYOUNG-DOMINGUEZ: Your Honor, may I just
18 refer -- I think there was a little part of the translation
19 of Rob -- Mr. Roy's question that wasn't fully translated.
20 I don't know if I can offer that to the Interpreter, if
21 that's helpful?

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

23 MS. DEYOUNG-DOMINGUEZ: Rob's question was: If it
24 could have been in mid-November? And I believe the
25 Interpreter only translated November. And so I want to

1 just clarify that specificity of the question to Ms.
2 Santiago.

3 THE INTERPRETER: Okay. I did not hear mid-
4 November but I can translate mid-November. Is that what I
5 should do, Your Honor?

6 ADMINISTRATIVE LAW JUDGE SOBLE: That would be
7 fine.

8 THE INTERPRETER: (Speaking Spanish.)

9 THE WITNESS: I don't remember the months very
10 well.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

12 THE WITNESS: You're welcome.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Do we have some
14 additional questions from Counsel?

15 MR. ROY: Your Honor, I just have a couple that I
16 was remiss in asking.

17 BY MR. ROY:

18 Q. Ms. Santiago, when you worked at the blueberry
19 company, you said you saw Marisol; is that correct?

20 A. Yes.

21 Q. Did you also see her husband, Rigoberto Perez?

22 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
23 This misstates Ms. Santiago's prior testimony.

24 ADMINISTRATIVE LAW JUDGE SOBLE: The objection is
25 overruled. And the only reason I'm permitting the question

1 is because since the last time Mr. Roy asked questions, I
2 believe I asked the witness if she had seen anybody else
3 from her former crew at the blueberry farm. So, otherwise,
4 I would not be permitting it as being responsive to one of
5 the earlier questions but, because of that, I'm allowing
6 the question.

7 Ms. Angelica, the Attorney asked if you saw
8 Rigoberto from your crew at Cinagro at the blueberry farm
9 at sometime?

10 THE WITNESS: No.

11 MR. ROY: Your Honor, are we waiting for an
12 additional question from you?

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. From a
14 while your microphone was off, for a couple seconds.

15 MR. ROY: I've got some guy upstairs with a drill
16 that I'm trying to get my secretary to go up and stop, so
17 this would be noise while we're doing the hearing.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

19 MR. ROY: So I'm going to go into this line of
20 questioning, merely to examine how many people from the
21 crew worked at the blueberry ranch.

22 ADMINISTRATIVE LAW JUDGE SOBLE: I don't know why
23 you're explaining that. Was there an objection that you
24 heard?

25 MR. ROY: No. I think there was an objection but

1 I think you overruled it.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Correct. So you
3 don't need to explain the reasoning for your questions.

4 MR. ROY: All right.

5 ADMINISTRATIVE LAW JUDGE SOBLE: You will need to
6 let me know if you have any more.

7 MR. ROY: Thank you. Yes, I have four questions.

8 BY MR. ROY:

9 Q. So, Ms. Santiago, you've admitted that you saw
10 both Marisol and Rigoberto at the blueberry ranch; correct?

11 MR. ROY: I wish to withdraw that.

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

13 MR. ROY: I wish to withdraw that. I meant
14 Hector Cruz Vasquez.

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

16 This also lacks foundation.

17 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
18 sustain the objection.

19 MR. ROY: Okay. All right.

20 BY MR. ROY:

21 Q. Ms. Santiago, while you were employed at the
22 blueberry ranch, did you ever see Hector Cruz Vasquez; yes
23 or no?

24 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor;
25 vague as to time.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. Let
2 me take a step back.

3 Ms. Angelica, have you ever met someone named
4 Hector Cruz?

5 THE WITNESS: Hector Cruz?

6 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

7 THE WITNESS: I think it's Marisol's husband.

8 ADMINISTRATIVE LAW JUDGE SOBLE: And did he work
9 with you and Marisol at Cinagro?

10 THE WITNESS: Yes.

11 ADMINISTRATIVE LAW JUDGE SOBLE: And do you know
12 if Hector worked ever at the blueberry farm?

13 THE WITNESS: I don't know.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Thank
15 you.

16 Mr. Roy?

17 BY MR. ROY:

18 Q. And Ms. Duarte [sic], if I told you Marisol
19 testified that she and her husband worked at the blueberry
20 farm, would that change your testimony?

21 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy, your
22 question is confusing because you mentioned Ms. Duarte.
23 This is Ms. Angelica Santiago, Maria.

24 MR. ROY: Sorry. All right.

25 BY MR. ROY:

1 Q. Ms. Santiago, would your recollection be
2 different if I informed you that Marisol had already
3 testified that she and Hector were working at the blueberry
4 farm?

5 A. If I would change my testimony? No.

6 Q. Ms. Santiago, do you know a Maria Guadalupe
7 Duarte who worked with you in your crew at Cinagro?

8 A. Yes.

9 Q. Do you know if she also worked at the blueberry
10 ranch with you and Marisol?

11 A. I don't know.

12 Q. Do you know Ignacia Sanchez who worked in your
13 crew at Cinagro?

14 THE INTERPRETER: Counsel, was the name Ignacia
15 Sanchez?

16 MR. ROY: Yes.

17 THE INTERPRETER: (Speaking Spanish.)

18 THE WITNESS: Yes.

19 BY MR. ROY:

20 Q. And did you see her also working at the blueberry
21 farm?

22 A. No.

23 Q. How about Ignacia Sanchez, she worked with you at
24 your crew at Cinagro; correct?

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

1 This has been asked and answered. He just asked about
2 Ignacia Sanchez.

3 MR. ROY: I'm sorry, I meant Marie Lauriano. I'm
4 sorry. I'll re-ask it, Your Honor.

5 ADMINISTRATIVE LAW JUDGE SOBLE: I think your mic
6 is off, Your Honor.

7 BY MR. ROY:

8 Q. Ms. Santiago, do you recall seeing Marie Lauriano
9 in your crew at Cinagro Farms?

10 A. Yes.

11 Q. Did she also work at the blueberry farm?

12 A. I don't know.

13 Q. But you don't know for sure?

14 A. I don't know if they worked with the blueberries
15 or not.

16 Q. Okay. And at any time, other than Marisol, did
17 you ever learn that all these other named individuals
18 worked with you at the blueberry farm?

19 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
20 This is argumentative and has been asked and answered.

21 MR. ROY: Your Honor?

22 ADMINISTRATIVE LAW JUDGE SOBLE: I'll allow the
23 question.

24 THE WITNESS: Can you repeat the question please?

25 MR. ROY: Yes.

1 BY MR. ROY:

2 Q. At any time after you left Cinagro, and apart
3 from Marisol, did you come to learn that any of these other
4 persons I designated also worked at the berry farm with
5 you, the blueberry farm?

6 A. I don't know.

7 MR. ROY: I have no further questions, Your
8 Honor.

9 ADMINISTRATIVE LAW JUDGE SOBLE: I do not have
10 any additional questions for Ms. Maria Angelica Santiago.

11 Does the Assistant General Counsel have any
12 additional questions for her?

13 MS. DEYOUNG-DOMINGUEZ: Yes, Your Honor, I do.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

15 FURTHER REDIRECT EXAMINATION

16 BY MS. DEYOUNG-DOMINGUEZ:

17 Q. Ms. Santiago, you testified that you cut your
18 hand. Was there a period of time that you could not work
19 because of your cut?

20 MR. ROY: Objection, Your Honor; asked and
21 answered.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.
23 I know that it was asked and answered before but I don't
24 know that it was asked and answered by the General Counsel,
25 and for me to know that for sure would require me to go

1 through the transcript at great length, so I'll allow it.

2 THE WITNESS: Yes.

3 BY MS. DEYOUNG-DOMINGUEZ:

4 Q. Did Cinagro pay you for the time you took off
5 because of the injury?

6 MR. ROY: Objection; relevance, Your Honor.

7 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
8 allow that only for the following purpose so that we know
9 that there's not any confusion over the timing over the
10 last check that the witness received. It's not pertinent
11 to this hearing or relative to this hearing whether or not
12 they should have or did pay her for any injury that did or
13 didn't occur but, rather, so that we know there wasn't some
14 other check that occurred that was the last check that she
15 received.

16 So why don't you repeat the question, Ms.
17 DeYoung-Dominguez?

18 MS. DEYOUNG-DOMINGUEZ: Okay, Your Honor.

19 BY MS. DEYOUNG-DOMINGUEZ:

20 Q. Did Cinagro pay you time you took off because of
21 the injury?

22 A. The two weeks, yes.

23 Q. And after you recovered, did you talk to Rene
24 about returning to Cinagro?

25 A. Yes.

1 Q. And Cinagro --

2 THE INTERPRETER: I'm sorry, Counsel. I'm not
3 sure if she said something after "Yes." (Speaking
4 Spanish.)

5 THE WITNESS: Oh, no, I did not say anything.

6 BY MS. DEYOUNG-DOMINGUEZ:

7 Q. Cinagro paid you for the two weeks; right?

8 MR. ROY: Objection; asked and answered.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

10 BY MS. DEYOUNG-DOMINGUEZ:

11 Q. When you picked up -- after you recovered you
12 talked to Rene about returning to Cinagro when you picked
13 up your check?

14 MR. ROY: Objection; leading.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

16 THE INTERPRETER: I'm sorry, Counsel, can you
17 please repeat that question? Between the objection, I
18 hadn't had a chance to interpret and I lost it.

19 ADMINISTRATIVE LAW JUDGE SOBLE: That's okay
20 because the objection was sustained.

21 THE INTERPRETER: It's sustained, yeah.

22 ADMINISTRATIVE LAW JUDGE SOBLE: We don't need to
23 interpret it or translate it.

24 THE INTERPRETER: Yes. Yes. Right.

25 BY MS. DEYOUNG-DOMINGUEZ:

1 Q. Did this conversation with Rene about returning
2 to Cinagro happen when you picked up your check?

3 MR. ROY: Objection; vague. We don't know --

4 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

5 MR. ROY: -- which check.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained for
7 that reason.

8 BY MS. DEYOUNG-DOMINGUEZ:

9 Q. After you worked for Cinagro, you worked for a
10 blueberry farm?

11 THE INTERPRETER: I'm sorry, I didn't -- it cut
12 off. After you --

13 BY MS. DEYOUNG-DOMINGUEZ:

14 Q. After you worked for Cinagro, you worked for a
15 blueberry farm?

16 A. Yes.

17 Q. How long did you work for the blueberry farm
18 after Cinagro?

19 A. Can you repeat the question? I didn't hear it
20 well.

21 Q. How long did you work in the blueberry farm after
22 Cinagro?

23 A. I don't remember the date. How long or when did
24 I start?

25 ADMINISTRATIVE LAW JUDGE SOBLE: How many months

1 --

2 THE WITNESS: How many months?

3 ADMINISTRATIVE LAW JUDGE SOBLE: -- did you work
4 there? How many months did you work at blueberry farm?

5 THE WITNESS: I don't remember very well the
6 months.

7 ADMINISTRATIVE LAW JUDGE SOBLE: More than one
8 month?

9 THE WITNESS: Yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

11 Counsel?

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

13 BY MS. DEYOUNG-DOMINGUEZ:

14 Q. What was the name of the blueberry farm?

15 A. The ranch? I don't remember.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Do you remember
17 the name of the blueberry farm company?

18 THE WITNESS: No.

19 BY MS. DEYOUNG-DOMINGUEZ:

20 Q. Where was it located?

21 A. Toward the 118.

22 Q. Does that mean the freeway?

23 A. Yes.

24 Q. Who paid you when you worked there?

25 A. Excuse me?

1 Q. Who paid you when you worked at the blueberry
2 farm?

3 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
4 object to that question as being beyond the scope of what
5 Mr. Roy asked, one, two, that it would be an undue
6 consumption of time and, three, I don't know why it would
7 be relevant. You can address the last part, just so that I
8 know, because perhaps I'm missing something.

9 MS. DEYOUNG-DOMINGUEZ: No. Your Honor, I was
10 asking these questions to, hopefully, jog her memory and,
11 you know, also to establish that there are many details
12 that she doesn't remember. And in Mr. Roy's final
13 questioning, he tried to pin her down to an exact company
14 at Silent Springs. And I'm just trying to demonstrate that
15 she doesn't recall what company, the blueberry farm she
16 worked at --

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

18 MS. DEYOUNG-DOMINGUEZ: -- name of employer and
19 the company.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well, I
21 think we've already established that she doesn't remember
22 the name of the company. And so I think you can move on to
23 your next line of questions.

24 MS. DEYOUNG-DOMINGUEZ: Okay.

25 BY MS. DEYOUNG-DOMINGUEZ:

1 Q. When you spoke with Rene about returning to
2 Cinagro, did that happen when you picked up your final
3 check from Cinagro?

4 A. Yes.

5 MS. DEYOUNG-DOMINGUEZ: Thank you, Your Honor.
6 No further questions.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy, do you
8 have any additional questions limited solely to the topics
9 that the Assistant General Counsel --

10 MR. ROY: Yes, Your Honor. Yes.

11 ADMINISTRATIVE LAW JUDGE SOBLE: --
12 (indiscernible)?

13 FURTHER RECROSS-EXAMINATION

14 BY MR. ROY:

15 Q. Ms. Santiago, when you referred to the berry farm
16 where you worked, was that in Fillmore by Highway 118, next
17 to the Cinagro ranch?

18 A. Yes.

19 Q. And it was the same ranch that you also worked
20 with Marisol; correct?

21 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor;
22 asked and answered.

23 ADMINISTRATIVE LAW JUDGE SOBLE: That is both
24 vague and asked and answered because they -- the testimony
25 says that the two of them worked together at two different

1 locations, one of which was Cinagro. So I think it's
2 already been -- I don't think there's any dispute as to
3 where she next worked. And I'm at a loss of why both
4 Counsel are asking more questions related to that.

5 But perhaps, Mr. Roy, you have a different
6 question?

7 BY MR. ROY:

8 Q. You have testified that you spoke to Rene when you
9 received your final paycheck; is that correct?

10 A. Yes.

11 Q. And was that at the end of the following week
12 that you worked at Cinagro?

13 A. It was two weeks after I cut myself.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Angelica,
15 did you receive your last check from Cinagro at the same
16 time as the other crew members that you worked with at
17 Cinagro or did you receive your last check from Cinagro
18 after the other members of your crew received their last
19 check from Cinagro, if you know?

20 THE WITNESS: The last check for work, we all
21 received it the same day.

22 MR. ROY: No further questions, Your Honor.

23 ADMINISTRATIVE LAW JUDGE SOBLE: I have a couple
24 of questions.

25 FURTHER VOIR DIRE

1 BY ADMINISTRATIVE LAW JUDGE SOBLE:

2 Q. The day that you cut your finger, was that the
3 last day that the other members of your crew worked at
4 Cinagro or did they work at Cinagro after you cut your
5 finger for a few more days?

6 A. It seems like they worked the last day the day I
7 cut myself.

8 Q. And you would know that from talking to your
9 coworkers or some -- or for some other reason?

10 A. When I spoke to the foreman, he told me, "Well,
11 we haven't worked either since you cut yourself."

12 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

13 THE WITNESS: You're welcome.

14 ADMINISTRATIVE LAW JUDGE SOBLE: I take it that
15 none of the Counsel have any additional questions for this
16 witness?

17 MR. ROY: I have one.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. DeYoung-
19 Dominguez, do you have any additional questions?

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

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, keeping in
22 mind that both of you are only asking questions related to
23 the questions that are since when you last asked questions,
24 which in your case, Ms. DeYoung-Dominguez, are either the
25 ones asked by Mr. Roy or myself. With that in mind, you

1 can proceed.

2 ADDITIONAL FURTHER REDIRECT EXAMINATION

3 BY MS. DEYOUNG-DOMINGUEZ:

4 Q. When you said that you received a check from Rene
5 for the two weeks of time you were recovering from your
6 injury, were any of your other -- other members of your
7 crew there?

8 A. No.

9 MS. DEYOUNG-DOMINGUEZ: No further questions,
10 Your Honor.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy?

12 ADDITIONAL FURTHER RECROSS-EXAMINATION

13 BY MR. ROY:

14 Q. Ms. Santiago, you just testified that your injury
15 occurred on the last day of work; is that correct, at
16 Cinagro?

17 A. Yes.

18 Q. And I'm looking at the payroll records for that
19 day and you received the same pay as everyone else that
20 day; isn't that correct?

21 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
22 This calls for speculation.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.
24 There is no evidence that Ms. Angelica Santiago has ever
25 seen the payroll records before.

1 MR. ROY: I understand that but there's a joint
2 stipulation that shows those records for the week before
3 and the week after the incident and shows how much
4 production and how much workers were paid.

5 ADMINISTRATIVE LAW JUDGE SOBLE: You were asking
6 her if the record said that and she has no basis for that.
7 You may have a basis. General Counsel may have a basis.
8 Even I may have a basis if you stipulated to it.

9 MR. ROY: Right.

10 ADMINISTRATIVE LAW JUDGE SOBLE: That doesn't
11 mean the witness has a basis.

12 MR. ROY: All right.

13 BY MR. ROY:

14 Q. Ms. Santiago, do you know if you were paid for
15 the entire last day that you worked at Cinagro?

16 A. Can you repeat the question? I didn't hear it
17 very well.

18 Q. Do you know if you were paid for the last day,
19 when you injured your finger, at Cinagro? Were you paid
20 for the full day?

21 A. The last day, we waited one week for them to pay
22 us.

23 Q. Okay. And a week later, when you received your
24 paycheck, did it appear to you that you had been paid for
25 the prior Saturday, the last day of work, when you injured

1 your finger?

2 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor;
3 speculation. And I would just like to note, too, that I
4 think Ms. Santiago's confusion, perhaps, with the earlier
5 question was that the full day was not translated.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well, if
7 you're asking me to go back to a previous question, I don't
8 recall what the translation was, so I can't speak to that.

9 The objection is overruled. But we're coming
10 very close to the point where I will be ruling that further
11 questions on this subject aren't permitted. I think this
12 is taking an undue consumption of time for something that
13 is not going to ultimately be determinative for the facts
14 of this hearing.

15 It seems to me that there's only one thing that
16 people might be trying to determine, and that's whether or
17 not Ms. Angelica Santiago received an additional check for
18 some period of time past when she worked because of the
19 injury to her finger or not? Whether or not she received
20 the whole pay for that last day that she worked really
21 seems unimportant for purposes of this hearing. It may be
22 relevant if she wasn't paid something for some other matter
23 but not for determining whether or not there was an unfair
24 labor practice, so --

25 MR. ROY: Can I just clarify along that line,

1 just one last question, Your Honor?

2 BY MR. ROY:

3 Q. Ms. Santiago, the week after you received your
4 injury you received the final paycheck from Cinagro; is
5 that right?

6 A. Yes.

7 Q. And subsequent to you receiving that final check,
8 did you receive another check from Cinagro for a two-week
9 period because of your injury?

10 A. Yes.

11 MR. ROY: Okay. No further questions, Your
12 Honor.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. One
14 question.

15 ADDITIONAL FURTHER VOIR DIRE

16 Q. Ms. Angelica Santiago, is it your understanding
17 that the company gave you a check with approximately two
18 weeks salary to compensate you because your finger was cut?

19 A. Yes.

20 Q. And they gave you that check before the two weeks
21 expired?

22 A. No, after the two weeks had gone by.

23 Q. So if they gave you the check after the two weeks
24 went by, was it the last check you received from Cinagro or
25 was that the next to last check that you had received from

1 Cinagro?

2 A. The last one.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do either
4 of the other Counsel have additional questions for this
5 witness?

6 MR. ROY: None, Your Honor.

7 MS. DEYOUNG-DOMINGUEZ: None, Your Honor. Thank
8 you.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. At this
10 time, Ms. Angelica Santiago, none of the attorneys have
11 additional questions for you.

12 It is important for the duration of this hearing
13 that you do not discuss your testimony or anything that you
14 heard at this hearing with anyone else who is a potential
15 witness, which means anyone who previously worked for
16 Cinagro.

17 Thank you very much for your time. And one of
18 the attorneys will contact you in the unlikely event we
19 need to speak with you further. Have a good day and thank
20 you again.

21 THE WITNESS: Same to you. Thank you.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Once the witness
23 is out of the room, we're going to talk for a minute or
24 two, and then we'll bring in the next witness.

25 (Witness exits the hearing room.)

1 ADMINISTRATIVE LAW JUDGE SOBLE: Am I correct
2 that the next witness, as previously discussed, is going to
3 be the Spanish-speaking witness and not the English-
4 speaking witness?

5 MS. ARCINIEGA: Yes, Your Honor.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I will
7 reiterate something that I said earlier in the hearing.
8 For the life of me, I can't understand why both sides did
9 not obtain and introduce bank records rather than asking
10 questions of witnesses from four years ago as to their
11 memory as to dates. Those documents would have spoken for
12 themselves and it would have been a much more productive
13 use of our time. So I would hope that people take that to
14 heart if they have subsequent hearings in which I am the
15 Administrative Law Judge.

16 MR. ROY: Thank you, Your Honor.

17 MS. ARCINIEGA: May I ask a question, a
18 clarification, when you refer to bank records, what you're
19 referring to?

20 ADMINISTRATIVE LAW JUDGE SOBLE: I am referring
21 to the checks that people received. In particular, we've
22 spent hours having people talk about personal checks versus
23 company checks. Nobody's shown me the personal checks. If
24 you think that there's a relevance to it, other than
25 establishing a chronology, then it would make sense to

1 present them. I don't know if any of the witnesses have
2 access to them. But it is my general understanding that,
3 even after four years, many banks retain copies of things
4 like that.

5 And so I think that that would be much more
6 effective for both sides to establish things. I don't know
7 that those checks will be critical to the outcome of the
8 hearing. But I do know that they could have saved us, I
9 think a fair amount of time in terms of the length of
10 witness testimony.

11 I think it is my life experience that, not just
12 for farmworkers but for all but the most unusual of people
13 with eidetic memories, that people don't remember precise
14 dates of things from four years ago. And on the other
15 hand, documents have dates on them and can be used to the
16 extent that they are simply creating a timeline or
17 chronology.

18 So with that in mind --

19 MS. ARCINIEGA: May I be heard, Your Honor?

20 ADMINISTRATIVE LAW JUDGE SOBLE: Anything that we
21 need to do before we bring Mr. Mendoza into the hearing
22 room?

23 MS. ARCINIEGA: I just wanted to be heard on this
24 topic, Your Honor.

25 ADMINISTRATIVE LAW JUDGE SOBLE: The topic of Mr.

1 Mendoza or on providing the documents?

2 MS. ARCINIEGA: On Your Honor's comments about --

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Yes. On
4 my thought that the, at a minimum, personal checks would
5 have been useful things to introduce as evidence. And
6 perhaps, also, the last checks if, in fact, there's some
7 issue as to when the last date worked was.

8 MS. ARCINIEGA: Thank you, Your Honor.

9 ADMINISTRATIVE LAW JUDGE SOBLE: I am not
10 referring to, necessarily, the check that the last witness
11 received or didn't receive as a result of any cut to her
12 finger because I have no way of knowing if any of the
13 counsel anticipated that to be part of the testimony or
14 not. I mean, it certainly wasn't something that was
15 presented to me in the prehearing conference that there
16 would be something related to that. But thus far, I've
17 heard none of the counsel suggest that that was a
18 motivating factor in the crew not being invited back, so
19 I'm not suggesting that it had needed to be brought up at
20 the prehearing conference either.

21 MS. ARCINIEGA: I wanted to say, Your Honor, that
22 I think there was testimony with one of the -- the one --
23 the first or second witness about if they still had the
24 personal checks. And in my experience, beyond my years
25 here at the ALRB but in working with farmworkers, very

1 often, Your Honor, they do not have bank accounts. Very
2 often my experience has been, during these investigations,
3 when we ask for documents is that the majority of
4 farmworkers do cash their checks at check cashing places,
5 liquor stores, perhaps, super markets, and there's an
6 industry that incentivizes that.

7 I can't speak to farmworkers not choosing to use
8 banks or any obstacles to that, Your Honor. But just
9 wanted to add that context from my experience.

10 ADMINISTRATIVE LAW JUDGE SOBLE: And it is my
11 experience that you are correct, that there is a much
12 higher percentage among the farmworker community who
13 negotiate their checks using alternative means. But where
14 you have a crew with a larger number of people, you're able
15 to ask them, in their specific instance, did they deposit
16 it in the bank or did they do something else to cash it
17 and, most likely, you would have been able to find someone.

18 But if I were you, I wouldn't have even taken
19 that approach at all. If I had your job, at the risk of my
20 spending too much time on this, I would have subpoenaed Mr.
21 Dighera's bank records because his personal checks would
22 have been available from him bank. And that would have
23 been, to me, the easiest way to do it because he would have
24 had all of the checks, rather than going to multiple
25 people. And I think you appropriately and accurately state

1 that if there were, say hypothetically, ten crew members,
2 there might only be three of them, perhaps, who deposited
3 their checks into a bank. But I'm guessing Mr. Dighera's
4 bank still had copies of those.

5 MR. ROY: Your Honor, may I state something for
6 the record? Because there were never any personal checks.
7 And we will demonstrate that in our case in chief.

8 ADMINISTRATIVE LAW JUDGE SOBLE: That's fine
9 whether you demonstrate that or not. For all I know you
10 will be introducing those checks as part of your case. And
11 I would not discourage you from doing that. In fact, I
12 would encourage you to do that. I think, even if it's not
13 on your list, there's been enough testimony that you can
14 introduce those checks and consider it to be rebuttal
15 evidence.

16 However, my point is that it would be useful to
17 see those checks. That is not the overall issue. Nobody
18 is claiming that it was an unfair labor practice because
19 personal checks were used or not used. But with that much
20 testimony there that one of the things that, perhaps, may
21 be implied by some of the testimony is that, perhaps, your
22 client was unhappy with the crew because they expressed
23 concerns about the pay stubs.

24 MR. ROY: That's (indiscernible).

25 ADMINISTRATIVE LAW JUDGE SOBLE: Whether or not

1 that's true of not it, therefore, is useful to know, what
2 were these checks that they received that they had concerns
3 with to have a more complete record?

4 Again, partly because those checks are going to
5 be better evidence, but more from my perspective because,
6 perhaps, we could have saved an inordinate amount of time,
7 perhaps even as much as three or four hours cumulatively of
8 what we've spent the four days this week, by doing it that
9 way. But until I see everything, I don't know that. With
10 some of the witnesses, perhaps, it might have taken as
11 long. But not all of that goes to the fact that a lot of
12 time has passed. But I think even if we had had this
13 hearing after two years instead of after three years and
14 eleven-something months, that some of the same things would
15 have arose.

16 But regardless, I've indicated my thoughts on
17 that. Whether the General Counsel or the Respondent
18 provide copies of these other checks during the course of
19 to the hearing, we'll see. Mr. Roy has suggested that,
20 perhaps, we may see them yet.

21 MR. ROY: Your Honor, probably by way of
22 rebuttal, and on that question, how do you want me to
23 present these checks? Do you want me to send copies over
24 to the General Counsel this evening after the hearing for
25 Monday morning and copies to you?

1 ADMINISTRATIVE LAW JUDGE SOBLE: I think when
2 they have finished with their case or when you're first
3 going to show them to a witness, whichever comes first, is
4 the appropriate time for you to provide them to the General
5 Counsel. You don't need to provide them to me at the same
6 time but I need to get them before you show them to a
7 witness.

8 So let's just suppose that the General Counsel
9 finishes their case today, then, yes, I would say go ahead
10 and send those to the General Counsel. That way if there's
11 some reason that they want to communicate why you shouldn't
12 be sending them to me, they can communicate that to you.
13 You don't have to agree with them but at least you'll have
14 had that exchange if it exists. I don't think it will.
15 And then you can send them to me if you're going to show
16 them to a witness, for example, perhaps to Mr. Dighera.

17 MR. ROY: Thank you, Your Honor. Appreciate it.

18 ADMINISTRATIVE LAW JUDGE SOBLE: So, again, the
19 whole case does not hinge on whether these checks were
20 personal checks or were not personal checks but there was a
21 lot of discussion over it. And again, I'm just trying to
22 keep everything moving best as we can so that there's,
23 perhaps, still a chance, but continuing to get smaller by
24 the minute, that we could finish on Tuesday at this point.

25 So, okay, so, again, it looks like we're ready

1 for Mr. Mendoza.

2 Taking into account when we took our break, does
3 anyone have a preference as to when we take our lunch
4 break? Would it be appropriate in taking it about 12:10 or
5 is there a different time that the parties would like?

6 MR. ROY: 12:10, 12:15 is fine with us.

7 ADMINISTRATIVE LAW JUDGE SOBLE: And for the
8 General Counsel?

9 MS. ARCINIEGA: I believe that works for us, Your
10 Honor.

11 ADMINISTRATIVE LAW JUDGE SOBLE: And who is going
12 to be asking questions of Mr. Mendoza, the General
13 Director?

14 MS. ARCINIEGA: I am, Your Honor. Assistant
15 General Counsel Arciniega.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Just
17 before, you had indicated that, perhaps, the Regional
18 Director was going to be examining one of the witnesses and
19 we only have two witnesses left, so --

20 MS. HERRERA: Your Honor, I was hopeful. But my
21 attorneys are doing quite a good job. If they moved very
22 fast, I was going to take a witness, but we haven't and so
23 we had plenty of time to work on these things. So thank
24 you, Your Honor, for the opportunity.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I was not

1 indicating that it was appropriate or inappropriate. I was
2 just simply prognosticating based on past comments, what
3 would be requested. So it sounds like Ms. Arciniega will
4 be the person doing the direct exam for Mr. Mendoza.

5 Let's go ahead and bring him into the hearing
6 room.

7 (Witness is present.)

8 MS. ARCINIEGA: He's present, Your Honor.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

10 Good morning. Would you please state your full
11 name for the record?

12 THE WITNESS: Mine?

13 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

14 THE WITNESS: Victor Manuel Mendoza Pina. Yes.

15 ADMINISTRATIVE LAW JUDGE SOBLE: And what is the
16 language you speak best?

17 THE WITNESS: Spanish.

18 ADMINISTRATIVE LAW JUDGE SOBLE: And what
19 language do you speak the most at home and at work?

20 THE WITNESS: Mostly Spanish.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And do
22 you prefer to be called Mr. Mendoza or something different?

23 THE WITNESS: That's fine. Victor Mendoza.

24 ADMINISTRATIVE LAW JUDGE SOBLE: And the full
25 name, it was Victor Manuel Mandoza Pina?

1 THE WITNESS: Yes. Pina.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Pina with an I,
3 not an E? Gracias.

4 THE WITNESS: It's with an I.

5 (Witness is sworn.)

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. What will
7 happen in this hearing is that some of the attorneys, and
8 possibly myself, will ask questions in English. After we
9 ask a question the Interpreter will translate the question
10 from English to Spanish. After the Interpreter translates
11 the question, please pause for a couple of seconds before
12 you answer. This is because once in a while either one of
13 the attorneys or myself may object to a question. And if
14 that happens, I'll let you know, or the Interpreter will
15 let you know, whether to answer the question or to,
16 instead, wait for the next question.

17 THE WITNESS: Yeah. That's fine.

18 ADMINISTRATIVE LAW JUDGE SOBLE: If you have a
19 long answer there's two things that we would request. One
20 is to talk a little bit more slowly. The second is to
21 pause after you have said two or three sentences so that
22 the Interpreter can translate them before you continue with
23 your answer.

24 For all of your answers, it's important that you
25 testify orally or audibly. This is because if you nod your

1 A. Good morning.

2 Q. My name is Jessica Arciniega. When I ask you
3 questions, if you have difficulty hearing them or something
4 happens on the screen where you can't see me or anybody
5 else, please let us know.

6 A. Yes. That's fine.

7 ADMINISTRATIVE LAW JUDGE SOBLE: And right now I
8 am able to see everyone except for the Court Reporter.

9 THE WITNESS: Yes.

10 BY MS. ARCINIEGA:

11 Q. Mr. Mendoza, did you work at Cinagro Farms?

12 A. Yes.

13 Q. And when did you start working at Cinagro Farms?

14 A. If I remember correctly, it would have been July.
15 I don't remember very well.

16 Q. Do you remember the year?

17 A. 2016.

18 Q. How did you start working at Cinagro Farms?

19 A. We went there to work through the contractor.

20 Q. Okay. Do you know the name of the farm labor
21 contractor?

22 A. The name of the contractor?

23 Q. Yes, please.

24 A. Mike's Labor. Yes.

25 Q. Thank you.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Was that the
2 first time that you had ever worked for Mike's Labor?

3 THE WITNESS: Years back I had worked with them,
4 with Mike's Labor.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

6 BY MS. ARCINIEGA:

7 Q. And what was your job when you were with Mike's
8 Labor and went to Cinagro?

9 A. I was a foreman.

10 Q. Okay. And how many people -- oh, sorry -- how
11 many people were in your crew when you were working with
12 Mike's Labor and went to Cinagro?

13 A. Mike's Labor was about 15 people. And when we
14 went into Cinagro, it was about ten people.

15 Q. Okay. And when you were with Mike's Labor,
16 working at Cinagro, who gave you instructions on what your
17 crew was to do?

18 A. When we were with Cinagro? In Cinagro, it was
19 Rene.

20 Q. Okay. When you were being paid by Mike's Labor
21 and performing work at Cinagro, was that the same person
22 who was giving you instructions for your crew?

23 A. Yes, Rene.

24 Q. And at some point did your crew -- did you and
25 your crew stop being paid by Mike's Labor and were paid by

1 Cinagro?

2 A. Yes.

3 Q. When did that happen?

4 A. If I remember correctly, two months after.

5 Q. Two months after you and your crew were

6 performing the work for Cinagro?

7 A. Yes.

8 Q. Okay. And how did you find out that you were
9 going to be hired by Cinagro directly?

10 A. The contractor's son went and notified us that we
11 were going to be part of the company at Cinagro.

12 Q. Okay. Were you and your crew working, like
13 working in the field, when the farm labor contractor's son
14 went out to tell you that?

15 A. Yes.

16 Q. Okay. Was there anybody else with the farm labor
17 contractor's son when he told you this?

18 A. Rene.

19 Q. Do you know Rene's last name?

20 A. No.

21 Q. Okay. And what was his position at Cinagro?

22 A. Supervisor.

23 Q. And do you know the name of the son of the
24 contractor?

25 A. Arturo.

1 Q. Arturo is the name of the son?

2 A. Arturo is the contractor's son.

3 Q. Okay. So when Arturo and Rene went out to the
4 field to talk to you, were the workers also present?

5 A. Yes.

6 Q. And can you tell me the names of the workers who
7 were present at that time?

8 A. Hector Cruz, Marisol Jimenez, Yolanda Perez,
9 Rigoberto, Maria Guadalupe, Ignacia. The others, I don't
10 remember.

11 Q. Okay. So who spoke first?

12 A. The contractor. The contractor's son.

13 Q. What did he say?

14 A. He told us that starting Monday we would be part
15 of the company Cinagro.

16 Q. Do you recall what day this was that he told you
17 that?

18 A. Saturday.

19 Q. And did Rene say anything at this time?

20 A. Yes. He said that on Monday they would give us
21 the applications.

22 Q. What else?

23 A. And he said that we were going to continue
24 working the same way, that he was going to give me the
25 orders.

1 Q. Okay. Did you say anything at this meeting?

2 A. I just asked when he was actually going to give
3 us the applications so that the people can fill them out.

4 Q. Okay. Did you hear any of the workers in your
5 crew ask questions or make comments?

6 A. No.

7 Q. And did Rene tell you and the workers at this
8 meeting how Cinagro was going to pay you for your work?

9 A. He told us that they were going to pay us with a
10 check.

11 Q. Anything else?

12 A. That the first check, it was a personal check.
13 It wasn't a check with a paycheck stub.

14 Q. Okay. When you say a personal check, can you
15 describe what that means to you?

16 A. And the personal check, we noticed, and even the
17 other members of the crew noticed, that they weren't
18 deducting the deductions that the government says that
19 should be deducted.

20 Q. Okay. Was there something on the check that you
21 saw that were deductions?

22 A. No.

23 Q. Okay. I don't know if I misunderstood or I
24 misheard heard, I'm sorry, so I'm going to ask this
25 question: Did you say that Cinagro was not making

1 deductions or Cinagro was making deductions?

2 A. They were making the deductions.

3 Q. And what made you -- why did you or what made --
4 how did you understand that they were making the
5 deductions?

6 A. We compared a check from the contractor with the
7 personal check.

8 Q. Okay. And what on those checks were you
9 comparing?

10 A. So in the contractor's check, they would pay us
11 the gross amount, and then they would list the deductions.
12 In the personal check, it just listed the amount and that
13 turned out to be the gross.

14 Q. Okay. Thank you.

15 I'm going to go back to this meeting with Rene
16 and Arturo and you and the workers.

17 A. Yes.

18 Q. Okay. Did Rene tell you and your coworkers
19 anything about how Cinagro was going to pay you in gross
20 wages?

21 A. No, he didn't comment anything.

22 Q. Okay. Did you talk to Rene after the meeting
23 with the workers?

24 A. After the meeting about the checks?

25 Q. I was asking about after this meeting with Arturo

1 and Rene and you and the workers, did you talk to Rene?

2 A. After the meeting, I did talk to him about a
3 produce order that they were making.

4 Q. Okay. Did you and Rene talk about any of the
5 work conditions related to the crew?

6 A. Not at the moment because he said everything was
7 going to remain the same.

8 Q. Okay. And did Rene give you applications for you
9 and the workers in your crew to fill out?

10 A. Yes.

11 Q. And when? How long after that meeting?

12 A. Two days later.

13 Q. Okay. And did he tell you -- I'm sorry. Let me
14 establish.

15 Did he give those applications to you for your
16 crew?

17 THE INTERPRETER: I'm sorry, Counsel. I didn't
18 hear the last part.

19 BY MS. ARCINIEGA:

20 Q. Did he give you those applications to you for
21 your crew?

22 A. Yes.

23 Q. And what did he tell you to do?

24 A. For me to give each one an application, for them
25 to fill it out, and turn them in the next day.

1 Q. How many pages were in each application?

2 A. I don't remember very well if it was two or
3 three.

4 Q. Okay. Did any of the pages have Cinagro Farms
5 typed on top of the page?

6 A. I don't remember.

7 Q. Do you remember or do you know what any of the
8 pages were, like specifically?

9 MR. ROY: Objection; relevance.

10 ADMINISTRATIVE LAW JUDGE SOBLE: I'm certainly
11 not sure what the relevance is either but I'm going to
12 allow one or two more questions on this on the chance that
13 there's some relevance that I haven't thought of yet.

14 MS. ARCINIEGA: Thank you.

15 THE WITNESS: Can you repeat the question again?

16 MS. ARCINIEGA: I'm trying to remember it. I'm
17 sorry. I don't want to misstate it.

18 BY MS. ARCINIEGA:

19 Q. Did you know what any of the pages were
20 specifically?

21 A. Okay. It was similar to the contractor's
22 application. The first page, I remember it asked for the
23 name, the address where you live, the Social Security
24 number, and how many dependents you're going to claim. The
25 second page basically asked for the same information again.

1 Q. And when you were working at Cinagro, if you
2 needed a day off of work, what did you have to do?

3 ADMINISTRATIVE LAW JUDGE SOBLE: Just to clarify,
4 are you asking what you would have to do if you were the
5 foreperson or if you were a crew member?

6 MS. ARCINIEGA: If he, as the foreperson.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

8 THE WITNESS: Can you repeat it again?

9 BY MS. ARCINIEGA:

10 Q. While you worked at Cinagro, if you needed to
11 miss a day of work, what did you have to do?

12 A. Report it to Rene.

13 Q. Okay. And while you worked at Cinagro, did you
14 miss any days of work?

15 A. Only one day.

16 Q. And did you report that to Rene?

17 A. Yes.

18 Q. When your crew -- or when the crew and you,
19 excuse me, were -- became direct employees of Cinagro were
20 there any workers added to your crew?

21 A. Not on my behalf. The person that added two
22 other people was Rene.

23 Q. And who are the two people that he added?

24 A. It was two ladies. I don't remember the names.

25 Q. Okay.

1 ADMINISTRATIVE LAW JUDGE SOBLE: So to be clear,
2 the two people in the crew, does that include the two
3 ladies who were added by Rene plus eight others or does
4 that mean that there was the total of ten, including the
5 two ladies added by Rene?

6 THE WITNESS: It was ten people. And then they
7 added the two others.

8 ADMINISTRATIVE LAW JUDGE SOBLE: For a total of
9 12?

10 THE WITNESS: Yes.

11 BY MS. ARCINIEGA:

12 Q. And do you know if the two people that Rene added
13 were already working at Cinagro?

14 A. Yes, they were already working there.

15 Q. Okay. What were the products that your crew
16 harvested at Cinagro?

17 A. It was green kale, red kale, cilantro, radishes,
18 cabbages, lettuce, and anise.

19 Q. And how did Cinagro pay you as a foreman for your
20 work? Was it hourly or piece rate?

21 A. I was paid by the hour.

22 Q. Okay. And who kept track of the number of boxes
23 that each person in your crew harvested?

24 A. I did.

25 Q. And how did you keep track of -- did you write

1 down the number of boxes that each worker harvested?

2 THE INTERPRETER: Counsel, your question was,
3 "did you write down?"

4 MS. ARCINIEGA: Yes.

5 THE WITNESS: Yes.

6 BY MS. ARCINIEGA:

7 Q. And what did you do with the written number of
8 boxes that each worker harvested?

9 A. I would write it down on a sheet. And then at
10 the end I would give it to Rene so he could see how many
11 boxes each person did.

12 Q. Okay. Did you give them to him every day, the
13 written number of boxes? Sorry.

14 A. Every time that he would show up at the ranch
15 because, sometimes, he would not go for two to three days.
16 So when he would come I would give him two or three days'
17 worth.

18 Q. Okay. And once you and your crew were working
19 and paid by Cinagro, did you notice any difference to the
20 working conditions for your crew?

21 A. Yes.

22 Q. What did you notice?

23 A. The first change was the bathroom and the water.

24 Q. What did you notice about the change to the
25 bathroom?

1 A. The first week, well, for the first two weeks, I
2 kept the bathroom that the contractor had, and that was a
3 double bathroom, one for men and one for women.

4 ADMINISTRATIVE LAW JUDGE SOBLE: And later?

5 MS. ARCINIEGA: Is that a question? Oh.

6 THE WITNESS: The contractor took the bathroom
7 that was there's. And they told me that Rene had to bring
8 one, a bathroom for us.

9 BY MS. ARCINIEGA:

10 Q. Did Rene take a bathroom for you and your crew?

11 A. Yes, but he only brought a single bathroom that
12 was shared between the men and the women.

13 Q. Okay. How many ranches did you and your crew
14 work at when you worked at Cinagro?

15 A. In two.

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

17 A. Tierra Rejada and Moorpark.

18 Q. Okay. And did the -- this bathroom that you just
19 talked about, the single bathroom, did -- how did -- did it
20 have to go to each ranch that you and your crew worked at
21 or did it stay at one ranch?

22 A. There was one in Tierra Rejada and one in
23 Moorpark.

24 Q. Okay. You also said that you noticed a
25 difference in the water. Tell me what the difference was?

1 A. The difference was with the contractor, he paid
2 me one extra hour to move the bathroom and to set the
3 water. I used to pay for the water myself out of pocket.

4 Q. Okay. He paid you one extra hour per week?

5 A. Yes.

6 Q. Okay. And what was the difference at Cinagro?

7 A. In Cinagro they were paying me my regular work
8 hours. And they were not paying me for the water. I was
9 paying for the water out of my own pocket.

10 Q. And did you talk to -- did you talk to Rene at
11 Cinagro about whether Cinagro was going to compensate you
12 or reimburse you for the water that you were buying?

13 A. Yes.

14 Q. And what did you tell Rene?

15 A. I told him that I was about to run out of water,
16 if there's any way that he could provide us with the water?
17 He told me that he was going to look into it and see how
18 they could provide water.

19 Q. And do you recall how soon after you started
20 working directly for Cinagro that conversation with Rene
21 happened about the water?

22 A. About four weeks later.

23 Q. Okay. And when you said that the water was
24 running out, can you explain that more please?

25 A. What happened was that the coworkers noticed that

1 I was paying for the water out of my own pocket. So what
2 they did was the soda cans, they would all put all the
3 recycle on my truck, and I would sell it and then buy the
4 water. They also noticed that I was doing that. And then
5 after that, Rene brought gallons of water. It was a box
6 but it had gallons. And the people tried that water but
7 they didn't like it.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Just a reminder
9 to Counsel that we have about four more minutes before
10 we're taking our break. You can proceed.

11 MS. ARCINIEGA: Thank you.

12 BY MS. ARCINIEGA:

13 Q. What did the workers tell you -- did the workers
14 tell you something about that water?

15 A. Yeah. They told me that it had a different
16 flavor. They didn't like it and they were not drinking it.

17 Q. So what did you do?

18 A. What I did was I talked to Rene and I told him I
19 had to leave to go to the nearest place to get water.

20 Q. And what did he say

21 A. He said that it was fine for me to go get water
22 but that water was the only one that they could provide.

23 Q. Okay. And --

24 ADMINISTRATIVE LAW JUDGE SOBLE: While Counsel is
25 pausing, how big was the boxes of water that Rene provided?

1 THE WITNESS: The box had four gallons.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

3 Ms. Arciniega?

4 BY MS. ARCINIEGA:

5 Q. And when you were buying the water, what
6 container were you putting it into?

7 A. It's these big yellow jugs that were provided to
8 me by the contractor and he didn't take those with him. He
9 said that I would keep them.

10 Q. Do you know how many yellow jugs, if you didn't
11 say?

12 A. It was two five-gallon.

13 Q. Okay. And when your crew -- let me just ask
14 this, how much of the -- did you fill up both five-gallon
15 jugs of water for your crew each day?

16 MR. ROY: Objection; relevance.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Objection is
18 overruled. The witness can answer the question.

19 And after that there will be one more question
20 and we'll be taking our break.

21 THE WITNESS: Daily, I would fill them up
22 completely. I would change out the water every day.

23 BY MS. ARCINIEGA:

24 Q. And you said that Rene took you one-gallon jugs.
25 How many one-gallon jugs did he take you for those

1 containers?

2 MR. ROY: Objection, Your Honor; misstates the
3 evidence. He said --

4 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained. If
5 the context is the same, the Counsel can ask one more
6 question.

7 BY MS. ARCINIEGA:

8 Q. Did the amount of water that Rene took you, was
9 it enough to fill up the two containers?

10 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to ask
11 a different question that I think is more clear.

12 When Rene brought the boxes of water that were
13 four-gallon boxes, did he bring one of them or more than
14 one of them at a time?

15 THE WITNESS: He brought a few. I don't know how
16 many but he brought a few.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. How many
18 days did Rene bring the boxes of water to your crew?

19 MR. ROY: Objection; unresponsive.

20 ADMINISTRATIVE LAW JUDGE SOBLE: You have to wait
21 for the interpretation of him for me to hear the answer to
22 rule on the objection.

23 So --

24 MR. ROY: Thank you.

25 ADMINISTRATIVE LAW JUDGE SOBLE: -- if you could

1 interpret that please?

2 THE WITNESS: He brought two -- two times. Then
3 the second time is when I told him that the people were not
4 drinking it. They didn't like it.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. The
6 objection is overruled. He answered the question, being
7 that Rene brought water two times, so --

8 MR. ROY: Your Honor, I'd like to be heard on
9 that, because the testimony was that during the second week
10 when he brought water the employees didn't like it. He
11 never answered how many times Rene would bring the water.

12 MS. ARCINIEGA: I would like to be heard if you
13 allow it.

14 ADMINISTRATIVE LAW JUDGE SOBLE: I think it did
15 but I'm going to ask the same question again. And then
16 I'll let both Counsels speak again.

17 Mr. Mendoza, did I understand you to say that
18 there were two days that Rene brought water to the field
19 but those were the only two days that Rene brought water to
20 the field?

21 THE WITNESS: Yes.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. We'll
23 start with Mr. Roy, if he has something he wants to add,
24 then I'll go to Ms. Arciniega.

25 MR. ROY: Nothing to add, Your Honor.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Ms.
2 Arciniega?

3 MS. ARCINIEGA: No, nothing to add. I think this
4 is a great time to break.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Yes, I agree.
6 It is 12:14.

7 Mr. Mendoza, if you can come back to the hearing
8 room at 1:35?

9 THE WITNESS: That's fine.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you very
11 much.

12 Is there anything any of the attorneys need to
13 add? Otherwise, I will see all of you at 1:35 as well.

14 MR. ROY: I would just ask that the witness be
15 admonished not to talk to anybody during the period of
16 lunch.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Well, because he
18 only came in 40 minutes ago, I did not repeat what I had
19 said then. Yes, that is correct.

20 Please, Mr. Mendoza, if you would not talk to
21 anybody about the hearing during the lunch break?

22 THE WITNESS: That's fine.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

24 I'll see everybody at 1:35.

25 MR. ROY: Thank you, Your Honor.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Off the record.

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

3 (On the record at 1:45 p.m.)

4 (Spanish Interpreter is present.)

5 (Witness is present.)

6 ADMINISTRATIVE LAW JUDGE SOBLE: It's 1:45. And
7 Ms. Arciniega is going to proceed with her examination of
8 Mr. Mendoza.

9 MS. ARCINIEGA: Thank you.

10 BY MS. ARCINIEGA:

11 Q. Good afternoon, Mr. Mendoza.

12 A. Hello.

13 Q. While you worked at Cinagro do you know if it had
14 Worker's Compensation Insurance for injuries on the job?

15 A. We did not have it.

16 Q. And how do you know that?

17 A. We noticed when a person that came looking for
18 work was cut.

19 Q. Did the person work at Cinagro?

20 MS. ARCINIEGA: Maybe his audio is --

21 THE INTERPRETER: Oh, yeah, he's freezing. Yeah.
22 He's gone.

23 MS. ARCINIEGA: I think he got frozen, yeah.

24 THE INTERPRETER: Should I ask him if he heard?

25 MS. ARCINIEGA: Well, I still see his screen

1 frozen. You can see his hand in motion.

2 THE INTERPRETER: Your Honor?

3 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Mendoza, I
4 think we lost your connection for a moment. The question
5 the attorney was asking you is whether -- why don't I let
6 the Interpreter restate the last question or -- either that
7 or the attorney restate the last question?

8 MS. ARCINIEGA: Your Honor, from my perspective
9 his screen is still frozen. I'm unsure if I should --
10 well, if I can request, maybe, that Gabriella go over there
11 and see if there's something on that end?

12 ADMINISTRATIVE LAW JUDGE SOBLE: No, no. I see
13 him and he is not frozen.

14 MS. ARCINIEGA: Oh. I think his hands just make
15 a motion. Okay.

16 THE WITNESS: I can hear you okay right now.

17 MS. ARCINIEGA: Can he see us?

18 THE WITNESS: Yes.

19 ADMINISTRATIVE LAW JUDGE SOBLE: So, in other
20 words, Ms. Arciniega, if there's a difficulty it appears to
21 be, actually, on your end and not the hearing room.

22 MS. ARCINIEGA: Okay. If I'm the only one that
23 sees his image frozen, then I think --

24 MR. ROY: I also see it, Jessica. I also see it
25 frozen.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I see him
2 moving his thumbs right now with his hands clasped in front
3 of him.

4 MS. ARCINIEGA: I don't see that.

5 MR. ROY: Neither do I.

6 MS. DEYOUNG-DOMINGUEZ: Yeah, he's frozen on my
7 view as well.

8 MS. ARCINIEGA: How would you like me to proceed,
9 Your Honor?

10 ADMINISTRATIVE LAW JUDGE SOBLE: I don't have a
11 preference. If Counsel are able to reach an agreement on
12 that, you can either go there or not go there. I'm not
13 sure what will change, so -- but I don't have any direction
14 right now, unless Counsel are not able to reach an
15 agreement, then I will pick whatever I think is more
16 appropriate. But I don't have a preference.

17 MR. ROY: An agreement on having Gabby go into
18 the witness room, Your Honor?

19 ADMINISTRATIVE LAW JUDGE SOBLE: Correct. I
20 assume if she goes in there she's just going to either log
21 him out of there and log him back and leave. I mean, she's
22 not going to stay long because --

23 MR. ROY: I don't have any problem with that.

24 MS. ARCINIEGA: Yeah. I would like to be able to
25 see him --

1 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not
2 necessarily --

3 MS. ARCINIEGA: -- as I am directing questions.

4 ADMINISTRATIVE LAW JUDGE SOBLE: -- sure that the
5 difficulty is at your location rather than at some of your
6 other locations. But I'm not in a position to know the
7 answer to that since I see him moving just fine. So that's
8 my only point. I mean, I don't know which of you is the
9 weakest link, for a lack of a better way to put it.

10 MS. ARCINIEGA: Well, I mean, if we want to -- I
11 can log off my system and log back on and Gabriella can go
12 to the hearing room.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Right. I mean,
14 you may just want to do both at the same time is all I'm
15 saying. Mr. Roy has already left and come back, so I'm not
16 sure it will help for him to try again.

17 MS. ARCINIEGA: Okay. Then I'm going to log off
18 and come back. And then I'm going to ask that Gabriella go
19 over and do the same, please, into the hearing room.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

21 MS. DEYOUNG-DOMINGUEZ: Your Honor --

22 ADMINISTRATIVE LAW JUDGE SOBLE: I don't think
23 that it will take longer than either of those things for
24 Ms. DeYoung-Dominguez to completely reboot her computer.
25 So if she chooses to do so, she does it at her peril.

1 MS. ARCINIEGA: Okay, Your Honor.

2 ADMINISTRATIVE LAW JUDGE SOBLE: And we'll go off
3 the record while we wait.

4 (Off the record at 1:52 p.m.)

5 (On the record at 2:05 p.m.)

6 ADMINISTRATIVE LAW JUDGE SOBLE: Let's go back on
7 the record.

8 I believe Ms. Arciniega is going to propound her
9 last question again.

10 BY MS. ARCINIEGA:

11 Q. Did that person work at Cinagro in your crew?

12 A. No.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Was that person
14 a man or a woman?

15 THE WITNESS: Man.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

17 BY MS. ARCINIEGA:

18 Q. And so how do you know -- I think he was going to
19 say more but I'll ask.

20 What happened?

21 A. It was this guy's first day of work. He came
22 asking me for work. And I called Rene to ask him if I
23 should hire him or wait for him to come.

24 Q. And what did Rene tell you to do?

25 A. Rene told me to have him go into work and to wait

1 for him to get there. It was under his orders that I had
2 him start working.

3 MR. ROY: Objection, Your Honor; relevance. You
4 know, General Counsel --

5 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on. I
6 don't want you to give any sort of argument right now. I
7 allowed it initially because I thought it might be going
8 somewhere different. I'm not see it going in that
9 direction. So I don't really want to have Counsel go back
10 and forth in front of the witness as to why they think it
11 might be relevant.

12 But do you think in less than two more questions
13 it's going to be apparent to me why you think it's
14 relevant, Ms. Arciniega? Because right now I have no idea
15 why you think it's relevant.

16 MS. ARCINIEGA: I can continue, Your Honor. And
17 I would like to be heard if you would like to allow me to
18 speak more about the relevancy after a couple more
19 questions.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Because I
21 think we all agree whether or not the company actually had
22 Worker's Compensation Insurance itself isn't relevant, so
23 there has to be some other reason why the line of
24 questioning is relevant. So I'll give you a couple more
25 questions though.

1 MS. ARCINIEGA: Okay.

2 BY MS. ARCINIEGA:

3 Q. Was this worker injured while he worked?

4 A. Yes.

5 Q. And what did Rene tell you to do?

6 A. At that moment Rene was there. And Tony was
7 there also.

8 Q. And did you hear Rene talk to the worker?

9 MR. ROY: Assumes facts not in evidence, Your
10 Honor.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm going
12 to overrule that objection. But what I'm going to try to
13 have us do again is to go to the breakout room to discuss
14 why the line of questioning is relevant. So let's see if
15 we have success at this time.

16 If the Interpreter would let Mr. Mendoza know I'm
17 going to try to have a brief conversation with the
18 attorneys and then we'll be back?

19 THE INTERPRETER: (Speaking Spanish.)

20 THE WITNESS: That's fine.

21 (Breakout session begins.)

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I think
23 we're all at the right (indiscernible).

24 Ms. Arciniega, why is this relevant?

25 No, she's not, I guess not.

1 MR. ROY: She's not in the breakout room yet,
2 Your Honor.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Correct. We
4 have Ms. Montgomery and Ms. Vega but we do not have the
5 Regional Director and the two Assistant General Counsels.

6 MS. MONTGOMERY: Your Honor, I'm messaging them
7 right now to figure out what's going on.

8 ADMINISTRATIVE LAW JUDGE SOBLE: I'm sorry?

9 MS. MONTGOMERY: Oh, Your Honor, I just need
10 to -- I'm checking right now to see where there are --

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

12 MS. MONTGOMERY: -- since they're not here. I'm
13 just messaging.

14 ADMINISTRATIVE LAW JUDGE SOBLE: I can see that
15 they're still in the main hearing room. But they should be
16 able to ambulate over to the breakout session.

17 ADMINISTRATIVE LAW JUDGE SOBLE: She said, "He
18 hasn't allowed us to move to the breakout room," is what
19 Franchesca said.

20 ADMINISTRATIVE LAW JUDGE SOBLE: That's not what
21 it indicates on my end.

22 MS. MONTGOMERY: Okay. What do you suggest, Your
23 Honor?

24 ADMINISTRATIVE LAW JUDGE SOBLE: It says that
25 they're allowed to join the session, so that they should be

1 able to but they're indicating to me that they're not able
2 to, so I have no idea.

3 MR. ROY: Is that Jessica's voice?

4 ADMINISTRATIVE LAW JUDGE SOBLE: I see nothing
5 distinguishable between them and everyone else, so --

6 MS. MONTGOMERY: Franchesca says the white button
7 -- the button is whited out or let me see what she said.
8 The button -- "We cannot select this button. It is whited
9 out."

10 ADMINISTRATIVE LAW JUDGE SOBLE: Do you think,
11 Your Honor, perhaps we could go back into the main room and
12 then try to reenter the breakout room?

13 ADMINISTRATIVE LAW JUDGE SOBLE: I can end the
14 breakout session and restate it so that we'll all have to
15 go back. I'll go ahead and do that but there's no reason
16 why I should need to but let's try it. But when I do that,
17 there's always a one-minute delay for everyone to get back
18 to the main room.

19 Okay, we'll go off the record for a second.

20 (Off the record at 2:14 p.m.)

21 (On the record at 2:17 p.m.)

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, Ms.
23 Arciniega, why do you think it's relevant to address this?
24 Originally, I thought you were trying to make him -- have
25 him go into the situation involving our previous witness

1 who cut her finger. But now it sounds like you're talking
2 about someone who is not one of the witnesses we've had
3 thus far who was there for a single day. And it seems not
4 to go to our chronology of events as to when they last
5 worked for the company but, rather, the issue of whether
6 the company had Worker's Comp Insurance, which isn't a
7 subject matter of this hearing. So what is your reasoning
8 why you think it's relevant to this hearing?

9 MS. ARCINIEGA: Thank you for allowing me to be
10 heard, Your Honor. This goes to the foundation of Mr.
11 Mendoza's knowledge of the worker's PCA. And I believe
12 it's also relevant to say that Rene Macias, the supervisor,
13 had all control over workers and the work conditions.

14 Respondent's Counsel is trying to obviate Mr.
15 Macias's control and decision making over the workers and
16 their conditions. And he wants to (indiscernible) that at
17 Mr. Mendoza (indiscernible) that the workers didn't return
18 to Cinagro when, in fact, the testimony has been otherwise.

19 So this goes to -- it goes to the credibility of
20 the worker witnesses, that they complained. And, also,
21 it's testimony that he just said that Mr. Dighera was out
22 in the field.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I don't
24 find that persuasive, so I don't need to hear from Mr. Roy.
25 So I'm not going to hear further testimony related to

1 whether they had Worker Comp Insurance.

2 You already elicited that from him, and I'm not
3 sure striking it, that Mr. Dighera was out in the field.
4 And you did elicit from him that he discussed it with Mr.
5 Macias. So the questions that you asked him are
6 appropriate thus far. But I think we're at the stopping
7 point for it and we're ready to move on to other topics, so
8 that's my ruling.

9 MS. ARCINIEGA: Okay. Can I ask another
10 question?

11 ADMINISTRATIVE LAW JUDGE SOBLE: Sure.

12 MS. ARCINIEGA: Okay. So Mr. Mendoza just
13 testified that Rene came out to the field. And I was going
14 to ask him what he heard Mr. Rene Macias say to that
15 worker. And then I will ask him about the witness that we
16 did hear that also cut her finger to find out if he was
17 present and has any knowledge of that.

18 ADMINISTRATIVE LAW JUDGE SOBLE: You can ask him
19 the latter question but not the former.

20 MS. ARCINIEGA: That's all I have.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. We'll go
22 back to the main room in 60 seconds.

23 (The breakout session concludes.)

24 (Off the record at 2:20 p.m.)

25 (On the record at 2:51 p.m.)

1 ADMINISTRATIVE LAW JUDGE SOBLE: We'll go back on
2 the record. It is 2:51 p.m. We were off the record for, I
3 don't know, approximately 15 to 20 minutes. The prior
4 virtual meeting room, people were visible but not audible.
5 Since I did not have a technical solution to that, I
6 created another WebEx meeting room and we have all
7 resituated ourselves into that room.

8 So in a few seconds the General Counsel will be
9 proceeding with her questions of Mr. Mendoza. But, most
10 likely, we will be taking an afternoon break, pursuant to
11 the General Counsel's earlier request. We'll probably
12 start that about 18 minutes from now, like roughly from
13 3:10 to 3:30. So I'm not sure we're going to finish Mr.
14 Mendoza today, unfortunately, but let's give it a try.

15 You can proceed, Ms. Arciniega.

16 MS. ARCINIEGA: Thank you, Your Honor.

17 BY MS. ARCINIEGA:

18 Q. Mr. Mendoza, when you worked at Cinagro, what day
19 of the week did you receive your paycheck?

20 A. Friday.

21 Q. And what day did the workers receive their
22 paychecks?

23 A. The same. Also on Fridays.

24 Q. How did you receive the -- your paycheck?

25 A. Rene would bring them in the morning.

1 Q. Would he give you the workers' checks also?

2 A. Yes.

3 Q. Earlier you said that when you received your
4 first paycheck from Cinagro, it did not have a paystub with
5 it. Do you know if the workers first paychecks from
6 Cinagro had paystubs?

7 A. They were all the same, personal checks.

8 Q. Okay. And did any of the workers in your crew
9 talk to you about receiving this type of check?

10 A. Not at that moment. It wasn't until the second
11 check.

12 Q. Okay. And who talked to you after receiving
13 their second paycheck?

14 A. The majority of the employees are the ones that
15 mentioned or commented about that.

16 Q. Do you mean the majority of the employees in your
17 crew?

18 A. Yes.

19 Q. And were they together when they spoke with you?

20 A. Yes.

21 Q. And what did they say to you?

22 A. They mentioned that it was the second check and
23 what happened with the paycheck stub?

24 Q. And what did you tell them?

25 A. That I would speak to Rene.

1 Q. Did you talk to Rene?

2 A. Yes.

3 Q. When?

4 A. That same day in the afternoon.

5 Q. And how did you talk to Rene?

6 A. On the phone.

7 Q. And what did you tell him?

8 A. I told him that the people, including me, wanted
9 to know when they were going to start paying us with a
10 paycheck stub.

11 Q. And did he respond to you?

12 A. Yes.

13 Q. What did he say to you?

14 A. He said he was going to call the office and find
15 out when the checks would be ready, including the paycheck
16 stub.

17 Q. Did he tell you what to tell the workers?

18 MR. ROY: Objection; assumes facts not in
19 evidence.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

21 THE WITNESS: He told me to let the workers know
22 that he was going to call the office to see when the checks
23 would be ready with the paycheck stubs.

24 BY MS. ARCINIEGA:

25 Q. And what did you do?

1 A. I went and told the workers that Rene had told me
2 he was going to call the office to find out when the --
3 they were -- the checks with the paycheck stubs were going
4 to be ready.

5 Q. And on the following payday when you received
6 your paycheck from Cinagro, did it come with a paycheck
7 stub?

8 MR. ROY: Your Honor, I'm going to object. It
9 doesn't really matter how many times they came without it,
10 the fact has been established, they didn't pay stubs with
11 their paycheck, end of conversation. Are we going to go
12 through every single --

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I don't
14 want to have a speaking objection in front of the witness.
15 And I'm going to allow the question.

16 THE INTERPRETER: Counsel, would you be kind
17 enough to repeat the question please?

18 BY MS. ARCINIEGA:

19 Q. The following -- I'm sorry.

20 When you received your next paycheck from Cinagro
21 after that conversation with Rene -- I mean, that wasn't
22 part of my question but that was where my line of question
23 was -- did it have a paycheck stub?

24 A. No. We received another personal check.

25 Q. And did any of the workers in your crew say

1 anything to you about this?

2 A. They wanted to talk to Rene.

3 Q. Do you recall which workers told you they wanted
4 to talk to Rene?

5 MR. ROY: Objection; cumulative.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. I
7 agree that this testimony substantially overlaps with
8 testimony elicited from other witnesses. But I do need a
9 certain amount of information to be able to go to the
10 recollection of different witnesses and to make credibility
11 determination. And, again, I don't know if any of the
12 witnesses that the company will call will be saying
13 something different or not. Obviously, the parties haven't
14 stipulated to facts related to these things yet. So until
15 that happens, for now, I'm going to allow some additional
16 questions on this topic.

17 MR. ROY: Your Honor, I would be willing to
18 stipulate on the record that the payroll checks did not
19 have your traditional wage statements, other than the
20 single piece of paper with the production and gross wages
21 on it if that would obviate all of this cumulative
22 testimony.

23 ADMINISTRATIVE LAW JUDGE SOBLE: I don't think
24 that stipulation by itself would. And I think you've
25 indicated before that you're not prepared to stipulate that

1 they were personal checks. And, in fact, you may even
2 disagree with that characterization. We'll have to find
3 out after we've heard some additional witnesses.

4 So I think we can hear this but it's relevant,
5 not because the end is whether or not personal checks were
6 used or not, that's not what this hearing is about but,
7 rather, I want to hear a little bit about the dynamics of
8 what was communicated to the foreperson, what the
9 foreperson communicated to the supervisor, and then get a
10 sense of whether or not this was something that the
11 supervisor and the owner cared about or not in terms of
12 determining what ultimately happened with the crew.

13 So I'm not hearing all of this to try to actually
14 find out what types of paper people got or didn't get but,
15 rather, to find out what was the overall dynamics going on.

16 So with that in mind, I'm going to allow more
17 questions on this topic with respect to this witness. And
18 I'm certainly also going to allow the witnesses that you
19 call to talk about these same subjects. If it isn't
20 relative for Mr. Mendoza to talk about it, then it wouldn't
21 be relevant for Mr. Macias or Mr. Dighera to talk about it
22 either. And I think it's relevant to hear what all of them
23 have to say.

24 MR. ROY: Understood. But my objection wasn't
25 relevancy, it was cumulative nature of the testimony, Your

1 Honor.

2 ADMINISTRATIVE LAW JUDGE SOBLE: And that's
3 correct. And if I implied otherwise that's my mistake but
4 the reasoning still applies as to why I want to hear it.

5 MR. ROY: Understood.

6 THE INTERPRETER: It was -- should I interpret
7 the answer?

8 ADMINISTRATIVE LAW JUDGE SOBLE: If you remember
9 the witness's answer, you can tell us what it was now, yes.
10 Thank you.

11 THE INTERPRETER: Yes.

12 THE WITNESS: It was the majority of the workers.
13 But the one that pressured me the most or insisted the most
14 was Yolanda Perez, Rodrigo, Marisol, Hector, and Maria
15 Guadalupe.

16 BY MS. ARCINIEGA:

17 Q. So when the majority of the workers asked for a
18 meeting with Rene, what did you do?

19 A. I called Rene on the phone and notified him that
20 the people wanted to talk to him.

21 Q. Did he answer the call?

22 A. Yes.

23 Q. And what did he say?

24 A. He said that he would be there later on. And he
25 came back about an hour later.

1 Q. Okay. Did he say anything else on that phone
2 call?

3 A. No, only that he was going to be there in an
4 hour.

5 Q. And then what did you do?

6 THE INTERPRETER: "And then what did you do?"
7 Was that the question?

8 THE WITNESS: I told the workers to continue with
9 the work until he arrived at the ranch.

10 BY MS. ARCINIEGA:

11 Q. And on that day, did he arrive at the ranch?

12 A. Yes.

13 Q. Do you know what day of the week that was?

14 A. I don't remember very well if it was a Saturday.

15 Q. Okay. And when he got to the ranch were the
16 workers in your crew working?

17 A. Yes.

18 Q. And what did Rene do?

19 A. Rene got near to us and he spoke to the people.

20 Q. Okay. And were you present when he was speaking
21 to the people?

22 A. No. I had to go unload the truck with the
23 product.

24 Q. Okay. And did you return at any time from
25 unloading the truck while Rene was still talking with the

1 workers?

2 A. No. Rene first finished talking to the people.
3 And then he came to where I was at.

4 Q. Okay. And what did he say to you when he went
5 over to where you were?

6 MR. ROY: Objection. Your Honor, I had an
7 objection that it assumes facts not in evidence. There was
8 no testimony that Rene went over to talk to him.

9 ADMINISTRATIVE LAW JUDGE SOBLE: I'll overrule
10 the objection tentatively for now. But by doing that, I'm
11 not necessarily agreeing or disagreeing whether there was
12 testimony to that effect.

13 Does the witness -- has the witness heard the
14 question?

15 THE WITNESS: Yes.

16 ADMINISTRATIVE LAW JUDGE SOBLE: You can answer.

17 THE WITNESS: Rene came towards me and he told me
18 that he had already talked to the people and that we should
19 wait a little bit longer for the office to process things
20 and for us to get our paycheck stubs.

21 BY MS. ARCINIEGA:

22 Q. Did you say anything to Rene?

23 A. No, that was all we talked about.

24 MS. ARCINIEGA: Your Honor, this Assistant
25 General Counsel Arciniega. I can't see your screen and I'm

1 not sure if you can still hear us.

2 ADMINISTRATIVE LAW JUDGE SOBLE: You cannot see
3 my screen. Let's see if that cures it. I certainly can
4 hear you the whole time.

5 MS. ARCINIEGA: Okay. Great. Now I can see your
6 video.

7 Would you -- do you mind repeating that last
8 answer, if I can, Your Honor, with Ms. Lucas, with his
9 answer?

10 ADMINISTRATIVE LAW JUDGE SOBLE: If the
11 Interpreter is able to. I don't know if that's the case or
12 not.

13 MS. ARCINIEGA: Okay.

14 THE INTERPRETER: Can I ask the witness for the
15 answer again? I'm not sure that I'd be able to repeat it
16 the way he said it.

17 ADMINISTRATIVE LAW JUDGE SOBLE: I mean, you can
18 ask. And then after we do that, it's going to be time for
19 us to take that afternoon break.

20 Mr. Mendoza, do you recall what your answer was
21 to the last question?

22 THE WITNESS: The last answer?

23 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

24 THE WITNESS: That was all the conversation we
25 had with Rene, that he had told me to wait of the office to

1 process things so that we can get our paycheck stubs.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Ms.
3 Arciniega, do you want to ask one more question to clarify
4 that or is this a better time to take a break?

5 MS. ARCINIEGA: This is a better time to take a
6 break, Your Honor. And I'd like to be heard regarding that
7 break.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

9 MS. ARCINIEGA: The General Counsel's office for
10 this one, due to the circumstances we've experienced this
11 afternoon, is willing to take a shorter break to 13 minutes
12 or 15 minutes, Your Honor. We would like to continue with
13 Mr. Mendoza as soon as we can.

14 ADMINISTRATIVE LAW JUDGE SOBLE: That's fine as
15 long as that is speaking for whoever it is that we're
16 making this accommodation for in the first place and I
17 don't know that. I'm reluctant to do that without knowing
18 that that person is confirming that but I'll assume that
19 that's something that's been discussed among all of you and
20 is unanimous.

21 So then we'll take our break now and we'll
22 resume, still, at 3:30. Thank you.

23 We're off the record.

24 (Off the record at 3:13 p.m.)

25 (On the record at 3:33 p.m.)

1 (Spanish Interpreter is present.)

2 (Witness is present.)

3 ADMINISTRATIVE LAW JUDGE SOBLE: Go on the
4 record. And the General Counsel can ask their next
5 question for Mr. Mendoza.

6 MS. ARCINIEGA: Thank you, Your Honor.

7 BY MS. ARCINIEGA:

8 Q. After this time that you talked to Rene in the
9 field, the paycheck you received the following week, did it
10 include any type of pay stub?

11 MR. ROY: Objection. It's vague. We already
12 know that there are certain information provided with the
13 check but we -- are we talking about a traditional pay
14 stub?

15 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.
16 That's argument and that's something you can ask, if you
17 wish, on cross-examination. I'm going to allow the
18 question but I'm going to remind everyone, this is not a
19 hearing about whether or not there were pay stubs but,
20 rather, a hearing, essentially, as to whether or not
21 people -- well, I won't state what it is. Everybody should
22 know that from the prehearing conference.

23 So I'll allow the question.

24 THE WITNESS: Can you repeat it please?

25 MS. ARCINIEGA: Yes.

1 BY MS. ARCINIEGA:

2 Q. After this meeting in the field with Rene, did
3 you -- the following -- when you received your following
4 paycheck, was there any paycheck stub with it?

5 A. We had a paycheck stub but not the stub that it
6 should have been.

7 Q. Okay.

8 MS. ARCINIEGA: Your Honor --

9 ADMINISTRATIVE LAW JUDGE SOBLE: Was the paycheck
10 stub in the fourth week the same as the paycheck stub in
11 the first week, if any?

12 MS. ARCINIEGA: Your Honor, I want to object
13 because he didn't -- that misstates his prior testimony.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Let me phrase it
15 differently.

16 The first time you received some sort of paycheck
17 stub, did it ever change to a different type of paycheck
18 stub while you were at Cinagro?

19 THE WITNESS: After three checks.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Sure. Yes.

21 MS. ARCINIEGA: I'd like to put an exhibit before
22 the witness, Your Honor, and I think that would help us.

23 ADMINISTRATIVE LAW JUDGE SOBLE: After the
24 witness answers this question, that's perfectly okay.

25 THE WITNESS: After three checks.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I wasn't
2 sure if he was asking that or if he was answering that.
3 Now I'm concluding he's answering that.

4 You can ask your next question.

5 MS. ARCINIEGA: Thank you, Your Honor. I'd like
6 to show the witness a document that we're -- that we've
7 identified in the General Counsel Exhibits under Tab 2.
8 And may I instruct the witness to look at the binder, Your
9 Honor?

10 ADMINISTRATIVE LAW JUDGE SOBLE: I want to look
11 at it first before I have you do that.

12 MS. ARCINIEGA: Okay.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Yes, you may.

14 MS. ARCINIEGA: Thank you.

15 BY MS. ARCINIEGA:

16 Q. Mr. Mendoza, do you see a white notebook on the
17 table in front of you?

18 A. Would this be it?

19 Q. Yes. Can you please go to section two, with the
20 number two, inside the notebook?

21 A. Ready.

22 Q. Okay. And can you take a look at that document
23 please?

24 A. Uh-huh.

25 Q. Do you recognize what that is?

1 A. It was the first supposed paycheck stubs that
2 they were giving us.

3 Q. Okay.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Can you have the
5 witness show the document just to the monitor for a second?
6 Excellent. Thank you.

7 MR. ROY: Your Honor, I don't have the document
8 in front of me but I assume it's a check that was issued to
9 Mr. Victor; is that what it is?

10 ADMINISTRATIVE LAW JUDGE SOBLE: It's the
11 document that has the Bate Stamp C like cat, P like parrot,
12 quadruple 0, 1. And I would say it is not a check. It is
13 a document that may have accompanied a check dated March
14 10, 2017.

15 MR. ROY: Thank you.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Does anyone
17 disagree with my characterization of the exhibit on the
18 record?

19 MR. ROY: No, Your Honor.

20 MS. ARCINIEGA: If you're looking for the
21 electronic one that was sent to you, Rob, it would be
22 labeled as Exhibit 2.

23 MR. ROY: Okay.

24 MS. ARCINIEGA: And it's part of our Stipulation
25 of Authentication.

1 MR. ROY: All right. Thank you.

2 MS. ARCINIEGA: Your Honor, I'd like to move this
3 exhibit into evidence.

4 ADMINISTRATIVE LAW JUDGE SOBLE: No, I won't
5 allow you to do that because the parties have -- oh, no.
6 Wait. They've stipulated not to admit it but to
7 authenticate it. Okay.

8 Are there any objections from the Respondent to
9 admitting this document?

10 MR. ROY: It's just cumulative evidence, Your
11 Honor.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.
13 Overruled. It's admitted.

14 (General Counsel Exhibit GC-00002 is admitted.)

15 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not, at this
16 time, saying that it's relevant of anything other than,
17 perhaps, the general discussion that's been had about what
18 accompanied checks, but I'll allow it.

19 MS. ARCINIEGA: Thank you, Your Honor. May I
20 proceed?

21 ADMINISTRATIVE LAW JUDGE SOBLE: Yes. Please.

22 BY MS. ARCINIEGA:

23 Q. Mr. Mendoza, can you please look at this page
24 again that's in front of you?

25 A. Yes.

1 Q. Can you see a date on this page?

2 A. Yes, 03/10 of 2017.

3 Q. And do you know what date that represents, those
4 numbers represent?

5 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
6 object to that question. I mean, I don't know if you're
7 asking the witness if he understands the calendar system
8 but, if so, I think you're insulting him.

9 MS. ARCINIEGA: Your Honor, I was just trying to
10 provide clarity on the record. In no way am I --

11 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I don't
12 think you were intentionally so but the point is he told
13 you what the date is and then you asked him if knows what
14 the date means. So you can ask your next question.

15 MS. ARCINIEGA: Your Honor, if I may be heard?
16 This is very important. I'm not sure, Your Honor, you
17 know, how much awareness we all have, but in other
18 languages and other countries, dates are written
19 differently when they're written without the full name of
20 the month. So I'm responding to your --

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. If you
22 think that --

23 MS. ARCINIEGA: -- objection on the record that I
24 was being offensive.

25 ADMINISTRATIVE LAW JUDGE SOBLE: No, I would not

1 think that you intended to be. But if you thought that he
2 was, perhaps, confused as to whether or not one of those
3 was the date versus the month, I'll allow you to ask it.
4 But I don't believe that there's any pertinence to that
5 based on everything that we've heard in the record as to
6 why that would be important for you to do but go ahead.

7 MS. ARCINIEGA: Thank you.

8 BY MS. ARCINIEGA:

9 Q. Mr. Mendoza, you had just testified that when you
10 received a paycheck stub, it was after three weeks, I think
11 you said; is that correct?

12 A. When we received the paycheck stub?

13 Q. Yes.

14 A. Yes.

15 Q. Okay. And is this page that you have in front of
16 you, is this similar to the paycheck stub that you
17 received?

18 A. Yes, it's similar.

19 Q. Thank you. And for the entire time that you
20 worked at Cinagro, did you receive a paycheck that
21 looked -- that had any other information on it in addition
22 to what this paycheck stub has?

23 A. We did receive one the way it should be but I
24 don't remember how long had transpired, how long it was.

25 Q. Okay. And when the workers in your crew received

1 this -- received a paycheck stub with their paycheck for
2 the first time, did they talk to you?

3 A. When it was a paycheck stub that it should have
4 been?

5 Q. The first time they received a paycheck stub.

6 A. The same thing happened. They were not pleased
7 with the paycheck stub.

8 Q. And what did they tell you about why they -- what
9 did they tell you?

10

11 MR. ROY: Objection; vague. Who?

12 MS. ARCINIEGA: I can go back.

13 ADMINISTRATIVE LAW JUDGE SOBLE: The question
14 would be: What, if anything, did members of his crew say to
15 him when they first received one of the pay stubs that
16 looked similar to General Counsel Exhibit 2.

17 THE WITNESS: They asked to speak to Rene again.

18 BY MS. ARCINIEGA:

19 Q. And which workers asked to speak to Rene again?

20 A. It was all the people.

21 Q. All the people in your crew?

22 A. Yes.

23 Q. And were they together when they asked you to
24 speak to Rene?

25 A. Yes.

1 Q. What did you say to them?

2 A. That I was going to talk to Rene and I called him
3 right at that moment.

4 Q. And what did you tell Rene?

5 A. That the people wanted to talk to him about the
6 paycheck stub.

7 Q. And what did he say to you?

8 A. He said that the following day he was going to go
9 to the ranch early in the morning to see about that.

10 Q And did he go to the ranch the following day?

11 A. He got there. I don't remember well if it was
12 9:00, 9:30.

13 Q. Okay. Do you know what day of the week this was?

14 A. It was a Saturday.

15 Q. Okay. And do you know what month this was?

16 A. No, I don't remember.

17 Q. Okay. And what happened when he got to the
18 ranch?

19 A. He got there again where all the people were.

20 Q. Okay. And what happened next?

21 A. At that meeting, I was present. And most of the
22 people said that they wanted a paycheck stub that specified
23 the deductions that should be on the check.

24 Q. Okay. Can you tell me the names of the workers
25 who spoke?

1 A. Marisol, Hector, Yolanda, Rigoberto, Maria
2 Guadalupe, Ignacia. And the other names, I don't remember.

3 Q. And did Rene respond?

4 A. Yes, he said that he would call the office again
5 to see what they could arrange so that they could provide
6 the paycheck stub.

7 Q. And did Rene make the telephone call while he was
8 in the field?

9 A. No. I didn't get to see him grabbing the phone.

10 Q. Okay. Did Rene talk to you out in the field
11 after he met with you and the workers?

12 A. After he talked to them?

13 Q. Yes.

14 A. There wasn't any other conversation. He just got
15 in his car and left.

16 Q. Okay. And after that day, did Rene give you any
17 more information about when --

18 THE INTERPRETER: You cut out. I'm sorry,
19 Counsel, you cut in and out.

20 MS. ARCINIEGA: Okay.

21 THE INTERPRETER: I couldn't hear what you were
22 saying.

23 MS. ARCINIEGA: No problem. I'll start my
24 question again.

25 THE INTERPRETER: Thank you.

1 BY MS. ARCINIEGA:

2 Q. After that time in the field, did Rene give you
3 more information to give to the workers about when there
4 would be paycheck stub with the details on them?

5 A. The only thing he said was he didn't know how
6 long it would be before they would be able to receive the
7 paycheck stubs the way it should be.

8 Q. And did he tell you that over the phone?

9 A. Yes.

10 Q. Okay. Did he tell you to tell the workers
11 anything about the paycheck stub?

12 A. Yes. The same thing that he mentioned to me, I
13 told the people.

14 Q. Okay. Thank you.

15 Mr. Mendoza, when you and your crew started
16 working directly for Cinagro, were there any other crews
17 working there?

18 A. When we first go started there, there wasn't
19 another one.

20 Q. And while you were working there did you see --
21 after the -- when you first started -- excuse me -- at some
22 point did you see another crew working there?

23 THE INTERPRETER: Your question was: After you
24 started, at some point was there -- I lost it. I'm so
25 sorry.

1 MS. ARCINIEGA: That's okay. It was probably not
2 the clearest question.

3 BY MS. ARCINIEGA:

4 Q. At some point while you were working at Cinagro,
5 did you see another crew working there?

6 A. When we were working with the contractor, there
7 was one.

8 Q. Okay. And after you were -- so there was one
9 crew.

10 And do you know if that crew continued working at
11 Cinagro while your crew worked at Cinagro?

12 A. When we were already working under Cinagro
13 directly, there was another one.

14 Q. Okay. And at any point did another crew start
15 working there after you and your crew were hired directly?

16 ADMINISTRATIVE LAW JUDGE SOBLE: That's asked and
17 answered. You've already asked that question, Counsel.

18 MS. ARCINIEGA: May I be heard?

19 ADMINISTRATIVE LAW JUDGE SOBLE: No. You've
20 already asked that question. You can ask a different
21 question to try to get there. I think you're asking it
22 because you think the witness might be mistaken but you've
23 already indicated.

24 So during the time period that you worked
25 directly for Cinagro, Mr. Mendoza, were you the only

1 foreperson that you saw on any of the ranches?

2 THE WITNESS: After some time, another crew came.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

4 Go ahead, Ms. Arciniega. And now he's indicated
5 both, so I'm going to allow further questions to clarify.

6 BY MS. ARCINIEGA:

7 Q. Did Rene tell you anything about the other crew?

8 A. No. He didn't mention anything.

9 Q. And once that crew started, were there times when
10 your crew worked in the same ranch as that crew?

11 MR. ROY: Objection; leading.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. It's
13 close but I'll allow it.

14 THE INTERPRETER: I'm sorry. I lost the
15 question. Was it that -- whether or not --

16 ADMINISTRATIVE LAW JUDGE SOBLE: Did the two
17 crews ever work in the same field at the same time?

18 THE WITNESS: Yes, but not with the same project.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

20 BY MS. ARCINIEGA:

21 Q. What was the product that the other crew
22 harvested?

23 A. We used to do the green kale. And they were
24 doing -- he was doing the black kale.

25 Q. Did your crew also pick -- harvest black kale?

1 A. Yes.

2 Q. While you were working at Cinagro, were there any
3 occasions when you saw the other crew work more hours in a
4 day than your crew?

5 A. Yes.

6 Q. Do you recall what month that was?

7 A. I don't remember very well but it was in between
8 November and December, but I'm not really sure.

9 Q. Okay. And do you have an estimate of how many
10 times in a week your crew and that other crew worked in the
11 same ranch?

12 MR. ROY: Objection; lack of foundation.

13 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
14 allow the question. But if the witness answers, yes, then
15 someone, whether it's the Assistant General Counsel or if
16 it's myself, is going to be asking him how he would know
17 that, but let's see what he answers first.

18 THE WITNESS: We never worked the same product
19 but we did work in the same ranch. Most of the time we
20 worked at Tierra Rejada. It was rare when they moved us to
21 Moorpark.

22 BY MS. ARCINIEGA:

23 Q. So when you were working at the same ranch and
24 the other crew was present, was that at Tierra Rejada?

25 A. Yes.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Let me
2 try asking a couple of questions to see if we can save some
3 time.

4 Mr. Mendoza, is the only way that you would know
5 how many hours the other crew worked would be if you saw
6 them out in the field?

7 THE WITNESS: The only thing that I could see was
8 that they would get rid of us at one and they'd remain
9 their working.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. But you
11 wouldn't know how many hours the crew worked from company
12 records, you would only know from see things you saw with
13 your eyes; correct?

14 THE WITNESS: Yes. And, also, I would notice on
15 the product that they were working on, you could see that
16 they had gone further ahead with the product.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

18 Ms. Arciniega, you can ask your next question.

19 MS. ARCINIEGA: Thank you, Your Honor.

20 BY MS. ARCINIEGA:

21 Q. Mr. Mendoza, do you recall the last day that you
22 and your crew worked at Cinagro?

23 A. I don't remember the day very well.

24 Q. You don't remember what day? Okay.

25 Do you remember how many hours you worked that

1 day?

2 A. I only remember that it was a Saturday and that
3 we only worked until 12:00.

4 Q. Okay. And on that last day of work, what
5 happened?

6 A. Rene told me that he would let me know if there
7 was work on Monday.

8 Q. Did Rene call you to tell you that?

9 A. He called me Sunday to tell me.

10 Q. Okay.

11 ADMINISTRATIVE LAW JUDGE SOBLE: On Saturday, how
12 did you know to stop working at noon?

13 THE WITNESS: Rene let me know.

14 ADMINISTRATIVE LAW JUDGE SOBLE: By telephone?

15 THE WITNESS: Yes.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Did he tell you
17 why you were stopping at noon?

18 THE WITNESS: That there wasn't enough work.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

20 THE INTERPRETER: Sorry. Can I correct that?

21 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

22 THE INTERPRETER: That there wasn't a lot of
23 work.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

25 Ms. Arciniega, you can proceed.

1 MS. ARCINIEGA: Thank you.

2 BY MS. ARCINIEGA:

3 Q. And on that day, Mr. Mendoza, was the other crew
4 working in that same ranch?

5 A. Yes. They remained working.

6 Q. Okay. And you just said that Rene called you on
7 Sunday; is that correct?

8 A. Yes.

9 Q. And what did he tell you when he called you?

10 A. He told me to let the people know that there
11 would not be work on Monday.

12 Q. Okay. And so what did you do?

13 A. I called the people and let them know that there
14 was not going to be work on Monday and that I would call
15 them later on to let them know about the following day.

16 Q. Okay. And what did you do on that Monday?

17 A. Monday, I was at home.

18 Q. Okay. And did Rene call you on Monday?

19 A. Yes, he called me Monday.

20 Q. And what did he tell you?

21 A. He told me that there was no work on Tuesday.

22 And the same, to let people know.

23 Q. What did you do?

24 A. I called them and let them know that there was
25 not going to be work on Tuesday. And then Hector Cruz and

1 Marisol told me that they had gone to the ranch that Monday
2 and they had seen the other crew working.

3 Q. This was Monday; correct?

4 A. Yes.

5 Q. Okay. And did they say what ranch they had gone
6 to?

7 A. Tierra Rejada.

8 Q. Okay. And what did you do after you talked to --
9 after Marisol and Hector told you that?

10 A. I kept calling the other people to let them know
11 that there was not going to be work.

12 Q. Okay. Did you get a call from Rene -- let me
13 see, he had already talked to Rene. Okay. Sorry. Scratch
14 that.

15 ADMINISTRATIVE LAW JUDGE SOBLE: When was your
16 next call from Rene after that, if any?

17 THE WITNESS: It was Wednesday when he told me
18 that, due to lack of work, we were going to stop working a
19 few days, and to go pick up everyone's checks.

20 MS. ARCINIEGA: I don't know if this has been
21 asked. I apologize if it has. It's a little late in the
22 afternoon.

23 BY MS. ARCINIEGA:

24 Q. Did he call you when he told you that?

25 A. Yes.

1 Q. Okay. And you said this was on Wednesday?

2 A. Uh-huh.

3 Q. Okay. What did you do on Tuesday?

4 A. Same thing. I was at home and then I went to do
5 some personal things that I had to take care of.

6 Q. When you had the conversation with Rene on
7 Wednesday, did you mention to him that someone told you the
8 other crew was working on Monday?

9 A. I made the comment to him that the other crew had
10 worked and he denied it. He said that they had not worked.

11 Q. Did you tell him which day the other crew had
12 worked?

13 A. Can you repeat that question?

14 Q. Did you tell him which day the other crew had
15 worked?

16 A. Yes. I told him. Monday.

17 Q. Okay. Okay. And on Wednesday, when you talked
18 to Rene, did he tell you what would happen after the couple
19 of days your crew and you would be stopped working?

20 MR. ROY: Objection; vague, and leading.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled as to
22 vague. Sustained as to leading.

23 BY MS. ARCINIEGA:

24 Q. When you talked to Rene on Wednesday, did he tell
25 you what the next workday would be for you and your crew?

1 A. No, he didn't. He said that there wasn't a
2 specific day to return to work.

3 Q. Okay. And you said that he -- well, let me ask,
4 how did you receive your paycheck from Cinagro for that
5 last week that you worked?

6 A. I went in person for the checks to Moorpark.

7 Q. Did you go to the office or the field?

8 A. It was at the Moorpark ranch.

9 Q. And who did you pick up the checks from?

10 A. Rene.

11 Q. And did you talk to Rene when you received the
12 checks from him?

13 A. What?

14 Q. Did you and Rene talk when you picked up the
15 checks from him?

16 A. Yes.

17 Q. And who spoke first?

18 A. Rene.

19 Q. And what did he say to you?

20 A. He told me that due to lack of work that he did
21 not know when we would return to work but he would call me,
22 but I never received a phone call.

23 Q. Did he tell you anything to say to the workers in
24 your crew?

25 A. He told me to talk to them and let me know that

1 that was their last day worked, and when there was more
2 work, that he would call us.

3 Q. Did you say anything to Rene?

4 A. No. I just thanked him for the checks and for
5 the job.

6 Q. And did you give those paychecks for the last
7 week of work to the members of your crew?

8 A. Yes.

9 Q. How -- did you meet with them all together?

10 A. No, not all of them together. We agreed to meet
11 in one place and then they came on their own. They would
12 pick up their check and then they would leave.

13 Q. I see. And when you gave them their checks, what
14 did you tell them?

15 A. That Rene had told us that due to lack of work
16 that we weren't going to work and that he would call us
17 back. But the way he explained that, people assumed that
18 he wasn't going to call us back, and everybody started
19 looking for work.

20 MS. ARCINIEGA: I want to object to that
21 translation, Your Honor.

22 MR. ROY: I don't.

23 MS. ARCINIEGA: I don't think that the witness
24 used the word assumed, or the witness did not use the word
25 assumed, I will say. I understand it was a --

1 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
2 need to have the Court Reporter play the answer back for
3 both myself, the Interpreter, and Counsel to hear it. And
4 we'll go through the answer one word at a time because,
5 unlike some of the answers where I have no idea why Counsel
6 is interested in them, this one, I could see why they would
7 be.

8 So we'll have the Court Reporter play back the
9 last question and answer.

10 COURT REPORTER: (Off mike.)

11 ADMINISTRATIVE LAW JUDGE SOBLE: However much
12 time you need.

13 Mr. Mendoza, we're going off the record for a
14 minute for the Court Reporter to play back the last answer
15 and the translation. The attorneys, as part of their job,
16 may occasionally ask about the interpretation and
17 translation. This is routine but it may take five or ten
18 minutes before we are ready.

19 (Off the record at 4:19 p.m.)

20 (On the record at 4:38 p.m.)

21 ADMINISTRATIVE LAW JUDGE SOBLE: We'll go back on
22 the record.

23 If the Interpreter would indicate the same thing
24 just now off the record?

25 MR. ROY: Your Honor, may I inquire? Because I

1 thought that he said that they understood that and they
2 were going to go their own way.

3 ADMINISTRATIVE LAW JUDGE SOBLE: First, I'm going
4 to have the Interpreter indicate what she said now. And
5 then if you have something you want to add, I'll let you
6 state that on the record.

7 MR. ROY: Thank you.

8 ADMINISTRATIVE LAW JUDGE SOBLE: First, if the
9 translator -- if the Interpreter would indicate what she
10 said while we were off the record?

11 THE INTERPRETER: Yes. After listening to the
12 recording, the word that the witness used was "(speaking
13 Spanish)," which should have been translated as
14 "understood," and I interpreted it as "we assumed."

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Now, from
16 having heard it again, are you able to repeat for me what
17 you heard in Spanish or do you need the Court Reporter to
18 play it again to be able to, essentially, write down what
19 the words were in Spanish and indicate those back to me?

20 THE INTERPRETER: So you want me to do the
21 interpretation again?

22 ADMINISTRATIVE LAW JUDGE SOBLE: No.

23 THE INTERPRETER: No?

24 ADMINISTRATIVE LAW JUDGE SOBLE: I want you to --
25 and you probably will need to listen to it again -- write

1 down what you heard in Spanish and then state it back.

2 THE INTERPRETER: Got it. Okay.

3 ADMINISTRATIVE LAW JUDGE SOBLE: -- so that I can
4 see if all of us are on the same page, what we heard, in
5 the native language.

6 THE INTERPRETER: Okay.

7 (Court Reporter replays recording on the record.)

8 MR. ROY: Uh-huh. Uh-huh. Uh-huh.

9 THE INTERPRETER: Okay, I wasn't able to write it
10 down, so I'm going to do my best. If not, I might have to
11 hear it again.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Why don't we
13 just have the Court Reporter play it again for you one more
14 time now?

15 THE INTERPRETER: Okay.

16 COURT REPORTER: Just a moment.

17 (Court Reporter replays recording on the record.)

18 COURT REPORTER: All right. Hang on. Just one
19 moment.

20 (Court Reporter replays recording on the record.)

21 THE INTERPRETER: Okay.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So having
23 heard it a couple of extra times, do you have a revised
24 translation or would you, perhaps, adjust it again? You're
25 still on moot.

1 THE INTERPRETER: Having heard, yes, I would stay
2 with the revised translation.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And, Mr.
4 Roy, you had an alternative translation.

5 MR. ROY: Yes. I mean, there was a portion at
6 the end that he said that I understood that when he was
7 explaining that Rene said that, you know, there wasn't
8 going to be any work in the near future and that they
9 understood that, and that maybe they should look out for
10 themselves or look for work elsewhere.

11 THE INTERPRETER: Right.

12 MR. ROY: That's what I heard.

13 THE INTERPRETER: Yeah. That's --

14 MR. ROY: Is that correct?

15 THE INTERPRETER: -- that's my -- that's the
16 revised translation because the first translation, I said,
17 "we assumed."

18 MR. ROY: Right.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. What I'm
20 going to ask the Interpreter to do is from what you've
21 heard now from scratch, please give whatever you think is
22 the best translation of it from beginning to end.

23 THE INTERPRETER: Okay. "Rene had told me that
24 because there wasn't that much work, that he was going to
25 call us. And the way that we had been working, we

1 understood that he wasn't going to call us anymore to give
2 us more work."

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do any of
4 the attorneys disagree with that interpretation and, if so,
5 why?

6 MR. ROY: I still believe that there was
7 something right at the very end about work elsewhere.

8 THE INTERPRETER: Counsel, out of -- I cannot
9 make that out in the recording, although I do agree with
10 you, in my mind the first translation I did say something
11 about that but, on the recording I hear, I cannot hear that
12 part. Did you hear that part? Because maybe I'm just --
13 that sound is so awful, I have a hard time concentrating
14 when I'm hearing it.

15 MR. ROY: Yes, I heard him, what he said.

16 Your Honor, this is a very critical thing --

17 THE INTERPRETER: Yes.

18 MR. ROY: -- probably one of the most critical
19 statements in this case.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I don't
21 know that yet but I don't discount that yet. And I don't
22 have very many other alternatives, other than the Court
23 Reporter has to be able to play these back in a way that I
24 can hear it. I cannot hear it in a way to be able to
25 utilize it sufficiently the way that it's been played back.

1 Let's go off the record for a second.

2 (Off the record at 4:45 p.m.)

3 (On the record at 4:53 p.m.)

4 (Spanish Interpreter is present.)

5 (Witness is present.)

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I have a
7 general statement before we get to the translation of this
8 particular sentence.

9 We have to have a more understandable recording
10 of the record available to do this. I anticipate in every
11 virtual hearing that I do that some testimony will be
12 played back. My life experience is that every multi-day
13 hearing has that happen at least one or two times over the
14 multiple days. It may sometimes be important, it may not,
15 but we need to be prepared.

16 So I don't know if the other court reporter's
17 equipment is identical to yours. But if it's not getting a
18 good enough recording, if necessary, then you need to have
19 a cassette recorder or something that is recording it as
20 well. I personally don't even know how a transcriber is
21 going to transcribe from something of that quality. But
22 that's for all of you to figure out.

23 There has to be a way so that we can hear
24 something of comparable quality to what we're hearing
25 contemporaneous to when it's said, and that's not what's

1 there.

2 So fact that you had other hearings during the
3 pandemic when nobody asks to have something come back
4 doesn't mean that it complies with our request pursuant to
5 your contract for court reporting.

6 So with that in mind, please let Ms. Barr know
7 that we need a clear, crisp, understandable recording that
8 can be played back during the hearing. I don't know that
9 we will be able to correct this retroactively but we need
10 to be doing that starting on Monday morning.

11 With respect to the translation of this
12 particular sentence, which is clearly going to be the --
13 we're within a couple questions of ending for the day, I'm
14 not sure we're going to be able to suitably resolve this
15 today. So I'll let Counsel address that when we come
16 Monday morning.

17 What I'm going to do, utilizing the rest of our
18 time, is ask a couple more questions while we have the
19 witness here as to the same subject. And perhaps allow
20 Counsel to both ask one or two questions of the same. But
21 we're going to need to wrap up pretty quickly.

22 VOIR DIRE

23 BY ADMINISTRATIVE LAW JUDGE SOBLE:

24 Q. So while we're still on the record, Mr. Mendoza,
25 when Rene told you that there would not be work for the

1 next few days, what did you understand that to mean?

2 A. We understood, by seeing the other crew and us
3 not working, it was obvious to us that they were firing us.

4 MR. ROY: Objection; calls for speculation.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled, but
6 I'm going to ask another question or two on the subject and
7 allow both attorneys to ask a question or two on that topic
8 only, now, before we resume on Monday morning.

9 BY ADMINISTRATIVE LAW JUDGE SOBLE:

10 Q. So was there anything that Mr. Macias said, other
11 than because you saw the other crew working, that led you
12 to believe that they would not be calling you back for
13 further work?

14 A. He gave us the weekly check. And I don't
15 remember how many other days he gave us another check
16 separate.

17 Q. Okay. When you received your last check, was it
18 on a Wednesday, a Friday, or something different?

19 A. We had to wait until Friday.

20 Q. Okay. And wasn't that your usual day to receive
21 a check?

22 A. Fridays, yes.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Ms.
24 Arciniega, you can have a couple questions.

25 MS. ARCINIEGA: Your Honor, I'm still on my

1 direct examination.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Correct.

3 MS. ARCINIEGA: Okay.

4 ADMINISTRATIVE LAW JUDGE SOBLE: But you can have
5 a couple of questions that are limited to that answer that
6 we did not hear a crisp version of back to the extent that
7 you wanted to address that topic. When we resume on Monday
8 morning, you are going to have unlimited and unfettered,
9 other than the usual Rules of Evidence, continuing your
10 examination, but it's two minutes to five o'clock.

11 MS. ARCINIEGA: Right. I'm not clear because I
12 thought we were going to wait to go into this subject until
13 we had the correct translation, Your Honor. I don't know
14 why, right now --

15 ADMINISTRATIVE LAW JUDGE SOBLE: If you choose
16 to, I'm going to let you ask a couple of questions on this
17 because I'm cognizant of the fact that whatever the witness
18 said before is fresher in his mind now than it will be
19 after a couple of days have passed. You don't have to take
20 advantage of that.

21 MS. ARCINIEGA: That's fine, Your Honor. Like I
22 said, I'm still -- okay.

23 MR. ROY: Your Honor, I would like to take
24 advantage of it.

25 MS. ARCINIEGA: Your Honor --

1 ADMINISTRATIVE LAW JUDGE SOBLE: Well, after --

2 MS. ARCINIEGA: -- excuse you, Mr. Roy.

3 ADMINISTRATIVE LAW JUDGE SOBLE: -- after --

4 MS. ARCINIEGA: I was speaking.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

6 MS. ARCINIEGA: I was speaking, Your Honor.

7 ADMINISTRATIVE LAW JUDGE SOBLE: I thought that
8 you were done and you would be asking your next question
9 now.

10 MS. ARCINIEGA: I was going to ask my next
11 question.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So please
13 proceed.

14 BY MS. ARCINIEGA:

15 Q. Mr. Mendoza, you said that when mister -- than
16 Rene Macias gave you your check for that previous week, he
17 also gave you a better check; is that correct?

18 A. Yes.

19 Q. And what do you understand that that other check
20 was for?

21 A. We worked two more days.

22 Q. When did you work two more days?

23 A. It was Thursday and Friday. And on Friday, he
24 gave us both checks.

25 Q. Does that mean that, had you continued working,

1 the check -- the second check he gave you, you wouldn't
2 have received until your next payday at Cinagro?

3 MR. ROY: Objection; leading.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

5 You can answer the question.

6 THE WITNESS: Yes.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm going
8 to pause the General Counsel's questions. I'm going to
9 allow Mr. Roy to ask a question or two related solely to
10 the answer that the witness gave that were going to try to
11 give a better audio recording on Monday morning. If I
12 determine the question does not relate to that, I won't
13 permit it until after Ms. Arciniega is done.

14 MR. ROY: Thank you, Your Honor.

15 Mr. Mendoza, after Rene told that there was no
16 work available and that he would call you when there was,
17 did he tell you you were fired?

18 THE WITNESS: Yes.

19 MR. ROY: He told you you were fired?

20 THE WITNESS: Yes.

21 MR. ROY: Okay.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm going
23 to ask one question and then we'll wrap things up.

24 Mr. Mendoza, when you say that Mr. Macias told
25 you that you were fired, are you saying that he used those

1 words literally or that he used words that you understood
2 to mean that?

3 THE WITNESS: I understood that in the way he
4 expressed himself when he gave me the checks.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm not
6 sure how responsive that is but it's 5:03, so I don't think
7 we're going to solve very much by adding two or three
8 minutes here. I don't think we added very much having
9 either myself or either of the Counsel asking another
10 question or two.

11 When we get to Monday morning we're either going
12 to have a better recording of what the witness said in
13 Spanish or we're not. Either way, at that point, Ms.
14 Arciniega is going to be continuing her direct examination.
15 We are not likely to finish this witness until close to the
16 end of Monday morning, taking into account that we're
17 starting at 9:30 and that we're taking our lunch break,
18 perhaps, somewhere around 11:45. So -- but you should
19 still have the other witness available at all times on
20 Monday.

21 So, Mr. Mendoza, you need to be back Monday at
22 9:30 a.m.; do you understand that?

23 THE WITNESS: Yes.

24 ADMINISTRATIVE LAW JUDGE SOBLE: You also
25 understand that you should not talk to any of the

1 attorneys, or any of the employees of the attorneys, or any
2 of the former Cinagro workers, either in your crew or at a
3 supervisory level, between now and Monday at 9:30?

4 THE WITNESS: Yes.

5 ADMINISTRATIVE LAW JUDGE SOBLE: So with that in
6 mind, Mr. Mendoza, you are free to go to the day. Please
7 remember not to discuss anything that you heard at the
8 hearing with anyone, other than that you may tell people
9 that you attended the hearing.

10 THE WITNESS: Yes. I understand.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

12 Let's give the witness a chance to leave the
13 room. And then we're going to talk briefly for a minute or
14 two before we wrap up for the day.

15 (Witness exits the hearing room.)

16 (Pause)

17 (Off the record at 5:08 p.m.)

18 (On the record at 5:10 p.m.)

19 ADMINISTRATIVE LAW JUDGE SOBLE: Let's go back on
20 the record.

21 We're back on the record. It's 5:10. Mr.
22 Mendoza knows to come back on Monday morning at 9:30.

23 While we were off the record, I just indicated to
24 everyone that I would ask the Court Reporter, Ms. Nelson,
25 to convey to the manager at her firm, Ms. Barr, that the

1 court reporting requires the ability of the court reporter
2 to clearly play back the witness testimony so that we can
3 hear it clearly, and that that wasn't possible today, and
4 that that needs to be remedied by the time we begin on
5 Monday morning, at least prospectively, and ideally for
6 anything that we need to hear that was prior to today. And
7 I appreciate the court reporting firm addressing that.

8 I also indicated that I believe the best way for
9 me to remedy that, if we don't get a more clear audio file
10 of what was said today, is probably to allow all of the
11 Counsel a little bit more leeway in asking things that
12 otherwise might be redundant to have the best chance to try
13 to get what it appears the witness thought. On these
14 topics.

15 So is there anything anyone would like to add?

16 MS. ARCINIEGA: Not at this time.

17 MR. ROY: Nothing, Your Honor.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well, I
19 appreciate everyone's effort. The fact that some things
20 don't go the way that I would like does not mean that I
21 think, overall, this hearing has not gone the way that I
22 would have expected. I think by and large, all of the
23 Counsel and the Court Reporter and the Interpreter have
24 managed with the system, mostly, effectively. But we just
25 need to correct the part that's not the most. So thank you

1 and correct the part that is not going the way that I want
2 it, if that was ambiguous.

3 So I will see everyone Monday morning at 9:30 and
4 we will proceed with Mr. Mendoza's testimony. And then,
5 immediately following that, I assume the General Counsel
6 will still be calling Ms. Ito. I am hopeful that sometime
7 in the afternoon we will be getting to Mr. Roy's first
8 witness.

9 Do you know if your first witness will be
10 English- or Spanish-speaking?

11 MR. ROY: English-speaking.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well,
13 that doesn't give me enough of a time frame to know what to
14 recommend for the Interpreter. So for now, I'm just going
15 to have to advise the Interpreter to plan on being here all
16 of Monday, Tuesday and Wednesday. But I know at some point
17 there will be some English-speaking witnesses where we can
18 at least advise her that she has some length of time that
19 she can leave the hearing and return.

20 Thank you again, everybody. And stay safe over
21 the weekend. And I'll see you Monday at 9:30.

22 (The hearing recessed at 5:14 p.m.)
23
24
25

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

CERTIFICATE OF TRANSCRIBER

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 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.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

March 8, 2021