

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 6

HEARING

Remote via WebEx

Tuesday, March 2, 2021

Location: ALRB Oxnard Sub-Regional Office
1901 North Rice Avenue
Suite 300
Oxnard, California 9030

Reported by:

Peter Petty

APPEARANCES

BEFORE: THE HONORABLE MARK SOBLE,
Administrative Law Judge

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Spanish-To-English Interpreter: Rosario Lucas,
Excel Interpreting #301646

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WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS	ALJ
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Charging Party:

Maria Lauriano	34-R	49-A		88-A	81
Ignacia Sanchez	95-R	103-A	145-R	133-A	127

EXHIBITS

	<u>MARKED</u>	<u>ADMITTED</u>	<u>WITHDRAWN</u>
<u>General Counsel:</u>			
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LEGEND:

A = Ms. Arciniega

R = Mr. Roy

P R O C E E D I N G S

8:37 A.M.

CALIFORNIA, TUESDAY, MARCH 2, 2021

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

ADMINISTRATIVE LAW JUDGE SOBLE: Good morning.

It is 8:37 a.m. Is the General Counsel bringing back Ms.
Ito?

MS. ARCINIEGA: No, Your Honor.

ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And both
the Assistant General Counsel and Respondent's counsel
received a copy of the notes that Ms. Ito referenced while
giving her testimony?

MR. ROY: Yes, Your Honor.

MS. ARCINIEGA: Yes.

ADMINISTRATIVE LAW JUDGE SOBLE: Okay. At this
time does the General Counsel have any additional
witnesses?

MS. ARCINIEGA: No, Your Honor.

ADMINISTRATIVE LAW JUDGE SOBLE: Okay. In that
case, would Respondent's counsel like to give an opening
statement?

MR. ROY: Before I give an opening statement,
Your Honor, I'd like to file two oral motions with you
under 8 CCR, Section 20241(a)(b)(c). The first motion

1 would be to dismiss Mr. Victor Mendoza from the complaint.
2 And the second motion would be to dismiss the complaint for
3 a failure to prove that the alleged discriminatees were in
4 fact discharged.

5 So, as I understand, once I make that motion --
6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay hold on for
7 a moment. Then before you do that we're going to pause for
8 about 30 seconds. Let's go off the record.

9 (Off the record at 8:40 a.m.)

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

11 ADMINISTRATIVE LAW JUDGE SOBLE: You can proceed.

12 MR. ROY: Thank you, Your Honor.

13 The motion to dismiss Victor Mendoza is based
14 upon Labor Code Section 1160.3, as there has been no
15 showing by a preponderance of the evidence taken that Mr.
16 Dighera was terminated from his employment.

17 We first start out with the fact that through his
18 testimony he never met personally with anyone from the ALRB
19 during those four, almost four years from the filing of the
20 charge. The only contact he had was about a month or so
21 ago with Gabriella to provide her some back pay stubs for
22 her back pay specification.

23 He was not called under subpoena and there was no
24 reason to call him under subpoena since the Respondent
25 admitted that he was a statutory supervisor and he could

1 have been called as an adverse witness under I think
2 Evidence Code Section 376.

3 All of the employees testified that Mr. Dighera
4 -- excuse me that Victor Mendoza was not terminated. He
5 himself, yesterday, admitted that he was not informed that
6 he was terminated by Mr. Dighera or Rene.

7 This is a case where if we are trying to
8 demonstrate that he was discharged for his activities, then
9 any such finding would be based upon conjecture and
10 speculation.

11 We go back to the legal precedents under the ALRB
12 and supervisors are not generally entitled to protections
13 of the Act. An exception exists where if a supervisor is
14 fired for refusing to commit an unfair labor practice.
15 That's the George Lucas & Sons case, 11 ALRB No. 11.

16 The motion and subsequent discharge of a
17 supervisor for his refusal to commit unfair labor practices
18 is itself an unfair labor practice. Wherein an employee's
19 tenure is expressly conditioned on the continued employment
20 of the supervisor and the supervisor has been terminated as
21 a means of discharging the employees because of their
22 concerted activity, the discharge of the supervisor also
23 violates the Act.

24 But we haven't had any of those circumstances in
25 this particular case, Your Honor. All the testimony of the

1 employee witnesses and Mr. Mendoza demonstrated that he
2 would listen to their complaints and he would merely convey
3 them to Rene, who would get back to him. He admitted, and
4 several other employees admitted that at no time did he
5 ever negotiate on behalf of those employees. There's no
6 evidence that he refused to commit an unfair labor practice
7 charge.

8 He admitted, as well as employees, that there was
9 never any resolution of the complaints that were conveyed
10 to Victor Mendoza about the employees' work. Was there
11 protected activity? Yes, I think so far in the record
12 there's been a number of meetings where workers had
13 concerns about work-related issues. But to make that jump
14 to say that Victor Mendoza was fired for merely conveying
15 those complaints to management, of which he was a part of,
16 that does not constitute any discrimination against him.

17 And in fact this is really interesting. If you
18 look at the first paragraph of the 1st Amended Complaint,
19 it says that -- and I'll cut the stuff here, but it says
20 that: Cinagro Farms terminated the employment of Victor
21 Mendoza and the other employees because they complained
22 together about their working conditions.

23 Either that was inartfully drawn or the General
24 Counsel has lumped in Mr. Mendoza as someone who is
25 complaining about working conditions which never occurred

1 in this proceeding.

2 If we go back to paragraph 34 and 35, on March
3 10th Foreman Mendoza went to pick up discriminatees'
4 checks. So, that clarifies that issue.

5 At the time Mr. Macias told Foreman Mendoza that
6 there was no more work for him and the discriminatees at
7 Cinagro, thereby implying that they were discharged.

8 But that wasn't his testimony. His testimony
9 yesterday was he got the checks, he contacted the people,
10 he met them down at some park in Oxnard, and he explained
11 that Mr. Macias said that there was no work at this time
12 and that the workers would be called back to work when work
13 became available.

14 He also was unaware that virtually most of these
15 people in the crew were -- they had either applied or
16 working elsewhere at the time this occurred.

17 None of the employees said that Victor Mendoza
18 was discharged.

19 So, based upon all these facts we believe that
20 the preponderance of the evidence taken does not
21 demonstrate that Victor Mendoza engaged in any protected
22 activity with the workers, nor was he terminated as a
23 result of that activity.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I believe
25 you also had a motion to dismiss the entire complaint?

1 MR. ROY: Yes. With regard to dismissal of the
2 entire complaint once again it's predicated on the workers
3 engaging in protected concerted activity, such as
4 complaining about their wage statements, complaining about
5 water, et cetera.

6 Every single worker indicated that they were not
7 discharged. They were never told they were discharged by
8 Victor, never told they were discharged by Rene, or the
9 owner.

10 And what's interesting here is the General
11 Counsel has attempted to show that there was another crew
12 working there at the ranch for Cinagro. That is true.
13 There was another crew and it had been working there for a
14 few weeks before the March 4 incident. And it had been
15 working with eight or more employees in the crew.

16 On Monday, March 6th that crew, according to the
17 records, I think it's GC-6 or 7, demonstrates that there
18 were only five people in that crew. There was no work on
19 Tuesday the 7th for that other crew. That other crew
20 worked on Thursday, Friday, and Saturday with those same
21 five people. Then it continued the following week of the
22 13th with the same five people. And the following week on
23 the 20th of the same five people.

24 So, it was clear from the evidence that there had
25 been a reduction in the orders or the demand for additional

1 production and the company merely relied upon another
2 preexisting crew to take care of those orders. We have no
3 evidence as to whether they were performing work that
4 normally would be done by Marisol's crew. But the point is
5 that there was testimony from Victor that they did have
6 some common crops that they did harvest.

7 Here's the critical thing. The General Counsel
8 is attempting to demonstrate that because there was another
9 crew and because Marisol went out and looked a field that
10 day and saw that other crew, they're claiming that Rene
11 said there was no work. Well, that remains to be proven
12 today when Mr. Macias calls.

13 But the fact of the matter is that they waited
14 around all week. And actually, they didn't wait around all
15 week. We have the testimony of Marisol and her husband,
16 Hector that they went to work at Silent Springs. This is
17 before they got their last check.

18 Maria Duarte also went to work with them and
19 started the following day.

20 The following week Rigoberto and his wife went to
21 work for Deardorff-Jackson Farms.

22 Maria Lauriano and Ignacia Sanchez also went to
23 work for Silent Springs.

24 So, where was the crew? Where was the crew that
25 would be available to go back to work? There wasn't any.

1 The workers had all dispersed, had gone into other
2 companies and worked at those companies for varying lengths
3 of times. Sometimes many, many months, sometimes a couple,
4 or two or three.

5 The fact of the matter is that, you know, even at
6 the time that Macias gave the check on Friday and the
7 conversation between Victor Mendoza with the employees
8 later that day, he was unaware of the fact that some of
9 them who were talking to him were already employed
10 elsewhere.

11 Also, it makes absolutely no sense whatsoever.
12 Every one of the employees testified that they went to work
13 either at the Blueberry Ranch, or DFF, Deardorff Family
14 Farms. They had wage slips, wage statements, they had
15 water, they had health insurance, they made better wages,
16 and the bottom line was that none of those things were
17 available at Cinagro.

18 But the General Counsel would have you believe
19 that the still hung on to the idea that they wanted to go
20 back to this inferior work environment when they had
21 already found alternative work with much better benefits
22 and wages.

23 Lastly, none of the Charging Parties claimed that
24 they were ever told that they were discharged. So again,
25 any type of conclusion that the termination of their

1 employment occurred is nothing but conjecture and
2 speculation. It's not evidence proving by a preponderance
3 of the evidence taken that they were in fact discharged
4 from Cinagro. That's all.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And just
6 to clarify, you do anticipate wanting to do a separate
7 opening statement if I don't rule affirmatively on both of
8 those motions?

9 MR. ROY: Yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I am not
11 interested in hearing a response from the General Counsel
12 on the motion to terminate the entire complaint. But I am
13 interested in the General Counsel very briefly responding
14 to the following. What if, and I'm not saying the evidence
15 shows this, that the entire crew was terminated because of
16 worker complaints, but the foreman was not one of the
17 people who made those complaints.

18 Does the General Counsel have a theory in that
19 scenario, which I'm not saying took place, under which the
20 foreman along with the other workers would have the ability
21 to prevail on a ULP complaint?

22 And who would be responding to that from the
23 General Counsel?

24 MS. ARCINIEGA: I will, Your Honor.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

1 MS. ARCINIEGA: Good morning, thank you for
2 allowing us to be heard.

3 Our theory about -- first, I'll say that there
4 was testimony from Mr. Mendoza that he also wanted itemized
5 paystubs and that he was presented and asked for them,
6 together with the workers in his crew when they talked to
7 Rene.

8 Second, I'll say that in the second cause of
9 action the General Counsel has provided the theory upon
10 which we believe that Mr. Mendoza is afforded the
11 protection of the Act under these circumstances.

12 And we cite to the Sequoia Orange Company, 11 ALB
13 No. 21 case wherein it states that: A supervisor may be
14 afforded the protection of the Act when the discharge of
15 the supervisor is the means by which the employer
16 discriminates against its employees.

17 So here, Mr. Mendoza was -- the termination of
18 him and the discriminatees together was the means that the
19 employer discriminated against them for their protected
20 concerted activity.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. The short
22 answer to me is that these are areas of law that are
23 sufficiently nuanced that I am not going to be ruling at
24 this time. That should not be construed as that I think
25 either side has the more persuasive argument but rather

1 that there's a very limited number of circumstances under
2 which I would rule without having heard the completion of
3 testimony that the hearing should come to an instant halt,
4 and that I should issue a decision based on what I'd heard
5 without doing any research unique to this case, after
6 having heard the testimony that I heard.

7 I will have to go back and review the transcripts
8 as to what extent the Assistant General Counsel is correct
9 or incorrect. I am saying neither. As to whether the
10 foreperson testified that he articulated to Mr. Macias that
11 he himself wanted the paystubs, in addition to the other
12 members of the crew.

13 I will say this much, I think everybody agrees
14 that the magic words "you are fired" were not said to
15 anyone and I think everyone agrees that there is at least
16 some case law out there that there are some circumstances,
17 whether they occurred in this case or not, that make it
18 such that you do not need to say those words for that
19 result to still be achieved.

20 With that in mind, I am denying both of those
21 motions without, to the extent it's the appropriate
22 phraseology, without any prejudice to my reaching the same
23 conclusions when I draft my decision that are sought by the
24 Respondent. At that point I am going to look at everything
25 in great detail.

1 I could not recite the facts or the law of either
2 what I believe was the George Lucas and Sequoia Orange
3 cases that I heard counsel respectively mention. I believe
4 the Respondent mentioned a George Lucas 11 ALRB 11, and the
5 General Counsel mentioned a Sequoia Orange 11 ALRB
6 (indiscernible).

7 I certainly don't think there's anything
8 determinative in Labor Code 1160.3 without looking at case
9 law. I don't think there's anything specific in the
10 regulation that Mr. Roy mentioned, other than that it talks
11 about his ability to orally make a motion at this time.

12 So, I appreciate Respondent's counsel making the
13 motions when they did. But at this time I am denying both
14 of those motions. Again, that doesn't mean I won't be
15 considering those precise same issues at the end of the
16 case, and so I would urge both sides in the post-hearing
17 briefs that I almost certainly will order to address those
18 specific issues, along with all others.

19 Mr. Roy, it is nine o'clock. Would you like a
20 minute to break or would you like to jump into your
21 opening?

22 MR. ROY: I would like to first confirm, under
23 2024(1)(c), the Administrative Law Judge shall rule on all
24 motions either orally on the record or in writing, as may
25 be appropriate. Rulings shall state the reasons therefore

1 and if in writing shall be incorporated into the decision
2 or separately served on the parties.

3 So, I'm inquiring, does Your Honor -- is Your
4 Honor of the opinion that what you just said pertaining to
5 both motions constitutes a ruling and the reasons for your
6 ruling?

7 ADMINISTRATIVE LAW JUDGE SOBLE: Yes. To make it
8 clear, the ruling is the motion to dismiss the entire
9 complaint is denied. But the underlying legal argument
10 will be considered at the time that I draft a decision.

11 And that the argument to dismiss Mr. Mendoza, the
12 foreman, solely is also denied.

13 That I indicated as part of my reasoning that at
14 this time without carefully reviewing the transcript and
15 the totality of the testimony of every witness I do not
16 feel one hundred percent sure whether the preponderance of
17 the testimony will show, A, whether or not the foreperson
18 actually complained himself as opposed to only on behalf of
19 what the crew said in terms of his communications to Mr.
20 Macias about the paystubs.

21 That doesn't even address the purported issues
22 with respect to the water. But aside from that, as I
23 indicated I think there are a variety of different facts
24 where there's been testimony thus far that at least require
25 me to do legal analysis as to whether or not someone could

1 have construed from those facts whether or not the crew was
2 terminated or not.

3 That being said, those are complicated issues.
4 It is very rare that they would be so clear that I would
5 reach a determination without doing any separate
6 thoughtful, independent legal research at this juncture in
7 a hearing.

8 So, that is my reasoning that -- my alternatives
9 basically right now are twofold. I could continue the
10 hearing for a day or two. I could do my thoughtful
11 research and then I could rule on it. Or, I could hear the
12 remainder of the testimony which might take approximately
13 the same amount of time and then decide to do everything
14 after having received post-hearing briefs and a transcript.

15 I find the latter to be the more appropriate
16 method because I find no matter how diligent counsel are
17 that my having the transcript in front of me is the best
18 way to review and confirm my independent notes during the
19 hearing as to what witnesses specifically said.

20 I think it's not uncommon, and I'm not saying
21 unique to this hearing, where perhaps at one point a
22 witness may say X and at another point in the hearing the
23 witness may say Y. And so, I may have to determine from
24 the totality of that what is most likely that was
25 communicated from the crew to the company. And then

1 secondarily, based on the totality of the circumstances
2 what took place.

3 So, yes that's my conclusions and my reasoning.
4 I don't need to do anything, I believe, other than orally
5 respond as part of the transcript. That's certainly what
6 I've done in past hearings. And I don't intent to issue
7 any intermediate written order prior to drafting the
8 decision after the post-hearing briefs.

9 MR. ROY: Understood, Your Honor.

10 I'd like to make my opening statement.

11 ADMINISTRATIVE LAW JUDGE SOBLE: If you're ready
12 to do so now.

13 MR. ROY: Yes.

14 ADMINISTRATIVE LAW JUDGE SOBLE: It's 9:04,
15 you've got 15 minutes.

16 OPENING STATEMENT BY RESPONDENT

17 MR. ROY: All right. From the outset it has been
18 clear to the General Counsel and also to the Administrative
19 Law Judge that Cinagro Farms had a number of wage and
20 employment law issues. This is due to the fact that prior
21 to the time that these workers came on as direct hires,
22 whenever Mr. Dighera employed agricultural workers they
23 were always through a farm labor contractor. We have
24 evidence back in July that Mike's Farm Labor was employed
25 at Cinagro. We have evidence that in November for some

1 reason there was a change from Mike's Farm Labor to Art
2 Vasquez Labor Service and that lasted for about a week or
3 ten days.

4 And then, finding himself in a difficult position
5 he had to take on the entire crew with Mr. Mendoza, under
6 circumstances where I don't think he was really up to snuff
7 with regard to how to deal with wage and hour issues.

8 Of course, I was not consulted at that time. I
9 don't believe I came into this case until probably
10 February. And at that time I instructed him to contact
11 Barbara Ito to try to get things straightened out. Ms. Ito
12 works for many of my clients and does payroll records for
13 thousands of agricultural workers.

14 I can't hear you, Your Honor.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Normally, I'm
16 reluctant to interrupt people during their opening, but I
17 do want to make sure that you're limiting your opening to
18 things that you anticipate introducing evidence of.

19 MR. ROY: Yes.

20 ADMINISTRATIVE LAW JUDGE SOBLE: And I don't know
21 if you intend to ask Ms. Ito if she works for many of your
22 other clients for example or things like that. So, with
23 that in mind, you can continue.

24 MR. ROY: I don't intend to, Your Honor. She
25 testified yesterday she had about 80 other clients, so

1 that's pretty clear in the record.

2 I will demonstrate that the payroll checks that
3 were initially provided to the workers were on company
4 payroll checks, but that they were the amount of their
5 wages were written in and they were signed. At no time did
6 Mr. Dighera's company issue "personal checks" to any of the
7 workers.

8 We admit that they were not accompanied by wage
9 statements under Labor Code Section 226 and that should
10 have been part of it but, you know, facts are what they
11 are.

12 Mr. Dighera will also testify that when Victor
13 Mendoza worked for both Mike's and Art's Labor Service he
14 was paid an hour every day by his employer to bring in
15 water. And that that continued when the workers were
16 directly hired by Cinagro.

17 Mr. Dighera will testify that he continued to pay
18 him one hour a day and that was included within his
19 paycheck. So that, I believe, will dispute claims
20 otherwise.

21 Mr. Dighera will also testify that he had another
22 crew that also harvested a number of the same products, as
23 well as different products that Marisol Jimenez's crew.
24 That that crew was already a preexisting crew that was
25 working for Cinagro at the time that some of these events

1 occurred.

2 The evidence will also show that while this crew
3 operated with somewhere between eight to ten employees, by
4 the week of the incident that ended on the 4th, they were
5 working with only five members. And the evidence will show
6 that they continued for the next three weeks with only five
7 members. Therefore dispelling the fact that, you know,
8 these workers were entitled to work in that crew because
9 that crew was a separate and independent crew and there's
10 been no evidence otherwise.

11 We will also demonstrate through Rene Macias that
12 at no time did he tell any of the workers or Mr. Mendoza
13 that they were terminated. He merely instructed them to
14 check back and to see if there was any further production
15 that would warrant them coming back.

16 And let's bear in mind that that period of time
17 that that other crew was working with a very short crew of
18 five people. And Mr. Dighera will testify that during that
19 three-week period that orders were down and there was no
20 necessity to bring back any additional workers for no work.

21 He'll also testify that on Tuesday, March 7th
22 there was no work for that other crew.

23 All right, and we will also demonstrate through
24 the testimony of the two employee witnesses that they were
25 not contacted by the ALRB. They were not investigated to

1 give their version of the facts. And in fact, we will
2 demonstrate that approximately three weeks ago when I
3 provided Ms. Lauriano and Ignacia Sanchez's names to the
4 ALRB's General Counsel, a call was made to Ms. Lauriano
5 that evening. And then the next day she spoke with Ms.
6 Lauriano and tried to elicit testimony that there was no
7 water at the field. And Ms. Lauriano will testify that, of
8 course, from an ethical stand point that she would not do
9 so.

10 So, with that I will call Ms. Lauriano. I need
11 to have Gaby go downstairs and check. I told my client
12 before I started my opening statement to have her ready to
13 come into the building in five minutes on 9:02.

14 MS. ARCINIEGA: Your Honor?

15 ADMINISTRATIVE LAW JUDGE SOBLE: Um --

16 MS. ARCINIEGA: I'd like to be heard when I can.

17 MR. ROY: I object, Your Honor, this is an
18 opening statement.

19 ADMINISTRATIVE LAW JUDGE SOBLE: What is the
20 general category that you want to be heard on? Does it
21 relate to Ms. Vega letting the witness in or something
22 different?

23 MS. ARCINIEGA: Something different, Your Honor.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. If it
25 relates to something that you think unfairly characterizes

1 the General Counsel's investigation, I don't really want to
2 hear something on that.

3 This was simply the attorney's argument in
4 opening statement so I don't think it needs to be
5 addressed.

6 Is it something different than that, as well?

7 MS. ARCINIEGA: Not the investigation, Your
8 Honor, but the disclosure of agricultural employees' names.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Without hearing
10 argument on it can you tell me in a sentence what it is
11 that you want to address?

12 MS. ARCINIEGA: The fact that agricultural
13 employees' names were not provided to the General Counsel's
14 office.

15 MR. ROY: Your Honor, on that point I will
16 object. I have an email that I sent to Ms. Arciniega and I
17 think a copy to either Gaby or Amisha that evening at 6:30,
18 indicating who our witnesses would be.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. In any
20 event, it seems like the limitation of what the General
21 Counsel wants to bring up is the timing of when the
22 Respondent disclosed who their worker witnesses would be to
23 you, is that correct?

24 MS. ARCINIEGA: Yes, that's the -- yes.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And what

1 is your basis that you think -- I will allow you to address
2 that issue, but I'm doubtful that the outcome will be
3 resolved in a way that you seek. But what is it that you
4 think required them to disclose the names at an earlier
5 time than that they did?

6 MS. ARCINIEGA: Well, my position is that the
7 names were not disclosed to us, Your Honor.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Of
9 nonsupervisory agricultural workers, correct?

10 MS. ARCINIEGA: Correct.

11 ADMINISTRATIVE LAW JUDGE SOBLE: And why is it
12 that you think they had to disclose them?

13 MS. ARCINIEGA: I don't think --

14 ADMINISTRATIVE LAW JUDGE SOBLE: I mean there
15 clearly is a time when they disclosed who they were, but
16 when is it that you think they had to disclose them and
17 why?

18 MS. ARCINIEGA: No, my position is not that they
19 had to disclose them. My position is that the General
20 Counsel's office was told by Mr. Roy that he would be
21 calling agricultural employees who also worked in the same
22 crew.

23 MR. ROY: And that evening I sent --

24 MS. ARCINIEGA: He did not say the names of those
25 agricultural employees. And I believe he didn't tell us

1 the names. Even at the prehearing conferences he continued
2 to say agricultural employees.

3 MR. ROY: And the reason --

4 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on, Mr.
5 Roy, I don't need to hear anything from you just yet. So,
6 you're not saying that he needed to tell you, you're just
7 disagreeing with his characterization as to when he told
8 you, is that what you're saying?

9 MS. ARCINIEGA: Yes, the fact that he's
10 characterized that he told us their names and I don't
11 believe that he did, Your Honor.

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

13 ADMINISTRATIVE LAW JUDGE SOBLE: Not yet, no. He
14 certainly at some point during the hearing implied that he
15 was calling, whether these are the two that he calls or
16 not, Ms. Lauriano and Ms. Sanchez sometime during his
17 examination of Ms. Jimenez.

18 But let's just assume for purposes of argument
19 that he did not tell you prior to the hearing that he was
20 going to call those two witnesses but, rather, just told
21 you that he was calling two nonsupervisory agricultural
22 workers, whether he specified whether they were in Mr.
23 Mendoza's crew or not. Would you have a basis that you
24 think that should be brought up now? And I'm trying to
25 think of what it is other than if you're trying to just

1 merely correct for the record perhaps what you perceived
2 his characterization as to when he may have communicated
3 that just simply in his oral statement.

4 And by the way in his oral statement, whether
5 inadvertently or not, I don't even believe he mentioned by
6 name the person who he perceived to have called those two
7 people. Although I think we know from his earlier
8 questions where he make seek to go with that, but that's
9 really speculation on our part until we hear anyone
10 testify.

11 So, I'm trying to figure out because if you're
12 merely concerned with how he characterized it in his
13 opening statement, there's nothing further for me to do
14 here.

15 If you're claiming that there's some reason that
16 these witnesses should be excluded, I'm not sure what your
17 basis is and I want to hear it so I can rule on it.

18 MS. ARCINIEGA: I think that Your Honor's
19 clarification are well taken and I want to thank you for
20 the time to allow me -- I was wanting to correct the
21 record, Your Honor, and now I understand from your
22 statement that there is nothing further needed.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay that's
24 fine. And I am not construing from anything I've heard as
25 to when exactly, if ever, it was communicated that those

1 particular people would be witnesses or not. And if either
2 of you think that's important you can let witnesses tell me
3 that, rather than counsel anyhow.

4 MR. ROY: Your Honor, just can I be heard just
5 for a second because --

6 ADMINISTRATIVE LAW JUDGE SOBLE: What I don't
7 want if it's merely going to be your purported, if you
8 will, testimony and quote marks of yourself as to when you
9 did or didn't tell them something. Because it's not clear
10 to me that you were required to tell them those people's
11 names as nonsupervisory agricultural workers. The General
12 Counsel isn't claiming that you were required to tell them
13 those names beforehand.

14 It appears at most there's a difference of
15 opinion as to whether or not you actually did tell them
16 those two specifics names and, if so, at what juncture.
17 And I don't need to hear that back and forth.

18 I mean your purpose for your opening statement,
19 as far as I'm concerned, is merely to give me a roadmap of
20 what you intend to show by evidence and testimony.

21 If you wish to ask your witness questions related
22 to that, that's fine. But thus far I have no reason to
23 expect that you yourself will be taking the stand.

24 MR. ROY: I will. I will because I was the one
25 that notified her of the names. And no one else knows that

1 but me and Ms. Arciniega.

2 ADMINISTRATIVE LAW JUDGE SOBLE: But why would
3 that be important to the hearing as opposed to, for
4 example, you're asking either your witness or on rebuttal
5 their witness about what took place?

6 THE WITNESS: They don't know. They don't know
7 what happened between --

8 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not sure you
9 understand my question or if I didn't say it sufficiently
10 articulately. But at some point you may be asking your
11 witness to indicate about phone calls that she received.

12 MR. ROY: Uh-hum.

13 ADMINISTRATIVE LAW JUDGE SOBLE: She should be
14 able to do that without your needing to take the stand.
15 And so, I'm not sure why you would need to be a witness.

16 So, my question to you is limited to that. If
17 you are thinking of now becoming a witness, I'm interested
18 in knowing why you think it's needed?

19 MR. ROY: Because I am the only one that can
20 testify to the fact that I sent the payroll records
21 containing the names of the entire crew, including Ms.
22 Lauriano and Ms. Sanchez to Jessica at 6:30, on the evening
23 of February 8th. I'm the only person who can testify to
24 that.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well, if

1 you're talking about the fact that payroll records were
2 sent, rather than that you mentioned the names of who
3 specific people you were anticipating calling as witnesses
4 were, let's see if perhaps we can reach some sort of
5 stipulation before we begin calling you as a witness.

6 MR. ROY: All right.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Because if
8 you're called as a witness, it's going to create a variety
9 of different complicated issues, including which things may
10 or may not be attorney/client protected issues.

11 MR. ROY: Understood, Your Honor.

12 ADMINISTRATIVE LAW JUDGE SOBLE: I can only
13 imagine some of the questions I might want to ask. For
14 example, if the company's attorney is on the stand, and I'm
15 not -- and I certainly wasn't anticipating that being part
16 of this hearing. So, we can get to that when we get to
17 that.

18 There's been no motion or argument that the next
19 witness is inappropriate to be called, so if she's
20 downstairs we can let her in unless there's a different
21 topic anyone needs to address. Not hearing that, if Ms.
22 Vega is available to determine if the witness is there,
23 that would be terrific. If the witness is not there, then
24 Respondent's counsel can try to locate her.

25 MR. ROY: I understand she's in the parking lot

1 and I just instructed my client to let her into the
2 building.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Again, I
4 am going by my previous estimates. I do not think we will
5 finish today. I am confident we will finish tomorrow.
6 That being said, the fact that I'm confident is still not a
7 guarantee.

8 So, for now I am assuming that at a minimum after
9 the two worker witnesses there will be at least two other
10 witnesses, including the supervisor and owner of the
11 company.

12 MR. ROY: Correct.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, we'll go
14 off the record for a minute, just while we wait for the
15 witness to be brought into the room.

16 (Off the record at 9:23 a.m.)

17 (On the record at 9:32 a.m.)

18 (Witness is present.)

19 ADMINISTRATIVE LAW JUDGE SOBLE: Would you please
20 state your full name for the record? And I've had our
21 interpreter translate that until I've asked what language
22 she may or may not speak.

23 Is Ms. Lucas there?

24 MR. ROY: She can't hear.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, let me try

1 again Ms. Lucas. If you could translate for me my last
2 question, which was please state your full name for the
3 record?

4 (Whereupon the interpreter is speaking but not
5 audible)

6 ADMINISTRATIVE LAW JUDGE SOBLE: I show Ms.
7 Lucas's microphone as being on, but I do not hear her.

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

9 (Off the record at 9:33 a.m.)

10 (On the record at 9:56 a.m.)

11

12 THE WITNESS: I am ready.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Would you
14 please state your full name for the record?

15 THE WITNESS (Through Interpreter): My name is
16 Maria Lauriano.

17 ADMINISTRATIVE LAW JUDGE SOBLE: And what is the
18 language you speak the best?

19 THE WITNESS: Spanish.

20 ADMINISTRATIVE LAW JUDGE SOBLE: And what's the
21 language you speak the most at home and at work?

22 THE WITNESS: Spanish.

23 ADMINISTRATIVE LAW JUDGE SOBLE: What's going to
24 happen this morning is that some of the attorneys and
25 possibly myself will ask you some questions in English.

1 After we ask a question, the interpreter will translate the
2 question from English to Spanish.

3 After the interpreter translates the question
4 please, before you answer pause for a couple of seconds.
5 This is because once in a while one of the attorneys or
6 myself may object to a particular question. In that event,
7 either myself or the interpreter will let you know either
8 to answer the question or instead to wait for the next
9 question.

10 THE WITNESS: That's fine.

11 ADMINISTRATIVE LAW JUDGE SOBLE: If you have a
12 long answer there's two things that we request. First, try
13 to talk a little bit slower so that the interpreter can
14 keep up with you.

15 THE WITNESS: That's fine.

16 ADMINISTRATIVE LAW JUDGE SOBLE: And second,
17 after each two or three sentences pause so that the
18 interpreter can translate those sentences before you
19 continue with your answer.

20 THE WITNESS: That's fine.

21 ADMINISTRATIVE LAW JUDGE SOBLE: For all of your
22 answers it's important that you speak orally or audibly
23 because the court reporter is unable to fully incorporate
24 into the transcript if you just nod your head or gesture
25 with your hands.

1 THE WITNESS: That's fine.

2 ADMINISTRATIVE LAW JUDGE SOBLE: If at any point
3 you do not understand a question, please let me know and
4 I'll determine if the attorneys need to rephrase a question
5 in a manner that you can better understand.

6 THE WITNESS: That's fine.

7 ADMINISTRATIVE LAW JUDGE SOBLE: We will be
8 taking a break this morning for about 20 minutes, from
9 approximately 10:20 to 10:40, and then we will be taking
10 another break at noon for approximately an hour and 20
11 minutes.

12 THE WITNESS: That's fine.

13 ADMINISTRATIVE LAW JUDGE SOBLE: If at some point
14 you need a drink of water or to use the restroom, please
15 just let me know.

16 THE WITNESS: Yes.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I believe
18 I asked the oath when I said it before, but right now I
19 don't recall.

20 Whereupon,

21 Maria Lauriano
22 was called as a witness herein and, having been duly sworn,
23 was examined and testified in Spanish as follows:

24 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you. The
25 first attorney who will be asking you questions is Mr. Roy.

1 You can proceed.

2 MR. ROY: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. ROY:

5 Q. Good morning Ms. Lauriano. And first of all, I'd
6 like to thank you for taking time out of your life to
7 testify here this morning.

8 A. Okay, thank you. Good morning.

9 Q. I know we originally thought that we would call
10 you last Thursday, which would have been the third of the
11 case, but here we are on the sixth day.

12 Did you bring your subpoena with you?

13 A. I didn't bring it.

14 Q. Okay. Okay, but you did receive a subpoena from
15 me, isn't that correct?

16 A. Yes, I received that.

17 Q. Okay. All right, when did you first start
18 working for Cinagro Farms?

19 A. Around 2015.

20 Q. All right. Did you work for Cinagro Farms with a
21 labor contractor in 2016?

22 MS. ARCINIEGA: Objection leading.

23 MR. ROY: Your Honor this is -- I mean --

24 ADMINISTRATIVE LAW JUDGE SOBLE: I agree that
25 it's leading and I'm not sure it's necessary. But that

1 being said, it's foundational and I think that the General
2 Counsel occasionally did the same. So, I'm going to permit
3 it. Obviously, when questions are asked that are leading
4 that I do permit, I weigh that in deciding how useful the
5 information is. But again, I don't think the dates are
6 going to be a matter of dispute in this case. So, the
7 objection's overruled.

8 BY MR. ROY:

9 Q. Do you remember what month that was?

10 A. I did work in 2016. I don't remember.

11 Q. Okay. I know it's been a while. Do you recall
12 when you went to work directly for Cinagro?

13 A. I remember it was in March, but I don't remember
14 what day.

15 Q. Do you remember what year it was?

16 A. No.

17 Q. All right. Was Victor Mendoza your foreman?

18 MS. ARCINIEGA: Objection vague.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained. It's
20 not clear to me if you're talking about during the time
21 period that she worked for the company as a direct hire or
22 if you're including a broader time period so --

23 MR. ROY: Very good, Your Honor.

24 BY MR. ROY:

25 Q. Between January 2017 and March 4th, 2017 which

1 was the last day of work at Cinagro, was Victor Mendoza
2 your foreman?

3 A. Yes, it was Victor Mendoza.

4 Q. Okay. And during the first three weeks of
5 January 2017 did workers in your crew have complaints about
6 a lack of a wage statement?

7 A. Not that I have heard.

8 Q. Did you ever authorize -- do you know Marisol
9 Jimenez?

10 A. Yes. She worked with me in the crew.

11 Q. Did you ever authorize her to make complaints
12 about work on your behalf?

13 MS. ARCINIEGA: Objection vague.

14 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to --
15 I mean I think that the question is vague, but if the
16 witness thinks she understands it she can answer it.

17 Ms. Lauriano, do you understand the question?

18 THE WITNESS: She called me a week around the
19 10th. She asked me if I wanted to join the lawsuit that
20 she was going to file and I said no.

21 BY MR. ROY:

22 Q. And why did you say no?

23 MS. ARCINIEGA: Objection, it's nonresponsive to
24 the question, Your Honor.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.

1 Actually, initially I was thinking exactly what the
2 Assistant General Counsel said and then thinking about it,
3 no, I don't agree, actually because the question was sort
4 of vague I think that the answer is incorporated within
5 what's the question that was asked. It's just probably not
6 what was being sought with that particular question. So,
7 I'm going to overrule the objection.

8 MR. ROY: Okay.

9 BY MR. ROY:

10 Q. Ms. Lauriano, at any time that you worked at the
11 fields with Marisol did you ever authorize her to make any
12 work-related complaints on your behalf?

13 ADMINISTRATIVE LAW JUDGE SOBLE: Just was her
14 earlier answer translated for the record, when I overruled
15 the objection? If so, I didn't hear it.

16 MR. ROY: No.

17 THE INTERPRETER: Your Honor, I'm not being
18 allowed to completely finish the interpretations before the
19 objections are done and it's very difficult to be able to
20 recall accurately.

21 ADMINISTRATIVE LAW JUDGE SOBLE: I understand
22 that. And I wasn't sure whether you'd even started it in
23 that instance, but I certainly didn't hear the translation.

24 And so the question is in order for you to play
25 back the -- or, in order for you to do the translation do

1 we need to play back the witness's testimony or not?

2 MR. ROY: I'll withdraw the question, Your Honor.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. You
4 certainly can ask the same question again later, which is
5 probably what you intended to go more chronologically. So,
6 you can ask your next question again. In other words, the
7 question you asked after that, just you can proceed.

8 BY MR. ROY:

9 Q. Ms. Lauriano, I'm not talking about the recent
10 conversation you had with Marisol. What I'm asking is when
11 you were working with Marisol in 2017 did you ask her or --
12 excuse me did you authorize her to speak on your behalf
13 concerning work-related complaints?

14 A. No, I did not speak to her, I did not give her
15 authorization, and we hadn't talked about that before.

16 Q. Okay. At work were you paid with a paycheck at
17 Cinagro?

18 A. Yes.

19 Q. And what was the normal payday?

20 A. I don't remember. I don't remember if it was
21 Friday or Saturday.

22 Q. And this would be the week following the week
23 that you ended, correct?

24 MS. ARCINIEGA: Objection leading.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

1 BY MR. ROY:

2 Q. How many paychecks would you get each week, Ms.
3 Lauriano?

4 A. One.

5 Q. Victor Mendoza testified yesterday that when he
6 retrieved your last check from Rene and went to give them
7 to the crew that he gave the entire crew two checks. Is
8 that correct?

9 MS. ARCINIEGA: Objection leading.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

11 MR. ROY: Now we're getting technical, huh, okay.

12 BY MR. ROY:

13 Q. When you received your last check --

14 ADMINISTRATIVE LAW JUDGE SOBLE: I have a
15 question. Every time Mr. Roy makes an editorial comment
16 like that do those get put in the transcript, Mr. Petty?

17 (Whereupon the court reporter responds in the
18 affirmative)

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, thank you.
20 You can proceed, Mr. Roy.

21 MR. ROY: Thank you.

22

23 BY MR. ROY:

24 Q. When you received your last paycheck who gave it
25 to you at Cinagro?

1 A. I personally went to get it.

2 Q. And where did you go?

3 A. To the ranch where we would always go, before
4 Victor was the foreman and I temporarily worked with Mr.
5 Rene we would go to this little office that he had things
6 there with.

7 MR. ROY: Your Honor, I'm going to withdraw the
8 question and reask it.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm going
10 to allow the answer to stand and the question to stand.

11 MR. ROY: All right.

12 BY MR. ROY:

13 Q. Ms. Lauriano, when you received your last
14 paycheck in March of 2017, how many checks did you receive?

15 MS. ARCINIEGA: Objection leading.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

17 THE WITNESS: One.

18 BY MR. ROY:

19 Q. And who gave it to you on that date?

20 MS. ARCINIEGA: Objection vague.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. And
22 the interpreter can translate the answer.

23 THE WITNESS: Mr. Rene.

24 BY MR. ROY:

25 Q. Is it your testimony that Mr. Victor Mendoza did

1 not give you your last paycheck?

2 A. No, he did not give it to me. I believe I went
3 by myself to pick it up.

4 Q. Okay. After you received your last paycheck did
5 you apply for work somewhere?

6 A. Yes.

7 Q. Do you remember the name of that company?

8 A. I don't remember the name of the company but I
9 went to work with the blueberry. There was another
10 coworker of mine, and myself that had thought about going
11 to work at the blueberry.

12 Q. What's the name of the coworker that you went to
13 work with at the berry farm?

14 A. I know her by Marie, her name is Marie.

15 Q. Is that Maria Duarte?

16 A. I don't know her last name, but her other name is
17 Anastasia or something like that.

18 Q. And when did you apply for work at the blueberry
19 farm, what date?

20 A. When we left the ranch, I think one week later we
21 went to apply. We went to ask for work on a Monday, but
22 they didn't give us work because they had us fill out
23 applications.

24 Q. Did you work the following day?

25 MS. ARCINIEGA: Objection vague.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. You
2 can answer.

3 BY MR. ROY:

4 Q. Is she asking Tuesday?

5 A. Tuesday.

6 Q. And your other *companera*, did she also start work
7 on Tuesday with you?

8 A. Yes, both of us worked.

9 Q. Ms. Lauriano, how long did you work there?

10 A. I don't remember how long. It was until the
11 season of the blueberries ended and then I went to work for
12 another company.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay at this
14 point we're going to take our morning break. It is 10:19,
15 so everyone needs to be back at 10:39. If you could let
16 Ms. Lauriano know?

17 THE WITNESS: Okay.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

19 (Off the record at 10:19 a.m.)

20 (On the record at 10:39 a.m.)

21 ADMINISTRATIVE LAW JUDGE SOBLE: It's 10:39 a.m.
22 and we now have everyone back. Mr. Roy, you can proceed
23 with your next question.

24 BY MR. ROY:

25 Q. Ms. Lauriano, I believe when we ended you

1 testified that you had worked for this blueberry company
2 until the end of the season and then you went to work
3 elsewhere, is that right?

4 A. Yes.

5 Q. And that fellow worker that came with you from
6 Cinagro, did she also work until the end of the season, the
7 blueberry season?

8 A. Yes, she did finish it and after that we
9 separated. She went to work at one place and I went to
10 work at another.

11 Q. At any time from March 4th, which was your last
12 day of work at Cinagro, for the remainder of 2017 did you
13 speak with Rene Macias?

14 A. No.

15 Q. Okay. Did Rene ever tell you that you were
16 terminated from Cinagro?

17 A. No, they never fired us. It was more like they
18 said it was a layoff because there had been a lot of rain
19 and there was a lot of mud. No, they gave us until further
20 notice because it was also getting too hot. And when it
21 gets too hot they tell us not to work because they don't
22 want us to work when it's too hot. So, they just said
23 until further notice and they would let us know when to
24 come back.

25 Q. Between January of 2017 up until your last day of

1 work on March 4th who brought water to the field for the
2 crew?

3 A. I -- there was also water and it was in Mr.
4 Victor's truck.

5 Q. Did anyone ask you for money to pay for the
6 water?

7 A. No.

8 Q. Did you ever see Rene bring water at the
9 beginning of your employment at Cinagro?

10 MS. ARCINIEGA: Objection vague.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

12 THE WITNESS: All the time they had brought us
13 water, that we have never been without water.

14 BY MR. ROY:

15 Q. Marisol Jimenez said that they never had --
16 quote, "Never had any water, never." Is that your
17 understanding?

18 MS. ARCINIEGA: Objection misstates prior
19 testimony.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.
21 With respect to the objection, this is Mr. Roy's direct
22 examination not his cross-examination. I usually give a
23 little bit more leeway on how cross-examination questions
24 are characterized. Additionally, I construed the question
25 as being more does she understand that that's what the

1 witness said. And since she shouldn't have heard the
2 witness testimony, she wouldn't have a basis to answer
3 that. So, I think that --

4 MR. ROY: I'll withdraw the question, Your Honor.

5 ADMINISTRATIVE LAW JUDGE SOBLE: -- it needs to
6 be rephrased. Thank you.

7 BY MR. ROY:

8 Q. At the beginning of your testimony you said you
9 had a conversation with Marisol Jimenez in the last month.
10 Do you recall that?

11 A. I had a conversation on the 10th and she asked me
12 if I wanted to join the lawsuit and I told her no. Uh-huh.

13 Q. Was that the 10th of February?

14 A. Yes.

15 Q. Did she call you?

16 A. Yes, she called me.

17 Q. Did you return her call?

18 A. No, she called me and I answered her that day.

19 Q. Okay. Before that day did you have any
20 conversation with Marisol between the time you left work at
21 Cinagro up until her telephone call?

22 A. No, we had never spoken.

23 Q. Did Marisol ask you to testify about certain
24 things?

25 A. No, she didn't tell me anything. She just asked

1 me if I wanted to join the lawsuit and I said no.

2 Q. Okay. Did she ask you about the issue of water?

3 MS. ARCINIEGA: Objection leading and asked and
4 answered. She answered that he didn't -- that she didn't
5 ask her to testify about certain things.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

7 THE WITNESS: We always had water. We never went
8 without water. There was always water.

9 BY MR. ROY:

10 Q. What did you -- what did she talk about with
11 reference to water?

12 A. Ella?

13 Q. Yes.

14 A. She didn't say anything about water. She just
15 asked me if I wanted to join the lawsuit and I didn't give
16 her a chance to explain to me what the lawsuit was about.

17 Q. And why did you decide not to join the lawsuit?

18 A. Because I worked very comfortably there since
19 2015 when -- since I started they treated us very nicely.
20 They brought us coffee and at the end of the month they
21 brought us chicken. I never had any complaints. They
22 treated us well, I never had any problems there.

23 Q. Ms. Lauriano did you --

24 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on Mr. Roy
25 before you ask the next question.

1 Ms. Lauriano, because some of your answers are a
2 little bit longer, be sure to pause after a few sentences
3 so that the interpreter can translate. Thank you very
4 much. Okay, you can --

5 THE WITNESS: *Si, esta bien.*

6 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.
7 Okay, Mr. Roy, you can continue.

8 MR. ROY: Thank you.

9 BY MR. ROY:

10 Q. Ms. Lauriano, did you ever complain to fellow
11 workers or to Victor about wage -- lack of wage statements,
12 and medical, lack of medical insurance, and lack of water?

13 MS. ARCINIEGA: Objection leading, compound.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained as to
15 compound and sustained as to leading.

16 MR. ROY: Okay.

17 BY MR. ROY:

18 Q. Did Victor ever relate any complaint from you to
19 Rene while you worked at Cinagro?

20 ADMINISTRATIVE LAW JUDGE SOBLE: Objection, calls
21 for speculation. You can ask the witness if she ever
22 expressed complaints to Victor.

23 BY MR. ROY:

24 Q. Ms. Lauriano, did you ever make any complaints
25 about work conditions to Mr. Mendoza?

1 A. No.

2 Q. How about to Rene Macias?

3 A. Okay. So, no, I was okay with them. I was
4 really not close to them or talk to them too much. I would
5 just show up and perform my work.

6 MR. ROY: No further questions.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, before I
8 ask which -- well, I'm assuming it's Ms. Arciniega who's
9 going to be doing the cross-examination of this witness?

10 MS. ARCINIEGA: Yes, Your Honor.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And Mr.
12 Roy, you don't have any sort of written declarations or any
13 sort of documents for this witness, correct?

14 MR. ROY: No, Your Honor.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
16 want a minute or two Ms. Arciniega, or would you like to
17 begin now?

18 MS. ARCINIEGA: I want a minute just to address
19 the fact that I see my screen frozen, with my head down
20 when I was writing, and I don't know if that's what the
21 witness sees. I would like her to see me in live time.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Well, right now
23 I see --

24 MS. ARCINIEGA: Oh, I'm back. I mean I see
25 myself in live time.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Yes, I see you
2 as well. So, we'll save Mr. Petty's explanation for if you
3 disappear again. In that case, you can proceed.

4 MS. ARCINIEGA: Okay, thank you.

5 ADMINISTRATIVE LAW JUDGE SOBLE: We're on the
6 record still, I believe.

7 CROSS-EXAMINATION

8 BY MS. ARCINIEGA:

9 Q. Good morning Ms. Lauriano.

10 A. Good morning.

11 Q. My name is Jessica Arciniega and I represent the
12 State of California in this case. And I want to thank you
13 for coming here today. I'm going to ask you some
14 questions.

15 A. That's fine.

16 Q. How did you start working at Cinagro in 2015?

17 A. How did I start? I showed up, and a coworker of
18 mine and I showed up to ask for work.

19 Q. Who is that coworker?

20 A. Her name is Gilma.

21 Q. And who did you ask for work to?

22 A. Rene.

23 Q. And what did Rene tell you?

24 A. That yes that we could begin working.

25 Q. Did you begin working that same day?

1 A. Not that same day because we were not prepared,
2 but the following day yes.

3 Q. Okay. And do you remember what month that was in
4 2015?

5 A. I have a check that it's from March. I think
6 those were the first checks.

7 Q. March of 2015?

8 A. Uh-hum.

9 Q. Okay. And what was the work that you did when
10 you started there?

11 A. We would harvest vegetables, parsley and
12 cilantro.

13 Q. And in 2015 who was paying you for the work that
14 you did at Cinagro?

15 A. It was Rene that was paying us.

16 Q. Okay. In 2015 did you get a paycheck stub with
17 that check?

18 A. I don't think so, but it was from the company
19 Cinagro.

20 Q. In 2015 were you working in a crew?

21 A. It wasn't a crew. It was about five or six
22 people only. It was a small crew.

23 Q. Okay.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Did that small
25 crew have a foreman?

1 THE WITNESS: We didn't have a foreman. It was
2 Mr. Rene that was in charge of telling us what to do and
3 what to cut, and there was a supervisor by the name of
4 Andres.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you. Ms.
6 Arciniega.

7 MS. ARCINIEGA: Thank you.

8 BY MS. ARCINIEGA:

9 Q. You testified that there was always water in the
10 field. And what was the water -- what was it inside of?

11 A. A yellow jug.

12 Q. Okay. And did you ever see how the water was put
13 inside of the yellow jugs?

14 MR. ROY: Objection vague.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. I
16 don't see what could be vague about how water got into a
17 job, so overruled.

18 MR. ROY: I was objecting as to the time, Your
19 Honor. We're talking 2015, still?

20 ADMINISTRATIVE LAW JUDGE SOBLE: Oh, she said
21 ever, so I'm -- any time there was the yellow jugs.

22 THE WITNESS: No, I never saw that.

23 MS. ARCINIEGA: Okay.

24 BY MS. ARCINIEGA:

25 Q. And while you were working at Cinagro did you

1 hear any of your coworkers in Victor Mendoza's crew
2 complain about the water?

3 A. I never heard anything about that.

4 Q. Okay. Were you present for any meeting where
5 crew members complained to Don Rene about wanting a
6 paycheck stub?

7 A. I don't remember. One question. They did give
8 us a sheet that indicated the products that we would cut.
9 For example, if we had cut parsley or kale it would list it
10 there.

11 Q. Okay. I wanted to know if you ever were at a
12 meeting with your crew and heard your coworkers complain
13 that that paper didn't have information, more information
14 that they wanted?

15 A. I never heard that. If they had that meeting, I
16 wasn't there.

17 Q. Okay. I want to talk about your work at Cinagro
18 in February 2017.

19 A. I didn't understand very well.

20 Q. Okay. Let me go back. That was not a good
21 question. You said that you were working in 2015 with five
22 to six other people and there wasn't a foreman in that
23 crew. When did Cinagro put you in a crew with a foreman?

24 A. I don't remember what month, I think it was
25 around 2016. It was when Victor got there was around that

1 time, but I don't remember that time.

2 MS. ARCINIEGA: Your Honor, I believe there was
3 more that she said.

4 THE INTERPRETER: The interpreter would like to
5 request a playback.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

7 (Off the record at 11:05 a.m.)

8 (On the record at 11:10 a.m.)

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, we're back
10 on the record. It is now 11:10 a.m.

11 And would the interpreter indicate if she has
12 anything additional or any revisions to her earlier
13 translation. I believe that she does.

14 THE INTERPRETER: Yes, I omitted a part of the
15 response, which it should have been: After the month, it
16 was in 2016, it was when Victor came. That's when they had
17 us join his crew. I don't remember when that was or the
18 time.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, Counsel
20 can ask her next question.

21 MS. ARCINIEGA: Thank you, Your Honor.

22 BY MS. ARCINIEGA:

23 Q. And who else joined Victor's crew with you?

24 A. I was Marie and I don't remember who else because
25 it's been a long time, but it was Marie, along with the

1 people that Victor brought.

2 Q. Was that Marie, the one person that you said had
3 another name that you thought was Anastasia?

4 THE INTERPRETER: Counsel, can you repeat that?
5 There's a lot of background noise and I couldn't hear you
6 clearly.

7 BY MS. ARCINIEGA:

8 Q. Was that woman Marie, the one that you said
9 earlier maybe had another name of Anastasia?

10 A. It was her.

11 Q. Okay, great. Do you think that her name was
12 Ignacia?

13 A. Uh-huh, yes.

14 Q. Okay, thank you. And in 2017, when you and
15 Ignacia were in Victor's crew, there were times that you
16 both performed work apart from that crew, correct?

17 A. Yes.

18 Q. And what was that work that you performed
19 separately?

20 A. You could say that it was separate because
21 everybody was on their own line, on their own row, and
22 everybody's working separately.

23 Q. Okay. I guess I meant to ask, I'll ask the
24 question differently. On February 28, 2017 did you work
25 harvesting collards with another group of workers that was

1 not Victor Mendoza's crew?

2 MR. ROY: Objection relevance.

3 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not sure if
4 the interpreter had finished translating the Assistant
5 General Counsel's question at the time of the objection.
6 If we can all try to be mindful of letting everyone
7 finished. With that in mind, the objection's overruled.
8 The witness can answer the question.

9 THE INTERPRETER: Your Honor, the interpreter had
10 not finished interpreting. May I finish?

11 Counsel, I'm going to ask you to repeat that
12 because I'm not sure I'm accurately translating your
13 question.

14 MS. ARCINIEGA: Okay.

15 BY MS. ARCINIEGA:

16 Q. On February 28th, 2017 didn't you work harvesting
17 collards with a different group of workers, not in Victor
18 Mendoza's crew?

19 A. No, I was there with him.

20 Q. Okay. I'd like to show --

21 Your Honor, I'd like to show the witness a
22 document to refresh her memory.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Is it presently
24 marked as an exhibit or not yet?

25 MS. ARCINIEGA: Um, I --

1 ADMINISTRATIVE LAW JUDGE SOBLE: Is it part of
2 Exhibit 5 or not yet? Those are the two options probably.

3 MS. ARCINIEGA: Right, right, right. I'm sorry
4 let me just go through here. Apologize. No, it is not,
5 Your Honor. Let me see if it's in Respondent's exhibits.
6 Oh, yes I'm sorry. No, it's not been identified because I
7 believe Respondent's exhibits -- oh, no, no, no. I'm
8 sorry, it has been. Respondent's Exhibits is -- yes, it
9 has Your Honor. It's Respondent's Exhibit 1.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Before I
11 answer your question I'm looking at the exhibit.

12 I will note for the court reporter's benefit that
13 in that exhibit Lauriano is spelled L-A-U-R-I-A-N-O.

14 MS. ARCINIEGA: Can I ask the witness to look at
15 the pages, yet?

16 ADMINISTRATIVE LAW JUDGE SOBLE: No, I haven't
17 addressed that yet.

18 MS. ARCINIEGA: Okay.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, you can
20 proceed. Everybody should have a copy of this document.
21 And it's your understanding it's in the hearing room?

22 MS. ARCINIEGA: Yes.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

24 BY MS. ARCINIEGA:

25 Q. Ms. Lauriano, do you see a --

1 ADMINISTRATIVE LAW JUDGE SOBLE: Do you want her
2 to find Respondent's Exhibit 1 and to turn to page 6 of
3 that exhibit?

4 MS. ARCINIEGA: I do, Your Honor. I was going to
5 instruct her on that.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

7 BY MS. ARCINIEGA:

8 Q. Do you see a packet of papers on the table in
9 front of you, white papers?

10 A. Yes.

11 Q. Okay. Can you please look at that packet of
12 papers and turn -- the first two pages you can page past
13 those. And then, you'll see page numbers on the bottom of
14 the third page.

15 A. Uh-hum.

16 Q. Okay. Now, can you please turn to what is page 6
17 on the bottom, of the page 6?

18 A. Yes.

19 Q. Okay, can you take a minute to review that page,
20 please?

21 A. Uh-hum.

22 Q. Did you -- is that enough time to review it?

23 A. Yes.

24 Q. Okay, great. Do you recognize this paper?

25 A. It was like the paycheck stub that they would

1 give us, the check had a sheet behind it like this one.

2 Q. It wasn't this page, right?

3 A. No.

4 Q. Do you see your name at the top of this page?

5 A. Yes.

6 Q. And do you see on the column to the left there's
7 numbers?

8 A. Uh-hum.

9 Q. Okay. And then the next column over, at the top
10 of the page do you see where it has CLLRD?

11 A. Uh-huh, yes.

12 Q. Do you know if that -- what that means, CLLRD?

13 A. No.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Is it possibly a
15 type of vegetable?

16 THE WITNESS: I don't remember it could be -- I
17 do see here the kale. It is written differently than what
18 we would call it out in the field.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm just
20 going to note for the record we have a witness whose
21 primary language is Spanish, looking at a document that is
22 at least partially in English that she may never have seen
23 before. I'm going to allow the question, but I think
24 counsel should take that into account in terms of how they
25 ask their questions.

1 MR. ROY: Your Honor, may I be heard? I'm
2 willing to stipulate that it's collard.

3 ADMINISTRATIVE LAW JUDGE SOBLE: I would ask that
4 you don't speak those things in case counsel was going to
5 ask further questions to try to elicit that. So, but I
6 think probably that had occurred to multiple people in the
7 room. So, with that in mind I'm not sure there's any need
8 for that type of stipulation, but that's up to the
9 Assistant General Counsel.

10 BY MS. ARCINIEGA:

11 Q. Okay. Looking at this document does that refresh
12 your memory about harvesting collards on February 28th?

13 A. Uh-huh, yes. (Indiscernible) -- erased
14 everything in my phone in regards to the collards --

15 Q. Okay.

16 A. -- that are harvested.

17 Q. Now, can I ask you to please page through to the
18 page 8 on the bottom?

19 A. Yes, I'm ready.

20 Q. Go ahead and take a minute to review that page?

21 A. Uh-hum. Yeah.

22 Q. Okay great. And do you see on the left-hand
23 column, can you look down to the number 28, please?

24 A. Yes, I found it.

25 Q. Great. Okay and to the right of the numbers 28

1 do you see any of the letters CLLRD?

2 A. No.

3 Q. Okay. At the top of this page can you read the
4 name there, please?

5 A. Marisol Jimenez. Yes.

6 Q. Does this help refresh your memory that on
7 February 28th, when you harvested collards you did not do
8 it with Victor Mendoza's crew?

9 A. Yes, we were with them.

10 Q. But when you harvested collards you weren't in --
11 you weren't harvesting collards with your coworkers in
12 Victor Mendoza's crew, correct?

13 A. Yes.

14 Q. Is that yes to when you harvested the collards
15 you were not with Victor Mendoza's crew?

16 A. Yes, I was with Victor Mendoza's crew.

17 Q. Were you the only one harvesting collards that
18 day from Victor Mendoza's crew?

19 A. Yes, I was with them that day.

20 Q. Okay, but I'm asking a question. I heard you say
21 you were with them. My question is when you were
22 harvesting collards on the February 28th you were not with
23 your coworkers from Victor's crew?

24 MS. ARCINIEGA: Objection asked and answered, and
25 misstates the testimony.

1 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not
2 considering it to misstate workers -- misstating the
3 testimony because I consider it to be a question. But I
4 believe it was asked and answered.

5 I also believe that Respondent's Exhibit 1 has
6 already been admitted and the document speaks for itself.
7 I mean unless you're trying to convince the ALJ that the
8 document is incorrect, you can see that two of the workers
9 listed harvested collard and the remainder did not.

10 MS. ARCINIEGA: Okay, Your Honor. And I'll move
11 on to my next question.

12 BY MS. ARCINIEGA:

13 Q. Ms. Lauriano?

14 A. Yes.

15 Q. On February 22nd and 23rd of 2017, did you work
16 harvesting collards?

17 A. I don't remember the dates very well anymore.

18 Q. Okay. If you want to move your hand to turn the
19 lights back on in the room, it's detected by motion. Or
20 maybe stand up, if you want the lights on. There you go.

21 Okay. And when you harvested the collards on
22 February 22nd and 23rd, were you with Victor Mendoza's crew
23 doing that work?

24 A. Yes.

25 Q. And if payroll records, like the ones we looked

1 at, for your other crew members don't show any of them
2 harvesting collards on the 22nd and the 23rd, does that
3 mean you were harvesting them alone?

4 A. I'm going to be honest with you, I don't remember
5 exactly when Victor got there but I do remember since I
6 started working with Mr. Rene in 2015. I don't remember
7 what season he came in, but when he came in that's when
8 they had us join his crew. And then until then, they told
9 us that it was going to be until further notice because it
10 had been rainy a lot. And I'm very scattered. I'm never
11 -- I'm very distracted. Actually, I don't write down the
12 days or the times, or anything like that.

13 Q. Okay. I understand -- oh.

14 A. And since I started with Victor's crew I always
15 went into work and I don't know what has been happening.

16 Q. Okay. I was asking you about -- I want an
17 explanation about why you were harvesting collards and the
18 other people in Victor's crew were not. I wanted to know
19 if you were working separately with Ignacia harvesting
20 those collards?

21 A. They never had us separate, we were together.

22 Q. Okay.

23 MS. ARCINIEGA: Your Honor, I would like to show
24 the witness a document that I would like to identify as the
25 General Counsel's Exhibit 12. And you don't have this, I

1 believe, Your Honor. It was part of a document that
2 Respondent sent to us, purporting to be an exhibit. But at
3 the end, when he sent his exhibit list it wasn't included.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. More
5 succinctly then, if you have a document that you haven't
6 marked or shown as an exhibit before what you want to do
7 next is to email it to both Mr. Roy and myself, in .pdf
8 form. And simultaneously, once you've emailed that, print
9 it out and give it to Ms. Vega on the chance that I have
10 her bring it to the hearing room, but don't do so until
11 I've indicated one way or another.

12 MS. ARCINIEGA: Okay, let me find it here on my
13 email. I believe it's this.

14 ADMINISTRATIVE LAW JUDGE SOBLE: We'll go off the
15 record for a second.

16 (Off the record at 11:37 a.m.)

17 (On the record at 11:49 a.m.)

18 ADMINISTRATIVE LAW JUDGE SOBLE: The General
19 Counsel has marked as Exhibit 12 a document which is -- let
20 me -- I believe 14 pages with consecutive Bates numbers.
21 On the first page at the top it says Cinagro Farms, Inc.
22 WE2262017. And there appears to be a yellow Post-it on
23 that first page.

24 I have asked the parties if they are willing to
25 stipulate to admit Exhibit 12 and they have both indicated

1 that they are. And that in that scenario, the Assistant
2 General Counsel doesn't have any questions for this witness
3 about Exhibit 12.

4 (Whereupon, General Counsel GC-12 was marked
5 for identification and admitted into evidence.)

6 ADMINISTRATIVE LAW JUDGE SOBLE: So, with that in
7 mind give me a second. I'm writing to myself to print that
8 out later so that you don't have to wait for two or three
9 minutes while I print out 14 pages.

10 And okay, Ms. Arciniega you can ask your next
11 question of this witness.

12 MS. ARCINIEGA: Understood, Your Honor. Okay.

13 ADMINISTRATIVE LAW JUDGE SOBLE: We will be
14 sometime in the next 10 to 20 minute stopping for our lunch
15 break, too. So, I'll let you know if I see a natural
16 breaking point or at some point, once it's about 15 minutes
17 from now and you see one, feel free to suggest it. I don't
18 know if you think there's any chance you'll finish your
19 cross-examination during that time period.

20 MS. ARCINIEGA: Okay. Okay, I think -- yeah,
21 we'll see. We'll try.

22 BY MS. ARCINIEGA:

23 Q. Okay, Ms. Lauriano, before coming here today did
24 you speak with Mr. Roy, the attorney for Cinagro, about
25 your testimony?

1 A. Right now I didn't. They called me Saturday.

2 Q. Who called you on Saturday?

3 A. I think the attorney called me.

4 Q. Okay. And before that call on Saturday had you
5 talked to him before?

6 A. No.

7 Q. Okay. And --

8 ADMINISTRATIVE LAW JUDGE SOBLE: Was this for --
9 hold on, was this the Saturday that was three days ago or
10 an earlier Saturday?

11 THE WITNESS: No, this last Saturday.

12 MS. ARCINIEGA: Okay.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

14 BY MS. ARCINIEGA:

15 Q. And did you discuss with him what happened in
16 2017 in your crew at Cinagro?

17 A. I didn't understand the beginning.

18 Q. It wasn't that clear, sorry. On the conversation
19 with the attorney on Saturday did you discuss with him what
20 happened in your crew at Cinagro in 2017, when you were
21 working there?

22 A. No, he only told him I had my appointment at
23 8:30.

24 Q. Did you review any documents or notes before
25 coming here today?

1 A. If I had written something down?

2 Q. Sure. Did you write anything down before you
3 came?

4 A. No.

5 Q. Did you review, read anything written before you
6 came?

7 A. I only saw the paper that Mr. Rene took me.

8 Q. When did Rene take you a paper?

9 A. I think the 9th.

10 Q. Where were you when he took it to you?

11 A. At my work.

12 Q. What city do you work in?

13 A. Where do I work?

14 Q. What city?

15 A. Fillmore, California.

16 Q. Which company?

17 A. It's called Ouster (phonetic), something about
18 avocados.

19 Q. Okay. And when did Rene contact you first about
20 coming to the hearing?

21 A. The day that he gave me the paper he asked me if
22 I could come here.

23 Q. Okay. But how did he know where you were working
24 and tell you when he was going to take you the paper at
25 work?

1 MR. ROY: Objection calls for speculation.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

3 There are a lot of other questions you can ask if you want
4 to explore that topic, but not that particular one.

5 MS. ARCINIEGA: Okay.

6 BY MS. ARCINIEGA:

7 Q. When did Rene tell you he was going to go to your
8 job to take you a paper?

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

11 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

12 Did Rene telephone you before he came to your
13 workplace?

14 THE WITNESS: Yes, he sent me a message.

15 BY MS. ARCINIEGA:

16 Q. Was it a text message?

17 A. Yes.

18 Q. And what did the text message say?

19 A. That he was outside of my work.

20 Q. And did -- what day did he text?

21 A. I don't remember what day.

22 Q. And he texted you before that day about coming
23 here to testify?

24 A. Yes, I called him to let him know that I had been
25 called to show up on Saturday -- no, for Monday, but then

1 they changed it to today.

2 Q. Who was the very first person that contacted you
3 about testifying? Was it Mr. Roy, the lawyer or was it
4 Rene?

5 A. The person that communicated with me that I had
6 my appointment was Robert.

7 Q. And you said that that was -- okay, well let me
8 just go back. When was that first communication from
9 Robert to you about testifying here?

10 A. Saturday.

11 Q. Saturday three days ago?

12 A. Yes.

13 Q. So, then Rene took you the paper after that. Is
14 that your testimony?

15 MR. ROY: Objection misstates the evidence.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

17 You can answer the question if you understand it.

18 THE WITNESS: Yes, he had already taken it.

19 BY MS. ARCINIEGA:

20 Q. When you -- when Robert called you on Saturday,
21 Rene had already taken you the paper?

22 A. Yes.

23 Q. Okay, so then Rene was the first person -- you
24 talked to Rene about coming here to testify before Robert?

25 MR. ROY: Objection, misstates the evidence and

1 calls for speculation, and it's leading. Well, I withdraw
2 leading.

3 ADMINISTRATIVE LAW JUDGE SOBLE: All of those
4 objections are overruled, just to address Mr. Roy's
5 objection. I have no heard any of the answers such so that
6 I feel like I have conclusively heard something one way or
7 the other. And so, I'm allowing counsel to ask additional
8 questions and I'll allow you on redirect to ask questions
9 to see if we can clarify that. I'm not yet sure it's
10 important, but I'm still allowing it.

11 THE INTERPRETER: The interpreter would like to
12 request a repetition of the --

13 ADMINISTRATIVE LAW JUDGE SOBLE: Why don't you
14 just reask the question, Counsel.

15 MS. ARCINIEGA: Sure, if I can remember it.

16 BY MS. ARCINIEGA:

17 Q. So, Rene had talked to you about coming here to
18 testify before you talked to Robert?

19 MR. ROY: Objection Your Honor, that misstates
20 the evidence.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, the
22 objection's overruled. But just to try to save some time,
23 in January of this year, Ms. Lauriano, did anybody contact
24 you about this hearing?

25 THE WITNESS: No.

1 ADMINISTRATIVE LAW JUDGE SOBLE: In the first
2 half of February did anybody contact you about this
3 hearing?

4 THE WITNESS: I'm telling you that Marisol called
5 me, asking me if I wanted to join the lawsuit. It could
6 have been the second week of February, it was on the 10th.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Who did
8 you talk to first in February, Marisol or Rene?

9 THE WITNESS: Marisol.

10 ADMINISTRATIVE LAW JUDGE SOBLE: And when you
11 talked to Rene, did you tell him that Marisol had called
12 you?

13 THE WITNESS: Yes, I did tell him.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, Ms.
15 Arciniega.

16 BY MS. ARCINIEGA:

17 Q. And do you recall when you talked to Rene what
18 date it was?

19 A. That same day after Marisol called me, I called
20 Mr. Rene.

21 Q. And what did you tell him?

22 A. That Marisol had invited me to join the lawsuit
23 that they were having against them.

24 Q. And why did you think it was important to let
25 Rene know that?

1 MR. ROY: Objection calls for speculation.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. It
3 wouldn't call for speculation as to -- the question is
4 asking her own motivation, so overruled.

5 Just to make the question more simple, why did
6 you call Rene?

7 THE WITNESS: First Marisol called me, then Mr.
8 Rene called me and asked me if I wanted to testify and give
9 my opinion, and I said yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I --

11 THE WITNESS: And then --

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I have a
13 question, Mr. Lauriano, perhaps I am not understanding. In
14 February, the first time you spoke with Rene did Rene call
15 you or did you call Rene?

16 THE WITNESS: Wait a minute, let me see my
17 questions.

18 MS. ARCINIEGA: I'd like to note that the witness
19 is looking at a cell phone, I believe, and typing or
20 scrolling I'm not sure, my best estimate of what I view.

21 THE WITNESS: I think she's scrolling, looking
22 for a date.

23 ADMINISTRATIVE LAW JUDGE SOBLE: And the only
24 thing is keeping in mind that if the witness does look at
25 her phone, then everybody's going to want to have the

1 opportunity to examine her phone. And so, that's something
2 to take into account if we have to mark her phone as an
3 exhibit.

4 MR. ROY: That would be a privacy objection, Your
5 Honor, unless it's limited --

6 ADMINISTRATIVE LAW JUDGE SOBLE: It might be.
7 But it's also potentially admissible evidence if she's
8 consulting it.

9 So, Ms. Lauriano, you may not want to look at
10 your phone until somebody suggests that you do so.

11 THE WITNESS: Okay.

12 MS. ARCINIEGA: At this moment she's already
13 looked at it, Your Honor.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I'm going
15 to ask her a question with respect to that. When you were
16 looking at your phone were you trying to find out who
17 called first, you or Rene?

18 THE WITNESS: I had -- was looking to see who had
19 called me first, if it had been Rene or Marisol.

20 ADMINISTRATIVE LAW JUDGE SOBLE: And what did
21 your phone show?

22 THE WITNESS: It showed that Mr. Rene called me
23 first on the 9th, and then the following day Marisol called
24 me, asking if I wanted to join the lawsuit.

25 A question?

1 ADMINISTRATIVE LAW JUDGE SOBLE: Yes. So, then
2 -- oh, you have a question. Okay, you can ask it.

3 THE WITNESS: And then I called Mr. Rene to let
4 him know that Marisol had called me, that's when I told him
5 that she had called me.

6 ADMINISTRATIVE LAW JUDGE SOBLE: So, am I correct
7 in understanding that Rene called you on February 9th and
8 you called Rene on February 10th? Or is it the opposite?

9 THE WITNESS: Because first Mr. Rene called me.
10 And that's when after that I called Mr. Rene and I tell him
11 Marisol had called me to let me know -- to ask me if I
12 wanted to join and I had said no, and that's when I called
13 him to let him know.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. We're now
15 at the juncture where we're going to take our lunch break
16 from 12:10 to 1:30. Based upon the answers the witness has
17 given thus far, I don't think that there's anything that
18 anybody needs to see on her phone, although you're welcome
19 to ask her as part of your exam if she has any voicemail
20 messages from Rene, or Marisol, or anything like that.

21 But for now, the only thing I'm going to ask is
22 Ms. Lauriano, please don't delete anything from your phone
23 during the lunch break, and please don't talk to any of the
24 attorneys, or any other people who could be witnesses in
25 this hearing during the lunch break. Please come back at

1 1:30.

2 THE WITNESS: Okay.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Does anybody
4 else have anything before we go off the record until 1:30?

5 MS. ARCINIEGA: I do not, Your Honor.

6 MR. ROY: Nothing Your Honor.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. My guess
8 is that we're going to get to the next witness within 30 to
9 45 minutes when we return from lunch. Does that sound
10 right?

11 MR. ROY: I don't have a lot of cross, Your
12 Honor.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Do you have a
14 lot of further questions, Ms. Arciniega?

15 MS. ARCINIEGA: Um, medium. Not a lot, but not
16 just one or two either, Your Honor.

17 ADMINISTRATIVE LAW JUDGE SOBLE: So, maybe 15, 20
18 minutes if you were to guess?

19 MS. ARCINIEGA: Could be. If I were to guess
20 sitting here right now, before I go take inventory.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Mr. Roy,
22 I would plan on having your next witness available
23 approximately 2:00 to 2:15, but obviously it could be later
24 than that.

25 So, I don't think we're going to get to finishing

1 today, as I indicated, but I don't think we're going to go
2 past tomorrow morning, but we'll have to wait and see.

3 So, I'll see everyone at 1:30, thank you.

4 (Off the record at 12:12 p.m.)

5 (On the record at 1:33 p.m.)

6 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Lauriano,
7 you understand that you're still under oath?

8 THE WITNESS: Yes.

9 ADMINISTRATIVE LAW JUDGE SOBLE: And I trust that
10 none of the attorneys tried to talk to you during your
11 lunch?

12 THE WITNESS: Yes, no one got in touch with me.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

14 Ms. Arciniega, you can ask your next question.

15 BY MS. ARCINIEGA:

16 Q. Ms. Lauriano, what were you looking at when you
17 were looking at your phone before we took the break for
18 lunch?

19 A. I was looking to see if I had my records of what
20 we did with Mr. Rene.

21 Q. And what kind of records do you keep in your
22 phone about the work you did?

23 A. I wanted to see if I had written down what we
24 were harvesting like the cilantro, kale, but no, I don't
25 have it.

1 Q. Okay. And you have any voicemails on your phone
2 from Rene Macias?

3 A. No.

4 Q. Do you have any voicemails from Robert, Cinagro's
5 attorney?

6 A. No.

7 Q. Okay. You told us that you -- that Rene called
8 you on February 9th.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Just a second.

10 (Pause)

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I just got
12 a call from the hospital, so we're going to be taking a
13 break from now until 1:50 and then we'll resume. Thank you
14 very much.

15 MS. ARCINIEGA: Thank you.

16 (Off the record at 1:37 p.m.)

17 (On the record at 2:13 p.m.)

18 ADMINISTRATIVE LAW JUDGE SOBLE: It is 2:12 p.m.
19 I apologize to counsel, but I had to take a brief phone
20 call with respect to my father in the hospital. So, we had
21 a brief break.

22 Ms. Lauriano, thank you for waiting.

23 THE INTERPRETER: Your Honor, did you want to
24 interpret all of that?

25 ADMINISTRATIVE LAW JUDGE SOBLE: Just thank you

1 for waiting is fine.

2 Ms. Arciniega, you can ask your next question.

3 MS. ARCINIEGA: Thank you. Thank you, Your
4 Honor.

5 BY MS. ARCINIEGA:

6 Q. Ms. Lauriano, you told us that Rene called you on
7 February 9th. What did he tell you when he called you?

8 A. If I could testify at the hearing they were being
9 asked to appear at, this one.

10 Q. Did he tell you what he wanted you to testify
11 about?

12 A. He told me that they were going to have some
13 questions and to tell the truth about what I was going to
14 be asked about.

15 Q. Did he tell you the topic?

16 (Loss of audio)

17 BY MS. ARCINIEGA:

18 Q. Did he tell you what topics the questions were
19 going to be about?

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

22 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

23 THE WITNESS: He didn't tell me specifically what
24 this was going to be about, he just said that they were
25 getting them together.

1 MS. ARCINIEGA: And I just want to ask, Your
2 Honor, I don't -- I used a specific word in the question
3 and I don't think it was translated. And I don't know if
4 you'll miss anything else right now.

5 ADMINISTRATIVE LAW JUDGE SOBLE: I think you an
6 indicate what it is if you're seeking to have the
7 interpreter translate the question again. Or, you can try
8 asking a similar question, whichever you think would be
9 okay.

10 MS. ARCINIEGA: Thank you.

11 BY MS. ARCINIEGA:

12 Q. Did he -- did Rene tell you that there were going
13 to be questions about if you had water in the field at
14 Cinagro?

15 A. No.

16 Q. Okay, and you told him that you --

17 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on, I
18 haven't heard the interpretation of her answer.

19 MS. ARCINIEGA: I apologize. I apologize that
20 was my fault.

21 THE WITNESS: No, he didn't tell me anything
22 about water, or firing, or other problems. He said you
23 just tell the truth and that's it.

24 BY MS. ARCINIEGA:

25 Q. And you told Rene that you would testify,

1 correct?

2 A. Yes, I told him.

3 Q. And what date did Rene take you the subpoena to
4 your job?

5 A. I think on the 10th.

6 Q. And what did he tell you about the subpoena when
7 he gave it to you?

8 A. He told me that if I could go on the 25th,
9 because the 25th was when we had the appointment.

10 Q. Were you going to continue saying anything?

11 A. No, just that.

12 Q. And at that time did you discuss with Rene what
13 you would be talking about at the hearing?

14 MR. ROY: Objection. Once again, Your Honor,
15 this is cumulative, it's duplicative, it's argumentative.
16 How many times does she have to say the same answer? She's
17 already said it three times.

18 ADMINISTRATIVE LAW JUDGE SOBLE: I think it's
19 different. Overruled.

20 THE INTERPRETER: Counsel, I wasn't allowed to
21 interpret the question. Can you please repeat it?

22 BY MS. ARCINIEGA:

23 Q. When he gave you the subpoena at the job did you
24 and Rene discuss what you'd be testifying about?

25 A. No. I just went, it was during my 15-minute

1 break, I couldn't stay there and be talking to him. I went
2 to pick up the paper and back inside.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Just to address
4 Mr. Roy's objection and I didn't want to do it before that
5 answer, I believe the same questions were asked in great
6 detail with respect to the telephone call, not with respect
7 to the time that the subpoena was served on the witness.
8 So, that's why I viewed it as not having been already asked
9 and answered.

10 So, with that in mind, Ms. Arciniega, you can ask
11 your next question.

12 BY MS. ARCINIEGA:

13 Q. And this morning did you talk to anybody from
14 Cinagro before you testified?

15 A. No.

16 Q. Did somebody pick you up to bring you here today?

17 MR. ROY: Objection relevance, Your Honor.

18 THE WITNESS: A friend.

19 ADMINISTRATIVE LAW JUDGE SOBLE: If the witness
20 would wait until I address the objection?

21 MS. ARCINIEGA: I can offer anything if you want
22 me to be heard.

23 ADMINISTRATIVE LAW JUDGE SOBLE: I've ruled on
24 this before at a wide number of hearings. And generally
25 speaking I've at least initially allowed people to ask if

1 someone else brought them to the hearing and then I've sort
2 of considered the totality of the case before I've let
3 someone ask who that person was. So, with respect to the
4 question that was asked, which I believe the witness
5 answered, did someone bring them, I'm allowing that. I
6 believe the witness answered and I think we'll hear the
7 translator say that. But let's let her do that, if she
8 hasn't already. Because I heard an answer, but I'm not
9 sure if I heard the answer in Spanish or if I heard the
10 translation, so I want to make sure we have it for the
11 record.

12 THE WITNESS: A friend.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. You can
14 ask your next question.

15 BY MS. ARCINIEGA:

16 Q. Did you see Rene Macias this morning?

17 A. No.

18 Q. And did you see Mr. Tony Dighera this morning?

19 A. Tony is the owner of the ranch, no?

20 Q. Yes.

21 A. No.

22 Q. Okay.

23 MS. ARCINIEGA: No further questions, Your Honor.

24 MR. ROY: For the sake of moving this along, I
25 have no questions Your Honor.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well, I
2 certainly do. So, we're going to go to the questions that
3 I have first.

4 Ms. Lauriano, is it correct that the only time
5 you ever worked for Victor Mendoza is at Cinagro?

6 THE WITNESS: Yes. I only worked with him at
7 that company.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know if
9 when you worked at Cinagro you ever worked for a farm labor
10 contractor or a labor supplier?

11 THE WITNESS: I didn't work with any contractor.
12 I only directed everything to Mr. Rene. He would tell us
13 when there was work and there was not work. It wasn't an
14 everyday job situation.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Was Rene
16 the person who first offered you a job at Cinagro?

17 THE WITNESS: Yes.

18 ADMINISTRATIVE LAW JUDGE SOBLE: When Rene first
19 offered you a job, do you recall if he had you complete at
20 W-9 form? If you know what that is?

21 THE WITNESS: I do know what that is, but I don't
22 remember. I believe he didn't. I don't remember.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. When you
24 worked for Cinagro at the beginning that was before Victor
25 Mendoza arrived, correct?

1 THE WITNESS: Uh-hum.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Before Victor
3 Mendoza arrived was one of your coworkers named Ignacia
4 Sanchez?

5 THE WITNESS: Ignacia worked with me, she did.
6 We worked together.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Have you talked
8 to Ignacia in 2021?

9 THE WITNESS: No.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know --
11 without telling me the answer, do you know what company
12 Ignacia works for today?

13 THE WITNESS: Honestly I don't.

14 ADMINISTRATIVE LAW JUDGE SOBLE: After Victor
15 Mendoza arrived at Cinagro, did Rene sometimes ask you and
16 Ignacia to help someone named Cesar Miranda?

17 THE WITNESS: Cesar Miranda? No.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Have you ever
19 met someone named Cesar Miranda at Cinagro?

20 THE WITNESS: I don't remember that name.

21 ADMINISTRATIVE LAW JUDGE SOBLE: When -- did you
22 ever meet a foreman at Cinagro other than Victor Mendoza?

23 MR. ROY: Objection as to time, Your Honor, it's
24 vague.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Did she ever,

1 any of the time from the first day she worked at Cinagro
2 until the last day she worked at Cinagro ever meet a
3 foreman other than Victor Mendoza?

4 THE WITNESS: No.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. You
6 mentioned that before Victor Mendoza arrived that you were
7 part of a mini-crew, is that correct?

8 THE WITNESS: Yes, that's correct.

9 ADMINISTRATIVE LAW JUDGE SOBLE: How many people
10 from the mini-crew became part of Victor Mendoza's crew?

11 THE WITNESS: It was only Ignacia and myself.

12 ADMINISTRATIVE LAW JUDGE SOBLE: When you worked
13 for Victor Mendoza's crew did the company give you medical
14 insurance?

15 THE WITNESS: No.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Did you ever
17 hear any of your coworkers complain that they did not get
18 medical insurance?

19 THE WITNESS: No, they never said anything.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Did you ever
21 see, when you worked for Victor Mendoza, one of your
22 coworkers cut their fingers in the field?

23 THE WITNESS: I think a lady.

24 ADMINISTRATIVE LAW JUDGE SOBLE: What do you
25 recall happened?

1 THE WITNESS: She cut her finger and Mr. Rene, or
2 I don't know who, took her to the doctor.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. It's my
4 understanding that Rene Macias telephoned you about three
5 weeks ago, correct?

6 THE WITNESS: Well, the 9th of February.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So,
8 that's about three weeks ago, correct?

9 THE WITNESS: Okay.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Before he called
11 you had you heard anything about a complaint against the
12 company?

13 THE WITNESS: (Not translated)

14 ADMINISTRATIVE LAW JUDGE SOBLE: And nobody from
15 the government had ever called you in the past to ask about
16 this?

17 THE WITNESS: No.

18 MR. ROY: Your Honor, you jumped over the answer
19 to the prior question. It was whether or not anyone told
20 you about the hearing. And the translator was about to
21 translate and then you went into your last question.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, let's go
23 back because it's -- that sounds correct. I'll ask both of
24 those again rather than having the court reporter try to
25 read that back.

1 Prior to when Rene called you on February 9th,
2 did anybody tell you that there was a complaint against the
3 company?

4 THE WITNESS: No.

5 ADMINISTRATIVE LAW JUDGE SOBLE: And when Rene
6 called you, how long had it been since you had spoke to
7 him, months, years?

8 THE WITNESS: Since we left work I didn't have
9 any communication with him.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Then the
11 next day you received a call from Marisol Jimenez, correct?

12 THE WITNESS: Yes.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Did Marisol
14 Jimenez ask you to lie at this hearing?

15 THE WITNESS: If I wanted to be part of the
16 lawsuit and I said no, and then I hung up.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Did
18 Marisol Jimenez say anything to you that you thought was
19 unethical?

20 THE WITNESS: No, she didn't say anything.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Did Marisol
22 Jimenez call you before or after Rene served the subpoena
23 on you?

24 THE WITNESS: After because first Rene went and
25 then it was Marisol.

1 ADMINISTRATIVE LAW JUDGE SOBLE: So, if I
2 understand the chronology of the four events, first Rene
3 calls you. Second, Rene serves the subpoena. Third,
4 Marisol calls you. And then, lastly, you call Rene. Is
5 that correct?

6 THE WITNESS: Yes, that is correct.

7 ADMINISTRATIVE LAW JUDGE SOBLE: After Victor
8 Mendoza's crew stopped working at Cinagro, did you ever
9 work for Cinagro again?

10 THE WITNESS: No, I didn't call them for more
11 work because then I went to the blueberry, and then I went
12 to another part. And then I left and then I went to where
13 I'm working at right now.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Let's go back to
15 the time period when you worked for Victor Mendoza's crew.
16 Did you and Ignacia usually eat your lunch together?

17 THE WITNESS: Yes.

18 ADMINISTRATIVE LAW JUDGE SOBLE: And did the two
19 of you often eat lunch away from the other members of the
20 crew?

21 THE WITNESS: Yes.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I don't
23 have any additional questions for Ms. Lauriano.

24 I'll go first to the Assistant General Counsel.
25 Do you have any additional questions?

1 MS. ARCINIEGA: Yes, Your Honor, a couple.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

3 RECROSS-EXAMINATION

4 BY MS. ARCINIEGA:

5 Q. Ms. Lauriano, were you present at the doctor's
6 office with your coworker who cut her finger?

7 A. No because I really didn't share with the girl
8 that cut her finger.

9 Q. So, you don't know that Rene took her to the
10 doctor, correct?

11 A. No, I just know they took her, but I don't know
12 if it was specifically Rene who took her or another person.

13 Q. You didn't see anybody -- you weren't at the
14 doctor to see her arrive there?

15 MR. ROY: Objection Your Honor, this is --
16 relevance. It's such a non point.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Whether it's
18 relevant or not, I think it's asked and answered. If you
19 were going to ask one last question, I think it would be a
20 lot simpler just -- Ms. Lauriano, your only understanding
21 that the worker went to the doctor is because you heard
22 someone say that, correct?

23 THE WITNESS: Yes, that is correct. It's not
24 that I can say that I saw somebody taking her. We went to
25 work and that was it. I didn't know anything else.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, Ms.
2 Arciniega, you can ask your next question.

3 MS. ARCINIEGA: Okay, I think that was my last
4 question, Your Honor. That was my last question.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, Mr. Roy do
6 you have any additional questions?

7 MR. ROY: No, I don't, Your Honor.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, nor do I.
9 So, Ms. Lauriano I want to thank you for your time. In a
10 couple of minutes you'll be free to go. It's very unlikely
11 you would be called back again during this hearing.

12 I'm going to ask two things, though. For the
13 next couple days don't delete anything from your phone and
14 don't talk to any of the attorneys or people who are
15 possible witnesses in this case. Which means don't talk to
16 anyone who used to work for Cinagro or who still works for
17 Cinagro whether as a farm worker, or as a supervisor, or
18 owner. Is that okay?

19 THE WITNESS: That's fine.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you for
21 your time and you're free to go.

22 THE WITNESS: Okay, thank you.

23 MR. ROY: Gracias, Senora.

24 THE WITNESS: Thank you.

25 (Witness excused)

1 MR. ROY: Your Honor, I've already asked my
2 client to bring Ignacia Sanchez into the lobby. I don't
3 think she knows how to operate the elevator. If Gabriella
4 could meet her downstairs in the lobby, that would be
5 great.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And right
7 now I'm going to estimate that we will get to at least
8 start two more witnesses today. So, I don't know if you've
9 decided which of your other two witnesses you're going to
10 be doing first, but I think there's a good chance that we
11 will finish with Ms. Sanchez before the day's over so --

12 MR. ROY: So, you would want my next witness here
13 by four o'clock, rather than starting out fresh in the
14 morning?

15 ADMINISTRATIVE LAW JUDGE SOBLE: I would prefer
16 it. I mean if this witness doesn't finish until 4:00, I'm
17 willing to start tomorrow but I would hate to take the
18 chance that we don't finish on Wednesday because I don't
19 know if there's going to be rebuttal testimony. I don't
20 know if there's going to be closing statements. So, I mean
21 the short answer is if Ms. Sanchez goes past 4:00 I will
22 leave it up to you. But given that you have stuff
23 scheduled on Thursday, I'm just thinking it's in everyone's
24 interest to get as much done today as we can.

25 MR. ROY: Understood. I don't know, I may just

1 elect to go to tomorrow morning because both witnesses
2 aren't going to be very long.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Again, you know,
4 the length of the direct examination is not always the best
5 prognostication of the length of the cross-examination.
6 But that being said, I do think it's fair to leave it up to
7 you if this witness goes more than a couple minutes past
8 4:00. If the witness is done before 4:00, then I would
9 really, definitely want to start one of the other witnesses
10 today. But let's see. I mean I think it's possible we
11 might finish the next witness in an hour because I think a
12 lot of the questions -- but I'm not going to speculate.
13 She may have different testimony than, so --

14 MS. ARCINIEGA: Mr. Roy, can you please instruct
15 your witness to hit the button with the arrow up so that
16 she may enter the elevator?

17 MR. ROY: I have her in the lobby downstairs,
18 okay.

19 MS. ARCINIEGA: And do you have --

20 MR. ROY: And I don't have --

21 MS. VEGA: Your Honor, you asked me to let you
22 know if anything made me uncomfortable. Actually, during
23 the pandemic I don't like riding in the elevator. I can go
24 down but it will take me a bit longer because I have to go
25 on the stairs.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Or, you could
2 show her the elevator, press the button for her, and go
3 back out and tell her to wait until you ride it up
4 separately, if you'd like. I'm flexible. Whatever you
5 prefer to do, Ms. Vega, we will accommodate your
6 preference. If you want to take the stairs, if you want to
7 try just explaining it to her and going separately on the
8 elevator, we will wait an extra couple minutes. That's
9 perfectly okay. We're sitting in our comfortable homes or
10 offices.

11 MS. VEGA: Okay. No, I'll just take the stairs
12 down and back up because I don't really care to ride the
13 elevator. But then, I still have to go disinfect the
14 hearing room.

15 ADMINISTRATIVE LAW JUDGE SOBLE: That's fine.
16 Whichever order you want to do it, it doesn't sound like
17 it's going to take more than 10 or 15 minutes either way,
18 so do whatever you think is most appropriate.

19 MS. VEGA: Okay, thank you.

20 MS. ARCINIEGA: Thank you, Your Honor.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Petty, are
22 we on or off the record? Let's go then off the record.

23 (Off the record at 2:49 p.m.)

24 (On the record at 3:09 p.m.)

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, it is 3:09

1 p.m., I think we have everyone here. We're back on the
2 record.

3 Is it Ms. Sanchez?

4 THE WITNESS (Through Interpreter): Yes.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Are you the only
6 person in the room?

7 THE WITNESS: Yes.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Are you
9 comfortable taking your mask off in the room or do you
10 prefer to keep it on?

11 THE WITNESS: Can I take the mask off?

12 ADMINISTRATIVE LAW JUDGE SOBLE: It is entirely
13 up to you, so long as the room is empty except for
14 yourself.

15 THE WITNESS: Okay.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Sanchez,
17 what is the language that you speak best?

18 THE WITNESS: Spanish.

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

21 THE WITNESS: Spanish.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

23 Whereupon,

24 Ignacia Sanchez

25 was called as a witness herein and, having been duly sworn,

1 was examined and testified in Spanish as follows:

2 ADMINISTRATIVE LAW JUDGE SOBLE: What's going to
3 happen this afternoon is that some of the attorneys, and
4 possibly myself, will ask you some questions in English.
5 The interpreter will then translate the questions from
6 English to Spanish. After the interpreter translates the
7 question please wait a couple of seconds before you answer.
8 This is because one of the attorneys or myself may object
9 to a question. In that event, either myself or the
10 interpreter will let you know whether to answer the
11 question or instead to simply wait for the next question.

12 THE WITNESS: Okay.

13 ADMINISTRATIVE LAW JUDGE SOBLE: If you have a
14 long answer, we have two requests. The first request is to
15 try to talk slowly. The second request is that after every
16 two or three sentences you pause to let the interpreter
17 translate part of your answer before you finish your
18 answer.

19 For all of your answers it's important that you
20 respond orally or audibly because the court reporter cannot
21 fully record if you nod your head or gesture with your
22 hands.

23 If at any point you do not understand a question,
24 please let me know and I'll see if the attorney can
25 rephrase the question so that you better understand it.

1 If at any point you need to pause to have a drink
2 of water or to use the bathroom, please let us know because
3 that's permitted.

4 THE WITNESS: Okay.

5 ADMINISTRATIVE LAW JUDGE SOBLE: I believe the
6 first attorney who will be asking you questions is Mr. Roy.
7 You can proceed.

8 MR. ROY: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MR. ROY:

11 Q. Good afternoon Ignacia. Thank you for taking the
12 time out of your life to be here today with us. I
13 represent Cinagro Farms and I've asked you to come here
14 today, under a subpoena, to talk about a complaint filed by
15 Marisol Jimenez and other workers against Cinagro.

16 The complaint states that all of the workers of
17 your crew that was foremanned [sic] by Victor Mendoza, were
18 terminated with the exception of you and your friend, Maria
19 Lauriano, because they made complaints against the company.
20 Do you understand that?

21 A. Yes.

22 Q. And in order to file this complaint they filed an
23 unfair labor practice charge with the ALRB alleging what I
24 just said.

25 A. Yes.

1 Q. When I refer to ALRB, that is the agency that is
2 prosecuting this case through the General Counsel.

3 First of all, I'd like to ask you did you work in
4 Victor Mendoza's crew from January until the first week of
5 March 2017?

6 MS. ARCINIEGA: Leading.

7 MR. ROY: Your Honor, this is foundational.

8 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
9 sustain the objection. There are a few questions that you
10 asked that I don't know that they're completely
11 foundational. I mean for example when you asked her to
12 comment on what was in the complaint in great detail and
13 she answered the question that she understood what was in
14 the complaint, although I'd be interested if any of the
15 attorneys actually ask her if she's ever read the complaint
16 in this action. So, I'll sustain the objection to that
17 last question as being leading.

18 BY MR. ROY:

19 Q. Ignacia, has anyone from the ALRB ever spoken to
20 you about this case today?

21 A. On behalf of the state.

22 Q. On behalf of the state has anyone investigated
23 this case with you and asked you questions?

24 A. No.

25 Q. Okay. When you worked at Cinagro in 2017, what

1 was your normal payday?

2 MS. ARCINIEGA: Objection leading, lacks
3 foundation.

4 MR. ROY: Okay.

5 ADMINISTRATIVE LAW JUDGE SOBLE: I need to hear
6 the question again. Mr. Roy, could you state it again for
7 me?

8 MR. ROY: Yes, Your Honor. Very simply, when you
9 worked for Cinagro Farms from January to the first week of
10 March what was your usual payday?

11 ADMINISTRATIVE LAW JUDGE SOBLE: One moment. Is
12 there an objection other than foundation?

13 MS. ARCINIEGA: And leading, Your Honor.

14 ADMINISTRATIVE LAW JUDGE SOBLE: No, overruled.

15 THE WITNESS: Yes, I was paid on Fridays.

16 BY MR. ROY:

17 Q. And that is usually the following Friday after
18 you ended your work week, correct?

19 MS. ARCINIEGA: Objection calls for speculation.

20 ADMINISTRATIVE LAW JUDGE SOBLE: That objection
21 is overruled, but that question is leading. If there
22 hadn't been any objection, I probably would have allowed
23 the question anyhow. But it is leading so why don't you
24 just ask the witness, Mr. Roy, what her understanding was.

25 MR. ROY: That's fine, Your Honor, I think it's

1 pretty clear.

2 BY MR. ROY:

3 Q. When you were paid by Cinagro in 2017 did you
4 normally receive one or two paychecks?

5 A. No, one.

6 Q. And was that always one check?

7 A. Yes, always.

8 Q. Saturday, March 4th was the last day you and your
9 crew worked for Cinagro in 2017.

10 MS. ARCINIEGA: Objection, leading. There's been
11 no foundation established, Your Honor, no timeline.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. She
13 can answer the question.

14 THE WITNESS: Yes, it was the last day, Saturday.

15 BY MR. ROY:

16 Q. Okay. And on what day after that day did you
17 receive your last paycheck?

18 A. I went to pick it up on Saturday, at the office.

19 Q. Okay, was that in Fillmore?

20 A. Yes, in Fillmore.

21 Q. Okay. So, did you meet with any of your
22 coworkers at the time you received your check?

23 A. With Maria. I call her Dona Marie, but I don't
24 know what her last name is.

25 Q. Is her name Maria Duarte?

1 A. (Interpreter was interrupted)

2 Q. And why did you call her?

3 THE INTERPRETER: Counsel, I'm sorry, I didn't
4 hear the answer.

5 BY MR. ROY:

6 Q. And why did you call her?

7 MS. ARCINIEGA: Objection leading, misstates her
8 prior testimony.

9 ADMINISTRATIVE LAW JUDGE SOBLE: It's not
10 leading. It's not clear to me whether she had said that or
11 not, but I'll allow the question.

12 Before picking up your check did you telephone
13 Ms. Duarte?

14 THE WITNESS: We always had communication with
15 Maria.

16 BY MR. ROY:

17 Q. And why did you call her, Ignacia?

18 A. I don't remember but I told her what time she was
19 going to go get her check so that we would go together.
20 The office is in a ranch and I met her there to pick up my
21 check.

22 Q. Did you and Maria Duarte get your checks on
23 Saturday at that ranch?

24 A. Yes, I believe so. I don't remember very well,
25 but it seems like we went together.

1 Q. Were there any other workers from your crew there
2 at the same time?

3 A. I don't know. I don't know if Victor handed out
4 their checks. I didn't have very good communication with
5 them.

6 Q. Okay. During the next week when -- after you
7 received your check, did you apply for work at another
8 company?

9 A. Yes.

10 Q. And what type of crops did you harvest at the
11 company, new company?

12 A. Blueberries.

13 Q. Did you work there with anyone from your crew
14 from Cinagro?

15 A. Yeah, I had a friend that was working there and
16 she referred me to work at the blueberries. And she
17 mentioned to me that Marisol was also working there with
18 her husband.

19 Q. And --

20 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on one
21 second. Ms. Sanchez, is the Maria who was there the day
22 you picked up your last check the same Maria who you worked
23 with at the blueberries or are they different people?

24 THE WITNESS: Yes.

25 BY MR. ROY:

1 Q. And was this Maria --

2 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on. Wait,
3 I asked the question that she answered yes to and I
4 basically asked if they were the same or different, so I
5 need to follow up on that.

6 In your crew with Victor Mendoza how many people
7 had the name Maria?

8 THE WITNESS: It was Maria Lauriano and they used
9 to call me Maria, too.

10 BY MR. ROY:

11 Q. Was there a Maria Duarte?

12 A. Yes, but she didn't -- she would just go in there
13 and help us out. She would only go in there once or twice
14 a month because of the problems she had.

15 Q. Did you also see her working at the blueberry
16 farm?

17 A. I did not see her, but Marisol mentioned to me
18 that she had gone in one day, but she started with her
19 depression problems and she didn't go again.

20 Q. Since the time that you started work at the
21 blueberry farm did anyone from Cinagro Farms call you? And
22 I'm referring to Victor Mendoza or Rene Macias, did either
23 of them contact you since that time up to the present?

24 A. Yes, Victor.

25 Q. And when did Victor call you?

1 A. After when they said it was until further notice.
2 It wasn't they were firing us, it was until further notice,
3 uh-huh. He said he was going to contact us to let us know
4 which day we were going to go back to work. And I told him
5 not to count on me anymore because I already had another
6 job.

7 Q. Have you talked to Marisol Jimenez recently on
8 the telephone?

9 A. She talked to me.

10 Q. And about how long ago was that, Ignacia?

11 A. That was February 10th.

12 Q. Okay. And was that during the day or the
13 evening?

14 A. In the morning.

15 Q. Approximately what time?

16 A. She called me at eight o'clock in the morning and
17 I did not answer. Then she called me at 9:00 and that's
18 when I answered.

19 Q. Did Marisol explain why she called you?

20 A. She explained, she said that on behalf of her
21 attorney she wanted to ask me some questions about what
22 happened in Cinagro. And I explained to her that I wasn't
23 part of the complaint. And she said that it didn't have
24 anything to do with the complaint. It was because the city
25 was investigating Cinagro on what had happened, okay.

1 Q. When you refer to city, did you mean the state?

2 MS. ARCINIEGA: Objection leading.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

4 BY MR. ROY:

5 Q. What else did she say to you?

6 A. Because Cinagro had been firing additional people
7 and that's why she wanted to ask me about that. And I said
8 what do I have to do with that?

9 Q. What did you respond to that?

10 A. She asked me that she wanted me to say that if
11 somebody asked me questions for me to mention the fact that
12 we didn't have water. And I told her that if any attorney
13 asked me specifically about that I would answer, but I was
14 not about to lie. I couldn't say lies.

15 Q. Did you agree that there was no water?

16 A. Okay, what I told her was that I couldn't tell
17 lies because we did have water.

18 Q. Did she ask you to do anything else?

19 A. No, she just said that if I could say that and
20 that Victor had to go and get bottled water. And I told
21 her that that's not true. That I was going to -- if
22 anybody asked me anything that I was going to say it the
23 way it was, and that we did have water. That I was never
24 going to be defending this person or the company, I'm only
25 going to say -- tell it like it was.

1 Q. Did she offer you any money in that conversation?

2 A. No because she knows that I was not going to
3 participate in these type of things.

4 Q. Did she say that you should do anything?

5 MS. ARCINIEGA: Objection vague.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

7 Frankly, I prefer that than some of the leading questions.
8 I didn't get a chance because there wasn't a long enough
9 pause or I might have objected to the prior question being
10 leading, but I didn't and so it's there.

11 So, the witness can answer.

12 THE WITNESS: Yes.

13 BY MR. ROY:

14 Q. Please explain?

15 A. When Cinagro told us until further notice,
16 Marisol -- we didn't have any communication with Marisol.

17 Q. This conversation you had I think was on February
18 9th. Is that the first time that Marisol had contacted you
19 since you left Cinagro in 2017?

20 MS. ARCINIEGA: Objection misstates her prior
21 testimony.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

23 BY MR. ROY:

24 Q. Did you speak with Marisol anytime after your
25 last day of Cinagro Farms, with the exception of the

1 telephone conversation?

2 A. Yes, at the blueberry company where we were at
3 they started talking to me because before that there was no
4 communication.

5 Q. And after your work ended at the blueberry
6 company did you speak to her again, aside from your
7 telephone conversation?

8 THE INTERPRETER: I'm going to ask her to clarify
9 that because I lost half of that answer.

10 THE WITNESS: When we went to the company, the
11 blueberry company, Marisol started talking to me. I was
12 very surprised by her kindness. That I could join the
13 complaint with her.

14 BY MR. ROY:

15 Q. And what did you tell her?

16 A. I didn't have any reason to sue the company
17 because the boss has always been a good person to us.

18 Q. And between January 2017 and up until the first
19 week of March did Victor tell you you were terminated?

20 A. No.

21 Q. How about Rene Macias, did he ever tell you that
22 you were discharged from Cinagro?

23 A. No.

24 Q. When you got your check on that Saturday was that
25 from Rene?

1 MS. ARCINIEGA: Objection asked and answered,
2 leading.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled as to
4 asked and answered, sustained as to leading.

5 When you got the check on the last Saturday, do
6 you recall who was the person who physically handed you the
7 check?

8 THE WITNESS: Rene.

9 BY MR. ROY:

10 Q. And at that time did he tell you you were
11 terminated from the company?

12 A. No. He told us he was going to let us know
13 through Victor anything he needed.

14 Q. While you were employed by Cinagro between
15 January to the first week of March 2017, did you work in
16 any other crew, other than Victor's?

17 A. No.

18 Q. Were you aware that there was another crew that
19 also worked at Cinagro in 2017?

20 A. Yes.

21 Q. Did they ever come work with your crew, with
22 Victor's crew?

23 A. No.

24 Q. And was there ever an occasion your crew went to
25 work with the other crew?

1 A. Not that I can remember, no.

2 Q. Have you ever harvested collards?

3 A. Yes.

4 Q. Did you harvest collards for one day during the
5 last week of your employment at Cinagro?

6 MS. ARCINIEGA: Objection leading.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

8 BY MR. ROY:

9 Q. When did you cut some collards at Cinagro Farms,
10 Ignacia?

11 A. I don't --

12 Q. I understand.

13 A. -- remember when we harvested it was, I don't
14 remember.

15 MR. ROY: Can I have just a moment, Your Honor?

16 ADMINISTRATIVE LAW JUDGE SOBLE: Yes. We'll go
17 off the record for a minute.

18 (Off the record at 3:44 p.m.)

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

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, Ms.
21 Arciniega, you can begin your questions.

22 MS. ARCINIEGA: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. ARCINIEGA:

25 Q. Good afternoon Ms. Sanchez, my name is Jessica

1 Arciniega and I represent the State of California in this
2 case.

3 A. Yes, good afternoon.

4 Q. Thank you for your time here today. I'm going to
5 ask you some questions.

6 A. That's fine.

7 Q. When did you first start working at Cinagro?

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

9 Q. Do you remember the year?

10 A. I don't remember the year, but I started with
11 Cinagro when it was a small group, before that crew.

12 Q. And how did you -- who hired you at Cinagro?

13 A. Rene.

14 Q. Did you begin working the same -- well, did you
15 begin working the same day you talked to Rene about working
16 at Cinagro?

17 A. He told me to show up to work the following day.

18 ADMINISTRATIVE LAW JUDGE SOBLE: And how did you
19 learn about the work opportunity when you started at
20 Cinagro?

21 THE WITNESS: I was looking for work at the
22 closest ranch in Fillmore. When I go into this ranch I see
23 a worker that's leaving. I asked them if he knew if they
24 were hiring people and he told me yes. His name is
25 Geraldo. He spoke with Rene.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

2 Okay, Ms. Arciniega.

3 BY MS. ARCINIEGA:

4 Q. And did Dona Marie work in the small group with
5 you, when you first started working there?

6 A. Yes.

7 Q. And what was the work that you did?

8 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to ask
9 that Counsel follow up a little bit because there's been
10 testimony of a large number of Maries and Marias as to
11 which one you're asking about.

12 MS. ARCINIEGA: I'll ask if the witness knows,
13 Your Honor.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Correct.

15 BY MS. ARCINIEGA:

16 Q. Do you know Dona Marie's last name?

17 A. Laurin (phonetic), something like that.

18 Q. Okay. And what was the work that you did when
19 you started working at Cinagro?

20 A. I don't know what this is all -- oh, parsley
21 buncher.

22 Q. Who was in charge of your group, your small
23 group, was there a person in charge?

24 A. We had no one who was in charge.

25 Q. So, your group just worked by itself?

1 A. Rene would have to tell us what we have to do.

2 Q. And who paid you for your work at Cinagro when
3 you first started working there?

4 A. Rene.

5 Q. Okay. And how -- what type of payment did he
6 give you for your work?

7 A. At check, a paycheck stub (indiscernible) -- but
8 a paycheck stub.

9 Q. Okay. Was the check that you received
10 handwritten, like somebody wrote out the amount for the
11 payment?

12 A. No.

13 Q. What did it look like?

14 A. It was a big piece of paper and in the middle it
15 had some (indiscernible) --

16 MS. ARCINIEGA: I didn't hear the translator.
17 After the big piece of paper.

18 ADMINISTRATIVE LAW JUDGE SOBLE: A big piece of
19 paper and in the middle it was, and then I couldn't hear
20 after in the middle.

21 THE INTERPRETER: And in the middle was so that
22 you could tear it off.

23 Your Honor, if I may, would it be okay if we
24 asked the reporter to turn his mic off? Is that --

25 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not sure

1 that that's the reporter's microphone, but someone has a
2 microphone that sounds like they're either typing or doing
3 something. So.

4 So, I'm sorry, I didn't hear you even the second
5 time. After you said in the middle, did you say there was
6 something that you could tear off?

7 THE INTERPRETER: Correct.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, thank you.

9 BY MS. ARCINIEGA:

10 Q. And you said there was a paycheck stub with the
11 check. Did that paycheck stub show that Cinagro was paying
12 you gross wages with no deductions?

13 A. I don't remember. It's been a long time, I don't
14 remember.

15 Q. And did you and Dona Marie work together
16 somewhere else before you started at Cinagro?

17 A. No, I only went for the season to work at
18 Cinagro.

19 Q. Okay. But before the first time that you started
20 at Cinagro did you and Dona Marie work somewhere else
21 together?

22 A. No.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Had you met her
24 before you worked at Cinagro?

25 THE WITNESS: No one.

1 BY MS. ARCINIEGA:

2 Q. Okay. And you testified that there was always
3 water at the field when you worked at Cinagro, is that
4 correct?

5 A. That's right.

6 Q. When you had the conversation with Marisol,
7 didn't you tell her that you took your own water,
8 personally?

9 A. No.

10 Q. Didn't you tell her that you couldn't talk about
11 the water that Cinagro provided because you always took
12 your own?

13 MR. ROY: Objection asked and answered.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

15 BY MS. ARCINIEGA:

16 Q. You always took your own water when you worked
17 there, correct?

18 MR. ROY: Objection Your Honor, asked and
19 answered.

20 ADMINISTRATIVE LAW JUDGE SOBLE: That's a
21 different question. She can answer that.

22 THE WITNESS: Not just in Cinagro but everywhere
23 I go. I can't get used to drinking different brands of
24 water, so I always take my own water, not just there.

25 BY MS. ARCINIEGA:

1 Q. Okay. And you worked in -- well, let me back up
2 a second, sorry. At some point while working at Cinagro
3 you were not working in the small group and you were moved
4 to a different crew, is that correct?

5 A. They never moved me.

6 Q. Did you work in the crew where Victor Mendoza was
7 the foreman?

8 A. Yes.

9 Q. How did you get to work at that -- from the small
10 group that you said you were working in when you started to
11 Victor Mendoza's crew, how did that happen?

12 A. I worked with Cinagro before Victor arrived.

13 Q. Okay.

14 A. And I returned to my job where I'm a quality
15 control for harvesting chilies. And then when I went back
16 to work Victor's crew was there.

17 Q. And when was that, that you went back and
18 Victor's crew was there?

19 A. What did you say?

20 Q. When was that, that you went back and Victor's
21 crew was there?

22 A. Around 2007 -- I'm sorry, 2017.

23 Q. Okay. How long do you leave Cinagro to go work
24 in the chilies?

25 A. Like seven months.

1 Q. Okay. And after you work those seven months you
2 return to Cinagro and continued working there?

3 A. They always give me work.

4 Q. About how many times do you think since you
5 started working at Cinagro you've gone to work in the chili
6 and then come back to work at Cinagro?

7 A. It's about five or six months, and then when the
8 chili's ready that's when they call me back.

9 Q. Who calls you back?

10 A. The supervisor at the chili place.

11 Q. Okay. How many times since you first started
12 working at Cinagro do you think that you have gone to work
13 at the chili and gone back to Cinagro? How many times do
14 you think that that's happened?

15 A. It's been working there since 2016, 2015. When
16 the company needs me, they call me.

17 Q. Okay. So, you've returned to Cinagro about two
18 or three times after you've worked in the chili? That
19 happened like two or three times?

20 MR. ROY: Objection misstates the testimony?

21 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. It's
22 cross-examination, I'll allow it.

23 BY MS. ARCINIEGA:

24 Q. Ms. Sanchez, if you want to move your arms or
25 stand up the light will turn back on, if you'd like that.

1 A. It goes off because there's no movement?

2 Q. Yes.

3 A. Okay.

4 MS. ARCINIEGA: And can I get the translator to
5 translate her last response because I don't know that it
6 was a clear translation. There was some objection, Mr. Roy
7 objected and I'm not sure if it's what the witness said.

8 THE INTERPRETER: I didn't get to interpret the
9 answer.

10 MS. ARCINIEGA: Oh, sorry.

11 THE INTERPRETER: Yeah. No, may I?

12 ADMINISTRATIVE LAW JUDGE SOBLE: Are you able to
13 still translate it or did you not hear it sufficiently with
14 the interruption?

15 THE INTERPRETER: I heard it sufficiently.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

17 THE WITNESS: It's been three or four times I
18 have returned.

19 ADMINISTRATIVE LAW JUDGE SOBLE: When is the most
20 recent time that you returned to Cinagro, what year?

21 THE WITNESS: After the blueberry season ended, I
22 went back to Cinagro again.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you. Ms.
24 Arciniega.

25 BY MS. ARCINIEGA:

1 Q. Do you recall what month that was?

2 A. I don't --

3 Q. Do you think it was September?

4 A. -- remember very well. December or November, but
5 I did go back again.

6 ADMINISTRATIVE LAW JUDGE SOBLE: And did Rene
7 call you when you went back after the blueberries or did
8 you call him, or neither?

9 THE WITNESS: No, I called him. I told him that
10 my season had ended and if I could get work back. And he
11 said, yes, to go back to work.

12 BY MS. ARCINIEGA:

13 Q. And do you think that that could have been in
14 September of 2017 that you last returned?

15 A. I don't remember the date. I just remember 2017.

16 Q. Okay.

17 A. Maybe around 2008, maybe. I'm sorry, 2018.

18 Q. You mean you worked from 2017 until 2018?

19 A. Cinagro, yes.

20 Q. Okay. So, now I want to talk about when you
21 returned from working the chili in 2017, you said Victor's
22 crew was there. So, did you work in Victor's crew or did
23 you continue working like before, separate?

24 MR. ROY: Objection, Your Honor, it assumes facts
25 not in evidence that Victor was working at Cinagro at that

1 time.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

3 THE WITNESS: I joined that crew.

4 BY MS. ARCINIEGA:

5 Q. Okay. And when you were in that crew in 2017,
6 did you ever hear any of the workers in that crew complain
7 about the water that was provided?

8 MR. ROY: Objection calls for hearsay and
9 leading.

10 ADMINISTRATIVE LAW JUDGE SOBLE: It's cross-
11 examination one, so I'm rarely going to sustain something
12 as being leading. At most I'll occasionally caution an
13 attorney that a leading question might not be ideal. And
14 to the extent that it is calling for hearsay, I'll still
15 allow it. So.

16 MR. ROY: Also relevance, Your Honor. We're
17 talking about six months after the crew stopped working at
18 Cinagro, she's working in another crew for Cinagro, what's
19 the probative --

20 ADMINISTRATIVE LAW JUDGE SOBLE: That may be your
21 understanding of what the question is, but it certainly
22 isn't mine. And so, I would suggest if you have any
23 questions about that, you'll need to address them on
24 redirect. Because I think it's very clear that two
25 questions ago, in fact you object to it, Counsel asked if

1 when she came back Victor's crew was there. So, I think
2 that we're talking about the time period when Victor's crew
3 was there.

4 But we'll find out. Let's hear the answer. So,
5 the objection's overruled.

6 THE WITNESS: What is the question?

7 ADMINISTRATIVE LAW JUDGE SOBLE: When you worked,
8 when you came back at the beginning of 2017 was there a
9 time period when Victor Mendoza was the foreman that you
10 reported to?

11 THE WITNESS: Yes.

12 ADMINISTRATIVE LAW JUDGE SOBLE: During that same
13 time period were there some occasions where Rene gave you
14 your work instructions directly to you?

15 THE WITNESS: Never.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Ms.
17 Arciniega, I believe the last question that you were going
18 to ask related to things that she may have heard during the
19 time period she worked for Mr. Mendoza's crew. Why don't
20 you ask that question again.

21 MR. ROY: Objection Your Honor.

22 MS. ARCINIEGA: Yes, Your Honor.

23 MR. ROY: I'd like to clarify --

24 ADMINISTRATIVE LAW JUDGE SOBLE: You already
25 objected to that question twice or on two bases and I

1 overruled that objection so --

2 MR. ROY: Because it's misstating the evidence.
3 We're talking about the time she returned to Cinagro after
4 the berry season, when she returned to Cinagro.

5 ADMINISTRATIVE LAW JUDGE SOBLE: You may think
6 that's what's being talked about but that's not what I'm
7 hearing. I'm hearing about when she came at the beginning
8 of 2017 and that would be before the blueberries. And I'm
9 not going to address it any further other than that the
10 objection's overruled.

11 You can ask the question again, Ms. Arciniega.

12 BY MS. ARCINIEGA:

13 Q. When you worked in Victor Mendoza's crew in 2017
14 did you ever hear your coworkers in that crew complain
15 about the water?

16 A. Never, never, never.

17 Q. Were you ever at a meeting in 2017 where Rene was
18 present, and your coworkers talked to him about the water?

19 A. They never did that meeting.

20 MS. ARCINIEGA: I'd like to strike that as
21 nonresponsive. I can ask the question again.

22 ADMINISTRATIVE LAW JUDGE SOBLE: No, that's
23 overruled. I'm taking the answer as being they never did
24 that meeting in her presence. And so to me, that's
25 responsive.

1 MS. ARCINIEGA: Thank you, Your Honor.

2 ADMINISTRATIVE LAW JUDGE SOBLE: That's a
3 reasonable interpretation of the answer so --

4 MS. ARCINIEGA: Okay.

5 BY MS. ARCINIEGA:

6 Q. And when you were working in Victor's crew in
7 2017, I believe -- did you cut collards, let me just ask it
8 like that?

9 A. No. No.

10 Q. You don't recall cutting collards in February of
11 2017?

12 A. No, I don't remember having that much
13 (indiscernible) --

14 MS. ARCINIEGA: Your Honor, if I could show what
15 is previously identified and admitted as General Counsel's
16 Exhibit 12 to refresh the witness's recollection? Let me
17 --

18 ADMINISTRATIVE LAW JUDGE SOBLE: While you're
19 finding that, Ms. Sanchez you know what a collard is,
20 correct?

21 THE WITNESS: To me it's a cauliflower, like a
22 large flower, like a cauliflower.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'll take
24 from that answer, Counsel, that perhaps Ms. Sanchez is not
25 certain which vegetable is a collard.

1 MS. ARCINIEGA: Okay.

2 BY MS. ARCINIEGA:

3 Q. When you were working in Victor's crew isn't it
4 true that you and Dona Marie, in February 2017, worked
5 cutting a different vegetable than the rest of that crew?

6 A. Yes, different.

7 Q. And do you remember what vegetable you were
8 harvesting when you were doing that different vegetable?

9 A. I don't remember the last thing that we harvested
10 or cut, but it was different. It's what the other crew was
11 cutting.

12 Q. Okay. I'm sorry if I confused you with my
13 question. My question is in February 2017 you and Dona
14 Marie would cut vegetables that were different than the
15 vegetables that the people in Victor Mendoza's crew were
16 harvesting, correct?

17 MR. ROY: Objection Your Honor, relevance.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

19 THE WITNESS: We were always under Victor's
20 command. We received orders from Victor because he's the
21 one that gives out the orders.

22 ADMINISTRATIVE LAW JUDGE SOBLE: But when you
23 were in Victor's crew was there a time where some of the
24 crew members were cutting one vegetable and you and Maria
25 were cutting a different vegetable?

1 THE WITNESS: No, always together. Always
2 together.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

4 BY MS. ARCINIEGA:

5 Q. There weren't any times in February of 2017 where
6 you and Dona Marie worked more with, at least one time, the
7 other group of workers that worked at Cinagro?

8 MR. ROY: Objection. Your Honor, she's assuming
9 facts not in evidence. She has not yet testified about any
10 other group.

11 ADMINISTRATIVE LAW JUDGE SOBLE: It's cross-
12 examination. She certainly can ask that question whether
13 or not the witness has said it yet, or not. I just think
14 it's sometimes confusing to me whether or not the other
15 group is making reference to in the question the rest of
16 her group or some group that's outside of her crew. So, as
17 long as that's clarified, you can ask either or both of
18 those questions.

19 MS. ARCINIEGA: Let me reask the question.

20 BY MS. ARCINIEGA:

21 Q. So, in February of 2017, on at least one occasion
22 you and Dona Marie harvested a vegetable with a different
23 crew that was not Victor Mendoza's crew, correct?

24 MR. ROY: Asked and answered.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. You

1 can answer.

2 THE WITNESS: I don't remember having ever being
3 separated from that group.

4 BY MS. ARCINIEGA:

5 Q. Okay. And was there ever a time when you worked
6 at Cinagro that you were being paid by a farm labor
7 contractor?

8 A. No.

9 Q. Okay. When you returned to work in Cinagro in --
10 let me see, what month did you say the chili harvest ends?

11 A. It always ends November or December, the time
12 varies.

13 Q. And when you returned to Cinagro and you were
14 working in Victor's crew, do you remember what month you
15 had returned?

16 A. I don't remember what month that was. Because
17 when I call Rene to see if he's going to give me work, he
18 doesn't always say yes.

19 Q. When he gives you work, correct?

20 MS. ARCINIEGA: Oh, I'm so sorry, I apologize.
21 It's just late, I'm sorry.

22 THE WITNESS: Sometimes when I call him or when I
23 come back he tells me to wait a week or two and then I call
24 him again when it's time to come back to work, and then he
25 lets me know. He tells me to wait until there's more work,

1 may be to wait a week or two. And then, I call him back
2 and he lets me come back to work.

3 BY MS. ARCINIEGA:

4 Q. Okay. When you worked in Victor's crew in 2017,
5 did you hear your coworkers in that crew complain that they
6 were not getting a paycheck stub?

7 A. They never complained. As a matter of fact, when
8 Marisol called me a few weeks ago and told me to come
9 testify on her behalf, I made the comment as to why are you
10 complaining now and you didn't complain at the time when
11 the things were happening.

12 MS. ARCINIEGA: I think that's enough of a
13 response, Your Honor, I can ask my next question.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Did the
15 interpreter translate all of the answer that's been given
16 thus far?

17 THE INTERPRETER: Yes.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Then, can
19 you ask the witness if she is finished answering the
20 question?

21 THE WITNESS: No.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, she can
23 continue.

24 THE WITNESS: When Marisol told me that we didn't
25 have water to drink I told her that if the boss was

1 bringing us Starbucks coffee and bread, why would he not
2 bring us water which was cheaper?

3 MS. ARCINIEGA: Your Honor, I would like to
4 continue with my direct examination -- I mean my cross-
5 examination.

6 ADMINISTRATIVE LAW JUDGE SOBLE: I understand.
7 And at some point I prefer to let the witness finish and
8 then hear if there's a motion to strike something as not
9 responsive. But at this point, since she's been
10 interrupted I'm going to accept the answer thus far, but
11 have you go to your next question.

12 Ms. Sanchez, we appreciate it, Ignacia, if you
13 try to answer the question that the attorney asks. And in
14 the last question I think you began mentioning other things
15 as to the conversation. We appreciate your trying to
16 include everything, but try to answer the particular
17 question that you're asked. Thank you, we appreciate that.

18 Okay, you can ask your next question.

19 THE WITNESS: Very well, thank you.

20 MS. ARCINIEGA: Thank you. I think I only have a
21 couple more question, Your Honor, and I'm just trying to
22 reorient myself here.

23 BY MS. ARCINIEGA:

24 Q. Ms. Sanchez, in the beginning when Mr. Roy was
25 asking you questions I heard --

1 MS. ARCINIEGA: Bless you, Your Honor.

2 BY MS. ARCINIEGA:

3 Q. -- you referred to a complain that was filed
4 against Cinagro. You don't -- you haven't read that
5 complaint, correct?

6 A. No.

7 Q. Okay. And who first contacted you about coming
8 to give testimony here?

9 A. Rene.

10 Q. And when was that?

11 A. It was around the 7th, or 8th and two days later
12 I received Marisol's call.

13 Q. Do you remember February 7th or 8th?

14 A. Yes.

15 Q. And how did he contact you?

16 A. On the phone.

17 Q. And what did he tell you?

18 A. He said that he needed me to testify to what
19 happened at that moment because I was present, I was there.

20 Q. And what moment was he referring to?

21 A. During the period of time that I worked with
22 Victor's crew in 2017.

23 Q. Did you discuss with Rene what specific thing to
24 say here about your time working with Victor Mendoza's
25 crew?

1 A. No, I just said that was fine that I was going to
2 testify, I was going to say what I saw.

3 Q. Did Rene offer to pay you for your time here
4 today?

5 A. He said that he could reimburse me for
6 transportation or that the company could provide
7 transportation.

8 Q. And how did you get here today?

9 A. I drove.

10 Q. Okay.

11 MS. ARCINIEGA: I think that's all my questions,
12 Your Honor.

13 Thank you.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I have a
15 couple of questions.

16 Is it fair to say, Ms. Sanchez, that for work
17 that occurred four years ago you don't remember which
18 vegetable you picked every day of the week?

19 THE WITNESS: I don't remember exactly.

20 ADMINISTRATIVE LAW JUDGE SOBLE: But to the best
21 of your knowledge, there was not a day where some of
22 Victor's crew harvested kale and the other members of the
23 crew harvested a different vegetable?

24 THE WITNESS: No, we were always together
25 harvesting one thing and then another.

1 ADMINISTRATIVE LAW JUDGE SOBLE: And when you got
2 your paycheck did you receive a paper with it that told you
3 which vegetables you had harvested in the previous week?

4 THE WITNESS: Yes.

5 ADMINISTRATIVE LAW JUDGE SOBLE: On those pieces
6 of paper did you ever see vegetables listed that you did
7 not remember picking?

8 THE WITNESS: Because we look at what we
9 harvested, how much we harvested and what we got paid.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Have you
11 ever met someone named Cesar Miranda at Cinagro?

12 THE INTERPRETER: I'm sorry, Your Honor, can you
13 repeat the last part?

14 ADMINISTRATIVE LAW JUDGE SOBLE: Yes. Ms.
15 Sanchez, have you ever met someone named Cesar Miranda at
16 Cinagro?

17 THE WITNESS: I don't remember hearing that name.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
19 recall ever working in a crew where the foreman's name was
20 Cesar?

21 THE WITNESS: No.

22 ADMINISTRATIVE LAW JUDGE SOBLE: When you were at
23 Cinagro, was there ever anyone other than Rene or Victor
24 who gave you instructions as to where to work? For any
25 time that you worked at Cinagro, from the very first day

1 you worked all the way to today?

2 THE WITNESS: No, never, just Victor.

3 ADMINISTRATIVE LAW JUDGE SOBLE: And Rene?

4 THE WITNESS: No, I haven't talked to Rene, only
5 to Victor.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I thought
7 you said that before Victor ever came to the company Rene
8 gave you work assignments. Am I wrong?

9 THE WITNESS: That was when we didn't have a
10 foreman. I was in a small group and the one that was in
11 charge of bringing -- I was in the small group and the
12 person that was in charge of bringing the water, the shade,
13 and the bathrooms was Rene, uh-huh.

14 ADMINISTRATIVE LAW JUDGE SOBLE: And when you
15 were in the small group was Rene the person who told you
16 which vegetables to go to?

17 THE WITNESS: Yes, to the whole group when it was
18 about six or seven people.

19 ADMINISTRATIVE LAW JUDGE SOBLE: And when you
20 were in the small group was it Rene who told you which
21 field to go to the next day?

22 THE WITNESS: It was in that same field because
23 it was the same ranch where his office was at.

24 ADMINISTRATIVE LAW JUDGE SOBLE: So, when you
25 worked in the small field, you always worked in the same

1 city as the office?

2 THE WITNESS: The first year, yes.

3 ADMINISTRATIVE LAW JUDGE SOBLE: What about other
4 years?

5 THE WITNESS: Then the next year that's when I
6 went to Tierra, I don't know the name of that ranch, and
7 that's when we found Victor's group.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Did Victor's
9 group work at both ranches?

10 THE WITNESS: No, only one ranch.

11 ADMINISTRATIVE LAW JUDGE SOBLE: And was that
12 ranch in Fillmore?

13 THE WITNESS: Yes.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. After you
15 worked at the blueberry farm you went back to Cinagro,
16 correct?

17 THE WITNESS: That's right.

18 ADMINISTRATIVE LAW JUDGE SOBLE: On that occasion
19 who told you what type of work to do?

20 THE WITNESS: The new foreman whose name was
21 Andres.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Did Andres work
23 in the small group a long time ago?

24 THE WITNESS: Yes, he worked then.

25 ADMINISTRATIVE LAW JUDGE SOBLE: So, you've known

1 Andres for many years?

2 THE WITNESS: That's right.

3 ADMINISTRATIVE LAW JUDGE SOBLE: And you've known
4 Maria Lauriano for many years?

5 THE WITNESS: Yes.

6 ADMINISTRATIVE LAW JUDGE SOBLE: And you've known
7 Rene Macias for many years?

8 THE WITNESS: Him too.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Have you
10 ever met someone called Anthony Dighera?

11 THE WITNESS: No.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Did you ever
13 meet someone called Tony at Cinagro?

14 THE WITNESS: No.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Do you have an
16 understanding of who is the owner of Cinagro?

17 THE WITNESS: No.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. If you
19 know, when you worked for Cinagro were you an employee?

20 MR. ROY: Objection it calls for a legal
21 conclusion.

22 ADMINISTRATIVE LAW JUDGE SOBLE: I want to find
23 out only what the witness had an understanding of and I
24 will certainly not be taking her answer as to have a legal
25 significance to it.

1 MR. ROY: Thank you.

2 ADMINISTRATIVE LAW JUDGE SOBLE: With that in
3 mind, you can answer it. When you worked for Cinagro was
4 it your understanding that you were an employee of Cinagro?

5 THE WITNESS: Yes.

6 ADMINISTRATIVE LAW JUDGE SOBLE: And not an
7 employee of Rene Macias?

8 THE WITNESS: No, never. I always submit to the
9 person that is leading the crew.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Let me
11 ask the question differently. Did you think Rene owned
12 Cinagro?

13 THE WITNESS: No, never.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. In 2021,
15 have you talked to Andres?

16 THE WITNESS: What year?

17 ADMINISTRATIVE LAW JUDGE SOBLE: In 2021, this
18 year, have you talked to Andres?

19 THE WITNESS: No, never.

20 ADMINISTRATIVE LAW JUDGE SOBLE: In this year,
21 2021, have you spoke with Marie Lauriano?

22 THE WITNESS: No.

23 ADMINISTRATIVE LAW JUDGE SOBLE: One of the
24 attorneys referred to a Dona Marie. Does that for you mean
25 the same as Marie Lauriano?

1 THE WITNESS: Yes.

2 ADMINISTRATIVE LAW JUDGE SOBLE: When you worked
3 for Victor Mendoza's crew at Cinagro, did you ever hear
4 that Victor was paid money to get water for the crew?

5 THE WITNESS: Never.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
7 have any notes on your telephone that are related to the
8 facts of this hearing?

9 THE WITNESS: No.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I don't
11 have any additional questions for Ms. Sanchez.

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

14 MS. ARCINIEGA: Yes, Your Honor.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

16 RE-CROSS-EXAMINATION

17 BY MS. ARCINIEGA:

18 Q. Ms. Sanchez, when you returned to work in
19 September of 2017, isn't it true that you worked with a
20 group that Cesar Miranda was also in? And I'm -- oh, let
21 me just ask that.

22 MR. ROY: Objection as to time. She never
23 testified that she returned in September '17.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained. You
25 can ask the same question with respect to November or

1 December 2017.

2 MS. ARCINIEGA: Your Honor, if I may, I'd like to
3 ask your permission to provide a document that is the crew
4 for the date on which we understand Ms. Sanchez returned to
5 work at Cinagro, that lists the crew members. It's the
6 same type of payroll document that Ms. Ito prepared and I
7 can have it -- I can email it to you and Mr. Roy.

8 MR. ROY: Your Honor?

9 MS. ARCINIEGA: I want to use it to refresh her
10 recollection.

11 MR. ROY: I would object on the basis of
12 relevance. Whether this employee went back to work at
13 Cinagro in September, or October, or November of '17 is not
14 relevant to the issues in this case.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Oh, I disagree.
16 It's highly relevant if in fact she worked on a crew with
17 this person whose name she doesn't remember. It goes to
18 whether or not she's able to remember facts from far off
19 well. I'm not sure beyond that, that it has a lot of
20 significance or not.

21 One option, again would be whether or not we
22 might just be able to stipulate to admit that other
23 document. But regardless, if the Assistant General Counsel
24 wants to ask questions related to it simply to determine
25 whether or not they worked at Cinagro at the same time, I

1 am going to allow that.

2 MR. ROY: Your Honor, it was never a document
3 submitted as part of the GC's package. It has not been
4 authenticated by stipulation or otherwise.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Well, that's
6 fine. But I mean, instead, if you prefer, they can try to
7 introduce that document as rebuttal evidence by subpoenaing
8 your custodian of records, or Ms. Ito, and have her verify
9 the document to see if in fact it's a true and authentic
10 document. I mean that's fine.

11 In the interim, though, I don't think whether the
12 document is admitted or not there's anything that precludes
13 them from trying to use it to refresh the witness's
14 recollection as to whether or not she might have worked on
15 a crew at the same time as Senior Miranda.

16 MR. ROY: Well, may I see a copy of this exhibit?

17 ADMINISTRATIVE LAW JUDGE SOBLE: Absolutely.
18 Before the Assistant General Counsel uses anything with it,
19 she needs to email it to both you and me.

20 MS. ARCINIEGA: May I do that now?

21 ADMINISTRATIVE LAW JUDGE SOBLE: You can. How
22 many pages is the document?

23 MS. ARCINIEGA: It says 17, Your Honor. My only
24 -- it's termed in a way that's not the portrait facing up,
25 and so I've asked staff if they could send me a different

1 one. But if you don't mind it like that, I'll send it now.

2 MR. ROY: Your Honor, if it's typical of other
3 Cinagro documents you'll have the maybe five, to seven or
4 eight pages of each employee what they worked each day, and
5 then that's followed by a number of daily production
6 sheets, and times, et cetera, that's not really relevant.

7 ADMINISTRATIVE LAW JUDGE SOBLE: But the point is
8 that the Assistant General Counsel can send it to both of
9 us now.

10 MS. ARCINIEGA: Okay.

11 ADMINISTRATIVE LAW JUDGE SOBLE: And I'll
12 determine when I look at it whether it will be permissible
13 for you to put that document in front of the witness or if
14 it is too confusing because of its angle that something
15 different needs to be done.

16 I suspect that if it simply means the piece of
17 paper needs to be turned 90 degrees that there will not be
18 an issue for the witness.

19 MS. ARCINIEGA: Once we print it, Your Honor, it
20 will be you know -- I will send it right now.

21 ADMINISTRATIVE LAW JUDGE SOBLE: The point is,
22 more significantly, that if you're going to have to have
23 Ms. Vega take a copy of that to the witness that we're not
24 going to finish with this witness today. Most likely.

25 MR. ROY: Your Honor, I'd hate to have this

1 witness come back after waiting since last Thursday to be
2 called. If we could go over just a couple of minutes, I
3 think, and avoid calling her back that would probably be
4 most respectful.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I don't
6 have the authority to request that the interpreter stay
7 past five o'clock. So, that's up to Ms. Lucas. If we're
8 going five or ten minutes after, I suspect it won't be an
9 issue but I don't know that. Ms. Lucas?

10 THE INTERPRETER: Yes, it won't be an issue, Your
11 Honor.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

13 MS. ARCINIEGA: It was sent to Your Honor and Mr.
14 Roy.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I will
16 look for it momentarily. Obviously, any questions that you
17 ask related to this are going to be limited to the
18 questions that were asked since you last cross-examined the
19 witness. So, I don't think there's going to be that many.

20 MS. ARCINIEGA: I don't believe so, Your Honor.

21 MR. ROY: Your Honor, shouldn't her cross be
22 limited to all your direct questions?

23 ADMINISTRATIVE LAW JUDGE SOBLE: It would be
24 limited to my last group of questions and your last group
25 of questions. And I don't believe, I'd have to look again,

1 that you had any questions --

2 MR. ROY: I didn't.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

4 MR. ROY: So, usually not bringing --

5 ADMINISTRATIVE LAW JUDGE SOBLE: Then my memory
6 is correct, then yes, you're correct also.

7 MR. ROY: You didn't bring the subject up.

8 MS. ARCINIEGA: Your Honor did.

9 MR. ROY: I'm looking at the payroll record for
10 9/11/17 and that 9/17.

11 MS. ARCINIEGA: You know what, I sent the wrong
12 one. I'm sorry, Gabby just gave me the correct one. I
13 very much apologize. It's 9/18. I sent the wrong one and
14 I'm very sorry. Yes, I'm sorry about that.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I'm
16 waiting for the new email.

17 MS. ARCINIEGA: Yes, I'm sending it right now,
18 Your Honor.

19 ADMINISTRATIVE LAW JUDGE SOBLE: If you haven't
20 sent it, you might as well call it GC Exhibit 13 in your
21 title.

22 MS. ARCINIEGA: Okay.

23 ADMINISTRATIVE LAW JUDGE SOBLE: I mean the email
24 title, not the document title.

25 MS. ARCINIEGA: Correct. Okay, 9/18. There you

1 go. It's 9/18 through 9/24, so it should be the second
2 email that I sent.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I'm
4 waiting because my computer says "ATP scan in progress".
5 I'll let you know when it's now available. It is. And
6 it's even right side up.

7 MS. ARCINIEGA: Yes, it is. It's 17 pages.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
9 want to have Ms. Vega bring a copy of that down to the
10 witness? But, basically wait outside the door until she
11 gets an okay from you, after I've given both of you an
12 opportunity to comment on this document.

13 MS. ARCINIEGA: Sure.

14 MR. ROY: Your Honor, I have an objection to this
15 document whenever you're ready.

16 ADMINISTRATIVE LAW JUDGE SOBLE: I am. I'll
17 actually start with you since I already know Ms.
18 Arciniega's position is that she'd like to use it.

19 MR. ROY: Right. The first document in this set
20 of documents does not refer to a foreman, number one. So,
21 it's being used to impeach the witness as to whether or not
22 she knew a Andres Cesar Miranda -- oh, excuse me. I take
23 that back, he's the second guy down.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Correct.

25 MR. ROY: But that doesn't demonstrate that she

1 knew him back when this event occurred in late March of
2 2017. I believe in testimony --

3 ADMINISTRATIVE LAW JUDGE SOBLE: What I think
4 it's permissible for the General Counsel to do is show the
5 document to the witness and ask the witness if it refreshes
6 her recollection as to knowing someone by that name. If it
7 does she can ask, okay, who was that person and what else
8 does she recall about them. And if it doesn't, then I
9 think the questioning reached its logical end.

10 So, is there anything you want to add, Ms.
11 Arciniega, that you think you should be allowed to ask with
12 respect to it or did I pretty much summarize it?

13 MS. ARCINIEGA: You summarized it, Your Honor.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Then if
15 Ms. Vega's already en route, you can have her bring that
16 down there. I'm hopeful that you should be able to ask
17 those questions and that we get answers that will enable us
18 to finish with this witness today.

19 MS. ARCINIEGA: Gabby, yes, you can go take it
20 down.

21 ADMINISTRATIVE LAW JUDGE SOBLE: If the
22 interpreter could translate the following for me?

23 THE INTERPRETER: Yes.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Sanchez,
25 they are going to bring down one more document and we have

1 a few more questions. We expect to finish in the next 15
2 minutes or so.

3 THE WITNESS: Very well.

4 ADMINISTRATIVE LAW JUDGE SOBLE: If you needed to
5 go now, we could stop and have you come back tomorrow
6 morning. But if we go longer, it's possible you will not
7 need to come back tomorrow.

8 THE WITNESS: I can stay longer.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. We'll go
10 off the record while we wait for Ms. Vega to arrive there.

11 (Off the record at 4:55 p.m.)

12 (On the record at 5:03 p.m.)

13 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Sanchez, did
14 the state's field examiner bring in a new document into the
15 room?

16 THE WITNESS: Yes.

17 ADMINISTRATIVE LAW JUDGE SOBLE: If you could
18 look at the last page of that document, do you see some
19 letters and numbers on the bottom right side of the page?

20 THE WITNESS: Yes.

21 ADMINISTRATIVE LAW JUDGE SOBLE: What are those
22 letters and numbers?

23 THE WITNESS: 23CEL.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. If you're
25 looking at the last page of the document, do you see three

1 letters followed by six numbers on the bottom right-hand
2 side of the page?

3 THE INTERPRETER: I'm sorry, Your Honor, did you
4 say six numbers and then the letters?

5 ADMINISTRATIVE LAW JUDGE SOBLE: Three letters
6 and six numbers. And the first two letters are C and F.

7 MR. ROY: I don't think she's looking at the
8 bottom right, Your Honor.

9 THE WITNESS: I don't know if I'm looking at the
10 right thing.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Can you
12 hold the paper up higher?

13 THE WITNESS: Yes.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Look at the
15 very, very bottom of the page, like the bottom half-an-inch
16 of the page. Not in the chart, just on the bottom of the
17 page.

18 THE WITNESS: Yes. Right here?

19 ADMINISTRATIVE LAW JUDGE SOBLE: Yes. Yes, what
20 is that number?

21 THE WITNESS: CFL -- or I don't know if it's an
22 I.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Myself included,
24 no problem. What is the number that follows the letters?

25 THE WITNESS: 001149.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, that's
2 fine.

3 I'm fine with Ms. Arciniega asking her question.

4 MS. ARCINIEGA: Okay. Thank you.

5 BY MS. ARCINIEGA:

6 Q. Ms. Sanchez, can you please look at the first
7 page of the packet that was given to you?

8 A. Yes.

9 Q. Okay. And do you see on the top it says:
10 Cinagro payroll 9/18-9/24/2017?

11 A. Uh-huh.

12 Q. You see that?

13 A. Yes.

14 Q. Okay. And do you see your name on this page?

15 A. Yes.

16 Q. Okay. And does that help you remember that you
17 worked at Cinagro in September of 2017?

18 A. Uh-huh.

19 Q. Okay. And right under your name do you see Cesar
20 Miranda's name?

21 A. Yes.

22 Q. Okay. And does this help you refresh your memory
23 about working with somebody named Cesar Miranda in 2017?

24 A. Yes, it was after I came back to work.

25 Q. So, after you --

1 ADMINISTRATIVE LAW JUDGE SOBLE: Do you remember
2 having met Cesar?

3 THE WITNESS: I don't know if we're talking about
4 the same person. I met an older gentleman that they would
5 call him Miranda, but I never met him as Cesar.

6 ADMINISTRATIVE LAW JUDGE SOBLE: And was Senior
7 Miranda tall or short?

8 THE WITNESS: A little bit tall and a little bit
9 up in age.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Ms.
11 Arciniega.

12 BY MS. ARCINIEGA:

13 Q. Okay. And looking at this first page with the
14 list of names, do you see Andres Cruz listed on this page?

15 A. No.

16 Q. Okay. And does this refresh your memory that you
17 did not work in a crew with the Foreman Andres Cruz when
18 you returned to Cinagro?

19 A. No. Yes, yes, I don't know why he's not here.
20 When I returned Andres was the one that directed me and I
21 would ask him what I was going to do, and what was the
22 number of my lane -- or my line.

23 Q. Okay. But you -- but you don't see his name on
24 this list, correct?

25 A. No, Andres was driving and he would pull the

1 boxes, and he would give us instructions as to what we were
2 going to do.

3 MR. ROY: I'm going to object on relevance, Your
4 Honor. I thought we were trying to discern her memory with
5 regard to Cesar Miranda and now we're talking about an
6 employee who's not even in this payroll list.

7 ADMINISTRATIVE LAW JUDGE SOBLE: The objection's
8 overruled. I'm allowing it for the sole purpose that Ms.
9 Sanchez had testified that she recalled when came back to
10 Cinagro that her new foreman was someone named Andres. And
11 that that person's name does not appear to be on this
12 document. I think we've exhausted that topic now, so the
13 objection's overruled, but I think we're at the end of
14 that.

15 MS. ARCINIEGA: Yes, Your Honor. I don't --

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Mr. Roy,
17 do you have any questions?

18 MR. ROY: Just two questions real, real quick.

19 REDIRECT EXAMINATION

20 BY MR. ROY:

21 Q. With reference to the page 1, Ignacia, underneath
22 your name is Cesar Miranda, is that correct?

23 A. Yes.

24 Q. And was he a fellow employee who worked with you
25 in the crew?

1 A. Yes.

2 Q. And when you returned on 9/18/17 was that the
3 first time you knew Mr. Cesar Miranda?

4 A. Yes.

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

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, I have no
7 additional questions for Ms. Sanchez. So, I assume that
8 the General Counsel does not have any further questions?

9 MS. ARCINIEGA: I do not, Your Honor.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Ms.
11 Sanchez, we appreciate your time today. And we think it's
12 unlikely that you will need to come back on another day of
13 the hearing.

14 Please remember that you may not discuss your
15 testimony at the hearing or anything you heard at this
16 hearing with someone else who's a possible witness in this
17 case. That means do not discuss what you heard at the
18 hearing with Rene, with Victor, with anybody who either
19 does work for Cinagro now, or who used to work for Cinagro.

20 You can tell people that you came to the hearing,
21 but that's all that you're able to say. Do you understand?

22 THE WITNESS: Yes.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Then, Ms.
24 Sanchez, you're free to go.

25 MR. ROY: Muchas gracias.

1 THE WITNESS: Thank you.

2 (Witness is excused)

3 ADMINISTRATIVE LAW JUDGE SOBLE: Just so there is
4 clarity on the record, I'm going to state that it's my
5 understanding that the document the General Document showed
6 at the end to Ms. Sanchez has Bates numbers going from CFI,
7 that's C-F-I, 001125 through 001149.

8 Thus far, nobody has asked to admit that exhibit
9 and I will not be hearing anybody seeking to do so today.
10 If somebody seeks to admit the exhibit, they should do so
11 tomorrow.

12 Mr. Roy, you don't need to tell us now, but do
13 you have -- do you know for sure whether your next witness
14 will be English speaking or Spanish speaking, if you wish
15 to say?

16 MR. ROY: English speaking first, and then my
17 last witness will be Spanish speaking, and we should be
18 done by noon.

19 ADMINISTRATIVE LAW JUDGE SOBLE: And the English-
20 speaking witness, your direct exam, how long do you think
21 it will be?

22 MR. ROY: Thirty, forty minutes, max.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. We're
24 starting tomorrow at 8:30, so Ms. Lucas you can arrive at
25 9:00, if Mr. Roy is representing that the English-speaking

1 witness will be here at 8:30.

2 THE INTERPRETER: Okay.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Is there
4 anything else we need to address before we go off the
5 record?

6 MR. ROY: Nothing for the Respondent.

7 MS. ARCINIEGA: Nothing from General Counsel.

8 ADMINISTRATIVE LAW JUDGE SOBLE: You were both
9 talking at the same time and I only heard Mr. Roy.

10 MS. ARCINIEGA: Nothing from the General Counsel.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So, I
12 understand that we're going to have the two Respondent
13 witnesses. The General Counsel, if they are going to call
14 any rebuttal witnesses that relate to anything other than
15 tomorrow's witnesses, that is a rebuttal of anything that
16 precedes Mr. Macias and Mr. Dighera, they should plan on
17 having those witnesses available immediately after our
18 lunch break.

19 Obviously, if it relates to something in
20 tomorrow's testimony, it will depend to what extent you
21 could have anticipated that testimony whether I expect the
22 people to be there immediately or not.

23 Again, both of you theoretically can do closing
24 statements tomorrow, but remember you'll be afforded an
25 opportunity to do a post-hearing brief after you receive

1 the transcript, which really serves that function.

2 It would be my hope that if it makes the
3 difference as to whether we finish tomorrow or not that we
4 don't allow that to preclude us from finishing tomorrow.
5 Beyond that, again it's up to the discretion of the
6 parties.

7 MR. ROY: Your Honor, may I inquire? I'm willing
8 to forego the statements if General Counsel is, and we'll
9 just argue it in post-hearing briefs.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Well, why don't
11 we just wait until right after your two witnesses have
12 given their testimony and then ask them the same question.
13 Because otherwise I'm pretty sure they won't agree to that.
14 But perhaps after they've heard the next two witnesses they
15 might. And at that point we'll know where we are time
16 wise.

17 Again, if we're talking about finishing tomorrow,
18 I don't really have a strong preference. I just don't want
19 that to be something that pushes us into Thursday. I think
20 it's reasonable to assume we can finish tomorrow. Even if
21 there was to be a single rebuttal witness, I don't think
22 that's going to stop us from finishing tomorrow. And so,
23 particularly if the rebuttal witness, hypothetically, was
24 to bring someone back who's already testified to answer a
25 single question or something that's of very short duration.

1 So, but otherwise I think we're set. I will see
2 everyone tomorrow at 8:30. And, hopefully, we will be free
3 of any technical difficulties or glitches, and we will
4 complete our hearing tomorrow.

5 So, it is 5:21. I appreciate that we went a few
6 minutes longer. And that will conclude our day, thank you.

7 MR. ROY: Thank you very much.

8 (The hearing was concluded at 5:21 p.m.)

9 --oOo--

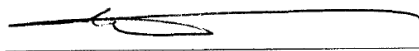
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REPORTER' S CERTIFICATE

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 18th day of March, 2021.



PETER PETTY
CER**D-493
Notary Public

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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of March, 2021.



Barbara Little
Certified Transcriber
AAERT No. CET**D-520