

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

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

VOLUME 7

HEARING

Remote via WebEx

Wednesday, March 3, 2021

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

Reported by:
Peter Petty

APPEARANCES

BEFORE: THE HONORABLE MARK SOBLE,
Administrative Law Judge

On behalf of Respondent:

Robert P. Roy, President
Ventura County Agricultural Association
916 W. Ventura Blvd.
Camarillo, CA 93010
rob-vcaa@pacbell.net

On behalf of Charging Party:

Franchesca Herrera, Regional Director
ALRB Salinas Regional Office
342 Pajaro Street
Salinas, CA 93901
jherrera@alrb.ca.gov

Jessica Arciniega, Assistant General Counsel
ALRB Salinas Regional Office
1901 North Rice Avenue, Suite 300
Oxnard, CA 93030
jarciniega@alrb.ca.gov

Amisha De Young-Dominguez,
ALRB Salinas Regional Office
1901 North Rice Avenue, Suite 300
Oxnard, CA 93030
Amisha.deyoung-dominguez@alrb.ca.gov

Julia Montgomery, General Counsel
Agricultural Labor Relations Board
1325 J Street
Suite 1900-A
Sacramento, CA 95814
Julia.montgomery@alrb.ca.gov

Gabriella Vega, Compliance Officer

Spanish-To-English Interpreter: Rosario Lucas

I N D E X

WITNESSES DIRECT CROSS REDIRECT RECROSS VOIR DIRE

Respondent:

Anthony Dighera	6	31	123	
Rene Macias Diaz	133	149		157
Perez Martinez				

EXHIBITS

ADMITTED

Charging Party:

Respondent:

P R O C E E D I N G S

8:36 A.M.

ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Dighera,
would you please state your full name for the record?

THE WITNESS: Anthony George Dighera.

ADMINISTRATIVE LAW JUDGE SOBLE: What is the
language that you speak the best?

THE WITNESS: English.

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

THE WITNESS: English.

ADMINISTRATIVE LAW JUDGE SOBLE: Okay.
Mr. Dighera, do you solemnly swear or affirm that your
testimony in this hearing will be the truth, the whole
truth, and nothing but the truth?

THE WITNESS: Yes.

(The witness is sworn.)

ADMINISTRATIVE LAW JUDGE SOBLE: What's going to
happen today is that some of the attorneys and possibly
myself will ask you some questions. When we ask a
question, if you can pause for a second or two before you
answer because occasionally one of the attorneys or myself
may object to a particular question. In that instance, I
will let you know if it's appropriate to answer the

1 question or instead to wait for the next question.

2 THE WITNESS: Okay.

3 ADMINISTRATIVE LAW JUDGE SOBLE: For all of your
4 answers, it's important that you answer orally or audibly
5 because the court reporter cannot fully incorporate into
6 the transcript if you merely nod your head or gesture with
7 your hands.

8 THE WITNESS: Okay.

9 ADMINISTRATIVE LAW JUDGE SOBLE: If at any point
10 you do not understand a question, please simply let me know
11 and I can determine if the attorney can rephrase the
12 question so that you'll better understand it.

13 THE WITNESS: Okay.

14 ADMINISTRATIVE LAW JUDGE SOBLE: If at any point
15 you need to get a break to have a drink of water or to use
16 the restroom or to stand up and stretch, please let me
17 know. Most likely we will be taking a break in
18 approximately an hour and 45 minutes, for 20 minutes. I
19 can't predict if we'll still be doing your testimony then
20 or if we have even completed it.

21 With that in mind, one question before Mr. Roy
22 will be the first attorney asking you questions. Have you
23 attended part of this hearing virtually?

24 THE WITNESS: Yes, with Rob in his office. I
25 think it was the first day.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Thank
2 you.

3 Mr. Roy, you can proceed.

4 DIRECT EXAMINATION

5 BY MR. ROY:

6 Q. Mr. Dighera, do you understand that a Complaint
7 has been filed against you by many of your former workers
8 before the ALRB?

9 A. Yes.

10 Q. Okay. And do you understand the allegations
11 against Cinagro Farms?

12 A. Yes.

13 Q. Okay. Now I know it's been probably four years
14 now since that charge was filed. I wish to advise you that
15 if for any reason you cannot recollect a specific fact,
16 such as a date or time or person, please let me know and
17 we'll try to jog your memory some other way to get an
18 answer.

19 A. Okay.

20 Q. Okay. Prior to receiving this charge, had you
21 ever received a charge from the Agriculture Labor Relations
22 Board?

23 A. No.

24 Q. Prior to receiving this charge, have you ever
25 heard of the Agriculture Labor Relations Act?

1 A. No.

2 Q. How about the Agriculture Labor Relations Board?

3 A. No.

4 Q. Okay. Were you farming during the summer of
5 2016?

6 A. Yes.

7 Q. Did you -- how did you hire your labor during
8 that time?

9 A. We were using -- well over the years we've used
10 various labor contractors.

11 Q. Okay. Would it be fair to say that you always
12 used labor contractors until you transferred this crew as
13 direct hires?

14 A. Yes.

15 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor,
16 that was leading.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

18 BY MR. ROY:

19 Q. Until the time that you hired this crew directly
20 for Cinagro, how did you hire prior agricultural workers?

21 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
22 Leading.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

24 BY MR. ROY:

25 Q. You may answer.

1 A. Oh, through labor contractors.

2 Q. Okay. And during that entire period of time that
3 you utilized labor contractors, were you involved in the
4 payroll process?

5 A. Yes.

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

8 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

9 BY MR. ROY:

10 Q. Did the labor contractor prepare the checks for
11 your workers at Cinagro?

12 ADMINISTRATIVE LAW JUDGE SOBLE: I'll sustain
13 that as leading.

14 BY MR. ROY:

15 Q. How did workers who worked for the labor
16 contractors at Cinagro, how were they paid?

17 A. Through the labor contractor.

18 Q. Right. And how were they paid, in cash or
19 checks?

20 A. I assume they were paid in checks.

21 Q. Okay.

22 ADMINISTRATIVE LAW JUDGE SOBLE: When you say you
23 assume, Mr. Dighera, it reminds me of my general sort of
24 guidance to witnesses which is answer things that you know.
25 You can answer if you saw something, if someone told you,

1 but please don't speculate or guess.

2 THE WITNESS: Okay.

3 ADMINISTRATIVE LAW JUDGE SOBLE: With that in
4 mind, I'm not going to strike the previous answer, rather
5 I'll just let Counsel ask further questions.

6 You can proceed.

7 BY MR. ROY:

8 Q. During the time that you hired labor contractors
9 at Cinagro, did you issue -- Cinagro Farms issue checks to
10 the workers?

11 A. No.

12 Q. Approximately when did Cinagro Farms take on the
13 Marisol Jimenez crew with Victor Mendoza?

14 MS. ARCINIEGA: Objection, Your Honor. Leading.

15 THE COURT: Overruled.

16 THE WITNESS: I don't know the exact date. I
17 believe it was -- I'd have to look. I don't know the date.

18 BY MR. ROY:

19 Q. Does November of 2016 jog your memory?

20 A. Yeah, it was in that time period.

21 Q. And did --

22 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.

23 I mean, that -- I'm going to indicate, without really
24 objecting, but that's leading. When the witness says he
25 doesn't know what date it is and you say well, would it jog

1 your memory if I told you it was this date --

2 MR. ROY: All right. I'll rephrase.

3 ADMINISTRATIVE LAW JUDGE SOBLE: -- if you're
4 going to ask that question then you might as well ask him,
5 how is my telling you what the date was jogging your
6 memory.

7 MR. ROY: All right.

8 BY MR. ROY:

9 Q. Are there any other dates that come in mind as to
10 when the Marisol Jimenez and Victor Mendoza crew came to
11 work at Cinagro Farms?

12 A. No, I don't know the date.

13 Q. Was it the end of 2016?

14 A. Yes.

15 Q. Okay. How were workers in this crew paid by
16 Cinagro?

17 A. With a company check.

18 Q. And when you refer to a, quote, "company check,"
19 could you describe that check?

20 A. It's a typical company check. It has the name of
21 the company, address, all the information for a company on
22 it.

23 Q. Did it have the telephone number on it?

24 A. Yes, it did.

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

1 Leading.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

3 BY MR. ROY:

4 Q. Initially, were those checks completed by hand?

5 And what I mean by that is was the amount of the wages

6 written into the check and then signed by you?

7 A. Correct.

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

9 Leading.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

11 BY MR. ROY:

12 Q. You can answer, Tony.

13 A. Yes.

14 Q. Okay. At any time when Victor Mendoza's crew was

15 working for you in 2017, did you ever issue the workers a

16 personal check?

17 A. No.

18 Q. Okay. You know the difference between a personal

19 check and your corporate business check; correct?

20 A. Yes.

21 Q. All right. Were you involved in any of the

22 discussions -- and I'm talking about the time period of

23 January 1 through the last day of employment on March 4,

24 2017. Were you involved in any meetings at the field with

25 workers?

1 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
2 Lacks foundation.

3 THE COURT: Overruled. I understand the question
4 to be was Mr. Dighera at any such meetings. And so if he
5 was at them, he would have the foundation to know he was at
6 them.

7 MR. ROY: Correct, Your Honor.

8 BY MR. ROY:

9 Q. You may answer, Mr. Dighera.

10 A. No.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Just to clarify.
12 Mr. Dighera, does that mean you did not ever go out to the
13 fields during the first two months of 2017?

14 THE WITNESS: No, I was at the fields
15 periodically, but I was not at attendance for any meeting
16 with any of those crew people.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Did you ever
18 talk to any of those crew members during their first couple
19 months of 2017; if you recall?

20 THE WITNESS: No, I didn't.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And
22 Mr. Dighera, do you speak any Spanish?

23 THE WITNESS: A little bit. Very little.

24 ADMINISTRATIVE LAW JUDGE SOBLE: If you --

25 THE WITNESS: I understand a little.

1 ADMINISTRATIVE LAW JUDGE SOBLE: If you were to
2 ever talk to any of your employees, would you talk to them
3 directly or would you have someone who would assist you and
4 translate it?

5 THE WITNESS: No, it would be with a translate --
6 somebody that could translate.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Mr. Roy.

8 MR. ROY: Thank you.

9 BY MR. ROY:

10 Q. And those persons that you might go to would
11 be -- either be Victor or Rene Macias; correct?

12 A. It wouldn't be Victor; it would only be Rene.

13 Q. Okay. When Victor was hired -- and again, I'm
14 talking about this period from January 1 to March '17 --
15 March 4, 2017, was Victor responsible for bringing water to
16 the field each day?

17 A. Yes.

18 Q. Did you compensate him in any way for his
19 services?

20 A. Yes.

21 Q. And how did you compensate him?

22 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
23 Vague.

24 ADMINISTRATIVE LAW JUDGE SOBLE: I'll overrule
25 the objection because I understand the question to be

1 literally on its face, was Victor paid to work for the
2 company, rather than a more specific question, was he paid
3 for some particular other thing. So I'm taking the
4 question as saying Victor was not a volunteer person in the
5 field.

6 MR. ROY: All right. I'll clarify that, then.

7 BY MR. ROY:

8 Q. Did you compensate Victor for bringing water to
9 the field?

10 A. Yes.

11 Q. And how did you compensate him for those
12 services?

13 A. He was paid an extra hour as is standard for the
14 industry for every day. An extra hour.

15 Q. Do you know if he was also paid that same hour
16 when he worked for Art Vasquez in 2016?

17 A. Yes.

18 ADMINISTRATIVE LAW JUDGE SOBLE: How do you know
19 that?

20 THE WITNESS: It's just a common knowledge
21 standard procedure. All foremen get -- I mean, I have the
22 records from the labor company showing that each foreman
23 gets paid an extra hour.

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

25 BY MR. ROY:

1 Q. Mr. Dighera, did you ever give instructions to
2 Rene Macias that all of the employees in Victor Mendoza's
3 crew should be terminated at any time during 2017?

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

6 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

7 THE WITNESS: No.

8 BY MR. ROY:

9 Q. Did you ever instruct Rene Macias to inform the
10 workers that they were all terminated in 2017?

11 A. No.

12 Q. Did you ever instruct Victor Mendoza to tell the
13 workers that they were terminated in 2017?

14 A. No.

15 Q. Okay. Prior to March 4th, 2017, was there
16 another crew working for Cinagro?

17 A. Yes.

18 Q. And who was the foreman of that crew?

19 A. When the crew came over, I was told that Miranda
20 was going to be the foreman. When he got there, he told us
21 he didn't want to be foreman. So we had to -- he kind of
22 was a stand-in foreman for a short period of time until we
23 could find somebody to be a foreman.

24 Q. Okay. Was that a separate and distinct crew from
25 Victor Mendoza's crew?

1 A. Yes.

2 Q. Were there occasions when workers would cross
3 over to each of those crews?

4 A. I wasn't there every day. I don't know if they
5 crossed over. I don't believe they did.

6 Q. Okay. Did each crew perform common harvest of
7 certain crops?

8 A. I don't understand.

9 Q. All right. Let me reword that. Were each of
10 these two crews assigned crops to harvest?

11 A. Yes.

12 Q. Okay. And would those be assigned by Rene?

13 A. Yes.

14 Q. Did both crews do some common crops?

15 A. Yes.

16 Q. Okay. How long did this other crew work prior to
17 the last day of employment for the crew at Cinagro?

18 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
19 object to that question as being vague only because I can't
20 understand. Perhaps the witness can, but.

21 BY MR. ROY:

22 Q. Prior to March 4, 2017, how long had that other
23 crew worked for Cinagro Farms?

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

25 THE WITNESS: I don't know the exact amount of

1 time. You know, I don't know how far I can ask a question
2 here.

3 BY MR. ROY:

4 Q. No.

5 A. Okay.

6 Q. I'll ask the questions.

7 A. Okay. I don't -- a period of time, months? I
8 don't know the exact days or anything like that.

9 Q. Okay. The point is that they were working prior
10 to that date; is that correct?

11 A. Yes.

12 Q. Okay. And did they continue on after that date
13 working for the company?

14 A. Yes.

15 Q. Okay. During the period let's say two or three
16 weeks prior to March 4th, 2017, what were the weather
17 conditions like?

18 A. Off and on rain.

19 Q. Did that impact the fields?

20 A. Absolutely, yes.

21 Q. In what way?

22 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
23 Vague.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

25 Mr. Dighera, is your memory of what the weather

1 was like four years ago, did you do something to refresh
2 that before this hearing or is that just something that
3 you're able to remember what the weather was like four
4 years ago?

5 THE WITNESS: I am able to remember for a
6 specific reason.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Thank
8 you.

9 BY MR. ROY:

10 Q. And you want to explain to the Judge the specific
11 reasons why you remember that so well?

12 A. Okay. Yes. The reason is for the period of time
13 that you're talking about, we had previously gone through a
14 lot of issues with quality of the product, had gotten
15 rejections, and business had slowed down substantially.
16 And I tried to keep these guys busy doing something and it
17 ended up being weeding a lot of times. They don't really
18 like to weed, but I did what I could to keep them working.

19 And we could not harvest, obviously, in the rain
20 and work some of those days so I know that to be the fact
21 during those times because of that reason.

22 Q. Did you lose any major clients that affected
23 operations during that time period?

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

1 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

2 THE WITNESS: I'm sorry, can you say the question
3 again?

4 BY MR. ROY:

5 Q. Did you lose any major --

6 A. Oh.

7 Q. -- clients or vendors --

8 A. Yeah.

9 Q. -- during that period of time?

10 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
11 Leading.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

13 MR. ROY: Your Honor, I'm not suggesting the
14 answer.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Well, it's a
16 leading question. You could ask him, for example, during
17 that time period, was he gaining or losing clients.

18 MR. ROY: All right. Fine.

19 BY MR. ROY:

20 Q. During that period of time, were you gaining or
21 losing vendors or clients?

22 A. Losing.

23 Q. Did that have an impact upon the crew?

24 A. Yes.

25 Q. And explain how, please.

1 A. Without business, we can't harvest.

2 Q. How were employees paid -- strike that.

3 Were employees paid a paycheck for their work
4 every week?

5 A. Yes.

6 Q. And do you remember the payday?

7 A. Fridays.

8 Q. And would that be the Friday following the last
9 day of work in the prior week?

10 A. Correct.

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

13 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

14 BY MR. ROY:

15 Q. Let's assume for a moment that I worked until
16 Saturday, March 4th, when would I receive my paycheck,
17 Mr. Dighera?

18 A. The following Friday.

19 Q. Okay. And how were those checks routinely
20 distributed to the workers?

21 A. Through Rene at the field.

22 Q. Okay. Do you know of any occasion when Victor
23 Mendoza was provided with two checks; if you know?

24 A. No.

25 Q. Can you think of any --

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Let's
2 clarify because to me that -- I'm not sure what you're
3 asking. Are you saying two checks that are made payable to
4 Victor Mendoza or two checks that could be one for him and
5 one for another member of the crew? Mr. Roy, you can ask
6 either --

7 MR. ROY: I'll clarify, Your Honor.

8 BY MR. ROY:

9 Q. With reference to Mr. Victor Mendoza, do you
10 recall any occasion when he was given two separate checks
11 on the same payday?

12 A. I do, but it was -- oh, I don't know if I can
13 elaborate or not.

14 Q. Please, explain.

15 A. Okay. I -- if there was a period -- and I don't
16 remember 100 percent but if there was a period of time, and
17 it would only be once that he got two checks, it was
18 because he wasn't there on the Friday before. So it would
19 have been maybe on a Monday or a Tuesday, whenever he came
20 back, he may have gotten that check that he wasn't present
21 for.

22 Q. I see.

23 A. Because at the --

24 Q. So he would be getting those two checks for work
25 that he had performed; correct?

1 A. Yes.

2 Q. Albeit at a later date.

3 A. Yes.

4 Q. Would it be fair to say that your wage an hour
5 practices were not consistent with the law in that period
6 of time?

7 A. Yes.

8 Q. Did you try to change it in any way?

9 A. Yes, we were -- we inherited this crew and told
10 them the situation. They all understood it. They were all
11 fine with it. We told them that we were working to get
12 this -- everything lined up correctly and they were fine
13 with that.

14 Q. Did any of the workers ever complain to you --
15 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.
16 When you say, Mr. Dighera, that we told them, who is we?

17 THE WITNESS: Rene.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And how
19 is it that you know that Rene told the crew that? Did you
20 hear him say that?

21 THE WITNESS: I told him to tell them.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. But you
23 didn't actually ever hear Rene say anything to the crew
24 about that; correct?

25 THE WITNESS: No, I -- on one occasion I did.

1 And I remember the exact place in the field where everybody
2 was standing and it was basically at the time that the
3 labor contractor was no longer going to be in this and it
4 was, you know, middle of the day basically and they said
5 what are we going to do, the labor contractor's not coming
6 back. And I told them we can do this; we'll get everything
7 up to speed as quickly as possible. That did happen.

8 ADMINISTRATIVE LAW JUDGE SOBLE: You told that to
9 the crew or Rene?

10 THE WITNESS: To Rene. Standing, you know, there
11 was everybody standing in the field together.

12 ADMINISTRATIVE LAW JUDGE SOBLE: And you
13 understand what Rene told the crew based on your ability to
14 understand him speaking in Spanish?

15 THE WITNESS: Yes.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Mr. Roy.

17 BY MR. ROY:

18 Q. After Rene told the workers what you had asked
19 him to say, did he tell you what he had said to the workers
20 afterwards?

21 A. Yes.

22 Q. So that's how you understood; correct?

23 A. Correct.

24 Q. And was this in 2016 while Art Vasquez was
25 employed by you?

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

2 Leading.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

4 BY MR. ROY:

5 Q. Was this near the time that Art Vasquez was no
6 longer working for you --

7 A. Yes.

8 Q. -- and before the workers were hired on directly?

9 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
10 Leading.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

12 Do you recall a time when Art Vasquez was
13 involved in supplying labor to your company, if ever?

14 THE WITNESS: Yes.

15 ADMINISTRATIVE LAW JUDGE SOBLE: When do you
16 recall that to be; if you recall?

17 THE WITNESS: For all the months that we're
18 discussing. Up until the point of -- I mean, we'd have to
19 look at the paper, but up until the point that he stopped.

20 BY MR. ROY:

21 Q. And when he stopped, you hired the workers,
22 correct?

23 A. Yes.

24 Q. There's been considerable discussion at this
25 hearing about the week following the March 4 date, which

1 was the last date of work for the Art Mendoza(sic) crew. I
2 have a few questions about that.

3 A. Okay.

4 Q. During that week, were you experiencing any
5 problems in the marketplace?

6 A. I think things were pretty slow.

7 Q. Did you give instructions to Victor to let the
8 workers know that there was no work available but that you
9 would let him know to advise them when it became available?

10 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
11 Leading.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

13 BY MR. ROY:

14 Q. Did you give Victor any instructions on work
15 availability during that week in light of the low
16 production in the marketplace?

17 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
18 Leading.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

20 During the week that Mr. Roy is referencing, did
21 you ever talk to Mr. Mendoza about anything?

22 THE WITNESS: No.

23 BY MR. ROY:

24 Q. Okay. Let me ask you, was there anything else
25 going on in your life during the month of February and

1 March of 2017?

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

3 Relevance.

4 ADMINISTRATIVE LAW JUDGE SOBLE: I -- without
5 knowing more, I'm not going to rule on relevance. That's a
6 rather vague question. I suppose during every month of
7 every person's life they have something else going on and
8 you surely don't want Mr. Dighera to say yes during that
9 time period. He slept, he ate, he got dressed, he walked
10 his dog.

11 Presumably, there's something you have in mind
12 from your prior conversations with him. I don't want you
13 to ask a leading question, but on the other hand that
14 question is sort of vague. Is -- I mean, I'll allow it but
15 it's obvious that you have something in mind but --

16 MR. ROY: I'll get there.

17 ADMINISTRATIVE LAW JUDGE SOBLE: -- I'll hold off
18 until I hear what it is.

19 BY MR. ROY:

20 Q. Mr. Dighera, during that time frame we're talking
21 about, were there any grave health problems involving your
22 children?

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

24 It's leading again.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Well that's

1 leading but the flipside of the coin is otherwise we're
2 going to ask a general question. I think in this case I'm
3 going to allow the leading question, knowing that it's
4 leading, weighing that there -- as part of it so that --
5 because I'm not sure that this will be particularly
6 relevant but I'm going to allow it.

7 MR. ROY: It will be shown to be relevant, Your
8 Honor.

9 THE WITNESS: I'm so sorry. Yes.

10 BY MR. ROY:

11 Q. What was happening with your two children?

12 A. I'm so sorry.

13 Q. Do you need a moment to compose yourself, sir?

14 A. No. So we have two kids -- just give me one
15 second.

16 MS. DEYOUNG-DOMINGUEZ: Your Honor, do we need a
17 break?

18 THE WITNESS: I don't talk about this.

19 MS. DEYOUNG-DOMINGUEZ: We can bring some
20 tissues, Your Honor.

21 THE WITNESS: No, I can get through -- I got to
22 get through this. I'm sorry, I don't talk about this very
23 much. So --

24 ADMINISTRATIVE LAW JUDGE SOBLE: Just to make it
25 clear, Mr. Dighera, I mean, to some extent this is up to

1 you. I mean, this question -- I have no way of knowing if
2 this is relevant or not. Obviously, you probably met with
3 your attorney before, and he's decided to ask this
4 question. Without my knowing why it relates, you may be
5 talking about something that doesn't have to do with what
6 we have here, even though it's obviously something would be
7 very significant to you.

8 So with that in mind, we could take a break for a
9 couple of minutes or we can proceed.

10 THE WITNESS: No, I want to get through this.
11 And I think it's very relevant from the standpoint of I
12 wanted to explain why I wasn't at the field all the time
13 during this period of time.

14 We have two kinds with spina bifida. They are
15 both paralyzed from the waist down and in wheelchairs.
16 Through this time period, they probably had over 20 to 25
17 surgeries. And there was a period of time that was just
18 shy of five months that we were in the hospital every day.
19 They didn't leave the hospital for almost five months. My
20 wife was with them every day and I was there five days a
21 week.

22 At that point I had two choices, I'm going to be
23 there for them or I'm going to have a business. It wasn't
24 a choice.

25 I'm so sorry. I've got to get this together.

1 Okay. That's what was going on and I do
2 specifically remember the meeting that we had at Rob's
3 office with Jessica and I'm not sure who else. It was the
4 day that I drove back from the hospital for that meeting.
5 And there was a time when we were sitting at the table that
6 I answered -- I had to step out to answer my phone because
7 our son had just made it through one of those surgeries.
8 I'm so sorry. And that's what was happening at that time.

9 BY MR. ROY:

10 Q. And was that hospital located far away from here?

11 A. Children's Hospital in Los Angeles.

12 Q. Okay.

13 ADMINISTRATIVE LAW JUDGE SOBLE: And just to make
14 it clear, Mr. Dighera, you don't need to apologize for
15 discussing anything like that at this hearing. It may or
16 may not be relevant to what we're doing but I would hope
17 that everyone realizes how important this type of thing and
18 impactful it was regardless of that.

19 So, Mr. Roy, why don't we take a break for like
20 maybe about 60 seconds and then you can proceed with your
21 next question.

22 MR. ROY: All right. Thank you.

23 (Off the record at 9:08 a.m.)

24 (On the record at 9:09 a.m.)

25 BY MR. ROY:

1 Q. I want to clarify that -- were your children
2 hospitalized during the months of January, February, March,
3 and thereafter?

4 A. I don't know the exact day that they went in and
5 out. It's been -- it still continues. But yes, through
6 those periods of times, absolutely.

7 Q. And during those period of times, who oversaw
8 your business?

9 MS. DEYOUNG-DOMINGUEZ: Objection, Your Honor.
10 Vague.

11 ADMINISTRATIVE LAW JUDGE SOBLE: I'll allow it.
12 I agree it's somewhat vague but that's something that
13 Counsel can address if needed, either in cross-examination
14 or further direct examination.

15 MS. DEYOUNG-DOMINGUEZ: Okay. Thank you.

16 BY MR. ROY:

17 A. I ran it as well as I could from the hospital
18 through Rene.

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

20 ADMINISTRATIVE LAW JUDGE SOBLE: Sure.

21 MR. ROY: I don't think I have any further
22 questions, Your Honor.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Is it
24 Ms. DeYoung-Dominguez who is going to be examining this
25 witness?

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

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Would you
3 like a minute or would you like to proceed?

4 MS. DEYOUNG-DOMINGUEZ: If you could just give me
5 a minute.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Sure.

7 (Pause in proceedings)

8 MS. DEYOUNG-DOMINGUEZ: Okay. I'm ready.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. You can
10 proceed.

11 CROSS-EXAMINATION

12 BY MS. DEYOUNG-DOMINGUEZ:

13 Q. Hi, Mr. Dighera. My name's Amisha DeYoung-
14 Dominguez. I know we passed each other briefly in the
15 hallway. And I am the Assistant General Counsel in this
16 case and I just really appreciate your time talking with
17 us.

18 This is my first time at an ALRB hearing and in
19 this virtual setting and so -- and definitely in this
20 virtual setting so I really appreciate your time and really
21 just being here and sharing with us. So if you have any
22 issues with your video, please let us know so we can -- we
23 can assist with that.

24 And I know you shared a little bit about your
25 children earlier and I'm not going to be asking you

1 questions about that, okay? But thank you for sharing that
2 with us.

3 So I believe you told Mr. Roy that you are the
4 owner of Cinagro; is that right?

5 A. Yes.

6 Q. Okay. And when did you start Cinagro?

7 A. 2004, I believe.

8 Q. And how do you start a company like this?

9 A. I'm not sure I understand the question.

10 MR. ROY: Objection. Vague.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

12 THE WITNESS: How did I start it?

13 MS. DEYOUNG-DOMINGUEZ:

14 Q. Uh-huh.

15 A. Or -- I had a crazy idea I wanted to be a farmer.
16 I worked for Department of Water and Power for 31 years and
17 I was -- when I was young, my mother used to drop me off at
18 my grandfather's ranch in San Diego and I had great
19 memories of that, and I always wanted to be a farmer. So I
20 thought -- studied and had a few dollars saved up and
21 figured I could be a farmer.

22 Q. Okay. Thank you. Thank you for sharing.

23 What challenges did you face when you opened your
24 own business?

25 MR. ROY: Objection. Relevance, Your Honor.

1 We're talking about 2004.

2 ADMINISTRATIVE LAW JUDGE SOBLE: I thought I
3 heard 2001, but I'll still sustain the objection.

4 MS. DEYOUNG-DOMINGUEZ: Okay.

5 BY MS. DEYOUNG-DOMINGUEZ:

6 Q. What kinds of produce do you grow?

7 A. Row crop.

8 Q. I'm sorry, I couldn't hear you.

9 A. Row crop.

10 Q. Row crop?

11 A. Row crops.

12 Q. What does that mean?

13 A. I don't know how to explain. Vegetables.

14 Q. Okay. In 2017, what kind of vegetables did you
15 grow?

16 A. Kale, cilantro, parsley, lettuce. Just that kind
17 of stuff.

18 Q. Okay. And was your produce ever featured in any
19 high-end organic markets in -- during that time period?

20 A. Oh, yes.

21 Q. Where were they featured?

22 A. Well, I -- let me back up a little bit. So we --
23 what's the time frame you're asking about? Year-wise, I
24 mean?

25 Q. It can be 2014, 2015, 2016, or 2017.

1 A. So we grew some pumpkins that were in sort of
2 shapes, is that -- are you asking about the specialty type
3 stuff or just --

4 Q. Yeah, whatever you think answers the question.

5 A. Well, all -- so what we grow all --

6 Q. And, you know, let me be specific. What about
7 2016 and 2017? Let's stick to that.

8 A. Our primary business is vegetables. I did a lot
9 of experimenting growing some pumpkins in certain shapes
10 and I'm going to say it was in -- could have been 2015 to
11 2017. We sold some to Whole Foods and Sam's Club and some
12 distributors that I don't know where they go after that
13 point, to what stores. But yeah, we did those.

14 Q. Awesome. Thank you. Okay. And it sounds like
15 this company was doing well. And so -- and you kept a
16 close eye on how the business went?

17 A. No. This business has been a complete loser
18 since day one. To this day, probably still over half a
19 million dollars in debt.

20 Q. I see. But did you hire people that you could
21 rely on in October of 2016?

22 A. Through labor contractors you mean?

23 Q. Did you -- yes.

24 A. Yes, we had a labor contractor.

25 Q. Did you have a labor contractor do payroll? I'm

1 sorry, I already asked that one. To oversee the workforce?

2 A. Yes.

3 Q. Okay.

4 A. They provided the labor, they took care of
5 payroll, they did everything.

6 Q. And did that change at any point?

7 A. Yeah, when the labor contractor left, we assumed
8 that crew.

9 Q. Okay. And that was in 2016?

10 A. I believe so. Towards the end of it, I think.

11 Q. Okay.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Were you told
13 anything as to why the labor contractor left?

14 THE WITNESS: No. The labor contractor is an
15 overall company. I think they have three or four companies
16 within that company. And I -- the way I've been explained
17 now is that it's the same company, I guess, but it was
18 Mike's Farm Labor or Mike something. Then it went to --
19 which they're all one family. So I don't know the inner
20 workings -- the details of how I got -- who I got from who.
21 I just know that it was Art Vasquez was the one bringing
22 the crew.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And my
24 question is not how it shifted from Mike to Art or
25 something like that but rather whenever the last of them

1 left, did they tell you why they were going?

2 THE WITNESS: Art Vasquez was no longer going to
3 be in the labor business.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. He
5 communicated that to you or someone from his family
6 communicated that to you?

7 THE WITNESS: Yes.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And --
9 okay, you can proceed, Ms. DeYoung-Dominguez.

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

11 BY MS. DEYOUNG-DOMINGUEZ:

12 Q. How many workers did you have in the fall of
13 2016?

14 A. I think we had the new crew of five and then
15 however many transferred over from Art.

16 And I don't want to sound vague but when the crew
17 left working for the labor contractor, labor contractor
18 that's their business. They keep a very good, tight ship
19 I'll say. And I think those people look to that as
20 leadership. I wasn't a labor contractor.

21 And when they left that, things really started
22 kind of coming apart. They weren't showing up every day.
23 They weren't doing near the same job as they were doing
24 when they were under the labor contractor.

25 Whoa, something just happened.

1 MS. DEYOUNG-DOMINGUEZ: You might want to --

2 ADMINISTRATIVE LAW JUDGE SOBLE: Unfortunately,
3 the room you're in --

4 MS. DEYOUNG-DOMINGUEZ: -- wave your arms because
5 the light does go out.

6 ADMINISTRATIVE LAW JUDGE SOBLE: -- has a motion
7 detector. So if you want the light to go back on,
8 periodically you may need to either gesture or stand.

9 MS. DEYOUNG-DOMINGUEZ: It's like if you're at a
10 rock concert.

11 MR. ROY: Please stand up and move by your chair,
12 Tony, the lights will go back on.

13 THE WITNESS: Okay.

14 MS. DEYOUNG-DOMINGUEZ: May I proceed?

15 BY MS. DEYOUNG-DOMINGUEZ:

16 Q. Or you're going to finish your answer. I'm
17 sorry.

18 A. No, I lost my train of thought. What were we
19 saying?

20 ADMINISTRATIVE LAW JUDGE SOBLE: I believe you
21 were making reference to some differences in the workforce
22 performance shortly after the labor contractor --

23 THE WITNESS: Right.

24 ADMINISTRATIVE LAW JUDGE SOBLE: -- was no longer
25 involved.

1 THE WITNESS: Yeah, that was it. So basically
2 once they left, they just weren't doing the same job.

3 BY MR. ROY:

4 Q. And when was Rene hired?

5 A. Oh geez. 2010, maybe. I'd have to look to make
6 sure.

7 Q. But several years.

8 A. Yes.

9 Q. And do you know if he was in the field every day
10 when he worked with you?

11 MR. ROY: Objection. Vague as to time.

12 MS. DEYOUNG-DOMINGUEZ: I can clarify, Your
13 Honor.

14 ADMINISTRATIVE LAW JUDGE SOBLE: I'm still
15 thinking about the objection before you do that.

16 I'll sustain the objection. And, yeah, you can
17 ask a more specific question.

18 MS. DEYOUNG-DOMINGUEZ: No problem.

19 BY MS. DEYOUNG-DOMINGUEZ:

20 Q. Was he -- was Rene in the field every day in 2016
21 and 2017?

22 A. I wouldn't want to say every day but primarily,
23 yes.

24 Q. And does he work with you now?

25 A. Yes.

1 Q. And did you know him prior to hiring him 2010, I
2 believe you said?

3 A. No.

4 Q. So in the fall of 2016 and the spring of 2017,
5 how often did you communicate with Rene Macias?

6 A. Probably every day. Maybe not a day in between
7 here and there but mostly every day.

8 Q. And how did you communicate with him?

9 A. Obviously if I wasn't there it was my phone or in
10 person.

11 Q. Okay. And did you communicate about harvesting?

12 A. Yes.

13 Q. And the workers?

14 A. What about the workers?

15 Q. Did you have any communication about the workers'
16 work?

17 A. Well, I would communicate to him if we had an
18 order with a harvest. If we didn't, to have them do
19 weeding or something like that.

20 Q. Okay. And did you have any concerns with their
21 work? I think you had -- you mentioned some things but --

22 MR. ROY: Objection, again, Your Honor. Vague as
23 to time. Are we talking about 2017?

24 ADMINISTRATIVE LAW JUDGE SOBLE: I think what
25 Counsel intends to ask is at the time that the labor

1 contractor worked and after, the crew of Victor Mendoza, at
2 some point did you have some concerns about that crew's
3 performance?

4 THE WITNESS: Yes.

5 BY MS. DEYOUNG-DOMINGUEZ:

6 Q. Okay. And do you remember when those concerns
7 started?

8 A. I would say pretty quickly -- well we had some
9 concerns even with the labor contractor just because we
10 were getting rejections. And then after he left, kind
11 of -- let's just say a week before to a week after, we had
12 some issues harvesting. And then after that, we kind of
13 got things straightened out, showed him what we had to
14 have, and things were okay.

15 But the problem is when you, especially Whole
16 Foods, when you get a rejection, they just cut you off.
17 Not forever but until -- it's almost like they give you a
18 timeout, so to speak. So we had to take ten times the care
19 to make sure everything was perfect in the box, beg to get
20 another order, they'd give me an order, I'd send it in, and
21 they'd say okay, and then they slowly give you a couple
22 orders here, a couple orders there.

23 At that point I had to make sure that they were
24 taking probably three times the amount of time that's
25 normal just to make sure we didn't get a rejection. And we

1 slowly started getting some business back. And then the
2 rains were coming and -- so anyway.

3 Q. Uh-huh. I just wanted to just follow-up on some
4 of the stuff you shared. So these were all concerns that
5 you said start with -- a little bit with the labor
6 contractor and afterwards, correct?

7 A. Yes.

8 Q. Did you ever discipline a worker because of these
9 issues?

10 A. Discipline as in how?

11 Q. Did you ever -- it sounds like there was concerns
12 with the workers but was there ever any writeups or
13 warnings or direction to workers about if they weren't
14 performing the way you were hoping?

15 MR. ROY: Objection. Vague as to whether he did
16 it or the company did it.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

18 MS. DEYOUNG-DOMINGUEZ: I'll rephrase my
19 question.

20 BY MS. DEYOUNG-DOMINGUEZ:

21 Q. Did you ever discipline workers because of their
22 performance issues?

23 ADMINISTRATIVE LAW JUDGE SOBLE: Same objection.

24 MR. ROY: Yeah.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Just to make

1 sure Counsel understands, the question is -- are you asking
2 was he involved with it or did Cinagro?

3 MS. DEYOUNG-DOMINGUEZ: I am asking if he was
4 involved in it, but I can also ask a follow-up if Cinagro
5 was involved in it.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well
7 then, we'll start with the question, Mr. Dighera, from
8 2001 --

9 MS. DEYOUNG-DOMINGUEZ: Your Honor -- oh,
10 sorry --

11 ADMINISTRATIVE LAW JUDGE SOBLE: Just a --

12 MS. DEYOUNG-DOMINGUEZ: Sorry, I thought Rob came
13 out. His video.

14 ADMINISTRATIVE LAW JUDGE SOBLE: From 2001 to
15 present, did -- to your knowledge, did Cinagro ever suspend
16 an employee for some reason?

17 THE WITNESS: No.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. From 2001
19 to today, are you aware of Cinagro ever sending a warning
20 notice to an employee for any reason?

21 THE WITNESS: No.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.
23 Ms. DeYoung-Dominguez.

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

25 BY MS. DEYOUNG-DOMINGUEZ:

1 Q. Did you ever instruct Rene to communicate
2 performance concerns to employees?

3 A. Yes.

4 Q. And what did you instruct him?

5 A. To go and take the time to show them how we had
6 to have the boxes packed.

7 Q. Did you see him do that personally?

8 A. Yeah, on a couple of occasions.

9 Q. Okay. What did you see on those occasions?

10 A. He would gather the crew together and they would
11 cut, say, cilantro for example, and bunch it and put it in
12 the box. And he would just show them that it's got to be
13 organized, it can't just be thrown in the box and shaken up
14 or whatever. And just a standard pack, I guess.

15 ADMINISTRATIVE LAW JUDGE SOBLE: The occasions
16 when you saw Rene do that with workers, was that with the
17 crew of Victor Mendoza or with workers different than that?

18 THE WITNESS: With that crew.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Thank
20 you.

21 BY MS. DEYOUNG-DOMINGUEZ:

22 Q. Did you see that in 2016?

23 A. Yes.

24 Q. Did you see that in 2017?

25 A. Yes.

1 Q. So there are no absences records -- sorry. There
2 are no absences recorded for the foreman Victor Mendoza's
3 crew; is that correct?

4 MR. ROY: Objection. Lacks foundation, assumes
5 facts not in evidence.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. It's
7 cross-examination so the objection assuming facts not in
8 evidence is not something I'm going to consider.

9 Mr. Dighera, would you have a way of knowing if
10 either Mr. Mendoza or any of his crew members were absent
11 on a particular day?

12 THE WITNESS: Yes.

13 ADMINISTRATIVE LAW JUDGE SOBLE: How is it that
14 you would have become aware of that?

15 THE WITNESS: Rene would call me.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Would --
17 was it your expectation that if the foreman was ever
18 absent, as opposed to a crew member, that Rene would have
19 always told you?

20 THE WITNESS: Yes. Maybe not immediately. I'd
21 find out the next day or something but yes.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.
23 Ms. DeYoung-Dominguez.

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

25 BY MS. DEYOUNG-DOMINGUEZ:

1 Q. Mr. Dighera, have you seen payroll records?

2 A. Yes.

3 Q. And if the payroll record didn't show absences,
4 then there was none?

5 MR. ROY: Objection. Vague, Your Honor. She
6 asked if it shows absences, there were none?

7 ADMINISTRATIVE LAW JUDGE SOBLE: I -- let's break
8 this down into a couple of parts so that everybody
9 understands what the question is.

10 Are you asking about absences with respect to
11 Mr. Mendoza or more generally?

12 MS. DEYOUNG-DOMINGUEZ: With respect to
13 Mr. Mendoza's crew.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I think
15 what the attorney wants to ask you, Mr. Dighera, is if
16 there were payroll records that showed one thing, but you
17 had a different understanding based upon Mr. Macias either
18 calling you or not calling you, what would you assume is
19 correct?

20 And if that's the question, I don't think that's
21 a very good question so I'm trying to understand it a
22 little bit better and rather than my trying to come up with
23 a better one, why don't -- Ms. DeYoung-Dominguez, why don't
24 you just proceed as you see fit.

25 MS. DEYOUNG-DOMINGUEZ: Okay.

1 THE COURT: The general line of questioning is
2 fine. I'm just not sure it's clear what precisely you want
3 to ask.

4 MS. DEYOUNG-DOMINGUEZ: Thank you, Your Honor.
5 I'll rephrase the question so it's more clear.

6 BY MS. DEYOUNG-DOMINGUEZ:

7 Q. You testified that there were attendance
8 problems, right?

9 A. Yes.

10 Q. And Rene told you when workers were absent in
11 Victor Mendoza's crew?

12 A. Yes.

13 Q. Okay. Would it surprise you if there were no
14 excessive absences in the spring of 2017 for Victor
15 Mendoza's crew?

16 MR. ROY: Objection. Misstates the evidence,
17 Your Honor.

18 ADMINISTRATIVE LAW JUDGE SOBLE: That objection
19 is overruled. I do --

20 MR. ROY: It's irrelevant.

21 ADMINISTRATIVE LAW JUDGE SOBLE: And the
22 relevance objection is overruled. I do think the term
23 excessive is ambiguous as to what it might mean. So for
24 that reason only, I'll sustain an objection.

25 BY MS. DEYOUNG-DOMINGUEZ:

1 Q. Were you aware if absences were recorded in
2 payroll records that you reviewed?

3 A. Can you say that again?

4 Q. You said that you reviewed payroll records for
5 Victor Mendoza's crew.

6 A. Okay.

7 Q. Yes?

8 A. Yes.

9 Q. Would absences be recorded in that payroll
10 record?

11 A. Yes.

12 Q. Are you aware that there were not absences
13 recorded in the payroll in spring of 2017 for Victor
14 Mendoza's crew?

15 MR. ROY: Objection. Ambiguous, lacks
16 foundation, if he knows.

17 ADMINISTRATIVE LAW JUDGE SOBLE: I'll overrule
18 the objection. But I understand the Assistant General
19 Counsel's question to be asking Mr. Dighera if he is aware
20 that not a single member of Mr. Mendoza's crew missed even
21 a single day during the time period in 2017 that we're
22 talking about.

23 So if that's the question, I'll allow it. And
24 the witness can answer if he has any knowledge on that one
25 way or another.

1 THE WITNESS: So is the question do I know if
2 they were absent --

3 ADMINISTRATIVE LAW JUDGE SOBLE: I understand the
4 attorney to be asking whether you knew to be true or false
5 if Victor Mendoza's crew had perfect attendance in 2017.

6 THE WITNESS: I know there were days when all the
7 people were not in attendance. I don't know the exact day,
8 I'd have to go figure that out, but I do know there were
9 days because I would get a phone call stating that only
10 four or five showed up.

11 I specifically remember towards the last two
12 weeks, roughly, that Victor was not there on at least two
13 days that I know of. And when I inquired where is he? He
14 said, oh, he called and said he had an appointment. Okay,
15 that's fine. He didn't tell anybody the day before, but he
16 just didn't show up for at least a couple days.

17 BY MS. DEYOUNG-DOMINGUEZ:

18 Q. If Victor Mendoza didn't show up for week, who
19 would direct the crew?

20 A. Rene.

21 Q. So for those few days -- that time you're talking
22 about that Victor Mendoza didn't show up for a couple of
23 days, Rene was the one who oversaw the crew for those days?

24 A. He would be the one to tell them what we needed
25 to harvest.

1 Q. So was he out in the fields with the workers?

2 A. Yeah.

3 Q. During those days that Victor Mendoza wasn't
4 there when -- I'm -- and let me be specific. Let me reask
5 my question. I'm trying -- you just mentioned a time
6 Victor Mendoza was out and then he was out subsequently a
7 couple days; is that correct?

8 A. Not a couple days in a row. He would either not
9 show up on the morning or he would leave at lunchtime and
10 not come back. And when I say Rene's in the field, yes,
11 Rene's, I don't know, 100 feet away on a tractor,
12 cultivating a crop or something. But physically at the
13 ranch, I guess.

14 Q. Okay. Do you know what time period that this
15 happened?

16 A. Within the last two weeks.

17 Q. Okay. Of what year?

18 A. '17. Of the last two weeks.

19 Q. Okay. But you testified there was a problem with
20 attendance, not just with Victor Mendoza but also the other
21 workers in the field and his crew?

22 A. Yes.

23 Q. Okay. Is it more fair to say that the workers
24 would miss a day or two of work rather than they missed a
25 lot of days?

1 MR. ROY: Objection. Vague, argumentative,
2 ambiguous.

3 ADMINISTRATIVE LAW JUDGE SOBLE: I don't think
4 it's at all argumentative. I don't think it's ambiguous.
5 But asking the witness if it's fair to say, characterizing
6 something, I'm not sure exactly what that means and how
7 relevant it is. I mean, that'd be like if you asked me was
8 there a long pause between your last question and this
9 question. I mean, one person might think yes, another
10 person might think no.

11 Did Rene Macias express concern to you that the
12 attendance was having a business ramification for your
13 company?

14 THE WITNESS: Yes.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Did Rene Macias
16 ever tell you that he wanted to replace that crew?

17 THE WITNESS: No.

18 ADMINISTRATIVE LAW JUDGE SOBLE: But he was
19 unhappy with that crew?

20 THE WITNESS: Not per se the crew, just unhappy
21 that we didn't know if we were going to get three or four
22 people or six or eight people on any given day and could
23 we, if we had the order, fill it.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Do you think
25 Rene was unhappy with the job Victor Mendoza was doing as

1 foreman?

2 THE WITNESS: Up until the last couple weeks, no,
3 I think it was okay.

4 ADMINISTRATIVE LAW JUDGE SOBLE: During the last
5 couple weeks, do you think Rene Macias was unhappy with the
6 job Victor Mendoza was doing as foreman?

7 MR. ROY: Objection. Calls for speculation, Your
8 Honor. Mr. Macias will be testifying.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Well,
10 Mr. Dighera can answer what his understanding is as to what
11 Mr. Macias communicated to him. I don't want you to guess
12 as to how Mr. Macias felt based just on like his body
13 language or whether he yelled at his puppy or something
14 like that.

15 But did Mr. Macias ever tell you that he was
16 concerned about Mr. Mendoza's performance during those last
17 two weeks?

18 THE WITNESS: No, other than the fact that the
19 couple days that he didn't show up. As far as --

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

21 THE WITNESS: -- performance, no.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And so
23 Mr. Macias never expressed any concern to you about that?
24 He just told you when Mr. Mendoza had not shown up?

25 THE WITNESS: Yes.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

2 Ms. DeYoung-Dominguez.

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

4 BY MS. DEYOUNG-DOMINGUEZ:

5 Q. Mr. Dighera, I wanted to ask you if you see a
6 white binder on the desk in front of you?

7 A. This? Yes.

8 Q. It's an exhibit binder. Yeah.

9 A. Okay.

10 Q. Can you please open to the tab, Exhibit 12.

11 A. Okay.

12 ADMINISTRATIVE LAW JUDGE SOBLE: And before
13 Counsel asks her next question, I need to pull that up on
14 my screen.

15 BY MS. DEYOUNG-DOMINGUEZ:

16 Q. Do you recognize this document?

17 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on.

18 MS. DEYOUNG-DOMINGUEZ: Oh, sorry.

19 ADMINISTRATIVE LAW JUDGE SOBLE: It's just taking
20 a while for this to open. Okay.

21 Mr. Dighera, on the first page of this document,
22 on the bottom right of the page --

23 THE WITNESS: Okay.

24 ADMINISTRATIVE LAW JUDGE SOBLE: -- following the
25 letters CFI, do you see a six-digit number?

1 THE WITNESS: Yes.

2 ADMINISTRATIVE LAW JUDGE SOBLE: What is that
3 number?

4 THE WITNESS: 011001.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

6 Ms. DeYoung-Dominguez, you can ask your next question.

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

8 BY MS. DEYOUNG-DOMINGUEZ:

9 Q. Do you recognize this document, Mr. Dighera?

10 A. Not really. I mean, I know what it is just by
11 looking at it. Did I make the document? No.

12 Q. Okay.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Do you recognize
14 the type of document, generally, not necessarily that
15 specific one?

16 THE WITNESS: Yes.

17 ADMINISTRATIVE LAW JUDGE SOBLE: What do you
18 understand that type of document to be, if in fact this was
19 identical to a similar one that you've seen before?

20 THE WITNESS: It basically looks like a weekly
21 time recording for work.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. If you
23 know, and don't guess if you don't, who is it who's
24 involved in preparing a document like that?

25 THE WITNESS: I would assume Rene because this

1 looks like something that we would have given him in the
2 field to fill out a daily work report.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

4 Ms. DeYoung-Dominguez.

5 BY MS. DEYOUNG-DOMINGUEZ:

6 Q. Okay. When you look at this document, do you see
7 where it says Cinagro Farms, Inc.?

8 A. Yes.

9 Q. And underneath that, what does that say?

10 A. The date.

11 Q. And what's the date?

12 A. 2/26/17.

13 Q. Okay. And what do you think that date means, if
14 any?

15 A. A day they worked.

16 Q. Okay. Do you see --

17 MR. ROY: Objection, Your Honor. The document
18 speaks for itself. The date doesn't show --

19 ADMINISTRATIVE LAW JUDGE SOBLE: Objection is
20 overruled. I'm not sure that this witness does or doesn't
21 know the answer to it but there's obviously a variety of
22 different things that the date could be. I'm not going to
23 state all of them while the witness is present in the room.

24 So I will state so far since the Post-it is -- is
25 the Post-it on the copy the witness has as well? I believe

1 so.

2 THE WITNESS: Yeah.

3 ADMINISTRATIVE LAW JUDGE SOBLE: So for example,
4 since I don't think I'm giving away any state secrets here,
5 the date on the top could be the last day of the period
6 that the workers worked, or it could be the date of the
7 check, or it could be the first day the workers worked. I
8 think what Counsel is trying to elicit is if Mr. Dighera
9 knows which those are without guessing. And so if he does,
10 he can answer the question; if not, Counsel can ask her
11 next question.

12 She's asking if you know for that particular type
13 of document based not upon your knowledge of this document
14 but your past having seen similar documents if you know if
15 the date at the top is, for example, the last day of the
16 workweek or the day the check was issued, or something
17 different.

18 THE WITNESS: My -- I would probably say the last
19 date of the week, which would be the date of a check
20 issued. If that makes sense.

21 BY MS. DE YOUNG-DOMINGUEZ:

22 Q. That does make sense. Thank you.

23 Can you look at the very first column in that
24 box, in that entire table that we're looking at. And do
25 you see the word crew?

1 A. Yes.

2 Q. And two boxes down, do you see the word day?

3 A. Yep.

4 Q. And do you see all those numbers beneath that
5 word day?

6 A. Yes.

7 Q. What do you think those numbers refer to?

8 A. The day.

9 Q. Okay. Possibly the days of the week -- of this
10 week?

11 A. Yeah.

12 Q. Okay.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Just to clarify,
14 when Counsel says the days of the week, I think she means
15 that day of the month.

16 THE WITNESS: Okay. Yeah.

17 MS. DEYOUNG-DOMINGUEZ: The days of the month,
18 correct --

19 THE WITNESS: Right.

20 MS. DEYOUNG-DOMINGUEZ: -- that pertain to this
21 particular week that we're --

22 ADMINISTRATIVE LAW JUDGE SOBLE: So in other
23 words, 21 means February 21st, 22 means February 22nd, and so
24 forth.

25 THE WITNESS: Okay.

1 BY MS. DEYOUNG-DOMINGUEZ:

2 Q. Okay. So do you see a little bit to the right of
3 that cell that says day, kind of looking at -- there is the
4 word Mendoza and then Victor right next to that?

5 A. Yes.

6 Q. And so when we're looking at this week, do you
7 think it's fair to say that this is the paystub for Victor
8 Mendoza for the dates of February 21st, February 22nd,
9 February 23rd, February 24th, and February 25th of 2017?

10 A. Yes.

11 Q. Okay. And so that's five days in a week,
12 correct?

13 A. Okay.

14 Q. Okay. And you see at -- all the way at the
15 bottom right a cell that has a total amount?

16 A. Yes.

17 Q. Uh-huh. What are those numbers?

18 A. 539.

19 Q. Okay. Do you think that potentially could be the
20 total amount that he was paid for that week?

21 A. Yeah. Yes, it could be.

22 Q. Uh-huh. Okay. So this would indicate that
23 Victor Mendoza worked five days this week; right?

24 A. Yes.

25 Q. And if you look at the next page, I'm flipping

1 over.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.

3 Before you go to the next page --

4 MS. DEYOUNG-DOMINGUEZ: Uh-huh.

5 ADMINISTRATIVE LAW JUDGE SOBLE: -- I'm not quite
6 ready. I'm just looking at something here.

7 Okay. You can proceed.

8 MS. DEYOUNG-DOMINGUEZ: Okay.

9 BY MS. DEYOUNG-DOMINGUEZ:

10 Q. So flipping to the next page, do you see the name
11 for this document?

12 A. Yes.

13 Q. What's the name on there?

14 A. Rigoberto Perez.

15 Q. Uh-huh. And do you see on the left-hand column,
16 all the way to the left, under day, all the numbers?

17 A. Yes.

18 Q. Okay. And do you see what the numbers, what they
19 go through?

20 A. 21 to 25.

21 Q. 21 to 25. Okay. And then all the way on the
22 bottom right, again, there's a total amount.

23 A. Yes.

24 Q. And do you see what that total amount is?

25 MR. ROY: Your Honor, objection. Cumulative.

1 The document speaks for itself.

2 ADMINISTRATIVE LAW JUDGE SOBLE: The objection is
3 overruled. I was about to indicate to the Assistant
4 General Counsel that right now I'm not sure what she's
5 seeking to show with this witness, who I think has
6 indicated that he has no recollection of this specific
7 document but rather only of documents like it.

8 So I think his testimony can tell you that if he
9 was to look at this document, that is how he would
10 understand it to read and understand as to what it means
11 but not that he has any independent knowledge of if there
12 was a document that had these particular numbers.

13 I believe Exhibit 12, the parties have stipulated
14 to the admission of it; is that correct?

15 MR. ROY: That's correct, Your Honor.

16 ADMINISTRATIVE LAW JUDGE SOBLE: So -- well I
17 haven't found any of the questions objectionable thus far.
18 Right now I'm not sure how it is that your questions are
19 eliciting anything other than demonstrating how Mr. Dighera
20 would have understood these documents to mean.

21 MS. DEYOUNG-DOMINGUEZ: Okay.

22 MR. ROY: Thank you.

23 BY MS. DEYOUNG-DOMINGUEZ:

24 Q. Did Barbara Ito ever give you a document like
25 this?

1 ADMINISTRATIVE LAW JUDGE SOBLE: Why don't we
2 take a step back for some foundation?

3 Have you ever met someone named Barbara Ito?

4 THE WITNESS: Yes.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Who is Barbara
6 Ito?

7 THE WITNESS: She does our payroll.

8 ADMINISTRATIVE LAW JUDGE SOBLE: When did Barbara
9 Ito start doing your payroll, if you recall?

10 THE WITNESS: I don't have an exact date. I'm
11 sorry.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Do you recall if
13 it was before or after Victor Mendoza's crew started?

14 THE WITNESS: After.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Do you recall if
16 it was before or after Victor Mendoza's crew stopped?

17 THE WITNESS: I don't. I believe it was after,
18 but I don't know 100 percent.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.
20 Ms. DeYoung-Dominguez, you can proceed.

21 MS. DEYOUNG-DOMINGUEZ: One moment, sorry.
22 Mark this spot.

23 ADMINISTRATIVE LAW JUDGE SOBLE: While the
24 Counsel is looking through her records, prior to Ms. Ito
25 arriving, other than Rene, did you have any employees who

1 ever worked on payroll records?

2 THE WITNESS: Yes.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Who were they?
4 I'm asking what were their names?

5 THE WITNESS: Andres Cruz was our stand-in
6 foreman.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Did you have
8 anyone who worked for your company in purely an office or
9 bookkeeping capacity?

10 THE WITNESS: Which time?

11 ADMINISTRATIVE LAW JUDGE SOBLE: Prior -- during
12 the time period from when Victor Mendoza's crew started
13 until whenever Ms. Ito arrived, was there anyone in your
14 company who either handled office matters or bookkeeping
15 matters or personnel or human resources matters? Did you
16 have anyone who did not work in the field?

17 THE WITNESS: I don't think so. The people that
18 I have now, I think -- no, I don't think -- I don't know.
19 That's a terrible answer. It's -- I have somebody now and
20 I don't know if they were working at that time.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Who is
22 the person that you have now?

23 THE WITNESS: Arlis.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Arlis. And
25 prior to Arlis starting, can you recall anyone who did

1 that?

2 THE WITNESS: You know, I thought about this a
3 while ago. There was -- I did have a person doing this and
4 I'd have to go back and see when that was, but there is
5 a -- from when she stopped to Barbara, there was nobody --
6 there was me. There was a gap.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So to the
8 best of your recollection, before Ms. Ito started, all
9 payroll records were either put together by you or Rene?

10 THE WITNESS: Yes.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Except perhaps
12 maybe otherwise by this Andres Cruz?

13 THE WITNESS: Yes.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. During
15 that same time period, did you have -- well no, I'll wait.

16 Ms. DeYoung-Dominguez, you can proceed.

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

18 BY MS. DEYOUNG-DOMINGUEZ:

19 Q. So you mentioned there was a time it was just you
20 and Rene preparing the payroll.

21 A. Yes.

22 Q. Do you recall when that time period was? Could
23 it have been when Victor Mendoza's crew was starting?

24 A. Yes.

25 Q. Okay. And so that would have been around October

1 of 2016?

2 A. Correct.

3 Q. Okay. And then you hired Arlis at a certain
4 point.

5 A. Correct.

6 Q. Do you know how many months after or weeks after,
7 potentially?

8 A. I don't.

9 Q. Okay. Do you remember if it was in the spring of
10 2017?

11 A. I don't.

12 Q. Okay. But at some point you did hire Barbara Ito
13 to do --

14 A. Yes.

15 Q. Okay. And you believe that was in 2017?

16 A. I believe so.

17 Q. Okay. Do you think it was months after you were
18 doing bookkeeping with Rene or just weeks after you were
19 doing bookkeeping with Rene?

20 A. I would -- no, it wasn't weeks. I would say it
21 was at least a couple months, if not more, after we took
22 over the crew from Art's Labor.

23 Q. Okay. And are you still one of Barbara Ito's
24 clients?

25 A. Yes.

1 Q. When you hired her -- Barbara Ito, you
2 instruct -- did you instruct her to prepare payroll for the
3 agricultural workers?

4 A. Yes.

5 Q. And did you instruct her to classify farmworkers
6 as vendors?

7 A. No.

8 Q. No? Okay. What did you instruct her to do?

9 A. I didn't really instruct her to do anything other
10 than the payroll. And I distinctly remember a couple of
11 other farmer friends telling me -- because I didn't know
12 who Barbara Ito was and they said you need somebody
13 specifically that does farm labor, just because regulations
14 change constantly. And I was overwhelmed as it was with
15 life, so I just said I need -- I absorbed this crew, I'm
16 not in this business, I need a payroll company to do this
17 that does farm payroll.

18 Q. I wanted to ask you a little bit about Arlis. Do
19 you remember when you hired Arlis, how soon after you were
20 just doing payroll with Rene? Was it a couple days? A
21 couple weeks?

22 A. No, it was -- I don't know. But I do know that
23 she wasn't -- Arlis wasn't necessarily responsible for any
24 type of payroll. That was -- she was food safety, just
25 basic office stuff.

1 Q. Okay. So that was really -- the payroll was
2 primarily you and Rene --

3 A. Yes.

4 Q. -- prior to Barbara Ito?

5 A. Yes.

6 Q. Okay. And Andres Cruz, that he was before
7 helping -- sorry, let me ask a better question.

8 Prior to you and Rene doing bookkeeping, Andres
9 Cruz was doing the payroll and bookkeeping; is that right?

10 A. No, no, no. Andres Cruz never had anything to do
11 with any kind of payroll. Andres was just a person that we
12 had available to oversee this crew of Miranda when he came
13 and decided he didn't want to be a foreman, that's -- that
14 was Andres's job. But Andres never had anything to do with
15 payroll.

16 Q. I see. Okay. And he worked for you in 2016?

17 A. Yes.

18 Q. And how long did he work for you?

19 A. He's still working.

20 Q. Okay. And he's still working as the foreman?

21 A. Yes.

22 Q. Okay.

23 MS. DEYOUNG-DOMINGUEZ: Your Honor, I need to go
24 through my notes for about five minutes. So I don't know
25 if this is a good time for us to break for the morning; if

1 that would be acceptable.

2 MR. ROY: Your Honor, I have Mr. Macias in the
3 parking lot.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Well, that's
5 fine. That isn't going to impact things here so much.

6 MR. ROY: I --

7 ADMINISTRATIVE LAW JUDGE SOBLE: Do you have an
8 estimate as to right now how much longer the amount of
9 questions that you would have would be?

10 MS. DEYOUNG-DOMINGUEZ: I need to kind of consult
11 my notes because there was quite a bit of information that
12 Your Honor was able to elicit from him and that Rob was
13 able to get from him as well. So I just want to make sure
14 I'm not asking anything --

15 ADMINISTRATIVE LAW JUDGE SOBLE: I'm just trying
16 to get a very general idea, without holding you to it, to
17 try and plan the rest of the day here. Do you think you
18 have less than an hour of further questions?

19 MS. DEYOUNG-DOMINGUEZ: I think that's fair to
20 say.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Less than half
22 an hour?

23 MS. DEYOUNG-DOMINGUEZ: I hope so, yes.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Then I
25 would prefer that we take a break of just four or five

1 minutes for you to consult your questions. Let's see if we
2 can finish your questions before taking a break. And if we
3 get to about 10:30 without having finished your questions,
4 we're probably going to take our break at that time.

5 MS. DEYOUNG-DOMINGUEZ: Okay. Thank you, Your
6 Honor.

7 ADMINISTRATIVE LAW JUDGE SOBLE: And we'll come
8 back, it's 10:05, at 10:10.

9 (Off the record at 10:06 a.m.)

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

11 ADMINISTRATIVE LAW JUDGE SOBLE: You can proceed.

12 MS. DEYOUNG-DOMINGUEZ: Thank you.

13 BY MS. DEYOUNG-DOMINGUEZ:

14 Q. Mr. Dighera, in January and February of 2017,
15 were you ever made aware of worker complaints or concerns?

16 A. No.

17 Q. So Rene never told you about workers complaining
18 about lack of paystubs in 2016 and 2017?

19 A. Yes.

20 Q. What did he say?

21 A. That they were wondering when we were going to be
22 able to get the payroll straightened out. And I told them
23 we were working on it.

24 Q. Did Rene never tell that workers complained in
25 2017 -- 2016 and 2017 about water?

1 A. No, never heard that.

2 Q. So you only heard from Rene about complaints
3 regarding payroll in 2017 -- in spring 2017?

4 A. Yes.

5 Q. And in fall of 2017 -- in fall 2016, did you hear
6 about any complaints?

7 A. No.

8 Q. And you didn't hear any complaints about lack of
9 deductions?

10 A. I don't want to get pinned to a specific date
11 that I heard about it, I just know that when we assumed
12 that crew, we explained the situation, they were fine with
13 it, and we told them that we would get it as quickly as we
14 could.

15 After that I think one time Rene had asked me
16 that -- are we still planning on doing that? And I said
17 yes. But it was -- the way that I've understood it to be,
18 you know, a weekly or more inquiry was not.

19 Q. I just want to clarify. You used some words like
20 "they" and "are we going to do it." Can you explain when
21 you said, you know, we explained, who did you mean by that?
22 We were going to do it; what does that mean?

23 A. When the crew -- when we absorbed that crew from
24 the labor contractor, we told -- I, with Rene, explained to
25 them that we weren't set up for this, this wasn't what we

1 did, we would get it as quickly as we could, and they were
2 fine with it. And I never heard a complaint out of
3 anybody. Like I said, I don't want to say a specific date
4 but there may have been one time that it was brought up
5 that are we still planning on doing this? We, as in the
6 company.

7 Q. And you would have heard those complaints only
8 through Rene; correct?

9 A. Yes.

10 Q. You never heard them from workers directly.

11 A. No.

12 Q. What do you mean when Cinagro wasn't set up to do
13 paystubs?

14 A. For all the specific harvesting formulas, I don't
15 know what you want to call it, to do that type of payroll.

16 Q. So you didn't have the software, or you didn't
17 have the --

18 A. No, I've never had the --

19 Q. -- personnel to calculate deductions for the
20 workers' wages?

21 A. No, I did not have it. And to be honest, I
22 didn't want it. I didn't -- I was just too concerned about
23 not keeping up with regulation changes and not knowing
24 anything about it. I was literally struggling day to day,
25 week to week, to pay rent, keep food on the table. I had a

1 heart attack in March of 2016. It was a survival day
2 today.

3 Q. I'm sorry to hear that.

4 Did -- I just want to focus us on the period of
5 2016 when Victor's crew transitioned to work directly with
6 your crew.

7 A. Okay.

8 Q. Did they -- did you tell the workers that they
9 weren't going to be getting deductions in the fall of 2016?

10 A. Yes. They knew when they -- they didn't have to
11 come with us. It was their choice.

12 Q. Okay. And you -- so you're saying that the crew
13 was okay with it?

14 A. Correct.

15 Q. Did the workers say that?

16 A. The crew is the workers.

17 Q. Right. So they told Rene that they were fine
18 with it and Rene told you?

19 A. Well, yes, but I was -- like the meeting that I
20 mentioned earlier, when I was in the field that day with
21 them, we explained the situation and they were fine with
22 it.

23 Q. Okay. So your basis of understanding on that --
24 after that conversation was that the workers were okay with
25 not receiving lack of deductions in their paycheck?

1 A. Yes. Not --

2 Q. Which --

3 A. With the intent that we were going to work on
4 getting it.

5 Q. Uh-huh. Okay. But you didn't hear any workers
6 specifically say that to you at that meeting?

7 A. No. Absolutely not.

8 Q. Okay. Did you hear workers say anything at that
9 meeting?

10 MR. ROY: Objection. Vague.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. You
12 can answer.

13 BY MS. DEYOUNG-DOMINGUEZ:

14 A. No. I think they were honestly happy.

15 Q. How do you know they were happy?

16 A. I never heard anything to the contrary.

17 Q. At that meeting or ever?

18 A. Ever. But at the meeting either. And like I
19 said, they didn't -- I think some of them or most of them
20 had worked for one of the companies under the Vasquez name
21 so they had the opportunity to go probably a lot of other
22 places.

23 Q. So you testified you think they're happy about
24 not having deductions in their paychecks and I'm trying to
25 understand what your basis of understanding was for that.

1 A. No, I'm not saying that they were happy not
2 having deductions. I'm saying they were happy in making
3 the transition. At that time they voiced no concerns
4 whatsoever over any pay issue at all, period. They were
5 totally aware of the situation.

6 Q. Okay. And when you say aware of the situation,
7 what do you mean by that?

8 A. That we were not in a position to do the same
9 payroll that they had been getting. That we were --

10 Q. And for how long?

11 A. I -- there was no stipulation of time. I told
12 them we would get it as quickly as we could.

13 Q. As quickly as possible, meaning days?

14 A. No, I don't think it was days. I had to find
15 somebody to do it, first of all. I didn't know anybody at
16 that time. And I really don't want to use this as an
17 excuse, but it is the reality, I was absent at that time.
18 I am not going to make an excuse. I did the best I could.

19 Q. You were absent back in October of 2016?

20 A. Through -- yeah. I mean, I'm not going to say
21 each day I wasn't but dealing with what we were going
22 through, yes, I was -- you know --

23 Q. Okay.

24 A. We -- I almost filed bankruptcy. Extremely
25 close. There was no --

1 Q. In October of 2016?

2 A. Probably four times in the last five years. It's
3 just been extremely difficult. And still -- literally up
4 until the last 12 months, it's finally getting to where I
5 can start repaying some debt and survive.

6 Q. So I'm just trying to understand, specifically in
7 October of 2016 --

8 A. Okay.

9 Q. -- you told the workers that you were going to be
10 working on it, right?

11 A. Yeah.

12 MR. ROY: Objection, Your Honor. That misstates
13 the time frame. They told the workers that they would be
14 working --

15 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on, hold
16 on. You can object but I'm not going to have you give a
17 speaking --

18 MR. ROY: All right.

19 ADMINISTRATIVE LAW JUDGE SOBLE: -- objection --

20 MR. ROY: All right.

21 ADMINISTRATIVE LAW JUDGE SOBLE: -- that said
22 when you think someone did or didn't do something.

23 I'm going to allow it as part of cross-
24 examination. By allowing the attorney to ask that question
25 does not necessarily mean that I conclude that's what the

1 witness said before or didn't say.

2 So would you restate your question, just so that
3 the witness hears again?

4 MS. DEYOUNG-DOMINGUEZ: I believe he answered,
5 Your Honor, but you want me to reask it?

6 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Dighera, did
7 you answer the last question? If so, I may not have heard
8 it just because --

9 THE WITNESS: I think I did. I honestly don't
10 remember the question. That sounds ludicrous but I don't.
11 But I did say yes to it, I believe.

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

14 BY MS. DEYOUNG-DOMINGUEZ:

15 Q. And so after you let the workers know that you
16 were working on it, you months later hired Barbara Ito to
17 do payroll?

18 A. Yes. Correct.

19 Q. And then you instructed Barbara Ito to start
20 making the correct deductions?

21 A. I never specified anything to her other than I
22 have this crew, I need to do the payroll. Or have her do
23 the payroll.

24 ADMINISTRATIVE LAW JUDGE SOBLE: So Mr. Dighera,
25 what if anything changed in terms of the checks that the

1 workers received from before Ms. Ito to after Ms. Ito, if
2 you know?

3 THE WITNESS: What changed in the checks?

4 ADMINISTRATIVE LAW JUDGE SOBLE: Correct. If
5 anything.

6 THE WITNESS: I wasn't writing them like I did in
7 the interim. They were going through her payroll service.

8 ADMINISTRATIVE LAW JUDGE SOBLE: So I understand
9 how it affected your responsibility, it took something off
10 of your plate. What I'm asking is what, if anything, would
11 the workers have seen differently, if you know, from when
12 Ms. Ito took over, as opposed to prior to when Ms. Ito was
13 involved?

14 THE WITNESS: They would see a physically
15 different check with probably a much more itemized record.

16 ADMINISTRATIVE LAW JUDGE SOBLE: And when they
17 received the version that Ms. Ito did, did you hear
18 anything from Mr. Macias as to whether or not the workers
19 were pleased or not pleased with that change?

20 THE WITNESS: I did not hear anything.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Either way?

22 THE WITNESS: No.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

24 MS. DEYOUNG-DOMINGUEZ: May I proceed, Your
25 Honor?

1 ADMINISTRATIVE LAW JUDGE SOBLE: Yes, yes. I'm
2 sorry.

3 BY MS. DEYOUNG-DOMINGUEZ:

4 Q. So you didn't explain the worker concerns about
5 the lack of deductions to Barbara Ito?

6 A. No.

7 Q. Or the lack of paystubs?

8 A. You mean before Barbara Ito.

9 Q. No, when you hired Barbara Ito.

10 A. No, I did not have any knowledge of that.

11 Q. Okay. And were you aware that Marisol Jimenez
12 filed an unfair labor charge against Cinagro that -- and
13 the ULP in this case was filed on March 13th, 2017?

14 A. Yes.

15 Q. And you never offer Ms. Jimenez's job back?

16 A. I would have never offered anyone's job back. It
17 would have went through Rene. I never spoke to anyone
18 other than the one time that -- when the transition from
19 Art to -- when Art let me know he was done, at that time I
20 spoke to the crew. From that time -- I mean, I may have
21 walked by and said hi to somebody but no, I never spoke to
22 anyone about any type of work issue.

23 Q. So you --

24 ADMINISTRATIVE LAW JUDGE SOBLE: At the time that
25 you learned about the charge, did you understand, Mister --

1 excuse me, Ms. Jimenez to still be one of your employees?

2 THE WITNESS: I don't know. I don't know if --
3 whenever the charge was filed if she was still an employee
4 or was that after they left. That, I don't know.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Was there some
6 time period that you understood Ms. Jimenez to no longer be
7 your employee?

8 THE WITNESS: Oh, yeah.

9 ADMINISTRATIVE LAW JUDGE SOBLE: And how did you
10 come to that understanding?

11 THE WITNESS: Rene told me that they're -- nobody
12 was coming back.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.
14 Ms. DeYoung-Dominguez.

15 BY MS. DEYOUNG-DOMINGUEZ:

16 Q. Okay. And you never called any of the workers
17 back, and specifically Marisol Jimenez, to let her know
18 that she could return to Cinagro?

19 A. No, I've never spoken to anyone.

20 Q. Okay. And you never instructed Rene to offer her
21 any offers of reinstatement?

22 A. No. I think I understand the question. Once I
23 was aware that there was a case against me, did I call the
24 offer work back after? No. And I specifically didn't
25 because they had already been working right 30 feet across

1 the road.

2 ADMINISTRATIVE LAW JUDGE SOBLE: How is it that
3 you --

4 MS. DEYOUNG-DOMINGUEZ: Your Honor, I would like
5 to motion to strike that as nonresponsive to my question.

6 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not going to
7 strike that.

8 Mr. Dighera, why do you think they were working
9 30 feet across the road from you?

10 THE WITNESS: Because -- I don't know if it was
11 Rene or -- somebody told me that they were working across
12 the road. At that time, I called Josh and he confirmed
13 that yes, they were working there. Josh is the Silent
14 Springs blueberry company.

15 MS. DEYOUNG-DOMINGUEZ: I'm sorry, I couldn't
16 hear you.

17 THE WITNESS: Josh is the Silent Springs
18 blueberry company.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Josh is the
20 owner?

21 THE WITNESS: I believe. Co-owner, maybe, but
22 yes. Josh Waters.

23 ADMINISTRATIVE LAW JUDGE SOBLE: And when you
24 called up Mr. Waters, he just gave you personnel
25 information about his employees just because you asked?

1 THE WITNESS: Yes.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Do you recall
3 what it was that prompted you to call Josh?

4 THE WITNESS: Like I said, somebody -- I heard
5 that that's where they were. Word travels really quick
6 I've learned in this business. So yes, I was made aware
7 that they were working in the blueberries. I didn't know
8 if all of them, or some of them, or whatever, but I -- that
9 was the only reason I had to call them to inquire. I would
10 have not ever known otherwise.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Before I
12 have Ms. DeYoung-Dominguez proceed with any other questions
13 that she has, I'm just trying to explore if there's any way
14 we can determine who it was who told you that some of these
15 workers were working 30 feet away.

16 Is my recollection correct that during that time
17 period you were preoccupied so you weren't out in the field
18 very often?

19 THE WITNESS: No. Yeah, that's correct.

20 ADMINISTRATIVE LAW JUDGE SOBLE: So you probably
21 didn't hear from one of the people working in the field,
22 correct?

23 THE WITNESS: No, it would have been probably
24 from Rene.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

1 Ms. DeYoung-Dominguez.

2 BY MS. DEYOUNG-DOMINGUEZ:

3 Q. When you spoke with Josh, did you ask Josh about
4 specific employees by name?

5 A. Yes.

6 Q. You called and asked specifically about Marisol
7 Jimenez?

8 A. I believe -- whoever was on the complaint, I
9 believe, is who I asked him if he could check and see if
10 they were working.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
12 think you have more than another couple of minutes of
13 questions, Ms. DeYoung-Dominguez?

14 MS. DEYOUNG-DOMINGUEZ: No, Your Honor. I
15 believe that's all the questions I have.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. The
17 reason why I'm asking is because we're at the point where
18 because of the General Counsel's request, we need to take a
19 20-minute break.

20 I think that the questions that I would have,
21 even if nobody else had more after mine, will exceed 15 to
22 20 minutes, so I think we need to take the break now and
23 then have Mr. Dighera come back.

24 So it is 10:37. We will resume at 10:57. Thank
25 you.

1 (Off the record at 10:37 a.m.)

2 (On the record at 10:58 a.m.)

3 ADMINISTRATIVE LAW JUDGE SOBLE: It's 10:58. I
4 think we have everybody back.

5 Mr. Dighera, I've got a few questions. Just so
6 that you understand, when I ask questions, it's not because
7 I am either taking one side or another or because I've
8 reached any sort of conclusion but rather my job is to make
9 sure that the record, that is the transcript, has all of
10 the information in it that is needed for me to reach a
11 proposed decision and then ultimately for a board of our
12 agency to reach a proposed decision.

13 THE WITNESS: Okay.

14 ADMINISTRATIVE LAW JUDGE SOBLE: So I've got a
15 few questions here. Let me just start with Cinagro, it's a
16 corporation?

17 THE WITNESS: Yes.

18 ADMINISTRATIVE LAW JUDGE SOBLE: And you're the
19 sole owner of it?

20 THE WITNESS: Yes.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Is there
22 anybody other than yourself going back to say 2015 through
23 2017, all of those three years -- that is 2015, '16, and
24 '17 -- who had the authority to hire someone?

25 THE WITNESS: No.

1 ADMINISTRATIVE LAW JUDGE SOBLE: So you're the
2 only person who could make the decision to hire someone?

3 THE WITNESS: Well, I take that back. If Rene
4 found somebody or somebody called him or something, he had
5 the ability to hire them and he would tell me.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Before
7 you used either Mike or Art's Labor, did your companies
8 have some employees working in the fields?

9 THE WITNESS: Yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Who hired those
11 employees?

12 THE WITNESS: Myself.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. What
14 would be your hiring process?

15 THE WITNESS: Rene would come to me and say he's
16 got people that want to work. I didn't know any of the
17 people myself. And we would hire them, fill out the
18 paperwork, and have them -- I think we had them -- it
19 didn't happen very often, but I think we would put them on
20 like a two-week probation or something or training if they
21 didn't know how to do the work we were doing.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Did you
23 interview the people or did Rene just bring you
24 recommendations that you approved or denied?

25 THE WITNESS: Yeah. No, I never talk to them.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Let's
2 move ahead to when Victor's crew worked for your company.
3 Were there some members of his crew who had worked for your
4 company before the labor contractors came to your company
5 in 2016?

6 THE WITNESS: To my knowledge, no.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
8 know -- starting with the time period where Victor's crew
9 worked, were the workers paid by piece rate, by hourly, or
10 something different?

11 THE WITNESS: I believe it was a combination. I
12 believe they were paid piece rate and then if they didn't
13 make whatever the required was, they would get compensated
14 hourly to make it up.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know if
16 they were paid using the same formula that the labor
17 contractors utilized or if it might have been different?

18 THE WITNESS: That's a tough call.

19 ADMINISTRATIVE LAW JUDGE SOBLE: I don't want you
20 to guess --

21 THE WITNESS: I don't know.

22 ADMINISTRATIVE LAW JUDGE SOBLE: -- I -- just if
23 you happen to know.

24 THE WITNESS: Then I would say I don't know for
25 sure.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
2 know if when the people in Victor's crew worked for the
3 labor contractor, if they received medical insurance?

4 THE WITNESS: I don't know.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know if
6 when they worked for the labor contractor if they had
7 workers comp insurance?

8 THE WITNESS: I would assume but I don't have
9 knowledge of any internal workings of that company.

10 ADMINISTRATIVE LAW JUDGE SOBLE: And do you know
11 if the labor contractor deducted money for the worker in
12 the crew?

13 THE WITNESS: I would assume that he did but I
14 never saw any of their records or paychecks or -- I don't
15 know anything about their internal company.

16 ADMINISTRATIVE LAW JUDGE SOBLE: So when Mike --
17 Mike's Labor or Art's Labor sent you a bill, it didn't
18 include that information?

19 THE WITNESS: Actually no, I -- you're right, I
20 think it did. I think it did. Because it listed a pretty
21 specific breakdown.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know if
23 the amount the workers were receiving as their paychecks
24 was different when they started working for the company
25 than when they worked for the labor supplier?

1 THE WITNESS: A different amount?

2 ADMINISTRATIVE LAW JUDGE SOBLE: A different
3 formula. Because obviously the amount might vary depending
4 on how much they do from day to day.

5 THE WITNESS: Right. Right. I'm going to say it
6 was the same formula because it was on a per box harvest
7 and I know we didn't lessen it. If anything, we probably
8 increased it. So I don't think -- but that's not really
9 answering your question. Was the formula different? I
10 don't know.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Would you have
12 given Rene the authority to make those decisions without
13 reviewing them?

14 THE WITNESS: No, no. You know, if we were
15 paying \$1.80, let's just use that number as an example, if
16 there was an increase, he -- I would know about it before
17 it happened.

18 ADMINISTRATIVE LAW JUDGE SOBLE: During the time
19 Victor's crew worked, we'll call it directly for Cinagro,
20 were there any increases or decreases, if you recall, in
21 the piece rate for any of the different vegetables?

22 THE WITNESS: If anything, it was an increase.

23 ADMINISTRATIVE LAW JUDGE SOBLE: But do you
24 recall if there was anything --

25 THE WITNESS: I don't.

1 ADMINISTRATIVE LAW JUDGE SOBLE: -- during that
2 time period?

3 THE WITNESS: Not off the top of my head, no.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Am I
5 correct in understanding that during the time Victor's crew
6 worked directly for Cinagro, none of them were treated as
7 if they were employees of the company; is that correct?

8 THE WITNESS: In what respect?

9 ADMINISTRATIVE LAW JUDGE SOBLE: For purposes of
10 payroll, did your company treat Victor Mendoza's crew as if
11 each of them was a vendor or a contractor rather than an
12 employee?

13 MR. ROY: Objection. Calls for legal conclusion.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm not
15 asking him to answer it as a matter of law but rather his
16 understanding in a lay sense of what was done.

17 With that in mind, Mr. Dighera, do you have any
18 understanding of what took place at that time?

19 THE WITNESS: I'm not sure I totally understand
20 the question.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Let me
22 ask you a different question. When Rene Macias worked for
23 the company during the time period that Victor Mendoza was
24 there, do you know if Mr. Macias got health insurance?

25 THE WITNESS: No.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know if
2 any deductions were taken from Mr. Macias's paycheck for
3 things like taxes?

4 THE WITNESS: No, they were not.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Was there
6 anybody who worked for the company, excluding for a moment
7 yourself, where deductions were withheld from their
8 paycheck?

9 THE WITNESS: At the time period you were asking
10 about, no, there were not.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. By the
12 time Arlis joined the company, were deductions taken from
13 her paycheck?

14 THE WITNESS: Yes.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Is there
16 anybody else in the time period of 2016 through let's say
17 April 2017, where deductions were taken from their pay?

18 THE WITNESS: No.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. In 2017,
20 for the first few months, were you only aware of Victor
21 Mendoza's crew or was there another crew that worked during
22 some of that time period?

23 THE WITNESS: There was another crew as well.

24 ADMINISTRATIVE LAW JUDGE SOBLE: What can you
25 tell me about that other crew?

1 THE WITNESS: Not a heck of a lot. Only that
2 Rene came to me and said there was, I don't know, four or
3 five guys maybe or people that wanted to work and at the
4 time we needed a crew, so we hired them.

5 And I think, you know, we were getting really
6 behind on weeding. The crew that we had, Victor's crew,
7 didn't primarily like to do a lot of weeding. So we hired
8 them not specifically for weeding but to help us try to get
9 caught up.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Was there any
11 difference in your knowledge in the skill set of one of the
12 crews compared to the other crew?

13 THE WITNESS: I would say there was a slight
14 difference, but not anything meaningful. And I only say
15 that because I do remember when Art brought this crew. He
16 had explained that most or some of them didn't have
17 experience and we would kind of absorb that cost in
18 teaching them to get them up to speed which I didn't have
19 any option.

20 For me, I'm so small, it's really difficult to
21 get a labor contractor, period. So we did that. So to
22 answer your question, there may have been a marginal
23 difference, but I don't think anything significant.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. What was
25 the -- the difference, if any?

1 THE WITNESS: Just, you know, it's -- that's a
2 multifaceted question. When you're harvesting, you've got
3 to harvest -- you can't just take the whole plant, right?
4 You've got to harvest that are good, the leaves that aren't
5 burnt. You've got to put enough of them in a bunch to make
6 it an acceptable size bunch. And then it's got to be put
7 in a box in a way that when the customer receives it, they
8 open it and it looks good. It's not, you know. I mean,
9 it's fairly basic, but it is, but it does require some
10 detail.

11 ADMINISTRATIVE LAW JUDGE SOBLE: So one of the
12 two groups more skilled than the other at doing that?

13 THE WITNESS: Ultimately, no.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Put it
15 differently, at the time that Mr. Mendoza's crew stopped
16 working there, for your purposes, the two crews had similar
17 skill sets?

18 THE WITNESS: I would say. Yes.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
20 know if Mr. Macias assigned one crew to certain type of
21 vegetables and the other crew to other vegetables or not
22 necessarily?

23 THE WITNESS: I don't know.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

25 THE WITNESS: It was kind of left up to him on a

1 daily basis as to what, you know, there were certain -- I
2 mean, even within a crew, there were certain people that
3 were better doing say spinach, for example, it's more
4 difficult than other crops or whatever.

5 So, you know, the people that were good at
6 certain things would just kind of gravitate to do that, I
7 guess. We didn't -- we didn't make somebody do something
8 they didn't want to do and we really didn't have an issue
9 in that respect.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know if
11 the whole crew simultaneously worked on one vegetable or
12 whether or not on some days for Victor Mendoza's crew, one
13 crew member might have worked on kale while another worked
14 on cilantro?

15 THE WITNESS: Anything could have been happening
16 during the day. (Indiscernible.)

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So that
18 level of detail is not something that Rene would have
19 necessarily briefed you on?

20 THE WITNESS: No. No.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Have you ever
22 met someone named Cesar Miranda?

23 THE WITNESS: Yes.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Who was he?

25 THE WITNESS: He was going to be the foreman when

1 we got that crew. The new crew (indiscernible) --

2 ADMINISTRATIVE LAW JUDGE SOBLE: And did Mr.
3 Miranda speak Spanish, English, or both?

4 THE WITNESS: Spanish.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. As far as
6 you know, did the workers in the group with Mr. Miranda
7 have any deductions taken from their pay?

8 THE WITNESS: No.

9 ADMINISTRATIVE LAW JUDGE SOBLE: As far as you
10 know, during the time period that people in Mr. Mendoza's
11 crew overlapped with when people were working in Mr.
12 Miranda's group, did they receive the same type of paystubs
13 with their checks?

14 THE WITNESS: Yes.

15 ADMINISTRATIVE LAW JUDGE SOBLE: So the
16 information that was given to say Marisol Jimenez would
17 have been the same as the type of information given to
18 Cesar Miranda.

19 THE WITNESS: I believe so, yes.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Did Mr. Macias
21 ever tell you about anybody in Mr. Miranda's group
22 complaining about the paystubs?

23 THE WITNESS: No.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. You
25 indicated that Victor Mendoza was paid one extra hour to

1 get water for his crew per day, correct?

2 THE WITNESS: Yes.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Who was paid, if
4 anyone, in the crew for Mr. Miranda to get water for that
5 crew?

6 THE WITNESS: Whoever we had overseeing that
7 crew.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Was
9 Mr. Miranda ever paid to get the water for the crew that he
10 worked with?

11 THE WITNESS: If it was, it was very short
12 because he -- I was told he was coming over with the
13 understanding that he was going to lead the crew. And then
14 within a matter of days, I was told that he was not going
15 to.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
17 know if Andres overlapped with Mr. Miranda's crew?

18 THE WITNESS: I believe so.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know if
20 Andres Cruz was ever paid to bring water to that crew?

21 THE WITNESS: I think there may have been times
22 on occasion he was paid but the difference with Andres is
23 he could get water from our -- he lives close to our
24 Fillmore Ranch and we have our own system there so he would
25 pick up water there in the morning.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. When you
2 say you have your own system to get water, what does that
3 mean?

4 THE WITNESS: We have a reverse osmosis system
5 set up.

6 ADMINISTRATIVE LAW JUDGE SOBLE: And when you
7 obtain water from your reverse osmosis system, what type of
8 container is it put into?

9 THE WITNESS: Five-gallon jugs.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
11 know if water from that reverse osmosis system was ever
12 brought by Rene to the crew of Victor Mendoza?

13 THE WITNESS: I don't know.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Have you
15 ever met someone named Ignacia Sanchez?

16 THE WITNESS: I know who she is, I have not met
17 her.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So to
19 your knowledge, you've never seen her in person?

20 THE WITNESS: No.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Or if you did,
22 you didn't know that it was her that --

23 THE WITNESS: Yeah. I mean, I could have walked
24 by and said hi or something, but.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Let's go to the

1 time period of February and March 2017. Did you have an
2 understanding that the way you were paying Victor Mendoza's
3 crew did not comply with the law?

4 THE WITNESS: Yes.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Were you
6 concerned that if someone in the crew brought that to
7 people's attention that it could cause you difficulties?

8 MR. ROY: Objection, calls for speculation, Your
9 Honor.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. I'm
11 asking if he was concerned about it, not whether or not it
12 would have caused him difficulties.

13 So you can answer. Was that something that
14 concerned you that they would broadcast that information?

15 THE WITNESS: No. I didn't think there was any
16 issue. I mean, do I know it's wrong? Absolutely. Was I
17 concerned that somebody was going to say something about
18 it? No.

19 ADMINISTRATIVE LAW JUDGE SOBLE: So you weren't
20 concerned that there were some penalties or fines that
21 could be imposed if someone found out about that?

22 THE WITNESS: Well, yes, if -- I wasn't concerned
23 that it would be coming from somebody from the crew. But
24 in general, yes, I know -- I know that.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Let's

1 talk about the conversations you regularly had with Rene in
2 the end of 2016 and early 2017. Sounds like that was a
3 very, very difficult time period for you both in terms of
4 family things and financial things, especially the family
5 things.

6 THE WITNESS: Yes.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Other than
8 talking to Rene, did you get any other feedback about what
9 was happening at Cinagro during that time period?

10 THE WITNESS: No.

11 ADMINISTRATIVE LAW JUDGE SOBLE: There was nobody
12 else in the company who -- who spoke to you about anything
13 substantive let's say from December 2016 through February
14 2017?

15 THE WITNESS: No.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Was Rene paid on
17 a salary basis or some other basis?

18 THE WITNESS: Salary.

19 ADMINISTRATIVE LAW JUDGE SOBLE: And was his pay
20 impacted at all by production or sales?

21 THE WITNESS: No.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. When you
23 got to the beginning of March 2017, did Cinagro have enough
24 work to keep all of the people who were working for it?

25 MR. ROY: Objection. Vague. Are you including

1 the other crew, Your Honor, or --

2 ADMINISTRATIVE LAW JUDGE SOBLE: Yeah.

3 MR. ROY: -- both (indiscernible) --

4 ADMINISTRATIVE LAW JUDGE SOBLE: All the people
5 who worked for them. When you got to the time period of
6 let's say March 4, 2017, approximately, beginning of March.
7 Was there enough work to keep all of the workers in what
8 we'll call for now both crews?

9 MR. ROY: Yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: And as of that
11 time period, you never had discussions with Rene about
12 having to cut workforce?

13 THE WITNESS: No. I think that's the other
14 reason the other crew came is because we had work and
15 couldn't get work done when we needed it.

16 You know, the problem is it's not like a
17 warehouse job where you've got an order and it stand -- and
18 this changes by the day. I would get a call in the morning
19 by the buyer Whole Foods and he would say, hey, tomorrow I
20 need four pallets of something. And so I would have the
21 crew, you know, weeding or something other than harvesting.
22 And then I would get a call. I would call Rene and say, we
23 have the harvests tomorrow. And it was -- I had to have
24 the resources there even if I didn't use it that day, so we
25 would do something else. So, yes.

1 ADMINISTRATIVE LAW JUDGE SOBLE: For almost all
2 of these vegetables, I assume it's safe to say you can't
3 harvest them a week or two early and leave them in boxes
4 because they would go bad.

5 THE WITNESS: No, you have -- I mean, radish, for
6 example, you've got a day and a half and it's going to
7 start going bad.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Was there a time
9 period later in March of 2017 where you didn't have enough
10 work even for the whole crew that was left?

11 THE WITNESS: No, there was always work. And,
12 you know, to that point, there was work, I say, just
13 because -- there was probably times in there where there
14 wasn't work but I was not going to take the chance of
15 letting somebody go and then getting an opportunity to get
16 an order and then couldn't fill it.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. What is
18 your understanding of the circumstances under which Victor
19 Mendoza's crew stopped working for your company?

20 THE WITNESS: As far as I knew, they left to get
21 a better job. I thought everything was going normal as
22 much as normal was until I got a phone call saying -- I
23 think it was a Monday -- nobody from the crew showed up. I
24 had no prior -- I take that back. I -- well, at the time I
25 didn't, but later I was told that one or two of the days

1 that Victor had left early, he had put in a job
2 application. And so I didn't know that at the time. So to
3 my knowledge, they just didn't show up on a Monday.

4 ADMINISTRATIVE LAW JUDGE SOBLE: And to your
5 knowledge, Rene had never told the crew that there would be
6 no work for a few days?

7 THE WITNESS: Well, he could have said that. Or
8 weather related would be the only reason. I do remember
9 there were days we had work for weeding and they didn't
10 really want to weed. So he -- if -- and you can ask him
11 this. If he said something, it would have been to the
12 effect of we're not harvesting today or we're going to
13 harvest half the day or however the day went. But there
14 was always a work -- a job there, it was work.

15 ADMINISTRATIVE LAW JUDGE SOBLE: So as far as you
16 know, at the beginning of March, you never had any
17 conversations with Rene in which it came up that for
18 nonweather reasons, there was no work available even for a
19 couple of days.

20 THE WITNESS: That's tough. I would say no. We
21 would have that doing something.

22 ADMINISTRATIVE LAW JUDGE SOBLE: It's up to you
23 if you -- there's your light back. I'm fine just so you
24 know proceeding with or without the light --

25 THE WITNESS: Yeah, I kind of like the

1 (indiscernible) --

2 ADMINISTRATIVE LAW JUDGE SOBLE: -- whatever
3 works for you.

4 THE WITNESS: It's fine.

5 ADMINISTRATIVE LAW JUDGE SOBLE: So if Rene had
6 told the crew that there was no work for now, that's
7 something you were unaware of; is that correct?

8 THE WITNESS: Yes.

9 ADMINISTRATIVE LAW JUDGE SOBLE: And you have no
10 way of knowing other than communications you would have had
11 with Rene as to what he would have said to either Victor
12 Mendoza or the crew members.

13 THE WITNESS: Correct.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Did Rene ever
15 tell you that some of the crew members had called him
16 directly asking about work?

17 THE WITNESS: Now I heard that but at the time,
18 no.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Yeah,
20 what I'm asking is what you had heard as of 2017 --

21 THE WITNESS: Oh, I'm sorry.

22 ADMINISTRATIVE LAW JUDGE SOBLE: -- not anything
23 that you may have heard either from watching the hearing or
24 from your attorney.

25 THE WITNESS: Okay.

1 ADMINISTRATIVE LAW JUDGE SOBLE: So as of 2017,
2 if any of the crew members had wanted to work on Monday,
3 March 6, it's your position you were unaware of that.

4 THE WITNESS: Correct.

5 ADMINISTRATIVE LAW JUDGE SOBLE: And that was
6 four years ago. I'm not sure if there's anything that
7 would cause you to remember this or not. Do you recall if
8 it was raining on Monday, March 6th?

9 THE WITNESS: I don't, no.

10 ADMINISTRATIVE LAW JUDGE SOBLE: And I can tell
11 you I certainly don't know what it was like four years ago.
12 But. But I'm just asking because you did mention there
13 were a few dates where you remembered things because of
14 some of the other things --

15 THE WITNESS: Sure.

16 ADMINISTRATIVE LAW JUDGE SOBLE: -- going on in
17 your life.

18 THE WITNESS: Correct.

19 ADMINISTRATIVE LAW JUDGE SOBLE: So.

20 THE WITNESS: You know, can add one? I'm sorry.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Sure. Of
22 course.

23 THE WITNESS: To the raining effect situation.
24 So if it rained -- and it did rain quite a bit, I think in
25 January, February. But anyway, you know, it wasn't just

1 the situation of (A), we can't harvest in the rain, yes.
2 But we couldn't harvest at least for a day, depending on
3 how hard it rained, because it was so muddy. So it was
4 kind of a delayed effect, I guess, on harvesting, for
5 example.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. At some
7 point -- so the first day that that crew didn't work in
8 March --

9 THE WITNESS: Uh-huh.

10 ADMINISTRATIVE LAW JUDGE SOBLE: -- do you
11 remember which day that was?

12 THE WITNESS: I don't.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Did Rene
14 just call you one day and say hey, the crew didn't show up
15 today?

16 THE WITNESS: I'm going to say on that point,
17 yes. But there were -- so going back and forth to the
18 hospital, I would stay there at least four days, some weeks
19 five. But I would come back sometimes in the middle of the
20 day, just different times. So I would -- on a day I would
21 go there, I would notice oh, there's half the people, or
22 whatever the number is.

23 So I would -- the days that I did go there, I
24 would have knowledge of that I didn't see half of the
25 people in the field or something like that. Now was it on

1 the -- I'm sorry, the day you asked was Monday --

2 ADMINISTRATIVE LAW JUDGE SOBLE: What I'm
3 interested in knowing is there was a day that was the last
4 day that Victor Mendoza's crew worked.

5 THE WITNESS: Okay.

6 ADMINISTRATIVE LAW JUDGE SOBLE: On the next
7 business day that followed that, I'm trying to figure out
8 if you got a call from Rene and he said, Tony, I'm shocked,
9 the crew, they're missing, nobody's here. I don't know
10 what happened to them?

11 THE WITNESS: Yes, that is what would happen.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. What can
13 you tell me about that call?

14 THE WITNESS: Just that. Nobody -- they didn't
15 show up today. But, you know, I've got to go back and say
16 that there were days where I would get the same phone call
17 and say only three or four people showed up or something
18 like that.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Uh-huh.

20 THE WITNESS: So. I mean, it wasn't a real in-
21 depth call, they're just not here.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And that
23 day when he called you and said none of them showed up.

24 THE WITNESS: Uh-huh.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Which was after

1 the last day they worked, did you ask him if he called
2 Victor Mendoza?

3 THE WITNESS: Oh, I'm sure I did. I don't -- I
4 mean, the only thing I would have -- I don't remember the
5 call exactly so I don't want to say that.

6 MR. ROY: Your Honor, I object. Calls for
7 speculation. He's assuming facts not in evidence.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I'm asking
9 him what he recalls as to what he said or what he heard
10 talking to Rene. So the objection's overruled. But it's
11 quite appropriate if the witness says, as he did say, that
12 he doesn't remember the specifics of the call. I mean,
13 that's fine, but that's not speculating. That's asking the
14 witness does he have some memory and if so, how detailed is
15 it?

16 That's what I want to know. There's no magic
17 words here, Mr. Dighera. I'm trying to find out as much as
18 possible as to what that conversation was about. And no
19 surprise, of course, I'll be asking Mr. Macias the same
20 type of question --

21 THE WITNESS: Sure.

22 ADMINISTRATIVE LAW JUDGE SOBLE: -- does he
23 recall having called you saying, oh, my God, no crew came
24 today. Tony, what should I do?

25 THE WITNESS: Right.

1 ADMINISTRATIVE LAW JUDGE SOBLE: And so I'm
2 trying to figure out was there a conversation, the crew
3 didn't show up, did you like immediately try to scramble to
4 hire a replacement crew for them or did you think, oh,
5 well, they'll all be back tomorrow?

6 THE WITNESS: Well, I think that the other crew
7 was already there at that point.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Uh-huh.

9 THE WITNESS: And this happens quite regularly,
10 honestly. So it's yeah, call them, find out if there --
11 had an appointment they didn't tell us about or something
12 like that.

13 But I mean, in all honesty, if a whole crew
14 didn't show up, you kind of get the sense that they went
15 somewhere else. And that's happened before.

16 ADMINISTRATIVE LAW JUDGE SOBLE: So did you have
17 the sense on that first phone call when he called you and
18 said that the crew wasn't there, even in that call that
19 they'd already gone somewhere else?

20 THE WITNESS: I didn't know anything before that
21 call. But I -- getting that call, that's what I would
22 assume. It would be highly unlikely that they all just had
23 an appointment or something.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Did Rene
25 communicate to you what his impression was in terms of

1 something he specifically said?

2 THE WITNESS: No. At that time, no.

3 ADMINISTRATIVE LAW JUDGE SOBLE: But you're sure
4 that Rene did not tell you that he had advised the crew
5 that there was no work for a few days?

6 THE WITNESS: No.

7 ADMINISTRATIVE LAW JUDGE SOBLE: He didn't say
8 anything like there was no work until further notice?

9 THE WITNESS: No.

10 ADMINISTRATIVE LAW JUDGE SOBLE: In terms of what
11 he told you that he had said.

12 THE WITNESS: Right. Yes.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Did you
14 think at that point that the remaining crew was sufficient
15 or did you need to augment their ranks to make up for
16 Mr. Mendoza's crew being gone?

17 THE WITNESS: I would say we needed more people.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

19 THE WITNESS: Maybe not that day or that week or
20 something but ultimately yes. You know, if we got -- like
21 I said, it's day to day. If I got a call from somebody and
22 said we need product, okay, I've got to hurry up and get it
23 together.

24 If three or four days went by and we didn't have
25 an order, I was happy I didn't have a lot of people.

1 It's -- it's -- (indiscernible).

2 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know if
3 you had any discussions with Mr. Macias about calling some
4 of the crew members of the old crew to see if they wanted
5 to work with your remaining crew?

6 THE WITNESS: I don't know that.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Is there
8 some reason that you assumed that -- or did you assume one
9 way or another that the group as a whole went somewhere?

10 THE WITNESS: Not until the point that I heard
11 it, no, I did not. I had no clue what happened, where they
12 went.

13 ADMINISTRATIVE LAW JUDGE SOBLE: You mentioned at
14 some point that you had a conversation with Josh Waters,
15 correct?

16 THE WITNESS: Correct.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Was that
18 conversation before or after the meeting that you found out
19 that a charge had been filed with the ALRB?

20 THE WITNESS: I want to -- I don't know. I want
21 to say it was before but I don't know.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you recall
23 if Josh Waters said anything about Victor Mendoza going to
24 work for him?

25 THE WITNESS: I don't. No.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. You don't
2 know at that time if Victor Mendoza had a job or not.

3 THE WITNESS: I don't.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Did you mention
5 that you had heard something about Victor Mendoza applying
6 for job?

7 THE WITNESS: I did. I --

8 ADMINISTRATIVE LAW JUDGE SOBLE: But it was with
9 someone other than the blueberry company.

10 THE WITNESS: Yeah, yeah, yes. I don't know who
11 it was but I just heard that he went -- actually, I don't
12 remember, but it was another farming outfit. It wasn't the
13 blueberries.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Why did
15 you call Josh Waters?

16 THE WITNESS: It had to be Rene said that he had
17 heard that's where they went to work.

18 ADMINISTRATIVE LAW JUDGE SOBLE: But I mean, why
19 did you want to know whether or not they worked there?

20 THE WITNESS: Okay. So to answer your previous
21 question, yes, it was after. After I knew about the case.
22 Yeah.

23 ADMINISTRATIVE LAW JUDGE SOBLE: So first you had
24 the meeting involving the ALRB charge and then later you
25 called Mr. Waters.

1 THE WITNESS: Correct.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And so my
3 question is why did you call Mr. Waters?

4 THE WITNESS: Because I was told that that crew
5 had went to work there.

6 ADMINISTRATIVE LAW JUDGE SOBLE: And why did you
7 want to confirm that?

8 THE WITNESS: To know where the crew went.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Why did you want
10 to know where the crew went?

11 THE WITNESS: They left us. I mean, to know that
12 they had a job somewhere.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Why did you want
14 to know if the crew had a job somewhere?

15 THE WITNESS: If they were claiming some issue
16 from me, yet they were already working 30 feet away.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Is what
18 you're saying you wanted to know if they had employment --

19 THE WITNESS: Yes.

20 ADMINISTRATIVE LAW JUDGE SOBLE: -- because of
21 the possibility that they might have filed a charge against
22 you?

23 THE WITNESS: Well, yeah. I mean, the only
24 reason -- and again, this is a long time ago, really
25 stressful time. But it only makes sense in my mind that I

1 was told there was an issue and I was seeing if they were
2 working there.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So you
4 weren't trying to get ahold of them to offer them work, for
5 example?

6 THE WITNESS: No.

7 ADMINISTRATIVE LAW JUDGE SOBLE: So the only
8 reason you wanted to confirm if they had work was
9 essentially to be able to defend if they ever claimed they
10 had lost pay?

11 THE WITNESS: I think that it had already
12 happened, so yes.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. When
14 you -- you had a meeting with the ALRB in 2017. Was that
15 in person or over the phone?

16 THE WITNESS: At Rob's office in person.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. At the
18 meeting at Rob's office in person, were you interviewed?

19 THE WITNESS: Yes.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Do you recall if
21 when you were interviewed how long that was?

22 THE WITNESS: 45 minutes, an hour, maybe.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Do you recall
24 who was present at that interview?

25 THE WITNESS: Jessica. And I'm not sure who the

1 other person was. Maybe Gabrielle.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

3 THE WITNESS: (Indiscernible.)

4 ADMINISTRATIVE LAW JUDGE SOBLE: And perhaps
5 Mr. Roy?

6 THE WITNESS: Oh, yes, and Mr. Roy.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Was Mr. Macias
8 present?

9 THE WITNESS: Yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: And when you
11 were talking, he was there and when he was talking, you
12 were there, they didn't ask anyone to step out?

13 THE WITNESS: No.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Did they ask him
15 some questions in addition to you?

16 THE WITNESS: Yes.

17 ADMINISTRATIVE LAW JUDGE SOBLE: At the interview
18 in 2017, do you recall telling them then that there was one
19 day where the workers, none of them showed up and that you
20 were surprised?

21 THE WITNESS: I don't recall that.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. At the
23 interview in 2017, do you recall anything that Mr. Macias
24 said?

25 THE WITNESS: I mean, I can give you the general

1 conversation.

2 MR. ROY: Objection, Your Honor, calls for
3 speculation. It's been a long period of time.

4 ADMINISTRATIVE LAW JUDGE SOBLE: I don't think --

5 MR. ROY: You're asking --

6 ADMINISTRATIVE LAW JUDGE SOBLE: I don't think it
7 causes for speculation, but if I had him say what was said,
8 I think it might be a rather long narrative, depending on
9 if he remembers much or not and I wasn't intending to do
10 that.

11 What I -- what I'm trying to determine, though,
12 beforehand is not having heard what Mr. Macias is going to
13 say whether or not there was at least some instance in the
14 past -- and it sounds like there was where Mr. Dighera
15 heard what Mr. Macias said to the ALRB.

16 Is that fair, Mr. Dighera?

17 THE WITNESS: Yes.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And do
19 you recall if at all anything from that meeting where you
20 and Mr. Macias had different recollections of what took
21 place?

22 THE WITNESS: No, I don't.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. To your
24 knowledge, did Mr. Macias have any sort of file where he
25 kept notes about the performance of the crews back in 2016

1 or 2017?

2 THE WITNESS: No.

3 ADMINISTRATIVE LAW JUDGE SOBLE: If you recall or
4 if you know, do you have any emails or text messages from
5 Mr. Macias that are from the time period of the last day
6 that Mr. Mendoza's crew worked until say five days
7 thereafter?

8 THE WITNESS: I'm -- do I have text messages
9 from --

10 ADMINISTRATIVE LAW JUDGE SOBLE: Do you still
11 have any text messages or emails from the time period of
12 March 4, 2017 until let's say March 10, 2017?

13 MR. ROY: Objection, assumes facts not in
14 evidence, Your Honor. It assumes that some type of emails
15 were sent.

16 ADMINISTRATIVE LAW JUDGE SOBLE: I'm asking if he
17 has them so the question is appropriate.

18 But Mr. Dighera, if you don't have anything like
19 that, just let me know. And certainly if -- if -- if you
20 were never sent emails or texts from Mr. Macias at all, let
21 me know and we can save some time with my questions.

22 But let me take a step back. I'll just ask that
23 foundationally.

24 Sometimes when Mr. Macias communicated to you,
25 did he send you a text or an email instead of calling?

1 THE WITNESS: Oh, yeah.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Prior to
3 today, did you review your emails or text messages at some
4 point to see if you had any of them in the time period of
5 March 4, 2017 to March 10, 2017?

6 THE WITNESS: No.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. To the
8 best of your knowledge, do you recall one way or another
9 whether Rene called you when the crew didn't show up or
10 whether or not he texted or emailed you first and then
11 maybe called you?

12 THE WITNESS: Okay. For sure no email because we
13 hardly almost never email. It would have been either a
14 text or a call. Under the -- and I don't know. I mean, at
15 times when I couldn't talk where I was, obviously with text
16 and if I could, we would talk on the phone. But I could
17 not tell you at this point whether it was phone call or
18 text.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Did you
20 ever have a discussion with Mr. Macias about needing to
21 give a last check to Mr. Mendoza's crew?

22 THE WITNESS: No.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know how
24 Mr. Macias handled paying the crew after their last day?

25 THE WITNESS: I mean, I know what I've heard

1 since that he met --

2 ADMINISTRATIVE LAW JUDGE SOBLE: That's a good
3 point. At the time in 2017 let's say whenever the crew got
4 their last check, did you know at that time what was being
5 done?

6 THE WITNESS: No.

7 ADMINISTRATIVE LAW JUDGE SOBLE: So you just left
8 that to Mr. Macias to handle?

9 THE WITNESS: Yes.

10 ADMINISTRATIVE LAW JUDGE SOBLE: But at some
11 point you had an understanding from Mr. Macias that this
12 crew was not coming back; is that fair?

13 THE WITNESS: Yeah.

14 ADMINISTRATIVE LAW JUDGE SOBLE: And that
15 understanding was prior to the date that you met with the
16 ALRB?

17 THE WITNESS: I must -- what -- what's the time
18 frame for --

19 MR. ROY: Don't -- Your Honor, I wish to object.
20 It sounds like he doesn't know --

21 THE WITNESS: I don't know.

22 MR. ROY: -- he's going to assume this or --

23 ADMINISTRATIVE LAW JUDGE SOBLE: I'll explore
24 that to make sure we don't have him guessing.

25 There was a day that was the last day the crew

1 worked, correct?

2 THE WITNESS: Yes.

3 ADMINISTRATIVE LAW JUDGE SOBLE: And there was at
4 some point a day where you reached the conclusion that
5 Mr. Mendoza's crew was not going to come back; is that also
6 correct?

7 THE WITNESS: Yes.

8 ADMINISTRATIVE LAW JUDGE SOBLE: And you
9 definitely reached the conclusion that his crew wasn't
10 going to come back before you called the co-owner of the
11 blueberry farm, right?

12 THE WITNESS: Yes. Yes.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So
14 slightly before you called the blueberry farm, you had a
15 meeting with the ALRB; does that sound correct?

16 THE WITNESS: I don't know.

17 MR. ROY: Misstates the evidence, Your Honor.
18 The charge was filed on March 13th, it was months before we
19 had an investigation.

20 MS. ARCINIEGA: Your Honor, to the extent -- oh.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I -- I --
22 I'm going to ask a couple of different questions to clarify
23 that.

24 You think when you called the blueberry company
25 it was within one month of when Victor Mendoza's crew last

1 worked for Cinagro?

2 THE WITNESS: The only way I can say this for
3 sure is that I can tell you that the time I called Josh was
4 after I was aware of the case being filed. I don't know
5 the dates.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Did you become
7 aware of the case being filed prior to the meeting with the
8 ALRB?

9 THE WITNESS: I don't know. You know --

10 ADMINISTRATIVE LAW JUDGE SOBLE: Do you recall if
11 a paper copy of a charge from the ALRB was ever served on
12 either your company or your attorney?

13 THE WITNESS: I do remember a paper, ALRB paper,
14 I don't remember being served it personally or how I
15 received it.

16 ADMINISTRATIVE LAW JUDGE SOBLE: But you had the
17 meeting with the ALRB at Mr. Roy's office, correct?

18 THE WITNESS: Yes.

19 ADMINISTRATIVE LAW JUDGE SOBLE: So you must have
20 known about the meeting prior to the day you met with the
21 ALRB, right?

22 THE WITNESS: Yes. Yes.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
24 recall how many weeks or months the meeting with the ALRB
25 was after the last day the crew worked?

1 THE WITNESS: I don't. But you don't -- do you
2 recall if it was just a couple of days or was it a couple
3 of months or was it a couple of years?

4 MR. ROY: Your Honor, objection based on
5 relevance. We submitted --

6 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. I'm
7 trying to get an understanding of two things here. One, to
8 what extent the witness has a recollection of when dates
9 occurred and what transpired. And I'm also trying to get
10 an understanding of whatever date Mr. Dighera concluded
11 that the crew wasn't coming back. And both of those are
12 relevant.

13 So Mr. Dighera --

14 MR. ROY: But Your Honor --

15 ADMINISTRATIVE LAW JUDGE SOBLE: -- do you think
16 that it was a couple of years --

17 THE WITNESS: No.

18 ADMINISTRATIVE LAW JUDGE SOBLE: -- from when the
19 crew last worked before you met with the people from the
20 ALRB?

21 THE WITNESS: No.

22 ADMINISTRATIVE LAW JUDGE SOBLE: A couple of
23 months?

24 THE WITNESS: I would say months, yes.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And

1 probably not just a week or two after the crew left?

2 THE WITNESS: No. I don't believe so, no.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. That's
4 what I'm trying to get a sense of there.

5 So by the time you met with the ALRB staff, did
6 you already -- was that before or after you spoke with
7 Mr. Waters?

8 THE WITNESS: I don't know.

9 ADMINISTRATIVE LAW JUDGE SOBLE: And -- but by
10 the time you spoke with Mr. Waters, you felt confident that
11 the crew wasn't coming back.

12 THE WITNESS: Yes.

13 ADMINISTRATIVE LAW JUDGE SOBLE: And by the time
14 you spoke with the ALRB, you didn't think the crew was
15 coming back.

16 THE WITNESS: No. No.

17 ADMINISTRATIVE LAW JUDGE SOBLE: And at no time
18 did you discuss with Mr. Macias not counting if it was in
19 the presence of Mr. Roy offering jobs to individual members
20 of Mr. Mendoza's crew?

21 MR. ROY: Objection. It's ambiguous, vague.

22 ADMINISTRATIVE LAW JUDGE SOBLE: I'll ask it
23 differently. And if necessary, I can break it down.

24 There were people in the crew other than Mr.
25 Mendoza, correct?

1 THE WITNESS: Yes.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Did you ever
3 have a discussion with Mr. Macias in which the two of you
4 talked about trying to contact the individual crew members
5 to offer them work at Cinagro?

6 THE WITNESS: No. No.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Did you think of
8 the crew as a group where either you would be hiring all of
9 them or none of them?

10 MR. ROY: If you know.

11 ADMINISTRATIVE LAW JUDGE SOBLE: If you know and
12 if that applies.

13 THE WITNESS: I would have no problem hiring one
14 or all of them. I don't know if that answers the question.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

16 THE WITNESS: I didn't -- I didn't -- I don't
17 know if I totally understand it.

18 ADMINISTRATIVE LAW JUDGE SOBLE: If
19 hypothetically Mr. Macias had come to you saying he was
20 unhappy with Mr. Mendoza -- well, did that ever happen?

21 THE WITNESS: No.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Did he ever tell
23 you he was unhappy with Mr. Mendoza?

24 THE WITNESS: I mean, up until the point that he
25 didn't show up for a day or two, no.

1 ADMINISTRATIVE LAW JUDGE SOBLE: At the point
2 where Mr. Mendoza didn't show up for a day or two, did
3 Mr. Macias seem unhappy with Mr. Mendoza?

4 THE WITNESS: Actually, no. Not -- not with him
5 personally. Just in the fact that if we had an order and
6 something, anything, even rain would cause us not to fill
7 it, it was stressful. I mean, we were barely paying bills.
8 So. But personally with him and Victor, no, no issue.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Aside
10 from personally, if people show up or don't show up, that
11 has an impact on business operations, right?

12 THE WITNESS: Yes.

13 ADMINISTRATIVE LAW JUDGE SOBLE: At some point if
14 people don't show up enough, that could impact your
15 decision as to whether or not they are a good or bad
16 employee, correct?

17 THE WITNESS: Sure.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Did you ever
19 have a conversation with Mr. Macias as to whether or not
20 Mr. Mendoza's absences rose to a level by which he was
21 detrimental to business operations?

22 THE WITNESS: No, we never had a conversation
23 like that. Is that the case? Yes. But no, we never had a
24 conversation like that. And I --

25 ADMINISTRATIVE LAW JUDGE SOBLE: And was it your

1 understanding that Mr. Macias did or did not have the
2 discretion or the authority to fire Mr. Mendoza --

3 THE WITNESS: No, he would have never --

4 ADMINISTRATIVE LAW JUDGE SOBLE: -- at the time
5 the crew stopped?

6 THE WITNESS: No, he would have never fired
7 anyone without telling me first.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

9 THE WITNESS: And not just telling me but me
10 agreeing on it. Nothing would happen.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And why
12 do you understand that to be the case?

13 THE WITNESS: Because it just is. He's -- it's
14 never happened, it never would happen.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Did you ever
16 tell him anytime going back to 2010 that he should seek
17 your permission before firing a worker?

18 THE WITNESS: It would just go without saying.
19 Like that would be completely out of his realm.

20 MR. ROY: Objection. Moves to strike as
21 nonresponsive.

22 THE WITNESS: I don't --

23 MR. ROY: Your Honor --

24 ADMINISTRATIVE LAW JUDGE SOBLE: I spoke --

25 MR. ROY: -- you're now going back ten years.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Well, I'm trying
2 to understand the relationship between Mr. Dighera and
3 Mr. Macias. (Indiscernible.)

4 MR. ROY: Why don't you just -- why don't we just
5 ask whether he ever told him to consult with him before we
6 took any action?

7 ADMINISTRATIVE LAW JUDGE SOBLE: Are you
8 suggesting I should ask that question?

9 MR. ROY: Yes, Your Honor.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
11 understand that question, Mr. Dighera?

12 THE WITNESS: Yes.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Did you
14 ever tell Mr. Macias to consult with you before taking
15 action?

16 THE WITNESS: Yes.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Was Mr. Macias
18 aware in the time period of approximately March 4, 2017 all
19 of the extraordinary family and financial circumstances and
20 burdens you were facing?

21 THE WITNESS: Oh, yeah, he was aware.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I
23 really -- I appreciate your time. I don't have any
24 additional questions, but the attorneys might.

25 I'll start with Mr. Roy, do you have any

1 additional questions for Mr. Dighera?

2 MR. ROY: I supposed I could come up with a few,
3 Your Honor.

4 ADMINISTRATIVE LAW JUDGE SOBLE: My question is
5 do you have any? I am not asking anything other than that.

6 MR. ROY: Yes.

7 ADMINISTRATIVE LAW JUDGE SOBLE: You can proceed.

8 REDIRECT EXAMINATION

9 BY MR. ROY:

10 Q. Mr. Dighera, you -- you said that you grew
11 pumpkins for certain vendors that were sold to Whole Foods,
12 Sam Club; is that right?

13 A. Yes.

14 Q. Any other clients?

15 A. Yeah. There were several. But we also sold them
16 to distributors that sold them to even more people that I
17 don't even know.

18 Q. Did you ever lose any accounts with regard to any
19 of your vegetables that were harvested?

20 A. Not permanently but temporarily, yes.

21 Q. What was your state of mind around the last two
22 weeks of the work of Victor Mendoza's crew? In
23 (indiscernible) of whether they were performing up to your
24 expectations.

25 A. I would say that it was okay. I don't think

1 there was a major problem with their work at that time. I
2 think before that there was a major problem and I think we
3 kind of worked through that.

4 Q. Okay.

5 A. I think it was -- yeah, that's it.

6 Q. At any time after March 4th did you ever instruct
7 Rene Macias to discharge that crew --

8 A. No.

9 Q. -- including Mr. Mendoza?

10 A. Absolutely not.

11 Q. And did you at any time thereafter advise anyone
12 that they were terminated from the company?

13 A. No.

14 Q. To the best of your recollection, the meeting
15 with the ALRB was about a month or two after the charge was
16 filed; is that right?

17 A. Yes.

18 MS. DE YOUNG-DOMINGUEZ: Objection, Your Honor,
19 leading. I had my mic muted, I apologize. I did say at
20 the end of Mr. Roy's question.

21 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not worried
22 about the timing of it, I'm just -- I mean, it's clearly a
23 leading question but I mean I think the -- I'd already
24 asked questions on that, he'd given his best answer then
25 and then he gave an answer to when he was given the leading

1 question.

2 The objection's overruled. I'll allow the
3 answer. I'll just weigh it accordingly.

4 MS. DE YOUNG-DOMINGUEZ: Okay. Thank you, Your
5 Honor.

6 MR. ROY: Your Honor, I don't have any further
7 questions.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Does the
9 assistant general counsel have any additional questions?

10 MS. DE YOUNG-DOMINGUEZ: No further questions,
11 Your Honor.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.
13 Mr. Dighera, we appreciate your time. These hearings are
14 complex processes. Whatever is the outcome of the hearing
15 certainly doesn't diminish the more important family things
16 you had going on at the time. We appreciate your time
17 here.

18 It's important that you don't discuss anything
19 you heard at the hearing within anyone who was a
20 perspective witness. Of course you can continue to talk to
21 Mr. Roy as you choose. But in particular, that means to
22 the extent that we take a lunch break or other breaks
23 during the day, please don't talk with Mr. Macias for the
24 remainder of the day in particular.

25 It's conceivable that someone else from the

1 company could be called back as a rebuttal witness. So
2 until Mr. Roy tells you the hearing's over, it's also best
3 that you don't talk to either Ms. Ito or any of the people
4 in the -- who were in the crews of either Mr. Mendoza or
5 Mr. Miranda.

6 We think that this hearing will probably end by
7 the end of today, although we don't know for sure. So
8 Mr. Roy can let you know when it's over.

9 Do you have any questions related to what I just
10 said in terms of not communicating to people?

11 THE WITNESS: I understand.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. In that
13 case, you're free to go and thank you very much.

14 THE WITNESS: Okay. Thank you.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Once Mr. Dighera
16 is gone, I will talk with counsel for a couple minutes to
17 see if we are going to begin with the next witness or take
18 our lunch break next.

19 THE WITNESS: Do I just walk out now?

20 ADMINISTRATIVE LAW JUDGE SOBLE: I think the
21 General Counsel will send someone to get you out of the
22 room. But I have no problem if the witness thinks he can
23 make it back to the exterior of the building. That's
24 between you and them. You won't get in trouble from us if
25 you do that.

1 THE WITNESS: Okay.

2 ADMINISTRATIVE LAW JUDGE SOBLE: There is another
3 agency there who may or may not prefer to have the people
4 being escorted in and out. And that's only because of the
5 pandemic going on. So.

6 So I don't know, is Ms. Vega on her way down
7 there or?

8 MS. DE YOUNG-DOMINGUEZ: Yes, Your Honor.

9 MS. ARCINIEGA: You're also able to
10 (indiscernible).

11 THE WITNESS: It broke up, what do you say?

12 MS. ARCINIEGA: Oh, you are able to exit the
13 room.

14 THE WITNESS: She's here. Okay. Thank you.

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

16 ADMINISTRATIVE LAW JUDGE SOBLE: Just give
17 Mr. Dighera a few more seconds to get out of the room and
18 then I'm going to hear from all counsel what their
19 preference is for if we're going to start Mr. Macias or if
20 we're going to take our lunch break.

21 It hasn't been that long since we took our
22 midmorning break. So I'll start with Mr. Roy since you're
23 the person who would be starting with the next witness. Do
24 you have a preference?

25 MR. ROY: My preference is that we go to lunch.

1 Allow Gabrielle to clean their office first and then we can
2 go to lunch during that period of time and appear back here
3 at 1:20, 1:25. I don't anticipate Mr. Macias being a long
4 witness and I'm hopeful that we can end by 5:00 or perhaps
5 a few minutes later.

6 ADMINISTRATIVE LAW JUDGE SOBLE: If you were to
7 estimate, would your direct examination be over an hour?

8 MR. ROY: No.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, so less
10 than an hour.

11 MR. ROY: Yes.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Does the
13 General Counsel have a preference -- if we were to start
14 with Mr. Macias we certainly wouldn't be going for more
15 than about 20 minutes. Are you also amenable to just
16 taking our lunch break and then proceeding with Mr. Macias?

17 MS. ARCINIEGA: Only because we had a break just,
18 you know, a little bit ago that we can go forward for 20
19 minutes, Your Honor, that would be our preference.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Here's my
21 thought. I mean, either way we're going to be taking an
22 80-minute lunch break and we're going to go long enough
23 that we're going to be taking a 20-minute afternoon break.

24 So either way, we've got an hour and 40 minutes that we
25 lose and we're going to be done with this conversation no

1 sooner than 12:15, let's say. So you go 1:15, 1:55 -- so
2 we basically have somewhere in the neighborhood of three
3 hours and five minutes for testimony. And if push comes to
4 shove if we can finish the witness by 5:00, even if we then
5 cut the interpreter loose, then it all depends on if we
6 have rebuttal witnesses. I'm certainly happy to go a
7 little bit longer if it's just wrapping up closing
8 statements.

9 If on the other hand this witness is done in two
10 hours, we may even be able to squeeze in if there is a
11 rebuttal witness one by then.

12 So for now, knowing that you haven't heard what
13 Mr. Macias will say, does the General Counsel know for sure
14 that they're going to have rebuttal witnesses this
15 afternoon?

16 MS. ARCINIEGA: We don't know that for sure right
17 now.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Not
19 knowing one way or the other on that, then I'm inclined to
20 go along with Mr. Roy's preference and just have us take
21 our lunch break now. Because we'll have the same number of
22 minutes available for testimony whether we take that break
23 now or if we take it later.

24 What I do want to make sure is if by some -- I
25 mean, you know, I don't know exactly how long Mr. Roy will

1 be and I don't know how long the General Counsel will be
2 with Mr. Macias. But I think if there are rebuttal
3 witnesses that are going to be called, you've probably
4 heard enough to determine they might be. And it would
5 solely be a question of after you hear Mr. Macias's
6 testimony deciding whether you're calling them or not.
7 Obviously it's totally different if you said something that
8 creates the possibility of a rebuttal witness you haven't
9 thought of up until now but I just want to be in the
10 scenario where if there is a rebuttal witness and it's
11 potentially something that's very short, we should do our
12 best to squeeze it in today rather than having to have it
13 done for a different day.

14 So with that in mind, it's 12:09. We will resume
15 from the lunch break at 1:29 with Mr. Macias who believe
16 will be a Spanish-speaking witness.

17 MR. ROY: Thank you, Your Honor.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you,
19 everyone (indiscernible) record.

20 (Off the record at 12:09 p.m.)

21 (On the record at 1:34 p.m.)

22 (All answers through interpreter unless otherwise noted.)

23 ADMINISTRATIVE LAW JUDGE SOBLE: Good afternoon.

24 THE WITNESS: Good afternoon.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Could you state

1 your full name for the record.

2 THE WITNESS: Rene Macias Diaz.

3 ADMINISTRATIVE LAW JUDGE SOBLE: What is the
4 language that you speak best, Mr. Macias?

5 THE WITNESS: Spanish.

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

8 THE WITNESS: Spanish.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

10 Mr. Macias, do you solemnly swear or affirm that your
11 testimony in this hearing will be the truth, the whole
12 truth, and nothing but the truth?

13 THE WITNESS: Yes, I do. I swear.

14 ADMINISTRATIVE LAW JUDGE SOBLE: What will happen
15 this afternoon is that some of the attorneys and myself --
16 hold on one.

17 THE WITNESS: Yes, I do, sir.

18 (The witness is sworn.)

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. What will
20 happen this afternoon, Mr. Macias, is that some of the
21 attorneys and possibly myself will ask some questions in
22 English. After we ask a question, the interpreter will
23 translate the question from English to Spanish. After the
24 interpreter translates a question, please pause for a
25 second or two before you answer. This is because one of

1 the attorneys or myself may object to a question. And if
2 that happens, I will let you know whether it's appropriate
3 to answer the question or instead just to wait for the next
4 question.

5 Sometimes you may have a slightly longer answer.
6 When that happens, there's two things that we'd ask that
7 you do. The first thing is just to try to speak a little
8 bit slower. The second thing is after each say two or
9 three sentences that you speak, if you can pause and allow
10 the interpreter to translate those sentences before
11 finishing your answer.

12 In all of your answers, it's important that you
13 answer orally or audibly using your voice because if you
14 only nod your head or gesture with your hands, that's not
15 able to become fully part of our transcript.

16 If at any point anyone asks you a question and
17 you don't understand the question, please let me know and I
18 can determine if there's a way that the attorney might be
19 able to rephrase the question so that you can better
20 understand it.

21 In approximately two hours, we will take a break
22 for 20 minutes. If prior to that you need to take a short
23 break to use the bathroom or to have a drink of water,
24 please let me know.

25 The first attorney who's going to be asking you

1 some questions this afternoon is Mr. Roy. You can proceed.

2 MR. ROY: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. ROY:

5 Q. Mr. Macias, first of all, thank you for agreeing
6 to come here to testify today. And I apologize for all the
7 time that you have had to wait around in order to be here
8 now.

9 Did you work for Cinagro Farms in January,
10 February, and March 2017?

11 A. Yes, that's right.

12 Q. And what was your job title?

13 A. I was like a General Manager who was in charge.

14 Q. Okay. And how many crews were working during
15 that time period at Cinagro?

16 A. We started with one and after that, another one
17 joined.

18 Q. Were they separate crews with separate
19 supervision?

20 A. Yes, that's right.

21 Q. And when did that other crew start work during
22 that period of time?

23 A. It was almost two weeks before Victor's crew
24 ended.

25 Q. And did they continue to work thereafter during

1 March and April of 2017?

2 A. Yes, that's right.

3 Q. Was the supervisor of that other crew Cesar
4 Miranda for a period of time?

5 A. Yes, for some time.

6 Q. Okay. And was there a point where he was not
7 supervising the crew anymore?

8 A. Who, Miranda?

9 Q. Yes. Yes, Miranda.

10 A. We switched supervisors immediately.

11 Q. Okay. Was that after a few days?

12 MS. ARCINIEGA. Objection. Leading the witness.

13 ADMINISTRATIVE LAW JUDGE SOBLE: I couldn't hear
14 the full objection. I heard that it was leading, but I
15 wasn't sure if there was anything else.

16 MS. ARCINIEGA. That's correct.

17 MR. ROY: I'll re-ask it, Your Honor.

18 BY MR. ROY:

19 Q. Did Mr. Miranda tell you he no longer wanted to
20 be the crew foreman?

21 MS. ARCINIEGA. Objection. Calls for
22 (indiscernible).

23 ADMINISTRATIVE LAW JUDGE SOBLE: I'm having a
24 little bit of trouble hearing Ms. Arciniega. I don't know
25 if it was the connection or if it was just that she was

1 talking at the same time as the interpreter. But either
2 way, the objection is sustained as being leading.

3 BY MR. ROY:

4 Q. Did Mister --

5 ADMINISTRATIVE LAW JUDGE SOBLE: In fact,
6 (indiscernible) just now too.

7 BY MR. ROY:

8 Q. Did Mr. Miranda tell you he no longer wanted to
9 be the foreman of the other crew?

10 ADMINISTRATIVE LAW JUDGE SOBLE: It isn't the
11 same question, it's still leading it for the same reason.

12 MR. ROY: He can answer yes or no, Your Honor.

13 ADMINISTRATIVE LAW JUDGE SOBLE: No, he can't
14 because I've sustained the objection.

15 BY MR. ROY:

16 Q. Whose job was it to bring water to the crew? And
17 again, I'm only talking the period of January 1, 2017
18 through March 4th, 2017. Whose responsibility was it to
19 bring water to the crew of Victor Mendoza?

20 A. He was assigned to bring and in charge of taking
21 the water. And in the occasion that there wasn't any, I
22 was there to supervise that the crew always had water.

23 Q. Did you ever bring water to the crew from the
24 company's office?

25 A. I never did because Victor had water all the

1 time.

2 Q. Okay. And do you know if Victor was paid for
3 bringing the water to his crew each day?

4 A. He was assigned an extra pay aside from his
5 regular pay to cover the expense of the water.

6 Q. Do you remember what that pay was for each day?

7 MS. ARCINIEGA. Objection. Leading.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

9 THE WITNESS: They had added one hour extra of
10 his work.

11 BY MR. ROY:

12 Q. Is that for each day?

13 A. Yes, every day was one extra hour.

14 Q. Did you ever receive any complaints from the
15 workers of Victor's crew that the water did not taste good?

16 A. Not at any moment. As a matter of fact, I even
17 tasted the water to make sure that the containers were
18 clean and the water tasted okay. I always checked on that.

19 Q. Do you remember the last day that Victor
20 Mendoza's crew worked?

21 A. I don't remember the date but I believe it was on
22 a Friday the last day they worked.

23 Q. And when work was done for that week, when were
24 they paid during the following week?

25 MS. ARCINIEGA. Objection. Leading.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Can I hear the
2 question again?

3 MR. ROY: Yes. When work was completed during
4 that week, what day did they receive their paychecks the
5 following week?

6 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

7 BY MR. ROY:

8 Q. When did the workers in Mendoza's crew receive
9 their payroll check for that last week they worked?

10 A. I believe they stopped working on Friday, and
11 Saturday they showed up to pick up the check.

12 Q. Was that the day after they stopped working or at
13 a later date?

14 MS. ARCINIEGA. Objection. Leading.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

16 THE WITNESS: I really stopped working on Friday
17 and then some people went on Saturday. And then others
18 went on Monday because they were not able to go on
19 Saturday.

20 BY MR. ROY:

21 Q. Do you remember the date when you distributed the
22 checks to Victor Mendoza?

23 MS. ARCINIEGA. Objection. Leading. Assumes
24 facts not in evidence and misstates prior testimony.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Same. Do you

1 remember how the last checks to Victor Mendoza's crew were
2 distributed?

3 THE WITNESS: I gave them to Victor personally.
4 I gave Victor personally the checks to distribute to the
5 people that live in Oxnard. And the people that lived --
6 and the people that live in Fillmore and Santa Paula went
7 to pick them up themselves.

8 BY MR. ROY:

9 Q. Then what day did they pick them up? Meaning the
10 two additional workers.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Just a moment.
12 I don't know if we established.

13 Mr. Macias, the people who picked up the checks,
14 did they pick them up from you or from someone else?

15 THE WITNESS: I handed it to them personally.

16 BY MR. ROY:

17 Q. Do you remember --

18 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Roy, you can
19 proceed.

20 MR. ROY: Thank you.

21 BY MR. ROY:

22 Q. Do you remember the names of the two workers that
23 you gave the checks to?

24 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
25 object to that as being leading and assuming facts not in

1 evidence. I don't think the witness has said yet how many
2 workers he gave them to, only he divided them up by their
3 geographic area of residence.

4 MR. ROY: Sorry.

5 BY MR. ROY:

6 Q. Mr. Macias, would you please provide the names of
7 the workers you provided the checks to personally. Thank
8 you.

9 A. One lady's name is Ignacia Sanchez and she's
10 called Dona Marie. And the other one is Maria Lauriano and
11 she's also called Dona Marie.

12 Q. Let's go back to the day when you distributed
13 some of the checks to Victor Mendoza.

14 ADMINISTRATIVE LAW JUDGE SOBLE: I'm sorry
15 before -- I have a question on his last answer.

16 Mr. Marcias, if you know, why is Ignacia Sanchez
17 called Dona Marie.

18 THE WITNESS: I don't know but when she showed up
19 to work, she introduced herself. She explained that her
20 name was Ignacia Sanchez but she liked to be Dona Marie or
21 Marie.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Thank
23 you.

24 Mr. Roy.

25 BY MR. ROY:

1 Q. Mr. Macias, let's go back to the day that you
2 gave some of the payroll checks to Victor Mendoza. Do you
3 recall that day?

4 A. I don't remember the date because it's been a
5 long time, but I know it was immediately after the date
6 that they did not show up for work anymore.

7 Q. Did you speak to Victor at that time?

8 A. Yes, that's right.

9 Q. And what did you tell him?

10 A. I told him that there wasn't a lot of orders for
11 cutting. There wasn't a lot of orders. I told him that
12 because there was no orders, they could do weeding. He
13 told me that he would see because he did not have a lot of
14 people and they did not like to weed.

15 Q. At that time, were you aware that some of the
16 employees in Victor Mendoza's crew were employed elsewhere?

17 MS. ARCINIEGA. Objection. Calls for speculation
18 and lacks foundation. Apologize to the translator.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. And
20 sustained as to leading.

21 BY MR. ROY:

22 Q. Mr. Macias, when was the first time that you
23 learned that other employees were working elsewhere?

24 MS. ARCINIEGA. Objection. Leading.

25 MR. ROY: That's not leading.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled as to
2 the leading. Sustained as to vague.

3 Mr. Macias, was there a time when you learned
4 that the members of Victor Mendoza's crew worked at
5 somewhere other than Cinagro Farms?

6 THE WITNESS: That's right.

7 BY MR. ROY:

8 Q. And do you remember how you came about that
9 knowledge?

10 A. Yes, I do remember.

11 Q. Would you please explain it to us.

12 A. When I come back, I had been working in Moorpark.

13 Q. All right. In the future, you need to break up
14 your answers. Okay, Mr. Macias?

15 A. Yes.

16 Q. Because the translator needs to translate. Thank
17 you.

18 A. When I would leave from Moorpark, I usually would
19 go down Spring Road, but that day we decided to take the
20 other road because there was too much traffic. And we were
21 driving in front of the blueberry ranch and there was
22 people coming out of the ranch crossing the street. We
23 slowed down to let pass, and we saw Ignacia Sanchez, Maria
24 Laurino, and greeted them, and then we saw the rest of the
25 people coming out.

1 ADMINISTRATIVE LAW JUDGE SOBLE: When you say we,
2 Mr. Macias, was there someone in your vehicle with you?

3 THE WITNESS: Yes, there was another person that
4 works with me too.

5 ADMINISTRATIVE LAW JUDGE SOBLE: And who was
6 that?

7 THE WITNESS: Jorge, excuse me, Geraldo Gomez.

8 BY MR. ROY:

9 Q. Mr. Macias, did you have a conversation with
10 Ms. Lauriano and Ignacia Sanchez?

11 A. That day, yes, very short, but we did.

12 Q. Will you explain to us what the conversation was
13 about?

14 A. I just said, hi, how are you? Are you guys
15 working here? They said yes, here we are and so are the
16 rest of the other ones that were over there with you guys.

17 Q. Did either of those individuals tell you that
18 Marisol was working there?

19 MS. ARCINIEGA. Objection. Leading.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

21 BY MR. ROY:

22 Q. Did they tell you anything else about who worked
23 there?

24 A. I did ask but I also saw Marisol and Rigo, that's
25 what we used to call him, and a couple of other people goes

1 by.

2 Q. Did you mean Hector, her partner? Also
3 (indiscernible) again.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Did you ever
5 know Rigo by a different name?

6 THE WITNESS: I'm sorry, I messed up their names.
7 I believe I saw Marisol with Hector. I just got them mixed
8 up. One is Hector and I believe that they might have a
9 relationship but I'm not sure because I never asked them
10 what their relationships are. And then there was another
11 guy by the name of Rigo.

12 BY MR. ROY:

13 Q. Mr. Macias, on the day you gave Victor Mendoza
14 his final check, how many checks did you give him that day,
15 if any?

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm going
17 to object to that question as being vague for two reasons.
18 One is --

19 MR. ROY: I will withdraw. I will withdraw.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

21 BY MR. ROY:

22 Q. On the day --

23 ADMINISTRATIVE LAW JUDGE SOBLE: Let me -- one of
24 the two reasons why it's vague is if you want to specify
25 checks that were made out to Victor or that were made out

1 to other crew members.

2 MR. ROY: Understood.

3 BY MR. ROY:

4 Q. Mr. Macias, I'm going back to the day that you
5 provided the paychecks for the crew of Victor. How many
6 personal checks, excuse me, how many checks were -- did you
7 have for Victor?

8 A. I gave him the ones for the personnel that was
9 going from Oxnard to Fillmore.

10 Q. Did you also give Victor a check?

11 A. It was his pay also along with his coworkers.

12 Q. Did you give two checks to Victor personally?

13 MS. ARCINIEGA. Objection. Leading.

14 MR. ROY: Personalmente.

15 THE WITNESS: Okay. Personally?

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. First,
17 there was an objection and then Mr. Roy said something else
18 that I don't think was a response to the objection.

19 Are you basically withdrawing your earlier
20 question, Mr. Roy, and --

21 MR. ROY: Yes, I'll withdraw it, Your Honor.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

23 BY MR. ROY:

24 Q. Mr. Macias, on that day you distributed the
25 payroll checks to Victor, how many paychecks did you give to

1 Victor himself? Not the other crew members, just for
2 Victor.

3 A. Just the one.

4 Q. Mr. Macias, during this time frame, again only
5 from January 1 to March 4, 2017, did you have any meetings
6 with Victor's crew about complaints of the workers?

7 A. Only one time I had one.

8 Q. And what was that concerning?

9 A. About problems between them. Sometimes Victor
10 would assign them the rows with better product, the rows
11 among themselves. Some people were complaining about
12 people coming into their rows because there was better
13 product and they were not happy about that.

14 Q. Did you ever have a meeting with the workers
15 where they complained about not having a wage statement
16 with their check?

17 A. Well, no, we didn't because in the paycheck that
18 they got, the stub showed the number of boxes and the hours
19 they had worked.

20 Q. Did you ever have a meeting during that same time
21 period with the crew members where they complained about
22 lack of water?

23 A. They never -- they never lacked water. As a
24 matter of fact, I told you I was always checking on the
25 jugs of water that they had. As a matter of fact, I was

1 always checking especially on the hot days to see that they
2 had fresh water or that ice was placed so that the water
3 was fresh.

4 Q. Following the day that you had the meeting with
5 Victor when you distributed the checks to him, did you tell
6 Victor he was terminated from the company?

7 MS. ARCINIEGA: Objection. Leading.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

9 THE WITNESS: Like I told you a moment ago, I
10 told him that there was work for weeding and were cleaning,
11 but the people did not like to do that because they would
12 earn more money with the boxes. And I think that that's
13 why they didn't want to go back.

14 MS. ARCINIEGA: I move to strike to speculation,
15 Your Honor, and as nonresponsive to the question asked.

16 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not going to
17 strike the testimony.

18 But Mr. Macias, did Mr. Mendoza ever tell you
19 that the workers did not want to come back?

20 THE WITNESS: During those days, it was also the
21 rainy season. And when I would tell Victor what they had
22 to do, I would ask him to find how people were going to
23 show up and how many people wanted to work. He told me he
24 would tell them and ask them because not everybody wanted
25 to work. And I told him that was optional since I didn't

1 want them to be at risk for slipping or falling or anything
2 like that.

3 ADMINISTRATIVE LAW JUDGE SOBLE: On the day that
4 you handed Mr. Mendoza those last checks, was it raining?

5 THE WITNESS: The day that he went to pick them,
6 no, I don't remember. But the week prior to that, it had
7 rained because the field was very wet.

8 BY MR. ROY:

9 Q. Was that the last week that they had worked in
10 Victor's crew?

11 A. I remember more or less. I don't know exactly,
12 but it was that week.

13 Q. At any time, did Mr. Dighera instruct you to
14 terminate Victor?

15 A. No, not any moment because we also needed them
16 for the cleaning.

17 Q. Did you at any time terminate Victor?

18 A. No, I told him that he was able to clean and he
19 let me know that he was going to let his people know and he
20 would let me know.

21 Q. Thank you.

22 MR. ROY: I have no further questions, Your
23 Honor. But I'd like to just state for the record that this
24 direct testimony was for a limited period between January 1
25 and March 4th of 2017. So I would hope that we don't go

1 outside the scope of direct.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well I
3 don't expect to limit people from going outside the scope
4 of direct if and only if they would otherwise be calling
5 Mr. Macias potentially as a rebuttal witness to any other
6 testimony that was giving during the hearing, in which case
7 the counsel should advise me of that so that I know they
8 won't be calling Mr. Macias back at a separate time after
9 you've rested your case. But let's wait and see what
10 questions are asked and what they -- and we can address if
11 you have a particular objection at that time, please feel
12 free to restate it when you hear a question.

13 MR. ROY: Thank you.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Who is going to
15 be asking questions for Mr. Macias?

16 MS. ARCINIEGA: I am, Your Honor.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. You can
18 proceed.

19 MS. ARCINIEGA: The General Counsel's Office will
20 not be calling Mr. Macias back and we would request the
21 same latitude regarding going far outside the scope of
22 cross-examination that Mr. Robin -- or Mr. Roy, excuse me,
23 enjoyed when he cross-examined the witnesses that General
24 Counsel's Office called.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Well it's

1 slightly different because he was calling people -- or he
2 was questioning people during your case that he could be
3 calling in his case in chief. Your case in chief is
4 already done. So I may allow you to ask questions of
5 Mr. Macias that were outside of the scope of what Mr. Roy
6 asked, but if they are, I'm going to have to conclude that
7 they would rebut some other testimony that's part of
8 Mr. Roy's case. For example, that another witness stated.
9 With that in mind, it's still easier for me to rule on
10 things initially when we have a question pending.

11 MS. ARCINIEGA: Thank you for the clarification.
12 We don't plan on (indiscernible). May I begin?

13 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

14 MS. ARCINIEGA: Great.

15 CROSS-EXAMINATION

16 BY MS. ARCINIEGA:

17 Q. Good afternoon, Mr. Macias, my name is Jessica
18 Arciniega, and I work on behalf of the State of California.
19 And I'm going to ask you some questions this afternoon. If
20 you encounter any problems on your end with not being able
21 to hear or the screen, you can't see us, please let us
22 know.

23 A. Exactly.

24 Q. And you recall taking an oath to tell the whole
25 truth this afternoon before you answered Mr. Roy's

1 questions, correct?

2 A. That's right.

3 Q. And you understand you're still under that oath
4 to tell the whole truth when I ask you the questions.

5 A. Yes, that's right.

6 Q. Thank you. Did you drive Marie Lauriano to the
7 hearing yesterday?

8 A. Yes, that's right. Yes.

9 Q. Did you speak to her about the testimony
10 yesterday when you drove her here?

11 A. No, not at all.

12 Q. Okay. Did you talk to Mr. Dighera today?

13 A. No.

14 Q. Did you talk to him in this last months about
15 your testimony here today?

16 A. No.

17 Q. And did you talk to Mr. Roy today before you came
18 to testify?

19 A. Yes, he gave me the address and the hour so that
20 I can show up to the appointment.

21 Q. And in this past month, have you talk to Mr. Roy
22 about your testimony here today?

23 THE INTERPRETER: Counsel, you cut in. I just
24 want to verify, did you say at the last month, did you
25 speak to Mr. Roy about your testimony here today?

1 ADMINISTRATIVE LAW JUDGE SOBLE: In the past
2 month, but that would be the same.

3 MR. ROY: I'm going to object as relevance since
4 he is a management representative and I'm counsel for the
5 company.

6 ADMINISTRATIVE LAW JUDGE SOBLE: I always have
7 allowed that question historically. There may be a
8 question as to privilege if she asks what was said, but I
9 always allow if someone has talked to you.

10 MR. ROY: Fine.

11 THE WITNESS: No.

12 BY MS. ARCINIEGA:

13 Q. Okay. Is it your testimony that you told Victor
14 Mendoza that the only work at Cinagro that week in 2017 was
15 weeding work and cleaning?

16 MR. ROY: Objection. Vague, Your Honor.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

18 THE WITNESS: Like I said, the orders had been
19 reduced and I was waiting for orders from my boss.

20 BY MS. ARCINIEGA:

21 Q. Is that what you told Mr. Mendoza?

22 MR. ROY: Your Honor, he was going to finish some
23 more.

24 ADMINISTRATIVE LAW JUDGE SOBLE: I don't think
25 either counsel can tell that for sure.

1 So Mr. Macias, had you finished your answer?

2 THE WITNESS: No. (Not translated).

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I didn't
4 hear the translation but I heard him answer my question.

5 So Mr. Macias, I know you speak a little bit of
6 English but please wait for the interpreter to translate
7 from English to Spanish. You can finish your answer in
8 this instance.

9 THE WITNESS: So, like I said, I was waiting for
10 an order from boss and let's say for instance I can tell
11 Victor if I haven't received an order to go ahead and
12 clean. So let's say tomorrow there is an order, then I
13 have to adjust and change all the plans. I have to adjust
14 things based on the orders and on my boss's orders.

15 ADMINISTRATIVE LAW JUDGE SOBLE: So, Mr. Macias,
16 at that time, did you tell Victor that you would call him
17 as soon as there were more orders?

18 THE WITNESS: I told him that there was reduction
19 in orders to cut because there have been a lot of
20 rejections because they were not cutting things the way
21 they were supposed to. I mentioned to Victor that we'll
22 see how the orders start coming in. And if there are
23 orders to cut, then we'll change from cleaning to cutting.
24 That's what I had mentioned to him.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. You can

1 proceed, Ms. Arciniega.

2 MS. ARCINIEGA: Thank you, Your Honor.

3 BY MS. ARCINIEGA:

4 Q. But that week of March, weeding and cleaning
5 wasn't the only work available, correct? There was other
6 work.

7 MR. ROY: Objection. Vague.

8 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not sure if
9 the interpreter's done or not.

10 THE INTERPRETER: Yeah.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. The
12 objection's overruled.

13 THE INTERPRETER: Can you repeat the question,
14 please?

15 ADMINISTRATIVE LAW JUDGE SOBLE: During the week
16 of March 6th through March 12th, 2017, were any vegetables
17 harvested at Cinagro?

18 THE WITNESS: I mentioned before, it would be one
19 day where we would cut and then two days that we wouldn't.
20 So we would clean so that people would not be without
21 working. But like I mentioned, people -- so I wouldn't
22 tell them that there was no work, I would tell them we're
23 not going to cut today but tomorrow we can clean.

24 MR. ROY: Your Honor, I think it was
25 nonresponsive because the question dealt with whether any

1 vegetable cutting work was done during that week.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm going
3 to allow the answer.

4 Mr. Macias, do you remember the week of March 6th
5 through the 12th of 2017 well enough to be able to say which
6 vegetables, if any, were cut that week at Cinagro?

7 THE WITNESS: I don't remember exactly, but what
8 we had planted was green kale, black kale, and cilantro.

9 ADMINISTRATIVE LAW JUDGE SOBLE: And who was it
10 who cut the kale that week?

11 THE WITNESS: Victor's crew would cut it.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm
13 talking about the first week that Victor's crew wasn't
14 there. Was there still kale to cut the week after Victor's
15 crew was gone?

16 THE WITNESS: My mission January, February, and
17 March is when that product flourishes and then we just trim
18 it and it's like a season for that product ends.

19 MR. ROY: Your Honor, why don't we just ask him
20 directly if the other crew was doing the harvest rather
21 than dancing around this?

22 ADMINISTRATIVE LAW JUDGE SOBLE: You can
23 certainly ask that question if you have any redirect for
24 the witness, but I prefer not to ask leading questions on
25 my questions at least, because regardless of either of the

1 counsels, if you have answers you hope to get, I don't have
2 any answers I hope to get. I just want to find out what
3 the witness recalls and I'm not certain whether the witness
4 actually recalls that week in particular or not. So that's
5 what I'm trying to figure out.

6 And, but for now, I'll go back to having
7 Ms. Arciniega ask questions. But for the benefit of all the
8 attorneys, I don't know yet, I don't feel like I know
9 whether Mr. Macias knows what was done at the farm on the
10 three or four days after Mr. Mendoza's crew left. If he
11 has that in his mind, (A), and if it he can recall that all
12 the way four years later.

13 So, but Ms. Arciniega you ask whatever question
14 you'd like next.

15 MS. ARCINIEGA: Thank you, Your Honor.

16 BY MS. ARCINIEGA:

17 Q. Mr. Macias, I'm only asking you what you told
18 Victor on the phone. You testified that you told him that
19 there was only weeding work and he said he didn't know if
20 people would want to do weeding.

21 I think you told us, excuse me, I'm going to
22 finish asking the question. I think you told us that you
23 told Victor that there wasn't any orders and you'd get back
24 to him when there were orders. But then you told us that
25 it was raining around this time and that somehow impacted

1 what was available to pick.

2 I want to know what you told Victor on the phone
3 about when him and his crew would work again.

4 A. So like I said, before back to the same thing, I
5 told him tomorrow we're going to clean. I never told him
6 that there is not going to be any more work. I told him if
7 tomorrow we're going to cut, I will let you know. That's
8 what I told him.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.
10 Mr. Macias, if there was a possibility that the crew was
11 going to work the next day, why did you drive the checks to
12 Oxnard to give them to Victor?

13 THE WITNESS: I never said I drove to Oxnard. I
14 said I gave them to Victor so he could give them to the
15 people that lived in Oxnard.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So when
17 you gave the checks to Victor, where were you located?

18 THE WITNESS: In Fillmore at 1547 Riverside
19 Avenue.

20 ADMINISTRATIVE LAW JUDGE SOBLE: And did you
21 invite Victor to pick up those checks?

22 THE WITNESS: No, like I said he asked for the
23 checks because he had not picked them up on Friday or
24 Saturday which was when we handed them out.

25 ADMINISTRATIVE LAW JUDGE SOBLE: What about the

1 two women who lived closer to Fillmore? Did -- they came
2 to pick up their checks too?

3 THE WITNESS: Yes. That's what I
4 (indiscernible).

5 ADMINISTRATIVE LAW JUDGE SOBLE: Wasn't that
6 mutual for them to get their -- I'm sorry, you hadn't
7 finished translating.

8 THE INTERPRETER: He said, yes, that's what I
9 told you a moment ago.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Wasn't it
11 just usual for the crew to receive their checks when they
12 showed up at work?

13 THE WITNESS: Okay. Like I said, I'm not sure, I
14 don't remember if it was Friday or Saturday that they
15 didn't show up for work was all the people. As a matter of
16 fact, I had a lot of problems with Victor because the
17 people that he was bringing from Oxnard were not doing a
18 good job.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Why was
20 that?

21 THE WITNESS: So there were days when only three
22 or -- only three or four people would show up to work.
23 There's were others where all of them would show up and
24 they had no rhyme or reason. They never showed any
25 documents stating that they had appointments or anything

1 like that. They simply just said they weren't well.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Were the people
3 in Mr. Miranda's crew, they were a lot better at that?

4 MR. ROY: Objection. Vague, Your Honor. What's
5 that?

6 ADMINISTRATIVE LAW JUDGE SOBLE: With the things
7 that were done badly by some of the people in Mr. Mendoza's
8 crew.

9 THE WITNESS: One thing was -- one thing they
10 said was they wanted to work meaning it didn't matter if it
11 was cleaning or cutting, as long as they had work.

12 ADMINISTRATIVE LAW JUDGE SOBLE: So they were --
13 the crew with Cesar Miranda was easier for you to work
14 with?

15 THE WITNESS: It wasn't easier. It was simply
16 that they were willing to do what was needed, if it was
17 weeding or cleaning or cutting the product.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Did you
19 ever tell Mr. Dighera, Tony, that you were having some
20 difficulties with Mr. Mendoza's crew?

21 THE WITNESS: He knew about it because he was
22 dealing with the comebacks with the products that they had
23 were cutting.

24 MR. ROY: Your Honor, may I ask a question?

25 MS. ARCINIEGA: I'm still on my cross-

1 examination.

2 ADMINISTRATIVE LAW JUDGE SOBLE: You've got a
3 point there (Indiscernible).

4 MR. ROY: It goes to that. It goes to that.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Is it -- no, I'm
6 trying to figure out if you have a question for me or a
7 question for the witness.

8 MR. ROY: A question for you, Your Honor.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. You can
10 have a question for me but I'm going to have the witness
11 step out if you have a question for me. Otherwise, I'm
12 going back to Ms. Arciniega because I was trying to get an
13 answer to a specific question and I want to let her return
14 to whatever her line of questioning is.

15 MR. ROY: Understood, Your Honor. It was 15
16 questions later and I was wondering when we were going to
17 get back to the General Counsel proving her case.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well
19 there was a specific comment that he made and I was trying
20 to get a better understanding of it. And at times I do
21 that succinctly and at times I do that less succinctly.
22 And you're correct, that was less succinct than some of the
23 other times.

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

25 MR. ROY: Thank you.

1 MS. ARCINIEGA: Thank you, Your Honor.

2 BY MS. ARCINIEGA:

3 Q. In February 2017 when Victor Mendoza's crew
4 worked at Cinagro, what was the day that they received
5 their paychecks?

6 A. I believe it was on Fridays.

7 Q. And how did they normally receive their
8 paychecks?

9 A. The office would take them to me and I would hand
10 them to Victor who was in charge.

11 Q. And would you take them to Victor in the field?
12 You might want to move your arms or stand up.

13 A. That's right.

14 Q. And that was the field where they were working
15 that Friday?

16 MR. ROY: Objection. Vague and irrelevant.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

18 Mr. Macias, you can answer the question. If you
19 don't understand the question, please just let me know.

20 MR. ROY: Assumes facts not in evidence that they
21 were working on the Friday that they received the checks.

22 ADMINISTRATIVE LAW JUDGE SOBLE: It's cross-
23 examination. The counsel can ask that question and we'll
24 find out if the witness has a recollection or not.

25 THE INTERPRETER: Your Honor, did you say

1 overruled? Because I had not interpreted that question.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Yes, you can
3 interpret the question. The witness can answer it and let
4 him know if he doesn't understand the question, just to let
5 us know.

6 THE WITNESS: Can you repeat that question again?

7 BY MS. ARCINIEGA:

8 Q. You --

9 MS. ARCINIEGA: Did I interrupt you?

10 THE INTERPRETER: Go ahead.

11 MS. ARCINIEGA: Oh, okay.

12 BY MS. ARCINIEGA:

13 Q. When you took the paychecks to Victor Mendoza for
14 him and his crew on the Fridays that was their payday, did
15 you take them out to the field where they were working?

16 A. Normally all the Fridays we would give them to
17 Victor wherever they were working.

18 Q. Okay. And when you say the word cleaning, what
19 do you mean by that?

20 A. So like cleaning, you have the plant and there's
21 excess growth or weeds around the product. Well you have
22 to remove that and all that is cleaning because it doesn't
23 allow the product to grow.

24 Q. Is that the same as weeding?

25 A. Yes, it's the same thing. I call it the same

1 thing. It's either weeding or cleaning.

2 Q. Thank you.

3 MS. ARCINIEGA: I would -- Your Honor, I'd like
4 to ask the witness to look at Respondent's Exhibit 1,
5 please.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

7 Mr. Macias, there is a notebook with some
8 documents in it in front of you, correct?

9 MS. ARCINIEGA: If I may, Your Honor, I believe
10 Respondent's exhibits are not in the white notebook. They
11 may be in a different type of container.

12 MR. ROY: They were just papers there on the
13 desk.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Are you
15 talking about the General Counsel's Exhibit 1 or
16 Respondent's Exhibit 1?

17 MR. ROY: I believe he said -- she said --

18 MS. ARCINIEGA: Respondent.

19 MR. ROY: -- Respondent 1, Your Honor.

20 MS. ARCINIEGA: Please.

21 ADMINISTRATIVE LAW JUDGE SOBLE: That's what I
22 thought too. So okay. I don't know how to phrase this to
23 Mr. Macias other than to ask if he is able to locate
24 Respondent's Exhibit Number 1.

25 MS. ARCINIEGA: Well I would -- I can try, if

1 you'll allow me.

2 ADMINISTRATIVE LAW JUDGE SOBLE: You can phrase
3 it however you like. I mean, you have my okay to ask him
4 to look at that document.

5 MS. ARCINIEGA: Thank you.

6 BY MS. ARCINIEGA:

7 Q. Mr. Macias, will you see on the table if there's
8 some type of a file or a folder there with white type of a
9 document inside. Do you see a different file or -- yes,
10 that one. Do you see (indiscernible)?

11 I'm sorry, Interpreter.

12 A. Thank you.

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

14 THE WITNESS: What do I have to do? I'm sorry.

15 MS. ARCINIEGA: I'm just waiting for the Judge's
16 okay for me to continue.

17 ADMINISTRATIVE LAW JUDGE SOBLE: You're okay to
18 continue. You just are going to need to do something to
19 have him -- to have me convinced that what you're looking
20 at is what he's looking at. Whether that's to ask him how
21 many pages it is, whether it's to have him show the first
22 page of the exhibit to the monitor. Anything like that.

23 MS. ARCINIEGA: Thank you, Your Honor.

24 BY MS. ARCINIEGA:

25 Q. Mr. Macias --

1 ADMINISTRATIVE LAW JUDGE SOBLE: I'm looking at
2 Respondent's Exhibit 1, page 1, for example.

3 BY MS. ARCINIEGA:

4 Q. Will you hold up the packet and see if you can
5 show it to the camera, please.

6 Okay, can you -- that's okay. I know it's on the
7 TV.

8 ADMINISTRATIVE LAW JUDGE SOBLE: What I need is
9 for him to just say anything not related to the case, then
10 it will become a little bit larger. So if you want while
11 he's holding the piece of paper, if you want to ask him how
12 he's doing, I mean, or does he need a drink of water.

13 BY MS. ARCINIEGA:

14 Q. Will you hold up the page, please, and would you
15 like to have any water right now?

16 A. That's fine.

17 MS. ARCINIEGA: I don't know if that made it
18 closer for you. It did it for me.

19 ADMINISTRATIVE LAW JUDGE SOBLE: It did. I can
20 see that what he has is not Exhibit 1, but rather the
21 document Respondent's List of Hearing Exhibits. So if you
22 want to just tell him to go to the third page of that
23 document, he would be on page 1.

24 BY MS. ARCINIEGA:

25 Q. Okay. Mr. Macias, please look at -- go to three

1 pages in on that packet.

2 ADMINISTRATIVE LAW JUDGE SOBLE: And I didn't
3 even hear his answer as to the water because it would be
4 horrible if you asked him and then we ignored it.

5 MR. ROY: He didn't want any.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay, then.
7 Thank you. Okay --

8 THE WITNESS: Is it this page?

9 ADMINISTRATIVE LAW JUDGE SOBLE: -- I think we're
10 all on the same page so Ms. Arciniega, you can proceed with
11 your next question.

12 MS. ARCINIEGA: Great. Thank you.

13 MS. ARCINIEGA:

14 Q. Can you turn to the next page now. Great. Can
15 you take a look at that page, please?

16 A. Yes, I can see it.

17 Q. Okay, great. Are you -- do you recognize this
18 page?

19 A. Yes, that's right.

20 Q. Okay. Okay. On the left-hand side, the left
21 column, at the very top it says day. Can you look at
22 there?

23 A. That's right.

24 Q. And the numbers under that column, you understand
25 that those are the dates that this person worked, correct?

1 A. That's right.

2 Q. Okay. And you see at the top Yolanda Antonio.
3 Okay. And do you recognize that she worked in Victor
4 Mendoza's crew?

5 A. Yes, that's right.

6 Q. Okay. So is it fair to say that looking at this,
7 you can see that Ms. Yola -- Ms. Antonio, excuse me, worked
8 on the 27th, the 28th, the 1st, the 3rd, and the 4th?

9 A. I don't know on that.

10 Q. Okay. Can you look a little bit in the middle of
11 the page where you see the number 1, please, in the
12 left-hand column?

13 A. After 28?

14 Q. Yes. And do you see the first column that says 1
15 to the right of it, it says GC?

16 A. That's right.

17 Q. Okay. Now if you go two more lines down, do you
18 see where it says 1 and then it says W-E-E-D?

19 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
20 object to that question. I think you should count again
21 before you ask the question.

22 MS. ARCINIEGA: Oh, okay.

23 MS. ARCINIEGA:

24 Q. So we have the 1 with the GC next to it and the
25 next one is 1 with the -- oh, I have to translate, B-K-A-L-

1 E?

2 THE INTERPRETER: B-K --

3 ADMINISTRATIVE LAW JUDGE SOBLE: Just to clarify,
4 your previous question you were indicating two lines down
5 and I'm not sure that's what you meant to say.

6 MS. ARCINIEGA: One, two, three. Okay. Now I
7 don't know if I'm going to -- sorry.

8 BY MS. ARCINIEGA:

9 Q. Mr. Macias, I'm not trying to confuse you. I'm
10 trying to be clear. So you said you saw 1 with the GC next
11 to it; is that correct?

12 A. Uh-huh.

13 Q. Great. Now if you count three lines down from
14 that, one, two, three, you'll see 1 and to the right of
15 that the letters W-E-E-D.

16 A. That's right.

17 Q. And do you understand that that -- does that,
18 excuse me, does that help you remember that Mr. Mendoza's
19 crew also did weeding work?

20 A. Yes, I did.

21 Q. Okay, thank you.

22 MR. ROY: Your Honor, can we speed this up? That
23 took 15 questions in translation to establish a point and
24 that was that crew did weeding. I think if we want to
25 finish today, we need to move this along.

1 ADMINISTRATIVE LAW JUDGE SOBLE: I actually was
2 thinking the opposite. I expected counsel to ask some
3 foundational questions that I never heard. So either the
4 General Counsel or I, I think, need to ask some certain
5 questions.

6 Like, Mr. Macias, have ever seen a document
7 before that looks like this page?

8 MR. ROY: Asked and answered, Your Honor.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

10 Mr. Macias, have you ever seen a document that
11 looks like this page before?

12 THE WITNESS: That's right.

13 ADMINISTRATIVE LAW JUDGE SOBLE: And what is your
14 understanding of how this type of page is created?

15 THE WITNESS: I don't know how they generate it,
16 but I do know more or less what it means.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Were you the
18 person who created this type of document?

19 THE WITNESS: No.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know if
21 Mr. Dighera was the person who created this type of
22 document?

23 THE WITNESS: I don't know if he did it or if the
24 people that were in charge in the office. The people that
25 were in charge of making the checks in the office.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know who
2 that is?

3 THE WITNESS: Not aware of that part, but these
4 numbers is the report that Victor would do when the group
5 would show up or not.

6 ADMINISTRATIVE LAW JUDGE SOBLE: So sitting here
7 today, do you know if this document was put together by
8 Victor Mendoza or someone different?

9 THE WITNESS: Right. They set me for Victor was
10 the one in charge of reporting the boxes, the hours, and I
11 imagine that that report would go to the people that
12 generated the checks.

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
14 have any reason to know what year this page involves that
15 is in front of you?

16 MR. ROY: Objection. The document speaks for
17 itself. It's dated for a particular workday period.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

19 MR. ROY: And it's already in evidence.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Hold on,
21 Mr. Roy. Without having a speaking objection here, I
22 haven't heard anything from the witness that indicates what
23 year it is and I don't see anything on the document that
24 speaks for itself what year it is. And you may think you
25 know what year it is based upon facts that you heard, but I

1 don't see the year on the document.

2 So Mr. Macias, looking at the page, can you tell
3 what year it involves?

4 THE WITNESS: No, it does not have the year.

5 MR. ROY: If you go back to page 1, it says it.

6 ADMINISTRATIVE LAW JUDGE SOBLE: I'm looking at
7 page 1 of the Exhibit.

8 MR. ROY: Not my transmittal letter, Your Honor.
9 The fourth document down has a little square and it has a
10 list of Cesar Miranda and the employees in their crew.

11 Excuse me, which year are we talking -- I mean,
12 which date are we talking?

13 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

14 MR. ROY: The --

15 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not going --
16 I'm not going to get distracted with what you're saying.
17 I'm looking at the first page of your exhibit in addition
18 to the second page and it does not state the year on it.

19 So sticking with the second page, Mr. Macias, can
20 you see anything on this document that says which month it
21 is?

22 MR. ROY: Your Honor. Jesus.

23 THE WITNESS: To the upper the left -- I'm sorry,
24 of the right corner, there is a number that relates to the
25 check number. You can use that number to verify what date

1 and year that check was issued.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you. But
3 looking at the document itself today, you have no way of
4 knowing what month or year this chart refers to?

5 MR. ROY: Objection. Asked and answered.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Well I started
7 to address, but because you interrupted it, I'm not clear
8 whether or not he's answering the same question that I
9 asked.

10 MR. ROY: If I could be heard, please. If you
11 look at --

12 ADMINISTRATIVE LAW JUDGE SOBLE: No. I don't
13 need you to testify what you think it is. I know what you
14 think it is.

15 MR. ROY: I'm not testifying.

16 ADMINISTRATIVE LAW JUDGE SOBLE: But
17 (indiscernible) my document is not part of the exhibit so
18 it should not even be something that we show to that.

19 MR. ROY: Go to page four, Your Honor, after the
20 proof of service and you'll see a box that has the date of
21 the payroll period and the employees in the crew.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Whatever you're
23 talking about isn't -- look, you're not saying something
24 that's clear. There is a list of hearing exhibits. Then
25 there is a page that is the proof of service. Then there

1 are pages that are numbered. So are you talking about
2 numbered page 2 or numbered page 4?

3 MR. ROY: Numbered. The page 1 should have a
4 square block on it with the date of the payroll period and
5 that's followed by the individual --

6 ADMINISTRATIVE LAW JUDGE SOBLE: Well you can
7 look at it, but if you have the same page I have, I mean,
8 I'll humor you for a moment, you tell me where you see the
9 year on that.

10 MR. ROY: Are you looking at the proof of
11 service, Your Honor?

12 ADMINISTRATIVE LAW JUDGE SOBLE: No, I'm not
13 looking at the proof of service. That's not part of the
14 exhibit.

15 MR. ROY: All right. My Respondent 1 exhibit was
16 for the payroll period. Do you have it there on the
17 first -- on the first page, one of nine?

18 ADMINISTRATIVE LAW JUDGE SOBLE: I have a nine-
19 page exhibit.

20 MR. ROY: Right.

21 ADMINISTRATIVE LAW JUDGE SOBLE: I'm looking at
22 page one that has Victor Mendoza's name on it.

23 MR. ROY: Right. Okay. And it doesn't have a
24 block on it showing the date of the payroll period?

25 ADMINISTRATIVE LAW JUDGE SOBLE: Correct.

1 MR. ROY: Okay. Fine.

2 ADMINISTRATIVE LAW JUDGE SOBLE: And if you want,
3 we can all take a look at the document before the witness
4 to see if you have something different than what I have.
5 But I can tell you the first line of the chart is blank.
6 The second line of the chart says 29150, Mendoza, Victor,
7 \$514.50 --

8 MR. ROY: Right.

9 ADMINISTRATIVE LAW JUDGE SOBLE: -- 224494.

10 MR. ROY: I'm sure you're correct, Your Honor.
11 I'm looking for it myself.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well my
13 point here is and I would think it would be of interest to
14 both sides that questions were asked about this document
15 and whether it refreshes the witness's recollection as to
16 whether weeding was done. But the witness really doesn't
17 have any way of knowing what year or month this document
18 was. Nobody has asked him whether or not days when there
19 wasn't work aren't reported so the fact that it only goes
20 to Day 28 isn't even necessarily conclusive that it
21 involves a February rather than a different month.

22 So the point is, I think that to some extent
23 everybody is assuming what this document is, but I'm trying
24 to understand if the witness has any knowledge of what it
25 is. And so to me, this isn't telling us very much.

1 So Ms. Arciniega, why don't you go ahead and ask
2 your next question and otherwise, as I said, I've heard the
3 witness indicate he doesn't know what month or year this
4 is. So he -- as far as I can tell, Mr. Macias is not the
5 person who prepared this document. I don't think anybody
6 assumes that Mr. Macias would have this document committed
7 to memory so he wouldn't be able to tell you if it's right
8 or wrong. So you can proceed with your next question,
9 Ms. Arciniega.

10 MS. ARCINIEGA: Thank you, Your Honor.

11 BY MS. ARCINIEGA:

12 Q. I'm going to try and pick it up where we left off
13 before this document.

14 So Mr. Macias, when you told Victor that there
15 was only weeding work and you'd let him know if you
16 received orders, did you ever call him to let him know that
17 you had received orders for that next workday?

18 A. Like I said, I was going to call him if there
19 were orders, but I had also given him the option to show up
20 and weed. That was optional, but I had given him that
21 option.

22 Q. You didn't call him to tell him that there were
23 orders.

24 THE INTERPRETER: Counsel, can you repeat that?

25 BY MS. ARCINIEGA:

1 Q. You didn't call him to tell him there were
2 orders.

3 A. I did not tell him that there was orders. The
4 reason being -- like I mentioned before, I didn't call him
5 because they were missing a lot and I wasn't getting enough
6 orders to call the whole group back.

7 Q. Okay. Let me move on. When did do start working
8 with Cinagro?

9 A. I've been working with Cinagro for approximately
10 13 years.

11 Q. And have you been the General Manager that entire
12 time?

13 A. No, I started working weeding, like I said, the
14 cleaning part.

15 Q. And when did you become the General Manager?

16 A. So what happened was when we started, we were a
17 small group. I started with my boss. And it was a very
18 long before the company started growing a little bit more.
19 And when we started looking for some people to come in,
20 that's when they told me that I should be in charge.

21 Q. Approximately what year was that?

22 THE INTERPRETER: Approximately what year? Was
23 that your question?

24 MS. ARCINIEGA: Yes.

25 MR. ROY: Objection, Your Honor. Now we're going

1 outside the scope of direct. There's no relevance.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I don't
3 believe that's outside the scope of direct. In fact, I
4 could quote from my notes here when you like asked him. I
5 stand corrected. Actually, you asked a different witness
6 when he started, not him. So I'll still allow the
7 question, but you're correct that you didn't ask him that.

8 MR. ROY: I also asked between the period of
9 January 1, 2017 to March 4 --

10 ADMINISTRATIVE LAW JUDGE SOBLE: Well --

11 MR. ROY: -- to all my questions.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Oh, I'm
13 referring to the fact that I believe unless I'm mistaken --
14 well let me look at my notes here to confirm, hold on.

15 Yeah, I show right here in my notes that you
16 asked Mr. Dighera with respect to when he hired Mr. Macias.

17 MR. ROY: We understand that, Your Honor. I'm
18 not objecting to that. I'm objecting to the fact that she
19 is outside the scope of direct which was January to
20 March 4, '17. And now we're getting into a whole line of
21 questions about how he started at the company and when you
22 went to labor -- all these other issues that are not
23 relevant.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.
25 Overruled. As I indicated, I think it relates to your

1 questions for Mr. Dighera. I'm going to allow the
2 question. So the objection's overruled.

3 Would the interpreter let the witness know that
4 he can answer the question.

5 THE INTERPRETER: I have not interpreted the
6 question. And just to verify the question was,
7 approximately what year was that?

8 MS. ARCINIEGA: That he became the General
9 Manager.

10 THE WITNESS: Possibly three years later.

11 BY MS. ARCINIEGA:

12 Q. Three years after you started the business with
13 Tony?

14 A. That's right.

15 Q. Do you have ownership interest in the business?

16 A. No.

17 Q. Okay. In 2015, there was a small group of
18 workers that included Maria Lauriano and Ignacia Sanchez;
19 is that correct?

20 A. That's right.

21 Q. And you were the person who directed that small
22 group of workers?

23 A. That's right.

24 Q. And Cinagro paid them directly, correct?

25 A. That's right.

1 Q. What month in the year 2016 did Tony decide to
2 hire Victor Mendoza's crew directly?

3 A. Like I said, I don't have the exact dates because
4 there's been a lot of different situations that have come
5 up, but it was after -- so it was after the group came from
6 Arturo's labor contract, he was a labor contractor. It was
7 after he left the group that we got it.

8 Q. Okay. And you and Tony went together to tell
9 Victor and his crew that Cinagro was going to hire them
10 directly?

11 A. I don't remember the moment, but I believe that
12 Tony did go with me.

13 Q. And the FLC before was in charge of paying the
14 workers, correct?

15 THE INTERPRETER: I'm sorry. I didn't get the
16 first word that you said. The what?

17 MS. ARCINIEGA: Yeah, that was a weird question.
18 Let me ask it differently.

19 BY MS. ARCINIEGA:

20 Q. Before Cinagro hired Victor Mendoza and his crew
21 directly, the FLC, sorry, the Farm Labor Contractor was
22 paying the workers; is that correct?

23 A. That's right.

24 Q. And when Cinagro hired Victor Mendoza and his
25 crew directly, did it continue to pay them the same rates

1 that they were paid with the Farm Labor Contractor?

2 A. I think so. I think, as a matter of fact, maybe
3 even a little bit more. I don't remember exactly but I
4 think they said -- they were told that they were going to
5 get a little bit more. Because I don't remember how much
6 Arturo paid the people. I wasn't involved in that.

7 Q. Okay. What did -- what did Tony tell the workers
8 at that time?

9 A. We just told them that there was going to be a
10 switch in the crew and we were going to treat them with the
11 respect and with the same care, that we were going to make
12 one group. We cared about the workers' well-being and the
13 company's gross.

14 Q. And did you tell the workers that there was going
15 to be a lot of work for them?

16 A. We mentioned that we were having quite a few
17 orders, but everything was dependent on how we performed
18 our jobs because it's like a circle. If one of the pieces
19 failed, it could make everything go down. And that's what
20 happened afterwards when there was a reduction in the work
21 which is a quality of Victor's work performance.

22 Q. At that meeting, Mr. Macias, you did not tell
23 Victor and his crew that they were going to be receiving
24 gross pay with no deductions taken; isn't that correct?

25 THE INTERPRETER: Counsel, your first two words

1 cut off. I just got, you did not tell.

2 MS. ARCINIEGA: At that meeting.

3 THE INTERPRETER: Okay. Thank you.

4 THE WITNESS: We mentioned to them that it was
5 going to be like that while we transitioned and figured out
6 what their requirements were.

7 BY MS. ARCINIEGA:

8 Q. Didn't you give Victor Mendoza W4 forms for each
9 of the workers to fill out?

10 A. We gave them forms, a packet of forms. I don't
11 remember what W forms they were, but we did give them some
12 so that they were registered under the company.

13 Q. Do you remember that one of those forms was for
14 workers to write down how many dependents that had so you
15 could figure out the deductions for taxes from their
16 paychecks?

17 A. Don't remember.

18 Q. Okay. Thank you. And so that first week that
19 they were hired directly, you and Arlis were in charge of
20 figuring out the calculations for their payment; is that
21 correct?

22 A. That's right.

23 Q. And you and Arlis used checks that were printed
24 but you handwrote the amount for the worker's payment;
25 isn't that correct?

1 A. I would give Arlis a list of the boxes and the
2 hours and I'm not sure how Arlis calculated them or how she
3 wrote them. She would give them to me -- she would give
4 them to me in an envelope and I would give them to Victor.
5 I wasn't checking or looking at every check. As a matter
6 of fact, if I had any -- if they had any issues with the
7 box count or anything missing or anything like that, they
8 would let me know so I could report it to the office.

9 Q. And in those -- that first week, those checks,
10 they didn't have any paystubs, paycheck stub with them,
11 correct?

12 A. Like I said, I don't remember anymore because
13 those were now directly handed to me. I would deliver them
14 in the envelope.

15 Q. Okay. And the last paychecks that you talked
16 about giving to Victor Mendoza, were those also an envelope
17 that Arlis gave to you to give to Victor Mendoza?

18 A. That's right. I only removed the two checks of
19 the people that were going to pick them up at Fillmore
20 because Victor requested it so.

21 Q. And while Victor Mendoza's crew was working at
22 Cinagro, you were the person that gave instructions to
23 Victor about what crops his crew could harvest every day;
24 is that correct?

25 THE INTERPRETER: I'm so sorry, but you cut out

1 halfway through the sentence so I didn't get that.

2 BY MS. ARCINIEGA:

3 Q. When Victor Mendoza's crew worked directly for
4 Cinagro, you were the person that gave Victor Mendoza the
5 instructions for what crops him and his crew would pick; Is
6 that correct?

7 A. That's right. I would only direct myself to him.

8 Q. Okay. And how often did you speak to Tony during
9 this time January through March 2017? How often did you
10 speak to Tony each day?

11 MR. ROY: Objection. Assumes facts not in
12 evidence that he spoke to Tony every day.

13 ADMINISTRATIVE LAW JUDGE SOBLE: I understood the
14 question to be during January through March, how often did
15 Mr. Macias talk to Tony.

16 MR. ROY: (Indiscernible.)

17 ADMINISTRATIVE LAW JUDGE SOBLE: If I heard that
18 question correctly, then that doesn't assume facts not in
19 evidence and the question's permitted. If you think the
20 question was something different, let me know.

21 MR. ROY: Well (indiscernible).

22 ADMINISTRATIVE LAW JUDGE SOBLE: Well if the
23 question --

24 MR. ROY: It's probably of no consequence, Your
25 Honor. It's fine.

1 ADMINISTRATIVE LAW JUDGE SOBLE: If the question
2 said each day, then I would sustain the objection. I
3 didn't hear the each day, but how, I mean, the question
4 that should have been asked whether it was or not is, how
5 frequently during January through March of 2017 did
6 Mr. Macias talk to Mr. Dighera? And that question would be
7 permitted.

8 MR. ROY: Correct.

9 THE WITNESS: Like I said, I'm in charge of the
10 ranch production so I speak to him constantly in the
11 regards to the production or any change that he might have
12 in regards to that.

13 BY MS. ARCINIEGA:

14 Q. Okay. I'm referring to March 2017, how often did
15 you see Tony out in the field?

16 A. I saw him continuously because when the product
17 was being sent back, he would go to the field to see if it
18 was a product issue or a production issue.

19 Q. Is it fair to say that Tony was out in the fields
20 pretty frequently from January to March 2017?

21 MR. ROY: Objection. Relevance, Your Honor. Is
22 this going to another one's credibility?

23 ADMINISTRATIVE LAW JUDGE SOBLE: I need to hear
24 the question again. Is counsel able to restate it or the
25 interpreter or do we need to play it back?

1 THE INTERPRETER: I can repeat it, if you allow
2 me.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. In
4 English?

5 THE INTERPRETER: Yes. Give me just one second,
6 let me switch back to that.

7 It's fair to say that you from the period of
8 January through March of 2017, you saw Tony frequently out
9 in the fields.

10 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. You
11 can ask that question. It's appropriate for the witness,
12 if you haven't.

13 THE WITNESS: Like I mentioned, he would go there
14 frequently in the morning and in the afternoon sometimes.
15 Because like I mentioned, sometimes if it was cold, he
16 would bring them Starbucks coffee and if it was too hot, he
17 would bring them cold drinks to all the workers.

18 BY MS. ARCINIEGA:

19 Q. Was it every day that he would be out there?

20 MR. ROY: Objection. Asked and answered.

21 ADMINISTRATIVE LAW JUDGE SOBLE: All right. The
22 question hasn't been asked and answered but it certainly
23 has been answered by other questions, if not that specific
24 question asked. So I don't see the point to that question.

25 MS. ARCINIEGA: I'll move on, Your Honor.

1 BY MS. ARCINIEGA:

2 Q. Mr. Macias, was it -- were there times when
3 workers in Victor Mendoza's crew picked different
4 vegetables in the same day?

5 A. That's right. You can see it here.

6 Q. Let me just make sure because I want to be clear.
7 I'm talking about on one day, were there members of Victor
8 Mendoza's crew that would pick one type of vegetable and
9 other members of Victor Mendoza's crew would be picking a
10 different vegetable on that same day?

11 A. Oh, no, not at any moment. The number one rule
12 is that there can't be workers without a supervisor with
13 them.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Are some of the
15 vegetable varieties physically close to different vegetable
16 varieties?

17 THE WITNESS: Yeah, you can have one close to the
18 other. But so for example, I have ten lines of cilantro or
19 ten rows of cilantro planted. And then I have next to that
20 20 lines of green kale. So I can't have people cutting,
21 for example, green kale, I can't have them cut cilantro
22 because if I have an order, I have to make sure that the
23 first product is cut first.

24 BY MS. ARCINIEGA:

25 Q. Okay. If there were days that Maria Lauriano and

1 Ignacia Sanchez were picking different crops than the ones
2 that the other workers in Mr. Mendoza's crew were picking,
3 were they with the other group of workers that included
4 Cesar Miranda?

5 MR. ROY: Objection. They? Ambiguous.

6 ADMINISTRATIVE LAW JUDGE SOBLE: I think the
7 question is hard to --

8 MS. ARCINIEGA: Is a little --

9 ADMINISTRATIVE LAW JUDGE SOBLE: -- understand.

10 MS. ARCINIEGA: -- clunky.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Maybe if you
12 start with a more simple question and work your way from
13 it.

14 Mr. Macias, do you know if Ignacia Sanchez ever
15 worked in the crew with Cesar Miranda?

16 THE WITNESS: What happened was after Victor's
17 crew fell apart, she called me to get work.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

19 MR. ROY: Objection. Nonresponsive.

20 ADMINISTRATIVE LAW JUDGE SOBLE: The objection's
21 overruled.

22 But Mr. Macias, let's first look at the time
23 period while both of the crews were still there.

24 Mr. Mendoza's crew was working and the crew that had
25 Mr. Miranda in it was working. During that time period, do

1 you recall if Ms. Sanchez ever picked collards with Cesar
2 Miranda's crew?

3 THE WITNESS: Not at any moment they mixed. They
4 never mixed at any moment.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Arciniega?

6 MS. ARCINIEGA: Your Honor, I'd like to -- I
7 think this would be a good point to take a break if we're
8 ready for our afternoon break.

9 ADMINISTRATIVE LAW JUDGE SOBLE: How much longer
10 do you anticipate having with this witness?

11 MS. ARCINIEGA: I want to confer a little bit
12 with the team, Your Honor, but probably not more than half
13 an hour.

14 ADMINISTRATIVE LAW JUDGE SOBLE: So if we take a
15 20-minute break now till 3:53, you anticipate going until
16 perhaps 4:23.

17 MS. ARCINIEGA: Not longer than that.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Based
19 upon what you've heard up until now with nothing changing,
20 are you anticipating calling some rebuttal witnesses?

21 MS. ARCINIEGA: I would like to confer with the
22 team on that as well and let you know. I can take -- I can
23 confer quickly.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Why don't you
25 confer on that before we decide if we're taking our break

1 now.

2 MS. ARCINIEGA: Sure.

3 MS. ARCINIEGA: Right now, Your Honor, I don't
4 foresee that the General Counsel will call any rebuttal
5 witnesses.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. In that
7 case, I'm fine with our taking our 20-minute break now.
8 We'll come back at 3:55 p.m.

9 (Off the record at 3:35 p.m.)

10 (On the record at 3:55 p.m.)

11 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Arciniega,
12 do you still have some additional questions for this
13 witness?

14 MS. ARCINIEGA: Yes, I have some.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And has
16 anything changed or right now do you still, barring the
17 remainder of the testimony, not have any rebuttal witnesses
18 planned?

19 MS. ARCINIEGA: I don't have any rebuttal
20 witnesses at this time.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. You can
22 proceed.

23 MS. ARCINIEGA: Thank you.

24 BY MS. ARCINIEGA:

25 Q. Mr. Macias, from January to March 2017, did

1 Victor Mendoza start his workday before the rest of the
2 crew?

3 MR. ROY: Objection. Relevance.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. You
5 can answer.

6 THE WITNESS: No. They all started at the same
7 time for the company.

8 MS. ARCINIEGA: And did Mr. Mendoza finish his
9 workday after the rest of the crew because there was
10 materials to clean up and -- I'll just leave it at that.

11 MR. ROY: I'll say objection. Relevance and
12 assumes facts not in evidence.

13 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not sure I
14 understand the objection that it assumes facts not in
15 evidence.

16 MR. ROY: She said that she was asking if he
17 would stay behind work to do all these additional tasks
18 that have never been testified to.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I don't
20 see that as assuming facts not in evidence. It's just a
21 question. Does Mr. Macias know if Mr. Mendoza was paid to
22 work later than other crew members ever?

23 THE WITNESS: No. Because we had a person that
24 was in charge of gathering the boxes, and he was in charge
25 at the end of the day to get everything in order.

1 BY MS. ARCINIEGA:

2 Q. What was the name of that person?

3 A. Andres.

4 Q. Was that Andres Cruz that you testified about
5 earlier?

6 A. Andres Cruz.

7 Q. So in January to March 2017, Andres Cruz was
8 working in Victor Mendoza's crew?

9 MR. ROY: Objection, Your Honor. Misstates the
10 evidence.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Sustained.

12 BY MS. ARCINIEGA:

13 Q. Was Andres Cruz ever a member of Victor Mendoza's
14 crew?

15 MR. ROY: Objection. Vague as to time. This
16 could go all the way back to 2016 for all we know.

17 ADMINISTRATIVE LAW JUDGE SOBLE: I don't think
18 the answer's going to change, so that's the only reason I'm
19 not going to sustain the objection.

20 Mr. Macias, do you know if Andres Cruz was ever
21 one of the workers in Mr. Mendoza's crew?

22 THE WITNESS: No. He was -- we put him to do
23 that as part of the company. He was there before them.

24 BY MS. ARCINIEGA:

25 Q. Thank you. Mr. Macias, did you ever take water

1 from the reverse osmosis system at the Fillmore Ranch out
2 to Victor Mendoza's crew? Can you hear me?

3 A. You were cutting in and out, so.

4 ADMINISTRATIVE LAW JUDGE SOBLE: The counsel
5 asked if Mr. Macias ever took water from the reverse
6 osmosis system out to Victor Mendoza's crew during the time
7 that Victor Mendoza's crew worked for Cinagro.

8 THE WITNESS: No. Because we would buy the
9 gallon jugs at the Rite Aid in Moorpark and we would buy
10 ice there too. But it was rare that we did that.

11 BY MS. ARCINIEGA:

12 Q. With Cesar Miranda, you said he acted as a
13 foreman. Was he paid an extra hour per day?

14 MR. ROY: Vague, Your Honor.

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

17 THE WITNESS: Regular leave. That is the
18 arrangement that is made with the foremen of the crews.

19 BY MS. ARCINIEGA:

20 Q. I want to be clear. Is that a yes, Mr. Macias,
21 that he was paid an hour per day?

22 A. That's right.

23 Q. And after Cesar Miranda didn't want to be the
24 foreman anymore, who was the foreman?

25 A. Andres Cruz.

1 Q. And was he paid an hour extra per day when he
2 acted as the foreman?

3 A. That's right.

4 Q. Okay. You knew that workers in Victor Mendoza's
5 crew while Mr. Mendoza wanted some type of pay stub in
6 November 2016 through February 2017; is that correct?

7 MR. ROY: Objection. Misstates the evidence.

8 ADMINISTRATIVE LAW JUDGE SOBLE: This is cross-
9 examination, so the question's permitted. Overruled.

10 THE WITNESS: (Indiscernible) a moment ago, they
11 commented on that as soon as they started working for
12 company. But after that, they never mentioned it again.

13 BY MS. ARCINIEGA:

14 Q. But you've never told Tony that Victor Mendoza
15 and his crew were complaining about wanting a paystub,
16 correct?

17 ADMINISTRATIVE LAW JUDGE SOBLE: Ms. Arciniega,
18 you'll need to repeat that question. I could not hear the
19 first 30 to 40 percent of it.

20 MS. ARCINIEGA: Okay, Your Honor. I don't -- All
21 right.

22 BY MS. ARCINIEGA:

23 Q. You never told Tony that Victor Mendoza and his
24 crew complained to you that they wanted a paystub, correct?

25 MR. ROY: Your Honor, objection. Complain? No

1 one has testified to anyone complaining. The General
2 Counsel is making it out to be a complaint when it wasn't.

3 ADMINISTRATIVE LAW JUDGE SOBLE: I'm going to
4 overrule the objection because I understand the question to
5 simply reference the one instance where he indicated
6 something was communicated to.

7 MR. ROY: Right. Right.

8 ADMINISTRATIVE LAW JUDGE SOBLE: So with that in
9 mind, if you -- do you need to hear it again or are you
10 able to translate it for the witness?

11 THE INTERPRETER: Can you please, just to make
12 sure that I got it clearly.

13 MS. ARCINIEGA: You want me to repeat it?

14 THE INTERPRETER: Yes, please.

15 MS. ARCINIEGA: Okay.

16 BY MS. ARCINIEGA:

17 Q. But you never told Tony that Victor Mendoza and
18 his crew complained to you about wanting a paystub.

19 And you never --

20 A. They swore I never had a complaint. They
21 mentioned it when the crew got started, but they never
22 complained after that.

23 Q. (Indiscernible) you never told Tony that they
24 mentioned that to you, that they wanted a paystub; isn't
25 that correct?

1 A. It's like I told you at the beginning, Tony was
2 aware because at the beginning when they told us, and Tony
3 explained to them that it would be some time before this
4 transition occurred, but it was never a complaint after
5 that.

6 ADMINISTRATIVE LAW JUDGE SOBLE: So Mr. Macias,
7 on the one occasion that you recall the crew mentioning to
8 you something about the paystubs, was that an occasion
9 where Mr. Dighera was physically present with you?

10 THE WITNESS: I don't remember exactly like I
11 mentioned before, but it could be that he was present.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Do you recall an
13 occasion when a female member of the crew mentioned that
14 she needed a paystub for her child's school?

15 THE WITNESS: Yes, I remember.

16 ADMINISTRATIVE LAW JUDGE SOBLE: What do you
17 recall of that?

18 THE WITNESS: I told her I didn't know what kind
19 of paycheck stub she was looking for. They knew that there
20 was a paper attached to it.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Do you recall
22 anything else from that conversation?

23 THE WITNESS: It wasn't a big conversation. They
24 told me that through Victor.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

1 Ms. Arciniega, you can proceed.

2 MS. ARCINIEGA: Thank you.

3 BY MS. ARCINIEGA:

4 Q. Do you remember when a person in Victor Mendoza's
5 crew told you that they needed a paystub for Medi-Cal
6 benefits for children?

7 MR. ROY: Objection. Leading.

8 ADMINISTRATIVE LAW JUDGE SOBLE: I agree, it's
9 leading, but I'm going to allow it because it's cross-
10 examination.

11 THE INTERPRETER: Just to confirm because it was
12 cutting up a little bit, can you please repeat that?

13 MS. ARCINIEGA: Sure. Were you --

14 ADMINISTRATIVE LAW JUDGE SOBLE: She asked
15 Mr. Macias does he recall a situation when a member of the
16 crew indicated that they needed a paystub for purposes of
17 showing their eligibility for Medi-Cal.

18 THE WITNESS: I remember that Victor mentioned it
19 to me.

20 THE INTERPRETER: Were you able to hear my
21 response?

22 MR. ROY: I heard it.

23 ADMINISTRATIVE LAW JUDGE SOBLE: I heard it. I
24 just assumed that the counsel's going to ask her next
25 question.

1 MS. ARCINIEGA: I didn't know if you were done,
2 Your Honor. Thank you.

3 BY MS. ARCINIEGA:

4 Q. Did you tell Tony when Victor told you that?

5 A. Yes, they told him. And I also told -- they also
6 told me that if there was a way that I could list less
7 money earned and I explained to them that we couldn't do
8 that.

9 MS. ARCINIEGA: Your Honor, I'd like to strike
10 the last comment of the witness's statement as
11 nonresponsive.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

13 MS. ARCINIEGA: Can I continue?

14 ADMINISTRATIVE LAW JUDGE SOBLE: Yes.

15 MS. ARCINIEGA: Okay, great.

16 BY MS. ARCINIEGA:

17 Q. Mr. Macias, you have said some things about
18 workers being absent and Victor. Did you personally see
19 Victor Mendoza leave the field from a day at work? I mean
20 while work was occurring, I'm sorry.

21 A One time he asked permission if he could go out
22 somewhere, I don't know where, and for me to be in charge
23 of the crew that day.

24 Q. Did you take charge of the crew that day?

25 A. Yes, that's right. Somebody had to be in charge

1 of the crew.

2 Q. Thank you. Okay. After the last day that Victor
3 Mendoza and his crew worked, Marisol called you to ask you
4 about work; isn't that correct?

5 A. No other person called me except Ignacia about
6 three or four months after.

7 Q. After Victor Mendoza and his crew's last day at
8 work, Victor Mendoza called you to ask you when his crew
9 would return to work; isn't that true?

10 A. He never called me, that's what I mentioned
11 before.

12 Q. You didn't tell Mr. Mendoza that him and his crew
13 would return upon further notice?

14 A. But you said there was no further notice. There
15 was work available if they wanted to weed.

16 MS. ARCINIEGA: One moment, Your Honor, please.

17 BY MS. ARCINIEGA:

18 Q. The crew that continued the (indiscernible), they
19 were doing harvesting, correct?

20 MR. ROY: Objection. Vague as to time.

21 ADMINISTRATIVE LAW JUDGE SOBLE: From
22 approximately March 4 of 2017 through the next couple weeks
23 thereafter, did the crew with Cesar Miranda harvest any
24 vegetables?

25 THE WITNESS: They were mostly weeding during

1 that period of time. It was very little, the orders that
2 we had for picking, maybe a few boxes. It was very little.

3 MS. ARCINIEGA: May I go on, Your Honor?

4 ADMINISTRATIVE LAW JUDGE SOBLE: Yeah, it's your
5 questions.

6 MS. ARCINIEGA: Okay. Thank you. Okay. Just
7 want to make sure there wasn't a pending question. Okay.

8 BY MS. ARCINIEGA:

9 Q. Mr. Macias, you told us that you talked to Maria
10 Lauriano and Ignacia when they crossed the street near the
11 blueberry ranch. What day was that?

12 A. I don't remember the exact day, but it was very
13 near to the day when they had left.

14 Q. And what road is that blueberry ranch on?

15 THE INTERPRETER: I'm sorry, I didn't hear the
16 first part of the question.

17 BY MS. ARCINIEGA:

18 Q. What road is the blueberry ranch on?

19 A. I don't remember the address, but I can take
20 anybody to show them where it's at.

21 Q. I don't need the address, just the name of the
22 road.

23 A. I don't remember the name of the street, but I
24 can give you some kind of directions if you'd like me to.

25 Q. Now this blueberry ranch has a parking lot for

1 where workers park their cars, correct?

2 A. That day, they were parked on the side of the
3 road.

4 Q. Okay. But does it have a parking lot where
5 workers park the cars?

6 MR. ROY: Objection. Relevance.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

8 THE WITNESS: We do.

9 BY MS. ARCINIEGA:

10 Q. That's not my question, but thank you. I'm
11 asking if the blueberry ranch has a parking lot, correct?

12 A. I don't have anything to do with the ranch, I
13 don't know any of that.

14 Q. Well you don't really know much about that
15 blueberry ranch, what street it's on or anything about it.
16 (Indiscernible.)

17 MR. ROY: Objection. Misstates the evidence.
18 Vague, ambiguous, and harassing the witness.

19 ADMINISTRATIVE LAW JUDGE SOBLE: I don't think
20 it's harassing the witness. I do think the question is
21 vague and I'm not sure whether it's a useful consumption of
22 time or not. I understood the reasoning to ask about the
23 parking lot because counsel's trying to explore the
24 credibility of whether or not Mr. Macias just happened to
25 come across those workers while driving by the ranch just

1 by chance. But I'm not sure that that topic hasn't been
2 sufficiently extinguished as to where she's going now.

3 So I'll sustain that objection as vague.

4 MS. ARCINIEGA: Okay.

5 BY MS. ARCINIEGA:

6 Q. Isn't it true that you found out about Maria
7 Lauriano and Ignacia Sanchez working at the blueberry ranch
8 from a person?

9 A. No, I saw them personally. As a matter of fact,
10 they had blueberries in a box that day.

11 Q. And based on (indiscernible) --

12 A. They asked me if I wanted some and I said
13 (indiscernible).

14 Q. But they were the only two workers that you
15 recognized from Cinagro that day, correct?

16 A. I mentioned at the beginning that I also saw
17 Marisol and Hector.

18 MS. ARCINIEGA: I don't have any further
19 questions, Your Honor.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I have
21 quite a few questions, but certainly within which we ought
22 to be able to finish with this witness today. So.

23 MR. ROY: Your Honor, before you start, may I
24 ask -- I have a request that you take judicial notice of
25 the fact that March 4, 2017 was a Saturday.

1 ADMINISTRATIVE LAW JUDGE SOBLE: I'm trying to
2 remember if I've already done that, but give me a minute
3 and I will answer your question.

4 I'm pretty sure that came up before and I always
5 forget if on a date it's considered judicial notice or
6 official notice, but I certainly will take notice that
7 March 4, 2017 was a Saturday and it's one of those two.

8 MR. ROY: Thank you.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Anything else
10 before I proceed?

11 MR. ROY: No, sir.

12 ADMINISTRATIVE LAW JUDGE SOBLE: If Victor
13 Mendoza was late or absent on a particular day, Mr. Macias,
14 did you bring water to his crew members?

15 THE WITNESS: That's right. And like I said, I
16 was in charge and Andres would help me with those type of
17 tasks.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Is it
19 fair to say that you know Ignacia Sanchez and Maria
20 Lauriano better than you knew the other members of
21 Mr. Mendoza's crew?

22 MR. ROY: Objection. Vague, irrelevant.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled. But
24 I can break it down if the witness needs me to.

25 Do you understand the question, Mr. Macias?

1 THE WITNESS: I don't know what you mean by would
2 it be fair, but I have known them before. I have worked
3 with them in the past before meeting Victor's crew.

4 ADMINISTRATIVE LAW JUDGE SOBLE: And in the case
5 of Ignacia, she worked for you both before and after she
6 worked for Victor Mendoza, correct?

7 THE WITNESS: That's right.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Do you know why
9 the labor supplier stopped doing work at Cinagro in 2016,
10 if you know?

11 MR. ROY: Your Honor, I object only because it's
12 ambiguous because there are two labor suppliers, as you
13 know.

14 ADMINISTRATIVE LAW JUDGE SOBLE: And I was going
15 to ask that, but to save time, I didn't. But I'm happy to
16 break that down.

17 Mr. Macias, do you recall there being two labor
18 suppliers in 2016, one being called Mike's and one being
19 called Art's?

20 THE WITNESS: Yeah, I do remember it. We had
21 contractors. And I do remember we would switch in between
22 them. Sometimes there wasn't enough work or they didn't
23 have enough crew.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Did you ever
25 hear that Mike and Art were brothers?

1 THE WITNESS: Yes, that's right.

2 ADMINISTRATIVE LAW JUDGE SOBLE: And do you know
3 which one was there last?

4 THE WITNESS: Can you please repeat that? I
5 didn't hear the first part.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Sure. Was the
7 order that they worked for Cinagro first Mike was the labor
8 supplier and then it was Art?

9 THE WITNESS: I don't identify them by either
10 Mike or Art. I just know them by Vasquez. Us Mexicans
11 only know, use Vasquez.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
13 know why Vasquez stopped providing services to Cinagro?

14 THE WITNESS: No, I don't have any idea on those
15 issues. They didn't comment them.

16 ADMINISTRATIVE LAW JUDGE SOBLE: Did you ever
17 tell Vasquez that Cinagro was going to directly hire
18 Victor's crew?

19 THE WITNESS: I only spoke to Arturo once and he
20 told me that there was a possibility that we would keep the
21 crew. But he didn't tell me the reason why or how.

22 ADMINISTRATIVE LAW JUDGE SOBLE: Who made the
23 decision for Cinagro to hire Victor's crew?

24 THE WITNESS: My boss.

25 ADMINISTRATIVE LAW JUDGE SOBLE: Did Mr. Dighera

1 ask you for your opinion before he decided to hire Victor's
2 crew?

3 THE WITNESS: Yes, that's right.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. In 2017
5 now, in January and February, did you think that Victor's
6 crew did a good job?

7 THE WITNESS: It's not that I thought so, it's
8 just that I was constantly getting the comebacks and I had
9 to go with the pictures. And I would tell Victor that we
10 had to do a better job so that we could have more orders.
11 And that way, all of us together could have more work
12 because that was a priority for all of us to have enough
13 work.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Did Victor's
15 crew make more mistakes than the crew with Cesar Miranda?

16 THE WITNESS: After Cesar Miranda started
17 harvesting, we haven't had any product comebacks, and that
18 is better for me because it makes my job less stressful.

19 ADMINISTRATIVE LAW JUDGE SOBLE: In January and
20 February 2017, did you ever have the occasion to suspend
21 any worker at Cinagro?

22 THE WITNESS: No one has ever been suspended at
23 any moment, only one time they told me that there was a
24 person that has shown up to work hungover, that's what we
25 call it in Mexico. And I told them they can't work that

1 way because of the dangers at work.

2 ADMINISTRATIVE LAW JUDGE SOBLE: And have you
3 ever issued a warning notice or a disciplinary notice to a
4 worker during the time period of January and February 2017?

5 MR. ROY: In Victor's crew?

6 ADMINISTRATIVE LAW JUDGE SOBLE: In -- anyone who
7 worked for Cinagro January or February 2017.

8 THE WITNESS: Nothing was written down would we
9 make like an observation, a friendly observation so that
10 they could continue working happily.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I believe
12 you answered the other attorney that you have not spoke
13 with Mr. Roy, the attorney in the white shirt, during the
14 past 30 days. Did I understand you correctly?

15 THE WITNESS: Yes, that's what I told you. He
16 only called me in regards to giving me the address and the
17 time of today's meeting.

18 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. So did he
19 call you at lunchtime today?

20 THE WITNESS: He told me -- he called me when I
21 was close and he told me to be ready because they were
22 going to call me any minute to testify.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. At one
24 point you indicated that you told someone that there would
25 be a transition to payroll deductions. Do you recall that?

1 THE WITNESS: That's right.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Did the
3 transition ever occur?

4 THE WITNESS: I can mention I would only deliver
5 the paychecks and I would just tell the workers that if
6 there was something missing, to let me know.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. My
8 question is, to your knowledge from 2016 to yesterday, did
9 the company ever change its payroll deduction system?

10 THE WITNESS: My boss mentioned to me that the
11 change has been made.

12 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. If you
13 know, what year did that occur?

14 THE WITNESS: He didn't tell me a date.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
16 recall if you ever received in any of 2017 a telephone call
17 to your cell phone directly from Marisol Jimenez?

18 THE WITNESS: I don't remember, but like I
19 mentioned, I never communicate with the workers.

20 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Do you
21 remember a day when someone in Victor Mendoza's crew cut
22 their finger?

23 THE WITNESS: Yes, I do remember.

24 ADMINISTRATIVE LAW JUDGE SOBLE: Do you remember
25 how long before the last day of Victor Mendoza's crew it

1 occurred when someone cut their finger?

2 THE WITNESS: I don't remember the date, but that
3 person came back to work after they had healed.

4 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

5 MR. ROY: Your Honor, we've got 20 minutes to go,
6 and your questions have far exceeded the General Counsel's.
7 So where do we go from here?

8 ADMINISTRATIVE LAW JUDGE SOBLE: Well I have a
9 couple of questions left and I'm going to ask them. And
10 I'm still anticipating we're going to finish today.

11 MR. ROY: Okay. And will those questions by
12 Jessica or myself be limited to the questions and topics
13 you rose, you did in your examination right now?

14 ADMINISTRATIVE LAW JUDGE SOBLE: No, you would
15 also be able to ask questions related to the ones
16 Ms. Arciniega asked. He would then be able to ask
17 questions related to either mine or to yours. If you
18 didn't have any, then hers would be limited to mine.

19 MR. ROY: For the sake of efficiency, I don't
20 think I'm going to ask any questions.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Well, I
22 lost my train of thought or I might have been done by now.
23 But I know I've got two left and I just have to find the
24 page that I was on, so we'll go off the record for about 30
25 seconds. But I'm very close to being finished.

1 (Pause in proceedings.)

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Let's go
3 back on the record. You mentioned that you drove Maria
4 Lauriano to the hearing yesterday. Does Maria Lauriano
5 work for Cinagro now?

6 THE WITNESS: No.

7 ADMINISTRATIVE LAW JUDGE SOBLE: How did you come
8 to have Ms. Lauriano in your car?

9 THE WITNESS: When I asked her if she was going
10 to be able to come, I explained to her that we would
11 provide an Uber or gas money or we could send someone from
12 the company. And she told me to -- that she needed someone
13 to go get her and she'd feel more comfortable with someone
14 from the company.

15 MR. ROY: With confidence? Con confidencia?

16 MS. ARCINIEGA: Your Honor, I would like to put
17 on the record that Mr. Roy throughout the day has attempted
18 to provide instruction to the witnesses, and I would like
19 to ask Your Honor to request him from doing that any
20 further.

21 MR. ROY: All right. Then I object to the
22 translation, the last part was left off.

23 ADMINISTRATIVE LAW JUDGE SOBLE: And I understood
24 that Mr. Roy was not trying to add something to the witness
25 but was rather trying to communicate directly with the

1 interpreter which is not how I've asked people to do it,
2 but it's still slightly different than what the Assistant
3 General Counsel was saying.

4 Does the interpreter recall what the witness
5 said? And if so, do you have a change to your
6 interpretation?

7 THE INTERPRETER: I do. Mr. Roy was correct. I
8 did omit the word -- well (spoke Spanish) meaning more
9 comfortable, confidence, she had more confidence with him,
10 with someone from the company.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Are you able to
12 repeat your entire translation with that there?

13 THE INTERPRETER: Yes.

14 ADMINISTRATIVE LAW JUDGE SOBLE: If you would do
15 so, that would be helpful.

16 THE INTERPRETER: Okay. The reason being was I
17 asked, when I asked her if she was going to be able to
18 come, I explained to her that she would be provided with an
19 Uber or gas money or we could send someone from the
20 company. She said she was going to need someone to come,
21 that she felt more comfortable or more confidence with
22 someone from the company.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. And that
24 conversation, did she call you or did you call her or was
25 it in person?

1 THE WITNESS: That's when I handed her the
2 subpoena.

3 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I have
4 one last topic of questions. It goes back to when you saw
5 Ignacia and Marie Lauriano at the blueberry farm. You
6 remember talking about that?

7 THE WITNESS: Yes, that's right.

8 ADMINISTRATIVE LAW JUDGE SOBLE: Before you saw
9 them at the blueberry farm, did you think that they still
10 might be working for Cinagro?

11 THE WITNESS: No. Because when I saw them at the
12 blueberry farm, I thought maybe they didn't want to be
13 cleaning the weeds anymore.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Let me
15 try asking my question again.

16 Prior to the moment that you saw them at the
17 blueberry farm, your car has not yet gotten into visual
18 range of Ignacia and Marie Lauriano. At that point in your
19 mind, did you understand Igancia and Marie Lauriano to
20 still be working at Cinagro?

21 THE WITNESS: When I saw them working, I thought
22 not.

23 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Macias, I
24 don't think I understand your answer. You saw them working
25 where?

1 THE WITNESS: At the blueberries.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Before
3 you saw them at the blueberries, go back ten minutes before
4 then.

5 At that point, did you think that Ignacia Sanchez
6 and Maria Lauriano still worked at Cinagro?

7 THE WITNESS: Because of my experience I have
8 with working with people, I know that when they don't show
9 up one day, by the next day they have another job. Because
10 there's been cases where people have told me that they want
11 to work and they don't know how to do the work. You give
12 them the chance to learn the work. They --

13 MR. ROY: Your Honor, I going to object as
14 nonresponsive.

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I'm going
16 to have to hear the translation to know if it was
17 responsive first.

18 THE WITNESS: They learn, they leave, and we
19 can't force them to come back or stay.

20 ADMINISTRATIVE LAW JUDGE SOBLE: I'll agree that
21 that's nonresponsive and strike that.

22 So on the last day -- well, the last day that
23 Victor Mendoza's crew worked, did you tell Victor Mendoza
24 that the next Monday his crew could work doing cleaning and
25 weeding?

1 THE WITNESS: That's right.

2 ADMINISTRATIVE LAW JUDGE SOBLE: And did you tell
3 them what location to go to do the weeding?

4 THE WITNESS: In Moorpark is what all of that was
5 going on.

6 ADMINISTRATIVE LAW JUDGE SOBLE: And did you go
7 up (indiscernible) out there (indiscernible due to bad
8 Internet connection) Mr. Dighera and say, oh, Victor's crew
9 did not show up today?

10 THE WITNESS: Yes, he was notified.

11 ADMINISTRATIVE LAW JUDGE SOBLE: Did Mr. Dighera
12 express any surprise that the crew did not show up?

13 MR. ROY: Objection. Relevance.

14 ADMINISTRATIVE LAW JUDGE SOBLE: Overruled.

15 THE WITNESS: The only thing he said was if they
16 don't want to clean, we're not going to force them.

17 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. I don't
18 have any additional questions for Mr. Macias.

19 Mr. Roy, do you have some additional questions?

20 MR. ROY: No questions.

21 ADMINISTRATIVE LAW JUDGE SOBLE: Now
22 Ms. Arciniega, since Mr. Roy has no questions, yours would
23 be based only on the ones that I asked. Do you have some
24 additional questions?

25 MS. ARCINIEGA: Very few.

1 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

2 RECROSS-EXAMINATION

3 BY MS. ARCINIEGA:

4 Q. Mr. Macias, what is the name of the person who
5 cut her finger?

6 A. I don't remember the lady's name.

7 Q. Did you deliver the subpoenas to Maria Lauriano
8 and Ignacia Sanchez?

9 A. That's right.

10 Q. And who did you get the subpoenas from?

11 A. My boss gave them to me.

12 Q. And at that time, did you talk to -- I'm assuming
13 your boss is Tony; is that correct?

14 A. That's right.

15 Q. And at that time, did you talk to Tony about the
16 testimony that Maria Lauriano would give here today?

17 A. No. Because I didn't know. The only thing I
18 asked the people is to tell -- to say what had happened at
19 the company and that was all.

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

21 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. We've got
22 potentially three things to do today. I'm going to want to
23 spend about two minutes with counsel going over all of the
24 exhibits to confirm that everybody has the same
25 understanding of what's been marked for identification and

1 what's been admitted. Then have the issue of whether any
2 rebuttal witnesses are being called and whether there will
3 be any closing statement.

4 MR. ROY: A briefing, Your Honor.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Well, hold on.

6 So the first thing is I assume for none of those
7 things do we need to retain Mr. Macias, in which case I
8 will indicate that he is free to go.

9 Is that correct? Ms. Arciniega?

10 MR. ROY: That is correct.

11 ADMINISTRATIVE LAW JUDGE SOBLE: I know it's
12 correct for you, Mr. Roy, and I'm seeing that Assistant
13 General Counsel also confirms.

14 MS. ARCINIEGA: Correct, Your Honor.

15 ADMINISTRATIVE LAW JUDGE SOBLE: I could not
16 imagine a scenario where it wasn't correct, but it's been a
17 long day, so I wanted to confirm that.

18 Okay. Mr. Macias, we appreciate your time today,
19 and we ask for the duration of this hearing that you don't
20 discuss anything that you heard or said with anybody else
21 who could be a witness to this case, which includes the
22 company's owner and present and past employees.

23 Thank you again for your time, and you are free
24 to go. Do you need someone to let you out, or do you feel
25 comfortable leaving on your own?

1 THE WITNESS: If I can open the door on my own, I
2 can leave.

3 ADMINISTRATIVE LAW JUDGE SOBLE: You may.

4 MR. ROY: Muchas gracias, senior.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Thank you.

6 THE WITNESS: Thank you.

7 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Before we
8 go over the exhibits, does the General Counsel have any
9 rebuttal witnesses?

10 MS. ARCINIEGA: No, Your Honor.

11 ADMINISTRATIVE LAW JUDGE SOBLE: You broke up.

12 MS. ARCINIEGA: No.

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

15 Does anyone have anything they would need to do
16 before we go over the exhibits?

17 MR. ROY: Nothing for the Respondent.

18 MS. ARCINIEGA: No, Your Honor.

19 ADMINISTRATIVE LAW JUDGE SOBLE: Looking at my
20 notes in totality, I believe we have 14 exhibits.
21 Actually, 15 exhibits. We have one joint exhibit that's
22 the stip -- or stipulation, if you will, one Respondent's
23 exhibit, and then we have 13 General Counsel exhibits.

24 Aside from the stipulation which I will admit as
25 a joint exhibit, we have the Respondent's exhibit has been

1 stipulated to admissibility, and we have the General
2 Counsel's Exhibit 5 that was stipulated to admissibility.
3 Then I have already admitted Exhibits 1, 2, 4, 5, 6, 7, 8,
4 and 9. So I believe that only skips over addressing number
5 3 that I don't believe we've had a ruling on. And then
6 going ahead to 11, 12, and 13. My rulings, if any, would
7 be on other pages. I admitted 10 on March 1st.

8 MR. ROY: I thought we had objected to that on
9 the basis of relevance, Your Honor. That was one of the
10 outstanding GC exhibits.

11 ADMINISTRATIVE LAW JUDGE SOBLE: I don't know if
12 you objected to it, but I do have on my notes that sometime
13 between 4:13 p.m. and 4:43 p.m. on March 1st that it was
14 offered and admitted. I would have to refer to the
15 transcript to see if you objected to it before I admitted
16 it. That's quite possible, I just can't tell you that
17 right now.

18 MR. ROY: Okay.

19 ADMINISTRATIVE LAW JUDGE SOBLE: So I believe
20 that that leaves 3, 11, 12, and 13. I believe that it was
21 stipulated to admit 12, so that leaves 3, 11, and 13.

22 MR. ROY: Your Honor, what is Exhibit 11 consist
23 of? Is it a payroll roster?

24 MS. ARCINIEGA: It's Yolanda Antonio's paystubs.
25 And I have that it was admitted 2/25.

1 MR. ROY: Okay. That's fine. And 13?

2 MS. ARCINIEGA: 13, I have not admitted. It was
3 just shown to refresh recollection. It's payroll from
4 September 18th to September 24th, 2017.

5 ADMINISTRATIVE LAW JUDGE SOBLE: Okay.

6 MR. ROY: We will (indiscernible).

7 ADMINISTRATIVE LAW JUDGE SOBLE: So let me see if
8 I have everything correct here in terms of what people
9 agree.

10 I show, then 1, 2, 4 to 10, 11, and 12 as all
11 having been admitted?

12 MR. ROY: Yes.

13 MS. ARCINIEGA: Yes, Your Honor.

14 ADMINISTRATIVE LAW JUDGE SOBLE: 13 has not been
15 offered.

16 MR. ROY: We object to it. For irrelevant --

17 ADMINISTRATIVE LAW JUDGE SOBLE: Well hasn't been
18 offered, so you don't even need to object to it.

19 MR. ROY: Okay.

20 ADMINISTRATIVE LAW JUDGE SOBLE: I'm not going to
21 admit it --

22 MR. ROY: Okay.

23 ADMINISTRATIVE LAW JUDGE SOBLE: -- as evidence.
24 I mean, it may have been used in a question in which case
25 it's part of the record, but it's not admitted in any way.

1 So that leaves only Exhibit 3 that the General
2 Counsel may or not be seeking to admit that I don't believe
3 I've addressed. And Exhibit 3 is a one-page check to
4 Rigoberto Perez on March 10th.

5 MR. ROY: I don't have objection to that, Your
6 Honor.

7 ADMINISTRATIVE LAW JUDGE SOBLE: You do not?

8 MR. ROY: No.

9 ADMINISTRATIVE LAW JUDGE SOBLE: Would General
10 Counsel like to stipulate to admit it?

11 MS. ARCINIEGA: Sure. We don't have to, but
12 sure.

13 ADMINISTRATIVE LAW JUDGE SOBLE: I think I heard
14 a sure, it was a little bit mangled there. Okay.

15 So with that done, is there anything anyone needs
16 to address before I ask if anyone wants to give a closing
17 statement?

18 MR. ROY: I would like to agree to waive it as
19 long as the General Counsel --

20 ADMINISTRATIVE LAW JUDGE SOBLE: No, I'm asking
21 if there's anything other than the closing statement of it?

22 MR. ROY: Yes. I'd like to reassert my prior
23 motions to dismiss Mr. Mendoza and my prior motion to
24 dismiss the entire complaint as not being proven beyond by
25 preponderance of the evidence taken.

1 ADMINISTRATIVE LAW JUDGE SOBLE: And other than
2 Mr. Roy's potential motions and any possible closing
3 statement, is there anything else the General Counsel
4 intends to bring up?

5 MS. ARCINIEGA: No, Your Honor.

6 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. Then at
7 this point I believe we can let the interpreter go. That's
8 what I was trying to determine.

9 Ms. Lucas, you are free to go. Thank you for
10 your time during the hearing.

11 So at this point, if Mr. Roy is renewing his
12 motions, my answer is that I'm going to deny those motions
13 until I've had the opportunity to review the transcript and
14 research the legal nuances that may be involved in the
15 case.

16 MR. ROY: All right. Thank you, Your Honor.

17 ADMINISTRATIVE LAW JUDGE SOBLE: And I'll start
18 with the General Counsel. Is the General Counsel wish to
19 give a closing statement of up to 15 minutes today, knowing
20 that if you decline to do so, Mr. Roy is willing to also
21 decline to do so?

22 MS. ARCINIEGA: The General Counsel does not wish
23 to make a closing statement today.

24 ADMINISTRATIVE LAW JUDGE SOBLE: I'm sorry?

25 MS. ARCINIEGA: The general counsel does not wish

1 to make a closing statement.

2 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. In that
3 case, I take it, Mr. Roy, you also do not wish to make one
4 today?

5 MR. ROY: That's correct, Your Honor.

6 ADMINISTRATIVE LAW JUDGE SOBLE: So here's how
7 things are going to work. In a second, I'm going to go off
8 the record, but I expect that the court reporter won't be
9 able to give me a specific indication as to when we can get
10 can a transcript because part of that is the function of
11 his firm, I think, and may be out of his control. But let
12 me ask that. We'll go off the record.

13 (Off the record at 5:05 p.m.)

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

15 ADMINISTRATIVE LAW JUDGE SOBLE: Okay. We're
16 back on the record. I don't know precisely when a
17 transcript will be available. I certainly assume it will
18 be available before the month is over.

19 So both of the parties have just indicated that
20 they're not going to do a closing statement today, so there
21 will of course be posthearing briefs and the parties will
22 be given not less than 20 days from when the transcript is
23 done. But I'm also aware of the fact that at least one of
24 the counsel has some impending out-of-state travel plans
25 and both of the counsel potentially have a case scheduled

1 in April.

2 So what I would propose to do is this. Why don't
3 we wait until we receive the transcript. When I know that
4 the transcript has been received, which may or may not be
5 sooner than Counsel is aware of that, I will seek to
6 solicit from Counsel if a particular date is acceptable to
7 them to have the briefing done. My only concern is that if
8 I lose access to one of the counsel during that time
9 period, that then I won't be able to set a date.

10 So let's go off the record for a second for me to
11 ask a quick schedule question.

12 (Off the record at 6:11 p.m.)

13 (On the record at 6:11 p.m.)

14 ADMINISTRATIVE LAW JUDGE SOBLE: So I've just
15 clarified with Counsel that because we don't know precisely
16 when we're going to get the transcript back, I will wait
17 until I have received either a copy of the transcript or a
18 notice from the court reporting firm of the date that we
19 will receive a copy of the transcript. And at that point,
20 I will communicate with counsel of record to propose a date
21 that the posthearing briefs are due that will take into
22 account both the ordinary timing in which such briefs are
23 required and what I am already aware as to Counsels'
24 respective schedules.

25 At that point, if that schedule is not considered

1 appropriate by any of the counsel, they are free to request
2 a continuance of time, preferably with having obtained the
3 position of opposing counsel beforehand. When counsel
4 agree to it, that doesn't necessarily mean that an
5 extension will be granted, but, again, my goal is to act in
6 such a way that is compatible both with the general desire
7 of the ALJ unit to have these matters moved expeditiously,
8 but also to allow meaningful time for all Counsel to submit
9 posthearing briefs that not only provide legal argument but
10 also have citations to the transcript to support underlying
11 facts where appropriate.

12 So this was, as I anticipated, longer than four
13 days, being seven days, but I'm not sure that more than
14 about one of those seven days was due to any delays due to
15 the format of the hearing being by video conference rather
16 than in person. I just think some of the witnesses took a
17 little bit longer than expected, that this isn't the first
18 hearing where that happened nor will it be the last. So I
19 appreciate Counsel adapting to this format where I believe
20 that we were able to both maintain the due process needed
21 to (indiscernible) the hearing and also maintain everyone's
22 safe as this pandemic enters whichever stretch that you
23 perceive it to be in.

24 So is there anything else that the General
25 Counsel wants to add before I close the record?

1 MS. ARCINIEGA: No, Your Honor.

2 ADMINISTRATIVE LAW JUDGE SOBLE: And is there
3 anything the Respondent wants to add before I close the
4 record?

5 MR. ROY: I would just request a copy of the
6 transcript from the court reporter. Is that provided as a
7 matter of (indiscernible) or does my client have to pay for
8 that here?

9 ADMINISTRATIVE LAW JUDGE SOBLE: Mr. Petty,
10 perhaps the best course of action would be if you would
11 forward to the principal of your agency Mr. Roy's email and
12 let them know that he wants to find out the circumstances
13 under which he can obtain a transcript. Okay?

14 And just to make it clear, I will make sure
15 there's enough time so that if I somehow get the transcript
16 ahead of any of the attorneys, that there's enough time
17 built in to it to take into account if there's some sort of
18 gap. I am aware of cases, however, where attorneys have
19 made arrangements beforehand where the attorneys got the
20 transcript literally the exact same day I did. You may
21 have an option to get both paper and PDF copies of the
22 transcript. That certainly has been the case before. I
23 don't know if it will still be the case, but I have no
24 reason to think that it would not. So -- but again, that's
25 something all of you can arrange.

1 I know I personally have received them in both
2 formats and usually like to have them in both formats. But
3 I still rely upon our staff and at some point, I find out
4 if I received something. So by our staff, I mean not the
5 court reporting firm, but rather at ALRB headquarters.

6 So okay. Thank you everybody for your
7 professionalism at this hearing. It is 5:16 p.m., and I
8 will close the record on this hearing. Thank you very
9 much.

10 (The hearing adjourned at 5:16 p.m.)

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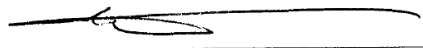
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And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of March, 2021.



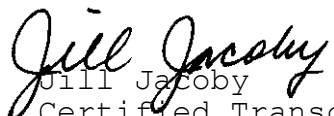
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IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of March, 2021.


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