

96CV5089-EHN-JGM

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★ DEC 28 1998 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

TIME A.M. \_\_\_\_\_  
P.M. \_\_\_\_\_

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MAIN EVENTS /MONITOR PRODUCTIONS,

JUDGMENT

Plaintiff,

96 CV 5089 (EHN)

- against -

MIGUEL BATISTA d/b/a GOLDEN FISH RESTAURANT;  
192<sup>ND</sup> STREET FOOD & BEVERAGE CORPORATION and  
JACK MALLILO d/b/a SHOOTERS;  
BORIN QUEYA #2 RESTAURANT, INC. and  
JOHN DOE d/b/a BORIN QUEYA #2 RESTAURANT;  
D&M RESTAURANT CORP. and  
TINO MENDES d/b/a ONOSSO CAFÉ;  
PEGGY O'SHEA PUB, INC. and JOHN  
DOE d/b/a PEGGY O'SHEA PUB;  
JOSE CARRERAS and MANUEL GUZMAN d/b/a  
SALINA'S ECUADOR;  
SANTO DOMINGO INVITA and JOHN DOE  
d/b/a SANTO DOMINGO INVITA;  
RAMON SOLARES and ARISTEDES  
SOLARES d/b/a SREL TIPICO;  
FELIX BELTRE d/b/a EL RINCON  
MONTANEZ COMMIDAS HISPANO;  
P. VILLACIS d/b/a EVA RESTAURANT;  
LA CABANA FRIED CHICKEN, INC. and RAMTON  
DELOSSANTOS d/b/a LA CABANA FRIED CHICKEN;  
LAS CENIZAS RESTAURANT, INC. and  
JOHN DOE d/b/a LAS CENIZAS RESTAURANT;  
EL BUEN GUSTO RESTAURANT, INC. and  
JOHN DOE d/b/a EL BUEN GUSTO RESTAURANT;  
LA TIA COFFEE SHOP, INC. and JOHN DOE  
d/b/a LA TIA COFFEE SHOP;  
and TAQUIERA EL PAISANO, INC. and  
DOMINICA HUESCA d/b/a TAQUIERA EL PAISANO,

Defendants.  
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A Memorandum and Order of the Honorable Eugene H. Nickerson, United States

District Judge, having been filed on December 16, 1998; and the Court having dismissed

(153)

the action, without prejudice, as to defendants La Tia Coffee Shop, Inc. and John Doe d/b/a La Tia Coffee Shop on March 13, 1997; and having dismissed the action, without prejudice, as to defendants Jose Carreras and Manuel Guzman d/b/a Salina's Ecuador on May 7, 1997; and no objections having been filed; the Court adopts, in part, the August 24, 1998 Report and Recommendation of Magistrate Judge Steven M. Gold that:

1. the default judgments previously entered against defendants Dominica Huesca d/b/a Taqueria El Paisano, and Bartolome Perez, d/b/a Borin Queya #2 Restaurant and Borin Queya #2 Restaurant, Inc. be set aside; and noting that the Court ordered the action discontinued as to defendants Borin Queya #2 Restaurant, Inc. and Bartolome Perez (captioned as John Doe) d/b/a Borin Queya #2 Restaurant, Dominica Huesca d/b/a/ Taqueria El Paisano and Taqueria El Paisano, Inc. on October 2, 1998;
2. plaintiff's application for sanctions against defendants Dominica Huesca d/b/a Taqueria El Paisano, and Bartolome Perez (captioned as John Doe) d/b/a Borin Queya #2 Restaurant and Borin Queya #2 Restaurant are denied;
3. damages are awarded against the defaulting defendants (except as to Taqueria El Paisano, Inc., that action having previously been discontinued) in the amount of \$10,000 plus attorney's fees and costs for a total of:
  - (a) \$12,409.45 as against defendants D&M Restaurant Corp. and Tino Mendes d/b/a Onosso Café;

- (b) \$11,717.90 as against defendants Miguel Batista d/b/a Golden Fish Restaurant;
- (c) \$11,717.90 as against P. Villacis d/b/a Eva Restaurant;
- (d) \$11,762.90 as against defendants Las Cenizas Restaurant, Inc. and John Doe d/b/a Las Cenizas Restaurant;
- (e) \$11,762.90 as against El Buen Gusto Restaurant and John Doe d/b/a El Buen Gusto Restaurant;
- (f) \$11,762.90 as against Felix Beltre d/b/a El Rincon Montanez Commidas Hispano;
- (g) \$11,762.90 as against Peggy O'Shea Pub, Inc. and John Doe d/b/a Peggy O'Shea Pub;
- (h) \$11,762.90 as against La Cabana Fried Chicken, Inc. and Ramton Delossantos d/b/a La Cabana Fried Chicken; and that

- 4. plaintiff's renewed request for injunctive relief is denied;
- 5. plaintiff's claims against defendants; Santo Domingo Invita, Inc. and John Doe d/b/a/ Santo Domino Invita; and Ramon Solares and Asristedes Solares d/b/a Srel Tipico are dismissed for failure to prosecute, and further, that except for the recommendation to dismiss claims against defendant 192<sup>nd</sup> Street Food and Beverage Corp. and Jack Mallilo d/b/a Shooters, the Court approves and adopts the fifth recommendation, and further, ordering that a calculation of damages and attorney fees is referred to Magistrate Judge Gold for a report and recommendation; it is

ORDERED and ADJUDGED that judgment is hereby entered :

1. that the action as to defendants Jose Carreras and Manuel Guzman d/b/a Salina's Ecuador is dismissed without prejudice; and that the action against defendants Borin Queya #2 Restaurant, Inc. and Bartolome Perez (captioned as John Doe) d/b/a Borin Queya #2 Restaurant, Dominica Huesca d/b/a Taqueria El Paisano and Taqueria El Paisano, Inc. is dismissed;
2. that the plaintiff's application for sanctions against defendants Dominica Huesca d/b/a Taqueria El Paisano, and Bartolome Perez (captioned as John Doe) d/b/a Borin Queya #2 Restaurant and Borin Queya #2 Restaurant is denied;
3. that the following damages are awarded against the defaulting defendants (except as to Taqueria El Paisano, Inc.) in the amount of \$10,000 plus attorney's fees and costs for a total of:
  - (a) \$12,409.45 as against defendants D&M Restaurant Corp. and Tino Mendes d/b/a Onosso Café;
  - (b) \$11,717.90 as against defendants Miguel Batista d/b/a/ Golden Fish Restaurant;
  - (c) \$11,717.90 as against P. Villacis d/b/a Eva Restaurant;
  - (d) \$11,762.90 as against defendants Las Cenizas Restaurant, Inc. and John Doe d/b/a Las Cenizas Restaurant;
  - (e) \$11,762.90 as against El Buen Gusto Restaurant and John Doe

d/b/a El Buen Gusto Restaurant;

- (f) \$11,762.90 as against Felix Beltre d/b/a El Rincon Montanez  
Commidas Hispano; d/b/a El Buen Gusto Restaurant;
- (g) \$11,762.90 as against Peggy O'Shea Pub, Inc. and John Doe d/b/a  
Peggy O'Shea Pub;
- (h) \$11,762.90 as against La Cabana Fried Chicken, Inc. and Ramton  
Delossantos d/b/a La Cabana Fried Chicken; and it is further,

ORDERED and ADJUDGED that plaintiff's renewed requests for injunctive relief are denied; that the plaintiff's claims against defendants Santo Domingo Invita, Inc. and John Doe d/b/a Santo Domino Invita; and Ramon Solares and Aristedes Solares d/b/a Srel Tipico are dismissed for failure to prosecute; that plaintiff's motion for injunctive relief against 192<sup>nd</sup> Street Food and Beverage Corp. and Jack Mallilo d/b/a Shooters, is denied; and it is further

ORDERED and ADJUDGED that a calculation of damages and attorneys fees is referred to Magistrate Judge Gold for a report and recommendation.

Dated: Brooklyn, New York  
December 23, 1998



ROBERT C. HEINEMANN  
Clerk of Court