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AND WG FILM AB

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

DOLE FOOD COMPANY, INC., a
Delaware corporation,

Plaintiff,

v.

FREDRIK GERTTEN, an individual,
MARGARETE JANGÅRD, an individual
WG FILM AG, a Swedish corporation

Defendants.

Case No. BC417435

[Assigned for All Purposes to the Hon. Ernest M.
Hiroshige]

**DECLARATION OF FREDRIK GERTTEN IN
SUPPORT OF DEFENDANTS SPECIAL
MOTION TO STRIKE UNDER C.C.P. § 425.16**

Filed concurrently:

Defendants' Special Motion to Strike Under C.C.P. §
425.16; Declarations of John Shaeffer, Lincoln
Bandlow and Margarete Jangård; Request for Judicial
Notice; Appendix of Non-California Authorities; and
Proof of Service

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DECLARATION OF FREDRIK GERTTEN

I, Fredrik Gertten, hereby declare and state as follows:

1. I am a party to this action as a defendant along with Margarete Jangård and WG Film AB (erroneously sued as “WG Film AG”). I am the co-founder and President of WG Film AB. I submit this Declaration in support of Defendants’ Special Motion to Strike Under C.C.P. § 425.16. The following facts are within my personal knowledge and I know them to be true. If called to testify, I could and would do so competently under oath.

2. I have been a journalist for over 30 years, since I was around 20 years old. My journalistic work for radio, television and newspapers has taken me all over the world, including Africa, Latin America, Asia and Europe. In 1994, to create documentary films, I co-founded Westman & Gertten AB with the experienced documentary filmmaker Lars Westman, whose films are part of Swedish film history and who received the Bo Widerberg Award in recognition of a lifetime dedicated to film. Mr. Westman left the company in 2000. Since forming Westman & Gertten (which was later renamed as “WG Film AB”), I have been involved in the production of 20 documentary films, either as a producer or as a director. For example, I have produced or directed such films as the award-winning documentary, *An Ordinary Family*, about one Argentinean family’s struggle to survive the collapse of the national economy which was broadcast in the United States on the Sundance Channel, another award-winning documentary, *The Socialist, The Architect and the Twisted Tower*, a film that follows the world famous architect Santiago Calatrava and the cultural clashes, financial crisis and heavy personal defeats involved in Calatrava’s development and construction of the Turning Torso residential building project in Malmö, Sweden. More recently, I have co-produced *Burma VJ*, which has won over twenty awards at top international film festivals and will be broadcast in the United States on HBO, and which is a presentation of the democratic potential of modern technology through the compelling story of young video journalists in last year’s uprising in Burma.

3. In December 2006, I was contacted by Swedish journalist, Sara Bergfors, who asked me to help produce and finance a documentary on the story of former banana plantation workers in Nicaragua. She informed me of her desire to tell the story of these suffering ex-banana field workers

1 as they marched and sought justice for the harm they suffered in working in the banana fields for
2 multinational corporations. She proposed that the central figure in this documentary would be a
3 young boy born with severe birth defects. In addition, she informed me about the involvement of
4 American lawyers with the ex-banana field workers in Nicaragua. In particular, she mentioned
5 Walter Lack, a lawyer well-known through his being portrayed in the American motion picture “Erin
6 Brokovich.” In January 2007, Ms. Bergfors sent me a copy of her treatment for the documentary she
7 had in mind

8 4. After listening to and considering Ms. Bergfors’ proposal, I told her that I was not
9 interested in producing her film. I explained to her my belief that the story of the ex-banana field
10 workers was too complicated for someone like her, who had no experience in filmmaking, to bring to
11 a successful conclusion. Although I expected that she would move on, she informed me that she
12 would gladly give control over the film to me and be happy to be part of the team creating the film.

13 5. I did not respond immediately to Ms. Bergfors’ invitation, continuing to consider her
14 offer. While attending a film festival in Australia in February 2007, I spoke with several American
15 sources of funding, including the Sundance Documentary Fund and Independent Television Service
16 (“ITVS”), about the story of the ex-banana field workers. Everyone with whom I spoke told me that
17 this should be my next film project because the subject matter sounded so compelling.

18 6. Subsequently, in April 2007 in Toronto, I met with additional possible sources of
19 funding, including Cara Mertes of Sundance Institute. Once again, everyone with whom I discussed
20 the story told me that the banana field workers’ story would be a great project about a very important
21 issue. At that time, I decided to take control of the project and to hire Canadian producer Bart
22 Simpson to work with me on the project. Simpson had previously produced the acclaimed and
23 successful international documentary film *The Corporation*.

24 7. In connection with the creation of the film project, I concentrated more on the creative
25 end of the project, dealing with the actual content of the film. I assigned Margarete Jangård the task
26 of acting as the producer for the film, so that I would be freed from performing tasks that would
27 interfere with my focus on the creative side of the project. Thus, Ms. Jangård had responsibility for
28

1 addressing agreements with financiers, team members, or other consultants and of handling financial,
2 economic issues and related day-to-day production details.

3 8. While in Toronto, I also meet with Canadian script writer Harold Crooks. Crooks had
4 been working for some time on a major story about afflicted Costa Rican banana field workers but
5 had never completed the project. Crooks informed me of the difficulties of producing a film
6 involving a court case. He explained his concern that legal cases tend to never end. Based on his
7 experience, I understood that Crooks knew the story of the banana field workers very well. Although
8 my company and I never managed to work with Crooks in an official manner, we kept an open line
9 of communication about how to best tell this story.

10 9. In the spring or early summer of 2007, I learned that one of the lawsuits involving
11 claims by Nicaraguan banana field workers that had been filed in a Los Angeles Superior Court was
12 expected to go to trial in June 2007. Around the same time, Crooks informed me that one of the
13 Nicaraguan leaders of the banana worker movement, Victorino Espinales, was attempting to
14 negotiate a resolution directly with Dole. Attached hereto as Exhibit B is a true and correct copy of
15 an email string I received informing me of these facts.

16 10. In May 2007, I submitted an application to the Sundance Institute, including a
17 summary of the proposed film and a budget. I have attached as Exhibit C a true and correct copy of
18 that summary, entitled "Poison in a Banana Republic." Ultimately, Sundance provided WG Film
19 with a \$10,000 grant to develop the project. In addition, the Swedish Film Institute and a regional
20 film fund, Film i Skåne, provided financial support for the development.

21 11. In May 2007, I received an email from Sara Bergfors in which she shared a series of
22 links to various Internet sites that had information relevant to the issue of the health and safety effects
23 of DBCP use in agriculture throughout the world in general and of DBCP and banana workers in
24 particular.

25 12. In June 2007, I traveled to Nicaragua to research the story. Ms. Bergfors and Johan
26 Hallberg, a Swedish web designer and free lance filmographer based in Nicaragua, accompanied me
27 and assisted me on the trip. Mr. Simpson joined the production team as a sound man, consultant and
28 partner in creating the story. WG Film hired Frank Pineda, a long time Nicaraguan director of

1 photography (also known as a cinematographer) who had worked for foreign television since the
2 early 1980s. In my experience, Mr. Pineda is the only director of photography of international
3 standard in the country of Nicaragua.

4 13. At that time, Mr. Pineda told me that he had previously shot a documentary about the
5 banana workers movement, entitled “*Bananeras*.” I went to the Minister of Culture of Nicaragua and
6 its film department and screened a copy of the film. *Bananeras* is thirteen minutes long and contains
7 significant and illustrative footage of the activity and work that was going on in the banana fields
8 during the 1970s and 80s. Ultimately we decided to use significant portions of the *Bananeras* film to
9 provide background of the banana trade in Nicaragua.

10 14. Throughout this time, I continued to obtain and consider information related to the
11 history of the struggle of the former banana field workers and the physical impact of pesticides used
12 in the fields on the health and safety of the workers and their families. Also, I met with Swedish
13 medical researchers at Lund University, which is working in cooperation with universities in
14 Nicaragua and Costa Rica studying health and safety issues related to banana workers. In those
15 meetings, the researchers showed me a variety of studies (both published and awaiting publication)
16 regarding the impact of pesticides on banana workers.

17 15. I also spoke with a high-ranking member of the Nicaraguan National Assembly, Dr.
18 Luis Callejas, a former contra and member of the opposition party to Daniel Ortega’s ruling party and
19 a medical doctor. Dr. Callejas shared with me more insights into the DBCP story, from a political
20 and medical perspective.

21 16. On our first day in Managua, Nicaragua, we encountered a march of banana workers
22 arriving from Chinandega. The marching workers consisted primarily of elderly people, who were
23 very poor, and who struck us as being humble and nice people. We decided to capture on film
24 footage of this march and these workers.

25 17. During our stay in Nicaragua, we filmed and interviewed numerous people who were
26 at the camp that they had built in front of the National Assembly in Managua. As we interviewed
27 these people, we were consistently told similar stories about how either they or someone they knew
28 had worked for years for the banana companies, such as Dole and Chiquita, and they recounted the

1 adverse health effects they or people they knew had suffered from the use of or exposure to pesticides
2 in the banana plantations. One pesticide that was prominently mentioned in their stories was DBCP,
3 which was commonly called by its trade names Nemagon or Fumazone. I also interviewed Victorino
4 Espinales who discussed with me the workers struggle to obtain redress for their injuries.

5 18. After interviewing these ex-banana workers, and friends and family members of ex-
6 banana workers, I interviewed a doctor at the Nicaraguan Ministry of Health and World Health
7 Organization, Dr. Marianela Corriols. In that interview, Dr. Corriols explained her opinion regarding
8 the reason that so many Nicaraguan banana workers suffer from kidney failure. In her opinion, based
9 on the patients and information she had seen, Nicaraguan citizens would need over 3,000 kidney
10 transplants a year; however, none are performed in Nicaragua. She explained that field workers are
11 more sensitive to pesticides than an average person because the physical exertion of a banana worker
12 requires that he drink up to eight liters of water every day. Because no water is readily available to
13 the workers out in the fields of the plantations, they would typically drink far too little water.
14 Moreover, what water they would drink often came from off the banana leaves, from puddles or from
15 hand-dug wells. As a result, she concluded that this lack of water made the poison go right to their
16 kidneys, rather than into the fat tissues as would ordinarily be the case for an average person. Dr
17 Corriols also informed us that, in the Chinandega region, every second woman dies from cancer of
18 the uterus. In her opinion, the use of pesticides in the banana fields was related to this high risk of
19 cancer.

20 19. At that time, we also interviewed a university professor at Centro para la Investigación
21 en Recursos Acuáticos de la Universidad Autónoma de Nicaragua – (“CIRA/UNAM”) in Managua,
22 Professor Salvador Montenegro Guillen. Professor Guillen told us about a test they had performed
23 on hand-carved wells located around the banana plantations. As a reference sample, the researchers
24 also tested the public water supply from other wells. The researchers found traces of pesticides in all
25 wells, with significant spikes in the hand-carved wells.

26 20. At Chinandega, I also met with and interviewed a local physician, who related various
27 anecdotes drawn from her personal experiences with Nicaraguan patients about the numerous
28 instances of cancer and kidney problems in the region.

1 21. During this trip to Nicaragua, we happened upon a neighborhood in which a funeral
2 was taking place. We met the family only minutes before they began bringing the coffin out of the
3 house to begin the public procession. I was informed by an employee of the banana plantation where
4 we were filming that the deceased man, who had worked in the banana fields, had died from kidney
5 failure. His wife, Carmen, who is depicted in the film, ultimately died from cancer of the uterus.
6 Carmen had told us that their first two children, born while both she and her husband worked in the
7 banana plantation, had died and their third child, also born while both she and her husband worked in
8 the banana plantation, was born prematurely. Her last two children, born after she had stopped
9 working in the banana fields, were the only ones born healthy. We filmed the funeral procession,
10 including the speech made by the officiating priest. The priest gave a very powerful insight into his
11 daily life as a priest, regularly having to bury banana workers, who had suffered from exposure to
12 pesticides. Ultimately, we used this footage as the opening to the final version of the film to
13 introduce the bigger story up front: the reality of how the banana workers have been left in poverty
14 and suffering after companies that employed them left them behind. I felt and continue to feel that it
15 was important to convey to the audience the existence of a larger story of the relationship between
16 large banana companies such as Chiquita, Dole and others who pledge to bring health and prosperity
17 to third world countries but often leave these citizens in sickness and poverty, rather than merely
18 recounting the events of the *Tellez* case.

19 22. As mentioned above, I have produced and/or directed more than 20 documentary
20 films, for theatre and television. To create an effective documentary film, the story must have a
21 narrative arc that carries the viewer from the beginning to the end. My documentary films do not
22 seek to recreate a traditional journalistic news report of the events I am covering. Rather, they are
23 films told in my style, with a focus on smaller stories that convey the dominant theme that I seek to
24 convey to the viewer. My goal typically as a filmmaker is to tell a simple story that takes place in the
25 context of events surrounding larger issues and to leave my audience wanting to find out more about
26 the issues depicted in my films. I like to give my audience glimpses into these broader issues to spark
27 their interest in learning more. I am not a “Michael Moore” style of director who seeks to convey or
28 compel the audience to reach any particular conclusion.

1 23. For *Bananas!**, I chose as the theme of the film the interrelationship of the disturbing
2 politics of the banana trade and the divide between the so-called “first world” and “third world.”
3 Throughout the summer, I continued to work on the presentation of this theme and how I would tell a
4 simple story within the broader context. As part of the process, I hired researchers who, at my
5 direction, provided me with additional reports and summaries on this theme.

6 24. I ultimately chose to convey this theme through two main characters that formed the
7 dual epicenters of the film: the Nicaraguan banana worker and the American trial lawyer. In this
8 way, I could tell a compelling and specific story that would hold the interest of the audience while
9 still reflecting the realities of generalized banana workers in other countries. After deciding that the
10 narrative focus of the film would be young Nicaraguan boy who had recently buried his father and
11 the actual court case of the ex-banana workers in Nicaragua, I ceased filming any more shots related
12 to other aspects of this sprawling story. Because I wanted to convey a story that would be relevant to
13 banana workers worldwide, I decided that the film would not focus on legal and political events that
14 had taken place – or were continuing to take place – in Nicaragua. In particular, I chose not to
15 include such things as the conflict between the Nemagon litigation and Victorino Espinales or Dole’s
16 interactions with Nicaraguan President Daniel Ortega regarding the establishment of a program for
17 afflicted banana workers who were unrepresented by American counsel. Attached hereto as Exhibit
18 D is a July 30, 2007 email that I sent laying out a synopsis of the project at that time.

19 25. Ultimately, we settled on plaintiffs’ attorney Juan Dominguez as the principal figure
20 to represent the second focal point of the film. With his charismatic presence, Mr. Dominguez
21 provided a rich character through whom much of the *Bananas!** story could be told. In particular,
22 Mr. Dominguez provided us with a particularly interesting issue to explore: the tension between his
23 apparently successful drive for fame and wealth and the plight of the poor banana workers. I first
24 learned of Mr. Dominguez in May 2007 when Ms. Bergfors sent me an e-mail from Nicaragua
25 reporting that she was unable to interview the thirteen plaintiffs in the Nemagon action to be tried in
26 Los Angeles because the Chenandaga law firm with whom Dominguez was working, would not
27 permit it. Attached hereto is as Exhibit E is a copy of an email I received informing me of these
28 facts.

1 26. Although initially expressing suspicion, in the middle of June 2007, Mr. Dominguez
2 finally provided us with a release to film and to use him in a significant role within the documentary.
3 A true and correct copy of the email I received about Mr. Dominguez's consent is attached as Exhibit
4 F. In July 2007, I went to Los Angeles to film the opening arguments in the *Tellez* trial and a good
5 amount of material with Mr. Dominguez. This was the first time I ever met Mr. Dominguez. At that
6 time, I informed him for the first time that he was going to be a central figure in the documentary. At
7 the same time, I was able to film Duane Miller, the attorney who was actually trying the case in
8 court. Mr. Miller initially expressed that he was not comfortable being filmed, but he ultimately
9 allowed us to film him to obtain footage that was ultimately included in the documentary. I also
10 found that it was very difficult to film Mr. Miller simply because he was extremely busy preparing
11 for or handling the trial proceedings (he appeared to be responding to papers that Dole and Dow were
12 serving on him virtually around the clock).

13 27. On or around July 6, 2007, I read a press release from Dole regarding its dealings in
14 Nicaragua in connection with issues pertaining to use of DBCP. I have attached as Exhibit G to my
15 declaration, a true and correct copy of an email with that press release attached to it.

16 28. In September 2007, we successfully presented the documentary to the largest public
17 broadcaster in Germany, ZDF. At that time, ZDF's representatives expressed their interest in the
18 project. We continued to send them material. After many months, the ZDF board agreed to buy the
19 broadcast rights for the film in Germany and France. In addition, we successfully presented the film
20 to an assortment of broadcasters from Finland, Norway, Denmark and Sweden.

21 29. In October and November 2007, I continued to film in Los Angeles, including events
22 surrounding the closing arguments that were taking place in the *Tellez* trial. At the same time, Mr.
23 Pineda filmed events in Nicaragua. When the verdict in *Tellez* was delivered, I was in Sweden
24 following the case on the Internet. A local filming team covered the verdict from Los Angeles, while
25 Mr. Pineda filmed the response in Nicaragua.

26 30. During these production and post-production phases, WG Films continued its efforts
27 to obtain financing from a variety of sources. This funding was necessary to pay for the completion
28 of the project.

1 31. Following the verdict in *Tellez* in November, we collected all of our existing film
2 footage – both from Los Angeles and from Nicaragua – and began the editing process of turning the
3 raw footage into a compelling narrative. Before editing the hours of film footage into a coherent
4 whole, I needed to decide the specific nature of the story that I would tell through the documentary.
5 Towards that end, during that time we continued to compile, review and evaluate significant amounts
6 of research material regarding the history of the banana trade, the use of pesticides in the production
7 of bananas and the history of the DBCP dispute from the late 1970s to the present. As a result of this
8 research, WG Films compiled a list of Internet sources relevant to these topics and published links to
9 the source documents at the URL http://wgfilm.eu/bananas/bananas_link.htm. I have attached as
10 Exhibits H a printout of this web page.

11 32. In November 2007, we presented the film project to broadcasters from all over the
12 world at the Forum in Amsterdam. We received an outstanding response and the film quickly
13 obtained additional funding necessary to complete production and pay for distribution.

14 33. In December 2007 and continuing into January 2008, Mr. Pineda, Mr. Hallberg and I
15 filmed in Nicaragua, including shooting footage of Mr. Dominguez in Puerto Cabezas for two days
16 and in Managua for an additional two days. I traveled to Chinandega and shot footage of the
17 Nicaraguan family at the law office.

18 34. Contrary to statements I have read made by Dole investigators, in which they contend
19 that there was cutting out of tongues and burning down of houses in Nicaragua, in my experience and
20 the experience of other members of my team, violence was not prevalent in Nicaragua. In fact, when
21 I traveled to Nicaragua at this time, I brought both of my children with me because I believed that
22 Nicaragua was a safe country.

23 35. Throughout the late winter and early spring of 2008, we continued to work on
24 financing and putting the team together to finalize the production of the film, including conducting
25 additional research on the factual context for the narrative story of the film.

26 36. In May 2008, I worked for approximately a month with film editor Jesper Osmund
27 and narrative consultant Niels Pagh Andersen to fine-tune the parameters of the focus of the narrative
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1 I wanted convey in the documentary. This was important in the production of the film so that I
2 would know what footage was still needed to complete the film.

3 37. In June 2008, I returned to Nicaragua to film additional footage. For four days, I
4 filmed interviews with Mr. Dominguez in Chinandega and a few scenes in which he visited the
5 banana plantation. At that time, we filmed planes spraying pesticides on a Chiquita plantation. I
6 wanted to include this footage in the documentary as a reminder that, although use of DBCP ceased
7 around 1979, pesticides were still being used and to pose an important question for the audience:
8 could any of these pesticides be tomorrow's version of DBCP? This is a good example of my
9 filmmaking style that I referenced earlier in my declaration: I give the audience a glimpse into an
10 important issue and hope it will motivate them to find out more about the subject. It was not my
11 intention in any way in including this footage to imply in any way that this represented the present
12 use of DBCP by Dole (or anyone else) on any banana plantation. Indeed, in light of the fact that the
13 film specifically indicates that DBCP was discontinued decades ago, I cannot imagine how anyone
14 could make such an inference.

15 38. In July 2008, we filmed additional "pick up" footage in Los Angeles of Mr.
16 Dominguez and Mr. Miller. During this time, depositions were being taken in the cases that were
17 scheduled to proceed after the *Tellez* case was tried. We decided not to cover the additional cases
18 because we felt limiting our narrative to the first case would be a more compelling story and better
19 hold the attention of viewers. At this time, there were no fraud proceedings being conducted by the
20 court or any other indication to us that there was any reason to call into question the results of the
21 *Tellez* trial. Indeed, we did not learn of any such proceedings until long after the film was completed,
22 as set forth below. In 2009, I was in Sweden and WG Film had no staff on the ground in California
23 or Nicaragua.

24 39. From August 2008 through just before Christmas 2008, we edited the film into the
25 narrative that tells the story within the historical context of the struggles of the banana workers over
26 the past thirty years. Before post-production began, we locked the timeline of the film. Originally,
27 we had hoped to release *Bananas!** for the first time at the 2009 Sundance Film Festival, which takes
28 place in January each year. Although staffing issues prevented us from being able to screen it at

1 Sundance, the film needed to be locked down before the end of 2008. After the timeline is locked, no
2 changes to the content are made, not even a single frame. During post-production, therefore, we made
3 no substantive changes to the content of the film. From January through March 2009, we did post-
4 production work involving the sound, music and picture of the film. Post-production involves such
5 things as working on the composition of music for the finalized content of the film, mixing the sound
6 with Dolby engineers, color grading the clips and adding the graphic title cards.

7 40. Sometime in early Spring 2009, I discovered that the original cards placed at the end
8 of the film would need to be changed. The original cards referenced the fact that Mr. Dominguez and
9 Mr. Miller intended to file new cases alleging that DBCP use had caused birth defects and cancer. In
10 Spring 2009, I learned that Mr. Dominguez and Mr. Miller would not be bringing any such new
11 actions. The cards, therefore, needed to be changed.

12 41. In April 2009, the film was selected to compete at the Los Angeles Film Festival
13 (“LAFF”). Six other films were selected to compete against *Bananas!** for the \$50,000 prize that
14 would be awarded by LAFF. The Consulate General of Sweden and the Legal Aid Foundation of
15 Los Angeles (“LAFLA”) were to sponsor the screenings of the film, which were set to take place on
16 June 20, 2009 and June 23, 2009.

17 42. On May 5, 2009, WG Film published its website, www.bananasthemovie.com, which
18 included a trailer for the film and a press kit. I have attached as Exhibit I to my declaration a true and
19 correct copy of that press kit.

20 43. On May 8, 2009, I received by e-mail a copy of a letter from Scott Edelman of the law
21 firm Gibson Dunn & Crutcher, which accused me, WG Film and ITVS of including “false and
22 defamatory statements of purported fact” in the film and connected marketing materials. The letter
23 demanded that we retract all those statements and threatened us with legal action if we went forward
24 with our intended showing and distribution of *Bananas!**. Moreover, copies of the letter accusing us
25 of this wrongful conduct and threatening us with legal action were sent to the publisher of the Los
26 Angeles Times and the corporate heads of Target Corporation, Abbott Nutrition, Eastman Kodak
27 Company, Rainbow Entertainment Services, the Sundance Channel, Netflix, American Airlines,
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1 Stella Artois, who were sponsors of the film festival and backers of independent film makers. I have
2 attached as Exhibit J to my declaration a true and correct copy of this letter.

3 44. It was not until I received the May 8, 2009 letter from Dole's lawyers that I became
4 aware that there had been any fraud inquiry conducted regarding the DBCP cases that were being
5 litigated in Los Angeles. At the time I read the letter, the statements made by Dole's attorney seemed
6 over-aggressive in light of their acknowledgement that they had not seen the entire film and were
7 basing their letter on a short 3 minute trailer. Nevertheless, I reviewed the film, as did the producer,
8 and we both concluded – and still conclude – that the film was balanced and fair. Because the
9 original cards needed to be changed, I decided to replace them with new cards that accounted for the
10 legal events that were going on in the other Nicaraguan banana worker cases in Los Angeles (which
11 such events had commenced long after the *Tellez* trial had been completed), WG Films added cards
12 to the end of the film which explained the very recent findings by the court in these other cases which
13 called into question some of the claims by Nicaraguan banana workers. I believed then and continue
14 to believe to this day that these cards sufficiently addressed the recent developments in the
15 Nicaraguan DBCP litigation in Los Angeles. Moreover, I believed then and continue to believe to
16 this day that there is nothing false or defamatory in *Bananas!*.*.

17 45. In May 2009, I was informed that LAFLA, on whose board Mr. Edelman sits, was
18 withdrawing as sponsor of the film. Dole's counsel subsequently sent a letter to Nina Ersman, the
19 Swedish Consul General in Los Angeles, making false and exaggerated accusations against us,
20 similar to the attacks on our competency and integrity as filmmakers included in the May 8 letter.
21 The letter called on the Swedish Counsel to withdraw its sponsorship of *Bananas!** I have attached
22 as Exhibit K to my declaration a true and correct copy of this letter.

23 46. WG Film, however, refused to be coerced by Dole into complying with what I
24 considered to be an outrageous attempt by Dole to restrict the publication and distribution of a true
25 story that Dole simply considered embarrassing to its reputation. It is my understanding that Judge
26 Chaney's decision was based in large measure on unidentified "John Doe" witnesses. In addition, I
27 understand that Judge Chaney did not make any legal findings that the plaintiffs in the *Tellez* trial, the
28 trial that is portrayed in the film, had committed fraud or done anything that called the *Tellez* verdict

1 into question. Thus, I believed that the foundation for Dole's entire attack on the film, *i.e.*, the
2 contention that the *Tellez* verdict had been nullified by Judge Chaney's recent findings, was simply
3 untrue.

4 47. On June 5, 2009, Mr. Edelman sent a letter to the Swedish ambassador to the United
5 States, Jonas Hafstrom, in which he accused me and WG Film of including "false and defamatory
6 statements of purported fact" in the film. The purpose of this letter was for Dole to repeat its call for
7 the Swedish consulate to withdraw as a sponsor of the film at the LAFF. I have attached as Exhibit L
8 to my declaration a true and correct copy of this letter.

9 48. As a result of Dole's letter campaign to LAFF and its corporate sponsors, *Bananas!**
10 was declared ineligible for the award for which it had previously been selected to compete.
11 Nevertheless, WG Film showed the film at LAFF as scheduled. At the screenings, we made the press
12 kit available to the attendees. The press kit contains an extensive explanation of the events that took
13 place after the production and editing of the film was completed. The press kit remains available on
14 the [bananasthemovie.com](http://www.bananasthemovie.com) website. In addition, LAFF read a detailed statement, prepared by its
15 lawyers who were concerned about Dole's threats of a lawsuit, regarding the events that took place
16 after the film was completed to the audience prior to each screening of the film. A true and correct
17 copy of the statement that was read is attached hereto as Exhibit M. I also gave a short speech
18 introducing the film. I have posted my speech on the *Bananas!** website and it can be viewed at
19 <http://www.bananasthemovie.com/video-of-gerttens-speech-at-the-la-premiere/#article> and videos of
20 the LAFF statement being read, my introducing the film at both screenings and the panel discussions
21 held after each screening are attached hereto as Exhibit N.

22 49. Since the screenings of *Bananas!** at LAFF, I have participated in panel discussions
23 and interviews concerning the film, including an interview with KPFFK. In those interviews and panel
24 discussions, I have consistently explained that the film portrays events that took place in the
25 courtroom and what we saw in Nicaragua through the words and actions of the participants. Dole
26 contends that it is somehow defamatory that I stated in one such interview that the verdict in *Tellez* is
27 still "valid." I did in fact say that the verdict was still "valid" and I have no idea how this can be
28 construed as defamatory. Perhaps the fact that English is not my native language has resulted in an

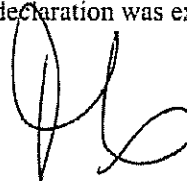
1 inappropriate choice of words; but when I said that the verdict was still "valid," it was my
2 understanding at that time that the *Tellez* verdict, although it had been appealed by Dole and Dow,
3 had not been overturned and thus was still a "valid" verdict. Indeed, it is my understanding that the
4 *Tellez* verdict, to this date, has not been overturned and is thus still a "valid" verdict.

5 50. In August 2009, I provided to my attorney in this action, sealed plastic cases
6 containing DVDs, on which *Bananas!** was copied, exactly as the film was shown at LAFF. A true
7 and correct copy of one such DVD is attached to the Declaration of John Shaeffer as Exhibit A.

8 51. Around the same time I provided my counsel with a copy of the continuity script for
9 *Bananas!** a copy of which is attached to the Declaration of Lincoln D. Bandlow as Exhibit 10.

10 52. Around that same time, I provided to my attorney in this action, a digital recording of
11 a radio interview that I gave to Lisa Garr broadcast on the "Uprising" segment of KPFK, which aired
12 June 23, 2009. A true and correct copy of a CD on which this interview is recorded and an accurate
13 transcription of that interview is attached to the Declaration of Lincoln D. Bandlow as Exhibit 40.

14
15 I declare under penalty of perjury under the laws of the State of California that the matters set
16 forth in this declaration are true and correct and that this declaration was executed on September 10,
17 2009 at Malmö, Sweden.

18
19
20
21
22
23
24
25
26
27
28


Fredrik Gertten

Redacted Attorney Client Privilege

----- Vidarebefordrat meddelande

Från: <hcrooks@pipeline.com>

Svara till: <hcrooks@pipeline.com>

Datum: Fri, 27 Apr 2007 17:21:15 -0400 (GMT-04:00)

Till: <fredrik@wgfilm.com>, <bart@morag.ca>

Ämne: Victorino Espinales vs. Law 364

Here is a fascinating window into the Negamon case. The guy who initiated the legal actions many years ago is now saying the legal route is a delusion and he has been negotiating with Dole. While he is denounced by those still pursuing Dole et al in the US courts !

http://www.americas.org/item_26345

Harold

-----Original Message-----

>From: fredrik@wgfilm.com

>Sent: Apr 26, 2007 3:37 PM

>To: bart@morag.ca, hcrooks@pipeline.com

>Subject: VB: Re: Banana Split

>

>
>
>----- Vidarebefodrat meddelande från HelenaGrol@aol.com -----
> Datum: Thu, 26 Apr 2007 15:21:56 EDT
> Från: HelenaGrol@aol.com
>Svar till: HelenaGrol@aol.com
> Ämne: Re: Banana Split
> Till: fredrik@wgfilm.com
>
>Hi again!
>
>This court action is close to trial; expected start in June 7.
>Yes, Los Angeles Superiour court has endorsed this and accepted it as an
>actual case.
>The plaintiffs have beengiven standing in the US court.
>It is a mass tort case from 13 individual plaintiffs. Not a class action
>case.
>The US lawyer is not seeking to pursue this legal action under the alien tort
>act.
>The defandats are Dole Food Company; Dow Chemicals Company.
> Amvac Chemical Corporation just settled for 300K ;dollar
>
>hope this is a help !
>
>/ helena
>
>
>
>***** See what's free at <http://www.aol.com>.
>
>
>----- Slut på vidarebefordrat meddelande -----

----- Slut på vidarebefordrat meddelande

Poison in a Banana Republic (working title)

A documentary in development



Västergatan 23, 211 21 Malmö +46 40 23 20 98, Fax: +46 40 23 35 10
fredrik.gertten@wgfilm.com

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Exhibit C

Synopsis – framing story

Tens of thousands of Nicaraguans are fighting to be compensated for injuries caused by the pesticide Nemagon. The chemical, which was used in banana plantations worldwide in the 1970s, is believed to cause sterility, fetal damage, and cancer.

Robertito, 14, is one of the people affected. The area where he lives is called "The Valley of the Condemned", because so many people living there suffer from injuries caused by pesticides.

Nemagon was banned in the US in 1977, after being linked with male sterility. In spite of that, it continued to be used on plantations worldwide at least until 1979, probably even later. Three of the world's largest corporations, Dole Food Company, Dow Chemicals and

Shell Oil Company, are being held responsible. So far, the companies have been ordered to pay over one billion dollars in two court cases – but refused to pay. Instead, the companies blame the sick, dirt-poor workers for being liars, and don't hesitate to counter sue them for several billion dollars.

Now, the fight escalates, and is moving from the media backwaters of poor countries like Nicaragua, to the limelight of the LA courtrooms. The case is one of the major poisoning scandals in American history of justice, and is expected to be crucial to the way in which transnational companies act in developing countries. The Nemagon case has become a power game where billions are at stake.

"They can run and they can hide, but eventually they will have to pay," said Los Angeles top lawyer Walter Lack. He is handling a major Nemagon case, and is also known for fighting the Erin Brockovich toxicity suit that became a hit Julia Roberts movie.

We follow Robertito and the others affected in their struggle for justice and a decent life in the poverty stricken Nicaragua. We also meet representatives of the multinational companies, who give an altogether different view of the situation.

Who's right? Whose history is worth the most? Will Robertito and the others ever get any money?



Synopsis – the larger issue

***Poison In A Banana Republic* (working title)** is a film filled with human drama, curiosity, and the humour that comes from life-changing situations. Marrying Fredrik Gertten (*An Ordinary Family*, *Thin Ice*)'s style of intimate, humanist storytelling with the political essay-style film experiences of producer Bart Simpson (*The Corporation*) and writing consultant Harold Crooks (*The World Stopped Watching*, *The Champagne Safari*) will set the team on a path of investigation and observation of a dramatic personal event with large implications.

The perspective and the personal experiences of the main characters, as they travel from Nicaragua to Los Angeles and fight the court case, will allow us to examine several underlying angles to the story:

Historical: certain farmers have families whose trade goes back generations. Through these human relationships we will learn more about the banana's past, and of the unfolding structure of corporate farming in Latin America.

Geopolitical: the 'first world' v. 'third world' idea of human rights will come to a head during the legal and political action undertaken by the Nicaraguan farmers and their counsel. We also aim to find people in the USA who deal with consumer groups and human rights groups to see the possible effects of the trip on the local Los Angeles public.

Ecological/ Scientific: the spraying of pesticides and other treatment of banana farms affect the food we eat on a daily basis. We see that after chemical spraying, many of the area's children have been born with defects. Do these chemicals pose any other health hazards to the land and environment around them?

Legal: the banana case, as one of the first cases of this sort to get to the trial stage, will be an interesting test. Through the interaction between the farmers and their legal counsel, Walter Lack, we can examine the tactics devised in order to forward this case. With the record of alien tort cases – which are cases pursued by foreign nationals against a person or corporation in a different country - being problematic, it is an uphill battle. Less than twenty tort cases were taken up in the twentieth century. How will this case turn out? What resistance will the two remaining defendants bring to bear? How do the leaders of the defendant companies see this issue?

Cultural: bananas are everywhere in the Western world – the famous *Velvet Underground* album cover, slapstick gags, Carmen Miranda's headgear – however when seen against the Nicaraguan situation, these forms take on an ironic, almost eerie quality. Not to overemphasize this point, it will nevertheless be examined to provide a counterbalance and hit certain parts of the main story.

Once again, all these elements will be told through the story of the workers' efforts to bring justice and health to their conditions.

Background

DBCP

As early as in 1958, medical tests showed that Nemagon, or DBCP as the chemical compound is called, caused severe damage on tested animals. However, the results of these tests were never made official, and the substance was put into large-scale production. It was not until 1977 that DBCP was banned in the USA, as a result of workers at the production plants becoming sterile after exposure to the substance.

Today, it is well known that DBCP is the one substance in the world that causes sterility in males to a higher degree than any other known chemical compound. Other deleterious effects that can be related to DBCP are foetal damage, miscarriage, several forms of cancer, injury to kidneys, liver and blood circulation. In Nicaragua alone, over 20 000 workers claim that they have been damaged by DBCP.

Although it was well known how harmful DBCP was, Standard Fruit Company, today known as Dole, continued to use DBCP at their plantations all over the world for more than two years after the use of the substance had been banned in the USA. Allegedly, DBCP was used until the mid-1980s on the Philippines. There are tens of thousands of victims of DBCP in Central America alone; additional thousands of victims can be found in countries such as the Ivory Coast, the Philippines, and Burkina Faso. Hundreds of judicial processes are being carried out against Dole, which owned the plantations, Shell, which distributed DBCP, and Dow Chemicals, which manufactured the substance.

The companies

Dole Food Company is the world's largest producer and distributor of fruit and vegetables. As owners of the fruit and vegetable distributor Saba, they also have the largest share of the market in the Scandinavian countries. Dole was formerly known as Standard Fruit Company, and was the owner of the plantations that used DBCP.

Dow Chemicals is a multinational corporation residing in the USA. It is the world's largest manufacturer of plastic products, and it is also one of the largest producers of various chemical substances. The company has been involved in several environmental scandals. During the Vietnam War, for instance, the company was the leading producer of napalm and Agent Orange. Dow Chemicals was the leading producer of DBCP.

Shell Oil Company is one of the world's largest oil



companies. The company was the main distributor of DBCP all over the world.

Paying the price for fresh bananas

The case involving Nemagon is not a story of the past. The banana is the most exported fruit in the world, and in addition, it is the one agricultural product most exposed to various chemicals. A banana that has been grown for export has been sprayed with various chemical substances about 40 times before it reaches the consumers in the northern parts of Europe.

Many improvements have been made in the banana industry in recent years. DBCP and other very harmful substances have been banned, even though large amounts of chemical substances are still being used on the plantations. A banana plantation uses 44 kilos of pesticides per hectare each year. This is about 16 times the amount used on average on a highly productive farm in the industrial world.

Nearly all chemical substances used in the banana industry are classed as "Bad Actor Pesticides" by the Pesticide Action Network, PAN. These are among the most dangerous pesticides in the world; they are either carcinogenic, causing genetic damages, directly poisonous, or contaminating the groundwater. Thus, even though the fruit companies are trying hard to improve their already tarnished reputation, experts are warning that we will have more cases like the Nemagon scandal in the near future.

The court cases:

In early 2007, two jury trials are to take place in California (in June) and Texas. These will be the first in U.S. courts involving foreign Nemagon plaintiffs.

For years, multinationals were able to persuade U.S. courts to bounce nearly all other Nemagon lawsuits to the banana workers' countries of origin, where most met dead ends because those nation's legal systems were poorly equipped to deal with them. But that began to change in 2002, when a Nicaraguan judge ordered Dow Chemical, Shell Oil Company and Standard Fruit (Dole Food Company in the U.S.), to pay US\$490 million in compensation to 583 banana workers injured by Nemagon. But the companies refused to pay and, led by Dole, they counter-sued the claimants for fraud and asked for 17 billion dollars in damages.

On december 1, 2006, the Nicaraguan judge Socorro Toruño ordered five multinational companies to pay over US\$804 million in compensation to 1248 former banana workers. Once again, the companies refused to pay. Mr Humberto Hurtado, the representative of Dole Food Company in Nicaragua, denied that the pesticides sold by



his company had any effect on workers health, and described the ruling as corrupt. Interestingly, despite denying that the pesticides have affected workers' health, Dole is now negotiating with four groups of former banana workers to reach an out of court agreement.

An estimated 17 000 Nicaraguan banana workers today have cases pending against transnationals.

The Nicaraguan workers' are not the first to seek compensation for harm caused by DBCP. In the early 1990s, more than 16 000 banana plantation workers from Costa Rica, Ecuador, Guatemala, Honduras, Nicaragua and the Philippines filed a class-action lawsuit in Texas against a number of U.S. fruit and chemical companies asking for compensation for permanent sterility linked to DBCP exposure. In 1997, the four chemical corporations that produced DBCP—Amvac, Dow, Occidental and Shell—agreed to pay US\$41.5 million in an out-of court settlement that resulted in relatively small payments to affected workers.



About the film project:

We now need to investigate this story more deeply, then evaluate its possible development. This project needs a strong team, including a journalist in the US and in Nicaragua.

Legal support is needed as we are confronting major powers.

The aim is to do a film that strikes the world, not only as a current affairs story, but deeper and stronger with a character driven narration. We need time to find the right characters and to build the strongest team.

We will evaluate the best financial and creative partnerships possible; This could be a US/Swedish Co-Production.

Team of early development:

Fredrik Gertten, filmmaker & producer at WG film, Sweden.

Fredrik Gertten speaks fluent Spanish and has worked as a journalist in Nicaragua in the eighties and nineties.

Selected films:

Producer:

Boogie Woogie Daddy, Erik Bäfving (2002) Short doc 8 international awards.

Belfast Girls, Malin Andersson (2006)

Thin Ice, Håkan Berthas (2006)

Milkbar, Terese Mörnvik & Ewa Einhorn (release 2007)

Producer & director:

The Socialist, The Architect and the Twisted Tower (2005)

An Ordinary Family (2005)

Just a piece of steel/Bye Bye Malmö (2003)

Walking on Water (2000 co-directed with Lars Westman)

The Way Back - True Blue2 (2002). co-directed with Magnus Gertten and Stefan Berg

More information at www.wgfilm.com

Bart Simpson, producer at Morag Loves Company, Canada

Bart Simpson is best known, with former partner Mark Achbar, as producer of the feature documentary "The Corporation", which has won over 25 international awards and is the highest-grossing domestic documentary in Canadian history. It played theatrically in over 10 countries and ran for over 6 months in screens in major Canadian and UK centres, in addition to many screenings in US theatre chains.

Bart is also immediate past Chair of the Documentary Organization of Canada (DOC), a national documentary group of over 650 members. DOC founded Hot Docs in the early 1990s.

He has recently moved to St. John's, Newfoundland and is working through the offices of the feature film/documentary company Morag Loves Company.

Selected credits:

Moebius Redux: A Life In Pictures (sched. release 2007)

The Corporation (2004)

Two Brides and a Scalpel: Diary of a Lesbian Marriage (2000)

Visits with Max (director/producer, 1996)

Contact: +1 709-739-0447, or bart@morag.ca

Harold Crooks, writing consultant

Harold Crooks has written and produced several award-winning documentaries, including "The Champagne Safari", "The World Is Watching" and "The World Stopped Watching", the latter of which was a recipient of Sundance Institute support in 2004. He also acted as narration writer of "The Corporation".

He has extensive experience in Latin American affairs, and was also engaged as researcher for a year by a US Legal team seeking venue for an alien tort case in the late 1990s.

Harold Crooks is based in New York City.

Selected credits as writer:

Black Coffee (2005)
The Corporation (narration writing, 2004)
The World Stopped Watching (2003)
The Champagne Safari (1995)
The World Is Watching (1988)

Contact: hcrooks@pipeline.com

Sara Bergfors, Journalist and researcher in Nicaragua.

University degrees from Sweden and Australia. More than 10 years of experience from major national newspapers Expressen, Svenska Dagbladet and Aftonbladet. Lived and worked as a journalist in Nicaragua from 2003 to 2005, and has been following the Nemagon case since then. Now works as a freelance journalist, specializing in Latin American politics, development and human rights issues.

Contact: sara.bergfors@home.se, phone +46 70 2037330

Helena Groll, Journalist and researcher in Los Angeles.

University degree from Stockholm, Sweden. Has been working for Swedish Broadcasting, department of current affairs, for over 25 years, as a producer, reporter and anchor, covering both national and international news, politics and social issues. Living in Los Angeles since 1999, specializing in American politics and society.

Contact: HelenaGrol@aol.com

PROPOSED INITIAL MARKETING AND DISTRIBUTION PLAN

Fredrik Gertten (WG Film) and Bart Simpson (Morag Loves Company) will be working together in a formal capacity in producing this documentary.

OVERALL MARKET SUMMARY AND APPEAL OF FILM

Poison in a Banana Republic (working title) is a “David and Goliath” story with potential for generous, lively characters which will resonate across a broad audience concerned with environmental, health, and human rights issues among others.

As we are in early development, we will move forward with the research in this phase, while keeping a focused eye on thematic and story elements that will help further define and connect with our target audience, and that will help form a comprehensive marketing approach before the film’s release.

While likely not a documentary with the same mass appeal as *Winged Migration* or *Super Size Me*, more modest documentary successes in theatrical release show that properly targeted campaigns in major centres can make a difference in audience reach. After working with the target audience as closely as possible, we will spread outward to a more general approach.

THEATRICAL DISTRIBUTION - CINEMA AND TELEVISION

Both Fredrik Gertten and Bart Simpson have worked with a number of the top documentary distributors for television and theatrical release. Using their contacts with Films Transit (Montreal), Zeitgeist Films (New York), and SND Films (Amsterdam), among others, they will work to place the film in festivals appropriate to the subject matter and build interest for a targeted cinematic release. Also in concert with their distributor, they will aim to place the documentary in territories with the best and most appropriate channels possible, paying particular attention to major channels which have supported their past work.

TARGET AUDIENCE

The primary audience for this film will be viewers interested in international human rights and health issues. As with the strategy for *The Corporation*, together with our theatrical /TV distributor we will begin our marketing campaign by keying advertising to this primary audience, and work with them to create word-of-mouth and support to ensure a theatrical life in the mainstream.

This audience includes but is not limited to:

- Latin American Public Interest groups in North America, Europe and Oceania
- Environmental organizations
- ‘Food and Health’ organizations
- Publications and other media targeting health issues and environmental audiences
- Universities and colleges
- Religious groups
- Trade union organizations concerned with workers’ rights

We will conduct test screenings with certain representatives from these groups during the editing process, and we will take this feedback into consideration as we move to locking the picture. This will also encourage the audience to take ownership in the promotion of the film, and to develop a deep interest in seeing it succeed.

We will work to capture this audience by following an appropriately-targeted festival strategy, geared to festivals which deal with the issues outlined above. In addition, we will submit the film to the following festivals as a strategy to serve our larger market base.

- Berlin Film Festival
- Sundance Film Festival
- International Documentary Filmfestival Amsterdam
- Hot Docs
- Other markets and festivals as recommended by our distributor

At strategic times, media who have given positive reviews to previous WG Film and Morag projects will be given advance copies of the film for review purposes.

BEYOND THE THEATRICAL RELEASE: DVD AND INTERNET

We will develop an internet presence where we encourage the audience to sign up for updates on the film. Using this database and building on it during the theatrical release, we will lay the groundwork for a successful DVD launch at an appropriate time after the theatrical and TV window. Once again, our core audience will be the keystone for this distribution strategy. We will likely encourage "viewing parties" and events where communities gather to watch and discuss the film afterwards, which causes an opening for audiences to participate in improving the health and situation of struggling farmers worldwide.

The life for this film in non-theatrical markets such as universities (Law, Political Science, Human Rights Studies, Medicine etc.) and public interest research groups will be large. In consultation with our distributors we will seek appropriate non-theatrical distribution partners, and plan screenings with the filmmaker present when possible, in the early release stages.

FOR FURTHER INFORMATION:



Västergatan 23, 211 21 Malmö +46 40 23 20 98,
Fax: +46 40 23 35 10 fredrik.gertten@wgfilm.com

Redacted Attorney Client Privilege

----- Vidarebefordrat meddelande
Från: <hcrooks@pipeline.com>
Svara till: <hcrooks@pipeline.com>
Datum: Sat, 18 Aug 2007 11:36:39 -0400 (GMT-04:00)
Till: Fredrik Gertten <fredrik@wgfilm.com>
Kopia: Bart at Morag <bart@morag.ca>, Margarete Jangård
<margarete.jangard@wgfilm.com>
Ämne: Going Bananas

Hey Fredrik

Firstly I am very pleased to learn you got great access to Juan D. Will this continue through the appeal process ?

As for the Nica character I remember that there is a Nica activist leader who got involved in a US lawsuit but then dropped out. Did he do so to lead more direct protest or whatever ? Could he be a counterpoint character ? The guy who does not pin his hopes or those of afflicted workers on Juan D ? In other words anti-Juan !

Your films are very cinema verite so I am unclear as to what role you are seeking from me as a film writer ? I am usually in demand by filmmakers

making narration heavy scripts. But maybe what you are looking for at this stage of the project is a treatment that will help to secure broadcasters ?

That said, I am interested in yr project, particularly because of my connection over the years as research consultant to trial lawyers like Juan D. My book Giants of Garbage grew out of such work.

If this is to be a co-production with Canada I just point out to Bart that he should budget me at Writers Guild of Canada rates !

<http://www.wgc.ca/ipa06/c5.html>

Best regards
Harold

-----Original Message-----

>From: Fredrik Gertten <fredrik@wgfilm.com>

>Sent: Aug 17, 2007 10:42 AM

>To: Harold Crooks <hcrooks@pipeline.com>

>Cc: Bart at Morag <bart@morag.ca>, Margarete Jang=?ISO-8859-1?B?5Q==?=rd

<margarete.jangard@wgfilm.com>

>Subject: Sv: Bananas

>

>Hi Harold, I'm now back in Sweden looking trough all the tapes from the
>journeys to Nicaragua and LA. The SuperLaywer Juan Dominguez is a great
>chracter and we have access. That's great. And there will be a verdict
>already in September. Of course there will also be an appeal, who ever wins.
>But there is for sure a story.

>I still dream on having a film focused on two main characters, the lawyer
>and then a worker, or a workers family. I think that the lawyer will be to
>much of a heroe if we make him the center of the film. The problem I have of
>course is that he is a very strong chracter, so the other character really
>needs to deliver.

>

>How's your Montreal work doing. Can you see a role for your self in my
>project?

>Bart is coming to Sweden next week and we will discuss a Canadian
>co-production. We need to make up our minds within two weeks. Quite
>stressful.

>

>
>Hope to hear from you.
>
>
>Best
>
>Fredrik
>
>
>
>WG film
>Västergatan 23, 211 21 Malmö, Sweden
>+46 40 232098, cell +46707698591 fax +46 40 233510
>film@wgfilm.com, www.wgfilm.com
>
>
>
>> Från: <hcrooks@pipeline.com>
>> Svara till: <hcrooks@pipeline.com>
>> Datum: Fri, 3 Aug 2007 18:18:02 -0400 (GMT-04:00)
>> Till: <fredrik@wgfilm.com>
>> Kopia: Niels Pagh Andersen <bcc7741@vip.cybercity.dk>
>> Ämne: Bananas
>>
>> Hi Fredrik and Bart
>> I have fallen behind and just read the synopsis. It is most excellent that
you
>> have succeeded in acquiring access to Juan Dominguez. I know of no docs
that
>> get deep inside the world of plaintiff lawyers representing such classes of
>> victims. While a successful case would never "break the economies of Dole
and
>> Dow" it would open the US courts to victims of US-based multinationals and
>> give the victims of the global order a better chance in defending themselves
>> against the beneficiaries. It would represent, therefore, a new day.
>>
>> Buena suerte
>>
>> Harold
>>
>>
>>
>> -----Original Message-----
>>> From: fredrik@wgfilm.com

>>> Sent: Jul 30, 2007 12:22 PM
>>> To: hcrooks@pipeline.com
>>> Cc: Niels Pagh Andersen <bcc7741@vip.cybercity.dk>
>>> Subject:
>>>
>>> hi Harold and Niels, we are filming long days in Los Angeles, and we really
>>> have
>>> good acces to the lawyer. The court sessions are exicting and everything is
>>> filmed. Well one camera showing the witnesses. Not the other people.
>>> Here's a little synopsis treatment Bart and I wrote. Do you have any
comments
>>> before we send this to Participant productions and others?
>>>
>>>
>>> best
>>>
>>> Fredrik and Bart
>>>
>>> LOGLINE
>>>
>>> 1/3 of the price of the average banana covers the cost of pesticides.
>>> All over the world, banana plantation workers are suffering and dying from
>>> the
>>> effects of these pesticides
>>> Juan Dominguez, an LA million-dollar personal injury lawyer, is on his
>>> biggest
>>> case ever.
>>> Dole Fruit and Dow Chemicals are on trial.
>>> And history is about be made.
>>>
>>>
>>> SYNOPSIS
>>>
>>> Another banana worker is being buried in a small town in Chinandega. For
his
>>> whole life, Osvaldo Hernandez used his machete to remove weeds from
below
the
>>> banana trees. His last years were terrible filled with pain, a body that
>>> was
>>> itching all night, and in the end his kidneys stopped working.
>>>
>>> Inside the church, filled with friends and family, Father Bayrdo begins his
>>> sermon. Its not about Osvaldo Hernandez after a while. Its about

>>> pesticides. He is accusing landowners and US transnationals of immoral
>>> practices which he says cause the death and suffering of many members of
his
>>> community.
>>>
>>> The whole region of Chinandega is an ecological disaster zone. The
pesticide
>>> spray has left its mark everywhere. The soil, the water, the animals, the
>>> food
>>> of the people are all affected. The level of pesticides in breastmilk is
700
>>> times higher than is acceptable.
>>> Some say it will take 200 years for the ground to heal itself enough to
>>> produce
>>> natural crops again.
>>>
>>> One of the pesticides, a DBCP-based compound called Nemagon, was
banned in
>>> the
>>> USA in 1977 for causing male sterility. Standard Fruit now DOLE -
>>> continued
>>> to use the pesticides in its plantations outside the USA up to 1982.
>>>
>>> Six US law firms saw an opportunity and opened offices in Nicaragua. And
in
>>> 2002, Dole, Dow Chemicals and Shell Chemicals were ordered by a
Nicaraguan
>>> court to pay \$490 million to 583 workers. All three companies refused to
>>> pay,
>>> and countersued the workers for \$1.7 billion.
>>>
>>> Enter Juan Dominguez.
>>>
>>> Dominguez, a personal injury lawyer and a member of the Million Dollar
Club
>>> of
>>> attorneys in Southern California, is making history. As the legal
>>> representative of over 12.000 Nicaraguan banana workers, he is the first
>>> attorney ever to force American corporations to take responsibility for
>>> actions
>>> they have done outside US borders.
>>>
>>> It will be tracked by experts and companies all over the world. If
Dominguez

>>> is
>>> successful, it could break the economies of Dole and Dow, and it will
>>> certainly
>>> be followed by other, similar cases.
>>>
>>>
>>>
>>> TREATMENT
>>>
>>> BANANAS is a film filled with human drama, curiosity, and the humour that
>>> comes
>>> from life-changing situations. Marrying Fredrik Gerttens (An Ordinary
>>> Family,
>>> The Socialist, the architect and the twisted tower) style of intimate,
>>> humanist
>>> storytelling with the political essay-style film experiences of producer
Bart
>>> Simpson (The Corporation) and writing consultant Harold Crooks (The
World
>>> Stopped Watching, The Champagne Safari) will set the team on a path of
>>> investigation and observation of a dramatic personal event with large
>>> implications.
>>>
>>> It is a big and complex story. It is about the disturbing politics of the
>>> banana, the incredible split between our world and what we call the third
>>> world, scientific choices, corporate behaviour, and about the very food we
>>> eat.
>>> We are choosing to tell it simply, through two main characters, who will
form
>>> the epicentres of the film.
>>>
>>> The first is the banana worker.
>>>
>>> A man sits in a rocking chair at the front of his house, telling us about
his
>>> life in the banana plantations long hours of work, using pesticide when
>>> they
>>> dont know its dangerous, pesticide cans that only have warning text in
>>> English.
>>>
>>> We also know his kids are working in the banana plantations. We see
everyday
>>> life with his family, as we hear the drone of early-morning planes spraying
>>> the

>>> fields with pesticide.
>>>
>>> We will also understand that this man has a terminal problem with his
>>> kidneys.
>>> A transplant could save him, but Nicaragua does not do any kidney
>>> transplants.
>>> So we know that he is about to die.
>>>
>>> Through this family we will also get to know [the priest, the doctor, the
>>> people
>>> who are fighting for their rights (other workers, union leader, etc.)], and
>>> others whose lives intersect the story.
>>>
>>> The second person we will follow is Juan Dominguez, a Cuban-American
personal
>>> injury lawyer famous in LA for promoting his law firm with his image and
the
>>> words ACCIDENTES on buses and billboards throughout the city. He has
made
>>> his career as an ambulance chaser and has been designated as a Super
>>> Lawyer
>>> by the Super Lawyer Club.
>>>
>>> In his 22nd storey penthouse office in downtown Los Angeles, there is an
oil
>>> portrait of himself surrounded by degrees and honours. On the other side
his
>>> war room has
>>> boxes of documents and testimony relating to this case that line the walls
>>> and
>>> floors.
>>>
>>> Dominguez is in an intense discussion with his colleague Dwayne Miller,
>>> honing
>>> their prosecuting strategy. Miller is the only court attorney in US history
>>> to
>>> have won a DBCP case and during trial dates, the courtroom is very
lopsided
>>>
>>> its only Miller against eight attorneys from Dow and Dole. Yet Dominguez
is
>>> confident that they will win.
>>>
>>> In an old run down hotel in the poor downtown area close to the court, 12

>>> banana
>>> workers proven to be sterile, plus other witnesses, are waiting for their
>>> turn
>>> to testify.
>>>
>>> Meanwhile, every second weekend Dominguez broadcasts on a paid radio
program
>>> to
>>> the rest of the workers in Nicaragua, saying that they will break the back
of
>>> the transnationals
>>>
>>> If they win, they are certain that Dole and Dow will appeal but they have
a
>>> clear strategy. They have another case with Nicaraguan banana workers
>>> immediately following this one.
>>>
>>> We will follow Dominguezs team, but it is not about delivering any final
>>> verdict.
>>>
>>> When the court case opened in Los Angeles in July, the world press was
>>> present.
>>> This case will grow, and we have access to all the key players.
>>>
>>> We also intend to have a second layer in the film, which will help show the
>>> dynamic history, culture and politics of the banana, using eerie and ironic
>>> graphics and archival imagery. This layer will come in at key moments in
the
>>> film and give a deeper, richer context to the actions of the Nicaraguan
>>> worker
>>> and Dominguez.
>>>
>>>
>>>
>>> CHARACTER BREAKDOWNS AND OTHER NOTES
>>>
>>> Locations: El Viejo, Chinandega.
>>> A small town in the plantation district where many of the affected live.
>>>
>>> Characters:
>>>
>>> Humberto and Victor. Their father Osvaldo dies in pain, a soar body of
>>> itching
>>> all

>>> nights, and in the end the kidneys give up. After the funeral they tell us
>>> about the hard life of their father.
>>>
>>> Father. Bayardo AGUILAR OCÓN, priest in the barrio El Roberto that had
held
>>> many
>>> funeral services for dead banana-workers. Outspoken, every Sunday
morning he
>>> wakes up early when the fumigacion planes warm up their engines. The
church
>>> has
>>> a broken bell and in the bell tower theres a bee nest. (he might be gay, a
>>> sweet guy)
>>>
>>> Dr Luisa Amanda Caballero, she lives in El viejo and knows all about the
>>> effects of the pesticides. She takes a walk in the barrio and talk to the
>>> mothers. Tell them to be careful with using the water from the wells.
Single,
>>> lives with her mother and sister. Has a big car parked in the living room.
>>>
>>> Dr. Salvador MONTENEGRO, a university profesor in Managua. He knows a
lot
>>> about
>>> the story. Tells us about a water test in the region. They tested 10
>>> hand-carved wells in the barrios, with a 5 potable water wells as a point of
>>> reference. They found rests of poison in all 15 wells? He is independent and
>>> very critical. Also to the lawyers that try to make money on the victims.
>>>
>>> Albert GOMEZ the only health-inspector in the Chinandega-region. He
makes
>>> tests
>>> of the wells. But has no money to do the analyses. He travels every day
with
>>> his
>>> motor-bike to different parts of the region to teach people to handle the
>>> pesticides with care. He lives in a poor little house with his wife and
kids.
>>> He is not very critical, the land owners are too mighty.
>>>
>>>
>>> Juan DOMINGUEZ, lawyer in Los Angeles. Of Cuban family, made his
career as
an
>>> ambulance chaser. Represents 10 000 victims in the Chinandega region.

This

>>> is

>>> his biggest case ever. He competes with other US-lawyers. But has with good

>>> foot

>>> work won the most soles. He has opened a banana-workers law-office in

>>> Chinandega. He broadcasts news updates every second Saturday on a private

>>> radio-station in Nicaragua.

>>>

>>> Victorino ESPINOZA, banana-workers union leader. Now in a camp-in-protest

>>> outside the National Assembly in Managua. 2000 workers has marched with him

>>> all

>>> the way to the capitol. Old people, sick and dying. Prepared to day in for

>>> the

>>> sake. The only agreement the government has fulfilled is free delivery of

>>> coffins to the workers.

>>> The workers pray to God. The only hope is in the belief in the world on the

>>> other side of the clouds.

>>>

>>>

>>>

>>>

>>> CREATIVE TEAM

>>>

>>> (insert here)

>>>

>>> Fredrik Gertten

>>>

>>> Nils Pagh Andersen

>>>

>>> Niels Pagh Andersen started his career as assistant to two of Denmarks most

>>> important editors: Christian Hartkopp and Janus Billeskov Jansen. Since 1979

>>> he

>>> has worked as a freelance film editor and has cut more than 250 films of >>> widely

>>> different categories. Some examples of his award winning work are:

>>> The Oscar-nominated

>>> feature film PATHFINDER by Nils Gaup;

>>> CHRISTIAN by the Oscar-winning director

>>> Gabriel Axel; The winner of The International Documentary Associations
 (IDA)
 >>> Best Documentary in 1996, ,
 >>> PORTAL TO PEACE by
 >>> Thomas Stenderup; The Grand Prix, Odense Film Festival, 2000
 >>> Walking over
 >>> water, Fredrik Gertten & Lars Westman 2000
 >>> GHETTO PRINCES By Catherine
 >>> Asmussen; The Grand Prix, Odense Film Festival, 2001,
 >>> WELCOME TO DENMARK; The Venice Film
 >>> Festival, Amnesty Prize, IDFA Film Festival Amnesty prize , CPH-DOX Grand
 >>> Prix
 >>> 2004,
 >>> THE 3 ROOMS OF MELANCHOLIA by Pirjo Honkasalo; The Winner of The
 Grand
 >>> Prix of Krakow, One world award, Krystalle, and 2004 Emmy- nominated,
 >>> PROSTITUTION BEHIND THE VEIL by Nahid Persson; The Grand Prix of
 Odense Film
 >>> festival and Nordic Panorama 2005,
 >>> THE GERMAN SECRET by Lars Johansson. He
 >>> lectures and teaches filmmaking at film schools and Universities around the
 >>> world and also works as dramaturgist and supervising-editor on
 Scandinavian
 >>> films. Niels recently won the prestigious Lifetime Achievement Award,
 >>> ROOS-PRISEN 2005, given by The Danish Film Institute for outstanding
 efforts
 >>> in
 >>> documentary filmmaking.
 >>>
 >>>
 >>
 >>
 >>
 >
 >

----- Slut på vidarebefordrat meddelande

Redacted Attorney Client Privilege

----- Vidarebefordrat meddelande

Från: Sara Bergfors <sara.bergfors@home.se>

Datum: Wed, 30 May 2007 01:23:35 +0000

Till: <bart@morag.ca;>, <fredrik@wgfilm.com;>, "HelenaGrol@aol.com"
<HelenaGrol@aol.com>

Kopia: <margarete.jangard@wgfilm.com>

Ämne: Trouble

Hi everyone,

I'm afraid I write you to deliver some bad news: Today and yesterday I visited Chinandega, to start interviewing the 13 banana workers who are traveling to LA in July. When I talked to the people in Chinandega last week I got the impression that there wouldn't be a problem. Unfortunately there is: Juan J Dominguez, their LA attorney, now says he won't let us as much as meet these people. I have phoned, faxed and e-mailed him, with no result;

all I get is message from him through his Nicaraguan office, saying that he under no circumstances can allow us to meet the workers. The reason his co-workers in Chinandega (who are otherwise very eager to help in any other way) give is that they can't let any outsider speak to the workers so close to the trials, as that could risk the workers testimonies in court. There is also the safety aspect: four of these workers have recently been paid 60 000 dollars each from Amvac, one of the sued companies, in an out of court settlement, with the rest sharing an additional 120 000 dollars. For the fear of something happening to any of the workers, Juan Dominguez don't want any extra attention surrounding them right now.

I have of course explained that what we are doing now is research, and that none of the material will be aired before the trial has ended, if even then. I have also explained that we are willing to take any security measures he asks, i.e. not meet the workers in their homes etcetera. The answer is still a firm NO.

I feel that I can't take this any further from here, as I fear that Juan Dominguez will start getting annoyed with me if I try to contact him again concerning this matter. Therefore I suggest that one of you give it another try - maybe if we would offer to sign a contract promising not to publish any material before the trial has ended? I don't know... I'm sure there's a way around this (there usually is), but I can't get any further.

Juan Dominguez (or rather his secretary) can be reached on +1 213 388 7788, or jdominguez@juanjdominguez.com. The man responsible for his law office in Chinandega, and with whom I have been speaking, is Dr. Antonio Hernández Ordeñana, he can be reached at +505 833 0563.

I'm so sorry about this, and I hope there will be a way to solve the problem.

Otherwise, I'm working as hard as I can, resolving practical issues as well as gathering information about people that might be of interest for the project. At 4 AM this morning, we started shooting about 500 banana workers marching towards Managua. After a difficult start, Frank gathers that he got some nice images.

You can always reach me on my Nicaraguan cell phone, +505 823 0121. Please don't hesitate to call me if you have any questions.

/Sara

Sara Bergfors

Sarita ord&bild
Sveavägen 130, 2tr
113 50 Stockholm
Tel 070-203 7330
sara.bergfors@home.se

SOS-Barnbyar hedrar Astrid Lindgrens minne och bygger en helt ny Barnby.
Var med och hjälp till ? Klicka här!
<http://www.sos-barnbyar.se/astridlindgren>

----- Slut på vidarebefordrat meddelande

Redacted Attorney Client Privilege

----- Vidarebefordrat meddelande

Från: Sara Bergfors <sara.bergfors@home.se>

Datum: Sun, 17 Jun 2007 21:50:44 +0200

Till: <fredrik@wgfilm.com>

Kopia: Johan Hallberg <johan@figur8.se>, Fredrik Gertten

<fredrik.gertten@wgfilm.com>, Bart Simpson <bart@morag.ca>

Ämne: Re: J.Dominguez

Hi Johan,

good to hear that you got along so well with Mr Dominguez :-)

I just talked to Victorino, he didn't have much news right now.

They're still negotiating with the Special Committee in the National Assembly, but still haven't seen any results. Can you, Johan, send me your and Frank's phone numbers so that I can hand them over to him, so that he can call you if something spectacular happens (like if they will bring the dying people to Managua, after all)? Or, maybe even better - can you call him, or visit him, to give him the numbers? His phone number is 860 5322. Send him my saludos.

/Sara

17 jun 2007 kl. 15.04 skrev fredrik@wgfilm.com:

> hey amigos, this is great news! We really needed access to this
> guy. From now on
> it will be easier to work also in LA. Did he say anything about
> when it is good
> to shoot there?
> we need to find out anyway. To shoot more with Juan and a little
> bit with the
> workers.
> What more could be good to have from in Nicaragua. Well he be keep
> going down
> even when the trial starts, or was this the last time for a while?
>
> The guy that must be out of the film. Was that Juan D. protection,
> body guard,
> or somewhen representing the finceros. Is he doing deals with the
> fat boys?
>
> Please come back with more thoughts. We need to do more planning.
>
> Sara if you have time, try to call Victorino to check what's on his
> mind.
>
> saludos
>
> Fredrik
>
>
> ps. just had a swim at our beach, then a slept a while in the sun.
> Not bad at
> all.
>
>
> Quoting Johan Hallberg <johan@figur8.se>:
>
>> It went pretty well today with Juan Dominguez! I've got a release
>> form (or
>> he signed two actually) and I think we made good friends with him
>> and gained
>> his confidence.
>>
>> First he let us wait a long time and was suspicious, said he had

>> no time and
>> so on. He wanted to know when we're going to show this. I told him
>> we're
>> just doing a trailer to pitch more money and then start shooting
>> for real
>> sometime august/september and that it would take about a year to
>> finish it.
>> We told him that it wasn't a news story, that the film is about
>> more than
>> the Nemagon case, but that he might be an important character.
>> Frank told
>> him "you'll be a hero if you win, but also if you lose..."
>>
>> So we shot him for a while, working at the computer, talking to
>> Antonio who
>> showed him some names and explained some stuff. Dominguez explained
>> to the
>> woman that works there, the working conditions back in the days.
>> He was
>> dressed very casual in t-shirt and chewing gum all the time. I
>> didn't shoot
>> with the small camera because I held the boom pole. There's some
>> background
>> noise from the Air Conditioner but you can hear what they say
>> clearly. It
>> might be good though that the atmosphere and clothes he wears in
>> the office
>> in Nicaragua will be very different from the one in Los Angeles if
>> shots are
>> made there...
>>
>> We also shot him in the PORNO room, where he explained how they
>> give viagra
>> to the ones who can't manage to give sperm samples without. Frank
>> and I think
>> it might be a good shoot if we can arrange later to shoot while
>> Bananeros go
>> in there to jerk off and leave samples.
>>
>> We also shot him in the yard in front of more barrels and he
>> talked about
>> the struggle against Transnationals (if I remember correct). And
>> in the
>> waiting room talking to a woman about getting here a Visa to go to

>> Los
>> Angeles...
>>
>> As said, he was a bit wary to begin with but by the time we said
>> bye, he
>> said "We're in the same struggle!" and raised his fist! At the end
>> he also
>> asked "so when will you come to Los Angeles?". This beautiful
>> friendship
>> came about when Frank said he had film from 81 inside the
>> plantations where
>> you can see that there's no protective gear and that the workers are
>> exploited. Frank will send him the DVD.
>>
>> I think that Juan Dominguez likes and listens to Reynaldo.
>> Reynaldo was
>> helpful and he says he will continue to help us whether there's
>> money or not
>> in it for him. He said we might have to film inside banana
>> plantations
>> "clandestino" though. Anyways I think it might be a well worth
>> investment to
>> give him a couple of dollars now and again to keep him eager to
>> help. Today
>> I just bought him lunch.
>>
>> Important note: A guy with a cap, american lawyer or private
>> detective, that
>> appears when Juan Dominguez leaves the office and disappears
>> behind a car
>> must be left out of the picture. Don't ask me why!
>>
>> / Johan
>>
>>
>> --
>> / J
>>
>
>

Sara Bergfors
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113 50 Stockholm
Tel 070-203 7330
sara.bergfors@home.se

----- Slut på vidarebefordrat meddelande

Redacted Attorney Client Privilege

----- Vidarebefordrat meddelande
Från: <hcrooks@pipeline.com>
Svara till: <hcrooks@pipeline.com>
Datum: Fri, 6 Jul 2007 15:00:32 -0400 (EDT)
Till: <fredrik@wgfilm.com>
Kopia: Bart at Morag <bart@morag.ca>
Ämne: Re: VB: VB: court etc

Have no idea if Ortega and company will agree but if they did then it opens the possibility of adding a "process" element to the doc --- in which you seek access in order to track this "historic" negotiated settlement process. This is very interesting. Dole is doing something union Carbide never bothered to try.
Maybe Dole would consider letting you inside.

-----Original Message-----
>From: fredrik@wgfilm.com
>Sent: Jul 6, 2007 1:05 PM
>To: hcrooks@pipeline.com
>Cc: Bart at Morag <bart@morag.ca>
>Subject: Re: VB: VB: court etc
>
>Check this Dole text:
>
>July 05, 2007 08:00 AM Eastern Daylight Time
>Dole Joined Ex Banana Workers in Inviting President Daniel Ortega and Other
>Nicaragua Officials to Discussions Seeking Solution to DBCP Issue in Nicaragua
>

>

>WESTLAKE VILLAGE, Calif.--(BUSINESS WIRE)--Dole Food Company, Inc. joined representatives of ex banana workers in inviting President of the Republic of Nicaragua, Daniel Ortega, the Executive Secretary of the National Assembly, congressman Wilfredo Navarro, and the President of the Special Commission for the DBCP, congressman Luis Callejas, to integrate as facilitators in discussions seeking a permanent solution to the Nemagon (DBCP) issue in Nicaragua and all related litigation, claims and judgments. The negotiation process is based on the good faith of the Company and the banana worker representatives to reach a fair, prompt and effective solution to this social-economic problem.

>

>Michael Carter, executive vice president & general counsel of Dole, stated, Although there is no evidence demonstrating that field application of DBCP led to sterility among agricultural workers, the Company and the banana worker representatives lead by Victorino Espinales believe that a permanent solution to the Nemagon issue in Nicaragua can be achieved through the establishment of a worker program supported by science and social realities.

>

>Dole and the banana worker representatives expressed agreement that only ex banana workers who worked on the Company's contracted farms, who had exposure to Nemagon and who are not represented by U.S. attorneys can participate. The Company respects the contractual relationships any ex banana worker has with any U.S. attorney and we don't want to do anything to encourage any ex banana worker to violate any such arrangement or to terminate them, said Carter.

>

>Dole Food Company, Inc., with 2006 revenues of \$6.2 billion, is the world's largest producer and marketer of high-quality fresh fruit, fresh vegetables and fresh-cut flowers. Dole markets a growing line of packaged foods and frozen fruit and is a produce industry leader in nutrition education and research.

>

>This release contains "forward-looking statements," within the meaning of the Private Securities Litigation Reform Act of 1995 that involve a number of risks and uncertainties. Forward looking statements, which are based on management's current expectations, are generally identifiable by the use of terms such as "may," "will," "expects," "believes," "intends" and similar expressions. The

>potential risks and uncertainties that could cause actual results to differ
>materially from those expressed or implied herein include weather-related
>phenomena; market responses to industry volume pressures; product and raw
>materials supplies and pricing; changes in interest and currency exchange
>rates; economic crises and security risks in developing countries;
>international conflict; and quotas, tariffs and other governmental actions.
>Further information on the factors that could affect Dole's financial results
>is included in its SEC filings, including its Annual Report on Form 10-K.

>

>

>Contacts

>Dole Food Company, Inc.

>Marty Ordman, +1-818-874-4834

>

>

>

>

>

>

>Quoting hcrooks@pipeline.com:

>

>> Frederk

>>

>> It would be awesome if you can get permission to film in the court. A

>> French producer I am working with made a film called Murder on a

>> Sunday Afternoon [won an Oscar] and it could NOT have been done

>> without the court room drama. Getting access to the court would also

>> allow you to document the defendant's white shoe 500/hour lawyers and

>> the jurors etc ---- and then after the case is decided in the US you

>> are allowed to interview jurors so you could get inside their heads

>> about the case --- and maybe share a banana split with them

>> !!!!!!!!!!!!!!!

>>

>> I would strongly encourage you to try and get inside the court !!!!!!!!!!!

>>

>> Harold

>>

>> -----Original Message-----

>>> From: fredrik@wgfilm.com

>>> Sent: Jul 5, 2007 6:21 PM

>>> To: hcrooks@pipeline.com

>>> Subject: VB: VB: court etc

>>>

>>> Hi and thanks for the conversation. Here's a mail sent from Helena in Los

>>> Angeles.
>>>
>>> Fredrik
>>>
>>> Hi again!
>>> thursday morning here in LA and I have just talked to Ivonne Rodriguez ;
and
>>> she said that she also talked to Bart this morning ... so I guess we might
>>> have the same info.
>>>
>>> The trial is suppose to start on Monday July 2 with jury selection.
>>> Juan D might / very uncertain/ be available for an oncamera interview July
>>> 16.
>>> They still dont know when the workers will come to LA .
>>>
>>> For permission to film in the courtroom you have to file a request ; all the
>>> forms you can find and download from Los Angeles Superiour courts
webpage ;
>>> click on /about the court; news and media/ and there you find all
>>> the info you
>>> need.
>>>
>>> The request should be faxed to; 213 621 7642.
>>> The case number is Tellez BC 312852.
>>> The judge is this case is Victoria Cheney.; dep 324 ;tel i LA 213 251 8508
>>>
>>> I think its important to file the request as soon as possible !!
>>>
>>> Ok ; guys hope all is well ; Im leaving for Stockholm on Sunday ... but you
>>> can reach me through email or my mothers nb in Sthlm : 08 34 80 99 /
>>> or Swedish
>>> Radio fr July 9 ; 08 784 00 00 .
>>>
>>> take care
>>> /helena
>>>
>>>
>>>
>>>
>>> ***** See what's free at
>>> <http://www.aol.com>.
>>>
>>>
>>> ----- Slut på vidarebefordrat meddelande -----

>>>
>>>
>>> ----- Slut på vidarebefordrat meddelande -----
>>
>>
>>
>>
>
>

----- Slut på vidarebefordrat meddelande

BANANAS!*

Links and resources

Edited by Tobias Lilja, 17 nov 2008

Contact: tobias@wgfilm.com

Good general info:

- [Banana Link](#)
- [Foro Emaús](#)
- [Dan Koeppel's blog](#)

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1. History

- Foro Emaús: [History and politics](#)

Literature (links to Amazon):

- *Dan Koeppel: ["Banana: The Fate of the Fruit That Changed the World"](#)
- *Striffler & Moberg: ["Banana Wars: Power, Production, and History in the Americas"](#)
- *James Wiley: ["The Banana: Empires, Trade Wars, and Globalization"](#)
- Josling and Taylor: ["Banana Wars: The Anatomy of a Trade Dispute"](#)

* = Available at WG Office

2. Corporations

Dole

Dole opinions:

- ["Cases on Behalf of Foreign Nationals Are Out of Order"](#)
- ["Lawyers without borders"](#)

Dole: DBCP facts

- [DBCP Press release](#)
- Dole: [Comments on DBCP Punitive Damages Verdict Press Release](#)

Banana Link:

- [Dole campaign](#)
- Report: ["Dole, behind the smoke screen"](#) (PDF)

David Delorenzo:

- USLEAP: ["Valentine's letter to Dole"](#) (PDF)
- American.com: ["Blow Your Own Horn"](#)

David Murdock:

- The packer: ["Dole's Murdock appears on Martha Stewart show"](#)
- Corporate Responsibility Newswire: ["Dole Food Company, Inc. Named To "World's Most Ethical Companies"](#)
- Children's campaign: [Dole SuperKid Heroes](#)

Chiquita

CEO: Fernando Aguirre:

- Cincinnati Enquirer: ["Chiquita's timing is ripe"](#)
- Dan Koeppel's blog: ["Chiquita's Banana profits and new African plantations"](#)
- [International Banana Association](#) (banana trade organization including Dole and Chiquita)
- Banana Link: [banana companies](#)

Human Rights Watch:

- Report: ["Tainted Harvest: Child Labor and Obstacles to Organizing on Ecuador's Banana Plantations"](#) (PDF)
 - >> [Letters to Corporations](#) (PDF)
 - >> [Response letters from Corporations](#) (PDF)

Chiquita in Colombia:

- CBS News: ["The price of bananas"](#) (one story + two video features)
- Wiki: [Banana massacre](#)

Press

- Cincinnati Enquirer: ["Chiquita secrets revealed"](#) (article series)
- Sydsvenskan: ["Bananer i uniform"](#) (in Swedish)

Literature

- *Peter Chapman: ["Bananas!: How The United Fruit Company Shaped the World"](#)

Resources

- [The Packer](#) - The business newspaper of the produce industry (use search function)

3. Pesticides

Envio:

- ["Banana Workers Put Shell on Trial"](#)
- ["Victims of Nemagon hit the road"](#)
- Foro Emaús: [The aftermath of DBCP](#)
- Trade and Environment Database: [Pesticide hazard in Costa Rica](#)

The Catalyst ([main page](#)):

- Banana issue: ["How much does a banana really cost?"](#) (PDF)
- ["Banana workers still fighting"](#) (PDF) (p. 5-8)

Cincinnati Enquirer:

- ["Death on farm shows danger"](#)
- ["Banana workers sprayed in the fields"](#)

Toxipedia.org:

- [DBCP](#)
- [Mevinphos](#)
- [Paraquat](#)
- U.S Environmental Protection Agency: [DBCP](#)
- National Center for Biotechnology Information: [DBCP review](#)
- Wikipedia: [DBCP](#)
- Pesticide Action Network ([main page](#))

Svenska Naturskyddsföreningen (Swedish Society for Nature Conservation):

- ["Jakten på den fullkomliga bananen"](#) (PDF in Swedish)

4. Pathogens

Black Sigatoka:

- APS net (Randy Ploetz): ["The most important disease of a most important fruit"](#)
- Wiki: [Black sigatoka](#)
- Horticulture & Home Pest News: [Black sigatoka](#)

Nematodes:

- Wiki: [Nematodes](#)

Panama disease:

- Plant Management Network: ["Panama Disease: A Classic and Destructive Disease of Banana"](#)
- APS net (Randy Ploetz): ["Panama Disease: An Old Nemesis Rears Its Ugly Head"](#)
- ABC news: ["Disease ravaging NT banana crop"](#)
- Dan Koeppel's blog: ["Chiquita Acknowledges Panama Disease as Threat"](#)
- Dan Koeppel's blog: ["Australia was once thought to be protected from the deadliest banana disease. It wasn't."](#)

BXW (banana xanthomonas wilt):

- Dan Koeppel's blog: ["UN program claims success"](#)
- Dan Koeppel's blog: ["Urgent threat to Africa's Bananas"](#)
- All Africa: ["Kenya: Banana Wilt Hits Country"](#)
- Africa News: ["Uganda: Disease threatens banana"](#)
- FAO: ["Battling a banana killer in East Africa"](#)

Experts:

- [Randy Ploetz](#) (Tropical Research & Education Center - specialty: tropical fruit diseases)
- Thomas Lustig (phone number available) (Swedish Society for Nature Conservation, author of ["Jakten på den fullkomliga bananen"](#) (PDF in Swedish))

Literature:

- Dan Koeppel writes extensively about black/yellow Sigatoka and Panama disease in: ["Banana: The Fate of the Fruit That Changed the World"](#)

5. Working conditions

- [Bad bananas and monkey business](#) (blog with eye witness reports)
- [Jan Nimmo's banana workers project](#) (blog/film with eye witness reports)
- Banana Link: [The reality for workers](#)
- Banana Link: [Women in the banana industry](#)

Human Rights Watch:

- ["Ecuador: Widespread Labor Abuse on Banana Plantations"](#)
- Report: ["Tainted Harvest: Child Labor and Obstacles to Organizing on Ecuador's Banana"](#)

[Plantations"](#) (PDF)

- >> [Letters to Corporations](#) (PDF)
- >> [Response letters from Corporations](#) (PDF)

Foro Emaús:

- [Labor and social issues](#)

YouTube:

- Banana Link: [Los Alamos](#) (strike in Ecuador)
- Dole: ["Dole's global commitment to corporate social responsibility"](#)
- Freedom Socialist Newspaper: ["Union and anti-CAFTA leader Orlando Barrantes challenges government frame-up in Costa Rica"](#)

6. Environment

Pesticide impacts / Deforestation:

- Banana link: [Environmental impacts](#)
- Banana Link: [Alternatives](#)
- Foro Emaús: [Environmental problems](#)

Wasted food:

- Dan Koeppel's blog: ["We throw a lot of good food away"](#)
- NY Times: ["One Country's Table Scraps, Another Country's Meal"](#)
- [Wasted food blog](#)
- Banana bread: [recipe](#)

Svenska Naturskyddsföreningen (Swedish Society for Nature Conservation):

- ["Jakten på den fullkomliga bananen"](#) (PDF in Swedish)

7. Banana economics

- Banana Link: [EU Banana Import Regime Background](#)
- The Guardian: ["Banana wars"](#) (about banana production in Dominica)
- People and Planet: ["Banana Splits - the hidden costs"](#)

Theme: Africa

- Dan Koeppel's blog: ["African Banana Roundup; Chiquita's plans and Kenyan Entrepreneurship"](#)
- New agriculturist: ["Africa's banana jamboree"](#)

8. Banana politics

- Cincinnati Enquirer: ["Chiquita secrets revealed"](#) (scandal follows article series)
>> Wiki: ["The Cincinnati Enquirer controversy"](#)
- [Hill & Knowlton](#) (Chiquita's PR company)
>> Sydsvenskan: ["Något är ruttet"](#) (in Swedish)
- Dan Koeppel in NY Times: ["Yes, We Will Have No Bananas"](#)

Smuggling:

- Dan Koeppel's blog: ["This is Real: Banana-Smuggling Ring Smashed"](#)
- Newsweek: ["European Union Laws That Make The Fruit Expensive To Import Have Made Smuggling A Lucrative Trade"](#)
- BBC: ["WTO backs US in banana trade war"](#)

Literature:

- Gary Taylor: ["Smart Alliance"](#) (available at WG Office)

9. Recent research

- New Agriculturist: ["A helping hand - tissue culture blooms in Kenya"](#) (MIMEA)

Bio engineering:

- Dan Koeppel's blog: ["Report: First Field Test of Genetically Modified Cavendish"](#)
- Dan Koeppel's blog: ["Are genetically modified bananas Australia's last hope?"](#)
- QUT: ["Better bananas for Africa"](#)
- ABC Science: ["Trial planting of GM bananas to begin in N Qld"](#)
- Dan Koeppel's blog: ["Bill Gates funds Banana Research"](#)
 - >> Seattle times: ["Gates Foundation's agriculture aid a hard sell"](#)
 - >> Australian IT: ["Banana research project is all glass"](#)

Resources

- [Bioversity international](#)

10. Future bananas

- Banana Link: [Alternatives for the future](#)
- Foro Emaús: [Proposals and alternatives](#)

Raw food info:

["Yes We Have No \(Conventional\) Bananas: The Case For Buying Organic"](#)

Fairtrade:

- Fairtrade Foundation: [Fairtrade Bananas in the Dominican Republic](#) (YouTube)
- Fairtrade Foundation: [Interview with Conrad Jones](#) (YouTube)

- Co-op America: [Fair trade](#)

11. Production & Consumption

- Banana Link: [2005 statistics](#)

12. The Trial

Los Angeles Times:

- 25 sep 2008: ["Claim of genocide denied in suit"](#)
>>Wiki: [Alien Torts Statute](#)
- 11 mar 2008: ["Damages in Dole case are reduced"](#)
- 16 nov 2007: ["Dole must pay \\$2.5 million to farmhands"](#)
- 15 nov 2007: ["Exec pleads against punitive damages"](#)
- 08 nov 2007: ["Dole may face punitive damages"](#)
- 06 nov 2007: ["Dole must pay farmworkers \\$3.2 million"](#)
- 15 aug 2007: ["Worker testifies in pesticide case"](#)
- 20 jul 2007: ["Pesticide trial begins"](#)
- 12 jul 2007: ["Nicaraguans want out of pesticide suit"](#)
- 27 may - 2007: ["Plantation workers look for justice in the North"](#)
- 16 apr 2007: ["Pesticide company settles sterility suit for \\$300,000"](#)
- 08 apr 2007: ["Pesticide maker sees profit when others see risk"](#)
- 25 okt 2003: ["Dole, Dow and Shell Win Dismissal of Suit"](#)
- Ventura County Star: ["Final arguments in Dole pesticide case"](#)
- Herald Tribune: ["Jury says Dole maliciously harmed 5 banana workers"](#)
- Washington post: ["Workers Say Pesticides Made Them Sterile"](#)

Envio:

- ["Banana Workers Put Shell on Trial"](#)
- ["Victims of Nemagon hit the road"](#)

Beyond pesticides ([main site](#)):

- ["Farmworkers Lose Amvac Genocide Appeal"](#)
- ["Nicaraguan Farmworkers Awarded \\$3.3 Million in U.S. Pesticide Poisoning Case"](#)
- ["Farmworkers' Lawsuits Claim Pesticides Made Them Sterile"](#)

Get Set Inc:

- ["Nicaragua banana workers may sue international firms for years of poisoning"](#)
- All business: ["Afflicted Nicaraguan workers choose death over injustice"](#)
- Arbetaren: ["Protester mot bananföretag"](#) (in Swedish)
- LO: ["Multijätten döms på rekordbelopp"](#) (in Swedish)

From Dole

Dole opinions:

- ["Cases on Behalf of Foreign Nationals Are Out of Order"](#)
- ["Lawyers without borders"](#)

Dole: DBCP facts

- [DBCP Press release](#)
- Dole: [Comments on DBCP Punitive Damages Verdict Press Release](#) (PDF)

13. Media archive

Film

Other banana films:

- [The affected](#)
- [Pura Vida](#)
- [Bonita: Ugly Bananas](#) (see [trailer](#))
- Archive.org: [Journey to Banana land \(1950\)](#)
- Woody Allen - [Bananas](#) (IMDB)

YouTube:

- Josephine Baker - [Banana dance](#)
- Carmen Miranda - [The gang's all there](#)
- Dole - ["If you feel it - peel it"](#) (Dole commercial)
- Spike Jones - [Yes! We have no bananas](#) (one of many covers)

Sesame street:

- [One Banana](#)
- [Earnie has a banana in his ear](#)
- [Two names are better than one](#)
- [B is for Ballerina in Banana](#)

Photos

- [YoungrobV](#) (Flickr)
- [Linda Panetta](#)

Banana art

- [Stefan Sagmeister](#)
- [London Bananas](#)

Games

- Wiki: [Tropico](#) (PC game)

Poetry

- Wiki: [Ramon Amaya Amador](#) (1957: "Green prison")
- Wiki: [Pablo Nemada](#) (1950: "Canto General")
- [Evan Jones](#) ("The Song of the Banana Man" and "Lament of the Banana Man")

14. Unsorted links

Organizations

- [Banana Link](#)
- [Foro Emaús](#)
- [ActionAid](#)
- [Oxfam](#)
- [Pesticide Action Network](#)
- [The Fairtrade Foundation](#)

Reports

Banana Link

- ["Dole, behind the smoke screen"](#) (PDF)

Human Rights Watch

- Report: ["Tainted Harvest: Child Labor and Obstacles to Organizing on Ecuador's Banana Plantations"](#) (PDF)
 - >> [Letters to Corporations](#) (PDF)
 - >> [Response letters from Corporations](#) (PDF)

Svenska Naturskyddsföreningen (Swedish Society for Nature Conservation)

- ["17,6 kilo"](#) (PDF in Swedish)
- ["Jakten på den fullkomliga bananen"](#) (PDF in Swedish)

ActionAid

- ["Vem betalar för dina bananer?"](#) (PDF in Swedish)

Other campaign websites

- People and Planet: ["Banana Splits - the hidden costs"](#)
- Global exchange: [Banana campaign](#)

Literature

- *Dan Koeppl: ["Banana: The Fate of the Fruit That Changed the World"](#)
- *Peter Chapman: ["Bananas!: How The United Fruit Company Shaped the World"](#)
- *Striffler & Moberg: ["Banana Wars: Power, Production, and History in the Americas"](#)
- *James Wiley: ["The Banana: Empires, Trade Wars, and Globalization"](#)
- *Gary Taylor: ["Smart Alliance"](#)
- Harriet Lamb: ["Fighting The Banana Wars And Other Fairtrade Battles"](#)
- Josling and Taylor: ["Banana Wars: The Anatomy of a Trade Dispute"](#)

** = Available at WG Office*

Other authors

Marcelo Bucheli
John Soluri
Peter Clegg

Quick facts

- [Sara Bergfors PDF](#) (for WG)

General banana discussion (not necessarily political)

- [Dan Koeppel's blog](#)
- [Bananas.org](#)

BANANAS!* external

- [YouTube channel](#)
- [Myspace page](#)
- Facebook group (name: Bananas!*, hidden so far)
- [Flickr group](#)



Presents

A FILM BY FREDRIK GERTTEN

BANANAS!*

**Los Angeles Film Festival 2009
Special Screenings**

**7:30 p.m., Saturday, June 20
9:15 p.m., Tuesday, June 23**

**James Bridges Theater UCLA
The Landmark Westside Pavilion**

HD Cam 87 mins.

In English and Spanish with English Subtitles

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BANANAS!*

SYNOPSIS

BANANAS!* is a suspenseful, layer-peeling, court room drama chronicle contextualized within the global politics of food and First vs. Third world dynamics.

Directed by Fredrik Gertten, Sweden's pre-eminent documentarian and investigative journalist, BANANAS!* focuses on a slippery fact trail and a landmark and highly controversial legal case pitting a dozen Nicaraguan plantation workers against Dole Food Corporation and its alleged usage of a deadly banned pesticide and its probable link to generations of sterilized workers.

Central to both the film and case is Juan "Accidentes" Dominguez, a Los Angeles-based personal injury attorney who, although iconic within the Latino community for his ubiquitous billboard ads, is unquestionably facing the biggest case and challenge in his career.

As the legal representation on the first Nicaraguan sterility case to be tried in US courts, Dominguez and his colleague, Duane C. Miller, are breaking new ground. Theirs is a bellwether case: The first of thousands of cases awaiting trial in Nicaragua and the first legal case where foreign farm workers were allowed to testify against an American multinational corporation before a full jury on U.S. soil. At stake are the futures of generations of workers, their families as well as the culture of global, multinational business.

This case has been followed by experts and companies all over the world. If Dominguez is successful, it could rock the economic foundations of Dole and Dow, and would open the US courts to other global victims of US-based multinationals. It would represent a new day in international justice, and there are further cases of a similar nature coming up next in many jurisdictions.

BANANAS!* is a court room drama covering the case of the 12 Nicaraguan banana workers who have sued Dole in what has become one of the most controversial trials. Cameras inside the court and interviews with Dominguez and the plaintiffs take the audience directly to the story.

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DIRECTOR'S STATEMENT

I am interested in the universality of a story, and since my films are financed internationally, the stories have to stretch beyond the Swedish border. I seek to make films that everyone can understand.

BANANAS!* follows an historic, first court case in Los Angeles Superior Court ... and ends with a verdict from the jury. And now, that verdict is under appeal. The recent hearing of April 21 and 23, 2009 happened at a moment after the film was delivered to all broadcasters (my funders) and to the festival. Because of this new development, we decided to make a change with updated title cards at the film's end reflecting Judge Victoria Chaney's rulings.

So much has been speculated about my film yet; these are coming from eyes that have not seen it. It's not surprising that Dole Food would put its best resources to use in trying to prevent my film from being seen. We follow a court drama - an important historic case. If the workers win, it will mean a lot for other workers in the world who claim that they have been abused. Dole and other big corporations have all the best reasons to fight that. But, I think they should do that in an open debate, not by threatening a film or a film festival and a filmmaker.

Having worked as a journalist in Nicaragua in the 80s and 90s, I had heard many stories about what was happening to the workers. Everything I filmed is the truth: It's what my cameras captured and how this all played out during this trial. The most important evidence in the case is a letter between Standard Fruit Company (now DOLE) and Dow Chemicals. In this letter, Dow wants to withdraw a product that has sterilized their workers. Dole writes to Dow that this is a breach of a contract. Dow then delivers 500,000 more barrels of DPCP after the two companies negotiated an indemnity clause in the contract. This is hard evidence and was not something that was concocted.

With regard to the accusations against one of my film's lead characters, Juan Dominguez, -- the Los Angeles based attorney who brought the trial to Los Angeles and who is now accused of fraud in the trial -- undoubtedly, these accusations against Juan Dominguez are serious and I understand that. Since then, Juan Dominguez has appealed and I look forward to following this case as it develops.

As a journalist and a filmmaker, I seek to bring the truth to the surface so that the public can know and can dialogue about events that impact them. Having BANANAS!* now in the public arena and being able to discuss and to defend my film will be a great thing for all of us involved. No more threats. No more name calling or accusations -- but actual discussion with basis.

I am proud -- and relieved -- that my film will have this chance and I look forward to the discussions that come as a result. My film has a finite ending. The dialogue resulting from it, I hope, will not.

- Fredrik Gertten, June 2009

BANANAS!*

TELLEZ VS. DOLE: A TIMELINE

Background

During the 1970s, the pesticide DBCP (Dibromochloropropane) was used extensively on banana plantations all over the world. DBCP, originally synthesized in 1955, had many brand names, such as *Nemagon* and *Fumazone*.

DBCP was used to protect many different crops: vegetables, nuts, fruits, beans and cotton. The target pest was *nematodes*, tiny worms living in the soil, feeding on the roots. The pesticide was either pumped directly into the ground, or sprayed into the air with irrigation guns.¹

In 1977, employees who had handled DBCP at the Occidental Chemical plant in California were found to be sterile. Within months, the Environmental Protection Agency (EPA) had suspended most uses of the chemical.²

In 1983, Sacramento attorney Duane Miller won a \$4.9 million judgement against Dow on behalf of six of the Occidental plant workers. Two years later, the EPA permanently banned the use of DBCP in the United States.³

In March 1990, the Texas court announced they would allow cases with a foreign location as place of incident. This was not possible before due to a legal doctrine called “forum non conveniens”, which said lawsuits should be heard in the countries where the damage occurred.⁴

In 1992, this shift in regulation made it possible for 1,000 Costa Rican workers and their lawyers to win a case against Standard fruit (now Dole). The corporation agreed to pay \$20 million to the affected workers. After legal fees, each worker was left with \$1,500 to \$15,000, depending on individual circumstances.⁵

In 1993, a class-action lawsuit was filed in Texas by more than 16,000 banana plantation workers from Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua and the Philippines. The target was several fruit and chemical companies, including Dole, Chiquita, Del Monte, Dow, Shell and Occidental. The companies agreed to pay a total of \$41.5 million in 1997 to those who proved they were sterile. However, when all legal fees were paid, the affected workers received relatively small payments.⁶

¹ [Nicaragua fights for “Death’s Dew” compensation](#) – Letta Tayler, Newsday.com, Dec 2, 2006

² [Dibromochloropropane \(DBCP\): a review](#) – National Center for Biotechnology Information (NCBI)

³ [Plantation workers look for justice in the North](#) – Christian Miller, Los Angeles Times, May 7, 2007

⁴ [Plantation workers look for justice in the North](#) – Christian Miller, Los Angeles Times, May 7, 2007

⁵ [Pesticide Hazard in Costa Rica](#) – TED Case Studies

⁶ [Banana Workers Win Against Dow, Shell and Standard Fruit](#) – Pesticide Action Network, Jan 6, 2003

BANANAS!*

Nemagon Movement

The Nicaraguan Nemagon movement is the strongest independent popular movement in modern Nicaragua. It started up in the early nineties when former banana workers started to share strange experiences, like children with birth defects, women having miscarriage after miscarriage and the men seemed to be sterile. Itching skin, fire inside, dying from kidney failure.

Under the name ASOTRAEXDAN (Association of Workers and Former Workers with Claims against Nemagon), this movement started marching, protesting, demanding justice, health care, coffins to their dead. An in-depth story about this can be found in the Envio Magazine article [Victims of Nemagon hit the road](#) (June, 2005).

In 1999, ASOTRAEXDAN began to push for a law to be passed in Nicaragua that would allow Nicaraguan workers to sue foreign companies. The law, known as "law 364", was registered in January 2001. In short, law 364 was directly intended to give DBCP victims and their relatives the right to demand compensation from the companies who imported and applied the chemical in Nicaragua. The U.S. Embassy in Nicaragua instantly criticized the law. They claimed the law being unfair to the trans-national companies, and in March 2002, the Nicaraguan attorney general submitted a movement to the Nicaraguan Supreme Court to declare law 364 unconstitutional.⁷

In December 2002, Nicaragua's Supreme Court ordered Dow Chemical Co., Shell Chemical Co. and Dole Food Co. to pay \$490 million in compensation to 583 Nicaraguan banana workers. This landmark case was lead by plaintiff attorneys Thomas Girardi and Walter Lack, the same lawyers who fought the Erin Brockovich toxicity suit (which later became the blockbuster movie starring Julia Roberts).⁸

Neither Dow nor any of the other companies participated in the trial. Dow said they will not pay and called the judgment "unenforceable" because the case was supposed to be moved to a U.S. court. They also pointed at the previous claim of law 364 being unconstitutional. One year later, in October 2003, a judge in Los Angeles ruled that the judgment could not be enforced against the companies because they weren't properly named or legally notified in the Nicaraguan court action.⁹

In April 2007, Amvac Chemical Co., one of the companies who produced and sold DBCP in the 1970s, agreed to pay a total of \$300,000 to 13 Nicaraguan workers. In court papers, the company called the agreement a "compromise of disputed claims" and denied any wrongdoing.¹⁰

Tellez Versus Dole

In 2004, Los Angeles based attorney Juan Dominguez teamed up with Duane Miller. Dominguez travelled to Nicaragua and started to register workers claiming the chemical had afflicted them. Over 10,000 clients were registered in Nicaragua alone.

⁷ [Death Sentence – an honorable job](#) – Richard Leonardi, Mar 31, 2003

⁸ [L.A. attorneys may face punishment in Dole case](#) – Alexa Hyland, L.A. Business Journal, June 16, 2008

⁹ [Dole, Dow and Shell Win Dismissal of Suit](#) – Los Angeles Times, Oct 25, 2003

¹⁰ [Pesticide company settles sterility suit for \\$300,000](#) – Christian Miller, Los Angeles Times, Apr 16, 2007

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In July 2007, the case was brought up in the Los Angeles Superior Court. Twelve workers alleged sterilization and accused Dole Food Co. and Dow Chemical Co. of negligence and fraudulent concealment in using DBCP. The case was unique since no similar case had ever been presented to jurors.¹¹

The companies acknowledged that DBCP can be linked to male sterility and that the product was used in Nicaraguan banana plantations. Dow also acknowledged that the possibility of harm existed, but said the product was safe as long as instructions were followed. Also, they claimed the quantities of DBCP were too small, and the open-air conditions too diffuse to harm workers. The case at the Occidental plant where American workers were left sterile, involved much higher levels of the chemical, the companies claimed.¹²

Plaintiffs' lawyer Duane Miller pointed to the fact that Dole in 1977 demanded Dow to continue deliver DBCP, or else Dow would be in breach of a contract. This occurred after Dow had stopped their production because of the health warnings. This proves Dole continued to use the pesticide even after they knew it could be harmful to the workers and people who lived nearby¹³ **(Here we can provide a link to a PDF with to the original contract used in the trial/film)**

In November 2007, the Los Angeles jury awarded \$3.2 million to six of the twelve workers in compensatory damages. Jurors found that DBCP was defective and that its risks outweighed its benefits. They also found that Dole actively concealed the danger from its own workers.

Dow contended that the chemical was not defective if administered properly, and Dole denied that it had fraudulently concealed the danger. Dole called the verdicts unjust and later appealed.¹⁴

Two weeks later, the jury added an additional \$2.5 million in punitive damages against Dole as punishment for concealing the dangers of DBCP.

One of Dole's attorneys, Rick McKnight, said the verdict was "a huge defeat" for the workers. "It doesn't even pay their costs, much less their bills", he said.¹⁵

Duane Miller said the verdict sends an important message to Dole: "It lets [them] know that they're accountable for what they do, even if they do it south of our border", he said. "Our reputation as a country is partially dependent on the reputations of our corporations doing things overseas".¹⁶

¹¹ [Pesticide trial begins against Dole and Dow](#) – Christian Miller, Los Angeles Times, Jul 20, 2007

¹² [Plantation workers look for justice in the North](#) – Christian Miller, Los Angeles Times, May 7, 2007

¹³ [Final arguments start in Dole pesticide case](#) – Stephanie Hoops, Ventura County Star, Oct 11, 2007

¹⁴ [Dole must pay farmworkers \\$3.2 million](#) – John Spano, Los Angeles Times, Nov 6, 2007

¹⁵ [Dole must pay \\$2.5 million to farmhands](#) – John Spano, Los Angeles Times, Nov 16, 2007

¹⁶ [Dole must pay \\$2.5 million to farmhands](#) – John Spano, Los Angeles Times, Nov 16, 2007

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But the case was not closed. In March 2008, Judge Victoria Chaney reduced the punitive damages from \$2.5 million to six workers – to \$1.58 million to four workers. Chaney found that because Dole was a user of the pesticide, not a marketer, the firm could not be subjected to liability without fault. She also reasoned that punitive damages may not be used to punish “a domestic corporation for injuries that occurred only in a foreign country”.¹⁷

The Fraud Case

In April 2009, Dole claimed that all but one of 11 plaintiffs in two upcoming DBCP cases¹⁸ had never worked on banana plantations and that the men were paid and coached by their attorneys. Several witnesses testified on videotape, some of them anonymous (the “John Doe witnesses”) since they feared for their lives for exposing the fraud.

Judge Victoria Chaney instantly dismissed the cases.

“We’ll never know if anybody in Nicaragua was actually injured or harmed by the alleged wrongful conduct of the defendants, and people will never have the opportunity to learn, since this fraud is so pervasive and extensive that it has forever contaminated even our own ability to ever know the truth”, Chaney said during the April 23 hearing.

Juan Dominguez, one of the lawyers representing the Nicaraguan workers, is ordered to appear before Los Angeles County Superior Court on June 17 for a hearing on sanctions for alleged contempt of court.

Our Comments

In the Tellez trial, the trial we filmed, both sides could use their best arguments and present their best evidence in front of a jury. All the evidence produced in the Tellez case is still valid. Dole admitted they kept using a pesticide that had been banned in the U.S. They even demanded that Dow Chemical Co. kept delivering it, despite the health warnings.

The fraud accusations are aimed directly at Juan Dominguez and the entire juridical system of Nicaragua. There are still millions of questions, and more voices need to be heard, voices that don’t belong to Dole.

Articles about the fraud case:

[Dole accuses banana case attorneys of fraud](#)

By: Thomas Watkins, Associated Press, April 20, 2009

[LA judge rules fraud in lawsuits against Dole](#)

By: Linda Deutsch, Associated Press, April 24, 2009

[Judge refers lawyer for prosecution in Dole fraud](#)

By: Linda Deutsch, Associated Press, May 9, 2009

Judge Refuses to Stop BANANAS!*

¹⁷ [L.A. judge reduces Dole’s damages in pesticide case](#) – John Spano, Los Angeles Times, Mar 11, 2008

¹⁸ Mejia, et al. v. Dole Food Company, Inc., et al. and Rivera, et al. v. Dole Food Company, Inc., et al.

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On May 8th, another hearing about the fraud case was held in Los Angeles Superior Court.

During the hearing, BANANAS!* was subject to a discussion between Judge Victoria Chaney and Dole attorney Andrea Neuman. The trailer for the film was presented for Chaney during the hearing.

Neuman had reacted strongly to several images in the trailer and wanted to bring up the film for discussion. The film depicts, among others, lawyers representing the plaintiffs in the Tellez case. These lawyers were also involved in the two cases that Chaney threw out during the April hearings. Scenes from the court room during the Tellez trial is also included in the film, which is another reason why Neuman brought up the film.

At first, Neuman vaguely suggested that Chaney should stop the film, which she presented as a “shockingly misleading and defamatory piece”. Chaney instantly refused, referring to the First Amendment:

“I'm very proud of our constitution, /.../ and one of the reasons why I'm very proud of it is the First Amendment right to free speech, and there is a little issue to me about prior restraint on free speech that I think you may be asking me to do something about here. No?”

Neuman agreed, but clarified a wish that the law firm of Miller, Axline & Sawyer (which represented the plaintiffs in the Tellez trial together with the office of Juan J. Dominguez) maybe could help her in getting the BANANAS!* director Fredrik Gertten to think twice. Michael Axline, who was attending the hearing, agreed to send a letter to Gertten with a copy of the latest court orders and transcripts to inform him about the latest developments in the case.

The “shockingly misleading and defamatory” content in the trailer were also described in detail by Neuman:

“Even if we now know the Tellez trial to have been fraudulent, we certainly know that there was no allegation in that trial that DBPC caused the death of anyone, although there's multiple funeral processions in this trailer, there's also a plane spraying chemical, which we all know never happened with DBCP. Now that we know the Tellez trial was a fraud, the movie is all the more defamatory.”

Our Comments

First of all, the Tellez trial was very real, and all the evidence produced in the case is still valid. Dole admitted they kept using a pesticide that had been banned in the U.S. They even demanded that Dow Chemical Co. kept delivering it, despite the health warnings.

Second, the film is not only about DBCP or the Tellez case, which seems to be a misconception here. The funeral in the film is the funeral of a man named Alberto Rosales. We are not saying he died from exposure to DBCP, but he did die from kidney damages, which is a common symptom from pesticide exposure. He worked his whole life on banana

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plantations. Yes, it is difficult to prove scientifically, but pesticides have had extremely negative effects on the people and environment of many areas of Central America.

Third, we are not saying that the plane in the trailer is spraying DBCP. We are saying that pesticides are very much still in use.

Also, nobody in the courtroom had seen the complete film. The above discussion only concerned the trailer.

Chaney's final remark to Neuman:

"Just so we are clear, I am not in any way going to make, and I will not consider, any request for prior restraint on free speech. Okay? So, don't ask me to go try and contact the film company. I don't have jurisdiction over them. But even if I did, don't ask me for it."

Related articles:

[Judge refers lawyer for prosecution in Dole fraud](#)

By: Linda Deutsch, Associated Press, May 9, 2009

BANANAS!*

KEY SUBJECTS

Juan J. Dominguez, esq.

Juan Dominguez is a Cuban-American personal injury lawyer known in Southern California for his ubiquitous and iconic “ACCIDENTES” ads on buses and billboards throughout the region. He has built his career and successful private practice on a largely underrepresented Latino clientele. The US Super Lawyer Club has designated him as a “Super Lawyer”. He is co-lead counsel on behalf of twelve Nicaraguan banana workers against Dole Food Co. in a groundbreaking legal battle.

Duane Miller, esq.

San Francisco-based Duane Miller is the first attorney to successfully fight a toxic tort case involving DBCP. Miller is hired by Dominguez to be the chief litigator representing the plaintiffs in court.

Rick McKnight, esq.

Rick McKnight is the chief corporate attorney representing Dole Food in the trial who seeks to ensure that the company is not hit by a precedent-setting decision.

David DeLorenzo

David DeLorenzo is the President and Chief Executive Officer of Dole Food. He appears as a witness in court during the trial.

Alberto Rosales

The burial ceremony of Alberto -- a Nicaraguan banana plantation worker for most of his life -- is the opening scene of the film. His death, his family members strongly believe, was likely caused by pesticide exposure.

Carmen Rosales

Carmen is the late Alberto's wife who too worked on banana plantations, but left after losing her first two children. She is undergoing chemotherapy treatment for a cancerous tumor the day her husband dies.

Byron Rosales

One of Alberto's and Carmen's three children. Byron works as a math teacher to support his family. He is seeking justice after the death of his father.

Father Bayardo Ocon

Father Ocon is the Roman Catholic priest during the burial sermon. He is a staunch critic of landowners and US trans-national corporations, which he accuses of “immoral practices” that cause the death and suffering of many members of his community.

The 12 plaintiffs

Twelve former banana workers are the initial plaintiffs in the Tellez vs. Dole Food trial. They claim that the pesticide DBCP made them sterile, and that Dole actively concealed the danger from them.

BANANAS!*

ABOUT THE FILMMAKERS

WG Film AB

Since 1994, WG Film AB of Malmö, Sweden has produced and developed author-driven documentaries with a focus on localized stories with universal understanding. WG Film is active in the international, co-financing world with five documentaries sold to more than forty broadcasters in 25 countries.

Fredrik Gertten, filmmaker & producer at WG film, Sweden

Fredrik Gertten speaks fluent Spanish and has worked as a journalist in Nicaragua in the 1980's and 1990's.

Selected filmography:

Producer:

- Milkbar, Dir. Terese Mörnvik & Ewa Einhorn, 2007
- Thin Ice, Dir. Håkan Berthas 2006
- Belfast Girls, Dir. Malin Andersson, 2006
- Boogie Woogie Daddy, Dir. Erik Bäfving, 2002.
- In development:
- Cassady Credentials, documentary, Dir. Maria Ramström & Malin Korkeasalo
- Forest, documentary, Dir. Helena Nygren & Jacob Andrén.

Producer & Director:

- The Socialist, The Architect & the Twisted Tower, 2005
- An Ordinary Family, 2005
- Just a piece of steel/Bye Bye Malmö, 2003
- Walking on Water, 2000, (co-directed with Lars Westman)
- The Way Back—True Blue2, 2002, co-directed with Magnus Gertten and Stefan Berg.

Margarete Jangård, producer at WG Film, Sweden

Margarete has been a producer at WG Film for five years and has been in the media business for two decades. She previously worked as freelance film worker at SVT Drama and commercial/information films. She is an EAVE graduate 2005.

Projects:

- Milkbar, Dir. Terese Mörnvik & Ewa Einhorn, 2007
- Thin Ice, Dir. Håkan Berthas 2006
- Belfast Girls, Dir. Malin Andersson, 2006
- The Socialist, The Architect & the Twisted Tower, Dir. Fredrik Gertten, 2005
- An Ordinary Family, Dir. Fredrik Gertten, 2005.

In development:

- Cassady Credentials, documentary, Dir. Maria Ramström & Malin Korkeasalo
- Forest, documentary, Dir. Helena Nygren & Jacob Andrén.

BANANAS!*

Bart Simpson, producer, Canada

Bart Simpson is best known as producer of the feature documentary THE CORPORATION that has won over 25 international awards and is the highest-grossing domestic documentary in Canadian history. It played theatrically in over 10 countries and ran for over 6 months on screens in Canada and the UK before a popular television premiere. Zeitgeist Films distributed the film in the United States. Bart is also immediate past Chair of the Documentary Organization of Canada (DOC).

Selected credits:

- Moebius Redux: A Life In Pictures, 2007
- The Corporation, 2004
- Two Brides and a Scalpel, Diary of a Lesbian Marriage, 2000
- Visits with Max, director/producer, 1996.

Frank Pineda, photographer

Frank has worked on more than 100 productions, documentary and features in 35mm, 16mm and video. He has collaborated with several International News Agencies and TV networks including: NBC, ABC, TVE, BBC, Channel 4, etc. In 1990, he founded Camila Films, an independent production company in Nicaragua.

Selected works:

- The World Stopped Watching, Dir. Peter Raymont, 2002
- The lovers of San Fernando, Dir. Peter Torbiornsson, 2001,
- Machos, Dir. Lucinda Broadbent, 2000, Produced by BBC, London.
- Carla's Song, Dir. Ken Loach, 1995, feature film, 35mm.

Jesper Osmund, editor

Jesper has worked as an editor since 1991 and has edited 6 fiction feature films, approximately 35 documentaries and more than 600 commercials.

Documentaries include:

- An Ordinary Family, Dir. Fredrik Gertten/WG Film, 2005;
- Thessaloniki, Zagreb, Buenos Aires, a.o.
- The Well, 2004 Dir. K. Petri/Charon Film

Nils Pagh Andersen, narrative consultant

Nils is Denmark's preeminent documentary film editor with more than 250 films in a wide range of categories.

Some examples of his award winning work are:

- Pathfinder, 1986 Dir. Nils Gaup; feature nominated for an Oscar
- Walking on Water, 2000 Dir. Fredrik Gertten & Lars Westman
- Three rooms of Melancholia, 2004 Dir. Pirjo Honkasalo
- The Winner of The Grand Prix of Krakow, One world award, Krystalle
- Prostitution behind the Veil, 2004 Dir. Nahid Persson, Emmy- nominated
- The German Secret, 2005 Dir. Lars Johansson
- Flying Confessions of a Free Woman, 2006 Dir. Jennifer Fox.

BANANAS!*

Nathan Larson AKA Hot One Inc, film composer /musician /producer

Nathan composes music for film, television and commercials, including:

- Boys Don't Cry, 1999, Dir. Kim Pierce, Fox Searchlight
- A Love Song For Bobby Long, 2004, Dir. Shainee Gabel, El Camino/ Lion's Gate
- Dirty Pretty Things, 2003, Dir. Stephen Frears, Miramax
- Phone Booth, 2003, Dir. Joel Schumacher, Fox ("additional music")
- Velvet Goldmine, 1998, Dir. Todd Haynes, Miramax.

Joe Aguirre, photographer

Joe Aguirre is a freelance cameraman based in Los Angeles. In six years of working with director Samuel Bayer, Joe has collaborated in the filming of commercials for ESPN, Pepsi, Nike, and Microsoft, and music videos for Green Day and My Chemical Romance. He was a cameraman on upcoming Sony releases "Quarantine" and "Obsessed," and on Jack Johnson's 2008 European Tour documentary. "Next Year Country," an ITVS funded documentary he directed and shot, will be his directorial debut.

BANANAS!*

CREDITS

A WG Film Production

Director: Fredrik Gertten

Screenplay: Fredrik Gertten, Jesper Osmund

Producer: Margarete Jangård

Co-Producer (Canada): Bart Simpson

Co-Producer (Denmark): Lise Lense-Møller

Executive producer: Fredrik Gertten

Line Producer (LA): Jade Fox

Line Producer (NIC): Marta Clarissa Hernandez, Lars Bildt

DOP: Frank Pineda, Joe Aguirre

Editor: Jesper Osmund,

Second editor: Olivier Bugge Couté

Narrative structure: Nils Pagh Andersen

Assistant Editors: Emma Svensson, Martin Thorbjönsson

Music: Nathan Larson

Music editing: Jesper Osmund

Sound editor: Martin Hennel

Sound editor assistant: Mikael Körner

Sound mix: Martin Hennel

Dolby mix: Claus Lynge, Ministy Film

Colorgrading: Johan Eklund

Online: Johan Eklund

Technical co-ordinator: Emma Svensson, Martin Thorbjönsson

technical consultant: Jörgen Persson

Graphic designer: Rebecca Méndez, Adam Eeuwens, Lasse Henning

Motion graphic: DETTA Margot Wahlström

Head of finance: Anahita Zafari

Idea & Research: Sara Bergfors

Second unit camera: José Gabriel Noguez (LA), Johan Hallberg (NIC)

Soundmen: Arsenio Cadena, Armando Moreira, Kahlil Hudson, Seth Eubanks, Estuardo Galvez,
Bart Simpson, Adrian Pineda

In co-production with: Magic Hour Films (Denmark), ITVS International;
Sally Jo Fifer (USA), ZDF;

BANANAS!*

Sabine Bubeck-Paaz, ARTE, Film i Skåne, SVT.

With support from: Svenska Filminstitutet; Peter "Piodor" Gustavsson, Danska Filminstitutet;

Miriam Nørgaard, Nordisk Film and TV Fond; Eva Færevaaag,

YLE; Iikka Vehkalathi (Finland), NRK; Tore Tomter (Norge), TSR; Gaspard Lamunier

(Switzerland), VPRO; Nathalie Windhorst (Netherlands), Odisea; Roberto Blatt (Spain).

Developed with support from: Sundance Institute Documentary Film Program, MEDIA Programme of the European Union.

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May 8, 2009

Direct Dial

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Fax No.

(310) 557-7061

Client No.

[22695-00040]

VIA E-MAIL AND U.S. MAIL

Mr. Fredrik Gertten
Ms. Margarete Jangård
Mr. Bart Simpson
WG Film AB
Västergatan 23
SE-211 21 Malmö, Sweden
E-mail: film@wgfilm.com

Independent Television Service (ITVS)
651 Brannan Street
Suite 410
San Francisco, CA 94107
Email: itvs@itvs.org

To Whom it May Concern:

We represent Dole Food Company, Inc., and certain of its current and former officers and employees, including Mr. David H. Murdock, Mr. Michael Carter, and Mr. David De Lorenzo. This letter is a formal demand that you immediately cease and desist making false and defamatory statements of purported fact regarding our clients, and that you immediately publish prominent retractions of the same. Failure to do so will subject you to legal action.

It has come to our attention that a documentary film entitled "Bananas!*" is scheduled to premiere at Film Independent's Los Angeles Film Festival on June 18-28, 2009. Based upon our review of the film's treatment, trailer, and associated promotional materials, including video interviews with Mr. Gertten, available at <http://www.bananasthemovie.com/>, it is clear that this film contains numerous false and defamatory statements of purported fact concerning Dole and its current and former officers and employees in connection with lawsuits brought against Dole and other defendants by plaintiffs' attorney "Juan 'Accidentes' Dominguez."

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As has been widely reported in the press, the Los Angeles Superior Court judge who has overseen all these cases ruled last month that these lawsuits, upon which the film “Bananas!*” is based, represent the very worst sort of abuse of the judicial process. As the Court found, “Plaintiffs’ and plaintiffs’ attorneys’ misconduct in this record is so outrageous and pervasive and profound that it far exceeds anything described . . . in any of the reported cases. Here, there is [a] massive amount[] of evidence demonstrating the recruiting and training of fraudulent plaintiffs to bring cases in both the Nicaraguan and U.S. courts.”¹

After considering “massive amounts of evidence,” the Court repeatedly and specifically singled out the “star” of the film “Bananas!*,” Juan J. Dominguez, as one of the principal perpetrators of a fraudulent conspiracy that the Court characterized as not only a “fraud on this court, but [] blatant extortion of the defendants.” The Court further found that this conspiracy, which included “subornation of perjury both in this country and in Nicaragua,” “intimidation of witnesses and interference with another party’s investigation,” and the individual plaintiffs’ personal “active[] participat[ion] in a conspiracy to defraud this court, to extort money from the defendants, and to defraud the defendants,” infected the *Tellez* trial, rendering that trial a fraud on the court as well: “[T]he fraud that I have seen here has also contaminated each and every one of the plaintiffs in the *Tellez* matter.” Based upon this egregious misconduct, the Court ordered the cases terminated, and indicated it would be making referrals to state bars and prosecutorial authorities.

As reflected in the Court’s detailed findings, the mountain of credible evidence proved—even beyond a reasonable doubt—that Mr. Dominguez and his Nicaraguan associates actively recruited Nicaraguan plaintiffs for DBCP cases whom they knew had never worked on a banana farm, and whom they knew were not sterile. Mr. Dominguez and his associates would then coach these false claimants on how to lie to American judges and juries and seem credible, provide them with training manuals and instructional videos to teach them details about life on Nicaraguan banana plantations, and manufacture counterfeit evidence, including employment records and laboratory reports, to support their false allegations. What’s more, to conceal their wrongdoing, the individuals who stood to profit from this fraud went so far as to threaten the lives and physical safety of witnesses who were willing to come forward with evidence of the truth. The misconduct engaged in by Mr. Dominguez, his associates, and his clients was, in the words of the Court, “outrageous and pervasive and profound.” Regarding the *Tellez* trial that that is the subject of this film, the Court found that “Millions of dollars were expended in that case, and hundreds of hours of court time and attorney time were spent in prosecuting a case that was built on somebody’s imagination, a case that was put together by smoke and mirrors. I apologize to all the jurors that had to sit through that case and make a decision based on nothing

¹ A copy of the Court’s oral ruling and examples of a few of the press reports are enclosed.

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but the imagination of somebody, dreamed up in a back room of some law office down in Chinandega[, Nicaragua]. How sad.”

In fact, Mr. Dominguez’s former co-counsel, and his co-star in the film “Bananas!*,” attorney Duane Miller, is attempting to have his law firm removed as counsel in all of these Nicaraguan DBCP cases, including the *Tellez* matter which is now on appeal, in light of the evidence of egregious and pervasive fraud infesting these lawsuits.

Given these facts, publication and further promotion of this self-described “court-room thriller-documentary,” directed by Mr. Gertten and produced by WG Film AB and co-produced by ITVS, is indefensible. Furthermore, even aside from the fraudulent nature of the *Tellez* trial, the promotional materials contain a number of basic factual falsehoods, asserting that Dole’s application of the pesticide DBCP 30 years ago, which *Tellez* alleged had caused male sterility, is responsible for countless *deaths*, and posing the question: “Can [Dominguez] beat the giant, or will the corporation get away with it as they always do?” (<http://www.bananasthemovie.com/>; see also <http://www.itvs.org/shows/ataglance.php?showID=7834>.) These materials also prominently and falsely suggest that Dole applied DBCP by use of airplanes.

Please consider yourself and all interested parties on notice of the numerous false and defamatory statements of fact of and concerning Dole Food Company, Inc. and certain of its current and former employees—including, but not limited to, Mr. Murdock, Mr. Carter and Mr. De Lorenzo—that we are informed and believe will be published in the documentary film “Bananas!*,” and that have been, or will be, published, in the film’s promotional materials, including, but not limited to, any and all statements published on the website: <http://www.bananasthemovie.com/>. Given the Court’s ruling referred to above and in the accompanying materials, publication or further distribution of the aforementioned falsehoods would represent a textbook example of defamatory publication made with actual notice of their falsehood and actual malice.

Accordingly, we demand that you immediately cease and desist making any false, defamatory statements about Dole Food Company, Inc. and any of its former or current officers or employees in connection with the film “Bananas!*” and the matters discussed herein. We also demand that you immediately remove any false statements of fact currently published on the promotional website for the film “Bananas!*” and in any other promotional material, and immediately publish, in a conspicuous manner on the film’s promotional website, an unequivocal retraction of those statements. Please confirm to us in writing within five (5) business days that you have done so.

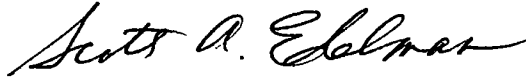
Should you move forward with plans to publicly display and distribute the documentary film “Bananas!*,” despite its obviously false and defamatory content, you will be held responsible for any and all compensatory, special, exemplary or punitive, and other damages available under applicable law. Our clients reserve the right to take any action they deem necessary to enforce their rights, and will do so without further notice to you. This letter does not purport to be

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a full statement of the facts or the law, or of our clients' position in this matter, and is written without limitation of or prejudice to any of our clients' rights or remedies, all of which are hereby expressly reserved.

Very truly yours,



Scott A. Edelman

cc:

Daniel Boone, Esq.

Duane Miller, Esq.

Juan J. Dominguez, Esq.

Eddy W. Hartenstein Los Angeles Times

Gregg Steinhafel, Target Corporation

Monica Hysell, Abbott Nutrition and ZonePerfect

Antonio M. Perez, Eastman Kodak Company

Ed Carroll, Rainbow Entertainment Services

Evan Shapiro, IFC TV and Sundance Channel

Reed Hastings, Netflix

Gerard J. Arpey, American Airlines

Neil Gannon, Stella Artois

Richard Schoenberg, MelroseMAC

Lanny Raimondo, Thomson and Technicolor

Ren Hirose, W Los Angeles – Westwood

Jim Hollister, Palomar Los Angeles - Westwood

Attachment(s)

GIBSON, DUNN & CRUTCHER LLP

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May 27, 2009

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Client No.
T 22695-00040

VIA E-MAIL AND FED EX

Mrs. Nina Ersman
Consul General
Consulate General of Sweden in Los Angeles
10960 Wilshire Blvd.
Los Angeles, CA 90024

Re: *Bananas!**

Dear Mrs. Ersman:

We represent Dole Food Company, Inc., and certain of its current and former officers and employees. It has come our attention that a documentary film entitled *Bananas!** will be premiering at Film Independent's 2009 Los Angeles Film Festival ("LAFF") on Saturday, June 20, and will be screened once again during the festival on Tuesday, June 23. It is our understanding that both screenings are being sponsored by the Consulate General of Sweden, Los Angeles. As you may or may not know, your co-host for these two events, the Legal Aid Foundation of Los Angeles ("LAFLA"), recently withdrew its sponsorship of LAFF's screenings of *Bananas!** after the film's patently false and defamatory content, which is described in more detail below, was brought to the organization's attention. We write in the hopes that you too will carefully consider the information provided herein and its impact on the Consulate General of Sweden's decision to sponsor LAFF's screenings of this documentary.

Based upon our review of this film's trailer, and associated promotional materials, including video interviews with the film's producer and director, Mr. Fredrik Gertten, available at <http://www.bananasthemovie.com/>, it has become readily apparent to us that this documentary contains numerous false and defamatory statements of purported fact concerning Dole and its current and former officers and employees, in connection with lawsuits brought against Dole and other defendants by Los Angeles plaintiffs' attorney Juan J. Dominguez.

As has been widely reported in the press, the Los Angeles Superior Court judge who oversaw the so-called "banana worker" lawsuits that are the subject of Mr. Gertten's film ruled last month that these lawsuits were a sham, and constituted not only a "fraud on this court, but

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[] blatant extortion of the defendants." "Massive amounts of evidence," have been unearthed that reveal the "star" of the film *Bananas!**, plaintiffs' attorney Juan J. Dominguez, to be one of the principal perpetrators of this fraudulent conspiracy, designed to obtain multi-million dollar judgments against Dole and other U.S. companies. Mr. Dominguez now faces referrals to both the California State Bar, as well as criminal authorities, for his misconduct in connection with these lawsuits.

The sheer magnitude of the corruption and fraud that permeates Nicaraguan DBCP litigation is difficult to capture in a brief letter, a news article, or even a judge's ruling from the bench. However, in the interest of providing you with a more complete understanding of the basis for Dole's objections to Mr. Gerrten's film, as well the clear falsity and defamatory nature of its content, we have enclosed the following:

- Our most recent press packet pertaining to Los Angeles Superior Court Judge Victoria G. Chaney's April 23, 2009 rulings regarding the pervasive and egregious fraud that infests Nicaraguan DBCP cases, including the matter of *Tellez, et al. v. Dole Food Company, Inc., et al.*, the centerpiece of *Bananas!**.
- A copy of Judge Chaney's oral ruling, in which she sets forth, in general terms, her findings of appalling misconduct on the part of fraudulent Nicaraguan plaintiffs—including the *Tellez* plaintiffs featured in Mr. Gerrten's film—and certain of their U.S. and Nicaraguan counsel, including Mr. Dominguez.

We have given counsel for Mr. Gerrten and his production company, WG Film AB, as well as counsel for LAFF, generous notice of the patently false and defamatory statements of purported fact that appear to be the very foundation for the film *Bananas!**, and we have notified them of Dole's intent to seek legal recourse against those responsible, should the film's false and disparaging claims concerning Dole be disseminated.

Given your role as a sponsor of LAFF's two screenings of this documentary, we felt it prudent to make you aware of the recklessly false accusations of wrongdoing that are being levied at Dole and its employees through this documentary—accusations that are so patently defamatory that your original co-host for these events has already withdrawn its name, and its support, of the two screenings of this film. We hope that you will follow LAFLA's lead and likewise take appropriate, responsible action. We appreciate your consideration of this matter, and should you have any questions or concerns regarding the issues discussed in this letter, please do not hesitate to contact me.

Best Regards,



Scott A. Edelman

cc: Daniel M. Satorius, Esq.
Michael Donaldson, Esq.
Richard J. Lee, Esq.

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June 5, 2009

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VIA E-MAIL AND FED EX

Ambassador Jonas Hafström

Embassy of Sweden

2900 K Street, NW

Washington, DC 20007

Phone: (202) 467-2600

Fax: (202) 467-2699

Email. ambassaden.washington@foreign.ministry.se

Dear Ambassador Hafström:

We represent Dole Food Company, Inc., and certain of its current and former officers and employees ("Dole"). It has recently come to our attention that the Consulate General of Sweden, Los Angeles is hosting two screenings of a documentary by Swedish filmmaker Fredrick Gertten, entitled *Bananas!**, at Film Independent's 2009 Los Angeles Film Festival ("LAFF"). These screenings are presently scheduled for Saturday, June 20, and Tuesday, June 23.

This film contains patently false, and highly defamatory content concerning our clients. The subject of the documentary is a set of lawsuits filed against Dole and other U.S. defendants by Los Angeles plaintiffs' attorney Juan J. Dominguez, on behalf of Nicaraguan citizens who claimed they were exposed to the pesticide DBCP while working on Dole-contracted banana farms in the 1970s, and were allegedly rendered sterile as a result. This documentary demonizes Dole and champions the efforts of its "star" Mr. Dominguez, and purports to be the true story behind this litigation. But its depiction could not be further from the truth, and has been unquestionably discredited by a recent, highly-publicized judicial ruling.

As has been widely reported in the press, in April the Los Angeles Superior Court judge who has overseen all these cases ruled that these lawsuits represent the very worst sort of abuse of the judicial process and amounted to "a conspiracy to defraud this court, to extort money from the defendants, and to defraud the defendants." As reflected in the Court's detailed findings,

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“massive amounts” of credible evidence proved—even beyond a reasonable doubt—that Mr. Dominguez along with fellow Nicaraguan attorneys actively recruited Nicaraguan plaintiffs for DBCP cases whom they knew had never worked on a banana farm, and whom they knew were not sterile. Mr. Dominguez and his associates would then coach these false claimants on how to lie to American judges and juries and seem credible, provide them with training manuals and instructional videos to teach them details about life on Nicaraguan banana plantations, and manufacture counterfeit evidence, including employment records and laboratory reports, to support their false allegations. In addition, to conceal their wrongdoing, the individuals who stood to profit from this fraud went so far as to threaten the lives and physical safety of witnesses who were willing to come forward with evidence of the truth. As the Court found, “Plaintiffs’ and plaintiffs’ attorneys’ misconduct in this record is so outrageous and pervasive and profound that it far exceeds anything described . . . in any of the reported cases.” And based upon this misconduct, the Court ordered the remaining Nicaraguan DBCP cases pending before it terminated, and indicated it would be making referrals to state bars and prosecutorial authorities.

As to the trial in the matter of *Tellez, et al. v. Dole Food Company, Inc., et al.* which is the focal point of the film at issue, the Court found that this same pervasive fraud had “contaminated each and every one of the plaintiffs,” and the Court painted a totally different picture of that lawsuit than the one given in the “documentary” *Bananas!**:

Millions of dollars were expended in that case, and hundreds of hours of court time and attorney time were spent prosecuting a case that was built on somebody’s imagination, a case that was put together with smoke and mirrors. I apologize to all the jurors who had to sit through that case and make a decision based on nothing but the imagination of somebody, dreamed up in a back room of some law office in Chinandega [Nicaragua]. How sad.

The entire theme and premise of the film *Bananas!** is thus false, depicting the fraudulent *Tellez* plaintiffs as “victims” of Dole, and their crooked attorney as a hero. This outrageous falsity appears to permeate every aspect of this film, and based on what we know, *Bananas!** is, as a whole, defamatory beyond repair. The film falsely portrays as fact, allegations that have been found to be the worst sort of fraud—fraud on a court. Under these circumstances, there is no justification for screening this film.

We have made every effort to notify those connected with *Bananas!**, including the film’s production company, WG Film AB, and LAFF of the film’s clearly false and defamatory nature, and of Dole’s intent to seek legal recourse to protect its rights and reputation. As our attempts to engage WG Film AB and the Mr. Gertten in a dialogue regarding *Bananas!** have been rejected, we believe that the responsible course of action is to make those individuals and organizations who have, perhaps unwittingly, sponsored this defamatory film and thereby associated themselves with its message, aware of its patently false and damaging content. In fact, one such sponsor, the Los Angeles Legal Aid Foundation, who was the Consulate General’s

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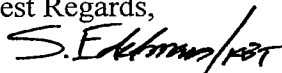
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initial co-host of LAFF's screenings of *Bananas!**, withdrew its support upon learning the truth about the film's subject matter.

In connection with those efforts, we wrote to Consul General, Mrs. Nina Ersman, in an attempt to notify her of our concerns regarding the Consulate General's sponsorship of these screenings, and to provide her with the background necessary to evaluate the appropriateness of that sponsorship. To date we have received no response from Mrs. Ersman. As such we thought it best to bring this matter to your attention, and have attached a copy of our correspondence to Mrs. Ersman. For your convenience we have also attached a copy of the oral ruling discussed above, as well as a copy of recent news articles discussing the Court's findings with respect to the fraudulent litigation featured in this film. We respectfully ask that the Consulate General withdraw its endorsement of this defamatory film, and that the Swedish Embassy take other appropriate steps to limit its damaging impact, including urging the filmmakers, WG Film AB and Mr. Gertten, to act responsibly and halt dissemination of this film in the United States and Europe.

We appreciate your consideration of this matter, and should you have any questions or concerns regarding the issues discussed in this letter, please do not hesitate to contact me.

Best Regards,



Scott A. Edelman

cc: Theodore J. Boutrous, Jr.
Consul General Mrs. Nina Ersman
Michael Donaldson, Esq.
Daniel M. Satorius, Esq.
Richard J. Lee, Esq.

All these wonderful things

June 21, 2009

FIND/LAFF Statement on Last Night's Screening of BANANAS!*

More soon on last night's extraordinary screening and surrounding events on the UCLA campus for Fredrik Gertten's BANANAS!* But here's the text of the statement handed out to audience members and later read by Film Independent director Dawn Hudson:

Welcome to our first screening of BANANAS!*

Before you watch this film, you need to know that serious questions have been raised about its credibility.

The picture you are going to see focuses on the Tellez v. Dole Food trial, which took place here in Los Angeles. The plaintiffs' case was one of many cases put together by Los Angeles lawyer Juan Dominguez and a number of Nicaraguan lawyers against Dole for the alleged harmful effects to field workers from the pesticide DBCP used in farming bananas. The case ended in a split verdict from the jury.

Subsequently, the judge who was managing all the Dole pesticide cases scheduled a trial with another group of plaintiffs recruited by the same lawyer. After completion of the film and after the film's acceptance to LAFF, the court discovered fraud on the part of the plaintiffs and the plaintiffs' lawyers in this subsequent case. Last Wednesday, June 17, 2009, the judge signed an order dismissing this second case because of fraud. The judge specifically mentions in her ruling that the witnesses you will see in the film tonight (from the Tellez trial) lied under oath, presented false employment records, and presented fraudulent evidence of sterility.

Here are two paragraphs from the 60-page order signed by the judge who presided over both trials:

Because of the pervasive nature of the fraud that permeates the DBCP [the pesticide at issue] cases from Nicaragua, the Court questions the authenticity and reliability of any documentary evidence presented by plaintiffs that comes out of Nicaragua, and it has serious doubts about the bona fides of any plaintiff claiming to have been injured as a result of exposure to DBCP while employed on a Nicaraguan banana plantation associated with Dole. Sadly, this means that if there are people who have been injured in Nicaragua due to DBCP exposure, it is extremely difficult if not impossible for them credibly to litigate their claims...

...Viewing the testimony of the Tellez Plaintiffs with the benefit of the evidence of fraud collected in the Maija and Rivera cases that is now before the Court, it is now clear that those [Tellez] Plaintiffs and the evidence presented were all a product of the fraudulent enterprise the Court has found pervasive in these cases.

Logic tells us that the fraudulent conduct of the lawyers that infected the testimony under oath by plaintiffs at their trials in Los Angeles, had to to influence - if not infect - the testimonials given to the filmmakers, who translated what they heard into cinematic form. Was the chemical ever administrated by plane as the film suggests? Dole says not and points out that the plane footage was shot years after the fact. Did workers walk in water tainted by the chemical? Dole says not. Were the leaves still wet with chemical when the workers worked in

Exhibit M

<http://edendale.typepad.com/weblog/2009/06/findlaff-statement-on-last-nights-screening-of-...> 9/9/2009

the fields below them? Dole says not. Based on worker opinions, family members and a priest, the film suggests that the chemical can be fatal. Dole says otherwise and no evidence of death or any of these other allegations was presented at either trial. The court has referred Juan Dominguez to the State Bar and to criminal prosecutors. He is defending all charges against him.

None of this is reflected in the film you are about to see. As a result, there seems to be little question that the version of reality that the film portrays does not match the reality that emerged in the courtroom.

So why is the Los Angeles Film Festival showing this film when the allegations presented have been found by an LA Superior Court judge to be based on fraudulent evidence?

This is a question that we at Film Independent and the LAFF have been wrestling with for the past several days - not the least because there is the threat of litigation if we go forward with the screening.

We are not eager to be sued. Nor, given what we know, do we believe that BANANAS!* - in its present form - presents a fair or accurate portrait of Juan Dominguez and the Tellez trial. However, we have no reason to believe that the filmmaker, Fredrik Gertten, was acting in anything but good faith when he made his film and when he submitted it to us.

The festival believes that questions of great public interest are presented by this film and are exactly what we ought to be talking and thinking about in a responsible society. The film is not being presented for the truth of the matters asserted. It is being presented to stimulate discussion, especially and most obviously to this particular audience, what is a documentary filmmaker to do when he or she has followed a story and made a compelling documentary only to find out later that he or she was relying on unreliable evidence? In this case, a lawyer who has been found by the trial judge to have committed fraud on the court by recruiting and training his clients to present false evidence under oath and providing false employment documents and false lab reports - conduct which resulted in fraudulent testimony inside and outside of court.

Our mission at Film Independent and LAFF is to support and promote independent films and filmmakers. We can think of no better way to further this mission than to publicly air questions like these. This is why we are showing this film - out of competition - as a case study, to illuminate a timely exploration of what makes (and doesn't make) a responsible documentary.

There will be a lively panel discussion immediately after the screening with the filmmakers of BANANAS!* and other filmmakers. [*Full disclosure - I was one of the filmmakers on the post-screening panel.] We hope you stick around for the discussion.

Posted by AJ Schnack on June 21, 2009 in [Legal Issues](#), [Los Angeles Film Festival](#) | [Permalink](#)
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LATHROP & GAGE_{LLP}

DOLE FOOD COMPANY, INC. v. WG FILM et al.

Case No. BC417435

DEFENDANTS' SPECIAL MOTION TO STRIKE UNDER C.C.P. § 425.16

Declaration of Fredrik Gertten

Exhibit N