

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of: :

JUAN F. MENDOZA AND MARTHA J. :
MENDOZA AND LA FONDA DE DON JUAN, :
INC. (T/A PUPUSERIA), :

Petitioners, :

DOCKET NO. PR 15-273

RESOLUTION OF DECISION

To Review Under Section 101 of the Labor Law: :
An Order to Comply with Article 19 of the Labor Law :
and an Order Under Articles 5 and 19 of the Labor :
Law, both dated July 6, 2015, :

- against - :

THE COMMISSIONER OF LABOR, :

Respondent. :
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APPEARANCES

Peter Bark, Esq, for petitioners.

Pico Ben-Amotz, Esq., General Counsel, NYS Department of Labor (Roya Sadiqi of counsel), for respondent.

WHEREAS:

1. The above proceeding was commenced by the filing of a petition for review pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (Rules) (12 NYCRR Part 66) on September 8, 2015; and
2. Respondent Commissioner of Labor filed an answer to the petition on October 23, 2015; and
3. Upon notice to the parties, dated November 2, 2015, a prehearing conference was scheduled for March 7, 2016 and a hearing was scheduled for April 8, 2016; and
4. Petitioners failed to attend or otherwise appear at the hearing; and
5. Pursuant to Labor Law § 103 and Board Rule 65.30, the burden of proof is on petitioners to prove that the orders under review are not valid or reasonable; and
6. Pursuant to Board Rule 65.24, "the failure of a party to appear at a hearing shall be deemed to

be a waiver of all rights except the rights to be served with a copy of the decision of the Board and to request Board review pursuant to Rule 65.41," unless application for reinstatement is made within five days after the scheduled hearing; and

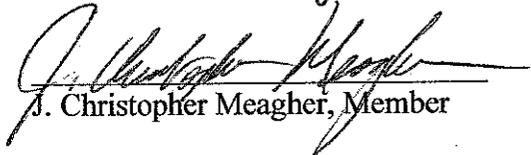
7. Petitioners have not made an application for reinstatement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

The petition for review be, and the same hereby is, dismissed in accordance with the Board's Rules.



Vilda Vera Mayuga, Chairperson



J. Christopher Meagher, Member

LaMarr J. Jackson, Member

Michael A. Arcuri, Member

Dated and signed by the Members
of the Industrial Board of Appeals
at New York, New York
on May 25, 2016.

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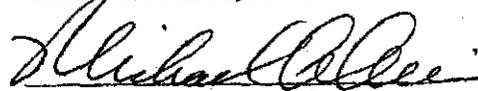
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Michael A. Arcuri, Member

Dated and signed by a Member
of the Industrial Board of Appeals
at Utica, New York on
May 25, 2016.