

BACKGROUND INFORMATION FOR LAW FIRM TO EVALUATE PRODUCT LIABILITY CLAIMS VS. PEPSICO U.S.

17 Years of Saga of Overwhelming The Mockery (is it a joke on the judiciary) PepsiCo on the Issue of its 349 Corporate Liability in 1992 to Poor Filipinos holding on to some 808,038 caps with the winning digit number combination. For your information here is a chronological order of the highlights:

1. 1992 Senate Investigation by GMA as Chair of the Senate Committee on Trade also taken officially was the DTI Task Force Fact Finding Report. Coalition 349 headed by Vic del Fierro Jr. presented the complete thorough evidence of the 1992 Pepsi Promotions Scam taken from February 20 to May 25, 1992 (when 349 was announced that evening as winning number combination) consisting of actual TV commercials, print ads of the promotions, news clippings. It involved holders of some 808,038 (This figure obtained from the pronouncement of Quintin Gomez during the DTI Task Force investigation was never contradicted by Pepsi) caps seeded around the Philippines from February to May 1992.

To understand the promotions deceit, one must view the scam on its total perspective. That there were actually two sets of layered rules was evident. One the published rule which was focused on the three digit winning number combination which was central hyped in all their heavy TV marketing communications support programs with collateral print and poster support. Various TV commercials of Pepsi promotions laser beamed only on the winning three digit numbers for the entire duration of the promotion. Storyboard or video copies of commercials can be shipped and presented in court proceedings...

The hidden rule was not deliberately publicized with communication support. The three digits winning number combination must also bear the alpha numeric winning security code to win the cash prize. This second rule, as any advertising and promotions analyst would conclude, was the real key to win the cash prizes of millions offered by Pepsi. Didn't PepsiCo as promoters knew this all along as they were the ones who offered it to the public. To say that Pepsi is not aware of this is the lamest alibi in the whole world. It's the height of stupidity. This falls clearly under the parameter of R.A. 315 or criminal estafa for other deceits. Malice was premeditated, since they knew it all along and avoided disclosures and transparency in their rules. They forgot to be honest.

This report, being an official act of the legislative is a judicial notice per Section 1 of Rule No. 129 of the Rules of Court... Similar inquiry was done by Congress in March 1993 but the findings were suppressed through Pepsi lobby...

2. Direct dialogue to end the fiasco with a compromise settlement with PepsiCo New York after the release of the GMA In Fact Finding Report on Pepsi 349 in June 30, 1993 which found PepsiCo liable to the consumers for the deceit and negligence that marred the conduct of the 1992 Pepsi Promotions.
3. First judicial decision on 349 favoring the 349 cap holders in Malolos Bulacan as early as February 4, 1994. This case was filed in August 1993. The judge ruled and ordered Pepsi to pay the cash prizes of the claimant Jewel Roque with annual interest and other damages.
4. First life threatening harassments vs.. Vic del Fierro Jr. In the 3rd week of May 1994, Vic del Fierro with his son James was on a series of speaking and briefing engagement before 349 chapters in Mindanao cities. While on the second leg of his trip, he was illegal arrest, detained in grilled by Cagayan De Oro City by NBI as engineered by a Pepsi Legal Counsel Roy Lago Salcedo with instruction from the PepsiCo counsel based in

Makati. The questions were focused on "why I had to bring the Pepsi case in Philippines to the top management of Pepsi in New York... This was the first most serious cardiac attack that left him partially paralyzed on my left half of my body. I had to undergo physical rehabilitation. .

5. In November 1994, undeterred by his handicapped Del Fierro filed a \$500 million class suit before the Eastern District Court of the United States in Brooklyn, New York assisted by his Fill-Am counsel Antonio Flores.
6. PepsiCo countered aggressively through harassment cases filed in December 1994 with multiple libel suits vs. Vic del Fierro Jr. in two separate courts in Makati. This was heard for nearly ten years and the first libel case was dismissed. While the second one submitted for decision since November 2007 has been pending with four motions for early resolutions filed last nine months. Had Camilo Sabio as counsel but had to fire him for failure to consolidate the cases. Other lawyers came into the case. Bertini Causing, a long time friend since his journalism reportorial years and had covered the 349 saga for the People's Journal handled the case incognito and drafted the winning legal pleadings on libel.. Ariel Joseph Arias was the counsel on record.
7. On October 1995 the US class suit was dismissed for Forum Non Convenience but ordered PepsiCo to submit to Philippine judicial jurisdiction. PepsiCo accepted this order in a court stipulation before the US Eastern District Court in Brooklyn, New York and even recognized Vic del Fierro and the Coalition 349 as the representatives of the Pepsi Fever victims. PepsiCo Philippine counsel evaded to entangle with Del Fierro since he has wide evidence that sealed the liability of PepsiCo. They concentrated on their multiple harassment cases vs. Del Fierro. This could be a diversionary tactics to divert my awareness of a decoy case of Pepsi - the Romulo Rodrigo case whose victims were never allowed to testify in Branch 50 Manila RTC.
8. A case for sum of money was filed in December 29, 1997 in Las Pinas Court Branch 253 by Vic del Fierro Jr.. Other 349 groups joined the suit. This case was dismissed in May 16, 2002 after five years of exchanges of legal pleadings on the nature of the suit being posed as a class suit. The prosecution was handled by Camillo Sabio, the plaintiff without any opportunity given to the plaintiff Vic del Fierro to present his 349 evidence in the same fashion as he presented them before the Senate and Congress. The judge unwittingly denied Del Fierro by catering to all technical dilatory tactics of PepsiCo, effectively denying the Coalition of the right to present their evidences, and their fundamental human right to be heard of their different evidences as borne out in the constitution and other universal human rights charter. The dismissal was based on technical ground of improperly filed as a class suit. A motion for reconsideration was filed by counsel Sabio, which was dismissed with they Judge citing the decided case of Romulo Rodrigo et al.
9. Efforts to obtain the Romulo Rodrigo case copies cited by Pepsi in their motion to dismiss was blocked with denied by the CA justice. Efforts to obtain copies of the Romulo Rodrigo et al trial transcripts in the lower court was met with extreme difficulty and the Supreme Court 3rd division personnel denied public access to records guaranteed by the Philippine Constitution on how the 3rd division arrived at the decision as appealed by Rodrigo's counsel.
 - a. Despite the lack of copies of the decoy case Romulo Rodrigo case, petitioner filed an appeal made before the Court of Appeals in March 6, 2003 and Justice Godardo Jacinto froze action in the case for five years and denied it barely a few days prior to his retirement .In September 27, 2006. when Associate Justice Ramon Garcia dismissed the appeal. Was Jacinto rewarded for freezing action for three years on the Del Fierro's appeal.. Only God and perhaps the devil would know.

- b. A motion for reconsideration was filed again on October 18, 2006, but the appellate court again denied the motion this time acted, in less than a year. So a petition for certiorari is now being prepared before the SC and backed actual transcripts to zero in pages of the transcripts which demonstrated collusion as the victims were simply listed with a summary uniform deposition summary before Branch 52 on November 16, 1995 on Civil Case No. 94-71403 (the original Manila trial court) with the court stipulation that notably omitted mention of any TV advertising of the Number Fever promotions (which was known to the DTI and the consumers victims, assuming arguendo they are real since it was presented in 1992 and 1992 in the Senate and Congress fact finding investigations. Likewise it would be most unlikely that the counsel for the plaintiff tapped by the DTI would be oblivious to the TV materials which were openly available to the public, as it was similarly available to both Pepsi and the plaintiff counsels to effectuate their judicial heresy riveted on the collusion and collaboration as evidence by their court stipulation joint with names of the so called 349 victims dated October 27, 1995 which they submitted before Branch 52 of the Manila Trial Court on November 16, 1995 as signed by the following counsels for Romero Lagman Valdecantos and Arreza, counsel for plaintiffs represented by Augusto Jose Arreza, Surigao IBP Chapter, Maria Eleanor Santiago, the Quezon City IBP Chapter; and Poblador Bautista and Reyes, counsels for PepsiCo, Inc. represented by Alexander J. Poblador, Makati IBP Chapter, Ma. Filomena Singh-Paulite, Rizal IBP Chapter, and Michael Joseph C. Fernandez counsel for Pepsi Cola Products Philippines Inc.
9. After several attempts of securing copies of the Rodrigo case for five years, the crucial document on Romulo Rodrigo finally was finally awarded with the intervention of the Supreme Court Chief Justice Reynato Puno who a referral order to 3rd Division Clerk of Court Lucita Abjelina Soriano, the key person who made the Supreme Court minute resolution who then referred us to the Lower Court of Branch 50 of Manila Regional Court. The actual trial transcripts obtained in February 28, 2008 of Romulo Rodrigo case was a sham and stage managed trial or and the plaintiffs themselves were ghost victims or fiction assembled by PepsiCo. The witnesses were all Pepsi employees who were later terminated. No 349 victims was ever cross examined nor presented during the trial proceedings in Branchy 50 of the Manila RTC. Only a DTI official Zenaida Maglaya testified for the prosecution on her report on the DTI Task Force which she read. She was stopped by the Judge . The much publicized Senate Report, the most damning evidence of PepsiCo liability which should have been presented by the counsel for the plaintiff did not even mention the report. It was the presiding judge himself who stopped Maglaya from finishing her DTI report without any objection from plaintiff counsel. Was he merely a token prosecution lawyer? (We will present the actual pages in the transcripts).
10. Romulo Rodrigo case was a sham trial and Pepsi to deviate my focus on this case intensified their prosecution of the multiple libel cases in two separate courts in Makati RTC. The Romulo Rodrigo case was Pepsi's flag ship decoy case employed to stop all 349 cases from progressing in judicial litigation, and to stop the Jowel Roque decided case in the lower court to Roque case implement the decision. . The first judicial decision on the Jowel Roque in Malolos, Bulacan in favor of the claimant of the 349 caps and will affect the poor holding on to some 808,038 caps with the winning 349 number. The decision was made as early February 4, 1994
11. Romulo Rodrigo is a fiction, and his address was fictitious. Actual address verification was made. It none exists.

12. Review of the actual trial transcript showed that the witnesses were all polluted self serving employees of PepsiCo. Except for DTI undersecretary Zenaida Maglaya who was not allowed by the Judge Urbano Victorio to read the full DTI Task Force which could pin down liability on PepsiCo. The only saving grace from the testimonies was the admission of Pepsi employees that one month before the promotion was launched they had the complete mechanics pre determined numbers of the promotions.
12. The evidence presented by the defendants was all sanitized that merely included artworks, and broadcast/purchase orders. The actual TV commercials and print ads were not played nor shown for the complete appreciation of the judge, as was in Congress and in the Senate. Sadly even the plaintiff counsel signed a court stipulation with the PepsiCo counsel limiting the trial evidences and witnesses. It did not include any TV advertising material which was the main vehicle which carried out the deception.
13. Despite this superficial evidence and polluted witnesses the judge of Branch 50 Manila Court ruled in May 20, 1999 shortly before the judge compulsory retirement in May 25 1999 of "no liability" on PepsiCo nor its Philippine franchised bottler Pepsi Cola Products Philippines.
14. Another notable odd mystery was the signing of a "minute resolution" by 3rd Division Supreme Court Clerk of Court Lucita Abjelina Soriano issued the resolution on G.R. 149411 on January 14, 2002, without any comment or remark from any justice. to validate the resolution of the CA on Romulo Rodrigo case. Barely in less than six months after the petition to the Supreme Court was filed for Romulo Rodrigo by counsel Victor Pablo Trinidad in September 19, 2001
15. By her odd and speedy action in less than four months in January 14, 2002, the SC precedent was issued by the Clerk of Court Lucita Abjelina Soriano and by the resolution which had a far reaching impact on the poor Filipinos throughout the Philippines holding on to some 808,038 caps who could be liberated from poverty, overshadowing the spotty dole outs to the poor from the Katas ng VAT program of the administration through the liability of the \$500 billion PepsiCo.
16. A close scrutiny of the another earlier resolution dated October 1, 2001 by the Supreme Court Clerk of Court Julieta Y. Carreon, who was succeeded by Lucita Abjelina Soriano was very revealing.. The Petition to the Supreme Court for Romulo Rodrigo was filed and received on September 19, 2001. The first resolution of the Supreme Court was made on October 1, 2001 by the former Clerk of Court Julieta Y. Carreon. Lucita Abelina Soriano was then her assistant. It took barely two weeks for the Supreme Court 3rd division to act on the Petition of Romulo Rodrigo.
17. Another instance worth looking into is the simple official request for copies of the Romulo Rodrigo trial in the lower court had to be furnished copies to Pepsi lawyers, including the token lawyer, and the Court of Appeals.
18. The Court of Appeals Romulo Rodrigo (RR) resolution appeal was made on May 21, 2001 and the Supreme Court petition on September 19, 2001 hurriedly issued a first minute resolution dated October 1, 2001, followed by a second minute resolution on January 14, 2002, barely four months.

The doctrine of stare decisis and res judicata can not hold true since there were omissions of facts by both litigating parties. Res judicata can not be used as a sanctuary for the culprits, since it involves other parties and the apparent omission of facts is too glaring and obvious. At best the ruling in that decoy case should apply only to the parties in the particular case. To stretch the coverage to other 349 cases in the name of stare decisis and res judicata would be a miscarriage of justice and non closure of this case. The

can not be prejudiced by an act , declaration, or omission of another, except as provided by the Rules of Court. Fraudulent extrinsically committed in the Romulo Rodrigo Case where there was undisputed collusion of plaintiff counsel and defendant counsel in sanitizing the evidences presented during the actual trial ;proceedings of the said case.cited as res judicata doctrine for the victims . In the first place, there was no victim presented during the entire trial proceedings in Branch 50 of the Manila RTC .

19. Recent Discoveries- Joint Court stipulation of both opposing counsels submitted to the court of Branch 50 Manila RTC, showing a collusion to suppress the factual facts in the trial proceedings, and the surfacing of the real Romulo Rodrigo who professed in a sworn affidavit that he had not talked, signed, or authorized designated Jose Augusto Arreza and Ma. Eleanor Santiago of Romero, Valdecantos & Arreza law firm to file judicial action in his behalf regarding his 349 Pepsi cap. . The whole judicial proceeding was anchored to evade and prolong the 17 years quest for justice through a Supreme Court validated ruling on the Romulo Rodrigo legal fiction.

Summary:

It is very clear that PepsiCo lawyers blocked the only Filipino group of Vic del Fierro Jr. and the Coalition 349, even going to the extent of violating the human rights of del Fierro and his son in Cagayan de Oro City in May 1994, the judicial conspiracy to deny del Fierro of his basic constitutional right in Las Pinas case.

With the continuing collaboration of CA justices, the odd mysterious and hasty issuances of two mere minute resolutions by 3rd Division Clerk of Court of the Supreme Court, the suppression of the judicial precedent as of February 4, 1994, the use of ghost plaintiffs Romulo Rodigo, shameless sham trial proceedings and lower court ruling never substantiated by evidence and facts.

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