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10 **UNITED STATES DISTRICT COURT**
DISTRICT OF ARIZONA

11 BLACK STAR FARMS, L.L.C., JOHN)
12 NORTON, GARY FRISCH, MICHELLE)
13 FRISCH, DAVID MONHEIT, AND MELISSA)
MONHEIT,)

14)
15 Plaintiffs,)

16 vs.)

17 LEESA BERENS MORRISON, in her official)
18 capacity as Director of the State of Arizona)
Department of Liquor Licenses and Control,)
19 Defendant,)

20 and)

21 ALLIANCE BEVERAGE DISTRIBUTING)
22 COMPANY, LLC,)
23 Intervenor-Defendant.)

Case No. CV-05-2620-PHX-MHM
Judge Mary H. Murgia

DIRECTOR MORRISON'S
ANSWER TO SECOND
AMENDED COMPLAINT

24
25 COMES NOW Defendant Leesa Berens Morrison, Director, and hereby files her
26 answer to Plaintiffs' Second Amended Complaint. This Defendant hereby states and
27 alleges as follows:
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1 **INTRODUCTION**

2 1. Paragraph 1 is denied to the extent it purports to state a claim against this
3 answering Defendant.

4 **JURISDICTION AND VENUE**

5 2. Paragraphs 2 – 4 are admitted.

6 **PARTIES**

7 3. This answering Defendant has insufficient information in which to admit or
8 deny the allegations contained in Paragraphs 5 – 6, and therefore, deny same.

9 4. Paragraphs 7 – 8 are admitted.

10 **COMMERCE CLAUSE VIOLATION**

11 5. Based upon information and belief, Defendant admits the allegations in
12 Paragraph 9.

13 6. This answering Defendant has insufficient information in which to admit or
14 deny the allegations contained in Paragraph 10, and therefore, deny same.

15 7. Paragraphs 11 and 12 are admitted, but this Defendant alleges that Arizona
16 law also permits out-of-state wineries producing fewer than 20,000 gallons to take
17 telephone and Internet orders and to ship directly to consumers.

18 8. This answering Defendant has insufficient information in which to admit or
19 deny the allegations contained in Paragraph 13, and therefore, deny same.

20 9. Paragraphs 14 – 16 are denied to the extent they purport to state a claim
21 against this answering Defendant.

22 10. This answering Defendant has insufficient information in which to admit or
23 deny the allegations contained in Paragraph 17, and therefore, deny same.

24 11. Paragraph 18 is denied.

25 12. This answering Defendant has insufficient information in which to admit or
26 deny the allegations contained in Paragraph 19, and therefore, deny same.

27 13. This answering Defendant has insufficient information in which to admit or
28

1 deny the allegations contained in Paragraphs 20 - 24, and therefore, deny same.

2 14. Paragraph 25 is admitted.

3 15. This answering Defendant has insufficient information in which to admit or
4 deny the allegations contained in Paragraph 26, and therefore, deny same.

5 16. Paragraph 27 is denied.

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7 **AFFIRMATIVE DEFENSES**

8 As and for a separate and affirmative defense, Defendant alleges the following:

9 a) That Plaintiffs' claim fails to state a claim upon which relief may be
10 granted;

11 b) That Plaintiffs' claims may be barred, in whole or in part, by lack of
12 standing;

13 c) That the statute challenged is constitutional.

14 17. Defendant reserves all other defenses or issues and any other matter that may
15 constitute an avoidance or affirmative defense, of which Defendant may become aware
16 during discovery in this matter.

17 WHEREFORE, Defendant requests that this Court:

18 1. Dismiss Plaintiffs' Complaint and enter judgment on behalf of the
19 Director;

20 2. Deny all other relief requested; and

21 3. For such other relief as Court deems appropriate and just.

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24 Dated this ____ day of October, 2006

25 By: s/ Keely Verstegen

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4 Attorney for Defendant
5 Leesa Berens Morrison, in her official
capacity as Director of the State of Arizona
6 Department of Liquor Licenses and Control

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