

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. 5:20-cv-00361-SHK

Date: May 19, 2021

Title: *Joshua Tree Brewery, LLC v. Balance Rock Brewing Co., Inc., et al.*

Present: The Honorable Shashi H. Kewalramani, United States Magistrate Judge

D. Castellanos
Deputy Clerk

Not Reported
Court Reporter

Attorney(s) Present for Plaintiff(s):
None Present

Attorney(s) Present for Defendant(s):
None Present

**Proceedings (IN CHAMBERS): ORDER TO SHOW CAUSE RE:
DEFENDANTS/CROSS-COMPLAINANTS' MOTION
FOR SUMMARY JUDGMENT [ECF NO. 59]**

On March 2, 2021, Defendants/Cross-Complainants Dario Guerra, Sharon Guerra, and Balance Rock Brewing Co., Inc. (“Defendants”) filed their Motion for Summary Judgment (“Defendants’ MSJ”). Electronic Case Filing Number (“ECF No.”) 59, Defs. MSJ. On March 3, 2021, the Court vacated the noticed hearing for Defendants’ MSJ and instead ordered the parties to follow the Court’s scheduling order issued on March 1, 2021 (“Scheduling Order”).¹ ECF No. 60, Vacating Scheduling Notice; see also ECF No. 58, Scheduling Order. The Court’s Scheduling Order set forth a briefing schedule for Plaintiff Joshua Tree Brewery, LLC’s (“Plaintiff”) Motion for Summary Judgment (“Plaintiff’s MSJ”), ECF No. 57, and gave Defendants 7 days from the date of the Scheduling Order—until March 9, 2021—to file and serve an opposition to Plaintiff’s MSJ and Plaintiff 14 days after the filing of Defendants’ opposition to serve and file a reply. ECF No. 58, Scheduling Order at 1. As of the date of this order, Plaintiff has yet to file an opposition to Defendants’ MSJ.

Pursuant to the Central District of California’s Local Rules (“Local Rule” or “L.R.”), the Court may decline to consider Plaintiff’s untimely opposition to Defendants’ MSJ, which was due on March 9, 2021. See L.R. 7-12 (“[t]he Court may decline to consider any memorandum or other document not filed within the deadline set by order or local rule[.]” and the “failure to file

¹ The Court notes that the Scheduling Order was actually docketed on March 1, 2021, rather than March 2, 2021 as mistakenly referenced in the Court’s order vacating the hearing for Defendants’ MSJ. See ECF No. 58, Scheduling Order.

any required document, or the failure to file it within the deadline, may be deemed consent to the granting or denial of the motion, with the exception that a motion pursuant to Fed. R. Civ. P. 56 may not be granted solely based on the failure to file an opposition.”).

Accordingly, Plaintiff is ordered to show cause, **by May 26, 2021**, why Plaintiff failed to follow the Court’s orders and file an opposition to Defendants’ MSJ. Plaintiff can satisfy this Order to Show Cause (“OSC”) by serving and filing an opposition to Defendants’ MSJ by the aforementioned deadline. If Plaintiff serves and files an opposition to Defendants’ MSJ, then Defendants may serve and file a reply within fourteen days of the filing of Plaintiff’s opposition.

Plaintiff is once again warned that “[i]f the plaintiff fails to oppose the motion and contradict the defendant’s evidence, the defendant’s evidence may be taken as the truth, summary judgment in the defendant’s favor may be granted, and final judgment against the plaintiff may be entered without a trial.” ECF No. 58, Scheduling Order at 2 (citing Rand v. Rowland, 154 F.3d 952, 960-61 (9th Cir. 1998)). The Court directs Plaintiff to its Scheduling Order for further rules on motions for summary judgment. See id. at 2-5.

IT IS SO ORDERED.