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13 UNITED STATES DISTRICT COURT

14 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION
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16 E. & J. GALLO WINERY, a California
corporation,

17 Plaintiff,

18 v.
19

20 TOLEDO ENGINEERING CO., INC., an
Ohio corporation, and DOES I through XX,
inclusive,

21 Defendant.
22

Case No. 1:11-CV-00476-LGO-GSA

**STIPULATION FOR TAKING OF
DEPOSITION OF GRAHAM ROPER IN
UNITED KINGDOM; AND ORDER
THEREON**

Judge: Hon. Gary S. Austin

23
24 The parties, Plaintiff E. & J. GALLO WINERY (“Gallo”) and Defendant, TOLEDO
25 ENGINEERING CO., INC. (“TECO”), by and through their respective counsel of record herein,
26 HEREBY STIPULATE AND AGREE that Gallo may take the deposition of Mr. Graham Roper,
27 Fives Stein Ltd./BH-F Eng. Limited, 4 A Churchward, Southmend Park, Didcot, Oxon OX117
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1 HB, United Kingdom, in London, England. Mr. Roper was identified by both parties pursuant to
2 Rule 26 (a)(1)(A) as an individual likely to have discoverable information that the parties may use
3 to support their respective claims or defenses. The parties further agree that this deposition may
4 be used in the same way as depositions taken in the United States. Mr. Roper has voluntarily
5 agreed to appear for a deposition on October 2, 2012, at 9 a.m. BST, in London, England. The
6 deposition will be held at Macfarlanes LLP, 20 Cursitor Street, London, United Kingdom EC4A
7 1LT.

8 Pursuant to Federal Rule of Civil Procedure 28(b)(1)(A) and (C), depositions in a foreign
9 country may be taken before a person authorized to administer oaths pursuant to, *inter alia*, (1) an
10 applicable treaty or convention, or (2) the law of the place where the examination is held, or (3)
11 the law of the United States. Furthermore, Federal Rule of Civil Procedure 29 permits parties to
12 stipulate in writing that depositions may be taken before any person, at any time or place, upon
13 any notice, and in any manner.

14 Here, the court reporter located in the United Kingdom is authorized to administer oaths
15 pursuant to a treaty between the United States and the United Kingdom, under the laws of the
16 United Kingdom, and under the laws of the United States. Both the United Kingdom and the
17 United States are party to the 1970 Hague Convention on the Taking of Evidence Abroad in Civil
18 and Commercial Matters. Under the applicable laws of the United Kingdom and the Hague
19 Convention, local stenographers and solicitors are permitted to preside over voluntary depositions
20 and swear in voluntary witnesses in the United Kingdom. Further, the court reporter located in the
21 United Kingdom is authorized to administer oaths under U.S. law, pursuant to Federal Rule of
22 Civil Procedure 29 and this stipulation.

23 In accordance with the above, Shola McGregor, or if she is not available, Alan Bell, both
24 court reporters employed by Marten Walsh Cherer Ltd. (1st Floor, Quality House, 6 - 9 Quality
25 Court, Chancery Lane, London WC2A 1HP, United Kingdom), will administer the oath to Mr.
26 Roper and preside over the deposition of Mr. Roper on October 2, 2012. The deposition shall be
27 videotaped by Marten Walsh Cherer Ltd.

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1 Gallo shall pay all the expenses, fees, and charges of the witness whose deposition is taken
2 by such party, any charges of the officer presiding at or recording the deposition other than for
3 copies of the deposition, and any expenses involved in providing a place for the deposition. Gallo
4 shall pay for the original of the deposition; and, upon payment of reasonable charges therefor, the
5 officer shall also furnish a copy of the deposition to any party or the deponent.

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IT IS SO STIPULATED.

Dated: September 18, 2012

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

By: /s/ D. Greg Durbin
D. Greg Durbin
Mandy L. Jeffcoach
Timothy J. Buchanan
Attorneys for Plaintiff, E.&J. GALLO WINERY

Dated: September 17, 2012

By: /s/ Melissa Whitehead
David S. Worthington
Melissa Whitehead
Attorneys for Defendant, TOLEDO
ENGINEERING CO., INC.

1 **ORDER**

2 Having read and considered the foregoing Stipulation, and good cause appearing, IT IS
3 HEREBY ORDERED THAT:

4 1. Gallo may take the deposition of Mr. Graham Roper, Fives Stein Ltd./BH-F Eng.
5 Limited, 4 A Churchward, Southmend Park, Didcot, Oxon OX117 HB, United Kingdom, in
6 London, England.

7 2. The deposition may take place on October 2, 2012, commencing at 9 a.m. BST, at
8 Macfarlanes LLP, 20 Cursitor Street, London, United Kingdom EC4A 1LT, or at such other time
9 and location as set by further stipulation of the parties or order of this court.

10 3. The deposition may be used herein in the same way as a deposition taken pursuant
11 to Rule 30 at a place in the United States.

12 4. A court reporter in the United Kingdom may administer the oath to Mr. Roper.

13 5. Shola McGregor, or if she is not available, Alan Bell, both court reporters
14 employed by Marten Walsh Cherer Ltd. (1st Floor, Quality House, 6 - 9 Quality Court, Chancery
15 Lane, London WC2A 1HP, United Kingdom), are hereby authorized to administer the oath to Mr.
16 Roper and preside over the deposition of Mr. Roper.

17 6. The deposition shall be videotaped by Marten Walsh Cherer Ltd.

18 7. Gallo shall pay all the expenses, fees, and charges of the witness whose deposition
19 is taken by such party, any charges of the officer presiding at or recording the deposition other
20 than for copies of the deposition, and any expenses involved in providing a place for the
21 deposition.

22 8. Gallo shall pay for the original of the deposition; and, upon payment of reasonable
23 charges therefor, the officer shall also furnish a copy of the deposition to any party or the
24 deponent.

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28 IT IS SO ORDERED.

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Dated: September 18, 2012

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE