

1 KAUFMAN DOLOWICH & VOLUCK, LLP
KATHERINE S. CATLOS (SBN 184227)
2 GABRIEL N. RUBIN (SBN 241659)
BRANDON K. KAHOUSH (SBN 311560)
3 425 California Street, Suite 2100
San Francisco, California 94104
4 Telephone: (415) 926-7600
Facsimile: (415) 926-7601

5 Attorneys for Defendants
6 CONSTELLATION BRANDS, INC.

7 UNITED STATES DISTRICT COURT
8
9 EASTERN DISTRICT OF CALIFORNIA

10 RYAN BROWN,

11 Plaintiff,

12 v.

13 CONSTELLATION BRANDS, INC., a
Delaware corporation,

14 Defendants.

Case No. 1:17-CV-00590-BAM

STIPULATED PROTECTIVE ORDER

15 Trial Date: November 6, 2018
Complaint Filed: March 27, 2017

16 Plaintiff RYAN BROWN (“Plaintiff”) and Defendants CONSTELLATION
17 BRANDS, INC. (“Defendant”; Plaintiff and Defendants are collectively referred to herein as the
18 “Participating Parties,” or either individually as a “Participating Party”) hereby stipulate and agree as
19 follows:

20 1. Good cause exists for the issuance of this Order in that the Participating
21 Parties seek to have reasonable access to information relevant to liability and damages in this lawsuit
22 while providing the Participating Parties with a means for limiting access to, and disclosure of,
23 confidential, private, or trade secret information.

24 2. Participating Parties may designate all or portions of any document, thing
25 material, testimony, inspection, product of an inspection or other information derived there from as
26 “CONFIDENTIAL” under the terms of this Stipulated Protective Order (“Order”). Material
27 designated as “CONFIDENTIAL” under the Order (“CONFIDENTIAL INFORMATION”) may be
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1 used only for the purpose of prosecution, defense, discovery, and/or mediation or settlement of this
2 action, and not for any other purpose. CONFIDENTIAL INFORMATION includes: (a) confidential
3 or sensitive proprietary, business, commercial, plant procedures and policies and personal
4 information, or (b) information about current, past, or prospective employees that is of a confidential
5 or private nature.

6 3. CONFIDENTIAL INFORMATION shall be so designated by stamping
7 copies of the document produced or testimony with the legend "CONFIDENTIAL" or pre-
8 designating any inspection and any derived product of the inspection as "CONFIDENTIAL."
9 Stamping the legend "CONFIDENTIAL" on the cover of any multi-page document shall designate
10 all pages of the document as confidential, stamping on a label on any electronic storage medium
11 shall designate the contents of such electronic storage medium as CONFIDENTIAL
12 INFORMATION and pre-designating any inspection shall designate the inspection and any product
13 or reports of the inspection as ATTORNEYS' EYES ONLY MATERIAL. Whether or not any
14 evidence or testimony is, in fact, designated as "CONFIDENTIAL" shall not be conclusive of
15 whether it is lawfully entitled to protection as such, and the failure to make such a designation shall
16 not constitute a waiver to do so.

17 4. CONFIDENTIAL INFORMATION produced pursuant to this Order shall be
18 disclosed, revealed, or disseminated only to the Court, the court personnel or staff, Participating
19 Parties, counsel of record for the Participating Parties, their associate attorneys, paralegals,
20 secretaries, clerical staff and to the "QUALIFIED PERSON(S)" designated below.

- 21 (a) witnesses;
- 22 (b) experts and consultants retained by counsel in the prosecution,
23 defense, or settlement of this action;
- 24 (c) court reporter(s) employed in this action;
- 25 (d) a witness at any deposition;
- 26 (e) a Participating Party, or an officer, director, managing agent, or
27 employee of a Participating Party;
- 28 (f) any other person as to whom the Participating Parties agree in writing.

1 5. Prior to reviewing any CONFIDENTIAL INFORMATION, each
2 QUALIFIED PERSON shall execute the Non-Disclosure Agreement in the form of Attachment A.
3 The Participating Parties must retain copies of any executed Non-Disclosure Agreements and must
4 surrender said copies following the adjudication or settlement of this action as set forth in paragraph
5 18 herein. CONFIDENTIAL INFORMATION may be duplicated and transmitted to all persons
6 identified in Paragraph 4.

7 6. Testimony taken at a deposition may be designated as CONFIDENTIAL
8 INFORMATION by making a statement to that effect on the record at the deposition. Arrangements
9 shall be made with the deposition reporter taking and transcribing information designated as
10 confidential to bind such portions of the deposition transcript containing information designated as
11 confidential, and to label such portions appropriately. Such deposition testimony shall be conducted
12 only before those persons identified in Paragraph 4 herein.

13 7. Participating Parties may also designate all or portions of any document, thing
14 material, testimony or other information derived there from as “ATTORNEYS’ EYES ONLY.”
15 Material designated as “ATTORNEYS’ EYES ONLY” (“ATTORNEYS’ EYES ONLY
16 MATERIAL”) under the Order may be used only for the purpose of prosecution, defense, discovery,
17 mediation or settlement of this action and not for any other purpose. ATTORNEYS’ EYES ONLY
18 MATERIAL is limited to such highly sensitive information such as any of the Participating Parties’
19 trade secrets under the Uniform Trade Secrets Act (California Civil Code sections 3426, *et seq.*) or
20 information relating to Defendant’s finances. Information concerning or evidencing a Participating
21 Party’s claim for damages or offsets shall not be designated as ATTORNEYS’ EYES ONLY
22 MATERIAL, and shall be designated as CONFIDENTIAL INFORMATION, if designated at all.

23 8. ATTORNEYS’ EYES ONLY MATERIAL shall be so designated by
24 stamping copies of the document produced with the legend “ATTORNEYS’ EYES ONLY” or pre-
25 designating any inspection, including the product of any inspection, as “ATTORNEYS’ EYES
26 ONLY.” Stamping the legend “ATTORNEYS’ EYES ONLY” on the cover of any multi-page
27 document shall designate all pages of the document as ATTORNEYS’ EYES ONLY MATERIAL,
28 stamping on a label on any electronic storage medium shall designate the contents of such electronic

1 storage medium as ATTORNEYS' EYES ONLY MATERIAL and pre-designating any inspection
2 shall designate the inspection and any product or reports of the inspection as ATTORNEYS' EYES
3 ONLY MATERIAL. Whether or not any evidence or testimony is, in fact, designated as
4 "ATTORNEYS' EYES ONLY" shall not be determinative of whether it is entitled to lawful
5 protection as such, and the failure to make such a designation shall not constitute a waiver to do so.

6 9. ATTORNEYS' EYES ONLY MATERIAL produced pursuant to this Order
7 shall be disclosed, revealed, or disseminated only to the Court, the court personnel or staff, and
8 counsel of record for the Participating Parties, their associate attorneys, paralegals, secretaries and
9 clerical staff, and to the "ATTORNEYS' EYES ONLY QUALIFIED PERSONS" designated below:

10 (a) experts and consultants retained by counsel in the prosecution, defense, or
11 settlement of this action;

12 (b) court reporters(s) employed in this action;

13 (c) for the examination at a deposition of an employee or agent of the
14 Participating Party who designated such information as ATTORNEYS' EYES ONLY MATERIAL;

15 (d) any other person as to whom the Participating Parties agree in writing.

16 10. Prior to reviewing any ATTORNEYS' EYES ONLY MATERIAL each
17 ATTORNEYS' EYES ONLY QUALIFIED PERSON shall execute the Non-Disclosure Agreement
18 in the form of Attachment B. The Participating Parties must retain copies of any executed Non-
19 Disclosure Agreements and must surrender said copies following the adjudication or settlement of
20 this action as set forth in paragraph 18 herein.

21 11. Testimony taken at a deposition may be designated as ATTORNEYS' EYES
22 ONLY by making a statement to that effect on the record at the deposition. Arrangements shall be
23 made with the deposition reporter taking and transcribing information designated as ATTORNEYS'
24 EYES ONLY to bind such portions of the deposition transcript containing information designated as
25 ATTORNEYS EYES ONLY MATERIAL, and to label such portions appropriately. During
26 deposition testimony designated as ATTORNEYS' EYES ONLY MATERIAL, such a deposition, or
27 portion thereof, shall be taken only in the presence of persons who are permitted access to such
28 information under this Order, unless agreed in writing between counsel

1 12. Notwithstanding the above, the Participating Parties do not waive any right to
2 challenge whether the material designated or not designated as CONFIDENTIAL INFORMATION
3 or ATTORNEYS' EYES ONLY MATERIAL is properly designated or not designated as such, and
4 do not waive any right to challenge at any hearing, trial or other proceeding, whether such
5 CONFIDENTIAL INFORMATION is, in fact, confidential or private or whether such
6 ATTORNEYS' EYES ONLY MATERIAL is entitled to protection under the Uniform Trade Secrets
7 Act or any other legal or contractual protection.

8 13. In the event that counsel for a Party receiving Documents, Testimony or
9 Information in discovery or informal exchange of documents designated as "Confidential" or objects
10 to such designation with respect to any or all of such items, said counsel shall advise counsel for the
11 Designating Party, in writing, of such objections, the specific Documents, Testimony or Information
12 to which each objection pertains, and the specific reasons and support for such objections (the
13 "Designation Objections"). Counsel for the Designating Party shall have thirty (30) days from
14 receipt of the written Designation Objections to either (a) agree in writing to de-designate
15 Documents, Testimony or Information pursuant to any or all of the Designation Objections and/or
16 (b) file a motion with the Court seeking to uphold any or all designations on Documents, Testimony
17 or Information addressed by the Designation Objections (the "Designation Motion").
18 Pending a resolution of the Designation Motion by the Court, any or all existing designations on the
19 Documents, Testimony or Information at issue in such Motion shall remain in place. The
20 Designating Party shall have the burden on any Designation Motion of establishing the applicability
21 of the "Confidential" designation. In the event that the Designation Objections are neither timely
22 agreed to nor timely addressed in the Designation Motion, then such Documents, Testimony or
23 Information shall be de-designated in accordance with the Designation Objection applicable to such
24 material.

25 14. The Participating Parties agree that disclosure of any material designated as
26 CONFIDENTIAL or ATTORNEY'S EYES ONLY to any news source, media outlet, or to any
27 person who discloses the information to any news source or media outlet will result in irreparable
28 harm.

1 15. Prior to seeking to admit or introduce any CONFIDENTIAL
2 INFORMATION or ATTORNEYS' EYES ONLY MATERIAL into the public record in this case,
3 whether in writing or orally (including the filing of papers which constitute or contain Confidential
4 Information, and including at the trial of this action), the Participating Parties and their attorneys will
5 cooperate in good faith to seek appropriate rulings from the Court to safeguard the confidentiality of
6 Confidential Information, to the extent possible, whether by sealing orders or otherwise. In the event
7 that any CONFIDENTIAL INFORMATION or ATTORNEYS' EYES ONLY MATERIAL is used
8 in any court proceeding in this action shall not lose their confidential status through such use, and the
9 party using such shall take all reasonable steps to maintain its confidentiality during and after such
10 use.

11 16. If through inadvertence a Participating Party produces or offers as testimony
12 any CONFIDENTIAL INFORMATION or ATTORNEYS' EYES ONLY MATERIAL without
13 labeling it or otherwise designating it as such, at any time, the producing Participating Party may
14 give written notice designating such information as CONFIDENTIAL INFORMATION or
15 ATTORNEYS' EYES ONLY MATERIAL to opposing counsel and to whomever the information
16 was provided.

17 17. If any CONFIDENTIAL INFORMATION or ATTORNEYS' EYES ONLY
18 MATERIAL is subpoenaed, or its production otherwise lawfully requested, by any third party, the
19 Participating Party from whom the CONFIDENTIAL INFORMATION or ATTORNEYS' EYES
20 ONLY MATERIAL is requested ("Subpoenaed Party"), shall immediately inform the Participating
21 Party who designated such information as CONFIDENTIAL INFORMATION or ATTORNEYS'
22 EYES ONLY MATERIAL ("Designating Party") in writing of the request. Upon request by the
23 Designating Party, the Designated Party will promptly move for a protective order excusing
24 disclosure of the requested CONFIDENTIAL INFORMATION or ATTORNEYS' EYES ONLY
25 MATERIAL to the third party.

26 18. The terms of this Order shall survive the final termination of this action and
27 shall be binding on the Participating Parties thereafter.

28 19. Within thirty (30) days of the termination or settlement of this action, the

1 (4) As a QUALIFIED PERSON, I further agree that on the termination or
2 settlement of this action, I will surrender all CONFIDENTIAL INFORMATION which is in my
3 possession, custody, or control in the manner set forth in paragraph 18 of the Order.
4

5 Dated: _____, 20____

_____ [Print Name]

_____ [Sign Name]

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8 ATTACHMENT B
9 ATTORNEYS' EYES ONLY MATERIAL
10 NON-DISCLOSURE AGREEMENT
11

12 The undersigned hereby agrees that:

13 (1) I have had the opportunity to review the Stipulated Protective Order ("Order")
14 in this action.

15 (2) I agree that I am an "ATTORNEYS' EYES ONLY QUALIFIED PERSON"
16 as set forth in the Order.

17 (3) As an ATTORNEYS' EYES ONLY QUALIFIED PERSON, I will not
18 disclose any of the ATTORNEYS' EYES ONLY MATERIAL to any third person and further agree
19 that my use of any ATTORNEYS' EYES ONLY MATERIAL shall be for the prosecution, defense,
20 discovery, mediation and/or settlement of this action, and not for any other purpose.

21 (4) As an ATTORNEYS' EYES ONLY QUALIFIED PERSON, I further agree
22 that on the termination or settlement of this action, I will surrender all ATTORNEYS' EYES ONLY
23 MATERIAL which is in my possession, custody, or control in the manner set forth in paragraph 18
24 of the Order.

25 Dated: _____, 20____

_____ [Print Name]

_____ [Sign Name]

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ORDER

In addition to the above Stipulation between the parties—which the Court adopts in its entirety—the Court further ORDERS parties seeking to file a document falling within this Protective Order to comply with Local Rules 141 and 141.1. Within five (5) days of a written of the Court allowing a document to be filed under seal, the party shall file a redacted copy of the document so filed. The redactions shall be narrowly tailored to protect only the information that is confidential or was deemed confidential.

IT IS SO ORDERED.

Dated: September 25, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE