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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LAUREN RIES and SERENA ALGOZER,  
individuals on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

ARIZONA BEVERAGES USA LLC,  
HORNELL BREWING COMPANY, INC.,  
BEVERAGE MARKETING USA, INC., and  
FEROLITO, VULTAGGIO & SONS, INC.,

Defendants.

CASE NO. CV 10-01139 RS

**STIPULATION AND ~~PROPOSED~~  
ORDER REGARDING EARLY NEUTRAL  
EVALUATION SESSION**

CASE NO. CV 10-01139 RS

STIPULATION AND ~~PROPOSED~~ ORDER REGARDING EARLY NEUTRAL EVALUATION SESSION

1 TO THE COURT, AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:  
2 THIS STIPULATION is entered into by and between plaintiffs, Lauren Ries and Serena Algozer  
3 (“Plaintiffs”), and defendants, Arizona Beverages USA LLC, Hornell Brewing Co., Inc., d/b/a  
4 Ferolito Vultaggio & Sons, Inc. and Beverage Marketing USA, Inc. (“Defendants”), collectively  
5 referred to herein as the “Parties,” by and through their attorneys of record and pursuant to Civil  
6 Local Rule 7-12 and ADR Local Rule 3-3 (c).

7 WHEREAS, the Alternate Dispute Resolution Program conducted a telephone conference  
8 call with the Parties on November 21, 2011, to discuss the status of conducting the Early Neutral  
9 Evaluation (“ENE”);

10 WHEREAS, the deadline to conduct the ENE is December 6, 2011 as per Court order;

11 WHEREAS there is an ENE currently scheduled to take place on December 5, 2011 at  
12 11:00 am;

13 WHEREAS, counsel for Plaintiffs and Defendants previously conducted an Early Neutral  
14 Evaluation in a related matter, filed in the United States District Court, for the Southern District  
15 of California, bearing caption, *Hitt v. Arizona Beverage* (Civ. No., 08-cv-WQH (POR)). See  
16 Copy of Order annexed as Exhibit “A”;

17 WHEREAS the parties’ counsel have conferred and have agreed to seek to be excused or  
18 otherwise relieved from the obligation to conduct the ENE in this action given the prior Early  
19 Neutral Evaluation conducted in the *Hitt* matter;

20 NOW, THEREFORE, the Parties jointly request and HEREBY STIPULATE that the  
21 parties be excused and/or relieved from conducting an ENE session.

22 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

23 DATED: November 21, 2011 SEDGWICK LLP

24 By: /s/ Andrew J. King  
Kevin J. Dunne (Bar No. 40030)  
25 Andrew J. King (Bar No. 253962)

26 MCELROY, DEUTSCH, MULVANEY & CARPENTER,  
27 LLP

28 By: /s/ Robert P. Donovan  
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5 Attorneys for Defendants  
6 ARIZONA BEVERAGES USA LLC, HORNELL  
7 BREWING COMPANY, INC. d/b/a FEROLITO,  
8 VULTAGGIO & SONS, INC., and BEVERAGE  
9 MARKETING USA, INC.

6 DATED: November 21, 2011

7 By: /s/ Joseph L. "Josh" Tucker (with permission)

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20 Attorneys for Plaintiffs  
21 LAUREN RIES and SERENA ALGOZER

22 ~~PROPOSED~~ **ORDER**

23 Pursuant to the stipulation of the Parties, and good cause appearing therefor,

24 **IT IS SO ORDERED.**

25 DATED: November 21, 2011



26 THE HONORABLE RICHARD SEEBORG  
27 UNITED STATES DISTRICT JUDGE

# **EXHIBIT A**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

HEIDI HITT, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

ARIZONA BEVERAGE CO., LLC;  
HORNELL BREWING COMPANY, INC.;  
FEROLITO VULTAGGIO & SONS INC.,

Defendants.

Civil No. 08-cv-809-WQH (POR)

**ORDER FOLLOWING EARLY  
NEUTRAL EVALUATION  
CONFERENCE, SETTING RULE 26  
COMPLIANCE AND NOTICE OF CASE  
MANAGEMENT CONFERENCE**

On April 24, 2009, the Court held an Early Neutral Evaluation. Appearing before the Court were: Richard Baker, Esq., Joseph L. Tucker, Esq., and Anna Dean Farmer, Esq., counsel for Plaintiff; Plaintiff Heidi Hitt; Robert Donovan, Esq., and Meryl Maneker, Esq., counsel for Defendants; and Brad Galbreth, a representative of Defendants. The case did not settle. After consulting with counsel and discussing compliance with Federal Rule of Civil Procedure 26, IT IS HEREBY ORDERED:

1. The Rule 26(f) conference shall be completed on or before **May 20, 2009**. At the Rule 26(f) conference, in addition to the subject matters set forth in Rule 26, the parties shall discuss the following:

- a. Possible settlement options.
- b. Timing for the class certification motion.

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- c. Bifurcating discovery as between issues related solely to class certification and issues related to the merits.
- d. Discovery in this case.
- e. Concept of a national settlement.

2. A Discovery Plan shall be lodged with the chambers of the Honorable Louisa S Porter via email to [efile\\_porter@casd.uscourts.gov](mailto:efile_porter@casd.uscourts.gov) on or before **June 1, 2009**.

3. Pursuant to Federal Rule of Civil Procedure 26(a)(1)(A-D), initial disclosures shall be made on or before **June 12, 2009**.

4. Pursuant to Federal Rule of Civil Procedure 16(b), a Case Management Conference shall be held on **June 19, 2009 at 10:30 a.m.** The conference shall be telephonic, with attorneys only. Ms. Maneker shall initiate and coordinate the call.

5. Discovery shall be stayed until the Case Management Conference.

6. Plaintiff's counsel shall serve a copy of this order on any parties that enter this case hereafter.

7. Failure of any counsel or party to comply with this order may result in sanctions.

**IT IS SO ORDERED.**

DATED: April 28, 2009

  
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LOUISA S PORTER  
United States Magistrate Judge

cc: The Honorable William Q. Hayes  
all parties