

1 Henry C. Bunsow (SBN 60707)
 hbunsow@bdiplaw.com
 2 Brian A.E. Smith (State Bar No. 188147)
 bsmith@bdiplaw.com
 3 Robin Curtis (SBN 271702)
 rcurtis@bdiplaw.com
 4 BUNSOW, DE MORY, SMITH & ALLISON LLP
 55 Francisco Street, Suite 600
 5 San Francisco, CA 94133
 Tel: (415) 426-4747
 6 Fax: (415) 426-4744

7 Jeffrey D. Chen (SBN 267837)
 jchen@bdiplaw.com
 8 BUNSOW, DE MORY, SMITH & ALLISON LLP
 600 Allerton Street, Suite 101
 9 Redwood City, CA 94063
 Tel: (650) 318-6772
 10 Fax: (650) 684-1294

11 *Attorneys for Plaintiff*
 12 DUCKHORN WINE COMPANY

Keith R. Gillette (Bar No. 191082)
 kgillette@archernorris.com
 Chad D. Greeson (Bar No. 251928)
 cgreeson@archernorris.com
 ARCHER NORRIS
 2033 North Main Street, Suite 800
 Walnut Creek, CA 94596-3759
 Telephone: 925.930.6600
 Facsimile: 925.930.6620

Attorneys for Defendants
 HILL WINE COMPANY, LLC; JEFF HILL;
 and REBECCA HILL

13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**
 15 **SAN FRANCISCO DIVISION**

17 DUCKHORN WINE COMPANY,
 18 Plaintiff,
 19 v.
 20 HILL WINE COMPANY, LLC; et al.,
 21 Defendants.

Case No. C 13-00995 LB

**STIPULATED ORDER RE: DISCOVERY
 OF ELECTRONICALLY STORED
 INFORMATION FOR STANDARD
 LITIGATION**

22
 23 **1. PURPOSE**

24 This Order will govern discovery of electronically stored information (“ESI”) in this case as a
 25 supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the Discovery of
 26 Electronically Stored Information, and any other applicable orders and rules.

27 **2. COOPERATION**

28 The parties are aware of the importance the Court places on cooperation and commit to

1 cooperate in good faith throughout the matter consistent with this Court's Guidelines for the
2 Discovery of ESI.

3 **3. LIAISON**

4 The parties have identified liaisons to each other who are and will be knowledgeable about
5 and responsible for discussing their respective ESI. Each e-discovery liaison will be, or have
6 access to those who are, knowledgeable about the technical aspects of e-discovery, including the
7 location, nature, accessibility, format, collection, search methodologies, and production of ESI in
8 this matter. The parties will rely on the liaisons, as needed, to confer about ESI and to help
9 resolve disputes without court intervention.

10 **4. PRESERVATION**

11 The parties have discussed their preservation obligations and needs and agree that
12 preservation of potentially relevant ESI will be reasonable and proportionate. To reduce the
13 costs and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

- 14 a) The parties will exchange a list of the types of ESI they believe should be preserved
15 and the custodians, or general job titles or descriptions of custodians, for whom they
16 believe ESI should be preserved, e.g., "HR head," "scientist," and "marketing
17 manager." The parties shall add or remove custodians as reasonably necessary;
- 18 b) The parties will agree on the number of custodians per party for whom ESI will be
19 preserved;
- 20 c) The parties will exchange a list of data sources that may contain potentially relevant
21 information but that are not reasonably accessible because of undue burden or cost
22 pursuant to Fed. R. Civ. P. 26(b)(2)(B) to the extent such data sources exist. These
23 data sources include back-up media systems or systems no longer in use that cannot
24 be accessed. ESI from these sources will be preserved but not searched, reviewed,
25 or produced;
- 26 d) In addition to the agreements above, the parties may agree that data from certain
27 sources (a) could contain relevant information but (b) under the proportionality
28 factors, should not be preserved..

24 **5. SEARCH**

25 The parties agree that in responding to an initial Fed. R. Civ. P. 34 request, or earlier if
26 appropriate, they will meet and confer about methods to search ESI in order to identify ESI that is
27 subject to production in discovery and filter out ESI that is not subject to discovery.

1 **6. PRODUCTION FORMATS**

2 The parties agree to produce documents in PDF and/or TIFF file format, organized at the
3 document level and produced with a delimited data file that contains the following meta-data
4 fields, to the extent they exist: Custodian, File Path, Email Subject, Title, From, To, CC, BCC,
5 Date Sent, Time Sent, Date Received, Time Received, Filename, Author, Date Created, Date
6 Modified, MD5 Hash, File Size, File Extension, Production Number Begin, Production Number
7 End, Attachment Range, Attachment Begin, and Attachment End (or the equivalent thereof).

8 The parties expressly reserve the right to request the production of the native file. If
9 particular documents warrant a different format, the parties will cooperate to arrange for the
10 mutually acceptable production of such documents. The parties agree not to degrade the
11 searchability of documents as part of the document production process. No party has an
12 obligation to make its production text-searchable; however, if a party's documents already exist
13 in text-searchable format independent of this litigation, or are converted to text-searchable
14 format for use in this litigation, including for use by the producing party's counsel, then such
15 documents shall be produced in the same text-searchable format at no cost to the receiving
16 party.

17 **7. DOCUMENTS PROTECTED FROM DISCOVERY**

- 18 a) Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-product-
19 protected document, whether inadvertent or otherwise, is not a waiver of privilege or
20 protection from discovery in this case or in any other federal or state proceeding. For
21 example, the mere production of privileged or work-product-protected documents in
22 this case as part of a mass production is not itself a waiver in this case or in any
23 other federal or state proceeding.
- 22 b) Communications involving trial counsel that post-date the filing of the complaint
23 need not be placed on a privilege log. Communications may be identified on a
24 privilege log by category, rather than individually, if appropriate.

24 **8. MODIFICATION**

25 This Stipulated Order may be modified by a Stipulated Order of the parties or by the
26 Court for good cause shown.

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IT IS SO STIPULATED, through Counsel of Record.

Dated: May 30, 2013 /s/ Brian A.E. Smith
Henry C. Bunsow, Esq.
Brian A.E. Smith, Esq.
Robin K. Curtis, Esq.
Jeffrey D. Chen, Esq.
Bunsow, De Mory, Smith & Allison LLC
Attorneys for Plaintiff DUCKHORN WINE COMPANY

Dated: May 30, 2013 /s/ Keith R. Gillette
Keith R. Gillette
Chad D. Greeson
Attorneys for Defendants HILL WINE COMPANY, LLC,
JEFF HILL, and REBECCA HILL

ATTESTATION PURSUANT TO GENERAL ORDER 45

Pursuant to General Order No. 45, I hereby attest that I have obtained concurrence of the above noted signatories as indicated by a “conformed” signature (/s/) within this e-filed document.

IT IS ORDERED that the forgoing Agreement is approved.

Dated: June 6, 2013 
UNITED STATES DISTRICT/MAGISTRATE JUDGE