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11 [ADDITIONAL COUNSEL LISTED ON LAST PAGE]

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

15 STEVEN EDSTROM, BARRY GINSBURG,)
 16 MARTIN GINSBURG, EDWARD)
 17 LAWRENCE, SHARON MARTIN, MARK)
 18 M. NAEGER, JOHN NYPL, DANIEL)
 19 SAYLE, WILLIAM STAGE,)
 20 Plaintiffs,)
 21 v.)
 22 ANHEUSER-BUSCH InBEV SA/NV, *et al*,)
 23 Defendants.)

CASE NO.: 3:13-cv-1309-MMC

24 **PLAINTIFFS' DEMAND FOR**
 25 **ORAL ARGUMENT ON**
 26 **MOTION FOR RELIEF FROM**
 27 **JUDGMENT PURSUANT TO**
 28 **FED. R. CIV. PROC. 59(e) OR**
60(b), OR IN THE
ALTERNATIVE RULE 60(d)

AND ORDER THEREON

Judge Maxine Chesney
Courtroom 7, 19th Floor

1 Plaintiffs hereby respectfully demand oral argument on the Motion for Relief from
2 Judgment Pursuant to Fed. R. Civ. P. 59(e) or 60(b), or in the alternative, Rule 60(d) (Dkt.
3 No. 135, hereinafter the “Motion”) as a matter of Due Process and fairness, as follows:

4 On November 11, 2013, Plaintiffs filed the Motion, which requests that this Court
5 vacate the Judgment in this matter because of Defendants’ misrepresentations to this Court
6 and the Defendants’ contumacious fulfillment of the anticompetitive effects that had been
7 alleged by the Plaintiffs pursuant to Section 7 of the Clayton Act, in which the Plaintiffs
8 claimed that the combination “may” lessen competition or tend to create a monopoly. It is
9 now plain by reason of the substantial and massive price increases that the very
10 anticompetitive effects that the Plaintiffs allege “may” happen, have in fact happened (*See*
11 *United States v. Pabst Brewing Co.*, 384 U.S. 546 (1966); *United States v. Falstaff Brewing*
12 *Co.*, 410 U.S. 526 (1973)); and that this Court should and must hear oral argument with
13 regard to the substantial changes in factual circumstances, vacate the Judgment, and require
14 that the Defendants maintain a strict *status quo* pending a hearing and decision by this Court.
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17 Because these matters are of such a substantial nature, affecting tens of millions of
18 Americans everyday, and because the Court’s rulings were of a dispositive nature, due
19 process and ordinary fairness require that this Court allow oral argument. It is the belief of
20 the Plaintiffs that oral argument will assist the Court with regard to these substantial issues
21 and that mere paper argument is insufficient and contrary to customary Anglo-American
22 tradition of jurisprudence.
23

24 In addition, these newspaper articles reporting Crown’s price increases and
25 demonstrating Defendants’ misrepresentations are the only evidence Plaintiffs can put
26 before the Court because the Magistrate prevented Plaintiffs from taking the depositions of
27 the persons involved in the combination, notwithstanding Plaintiffs’ agreement that we
28 would only take them for one day each. We are private plaintiffs. We cannot compel these

1 people to attend depositions. We cannot convene a grand jury. We cannot order the FBI to
2 interview them. We can only rely on the discovery rules. In this case, we were required to
3 submit them to the United States Magistrate. The United States Magistrate issued a blanket
4 denial, preventing us from submitting any substantial evidence to this Court in support of
5 what Plaintiffs respectfully submit is a clear and unadulterated violation of Section 7 of the
6 Clayton Act, and most probably Section 1 of the Sherman Act.

7
8 The Motion was noticed for hearing on December 20, 2013, and briefing on the
9 Motion was completed on December 1, 2013. On December 16, 2013, four days before the
10 hearing which had been noticed over a month earlier, Defendants advised counsel for
11 Plaintiffs that they needed to move the hearing because of a “conflict” which required one of
12 Defendants’ counsel to be out of the country. Defendants never disclosed the nature of this
13 conflict, other than advising that one attorney was required to be out of the country on that
14 date. (Decl. of JMA, Exhibit A). On that same date, counsel for Plaintiffs agreed to
15 stipulate to moving the hearing date to January. The following day, counsel for Defendants
16 had proposed January 17, 2014 and January 24, 2014, as possible hearing dates on this
17 matter, when this Court entered an order (Dkt. No. 138), which vacated the December 20,
18 2013, hearing and deemed the matter suitable for decision on the papers.

19
20 Plaintiffs respectfully demand oral argument as a matter of Due Process and fairness,
21 on the Motion for any one of the proposed dates set forth by counsel for Defendants—either
22 January 17 or January 24. Plaintiffs believe that oral argument will be of assistance and aid
23 the Court with regard to the validity of the opposition in this matter. Plaintiffs should be
24 granted the opportunity to be heard on this critical motion, which involves serious
25 misrepresentations by Defendants to this Court involving Defendants’ price increases.
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1 Dated: December 20, 2013

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ORDER

Plaintiffs' request is hereby GRANTED and the hearing on plaintiffs' Motion for Relief from Judgment is hereby scheduled for January 24, 2014, at 9:00 a.m.

Dated: December 23, 2013


United States District Judge