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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE VINEYARD HOUSE, LLC,
Plaintiff,

v.

CONSTELLATION BRANDS U.S.
OPERATIONS, INC.,
Defendant.

Case No. 4:19-cv-01424-YGR
CONSOLIDATED CASE

PRETRIAL ORDER NO. 3

Re: Dkt. Nos. 184, 192

CONSTELLATION BRANDS U.S.
OPERATIONS, INC.,

Consolidated Plaintiff,

v.

THE VINEYARD HOUSE, LLC,
Consolidated Defendant.

On November 12, 2020, the Court held a Pretrial Conference, and, for good cause shown, the Court enters the following orders:

1. **Trial Date and Schedule:** The bench trial of this matter is confirmed to proceed via the Zoom platform beginning **Monday, November 30, 2020** with audio access only for the public. As previously noted, we will not be in session on Thursday, December 3, 2020 but we will be in session on Friday, December 4, 2020.
2. **Standard Motions in Limine Modified:** Despite the Court's prior order that all witnesses shall be excluded until testimony is completed, pursuant to the parties' request, the Court shall allow each side's expert witnesses, both retained and percipient, to listen to the trial testimony.
3. **Witnesses:** The Court understands that the disputes regarding deposition designations remain with respect to the following witnesses only: Amy Ash, Craig Norris, and John Seethoff.
 - a. With respect to Amy Ash, the objections to the following designations are **SUSTAINED**: 16:11-23; 30:9-14; and 32:2-4. The objections to the designations at 39:19-23 and 42:4-23 are **OVERRULED**.

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b. With respect to John Seethoff, the objection to the designation at 14:1-3 is

OVERRULED.

c. With respect to Craig Norris, and having reviewed the Rule 30(b)(6) notice, the rulings are attached hereto as Exhibit 1.

4. **Exhibits and Exhibit Lists:** The parties are limited to using the Exhibits submitted on the Exhibit List on September 11, 2020. For purposes of trial, the Court will use the updated list with stipulations from Docket Number 183 submitted on September 21, 2020.

5. **Witnesses at Trial:** Given the holidays, for the first day of trial, counsel shall file a notice by noon on Friday, November 27, 2020 with the list of witnesses to be called.

6. **Pending motions to seal:**

a. Within three business days of this order, with respect to the administrative motion to seal by Constellation Brands U.S. at docket no. 181, the motion shall be refiled in compliance with the local rules. More specifically, the motion does not include an unredacted version of the document sought to be filed under seal which indicates, by highlighting or other clear method, the portions of the document that have been omitted from the redacted version. *See* Civ. L. R. 79-5(d)(1)(D).

b. With respect to the administrative motion to seal by The Vineyard House at docket 184, refiled at 192, the motion is **TENTATIVELY DENIED**. Most of the proposed redactions appear to be based on the designation under the protective order by Constellation Brands U.S. The docket does not include a declaration establishing that the documents sought to be filed under seal, or portions thereof, are sealable under the standard appropriate to the underlying motion. Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that documents, or portions thereof, are sealable. *See* Civ. L. R. 79-5(d)(1)(A); *Pintos v. Pac. Creditors Ass’n*, 565 F.3d 1106, 1115–16 (9th Cir. 2009); *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006).

7. **Deposition of Robert Mondavi:** The Court will admit the entire transcript marked at Exhibit TX1062 rather than have it read into testimony. The Court will read the transcript outside of trial hours.

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8. **Rules, Instructions, and Admonishments:** The Court will read Exhibit A submitted attached in Docket No. 196.

This Order terminates Docket Numbers 184 and 192.

IT IS SO ORDERED.

Dated: November 17, 2020


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE

EXHIBIT 1

No.	Designation in Dispute	Legal Objection (Party ID)	Court's Ruling
77.	Norris – P: 19 Ln: 9 – P: 20 Ln: 1	Lacks foundation (insufficient recollection) (TVH)	Overruled
78.	Norris – P: 20 Ln: 24 – P: 21 Ln: 11	Lacks foundation (insufficient recollection) (TVH)	Overruled; Attorney Commentary at 21:1-2 is stricken
79.	Norris – P: 70 Ln: 2-10	Lacks foundation (no personal knowledge) (FRE 602) (TVH)	Overruled
80.	Norris – P: 72 Ln: 11-15	Lacks foundation (no personal knowledge); lay opinion (FRE 701)/speculation/legal conclusion (TVH)	Overruled
81.	Norris – P: 73 Ln: 4-13	Lacks foundation (no personal knowledge); lay opinion (FRE 701) (TVH)	Overruled
82.	Norris – P: 76 Ln: 2-15	Lacks foundation (insufficient recollection) (TVH)	Overruled
83.	Norris – P: 91 Ln: 22 – P: 92 Ln: 2	Legal conclusion (TVH)	Sustained
84.	Norris – P: 111 Ln: 25 – P: 112 Ln: 17	Lacks foundation (no personal knowledge); not relevant (FRE 401) (TVH)	Overruled
85.	Norris – P: 124 Ln: 9-16	Lacks foundation (insufficient recollection) (TVH)	Overruled
86.	Norris 30(b)(6) – P: 21 Ln: 18 – P: 22 Ln: 7	Incomplete (FRE 106) (TVH)	Overruled
87.	Norris 30(b)(6) – P: 39 Ln: 21 – P: 40 Ln: 4	Beyond scope of 30(b)(6) matters (TVH)	Overruled

No.	Designation in Dispute	Legal Objection (Party ID)	Court's Ruling
88.	Norris 30(b)(6) – P: 66 Ln: 10-12	Beyond scope of 30(b)(6) matters; incomplete (FRE 106); lacks foundation (insufficient recollection); irrelevant (TVH)	Overruled
89.	Norris 30(b)(6) – P: 70 Ln: 7-12	Beyond scope of 30(b)(6) matters (TVH)	Overruled
90.	Norris 30(b)(6) – P: 89 Ln: 2-9	Beyond scope of 30(b)(6) matters; lacks foundation (no personal knowledge); speculation (TVH)	Overruled
91.	Norris 30(b)(6) – P: 89 Ln: 17 – P: 90 Ln: 2	Beyond scope of 30(b)(6) matters; lacks foundation (no personal knowledge); speculation (TVH)	Overruled
92.	Norris 30(b)(6) – P: 90 Ln: 15-22	Lacks foundation (no personal knowledge); speculation (TVH)	Overruled
93.	Norris 30(b)(6) – P: 128 Ln: 3-8	Vague; compound (TVH)	Overruled
94.	Norris 30(b)(6) – P: 139 Ln: 7-16	Beyond scope of 30(b)(6) matters; lacks foundation (no personal knowledge); not relevant (FRE 401) (TVH)	Overruled
95.	Norris 30(b)(6) – P: 140 Ln: 10-17	Beyond scope of 30(b)(6) matters; lacks foundation (no personal knowledge) (TVH)	Overruled
96.	Norris 30(b)(6) – P: 145 Ln: 10-19	Lacks foundation (no personal knowledge); speculation; not relevant (FRE 401) (TVH)	Overruled as to lines 16-17, otherwise sustained
97.	Norris 30(b)(6) – P: 146 Ln: 20-22	Lacks foundation (no personal knowledge); speculation (TVH)	Overruled
98.	Norris 30(b)(6) – P: 157 Ln: 16 – P: 158 Ln: 1	Lacks foundation (no personal knowledge); speculation (TVH)	Overruled
99.	Norris 30(b)(6) – P: 168 Ln: 8-11	Incomplete (FRE 106) (FRE 106) (TVH)	Overruled
100.	Norris 30(b)(6) – P: 170 Ln: 12-20	Lacks foundation (insufficient recollection) (TVH)	Overruled
101.	Norris 30(b)(6) – P: 171 Ln: 8-15	Lacks foundation (no personal knowledge) (TVH)	Sustained
102.	Norris 30(b)(6) – P: 186 Ln: 16-22	Lacks foundation (no personal knowledge) (TVH)	Sustained
103.	Norris 30(b)(6) – P: 191 Ln: 2 – P: 194 Ln: 5	Beyond scope of 30(b)(6) matters; incomplete (FRE 106) (TVH)	Overruled; all attorney commentary and objections is stricken