

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
For the Northern District of California

E-FILED on 7/10/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MAITA DISTRIBUTORS, INC. OF SAN
MATEO, a California corporation,

Plaintiff,

v.

DBI BEVERAGE INC., a Tennessee
corporation,

Defendant.

No. C-09-02318 RMW

ORDER FOLLOWING HEARING ON
PLAINTIFF'S MOTION TO STAY
ARBITRATION OR FOR PRELIMINARY
INJUNCTION

[Re Docket No. 11]

Plaintiff's motion to stay arbitration or alternatively for preliminary injunction came on for hearing before the court on July 10, 2009. Plaintiff's motion raises significant questions regarding whether the underlying arbitration should proceed. At oral argument, however, it became apparent that the arbitration hearing is presently scheduled to commence on or after December 7, 2009. Thus, it appears that the issues raised by the present action may be resolvable on an expedited basis prior to the scheduled commencement of the arbitration.

Accordingly, the parties are ordered to meet and confer to identify the issues that need to be resolved, discuss the scope and nature of any discovery that may be needed, and propose a schedule

1 by which these issues may be heard in November. The parties shall also meet and confer with
2 counsel for MillerCoors, the prospective intervenor, regarding the prospective intervention. Finally,
3 the parties shall confer regarding the extent to which whether this action should be coordinated with,
4 or consolidated with, Mussetter v. DBI Beverage (C 09-03112), recently transferred from the
5 Eastern District of California.

6 The court will conduct a case management conference to address these issues, and any other
7 case management issues that may arise, on July 17, 2009 at 10:30 a.m.

8
9
10 DATED: 7/10/09



RONALD M. WHYTE
United States District Judge

1 **Notice of this document has been electronically sent to:**

2 **Counsel for Plaintiff:**

3 Craig S. Ritchey eFilingPA@dorsey.com
4 John G. Hursh eFilingPA@dorsey.com

5
6 **Counsel for Defendant:**

7 Elise Kathryn Sara esara@sheppardmullin.com
8 Jonathan P. Hersey jhersey@sheppardmullin.com
9 Mark Kenneth Slater mslater@sheppardmullin.com

10 **Counsel for Prospective Intervenor:**

11 Jesse Frank Ruiz jfr@robinsonwood.com

12
13 Counsel are responsible for distributing copies of this document to co-counsel that have not
14 registered for e-filing under the court's CM/ECF program.

15 **Dated:** 7/10/09

16 TER
Chambers of Judge Whyte

17
18
19
20
21
22
23
24
25
26
27
28