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United States District Court
For the Northern District of California

E-FILED on 10/14/09

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 RE MOTION FOR LEAVE TO FILE AMICUS BRIEF

[Re Docket Nos. 75 and 77]

California Beer and Beverage Distributors have filed a motion for leave to file an *amicus* brief in connection with the parties' cross-motions for summary judgment, presently calendared for hearing on October 30, 2009. It has also filed an administrative request to shorten hearing on its motion for leave to file the proposed *amicus* brief so that the motion can be heard contemporaneously with, or prior to, the court's hearing of the summary judgment motions. CBBD's papers indicate that one or more of the parties oppose CBBD's motion for leave to file an *amicus* brief and participate in oral argument.

This case involves a novel question of law and a California statute that has yet to undergo judicial scrutiny or interpretation. The court is thus tentatively inclined to permit CBBD to file its

1 proposed *amicus* brief. Nevertheless, if any party opposes the request, the court is willing to
2 consider arguments in opposition.

3 Accordingly, any party wishing to respond to CBBD's motion for leave to file an *amicus*
4 brief shall file its response on or before Friday, October 16, 2009. The court will issue a ruling on
5 the motion based on the papers submitted by that date.

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9 DATED: 10/14/09



RONALD M. WHYTE
United States District Judge

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

19 **Dated:** 10/14/09

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Chambers of Judge Whyte

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