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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

LAUREN RIES and SERENA ALGOZER,  
individuals on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

HORNELL BREWING COMPANY, INC., et  
al.,

Defendants.

CASE NO. CV 10-01139 JF

**STIPULATION AND [PROPOSED]  
ORDER REGARDING EARLY NEUTRAL  
EVALUATION SESSION**

1 TO THE COURT, AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:  
2 THIS STIPULATION is entered into by and between plaintiffs, Lauren Ries and Serena Algozer  
3 (“Plaintiffs”), and defendants Hornell Brewing Company, Inc. d/b/a Ferolito Vultaggio & Sons,  
4 Inc. and Beverage Marketing USA, Inc. (“Defendants”), collectively referred to herein as the  
5 “Parties,” by and through their attorneys of record and pursuant to Civil Local Rule 7-12 and  
6 ADR Local Rule 5-5.

7 WHEREAS, pursuant to an Order entered on July 23, 2010 (DE 47), this Court stayed the  
8 within action for a period of six months from July 23, 2010, pending referral of the matter to the  
9 United States Food and Drug Administration (“FDA”).

10 WHEREAS, in its August 4, 2010 Notice of Appointment of Evaluator (DE-49), the  
11 Court appointed Sarah A. Good, Esq. of the firm Howard, Rich, Nemerovski, Canady, Falk &  
12 Rabkin as Evaluator (“Evaluator”) for this case.

13 WHEREAS, by letter dated August 9, 2010, the Evaluator, in accordance with ADR L.R.  
14 5-7, tentatively scheduled an initial telephone conference with all counsel for August 23, 2010 to  
15 address, *inter alia*, scheduling an Early Neutral Evaluation (“ENE”).

16 WHEREAS, the Parties hereto have agreed that the scheduling of the ENE should be held  
17 in abeyance pending the stay imposed by this Court; and

18 NOW, THEREFORE, the Parties jointly request and HEREBY STIPULATE that the  
19 scheduling of the ENE session should be held in abeyance pending the stay of this action.

20 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

21 DATED: August 19, 2010 SEDGWICK, DETERT, MORAN & ARNOLD LLP

22 By: /s/ Andrew J. King  
23 Kevin J. Dunne (Bar No. 40030)  
Andrew J. King (Bar No. 253962)

24 MCELROY, DEUTSCH, MULVANEY & CARPENTER,  
25 LLP

26 By: /s/ Robert P. Donovan  
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Attorneys for Defendants  
HORNELL BREWING COMPANY, INC. d/b/a  
FEROLITO, VULTAGGIO & SONS, INC., and  
BEVERAGE MARKETING USA, INC.

DATED: August 19, 2010

JACKSON & TUCKER PC

By: /s/ Joseph L. Tucker (with permission)  
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Attorneys for Plaintiffs  
LAUREN RIES and SERENA ALGOZER

**{PROPOSED} ORDER**

Pursuant to the stipulation of the Parties, and good cause appearing therefor,

**IT IS SO ORDERED.**

DATED: August 23, 2010



THE HONORABLE JEREMY FOGEL  
UNITED STATES DISTRICT JUDGE