

1 William J. Goines (SBN 61290)  
 goinesw@gtlaw.com  
 2 Cindy Hamilton (SBN 217951)  
 hamiltonc@gtlaw.com  
 3 Alice Y. Chu (SBN 264990)  
 chua@gtlaw.com  
 4 GREENBERG TRAUIG, LLP  
 1900 University Avenue, Fifth Flor  
 5 East Palo Alto, CA 94303  
 Telephone: (650) 328-8500  
 6 Facsimile: (650) 328-8508  
 Attorneys for Plaintiffs Gregory Ahn and Cult of 8,  
 7 Inc.

8 Erik L. Jackson (SBN 166010)  
 ejackson@cozen.com  
 9 COZEN O'CONNOR  
 601 S. Figueroa Street, Suite 3700  
 10 Los Angeles, CA 90017  
 Telephone: (213) 892-7961  
 11 Attorney for Defendant Jonathon White

Joseph W. Anthony (admitted *pro hac vice*)  
 janthony@anthonyostlund.com  
 Randy G. Gullickson (admitted *pro hac vice*)  
 rgullickson@anthonyostlund.com  
 ANTHONY OSTLUND BAER & LOUWAGIE P.A.  
 90 South 7<sup>th</sup> Street, Suite 3600  
 Minneapolis, MN 55402  
 Telephone: (612) 349-6969  
 Facsimile: (612) 349-6996

Richard Van Duzer (SBN 136205)  
 rvanduzer@fbm.com  
 Aviva J. Gilbert (SBN 300091)  
 agilbert@fbm.com  
 FARELLA BRAUN & MARTEL LLP  
 235 Montgomery Street, 17th Floor  
 San Francisco, CA 94104  
 Telephone: (415) 954-4400  
 Facsimile: (415) 954-4480

Attorneys for Defendant Matthew D. Scarlett

Anthony D. Giles (SBN 178876)  
 anthony@anthonygiles.com  
 LAW OFFICE OF ANTHONY GILES  
 155 Sansome St., Ste. 500  
 San Francisco, CA 94104  
 Telephone: (415) 839-2099  
 Attorney for Defendant Alcohol by Volume, Inc.

17 **UNITED STATES DISTRICT COURT**  
 18 **NORTHERN DISTRICT OF CALIFORNIA**  
 19 **SAN JOSE DIVISION**

20 Gregory Ahn, an individual, Jonathan White,  
 an individual, Cult of 8, Inc., a California  
 21 corporation

22 Plaintiffs,

23 vs.

24 Matthew D. Scarlett, an individual, Alcohol  
 By Volume, Inc., a Nevada Corporation,  
 25 inclusive,

26 Defendants.

Case No: 5:16-cv-05437-EJD

**JOINT STIPULATION AND [PROPOSED]  
 ORDER**

1 **RECITALS**

2 A. This action, along with the related case, *Matthew Scarlett, individually and*  
3 *derivatively on behalf of Alcohol By Volume, Inc. vs. Jonathan White, et al.*, Case No: 5:17-cv-  
4 01430-EJD (the “Related Action”), involve disputes, *inter alia*, relating to the ownership and  
5 operations of two related corporations, CO8 and Alcohol by Volume, Inc. (“ABV”).

6 B. In April 2017, a closing occurred on the sale of one of the wine brands to an unrelated  
7 party.

8 C. Because of disputes about the proper allocation of proceeds from the sale transaction,  
9 the parties to this action, along with another unaffiliated entity, agreed to arbitrate before JAMS in  
10 San Francisco several issues, relating to the proper distribution of the proceeds from the sale of the  
11 brand. That arbitration proceeding is currently pending before JAMS as *Fior di Sole, LLC v.*  
12 *Scarlett, Matthew, et al.*, JAMS Reference No. 1100087495.

13 D. Among the issues that the parties have agreed to arbitrate in the JAMS arbitration is  
14 the proper ownership of ABV and the ownership of CO8. Ownership of ABV and CO8 is also one  
15 of the significant issues in this action and the Related Action before this Court. In a recent Order,  
16 the Arbitrator ruled that a claim by Gregory Ahn (“Ahn”) and Cult of 8, Inc. (“CO8”) for Rescission,  
17 as set forth in Ahn and Cult of 8’s Notice of Claims Under Rule 9 filed in the JAMS Arbitration,  
18 which is an alternative claim asserted by Ahn and CO8 in the First Amended Complaint (Fourth  
19 Cause of Action) in this Action, will be arbitrated in the JAMS proceedings. Therefore, the decision  
20 to be rendered in the JAMS arbitration is expected to resolve an important subset of issues in these  
21 federal court actions. The JAMS arbitration will not resolve all the claims and issues in these  
22 actions. However, having these issues resolved by the JAMS arbitration may make it more likely  
23 that the balance of these actions can be settled.

24 E. In the JAMS arbitration, a scheduling conference with the Arbitrator (Hon. James P.  
25 Kleinberg (Ret.)) has been held. The arbitration hearing is scheduled to be held from November 6 –  
26 21, 2017. Based upon a recent ruling of the Arbitrator, the parties are in the process of assessing  
27 whether and the extent to which other potential claims are arbitrable and will be asserted in the  
28 JAMS arbitration. The resolution of those issues are likely to affect the scope of claims in this

1 action and/or the Related Action.

2 F. There is currently pending before this Court in this action and the Related Action an  
3 initial case management conference on August 24, 2017 at 10:00 a.m. Certain filings, including the  
4 Joint Case Management Statement and related filings are due to be filed in advance of the case  
5 management conference.

6 G. The parties believe that it will be efficient and preserve both judicial resources and  
7 resources of the parties if the case management conference and current filing deadlines relating to it  
8 are continued for a period of 60 days to allow time for the parties to confirm the scope of issues to be  
9 determined in the arbitration proceeding and to report back to the Court with a recommendation as to  
10 the handling of this action and the Related Action during the pendency of the JAMS arbitration.

11 **STIPULATION**

12 Based upon the above recitals, the parties, through their undersigned counsel, hereby  
13 stipulate and request that the Court enter an order as follows:

14 1. The initial case management conference currently scheduled for August 24, 2017 is  
15 continued for a period of 60 days, and the Court shall reschedule the case management conference at  
16 a date and time on or after October 24, 2017.

17 2. All current filing deadlines, specifically including the deadlines for filing of the Joint  
18 Case Management Statement, Discovery Plan, and/or Rule 26(f) Report, shall be continued for a  
19 period of 60 days. This does not apply to the Plaintiff Jonathan White's motion for disqualification  
20 of counsel currently scheduled for hearing on August 10, 2017.

21 3. Within 60 days of this Stipulation and Order, the parties shall report to the Court  
22 regarding the status of the above-referenced JAMS arbitration and the issues to be determined in it,  
23 the impact of that arbitration on this action and the Related Action, and their views as to the  
24 appropriate handling of this action and the Related Action during the pendency of the JAMS  
25 arbitration.

1 Dated: August \_\_, 2017

GREENBERG TRAURIG, LLP

2 By: /s/ Cindy Hamilton

3 William J. Goines

Cindy Hamilton

Alice Y. Chu

4 Attorneys for Plaintiffs Gregory Ahn, and  
Cult Of 8, Inc.

5 Dated: August \_\_, 2017

COZEN O'CONNOR

6 By: /s/ Erik L. Jackson

7 Erik L. Jackson

8 Attorney for Plaintiff Jonathan White.

9 Dated: August \_\_, 2017

ANTHONY OSTLUND

BAER & LOUWAGIE P.A.

10 By: /s/ Randy G. Gullickson

11 Joseph W. Anthony (admitted *pro hac vice*)

janthony@anthonyostlund.com

Randy G. Gullickson (admitted *pro hac vice*)

rgullickson@anthonyostlund.com

12 Attorneys for Defendant Matthew D. Scarlett

13 Dated: August \_\_, 2017

LAW OFFICES OF ANTHONY GILES

14 By: /s/ Anthony Giles

15 Anthony Giles

16 Attorney for Defendant Alcohol By Volume, Inc.

17  
18 **ORDER**

19 Based upon the above stipulation of the parties, it is hereby ordered that:

20 1. The initial case management conference currently scheduled for August 24, 2017 is  
21 continued for a period of 60 days, and the case management conference is rescheduled to  
22 October 26 \_\_\_\_\_, 2017.

23 2. All current filing deadlines, specifically including the deadlines for filing of the Joint  
24 Case Management Statement, Discovery Plan, and/or Rule 26(f) Report, shall be continued and reset  
25 in accordance with the rescheduled case management conference. This does not apply to Plaintiff  
26 Jonathan White's motion to disqualify counsel, currently scheduled for hearing on August 10, 2017.

1           3.       Within 60 days of this Stipulation and Order, the parties shall report to the Court  
2 regarding the status of the above-referenced JAMS arbitration and the issues to be determined in it,  
3 the impact of that arbitration on this action and the Related Action, and their views as to the  
4 appropriate handling of this action and the Related Action during the pendency of the JAMS  
5 arbitration.

6  
7 Dated: August 4, 2017

By:   
Edward J. Davila  
United States District judge

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