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6 Attorneys for Defendant
Horizon Beverage Company

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ALAMEDA
10 CENTRAL DIVISION

12 JEREMY JENKINS, individually, and on)
13 behalf of all others similarly situated,)
14 Plaintiffs,)
15 vs.)
16 HORIZON BEVERAGE COMPANY, L.P.;)
17 and DOES 1 to 100, inclusive,)
18 Defendants.)

CASE NO. RG13691776
DEFENDANT HORIZON BEVERAGE
COMPANY'S ANSWER TO FIRST
AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, DECLARATORY
RELIEF, AND RESTITUTION.

Complaint Filed: August 14, 2013
Trial Date: None

21 GENERAL DENIAL

22 Pursuant to Section 431.30(d) of the Code of Civil Procedure, Defendant, HORIZON
23 BEVERAGE COMPANY, L.P. ("Horizon" or "Defendant"), generally denies each and every
24 allegation of Plaintiffs' First Amended Class Action Complaint, and further denies it is liable or
25 responsible to Plaintiffs in any sum or manner whatsoever, or that Plaintiff and/or the putative
26 class he purports to represent are entitled to the relief alleged in the Class Action Complaint, or
27 any relief at all.
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AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The First Amended Class Action Complaint, and each cause of action stated therein, fails to state a cause of action for which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The court lacks subject matter jurisdiction over the First Amended Class Action Complaint and each cause of action pled therein.

THIRD AFFIRMATIVE DEFENSE

The First Amended Class Action Complaint fails to state facts sufficient to define an ascertainable class with a community of interest.

FOURTH AFFIRMATIVE DEFENSE

Representative Plaintiff lacks standing to bring this lawsuit because he suffered no harm, and is not a member of the class of current employees he seeks to represent.

FIFTH AFFIRMATIVE DEFENSE

The First Amended Class Action Complaint and each cause of action stated therein is barred by the applicable statute of limitations, including but not limited to C.C.P. §§ 338, 340 and Labor Code §§ 226, 226.3 and 2699.

SIXTH AFFIRMATIVE DEFENSE

The causes of action contained in the First Amended Class Action Complaint are barred by the doctrine of laches because Plaintiff waited an unreasonable amount of time in which to bring this action, to Defendant's prejudice.

SEVENTH AFFIRMATIVE DEFENSE

The causes of action contained in the First Amended Class Action Complaint are barred by the doctrine of estoppel, because Defendant relied on Plaintiff's conduct to its prejudice.

EIGHTH AFFIRMATIVE DEFENSE

The causes of action contained in the First Amended Class Action Complaint are barred by the doctrine of unclean hands.

1 **NINTH AFFIRMATIVE DEFENSE**

2 The causes of action contained in the First Amended Class Action Complaint are barred
3 because Plaintiff waived the causes of action he now asserts.

4 **TENTH AFFIRMATIVE DEFENSE**

5 The causes of action contained in the First Amended Class Action Complaint are barred
6 because any damages or injuries sustained by Plaintiff were proximately caused by Plaintiff's
7 own acts and omissions.

8 **ELEVENTH AFFIRMATIVE DEFENSE**

9 The damages alleged in the First Amended Class Action Complaint are barred as they
10 were caused by the acts and omissions of others.

11 **TWELFTH AFFIRMATIVE DEFENSE**

12 The class action allegations pled in the First Amended Class Action Complaint are
13 barred because there are not sufficiently numerous individuals within the definition of the class
14 to constitute a proper class action.

15 **THIRTEENTH AFFIRMATIVE DEFENSE**

16 The class action allegations pled in the First Amended Class Action Complaint are
17 barred because representative Plaintiff's claims are not typical of claims by the entire class are
18 subject to unique defenses by Defendant.

19 **FOURTEENTH AFFIRMATIVE DEFENSE**

20 The class action allegations pled in the First Amended Class Action Complaint are
21 barred because facts unique to each class member predominate over facts common to the entire
22 class.

23 **FIFTEENTH AFFIRMATIVE DEFENSE**

24 The causes of action contained in Plaintiff's First Amended Class Action Complaint fail
25 to state facts sufficient to substantiate an award of punitive damages.

26 **SIXTEENTH AFFIRMATIVE DEFENSE**

27 The causes of action contained in Plaintiff's First Amended Class Action Complaint are
28 barred because Plaintiff has failed to join the Teamsters Local 853, as an indispensable party.

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SEVENTEENTH AFFIRMATIVE DEFENSE

The causes of action contained in Plaintiff's First Amended Class Action Complaint are are preempted by section 301 of Labor Management Relations Act, 29 U.S.C. § 185, as resolution of the dispute will require the court to interpret the terms of the collective bargaining agreement between the Teamsters, Local 853 and Defendant.

EIGHTEENTH AFFIRMATIVE DEFENSE

The class action allegations in Plaintiff's First Amended Class Action Complaint fail because Plaintiff cannot be an adequate representative of the class, as defined in the First Amended Complaint, because members of the defined class are subject to unique defenses including, but not limited to preemption under the Federal Aviation Administration Act, 49 U.S.C. § 14501 *et seq.*

RESERVATION OF RIGHTS TO AMEND ANSWER

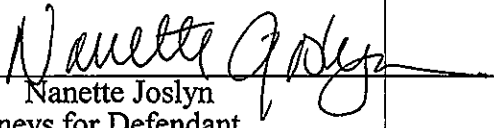
Defendant hereby reserves the right to amend its answer to Plaintiff's First Amended Class Action Complaint upon notice to Plaintiff.

WHEREFORE, Defendant prays:

1. That Plaintiffs take nothing by way of their First Amended Class Action Complaint against Defendant;
2. That Plaintiffs' First Amended Class Action Complaint be dismissed in its entirety with prejudice;
3. The Defendant be awarded its reasonable attorneys' fees and/or costs of suit; and
4. Such other and further relief as this Court deems just and proper.

DATED: October 17, 2013

JORDAN LAW GROUP
PATRICK W. JORDAN
NANETTE JOSLYN

By: 
Nanette Joslyn
Attorneys for Defendant
HORIZON BEVERAGE COMPANY, L.P.

P R O O F O F S E R V I C E

STATE OF CALIFORNIA, COUNTY OF MARIN

I am employed in the County of Marin, State of California. I am over the age of 18 and not a party to the within action; my business address is: 1010 "B" Street, San Rafael, California 94901.

On October 18, 2013, I served the document(s) described as **DEFENDANT HORIZON BEVERAGE COMPANY'S ANSWER TO FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES, INJUNCTIVE RELIEF, DECLARATORY RELIEF, AND RESTITUION** in this action by placing the true copies thereof enclosed in sealed envelopes addressed as follows:

Brian D. Chase
1301 Dove St., Suite 120
Newport Beach, CA 92660

- (BY MAIL) I am "readily familiar" with the firm's practice for collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Rafael, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- (BY FAX) Pursuant to Rules 2.306 et seq., I transmitted the above-described document by facsimile machine (which complied with Rule 2.306(g)(3), to the above-listed fax number(s). The transmission originated from facsimile phone number (415) 459-9871 and was reported as complete and without error. The facsimile machine properly issued a transmission report, a copy of which is attached hereto.
- (BY EMAIL) Pursuant to Rules 2.260 et seq., and agreement of counsel, I transmitted the above-described document by electronic transmission (email) (which complied with Rule 2.260(a)-(c), to the above-listed electronic address(s). The transmission originated from cjo@pjordanlaw.com and was reported as complete and without error. A paper copy of the document(s) have also been served by mail as indicated above.
- (BY PERSONAL SERVICE) I caused to be delivered such envelope by hand to the offices of the addressee.
- (BY OVERNIGHT DELIVERY) I caused said envelope(s) to be delivered overnight via an overnight delivery service in lieu of delivery by mail to the addressee(s).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 18, 2013, at San Rafael, California.


Christopher J Ohlsen