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January 11, 2017

Gary Shinnors  
Executive Secretary  
National Labor Relations Board  
Office of the Executive Secretary  
1015 Half Street S.E.  
Washington, D.C. 20570

**Re: *Constellation Brands, U.S. Operations, Inc., DBA Woodbridge Winery,*  
Case No. 32-CA-148431, on remand from *Constellation Brands v. NLRB,*  
Case Nos. 15-2442, 15-4106 (2d Cir., Nov. 21, 2016)**

Dear Executive Secretary Shinnors:

I write to convey Charging Party Local 601's view that, upon accepting the remand of this case from the U.S. Court of Appeals for the Second Circuit, the Board should decide the case on the existing record.<sup>1</sup> Alternatively, the Board should return the case to Region 32 with instructions to decide the case on the existing record. In light of the limited nature of the Court's remand and the extensive record already developed by the hearing officer in this case, no additional fact-finding is required.

The Court found that, at step one of the *Specialty Healthcare* analysis, the Regional Director "appropriately recited the community of interest standard, and declared that 'employees in the petitioned-for unit share distinct characteristics'" but "did not explain *why* those employees had interests 'sufficiently distinct from those of other employees to warrant the establishment of a separate unit.'" *Constellation Brands v. NLRB*, Case Nos. 15-2442, 15-4106, slip op. 18 (2d Cir., Nov. 21, 2016) (emphasis in original). The Court held that "[t]his misapplication of *Specialty Healthcare* requires us to deny the Board's petition for enforcement." *Id.* at 20.

The hearing officer in this case conducted a five-day pre-election hearing that included lengthy testimony by two cellar employees – one called by Local 601, *see* Tr. 182-671, and one called by Constellation, *see* Tr. 673-860 – as well as significant testimony regarding both cellar and barrel department employees by Constellation's general manager. Tr. 8-182; 860-1304.

<sup>1</sup> No party has filed a petition for panel rehearing or *en banc* determination in this case and the period for filing such petitions has expired. F.R.A.P. 35 & 40. The mandate should thus issue imminently. F.R.A.P. 41.

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There is thus ample evidence in the record for the Board to comply with the Court's instruction that, at step one of the *Specialty Healthcare* analysis, the Board "explain[] why excluded employees have meaningfully distinct interests in the context of collective bargaining that outweigh similarities with unit members." *Constellation Brands*, slip op. 23.

At the request of the Board or Region, Local 601 would be pleased to submit a position statement explaining how evidence already in the record demonstrates that employees in the petitioned-for cellar department unit both share a strong community of interest among themselves and have meaningfully distinct interests from barrel department employees for collective bargaining purposes.

Sincerely,



Robert Bonsall  
Counsel for Charging Party  
Cannery, Warehousemen, Food Processors,  
Drivers and Helpers,  
Local 601, International  
Brotherhood of Teamsters

cc: Shay Dvoretzky, Counsel for Respondent  
Michael Kaufman, Counsel for Respondent  
George P. Velastegui, Regional Director, NLRB Region 32  
Matt Ginsburg, Associate General Counsel, AFL-CIO

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