



KAUFMAN DOLOWICH VOLUCK

ATTORNEYS AT LAW

Michael A. Kaufman
mkaufman@kdvlaw.com

Arthur R. Kaufman
akaufman@kdvlaw.com

Matthew R. Capobianco
mcapobianco@kdvlaw.com

Kaufman Dolowich & Voluck, LLP
135 Crossways Park Drive, Suite 201
Woodbury, New York 11797
Telephone: 516.681.1100
Facsimile: 516.681.1101
www.kdvlaw.com

January 18, 2017

VIA FIRST CLASS MAIL & E-MAIL

Gary Shinnars
Executive Secretary
National Labor Relations Board
Office of the Executive Secretary
1015 Half Street S.E.
Washington, D.C. 20570
gary.shinnars@nrlrb.gov

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

Dear Mr. Shinnars:

We represent Constellation Brands, U.S. Operations, Inc., DBA Woodbridge Winery ("Woodbridge" or "Respondent") in the above captioned actions. We write in response to Charging Party Local 601's ("Local 601") letter dated January 11, 2017, wherein Local 601 requested that the Board "decide the case on the existing record," or in the alternative, "return the case to Region 32 with instructions to decide the case on the existing record." For the reasons set forth below, the Board should not consider Local 601's requests, as they are premature and procedurally defective.

~~On or about November 23, 2016, we confirmed with you the procedural requirements~~ regarding the Second Circuit Court of Appeals' remand as it pertains to an action previously before the Board. You confirmed the Board must either accept or reject the Court of Appeals' remand and that until this first step occurs nothing can be done by any party. Notably, the Board has not yet issued their decision concerning the remand. You then confirmed that if the Board accepts the remand (which it often does), the Board then issues an "order" outlining the Court of Appeals' remand. The Board's order will either allow: (1) the parties to submit supplemental briefs in accordance with the order; or (2) advise the parties that they cannot submit supplemental briefs, as they deem submission of same unnecessary. However, with respect to the latter, the parties are still able to file a letter with the Board requesting that the parties be allowed to submit supplemental briefs. You again confirmed this on January 13, 2017.

At such time, Respondents are prepared to submit a supplemental brief outlining our position that, *inter alia*, the Regional Director did not directly address the similarities and

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differences between employees from sub departments of the Cellar Department (*i.e.* outside cellar and barrel employees). The Regional Director's decision only made mention of same in a footnote. Moreover, the Board would be better equipped in deciding issue(s) on remand, if the case was reopened to further develop this specific issue of first impression and the parties were also allowed to brief.

In sum, Local 601's letter is premature and must be ignored. Once the Board issues an order regarding the remand, all parties may appropriately seek review.

We thank the Board for its consideration of the foregoing.

Respectfully submitted,
Kaufman Dolowich & Voluck, LLP

/s/ Michael A. Kaufman

Michael A. Kaufman
Arthur R. Kaufman
Matthew R. Capobianco
Counsel for Respondent

cc: Brian P. Meath
Constellation Brands, Inc.
Vice President, Deputy General Counsel
Brian.meath@cbrands.com
Counsel for Respondent

Willis J. Goldsmith
Jones Day
wgoldsmith@jonesday.com
Counsel for Respondent

Robert Bonsall, Esq.
Local 601, International Brotherhood
of Teamsters
rbonsall@beesontayer.com
Counsel for Charging Party

Regional Director George P. Velastegui
National Labor Relations Board
Region 32
1301 Clay Street
Oakland, California 94612
George.velastegui@nlrb.gov

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