

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

CAFE AGAVE, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:23-cv-00032
)	
CROWN VALLEY WINERY, INC.; and DOES)	
1-10,)	
)	
Defendants.)	

PROTECTIVE ORDER

WHEREAS, [Fed. R. Civ. P. 26\(c\)](#) provides for the issuance of a protective order limiting the disclosure of confidential information in appropriate circumstances. The parties have filed a Joint Motion for Protective Order (“Motion”). Upon review of the same, the Court hereby ORDERS the entry of this Confidentiality and Protective Order in the above-captioned action.

This Protective Order shall govern the production and use of all documents, information, data, material, studies, recordings, testimony, and/or other items produced by any party (through its counsel) in response to discovery requests, in mandatory disclosures, and/or utilized and/or referenced during depositions or other proceedings in this action, which any party or its counsel designate as “CONFIDENTIAL,” or “ATTORNEYS’ EYES ONLY.” These may include, but may not necessarily be limited to, items containing “Confidential Information” as defined below. All such designated documents, information, data, material, studies, recordings, testimony, and/or other items, shall be treated as confidential in the following manner:

1. Any person or entity involved in the representation of any party to the lawsuit captioned *Cafe Agave, Inc. v. Crown Valley Winery, Inc. et al.*, which is pending in the United

States District Court, Eastern District of Missouri, Southern Division, under Case No. 1:23-cv-00032, their respective insurers, investigators, experts, employees, agents, and the named litigants themselves, shall not disseminate documents, information, data, material, studies, recordings, testimony, and/or other items designated as CONFIDENTIAL, except in furtherance of limited purposes directly related to the prosecution of claims or defenses in this lawsuit. As used in this Order, the term “disseminate” shall include, but not be limited to, speaking about or paraphrasing the contents of; posting through electronic means, the internet, or social media, the contents of; and copying, photographing, scanning, streaming, videotaping, transcribing, retyping, reproducing, or reprinting by any means whatsoever, any documents, information, data, material, studies, recordings, testimony, and/or other items designated as CONFIDENTIAL. The parties and their counsel shall be subject to all restrictions on dissemination set forth in this Order.

2. Before production of any documents, information, data, material, studies, recordings, testimony, and/or other items, the producing party shall make a determination as to whether or not said documents, information, data, material, studies, recordings, testimony, and/or other items contain personal financial information of any individual or entity, proprietary business information, trade secrets, confidential research and/or development, competitively/commercially sensitive information, internal policies and/or procedures, information subject to an evidentiary privilege, or other information the disclosure of which would, in the judgment of that party, if disseminated in violation of the order, be potentially or actually injurious, damaging, or detrimental to the producing party’s business or the business of any of its customers or clients, its reputation, its position in any other litigation, or the interests of that party with its customers or clients.

3. The production of documents, information, data, material, studies, recordings, testimony, and/or other items that a producing party determines fall within paragraph two (2) above, shall be accomplished by that party making a CONFIDENTIAL notation on the document, information, data, material, study, recordings, transcript of testimony, and/or other item, or making a statement on the record at any deposition or court appearance, or by writing to the counsel for the other parties to this lawsuit, or by other agreed upon means of notice, that such information is confidential.

4. “Confidential Information” as used in this Order shall mean information contained in any document, information, data, material, study, recording, testimony, and/or other item that has been determined by that party to fall within paragraph two (2) above.

5. **Attorneys’ Eyes Only Information** is extremely sensitive or proprietary information, including trade secrets, research, analysis, development, financial or other commercial information of a non-public nature, non-public communications with regulators or other governmental bodies that are protected from disclosure by statute or regulation; non-public business or financial strategies, business plans, strategic plans, sales and marketing plans, marketing surveys, earnings or other financial projections, contracts or agreements, including any documentation that is considered confidential or proprietary under other confidentiality or non-disclosure agreements and/or information protected by the right of privacy and/or any applicable privilege, disclosure of which to another party or nonparty would create a substantial risk of serious harm or injury to the business or competitive position of the designating party that could not be avoided by less restrictive means.

6. The production of any item containing Confidential Information or Attorneys’ Eyes Only Information under this Order shall not operate as a waiver of any parties’ right to object to

the production of proprietary information, intellectual property, trade secrets, research and/or development, information subject to an evidentiary privilege, and/or internal process, policies, and procedures which, in the judgment of that party, would cause irreparable or competitive harm to that party if it were disclosed, inadvertently or otherwise, to the public or any competitors.

7. All Confidential Information, whether designated CONFIDENTIAL or ATTORNEYS' EYES ONLY, and produced or disclosed by any party shall be and remain the property of that producing party, and that producing party shall not be deemed to have granted any license, copyright, or similar right with respect to any Confidential Information or any other information disclosed by that party in this lawsuit.

8. All Confidential Information designated CONFIDENTIAL shall be treated as secret and strictly confidential, except with the prior written consent of that producing party and/or counsel for that producing party, or upon order of the Court Confidential Information may be shown, disseminated, or disclosed only to the following persons for use restricted exclusively to this case:

- a. Members of the respective law firms of record in this lawsuit representing Plaintiff and Defendants for the purpose of prosecuting or defending claims in this specific lawsuit;
- b. Experts and consultants retained by the parties or their counsel for the preparation of any claim or defense relevant specifically to this lawsuit described above, provided that no disclosure shall be made to any expert or consultant who is employed by, an independent contractor for, or an agent of any competitor of any party;
- c. The Court in which this lawsuit is pending, under seal of said Court;
- d. Actual witnesses and actual deponents who are parties to this lawsuit and/or employees of parties or their counsel.

9. All Confidential Information designated ATTORNEYS' EYES ONLY shall be treated as secret and strictly confidential, except with the prior written consent of that producing party and/or counsel for that producing party, or upon order of the Court. Such confidential Information may be shown, disseminated, or disclosed only to the following persons for use restricted *exclusively* to this case:

- a. Members of the respective law firms of record in this lawsuit representing Plaintiff and Defendants for the purpose of prosecuting or defending claims in this specific lawsuit;

10. Before being provided with access to any Confidential Information, each person described in paragraph seven (7) above shall be fully informed of the terms of this Order and given a copy thereof.

11. Confidential Information shall be utilized by the receiving party, its counsel, and experts only for purposes of this litigation and for no other purposes whatsoever.

12. To the extent documents, information, data, material, studies, recordings, testimony, and/or other items designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY are used in the taking of depositions, same shall remain subject to the provisions of this Order, unless the Court expressly rules otherwise. The portions of the transcripts of all such testimony shall be designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY and shall be labeled with the appropriate notation by the court reporter/stenographer. If any document, information, data, material, study, recording, testimony, and/or other item designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY pursuant to this Order is used during the course of a deposition in this lawsuit, that portion of the deposition record referencing such document, information, data, material, study, recording, testimony, and/or other item shall be labeled with the appropriate CONFIDENTIAL designation. The court reporter/stenographer also shall clearly and

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