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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191056
Party	Defendant Franciscan Vineyards, Inc.
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Date	02/25/2011
Attachments	91191056 Lilienthal pt. 3.pdf (38 pages)(9012010 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
White Rock Distilleries, Inc.

Opposition No. 91191056

Opposer

Mark: PINNACLES RANCHES

v.

Serial No.: 77/598674

Franciscan Vineyards, Inc.

Applicant
-----X

**COMBINED NOTICE OF FILING OF TESTIMONY TRANSCRIPT AND EXHIBITS
PURSUANT TO 37 CFR 2.125(c) and NOTICE OF SERVICE OF TRANSCRIPTS AND
EXHIBITS PURSUANT TO 37 CFR 2.125(a)**

(PT. 3)

**EXHIBITS H, J, K, O, and P
TO TESTIMONY TRANSCRIPT OF
CHRISTINE LILIENTHAL**

Catancia
PINNACLES

CHARDONNAY

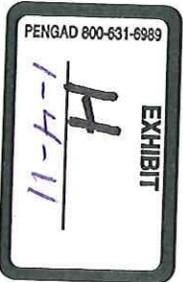
Best Buy!

Wine Spectator

May 2000

Our wines are an expression
of our vineyards, giving
unique voice to the terroir
on which they are grown.

Eleven-Time Wine Spectator "Best Buy"



Handwritten notes:
T...
...
...
...

Estancia
PINNACLES

CHARDONNAY

Wine Critics say:

- "Best Buy!" Wine Spectator, May 2000
- "Best Buy!" Wine Enthusiast, May 2000
- "Best Buy!" Wine Spectator, February 1999
- "Best Buy!" Wine Spectator, June 1998
- "A Top Ten Value," James Laube's Best-Value California Chardonnays, Wine Spectator, April 1999
- "Elegant with enough substance to stand up to any meal" New York Times, November 1998

Wine Spectator

Wine
enthusiast

New York Times

Lifestyle Critics say:

- "White Wine Value of the Year!" Food and Wine Magazine, October 1999
- "Look no further than Estancia Chardonnay." Washington Post, June 1999
- "This is always a name to look for... a great buy." Wall Street Journal, May 1999
- "An exceptional Chardonnay!" USA Today, October 1996
- "Highly Recommended" Andrea Immer, Master Sommelier. New Woman Magazine, July 1998

FOOD & WINE

THE WALL STREET JOURNAL.

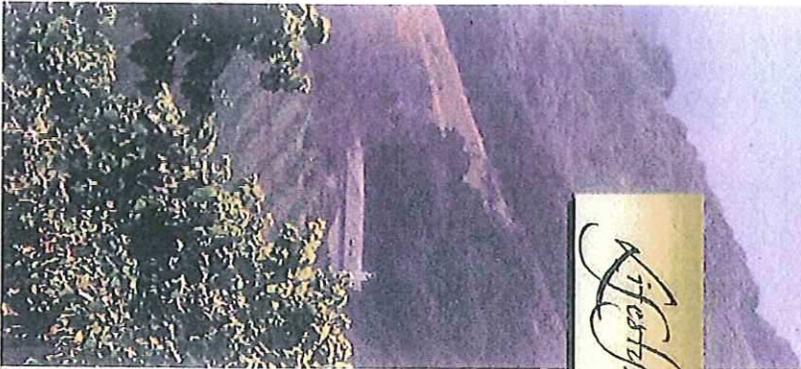
USA
TODAY

Consumers' say:

WINE & SPIRITS

- "A Favorite Restaurant wine-by-the-glass!" Wine & Spirits, 11th Annual Restaurant Poll, April 2000
- "Top Estate Winery of the Year!" Wine & Spirits 1999 Annual Buying Guide
- Chosen in "Retailers' Top Picks" San Francisco Chronicle, June 1997

San Francisco Chronicle



Pinnacles

“PINNACLES” CHARDONNAY

“Best Buy!”

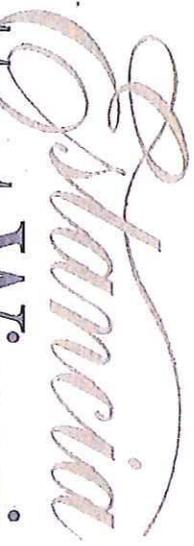
“This wine is for fans of
88 smooth and rich tasting
California Chardonnay. Ultraripe
in style, with a bounty of pear,
fig and tropical fruit flavor.
Ready to drink now.”

Wine Spectator

February 28, 1999



ESTABLISHED: CHANGING THE LANDSCAPE OF MONTEREY



One of the Hottest Wineries in California

Wine Spectator Says:

Estancia Chardonnay
The Most Delicious of the Vintage.

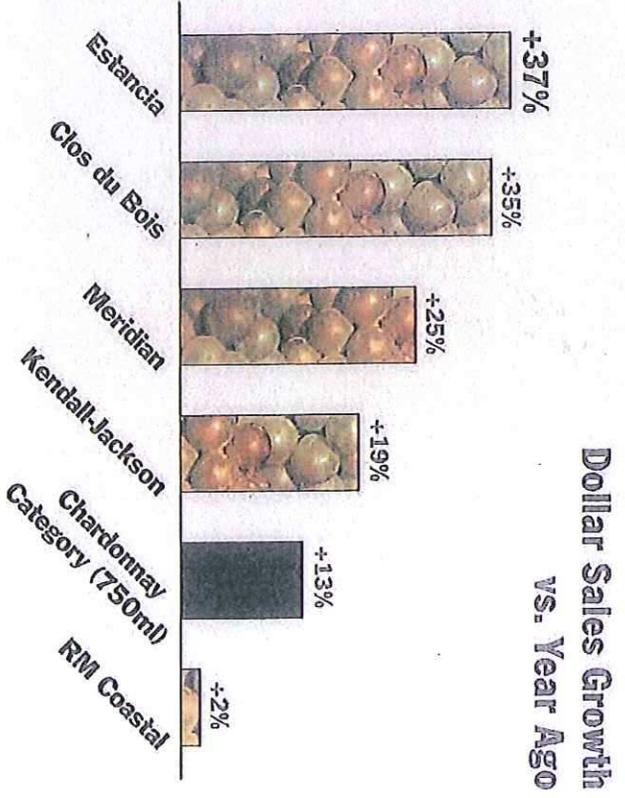
Year After Year

...and Consumers Agree!

Estancia Chardonnay – Outpacing the Category and the Competition.

ESTANCIA	“88”
Kendall-Jackson	“87”
Beringer Napa Valley	“87”
Meridian	“87”
RM Coastal	“83”
Clos du Bois	“82”
Murphy-Goode	“82”
Rodney Strong	“82”
Chateau St. Jean	“82”

Wine Spectator Ratings 1997 Vintage Chardonnays



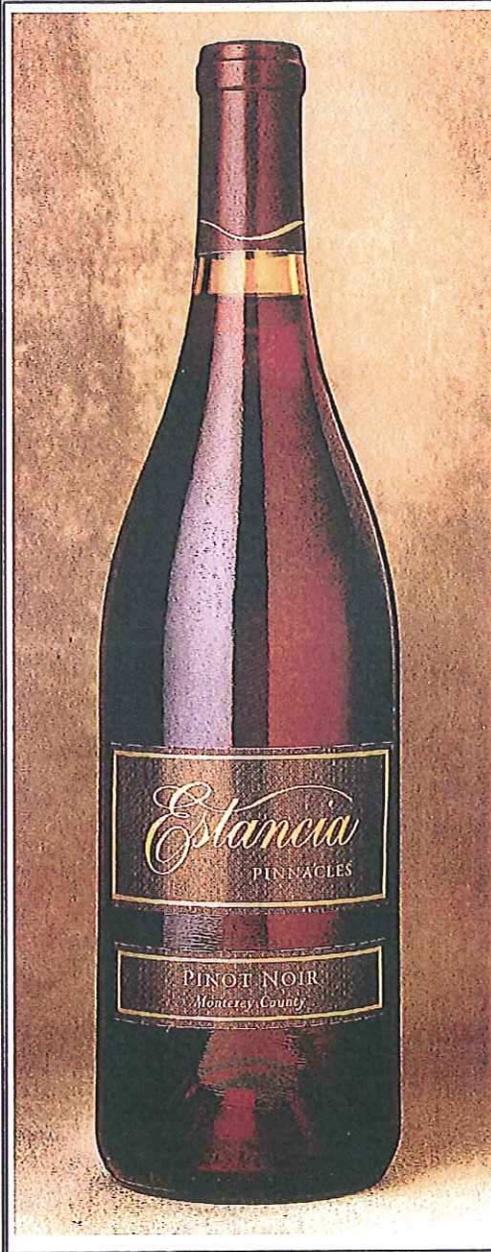
Source: IRI Infoscan / 52 week period ending 11/3/99
 Total U.S. Food

100% Estate Grown Chardonnay • Consistently Delicious Year After Year
A Superior Consumer Value • A Leader in Sales and Growth

Wine Spectator

MAY 15, 1998

“TOP TEN VALUES
FOR PINOT NOIR IN AMERICA”

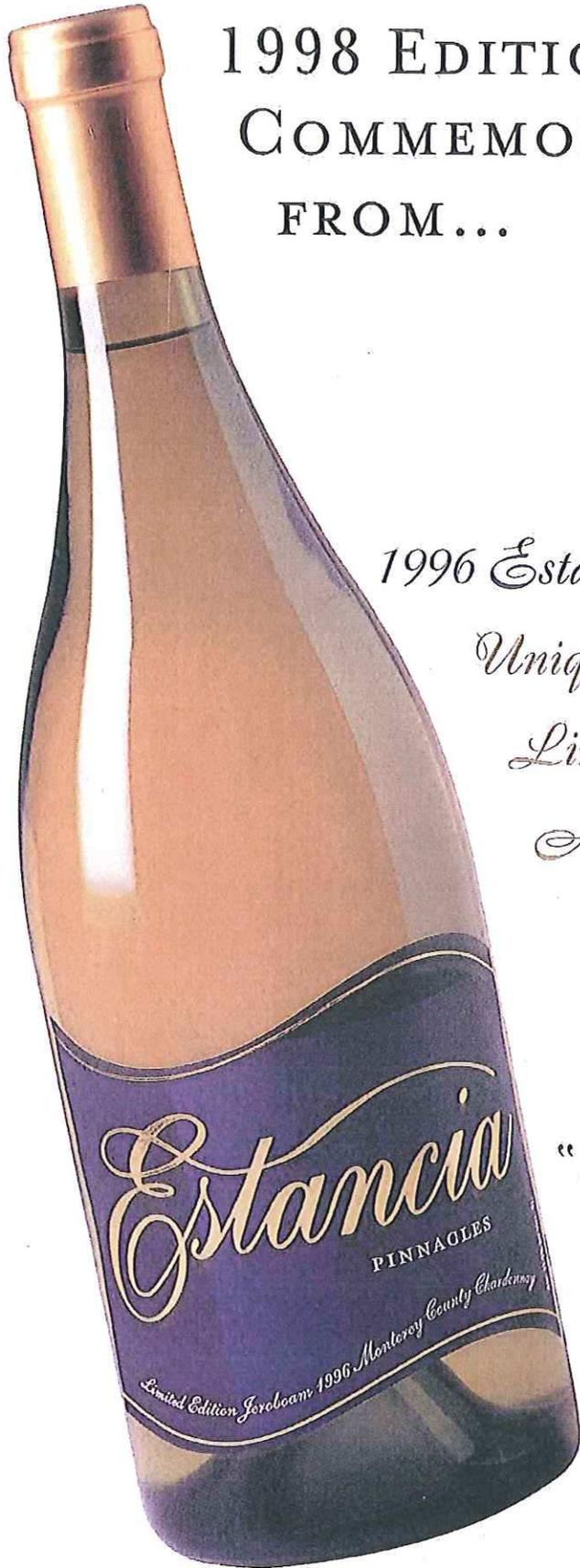


87 ESTANCIA PINOT NOIR
Monterey

“This lovely mouthful of currant, berry, herb and toast flavors has a smooth and promising finish.”

Wine Spectator

May 15, 1998



1998 EDITION
COMMEMORATIVE JEROBOAM
FROM...

Estancia

1996 Estancia Pinnacles Chardonnay

Unique Design

Limited Edition Bottle

A Striking Display Piece

Estancia
PINNACLES

Limited Edition Jeroboam 1996 Monterey County Chardonnay

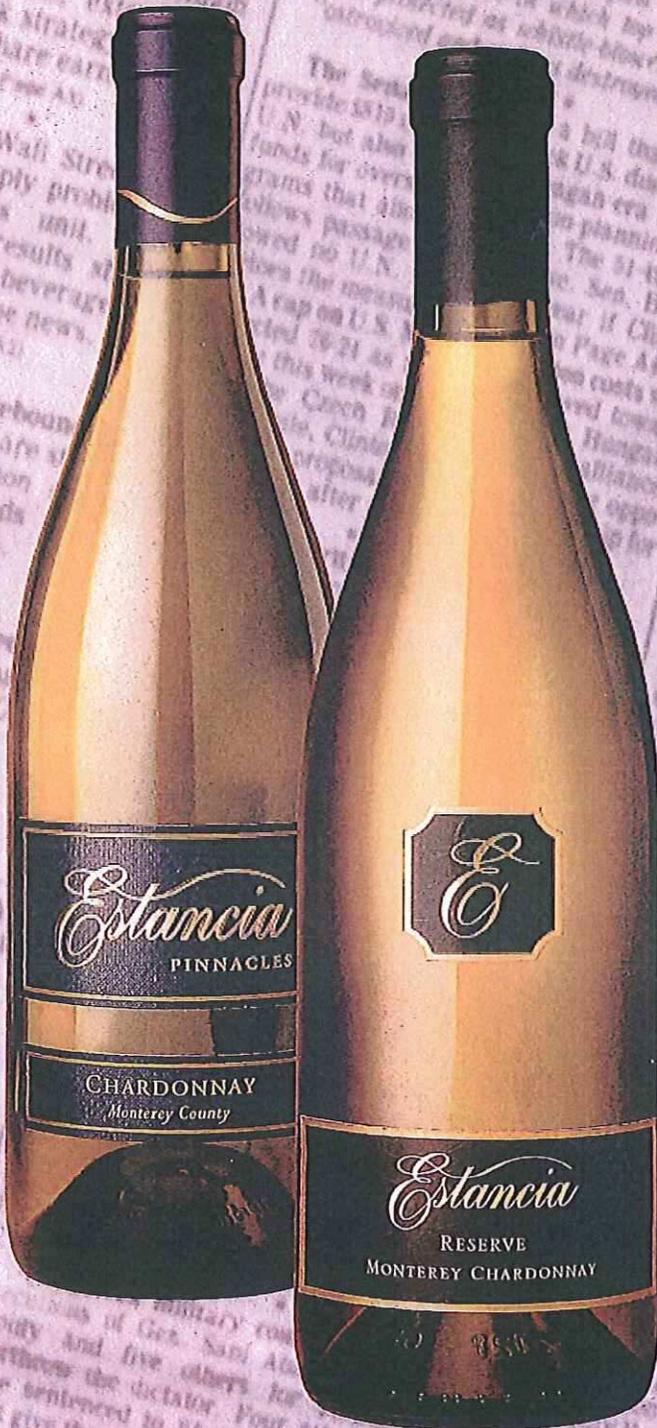
"...CHANGING MONTEREY
COUNTY'S LANDSCAPE
WITH A NEW GENERATION
OF FINE WINES"

WINE SPECTATOR

★ ★ ★

THE WALL STREET JOURNAL

FRIDAY, APRIL 3, 1998



What's News

"BEST OF TASTING"

"The best of the tasting was a monster of a wine... It was from an old favorite, Estancia.

Worth far more than we paid... Chewy, rich, complex with the kind of finish that lingers in your mouth.

Pop one open tonight!

—The Wall Street Journal
Friday, April 3, 1998

**POP ONE OPEN
TONIGHT!**

—The Wall Street Journal / Friday, April 3, 1998

"94" BEST BUY!

"Rich, mouth-filling herbal flavors with a finely judged smokey oak note through the finish. Very hedonistic."

WINE
ENTHUSIAST
Buying Guide Section
September 1998

"87" BEST BUY!

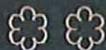
"A softer style, with good balance of fruity and herbal flavors. From a reliable producer for values."

Wine Spectator
September 1998

"DELICIOUS,
spicy, honeyed and nicely textured. Offers plenty of flavor, excellent purity and very good richness."

The
WINE
ADVOCATE

Robert Parker, Jr.
June 1998



"Ripe fruit tones and loads of oak emerge in rich aromas along with honeyed, toasted scents... very much the big, dense wine promised in the aromas."

CONNOISSEURS' GUIDE

to California Wine
April 1998

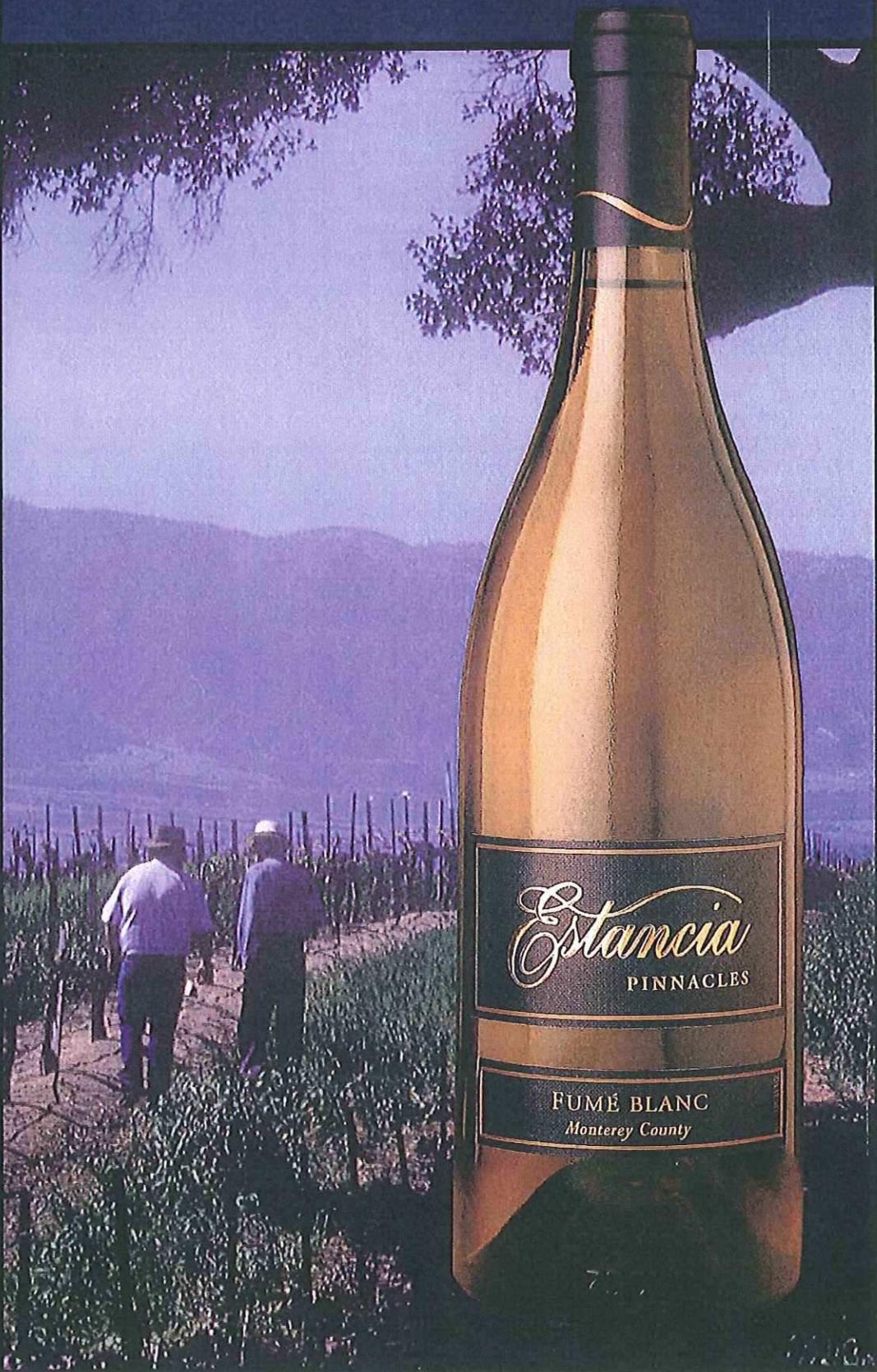


**FROM MONTEREY
COUNTY**

**"A REGION WHOSE
WINES ARE POISED
FOR GREATNESS"**

Wine Spectator
JUNE 1997

**THE CRITICS HAVE DECLARED
ESTANCIA FUMÉ BLANC
DELICIOUS! HEDONISTIC! A BEST BUY!**



FOOD & WINE

October 1999

1997 ESTANCIA PINNACLES CHARDONNAY
WHITE WINE VALUE OF THE YEAR

special. wine issue

1999 american wine awards
40 simple harvest recipes
napa's top secrets
20 great values



25 women wine stars

www.foodandwine.com

1997 ESTANCIA PINNACLES CHARDONNAY

WHITE WINE VALUE OF THE YEAR

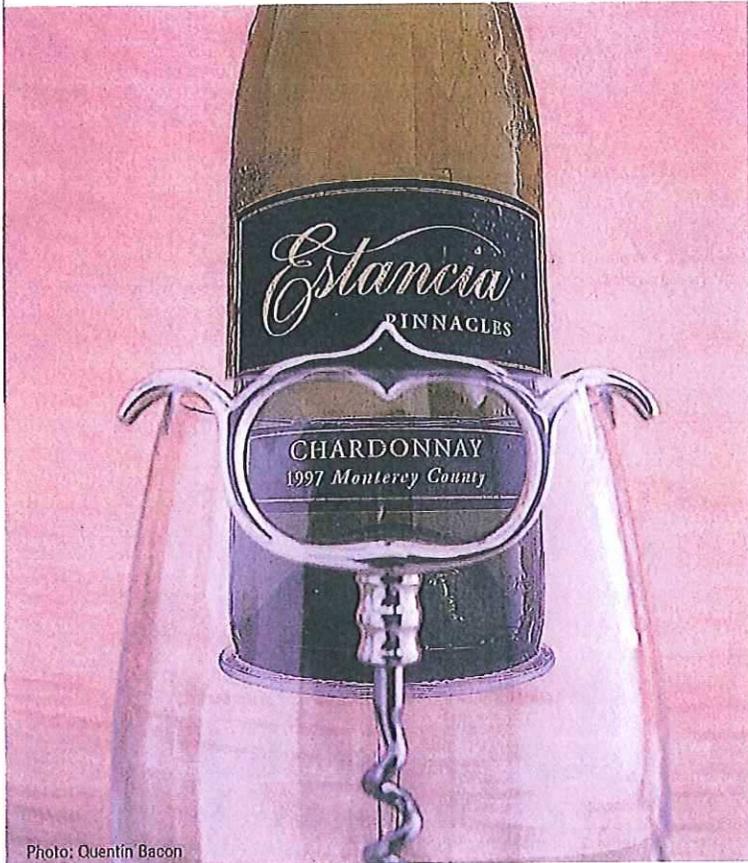


Photo: Quentin Bacon

In today's economy, a Chardonnay that retails for \$10 faces an unlikely prejudice: Can anything so inexpensive possibly be good? Estancia Pinnacles Chardonnay defies the preconception that a modestly priced wine can't be great. "It's sad," says Agustin Francisco Huneus, vice president of sales and marketing and the son of former president Agustin Huneus, the legendary Chilean vintner. "People are actually afraid to spend less. And the truth is, among most \$7 to \$20 Chardonnays, it's hard to tell the difference." Not so with Estancia. Made from grapes from Estancia's Pinnacles Vineyard in Monterey County, a cool region known for its high-quality fruit, the wine has a distinctive apple-and-pear aroma and a radiant golden-straw color. "The singular difference between our wine and others in this price category is consistency," Huneus says. "Pinnacles is our vineyard—we're not dealing with growers who have different incentives. We're not switching sources every year the way a lot of other Chardonnay producers do. That's a huge difference." And at 10 bucks a bottle, that's also quite a bargain.

Congratulations to our other Wine Award Winners:

1997 RABBIT RIDGE ZINFANDEL
RED WINE VALUE OF THE YEAR

•
BERINGER VINEYARDS
WINERY OF THE YEAR

•
HELEN TURLEY
WINEMAKER OF THE YEAR

•
VIN DIVINO
IMPORTER OF THE YEAR

•
DRINK: A SOCIAL HISTORY OF AMERICA
BOOK OF THE YEAR

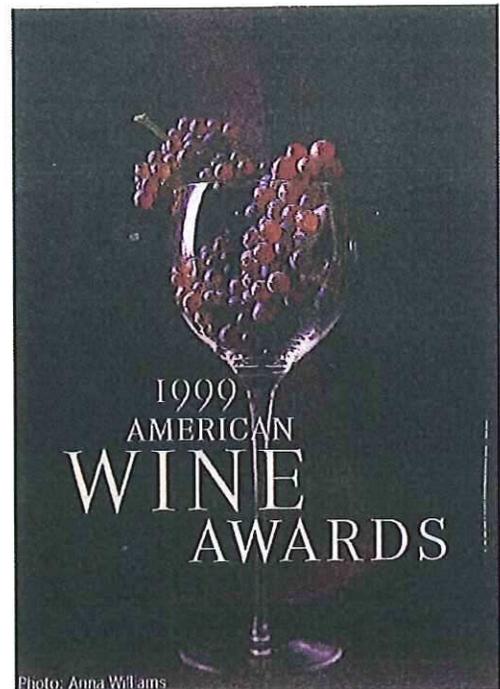


Photo: Anna Williams

Estancia

Wine Spectator

SPECTATOR SELECTION

89

ESTANCIA
Chardonnay Monterey County

A remarkably elegant and refined California Chardonnay that strikes a nice balance between the ripe, rich fig, pear and citrus flavors and the deft oak shadings. Very complex on the finish, where the flavors unfold, gaining depth and nuance. **What a deal at this price.**



~ Wine Spectator Buying Guide, October 15, 1996

© 2007 Estancia, CA - POS # ES014025

BON APPÉTIT BEST OF THE YEAR

ESTANCIA
2005 PINOT NOIR
Pinnacles Ranches
Monterey

"Luscious plum and
raspberry fruit with a
subtle earthiness."

-January 2007

Estancia

Monterey
PINOT NOIR



Lusciously fruity with
ripe cherry &
strawberry.

Estancia
PINNACLES

CHARDONNAY

Best Buy!

Wine Spectator

May 2000

Eleven-Time Winner!

© 2007 Estancia, CA E5016725

WINE ENTHUSIAST

July 2007

BEST BUY 87 Points!

"... with crisp, clean acidity brightening the kiwi and lime flavors. Some new oak adds welcome buttered toast and smoky vanilla complexities."

ESTANCIA
2005 CHARDONNAY
Pinnacles Ranches
Monterey

© 2008 Estancia Estates, Soledad CA E5022625

WINE ENTHUSIAST

November 15, 2007

"GOOD VALUE"

"High, brisk acidity is the star in this Central Coast Chard. It gives a good kick to the ripe guava, nectarine, mineral and vanilla flavors. Good value, and very versatile with food."

ESTANCIA
2006 CHARDONNAY
Pinnacles Ranches
Monterey

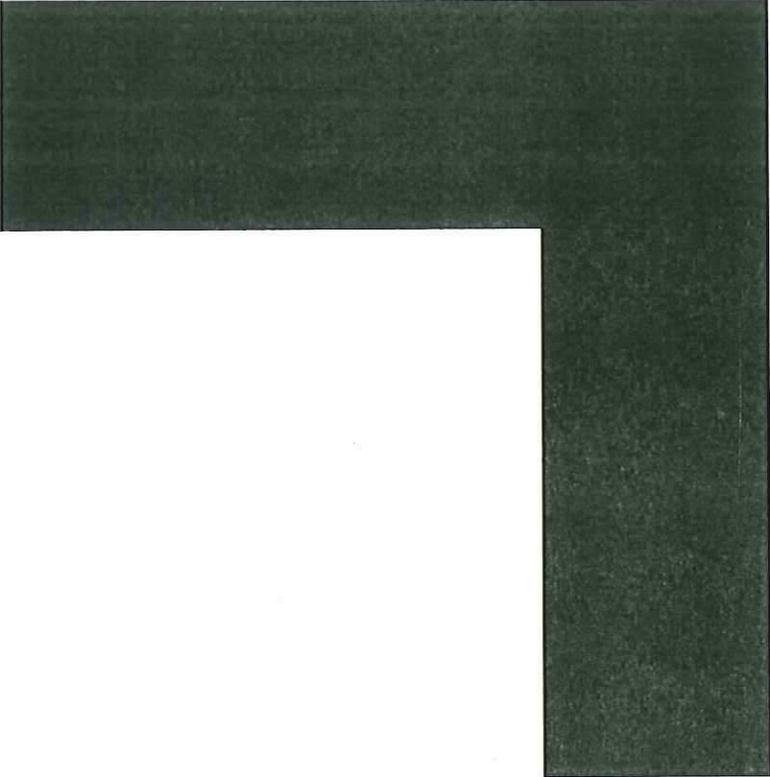


Exhibit Separator

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
Franciscan Vineyards, Inc.

Opposition No. 91185984

Opposer

Mark: PINNACLE

v.

Serial No.: 78166136

White Rock Distilleries, Inc.

Applicant

-----X

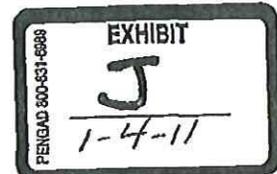
**OPPOSER'S RESPONSES AND OBJECTIONS TO APPLICAN'TS FIRST SET OF
INTERROGATORIES TO OPPOSER**

Pursuant to 2.120 of the Trademark Rules of Practice and /Rules 26 and 33 of the Federal Rules of Civil Procedure, Opposer Franciscan Vineyards, Inc. (hereinafter, "Franciscan" or "Opposer") hereby responds and objects to Applicant White Rock Distilleries, Inc. (hereinafter, "Applicant" or "White Rock')s First Set of Interrogatories (the "Interrogatories"), as follows:

GENERAL OBJECTIONS

The following general objections are incorporated by reference in Opposer's response to each and every Interrogatory below.

1. The specific responses set forth below are for the purposes of discovery only, and Opposer neither waives nor intends to waive, but expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility or use at trial of any information, documents or writing produced, identified or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such responses.



2. Opposer expressly reserves its right to rely, at any time including trial, upon subsequently discovered information or information omitted from the specific response set forth below as a result of mistake, oversight or inadvertences.

3. The specific responses set forth below are based upon Opposer's interpretation of the language used in the Interrogatories, and Opposer reserves its right to amend or to supplement its responses in the event Applicant asserts an interpretation that differs from Opposer's interpretation.

4. By making these responses, Opposer does not concede it is in possession of any information responsive to any particular Interrogatory or that any response given is relevant to this action.

5. Subject to and without waiving the general and specific responses and objections set forth herein, Opposer will provide herewith information that Opposer has located and reviewed to date. Opposer will continue to provide responsive information as such is discovered. Opposer's failure to object to a particular Interrogatory or willingness to provide responsive information pursuant to an Interrogatory is not, and shall not be construed as, an admission of the relevance, or admissibility into evidence, of any such information, nor does it constitute a representation that any such information in fact exists.

6. Because Opposer may not have discovered all the information that is possibly within the scope of the Interrogatories, Opposer expressly reserves its right to amend or to supplement these Responses and Objections with any additional information that emerges through discovery or otherwise.

7. Opposer objects to the Interrogatories to the extent that they require the production of documents protected from disclosure by the attorney-client privilege, the attorney

work product doctrine, the joint defense privilege or any other applicable privilege or immunity. Opposer responds to the Interrogatories on the condition that the inadvertent response regarding information covered by such privilege, rule, doctrine, or immunity does not waive any of Opposer's rights to assert such privilege, rule, doctrine, or immunity and the Opposer may withdraw any such response inadvertently made as soon as identified.

8. Opposer objects to the Interrogatories to the extent that they seek proprietary, sensitive, or confidential commercial information or information made confidential by law or any agreement or that reflects trade secrets. Opposer responds to the Interrogatories on the condition that an inadvertent response regarding any proprietary, sensitive, or confidential information does not waive any of Opposer's rights and that Opposer may withdraw any such response inadvertently made as soon as identified.

9. Opposer objects to the Interrogatories to the extent that they seek information that is not relevant to the subject matter of this action or that is not reasonably calculated to lead to the discovery of admissible evidence.

10. Opposer objects to the Interrogatories to the extent that they are vague, ambiguous, or overbroad and therefore not susceptible to a response as propounded.

11. Opposer objects to the Interrogatories to the extent that they exceed the requirements of the Federal Rules of Civil Procedure or the Trademark Rules of Practice.

12. Opposer objects to the Interrogatories to the extent that they require Opposer to undertake any investigation to ascertain information not presently within its possession, custody or control on the grounds of undue burden and because information from other sources are equally available to Applicant.

13. Opposer objects to the Interrogatories to the extent that they require Opposer to undertake such an extensive review that such Interrogatories are unduly burdensome and harassing.

14. Opposer objects to the Interrogatories to the extent that Applicant seeks the residential addresses of individuals on the grounds that disclosure of such information impinges on the privacy interest of such individuals.

15. Opposer objects to the Interrogatories to the extent that they are not limited to matters in the United States.

16. Opposer, in making its responses herein, interprets each request as being subject to and limited and restricted by the Board's Order dated September 17, 2009 wherein the Board dismissed, with prejudice, Applicant's counterclaims in this proceeding and denied Applicant's motion to leave to amend to state an additional counterclaim.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Opposer objects to the definition of the term "Opposer" as being overly broad and unduly burdensome to comply with insofar as it includes "officers", "directors", "agents", "representatives", "attorneys", and "other personnel thereof". Opposer is under no obligation to provide information not within Opposer's custody or control or to inquire into or investigate the knowledge of each and every such individual. The same is overbroad and unduly burdensome.

2. Opposer objects to the definition of "Document" to the extent that it exceeds the requirements of the Federal Rules of Civil Procedure or the Trademark Rules of Practice.

3. Opposer objects to the definition of "identify" and/or "identity" insofar as it seeks the residential addresses and telephone numbers of individuals on the grounds that disclosure of such information impinges on the privacy interest of such individuals.

4. Opposer objects to the definition/instruction concerning documents or communications withheld as being overbroad and unduly burdensome. Documents and communications will be sufficiently identified to permit Applicant to identify the same.

5. Opposer objects to the Instruction no. 1 to the extent it exceeds the requirements of Rule 26 F.R.Civ.P. regarding supplementation of discovery.

6. Opposer objects to Instruction no. 5. Opposer has no obligation to produce documents pursuant to an interrogatory.

All the responses hereinafter set forth are subject to the above Objections all of which shall be deemed incorporated into each individual response given below.

INTERROGATORY NO. 1

Interrogatory No. 1: Identify each product currently sold or offered for sale under Opposer's Marks in the United States.

Response: Wine

Interrogatory No. 2: For every product identified in response to Interrogatory No. 1 above, identify and describe the facts relating to the date(s) and manner(s) in which Opposer's Marks were first used.

Response: First use of the mark on wine occurred by a predecessor-in-interest to Franciscan (i.e., Paul Masson, Inc.). The mark was first used with the goods on May 12, 1971 as stated in Reg. No. 0997378. Franciscan has no direct knowledge of "the facts relating to the date(s) and manner(s) in which [the mark PINNACLE(S) was] first used" by Paul Masson nearly 40 years ago.

Interrogatory No. 3: For each product identified in response to Interrogatory No. 1 above, state the volume of sales in dollars since 2001.

Response: Annual volume of sales in dollars of wine bearing Opposer's Marks:

	<u>Wholesale Annual Sales in dollars</u>
FY 2001:	\$20,468,000
FY 2002:	\$23,306,000
FY 2003:	\$26,316,000
FY 2004:	\$25,843,000
FY 2005:	\$26,058,000
FY 2006:	\$27,320,738
FY 2007:	\$30,072,050
FY 2008:	\$32,025,294
FY 2009:	\$41,676,834

Total past 9 fiscal years: \$253,085,916 (wholesale sales)

Interrogatory No. 4: For each product identified in response to Interrogatory No. 1 above, state the volume of sales in units (i.e., cases) since 2001.

Response: Annual volume of sales in units (i.e., cases) of wine bearing Opposer's

Marks:

	<u>Cases</u>
FY 2001:	238,000
FY 2002:	271,000
FY 2003:	306,000
FY 2004:	300,500
FY 2005:	303,000
FY 2006:	317,683
FY 2007:	349,675
FY 2008:	344,358
FY 2009:	448,138

Interrogatory No. 5: For each product identified in response to Interrogatory No. 1 above, on which one or more of Opposer's Marks are not currently used, state: (i) the date on which the use of Opposer's Mark(s) was discontinued; (ii) the reason(s) for the discontinuance of Opposer's Mark(s); and (iii) whether Opposer intends to resume use of Opposer's Mark(s).

Response: N/A

Interrogatory No. 6: Identify and describe fully the manner in which Opposer's Marks have been displayed on Opposer's products.

Response: On labels and on capsules.

Interrogatory No. 7: Identify the persons who have been or will be principally responsible for the advertising, promotion and/or sale of each product in the United States identified in response to Interrogatory No.1 above.

Response:

Christine Lilienthal, Marketing Manager, Estancia Winery
John Maxwell, Group Director
Oren Lewin, SVP Marketing
Alicia Laury, PR Manager

Interrogatory No. 8: Identify all advertising and promotional methods and types of media used in advertising or promoting the sale of any products under Opposer's Marks, specifying each publication, periodical, newspaper, radio station, television station, Internet website, or other advertising medium used in connection with such advertising or promotion.

Response:

www.estanciawinery.com
Trade/Distributor pricing magazines
POS--available all year (neckers, shelftalkers, case cards, glorifiers)
Packaging
Winery signage

Interrogatory No. 9: Identify on an annual basis and broken down by specific product the amounts spent by Opposer in advertising and/or promoting Opposer's Marks in the United States from 2001 to the present.

Response: Annual amounts spent by Opposer in advertising and/or promoting Opposer's Marks for wine:

	<u>Approximate Figures</u>
FY 2001:	\$200,000
FY 2002:	\$275,000
FY 2003:	\$350,000
FY 2004:	\$400,000
FY 2005:	\$500,000
FY 2006:	\$600,000
FY 2007:	\$700,000
FY 2008:	\$750,000
FY 2009:	\$600,000

Interrogatory No.10: Identify on an annual basis and broken down by specific product gross revenues received by Opposer from the sale of products under Opposer's Marks in the United States since 2001.

Response: Opposer objects to the interrogatory as being duplicative of interrogatory no. 3.

Interrogatory No. 11: Identify all licenses, assignments or other agreements concerning or relating to Opposer's Marks.

Response: A copy of the Assignment abstract records from the USPTO TESS database is annexed hereto as Appendix "A".

Interrogatory No. 12: Identify the range of prices at which products are sold under Opposer's Marks.

Response: Opposer objects to the interrogatory as being, in part, irrelevant in this proceeding. Neither Opposer's registration nor the applicant's application is limited or restricted in any way pertaining to type or sophistication of consumer, channels of trade, price points, or the like. Subject to and without waiver of the foregoing objections: The range of wholesale prices at which Opposer's PINNACLES / PINNACLES RANCHES wines are sold generally range as follows: \$90.00 to \$144.00 per case. Opposer does not control the retail prices at which its wines are sold but understands from seeing store fliers, visiting retail stores, and searching various Internet store sites that the retail prices at which its PINNACLES / PINNACLES RANCHES wines are sold ranges from approximately \$9.00 to \$18.00 per bottle and some vintages of PINNACLES Reserve retail for \$30-\$40 per bottle.

Interrogatory No. 13: Describe all facts pertaining to Opposer's decision to apply to register the mark PINNACLES RANCHES, Serial No. 77/598,674, in the United States Patent and Trademark Office.

Response: The mark is considered a natural extension and/or expansion and/or variant of the PINNACLES mark. The term "ranches" in the mark is meant to highlight one of Opposer's own vineyard areas. "Pinnacles" is the historic name for the vineyard and is contiguous to the Estancia Winery. The term "ranches" is disclaimed in Opposer's application.

Interrogatory No. 14: Identify all known instances of actual confusion between Opposer's products and Applicant's products.

Response: As of the date of this response, Opposer has not been made aware of any instances of "actual" confusion.

Interrogatory No. 15: Other than documents requested to be identified in response to Interrogatory No. 17, identify all documents evidencing objections or actions taken by Opposer against any third party's use or registration of any mark that Opposer believed to be similar to Opposer's Marks.

Response: Opposer objects to interrogatory no. 15 as being overly broad and unduly burdensome to comply with and as requesting documents subject to the attorney client privilege. The documents which comprise those filed with the Board in the proceedings identified in response to interrogatory no. 17 are believed to be a sufficient response.

Interrogatory No. 16: State whether Opposer ever contacted Conklin Marketing and Sales Co. Inc. regarding that company's United States Trademark Application Serial Number 78154244 for the mark THE PINNACLE HANDCRAFTED SUGARCANE VODKA.

Response: Opposer is searching its files. To date, Opposer has not found anything concerning contacting Conklin Marketing and Sales Co., Inc. regarding the subject matter of the interrogatory. The interrogatory will be supplemented if information is subsequently found.

Interrogatory No. 17: Identify all documents pertaining to Cancellation Nos. 92026866, 92026829, and 91178682 brought before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office.

Response: Opposer objects to interrogatory no. 17 as being overly broad and unduly burdensome to comply with and as requesting documents subject to the attorney client privilege. The document list annexed hereto as Appendix "B" is believed to be a sufficient response.

1. Franciscan Vineyards, Inc. v. Domaines Pinnacle, Inc. – Opp. No. 91178682. See Appendix "B" annexed hereto – listing of documents filed and orders of the Board from the TTABVUE database.
2. Pacific Pinnacle Investments Ltd. v. Franciscan Vineyards, Inc. – Canc. No. 92026829. See Appendix "B" annexed hereto – listing of documents filed and orders of the Board from the TTABVUE database.
3. Pacific Pinnacle Investments Ltd. v. Franciscan Vineyards, Inc. – Canc. No. 92026866. See Appendix "B" annexed hereto – listing of documents filed and orders of the Board from the TTABVUE database.

Interrogatory No. 18: Identify all expert witnesses expected to be called to testify on Applicant's behalf in this proceeding, including the subject area on which each expert will testify, the substance of any facts and opinions to which each expert is expected to testify, a summary of the grounds for each opinion, and the facts showing the qualification of each expert.

Response: At the present time -- None.

Interrogatory No. 19: Identify each advertisement or promotional item for any of Opposer's products that uses the mark PINNACLES standing alone.

Response: For purposes of responding to this interrogatory, Opposer assumes that the interrogatory as worded is meant to specifically exclude advertisements and/or promotional items that bear the mark PINNACLES RANCHES. Subject to and without waiver of the foregoing assumption:

Most of the materials, other than capsules, use the term PINNACLES RANCHES. The materials referred to are:

case cards
shelftalkers
neckers

glorifiers
sell sheets/tech notes
label cards
signage--at winery and vineyard
capsule
labels
Tear Pads
website
distributor pricing books
various trade advertorials

Interrogatory No. 20: Identify each advertisement or promotional item for any of Opposer's products that emphasize the mark PINNACLES as the most prominent word featured in the advertisement or promotional item.

Response: Opposer objects to the interrogatory as being ambiguous and as requiring Opposer to make subjective assessments in determining what is required under the interrogatory. Opposer further objects to the interrogatory as being irrelevant to the proceeding, especially in light of the Board's decision of September 18, 2009 wherein Applicant's counterclaims were dismissed with prejudice. Subject to and without waiver of the aforesaid objections and all of the General and Specific objections asserted by Opposer, Opposer will make available for Applicant copies of all advertisements and/or promotional items that bear Opposer's Marks that are in the possession, custody or control of Opposer. Applicant will have to make its own subjective assumptions.

Interrogatory No. 21: Identify each person who provided information or otherwise assisted in the preparation of answers to the foregoing interrogatories, specifying the information that he or she provided.

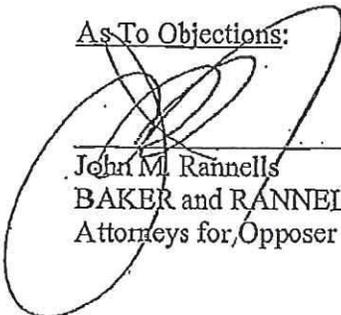
Responses:

Ronald C. Fondiller
Senior Vice President, Franciscan Vineyards, Inc.
c/o Constellation Brands, Inc.
235 North Bloomfield Road
Canandaigua NY 14424

Christine Lilienthal
Marketing Manager
Estancia Winery
801 Main Street, St. Helena, California 94574

John M. Rannels, Attorney for Franciscan in this proceeding;

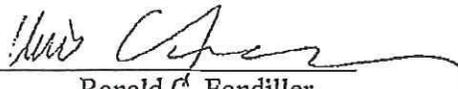
As To Objections:



John M. Rannells
BAKER and RANNELLS PA
Attorneys for Opposer

AS TO RESPONSES:

I, Ronald C. Fondiller, Senior Vice President, Secretary and General Counsel of Franciscan Vineyards, Inc., have reviewed the responses set forth above and declare, this 26th day of October, 2009, that they are true and correct to the best of my knowledge and belief.



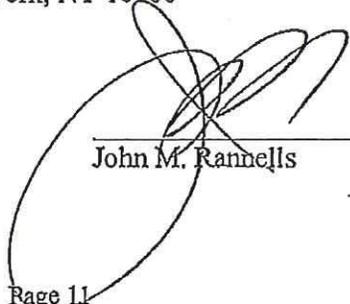
Ronald C. Fondiller

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **OPPOSER'S RESPONSES AND OBJECTIONS TO APPLICANT'S FIRST SET OF INTERROGATORIES** was served on counsel for Applicant, this 26th day of October, 2009, by sending same via First Class Mail, postage prepaid, to:

Daniel I. Schloss
Greenberg Traurig, LLP
200 Park Avenue, 34th Floor
New York, NY 10166

Dated: October 26, 2009



John M. Rannells

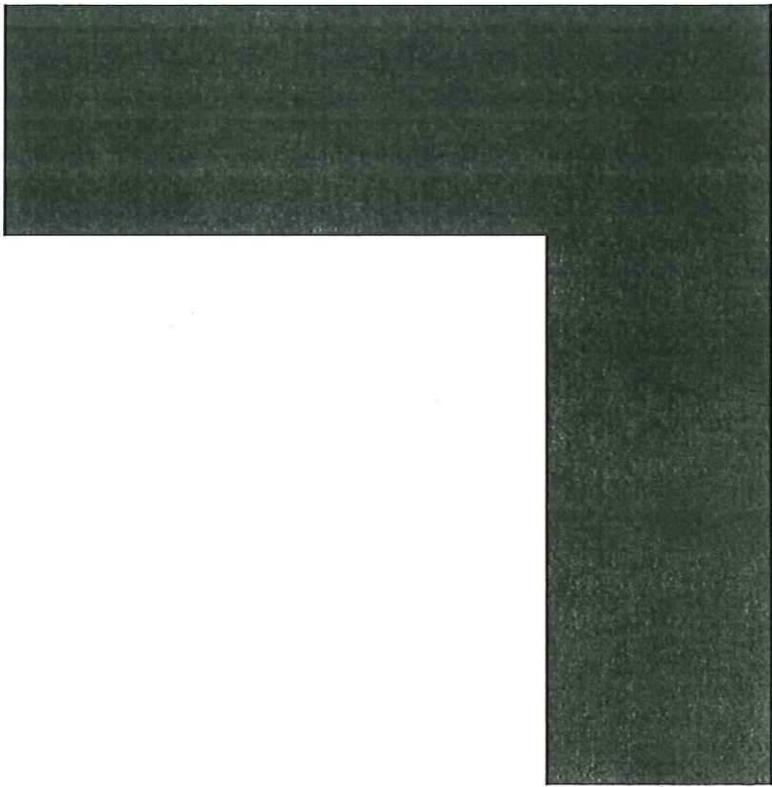


Exhibit Separator

PINNACLES



Estancia

2008

CHARDONNAY
MONTEREY COUNTY

PINNACLES RANCHES

HANDCRAFTED



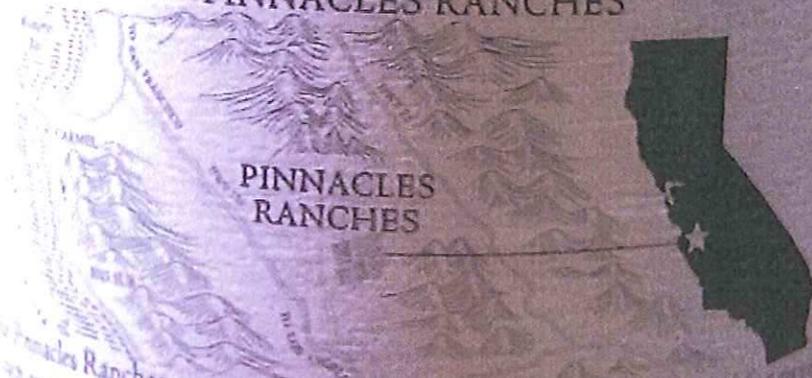
ARTISAN GROWN

PENICAD 800-631-6969

EXHIBIT

K
1-4-11

ESTANCIA MONTEREY CHARDONNAY
PINNACLES RANCHES



PINNACLES
RANCHES

Pinnacles Ranches are near Monterey's Pacific coast where cool fog mornings give way to warm, sunny days perfect for ripening world-class Chardonnay. We employ artisan winemaking practices such as gentle pressing and barrel aging to craft wines of exceptional character. Estancia Chardonnay displays lush, tropical fruit flavors and a soft, creamy finish.

www.estanciawinery.com

PRODUCED & BOTTLED BY ESTANCIA ESTATES
MONTEREY, CALIFORNIA. CONTAINS SULFITES

DISCLAIMER WARNING: (1) ACCORDING TO THE
FEDERAL GOVERNMENT, PREGNANT
WOMEN SHOULD NOT DRINK
ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE
OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF
ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO
OPERATE MACHINERY, AND MAY
CAUSE PROBLEMS.







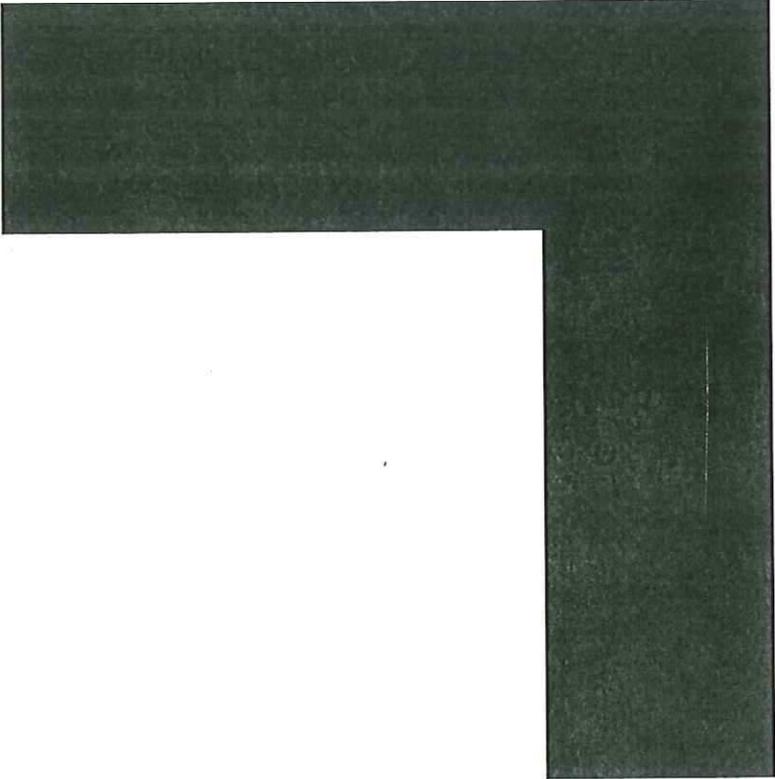
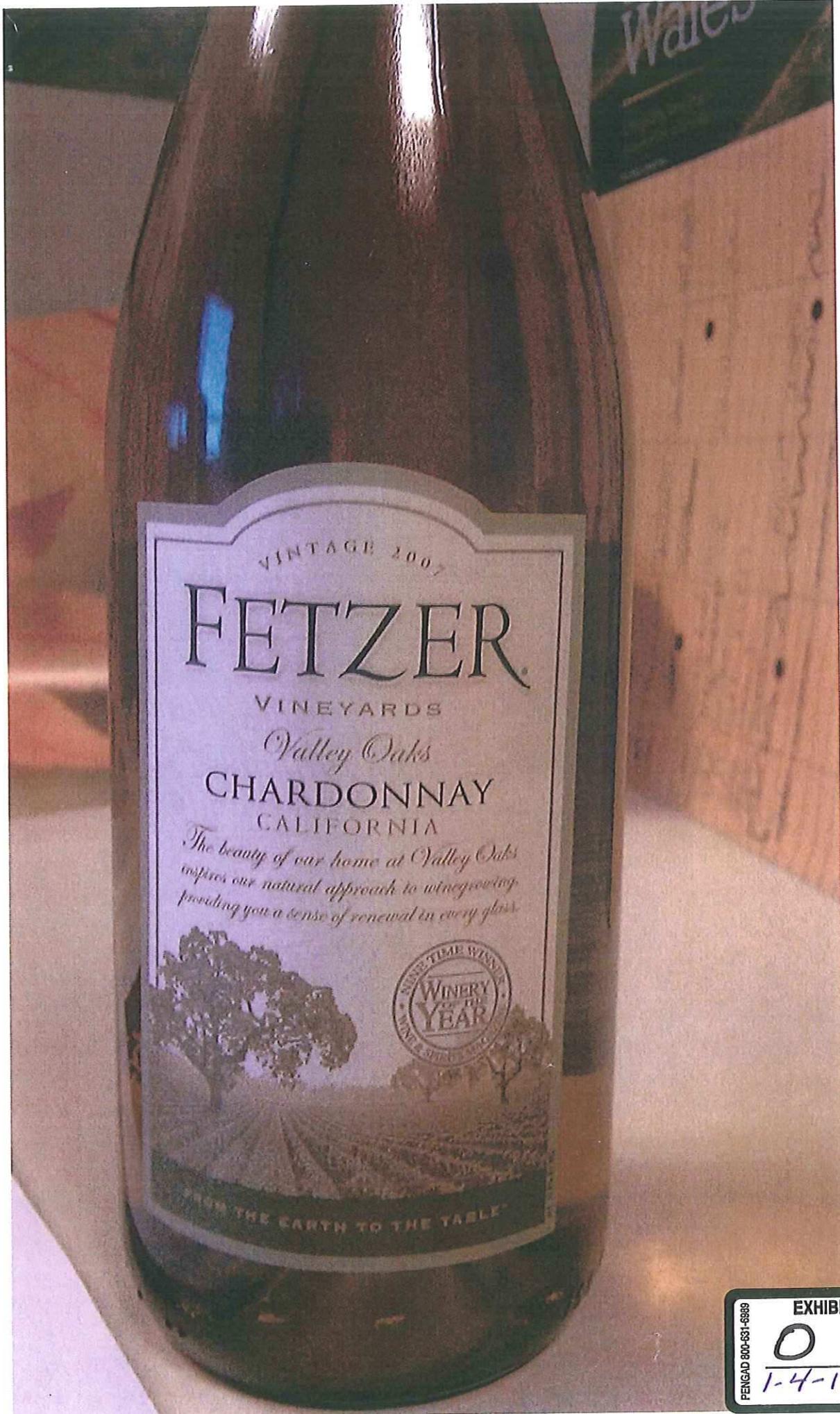


Exhibit Separator



VINTAGE 2007

FETZER

VINEYARDS

Valley Oaks

CHARDONNAY

CALIFORNIA

*The beauty of our home at Valley Oaks
inspires our natural approach to winegrowing
providing you a sense of renewal in every glass.*

NINE-TIME WINNER
WINERY
OF THE
YEAR

FROM THE EARTH TO THE TABLE

PENGAD 800-631-6589

EXHIBIT

0

1-4-11

FETZER

Valley Oaks

With each new vintage, I recall why I enjoy making wine. Starting fresh each spring energizes me. My sense of personal renewal shows in our popular Chardonnay. This is a wine with a medium body, full of easy-to-taste flavors of apple, pear and tropical fruits. So when the day is done, I like to relax and refresh with good friends. Our Chardonnay is always invited.

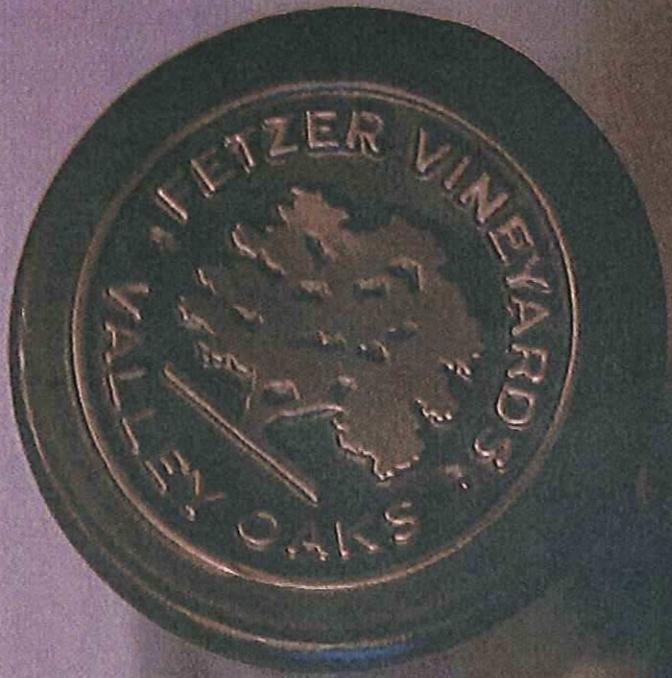
Ann
DENISE MARTIN

Wine is a FETZER tradition for food and wine lovers and family, get and learn more exciting things about FETZER Wineries.

GOVERNMENT WARNING: IT IS ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS OR CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR, OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

WINE & SPIRITS
BY FETZER VINEYARD
MENDOCINO, CALIFORNIA
100% GRAPE JUICE
100% CONTAINS SUGAR





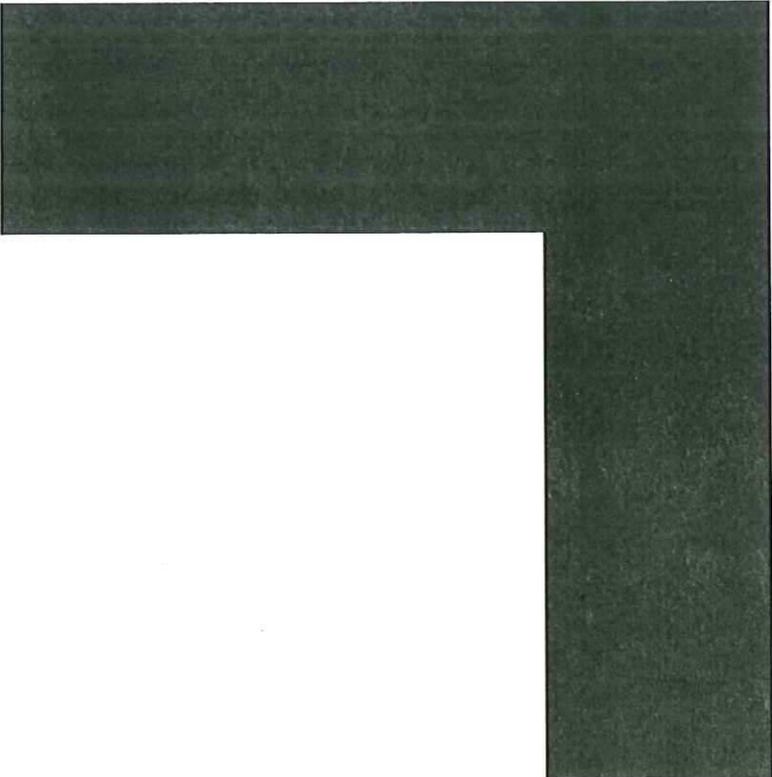


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Typed Drawing

Word Mark VALLEY OAKS
 Goods and Services IC 033, US 047, G & S; wine, FIRST USE: 19841200, FIRST USE IN COMMERCE: 19841200
 Mark Drawing Code (1) TYPED DRAWING
 Serial Number 74199330
 Filing Date August 29, 1991
 Current Filing Basis 1A
 Original Filing Basis 1A
 Published for Opposition May 5, 1992
 Registration Number 1703603
 Registration Date July 28, 1992
 Owner (REGISTRANT) FETZER VINEYARDS CORPORATION CALIFORNIA 12901 Old River Road Hopland CALIFORNIA 95449
 Attorney of Record DAVID S GOODER
 Type of Mark TRADEMARK
 Register PRINCIPAL
 Affidavit Text SECT 15, SECT 8 (6-YR), SECTION 8(10-YR) 20020930.
 Renewal 1ST RENEWAL 20020930
 Live/Dead Indicator LIVE

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