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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.
Correspondence Address	JOHN M RANNELLS BAKER & RANNELLS PA 575 ROUTE 28, SUITE 102 RARITAN, NJ 08869-1354 UNITED STATES jmr@br-tmlaw.com
Submission	Testimony For Defendant
Filer's Name	John M. Rannells
Filer's e-mail	jmr@br-tmlaw.com, k.hnasko@br-tmlaw.com, n.friedman@br-tmlaw.com
Signature	/john rannells/
Date	03/04/2011
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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

Opposer

v.

Franciscan Vineyards, Inc.

Applicant  
-----X

**Opposition No. 91191056**

Mark: PINNACLES RANCHES

Serial No.: 77/598674

**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)**

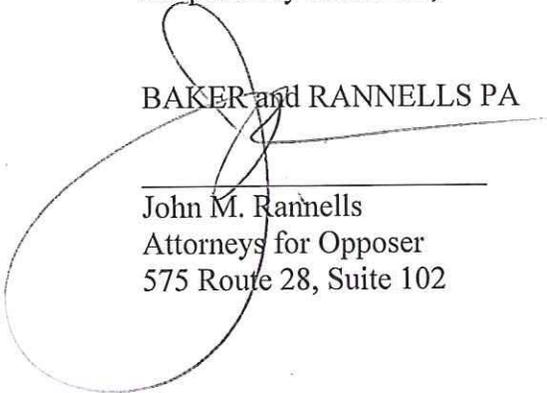
Applicant, Franciscan Vineyards, Inc., hereby files the following excerpts from the trial testimony of Riccardo Mora, taken on January 5, 2011 along with the corresponding exhibits:

The following pages: Pages 1-4; Page 8, lines 18-25; Page 9, lines 1-14; Pages 11-20; Page 30, lines 18-25; Pages 31-34; Page 35, lines 1-17 and Exhibit F.

A copy of the referenced testimony transcript excerpts and referenced exhibits was served upon the Opposer's attorneys on March 4, 2011 via first class mail postage prepaid to the following address. Daniel I. Schloss, Esq., Greenberg Traurig, LLP, 200 Park Avenue, 34<sup>th</sup> Floor, New York, N.Y. 10166

Respectfully submitted,

BAKER and RANNELLS PA

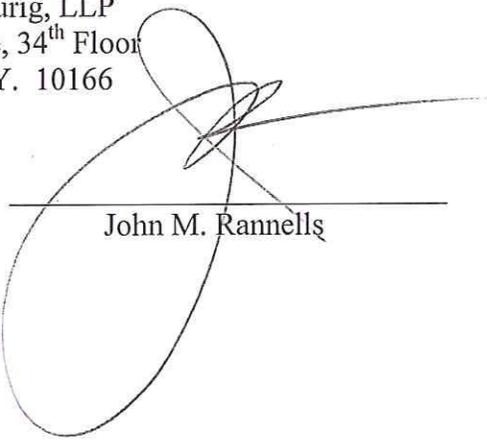
  
\_\_\_\_\_  
John M. Rannells  
Attorneys for Opposer  
575 Route 28, Suite 102

Raritan, New Jersey 08869  
jmr@br-tmlaw.com / 908-722-5640

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **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)** in re White Rock Distilleries, Inc. v. Franciscan Vineyards, Inc., Opposition No. 91191056 was forwarded by first class postage pre-paid mail this 4<sup>th</sup> day of March, 2011 to the Applicant's attorneys at the following address:

Daniel I. Schloss, Esq.  
Greenberg Traurig, LLP  
200 Park Avenue, 34<sup>th</sup> Floor  
New York, N.Y. 10166



John M. Rannells

DATED: March 4, 2011

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

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**CERTIFIED COPY**

FRANCISCAN VINEYARDS, INC.,

Opposer,

vs.

WHITE ROCK DISTILLERIES, INC.,

Applicant.

Opposition No.

91185984

Mark: PINNACLE

Serial No.:

78/166,136

WHITE ROCK DISTILLERIES, INC.,

Opposer,

vs.

FRANCISCAN VINEYARDS, INC.,

Applicant.

Opposition No.

91191056

Mark: PINNACLES

RANCHES

Serial No.:

77/598,674

Deposition of

RICCARDO A. MORA

Wednesday, January 5, 2011

Reported by:  
COLLEEN M. REDAMONTI  
CCRR, CSR No. 7012  
Job No.: 27381LR



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APPEARANCES

For the Applicant:

GREENBERG TRAUIG, LLP

By: DANIEL I. SCHLOSS

MASAHIRO NODA

Attorneys at Law

MetLife Building

200 Park Avenue

New York, New York 10166

212.801.2256

E-mail: schlossd@gtlaw.com

nodam@gtlaw.com

For the Opposer:

BAKER & RANNELLS, PA

BY: NEIL B. FRIEDMAN

JOHN M. RANNELLS

Attorneys at Law

575 Route 28 - Suite 102

Raritan, New Jersey 08869

908.722.5640

E-mail: n.friedman@br-tmlaw.com

jmr@br-tmlaw.com

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## EXHIBITS

Deposition of RICCARDO A. MORA

Wednesday, January 5, 2011

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A	Subpoena to Testify at a Deposition or to Produce Documents, two pages.	5
B	Constellations Wines U.S. Market Research Request Form, Bates-stamped A00340 through 42, three pages.	11
C	Document entitled "Packaging/Product Research Issues," Bates-stamped A00349, one page.	20
D	Document entitled "Estancia CH Back-Label," Bates-stamped A00193 through 95, three pages.	25
E	Photocopy of wine labels, one page.	29
F	Photocopy of the front and back of a wine bottle, two pages.	30
G	Document entitled "Estancia, Our Wines," one page.	35
H	Map entitled "Estancia Monterey," with attached sell sheet entitled "Quality That Drives Consumer Demand," two pages.	39
I	Document entitled "Estancia, Uncork and Unwind, Brand Plan," Bates-stamped A00165 through 67, three pages.	48
J	Excerpt from the deposition of Robert A. Mora, Volume 1, dated 5-10-2010, pages 81 through 83, three pages.	53

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Q. Going back to your tenure with Franciscan and with Constellation, at some point in time were you the brand manager for the Estancia brand?

A. That's correct. My title may have been director, but I can't recall, you know. But I worked on managing the Estancia brand, yes.

Q. What time period was that?

A. So, if I joined Constellation in 2003, um, it

1 would have been about 15 months after I joined. So,  
2 say, from about later 2004, 2005, for probably about two  
3 years.

4 Q. So two years from about 2004 to '5, until about  
5 2006 to '7?

6 A. Yes.

7 Q. And can you describe your responsibilities as  
8 the brand manager for Estancia?

9 A. Um, to understand the brand's position in the  
10 marketplace, to understand what our unique selling  
11 proposition was, to understand how to best exploit our  
12 position in the market, and the physical product  
13 elements in the trade and consumer universe to grow the  
14 overall business.

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1 A. I read my transcript from our first deposition.  
2 I read some E-mail from Constellation counsel.

3 Q. I'm not asking about the content of those,  
4 okay?

5 A. Those would be pretty much it.

6 Q. Okay. And about how much time would you say  
7 you devoted to the preparation?

8 A. Cumulatively, over maybe three or -- to four  
9 instances, about one hour.

10 MR. SCHLOSS: Please mark this as Exhibit B.

11 (Exhibit B was marked.)

12 Q. BY MR. SCHLOSS: Mr. Mora, I'm showing you  
13 what's been marked as Exhibit B. It consists of three  
14 pages.

15 Please take a look at them, and let me know if  
16 you recognize those pages.

17 MR. RANNELLS: Take your time and review each  
18 page.

19 (Pause in proceedings for document review.)

20 THE WITNESS: It's a nice piece of work.

21 Q. BY MR. SCHLOSS: Okay. So do you recognize  
22 those three pages?

23 A. I do.

24 Q. What are they?

25 A. This is a summary of a research brief

1 handwritten by myself to Leslie -- and sent to Leslie  
2 Joseph, who facilitated the research at Constellation.

3 Q. What was the purpose of the research?

4 A. I don't have the complete brief here that  
5 accompanies this summary, but based on reading the  
6 primary and secondary objectives here, we were exploring  
7 a migration of packaging for the Estancia brand.

8 Q. And was there any particular catalyst for  
9 exploring that migration?

10 A. Many.

11 Q. What were some of them?

12 A. Existing label in the market, just for awhile.  
13 Generally, you just want to refresh things, number one.

14 Number two, you know, it was listed, you know,  
15 in the primary objectives here to understand what  
16 motivated consumers to purchase the brand, and to  
17 augment those motivations by adjusting the package.

18 Q. So just so I understand, did this document --

19 Well, it's captioned "Market Research Request  
20 Form." So who was being asked to do research?

21 A. Um, there are a number of people involved,  
22 you know, in that process. I, in this case, was the  
23 initiator. But the word "conducting" is, you know,  
24 confusing.

25 Q. Okay. What are some of the types of research

1 that would have been performed in response to this  
2 request?

3 A. Um, focus groups.

4 Q. Anything else?

5 A. Um, that would have been all the -- that would  
6 have been the research technique employed as it related  
7 to this exercise. There were not other types of  
8 research conducted.

9 Q. Okay. There is a reference in the fourth  
10 bullet point under "Primary Objectives" to "Genome  
11 Enthusiast consumer segment."

12 Do you see that?

13 A. I do.

14 Q. What is meant by the "Genome Enthusiast"?

15 A. The Genome Enthusiast is the consumer segment  
16 that we identify that knows most about wine, that is,  
17 most involved, you know, with wine. Personally involved  
18 in accumulating knowledge about wine. It's a  
19 knowledgeable consumer.

20 Q. Does "genome" refer to particular research that  
21 was done previously?

22 A. Genome refers to --

23 MR. RANNELLS: Objection. Are you referring to  
24 the genome as described in this particular document or  
25 is it genome in general?

1 MR. SCHLOSS: Genome as described in this  
2 particular document.

3 THE WITNESS: The word genome references  
4 internal Constellation research. Again, the genome  
5 research identified many consumer segments. The  
6 enthusiast is one of those segments. That segment is  
7 what we refer to as that consumer that pursues the best,  
8 and is most knowledgeable about wine. By "best," I  
9 mean, you know, highest quality wines. They tend to  
10 spend more than other segments.

11 Q. BY MR. SCHLOSS: Just to make sure I  
12 understand, so was there prior research done to identify  
13 the enthusiasts, and now you were requesting additional  
14 research as to a particular market segment identified by  
15 the prior research?

16 A. There was particular research -- I'm sorry,  
17 previous research conducted not by myself, but I had  
18 knowledge of the research that was conducted,  
19 identifying this consumer segment. And this research is  
20 requesting that we explore packaging, how this consumer  
21 segment responds to different package alternatives.

22 Q. What sort of alternatives do you mean?

23 A. Um, by reading the primary objective, color,  
24 shelf impact, shifting the brand perception to upscale  
25 and more expensive, as is the preference of this

1 segment. And I can, you know, read this list of 12  
2 items under "Primary Objectives" if you'd like.

3 Q. No, that's not necessary.

4 One of the primary objectives listed is:

5 "Understand consumer interpretation of 'Keyes  
6 Canyon Ranches' and 'Pinnacles Ranches' markers."

7 What did that mean?

8 A. As a marker, my perception, my own perception  
9 of those words is that they convey something that's  
10 meaningful, you know, to this segment. I wanted to  
11 validate, you know, what that meaning may have been.

12 Q. Why was that a primary objective in this case?

13 A. We seek to use markers, you know, like Keyes  
14 Canyons or Pinnacles, to distinguish that wine from  
15 other wines within the Estancia brand and from  
16 competitors. And specifically to genome enthusiasts, we  
17 want to convey, you know, the notion of the best, or  
18 special, or the top. And a word like "Pinnacles,"  
19 you know, does, we believe -- I believed at the time  
20 convey that.

21 Q. So what does the word "markers" mean in your  
22 understanding in this document?

23 A. The word marker, a check, a tick, something  
24 that is visible to a consumer, you know, upon reading  
25 some information or seeing some information. Could be

1 words, could be a symbol. It's a mark -- marker.

2 Q. So the -- this primary objective sought to gain  
3 increased understanding of consumer perception of the  
4 terms Keyes Canyon Ranches and Pinnacles Ranches?

5 A. Yes. So, if my -- if my hypothesis was  
6 confirmed that it's perceived in a favorable light, and  
7 helps convey positive emotion, you know, about the  
8 product, then we would seek to amplify it, you know, on  
9 the package.

10 Q. And do you know what the research conducted  
11 ultimately found in that regard?

12 A. I can summarize, although, you know, I don't  
13 have the research report, and this was done, you know,  
14 some time ago. But in a nutshell, helps distinguish the  
15 product from other wines. Helps distinguish the product  
16 in a positive light.

17 Q. How does it help distinguish the product in  
18 that regard?

19 A. Other products don't have the word "Pinnacles,"  
20 for example, you know.

21 MR. RANNELLS: If I could just interject for a  
22 second, so we have an understanding. This transcript  
23 will be considered confidential for 30 days afterwards.  
24 Just so the reporter understands.

25 MR. SCHLOSS: Yes.

1 MR. RANNELLS: And then we'll make designations  
2 later.

3 MR. SCHLOSS: Yes.

4 MR. RANNELLS: Thank you.

5 THE WITNESS: Distinguish within Estancia, you  
6 know, white wine or warm climate wines versus cool  
7 climate wines. A notion that, you know, something that  
8 is at the pinnacle is at the top.

9 It's a strong word, a positive word. It  
10 invokes some notion of quality.

11 Q. BY MR. SCHLOSS: Do you know when Pinnacles,  
12 the marker Pinnacles Ranches began to appear on Estancia  
13 wine labels?

14 A. I do not.

15 Q. Do you have any approximate idea?

16 MR. RANNELLS: Only if you know.

17 THE WITNESS: I do not.

18 Q. BY MR. SCHLOSS: Okay. On the third page of  
19 this document, under the heading "Credibility and  
20 Prestige," the -- the text there reads:

21 "Moderator to lead discussion to understand  
22 consumer perception of vineyard designators 'Pinnacles  
23 Ranches' and 'Keyes Canyon Ranches.' Lead discussion on  
24 copy appearing near 'grower' icon that reads  
25 'handcrafted' and 'artisan grown.' Our objective is to

17

1 ensure that these are credible statement" -- I guess  
2 that should be statements -- "that enhance brand  
3 prestige."

4 Can you explain the statement of the objective  
5 there?

6 MR. RANNELLS: Just for clarity, when Daniel  
7 said, "that should be statements," that's not actually  
8 part of the text.

9 MR. SCHLOSS: Yes. Understood.

10 THE WITNESS: So, those words, "Pinnacles  
11 Ranches" or conversely "Keyes Canyon Ranches," appear on  
12 different products or different labels, or appeared in  
13 different maybe font sizes or colors of different label  
14 alternatives. I asked the moderator to lead a  
15 discussion of what the consumer's perception of those  
16 words were. We wanted to ensure that these statements  
17 enhanced the prestige of the brand in a manner that was  
18 attractive to genome enthusiasts.

19 Q. BY MR. SCHLOSS: What was meant here by  
20 "credible statement"?

21 A. Do they believe it's true, you know. Do they  
22 believe it's true or is it just gobbledygook.

23 Q. True in what sense?

24 A. If you put the word "Pinnacles" on something --

25 Q. Well, just for clarity, this is specifically in

1 reference to Pinnacles Ranches and Keyes Canyon Ranches?

2 A. Yes.

3 Q. So what -- you said credible statement means is  
4 it true. So is what true?

5 A. Is it true that by using these words, that they  
6 lend halo, they impart value to the product.

7 Q. "Halo" meaning positive association?

8 A. Positive imagery. So, for example, if you had  
9 a product that's a one-dollar product, and you had  
10 something that said "handcrafted and artisan grown,"  
11 it's probably not going to be received as credible.

12 Q. What does "handcrafted and artisan grown" mean?

13 A. That the wines have received some input that  
14 sets them apart from the lowest tier products.

15 Q. What sort of input?

16 A. The product was produced with some care.

17 Q. As opposed to mass produced?

18 A. As opposed to a perception of products that are  
19 not produced with care or produced with less --  
20 comparatively less care.

21 Q. Why would the terms Pinnacles Ranches and Keyes  
22 Canyon Ranches convey that opinion?

23 A. They sound regal. They convey an emotional,  
24 you know, state of being that is well suited, you know,  
25 to wine.

1 Q. How would you describe that emotional state of  
2 being?

3 A. Um, if you're at the pinnacle, you're at the  
4 top.

5 Q. And if you're at the Pinnacles Ranches, then  
6 what?

7 A. The word "ranches" would help to convey,  
8 you know, a sense of geographic diversity.

9 Q. "Diversity" meaning what?

10 A. Where grapes come from.

11 MR. SCHLOSS: Please mark this as Exhibit C.

12 (Exhibit C was marked.)

13 Q. BY MR. SCHLOSS: Mr. Mora, I'm showing you  
14 what's been marked as Exhibit C. Can you tell me if you  
15 recognize that document?

16 (Pause in proceedings for document review.)

17 THE WITNESS: It appears --

18 MR. RANNELLS: I don't think --

19 THE WITNESS: Oh, is there a question? Oh, I'm  
20 sorry.

21 Q. BY MR. SCHLOSS: The question is, do you  
22 recognize the document?

23 A. I believe I do.

24 Q. And what do you believe it is?

25 A. I think they are a list of notes to myself.

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Q. BY MR. SCHLOSS: Mr. Mora, showing you what's been marked as Exhibit F, can you tell me if you recognize that, what's depicted on those two pages?

(Pause in proceedings for document review.)

THE WITNESS: Hell of a piece of work.

Q. BY MR. SCHLOSS: Especially the photography.

A. Especially the photography.

These are industry best of class wine labels.

1 Assuming it comes -- the picture was taken from the same  
2 bottle, it's an Estancia 2008 Chardonnay from Monterey  
3 County, Pinnacles Ranches, that was handcrafted and  
4 artisan grown. And there's a back label with some copy,  
5 although, I can't read some of the edges of it.

6 Q. Does the copy appear that it's, from what you  
7 can read, largely consistent with some of the draft copy  
8 we looked at a few moments ago?

9 A. It does. It does largely so.

10 Q. And does the map portion of the back label look  
11 consistent with the map imagery depicted on the exhibit  
12 I showed you immediately before this?

13 A. They at least look very similar.

14 MR. FRIEDMAN: You're referring to Exhibit E,  
15 correct?

16 MR. SCHLOSS: Exhibit E, correct.

17 THE WITNESS: Yes.

18 Q. BY MR. SCHLOSS: How would you describe the  
19 appearance of the term "Pinnacles Ranches" on the front  
20 label of this 2008 Chardonnay?

21 A. As a supporting element to the Estancia brand.  
22 By "supporting element," I mean a sub-branding to the  
23 larger, you know, Estancia brand.

24 Q. So Pinnacles Ranches is the sub-brand you said  
25 of the Estancia brand?

1 A. In the same manner that I have Keyes Canyon  
2 Ranches, and you know, other things may have existed at  
3 other times in history. Not too sure about that. But  
4 yes, Pinnacles Ranches is a tier out of Estancia.

5 Q. What about the enclosure capsule portion at the  
6 top of the 2008 Chardonnay bottle. Can you see what's  
7 depicted there?

8 A. Not too well, but I'm familiar with it.

9 Q. If you know, what is depicted there?

10 A. "Pinnacle."

11 Q. The word "Pinnacle"?

12 A. It could be "Pinnacle," could be "Pinnacles."

13 Again, I can only see a few letters.

14 MR. RANNELLS: Would you like him to look at  
15 the bottle?

16 MR. SCHLOSS: Well, it's okay.

17 MR. RANNELLS: Okay.

18 Q. BY MR. SCHLOSS: If Pinnacles Ranches is the  
19 sub-brand of Estancia here -- oh, there you go. Here is  
20 the original.

21 Do you want to mark it as another exhibit?

22 MR. FRIEDMAN: Just leave it as F-1. It's the  
23 same bottle.

24 MR. SCHLOSS: We'll stipulate to that, since  
25 you took the picture.

1 Q. If Pinnacles Ranches on the front label is the  
2 sub-brand, what is Pinnacles on the enclosure portion  
3 here?

4 A. Pinnacles Ranches, Pinnacles Vineyard,  
5 you know, Pinnacles, have all, you know, over the life  
6 span of this brand, at least as the history was  
7 downloaded to me when I arrived working on it, all used  
8 interchangeably to mean the same thing.

9 On this capsule, as a practical matter, I can  
10 increase the font size of "Pinnacles."

11 Q. How can you do that?

12 A. Well, there are more letters in the word  
13 "Pinnacles Ranches" than "Pinnacles." So if I were  
14 going to have "Pinnacles Ranches," I might be able to  
15 get it to wrap around once.

16 In this particular case, the word "Pinnacles,"  
17 you know, is more meaningful than "Ranches," actually.

18 Q. Well, let me just ask you.

19 You mentioned the term "Pinnacles Ranches" on  
20 the front label functions as a sub-brand in this  
21 instance.

22 A. It does.

23 Q. So my question to you is:

24 How does the term "Pinnacles" on the closure  
25 function?

1 A. As a sub-brand to Estancia.

2 Q. So it's a second sub-brand?

3 A. We use them interchangeably. It would not be  
4 distinct from Pinnacles Ranches. In the same way that  
5 Pinnacles Vineyards, Pinnacles, you know, and perhaps  
6 singular versions at other times in history, but I don't  
7 know. But we consider them to be the same thing, yes.

8 "Pinnacles" is a very descript word. "Ranches"  
9 is less descript. Pinnacles has meaning and conveys  
10 emotion. It's important.

11 Q. What do you mean by "descript"?

12 A. The word carries more power because it has more  
13 emotion in it.

14 Q. Why isn't it on the label, then?

15 A. It is. "Pinnacles Ranches."

16 Q. No, "Pinnacles Ranches" is on the label.

17 A. Yes.

18 Q. But "Pinnacles" alone is not?

19 A. It's not to say that the word "Ranches" is also  
20 not important. But if I were going to lend importance  
21 to one or the other, you know, it would be Pinnacles.

22 Q. Well, I guess then my question would be:

23 What was intended to be communicated to  
24 consumers if on the front label the term "Pinnacles  
25 Ranches" appears as a sub-brand, while on the closure,

1 the term "Pinnacles" appears and not on the front label?

2 A. No difference in our attempted message to  
3 consumers.

4 Q. Which would have been what?

5 A. To convey a sub-brand of Estancia.

6 Q. And is that sub-brand -- well, how would you --  
7 How does that sub-brand distinguish itself from  
8 other Estancia wines?

9 A. Well, for example, there is Estancia Keyes  
10 Canyon Ranches. Estancia Pinnacles Ranches are wines  
11 that are styled from grapes grown in geographically cool  
12 places. They taste different. They are lighter,  
13 brighter.

14 Keyes Canyon Ranches conversely are grown from  
15 grapes in warmer climates, and they're rounder, more  
16 supple, softer, denser wines.

17 Q. Okay. Thank you.

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PINNA



*Estancia*

2008

CHARDONNAY  
MONTEREY COUNTY

PINNACLES RANCHES

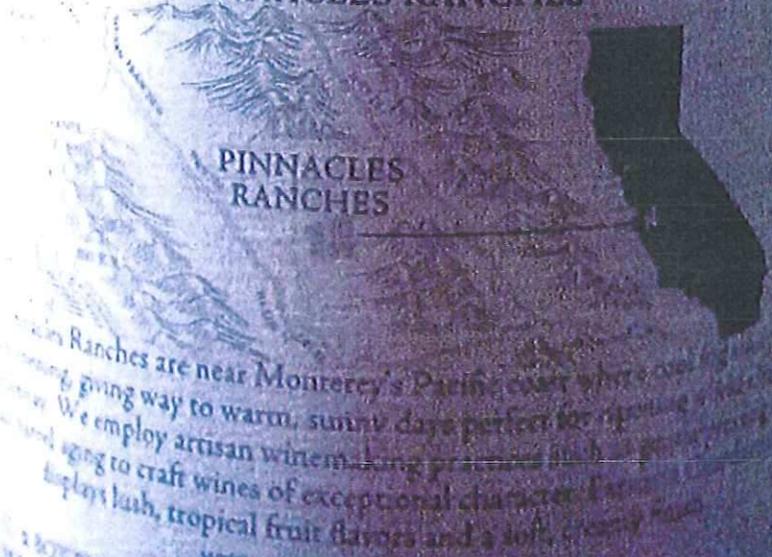
HANDCRAFTED



ARTISAN CRAFT

EXHIBIT NO. F  
DATE: 1-5-11  
WITNESS: mora  
COLLEEN REDAMONTI, CSR 7012

ESTANCIA MONTEREY CHARDONNAY  
PINNACLES RANCHES



PINNACLES  
RANCHES

Pinnacles Ranches are near Monterey's Point, coast where...  
...giving way to warm, sunny days perfect for...  
... We employ artisan winemaking...  
... going to craft wines of exceptional character...  
... displays lush, tropical fruit flavors and a soft, creamy...

[www.estanciawinery.com](http://www.estanciawinery.com)

BOTTLED BY ESTANCIA ESTATES  
CALIFORNIA - CONTAINS SULFITES

WARNING: (1) ACCORDING TO THE  
... WOMEN SHOULD NOT DRINK  
... DURING PREGNANCY BECAUSE  
... BIRTH DEFECTS. (2) CONSUMPTION OF  
... IMPAIRS YOUR ABILITY TO  
... OPERATE MACHINERY, AND MAY  
... PROBLEMS.

