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 WSJ, LLC d/b/a SEISMIC BREWING CO.

11  
 12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**

15  
 16 WSJ, LLC d/b/a SEISMIC BREWING  
 COMPANY,

17 Plaintiff,

18 v.

19 DBI BEVERAGE INC.; DBI BEVERAGE  
 NAPA; DBI BEVERAGE SACRAMENTO;  
 20 DBI BEVERAGE SAN FRANCISCO; DBI  
 BEVERAGE SAN JOAQUIN; DBI  
 BEVERAGE SAN JOSE; REYES  
 21 HOLDINGS, LLC; and HARBOR  
 DISTRIBUTING LLC,

22  
 23 Defendants.

Case No. \_\_\_\_\_

**ANTITRUST**

**COMPLAINT BY WSJ, LLC d/b/a  
 SEISMIC BREWING COMPANY FOR:**

1. **VIOLATIONS OF THE CLAYTON ACT  
 (15 U.S.C. § 18.)**
2. **VIOLATIONS OF THE SHERMAN ACT  
 (15 U.S.C. § 2)**
3. **VIOLATIONS OF CALIFORNIA'S  
 UNFAIR COMPETITION LAW  
 (Bus. & Prof. Code § 17200 *et seq.*)**

**JURY TRIAL DEMANDED**

REDACTED

## INTRODUCTION

1  
2           1.       Seismic is a small, family-owned craft brewer dedicated to producing delicious,  
3 sustainable beer from its epicenter in Sonoma County. Seismic brings this complaint for violations  
4 of federal antitrust laws against the largest distributor in the United States, Reyes, and Seismic’s  
5 former distributor, DBI, which conspired with Reyes to aid its monopolization of the beer  
6 distribution market and to harm Seismic’s ability to distribute its products to consumers.

7           2.       Craft beer originated in California, and California remains a key driver of growth in  
8 the industry. California is home to over 1,000 craft breweries, which is more craft breweries than  
9 any other state. In 2018, craft brewers in California supported over 61,000 people in full-time jobs,  
10 paid over \$905 million in state and local taxes, and contributed over \$9 billion to California’s  
11 economy.<sup>1</sup> They also made great beer.

12           3.       In light of the antitrust violations discussed below, California’s once robust craft  
13 beer industry is now in jeopardy. As a recent report issued by the U.S. Treasury on competition  
14 issues in the alcohol industry recognized, “[d]istributors compete on factors such as logistical  
15 capabilities, execution, marketing services, and financial terms to win and (franchise laws aside)  
16 retain the business of suppliers with desirable brands.”<sup>2</sup> Beginning no later than 2018, Defendant  
17 Reyes began rapidly acquiring beer distributors and expanding its market share to dominate beer  
18 distribution in California. As a result, competition in the beer distribution has decreased, leading to  
19 craft breweries and retailers being coerced into contracts with materially less favorable service  
20 commitments.

21           4.       On September 13, 2019, Defendant DBI was acquired by Reyes. DBI conspired  
22 with Reyes to monopolize the California beer distribution market and unlawfully concentrate  
23 Reyes’ power for the purposes of destroying fair competition. In furtherance of the conspiracy, DBI  
24 agreed as part of Reyes’ acquisition to force Seismic and other craft brewers to “negotiate” new,  
25

26  
27 <sup>1</sup> California Craft Brewers Association, *California Craft Beer 2018 Economic Impact* (Oct. 2019), available at  
[https://californiacraftbeer.com/wp-content/uploads/2019/12/CCBS\\_economicImpact19\\_85x11F.pdf](https://californiacraftbeer.com/wp-content/uploads/2019/12/CCBS_economicImpact19_85x11F.pdf).

28 <sup>2</sup> See U.S. Treasury Report, *Competition in the Markets for Beer, Wine, and Spirits*, (Feb. 2022) at 23-24 (hereafter, the  
“Federal Alcohol Competition Report”), available at <https://home.treasury.gov/system/files/136/Competition->

1 anticompetitive distribution agreements that make it virtually impossible to switch distributors  
2 upon the purported sham assignments of Seismic’s and these brewers’ distribution rights.<sup>3</sup>

3         5. For example, Defendant Reyes attempted to force Seismic to abandon the contracts  
4 it had negotiated at arm’s length with DBI and Elyxir Distributing LLC (which included favorable  
5 termination terms for Seismic), and instead demanded that Seismic agree to an onerous form  
6 contract that would have made it virtually impossible for Seismic to switch to a competing  
7 distributor. When Seismic refused, DBI and Elyxir began pressuring Seismic to abandon its  
8 contractual rights and submit to Reyes’ contract at Reyes’ behest and direction. They also  
9 conspired to retaliate against Seismic and others who did not fall in line with their anticompetitive  
10 plans. For example, after Seismic refused to accede to DBI’s collusion, Reyes placed “bounties”  
11 that targeted Seismic’s points of distribution in a retaliatory manner. Upon information and belief,  
12 bounties were arranged to incentivize DBI’s and Reyes’ salespeople to cause Seismic to lose  
13 permanent “tap handle” placements at its important retail accounts. Similar attacks targeted other  
14 craft brewers that rejected DBI’s sham assignments.

15         6. Aftershocks from DBI’s and Reyes’ anticompetitive conduct have damaged  
16 competition and caused substantial injuries that the antitrust laws are intended to remedy. As a  
17 result, Seismic has encountered massive bottlenecks, increased costs, and lost sales revenue trying  
18 to get its product to market in the territories formerly covered by DBI and co-conspirator Elyxir.  
19 Seismic has also incurred costs scrambling to replace the bespoke distribution agreements it had  
20 negotiated—often on less favorable terms than those it had negotiated at arm’s length prior to  
21 Reyes’ unlawful concentration of the market. Moreover, this highly concentrated market no longer  
22 allows craft brewers to access a distributor, other than Reyes, that can offer a comparable scope to  
23 the territories DBI covered.

24         7. In San Francisco, for example, Seismic could not find a replacement distributor for  
25 months. Its sales cratered. The city, which is a bellwether of success or failure, became Seismic’s

26 \_\_\_\_\_  
27 <sup>3</sup> Co-conspirator Elyxir Distributing LLC’s participation in the conspiracy followed the same pattern, except that until  
28 Reyes acquired Elyxir, they were direct competitors in Monterey County. In or about June 2020, Elyxir joined the  
conspiracy and likewise foisted a purported sham assignment of Seismic’s distribution rights (in reality, a wholly new  
contract with a monopolistic distribution network) and threatened to punish Seismic for standing on its rights under the

1 worst-performing area. Seismic resorted to direct sales and self-distribution there until it was  
2 finally able to sign on with a new distributor for that territory. Seismic was left with no choice but  
3 to accept a worse distribution agreement and was unable to bargain for many of the key protections  
4 that DBI had agreed to in the parties' distribution agreements.

5 8. Seismic therefore brings this Complaint against DBI and Reyes for violations of the  
6 Clayton Act and Sherman Act. Seismic requests injunctive relief to restore a competitive market,  
7 including an order requiring Reyes to divest itself of its numerous unlawful and anticompetitive  
8 acquisitions (including of DBI and co-conspirator Elyxir). Seismic also seeks to recover the  
9 millions of dollars in damages it has incurred as a result of Reyes', DBI's, and Reyes' co-  
10 conspirator Elyxir's anticompetitive efforts to use Reyes' monopoly power to force Seismic to  
11 consent to an abusively unfavorable and anticompetitive contract.

#### 12 **JURISDICTION AND VENUE**

13 9. The Court has federal question jurisdiction over the federal claims asserted herein  
14 pursuant to 28 U.S.C. § 1331 because they arise under the federal antitrust laws, and supplemental  
15 jurisdiction over Seismic's claim under California's Unfair Competition Law pursuant to 28 U.S.C.  
16 § 1367.

17 10. The Court has personal jurisdiction over Defendants because they directed their  
18 tortious conduct at persons and activities within the State of California, and these claims arose in  
19 California.

20 11. The Court further has jurisdiction over Defendants because they have offices and  
21 transact business in the State of California and because they have consented to this jurisdiction.

22 12. The Court further has jurisdiction over the DBI Defendants because their principal  
23 place of business is in California and they are registered here.

24 13. The Court further has jurisdiction over Defendant Harbor because its principal place  
25 of business is in California and it is registered here.

26 14. The Court further has jurisdiction over Defendant Reyes because Harbor is its  
27 wholly-owned subsidiary, as described further below.

28

1 15. Venue in this District is proper pursuant to 15 U.S.C. § 22 because Defendants  
2 transacted business in this District. Venue in this District is further proper pursuant to 28 U.S.C.  
3 § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred  
4 in this District.

### 5 PARTIES

#### 6 **A. Plaintiff WSJ, LLC d/b/a Seismic Brewing Company**

7 16. Plaintiff Seismic Brewing Company, a/k/a WSJ, LLC, is a Sonoma County craft  
8 brewery, headquartered in Santa Rosa, California, and registered as a limited liability company  
9 under the laws of the State of Delaware.

#### 10 **B. The DBI Defendants**

11 17. Defendant DBI Beverage Inc. (“DBI Beverage”) is a Tennessee corporation that,  
12 upon information and belief, serves as the parent holding company, operator, manager, owner, and  
13 corporate decision maker for numerous subsidiary “DBI” beer distributors located around the  
14 country and in Northern California in particular. DBI Beverage is headquartered, upon information  
15 and belief, at 2 Ingram Boulevard, La Vergne, Tennessee.

16 18. In Northern California, DBI Beverage operated five wholly-owned subsidiaries, also  
17 named as Defendants, that distributed Seismic’s beer: DBI Beverage Napa, DBI Beverage  
18 Sacramento, DBI Beverage San Francisco, DBI Beverage San Joaquin, and DBI Beverage San Jose  
19 (collectively, “DBI’s Northern California subsidiaries”).

20 19. Upon information and belief, DBI’s Northern California subsidiaries are mere  
21 conduits and instrumentalities of their parent, DBI, who dominates and controls them. There exists  
22 such a unity of interest and ownership that the individuality or separateness of DBI’s Northern  
23 California subsidiaries cannot be recognized, because to do so would promote injustice.

24 20. Defendant DBI Beverage Napa (“DBI Napa”) is a California corporation with its  
25 principal place of business at 2449 Watney Way, Fairfield, California. DBI Napa is a wholly-  
26 owned subsidiary of DBI Beverage. Until the sale of substantially all of its assets to Reyes on or  
27 about September 13, 2019, DBI Napa was engaged in the business of beer and beverage products  
28 distribution in the counties of Napa, Solano, Lake, and Mendocino through distribution branches

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