**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS**

**DIVISION OF ST. CROIX**

|  |  |
| --- | --- |
| **RYAN ALLEYNE, ENID V. ALLEYNE,****MICHAEL BICETTE,** **MARCO BLACKMAN, ANISTIA JOHN, GEORGE JOHN, SUSIE SANES** and**ALICIA SANES,** on behalf of themselves and all others similarly situated,*Plaintiffs,* **v.****DIAGEO USVI, INC.** and **CRUZAN VIRIL, LTD.,***Defendants.* |  **Case No.: SX 2013-CV- 143** **CLASS ACTION** **JURY TRIAL DEMANDED** |

**DEFENDANTS CRUZAN VIRIL, LTD. AND DIAGEO USVI'S**

**JOINT RULE 12(b)(6) MOTION TO DISMISS**

Defendants Cruzan VIRIL, Ltd. and Diageo USVI, Inc., hereby move to dismiss the complaint pursuant to Rule 12(b)(6) for failing to state a claim upon which relief can be granted. The basis for the motion is more fully set forth in the attached joint memorandum, which is incorporated herein by reference. For the reasons set forth therein, it is respectfully submitted that the motion should be granted. A proposed Order is also submitted.

**Dated:**  July 29, 2013

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Chad C. Messier, Esq.** (Bar No. 497) **Joel H. Holt, Esq.** (Bar No. 6)

**Stefan B. Herpel, Esq.** (Bar No. 1019) Law Offices of Joel H. Holt

*Counsel for Defendant, Counsel for Defendant,*

 *Cruzan VIRIL, Ltd.* *Diageo USVI, Inc.*

Dudley, Topper and Feuerzeig, LLP 2132 Company Street

Law House, 1000 Frederiksberg Gade Christiansted, VI 00820

P.O. Box 756 Telephone: (340) 773-8709
St. Thomas, USVI 00804-0756 Email: holtvi@aol.com

Telephone: (340) 774-4422
E-mail: cmessier@dtflaw.com **Carl J. Hartmann III, Esq.** (Bar No. 48)

*Counsel for Defendant,*

 *Diageo USVI, Inc.*

5000 Estate Coakley Bay, Unit L-6

 Christiansted, VI 00820

 Telephone: (340) 719-8941

 Email: carl@carlhartmann.com

**CERTIFICATE OF SERVICE**

 I hereby certify that on this 29th day of July, 2013, I filed the foregoing with the Clerk of the Court, and delivered as indicated to the following:

EMAIL AND HAND DELIVER

**VINCENT COLIANNI, II**

Colianni & Colianni

1138 King Street

Christiansted, St. Croix

U.S. Virgin Islands 00820

vince@colianni.com,

vinny@colianni.com

EMAIL AND U.S. MAIL

**WILLIAM F. McMURRY**

McMurry & Associates

1201 Story Avenue, Suite 301

Louisville, Kentucky 40206

bill@courtroomlaw.com

**DOUGLAS H. MORRIS**

**LEA A. PLAYER**

**ROBYN BELL STANTON**

Morris & Player, PLLC

1211 Herr Lane, Suite 205

Louisville, KY 40222

dhm@morrisplayer.com

lap@morrisplayer.com

rbs@morrisplayer.com \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_