UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EMCASCO INSURANCE COMPANY and EMPLOYERS MUTUAL CASUALTY COMPANY,

Plaintiffs,

v.

PENINSULA TOWNSHIP; WINERIES OFTHE OLD MISSION PENINSULA (WOMP) ASSOC.; BOWERS HARBOR VINEYARD & WINERY, INC.; BRYS WINERY LC; CHATEAU GRAND TRAVERSE, LTD.; CHATEAU OPERATIONS, LTD.; GRAPE HARBOR, INC.; MONTAGUE DEVELOPMENT LLC; OV THE FARM LLC; TABONE VINEYARDS, LLC; TWO LADS LLC; VILLA MARI LLC; WINERY AT BLACK STAR FARMS LLC; and PROTECT THE PENINSULA, INC.

Defendants.

Case No: 1:25-cv-1081

Honorable Paul L. Maloney

DEFENDANT BRYS WINERY, LC ANSWER TO EMC'S FIRST INTERROGATORIES

Defendant, Brys Winery, LC ("Brys"), by its attorneys Miller Canfield Paddock and Stone, PLC, submits the following objections and answers to the First Interrogatories served by Plaintiffs EMCASCO Insurance Company and Employers Mutual Casualty Company (collectively, "EMC" or "Plaintiffs").

GENERAL OBJECTIONS

Brys asserts each of the following General Objections and expressly incorporates them into each specific response set forth herein:

A. Brys objects to each interrogatory, definition, and instruction to the extent that they seek to impose any obligation on Brys beyond that required by the Federal Rules of Civil Procedure and to the extent that they attempt to impose any obligation beyond the scope of proper discovery.

B. Brys objects to each interrogatory to the extent that it calls for or seeks information protected by the attorney-client privilege, work product doctrine, or is immune from discovery under any other applicable rule or statutory or common-law protection against disclosure. Such information shall not be produced. Any inadvertent production of protected material is not intended to waive any applicable privilege or protection.

C. Brys objects to the interrogatories to the extent they seek confidential commercial, financial, personal, proprietary, or competitively sensitive information without appropriate protections or a protective order.

D. Brys objects to each Interrogatory to the extent it seeks information not known to Brys or reasonably available to it after a reasonable inquiry, including information uniquely or principally within the knowledge of Peninsula Township or another party.

E. Brys objects to these interrogatories to the extent they fail to specify any reasonable time frame. Such interrogatories are overly broad and unduly burdensome.

F. Brys objects to the interrogatories to the extent they are overbroad, unduly burdensome, cumulative, duplicative, or seek information or documents already produced. Brys will not reproduce information or documents previously produced unless doing so is reasonably necessary to identify the information or documents responsive to a particular interrogatory.

G. Brys objects to the extent any interrogatory seeks information or documents that are publicly available, already in EMC's possession, were produced in the underlying action, or are equally available from Defendant Peninsula Township, or another party.

H. Brys' submission of these answers and objections does not constitute an admission concerning the relevance, materiality, authenticity, or admissibility of any information or document; the correctness of any characterization contained in an interrogatory; the interpretation or application of the EMC Policies; or the existence or availability of coverage.

I. Brys' investigation and discovery efforts in this action are ongoing. Brys reserves the right to supplement these objections and answers as required by Federal Rule of Civil Procedure 26(e).

SPECIFIC OBJECTIONS AND ANSWERS

INTERROGATORY #1: State the full name, position, title, address and phone number of all Persons who assisted You in preparing the answers to these interrogatories.

ANSWER: Brys objects to this Interrogatory to the extent it seeks disclosure of attorney-client communications, attorney work product, counsel's mental impressions, or the substance of counsel's assistance in preparing these Answers.

Subject to, limited by, and without waiving the foregoing general and specific objections, Patrick Brys, President/CEO at Brys Winery, LC, assisted in preparing Brys' Answers to these Interrogatories. Patrick Brys may be contacted through undersigned counsel. Brys' counsel assisted in preparing the Answers, but Brys will not disclose privileged communications, attorney work product, or counsel's mental impressions.

INTERROGATORY #2: Identify any and all physical injury to tangible property (i.e., "property damage") sustained by You that is the subject of the Wineries Lawsuit that you claim or contend is covered under the EMC Policies. For each instance of "property damage," identify when the damage first occurred.

ANSWER: Brys objects that this Interrogatory uses "property damage," a term specially defined by EMC for purposes of its discovery requests, and seeks to require Brys to adopt EMC's characterization and application of that term under insurance policies to which Brys is neither a party nor an insured. Brys further objects to the phrase "that you claim or contend is

covered under the EMC Policies" because it seeks a premature contention regarding the interpretation and application of the EMC Policies before completion of discovery concerning the policies, the underlying claims, the resulting judgment, and EMC's coverage positions. Brys' coverage contentions may depend on the complete factual record and the proper construction of the EMC Policies.

Brys further objects to the extent this Interrogatory contains discrete subparts that must be counted separately under Federal Rule of Civil Procedure 33(a)(1). Brys reserves its objection to the number of interrogatories served by EMC.

Subject to, limited by, and without waiving the foregoing general and specific objections, Brys refers EMC to the court file in the underlying action, including the pleadings, motion papers, briefs, trial exhibits and court orders (see specifically ECF No. 623 (Bench Opinion) and ECF No. 624 (Judgment)), which identify the nature and basis of the damages awarded to Brys. Brys' investigation remains ongoing, and Brys will supplement this Answer, if necessary. Brys reserves all positions concerning the proper interpretation and application of the EMC Policies and the availability of coverage.

INTERROGATORY #3: Identify any "loss of use" of Your Property sustained by the Winery Defendants that is the subject of the Wineries Lawsuit that you claim or contend is covered under the EMC Policies. For each instance of "loss of use" identify when the damage first occurred.

ANSWER: Brys objects that this Interrogatory uses "loss of use," a term specially defined by EMC for purposes of its discovery requests to mean the "complete, total inability to use the Property for any purpose." Brys objects to that definition to the extent it is inconsistent with the language of the EMC Policies, imposes requirements not contained in those Policies, or presupposes that only a complete and total inability to use the entire property may constitute covered loss of use. Brys does not adopt EMC's definition or characterization of "loss of use."

Brys further objects that the phrase "Your Property sustained by the Winery Defendants" is vague and ambiguous because "Your Property" refers to Brys' property, whereas "Winery Defendants" refers collectively to multiple entities. Brys therefore understands this Interrogatory as seeking information concerning alleged loss of use of Brys' property.

Brys further objects to the phrase "that you claim or contend is covered under the EMC Policies" because it seeks a premature contention regarding the interpretation and application of the EMC Policies, to which Brys is neither a party nor an insured, before completion of discovery concerning the policies, the underlying claims, the resulting judgment, and EMC's coverage positions. Brys' coverage contentions may depend on the complete factual record and the proper construction of the EMC Policies.

Brys further objects to the extent this Interrogatory contains discrete subparts that must be counted separately under Federal Rule of Civil Procedure 33(a)(1). Brys reserves its objection to the number of interrogatories served by EMC.

Subject to, limited by, and without waiving the foregoing general and specific objections, Brys refers EMC to the court file in the underlying action, including the pleadings, motion papers, briefs, trial exhibits and court orders (see specifically ECF No. 623 (Bench Opinion) and ECF No. 624 (Judgment)), which identify the nature and basis of the restrictions on Brys' use of its property and the resulting damages awarded to Brys. Brys' investigation remains ongoing, and Brys will supplement this Answer, if necessary. Brys reserves all positions concerning the proper interpretation and application of the EMC Policies and the availability of coverage.

INTERROGATORY #4: Identify each and every "public official's wrongful act" (as defined by the EMC Linebacker Policies) that you claim or contend is covered under the EMC Policies. For each "public official's wrongful act" identify and describe:

(a.) When the alleged "public official's wrongful act" first occurred;

(b.) The Person or Persons who allegedly took or participated in the "public official's wrongful act".

ANSWER: Brys objects that this Interrogatory uses "public official's wrongful act," a term specially defined by the EMC Linebacker Policies, and seeks to require Brys to adopt EMC's characterization and application of that term under insurance policies to which Brys is neither a party nor an insured. Brys further objects to the phrase "that you claim or contend is covered under the EMC Policies" because it seeks a premature contention regarding the interpretation and application of the EMC Policies before completion of discovery concerning the policies, the underlying claims, the resulting judgment, the Township's conduct, and EMC's coverage positions.

Brys further objects because this Interrogatory seeks information beyond what is relevant and proportional to the claims and defenses in this insurance-coverage action and appears directed toward reconstructing and relitigating the factual allegations and liability issues adjudicated in the underlying action. To the extent EMC seeks an act-by-act identification of the Township's conduct for purposes of challenging or revisiting the factual bases of the underlying judgment, rather than resolving the interpretation or application of the EMC Policies, the Interrogatory exceeds the proper scope of discovery.

Brys further objects to the extent the Interrogatory requires it to determine, on an act-by-act basis, whether particular conduct constitutes a "public official's wrongful act," when each such act is deemed to have "first occurred" under the EMC Policies, and every Person who allegedly participated in each act. Those issues depend on the complete factual record and the proper interpretation of the EMC Policies, including any provisions addressing related wrongful acts and the time at which such acts are deemed to have occurred. Brys' coverage contentions may therefore depend on information obtained through continuing discovery.

Brys further objects to the extent this Interrogatory contains discrete subparts that must be counted separately under Federal Rule of Civil Procedure 33(a)(1). Brys reserves its objection to the number of interrogatories served by EMC.

Subject to, limited by, and without waiving the foregoing general and specific objections, Brys refers EMC to the court file in the underlying action, including the pleadings, motion papers, briefs, trial exhibits and court orders (see specifically ECF No. 623 (Bench Opinion) and ECF No. 624 (Judgment)), which identify and describe the acts, omissions, enforcement decisions, and other conduct by Peninsula Township on which Brys' claims and the resulting judgment were based. Brys does not concede that each act, omission, enforcement decision, or other instance of conduct described in those materials constitutes a separate "public official's wrongful act," that any such conduct "first occurred" on a particular date for purposes of the EMC Policies, or that EMC's characterization of the conduct is correct.

Brys' investigation remains ongoing, and Brys will supplement this Answer, if necessary. Brys reserves all positions concerning the proper interpretation and application of the EMC Policies and the availability of coverage.

INTERROGATORY #5: With respect to any "public official's wrongful act" identified in Interrogatory No. 4 above, identify or describe when the "public official's wrongful act" was first reported or made known to the Township and the Person or Person(s) who received, reviewed, handled, or addressed the alleged wrongful act.

ANSWER: Brys incorporates its objections and Answer to Interrogatory No. 4 as though fully set forth herein. Brys objects that this Interrogatory uses "public official's wrongful act," a term specially defined by the EMC Linebacker Policies, and seeks to require Brys to adopt EMC's characterization and application of that term under insurance policies to which Brys is neither a party nor an insured.

Brys further objects because this Interrogatory seeks information beyond what is relevant and proportional to the claims and defenses in this insurance-coverage action and appears directed toward reconstructing and relitigating the factual allegations and liability issues adjudicated in the underlying action. To the extent EMC seeks an act-by-act identification of the Township's conduct for purposes of challenging or revisiting the factual bases of the underlying judgment, rather than resolving the interpretation or application of the EMC Policies, the Interrogatory exceeds the proper scope of discovery.

Brys further objects because this Interrogatory depends on the premature contention requested in Interrogatory No. 4 and requires Brys to determine, for each act that may ultimately be characterized as a "public official's wrongful act," when that act was first reported or made known to the Township and every Person who received, reviewed, handled, or addressed it. Those issues depend on the complete factual record and the proper interpretation of the EMC Policies, including any provisions addressing related wrongful acts and the time at which such acts are deemed to have occurred. Brys' coverage contentions may therefore depend on information obtained through continuing discovery.

Brys further objects to the extent this Interrogatory seeks information concerning the Township's internal receipt, review, handling, or response that is not presently known to Brys and is more directly available from the Township and its records. Brys cannot identify every Person who may have internally received, reviewed, handled, or addressed particular conduct on the Township's behalf without discovery from the Township.

Brys further objects to the extent this Interrogatory contains discrete subparts that must be counted separately under Federal Rule of Civil Procedure 33(a)(1). Brys reserves its objection to the number of interrogatories served by EMC.

Subject to, limited by, and without waiving the foregoing general and specific objections, Brys refers EMC to the court file in the underlying action, including the pleadings, motion papers, briefs, trial exhibits and court orders, as well as the nonprivileged communications and other evidence admitted during the underlying trial concerning the Township's knowledge of, notice of, and participation in the conduct underlying Brys' claims and the resulting judgment. Brys does not concede that any particular communication constituted the reporting of a "public official's wrongful act," that any individual's receipt or knowledge is attributable to the Township for purposes of the EMC Policies, or that EMC's characterization or timing of the relevant conduct is correct.

Brys' investigation remains ongoing, and Brys will supplement this Answer, if necessary. Brys reserves all positions concerning the proper interpretation and application of the EMC Policies and the availability of coverage.

INTERROGATORY #6: Identify each and every "enforcement effort" taken by the Township against You related to the PTZO and/or Winery Ordinances and identified in the Wineries Lawsuit and your Affidavit attached thereto. With respect to each "enforcement effort" identify date(s) that the Township took such actions against You, and describe the specific enforcement mechanism (letter, email, citation, etc.) and penalty or fine levied against You (if any).

ANSWER: Brys objects to the phrase "enforcement effort" as vague and ambiguous because it is not defined and could encompass formal enforcement proceedings, notices of actual or potential violations, threatened enforcement, informal directives, communications concerning possible penalties, or other conduct by the Township. Brys further objects to "each and every" as overbroad and unduly burdensome to the extent it requires Brys to identify separately every communication, act, or omission arguably associated with the Township's application or enforcement of the PTZO or Winery Ordinances.

Brys further objects because this Interrogatory seeks information beyond what is relevant and proportional to the claims and defenses in this insurance-coverage action and appears directed toward relitigating the factual allegations and liability issues adjudicated in the underlying action. To the extent EMC seeks an exhaustive identification and description of the Township's alleged enforcement activities for purposes of challenging, testing, or revisiting the factual bases of the underlying judgment, the Interrogatory exceeds the proper scope of discovery.

Brys further objects to the extent this Interrogatory requires Brys to characterize particular conduct as an "enforcement effort" and to distinguish among separate enforcement efforts before completion of discovery concerning the Township's conduct and EMC's coverage positions. Brys further objects to the extent the Interrogatory assumes that the Township levied a penalty or fine against Brys in connection with each alleged enforcement effort.

Brys further objects to the extent this Interrogatory contains discrete subparts that must be counted separately under Federal Rule of Civil Procedure 33(a)(1). Brys reserves its objection to the number of interrogatories served by EMC.

Subject to, limited by, and without waiving the foregoing general and specific objections, Brys refers EMC to the court file in the underlying action, including the pleadings, motion papers, briefs, trial exhibits and court orders (see specifically ECF No. 623 (Bench Opinion) and ECF No. 624 (Judgment)), which identify and describe the Township conduct underlying Brys' claims. Brys does not concede that each communication, directive, act, omission, or threatened action described in those materials constitutes a separate "enforcement effort," that EMC's characterization of the conduct is correct, or that the Township levied a penalty or fine in connection with each instance of conduct identified.

Brys' investigation remains ongoing, and Brys will supplement this Answer, if necessary. Brys reserves all positions concerning the proper interpretation and application of the EMC Policies and the availability of coverage.

INTERROGATORY #7: Identify each and every communication where the Township notified You about an actual, potential, or alleged violation of the Winery Ordinances and/or PTZO, including the date(s) of such communications.

ANSWER: Brys objects to the phrase "each and every communication" as overbroad, unduly burdensome, and disproportionate to the needs of this action because it seeks an exhaustive identification of every written and oral communication, without limitation as to time, form, custodian, or Township representative. Brys further objects to the phrases "actual, potential, or alleged violation" as vague and overbroad because they encompass communications that may not constitute a notice of violation or formal enforcement action and may have, at most, a remote or incidental connection to the claims and defenses in this action.

Brys further objects because this Interrogatory seeks information beyond what is relevant and proportional to the claims and defenses in this insurance-coverage action and appears directed toward relitigating the factual allegations and liability issues adjudicated in the underlying action. To the extent EMC seeks an exhaustive identification and description of the Township's alleged enforcement activities for purposes of challenging, testing, or revisiting the factual bases of the underlying judgment, the Interrogatory exceeds the proper scope of discovery.

Brys further objects that this Interrogatory is cumulative and duplicative of Interrogatories Nos. 6 and 10, which also seek identification of Township communications concerning alleged enforcement, violations, event cancellations, and potential penalties. Brys further objects to the extent this Interrogatory contains discrete subparts that must be counted separately under Federal Rule of Civil Procedure 33(a)(1). Brys reserves its objection to the number of interrogatories served by EMC.

Subject to, limited by, and without waiving the foregoing general and specific objections, Brys refers EMC to the court file in the underlying action, including the pleadings, motion papers, briefs, trial exhibits and court orders, which identify and describe communications from the Township concerning the application or enforcement of the PTZO or Winery Ordinances against Brys. Brys does not concede that every communication identified in those materials constitutes notice of an "actual, potential, or alleged violation," a formal enforcement action, or conduct having any particular significance under the EMC Policies.

Brys' investigation remains ongoing, and Brys will supplement this Answer, if necessary. Brys reserves all positions concerning the proper interpretation and application of the EMC Policies and the availability of coverage.

INTERROGATORY #8: Identify each Person at the Township with whom You discussed or communicated with regarding the constitutionality, legality, or validity of the Winery Ordinances and/or PTZO prior to filing of the Wineries' Lawsuit, including the date(s) of those discussions or communications, whether they occurred orally or in writing, and the subject matter and result of those discussions.

ANSWER: Brys objects to "each Person" and "discussed or communicated with" as overbroad, unduly burdensome, and disproportionate to the needs of this action to the extent the Interrogatory requires Brys to reconstruct every written and oral communication with every Township representative concerning the legality, applicability, constitutionality, or validity of the Winery Ordinances or PTZO, without reasonable limitation as to the nature, materiality, or significance of the communication.

Brys further objects that the request to describe the "subject matter and result" of each discussion or communication is vague and ambiguous because "result" is undefined and could encompass the recipient's response, subsequent Township action, counsel's assessment of the communication, or the ultimate disposition of the issues in the underlying action. Brys also objects to the extent the Interrogatory seeks attorney-client communications, attorney work product,

counsel's mental impressions or legal analysis, protected common-interest communications, or information concerning counsel's preparation for or evaluation of communications with the Township.

Brys further objects because this Interrogatory seeks information beyond what is relevant and proportional to the claims and defenses in this insurance-coverage and appears directed toward reconstructing and relitigating the development and merits of the legal challenges asserted in the underlying action. To the extent EMC seeks every communication concerning the legality, applicability, constitutionality, or validity of the Winery Ordinances or PTZO, without limiting the inquiry to notice bearing on a disputed coverage issue, the Interrogatory exceeds the proper scope of discovery.

Brys further objects to the extent this Interrogatory contains discrete subparts that must be counted separately under Federal Rule of Civil Procedure 33(a)(1). Brys reserves its objection to the number of interrogatories served by EMC.

Subject to, limited by, and without waiving the foregoing general and specific objections, Brys refers EMC to the court file in the underlying action, including the pleadings, motion papers, briefs, trial exhibits and court orders (see specifically ECF No. 623 (Bench Opinion) and ECF No. 624 (Judgment)). Those materials identify the participants, dates, form, subject matter, and available responses concerning challenges to the Winery Ordinances and PTZO. The underlying record also reflects rulings that certain PTZO provisions violated the Dormant Commerce Clause, were unconstitutionally vague, compelled speech, imposed unconstitutional prior restraints, or were preempted by Michigan law.

Brys' investigation remains ongoing, and Brys will supplement this Answer, if necessary. Brys reserves all positions concerning the proper interpretation and application of the EMC Policies and the availability of coverage.

INTERROGATORY #9: Identify the date(s) when You first notified the Township that the Winery Ordinances and/or PTZO were unconstitutional, invalid, preempted by Michigan law, or otherwise legally questionable, and identify each Person that received that notification or communication.

ANSWER: Brys objects to the phrase "first notified" as vague and ambiguous to the extent it requires Brys to determine whether earlier oral discussions, informal communications, communications by another Winery, or communications by counsel constituted notice to the Township. Brys further objects to "otherwise legally questionable" as vague and overbroad because it is undefined and could encompass any communication expressing a concern, disagreement, or request for clarification regarding the Winery Ordinances or PTZO.

Brys further objects to the extent this Interrogatory requires Brys to identify every Person who received the communication, including individuals who may have received, reviewed, or become aware of it through the Township's internal circulation. Information concerning the Township's internal receipt, distribution, and review of communications is not presently known to Brys and is more directly available from the Township and its records.

Brys further objects to the extent this Interrogatory contains discrete subparts that must be counted separately under Federal Rule of Civil Procedure 33(a)(1). Brys reserves its objection to the number of interrogatories served by EMC.

Subject to, limited by, and without waiving the foregoing general and specific objections, Brys refers EMC to the pleadings in the underlying action, including the original complaint filed on October 21, 2020 and the first amended complaint filed on January 4, 2021, which formally

asserted the Wineries' claims that the challenged provisions of the PTZO and Winery Ordinances were unconstitutional, invalid, preempted, or otherwise unlawful.

Based on the information presently available, Brys identifies the Peninsula Township Board as the recipient of the pleadings in the underlying action. Brys does not presently know every individual who received, reviewed, or became aware of those communications through internal Township distribution. Brys does not concede that October 21, 2020 was necessarily the first occasion on which the Township received notice of every legal issue encompassed by this Interrogatory or the first occasion on which another Winery, counsel, or another person communicated concerns about the Winery Ordinances or PTZO.

Brys' investigation remains ongoing, and Brys will supplement this Answer, if necessary. Brys reserves all positions concerning the proper interpretation and application of the EMC Policies and the availability of coverage.

INTERROGATORY #10: Identify all "letters and telephone calls from Peninsula Township" "over the years" demanding that You cancel events or be subject to penalties identified in the Wineries Lawsuit and your Affidavit attached thereto. With respect to such letters or telephone calls identify the date(s), contents, and Person or Person(s) who sent and received them, respectively.

ANSWER: Brys objects to the phrase "over the years" as vague and ambiguous because it does not identify a reasonably definite time period. Brys further objects to "all letters and telephone calls" as overbroad, unduly burdensome, and disproportionate to the needs of this action to the extent it requires Brys to reconstruct every written and oral communication from the Township, including telephone calls for which no contemporaneous record may exist.

Brys further objects to the phrase "demanding that You cancel events or be subject to penalties" to the extent it assumes that each identified communication constituted a demand, required cancellation of an event, or threatened a penalty. Brys does not adopt EMC's characterization of any particular letter, telephone call, directive, or other communication.

Brys further objects because this Interrogatory seeks information beyond what is relevant and proportional to the claims and defenses in this insurance-coverage action and appears directed toward relitigating the factual allegations, liability findings, and damages issues adjudicated in the underlying action. Whether the Township demanded that Brys cancel events or face penalties was presented in the underlying action. To the extent EMC seeks an exhaustive reconstruction of those communications for purposes of challenging or revisiting the factual bases of the underlying judgment or Brys' damages, the Interrogatory exceeds the proper scope of discovery.

Brys further objects that this Interrogatory is cumulative and duplicative of Interrogatories Nos. 6 and 7, which also seek information concerning the Township's alleged enforcement efforts and communications regarding actual, potential, or alleged violations of the PTZO or Winery Ordinances. Brys further objects to the extent the Interrogatory seeks a detailed narrative of matters already set forth in Brys' pleadings and affidavit and reflected in the underlying trial record.

Brys further objects to the extent this Interrogatory contains discrete subparts that must be counted separately under Federal Rule of Civil Procedure 33(a)(1), including separate requests for the dates, contents, senders, and recipients of each letter or telephone call. Brys reserves its objection to the number of interrogatories served by EMC.

Subject to, limited by, and without waiving the foregoing general and specific objections, Brys refers EMC to the court file in the underlying action, including the pleadings, motion papers, briefs, trial exhibits and court orders (see specifically ECF No. 623 (Bench Opinion) and ECF No. 624 (Judgment)), which identify and describe communications from the Township concerning restrictions on Brys' hosting of events and the potential consequences of noncompliance. Brys does not concede that each communication identified in those materials demanded that Brys cancel an event, threatened a penalty, or constituted a separate enforcement action. Brys is not presently

able, after reasonable inquiry, to identify the date, participants, or complete substance of every potentially responsive oral telephone call beyond the information reflected in Brys' pleadings, affidavit, and the underlying trial record.

Brys' investigation remains ongoing, and Brys will supplement this Answer, if necessary. Brys reserves all positions concerning the proper interpretation and application of the EMC Policies and the availability of coverage.

INTERROGATORY #11: State whether the PTZO and/or Winery Ordinances completely prevented You from operating Your Property for all purposes or uses. If You answer in the affirmative, then state each supporting factual basis.

ANSWER: Brys objects to the phrases "completely prevented" and "for all purposes or uses" to the extent they incorporate or reflect EMC's specially defined and unduly restrictive conception of "loss of use." Brys does not adopt EMC's position that only a complete and total inability to use the entire property for every purpose may constitute covered loss of use under the EMC Policies.

Brys further objects to the extent this Interrogatory seeks a premature contention concerning whether the restrictions imposed by the PTZO or Winery Ordinances satisfy the requirements for covered "loss of use" under the EMC Policies to which Brys is neither a party nor an insured. That issue depends on the proper interpretation of the EMC Policies and the complete factual record concerning the nature, scope, and duration of the restrictions on Brys' use of its property. Brys' coverage contentions may therefore depend on information obtained through continuing discovery.

Subject to, limited by, and without waiving the foregoing general and specific objections, Brys states that it never alleged or contented that the PTZO and Winery Ordinances completely prevented Brys from operating its property for every purpose or use. The underlying coverage pleadings state that the Court awarded damages relating to the Wineries' inability to host small

and large events. Brys refers EMC to the Court's opinion and judgment in the underlying action, (see specifically ECF No. 623 (Bench Opinion) and ECF No. 624 (Judgment)), which identify the nature and extent of those restrictions and the damages awarded to Brys.

Brys' answer use does not constitute an admission that Brys sustained no covered loss or impairment of use, economic loss, or other damages covered or potentially covered under the EMC Policies. Brys' investigation remains ongoing, and Brys will supplement this Answer, if necessary. Brys reserves all positions concerning the proper interpretation and application of the EMC Policies and the availability of coverage.

Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: /s/ Joseph M. Infante

Joseph M. Infante (P68719)
Stephen M. Ragatzki (P81952)
Christopher J. Gartman (P83286)
99 Monroe Avenue NW, Suite 1200
Grand Rapids, MI 49503
(616) 776-6333

Dated: October 16, 2026

VERIFICATION

I, Patrick Brys, declare that I am the President/CEO of Brys Winery, LC and am authorized to execute this Verification on its behalf. I have reviewed Brys Winery, LC's foregoing Answers to Plaintiffs' First Interrogatories. The factual statements contained in the Answers are true and correct to the best of my knowledge, information, and belief, based upon my personal knowledge and information reasonably available to Brys Winery, LC.

I declare under penalty of perjury that the foregoing is true and correct.

Patrick

Executed on October 16, 2026.

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2026, I served the foregoing document by email to all counsel of record.

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: /s/ Joseph M. Infante
Joseph M. Infante (P68719)