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19 **UNITED STATES DISTRICT COURT**
20 **SOUTHERN DISTRICT OF CALIFORNIA**

21 **SCOTT WELK, INDIVIDUALLY**
22 **AND ON BEHALF OF ALL**
23 **OTHERS SIMILARLY**
24 **SITUATED,**

25 Plaintiff,

26 v.

27 **BEAM SUNTORY IMPORT CO.**
28 **and JIM BEAM BRANDS CO.**
d.b.a. JIM BEAM,

Defendants.

'15CV0328 LAB JMA

**CLASS ACTION COMPLAINT
FOR DAMAGES, RESTITUTION,
AND INJUNCTIVE RELIEF FOR
VIOLATIONS OF:**

- 1.) **CALIFORNIA BUS. & PROF.
§§ 17500 ET SEQ.**
- 2.) **CALIFORNIA BUS. & PROF.
§§ 17200 ET SEQ.**
- 3.) **NELIGENCT
MISREPRESENTATION**
- 4.) **INTENTIONAL
MISREPRESENTATION**

JURY TRIAL DEMANDED

INTRODUCTION

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1. Plaintiff, SCOTT WELK (“Welk” and/or “Plaintiff”) brings this statewide Class Action Complaint to enjoin the deceptive advertising and business practices of BEAM SUNTORY IMPORT CO. (“Suntory” and/or collectively Defendants) and JIM BEAM BRANDS CO., d.b.a. JIM BEAM (“Beam” and/or collectively as “Defendants”) with regard to Defendants’ false and misleading promotion of their bourbon. Defendants promote their bourbon as being “Handcrafted” when in fact Defendants’ bourbon is manufactured using mechanized and/or automated processes, resembling a modern day assembly line and involving little to no human supervision, assistance or involvement, as demonstrated by photos and video footage of Defendants’ manufacturing process.
2. Defendants label the **white label** bourbon products they manufacture and sell as “Handcrafted.” However, photos, diagrams - taken from Defendants’ own website - and video footage of Defendants’ manufacturing process show Defendants actually employ mechanized and/or automated processes to manufacture and bottle their bourbon, including but not limited to, (1) the process involved in grinding/breaking up the grains; (2) the process involved in mixing the grains with other ingredients, such as yeast and water; (3) the process involved in transferring this mixture into its fermenting location; and, (4) the process involved in bottling the bourbon.
3. Defendants’ attach these untrue and misleading labels to all of the white label bourbon bottles they market and sell throughout the state of California and throughout the United States.
4. This nationwide sale and advertising of deceptively labeled products constitutes: (1) a violation California’s False Advertising Law (“FAL”), Cal. Bus. & Prof. Code §§ 17500 et seq.; (2) a violation of California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200 et seq.; (3)

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1 negligent misrepresentation; and (4) intentional misrepresentation. This
2 conduct caused Plaintiff and others similarly situated damages, and requires
3 restitution and injunctive relief to remedy and prevent further harm.

- 4 5. Unless otherwise indicated, the use of any Defendants' name in this
5 Complaint includes all agents, employees, officers, members, directors, heirs,
6 successors, assigns, principals, trustees, sureties, subrogees, representatives
7 and insurers of the named Defendants.

8 **JURISDICTION AND VENUE**

- 9 6. Jurisdiction of this Court arises under 28 U.S.C. § 1332(d), as the matter in
10 controversy, exclusive of interest and costs, exceeds the sum or value of
11 \$5,000,000 and is a class action in which a named Plaintiff is a citizen of a
12 State different than at least one Defendant.
- 13 7. Based upon information and belief, Plaintiff alleges that Defendants' revenue
14 for the year of 2013 was approximately \$2.5 billion, which was in large part
15 due from Defendants' white label bourbon. Based upon the high advertised
16 price of Defendants' product and its nationwide availability, Plaintiff is
17 informed, believes, and thereon alleges the Class damages exceed the
18 \$5,000,000 threshold as set by 28 U.S.C. § 1332(d) for a diversity jurisdiction
19 class action.
- 20 8. The Court has personal jurisdiction over Defendants because Defendants
21 conduct business in the County of San Diego, State of California. Therefore,
22 Defendants have sufficient minimum contacts with this state, and otherwise
23 purposely avail themselves of the markets in this state through the promotion,
24 sale, and marketing of their products in this state, to render the exercise of
25 jurisdiction by this Court permissible under traditional notions of fair play and
26 substantial justice.
- 27 9. Venue is proper in the United States District Court, Southern District of
28 California pursuant to 28 U.S.C. § 1391 for the following reasons: (i) Plaintiff

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1 resides in the County of San Diego, State of California which is within this
2 judicial district; (ii) the conduct complained of herein occurred within this
3 judicial district, as Plaintiff purchased Defendants’ bourbon in this district;
4 (iii) Defendants conducted and do substantial business in the County of San
5 Diego, State of California; and (iv) Defendants are subject to personal
6 jurisdiction in this district.

7 **PARTIES**

8 10. Plaintiff, Scott Welk, is a natural person who resides in the County of San
9 Diego, State of California, who was negligently and/or intentionally induced
10 into purchasing Defendants’ falsely advertised product.

11 11. Defendant Suntory is a corporation incorporated under the laws of the State of
12 Delaware, with its principal place of business in the State of Illinois.
13 Defendant Suntory does business within the State of California and within this
14 district.

15 12. Defendant Beam is a corporation incorporated under the laws of the State of
16 Delaware, with its principal place of business in the State of Illinois.
17 Defendant Beam does business within the State of California and within this
18 district. Defendant Beam has recently filed a “Certificate of Assumed Name”
19 in the State of Illinois requesting to assume its new name “BEAM SUNTORY
20 IMPORT CO.” (i.e., Defendant Suntory).

21 **NATURE OF THE CASE**

22 13. Plaintiff repeats, re-alleges and incorporates by reference the above allegations
23 as if fully stated herein.

24 14. At all times relevant, Defendants made, and continue to make, affirmative
25 misrepresentations regarding the bourbon they manufacture, market and sell.
26 Specifically, Defendants packaged, advertised, marketed, promoted, and sold
27 their bourbon to Plaintiff and other consumers similarly situated as being
28 “Handcrafted.”

- 1 15. However, Defendants’ bourbon was and is not “Handcrafted,” as photos,
2 diagrams and video footage of Defendants’ manufacturing process clearly
3 demonstrate.
- 4 16. The photos and the video footage of Defendants’ manufacturing process, one
5 of which is titled “Jim Beam American Stillhouse Tour”¹ (“Tour Video 1”),
6 another titled “Jim Beam Tour”² (“Tour Video 2”) and another titled “Thrillist
7 Hits The American Stillhouse”³ (American Stillhouse), vividly depict the
8 manufacturing process as being mechanized and/or automated, rather than
9 “Handcrafted” as Defendants claim.
- 10 17. “Handcrafted” and “handmade” are terms that consumers have long
11 associated with higher quality manufacturing and high-end products. This
12 association and public perception is evident in the marketplace where
13 manufacturers charge a premium for “handcrafted” or “handmade” goods. In
14 the case of a 1.75L bottle of bourbon, similar to the ones Defendants
15 manufacture and sell, the price per bottle can be as low as \$13.49.⁴ Whereas
16 Defendants’ purportedly “Handcrafted” 1.75L milliliter bottle of bourbon is
17 listed at \$ 33.99.⁵
- 18 18. Defendants affix identical labels on all of Defendants’ **white label** “Jim Beam
19 Bourbon – Kentucky Straight Bourbon Whiskey” (“Jim Beam Bourbon”). On
20 these labels, the claim “**Handcrafted**” appears in large font on the side of the
21 bottle. *See* ¶¶ 32 and 33. This is done in an apparent attempt to market the
22 bourbon as being of higher quality by virtue of it being made *by hand*. As a
23 result, Defendants induce consumers to purchase, more of, and pay more for

24 ¹ *See*, <https://www.youtube.com/watch?v=DrfMAX9tWTw>

25 ² *See*, <https://www.youtube.com/watch?v=qrzNNpml4DE>

26 ³ *See*, <https://www.youtube.com/watch?v=zYJeQTheUhg#t=82>

27 ⁴ *See*, the price listing for “bourbon” on the website of BevoMo, a retailer of alcohol, and
available at: <http://www.bevmo.com/Shop/ProductDetail.aspx/Spirits/Bourbon/Ten-High/Ten-High-Bourbon/556>

28 ⁵ *See*, <http://www.bevmo.com/Shop/ProductDetail.aspx/Spirits/Bourbon/Kentucky/Jim-Beam/Jim-Beam-Bourbon/570>

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1 their bourbon on the basis it is supposedly of superior quality and
2 workmanship.

3 19. However, contrary to Defendants’ misleading labeling, its bourbon is
4 predominately or entirely made by mechanized and/or automated processes, as
5 demonstrated by the photos, diagrams and video footage of Defendants’
6 manufacturing processes. *See*, ¶¶ 32, 33, 38, 40, 43, 46, 51, 52, 55, 57, 58, 59,
7 61 and 62.

8 20. As a consequence of Defendants’ unfair and deceptive practices, Plaintiff and
9 other similarly situated consumers have purchased Jim Beam Bourbon under
10 the false impression that the bourbon was of superior quality by virtue of
11 being “Handcrafted.”

12 21. Each consumer, including Plaintiff, was exposed to virtually the same material
13 misrepresentations, as the identical labels were prominently placed on all of
14 the Defendants’ Jim Beam Bourbon bottles that were sold, and are currently
15 being sold, throughout the U.S. and the State of California.

16 22. As a result of Defendants’ misrepresentations regarding their Jim Beam
17 Bourbon, Plaintiff and other similarly situated consumers overpaid for the
18 product, and/or purchased the product under the false believe that the bourbon
19 they purchased was of superior quality since it was allegedly “Handcrafted.”
20 Had Plaintiff and other consumers similarly situated been made aware that
21 Jim Beam Bourbon was not “Handcrafted,” they would not have purchased
22 the product, or would have paid less for it, or purchased different products.

23 23. As a result of Defendants’ false and misleading statements, as well as
24 Defendants’ other conduct described herein, Plaintiff and other similarly
25 situated consumers purchased thousands, if not millions, of bottles of Jim
26 Beam Bourbon and have suffered, and continue to suffer, injury in fact
27 including the loss of money and/or property.

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1 24. Defendants' conduct as alleged herein violates several California laws, as
2 more fully set forth herein.

3 25. This action seeks, among other things, equitable and injunctive relief;
4 restitution of all amounts illegally retained by Defendant; and disgorgement of
5 all ill gotten profits from Defendants' wrongdoing alleged herein.

6 FACTUAL ALLEGATIONS

7 26. Plaintiff repeats, re-alleges and incorporates by reference the above
8 allegations as if fully stated herein.

9 27. Defendants manufacture, market and sell a white label "Jim Beam Bourbon –
10 Kentucky Straight Bourbon Whiskey" (i.e., "Jim Beam Bourbon"). *See below,*
11 ¶¶ 32 and 33.

12 28. Defendants manufacture all of their Jim Beam Bourbon at their distillery,
13 located in the City of Clermont, State of Kentucky.

14 29. Plaintiff is informed and believes, and on that basis alleges that Defendants
15 manufacture and sell millions of Jim Beam Bourbon bottles each year. Jim
16 Beam Bourbon is one of the largest bourbon-selling brands in the world.⁶
17 According to USNEWS, Beam was the "No. 2 top-selling spirits marketer in
18 the U.S. with 11.3 percent of total volume supplied in 2012, a total that grew
19 by 3.1 percent since 2011."⁷ In fact, "[d]ollar sales of American straight
20 whiskey – a category that includes several Beam Brands grew by 6.8 percent
21 in 2012, while total spirit sales grew by 4.6 percent."⁸ Furthermore,
22 Defendants' own website currently claims that Jim Beam Bourbon "is the
23 best-selling brand of Kentucky straight bourbon in the world."⁹ Accordingly,
24 Jim Beam Bourbon sales have likely increased since 2012.

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26 ⁶ See, <http://whiskyforeveryone.blogspot.com/2009/06/have-just-tried-jim-beam-white-label.html>

27 ⁷ See, <http://www.usnews.com/news/blogs/data-mine/2014/01/13/by-the-numbers-why-suntorys-jim-beam-buy-is-a-super-smart-move>

28 ⁸ *Id.*

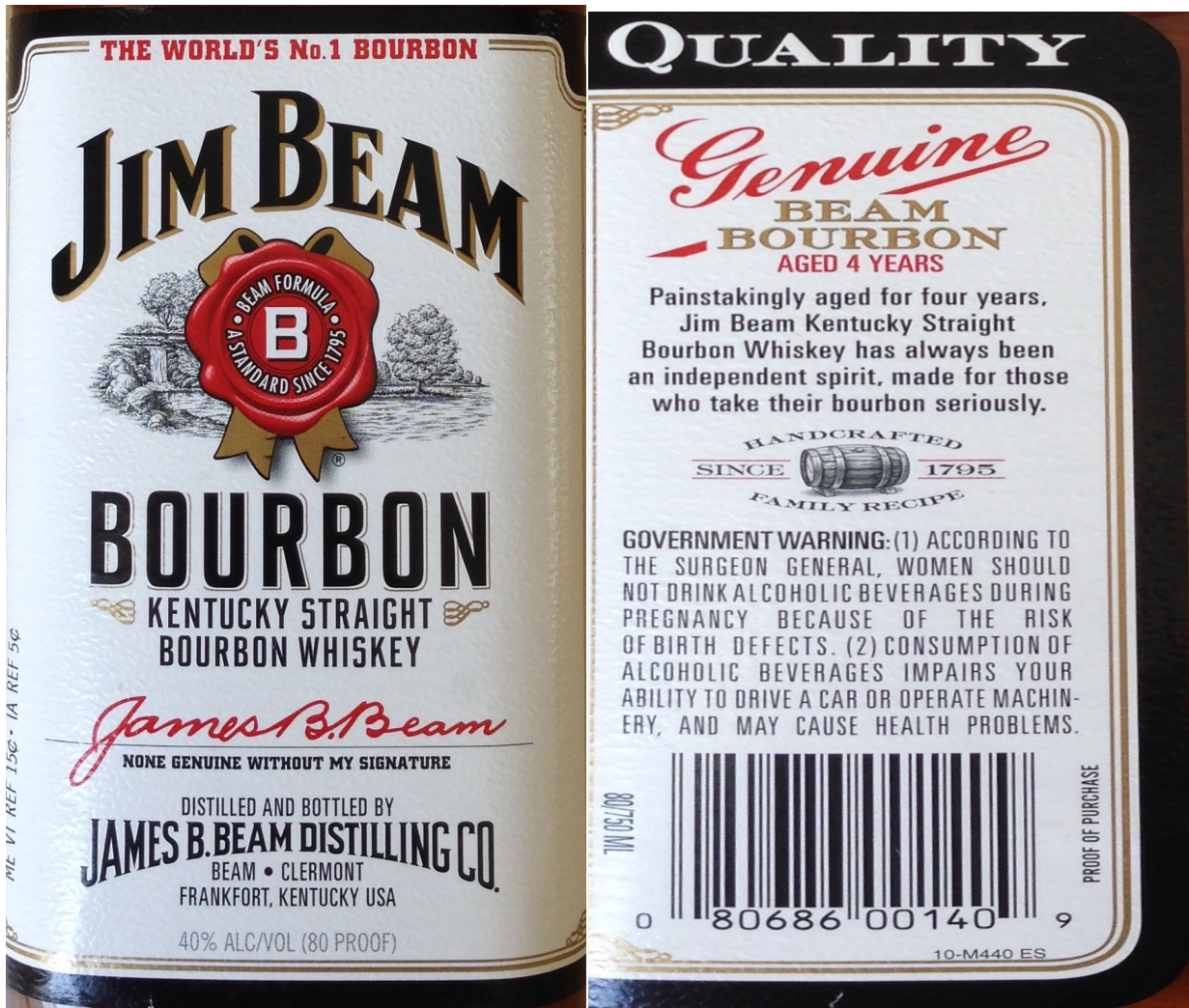
⁹ See, <http://www.jimbeam.com/original>

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30. Although Defendants manufacture and sell varying sizes of their Jim Beam Bourbon, a 1.75 L bottle of Jim Beam Bourbon, similar to the bottle purchased by Plaintiff, sells for approximately \$ 33.99.¹⁰

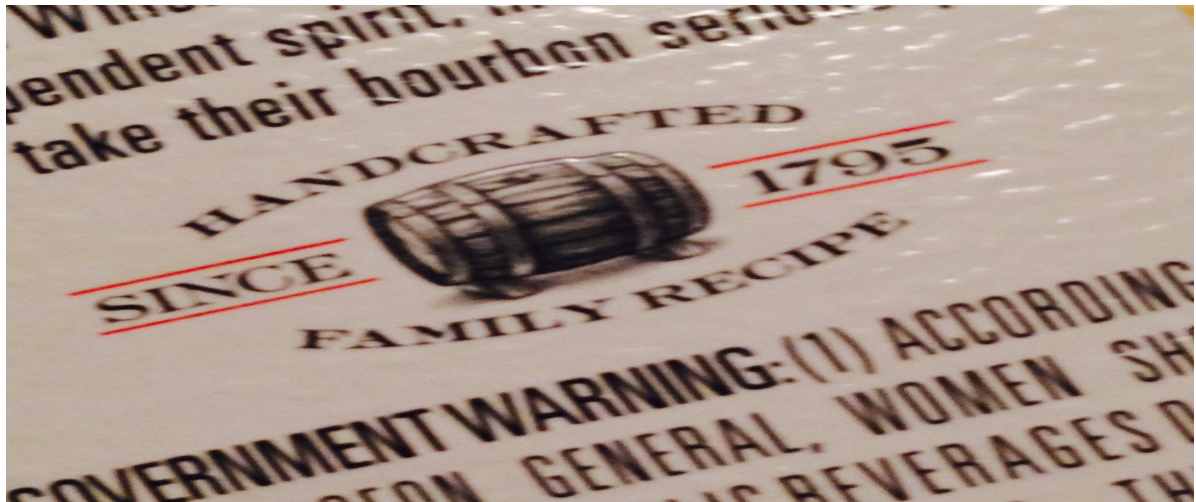
31. All of Defendants’ Jim Beam Bourbon bottles display a label claiming the bourbon is “Handcrafted.” *See below*, ¶¶ 32 and 33. Specifically, the label claims Jim Beam Bourbon has been “Handcrafted” and a “Family Recipe” since 1975. *Id.*

32. Defendants’ advertises its product with the following label:
 (Front and Side Label of Defendants’ Jim Beam Bourbon).



¹⁰ See, <http://www.bevmo.com/Shop/ProductDetail.aspx/Spirits/Bourbon/Kentucky/Jim-Beam/Jim-Beam-Bourbon/570>

1 33. Defendants’ label prominently claims their product is “Handcrafted:”



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11 34. On December 12, 2013, Plaintiff, Scott Welk, purchased a bottle of
12 Defendants’ Jim Beam Bourbon, which displayed the offending label (*See*, ¶¶
13 32 and 33), for \$25.99 from a local liquor store in San Diego, California.

14 35. Based on the misrepresentations that the product was
15 “Handcrafted,” Plaintiff believed Jim Beam Bourbon was of superior quality
16 by virtue of it being crafted by hand, rather than by a machine, and relied on
17 said misrepresentation in purchasing the product.

18 36. Although Defendants claim their bourbon is “Handcrafted,” Jim Beam
19 Bourbon is actually manufactured using a mechanized and/or automated
20 process, resembling a modern day assembly line and requiring little to no
21 human supervision, assistance or involvement, as described herein.

22 37. On their website, Defendants’ claim that, “[c]reating the world’s #1 bourbon
23 requires skilled **craftsmen** and a whole lot of patience.”¹¹

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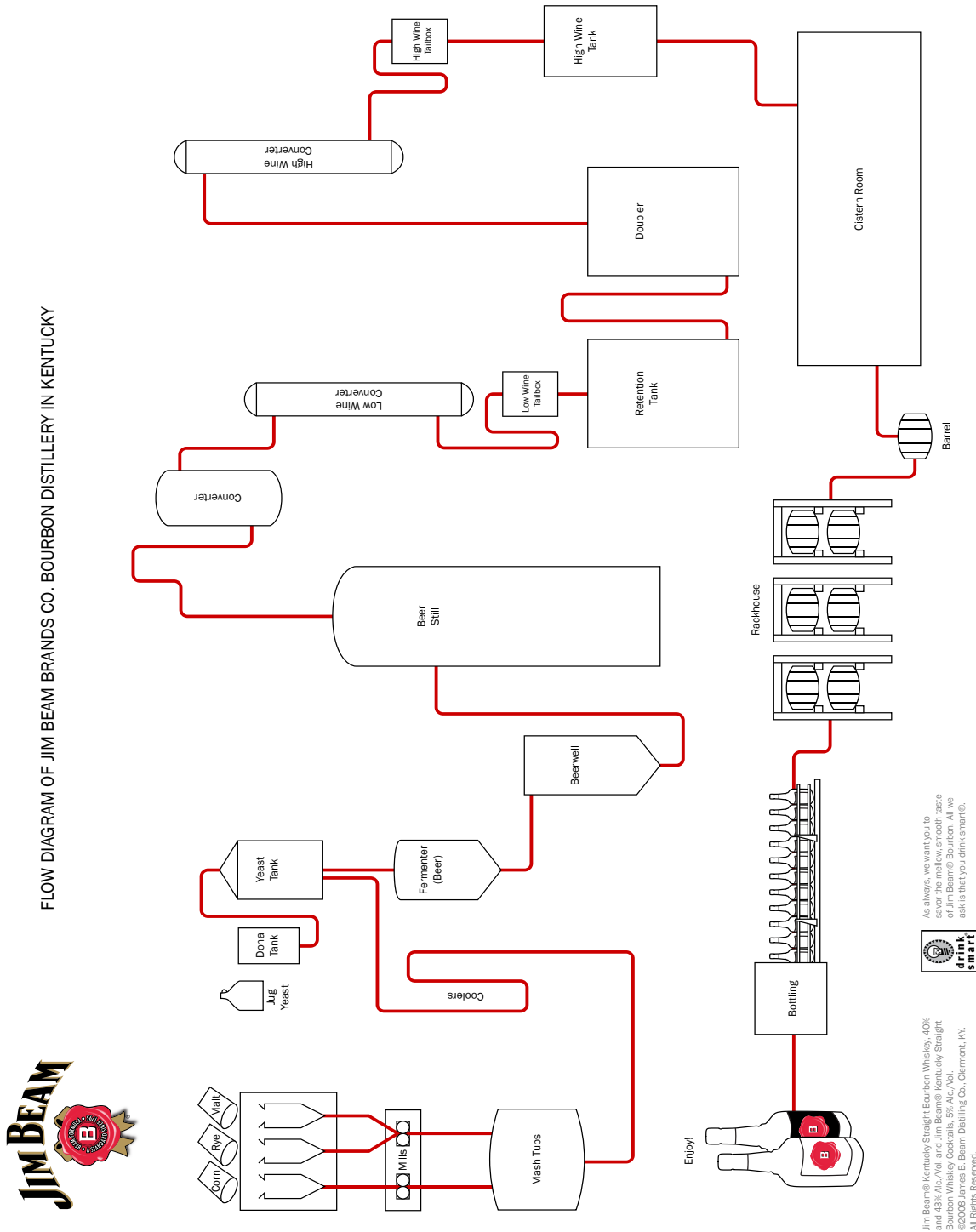
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28 ¹¹ *See*, Defendants’ Website at <http://www.jimbeam.com/about-bourbon/the-bourbon-process>

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38. Taken directly from Defendants’ website, below is Defendants alleged “Handcrafted” manufacturing process, allegedly requiring skilled craftsmen.¹²

FLOW DIAGRAM OF JIM BEAM BRANDS CO. BOURBON DISTILLERY IN KENTUCKY



As always, we want you to savor the mellow, smooth taste of Jim Beam® Bourbon. All we ask is that you drink smart®.



Jim Beam® Kentucky Straight Bourbon Whiskey, 40% and 43% Alc/Vol and Jim Beam® Kentucky Straight Bourbon Whiskey Cocktails, 5% Alc/Vol. ©2008 James B. Beam Distilling Co., Clermont, KY. All Rights Reserved.

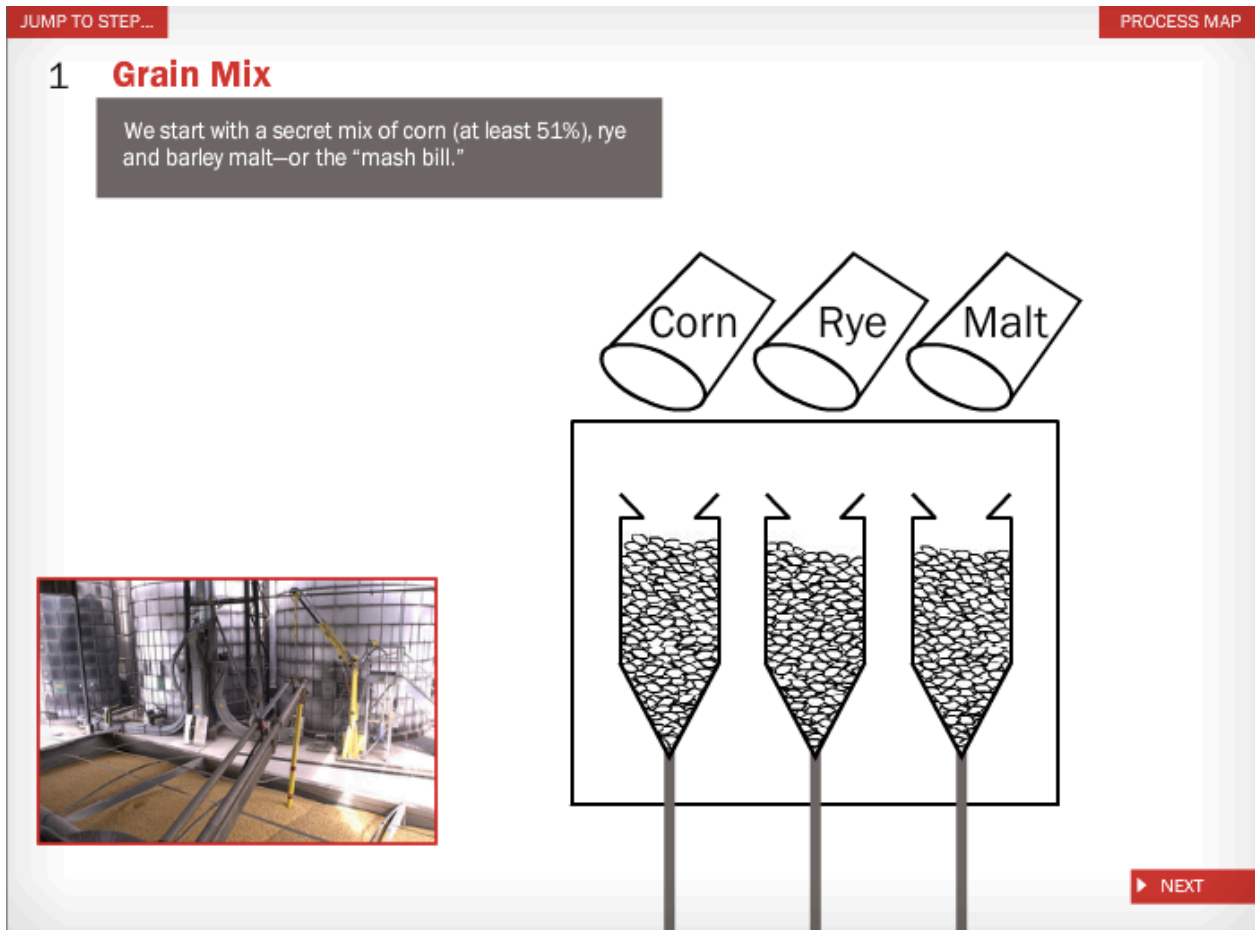
¹² See, <http://www.jimbeam.com/about-bourbon/process-flowchart>

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1 39. As the Defendants’ own diagram depicts, Defendants’ process resembles a
2 modern day assembly line. *See*, ¶ 38. Based on the diagrams, photos and
3 videos, referenced below, Plaintiff alleges Defendants’ manufacturing
4 process is mostly, if not entirely, mechanized and/or automated, requiring
5 little to no human supervision, assistance or involvement, let alone “skilled
6 craftsmen.”

7 40. Like all bourbon, Defendants’ Jim Beam Bourbon begins with a mixture of
8 grains. *See below*, (A) and (B).

9 (A) Defendants’ Diagram Depicting The Beginning of Their Manufacturing
10 Process. (*See*, ¶ 38; FN 11).



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(B) Photo of Grain Manufacturing Process.



41. As the above diagram and picture illustrate, Defendants store their grains in silos, from which the grain is transported to a holding/storage area, seen at the bottom of the picture directly above, via an automated or mechanized system of cranes and tubes. *See supra*, ¶ 40, (A) and (B).

42. The grain is then grounded into a mash/powder via Defendants’ “hammer mill.”¹³

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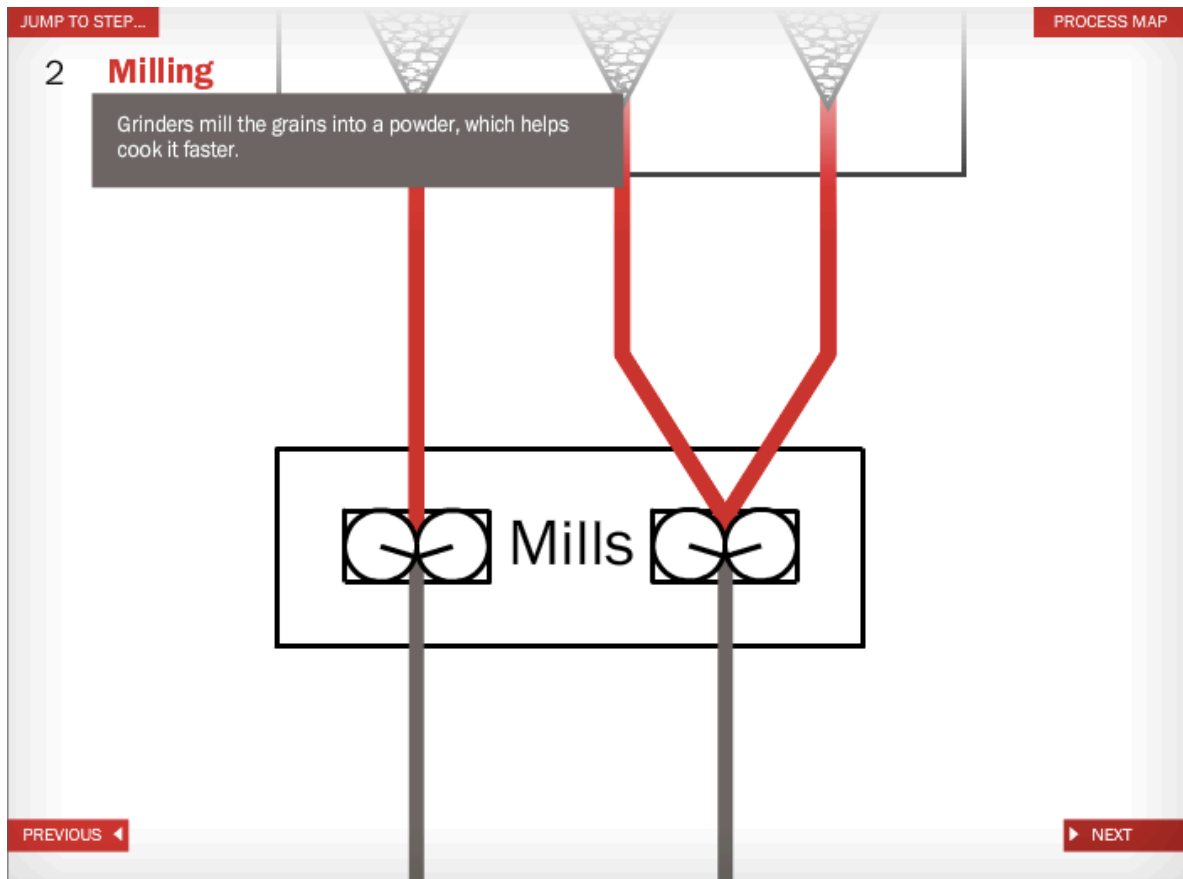
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¹³ See, <http://www.jimbeam.com/about-bourbon/the-bourbon-process>;

See also, http://www.knowsouthernhistory.net/Articles/Culture/hot_on_the_bourbon_trail.html

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43. Below is Defendants’ own depiction of their “milling” process:



(See, ¶ 38; FN 11).

44. Although the diagram above shows a stationary mill, the mills are actually rotating on Defendants’ website, as they represent Defendants’ hammer mills.¹⁴ Defendants’ own website claims that “[h]ammer mills grind our ‘mash spill’ – our top secret mix of corn, rye and barely malt.”¹⁵

45. A hammer mill is by definition a machine whose purpose is to grind or crush materials, such as grains, into smaller bits.¹⁶

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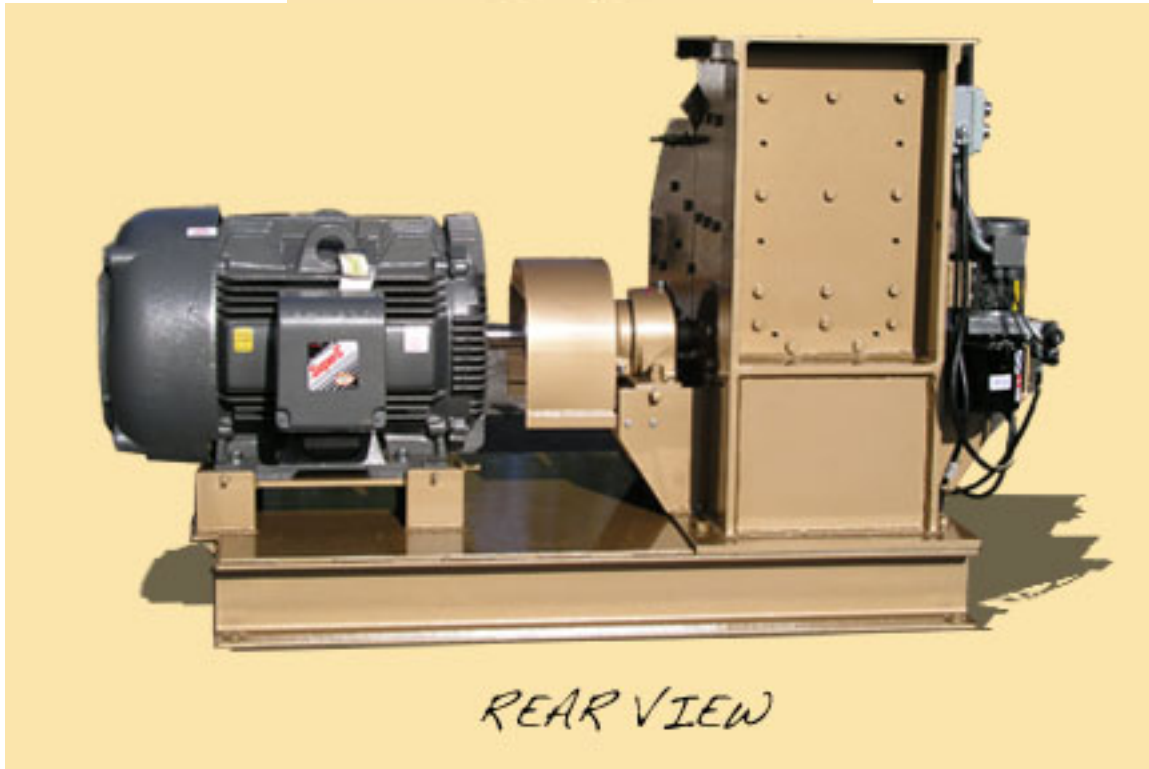
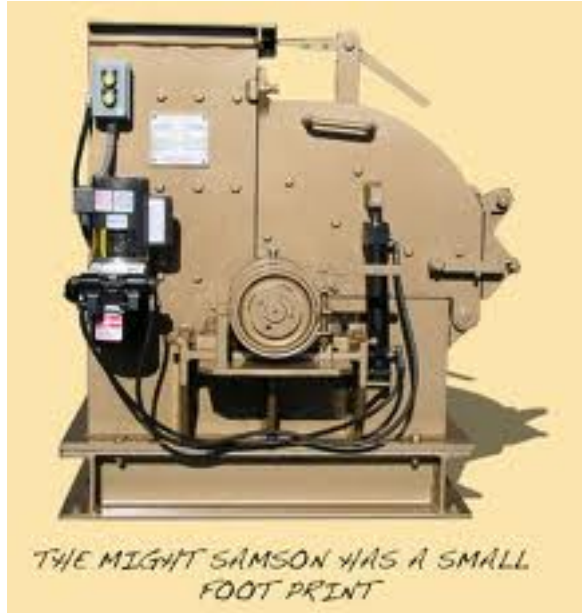
¹⁴ See, <http://www.jimbeam.com/about-bourbon/the-bourbon-process>; see also, http://www.knowsouthernhistory.net/Articles/Culture/hot_on_the_bourbon_trail.html

¹⁵ See, <http://www.jimbeam.com/about-bourbon/the-bourbon-process>.

¹⁶ <http://encyclopedia.thefreedictionary.com/hammermill>

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1 46. Below is a typical hammer mill:



24 47. As the pictures above indicate, a hammer mill is powered and operated by a
25 motor - most commonly an electrical motor. (See, ¶ 46)

26 48. Based on the volume of grain needed to be mashed, Defendants' own
27 admission that it uses a "hammer mil" (See, FN 14 and 15), the pictorial
28 evidence of a typical hammer mill, and the elaborate piping system shown in

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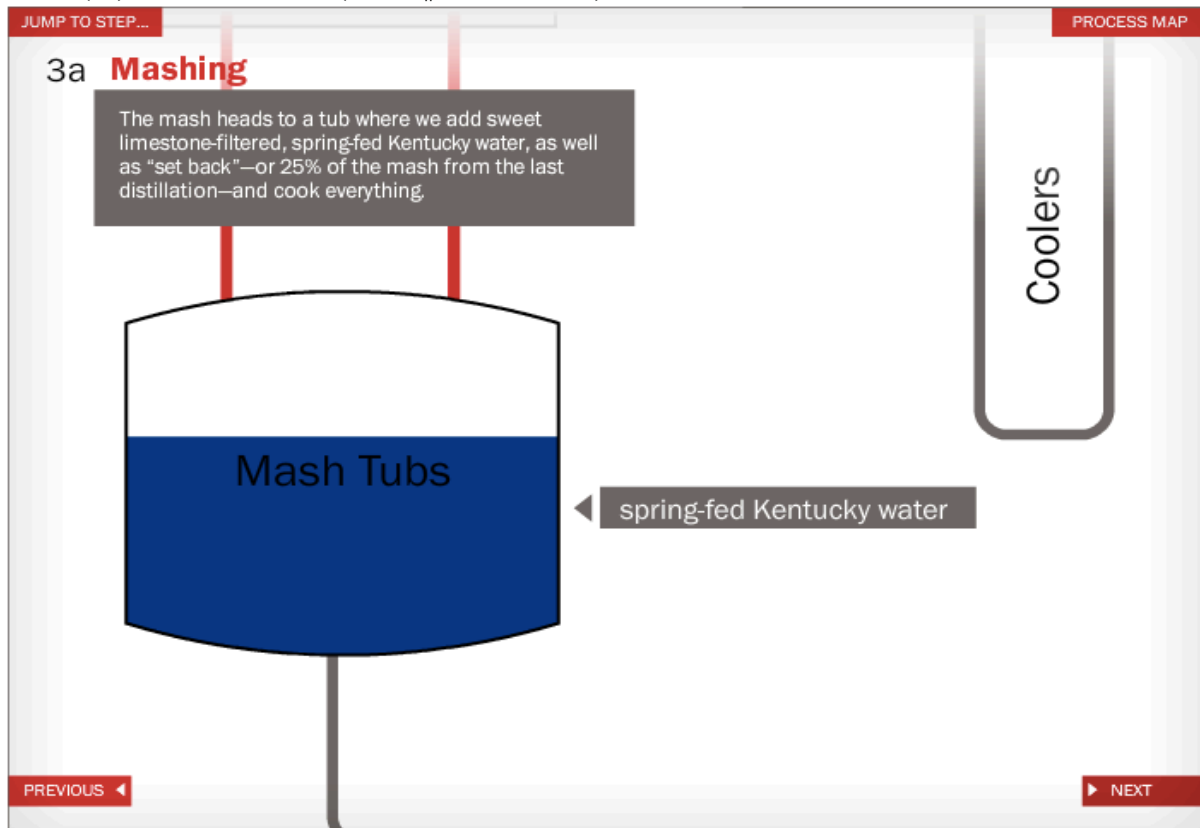
1 the Tour Video 1 (*See*, ¶ 16, FN1), Tour Video 2 (*See*, ¶ 16, FN2) and
 2 American Stillhouse Video (*See*, ¶ 16, FN 3) Plaintiff alleges that the
 3 transferring and grinding process of Defendants’ grains is automated,
 4 mechanized, and involves little to no human supervision, assistance or
 5 intervention.

6 49. There are no “skilled craftsmen” involved in this manufacturing process. The
 7 use of a mechanized and/or automated hammer mill is not equivalent to
 8 Defendants’ representation that the Jim Beam Bourbon is “Handcrafted.”

9 50. After the grain has been grounded up into a powder (*See*, ¶ 43) or “mash,” the
 10 mash is transported to a “mash tub,” where Defendants add water and other
 11 ingredients.

12 51. Defendants’ manufacturing process, taken directly from Defendants’ website
 13 (*See*, ¶ 38; FN 11), involving the transportation and mixing of the mash with
 14 other ingredients is shown below:

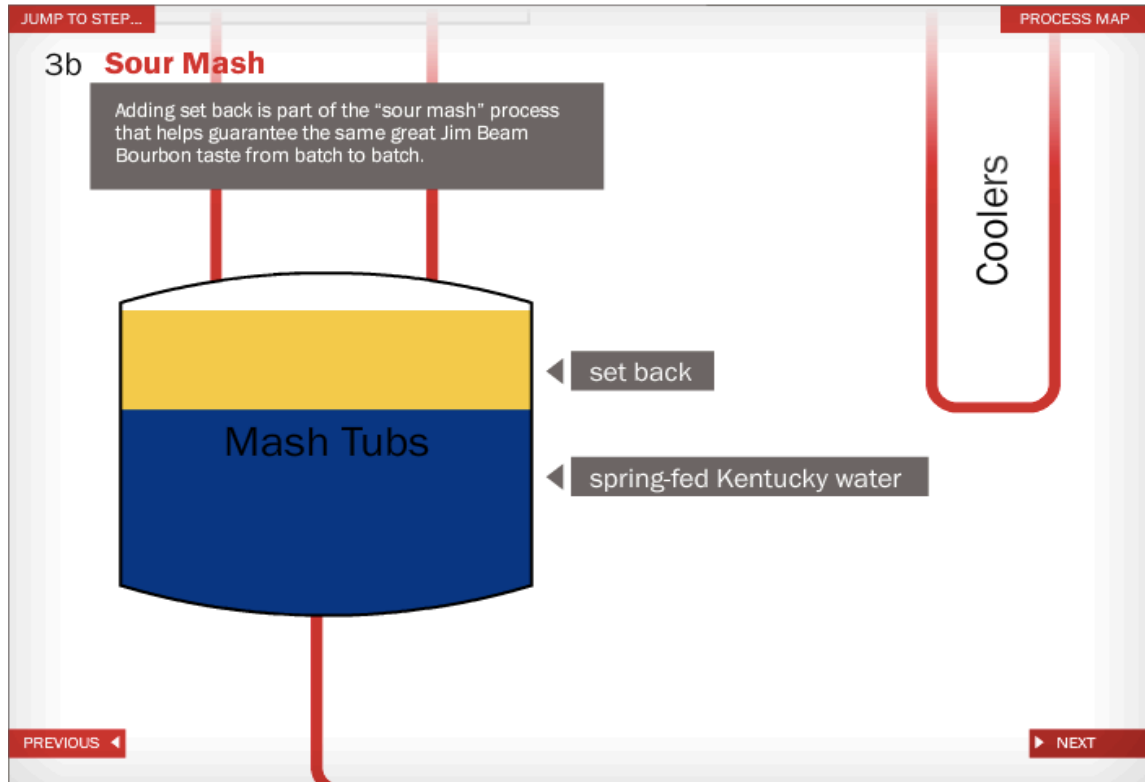
15 (A) Mash Tubs. (*See*, ¶ 38; FN 11).



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(B) Mash Tubs. (See, ¶ 38; FN 11).



52. Below are pictures of Defendants' mash tubs:

(A) Mash Tubs and Tubing



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(B) Individual Tub



(C) Mash Tubs and Motor mounted on top of tubs



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1 (D) Close Up of Mash Tub and Motor
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14 53. Based on the diagrams above (*See*, ¶ 51), the pictures above (*See*, ¶ 52), the
15 Tour Video 1 (*See*, ¶ 16; FN 1 at 1:27), and Tour Video 2 (*See*, ¶ 16; FN 2 at
16 3:36), which all depict the elaborate systems of pipes and motors mounted on
17 top of the mash tubs, Plaintiff alleges the transportation and mixing of the
18 mash is achieved via a mechanized and/or automated process.

19 54. Based on the same, Plaintiff alleges this part of the process is not
20 “Handcrafted” as Defendants’ claim.

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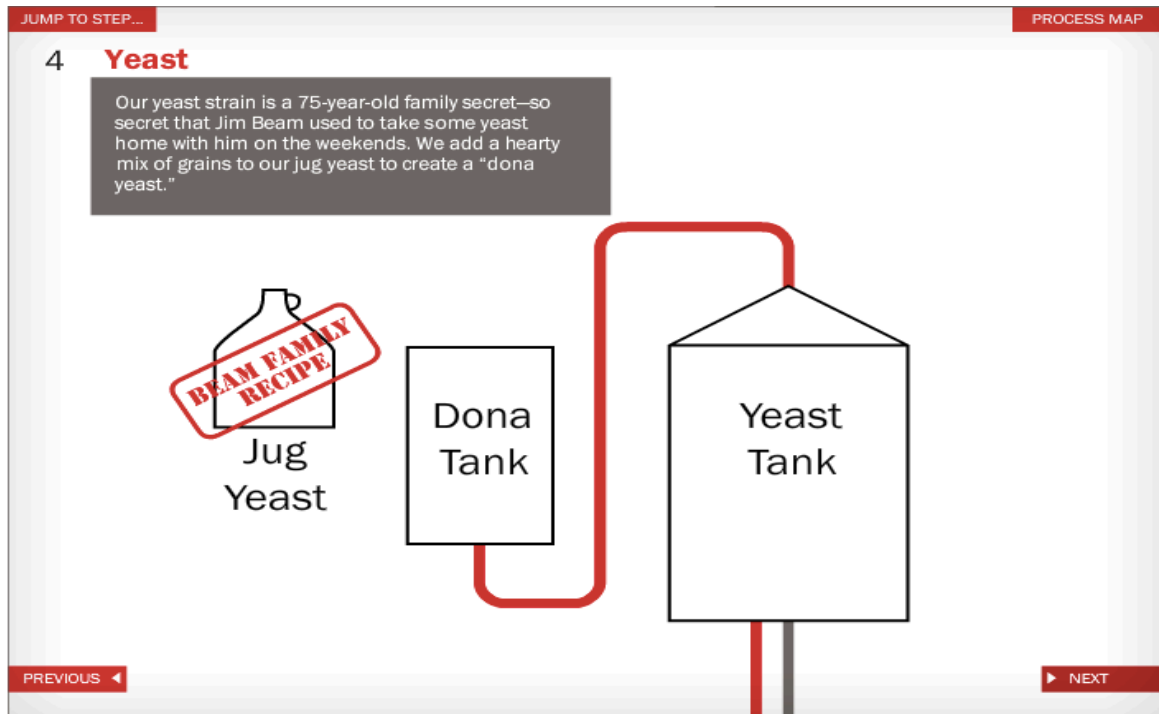
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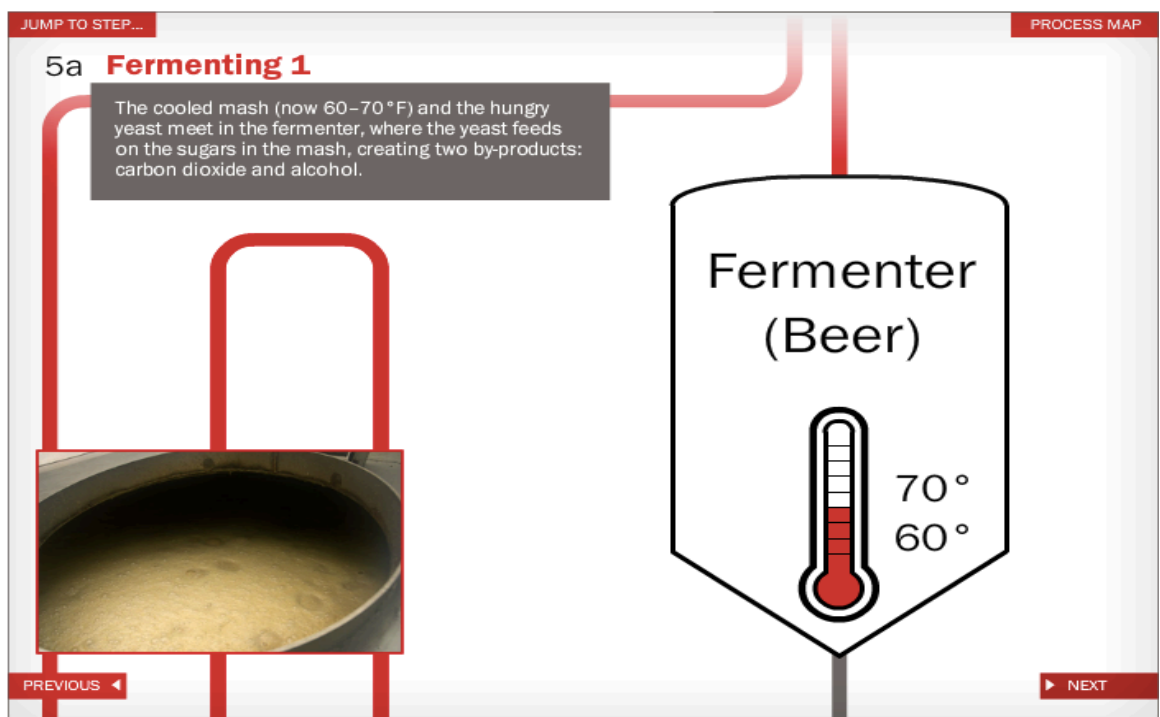
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1 55. Defendants' then add yeast to the mixture and allow it to ferment. Below are
2 diagrams depicting this part of the manufacturing process:

3 (A) Adding of the Yeast. (*See*, ¶ 38; FN 11).



16 (B) Fermenting. (*See*, ¶ 38; FN 11).

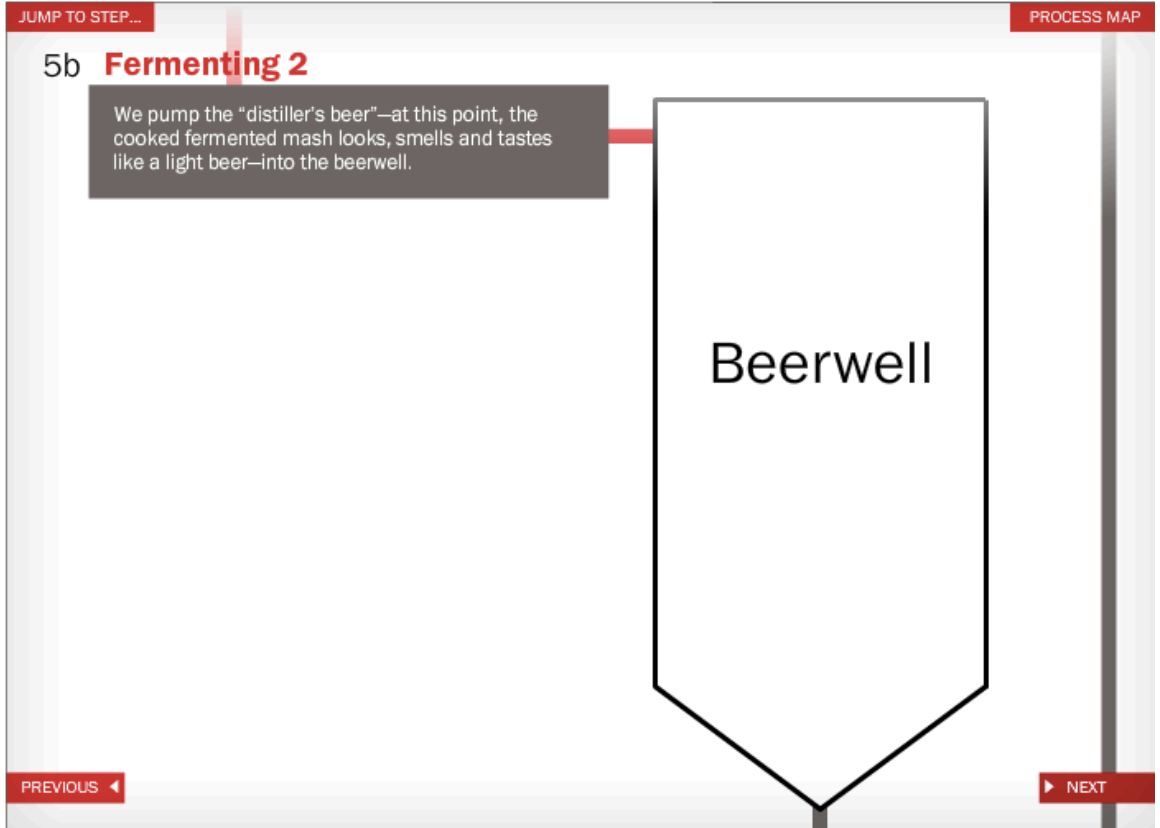


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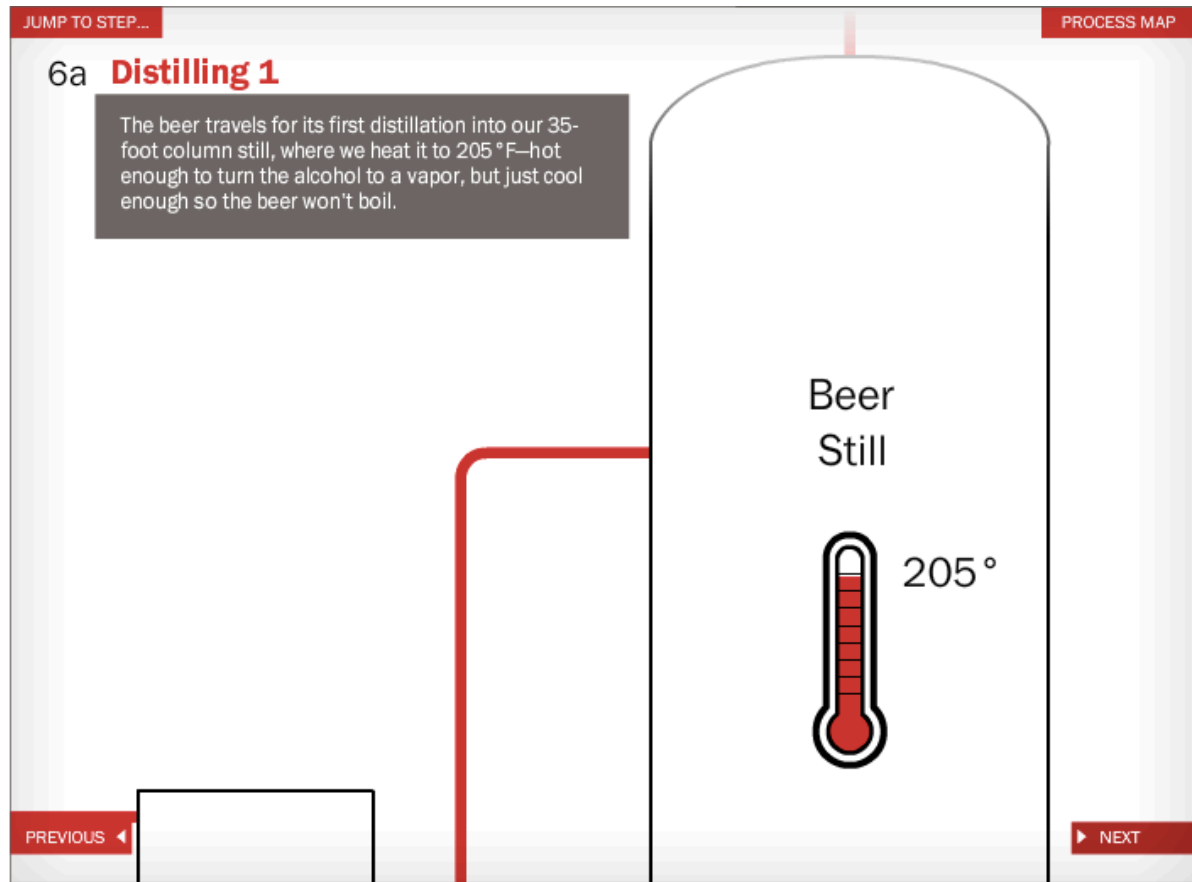
(C) Fermenting. (See, ¶ 38; FN 11).



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1 56. After the mixture has fermented, the mixture is transported into Defendants'
2 35-foot-tall column still. There the mixture is heated to about 205 degrees
3 Fahrenheit. At this point the mixture becomes a sort of light beer.

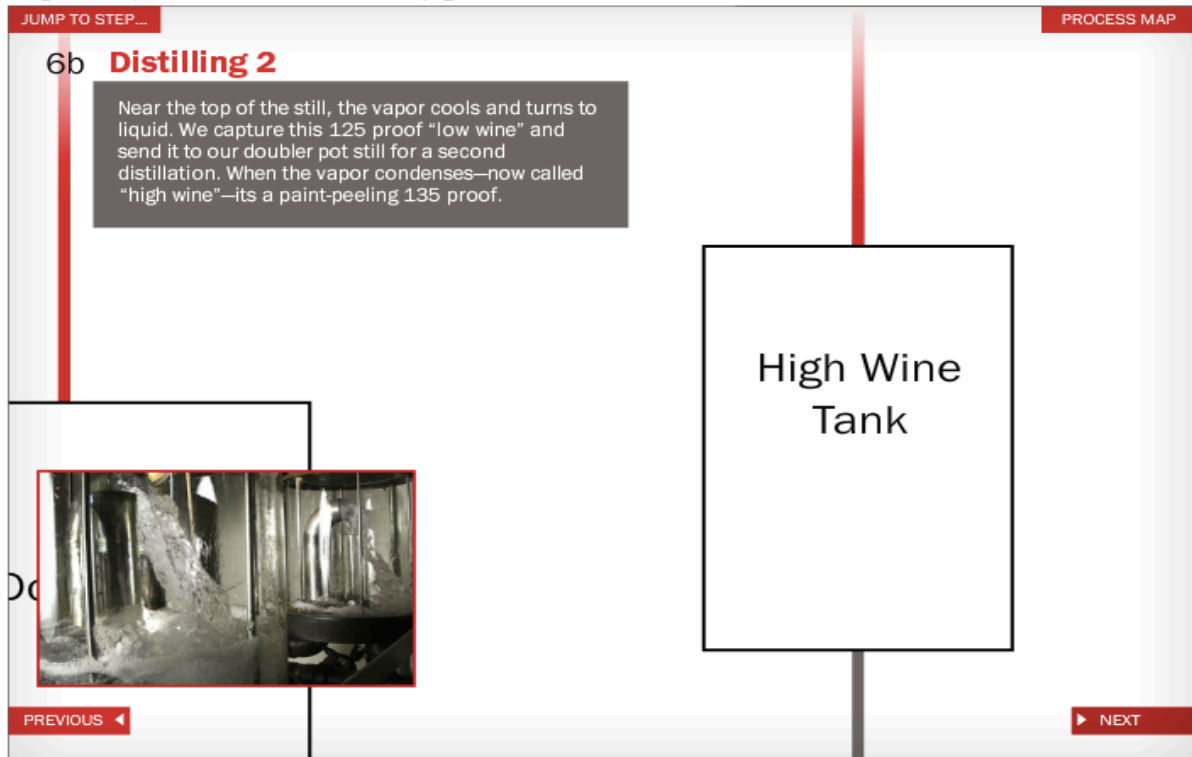
4 57. Below is Defendants' manufacturing process depicting the cooking of the
5 mixture:



18 (See, ¶ 38; FN 11).

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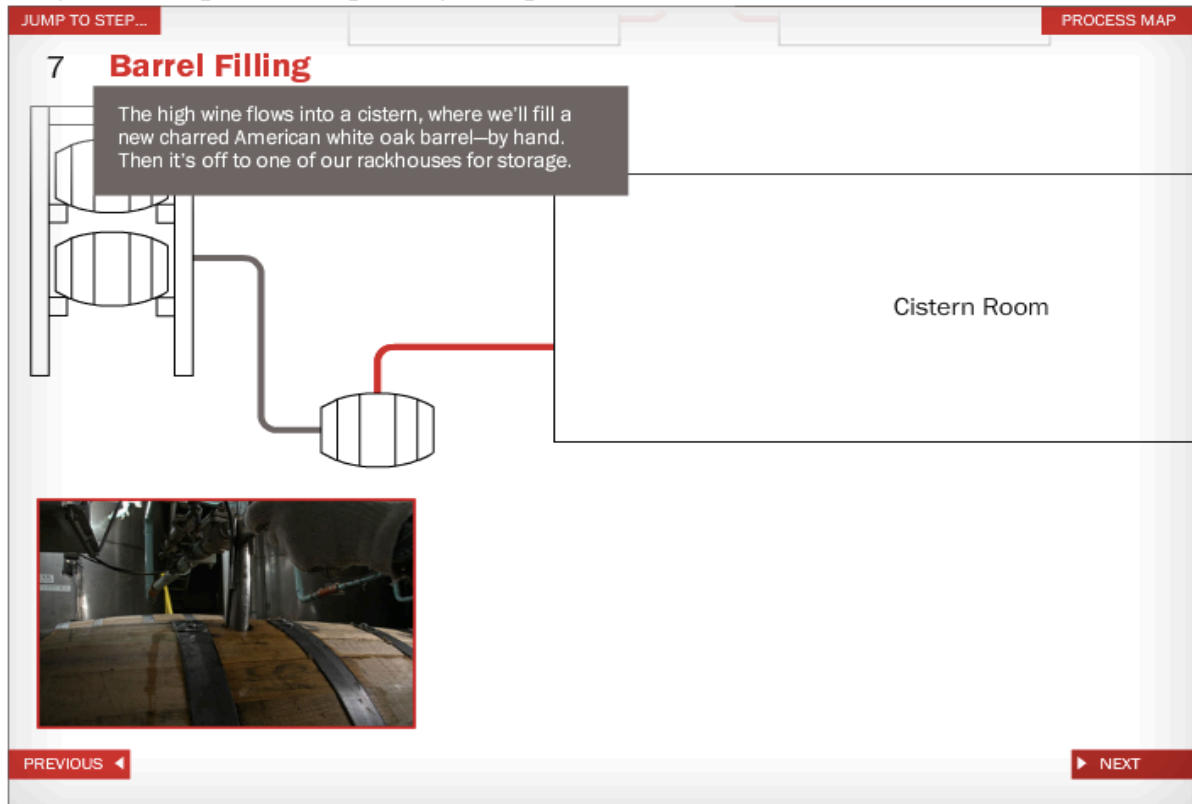
1 58. The beer substance is then distilled, twice. Below is a diagram and picture
2 depicting this manufacturing process:



28 (See, ¶ 38; FN 11).

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1 59. After the liquor is distilled, it is transferred into oak barrels to age. Below is a
2 diagram and picture depicting this process:

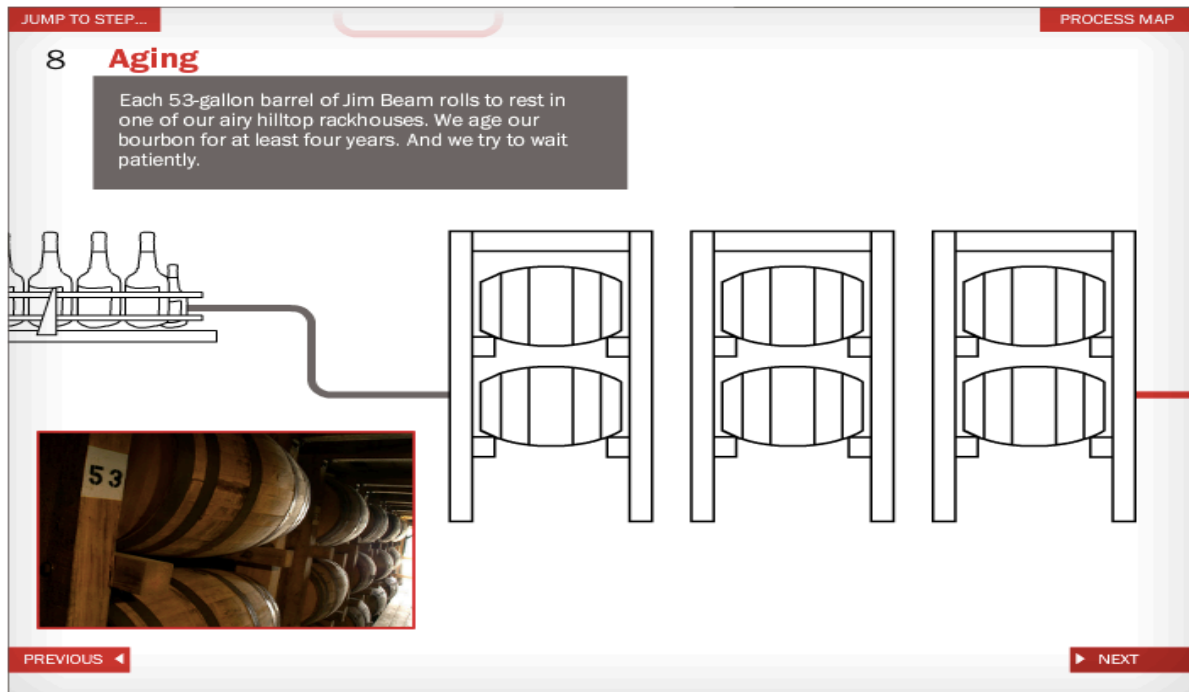


(See, ¶ 38; FN 11).

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1 60. As the pictures above demonstrate, the only human involvement is to simply
2 release a lever to fill the barrels. Everything else, including the transportation
3 of the liquid, appears to be achieved with a switch of a lever, with no real
4 human assistance.

5 61. The liquor is then allowed to age in the barrels. Below is a diagram depicting
6 this process:

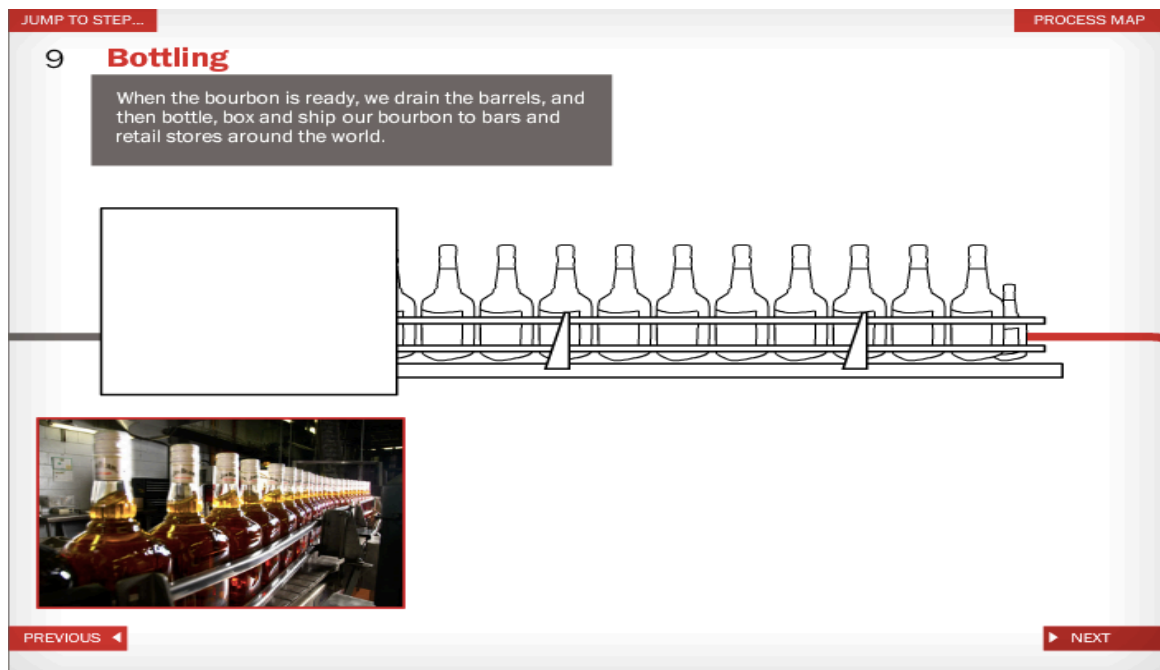


(See, ¶ 38; FN 11).

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1 62. After Defendants' bourbon has aged for the appropriate time, the bourbon is
2 bottled. Defendants' bottling process involves an elaborate filling system
3 wherein the bourbon is pumped through a series of machines and pipes. Below
4 is a diagram depicting this process:

5 (A) Diagram Of Bottling. (See, ¶ 38; FN 11).



(B) Picture of Empty Bottles On Assembly Line.



1 (C) Filled Bottles on Assembly Line
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15 63. Based on the diagrams, the photos, Tour Video 1 (*See*, ¶ 16, FN1), Tour
16 Video 2 (*See*, ¶ 16, FN2) and the American Stillhouse Video (*See*, ¶ 16, FN3)
17 of Defendants' manufacturing process referenced in this Complaint, Plaintiff
18 alleges that Defendants utilize a mechanized and/or automated process to
19 manufacture Jim Beam Bourbon; and therefore, the product is not
20 "Handcrafted" as Defendants advertise.

21 64. As a result of Defendants' misrepresentations regarding their Jim Beam
22 Bourbon, Plaintiff and other putative class members were induced into
23 purchasing and overpaying for the product believing that the bourbon they
24 purchased was of superior quality because it was "Handcrafted." Had Plaintiff
25 and putative class members been made aware that Jim Beam Bourbon was not
26 in fact "Handcrafted," they would not have purchased the product, or would
27 have paid less for it, or purchased a different product. Therefore, Plaintiff and
28 putative class members lost money and/or property as a result of Defendants'

1 conduct complained of herein.

2 65. During the “Class Period,” as defined below, Plaintiff and others similarly
3 situated were exposed to and saw Defendants’ advertising, marketing, and
4 packaging claims disseminated by Defendants for the purpose of selling
5 goods. As a result, Plaintiff and others similarly situated purchased
6 Defendants’ product in reliance on these claims, and suffered injury in fact
7 and lost money and/or property as a result of Defendants’ unfair, misleading
8 and unlawful conduct described herein.

9 66. In making the decision to purchase Jim Beam Bourbon, Plaintiff relied upon
10 the advertising and/or other promotional materials prepared and approved by
11 Defendants and their agents and disseminated through their product’s
12 packaging containing the misrepresentations alleged herein.

13 67. Producing consumer goods by means of mechanized or automated processes
14 has long been touted as a cheaper way to “mass produce” consumer goods. By
15 utilizing machines to produce goods, manufacturers are able to make more
16 goods in a shorter period of time at a lower cost. Mechanization of course
17 sacrifices quality, as machines cannot exercise the skill and care of a human
18 craftsman. Every consumer would undoubtedly prefer a higher quality
19 product, but many are not able or willing to pay for such quality. The demand
20 for higher quality products has always existed amongst consumers and thus
21 manufacturers market their products to those seeking higher quality goods and
22 demand a premium price for that quality.

23 68. Defendants seek to capitalize on consumers’ preference for higher quality
24 bourbon, and to that end, have intentionally marketed their product as
25 “Handcrafted.” *See*, ¶¶ 32 and 33.

26 69. Defendants are aware that consumers are willing to pay more for products of
27 higher quality; and for that reason Defendants have marketed their bourbon as
28 “Handcrafted” to induce the purchase of their product, sell more of their

1 product, and sell their product at a higher price in comparison to competitors’
2 products. Defendants’ misleading advertising is publicly disseminated on a
3 widespread and continuous basis during the Class Period as the offending
4 label containing the bold and conspicuously placed “Handcrafted” text was
5 affixed to all of the Defendants’ white label Jim Beam Bourbon bottles sold
6 throughout the State of California and throughout the United States.

7 70. Defendants’ label was untrue, false, and misleading to Plaintiff and putative
8 class members as a reasonable consumer would have interpreted Defendants’
9 claims according to their common meaning. Merriam-Webster defines
10 “handcrafted” as “created by a hand process rather than by a machine.”¹⁷
11 Therefore, the reasonable consumer would have been misled into believing
12 Jim Beam Bourbon was crafted *by hand* when in fact it is not.

13 71. Defendants knew, or in the exercise of reasonable care should have known,
14 their labels were misleading. Defendants could have easily omitted the bold
15 text “Handcrafted” from their bourbon packaging. However, Defendants
16 deliberately chose to insert such text and intentionally or negligently retained
17 that false claim within their product’s packaging for the purpose of selling
18 their product.

19 72. Defendants made a tactical decision to deceive consumers with the intent of
20 reaping the financial benefit of the false, misleading, and deceptive
21 advertising regarding the mechanized and/or automated means they employ in
22 the manufacturing of their products, intentionally capitalizing on a reasonable
23 consumer’s trust in a nationally branded company perceived to supply quality
24 “Handcrafted” bourbon.

25 ///

26 ///

27 ///

28 ¹⁷ See, <http://www.merriam-webster.com/thesaurus/handmade>

FIRST CAUSE OF ACTION FOR VIOLATIONS OF
CAL. BUS. & PROF. CODE §§ 17500, ET SEQ.
[CALIFORNIA’S FALSE ADVERTISING LAW]

73.Plaintiff repeats, re-alleges and incorporates by reference the above allegations as if fully stated herein.

74.Plaintiff brings this cause of action on behalf of himself and on behalf of the putative Class.

75.Plaintiff and Defendants are each “person[s]” as defined by Cal. Bus. & Prof. Code § 17506. Cal. Bus. & Prof. Code § 17535 authorizes a private right of action on both an individual and representative basis.

76.The misrepresentations, acts, and non-disclosures by Defendants of the material facts detailed above constitute false and misleading advertising and therefore violate Cal. Bus. & Prof. Code §§ 17500 *et seq.*

77.At all times relevant, Defendants’ advertising and promotion regarding their bourbon being “Handcrafted” was untrue, misleading and likely to deceive the reasonable consumer and the public; and, in fact, has deceived Plaintiff and consumers similarly situated by representing that the product was “Handcrafted” when in fact Defendants knew and failed to disclose that their bourbon was made predominately or entirely made by machines through the use of mechanized and/or automated processes.

78.Defendants engaged in the false and/or misleading advertising and marketing, as alleged herein, with the intent to directly or indirectly induce the purchase of bourbon Defendants knew, or had reason to know, was not “Handcrafted.”

79.In making and publicly disseminating the statements and/or omissions alleged herein, Defendants knew or should have known that the statements and/or omissions were untrue or misleading, and acted in violation of Cal. Bus. & Prof. Code §§ 17500 *et seq.*

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1 80. Plaintiff and members of the putative Class have suffered injury in fact and
2 have lost money and/or property as a result of Defendants’ false advertising,
3 as more fully set forth herein. Plaintiff and members of the Class have been
4 injured because they were induced to purchase and overpay for Jim Beam
5 Bourbon. Plaintiff and members of the putative Class have been injured
6 because had they been made aware that Jim Beam Bourbon was not
7 handcrafted, but rather produced by less desirable mechanized and/or
8 automated processes, they would have not purchased the bourbon, or would
9 have paid less for the product, or would have purchased a different product
10 from another manufacturer.

11 81. At a date presently unknown to Plaintiff, but at least four years prior to the
12 filing of this action, and as set forth above, Defendants have committed acts of
13 untrue and misleading advertising and promotion of Jim Beam Bourbon, as
14 defined by Cal. Bus. & Prof. Code §§ 17500 et seq., by engaging in the false
15 advertising and promotion of their bourbon as being “Handcrafted” in their
16 product’s labeling.

17 82. The false and misleading advertising of Defendants, as described above,
18 presents a continuing threat to consumers, as Defendants continue to use the
19 deceptive labels and advertising, which will continue to mislead consumers
20 who purchase Jim Beam Bourbon under false premises.

21 83. As a direct and proximate result of the aforementioned acts and
22 representations of Defendants, Defendants received and continue to hold
23 monies rightfully belonging to Plaintiff and other similarly situated consumers
24 who were led to purchase, purchase more of, or pay more for, Jim Beam
25 Bourbon, due to the unlawful acts of Defendants, during the Class Period.

26 ///

27 ///

28 ///

1 **SECOND CAUSE OF ACTION FOR VIOLATION OF**
2 **CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.**
3 **[CALIFORNIA’S UNFAIR COMPETITION LAW]**

4 84.Plaintiff repeats, re-alleges and incorporates by reference the above allegations
5 as if fully stated herein.

6 85.Plaintiff and Defendants are each “person[s]” as defined by Cal. Bus. & Prof.
7 Code § 17201. Cal. Bus. & Prof. Code § 17204 authorizes a private right of
8 action on both an individual and representative basis.

9 86.“Unfair competition” is defined by Business and Professions Code Section §
10 17200 as encompassing several types of business “wrongs,” four of which are
11 at issue here: (1) an “unlawful” business act or practice, (2) an “unfair”
12 business act or practice, (3) a “fraudulent” business act or practice, and (4)
13 “unfair, deceptive, untrue or misleading advertising.” The definitions in §
14 17200 are drafted in the disjunctive, meaning that each of these “wrongs”
15 operates independently from the others.

16 ***A. “Unlawful” Prong***

17 87.Because Defendants have violated California’s False Advertising Law, Cal.
18 Bus. & Prof. Code §§ 17500 *et seq.*, Defendants have violated California’s
19 Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, which
20 provides a cause of action for an “unlawful” business act or practice
21 perpetrated on members of the California public.

22 88.Defendants had other reasonably available alternatives to further their
23 legitimate business interest, other than the conduct described herein, such as
24 selling Jim Beam Bourbon without falsely stating that it was “Handcrafted.”

25 89.Plaintiff and the putative Class reserve the right to allege other violations of
26 law, which constitute other unlawful business practices or acts, as such conduct
27 is ongoing and continues to this date.

28 ///

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B. “Unfair” Prong

1
2 90. Defendants’ actions and representations constitute an “unfair” business act or
3 practice under § 17200, in that Defendants’ conduct is substantially injurious
4 to consumers, offends public policy, and is immoral, unethical, oppressive, and
5 unscrupulous as the gravity of the conduct outweighs any alleged benefits
6 attributable to such conduct. Without limitation, it is an unfair business act or
7 practice for Defendants to knowingly or negligently represent to the
8 consuming public, including Plaintiff, that Jim Beam Bourbon is
9 “Handcrafted” when in fact it is predominately or entirely manufactured by
10 mechanized and/or automated processes, rather than by hand. Such conduct by
11 Defendants is "unfair" because it offends established public policy and/or is
12 immoral, unethical, oppressive, unscrupulous and/or substantially injurious to
13 consumers in that consumers are led to believe that Jim Beam Bourbon is of
14 superior quality and workmanship by virtue of it being “Handcrafted,” when in
15 fact it is not. Defendants’ product labeling misleads and deceives consumers
16 into believing Jim Beam Bourbon is “Handcrafted,” when actually it is
17 entirely, or almost entirely, manufactured by mechanized and/or automated
18 processes.

19 91. At a date presently unknown to Plaintiff, but at least four years prior to the
20 filing of this action, and as set forth above, Defendants have committed acts of
21 unfair competition as defined by Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by
22 engaging in the false advertising and promotion of Jim Beam Bourbon as, *inter*
23 *alia*, “Handcrafted.”

24 92. Defendants could have and should have furthered their legitimate business
25 interests by expressly indicating in their labeling that Jim Beam Bourbon is, in
26 fact, made by machines rather than by hand. Alternatively, Defendants could
27 have refrained from misstating that Jim Beam Bourbon was “Handcrafted”
28 when in fact it is not.

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1 93.Plaintiff and other members of the Class could not have reasonably avoided the
2 injury suffered by each of them. Plaintiff reserves the right to allege further
3 conduct that constitutes other unfair business acts or practices. Such conduct is
4 ongoing and continues to this date, as Defendants have failed to request the
5 removal of deceptively labeled products from their resellers’ stores.

6 ***C. “Fraudulent” Prong***

7 94.Defendants’ claims and misleading statements were false, misleading and/or
8 likely to deceive the consuming public within the meaning of Cal. Bus. & Prof.
9 Code §§ 17200 *et seq.* Defendants engaged in fraudulent acts and business
10 practices by knowingly or negligently representing to Plaintiff, and other
11 similarly situated consumers, whether by conduct, orally, or in writing by:

- 12 a. Intentionally designing the product’s label to conspicuously state that
13 Jim Beam Bourbon is “Handcrafted” without accurately identifying
14 the true mechanized and/or automated means by which the bourbon
15 is manufactured.
- 16 b. Intentionally allowing Defendants’ resellers to use and advertise Jim
17 Beam Bourbon through the use of Defendants’ labels, which contain
18 misleading and false statements.

19 95.Plaintiff reserves the right to allege further conduct that constitutes other
20 fraudulent business acts or practices. Such conduct is ongoing and continues
21 to this date.

22 96.The fraudulent, unlawful and unfair business practices and false and
23 misleading advertising of Defendants, as described above, presents a
24 continuing threat to consumers in that they will continue to be misled into
25 purchasing Jim Beam Bourbon under false premises.

26 ///

27 ///

28 ///

D. “Unfair, Deceptive, Untrue or Misleading Advertising” Prong

97. Defendants’ advertising is unfair, deceptive, untrue or misleading in that consumers are led to believe that Jim Beam Bourbon is “Handcrafted” and that it is of superior quality and workmanship by virtue of it being “Handcrafted,” when in fact Jim Beam Bourbon is not made by hand, but rather by machines though mechanized and/or automated processes.

98. Plaintiff, a reasonable consumer, and the public would be likely to be, and, in fact, were deceived and misled by Defendants’ advertising as they would, and did, interpret the representation “Handcrafted” in accord with its ordinary usage, that the product was made by hand rather than by a machine, when in fact it was not.

99. As a direct and proximate result of the aforementioned acts and representations of Defendants, Defendants received and continue to hold monies rightfully belonging to Plaintiff and other similarly situated consumers who were led to purchase, purchase more of, or pay more for, Jim Beam Bourbon, due to the unlawful acts of Defendants.

100. Thus, Defendants caused Plaintiff and other members of the Class to purchase Jim Beam Bourbon under false premises during the Class Period.

101. Defendants have engaged in unlawful, unfair and fraudulent business acts or practices, entitling Plaintiff, and putative Class members, to a judgment and equitable relief against Defendant, as set forth in the Prayer for Relief. Pursuant to Cal. Bus. & Prof. Code § 17203, as result of each and every violation of the UCL, which are continuing, Plaintiff is entitled to restitution and injunctive relief against Defendants, as set forth in the Prayer for Relief.

102. Plaintiff and members of the putative Class have suffered injury in fact and have lost money or property as a result of Defendants’ unfair competition, as more fully set forth herein. Plaintiff and members of the putative Class have been injured as they relied on Defendants’ intentional misrepresentation and

1 were induced into purchasing, purchasing more of, and overpaying for Jim
2 Beam Bourbon. Plaintiff and members of the Class have been injured, as had
3 they been made aware that the product was machine-made rather than
4 “Handcrafted,” they would not have purchased the product, or would have paid
5 less for it, or purchased a different product from another manufacturer.

6 103. Defendants, through their acts of unfair competition, have unfairly acquired
7 monies from Plaintiff and members of the putative Class. It is impossible for
8 Plaintiff to determine the exact amount of money that Defendants have
9 obtained without a detailed review of the Defendants’ books and records.
10 Plaintiff requests that this Court restore these monies and enjoin Defendants
11 from continuing to violate Cal. Bus. & Prof. Code §§ 17200 *et seq.*, as
12 discussed above.

13 104. Unless Defendants are enjoined from continuing to engage in the unlawful,
14 unfair, fraudulent, untrue, and deceptive business acts and practices as
15 described herein, consumers residing within California will continue to be
16 exposed to and harmed by Defendants’ unfair business practices.

17 105. Plaintiff further seeks an order requiring Defendants to make full restitution
18 of all monies wrongfully obtained and disgorge all ill-gotten revenues and/or
19 profits, together with interest thereupon.

20 106. Plaintiff also seeks attorneys’ fees and costs pursuant to, *inter alia*,
21 California Civil Code Section 1021.5.

22 **THIRD CAUSE OF ACTION FOR**
23 **NEGLIGENT MISREPRESENTATION**

24 107. Plaintiff repeats, re-alleges and incorporates herein by reference the above
25 allegations as if fully stated herein.

26 108. At a date presently unknown to Plaintiff, but at least four years prior to the
27 filing of this action, and as set forth above, Defendants represented to the
28 public, including Plaintiff, by packaging and other means, that Jim Beam

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1 Bourbon was “Handcrafted,” as described herein.

2 109. Defendants made the representations herein alleged with the intention of
3 inducing the public, including Plaintiff, to purchase Jim Beam Bourbon.

4 110. Plaintiff and other similarly situated persons in California saw, believed,
5 and relied upon Defendants’ advertising representations and, in reliance on
6 them, purchased the product, as described herein.

7 111. At all times relevant, Defendants made the misrepresentations herein
8 alleged; and Defendants had no reasonable basis for believing the
9 representations to be true.

10 112. As a proximate result of Defendants’ negligent misrepresentations, Plaintiff
11 and other consumers similarly situated were induced to purchase, purchase
12 more of, or pay more for Jim Beam Bourbon due to the unlawful acts of
13 Defendants, in an amount to be determined at trial during the Class Period.

14 **FOURTH CAUSE OF ACTION FOR**
15 **INTENTIONAL MISREPRESENTATION**

16 113. Plaintiff repeats, re-alleges and incorporates herein by reference the above
17 allegations as if fully stated herein.

18 114. At a date presently unknown to Plaintiff, but at least four years prior to the
19 filing of this action, and as set forth above, Defendants intentionally
20 represented to the public, including Plaintiff, by promoting and other means,
21 that Jim Beam Bourbon is “Handcrafted,” in the product’s labeling, as
22 described herein. Defendants’ representations were untrue.

23 115. Defendants made the representations herein alleged with the intention of
24 inducing the public, including Plaintiff, to purchase Jim Beam Bourbon for
25 Defendants’ own financial gain.

26 116. The statements regarding Jim Beam Bourbon being “Handcrafted” were
27 misleading because Defendants actually use an entirely, or nearly entirely,
28 mechanized and/or automated process for manufacturing their bourbon. The

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1 bourbon is therefore not “Handcrafted” as Defendants advertises on their
2 product’s labeling.

3 117. Plaintiff and other similarly situated persons in California saw, believed, and
4 relied upon Defendants’ advertising representations and, in reliance on such
5 representations, purchased the products, as described above.

6 118. At all times relevant, Defendants made the misrepresentations herein
7 alleged, allowed the misrepresentations to continue to be made by their
8 resellers, and Defendants knew or had reason to know the representations to be
9 false.

10 119. As a proximate result of Defendants’ intentional misrepresentations, Plaintiff
11 and other consumers similarly situated were induced to spend an amount of
12 money to be determined at trial on Defendants’ misrepresented product.

13 120. Defendants knew that their bourbon was not “Handcrafted,” but nevertheless
14 made representations that it was, with the intention that consumers rely on their
15 representations.

16 121. Defendants also knew that retailers were advertising their bourbon as
17 “Handcrafted,” as Defendants designed, manufactured, and affixed the product
18 labeling to their Jim Beam Bourbon bottles before supplying the products to
19 retailers.

20 122. Plaintiff and other consumers similarly situated, in purchasing and using the
21 products as herein alleged, did rely on Defendants’ representations, including
22 the representations on the Jim Beam Bourbon labels, all to their damage and/or
23 detriment as herein alleged.

24 123. Plaintiff alleges the “who, what, when, where, and how” of the alleged
25 deception by Defendants as follows:

26 a. The “who” is Defendants Beam and Suntory;

27 b. The “what” is representation that Defendants’ Jim Beam Bourbon is
28 “Handcrafted”;

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- 1 c. The “when” is the date Plaintiff purchased the product and the Class
2 Period of four years prior to the filing of the Complaint;
3 d. The “where” is in Defendants’ product labeling (*See* ¶¶ 32 and 33);
4 and
5 e. The “how” is the allegation that Defendants did not disclose that their
6 bourbon was not “Handcrafted,” but rather produced entirely, or
7 almost entirely, by mechanized and/or automated processes, and not
8 by hand.

9 124. By engaging in the acts described above, Defendants are guilty of malice,
10 oppression, and fraud, and each Plaintiff is therefore entitled to recover
11 exemplary or punitive damages.

12 CLASS ACTION ALLEGATIONS

13 125. Plaintiff and the members of the Class have all suffered injury in fact as a
14 result of Defendants’ unlawful and misleading conduct.

15 126. The “Class Period” means four years prior to the filing of the Complaint in
16 this action.

17 127. Plaintiff bring this lawsuit on behalf of himself and other California
18 consumers similarly situated under Rule 23(b)(2) and (b)(3) of the Federal
19 Rules of Civil Procedure. Subject to additional information obtained through
20 further investigation and/or discovery, the proposed “Class” consists of:

21 “All persons who purchased a white label Jim Beam
22 Bourbon in the State of California within four years
23 prior to the filing of the Complaint in this action.”

24 Excluded from the Class are Defendants and any of their officers, directors,
25 and employees, or anyone who purchased a white label Jim Beam Bourbon
26 for the purposes of resale. Plaintiff reserves the right to modify or amend the
27 Class definition before the Court determines whether certification is
28 appropriate.

1 128. *Ascertainability*. The members of the Class are readily ascertainable from
2 Defendants' records and/or Defendants' agent's records regarding retail and
3 online sales, as well as through public notice.

4 129. *Numerosity*. The members of the Class are so numerous that their individual
5 joinder is impracticable. Plaintiff is informed and believes, and on that basis
6 alleges, that the proposed Class consists of thousands of members, if not
7 millions.

8 130. *Existence and Predominance of Common Questions of Law and Fact*.

9 Common questions of law and fact exist as to all members of the Class
10 predominate over any questions affecting only individual Class members. All
11 members of the Class have been subject to the same conduct and their claims
12 are based on the standardized marketing, advertisements and promotions. The
13 common legal and factual questions include, but are not limited to, the
14 following:

- 15 (a) Whether Defendants' bourbon is manufactured by any
16 mechanized and/or automated process rather than by hand;
- 17 (b) Whether Defendants' bourbon is predominately manufactured
18 by mechanized and/or automated process rather than by hand;
- 19 (c) Whether Defendants' claims and representations above are
20 untrue, or are misleading, or reasonably likely to deceive;
- 21 (d) Whether Defendants' conduct is an unlawful act or practice
22 within the meaning of Cal. Bus. & Prof. Code §§ 17200 *et seq*;
- 23 (e) Whether Defendants' conduct is a fraudulent act or practice
24 within the meaning of Cal. Bus. & Prof. Code §§ 17200 *et seq*;
- 25 (f) Whether Defendants' conduct is an unfair act or practice
26 within the meaning of Cal. Bus. & Prof. Code §§ 17200 *et seq*;
- 27 (g) Whether Defendants' advertising is unfair, deceptive, untrue or
28 misleading within the meaning of Cal. Bus. & Prof. Code §§

1 17200 *et seq*;

2 (h) Whether Defendants' advertising is false, untrue, or misleading
3 within the meaning of Cal. Bus. & Prof. Code §§ 17500 *et seq*;

4 (i) Whether Defendants acted intentionally in making the
5 misrepresentations contained in their product's label.

6 (j) Whether Defendants, through their conduct, received money
7 that, in equity and good conscience, belongs to Plaintiff and
8 members of the Class;

9 (k) Whether Plaintiff and proposed members of the Class are
10 entitled to equitable relief, including but not limited to
11 restitution and/or disgorgement; and

12 (l) Whether Plaintiff and proposed members of the Class are
13 entitled to injunctive relief sought herein.

14 131. **Typicality.** Plaintiff's claims are typical of the claims of the members of the
15 Class in that Plaintiff is a member of the Class that Plaintiff seeks to represent.
16 Plaintiff, like members of the proposed Class, purchased Defendants' bourbon
17 after exposure to the same material misrepresentations and/or omissions
18 appearing in the product's labeling, and received a product that was
19 manufactured by mechanized and/or automated means rather than by hand.
20 Plaintiff is advancing the same claims and legal theories on behalf of himself
21 and all absent members of the Class. Defendants have no defenses unique to
22 the named Plaintiff.

23 132. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the
24 interests of the members of the Class. Plaintiff has retained counsel
25 experienced in consumer protection law, including class actions. Plaintiff has
26 no adverse or antagonistic interests to those in the Class, and will fairly and
27 adequately protect the interest of the Class. Plaintiff's attorneys are aware of
28 no interests adverse or antagonistic to those of Plaintiff and the proposed Class.

1 133. *Superiority*. A Class Action is superior to all other available means for the
2 fair and efficient adjudication of this controversy. Individualized litigation
3 would create the danger of inconsistent and/or contradictory judgments arising
4 from the same set of facts. Individualized litigation would also increase the
5 delay and expense to all parties and court system and the issues raised by this
6 action. The damages or other financial detriment suffered by individual Class
7 members may be relatively small compared to the burden and expense that
8 would be entailed by individual litigation of the claims against the Defendants.
9 The injury suffered by each individual member of the proposed class is
10 relatively small in comparison to the burden and expense of individual
11 prosecution of the complex and extensive litigation necessitated by
12 Defendants' conduct. It would be virtually impossible for members of the
13 proposed Class to individually redress effectively the wrongs to them. Even if
14 the members of the proposed Class could afford such litigation, the court
15 system could not. Individualized litigation increases the delay and expense to
16 all parties, and to the court system, presented by the complex legal and factual
17 issues of the case. By contrast, the class action device presents far fewer
18 management difficulties, and provides the benefits of single adjudication,
19 economy of scale, and comprehensive supervision by a single court.
20 Therefore, a class action is maintainable pursuant to Fed. R. Civ. P. 23(b)(3).

21 134. Unless the Class is certified, Defendants will retain monies received as a
22 result of Defendants' unlawful and deceptive conduct alleged herein. Unless a
23 class-wide injunction is issued, Defendants will also likely continue to, or
24 allow its resellers to, advertise, market, promote and package Jim Beam
25 Bourbon in an unlawful and misleading manner, and members of the Class will
26 continue to be misled, harmed, and denied their rights under California law.

27 135. Further, Defendants have acted or refused to act on grounds that are
28 generally applicable to the Class so that declaratory and injunctive relief is

1 appropriate to the Class as a whole, making class certification appropriate
2 pursuant to Fed. R. Civ. P. 23(b)(2).

3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, Plaintiff prays that judgment be entered against
5 Defendants, and Plaintiff and Class members be awarded damages from
6 Defendants as follows:

- 7 • That this action be certified as a Class Action, Plaintiff be appointed as
8 the representatives of the Class, and Plaintiff’s attorneys be appointed
9 Class counsel;
- 10 • A temporary, preliminary and/or permanent order for injunctive relief
11 requiring Defendants to: (i) discontinue advertising, marketing and
12 otherwise representing their Jim Beam Bourbon as “Handcrafted”; (ii)
13 disclose the mechanized and/or automated processes utilized in the
14 manufacture of Jim Beam Bourbon; and, (iii) correct any erroneous
15 impression consumers may have derived concerning the means of
16 production for Jim Beam Bourbon, including, but without limitation, the
17 placement of corrective advertising and providing written notice to the
18 public;
- 19 • An order requiring imposition of a constructive trust and/or
20 disgorgement of Defendants’ ill-gotten gains and to pay restitution to
21 Plaintiff and all members of the Class, and to restore to Plaintiff and
22 members of the Class all funds acquired by means of any act or practice
23 declared by this Court to be an unlawful, fraudulent, or unfair business
24 act or practice, in violation of laws, statutes or regulations, or
25 constituting unfair competition;
- 26 • Distribution of any monies recovered on behalf of members of the Class
27 via fluid recovery or *cy pres* recovery where necessary and as applicable,
28 to prevent Defendants from retaining the benefits of their wrongful

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COSTA MESA, CA 92626

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conduct;

- Prejudgment and post-judgment interest;
- Special, general, and compensatory damages to Plaintiff and the Class for negligent and/or intentional misrepresentations;
- Exemplary and/or punitive damages for intentional misrepresentations pursuant to, *inter alia*, Cal. Civ. Code § 3294;
- Costs of this suit;
- Reasonable attorneys’ fees pursuant to, *inter alia*, California Code of Civil Procedure § 1021.5; and
- Any and all other relief that this Court deems necessary or appropriate.

Dated: February 17, 2015

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ Abbas Kazerounian
 ABBAS KAZEROUNIAN, ESQ.
 MONA AMINI, ESQ.
 ATTORNEYS FOR PLAINTIFF

TRIAL BY JURY

136. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: February 17, 2015

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ Abbas Kazerounian
 ABBAS KAZEROUNIAN, ESQ.
 MONA AMINI, ESQ.
 ATTORNEYS FOR PLAINTIFF