

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
FRANKFORT DIVISION

\_\_\_\_\_  
SAZERAC BRANDS, LLC, a Delaware limited  
liability company, and SAZERAC COMPANY,  
INC., a Louisiana corporation,

Plaintiffs,

v.

PERISTYLE, LLC, a Kentucky limited  
liability company, and PERISTYLE  
HOLDINGS, LLC, a Kentucky limited liability  
company,

\_\_\_\_\_  
Defendants.

Civil Action No.

**COMPLAINT**

1. This action concerns trademark infringement and unfair competition arising from the use by defendants Peristyle, LLC and Peristyle Holdings, LLC (collectively, “Peristyle” or “Defendants”) of trademarks identical and confusingly similar to the OLD TAYLOR and COLONEL E.H. TAYLOR trademarks owned by plaintiff Sazerac Brands, LLC (“Sazerac Brands”) and used by plaintiff Sazerac Company, Inc. (“Sazerac Company”). Sazerac Brands and Sazerac Company (collectively, “Plaintiffs”) complain and allege against Peristyle as follows.

**PARTIES**

2. Sazerac Brands, a Delaware limited liability company with an address of 10400 Linn Station Road, Suite 300 Louisville, Kentucky 40223, is a wholly-owned subsidiary of Sazerac Company. Sazerac Brands owns the OLD TAYLOR and COLONEL E.H. TAYLOR trademarks that are the subject of this dispute.

3. Sazerac Company is a Louisiana corporation with its principal place of business at 3850 N. Causeway Boulevard, Suite 1695, Metairie, Louisiana 70002. Sazerac Company owns and operates several distilleries in the Commonwealth of Kentucky, including the Buffalo Trace Distillery with its principal place of business at 113 Great Buffalo Trace, Frankfort, Kentucky 40601, the distillery where Sazerac Company bottles and labels its OLD TAYLOR bourbon whiskey and COLONEL E. H. TAYLOR whiskey.

4. On information and belief, Peristyle, LLC and Peristyle Holdings, LLC are Kentucky limited liability companies with the same principal place of business at 4445 McCracken Pike, Frankfort, Kentucky 40601.

#### **JURISDICTION AND VENUE**

5. This is an action for federal trademark infringement and unfair competition arising under the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*, and common law trademark infringement in violation of Kentucky state law.

6. This court has original jurisdiction over the federal trademark infringement and unfair competition claims pursuant to 15 U.S.C. §§ 1121 and 1125 and 28 U.S.C. §§ 1331 and 1338.

7. Supplemental jurisdiction is proper for the state law claims under 28 U.S.C. § 1367(a) as the claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

8. Personal jurisdiction is not an issue because Peristyle, LLC and Peristyle Holdings, LLC are organized under the laws of Kentucky as limited liability companies.

9. Venue is proper in the United States District Court for the Eastern District of Kentucky under 28 U.S.C. § 1391(b) because: (1) Defendants' tortious conduct has occurred in this district; (2) Defendants' principal places of business are located in this district; (3)

Defendants conduct regular and systematic business in this district; and (4) a substantial part of the events or omissions giving rise to the claim occurred in this district.

### **FACTS**

10. This case involves Defendants' willful trademark infringement of Sazerac Brands' OLD TAYLOR and COLONEL E. H. TAYLOR trademarks. Plaintiffs' claims arise out of Defendants' use of the identical trademarks in connection with promoting and organizing events at a location historically associated with Kentucky bourbon whiskey, and Defendants' apparent intent to distill, market, and sell liquor in connection with the same identical trademarks in the future.

#### **Plaintiffs and the OLD TAYLOR Trademarks**

11. Sazerac Company is a leading distiller of spirits and the namesake of America's first commercially promoted and sold cocktail – the Sazerac Cocktail. Sazerac Company produces, bottles, and/or distributes a variety of distilled spirits, including vodka, whiskeys, and liqueurs. In particular, Sazerac Company produces, bottles, and/or distributes numerous types of whiskeys, including American bourbon whiskey, Scotch whisky, and Canadian whisky.

12. Sazerac Company's OLD TAYLOR whiskey is a Kentucky bourbon whiskey.

13. OLD TAYLOR whiskey was originally developed by the famed Colonel Edmund Haynes Taylor, Jr. ("Colonel E. H. Taylor") in 1887. Colonel E. H. Taylor owned several distilleries in his lifetime, two of which eventually became incorporated into Sazerac Company's Buffalo Trace Distillery. Another of his distilleries, located near Frankfort, Kentucky, was designed to resemble a medieval castle with manicured lawns and ornate buildings (the "Frankfort Distillery").

14. On information and belief, Peristyle, LLC purchased property that contains the Frankfort Distillery (the "Peristyle Property") sometime in April or May of 2014. Prior to that

purchase and over the past several decades, the property changed ownership multiple times and has either been used for multiple purposes or put to no use at all. On information and belief, the Peristyle Property is currently owned or leased by Peristyle Holdings, LLC.

15. The OLD TAYLOR trademark was acquired by the James B. Beam Distilling Company (“Jim Beam”) in 1987. Sazerac Company purchased the worldwide rights to the OLD TAYLOR mark from Jim Beam in 2009 and began producing, marketing, and distributing whiskey under the OLD TAYLOR mark in interstate commerce in the United States shortly thereafter. In early 2015, Sazerac Company assigned the OLD TAYLOR mark to its wholly-owned subsidiary, Sazerac Brands.

16. Sazerac Company and its predecessors-in-interest have been using the OLD TAYLOR mark in connection with its famous Kentucky bourbon whiskey since at least as early as 1887.

17. Sazerac Company currently distills, ages, and bottles its OLD TAYLOR whiskey at the Buffalo Trace distillery in Frankfort, Kentucky.

18. OLD TAYLOR is sold in many different channels throughout the United States, including liquor stores, mass retail outlets, grocery stores, bars, clubs, restaurants, and other retail locations. OLD TAYLOR has also been extensively advertised and promoted in various media in the United States, including online through the Sazerac.com website.

19. As a result of the long-term and consistent use of the OLD TAYLOR brand in connection with American bourbon whiskey and the high quality of the product, the OLD TAYLOR product has become well-known, highly regarded, and has come to embody the goodwill of Plaintiffs.

20. Sazerac Brands owns the following federal trademark registration and applications for its OLD TAYLOR mark:

- OLD TAYLOR (stylized), U.S. Reg. No. 507794, issued March 22, 1949, for use in connection with “whiskey” in Class 33 (the “OLD TAYLOR Registration”);
- OLD TAYLOR, U.S. Ser. No. 86/122,346, filed November 19, 2013, for “printed education materials, namely, written articles, printed newsletters, and printed tour and museum exhibit guides, all relating to the history of American whiskey and the production, bottling, and distribution of whiskey; greeting cards, Christmas cards; bookmarks; stickers; ink pens and pencils, stationery products, namely, writing paper, envelopes, note pads, and calendars; driving trail and walking trail maps” in Class 16;
- OLD TAYLOR, U.S. Ser. No. 86/122,347, filed November 19, 2013, for use in connection with “promoting, marketing and fostering travel and tourism in the United States, namely, providing destination advertising services; marketing, advertising and promoting goods and services of others in the field of American whiskey production, bottling, and distribution; online retail gift shops; promotional sponsorship of county and state fairs and community festivals and sporting, equestrian and athletic events; providing information via a website in the field of business information regarding whiskey distilleries; association services, namely, promoting the interests of the bourbon industry” in Class 35;
- OLD TAYLOR, U.S. Ser. No. 86/122,348, filed November 19, 2013, for use in connection with “providing travel and transportation information services via a global information network; organizing and operating travel tours related to the history of American whiskey and the production, bottling, and distribution of whiskey” in Class 39;
- OLD TAYLOR, U.S. Ser. No. 86/122,349, filed November 19, 2013, for use in connection with “providing a destination web site for the provision of educational information regarding whiskey distilleries” in Class 40; and
- OLD TAYLOR, U.S. Ser. No. 86/122,350, filed November 19, 2013, for use in connection with “educational services, namely, conducting classes and seminars in the field of whiskey; arranging and conducting special social events related to the whiskey industry for social entertainment purposes; providing private guided tours of museums, historical sites, and geographic points of interest; organizing social events, namely, whiskey tastings and food tastings; providing a destination web site for the provision of educational information regarding the history of American whiskey” in Class 41.

A copy of the OLD TAYLOR Registration is attached hereto as Exhibit A.

21. In addition to its federal registration for the OLD TAYLOR mark, Sazerac Brands owns common law rights in its OLD TAYLOR mark for bourbon whiskey and related marketing

and promotional goods. Sazerac Brands' federal registration and common law trademark rights in OLD TAYLOR shall be referred to collectively hereinafter as the "OLD TAYLOR Marks".

22. Sazerac Brands' OLD TAYLOR Registration has become incontestable within the meaning of Section 15 of the Lanham Act, 15 U.S.C. §§ 1065, 1115(b) and is conclusive evidence of Plaintiffs' exclusive right to use the mark in commerce.

**Plaintiffs and the COLONEL E.H. TAYLOR Trademarks**

23. Sazerac Company also produces an American whiskey under the COLONEL E. H. TAYLOR trademark.

24. Since February 2011, Sazerac Company has distilled, aged, and bottled its COLONEL E. H. TAYLOR whiskey at the Buffalo Trace distillery in Frankfort, Kentucky.

25. Sazerac Company's COLONEL E. H. TAYLOR whiskey is sold in many different channels throughout the United States, including liquor stores, mass retail outlets, grocery stores, bars, clubs, restaurants, and other retail locations. COLONEL E. H. TAYLOR whiskey has also been extensively advertised and promoted in various media in the United States, including online through the [Buffalotracedistillery.com](http://Buffalotracedistillery.com) website.

26. The COLONEL E. H. TAYLOR product has won several awards, including the 2015 Double Gold Medal in The Fifty Best Bourbon Whiskeys 2015 competition and the 2015 Gold Medal in the San Francisco World Spirits Competition. As such, the COLONEL E. H. TAYLOR product has become well-known, highly regarded, and has come to embody the significant goodwill of Plaintiffs.

27. Sazerac Brands owns the following federal trademark registration and application for its COLONEL E. H. TAYLOR trademark:

- COLONEL E. H. TAYLOR, U.S. Reg. No. 4647951, issued December 2, 2014, for use in connection with “distilled spirits, namely, whiskey” in Class 33 (the COLONEL E. H. TAYLOR Registration”); and
- COLONEL E. H. TAYLOR, U.S. Ser. No. 86/122,351, filed November 19, 2013, for use in connection with “educational services, namely, conducting classes and seminars in the field of whiskey; arranging and conducting special social events related to the whiskey industry for social entertainment purposes; providing private guided tours of museums, historical sites, and geographic points of interest; organizing social events, namely, whiskey tastings and food tastings; providing a destination web site for the provision of educational information regarding the history of American whiskey” in Class 41.

A Copy of the COLONEL E. H. TAYLOR Registration is attached hereto as Exhibit B.

28. In addition to its federally registered mark, Sazerac Brands owns common law rights in its COLONEL E. H. TAYLOR Marks for whiskey and related marketing and promotional goods. Sazerac Brands’ federal registration and common law trademark rights in COLONEL E.H. TAYLOR shall be referred to collectively hereinafter as the “COLONEL E.H. TAYLOR Marks”.

**Defendants’ Use of the OLD TAYLOR and COLONEL E. H. TAYLOR Marks**

29. On information and belief, Defendants have offered, and intend to continue offering, event-hosting services on the Peristyle Property in connection with Sazerac Brands’ OLD TAYLOR and COLONEL E. H. TAYLOR Marks and confusingly similar variations thereof. *See* Exhibits C through E. *See also* the image below, which, on information and belief, is an accurate depiction of signage currently displayed at the Frankfort Distillery on the Peristyle Property:



30. On information and belief, Defendants have also used Sazerac Brands' OLD TAYLOR and COLONEL E. H. TAYLOR Marks, and confusingly similar variations thereof, in connection with their plans to market and sell a distilled bourbon whiskey and other distilled spirits in the future. *See* Exhibits F through I.

31. Sazerac Company first became aware of Defendants' plan to use Sazerac Brands' OLD TAYLOR and COLONEL E. H. TAYLOR Marks in connection with distilled spirits and event services in or around April or May 2014.

32. The parties have engaged in settlement negotiations since 2014 in an effort to resolve this dispute. It has been more than a year and a half without resolution, however, and Defendants' stalling tactics have left Plaintiffs with no choice but to bring a civil action to protect their valuable trademark rights and prevent consumer confusion.



33. In light of Defendants' unauthorized use of the OLD TAYLOR and COLONEL E. H. TAYLOR Marks, confusion is highly likely among consumers as to the source or sponsorship of Defendants' services.

34. On information and belief, Defendants currently market their event services throughout the United States.

35. On information and belief, Sazerac Company's OLD TAYLOR and COLONEL E. H. TAYLOR products and Defendants' goods and services are marketed to the same target consumers in the same channels of trade.

36. Sazerac Company's use of the OLD TAYLOR and COLONEL E. H. TAYLOR Marks long predates Peristyle, LLC's purchase of the Peristyle Property and use of identical marks in connection with event-hosting services and distilled spirits.

37. On information and belief, Defendants' trademark infringement of the OLD TAYLOR and COLONEL E. H. TAYLOR Marks is willful.

38. Defendants had constructive knowledge of Sazerac Brands' OLD TAYLOR and COLONEL E. H. TAYLOR Marks based on Sazerac Brands' federal trademark registrations (*see* Exhibits A and B).

## **CLAIMS AND CAUSES OF ACTION**

### **FIRST CLAIM FOR RELIEF – TRADEMARK INFRINGEMENT**

#### **15 U.S.C. § 1114**

39. Plaintiffs re-allege and incorporate Paragraphs 1 through 38 of the Complaint as if fully set forth here.

40. Defendants are not authorized to use Sazerac Brands' OLD TAYLOR Marks, COLONEL E. H. TAYLOR Marks, or any mark that is confusingly similar or in any way implies that Defendants' goods and services are in anyway associated with Plaintiffs.

41. Defendants' use of the OLD TAYLOR and COLONEL E. H. TAYLOR Marks is likely to confuse consumers into believing that the services offered by Defendants originate from, or are authorized by Plaintiffs, or that Defendants and Plaintiffs are somehow affiliated.

42. Defendants intentionally and knowingly infringe Sazerac Brands' trademark rights.

43. Upon information and belief, Defendants' infringing activities are likely to cause damage to Plaintiffs' hard-earned reputation and goodwill and to divert sales and opportunities away from Sazerac Company and to Defendants.

44. Defendants are therefore infringing Plaintiffs' rights in violation of 15 U.S.C. § 1114 and have caused irreparable harm to Plaintiffs by the infringement and Plaintiffs have no adequate remedy at law.

#### **SECOND CLAIM FOR RELIEF – FEDERAL UNFAIR COMPETITION**

##### **15 U.S.C. § 1125(a)**

45. Plaintiffs re-allege and incorporate Paragraphs 1 through 44 of the Complaint as if fully set forth here.

46. Sazerac Company has been using its OLD TAYLOR and COLONEL E. H. TAYLOR Marks on and in connection with whiskey in interstate commerce and developed substantial goodwill in these marks well prior to Defendants' adoption and use of the OLD TAYLOR and COLONEL E. H. TAYLOR Marks in commerce.

47. Defendants' use of the OLD TAYLOR and COLONEL E. H. TAYLOR Marks, as well as substantially similar variations thereof, is likely to confuse consumers into believing that the goods and services offered by Defendants originate from, are authorized by, or are somehow affiliated with Plaintiffs.

48. Defendants are therefore engaged in unfair competition and false designation of origin in violation of 15 U.S.C. § 1125(a) and have caused Plaintiffs irreparable harm by the infringement and Plaintiffs have no adequate remedy at law.

**THIRD CLAIM FOR RELIEF – COMMON LAW TRADEMARK INFRINGEMENT,  
UNFAIR COMPETITION, AND PASSING OFF**

49. Plaintiffs re-allege and incorporate Paragraphs 1 through 48 of the Complaint as if fully set forth here.

50. Sazerac Brands owns common law trademark rights in its OLD TAYLOR and COLONEL E. H. TAYLOR Marks and all such rights owned by Sazerac Brands are superior to any rights that the Defendants may claim to have in the OLD TAYLOR and COLONEL E. H. TAYLOR Marks.

51. Defendants' unauthorized use of the OLD TAYLOR and COLONEL E. H. TAYLOR Marks, as well as confusingly similar variations thereof, in connection with event services is likely to cause confusion as to the source or sponsorship of these services, and is likely to lead the public to believe that Plaintiffs are affiliated with or sponsor or endorse Defendants and/or Defendants' services, thereby injuring the reputation and goodwill and unjustly diverting from Plaintiffs to Defendants the benefits arising therefrom.

52. Defendants' unlawful activities constitute trademark infringement, unfair competition, and passing off as proscribed by common law.

53. Defendants' acts of trademark infringement, unfair competition, and passing off were committed and are continuing to be committed willfully, knowingly, intentionally, and in bad faith.

54. Defendants' acts of trademark infringement, unfair competition, and passing off, unless enjoined by this Court, will continue to cause Plaintiffs irreparable damage, loss, and injury for which Plaintiffs have no adequate remedy at law.

**PRAYER FOR RELIEF**

Plaintiffs pray for the following:

A. That Defendants, their employees, representatives, and agents, including any distributors and retailers, be enjoined from using the OLD TAYLOR and COLONEL E. H. TAYLOR Marks, or any marks that are confusingly similar to the OLD TAYLOR and COLONEL E. H. TAYLOR Marks, in conjunction with event services;

B. That Defendants, their employees, representatives, and agents, including any distributors and retailers, be enjoined from using the OLD TAYLOR and COLONEL E. H. TAYLOR Marks, or any marks that are confusingly similar to the OLD TAYLOR and COLONEL E. H. TAYLOR Marks in conjunction with the marketing, distribution, and sale of beverage products and related services;

C. That Defendants be directed to file with the Court and serve upon Plaintiffs' counsel within thirty (30) days of entry of such judgment a report in writing and under oath setting forth in detail the manner and form in which Defendants have complied with the above;

D. That Defendants be ordered to publish for a period of not less than twelve months corrective advertising in all media in which the infringing marks have been published, explaining to customers that Defendants' use of the OLD TAYLOR and COLONEL E. H. TAYLOR Marks in connection with their event services were not and are not affiliated with or endorsed by Plaintiffs;

E. That Defendants be ordered to publish for a period of not less than twelve months corrective advertising in all media in which the potentially infringing marks have been published,

explaining to customers that Defendants' use of the OLD TAYLOR and COLONEL E. H. TAYLOR Marks in connection with their development and future sales of a distilled spirit were not and are not affiliated with or endorsed by Plaintiffs;

F. That Defendants be ordered to deliver up for impoundment and destruction, or show proof of destruction, of all advertising, promotional materials, or other materials in the possession, custody, or control of Defendants bearing (i) Sazerac Brands' OLD TAYLOR Marks, (ii) Sazerac Brands' COLONEL E. H. TAYLOR Marks, and/or (iii) any other marks or symbols that are found to adopt or dilute any of Sazerac Brands' OLD TAYLOR and/or COLONEL E. H. TAYLOR Marks;

G. That an accounting be ordered and that Plaintiffs be granted the amount of Defendants' profits realized and/or of the actual damages and/or enhanced damages sustained by Plaintiffs as a result of Defendants' unlawful acts as found by the Court, together with appropriate interest on such damages;

H. That the Court grant any and all relief to which Plaintiffs may be entitled pursuant to the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*, including treble damages and Plaintiffs' attorneys' fees;

I. That the Court grant any and all relief to which Plaintiffs may be entitled pursuant to state law and state common law, including enhanced damages and attorneys' fees;

J. That the costs of this action be taxed against Defendants; and

K. That the Court grant Plaintiffs such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Plaintiffs Sazerac Brands, LLC and Sazerac Company, Inc. demand a trial by jury on all issues so triable.

Date: October 27, 2015      By: /s/ Scott P. Zoppoth  
Scott P. Zoppoth (KY Bar No. 83905)  
THE ZOPPOTH LAW FIRM  
601 West Main Street, Suite 500  
Louisville, KY 40202  
Tel: (502) 568-8884  
Fax: (502) 568-1319  
spz@zoplaw.com

Peter J. Willsey (*pro hac vice* to be filed)  
Brendan J. Hughes (*pro hac vice* to be filed)  
Vincent J. Badolato (*pro hac vice* to be filed)  
Morgan A. Champion (*pro hac vice* to be filed)  
COOLEY LLP  
1299 Pennsylvania Avenue, N.W.  
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Tel: (202) 842-7800  
Fax: (202) 842-7899  
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bhughes@cooley.com  
vbadolato@cooley.com  
mchampion@cooley.com

*Counsel for Plaintiffs*

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

**I. (a) PLAINTIFFS**

Sazerac Company, Inc. and Sazerac Brands, LLC

(b) County of Residence of First Listed Plaintiff Jefferson Parish, LA  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Scott P. Zoppoth, Esq. (KY Bar No. 83905), The Zoppoth Law Firm,  
601 West Main St., Suite 500, Louisville, KY 40202, (502) 568-8884

**DEFENDANTS**

Peristyle, LLC and Peristyle Holdings, LLC

County of Residence of First Listed Defendant Franklin County, KY  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)  
Registered Agent: William Miles Arvin, Jr., 108 W. Maple St.,  
Nicholasville, KY 40356

**II. BASIS OF JURISDICTION (Place an "X" in One Box Only)**

- 1 U.S. Government Plaintiff  
 2 U.S. Government Defendant  
 3 Federal Question (U.S. Government Not a Party)  
 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)**

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input checked="" type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT (Place an "X" in One Box Only)**

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN (Place an "X" in One Box Only)**

- 1 Original Proceeding  
 2 Removed from State Court  
 3 Remanded from Appellate Court  
 4 Reinstated or Reopened  
 5 Transferred from Another District (specify)  
 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. §§ 1114 and 1125(a); 28 U.S.C. §§ 1331 and 1338  
 Brief description of cause:  
Trademark Infringement

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \_\_\_\_\_  
 CHECK YES only if demanded in complaint:  
 JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions)

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE OCT. 27, 2015

SIGNATURE OF ATTORNEY OF RECORD

*[Handwritten Signature]*

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING FEE \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG JUDGE \_\_\_\_\_

EXHIBIT A

**United States of America**  
United States Patent and Trademark Office

**OLD TAYLOR**

<b>Reg. No. 507,794</b>	SAZERAC NORTH AMERICA, INC. (DELAWARE CORPORATION)
<b>Registered Mar. 22, 1949</b>	1001 WILKINSON BOULEVARD
	FRANKFORT, KY 40602
<b>New Cert. Dec. 31, 2013</b>	FOR WHISKEY, IN CLASS 49 (INT. CL. 33)
<b>Int. Cl.: 33</b>	FIRST USE 1-1-1887; IN COMMERCE 1-1-1887
<b>TRADEMARK</b>	OWNER OF U.S. REG. NO. 53,035
<b>PRINCIPAL REGISTER</b>	SEC. 2(f)
	SER. NO. 71-528,130, FILED 7-8-1947



*Deborah S. Cohen*

Commissioner for Trademarks of the  
United States Patent and Trademark Office



**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

*First Filing Deadline:* You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

*Second Filing Deadline:* You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE:** Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

**EXHIBIT B**

**United States of America**  
United States Patent and Trademark Office

**COLONEL E. H. TAYLOR**

**Reg. No. 4,647,951**

**Registered Dec. 2, 2014**

**Int. Cl.: 33**

**TRADEMARK**

**PRINCIPAL REGISTER**

SAZERAC NORTH AMERICA, INC. (DELAWARE CORPORATION)  
1001 WILKINSON BOULEVARD  
FRANKFORT, KY 40602

FOR: DISTILLED SPIRITS, NAMELY, WHISKEY, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE: 2-0-2011, IN COMMERCE 2-0-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 507,794.

THE NAME(S), PORTRAIT(S), AND/OR SIGNATURE(S) SHOWN IN THE MARK DOES NOT IDENTIFY A PARTICULAR LIVING INDIVIDUAL.

SER. NO. 86-122,352, FILED 11-19-2013.

NELSON SNYDER, EXAMINING ATTORNEY



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office

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TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
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**Requirements in the First Ten Years\***

**What and When to File:**

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See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

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**NOTE:** Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

## EXHIBIT C

**PROVEN WINNERS®**  
presents  
**LIFE + STYLE**  
with  
**JON CARLOTTIS FINE GARDENS**

**ABOUT** **KEENELAND** **GOVERNOR'S MANSION** **OLD TAYLOR DISTILLERY** **MY OLD KENTUCKY HOME**

**SUBSCRIBE FOR UPDATES**

### Old Taylor Distillery

**Sold out!**

**Friday, September 11 - 5:00 pm - 7:00 pm**  
Historic Boharum - 341 Madison Place Lexington, KY  
*Private Cocktail Party for attendees of the LIFE + STYLE presentations*

**Price: \$50.00 - per person**

**Includes:**

- Tour of Proven Winners Southern Test Garden
- Cocktail Party

**Saturday, September 12 - 8:00 am - 4:00 pm**  
Old Taylor Distillery - 4335 McCracken Pike, Frankfort, KY  
LIFE + STYLE presentations

**Price: \$125.00 per person**  
**Table of Eight - \$900.00 (10% savings)**

**Includes:**





- Breakfast - Prepared by Sage Garden Cafe
- Inspiring lifestyle presentations
- Lunch - Prepared by a "Famous Guest Chef"
- Incredible swag bag!

<http://gardenlifestyleshow.com/historic-site-of-old-taylor-distillery/>

## EXHIBIT D

HOME NEWS SPORTS UK SPORTS ENTERTAINMENT OPINION LIVING OBITUARIES DID YOU KNOW LOCAL DEALS **FIND & SAVE**

Business > Bourbon Industry



### Old Taylor Distillery coming back to life with cocktail parties, gardening presentations and gin

BY JANET PATTON  
jpatton1@herald-leader.com September 8, 2015

MILLVILLE — The steel at the Old Taylor site isn't up and running yet but that isn't stopping distiller Marianne Barnes. She's already hard at work in her upstairs lab, cooking up different mashbills for future spirits.

Although the distillery will make bourbon, Barnes is focusing right now on gins. Specifically, on a gin to serve to guests at the upcoming Jon Carlotis Life + Style event at Old Taylor Distillery this weekend.

"Smell that," Carlotis says, holding out a



<http://www.kentucky.com/2015/09/08/4025536/old-taylor-distillery-coming-back.html>

## EXHIBIT E



**Marianne Barnes** added 70 new photos to the album: The Old Colonel's Formal Garden's Coming Back to Life! — with Julie Offutt Cauthen.

October 14 at 12:02pm · 🌐

Tucked away in a tiny town called Millville, sit's a hidden gem. A grand European inspired limestone castle with formal gardens, built by Bourbon Royalty Colonel EH Taylor in 1887. The formal gardens were an essential part of what made his namesake distillery such an icon. He was transforming the way people experienced bourbon distilleries, before Bourbon tourism was even thought of. He was a revolutionary, an industry disrupter and known as the father of the modern bourbon industry. We are carefully bringing his gardens back to life with the help of world-renowned gardener Jon Carloftis Fine Gardens to honor his legacy and bring a "new" and distinguished experience to the bourbon tourism, once again.



[https://www.facebook.com/MarianneBarnesMasterDistiller/timeline?ref=page\\_internal](https://www.facebook.com/MarianneBarnesMasterDistiller/timeline?ref=page_internal)

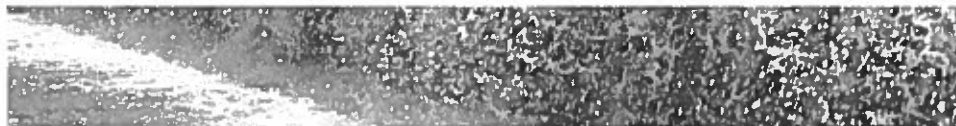
## EXHIBIT F

### PRODUCT DEVELOPMENT PROGRESS:

While making cocktails for fancy parties couldn't be more fun, the real product development work is being done in Marianne's laboratory. She is trying another yeast candidate on the bench, and it will take approx. 3 weeks to determine if it will be acceptable for our recipe. You might notice the Petri Dish below (top right) says "Old Taylor Piping" this is because our first yeast search on-site included scraping some old petrified mash from the pipe shown below (top left) in the former yeast room. Unfortunately we won't be able to use the strain due to it being the wrong genetics. However, we can use it in combination with what we discovered in testing out our old 1917 distilled samples (bottom right), to find a very genetically similar strain! In developing our product this way we can emulate (not replicate) the Old Colonel's recipe while making it more complex using more "modern" methods. We are using his product and the history here as inspiration to build something great, that he would have been proud of!



## EXHIBIT G



In July we invited Charlie Lewis, the former super intendant of the site the last 10yrs of operation, out to the Former Old Taylor Distillery to see our progress. He used to live in the small house at the end of the property (in the current botanical trail) with his wife, and oversee production and maintenance on the site. We learned several new things, found out the proper name for the Shookin' Hall, discovered some old dump troughs and heard many stories from his time about all the people that worked here. Most importantly, we learned how great a place this was to work and how many wonderful memories he had from his tenure here. We plan to have him back out to visit this month, when our stills arrive!

Wondering why I our Master Distiller was wearing a hard hat? When you

<http://us11.campaign-archive1.com/?u=1ba43a33d12b490653dd81899&id=c9a1a0525a>





## EXHIBIT H



Our key-hole shaped springhouse continues to come back to life! We have just started painting, we are going back with the traditional white. Soon after the painting is complete we plan to get Jon going on our key-hole shaped "cocktail garden" featuring herbs and fruits that you would use crafting cocktails. We still intend to use the "Old Taylor Spring" as our water source. It stays cool (under 70) all year round, so it makes it a great candidate for a cooling water source. It is also fed by an underground aquifer, making the calcium and mineral content ideal for mashing bourbon. Our yeast will love it!

PLEASE FOLLOW OUR PROGRESS ON FACEBOOK AND TWITTER BY CLICKING ON ICONS BELOW!



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Want to change how you receive these emails?  
You can [update your preferences](#) or [unsubscribe from this list](#)



<http://us11.campaign-archive1.com/?u=1ba43a33d12b490653dd81899&id=c9a1a0525a>

# EXHIBIT I

The screenshot shows the Twitter profile of Marianne Barnes (@MarianneBMD). The profile header includes her name, bio, location (Maysville, KY), and statistics: 313 tweets, 513 following, 637 followers, 195 favorites, and 1 list. Her bio identifies her as a Bourbon Master Distiller and mentions her passion for restoring history. The main content area displays five tweets, including retweets and original posts about bourbon-related topics like 'Bourbon Pursuit', 'Mint Julep Tours', and 'The First Kentucky Lady'. A 'New to Twitter?' sign-up prompt is visible on the right side of the profile.

**Marianne Barnes**  
 @MarianneBMD  
 Bourbon Master Distiller inspired by the beauty and taste of nature, driven by passion for restoring history and nerdy stuff. PR: PRPhip@RuskinInternational.com  
 Maysville, KY

**Tweets** | Tweets & replies | Photos & videos

Marianne Barnes Retweeted  
**Bourbon Pursuit** @BourbonPursuit · 21h  
 The "Bourbon Drinker's Gin" will be coming from @MarianneBMD  
 Listen to Episode 18 #bourbon #bourbonpursuit.com

Marianne Barnes Retweeted  
**Mint Julep Tours** @MintJulepTours · Oct 18  
 Curious about progress of restoration of Old Col. Taylor Distillery?  
 @MarianneBMD shared some amazing pics recently. tuff.ly/1Pk8DRg

Marianne Barnes (@MarianneBMD) · Oct 18  
 What's happening at the Former Old Taylor Distillery? Click the link to find out! [www.purific.com/whv1](http://www.purific.com/whv1) #bourbon #gin #BourbonPhoenix

Marianne Barnes (@MarianneBMD) · Oct 17  
 The First 'Kentucky' Lady: Whisky Magazine Issue 128  
[whiskymag.com/magazine/issue](http://whiskymag.com/magazine/issue) Can't believe I'm just seeing this  
 @fredminck! Great pic!

Marianne Barnes (@MarianneBMD) · Oct 17  
 Women will rule the whiskey industry  
[thewomensfinancialalliance.com/women-will-ru/](http://thewomensfinancialalliance.com/women-will-ru/) I like the share buttons, making this very easy! Learn more about industry women

**New to Twitter?**  
 Sign up now to get your own personalized timeline!  
 Sign up

**You may also like** Refresh

- Peerless Distilling @kypeerless
- BourbonWomenChicago @BourbonWomenChi
- Dan Gardner @BourbonDan
- WhistlePig Whiskey @WhistlePigRye
- Angel's Envy @Angels\_Envy
- Vendome Copper @VendomeCopper

**Trends**

- #LexusHo,er
- promoted by Lexus
- #BackToTheFuture
- #PMQs
- #NationalShutDown

<https://twitter.com/mariannebmd>

122862884

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Kentucky

SAZERAC BRANDS, LLC, a Delaware limited liability company, and SAZERAC COMPANY, INC., a Louisiana corporation

Plaintiff(s)

v.

PERISTYLE, LLC, a Kentucky limited liability company, and PERISTYLE HOLDINGS, LLC, a Kentucky limited liability company

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

William Miles Arvin, Jr.
Registered Agent for Defendant Peristyle, LLC
108 West Maple Street
Nicholasville, KY 40356

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Scott P. Zoppoth
The Zoppoth Law Firm
601 West Main Street, Suite 500
Louisville, KY 40202
Tel: (502) 568-8884
spz@zoplaw.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: