

COMMONWEALTH OF KENTUCKY
MARSHALL CIRCUIT COURT
DIVISION I

15-CI-00181

FILED 05-18-15
CARLA MARSHALL
CIRCUIT CLERK
MARSHALL COUNTY
BY: MB D.C.

JAY ROGERS;
606 Broad Street
Murray, Kentucky 42071

PLAINTIFFS

and

BALENCORP, INC. d/b/a SILVER TRAIL DISTILLERY
136 Palestine Road
Hardin, Kentucky 42048

v.

NO. 15-CI-_____

THE REVENOOR COMPANY INCORPORATED
a/k/a or f/k/a THE REVENOOR COMPANY, INC.
an Oregon corporation
c/o Terry D. Wilhelm
Registered Agent
20275 NW Bishop Scott Road
Yamhill, Oregon 97148

DEFENDANT

SERVE: Alison Lundergan Grimes
Kentucky Secretary of State
P.O. Box 718
Frankfort, Kentucky 40601

**PLAINTIFFS' FIRST SET OF INTERROGATORIES AND
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
PROPOUNDED TO DEFENDANT**

** **

Plaintiffs, Jay Rogers, and Balencorp, Inc., d/b/a Silver Trail Distillery, by
counsel, propound the following Interrogatories and Request for Production of
Documents to Defendant, The Revenoor Company, Incorporated a/k/a or f/k/a The
Revenoor Company, Inc.

These interrogatories are to be answered under oath and in writing within forty-five (45) days of service, pursuant to Rule 33 of the Kentucky Rules of Civil Procedure. Each of the following interrogatories are to be deemed as continuing in nature so as to require the filing of supplemental answers if information is obtained in addition to, or different from, that set forth in the original answers. Answers are to be supplied based not only on the information of Defendant, but also on information known to its agents, employees and attorneys.

Pursuant to Rule 34 of the Kentucky Rules of Civil Procedure, Plaintiffs hereby request Defendant to produce the documents requested below at the law offices of MOORE, MALONE & SAFREED at 104 East Fourth Street in Owensboro, Kentucky, within forty-five (45) days of the date of service herein, for the purpose of inspection and copying same.

DEFINITIONS & INSTRUCTIONS:

A. SUBJECT REVENOOR STILL SYSTEM or SUBJECT STILL SYSTEM:

As used herein, the terms "subject Revenoor still system" or "subject still system" mean the REVENOOR 300 gallon, 1,135 liter still system that exploded, injuring and killing persons at the Silver Trail Distillery in Marshall County, Kentucky on April 25, 2015, which is the subject of this lawsuit.

B. SIMILAR REVENOOR STILL SYSTEM or SIMILAR STILL SYSTEM: As used herein, the terms "similar Revenoor still system" or "similar still system" means other distillers and distiller systems of substantially similar design and manufacture, which are used for the same or similar purposes as the REVENOOR 300 gallon, 1,135 liter still system that is the subject of this lawsuit. The terms "similar Revenoor still

system" and/or "similar still system" include, but are not limited to, other stills and still systems sold by Defendant.

C. **DEFENDANT:** As used herein, the term "Defendant" means The Revenoor Company, Incorporated, to whom these discovery requests are directed, as well as its divisions; departments; agencies; subdivisions; former entities, including The Revenoor Company, Inc.; its employees and independent contractors; and its attorneys; investigators; brokers; agents; or any other representatives; and Defendant is to divulge all information requested in these interrogatories and requests for production which is in its possession, custody, or control, including all information that is reasonably available to it.

D. **MULTIPLE PART ANSWERS:** Where an individual interrogatory calls for an answer which involves more than one part or subpart, each part of the answer should be set forth separately so that it is clearly understandable and responsive to the respective interrogatory or subpart thereof.

E. **YOU or YOUR:** Where the terms "you" or "your" is used in the interrogatories or instructions, it is meant to include the party and the person(s) referenced in paragraph "C" above.

F. **WRITING or WRITTEN:** The terms "writing" or "written" are intended to include, but not necessarily be limited to, the following: hand writing, type writing, computer printouts, electronically stored information, printing, photographing, and every other means of recording upon any tangible thing or any form of communication, including letters, words, pictures, sounds or symbols or combinations thereof; and it further includes any oral communication later reduced to a writing or confirmed by a letter.

G. **DOCUMENT(S):** The term "Document(s)" means every writing of every type and description in the possession, custody or control of Defendant (see Definition "C" above), or in the possession, custody or control of any agent of Defendant, and shall include (without limitation) the following, whether printed, reported, filmed, electronically stored, or reproduced by any process, or written or produced by hand, and whether an original, master or copy: letters; correspondence; communications; electronic mail; messages; notes; memoranda; contracts; agreements; checks; canceled checks; receipts; affidavits; statements, including any statement by any individual; books; records; books of account; reports; applications; summaries; minutes and records of telephone conversations, meetings and conferences (including lists of persons attending meetings or conferences); lists; worksheets; financial statements; expense reports and records; summaries and records of personal conversations or interviews; manuals; publications; diaries; charts; logs; cablegrams; telegrams; mailgrams; income statements; balance sheets; transcriptions; voice recordings and transcriptions thereof; plans; sketches; drawings; photographs; video tape recordings and transcriptions thereof; digital video recordings and transcriptions thereof; reports and/or summaries of investigations and/or surveys; opinions and reports of consultants; opinions of counsel; reports and summaries of negotiations; brochures; pamphlets; proposals; designs; catalogs; catalog sheets; specifications; advertisements; circulars; invoices; work orders; purchase orders; studies and calculations; and the originals thereof or, if the original of any document is not available or is not in Revenoor's possession, custody or control, all copies of the original of such document and all copies of any document which is not identical to the original thereof or which contains any writing or notations which do not appear on the original thereof.

H. **PERSON'S IDENTITY:** When an interrogatory requests that you identify a person, please state:

1. his or her full name;
2. his or her present or last known address;
3. his or her present employer's name and address; and
4. his or her occupational position or classification.

I. **DOCUMENT'S IDENTITY:** Unless otherwise directed, when an interrogatory asks that you identify a document or writing, please state:

1. its nature (e.g., directive, bulletin, letter, memorandum, report, etc.);
2. its title, if any;
3. the date it was prepared;
4. the date it was sent;
5. the date it was received;
6. the identity, as defined above, of person(s) who:
 - a. prepared it;
 - b. participated in any way in its preparation; or
 - c. signed it;
7. a statement of its subject matter; and
8. the identity, as defined in Definition "C", of each person who has custody of the original and of each copy.

J. **NOT APPLICABLE:** In the event that your answer to any interrogatory is "not applicable" or any similar phrase or answer, explain in detail why that interrogatory is not applicable.

K. **DON'T KNOW OR UNKNOWN:** In the event that your answer to any interrogatory is "don't know" or "unknown" or any similar phrase or answer, explain in detail all efforts made by the named party or its attorneys or representatives to obtain the answers to that interrogatory.

L. **ESTIMATED DATA:** Estimated data should be given only when exact data cannot be supplied. Any such estimated data should be identified as such. The sources or derivation of such estimate should be separately set forth.

M. **INCIDENT:** The term "incident" as used herein means the incident referred to in Plaintiffs' Complaint.

N. **PERSON:** "Person" as used herein means an individual, corporation, partnership, association, trust, government entity, and any other entity.

INTERROGATORIES

INTERROGATORY NO. 1: Please state the name, address, and job title of the person(s) answering these interrogatories.

ANSWER:

INTERROGATORY NO. 2: Please describe Defendant's role in relation to the subject still system in each of the following categories. To the extent that an entity other than Defendant played a role in any category, either in whole or in part, please identify said entity. Please set out the dates when the tasks in each category were performed and identify the person(s) responsible for the performance of those tasks.

- (a) specifications;
- (b) design;
- (c) testing;
- (d) manufacture and/or assembly;
- (e) promotion and/or marketing;
- (f) distribution;
- (g) sale

ANSWER:

INTERROGATORY NO. 3: If Defendant did not manufacture, and/or construct the subject Revenoor still system, then please provide a detailed description of how Defendant acquired the subject still system, including, but not limited to, the following information:

- (a) the name and last known address of each person involved in the acquisition of the subject still system;
- (b) the date when Defendant acquired the subject still system;
- (c) the identity of the person or entity from whom Defendant acquired the still;
- (d) whether or not there are any bills of sale relating to the acquisition.

ANSWER:

INTERROGATORY NO. 4: Please provide a detailed description of how Defendant sold and/or transferred ownership of the subject Revenoor still system to Silver Trail Distillery (Balencorp, Inc.), including, but not limited to, such information as:

- (a) the date when Defendant sold the subject still system;
- (b) the terms and circumstances of any such transfer;
- (c) amount Silver Trail and/or Silver Trail's representatives paid to purchase the subject still system;
- (d) whether or not anybody else used and/or owned the subject still system, before it was transferred from Defendant to Silver Trail, and if so, the name and last known address of each person and/or entity who owned and/or used the subject still system before it was sold to Silver Trail.

ANSWER:

INTERROGATORY NO. 5: Please state whether Defendant maintained insurance coverage for liability to which it could be exposed if anyone was injured by the subject still system. If so, please state the following:

- (a) the company(ies) providing said insurance;
- (b) the dates the insurance coverage was in effect;
- (c) the amount of total insurance coverage for liability;
- (d) whether or not said insurer has been notified of the subject lawsuit.

ANSWER:

INTERROGATORY NO. 6: Prior to the incident involving the subject still system, as well as since the incident, please state whether or not Defendant, or anyone on behalf of Defendant, has received any reports, complaints, or notice of any other incidents and injuries involving Revenoor 300 gallon, 1,135 liter stills/distilling systems or any similar still systems Defendant sold. If so, please provide the following information:

- (a) the type of communication was received (e.g., written, oral, etc.);
- (b) the details of such other incidents and injuries;
- (c) what investigation of the incidents and injuries Defendant conducted;
- (d) the names, addresses, and job titles of each person conducting such an investigation;

- (e) how each of the other incidents was concluded; and
- (f) the name, address, and telephone number of each person providing a report, complaint, or notice.

ANSWER:

INTERROGATORY No. 7: Prior to the incident involving the subject still system, as well as since the incident, please state all actual or potential claims, complaints, lawsuits, and litigation against Defendant involving Revenoor 300 gallon, 1,135 liter still systems and/or similar still systems at any time owned, manufactured, sold, and/or distributed by Defendant, including the following information:

- (a) the style of each case;
- (b) the court involved;
- (c) the name and address of the plaintiff's attorney; and
- (d) the outcome of each case.

ANSWER:

INTERROGATORY No. 8: Please describe any and all tests performed on the subject still system to assess its safeness before and after it was sold.

ANSWER:

INTERROGATORY No. 9: Please describe any and all uses, misuses, and dangers foreseen by Defendant concerning the subject still system and describe any and all warnings given to potential purchasers and/or users and operators of Revenoor 300 gallon, 1,135 liter still systems.

ANSWER:

INTERROGATORY NO. 10: If Defendant purchased the subject still system from another entity before Defendant sold it to Silver Trailer Distillery, did Defendant make any modifications to the subject still system from the date it acquired the subject still system to the date it sold the subject still system. If so, please:

- (a) completely describe each modification made;
- (b) state the date on which each modification was made;
- (c) identify the person who made each modification.

ANSWER:

INTERROGATORY NO. 11: Did Defendant provide an operator's manual for the subject distiller system to Silver Trail Distillery when it sold the subject still system to Silver Trail Distillery. If so, please

- (a) state the date the operator's manual was drafted;
- (b) state the date when any changes were made to the operator's manual.;
- (c) identify the person who drafted the operator's manual and if the identity is unknown, then state where said manual was obtained by Defendant;
- (d) the approximate date when the operator's manual was provided to Silver Trail Distillery.

ANSWER:

INTERROGATORY NO. 12: Did the subject still system have any features to prevent the build-up of excessive pressure in the still system. If so, please state the following:

- (a) describe how the features worked to alleviate pressure in the subject still system;
- (b) identify any person and/or entity who made, constructed, or manufactured each component of the still system that was utilized by the subject still system to prevent the build-up of excessive pressure in the still system;
- (c) state the purpose of each component of the subject still system that was utilized to prevent the build-up of excessive pressure in the still system;
- (d) state how each component functioned in regards to regulating and/or alleviating excessive pressure in the subject still system.

ANSWER:

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1: Any and all manufacturing or assembly drawings and other in-house shop drawings which depict the manufacturing or assembly procedures used to produce the subject still system.

RESPONSE:

REQUEST NO. 2: Any and all design specifications, manufacturing specifications, and/or assembly specifications for the subject still system.

RESPONSE:

REQUEST NO. 3: Any and all instruction manuals, owner's manuals, cautions, warnings, or any other documents or writings, including but not limited to operator's manuals, provided to or used by Defendant with the subject still system.

RESPONSE:

REQUEST NO. 4: Any and all instruction manuals, owner's manuals, cautions, warning, or other documents or writings, including but not limited to operator's manuals which Defendant supplies to customers who purchase its still systems.

RESPONSE:

REQUEST NO. 5: Any and all results, records, and other documents or writings in Defendant's possession, custody, or control concerning tests performed by, or on

behalf of Defendant to assess the safeness of the subject still system including, but not limited to, those referenced in your answer to Interrogatory No. 8.

RESPONSE:

REQUEST No. 6: Any and all documents and writings related to the sale and/or transfer of ownership of the subject still system to Silver Trail Distillery.

RESPONSE:

REQUEST No. 7: Each and every document and writing in Defendant's possession, custody, or control concerning any report, complaint, or notice of any other incidents and injuries involving Revenoor 300 gallon, 1,135 liter still systems or similar still systems, including, but not limited to, those referenced in your answer to Interrogatory No. 6.

RESPONSE:

REQUEST No. 8: Any and all documents and writings in Defendant's possession, custody, or control concerning the actual or potential claims, complaints, lawsuits, and litigation against Defendant involving Revenoor 300 gallon still systems or similar still systems, including, but not limited to, those referenced in your answer to Interrogatory No. 7.

RESPONSE:

REQUEST NO. 9: Copies of any and all documents and writings containing instructions for the operation and maintenance of the subject still system.

RESPONSE:

REQUEST NO. 10: Copies of any and all documents and writings pertaining to any and all uses, misuses, and dangers foreseen by Defendant concerning the subject still system and similar still systems, including, but not limited to, those referenced in your answer to Interrogatory No. 9.

RESPONSE:

REQUEST NO. 11: Any and all insurance policies which provide coverage for any potential liability relating to this lawsuit, including, but not limited to, the policy(ies) described in your answer to Interrogatory No. 5.

RESPONSE:

REQUEST NO. 12: Any and all documents which pertain to any features of the subject Revenoor still system designed to prevent the build-up of excessive pressure in the distilling system, including but not limited to the answers provided in response to Interrogatory No. 12.

RESPONSE:

RESPECTFULLY SUBMITTED,

Richard W. Jones
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By



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NO. 15-CI- 00181

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c/o Terry D. Wilhelm
Registered Agent
20275 NW Bishop Scott Road
Yamhill, Oregon 97148

SERVE: Alison Lundergan Grimes
Kentucky Secretary of State
P.O. Box 718
Frankfort, Kentucky 40601

COMPLAINT

** ** *

Plaintiffs, Jay Rogers and Balencorp, Inc. d/b/a Silver Trail Distillery, by counsel,
state their claims for relief as follows:

COUNT I

Parties, Jurisdiction, and Venue

1. Jay Rogers ("Jay") is a citizen and resident of Murray, Calloway County,
Kentucky.

2. Balencorp, Inc. d/b/a Silver Trail Distillery ("Silver Trail") is a Kentucky corporation that is authorized to sue and be sued. The principal place of business of Silver Trail is in Marshall County, Kentucky.

3. The Revenoor Company Incorporated also known as or formerly known as The Revenoor Company, Inc. ("Revenoor") is incorporated in the State of Oregon and its principal place of business is in a state other than the Commonwealth of Kentucky. Revenoor is in the business of designing, assembling, manufacturing, marketing, distributing, and selling REVENOOR 300 gallon, 1,135 liter still systems as well as other models of still systems throughout the United States, including the Commonwealth of Kentucky. Revenoor designed, assembled, manufactured, marketed, distributed, and sold a defective product which caused tortious injuries to Jay and Silver Trail in the Commonwealth of Kentucky. KRS 454.210 provides this Court with personal jurisdiction over Revenoor. Pursuant to KRS 454.210(3)(a), the Kentucky Secretary of State is deemed the statutory agent for Revenoor. Therefore, the Kentucky Secretary of State is requested to notify Revenoor of this action by mailing a copy of this Complaint and Summons, as well as a copy of Plaintiff's First Set of Interrogatories and First Request for Production of Documents to: The Revenoor Company Incorporated a/k/a or f/k/a The Revenoor Company, Inc., c/o Terry D. Wilhelm; Registered Agent; 20275 NW Bishop Scott Road; Yamhill, Oregon; 97148.

4. Each of the Plaintiffs' claims exceed the jurisdictional amount of this Court, \$5,000.00.

5. Venue is proper in this Court as the cause of action, or any part thereof, arose in Marshall County, Kentucky.

Actionable Occurrence

6. In 2011 and 2012 Silver Trail purchased a REVENOOR 300-gallon, 1,135 liter still system ("subject still system"), from Revenoor. Silver Trail bought the subject still system to use in its distillery operation in Marshall County, Kentucky. Revenoor shipped the subject still system to the Silver Trail Distillery.

7. On Friday, April 24, 2015 Second Distiller Jay and his Assistant Kyle Rogers were working at the Silver Trail Distillery. Around mid-morning, Jay and Kyle Rogers were in close proximity to the subject still system when it exploded and caused Jay to suffer severe burns to approximately eighty percent (80%) of his body, and caused Kyle Rogers to suffer severe burns to approximately eighty-six percent (86%) of his body. The catastrophic injuries Kyle Rogers suffered resulted in his death approximately seventeen (17) days later.

8. The explosion of the subject still system and the resulting fire engulfed the Silver Trail Distillery, entirely destroying the building and all of its contents.

Negligence of Revenoor

9. Revenoor negligently designed, assembled, manufactured, marketed, distributed, and sold the subject still system in such a manner that it created an unreasonable danger of physical harm and injury to the reasonably foreseeable and intended users of the subject still system, including Jay and Silver Trail.

10. Revenoor had a duty of reasonable care in the design, assembly, manufacture, marketing, distribution, and sale of the subject still system, which included preventing the subject still system from exploding and injuring the users and property of the users.

11. Revenoor breached its duty of reasonable care by failing to properly design, assemble, manufacture, market, distribute, and sell the subject still system in order to prevent harm to the users and property of the users.

12. Revenoor's negligence in the design, assembly, manufacture, marketing, distribution, and sale of the subject still system was a substantial factor in causing Jay to suffer serious and permanent injuries; to endure and continue in the future to endure physical and mental pain and suffering; to lose wages; to sustain impairment of his power to earn money; and to incur and continue in the future to incur hospital and medical expenses.

13. Revenoor's negligence in the design, assembly, manufacture, marketing, distribution, and sale of the subject still system was a substantial factor in causing Silver Trail to suffer the loss of its real and personal property; to incur the cost of restoring its distillery building to substantially the same condition as immediately before it was destroyed by the explosion and fire or the difference between the fair market value of the distillery building immediately before and immediately after it was destroyed by the explosion and fire; to incur the loss of the fair market value of its personal property within the distillery building, other than the subject still system, at the time and place said property was destroyed by the explosion and fire; and to incur the loss of use of the distillery building during such period of time as is reasonably necessary for Silver Trail to have the distillery building restored to a condition comparable to its condition before the explosion and fire.

SEE DEMANDS AT THE END OF ALL COUNTS.

COUNT II

Strict Liability of Revenoor

14. All of the allegations in Count I are incorporated herein by reference.

15. Revenoor designed assembled, manufactured, marketed, distributed, and sold the subject still system in a defective and unreasonably dangerous condition for the purpose for which it was intended.

16. When placed on the market by Revenoor, the subject still system was defective and unreasonably dangerous to the operator of said still.

17. At the time Revenoor designed, assembled, manufactured, marketed, distributed, and sold the subject still system, it was engaged in the business of designing, assembling, manufacturing, marketing, distributing, and selling the subject still system.

18. The subject still system was expected to and did reach the intended user or consumer without substantial change in the defective and unsafe condition in which it was designed, assembled, manufactured, marketed, distributed, and sold.

19. The design, assembly, manufacture, marketing, distribution, and sale of the defective and unreasonably dangerous subject still system by Revenoor was a substantial factor in causing Jay to suffer the serious and permanent injuries and damages as described previously in this Complaint.

20. The design, assembly, manufacture, marketing, distribution, and sale of the defective and unreasonably dangerous subject still system by Revenoor was a substantial factor in causing Silver Trail to suffer the serious and permanent injuries to its real and personal property and damages as described previously in this Complaint.

SEE DEMANDS AT THE END OF ALL COUNTS.

COUNT III

Revenoor's Breach of Implied Warranty of Merchantability

21. All of the allegations in Counts I and II are incorporated herein by reference.

22. Revenoor, as designer, assembler, manufacturer, marketer, distributor, and seller of the subject still system made an implied warranty that the subject still system was reasonably fit for the general uses and purposes for which it was intended.

23. Silver Trail purchased the subject still system new from Revenoor in 2011 and 2012.

24. The subject still system was not merchantable due to the explosion of the still system.

25. Revenoor's failure to comply with the implied warranty that the subject still system was reasonably fit for the general uses and purposes for which it was intended was a substantial factor in causing Silver Trail to incur the loss of the value of the subject still system between when Silver Trail accepted delivery of the subject still system and when it exploded.

26. Revenoor's failure to comply with the implied warranty that the subject still system was reasonably fit for the general uses and purposes for which it was intended was a substantial factor in causing Silver Trail to incur incidental and consequential damages, including, but not limited to, the serious and permanent injuries to its real and personal property and damages as previously described in this Complaint.

WHEREFORE, Plaintiff, Jay Rogers, demands judgment against Defendant, The Revenoor Company Incorporated a/k/a or f/k/a The Revenoor Company, Inc., in an amount reasonable to compensate him for his damages set out in this Complaint.

WHEREFORE, Plaintiff, Balencorp, Inc. d/b/a Silver Trail Distillery, demands judgment against Defendant, The Revenoor Company Incorporated a/k/a or f/k/a The Revenoor Company, Inc., in an amount reasonable to compensate it for its damages set out in this Complaint.

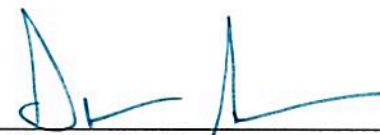
All Plaintiffs demand a trial by jury, their costs herein expended, and any and all other general and/or special relief to which it appears to the Court Plaintiffs are entitled.

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