

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 13-cv-23656-JJO

FRANCISCO RENE MARTY,
SETH GOLDMAN, and
FERNANDO MARQUET
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

ANHEUSER-BUSCH COMPANIES, LLC,

Defendant.

_____ /

**PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT AND CERTIFICATION OF THE SETTLEMENT CLASS**

Plaintiffs Francisco Marty, Seth Goldman and Fernando Marquet (“Plaintiffs”), on behalf of themselves and on behalf of all those similarly situated, hereby request entry of an order granting preliminary approval of the class action settlement as set forth in the parties’ Settlement Agreement and Release, certifying a nationwide class for settlement purposes, and providing for issuance of notice to Class Members.

INTRODUCTION

After over a year and a half of hard-fought litigation, Plaintiffs and Defendant Anheuser-Busch Companies, LLC (“A-B”) (collectively the “Parties”) have negotiated a settlement that provides substantial relief to purchasers of Beck’s Beer,¹ beer that Plaintiffs allege has been falsely advertised and marketed by A-B throughout the United States. The Parties have executed a Settlement Agreement and Release (attached as Exhibit 1) (“Settlement”) and agreed upon the form of proposed Notice to Class Members.²

Under the Settlement, A-B has agreed, among other things, to offer partial refunds to Settlement Class Members for Beck’s Beer in varying amounts that are based upon whether claims are supported by proof of purchase, and to stipulated injunctive relief (as set forth below). The Settlement’s benefits were the result of rigorous, arm’s-length negotiations by the Parties and their counsel under the direction of a distinguished mediator, Ronald Ravikoff, Esq. Notice of this Settlement will be disseminated to Class Members via, among other things, (i) published notice, (ii) internet notice, (iii) establishment of a settlement website, and (iv) through direct mail (along with a Claim Form) or email to currently available addresses that have been provided to A-B through the Beck’s or A-B websites or via email or telephone by potential Beck’s Beer consumers.

¹ “Beck’s Beer” means all bottles or cans of Beck’s Pilsner, Beck’s Dark, Beck’s Light, and/or Beck’s Oktoberfest brewed and sold in the United States by A-B.

² Unless otherwise noted, all capitalized terms used herein have the same definition as that provided in the Settlement.

Undersigned counsel were well positioned to evaluate and negotiate this settlement because they have been actively litigating against A-B in this and other fora for over a year and a half. Specifically, Plaintiffs' counsel investigated their claims and allegations through extensive discovery, including the review of thousands of pages of documents and the depositions of key A-B personnel as well as expert depositions. Despite that work, Plaintiffs and the Class faced significant hurdles in litigating their claims to successful adversarial resolution. As such, and given the immediate and substantial benefits the settlement will provide to the Class, there can be no question that the terms of the proposed settlement are "fair, reasonable, and adequate" and should receive the Court's preliminary approval.

FACTUAL AND PROCEDURAL BACKGROUND

1. The Beck's Litigation and Mediation

On October 9, 2013, Plaintiff Marty filed the Action seeking damages, injunctive relief and declaratory relief, alleging that Beck's Pilsner had been falsely or misleadingly labeled or marketed. The Action asserted a claim for unjust enrichment on behalf of a nationwide class and a claim for violation of Florida's Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201, *et seq.* "FDUTPA", on behalf of a Florida subclass. Plaintiff Marty amended the Complaint on March 31, 2014, adding Plaintiffs Goldman and Marquet, as well as claims under New York General Business Law § 349, California Unfair Competition Law, Business and Professions Code § 17200, and California Consumer Legal Remedies Act, Civil Code § 1750. The Amended Complaint sought certification of a nationwide unjust enrichment class and three state subclasses for Florida, New York, and California for the consumer protection act claims. The Action alleged that Defendant's advertising, marketing and selling practices regarding Beck's beer were deceptive and sought a change to the marketing practices of A-B and the packaging of Beck's.³

³ During the pendency of the Action, A-B began the process of changing its packaging to prominently include "Brewed in USA" or "Product of USA" on the front and back of consumer-facing packages of Beck's Beer, as well as to revise the "Product of USA" disclosure on Beck's Beer labels. These changes have been approved by the Alcohol and Tobacco Tax and Trade Bureau ("TTB").

The Parties engaged in substantial discovery. There were twelve depositions taken of the Parties, non-parties, and expert witnesses. The Parties responded to interrogatories and over 28,000 documents were produced. The Plaintiffs engaged experts both on marketing and damages. Counsel for Plaintiffs also obtained final approval of a nationwide class action settlement, including both monetary and injunctive relief, in a case involving Kirin beer that involves issues similar to those in the instant Action. *See Suarez v. Anheuser-Busch Companies, LLC*, Case No. 13-033629 CA 01 (Fla. 11th Jud. Cir.).

Defendant A-B moved to dismiss the Amended Complaint in its entirety. That motion was largely denied on September 5, 2015, with Plaintiffs filing a Second Amended Complaint on September 19, 2014. Plaintiffs' Motion for Class Certification was fully briefed, along with various motions in limine directed at the expert witnesses. These motions were argued before the Court on April 16, 2015. After the hearing, the Court ordered the parties to mediation. The parties conducted a mediation with Ronald Ravikoff, Esq. on May 26, 2015. Before, during, and after the mediation the parties engaged in a series of discussions regarding a settlement of the Action, including substantial arm's-length negotiations. The result was a settlement of the Action in its entirety, culminating with this Settlement.

2. The Settlement Terms and Agreement

A. The Proposed Class

The Settlement provides relief to all consumers who purchased Beck's Beer in the United States for personal, family, or household purposes and not for re-sale from May 1, 2011 through the date of Preliminary Approval of Class Settlement.

B. Monetary and Other Relief

The Settlement affords these Class Members monetary relief, and provides other injunctive relief to assist the Class Members. Specifically, the Settlement Agreement provides that:

- Defendant shall offer partial refunds to Settlement Class Members for Beck's Beer in varying amounts that are based upon whether claims are supported by proof of purchase.

- For claims supported by proof of purchase, a Settlement Class Member will be entitled to the following refunds:
 - Six pack of 12 oz. bottles or cans: \$.50 each
 - Four pack of 16 oz. cans: \$.50 each
 - Twelve pack of 12 oz. bottles or cans: \$1.00 each
 - Fifteen pack of 12 oz. bottles or cans: \$1.25 each
 - Twenty pack of 12 oz. bottles: \$1.75
 - Individual bottle or can: \$0.10 each

Reimbursements supported by proof of purchase are capped at \$50.00 per Settlement Class Household.

- For claims not supported by proof of purchase, a Settlement Class Member will be entitled to the following refunds:
 - Six pack of 12 oz. bottles or cans: \$.50 each
 - Four pack of 16 oz. cans: \$.50 each
 - Twelve pack of 12 oz. bottles or cans: \$1.00 each
 - Fifteen pack of 12 oz. bottles or cans: \$1.25 each
 - Twenty pack of 12 oz. bottles: \$1.75
 - Individual bottle or can: \$0.10 each

Reimbursements not supported by proof of purchase are capped at \$12.00 per Settlement Class Household.

- The Parties also stipulated to the following injunctive relief:
 - For a period of no less than five (5) years, and subject to all necessary regulatory approvals by appropriate governing agencies, inclusion of either the phrase “Brewed in USA” or “Product of USA” on: a) Beck’s Beer bottles substantially in the position and form recently approved by the TTB; b) Beck’s Beer cans in its present position and form; c) the

front and back of all Beck's Beer consumer-facing packages; and d) the "About Beck's" (<http://becks.com/#/en/about/becks>) page of the Beck's website. The type face, type size, position, color, and setoff of the disclosures will be agreed by the parties to be sufficient to inform a reasonable consumer of the place where Beck's Beer is brewed while not unduly impairing A-B's marketing.

C. Release of Claims against Defendant

In exchange for the settlement relief, members of the Settlement Class will release Defendant and all its present and former parent companies, subsidiaries, shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, affiliates, and successors, personal representatives, heirs and assigns, retailers, suppliers, distributors, endorsers, consultants, and any and all other entities or persons upstream and downstream in the production/distribution channels from, in sum, all claims, demands, actions, causes of action, and damages arising from, or relating to the claims alleged in the Action.

D. Class Notice

Class Members will receive notice of the Settlement by publication in the manner recommended by the Class Action Settlement Administrator and in the form of the notice attached as Exhibit 2, assuming the form is approved by the Court. The manner of notice will include, but not be limited to, (i) published notice, (ii) internet notice, (iii) establishment of a settlement website, and (iv) direct mail (along with a Claim form) or email to currently available addresses that have been provided to A-B through the Beck's or A-B websites or via email or telephone by potential Beck's Beer consumers. The settlement website will be established, informing the Class Members of the settlement and allowing them to file a claim electronically. Moreover, a long form notice, in substantially the same form attached hereto as Exhibit 3, shall be published on the Settlement Website.

Class Members may opt out of the settlement (for purposes of damages claims only) by sending a request for exclusion to the Claims Administrator, which will communicate requests for exclusion to Class Counsel, who will in turn report to the Court. Defendant shall bear all of the costs and expenses in administering the Settlement, including the hiring of a Claims Administrator, providing class notice, publication of the notice, and providing the claim forms.

E. Claims Process

To obtain relief from Defendant, Class Members will be required to submit a simple claim form (in the form, if approved, as Exhibit 4) electronically via the Settlement Website or by mail within one hundred and twenty (120) days from the date that Class Notice is initially disseminated. The claims will be reviewed by the Claims Administrator, who will work with Defendant to confirm whether those who timely file a claim are members of the Class. Defendant shall fund the total amount to be paid to eligible Settlement Class Members within thirty (30) days after the Class Action Settlement Administrator determines the total amount to be paid to eligible claimants (which the Class Action Settlement Administrator shall do twenty (20) days after the Claims Period ends or twenty (20) days after the Effective date, whichever is later). The Class Action Settlement Administrator shall then pay all eligible claimants within thirty (30) days after A-B deposits the funds to be paid. The Parties will be entitled to further confirmatory discovery including purchase history, the number of units sold, the total revenues from said sales, the changes to the labeling once completed, as well as any other information required to finalize the Settlement.

F. Class Counsel Fees and Expenses and Named Plaintiffs Case Contribution Award

Defendant has agreed not to object to a motion by Class Counsel for an award of attorneys' fees and expenses in the amount of three million five hundred thousand dollars (\$3,500,000.00) to Class Counsel. Defendant also will not oppose an application for a case contribution award not to exceed \$5,000 to each named Plaintiff. The Court will consider whether to grant or deny these awards separate and apart from its consideration of the fairness, reasonableness, and adequacy of the settlement.

LEGAL ARGUMENT

I. THE COURT SHOULD ENTER AN ORDER GRANTING PRELIMINARY APPROVAL OF THE BECK'S SETTLEMENT

To conclude the Settlement, the Federal Rules of Civil Procedure require that there be notice to the Settlement Class, a fairness hearing, and this Court's final approval. Settlement "has special importance in class actions with their notable uncertainty, difficulties of proof, and

length. Settlements of complex cases contribute greatly to the efficient utilization of scarce judicial resources, and achieve the speedy resolution of justice[.]” *Turner v. Gen. Elec. Co.*, No. 2:05-CV-186-FTM-99DNF, 2006 WL 2620275, at *2 (M.D. Fla. Sept. 13, 2006). For these reasons, “[p]ublic policy strongly favors the pretrial settlement of class action lawsuits.” *In re U.S. Oil & Gas Litig.*, 967 F.2d 489, 493 (11th Cir.1992).

“Approval of a class-action settlement is a two-step process.” *Fresco v. Auto Data Direct, Inc.*, No. 03-cv-61063, 2007 WL 2330895, at *4 (S.D. Fla. May 14, 2007). Preliminary approval is the first step, requiring the Court to “make a preliminary determination on the fairness, reasonableness, and adequacy of the settlement terms.” *Id.* (citation omitted). In the second step, after notice to the class and time and opportunity for absent class members to object or otherwise be heard, the court considers whether to grant final approval of the settlement as fair and reasonable. *See id.*

The standard for preliminary approval of a class action settlement is not high — a proposed settlement will be preliminarily approved if it falls “within the range of possible approval” or, otherwise stated, if there is “probable cause” to notify the class of the proposed settlement and “to hold a full-scale hearing on its fairness[.]” *In re Mid-Atl. Toyota Antitrust Litig.*, 564 F. Supp. 1379, 1384 (D. Md. 1983) (quoting Manual for Complex Litigation § 1.46 at 62, 64–65 (5th ed. 1982)). “Preliminary approval is appropriate where the proposed settlement is the result of the parties’ good faith negotiations, there are no obvious deficiencies, and the settlement falls within the range of reason.” *In re Checking Account Overdraft Litig.*, 275 F.R.D. 654, 661 (S.D. Fla. 2011).

Here, the proposed settlement is the product of arm’s-length negotiations before an experienced and respected mediator by counsel with significant experience in complex class action litigation, carries no “obvious deficiencies,” and falls well within the range of reason. The Court should accordingly enter an order granting preliminary approval.

A. The Settlement is the Product of Good Faith, Informed, and Arm’s-Length Negotiations among Experienced Counsel.

At the preliminary approval stage, courts consider whether the proposed settlement appears to be “the result of informed, good-faith, arms’-length negotiation between the parties

and their capable and experienced counsel’ and not ‘the result of collusion’ *E.g., In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1340 (S.D. Fla. 2011). Courts begin by presuming good faith in the negotiating process. *See Granada Invs., Inc. v. DWG Corp.*, 962 F.2d 1203, 1205 (6th Cir. 1992) (“Absent evidence of fraud or collusion, such settlements are not to be trifled with.”); Manual for Complex Litigation (Third) § 30.42 (“a presumption of fairness, adequacy and reasonableness may attach to a class settlement reached in arms-length negotiations between experienced, capable counsel”).

The settlement terms in this case are the product of significant give and take by the settling parties, and were negotiated at arm’s length. The parties engaged in substantial settlement negotiations for months before the formal mediation before Ronald Ravikoff, Esq. on October 1, 2014, and thereafter had regular communications, negotiating first the terms of an initial term sheet and then a settlement agreement reflecting the final terms. Mr. Ravikoff has significant experience mediating complex commercial suits to resolution and his involvement alone weighs in favor of preliminary approval. *See, e.g., In re Educ. Testing Serv. Praxis Principles of Learning & Teaching, Grades 7-12 Litig.*, 447 F. Supp. 2d 612, 619-20 (E.D. La. 2006) (use of court appointed special master to oversee mediation efforts evidenced the procedural fairness of the negotiating process); *In re WorldCom, Inc. ERISA Litig.*, 2004 WL 2338151, at *6 (S.D.N.Y. 2004) (fact that “[a] respected and dedicated judicial officer presided over the lengthy discussions from which this settlement emerged[.]” belied any suggestion of collusion in the negotiating process).

The Parties’ extensive negotiations were also informed by considerable discovery. The Parties have been actively litigating this matter for over a year and a half. The Parties produced over 28,000 documents and deposed corporate and class representatives, as well as other key personnel. The Parties have also engaged in significant motion practice, briefing the motion to dismiss, motions in limine including a motion to exclude expert testimony, and class certification, among others.

B. The Settlement Provides Considerable Benefits to the Class and Falls Squarely within the Range of Reasonableness.

The terms negotiated by the parties provide considerable benefits to the class, in terms of both monetary and injunctive relief, and fall well within the range of possible approval.

i. Direct Monetary Relief

The Settlement provides that Settlement Class Members with claims supported by proof of purchase will be entitled to the following refunds:

- Six pack of 12 oz. bottles or cans: \$.50 each
- Four pack of 16 oz. cans: \$.50 each
- Twelve pack of 12 oz. bottles or cans: \$1.00 each
- Fifteen pack of 12 oz. bottles or cans: \$1.25 each
- Twenty pack of 12 oz. bottles: \$1.75
- Individual bottle or can: \$0.10 each

Reimbursements supported by proof of purchase will be capped at \$50.00 per Settlement Class Household.

For claims not supported by proof of purchase, a Settlement Class Member will be entitled to the following refunds:

- Six pack of 12 oz. bottles or cans: \$.50 each
- Four pack of 16 oz. cans: \$.50 each
- Twelve pack of 12 oz. bottles or cans: \$1.00 each
- Fifteen pack of 12 oz. bottles or cans: \$1.25 each
- Twenty pack of 12 oz. bottles: \$1.75
- Individual bottle or can: \$0.10 each

Reimbursements not supported by proof of purchase will be capped at \$12.00 per Settlement Class Household.

Courts routinely hold that settlements providing the class with a portion of the recovery sought in litigation are reasonable in light of the attendant risks of litigation. *See, e.g., Behrens v. Wometco Enters., Inc.*, 118 F.R.D. 534, 542–43 (approving recovery of \$.20 per share where desired recovery was \$3.50 a share and stating “the fact that a proposed settlement amounts to only a fraction of the possible recovery does not mean the settlement is unfair or inadequate[.]”). “Moreover, when settlement assures immediate payment of substantial amounts to class members, even if it means sacrificing speculative payment of a hypothetically larger amount years down the road, settlement is reasonable [when weighing the benefits of the settlement against the risks associated with proceeding in the litigation].” *Johnson v. Brennan*, No. 10-cv-4712, 2011 WL 4357376 (S.D.N.Y. Sept. 16, 2011) (internal quotation marks omitted).

Plaintiffs and the proposed class faced significant hurdles in litigating their claims to class certification and ultimate resolution, and the possible appeals of any of the Court rulings. Each Class Member now, however, stands to recover direct monetary and injunctive relief as a result of the settlement. The negotiated monetary recovery falls well within the range of reasonableness.

ii. Injunctive Relief

The Settlement also provides significant injunctive relief. Once approved, the Settlement requires that for a period of no less than five (5) years, and subject to all necessary regulatory approvals by appropriate governing agencies, Defendant will include either the phrase “Brewed in USA” or “Product of USA” on: a) Beck’s Beer bottles substantially in the position and form recently approved by the TTB; b) Beck’s Beer cans in its present position and form; c) the front and back of all Beck’s Beer consumer-facing packages; and d) the “About Beck’s” (<http://becks.com/#/en/about/becks>) page of the Beck’s website.

C. The Settlement Saves the Class from Considerable Litigation Hurdles.

Any evaluation of the benefits of settlement must be tempered by the recognition that any compromise involves concessions by all settling parties. Indeed, “the very essence of a settlement is compromise, a yielding of absolutes and an abandoning of highest hopes.” *Officers for Civil Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 624 (9th Cir. 1982) (internal quotation

marks omitted). At bottom, had litigation continued, Plaintiffs and Class Members would have faced the risk of not prevailing on their claims.

Plaintiffs and the Class also faced hurdles in certifying the matter as a class action. For example, A-B argued that there were differences in the locations, the amounts, and the reasons for which consumers purchased Beck's Beer, and although Plaintiffs' counsel vigorously argued otherwise, Defendant argued that these differences and other issues precluded certification. Even if Plaintiffs were successful in certifying a class, Defendant would have vigorously contested the merits of Plaintiffs' claims. The proposed settlement saves Plaintiffs and the proposed Class from facing these substantial obstacles, and eliminates the significant risk that they would recover nothing at all after several more years of litigation.

D. Counsel Believes the Settlement is Reasonable and in the Class's Best Interest.

Finally, significant weight should be attributed to the belief of experienced counsel that the negotiated settlement is in the best interest of the class. *See, e.g., In re Coordinated Pretrial Proceedings in Antibiotic Antitrust Actions*, 410 F. Supp. 659, 666 (D. Minn. 1974) (the recommendation of experienced counsel is entitled to great weight). Plaintiffs' counsel here have litigated numerous class actions in state and federal courts and fully support the settlement. For example, in this Court, Plaintiffs' counsel certified a class of Florida homeowners relating to the practice of force-placed insurance in *Williams v. Wells Fargo Bank, N.A.*, No. 11-cv-21233, 280 F.R.D. 665 (S.D. Fla. Feb. 21, 2012), and procured preliminary and/or final approval of a number of nationwide class action settlements in similar cases against various banks and insurers. *See Saccoccio v. JPMorgan Chase Bank, N.A.*, 13-cv-21107 (S.D. Fla.) (D.E. 130); *Fladell v. Wells Fargo Bank, N.A.*, No. 13-cv-60721 (S.D. Fla.), *Diaz v. HSBC Bank (USA), N.A.*, No. 13-cv-21104 (S.D. Fla.), *Hamilton v. SunTrust Mortgage, Inc.*, No. 13-cv-60749, *Hall v. Bank of America, N.A.*, No. 12-cv-22700 (S.D. Fla.), *Braynen v. Nationstar Mortgage LLC*, No. 14-cv-20726 (S.D. Fla.); and *Lee v. Ocwen Loan Servicing, LLC*, No. 14-cv-60649 (S.D. Fla.). *See also Francisco v. Numismatics Guaranty Co.*, case no. 06-61677-CIV-Martinez, 2008 WL 649124 (S.D. Fla. Jan. 21, 2008) (class counsel achieved final approval of a nationwide class of purchasers of coin appraisal services); *LiPuma v. American Express*, 406 F. Supp. 2d 1298

(S.D. Fla. 2005) (class counsel achieved final approval for a nationwide class of credit card users). Counsel for Plaintiffs also used their experience from their nationwide class action settlement in an earlier case, involving Kirin beer that involves issues similar to this case. *See Suarez v. Anheuser-Busch Companies, LLC*, Case No. 13-033629 CA 01 (Fla. 11th Jud. Cir.). That settlement was overwhelmingly approved by the class, with no opt outs and only two objections nationwide. *See* Comp. Exhibit 5, attached. Based on this experience, the substantial information learned in the course of the litigation, and decades of experience litigating consumer class action lawsuits, it is Plaintiffs' counsel's informed opinion that the settlement is fair, reasonable, adequate, and in the best interests of the Class.

II. THE COURT SHOULD CERTIFY THE PROPOSED SETTLEMENT CLASS.

The Settlement Class here meets the requirements of numerosity, commonality, typicality and adequacy of representation required by Rule 23(a) of the Federal Rules of Civil Procedure, as well as the requirements of Rule 23(b)(3) and 23(b)(2).

A. The Settlement Class Meets the Four Requirements of Rule 23(a).

Rule 23(a) sets forth four prerequisites for class certification: numerosity, commonality, typicality, and adequacy of representation. *Cheney v. Cyberguard Corp.*, 213 F.R.D. 484,489 (S.D. Fla. 2003); *see* Fed. R. Civ. P. 23(a). The policies underlying the class action rule dictate that Rule 23(a) should be liberally construed. *See Walco Invs., Inc. v. Thenen*, 168 F.R.D. 315, 323 (S.D. Fla. 1996). Plaintiff satisfies all four requirements as set forth below.

"It is well established that [a] class may be certified solely for purposes of settlement [if] a settlement is reached before a litigated determination of the class certification issue." *In re Checking Account Overdraft Litig.*, 275 F.R.D. at 659 (internal quotations omitted; brackets in original). "In deciding whether to provisionally certify a settlement class, a court must consider the same factors that it would consider in connection with a proposed litigation class[.]" save manageability, "since the settlement, if approved, would obviate the need for a trial." *Id.* However, "[t]he standards of Rule 23 for class certification are more easily met in the context of settlement than in the context of contested litigation." *Horton v. Metro. Life Ins. Co.*, No. 93-1849-CIV-T-23A, 1994 U.S. Dist. LEXIS 21395, at *15 (M.D. Fla. Oct. 25, 1994).

i. The Settlement Class is Sufficiently Numerous.

Rule 23(a)(1) requires Plaintiffs to show that the proposed class is so numerous that joinder of all members would be impracticable. Here, the number of class members is in the thousands and thus well exceeds the minimum threshold.

ii. There Are Questions of Law and Fact Common to All Class Members.

Rule 23(a)(2) requires class action plaintiffs to identify questions of law or fact common to the proposed class. *See* Fed. R. Civ. P. 23(a)(2). “The threshold for commonality is not high.” *Cheney*, 213 F.R.D. at 490. Commonality requires a showing that the class members’ claims “depend on a common contention” and that the class members have “suffered the same injury.” *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2551 (2011). “[F]or purposes of Rule 23(a)(2), even a single [common] question will do[.]” *id.* at 2556 (brackets in original), and “where a common scheme of conduct has been alleged, the commonality requirement should be satisfied.” *Checking Overdraft*, 2011 WL 3158998, at *4.

Plaintiffs’ claims here depend on the common contention that Defendant deceptively labeled, packaged, and marketed Beck’s Beer to lead consumers to believe that Beck’s Beer was imported from Germany when in fact Beck’s Beer is manufactured in the United States. All members of the putative class were allegedly injured in the same manner: they were deceived by Defendant’s conduct, and they allegedly paid a premium for Beck’s Beer based on that deception.

While only one question of law *or* fact is required to establish commonality, several common questions capable of class-wide resolution—or that would “generate common answers”—arise from Plaintiffs’ allegations, including:

- a. Whether Defendant’s labeling, packaging, and marketing of Beck’s Beer is deceptive;
- b. Whether Defendant engaged in unfair and deceptive trade practices when labeling, packaging, and marketing Beck’s Beer; and
- c. Whether Defendant was unjustly enriched as a result of its deceptive conduct.

These common questions are capable of class-wide resolution. *See Williams*, 2012 WL 566067, at *5 (finding commonality where “all members of the proposed class were injured in the same manner”).

iii. Plaintiffs’ Claims are Typical of Those of the Class.

Rule 23(a)(3) requires Plaintiffs to demonstrate that their claims are typical of those held by the proposed class. *See Fed. R. Civ. P. 23(a)(3)*. Typicality and commonality are related, with commonality referring to “the group characteristics of the class as a whole” and typicality focusing on the named plaintiff’s claims in relation to the class. *Terazosin Hydrochloride Antitrust Litig.*, 220 F.R.D. at 686 n.23. “Any atypicality or conflict between the named Plaintiff’s claims and those of the class must be clear and must be such that the interests of the class are placed in significant jeopardy.” *Cheney*, 213 F.R.D. at 491.

Plaintiffs’ claims arise from the same alleged course of conduct and are based on the same legal theories as those brought on behalf of the proposed class. For example, the alleged deception to which each of the class representatives was exposed — that Beck’s Beer was a German import instead of a domestic beer brewed in the United States — was no different than the alleged deception to which all of the Class Members allegedly were exposed. Because Plaintiffs’ claims are based on alleged injuries caused by conduct allegedly affecting the class as a whole, their claims easily satisfy the typicality requirement. *See, e.g., Williams*, 2012 WL 566067, at *6 (holding that the named plaintiffs were typical of the class where they were charged and paid an inflated price based upon the same alleged deceptive conduct).

Moreover, Plaintiffs’ claims are based on the same legal theories of the violation of state consumer protection laws and unjust enrichment. This identity of claims and legal theories between Plaintiffs and the class satisfies the typicality requirement set forth in Rule 23(a)(3).

iv. Plaintiffs will Fairly and Adequately Represent the Interests of the Class.

To satisfy Rule 23(a)(4), the representative parties must “fairly and adequately represent the interests of the class.” *Fed. R. Civ. P. 23(a)(4)*. This requirement is satisfied when the class representatives have (1) no interests antagonistic to the rest of the class and (2) counsel who are

“qualified, experienced, and generally able to conduct the proposed litigation.” *Cheney*, 213 F.R.D. at 495. “Adequate representation is presumed in the absence of contrary evidence.” *Association for Disabled Ams., Inc. v. Amoco Oil Co.*, 211 F.R.D. 457, 464 (S.D. Fla. 2002).

The attorneys who seek to represent the Class in this case are highly qualified to serve as class counsel, have served as lead and co-lead counsel in some of the largest class actions in the country, and are well respected in the communities that they serve. Copies of the firm resumes are attached hereto as composite Exhibit 6. “[T]he single most important factor considered by the courts in determining the quality of the representative’s ability and willingness to advocate the cause of the class has been the caliber of the plaintiff’s attorney.” 1 Newberg on Class Actions 3d (1992) § 3.24 at 3-133 n. 353.; *see also Griffin v. Carlin*, 755 F. 2d 1516, 1533 (11th Cir. 1985) (inquiry as to adequacy of plaintiffs “involves questions of whether plaintiffs’ counsel are qualified, experienced, and generally able to conduct the proposed litigation, and of whether plaintiffs have interests antagonistic to those of the rest of the class.”). The firms representing Plaintiffs have overseen the litigation strategy, the briefing and argument of motions, and the vigorous pursuit of discovery.

Plaintiffs in this action also do not have interests that are antagonistic to those held by the rest of the class. There has been no evidence that would in any way show that Plaintiffs do not have the same interests as the other class members, or are in any way antagonistic to the class. Thus, the Plaintiffs have satisfied the adequacy requirement of Rule 23(a)(4).

B. The Settlement Class Meets the Requirements of Rules 23(b)(3) and 23(b)(2).

In addition to meeting the four requirements of Rule 23(a), a plaintiff seeking class certification must satisfy one of the subsections of Rule 23(b). Plaintiffs here seek certification under Rules 23(b)(3) and 23(b)(2).

i. Rule 23(b)(3)

Certification is appropriate under Rule 23(b)(3) if (1) common questions of law or fact predominate over those affecting only individual class members and (2) class treatment is superior to other adjudication methods. *See Fed. R. Civ. P. 23(b)(3)*. The latter question

implicates manageability concerns, which do not bear on certification of a settlement class. *See Checking Account Overdraft Litig.*, 275 F.R.D. at 659.

For common questions of law or fact to predominate over individualized questions, “the issues in the class action that are subject to generalized proof, and [are] thus applicable to the class as a whole, must predominate over those issues that are subject only to individualized proof.” *Terazosin Hydrochloride Antitrust Litig.*, 220 F.R.D. at 694. “Common questions need only predominate; they need not be dispositive of the litigation.” *Id.* “When common questions present a significant aspect of the case and they can be resolved for all members of the class in a single adjudication, there is clear justification for handling the dispute on a representative rather than on an individual basis.” *Checking Overdraft Litig.*, 2011 WL 3158998, at *7.

Here, “irrespective of the individual issues which may arise, the focus of the litigation concerns the alleged common course of unfair conduct embodied in [Defendants’] scheme to” allegedly deceptively sell and market Beck’s Beer as German, when it is a domestic beer. *Checking Overdraft Litig.*, 2011 WL 3158998, at *7. Proof of this alleged scheme may be substantiated by common evidence that would remain the same regardless of class size or composition. Common issues would predominate over any individual issue that might arise.

Moreover, a comprehensive resolution of the Settlement Class members’ claims in this action would be far superior to litigating each of their claims separately. “Since the damage amounts allegedly owed to each individual [consumer] are relatively low—especially as compared to the costs of prosecuting [these] types of claims . . . —the economic reality is that many of the class members would never be able to prosecute their claims through individual lawsuits.” *Williams*, 280 F.R.D. at 675. Even if the class members were able individually to prosecute their claims, “[s]eparate actions by each of the class members would be repetitive, wasteful, and an extraordinary burden on the courts.” *Kennedy v. Tallant*, 710 F.2d 711, 718 (11th Cir. 1983). Accordingly, the Court should certify the proposed class.

The predominant issues raised by Plaintiffs and the Class, all susceptible to common proof, include the allegedly deceptive A-B conduct in labeling, packaging, and marketing Beck’s Beer as a German imported beer; and A-B’s monetary gains as a direct result of that deception.

Moreover, courts have certified claims under FDUTPA, holding that individual proof of reliance is not required in class actions under FDUTPA. *See, e.g., Turner Greenberg Assocs. v. Pathman*, 885 So. 2d 1004 (Fla. 4th DCA 2004) (“[A] demonstration of reliance by an individual consumer is not necessary in the context of FDUTPA.”); *Fitzpatrick v. General Mills, Inc.*, 263 F.R.D. 687, 693 (S.D. Fla. 2010) (under FDUTPA, a plaintiff “may rely on any evidence concerning that message, including advertisements to which he or she was not personally exposed.”); *see also Nelson v. Mead Johnson Nutrition Co.*, 270 F.R.D. 689, 692 & n.2 (S.D. Fla. 2010) (noting that deceptive marketing may injure consumers even without individual reliance upon misrepresentations); *Roggenbuck Trust v. Dev. Res. Group, LLC*, 505 F. App’x 857, 862 (11th Cir. 2013) (“a plaintiff need not prove [actual] reliance on the allegedly false statement to recover damages under FDUTPA, but rather a plaintiff must simply prove that an objective reasonable person would have been deceived.”) (alteration in original); *State, Office of the Attorney Gen., Dep’t of Legal Affairs v. Commerce Commercial Leasing, LLC*, 946 So. 2d 1253, 1258 (1st DCA 2007) (“A deceptive or unfair trade practice constitutes a somewhat unique tortious act because, although it is similar to a claim of fraud, it is different in that, unlike fraud, a party asserting a deceptive trade practice claim need not show actual reliance on the representation or omission at issue.”); *Latman v. Costa Cruise Lines, N.V.*, 758 So. 2d 699, 703 (Fla. 3d DCA 2000) (holding that consumers could recover for false port charges even where “the consumers paid no attention to the sales tax amount”).

ii. Rule 23(b)(2)

Rule 23(b)(2) provides for class certification where “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” The term “generally applicable” has been interpreted to mean that the defendant “has acted in a consistent manner towards members of the class so that his actions may be viewed as part of a pattern of activity, or to establish a regulatory scheme, to all members.” *Leszczynski v. Allianz Ins. Co.*, 176 F.R.D. 659, 673 (S.D. Fla. 1997) (internal citations omitted).

Here, due to its use of uniform labels and packaging, A-B allegedly engaged in a standard and uniform practice of false, misleading and deceptive packaging and advertising, directed toward the Class as a whole. Therefore, certification under Rule 23(b)(2) is appropriate.

III. THE COURT SHOULD APPOINT THE UNDERSIGNED FIRMS AS CLASS COUNSEL.

The Parties have named the undersigned firms as Class Counsel. Undersigned counsel have significant experience in litigating complex commercial litigation including class actions. *See* § I.D, *supra*. Because undersigned counsel are highly qualified and determined to represent the best interests of the Class, the Court should appoint them Class Counsel moving forward.

CONCLUSION

Plaintiffs respectfully request the Court enter an order certifying the proposed class for purposes of settlement, preliminarily approving the terms of settlement, directing that Notice be given to the Class Members in the forms submitted with the Settlement Agreement, and setting a final fairness hearing at least 90 days after entry of the order.

Respectfully submitted,

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18 day of June, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing documents is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic filing.

/s/ Thomas A. Tucker Ronzetti

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SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement”) is made and entered into by and between the following parties on June ____, 2015: Plaintiffs Francisco Rene Marty, Seth Goldman, and Fernando Marquet, individually and on behalf of the Settlement Class (“Plaintiffs” and/or “Class Representatives”), on the one hand, and Anheuser-Busch Companies, LLC (“Defendant” or “A-B”) on the other hand, in the action entitled *Francisco Rene Marty et al. v. Anheuser-Busch Companies, LLC*, Case No. 13-cv-23656 (S.D. Fla.) (“Action”).

I. DEFINITIONS

As used in this Agreement and all related documents, the following terms have the following meanings:

A. “Beck’s Beer” means all bottles or cans of Beck’s Pilsner, Beck’s Dark, Beck’s Light, and/or Beck’s Oktoberfest brewed and sold in the United States by A-B.

B. “Claim” means the claim of a Settlement Class Member submitted as provided in this Agreement.

C. “Claim Form” means a claim form in substantially the same form and substance as the claim form attached hereto as Exhibit A.

D. “Claim Period” means the time period in which Class Members may submit a Claim Form for review to the Class Action Settlement Administrator. The Claim Period shall run for one hundred and twenty (120) days from the date that Class Notice is initially disseminated.

E. “Claims Process” means the process for Settlement Class Members’ submission of Claims as described in this Agreement.

F. “Class Action Settlement Administrator” or “Claims Administrator” means the third-party agent or administrator agreed to by the Parties and appointed by the Court. The Parties agree that Kurtzman Carson Consultants, LLC shall be retained to implement the claims and settlement requirements of this Agreement.

G. “Class Counsel” means Thomas A. Tucker Ronzetti, Esq., Kozyak, Tropin & Throckmorton, LLP, Lance A. Harke, P.A., Harke Clasby & Bushman LLP, and Robert Rodriguez, Esq., Robert W. Rodriguez, P.A.

H. “Class Notice” means notice of the proposed settlement to be provided to Settlement Class Members under Section VII of the Agreement substantially in the form attached as Exhibit B.

I. “Class Period” means May 1, 2011 through the date of Preliminary Approval of Class Settlement.

J. “Effective Date” means (a) if no objection is raised to the proposed settlement at the Final Approval Hearing, the date on which the final approval order and judgment is entered; or (b) if any objections are raised to the proposed settlement at the Final Approval Hearing and not withdrawn prior to the Final Judgment, the latest of (i) the expiration date of the time for filing or notice of any appeal from the final approval order and judgment, (ii) the date of final affirmance of any appeal of the final approval order and judgment, (iii) the expiration of the time for, or the denial of, a petition for writ of certiorari to review the final approval order and judgment and, if certiorari is granted, the date of final affirmance of the final approval order and judgment following review pursuant to that grant; or (iv) the date of final dismissal of any appeal from the final approval order and judgment or the final dismissal of any proceeding on certiorari to review the final approval order and judgment.

K. “Final Approval Hearing” means the hearing at or after which the Court will make a final decision whether to approve this Agreement and the settlement set forth herein as fair, reasonable, and adequate and entry by the Court of a final judgment and order thereon.

L. “Final Judgment” means the judgment the Court enters, finally approving the class settlement. A proposed Final Judgment is attached hereto as Exhibit C.

M. “Objection/Exclusion Deadline” means the date twenty-one (21) days prior to the “Final Approval Hearing,” defined above.

N. “Parties” means the Class Representatives and Defendant.

O. “Preliminary Approval” means the date the Court preliminarily approves the settlement of the Action, including but not limited to, the terms and conditions of this Agreement.

P. “Publication Notice” means notice of the proposed settlement to be provided to Settlement Class Members under Section VII of the Agreement. The Publication Notice shall be substantially in the form as the notice attached hereto as Exhibit D.

Q. “Settlement Class” means: All consumers who purchased Beck’s Beer in the United States for personal, family, or household purposes and not for re-sale during the Class Period. Excluded from the Settlement Class are all persons who validly opt out of the settlement in a timely manner (for purposes of damages claims only); counsel of record (and their respective law firms) for the Parties; Defendant and any of its parents, affiliates, subsidiaries, and all of its respective employees, officers, and directors; and the presiding judge in the Action or judicial officer presiding over the matter, and all of their immediate families and judicial staff.

R. “Settlement Class Household” means, to the extent family members, or extended family members, living under the same roof and for whom purchases of Beck’s Beer were collectively made, those family members shall be treated as one “Settlement Class Household” for purposes of the “Claims Process” described below. For purposes of the “Claims Process,” a sole or single “Settlement Class Member” shall be treated as one “Settlement Class Household.”

S. “Settlement Class Member” means any member of the Settlement Class.

II. LITIGATION BACKGROUND

A. On October 9, 2013, Plaintiff Marty filed the Action seeking damages, injunctive relief and declaratory relief, alleging that Beck’s Pilsner had been falsely or misleadingly labeled or marketed. The Action asserted a claim for unjust enrichment on behalf of a nationwide class and a claim for violation of Florida’s Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201, *et seq.* “FDUTPA”, on behalf of a Florida subclass. Plaintiff Marty amended the Complaint on March 31, 2014, adding Plaintiffs Goldman and Marquet, as well as claims under New York General Business Law § 349, California Unfair Competition Law, Business and Professions Code § 17200, and California Consumer Legal Remedies Act, Civil Code § 1750. The Amended Complaint sought certification of a nationwide unjust enrichment class and three state subclasses for Florida, New York, and California for the consumer protection act claims.

B. The Parties engaged in substantial discovery. There were twelve (12) depositions taken of the Parties, non-parties, and expert witnesses. The parties responded to interrogatories and over 28,000 documents were produced.

C. Defendant A-B moved to dismiss the Amended Complaint in its entirety, which was denied on September 5, 2014.

D. The Parties engaged experts on marketing practices and damages, who prepared reports and were deposed, and the Parties fully briefed various motions in *limine* directed at the expert witnesses.

E. The parties fully briefed Plaintiffs’ Motion for Class Certification which was argued before Magistrate Judge John O’Sullivan on April 16, 2015. After the hearing, the Court ordered the parties to conduct a mediation on or before June 18, 2015.

F. During the pendency of the Action, A-B began the process of changing its packaging to prominently include “Brewed in USA” or “Product of USA” on the front and back of consumer-facing packages of Beck’s Beer, as well as to revise the “Product of USA” disclosure on Beck’s Beer labels. These changes have been approved by the Alcohol and Tobacco Tax and Trade Bureau (“TTB”).

G. Defendant expressly denies any liability or wrongdoing of any kind associated with the claims alleged in the Action and believes that its labeling, packaging, and marketing of Beck’s Beer have always been truthful and not deceptive. Defendant further contends that, for any purpose other than settlement, this Action is not appropriate for class treatment. Defendant does not admit or concede any actual or potential fault, wrongdoing, or liability concerning or relating to the allegations in the Action.

H. Class Counsel has conducted a thorough investigation into the facts surrounding the Action. This investigation included but was not limited to: factual research; legal research; and collecting and reviewing of documents and data through discovery and otherwise.

I. Counsel for the Parties conducted a mediation with Ronald Ravikoff, Esq. on May 26, 2015. Before, during, and after the mediation the parties engaged in a series of discussions regarding a settlement of the Action, including substantial arms-length negotiations. The result was a settlement of the Action in its entirety, culminating with this Agreement.

J. Based on the above-outlined investigation, the current state of the law, the expense, burden, and time necessary to prosecute the Action through trial and possible appeals, the risks and uncertainty of further prosecution of this Action considering the defenses at issue, the sharply contested legal and factual issues involved, and the relative benefits to be conferred upon Plaintiffs and the Settlement Class Members pursuant to this Agreement, Class Counsel has concluded that a settlement with Defendant on the terms set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement Class in light of all known facts and circumstances. Further, Defendant has agreed to modify the language on the labels of Beck's Beer and to add language to Beck's Beer consumer-facing packaging.

K. Defendant and Defendant's counsel recognize the expense and length of continued proceedings necessary to continue the Action through trial and through possible appeals. Defendant also recognizes that the expense and time spent pursuing this Action has and will further detract from resources that may be used to run Defendant's business. While Defendant denies any wrongdoing or liability arising out of any of the facts or conduct alleged in the Action and believes that it has valid defenses to Plaintiffs' claims, Defendant has determined that the settlement is fair, adequate, and reasonable.

III. CERTIFICATION

A. Certification of Class: For Settlement purposes only, and without any finding or admission of any wrongdoing or fault by Defendant, and solely pursuant to the terms of this Agreement, the Parties consent to and agree to the establishment of a conditional certification of the nationwide Settlement Class, pursuant to Federal Rule of Civil Procedure 23(b)(3) and 23(b)(2). Francisco Rene Marty, Seth Goldman, and Fernando Marquet will serve as class representative plaintiffs and Kozyak Tropin & Throckmorton, LLP and Harke Clasby & Bushman, LLP will serve as Co-Lead Class Counsel.

B. Certification is Conditional: This certification is for settlement purposes only and is conditional on the Court's approval of this Agreement. In the event the Court does not approve all terms of the Agreement, then certification of the Settlement Class should be void and this Agreement and all orders entered in connection therewith, including but not limited to any order conditionally certifying the Settlement Class, shall become null and void and shall be of no further force and effect and shall not be used or referred to for any purposes whatsoever in the Action or in any other case or controversy. And, in such an event, this Agreement and all negotiations and proceedings related thereto shall be deemed to be without prejudice to the rights of any and all parties hereto, who shall be restored to their respective positions as of the date of this Agreement, and Defendant shall not be deemed to have waived any opposition or defenses it

has to any aspect of the claims asserted herein or to whether those claims are amenable to class-based treatment.

IV. SETTLEMENT CONSIDERATION

In consideration of the mutual covenants and promises set forth herein, and subject to Court approval, the Parties agree as follows:

A. Injunctive Relief: Defendant stipulates to the following injunctive relief as to Beck's Beer:

1. For a period of no less than five (5) years, and subject to all necessary regulatory approvals by appropriate governing agencies, inclusion of either the phrase "Brewed in USA" or "Product of USA" on: a) Beck's Beer bottles substantially in the position and form recently approved by the TTB (as reflected in Exhibit E); b) Beck's Beer cans in its present position and form; c) the front and back of all Beck's Beer consumer-facing packages substantially in the position and form reflected in Exhibit F; and d) the "About Beck's" (<http://becks.com/#/en/about/becks>) page of the Beck's website. The type face, type size, position, color, and setoff of the disclosures will be agreed by the parties to be sufficient to inform a reasonable consumer of the place where Beck's Beer is brewed while not unduly impairing A-B's marketing.
2. Plaintiffs agree that Defendant shall be permitted four (4) months from the Effective Date to sell off all of its existing labeling and packaging of Beck's Beer.

B. Monetary Relief: Defendant shall offer partial refunds to Settlement Class Members for Beck's Beer subject to the following provisions of the Claims Process:

1. Claims Supported by Proof of Purchase: A Settlement Class Member who has valid proof of purchase of Beck's Beer will be entitled to the following refunds:
 - a. Six pack of 12 oz. bottles or cans: \$.50 each
 - b. Four pack of 16 oz. cans: \$.50 each
 - c. Twelve pack of 12 oz. bottles or cans: \$1.00 each
 - d. Fifteen pack of 12 oz. bottles or cans: \$1.25 each
 - e. Twenty pack of 12 oz. bottles: \$1.75
 - f. Individual bottle or can: \$0.10 each

Such valid proof of purchase shall consist of a sales receipt showing the Beck's Beer purchased and the date of purchase. Such reimbursement, supported by valid proof of purchase for all qualifying purchases, shall be capped at \$50.00 per Settlement Class Household.

2. Claims Not Supported by Proof of Purchase: A Settlement Class Member who does not have valid proof of purchase of Beck's Beer will be entitled to the following refunds without proof:

- a. Six pack of 12 oz. bottles or cans: \$.50 each
- b. Four pack of 16 oz. cans: \$.50 each
- c. Twelve pack of 12 oz. bottles or cans: \$1.00 each
- d. Fifteen pack of 12 oz. bottles or cans: \$1.25 each
- e. Twenty pack of 12 oz. bottles: \$1.75
- f. Individual bottle or cans: \$0.10 each

Such reimbursement, for claims not supported by proof of purchase, shall be capped at \$12.00 per Settlement Class Household.

3. Settlement Class Members may seek reimbursement by completing a Claim Form and timely submitting it to the Class Action Settlement Administrator. A Settlement Class Member may submit the Claim Form electronically via an agreed-upon website (the "Settlement Website") or by mail.
4. Defendant, through the Class Action Settlement Administrator, shall honor and administer the payment of all eligible Claims submitted either through U.S. mail or online via the Settlement Website within the Claim Period, which begins on the date Class Notice is initially disseminated and expires one hundred and twenty (120) days later. Defendant shall have no obligation to honor untimely Claims received by the Class Action Settlement Administrator after the Claim Period.
5. A-B shall fund the total amount to be paid to eligible Settlement Class Members within thirty (30) days after the Class Action Settlement Administrator determines the total amount to be paid to eligible claimants (which the Class Action Settlement Administrator shall do twenty (20) days after the Claims Period ends or twenty (20) days after the Effective date, whichever is later). A-B shall place said fund in an agreed-upon institutional account. The Class Action Settlement Administrator shall then pay all eligible claimants within thirty (30) days after A-B deposits the funds to be paid.
6. Confirmatory Discovery: The Parties will be entitled to further confirmatory discovery to the extent necessary to support the settlement.

V. ATTORNEYS FEES AND CLASS REPRESENTATIVE AWARD

Class Counsel agrees that it will apply to the Court for attorneys' fees, costs, and expenses in an amount not to exceed three million five hundred thousand dollars (\$3,500,000.00 USD). This is an inclusive amount and specifically includes all costs and fees incurred by Class Counsel and Plaintiffs in connection with the Action thus far, as well as ongoing and future costs

and fees through finalization of settlement of this Action. This amount will be paid by A-B above and beyond any relief provided to the Settlement Class. Class Counsel agrees that it will apply to the Court for an incentive award to the class representatives Francisco Rene Marty, Seth Goldman, and Fernando Marquet in an amount not to exceed five thousand dollars each (\$5,000.00 USD), for their participation as the class representatives, for taking on the risks of litigation, and for settlement of their individual claims as a Settlement Class Member in this Action. Defendant agrees not to oppose Class Counsel's motion for attorneys' fees and costs and incentive award, provided that the requested attorneys' fees and costs and incentive award do not exceed three million five hundred fifteen thousand dollars (\$3,515,000.00 USD) in the aggregate. Plaintiffs and Class Counsel agree not to move for attorneys' fees and costs and incentive award exceeding three million five hundred fifteen thousand dollars (\$3,515,000.00 USD) in the aggregate. No later than thirty (30) days following the entry of the Final Judgment, A-B shall separately pay into an interest bearing account the total amount actually awarded by the Court as attorneys' fees, expenses and costs, and incentive award, not to exceed three million five hundred fifteen thousand dollars (\$3,515,000.00 USD) in the aggregate, which shall be disbursed with accumulated interest upon the Effective Date into an account to be provided by Class Counsel. Plaintiffs and Class Counsel agree to provide Defendant all identification information necessary to effectuate the payment of the fees and costs including, but not limited to, Taxpayer Identification Number(s), and completed Internal Revenue Service Form W-9(s).

This Agreement will remain effective for all purposes irrespective of whether the Court grants Class Counsel's request for attorneys' fees or awards Class Counsel a lesser amount than that requested.

VI. RELEASE

Upon the Effective Date, and except as to such rights or claims as may be created by this Agreement, and in consideration for the settlement benefits described in this Agreement, Plaintiffs and the Settlement Class fully release and discharge Defendant, and all its present and former parent companies, subsidiaries, shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, affiliates, and successors, personal representatives, heirs and assigns, retailers, suppliers, distributors, endorsers, consultants, and any and all other entities or persons upstream and downstream in the production/distribution channels (together, the "Discharged Parties") from all claims, demands, actions, and causes of action of any kind or nature whatsoever, whether at law or equity, known or unknown, direct, indirect, or consequential, liquidated or unliquidated, foreseen or unforeseen, developed or undeveloped, arising under common law, regulatory law, statutory law, or otherwise, whether based on federal, state or local law, statute, ordinance, regulation, code, contract, common law, or any other source, or any claim that Plaintiffs or Settlement Class Members ever had, now have, may have, or hereafter can, shall or may ever have against the Discharged Parties in any other court, tribunal, arbitration panel, commission, agency, or before any governmental and/or administrative body, or any other adjudicatory body, on the basis of, arising from, or relating to the claims alleged in the Action.

VII. NOTICE TO THE SETTLEMENT CLASS

Class Notice: Defendant, at its cost, shall issue the Class Notice in accordance with the requirements of the Preliminary Approval Order, as follows:

A. Subject to the approval of the Court and to begin no later than thirty (30) days after the order of Preliminary Approval, Defendant shall cause the Publication Notice to be published in substantially the form attached as Exhibit D in the manner recommended by the Class Action Settlement Administrator which will include, but not be limited to: (i) published notice; (ii) internet notice; (iii) establishment of a settlement website; and (iv) through direct mail (along with a Claim Form) or email to currently available addresses that have been provided to A-B through the Beck's or A-B websites or via email or telephone by potential Beck's Beer consumers. In addition, Class Notice, in substantially the form attached hereto as Exhibit B shall be published on the Settlement Website.

B. Tracking and reporting of class members who request exclusion shall be compiled by the Class Action Settlement Administrator and communicated to the Plaintiffs who will report to the Court.

C. Any notice required to comply with the notice requirements of the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711-1715.

VIII. PROCEDURES FOR OBJECTING TO OR REQUESTING EXCLUSION FROM SETTLEMENT

A. **Objections:** Only Settlement Class Members may object to the settlement. To object, a Settlement Class Member must provide the following information in writing: (i) full name, current address, and current telephone number; (ii) documentation or attestation sufficient to establish membership in the Class; (iii) a statement of all grounds for the objection accompanied by any legal support for the objection; and (iv) copies of any other documents upon which the objection is based.

1. All objections must be filed on or before the Objection/Exclusion Deadline with the Clerk of Court, Southern District of Florida, 400 North Miami Avenue, 8th Floor, Miami, FL 33128, and served at that same time upon both of the following:

- a. Class Counsel
Thomas A. Tucker Ronzetti, Esq.
KOZYAK, TROPIN &
THROCKMORTON, LLP
2525 Ponce de Leon Blvd., 9th Floor
Coral Gables, FL 33134

and

b. Defendant's Counsel
Stanley H. Wakshlag, Esq.
KENNY NACHWALTER, P.A
201 South Biscayne Boulevard, Suite 1100
Miami, FL 33131 4327

2. Any objection that does not meet all of these requirements will be deemed invalid and will be overruled.
3. Subject to approval of the Court, any objecting Settlement Class Member may appear, in person or by counsel, at the Final Approval Hearing held by the Court, to show cause why the proposed settlement should not be approved as fair, adequate, and reasonable, or object to any petitions for attorneys' fees, Class Representative Award, and reimbursement of reasonable litigation costs and expenses. The objecting Class Member must file with the Clerk of the Court and serve upon Class Counsel and Defendant's Counsel (at the addresses listed above), a notice of intention to appear at the Final Approval Hearing ("Notice of Intention to Appear") on or before the Objection/Exclusion Deadline.
4. The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objecting Class Member (or his/her/its counsel) will present to the Court in connection with the Final Approval Hearing. Any Class Member who does not provide a Notice of Intention to Appear in complete accordance with the deadlines and other specifications set forth in the Class Notice, will not be allowed to speak or otherwise present any views at the Final Approval Hearing.
5. The date of the postmark on the mailing envelope or a legal proof of service accompanied and a file-stamped copy of the submission shall be the exclusive means used to determine whether an objection and/or notice of intention to appear has been timely filed and served. In the event that the postmark is illegible, the objection and/or notice to appear shall be deemed untimely unless it is received by the counsel for the Parties within two (2) calendar days of the Objection/Exclusion Deadline.
6. Response to Objections: Class Counsel shall, at least five (5) business days (or such other number of days as the Court shall specify) before the Final Approval Hearing, file any responses to any written objections submitted to the Court by Settlement Class Members in accordance with this Agreement.

B. Exclusions

1. Procedure for Requesting Exclusion: Settlement Class Members who wish to opt out of the settlement (for purposes of damages claims only) must submit a written statement within the Objection/Exclusion Deadline. The Full Class Notice shall provide mandatory language for the request for exclusion. Requests to opt-out that do not include all required information and/or that are not submitted on a timely basis, will be deemed null, void, and ineffective. The date of the postmark on the mailing envelope shall be the exclusive means used to determine whether a Settlement Class Member's opt-out/exclusion request has been timely submitted. In the event that the postmark is illegible, the opt-out/exclusion request shall be deemed untimely unless it is received by counsel for the Parties within two (2) calendar days of the Objection/Exclusion Deadline. Any Settlement Class Member who properly opts out of the Settlement Class using this procedure will not be entitled to any portion of the refunds, will not be bound by the settlement (for purposes of damages claims only), and will not have any right to object, appeal or comment thereon. Settlement Class Members who fail to submit a valid and timely request for exclusion on or before the Objection/Exclusion Deadline shall be bound by all terms of the settlement and any final judgment entered in this litigation if the settlement is approved by the Court, regardless of whether they ineffectively or untimely requested exclusion from the settlement.
2. No Solicitation of Settlement Objections or Exclusions: The Parties agree to use their best efforts to carry out the terms of this Settlement. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class Member to object to the settlement or request exclusion from participating as a Settlement Class Member, or encourage any Settlement Class Member to appeal from the final judgment.

IX. RELEASE OF UNKNOWN CLAIMS

Plaintiffs expressly understand and acknowledge, and all Settlement Class Members will be deemed by the Final Judgment to acknowledge, that certain principles of law, including but not limited to Section 1542 of the Civil Code of the State of California, provide that "a general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." To the extent that anyone might argue that these principles of law are applicable--notwithstanding that the Parties have chosen Florida law to govern this Agreement--Plaintiffs hereby agree that the provisions of all such principles of law or similar federal or state laws, rights, rules or legal principles, to the extent they are found to be applicable herein are hereby knowingly and voluntarily waived, relinquished, and released by Plaintiffs and all Settlement Class Members.

X. DUTIES OF THE PARTIES PRIOR TO FINAL COURT APPROVAL

The Parties shall promptly submit this Agreement to the Court in support of a Joint Motion for Preliminary Approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this Agreement (and by no later than June 18, 2015), the Parties shall apply to the Court for the entry of a Preliminary Approval order substantially in the following form:

- A. Scheduling a Final Approval Hearing on the question of whether the proposed settlement should be finally approved as fair, reasonable, and adequate as to the members of the class;
- B. Approving as to form and content the Publication Notice and Class Notice;
- C. Directing publication of the Publication Notice, and the method of class notice;
- D. Preliminarily approving the settlement;
- E. Preliminarily and conditionally certifying the Settlement Class for settlement purposes;
- F. Staying all proceedings in the Action, and enjoining the prosecution of any other individual or class claims.
- G. Providing that, in the event the proposed settlement set forth in this Agreement is not approved by the Court, this Agreement and all orders entered in connection therewith, including but not limited to any order conditionally certifying the Settlement Class, shall become null and void and shall be of no further force and effect and shall not be used or referred to for any purposes whatsoever in the Action or in any other case or controversy; and that in such an event, this Agreement and all negotiations and proceedings related thereto shall be deemed to be without prejudice to the rights of any and all parties hereto, who shall be restored to the respective positions as of the date of this Agreement. In the event the Court does not enter the Preliminary Approval order described herein, or decides to do so only with material modifications, then this entire Agreement shall become null and void, unless the parties hereto agree in writing to proceed with this Agreement as modified.

XI. COURT APPROVAL

Class Counsel will submit a proposed final order and judgment at the Final Approval Hearing to include:

- A. Approving the settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;
- B. Approving Class Counsel's application for the requested award of attorneys' fees and costs and the Class Representative applications; and

C. Seeking entry by the Court of a final judgment and order permanently barring the Parties and Settlement Class Members from prosecuting the other Parties and their officers, attorneys, directors, shareholders, employees, agents, retailers, suppliers, distributors, endorsers, consultants, and any and all other entities or persons upstream and downstream in the production/distribution channels in regard to those matters released as set forth in Section VI above.

XII. PARTIES' AUTHORITY

The signatories represent that they are fully authorized to enter into this Agreement and bind the Parties to its terms and conditions.

XIII. MUTUAL FULL COOPERATION

A. The Parties agree to cooperate fully with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and the taking of such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Agreement. As soon as practicable after execution of this Agreement, Class Counsel, with the assistance and cooperation of Defendant and its counsel, shall take all necessary steps to secure the Court's final approval of this Agreement.

B. Defendant agrees that Defendant will not attempt to discourage Settlement Class Members from filing claims.

XIV. NO ADMISSION

This Agreement is not to be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant or as an admission that class treatment in the Action is proper for any purpose other than settlement. Defendant denies all liability for claims asserted in the Action and denies that class treatment for the Action is proper for any purpose other than settlement. Each of the Parties has entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses. This Agreement is a settlement document and shall, pursuant to Fed. R. Evid. 408 and related or corresponding state evidence laws, be inadmissible in evidence in any proceeding. This Agreement or the existence of this settlement shall not be used or cited in any proceeding other than (i) an action or proceeding to approve or enforce this Agreement, or (ii) in a subsequent proceeding potentially barred by the Release specified herein.

XV. NOTICES

Unless otherwise specifically provided, all notices, demands or other communications in connection with this Agreement shall be in writing and shall be deemed to have been given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

For The Class	For Defendant
Thomas A. Tucker Ronzetti, Esq. KOZYAK, TROPIN & THROCKMORTON, LLP 2525 Ponce de Leon Blvd., 9 th Floor Coral Gables, FL 33134	Stanley H. Wakshlag, Esq. KENNY NACHWALTER, P.A 201 South Biscayne Boulevard, Suite 1100 Miami, FL 33131 4327

XVI. CONSTRUCTION

The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations between the Parties, and that this Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Agreement.

XVII. MATERIAL TERMS; CAPTIONS

Each term of this Agreement is a material term of the Agreement not merely a recital, and reflects not only the intent and objectives of the Parties but also the consideration to be exchanged by the Parties hereunder. Paragraph titles or captions are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any of its provisions.

XVIII. INTEGRATION CLAUSE

This Agreement contains the entire agreement between the Parties relating to the settlement, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are extinguished.

XIX. NO COLLATERAL ATTACK

This Agreement shall not be subject to collateral attack by any Settlement Class Member or any recipient of the notices to the Settlement Class after the judgment and dismissal is entered. Such prohibited collateral attacks shall include claims made before the Final Approval Hearing that a Settlement Class Member's settlement amount was improperly calculated or adjusted or that the Settlement Class Member failed to receive timely notice of the procedure for disputing the calculation of the individual settlement amount or failed to submit a timely dispute letter for any reason.

XX. AMENDMENTS

The terms and provisions of this Agreement may be amended only by a written agreement, which is both (1) signed by the Parties who have executed this Agreement and (2) approved by the Court.

XXI. ASSIGNMENTS

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party or Settlement Class Member without the express written consent of each other Party hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties and Settlement Class Members under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person.

XXII. GOVERNING LAW

This Agreement shall be governed by, and the rights of the Parties determined in accordance with, the laws of the State of Florida, irrespective of the State of Florida's choice of law principals.

XXIII. BINDING ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

XXIV. CLASS COUNSEL SIGNATORIES

It is agreed that because the Settlement Class appears to be so numerous, it is impossible or impractical to have each member of the class execute this Agreement. The notice plan set forth herein will advise Settlement Class Members of all material terms of this Agreement, including the binding nature of the releases and such shall have the same force and effect as if this Agreement were executed by each Settlement Class Member.

XXV. COUNTERPARTS

This Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties and the Settlement Class.

XXVI. NON-DISPARAGEMENT

Plaintiffs and their attorneys agree not to disparage or otherwise take any action which could reasonably be expected to adversely affect the personal or professional reputation of the Discharged Parties. Anheuser-Busch and its attorneys agree not to disparage or otherwise take any action which could reasonably be expected to adversely affect the personal or professional reputation of Plaintiffs regarding this matter.

BY: _____
Plaintiff, Francisco Rene Marty

BY: _____
Plaintiff, Seth Goldman

BY: _____
Plaintiff, Fernando Marquet

BY: _____
Class Counsel

BY: _____
Name:
Title:
Defendant Anheuser-Busch Companies, LLC

BY: _____
Name:
Title:
Defendant Anheuser-Busch Companies, LLC

BY: _____
Counsel for Defendant

BY:  FRANCISCO R. MARTY
Plaintiff, Francisco Rene Marty

BY: _____
Plaintiff, Seth Goldman

BY: _____
Plaintiff, Fernando Marquet


BY: _____
Class Counsel

BY: _____
Name:
Title:
Defendant Anheuser-Busch Companies, LLC

BY: _____
Name:
Title:
Defendant Anheuser-Busch Companies, LLC

BY: _____
Counsel for Defendant

BY: _____
Plaintiff, Francisco Rene Marty

BY:  _____
Plaintiff, Seth Goldman

BY: _____
Plaintiff, Fernando Marquet

BY: _____
Class Counsel

BY: _____
Name:
Title:
Defendant Anheuser-Busch Companies, LLC

BY: _____
Name:
Title:
Defendant Anheuser-Busch Companies, LLC

BY: _____
Counsel for Defendant

BY: _____
Plaintiff, Francisco Rene Marty

BY: _____
Plaintiff, Seth Goldman

BY: _____
Plaintiff, Fernando Marquet

BY: _____
Class Counsel

BY: _____
Name:
Title:
Defendant Anheuser-Busch Companies, LLC


BY: _____
Name:
Title:
Defendant Anheuser-Busch Companies, LLC

BY: _____
Counsel for Defendant

BY: _____
Plaintiff, Francisco Rene Marty

BY: _____
Plaintiff, Seth Goldman

BY: _____
Plaintiff, Fernando Marquet

BY:  _____
Class Counsel

BY: _____
Name:
Title:
Defendant Anheuser-Busch Companies, LLC

BY: _____
Name:
Title:
Defendant Anheuser-Busch Companies, LLC

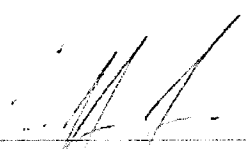
BY: _____
Counsel for Defendant

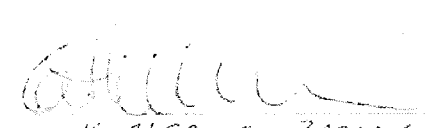
BY: _____
Plaintiff, Francisco Rene Marty

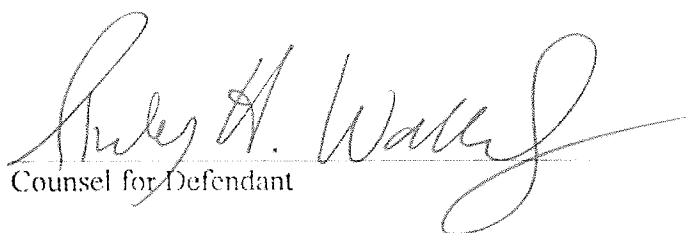
BY: _____
Plaintiff, Seth Goldman

BY: _____
Plaintiff, Fernando Marquet

BY: _____
Class Counsel

BY:  _____
Name: JOHN GUERRA
Title: VP, FINANCE
Defendant Anheuser-Busch Companies, LLC

BY:  _____
Name: KATHERINE BARRETT
Title: VP, GENERAL COUNSEL NA
Defendant Anheuser-Busch Companies, LLC

BY:  _____
Counsel for Defendant

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CLAIM FORM AND INSTRUCTIONS

The Claims Administrator must receive this Claim Form no later than _____, 2015 in order for it to be considered.

*Francisco Rene Marty et al. v. Anheuser-Busch Companies, LLC, Case No. 13-cv-23656
(pending in the Southern District of Florida).*

Please read all of the following instructions carefully before filling out your Claim Form.

1. You have three options to make a claim:
 - a. You may print out, complete, and mail your claim form to the Claims Administrator at _____. Although not necessary to make a claim, if you have proof of purchase, please include it with your claim form.
 - b. You may print out, complete, and upload this form to the settlement website at _____. When using this option you may upload proof of purchase to the extent you have such proof.
 - c. You may use an online claim form by going to www._____.com. When using this option you may upload proof of purchase to the extent you have such proof.
2. Complete Part A ("Claimant Information") by filling in the requested information. Only one Claim Form per household will be honored.
3. Complete Part B by providing the number of purchases of each kind of Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest you purchased between May 1, 2011 and [Date of Preliminary Approval]. For example, if you purchased one six-pack during the class period, you would fill in the number "1" on the line that corresponds with Six Pack(s). You must then check a box to indicate if you have proof of purchase or not. Those with proof of purchase **must submit it with the claim form** and may obtain reimbursement up to \$50.00 per household. Those with no proof of purchase may obtain reimbursement up to \$12.00 per household.
4. Sign the CLAIM FORM. For those filing online, there will be an e-signature requirement.
5. Once your Claim Form is received, the Claims Administrator will review the Claim Form for compliance. Keep a copy of your completed Claim Form for your records. If your claim is rejected for any reason, the Claims Administrator will notify you by U.S. Mail or e-mail of the rejection and the reasons for such rejection.

PART A – CLAIMANT INFORMATION

Claimant Name: _____

Street Address: _____

Daytime Phone Number _____

City, State, Zip Code: _____

E-Mail Address _____

PART B – LIMITED REIMBURSEMENT FOR QUALIFYING HOUSEHOLDS

You may make a claim for the following amounts for each purchase of Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest:

- a. Six pack of 12 oz. bottles or cans: \$.50 each
- b. Four pack of 16 oz. cans: \$.50 each
- c. Twelve pack of 12 oz. bottles or cans: \$1.00 each
- d. Fifteen pack of 12 oz. bottles or cans: \$1.25 each
- e. Twenty pack of 12 oz. bottles: \$1.75
- f. Individual bottle or cans: \$0.10 each

PLEASE FILL OUT THIS CHART STATING YOUR PURCHASES

Type of Purchase	Number of Each Type of Product Purchased
Individual Bottles or Cans	
Four Pack(s)	
Six Pack(s)	
Twelve Pack(s)	
Twenty Pack(s)	

CHECK AND COMPLETE ONLY ONE OF THE FOLLOWING:

☐ **I HAVE PROOF OF PURCHASE (i.e., sales receipt(s) or invoice(s))** showing that I purchased Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest between May 1, 2011 and [Date of Preliminary Approval]. I understand that a qualifying household that submits a valid claim form and valid proof of purchase for all qualifying purchases is entitled to receive payment in the amounts above for each purchase up to \$50.00 per household. **YOU MUST ATTACH THE PROOF OF PURCHASE WITH YOUR CLAIM FORM.**

OR

☐ **I DO NOT HAVE ANY PROOF OF PURCHASE (i.e., a sales receipt or invoice)** showing that I purchased Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest between May 1, 2011 and [Date of Preliminary Approval]. I understand that a qualifying household that submits a valid claim form without proof of purchase is entitled to receive payment in the amounts above for each purchase up to \$12.00 per household.

I swear and affirm that the above is true to the best of my knowledge.

Signature of Claimant

Print Name

Date

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Notice of Pendency and Proposed Settlement of Class Action

To: All individuals who purchased Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest from May 1, 2011 to the [Date of Preliminary Approval].

Your rights may be affected by the Action and the proposed settlement of the Action discussed in this court-authorized notice ("Proposed Settlement"). This Notice is to inform you of the conditional certification of a settlement class, the nature of the claims at issue, your right to participate in, or exclude yourself from, the class, and the effect of exercising your various options.

You are not being sued.

YOUR LEGAL RIGHTS AND OPTIONS	
DO NOTHING	If you do nothing, you will be bound by the settlement and its benefits, if it is approved.
EXCLUDE YOURSELF	Write to the Claims Administrator if you do not want to benefit from, or be bound by, this settlement.
OBJECT	File an objection with the Court if you are not satisfied with the settlement.
GO TO A HEARING	If you file an objection, you may ask for permission to speak in Court about the fairness of the settlement.
MAKE A CLAIM	Make a claim for benefits under the settlement.

Your legal rights and options--and the deadlines to exercise them--are explained in this Notice. Your legal rights may be affected whether you act or do not act. Please read this Notice carefully. Capitalized terms in this Notice have the same meaning as provided in the Settlement Agreement on file with the Court.

1. Why did the Court issue this notice?

This Notice is given to inform you that (1) a class action lawsuit is pending in the United States District Court for the Southern District of Florida entitled *Francisco Rene Marty et al. v. Anheuser-Busch Companies, LLC*, Case No. 13-cv-23656 (S.D. Fla.) (the "Action"); (2) you may be a Settlement Class Member; (3) the parties have proposed to settle the Action; (4) the Proposed Settlement may affect your legal rights; and (5) you have a number of options.

2. What is this Action about?

Plaintiffs have brought this action against Defendant, on behalf of themselves and all other persons who, from May 1, 2011 up to and including [Date of Preliminary Approval] (the "Class Period"), purchased in the United States for consumption and not resale bottles and/or

cans of Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest ("Beck's Beer"). Plaintiffs have alleged that Anheuser-Bush Companies, LLC ("A-B") misrepresented to consumers that Beck's Beer is brewed in and imported from Germany. Plaintiffs alleged that Beck's Beer is in fact domestically brewed but priced as a premium imported beer. Plaintiffs maintain that Defendant's actions constitute violations of Florida's Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201-501.2101, New York General Business Law § 349, California Unfair Competition Law, Business and Professions Code § 17200, and California Consumer Legal Remedies Act, Civil Code § 1750. Further, Plaintiffs claim that Defendant was unjustly enriched by said conduct.

Defendant denies Plaintiffs' claims and charges, denies that it has violated any laws, and believes that its labeling, packaging, and marketing of Beck's Beer have always been truthful and not deceptive.

3. How do I know if I am part of the Settlement Class?

The Court has conditionally certified a Settlement Class defined as the following:

All consumers who purchased bottles and/or cans of Beck's Beer brewed and sold by Defendant in the United States for personal, family, or household purposes and not for re-sale during the Class Period. Excluded from the Settlement Class are all persons who validly opt out of the settlement in a timely manner (for purposes of damages claims only); counsel of record (and their respective law firms) for the Parties; Defendant and any of its parents, affiliates, subsidiaries, and all of its respective employees, officers, and directors; and the presiding judge in the Action or judicial officer presiding over the matter, and all of their immediate families and judicial staff.

4. What are the reasons for the Settlement?

The Court did not decide in favor of the Plaintiffs or Defendant. Instead, both sides agreed to a settlement that they believe is a fair, reasonable, and adequate compromise of their respective positions. The parties reached this agreement only after extensive negotiations, an exchange of information, and consideration of the risks and benefits of settlement.

Counsel for Plaintiffs and the Settlement Class Members have considered the substantial benefits from the Proposed Settlement that will be given to the Settlement Class Members and balanced these benefits with the risk that a trial could end in a verdict for Defendant. They also considered the value of the immediate benefit to Settlement Class Members versus the costs and delay of litigation through trial and appeals and the risk that a class would not be certified. Even if Plaintiffs were successful in these efforts, Settlement Class Members may not receive any benefits for years.

5. What does the Settlement provide?

Benefits. If the Proposed Settlement is ultimately approved by the Court, it will provide cash payments and other relief to the Settlement Class. In return for the relief described below, the Settlement Class Members release their rights to pursue any claims against Defendant and related entities concerning or relating to the allegations raised in this Action. The central provisions of the Settlement are as follows:

1. Global Class Relief.

a. Injunctive Relief. As to all Beck's Beer brewed and sold in the United States by Defendant.

- i. For a period of no less than five (5) years, and subject to all necessary regulatory approvals by appropriate governing agencies, inclusion of either the phrase "Brewed in USA" or "Product of USA" on: a) Beck's Beer bottles substantially in the position and form recently approved by the TTB; b) Beck's Beer cans in its present position and form; c) the front and back of all Beck's Beer consumer-facing packages; and d) the "About Beck's" (<http://becks.com/#/en/about/becks>) page of the Beck's website. The type face, type size, position, color, and setoff of the disclosures will be agreed by the parties to be sufficient to inform a reasonable consumer of the place where Beck's is brewed while not unduly impairing A-B's marketing.

b. Monetary Payment. Defendant will provide a cash payment to Settlement Class Members in the form of partial refunds for prior purchases of Beck's Beer. Class Members may download and return a claim form from the settlement website, or one that is sent to them by the Claims Administrator. The process and payment structure is as follows:

- i. Claims Supported by Proof of Purchase: A Settlement Class Member who has valid proof of purchase of Beck's Beer will be entitled to the following refunds:
 1. Six pack of 12 oz. bottles or cans: \$.50 each
 2. Four pack of 16 oz. cans: \$.50 each
 3. Twelve pack of 12 oz. bottles or cans: \$1.00 each
 4. Fifteen pack of 12 oz. bottles or cans: \$1.25 each
 5. Twenty pack of 12 oz. bottles: \$1.75
 6. Individual bottle or cans: \$0.10 each

Such valid proof of purchase shall consist of a sales receipt showing the Beck's Beer purchased and the date of purchase. Such reimbursement,

supported by valid proof of purchase for all qualifying purchases, shall be capped at \$50.00 per Settlement Class Household.

ii. Claims Not Supported by Proof of Purchase: A Settlement Class Member who does not have valid proof of purchase of Beck's Beer will be entitled to the following refunds without proof:

1. Six pack of 12 oz. bottles or cans: \$.50 each
2. Four pack of 16 oz. cans: \$.50 each
3. Twelve pack of 12 oz. bottles or cans: \$1.00 each
4. Fifteen pack of 12 oz. bottles or cans: \$1.25 each
5. Twenty pack of 12 oz. bottles: \$1.75
6. Individual bottle or cans: \$0.10 each

Such reimbursement, for claims not supported by proof of purchase, shall be capped at \$12.00 per Settlement Class Household.

iii. Class Members have three options to make a claim:

1. They may print out, complete, and mail their claim form to the Claims Administrator at _____.
2. They may print out, complete, and upload this form to the settlement website at _____.
3. They may also make a claim using an online claim form by going to www._____.com.

2. Notice to the Class and Administration.

In addition to the above relief, Defendant will also pay for the costs of Notice and to administer the settlement.

3. Claim Form (May be Filed Online or By Mail):

To receive reimbursement, Class Members must complete, sign, and submit a Claim Form **ON OR BEFORE** _____, 2015. For some claims, proof of purchase is required. Please review the claim form for more information.

You may visit www._____.com to file your claim online or obtain a claim form by calling 1-(888) XXX-XXXX.

You can also obtain another Claim Form by letter request, enclosing a self-addressed, stamped envelope to "Claims Administrator," c/o _____.

4. RELEASE.

Unless you exclude yourself from the Settlement Class, approval of this Proposed Settlement will result in a release by you of all claims against Defendant and other related entities concerning or relating to the allegations raised in this Action.

5. MORE INFORMATION

The complete terms of the settlement are in the Settlement Agreement, which is available online at www. .com or by calling 1-(888) XXX-XXXX.

6. Do I have a lawyer in the case?

The Court has appointed the following counsel as Class Counsel: Kozyak Tropin & Throckmorton, LLP, Harke Clasby & Bushman LLP and Robert W. Rodriguez, P.A. You also have a right to obtain your own attorney. But, if you hire your own attorney, you will have to pay that attorney. You can ask your attorney to appear at the Fairness hearing for you if you want someone other than Class Counsel to represent you.

7. How will the lawyers for the Settlement Class be paid?

The Parties negotiated the payment of attorneys' fees and costs, over and above the class relief, only after reaching agreement upon all other terms of this Settlement Agreement. Moreover, the Settlement Agreement is not contingent upon the award of any particular amount of attorneys' fees and costs. Like all class action settlements, the amount of attorneys' fees and costs awarded to class counsel is left to the discretion of this Court. The Parties have agreed, however, that separate and apart from the monetary relief Defendant will provide to the Settlement Class, and subject to Court approval, Defendant will not object to a collective award of attorneys' fees and costs up to \$3,500,000.00 for Class Counsel in this case. Further, Defendant has agreed to not oppose a request for Class Representative awards in the amount of \$5,000.00 each.

Class Counsel will file any motion for an award of Class Counsel's Fees on or before _____, 2015.

8. What happens if I do nothing after receiving this notice?

If you do nothing, and the Court approves the settlement, you will be bound by the terms of the Settlement and will be unable to pursue claims against Defendant and other related entities concerning or relating to the allegations raised in this Action.

As long as you do not request exclusion from the Settlement Class, you may be entitled to the refunds described in Section 5 if you properly submit a claim form.

You must complete and submit a Claim Form postmarked no later than _____, or your claim will not be considered and will be rejected.

9. What does it mean to request exclusion from the Settlement Class?

If you come within the Settlement Class definition, you will be a Settlement Class Member and will be bound by the settlement if the Court approves it unless you exclude yourself from the Settlement Class (also known as “opting out”). Being “bound by the settlement” means that you will be precluded from bringing, or participating as a claimant in, a similar lawsuit. Persons who exclude themselves from the Settlement Class will not be bound by the terms of the Proposed Settlement for purposes of damages claims and will not be eligible to receive any refunds from the Settlement, but they will retain the right to sue Defendant for damages, at their own cost.

You cannot exclude yourself from the Settlement Class and the Proposed Settlement if you wish to object to the settlement and/or appear before the Court during the Fairness Hearing (see Sections 11 and 12), as you need to be a Settlement Class Member affected by the settlement to object or appear.

10. How do I request exclusion?

You may exclude yourself from the Settlement Class (for purposes of damages claims only) provided that your request is made in writing and postmarked before _____, **2015**. To exclude yourself, send a letter that includes (a) the name of the case, (b) your name, current address, telephone number, and signature, and (c) provide a clear statement communicating that you elect to be excluded from the settlement. Your written request to exclude yourself from the settlement must be sent to the “Claims Administrator,” _____.

You will be excluded from the settlement only if your request is *postmarked* on or before _____, **2015**, and includes the required information. The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. Settlement Class Members who fail to submit a valid and timely request for exclusion on or before the date specified, shall be bound by all terms of the Proposed Settlement and the Final Order and Judgment, regardless of whether they have requested exclusion from the Settlement.

In determining whether you want to exclude yourself from the settlement, you are advised to consult your own personal attorney, as there may be issues particular to your circumstances that require consideration.

11. What if I do not like the Settlement?

If you are a Settlement Class Member, you can object to the Proposed Settlement. To object, you must provide the following information in writing: (i) full name, current address, and current telephone number; (ii) documentation or attestation sufficient to establish membership in the Class; (iii) a statement of the position(s) you wish to assert, including the factual and legal grounds for the position(c); (iv) provide copies of any other documents that you wish to submit in support of your position; and (v) your objection must be signed by you.

You must file your objection before _____, **2015** with the Clerk of Court, Southern District of Florida, 400 North Miami Avenue, 8th Floor, Miami, FL 33128, and served at that same time upon both of the following:

(1) Class Counsel

Thomas A. Tucker Ronzetti, Esq.
KOZYAK, TROPIN &
THROCKMORTON, LLP
2525 Ponce de Leon Blvd., 9th Floor
Coral Gables, FL 33134

and

(2) Defendant's Counsel,

Stanley H. Wakshlag, Esq.
KENNY NACHWALTER, P.A
201 South Biscayne Boulevard, Suite 1100
Miami, FL 33131 4327

If your objections do not meet all of the requirements set forth in this section, they will be deemed invalid and will be overruled.

Finally, subject to approval of the Court, any objecting Settlement Class Member may appear, in person or by counsel, at the Final Approval Hearing held by the Court, to show cause why the Proposed Settlement should not be approved as fair, adequate, and reasonable, or object to any petitions for attorneys' fees, Class Representative Award, and reimbursement of reasonable litigation costs and expenses. The objecting Class Member must file with the Clerk of the Court and serve upon Class Counsel and Defendant's Counsel (at the addresses listed above in Section 11), a notice of intention to appear at the Final Approval Hearing ("Notice of Intention to Appear") on or before _____, **2015**.

The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objecting Class Member (or his/her/its counsel) will present to the Court in connection with the Final Approval Hearing. Any Class Member who does not provide a Notice of Intention to Appear in complete accordance with the deadlines and other specifications set forth in the Class Notice, will not be allowed to speak or otherwise present any views at the Final Approval Hearing.

12. When and where will the Court determine whether to approve the settlement?

The Court has scheduled a fairness hearing for _____ at _____, in Courtroom _____ of the C. Clyde Atkins U.S Courthouse, 301 North Miami Avenue, Miami, FL 33128. This hearing may be continued or rescheduled by the Court without further notice. At

this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and will consider Class Counsel's request for attorneys' fees and expenses. The Court also will consider objections. The Court may decide these issues at the Final Approval Hearing or take them under consideration. We do not know how long these decisions will take.

13. Do I have to come to the hearing?

No. You are not required to come to the hearing but you are welcome to come at your own expense.

Settlement Class Members who object to the Proposed Settlement do not need to attend the Final Approval Hearing for their objections to be considered. If you wish to appear either personally or through your own personal attorney at the settlement hearing, you must send both a timely objection and a Notice of Intention to Appear to the Clerk of the Court at the address set forth in Section 11 above, and serve copies on Class Counsel and counsel for Defendant at the addresses set forth in Section 11 above no later than _____, 2015.

Your Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that you or your counsel will present to the hearing. Any Settlement Class Member who does not file and serve a Notice of Intention to Appear in accordance with these instructions will be barred from speaking at any hearing concerning this Proposed Settlement.

14. What if the proposed settlement is not approved?

If the Proposed Settlement is not granted final approval, the putative Settlement Class which has been preliminarily approved will be decertified, this action will proceed without further notice, and none of the agreements set forth in this notice will be valid or enforceable.

15. How do I get more information about the settlement?

This Notice only summarizes the Proposed Settlement. The official terms of the Proposed Settlement are available by visiting the Settlement Website at www._____.com, reviewing the public files at the Clerk of Court, Southern District of Florida, 400 North Miami Avenue, 8th Floor, Miami, FL 33128 or by calling 1-(888) _____ and requesting a copy of the Settlement Agreement. In the event of a conflict between the terms of this Notice and the Proposed Settlement, the terms of the Proposed Settlement will govern.

All questions you may have concerning the Settlement Agreement or this Notice should be directed to _____.

Please DO NOT Contact the Court.

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 13-cv-23656-JJO

FRANCISCO RENE MARTY,
SETH GOLDMAN, and
FERNANDO MARQUET
on behalf of themselves and all others
similarly situated;

Plaintiffs,

CLASS ACTION

v.

ANHEUSER-BUSCH COMPANIES, LLC;

Defendant.
_____ /

FINAL ORDER AND JUDGMENT

On _____, this Court granted preliminary approval of the proposed class action settlement set forth in the Settlement Agreement and Release (“Settlement Agreement”) between Plaintiffs Francisco Rene Marty, Seth Goldman, and Fernando Marquet, individually and on behalf of themselves and all members of the Settlement Class,¹ and Defendant Anheuser-Busch Companies, LLC (“Defendant” or “A-B”).

On _____, the Court held a duly noticed final approval hearing to consider (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate; (2) whether a judgment should be entered permanently barring the Parties and Settlement Class Members from prosecuting the other Parties and their officers, attorneys, directors, shareholders, employees, agents, retailers, suppliers, distributors,

¹ Unless otherwise defined, capitalized terms in this Final Order and Judgment have the definitions found in the Settlement Agreement.

endorsers, consultants, and any and all other entities or persons upstream and downstream in the production/distribution channels in regard to those matters released as set forth in Section VI of the Settlement Agreement; and (3) whether and in what amount to approve Class Counsel's application for the requested award of attorneys' fees and costs and the Class Representative applications.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

1. The Court has personal jurisdiction over the parties and the Settlement Class Members, venue is proper, the Court has subject matter jurisdiction to approve the Settlement Agreement, including all exhibits thereto, and to enter this Final Order and Judgment. Without in any way affecting the finality of this Final Order and Judgment, this Court hereby retains jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and of this Final Order and Judgment, and for any other necessary purpose.

2. The Court finds that Class Notice was given in the manner ordered by the Court; constituted the best practicable notice to apprise Settlement Class Members of the pendency of the Action, their right to object or exclude themselves from the proposed Settlement, and their right to appear at the Final Approval Hearing; was fair, reasonable, and adequate and constituted sufficient notice to all persons entitled to receive notice, including all Settlement Class Members; and complied fully with the requirements of Federal Rule of Civil Procedure 23.

3. The Court finds that the prerequisites for a class action under Federal Rule of Civil Procedure 23(a) and Federal Rule of Civil Procedure 23(b) have been satisfied for settlement purposes for each Settlement Class Member in that (a) the number of Settlement

Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the Class Representatives are typical of the claims of the Settlement Class they seek to represent; (d) Class Representatives have and will continue to fairly and adequately represent the interests of the Settlement Class for purposes of entering into the Settlement Agreement; (e) the questions of law and fact common to the Settlement Class Members predominate over any questions affecting any individual Settlement Class Member; (f) Defendant has acted on grounds generally applicable to all Class Members, thereby making final injunctive relief concerning the class as a whole appropriate; and (g) a class action is superior to the other available methods for the fair and efficient adjudication of the controversy.

4. Pursuant to Federal Rule of Civil Procedure 23, this Court hereby finally certifies the Settlement Class, as identified in the Settlement Agreement, which shall consist of all consumers who purchased Beck's Beer in the United States for personal, family, or household purposes and not for re-sale from May 1, 2011 through [the date of the Preliminary Approval Order]. Beck's Beer is defined as all bottles and/or cans of Beck's Pilsner, Beck's Dark, Beck's Light, and Beck's Oktoberfest beer brewed and sold in the United States by A-B. Excluded from the Settlement Class are all persons who validly opt out of the settlement in a timely manner (for purposes of damages claims only)²; counsel of record (and their respective law firms) for the Parties; Defendant and any of its parents, affiliates, subsidiaries, and all of its respective employees, officers, and directors; and the presiding judge in the Action or judicial officer presiding over the matter, and all of their immediate families and judicial staff.

² All "opt outs" are attached as Composite Exhibit _____.

5. Pursuant to Federal Rule of Civil Procedure 23, the Court hereby awards Class Counsel Attorneys' Fees and Expenses in the amount of \$3,500,000.00 payable pursuant to the terms of the Settlement Agreement. The Court also awards case contribution awards in the amount of \$5,000.00 each to Plaintiffs Francisco Rene Marty, Seth Goldman, and Fernando Marquet.

6. The terms of the Settlement Agreement and of this Final Order and Judgment, including all exhibits thereto, shall be forever binding on the parties, and shall have *res judicata* and preclusive effect in all pending and future lawsuits maintained by the Plaintiffs and all other Settlement Class Members, as well as their heirs, executors and administrators, successors, and assigns.

7. The Releases, which are set forth in Section VI of the Settlement Agreement and which are also set forth below, are expressly incorporated herein in all respects and are effective as of the date of this Final Order and Judgment; and the Discharged Parties (as that term is defined below in the Settlement Agreement) are forever released, relinquished, and discharged by the releasing persons from all released claims:

VI. RELEASE

Upon the Effective Date, and except as to such rights or claims as may be created by this Agreement, and in consideration for the settlement benefits described in this Agreement, Plaintiffs and the Settlement Class fully release and discharge Defendant, and all its present and former parent companies, subsidiaries, shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, affiliates, and successors, personal representatives, heirs and assigns, retailers, suppliers, distributors, endorsers, consultants, and any and all other entities or persons upstream and downstream in the production/distribution channels (together, the "Discharged Parties") from all claims, demands, actions, and causes of action of any kind or nature whatsoever, whether at law or equity, known or unknown, direct, indirect, or consequential, liquidated or unliquidated, foreseen or unforeseen, developed or undeveloped, arising under common law, regulatory law, statutory law, or otherwise, whether based on federal, state or local law,

statute, ordinance, regulation, code, contract, common law, or any other source, or any claim that Plaintiffs or Settlement Class Members ever had, now have, may have, or hereafter can, shall or may ever have against the Discharged Parties in any other court, tribunal, arbitration panel, commission, agency, or before any governmental and/or administrative body, or any other adjudicatory body, on the basis of, arising from, or relating to the claims alleged in the Action.

8. This Final Order and Judgment and the Settlement Agreement (including the exhibits thereto) may be filed in any action against or by any released person to support a defense of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

9. Without further order of the Court, the Parties may agree to reasonably necessary extensions of time to carry out any of the provisions of the Settlement Agreement.

10. This Action, including all individual claims and class claims presented herein, is hereby **DISMISSED** on the merits and **WITH PREJUDICE** against the Plaintiffs and all other Settlement Class Members, without fees or costs to any party except as otherwise provided herein.

DONE AND ORDERED in Chambers at Miami, Florida this _____ day of _____, 2015.

HONORABLE JOHN J. O'SULLIVAN
United States Magistrate Judge

Copies furnished to all counsel of record

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**IF YOU PURCHASED BECK'S PILSNER, BECK'S DARK, BECK'S LIGHT, AND/OR
BECK'S OKTOBERFEST BEER FROM MAY 1, 2011 TO [Date of Preliminary Approval]
YOU COULD OBTAIN CASH BENEFITS FROM A CLASS ACTION
[SPANISH STATEMENT TO GO TO THE WEBSITE]**

WHAT IS THIS LAWSUIT ABOUT? In this action, Plaintiffs have alleged that Anheuser-Bush Companies, LLC ("A-B") misrepresented to consumers that Beck's beer is brewed in and imported from Germany. Plaintiffs alleged that Beck's beer is in fact domestically brewed but priced as premium imported beer. Defendant denies Plaintiffs' claims and charges, denies that it has violated any laws, and believes that its labeling, packaging, and marketing of Beck's beer have always been truthful and not deceptive. Your rights may be affected by this class action lawsuit entitled *Francisco Rene Marty et al. v. Anheuser-Busch Companies, LLC*, Case No. 13-cv-23656 (S.D. Fla.), presently pending in the United States District Court for the Southern District of Florida. The Court has preliminarily approved a settlement agreement (the "Settlement Agreement") that provides for settlement of this lawsuit with Defendant A-B, and has scheduled a hearing on the fairness, adequacy, and reasonableness of the proposed settlement.

WHO IS IN THE SETTLEMENT CLASS? All persons who, from May 1, 2011 to [Date of Preliminary Approval], purchased bottles and/or cans of Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest beer in the United States for personal use and not for resale.

WHAT ARE THE PROPOSED SETTLEMENT TERMS? Class Members who complete and return a valid Claim Form will be entitled to a cash payment of up to \$50 per household. Claim forms are available by going to www._____.com, or by calling (888) XXX-XXXX. Further, Defendant has agreed to include the phrase "Brewed in USA" or "Product of USA" on the Beck's website and on all Beck's Pilsner, Beck's Dark, Beck's Light, and Beck's Oktoberfest bottles, cans, and consumer-facing packages that it produces and sells in the United States. For more information on the settlement, including its terms and benefits, please go to the settlement website, www._____.com or call (888) XXX-XXXX.

WHAT IS THE SETTLEMENT APPROVAL PROCEDURE? The Court has scheduled a fairness hearing for _____ at _____, in Courtroom _____ of the C. Clyde Atkins U.S Courthouse, 301 North Miami Avenue, Miami, FL 33128. At the fairness hearing, the Court will consider a) whether the proposed settlement is fair, adequate, and reasonable, and b) decide Class Counsel's request for fees and costs, as well as Class Representative awards. Although you may attend this hearing in person or through your own attorney, you are not required to do so. If you are a member of the Settlement Class, and choose to remain in the class, you need not take any action, but must file a claim form to receive any of the cash benefits. If you wish to exclude yourself from the settlement (for purposes of damages claims only), you may opt-out by submitting an opt-out request in writing, postmarked by _____, to the "Beck's Beer Claims Administrator", _____. If you choose to remain in the Settlement Class and you wish to comment in opposition to the proposed settlement, an objection in appropriate form must be filed with the Clerk of Court, Southern District of Florida, 400 North Miami Avenue, 8th Floor, Miami, FL 33128 on or before _____, 2015 and served upon both of the following: (1) Class Counsel, Thomas A. Tucker Ronzetti, Esq., KOZYAK, TROPIN & THROCKMORTON, LLP, 2525 Ponce de Leon Blvd., 9th Floor, Coral Gables, FL 33134; and (2) A-B's Counsel, Stanley H. Wakshlag, Esq. KENNY NACHWALTER, P.A, 201 South Biscayne Boulevard, Suite 1100, Miami, FL 33131 4327. Further instructions on objection and opt-out procedures may be obtained by visiting the settlement website or calling (888) XXX-XXXX.

HOW CAN I OBTAIN ADDITIONAL INFORMATION ABOUT THE PROPOSED SETTLEMENT? You may obtain a copy of the Settlement Agreement and the settlement approval motions and orders by going to www._____.com or calling (888) XXX-XXXX. All questions you may have concerning the Settlement Agreement or this Notice should be directed to Class Counsel. Please DO NOT contact the Court.

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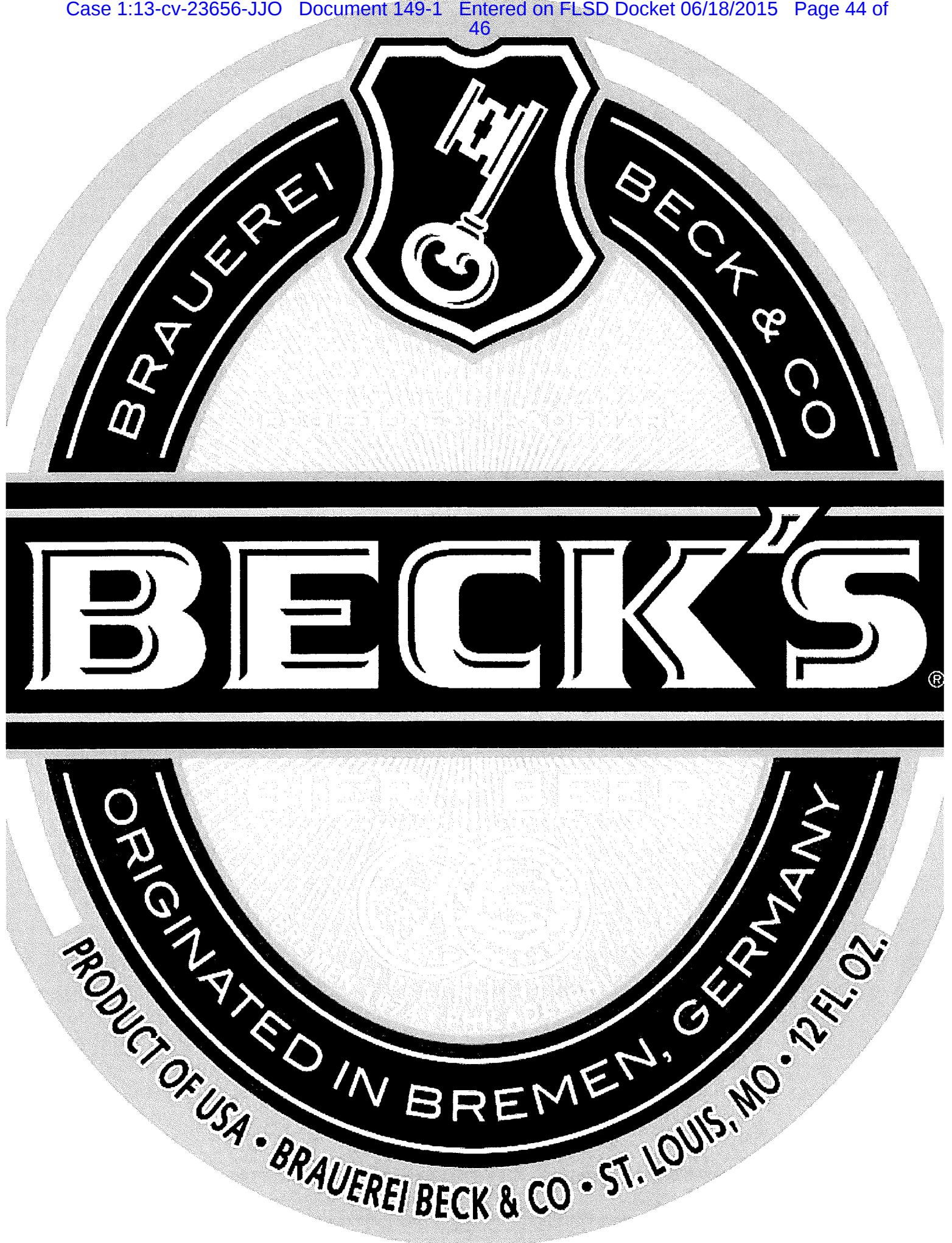
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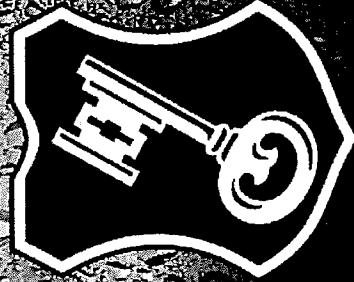
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WHAT ARE THE PROPOSED SETTLEMENT TERMS? Class Members who complete and return a valid Claim Form will be entitled to a cash payment of up to \$50 per household. Claim forms are available by going to www._____.com, or by calling (888) XXX-XXXX. Further, Defendant has agreed to include the phrase "Brewed in USA" or "Product of USA" on the Beck's website and on all Beck's Pilsner, Beck's Dark, Beck's Light, and Beck's Oktoberfest bottles, cans, and consumer-facing packages that it produces and sells in the United States. For more information on the settlement, including its terms and benefits, please go to the settlement website, www._____.com or call (888) XXX-XXXX.

WHAT IS THE SETTLEMENT APPROVAL PROCEDURE? The Court has scheduled a fairness hearing for _____ at _____, in Courtroom _____ of the C. Clyde Atkins U.S Courthouse, 301 North Miami Avenue, Miami, FL 33128. At the fairness hearing, the Court will consider a) whether the proposed settlement is fair, adequate, and reasonable, and b) decide Class Counsel's request for fees and costs, as well as Class Representative awards. Although you may attend this hearing in person or through your own attorney, you are not required to do so. If you are a member of the Settlement Class, and choose to remain in the class, you need not take any action, but must file a claim form to receive any of the cash benefits. If you wish to exclude yourself from the settlement (for purposes of damages claims only), you may opt-out by submitting an opt-out request in writing, postmarked by _____, to the "Beck's Beer Claims Administrator", _____. If you choose to remain in the Settlement Class and you wish to comment in opposition to the proposed settlement, an objection in appropriate form must be filed with the Clerk of Court, Southern District of Florida, 400 North Miami Avenue, 8th Floor, Miami, FL 33128 on or before _____, 2015 and served upon both of the following: (1) Class Counsel, Thomas A. Tucker Ronzetti, Esq., KOZYAK, TROPIN & THROCKMORTON, LLP, 2525 Ponce de Leon Blvd., 9th Floor, Coral Gables, FL 33134; and (2) A-B's Counsel, Stanley H. Wakshlag, Esq. KENNY NACHWALTER, P.A, 201 South Biscayne Boulevard, Suite 1100, Miami, FL 33131 4327. Further instructions on objection and opt-out procedures may be obtained by visiting the settlement website or calling (888) XXX-XXXX.

HOW CAN I OBTAIN ADDITIONAL INFORMATION ABOUT THE PROPOSED SETTLEMENT? You may obtain a copy of the Settlement Agreement and the settlement approval motions and orders by going to www._____.com or calling (888) XXX-XXXX. All questions you may have concerning the Settlement Agreement or this Notice should be directed to Class Counsel. Please DO NOT contact the Court.

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Notice of Pendency and Proposed Settlement of Class Action

To: All individuals who purchased Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest from May 1, 2011 to the [Date of Preliminary Approval].

Your rights may be affected by the Action and the proposed settlement of the Action discussed in this court-authorized notice ("Proposed Settlement"). This Notice is to inform you of the conditional certification of a settlement class, the nature of the claims at issue, your right to participate in, or exclude yourself from, the class, and the effect of exercising your various options.

You are not being sued.

YOUR LEGAL RIGHTS AND OPTIONS	
DO NOTHING	If you do nothing, you will be bound by the settlement and its benefits, if it is approved.
EXCLUDE YOURSELF	Write to the Claims Administrator if you do not want to benefit from, or be bound by, this settlement.
OBJECT	File an objection with the Court if you are not satisfied with the settlement.
GO TO A HEARING	If you file an objection, you may ask for permission to speak in Court about the fairness of the settlement.
MAKE A CLAIM	Make a claim for benefits under the settlement.

Your legal rights and options--**and the deadlines to exercise them**--are explained in this Notice. Your legal rights may be affected whether you act or do not act. Please read this Notice carefully. Capitalized terms in this Notice have the same meaning as provided in the Settlement Agreement on file with the Court.

1. Why did the Court issue this notice?

This Notice is given to inform you that (1) a class action lawsuit is pending in the United States District Court for the Southern District of Florida entitled *Francisco Rene Marty et al. v. Anheuser-Busch Companies, LLC*, Case No. 13-cv-23656 (S.D. Fla.) (the "Action"); (2) you may be a Settlement Class Member; (3) the parties have proposed to settle the Action; (4) the Proposed Settlement may affect your legal rights; and (5) you have a number of options.

2. What is this Action about?

Plaintiffs have brought this action against Defendant, on behalf of themselves and all other persons who, from May 1, 2011 up to and including [Date of Preliminary Approval] (the "Class Period"), purchased in the United States for consumption and not resale bottles and/or

cans of Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest ("Beck's Beer"). Plaintiffs have alleged that Anheuser-Bush Companies, LLC ("A-B") misrepresented to consumers that Beck's Beer is brewed in and imported from Germany. Plaintiffs alleged that Beck's Beer is in fact domestically brewed but priced as a premium imported beer. Plaintiffs maintain that Defendant's actions constitute violations of Florida's Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201-501.2101, New York General Business Law § 349, California Unfair Competition Law, Business and Professions Code § 17200, and California Consumer Legal Remedies Act, Civil Code § 1750. Further, Plaintiffs claim that Defendant was unjustly enriched by said conduct.

Defendant denies Plaintiffs' claims and charges, denies that it has violated any laws, and believes that its labeling, packaging, and marketing of Beck's Beer have always been truthful and not deceptive.

3. How do I know if I am part of the Settlement Class?

The Court has conditionally certified a Settlement Class defined as the following:

All consumers who purchased bottles and/or cans of Beck's Beer brewed and sold by Defendant in the United States for personal, family, or household purposes and not for re-sale during the Class Period. Excluded from the Settlement Class are all persons who validly opt out of the settlement in a timely manner (for purposes of damages claims only); counsel of record (and their respective law firms) for the Parties; Defendant and any of its parents, affiliates, subsidiaries, and all of its respective employees, officers, and directors; and the presiding judge in the Action or judicial officer presiding over the matter, and all of their immediate families and judicial staff.

4. What are the reasons for the Settlement?

The Court did not decide in favor of the Plaintiffs or Defendant. Instead, both sides agreed to a settlement that they believe is a fair, reasonable, and adequate compromise of their respective positions. The parties reached this agreement only after extensive negotiations, an exchange of information, and consideration of the risks and benefits of settlement.

Counsel for Plaintiffs and the Settlement Class Members have considered the substantial benefits from the Proposed Settlement that will be given to the Settlement Class Members and balanced these benefits with the risk that a trial could end in a verdict for Defendant. They also considered the value of the immediate benefit to Settlement Class Members versus the costs and delay of litigation through trial and appeals and the risk that a class would not be certified. Even if Plaintiffs were successful in these efforts, Settlement Class Members may not receive any benefits for years.

5. What does the Settlement provide?

Benefits. If the Proposed Settlement is ultimately approved by the Court, it will provide cash payments and other relief to the Settlement Class. In return for the relief described below, the Settlement Class Members release their rights to pursue any claims against Defendant and related entities concerning or relating to the allegations raised in this Action. The central provisions of the Settlement are as follows:

1. Global Class Relief.

a. **Injunctive Relief. As to all Beck's Beer brewed and sold in the United States by Defendant.**

- i. For a period of no less than five (5) years, and subject to all necessary regulatory approvals by appropriate governing agencies, inclusion of either the phrase "Brewed in USA" or "Product of USA" on: a) Beck's Beer bottles substantially in the position and form recently approved by the TTB; b) Beck's Beer cans in its present position and form; c) the front and back of all Beck's Beer consumer-facing packages; and d) the "About Beck's" (<http://becks.com/#/en/about/becks>) page of the Beck's website. The type face, type size, position, color, and setoff of the disclosures will be agreed by the parties to be sufficient to inform a reasonable consumer of the place where Beck's is brewed while not unduly impairing A-B's marketing.

b. **Monetary Payment.** Defendant will provide a cash payment to Settlement Class Members in the form of partial refunds for prior purchases of Beck's Beer. Class Members may download and return a claim form from the settlement website, or one that is sent to them by the Claims Administrator. The process and payment structure is as follows:

- i. Claims Supported by Proof of Purchase: A Settlement Class Member who has valid proof of purchase of Beck's Beer will be entitled to the following refunds:
 1. Six pack of 12 oz. bottles or cans: \$.50 each
 2. Four pack of 16 oz. cans: \$.50 each
 3. Twelve pack of 12 oz. bottles or cans: \$1.00 each
 4. Fifteen pack of 12 oz. bottles or cans: \$1.25 each
 5. Twenty pack of 12 oz. bottles: \$1.75
 6. Individual bottle or cans: \$0.10 each

Such valid proof of purchase shall consist of a sales receipt showing the Beck's Beer purchased and the date of purchase. Such reimbursement,

supported by valid proof of purchase for all qualifying purchases, shall be capped at \$50.00 per Settlement Class Household.

- ii. Claims Not Supported by Proof of Purchase: A Settlement Class Member who does not have valid proof of purchase of Beck's Beer will be entitled to the following refunds without proof:

1. Six pack of 12 oz. bottles or cans: \$.50 each
2. Four pack of 16 oz. cans: \$.50 each
3. Twelve pack of 12 oz. bottles or cans: \$1.00 each
4. Fifteen pack of 12 oz. bottles or cans: \$1.25 each
5. Twenty pack of 12 oz. bottles: \$1.75
6. Individual bottle or cans: \$0.10 each

Such reimbursement, for claims not supported by proof of purchase, shall be capped at \$12.00 per Settlement Class Household.

- iii. Class Members have three options to make a claim:

1. They may print out, complete, and mail their claim form to the Claims Administrator at _____.
2. They may print out, complete, and upload this form to the settlement website at _____.
3. They may also make a claim using an online claim form by going to www._____.com.

2. Notice to the Class and Administration.

In addition to the above relief, Defendant will also pay for the costs of Notice and to administer the settlement.

3. Claim Form (May be Filed Online or By Mail):

To receive reimbursement, Class Members must complete, sign, and submit a Claim Form **ON OR BEFORE** _____, 2015. For some claims, proof of purchase is required. Please review the claim form for more information.

You may visit www._____.com to file your claim online or obtain a claim form by calling 1-(888) XXX-XXXX.

You can also obtain another Claim Form by letter request, enclosing a self-addressed, stamped envelope to "Claims Administrator," c/o _____.

4. RELEASE.

Unless you exclude yourself from the Settlement Class, approval of this Proposed Settlement will result in a release by you of all claims against Defendant and other related entities concerning or relating to the allegations raised in this Action.

5. MORE INFORMATION

The complete terms of the settlement are in the Settlement Agreement, which is available online at www._____.com or by calling 1-(888) XXX-XXXX.

6. Do I have a lawyer in the case?

The Court has appointed the following counsel as Class Counsel: Kozyak Tropin & Throckmorton, LLP, Harke Clasby & Bushman LLP and Robert W. Rodriguez, P.A. You also have a right to obtain your own attorney. But, if you hire your own attorney, you will have to pay that attorney. You can ask your attorney to appear at the Fairness hearing for you if you want someone other than Class Counsel to represent you.

7. How will the lawyers for the Settlement Class be paid?

The Parties negotiated the payment of attorneys' fees and costs, over and above the class relief, only after reaching agreement upon all other terms of this Settlement Agreement. Moreover, the Settlement Agreement is not contingent upon the award of any particular amount of attorneys' fees and costs. Like all class action settlements, the amount of attorneys' fees and costs awarded to class counsel is left to the discretion of this Court. The Parties have agreed, however, that separate and apart from the monetary relief Defendant will provide to the Settlement Class, and subject to Court approval, Defendant will not object to a collective award of attorneys' fees and costs up to \$3,500,000.00 for Class Counsel in this case. Further, Defendant has agreed to not oppose a request for Class Representative awards in the amount of \$5,000.00 each.

Class Counsel will file any motion for an award of Class Counsel's Fees on or before _____, 2015.

8. What happens if I do nothing after receiving this notice?

If you do nothing, and the Court approves the settlement, you will be bound by the terms of the Settlement and will be unable to pursue claims against Defendant and other related entities concerning or relating to the allegations raised in this Action.

As long as you do not request exclusion from the Settlement Class, you may be entitled to the refunds described in Section 5 if you properly submit a claim form.

You must complete and submit a Claim Form postmarked no later than _____, or your claim will not be considered and will be rejected.

9. What does it mean to request exclusion from the Settlement Class?

If you come within the Settlement Class definition, you will be a Settlement Class Member and will be bound by the settlement if the Court approves it unless you exclude yourself from the Settlement Class (also known as “opting out”). Being “bound by the settlement” means that you will be precluded from bringing, or participating as a claimant in, a similar lawsuit. Persons who exclude themselves from the Settlement Class will not be bound by the terms of the Proposed Settlement for purposes of damages claims and will not be eligible to receive any refunds from the Settlement, but they will retain the right to sue Defendant for damages, at their own cost.

You cannot exclude yourself from the Settlement Class and the Proposed Settlement if you wish to object to the settlement and/or appear before the Court during the Fairness Hearing (see Sections 11 and 12), as you need to be a Settlement Class Member affected by the settlement to object or appear.

10. How do I request exclusion?

You may exclude yourself from the Settlement Class (for purposes of damages claims only) provided that your request is made in writing and postmarked before _____, **2015**. To exclude yourself, send a letter that includes (a) the name of the case, (b) your name, current address, telephone number, and signature, and (c) provide a clear statement communicating that you elect to be excluded from the settlement. Your written request to exclude yourself from the settlement must be sent to the “Claims Administrator,” _____.

You will be excluded from the settlement only if your request is **postmarked** on or before _____, **2015**, and includes the required information. The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. Settlement Class Members who fail to submit a valid and timely request for exclusion on or before the date specified, shall be bound by all terms of the Proposed Settlement and the Final Order and Judgment, regardless of whether they have requested exclusion from the Settlement.

In determining whether you want to exclude yourself from the settlement, you are advised to consult your own personal attorney, as there may be issues particular to your circumstances that require consideration.

11. What if I do not like the Settlement?

If you are a Settlement Class Member, you can object to the Proposed Settlement. To object, you must provide the following information in writing: (i) full name, current address, and current telephone number; (ii) documentation or attestation sufficient to establish membership in the Class; (iii) a statement of the position(s) you wish to assert, including the factual and legal grounds for the position(c); (iv) provide copies of any other documents that you wish to submit in support of your position; and (v) your objection must be signed by you.

You must file your objection before _____, **2015** with the Clerk of Court, Southern District of Florida, 400 North Miami Avenue, 8th Floor, Miami, FL 33128, and served at that same time upon both of the following:

(1) Class Counsel

Thomas A. Tucker Ronzetti, Esq.
KOZYAK, TROPIN &
THROCKMORTON, LLP
2525 Ponce de Leon Blvd., 9th Floor
Coral Gables, FL 33134

and

(2) Defendant's Counsel,

Stanley H. Wakshlag, Esq.
KENNY NACHWALTER, P.A
201 South Biscayne Boulevard, Suite 1100
Miami, FL 33131 4327

If your objections do not meet all of the requirements set forth in this section, they will be deemed invalid and will be overruled.

Finally, subject to approval of the Court, any objecting Settlement Class Member may appear, in person or by counsel, at the Final Approval Hearing held by the Court, to show cause why the Proposed Settlement should not be approved as fair, adequate, and reasonable, or object to any petitions for attorneys' fees, Class Representative Award, and reimbursement of reasonable litigation costs and expenses. The objecting Class Member must file with the Clerk of the Court and serve upon Class Counsel and Defendant's Counsel (at the addresses listed above in Section 11), a notice of intention to appear at the Final Approval Hearing ("Notice of Intention to Appear") on or before _____, **2015**.

The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objecting Class Member (or his/her/its counsel) will present to the Court in connection with the Final Approval Hearing. Any Class Member who does not provide a Notice of Intention to Appear in complete accordance with the deadlines and other specifications set forth in the Class Notice, will not be allowed to speak or otherwise present any views at the Final Approval Hearing.

12. When and where will the Court determine whether to approve the settlement?

The Court has scheduled a fairness hearing for _____ at _____, in Courtroom _____ of the C. Clyde Atkins U.S Courthouse, 301 North Miami Avenue, Miami, FL 33128. This hearing may be continued or rescheduled by the Court without further notice. At

this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and will consider Class Counsel's request for attorneys' fees and expenses. The Court also will consider objections. The Court may decide these issues at the Final Approval Hearing or take them under consideration. We do not know how long these decisions will take.

13. Do I have to come to the hearing?

No. You are not required to come to the hearing but you are welcome to come at your own expense.

Settlement Class Members who object to the Proposed Settlement do not need to attend the Final Approval Hearing for their objections to be considered. If you wish to appear either personally or through your own personal attorney at the settlement hearing, you must send both a timely objection and a Notice of Intention to Appear to the Clerk of the Court at the address set forth in Section 11 above, and serve copies on Class Counsel and counsel for Defendant at the addresses set forth in Section 11 above no later than _____, 2015.

Your Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that you or your counsel will present to the hearing. Any Settlement Class Member who does not file and serve a Notice of Intention to Appear in accordance with these instructions will be barred from speaking at any hearing concerning this Proposed Settlement.

14. What if the proposed settlement is not approved?

If the Proposed Settlement is not granted final approval, the putative Settlement Class which has been preliminarily approved will be decertified, this action will proceed without further notice, and none of the agreements set forth in this notice will be valid or enforceable.

15. How do I get more information about the settlement?

This Notice only summarizes the Proposed Settlement. The official terms of the Proposed Settlement are available by visiting the Settlement Website at www._____.com, reviewing the public files at the Clerk of Court, Southern District of Florida, 400 North Miami Avenue, 8th Floor, Miami, FL 33128 or by calling 1-(888) _____ and requesting a copy of the Settlement Agreement. In the event of a conflict between the terms of this Notice and the Proposed Settlement, the terms of the Proposed Settlement will govern.

All questions you may have concerning the Settlement Agreement or this Notice should be directed to _____.

Please DO NOT Contact the Court.

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CLAIM FORM AND INSTRUCTIONS

The Claims Administrator must receive this Claim Form no later than _____, 2015 in order for it to be considered.

*Francisco Rene Marty et al. v. Anheuser-Busch Companies, LLC, Case No. 13-cv-23656
(pending in the Southern District of Florida).*

Please read all of the following instructions carefully before filling out your Claim Form.

1. You have three options to make a claim:
 - a. You may print out, complete, and mail your claim form to the Claims Administrator at _____. Although not necessary to make a claim, if you have proof of purchase, please include it with your claim form.
 - b. You may print out, complete, and upload this form to the settlement website at _____. When using this option you may upload proof of purchase to the extent you have such proof.
 - c. You may use an online claim form by going to www._____.com. When using this option you may upload proof of purchase to the extent you have such proof.
2. Complete Part A ("Claimant Information") by filling in the requested information. Only one Claim Form per household will be honored.
3. Complete Part B by providing the number of purchases of each kind of Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest you purchased between May 1, 2011 and **[Date of Preliminary Approval]**. For example, if you purchased one six-pack during the class period, you would fill in the number "1" on the line that corresponds with Six Pack(s). You must then check a box to indicate if you have proof of purchase or not. Those with proof of purchase **must submit it with the claim form** and may obtain reimbursement up to \$50.00 per household. Those with no proof of purchase may obtain reimbursement up to \$12.00 per household.
4. Sign the CLAIM FORM. For those filing online, there will be an e-signature requirement.
5. Once your Claim Form is received, the Claims Administrator will review the Claim Form for compliance. Keep a copy of your completed Claim Form for your records. If your claim is rejected for any reason, the Claims Administrator will notify you by U.S. Mail or e-mail of the rejection and the reasons for such rejection.

PART A – CLAIMANT INFORMATION

Claimant Name: _____

Street Address: _____

Daytime Phone Number _____

City, State, Zip Code: _____

E-Mail Address _____

PART B – LIMITED REIMBURSEMENT FOR QUALIFYING HOUSEHOLDS

You may make a claim for the following amounts for each purchase of Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest:

- a. Six pack of 12 oz. bottles or cans: \$.50 each
- b. Four pack of 16 oz. cans: \$.50 each
- c. Twelve pack of 12 oz. bottles or cans: \$1.00 each
- d. Fifteen pack of 12 oz. bottles or cans: \$1.25 each
- e. Twenty pack of 12 oz. bottles: \$1.75
- f. Individual bottle or cans: \$0.10 each

PLEASE FILL OUT THIS CHART STATING YOUR PURCHASES

Type of Purchase	Number of Each Type of Product Purchased
Individual Bottles or Cans	
Four Pack(s)	
Six Pack(s)	
Twelve Pack(s)	
Twenty Pack(s)	

CHECK AND COMPLETE ONLY ONE OF THE FOLLOWING:

☐ **I HAVE PROOF OF PURCHASE (i.e., sales receipt(s) or invoice(s))** showing that I purchased Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest between May 1, 2011 and [Date of Preliminary Approval]. I understand that a qualifying household that submits a valid claim form and valid proof of purchase for all qualifying purchases is entitled to receive payment in the amounts above for each purchase up to \$50.00 per household. **YOU MUST ATTACH THE PROOF OF PURCHASE WITH YOUR CLAIM FORM.**

OR

☐ **I DO NOT HAVE ANY PROOF OF PURCHASE (i.e., a sales receipt or invoice)** showing that I purchased Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest between May 1, 2011 and [Date of Preliminary Approval]. I understand that a qualifying household that submits a valid claim form without proof of purchase is entitled to receive payment in the amounts above for each purchase up to \$12.00 per household.

I swear and affirm that the above is true to the best of my knowledge.

Signature of Claimant_____
Print Name_____
Date

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IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CASE NO. 13-033620 CA 01

LADY J. SUAREZ and GUSTAVO
E. OLIVA,

Plaintiffs,

CLASS REPRESENTATION

v.

COMPLEX BUSINESS LITIGATION DIV.

ANHEUSER-BUSCH COMPANIES,
LLC,

Defendant.

_____ /

FINAL ORDER AND JUDGMENT

On December 17, 2014, this Court granted preliminary approval of the proposed class action settlement set forth in the Settlement Agreement and Release (“Settlement Agreement”) between Plaintiffs Lady J. Suarez and Gustavo E. Oliva, on behalf of themselves and all members of the Settlement Class,¹ and Defendant Anheuser-Busch Companies, LLC. The Court also provisionally certified the Settlement Class for settlement purposes, approved the procedure for giving Class Notice to the members of the Settlement Class, and set a final approval hearing to take place on April 17, 2014.

On April 17, 2014, the Court held a duly noticed final approval hearing to consider (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate; (2) whether a judgment should be entered permanently barring the Parties and Settlement Class Members from prosecuting the other Parties and their officers, attorneys,

¹ Unless otherwise defined, capitalized terms in this Final Order and Judgment have the definitions found in the Settlement Agreement.

directors, shareholders, employees, agents, retailers, suppliers, distributors, endorsers, consultants, and any and all other entities or persons upstream and downstream in the production/distribution channels in regard to those matters released as set forth in Section VI of the Settlement Agreement; and (3) whether and in what amount to approve Class Counsel's application for the requested award of attorneys' fees and costs and the Class Representative applications.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

1. The Court has personal jurisdiction over the parties and the Settlement Class Members, venue is proper, the Court has subject matter jurisdiction to approve the Settlement Agreement, including all exhibits thereto, and to enter this Final Order and Judgment. Without in any way affecting the finality of this Final Order and Judgment, this Court hereby retains jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and of this Final Order and Judgment, and for any other necessary purpose.

2. The Court finds that Class Notice was given in the manner ordered by the Court; constituted the best practicable notice to apprise Settlement Class Members of the pendency of the Action, their right to object or exclude themselves from the proposed Settlement, and their right to appear at the Final Approval Hearing; was fair, reasonable, and adequate and constituted sufficient notice to all persons entitled to receive notice, including all Settlement Class Members; and complied fully with the requirements of Florida Rule of Civil Procedure 1.220.

3. The Court finds that the prerequisites for a class action under Florida Rule of Civil Procedure 1.220(a) and Florida Rule of Civil Procedure 1.220(b) have been satisfied for

settlement purposes for each Settlement Class Member in that (a) the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the Class Representatives are typical of the claims of the Settlement Class they seek to represent; (d) Class Representatives have and will continue to fairly and adequately represent the interests of the Settlement Class for purposes of entering into the Settlement Agreement; (e) the questions of law and fact common to the Settlement Class Members predominate over any questions affecting any individual Settlement Class Member; (f) Defendant has acted on grounds generally applicable to all Class Members, thereby making final injunctive relief concerning the class as a whole appropriate; and (g) a class action is superior to the other available methods for the fair and efficient adjudication of the controversy.

4. Pursuant to Florida Rule of Civil Procedure 1.220, this Court hereby finally certifies the Settlement Class, as identified in the Settlement Agreement, which shall consist of all consumers who purchased Kirin Beer in the United States for personal, family, or household purposes and not for re-sale from October 25, 2009 through the date of entry of this Order. Kirin Beer is defined as all bottles and/or cans of Kirin Ichiban and/or Kirin Ichiban Light sold in the United States by Anheuser-Busch Companies, LLC. Excluded from the Settlement Class are all persons who validly opt out of the settlement in a timely manner (for purposes of damages claims only)²; counsel of record (and their respective law firms) for the Parties; Defendant and any of its parents, affiliates, subsidiaries, and all of its respective employees, officers, and directors; and the presiding judge in the Action or judicial officer presiding over the matter, and all of their immediate families and judicial staff.

² No opt-outs have been made.

5. Pursuant to Florida Rule of Civil Procedure 1.220 the Court hereby awards Class Counsel Attorneys' Fees and Expenses in the amount of \$1,000,000.00 payable pursuant to the terms of the Settlement Agreement. The Court also awards a case contribution award in the amount of \$5,000.00 to Plaintiff Lady J. Suarez. The Court also awards a case contribution award in the amount of \$5,000.00 to Plaintiff Gustavo E. Oliva.

6. The terms of the Settlement Agreement and of this Final Order and Judgment, including all exhibits thereto, shall be forever binding on the parties, and shall have *res judicata* and preclusive effect in all pending and future lawsuits maintained by the Plaintiffs and all other Settlement Class Members, as well as their heirs, executors and administrators, successors, and assigns.

7. The Releases, which are set forth in Section VI of the Settlement Agreement and which are also set forth below, are expressly incorporated herein in all respects and are effective as of the date of this Final Order and Judgment; and the Discharged Parties (as that term is defined below in the Settlement Agreement) are forever released, relinquished, and discharged by the releasing persons from all released claims:

VI. RELEASE

Upon the Effective Date, and except as to such rights or claims as may be created by this Agreement, and in consideration for the settlement benefits described in this Agreement, Plaintiffs and the Settlement Class fully release and discharge Defendant, Kirin Holdings Company, Ltd., and all their present and former parent companies, subsidiaries, shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, affiliates, and successors, personal representatives, heirs and assigns, retailers, suppliers, distributors, endorsers, consultants, and any and all other entities or persons upstream and downstream in the production/distribution channels (together, the "Discharged Parties") from all claims, demands, actions, and causes of action of any kind or nature whatsoever, whether at law or equity, known or unknown, direct, indirect, or consequential, liquidated or unliquidated, foreseen or unforeseen, developed or undeveloped, arising under common law, regulatory law, statutory law, or otherwise, whether based on

federal, state or local law, statute, ordinance, regulation, code, contract, common law, or any other source, or any claim that Plaintiffs or Settlement Class Members ever had, now have, may have, or hereafter can, shall or may ever have against the Discharged Parties in any other court, tribunal, arbitration panel, commission, agency, or before any governmental and/or administrative body, or any other adjudicatory body, on the basis of, arising from, or relating to the claims alleged in the Action.

8. This Final Order and Judgment and the Settlement Agreement (including the exhibits thereto) may be filed in any action against or by any released person to support a defense of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion or similar defense or counterclaim.

9. Without further order of the Court, the Parties may agree to reasonably necessary extensions of time to carry out any of the provisions of the Settlement Agreement.

10. This Action, including all individual claims and class claims presented herein, is hereby **DISMISSED** on the merits and **WITH PREJUDICE** against the Plaintiffs and all other Settlement Class Members, without fees or costs to any party except as otherwise provided herein.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 04/17/15.

A handwritten signature in black ink, appearing to read "John W. Thornton", is written over a horizontal line.

JOHN W. THORNTON
CIRCUIT COURT JUDGE

FINAL ORDERS AS TO ALL PARTIES
SRS DISPOSITION NUMBER 12
THE COURT DISMISSES THIS CASE AGAINST
ANY PARTY NOT LISTED IN THIS FINAL ORDER
OR PREVIOUS ORDER(S). THIS CASE IS CLOSED
AS TO ALL PARTIES.
Judge's Initials JWT

The parties served with this Order are indicated in the accompanying 11th Circuit email confirmation which includes all emails provided by the submitter. The movant shall IMMEDIATELY serve a true and correct copy of this Order, by mail, facsimile, email or hand-delivery, to all parties/counsel of record for whom service is not indicated by the accompanying 11th Circuit confirmation, and file proof of service with the Clerk of Court.

Signed and stamped original Order sent to court file by Judge Thornton's staff.

Copies furnished to all counsel of record

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CASE NO. 13-033620 CA 01

LADY J. SUAREZ and GUSTAVO
E. OLIVA,

Plaintiffs,

CLASS REPRESENTATION

v.

COMPLEX BUSINESS LITIGATION DIV.

ANHEUSER-BUSCH COMPANIES,
LLC,

Defendant.

_____ /

ORDER OVERRULING OBJECTIONS

On December 17, 2014, this Court granted preliminary approval of the proposed class action settlement set forth in the Settlement Agreement and Release (“Settlement Agreement”) between Plaintiffs Lady J. Suarez and Gustavo E. Oliva, on behalf of themselves and all members of the Settlement Class,¹ and Defendant Anheuser-Busch Companies, LLC. The Court also provisionally certified the Settlement Class for settlement purposes, approved the procedure for giving Class Notice to the members of the Settlement Class, and set a final approval hearing to take place on April 17, 2014.

On April 17, 2014, the Court held a duly noticed final approval hearing to consider (1) whether the terms and conditions of the Settlement Agreement are fair, reasonable, and adequate; (2) whether a judgment should be entered permanently barring the Parties and Settlement Class Members from prosecuting the other Parties and their officers, attorneys,

¹ Unless otherwise defined, capitalized terms in this Final Order and Judgment have the definitions found in the Settlement Agreement.

directors, shareholders, employees, agents, retailers, suppliers, distributors, endorsers, consultants, and any and all other entities or persons upstream and downstream in the production/distribution channels in regard to those matters released as set forth in Section VI of the Settlement Agreement; and (3) whether and in what amount to approve Class Counsel's application for the requested award of attorneys' fees and costs and the Class Representative applications.

These issues are addressed in the Court's Final Order and Judgment, entered contemporaneously with this order. This Order is concerned with whether the two objections raised to the Settlement — which the Court also considered at the April 17, 2015 final approval hearing — should be sustained or overruled.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

1. The Court considers the reaction of the class to the proposed settlement to be an important indicator as to its reasonableness and fairness. Of the thousands of class members nationwide who received notice of the Settlement, there were only two objections raised: one by Andrew Duncan; and one by Texas attorney Dennis D. Gibson and his paralegal Gleith Cozby ("Gibson"). Despite their objections, Mr. Duncan and Mr. Gibson have already filed claims seeking benefits under the proposed settlement. The Court finds these facts to be overwhelming support for the settlement and clear evidence of its reasonableness and fairness.

2. The Court carefully reviewed the argument and position set forth in Mr. Duncan's written objection at today's Final Fairness Hearing, specifically addressed the objections raised by Mr. Duncan, and rejected them. Mr. Duncan did not appear at the final approval hearing.

3. Mr. Duncan's objection relates to his belief that the Settlement provides inadequate relief and calls for an excessive fee request and excessive class representative award. This objection, however, does not compel this Court to find that the Settlement was not fair, reasonable, or adequate. *See e.g. Nwabueze v. AT&T Inc.*, No. C 09–01529, 2013 WL 6199596, *8 (N.D. Cal. Nov. 27, 2013) ("That a settlement could potentially have reached a more favorable result for certain individuals in the class does not demonstrate that the agreed-upon settlement is not fair, adequate, and reasonable."). Nor does Mr. Duncan's objection take into account the inherent risks associated with complex litigation such as this and the possibility that A-B may have ultimately prevailed in this case.

4. Moreover, Mr. Duncan had an opportunity to opt-out of the proposed Settlement and chose not to do so. Instead, Mr. Duncan has already filed a claim seeking benefits under the settlement, even though the deadline for filing such a claim is not until June 15, 2015, approximately two months after the Final Fairness Hearing. As such, Mr. Duncan's objection is **overruled** in its entirety.

5. The Court also carefully reviewed the argument and position set forth in Mr. Gibson's written objection at the Final Fairness Hearing, specifically addressed the objections raised by Mr. Gibson, and rejected them.

6. Mr. Gibson's objection relates to his belief that a settlement class is not possible due to predominance, and that attorneys' fees should be paid based on the number of claims made. Gibson poses no challenge to the changes the Settlement has effectuated to A-B's marketing and labelling of Kirin Beer. The Court rejects Mr. Gibson's predominance objection because Plaintiffs allege that their claim is based on identical evidence — Kirin packages and labels — throughout the United States. Multiple cases — including cases from

this Court — have upheld settlement classes in this context. *See, e.g., Pain Clinic of Northwest Fl., Inc. v. Allscripts Healthcare Solutions, Inc.*, case no. 12-49371 CA 40, Order Granting Final Approval to Class Action Settlement and Final Judgment (Fla. Cir. Ct. Feb. 2, 2015). Other courts have certified classes under appropriate circumstances: *See, In re Checking Account Overdraft Litig.*, 275 F.R.D. 666, 670, 680-81 (S.D. Fla. 2011); *In re Terazosin Hydrochloride Antitrust Litig.*, 220 F.R.D. at 697 n.40 (S.D. Fla. 2004) (certifying multistate unjust enrichment class where plaintiffs would present common evidence of unjust enrichment); *Singer v. AT&T Corp.*, 185 F.R.D. 681, 692 (S.D. Fla. 1998) (“state claims [for] breach of contract and unjust enrichment are universally recognized causes of action that are materially the same throughout the United States”); *Keilholtz v. Lennox Hearth Prods., Inc.*, 268 F.R.D. 330, 341 (N.D. Cal. 2010) (“the variations among some states’ unjust enrichment laws are not material because they do not significantly alter the central issue or the manner of proof in this case.”); *In re Mercedes-Benz Tele Aid Contract Litig.*, 257 F.R.D. 46, 58 (D.N.J. 2009) (finding any differences are “not material and do not create actual conflict”); *Agostino v. Quest Diagnostics Inc.*, 256 F.R.D. 437, 464 (D.N.J. 2009) (“there are no actual conflicts among the laws of unjust enrichment”); *In re Abbott Labs Norvir Antitrust Litig.*, 2007 WL 1689899, at *9-10 (N.D. Cal. Jun. 11, 2007) (“the variations among some States’ unjust enrichment laws do not significantly alter the central issue”). While there is contrary authority that could support the denial of class certification, here, class certification for settlement purposes is appropriate based upon the parties’ agreement and the record in this case. *See*, Settlement Agreement and Release at IIIA.

7. Mr. Gibson withdrew all objections to Class Counsel’s proposed attorneys’ fees. Moreover, such an objection is rejected because (1) the class consists of retail consumers

so direct payments are impossible; (2) no Florida caselaw requires direct payment of benefits or ties attorney's fees to the amount of claims made; (3) Plaintiffs asserted a FDUTPA claim, which entitles them on a statutory basis to attorney's fees and costs upon success, *see* Fla. Stat. § 501.2105(1); (4) by agreement Plaintiffs can recover beyond their lodestar, *see Barnhill v. Florida Microsoft Antitrust Litig.*, 905 So. 2d 195, 200 (Fla. 3d DCA 2005); and (5) the attorney's fees and expenses are being paid separate and apart from any recovery to the class, so the objectors are not affected by their payment.

8. In a document served on April 14, 2015, Gibson raised for the first time the application of § 768.734, Florida Statutes. That argument is waived by his failure to timely assert it in his objection as required by the December 17, 2014 Preliminary Approval Order.² Moreover, the statute is waivable by the Defendant, who has waived it here for settlement purposes. Although Plaintiffs argued that the statute is unconstitutional, there is no need to reach that issue here, in light of the waivers.

9. Moreover, Mr. Gibson had an opportunity to opt-out of the proposed Settlement and chose not to do so. Instead, Mr. Gibson has already filed a claim seeking benefits under the settlement, even though the deadline for filing such a claim is not until June 15, 2015. As such, Mr. Gibson's objection is **overruled** in its entirety.

² *See* 12/17/14 Preliminary Approval Order ¶¶ 15–17 (requiring objections by March 27, 2015 and deeming waived any objections not timely asserted).

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 04/17/15.

A handwritten signature in black ink, appearing to read "John W. Thornton", is written over a horizontal line.

— JOHN W. THORNTON
CIRCUIT COURT JUDGE

**No Further Judicial Action Required on THIS
MOTION
CLERK TO RECLOSE CASE IF POST
JUDGMENT**

The parties served with this Order are indicated in the accompanying 11th Circuit email confirmation which includes all emails provided by the submitter. The movant shall IMMEDIATELY serve a true and correct copy of this Order, by mail, facsimile, email or hand-delivery, to all parties/counsel of record for whom service is not indicated by the accompanying 11th Circuit confirmation, and file proof of service with the Clerk of Court.

Signed and stamped original Order sent to court file by Judge Thornton's staff.

Copies furnished to all counsel of record

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***Resume of
Kozyak Tropin & Throckmorton, P.A.***

For 30 years, Kozyak Tropin & Throckmorton has successfully litigated significant cases involving the rights of investors, businesses and consumers. The firm and its attorneys consistently rank among the most highly regarded litigation attorneys locally and on the national stage – from clients, judges, opponents, and professional journals – for effectiveness in and out of the courtroom. Kozyak Tropin & Throckmorton both defends and prosecutes complex class litigation involving such issues as:

- *Securities Fraud and Ponzi Schemes*
- *Breach of Contract and Commercial Disputes*
- *Antitrust*
- *Misrepresentation and Unfair or Deceptive Practices.*

Kozyak Tropin & Throckmorton serves as lead or co-lead counsel in many major high-profile class action cases where we have achieved outstanding results. Below are a few examples of the firm's cases

High Profile Cases

1. *In re Managed Care HMO Litigation* (S.D. Fla.). In two companion cases pending in the Southern District of Florida, KTT is co-lead counsel for a nationwide class of doctors bringing claims against every large managed care organization in the United States for improperly denying, delaying, and reducing payments to doctors. *Shane v. Humana, et al.*, MDL 1334 (S.D. Fla.), is a multi-district class action that alleges a nationwide conspiracy to commit violations of the Racketeer Influenced Corrupt Organizations Act ("RICO") by using computerized systems to cheat doctors. *MDL 1334*,

filed in 2000, has involved numerous appeals to the Eleventh Circuit Court of Appeals, including hotly contested class certification and arbitration decisions, and two petitions for writ of certiorari to the United States Supreme Court. KTT has achieved settlements in MDL 1334 valued at almost \$3 billion, including more than \$400 million in cash payments to the class and far-reaching injunctive relief as to the HMOs' future business dealings with doctors that will revolutionize, among other things, how doctors are paid and how the medical necessity of patient treatments is evaluated. The second case, *Love v. Blue Cross and Blue Shield Ass'n* (S.D. Fla.) was filed in 2003 against every significant Blue Cross regional insurer and the Blue Cross and Blue Shield Association. Similar to MDL 1334, *Love* alleges a RICO conspiracy among Blue Cross plans and their association to cheat doctors by systematically denying, reducing, and delaying payments to them. A settlement involving all but a handful of Defendants is currently pending final approval. The settlement is valued at almost \$2.8 billion, including approximately \$150 million in cash payments to the class and transformative injunctive relief patterned on that achieved in the MDL 1334 settlements.

2. *Lipuma v. American Express Co.*, no. 04-20314-CIV-Altonaga (S.D. Fla.). Cardholders sued for foreign currency conversion surcharges. The case settled in 2005 for \$75 million and injunctive relief.

3. *Miami-Dade County v. Safeco Insurance Company*, no. 98-17437 CA 20 (11th Cir. 2006). A breach of bond action, settled at trial in 2006 for \$22.5 million.

4. *In re US Oil & Gas*, no. 91-5363 (11th Cir. 1992). Lead counsel for 8,000 investors in massive securities fraud litigation also involving RICO violations.

Antitrust or Deceptive Trade Cases

5. *Louisiana Wholesale Drug Company, Inc. v. Abbott Laboratories*, no. 4:07-cv-06118-CW (N.D. Cal.). Drug wholesaler sued brand name drug manufacturer for drug overcharges caused by alleged anticompetitive conduct. (Case pending)

6. *Texas Grain Storage, Inc. v. Monsanto Co.*, no. SA-07-CA-0673-OLG (W.D. Tex.). Direct purchasers of non-selective herbicide, "Roundup", sued manufacturer for artificially inflated prices. (Case pending)

7. *Expro Gulf Limited v. Bridgestone Corporation, et. al.*, no. 07-21464-CIV-Graham (S.D. Fla.). Class of direct purchasers sued manufacturers of marine hose for artificially inflated prices. (Case pending)

8. *Francisco v. Numismatic Guaranty Corporation of America d/b/a NGC*, no. 06-61677-CIV-Martinez/Bandstra (S.D. Fla.). Coin purchasers sued coin grader and labeler for deceptive trade practices. The case settled in 2007 with the establishment of a \$650,000 settlement fund for the American Numismatic Association for the purpose of educating the public about coins and terminology.

9. *Louisiana Wholesale Drug Company, Inc. v. Astrazeneca Pharmaceuticals, L.P.; Astrazenica, L.P.; Zeneca, Inc.; and Zeneca Holdings, Inc.*, no. 1:06-cv-02157-RWR (D.D.C.). Drug wholesaler sued brand name drug manufacturer for drug overcharges caused by alleged anticompetitive conduct. (Case pending)

10. *Louisiana Wholesale Drug Company, Inc. v. Sanofi-Aventis, Sanofi-Avenits U.S., L.L.C., and Aventis Pharmaceuticals, Inc.*, no. 07-CIV-7343 (S.D. N.Y.). Direct purchasers of generic drug leflunomide sued manufacturer of brand name drug

(Arava) for unlawfully maintaining monopoly prices on Arava by filing a frivolous Citizens Petition with the Food and Drug Administration with the purpose and effect of delaying regulatory approval of abbreviated new drug applications. Defendants stipulated to class certification in February 2007. (Case pending)

11. *Allied Orthopedic Appliances, Inc. v. Tyco Healthcare Group, L.P.*, no. 05-cv-6419 (C.D. Cal.). Hospital purchasers of pulse oximetry products sued manufacturer for artificially inflated prices. (Case pending)

12. *Natchitoches Parish Hospital Service District, et. al. v. Tyco International, Ltd., et. al.*, no. 1:05-cv-12024-PBS (D. Mass.). Medical center sued manufacturer of sharps disposal containers seeking treble damages for maintaining artificially inflated prices. (Case pending)

13. *Louisiana Wholesale Drug Company, Inc. v. Becton Dickinson & Company*, no. 05-cv-1602-JLL (D.N.J.). Class of direct purchasers of hypodermic medical products sued manufacturer for maintaining artificially inflated prices due to alleged anticompetitive conduct. (Case pending)

Financial Fraud

14. *Financial Federated Title & Trust*, no. 99-26616-BKC-RBR (Bankr. S.D. Fla.). Since 1996, FinFed, directly and through brokers, solicited investors to purchase interests in "viatical settlements." A majority of the more than \$115 million in investor funds collected was used in a fraudulent Ponzi scheme to pay other investors and to fund the lavish lifestyles of FinFed's principals and others. John W. Kozyak was appointed Chapter 11 Trustee to collect and seize assets in order to pay back the defrauded investors. (Case pending)

15. *Smith v. First Union National Bank*, no. 00-4485-CIV-Marra (S.D. Fla.). Class of investors in a mutual fund sued bank and investment company for what has been labeled as the largest Ponzi scheme in Florida's history. The case settled at trial for \$5 million in 2003, ultimately returning 62 percent of investors' money.

Consumer Actions

16. *Perez v. Asurion Corp.*, no. 1:06-cv-20734-PAS (S.D. Fla.). Cell phone insurance subscribers sued insurance provider for misrepresentations made regarding the terms of the "Wireless Phone Protection Programs." The case settled in 2007 with Defendants to distribute phone cards (valued at least \$1.5 million with \$5 minimum face value) and vouchers redeemable for replacement phones (valued between \$50 and \$150) depending upon class. Defendants also agreed to injunctive relief and to pay costs of administration and notice.

17. *Posada v. Deauville Assocs., L.L.C.*, no. 05-15236 (Fla. Cir. Ct.). Purchasers of condominium units sued seller for breach of contract seeking specific performance, monetary damages and injunctive and declaratory relief.

18. *Borcea v. Carnival Corp.*, no. 05-22968-CIV-Cooke (S.D. Fla.). Cruise line employees sued employer cruise line for overtime accrued and unpaid pursuant to the Seaman's Wage Act, 46 U.S.C. § 10313(f) & (g) and breach of their employment agreement. The case settled for \$6.25 million plus injunctive relief in 2006.

19. *Pinto v. Princess Cruise lines, Ltd.*, no. 05-23087-CIV-Altonaga (S.D. Fla.). Cruise line employees sued employer cruise line for overtime accrued and unpaid pursuant to the Seaman's Wage Act, 46 U.S.C. § 10313(f) & (g) and breach of their employment agreement. The case settled for \$4.25 million plus injunctive relief in 2007.

20. *Zamora-Garcia v. Moore*, no. M-05-331 (S.D. Tex.). Class of indemnitors sued insurance companies for failing to provide notice of appearances as requested by the Dept. of Homeland Security (“DHS”), breaching bond contracts and for injunctive and declaratory relief. DHS was also sued for failing to issue Orders of Supervision for immigrants released on bond and failing to provide notice of DHS-requested appearances. (Class certified; case pending)

286826



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RESUME OF LANCE A. HARKE



EDUCATIONAL BACKGROUND

Mr. Harke received his Bachelor of Arts degree in philosophy, with honors, from the University of Florida in 1987, and his Juris Doctor degree, *magna cum laude*, from the University of Miami School of Law in 1990. Mr. Harke served as Editor-in-Chief of the University of Miami Law Review. He was the recipient of the Soia Mentschikoff Award for Excellence in Scholarly Writing.

LEGAL BACKGROUND

Following law school, Mr. Harke served as the judicial law clerk for the Honorable Magistrate Judge Barry L. Garber in United States District Court for the Southern District of Florida. Thereafter, Mr. Harke joined the law firm of Steel Hector and Davis LLP for 8 years, where he became a partner and practiced in the fields of products liability defense, class action defense, accountant malpractice, and insurance defense. After leaving Steel Hector and Davis LLP in 1998, Mr. Harke formed his own firm and has focused his practice almost exclusively in complex commercial litigation and consumer class litigation at both the trial and appellate levels. Currently, Mr. Harke is a founding partner of the law firm Harke Clasby & Bushman LLP where his practice concentrates in multi-state consumer class action litigation, insurance litigation, employment matters, professional malpractice, products liability defense, and general and complex commercial litigation.

Mr. Harke is admitted to practice law in the state of Florida, the United States District Courts for the Southern and Northern Districts of Florida, and the United States Court of Appeals for the Eleventh Circuit. In addition to Florida, Mr. Harke has tried matters to verdict in a number of states and federal venues, including Pennsylvania, Nevada, New Mexico, Iowa, Illinois, and New York. He is AV rated by the Florida Bar.

Most recently, Mr. Harke served as Co-Lead Counsel in *Williams v. Wells Fargo Bank, N.A., et al.* Case No. 11-21233-CV-SCOLA/BANDTSRA (S.D. Fla.) and *Herrick v. JP Morgan Chase Bank, N.A., et al.* Case No. 13-21107-CV-FAM (S.D. Fla.), two of the largest settlements obtained on behalf of borrowers against banks over their forced-placed insurance practices. These actions have led to regulatory and structural changes in the forced-placed insurance industry nationwide. Mr. Harke is currently serving as Co-Lead Class Counsel in *In re: Photochromic Lens Antitrust Litigation*, Case No. 8:10-MD-2173-JDW-EAJ (M.D. Fla.)

representing indirect purchasers in an antitrust class action involving Transitions photochromic lenses. Further, Mr. Harke served as Co-Lead Counsel in *In Re: Heartland Payment Systems, Inc. Customer Data Security Breach Litigation*, Civil Action No. H-09-MD-2046 (pending in the United States District Court for the Southern District of Texas). This action was the largest data breach multidistrict litigation in history, consisting of hundreds of millions of class members including consumers and financial institutions, and resulted in a multi-million dollar settlement on behalf of the consumer class.

Indeed, over the last several years, Mr. Harke, on a wide variety of multi-district litigations, has served as Lead Class Counsel or as a member of the Plaintiffs' Steering Committee, and obtained over \$225 million for consumers in both mass tort and class action litigation. Some of the notable cases Mr. Harke is currently or has been successfully involved in include:

Kenneth F. Hackett & Associates, Inc. v. GE Capital Information Technology Solutions, Inc. et al., Case No.: 10-20715-CIV-ALTONAGA/BROWN (S.D. Fla.). This action resulted in a multi-million dollar settlement on behalf of a nationwide class of copier lessees whom were overcharged for their monthly payments.

Herrick v. JP Morgan Chase Bank, N.A., et al. Case No. 13-21107-CV-FAM (S.D. Fla.) (Appointed Co-Lead Counsel of a Certified Nationwide Class of JP Morgan Chase Bank borrowers who were allegedly overcharged for forced placed insurance policies on their homes.)

Williams v. Wells Fargo Bank, N.A., et al. Case No. 11-21233-CV-SCOLA/BANDTSRA (S.D. Fla.) (Appointed Co-Lead Counsel of a Certified Florida Class of Wells Fargo borrowers who were allegedly overcharged for forced placed insurance policies on their homes.)

Aarons et al. v. BMW of North America, LLC, Case No. 2:11-cv-07667-PSG (S.D.Cal) (Class counsel in a multi-million dollar settlement on behalf of a nationwide class of owners of defective Mini-Cooper vehicles).

Lockwood et al. v. Certegy Check Services, Inc., Case No.: 8:07-CV-01657-SDM-MSS (M.D. Fla.) (served as Co-Lead Class Counsel in a class action on behalf of millions of consumers nationwide who had their private financial information sold to various third party marketing companies without authorization, and secured a settlement valued at over \$75 million dollars).

Brenda Singer v. WWF Operating Company, Case No.: 13-CV-21232 (S.D. Fla. 2013) (appointed Lead Class Counsel in nationwide litigation regarding alleged deceptive marketing of evaporated cane juice; successfully settled nationwide class action over deceptive labeling of evaporated cane juice).



In Re: Countrywide Financial Corp. Customer Data Security Breach Litigation, Case No. 3:08-MD-01998-TBR (WDKY) (as a member of the Plaintiffs' Executive Committee in a class action on behalf of over 17 million consumers, achieved a settlement valued at over \$300 million dollars.).

Brinkman v. Florida Public Utilities, Case No. 50 CA 014341XXXXMB AH (Fla. 15th Jud. Cir. Ct) (As Co-Lead Class Counsel obtained a cash settlement on behalf of Florida consumers who were charged an illegal "Regulatory Compliance" fee which is collected but not remitted to any state, local or federal regulatory agency.)

Eugene Francis v. Serono Laboratories, Inc., et al. ("Serostim"), Case No. 06-10613 PBS (U.S. District Court of Mass.) (As Co-Class Counsel obtained a \$24 million cash settlement in a nationwide class action litigation against multiple entities regarding the deceptive and illegal marketing, sales and promotional activities for the AIDS wasting prescription drug Serostim).

In Re: Guidant Corp. Implantable Defibrillators Products Liability Litigation, MDL No. 1708 (U.S. District of Minnesota) (as a member of the Plaintiff's Steering Committee, obtained a \$245 million dollar settlement for patients in this nationwide mass tort class action regarding the sale of defective cardiac defibrillators and pacemakers).

In Re: Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation, MDL No. 2096 (pending in the United States District Court for the District of Arizona) (Harke Clasby & Bushman LLP was appointed to the Plaintiff's Steering Committee in this action which was resolved for over \$15 million).

Carlos Perez, et al. v. Asurion Corporation, et al., Case No.: 06-20734-CIV-SEITZ/MCALILEY (S.D. Fla) (served as Co-Lead Counsel in a nationwide class action involving deceptive marketing of replacement cell phones and obtained a multi-million dollar settlement).

In Re High Sulfur Content Gasoline Products Liability Litigation ("Shell"), MDL No. 1632 (acted as Class Counsel and member of Plaintiffs' Steering Committee in a nationwide class action litigation that obtained millions of dollars in benefits to class members regarding the sale of defective and dangerous gasoline products to the consuming public).

In Re Bextra and Celebrex Marketing, Sales Practices, and Product Liability Litigation, MDL No.: 05-01699 (selected as Consumer Allocation Counsel on behalf of all consumers who purchased Bextra, as well as a member of the Purchaser Claims Committee in a mass tort action on behalf of millions of consumers nationwide).

Anna Vichreva v. Cabot Corporation, et al., Case No.: 03-27724 CA 27 (Fla. 11th Jud. Cir. Ct.) (as Co-Lead Counsel, obtained a \$825,500.00 common fund in the largest per consumer Carbon Black state court anti-trust class action settlement in the country).

RGN Properties, Inc. v. Miami-Dade Housing Agency, Case No. 05-16420 CA 06 (Fla. 11th Jud. Cir. Ct.) (as Lead Class Counsel, settled a class action for \$1.15 million on behalf of low income Section 8 homeowners who did not receive on time rental payments from Miami-Dade County).

Brian Shapiro v. Seaway Hotels Corporation, Case No.: 03-12917-CA-10 (Fla. 11th Jud. Cir. Ct.) (acted as Lead Class Counsel in a nationwide litigation regarding alleged deceptive charges regarding hotel fees).

Rosen v. Kryptonite Corporation, Case No. 04 CH 15345 (Cir. Ct. of Cook Co., Ill.) (acted as Co-Lead Class Counsel in a nationwide defective bike locks litigation, obtaining substantial relief for the class).

Fernandez, et al. v. Vitamin Shoppe Industries Inc., et al., Case No.: 03-25607-CA-30 (Fla. 11th Jud. Cir. Ct.) (acted as Co-Lead Class Counsel in a nationwide litigation regarding alleged deceptive pricing scheme perpetrated by the defendants).

Maravilla v. Buy.com, Case No. 02-5237-CA-08 (Fla. 11th Jud. Cir. Ct.) (acted as primary counsel for a consumer class action regarding alleged deceptive shipping charges by the defendant).

In re MP3 Power Razor Marketing & Sales Practices Litigation, MDL Docket No. 1704 (served as a member of the Plaintiff's Steering Committee for this nationwide consumer class action regarding the deceptive practices of the Gillette Company in the sale and marketing of its of MP3 power razor systems).

In re: Bausch & Lomb Contact Lens Solution Products Liability Litigation, MDL Docket No. 1785 (appointed as a member of the Plaintiff's Steering Committee for this nationwide consumer class action regarding the sale of defective nature of the design and manufacture of ReNu contact lens solutions).

In re: Live Concert Antitrust Litigation, MDL Docket No. 1745 (C.D. Cal.) (appointed to the Executive Committee by the Honorable Stephen V. Wilson in a nationwide antitrust class action regarding the alleged fixing of prices for live concert tickets).

Hoyos v. McDonald's Corporation, et al., Case No.: 01-20463-CA-24 (Fla. 11th Jud. Cir. Ct.) (acted as counsel for Florida consumers in a litigation concerning certain McDonald's promotional games and arose from the fraudulent removal of winning game pieces from random public distribution. The settlement of this case

is valued at approximately \$20 million, which included fifteen \$1 million prizes given away by McDonald's).

Marguerite Miles, et al. v. America Online, Inc., Case No. 8:00cv273-T-24C, (M.D.Fla. 2000) (acted as primary counsel for a class of consumers for alleged deceptive practices of the defendant as well as violation of the Computer Fraud and Abuse Act).

E.I. du Pont de Nemours and Company, Inc., ("DuPont") (defense of numerous products liability suits against one of the largest chemical companies in the world).

Julio Rumbaut v. Spanish Broadcasting System, Case No. 01-14249 CA 09 (Fla. 11th Jud. Cir. Ct.) (successful defense at trial of second largest Hispanic radio corporation regarding employment compensation claim, including appeal, settled on appeal).

In Re Vioxx Products Liability Litigation, MDL 1657(acted as a member of the State Purchaser Committee in a products liability mass tort action which resulted in a \$4.5 billion settlement for consumers).

United States District Judge Patricia Seitz of the Southern District of Florida, recently commented as follows:

The firms that comprise Class Counsel have the experience, reputation and ability to litigate complex class actions, as the Court has already found in preliminarily approving the Settlement.

...

Class Counsel Harke & Clasby also has experience in class action litigation, particularly in consumer class actions, having represented plaintiffs in nationwide class actions including consumer product and deceptive marketing class actions and other complex, large-scale litigations throughout the United States in both state and federal courts.

See Order Granting Class Counsel's Motion in Support of Request for Attorneys' Fees and Costs and Incentive Awards to Named Plaintiffs dated August 8, 2007 in the matter of *Carlos Perez, et al. v. Asurion Corporation, et al.*, Case No.: 06-20734-CIV-SEITZ/MCALILEY (S.D. Fla.).

Mr. Harke was recently named as a "Most Effective Lawyer" in complex business litigation by the South Florida Daily Business Review. In December 2008, the South Florida Daily Business Review named Harke Clasby & Bushman LLP as one of South Florida's Top Litigation Shops. Further, from 2009 through 2014, Mr. Harke was named a Super Lawyer by Florida Super Lawyers Magazine. Mr. Harke is listed as a "Top Lawyer" in corporate and

business litigation and Harke Clasby & Bushman LLP as a "Top Law Firm" by the prestigious South Florida Legal Guide.

Mr. Harke is a Fellow for the Litigation Counsel of America, a Trial Lawyer Honorary Society, an invitation-only trial lawyer honorary society limited to 3500 members nationwide and composed of less than one-half of one percent of all American lawyers. Mr. Harke is also listed as one of Florida's Legal Leaders by Florida Trend's Legal Elite. Mr. Harke was recently accepted into the Million Dollar and Multi-Million Dollar Advocates Forum, one of the most prestigious groups of trial lawyers in America and represents less than 1% of U.S. lawyers.

Mr. Harke is the immediate past President of Legal Services of Greater Miami and currently serves as President for the Greater Miami Shores Chamber of Commerce. He is also Vice-President and Treasurer of Temple Israel of Greater Miami and an officer in the Miami Shores Bar Association. Mr. Harke was recently named 2011 Citizen of Year for Miami Shores Village.

PUBLICATIONS

The Scope of Discovery in the Federal Courts: A Survey of Published, Post-1980 Cases From the Federal Courts Regarding the Scope of Permissible Discovery in Civil Litigation, Editor, published by the American Bar Association Section of Litigation.

Product Liability Desk Reference: A Fifty State Compendium, Contributing Author, published by Aspen Law and Business.

Positive business climate requires well-funded court system, Contributing Author, published by The Miami Herald.

Board of Contributors: Proposed legal services funding cuts would hit the less fortunate hardest, Contributing Author, published by Daily Business Review

Judge Joan A. Lenard's order for state to provide services to autistic children an important one, Contributing Author, published by Daily Business Review

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 13-cv-23656-JJO

FRANCISCO RENE MARTY,
SETH GOLDMAN, and
FERNANDO MARQUET
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

ANHEUSER-BUSCH COMPANIES, LLC,

Defendant.

**ORDER GRANTING PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT
AND CERTIFICATION OF THE SETTLEMENT CLASS**

This cause is before the Court upon Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and for Certification of the Settlement Class ("Motion for Preliminary Approval"). In accordance with Rule 23 of the Federal Rules of Civil Procedure, the Court has considered the Settlement Agreement executed on behalf of the Plaintiffs and Defendant. Upon review of the Settlement Agreement and Plaintiffs' Motion for Preliminary Approval, the Motion for Preliminary Approval is hereby **GRANTED**.

1. The terms of the settlement are within the range of reasonableness and accordingly are preliminarily approved. In addition, this Court finds that certification of the Settlement Class satisfies the requirements of Federal Rule of Civil Procedure 23, and Plaintiffs fairly and adequately represent the interests of the Settlement Class. The Motion for Preliminary Approval of Settlement is therefore **GRANTED**.

2. For the reasons set forth below, subject to final approval, this Court hereby preliminarily certifies the following nationwide Settlement Class:

All consumers who purchased Beck's Beer¹ in the United States for personal, family, or household purposes and not for re-sale from May 1, 2011 through the date of the entry of this order. Excluded from the Settlement Class are all persons who validly opt out of the settlement in a timely manner (for purposes of damages claims only); counsel of record (and their respective law firms) for the Parties; Defendant and any of its parents, affiliates, subsidiaries, and all of its respective employees, officers, and directors; and the presiding judge in the Action or judicial officer presiding over the matter, and all of their immediate families and judicial staff.

3. The Court hereby appoints the law firms of Kozyak Tropin & Throckmorton, LLP, Harke Clasby & Bushman LLP, and Robert Rodriguez, P.A. as Settlement Class Counsel.

4. The Court finds that, for purposes of this settlement class, the class certification prerequisites set forth in Federal Rule of Civil Procedure 23(b)(3) and 23(b)(2) — numerosity, commonality, typicality, and adequacy of representation — have been met, that common issues predominate over any possible individual issues that could be raised, that Defendant has acted on grounds generally applicable to all Class Members, thereby making final injunctive relief concerning the class as a whole appropriate, and that the class action is superior to other available methods for the fair and efficient adjudication of this controversy.

5. At the Final Approval Hearing, the Court will consider whether the terms of the Settlement Agreement are fair, reasonable, adequate, and in the best interests of the Settlement Class, and whether final orders and judgments in accordance with the terms of the Settlement Agreement should be entered.

¹ "Beck's Beer" means all bottles or cans of Beck's Pilsner, Beck's Dark, Beck's Light, and/or Beck's Oktoberfest brewed and sold in the United States by A-B.

6. The Court preliminarily finds that the Settlement Agreement (1) was reached after arm's-length negotiations before a distinguished mediator, and after substantial factual and legal analyses by the parties; and (2) provides substantial benefits to all class members, especially in light of the risks associated with this litigation.

7. As provided in the Settlement Agreement, partial refunds shall be paid to Settlement Class Members who submit a proof of claim form in the form submitted as Exhibit 4 to Plaintiffs' Motion for Preliminary Approval.

8. The Court approves, as to form and content, the Notice submitted by the parties (Exhibits 2 and 3 to Plaintiffs' Motion for Preliminary Approval) and finds that the procedures described therein meet the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process, and provide the best notice practicable under the circumstances. The proposed Class Notice — (i) published notice, (ii) internet notice, (iii) establishment of a settlement website, and (iv) direct mailing (along with a Claim Form) or emailing to currently available addresses that have been provided to A-B through the Beck's or A-B websites or via email or telephone by potential Beck's Beer consumers — is reasonably calculated to reach a substantial percentage, if not all, of the Class Members.

9. Defendant shall bear all costs related to the Notices and publication. Prior to the Final Approval Hearing, Defendant shall file proof, by affidavit, of the Notice and publication. Defendant shall also bear all costs to comply with the notice requirements of the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1711-1715.

10. Class Members will have up to twenty-one (21) days before the Final Approval Hearing to opt out of the Settlement for purposes of damages claims only. To opt out, a Class Member must request to do so in writing and mail such request to the Claims Administrator

(Kurtzman Carson Consultants, LLC) at *Marty v. Anheuser Busch Companies, LLC* Administrator, P.O. Box 43368, Providence, RI 02940-3368. Any request to opt out ***must*** include the following information: (1) the name of the case; (2) the complete legal name of the Class Member who wishes to be excluded; (3) the mailing address of the Class Member; (4) a statement that the Class Member wishes to be excluded from the Settlement; and (5) the Class Member's (or authorized representative's) signature or, if the person (or authorized representative) is unable to sign, his/her/its legal representative or guardian's name and signature.

11. A Class Member who does not properly and timely exclude himself, herself, or itself from the Settlement Class will be bound by the Settlement Agreement and the Releases, as provided for therein, and by any judgments in this action.

12. To object to the Settlement, a Class Member must do so in writing no later than twenty-one (21) days before the Final Approval Hearing. The objection must contain (1) the full name, mailing address, e-mail address, if any, and telephone number of the objecting Class Member; (2) documentation and/or attestation by sworn statement sufficient to establish the objector's membership in the Class; (3) a statement specifying all grounds for the objection, accompanied by any legal support for the objection; (4) copies of any other documents upon which the objection is based; and (5) the signature of the objecting Class Member.

13. Subject to approval of the Court, any objecting Settlement Class Member may appear, in person or by counsel, at the Final Approval Hearing held by the Court, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, or object to any petitions for attorneys' fees, Class Representative Award, and reimbursement

of reasonable litigation costs and expenses. The objecting Class Member must file with the Clerk of the Court and serve upon Class Counsel and Defendant's Counsel (at the addresses listed below in paragraph 15), a notice of intention to appear at the Final Approval Hearing ("Notice of Intention to Appear") no later than twenty-one (21) days before the Final Approval Hearing.

14. The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objecting Class Member (or their counsel) will present to the Court in connection with the Final Approval Hearing. Any Class Member who does not provide a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in the Class Notice will not be allowed to speak or otherwise present any views at the Final Approval Hearing.

15. Any objection must be mailed to Settlement Class Counsel Thomas A. Tucker Ronzetti, Esq. (at Kozyak Tropin & Throckmorton, LLP, 2525 Ponce de Leon Blvd., 9th Floor, Coral Gables, Florida 33134), with a copy to Defendant's counsel Stanley H. Wakshlag, Esq. (at Kenny Nachwalter, P.A, 201 South Biscayne Boulevard, Suite 1100, Miami, FL 33131 4327). The objection must be postmarked by no later than twenty-one (21) days before the Final Approval Hearing. Settlement Class Counsel shall be obliged to file all responses to objections with the Court five (5) days prior to the Final Approval Hearing.

16. Subject to the terms for objections set forth above and in the Settlement Agreement and Notice, a Settlement Class Member may appear at the Final Approval Hearing to show cause on the issue of whether any of the terms of the settlement should be approved as fair, reasonable and adequate, or whether judgment should be entered upon them.

17. Any Settlement Class Member who does not make an objection in the manner provided herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, adequacy or reasonableness of the settlement.

18. Class Counsel shall file their Motion for Attorneys' Fees and Expenses no later than twenty-eight (28) days before the Final Approval Hearing.

19. The Final Approval Hearing will be held before this Court on _____, 2015 at the C. Clyde Atkins United States Courthouse, 301 North Miami Avenue, 5th Floor, Miami, Florida 33128 to consider the fairness, reasonableness and adequacy of the proposed settlement and to determine whether the settlement should be finally approved.

20. The Court retains jurisdiction of this action for all purposes.

DONE AND ORDERED this ____ day of _____, 2015, in Miami, Florida.

HONORABLE JOHN J. O'SULLIVAN
United States Magistrate Judge