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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

SARA CILLONI and SIMONE ZIMMER, individually, and on behalf of all others similarly situated,

Plaintiffs,

v.

CRAFT BREW ALLIANCE, INC., a corporation; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.:

CLASS ACTION COMPLAINT

1. **Violation of California False Advertising Law**
2. **Violation of California Consumer Legal Remedies Act**
3. **Violation of California Unfair Competition Law**
4. **Breach of Express Warranty**
5. **Negligent Misrepresentation**
6. **Unjust Enrichment and Common Law Restitution**

DEMAND FOR JURY TRIAL

Plaintiffs Sara Cilloni and Simone Zimmer ("Plaintiffs"), on behalf of themselves and all others similarly situated, bring this class action against Defendant Craft Brew Alliance, Inc. and Does 1 through 50 ("Craft Brew" or "Defendants") to recover monetary damages, injunctive relief, and other remedies. Plaintiffs make the following allegations based on the investigation of their counsel and on information and belief, except as to allegations pertaining to Plaintiffs individually, which is based on their personal knowledge.

INTRODUCTION

1. Through false and deceptive advertising, Craft Brew intentionally misleads consumers into believing that Kona Brewing Company beer (a brand of Craft Brew) is a local beer made in Hawaii. In actuality, this beer is made in the continental United States.

2. The falsely advertised beer at issue in this action includes but is not limited to Longboard Island Lager, Big Wave Golden Ale, Fire Rock Pale Ale, Wailua Wheat Ale, Hanalei Island IPA, and Castaway IPA. Kona Brewing Company also sells seasonal beers, referred to as the Aloha series, which include but are not limited to Lemongrass Luau, Koko Brown, and Pipeline Porter. Hereinafter, these beers are referred to as "Kona Brewing Co. beer."

3. Craft Brew advertises, markets, distributes, and sells these brands of beer to consumers via retail stores and restaurants throughout the United States based on the misrepresentation that these beers are brewed by Kona Brewing Company in Hawaii. However, none of these brands of beer (bottled, canned, and continental U.S. draft) are brewed by the Kona Brewing Company in Hawaii.[1] Rather, these beers are made by Craft Brew in Oregon, Washington, Tennessee, and/or New Hampshire.

4. Plaintiffs and other consumers purchased Kona Brewing Co. beer because they reasonably believed – based on Craft Brew's advertising and labeling – that this beer originates from Hawaii. As a result, Plaintiffs and other consumers have been deceived and have suffered economic injury.

[1] Kona Brewing Company's draft beers (i.e., non-bottled or canned) sold in Hawaii may actually be brewed in Kona, Hawaii.

5. Plaintiffs seek relief in this action individually, and on behalf of all other similarly situated individuals who purchased Kona Brewing Co. beer during the statute of limitations period, for violations of California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code §§ 17500, *et seq.*, California's Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code §§ 1750, *et seq.*, California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code §§ 17200, *et seq.*, and for breach of express warranty, negligent misrepresentation, and unjust enrichment.

6. As a result of the unlawful scheme alleged herein, Craft Brew has been able to overcharge Plaintiffs and other consumers for beer, induce purchases that would otherwise not have occurred, and/or obtain wrongful profits. Craft Brew's misconduct has caused Plaintiffs and other consumers to suffer monetary damages. Plaintiffs, on behalf themselves and other similarly situated consumers, seek a refund and/or rescission of the transaction, and all further equitable and injunctive relief as provided by applicable law.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a) because Plaintiffs are citizens of the State of California, Craft Brew is a citizen of the State of Oregon, and the amount in controversy exceeds the sum or value of $75,000, exclusive of interest and costs. This Court also has subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d)(2), because this is a class action filed under Rule 23 of the Federal Rules of Civil Procedure, there are thousands of proposed Class members, the aggregate amount in controversy exceeds five million dollars, and Craft Brew is a citizen of a state different from that of Plaintiffs and members of the proposed Class and Subclass.

8. This Court has personal jurisdiction over Craft Brew because a substantial portion of the wrongdoing alleged in this Complaint took place in the State of California. Craft Brew is corporation that is authorized to do business in the State of California, has sufficient minimum contacts with the State of California, and/or otherwise intentionally avails itself of the markets in the State of California through the promotion, marketing, and sale of products in this State to render the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

9. Venue is proper in this District under 28 U.S.C. § 1391(a)-(d) because a substantial part of the events or omissions giving rise to the claims occurred in this District.

PLAINTIFFS

10. Plaintiff Cilloni is a citizen of the United States and the State of California and she currently resides in the County of Santa Clara. During the statute of limitations period, Plaintiff Cilloni purchased Kona Brewing Co. beer at a retail store located in the County of Santa Clara, among other locations.

11. Plaintiff Zimmer is a citizen of the United States and the State of California and she currently resides in the County of San Bernardino. During the statute of limitations period, Plaintiff Zimmer purchased Kona Brewing Co. beer at a retail store located in County of San Bernardino, among other locations.

DEFENDANT

12. Craft Brew is a publicly traded company and the fifth-largest craft brewing company in the United States. Craft Brew owns and operates five breweries. In addition to Kona Brewing Company, Craft Beer owns the Red Hook, Widmer Brothers, Omission, Square Mile Cider Company, and KCCO brands. Craft Brew's corporate headquarters are located at 929 North Russell Street, Portland, Oregon 97227.

13. Craft Brew acquired Kona Brewing Company in 2010. During the statute of limitations period, Craft Brew has sold hundreds of thousands barrels and bottles of Kona Brewing Co. beer throughout the State of California and the United States.

14. As of January 2013, Anheuser-Busch InBev owned approximately 32.2% of Craft Brew. Anheuser-Busch InBev is the world's largest producer of alcoholic beverages.

15. The true names and capacities of DOES 1 through 50, inclusive, are unknown to Plaintiffs at this time, and Plaintiffs therefore sues such DOE Defendants under fictitious names. Plaintiffs are informed and believe, and thereon allege, that each Defendant designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and that Plaintiffs and Class members' injuries and damages, as alleged herein, were proximately caused by the conduct

of such DOE Defendants. Plaintiffs will seek leave of the Court to amend this Complaint to allege the true names and capacities of such DOE Defendants when ascertained.

FACTUAL ALLEGATIONS

Kona Brewing Company is Highly Profitable

16. In a 2016 SEC 10-Q filing, Craft Brew reported the following financials:[2]

Six Months Ended June 30	2015 Shipments (In Barrels)	2014 Shipments (In Barrels)	Percent Change
Kona	168,200	154,700	8.7%
Redhook	94,500	112,100	-15.7%
Widmer Brothers	98,400	106,500	-7.6%
Omission	25,700	24,200	6.2%
Total	386,800	397,500	-2.7%

17. The statistics in the table above demonstrate that Kona Brewing Company is one of Craft Brew's most commercially successful brands. Craft Brew sells hundreds of thousands of barrels of Kona Brewing Co. beer per year. According to standard measurements, one barrel (or keg) of beer is equivalent to approximately 165 twelve ounce bottles. Thus, in 2015 alone, Craft Brew sold the equivalent of over 27 million twelve ounce bottles.

18. And the Kona Brewing brand continues to grow. Craft Brew's Chief Executive Officer, Andy Thomas, stated in a May 4, 2016 publication on Craft Brew's website that "solid second quarter performance" in 2016 reflects, at least in part, "significant progress in strengthening our topline by sustaining Kona's remarkable growth . . ."[3] In the same publication, Craft Brew reported a 19% growth for Kona Brewing Co. beer.

[2]http://secfilings.nasdaq.com/filingFrameset.asp?FilingID=10843167&RcvdDate=8/5/2015&CoName=CRAFT%20BREW%20ALLIANCE%2C%20INC.&FormType=10-Q&View=orig

[3]http://craftbrew.com/2016/08/03/craft-brew-alliance-reports-largest-net-sales-shipments-and-depletions-in-company-history/

Kona Brewing Co. Beer is Falsely Labeled as Made in Hawaii

19. Craft Brew deceptively labels its Kona Brewing Co. beer as made in Hawaii in order to exploit strong consumer sentiment for Hawaiian-made products.

20. In order to maximize profits, Craft Brew has capitalized on the Hawaii brand image of Kona Brewing Co. beer. The entire brand image of Kona Brewing Company – including the name itself – revolves around its purported Hawaii origins. Craft Brew ubiquitously uses Hawaii imagery, references, metaphors, and outright misstatements in order to cultivate this image.

21. Intentionally deceptive Hawaii-origin representations on the bottle label and cardboard packaging of all Kona Brewing Co. beer brands include the following:

- The Kona Brewing Co. logo is displayed on the front of the bottle and on the bottle caps.
- It states "*Liquid Aloha*" on the front of the bottle.
- Embedded into the front of the bottle is an image of the Hawaiian island chain.

See, e.g., Figure 1.

- "KONA BREWING CO." is prominently printed on the front of the cardboard packaging.
- On the front of the cardboard packaging it prominently states, "BREWING *Liquid Aloha* SINCE '94."

See, e.g., Figure 2.

22. The different Kona Brewing Co. beer brands each also bear their own specific misleading Hawaii-origin representations based on the particular theme of the beer:

Longboard Island Lager

23. The name Long Board Island Lager refers to surfing and the Hawaiian lifestyle.

24. There is imagery of surfboards and surfers on waves in front of Diamond Head (a landmark in Oahu, Hawaii) on both the bottle label and the packaging.

25. On the label of the neck of the bottle it states, "A spirited, crisp and refreshing brew, Longboard Island Lager is a smooth ride all the way in. Thirst's up! Waikiki Beach in Honolulu is the birth place of longboard surfing. Kona Brewing pays tribute to this iconic place with our own Longboard Island Lager."

26. It states on both the bottle label and the packaging, "Longboard surfing in the shadow of Diamond Head has been a tradition for over 100 years at Waikiki beach. Our Longboard Island Lager pays tribute to this grand history."

27. On the cardboard packaging of six-pack containers it prominently states, "THIRST'S UP!"

28. On the bottom of the cardboard packaging of twelve-pack containers, there is the Kona Brewing Co. label and an image of Oahu. It also states:

> "THE BEACH WHERE IT BEGAN
>
> Thanks to a legendary local Hawaiian, Longboards have been a constant feature at Waikiki Beach fir over 90 years. The great Duke Kahanamoku, father of modern surfing and Olympic Gold Medalist padded his hand-shaped, wooden board – a whopping 16 feet long and weighing 114 pounds – out into the surf to ride the waves off Waikiki. This behemoth was dubbed a Longboard and the ancient Polynesian sport of surfing was reborn. Today, in the shadow of Diamond Head, under swaying palm trees, Waikiki Beach is still the spot to learn the tradition of Longboard surfing. Here you can catch set after set of rolling waves until the sun fades below the horizon, and then it's time for a beer!
>
> THIRST'S UP!
>
> Kona Brewing Co. pays tribute to the big board of surfing and this famous Hawaiian beach with our refreshing Longboard Island Lager. This crisp, pale gold lager is made with premium pale malt and aromatic hops brewed in a traditional lager style. Like the last wave of the day at your favorite surf break, Longboard is a smooth and easy going brew that you can enjoy time and time again. Thirst's up!"

See, e.g., Figures 3 and 4.

Big Wave Golden Ale

29. The name Big Wave Golden Ale refers to waves and the power of the ocean surrounding Hawaii.

30. There is imagery of four people in an outrigger canoe (a traditional Polynesian canoe) riding a wave on both the bottle label and the packaging.

31. It also states on both the bottle label and the cardboard packaging, "Makaha. Our brewers wanted to make a beer that went down easy after a day in the water. Big Wave Golden Ale is just the ticket."

32. On the label of the neck of the bottle it states, "Our sun-drenched Big Wave Golden Ale is a smooth brew, inspired by what makes Hawaii great. Catch a wave! Year-round, the waves that roll onto Hawaiian beaches are some of the best in the world. Catch the crest of a breaking wave and ride it all the way in."

33. On the cardboard packaging of six-pack containers it prominently states, "CATCH A WAVE!"

34. On the top of the cardboard packaging of twelve-pack containers, there is the Kona Brewing Co. label and an image of Oahu. It also states:

> "HAWAIIAN SWEET SPOT
>
> The waves in Hawaii are legendary. In the winter months, the island's north and west coasts see big waves that often climb to 40 feet, with huge curls of white water breaking just off shore. This is just one reason why surfers, body boarders, paddlers and those of just willing to watch from the beach make this pilgrimage. There is no other place on earth like Hawaii. The north shore of Oahu gets all the attention (as it should), but the waves at Makaha are just as sweet. This is the place where the first surf competition in Hawaii was held in 1954 and continues to attract world class pros to ride the giants of winter surf.
>
> CATCH A WAVE!
>
> Our brewers wanted to make a beer that went down easy after a day out on the water. Big Wave Golden Ale is just the ticket. Big Wave is a lighter bodied golden ale with a tropical hop aroma and flavor – a smooth, easy drinking refreshing ale. The use of caramel malt contributes to the golden hue of this beer and our special blend of hops provides a bright quenching finish."

See, e.g., Figures 2 and 5.

Fire Rock Pale Ale

35. The name Fire Rock Pale Ale refers to volcanoes and the geographical uniqueness of Hawaii.

36. There is imagery of the Kilauea Volcano (one of Hawaii's active volcanoes) with lava flowing into the ocean on both the bottle label and the packaging.

37. It also states on both the bottle label and the cardboard packaging, "Kilauea Caldera. The power and copper glow of molten lava flowing to the sea from the Big Island's Kilauea Caldera is evoked in our Fire Rock Pale Ale."

38. On the label of the neck of the bottle it states, "Active volcanoes on the Big Island of Hawaii leave visitors awestruck by their power. The glow of lava as it meets the ocean is an amazing sight. Our Fire Rock Pale Ale is inspired by this place with a bright copper color and rich roasted malt taste. Aloha!

See, e.g., Figures 6 and 7.

Wailua Wheat Ale

39. The name Wailua Wheat Ale refers to the Wailua waterfalls – a landmark in Maui, Hawaii.

40. There is imagery of a woman standing in front of a waterfall on both the bottle label and the packaging.

41. On the label of the neck of the bottle it reads, "Wailua is Hawaiian for two fresh water streams mingling. This was just the inspiration we needed for our Wailua Wheat Ale. Brewed with tropical passionfruit, it's a refreshing, citrusy, sun-colored ale with the cool taste of Hawaii."

42. On the cardboard packaging of six-pack containers it prominently states, "PARADISE FOUND."

43. It also states on both the bottle label and the cardboard packaging, "Wailua Falls. This spectacular 95' waterfall on Maui inspired our Wailua Wheat ale."

44. On the bottom of the cardboard packaging of six-pack containers there is an image of the island of Maui and it states:

"LAID BACK IN TIME

Imagine travelling along a 90 year-old winding road on the north coast of Maui, crossing one-lane stone bridges that take you back to old Hawaii. This simple "highway" is known as the Road to Hana, a historic fishing village and the birth place of a Hawaiian Queen. This journey grips the edge of the island with ocean views and cascading waterfalls around nearly every bend. Wailua Falls is one of these spectacular sights. The falls plunge 95 feet into a natural pool, cradled in the surrounding volcanic rock. Take a dip in the cool, refreshing water, under the canopy of palm trees, and you will feel the timelessness of this Hawaiian paradise.

PARADISE FOUND

> Wailua is Hawaiian for two fresh water streams mingling. This was just the inspiration we needed to create our Wailua Wheat Ale. This refreshing, gold colored ale blends with the crisp, slightly sweet citrus flavor of tropical passionfruit, known locally as Lilikoi. This thirst quenching Kona Brew is the perfect companion to a day in the sun – even if you are not on Maui. Just sit back, relax and enjoy paradise anytime!"

See, *e.g.*, Figures 8 and 9.

Hanalei Island IPA

45. The name Hanalei Island IPA refers to Hanalei – a town in Kauai, Hawaii.

46. There is imagery of two people kayaking in the ocean in front of the mountains in Hawaii on both the bottle label and the packaging.

47. On the label of the neck of the bottle it states, "Kayak the stunning Hanalei Bay and ease your way through the tropical paradise of northern Kauai. Refresh your senses with this crisp Island IPA – the subtle bitterness of hops is balanced by passionfruit, orange and guava. Easy does it."

48. On the cardboard packaging of six-pack containers it prominently states, "EASY DOES IT."

49. On the bottom of the cardboard packaging of six-pack containers there is an image of the island of Kauai and it states:

> "PADDLER'S PARADISE
>
> On the north coast of Kauai, the perfect crescent shape of Hanalei Bay tucks up against lush, green mountains streaked with waterfalls fed by the warm Pacific rain. This is the Hawaii of your dreams. Launch your kayak into the calm blue waters at the historic pier and take in the iconic view of white sand beaches, the small village of Hanalei, and Makana Mountain (famously known as Bali Hai) towering above you. Paddling from this bay out to the Nā Pali Coast or up the Hanalei River you will discover more natural wonders that can only be seen as you glide through the water. With the sun above and your troubles behind, you might just feel like this place is as close to paradise as you'll ever get.
>
> EASY DOES IT
>
> Our easy-drinking Hanalei Island IPA is our brewer's homage to the Garden Isle and the Hawaiian classic drink, POG. Passionfruit, orange, and guava balance the subtle bitterness of aromatic Azacca and Galaxy hops to deliver a coppery, laidback, session-style ale, bright with tropical flavors and just 4.5% ABV. After all, a day on the bay calls for something that's relaxed and smooth, like our namesake, and refreshing enough to remind

you that you're in the South Pacific. And even if you aren't, with this Kona Brew in hand, Hawaii is only a sip away. Easy does it."

See, e.g., Figure 10.

Castaway IPA

50. There is imagery of four people in an outrigger canoe (a traditional Polynesian canoe) riding a wave on both the bottle label and the packaging.

51. On the label of the neck of the bottle it states, "A smooth yet spirited brew, it's as refreshing as the wind in your face when you set sail for adventure."

52. It also states on both the bottle label and the cardboard packaging, "Channel of Bones. The Ka'iwi Channel, or Channel of Bones, between Molokai and Oahu, is a treacherous route that early explorers adventured through. The steep, emerald volcanic sea cliffs off the north shore of Molokai loomed over these early explorers. Our Castaway IPA pays homage to these early explorers who braved the shark infested waters between these cliffs."

53. On the cardboard packaging of six-pack containers it prominently states, "SET SAIL FOR ADVENTURE."

54. On the bottom of the cardboard packaging of six-pack containers there is an image of the island of Oahu with the Kona Brewing Co. Koko Marina Pub delineated on the island. It also states:

"THE FIRST ISLAND HOPPERS

Hand-carved, wooden outrigger canoes once carried Hawaiians from island to island, where massive waves would crash over their hulls and toss them toward the horizon. The Ka'iwi Channel, or "Channel of Bones," between Oahu and Molokai was a particularly treacherous route. The steep, emerald green volcanic sea cliffs off the north shore of Molokai loomed over these early island explorers as they searched for safe harbors from the shark-infested waters. Only the strongest survived these perilous trips, many were cast away and lost. Today, this 26-mile wide passage challenges champion swimmers and paddlers who continue to race against the high winds and strong currents, earning worldwide admiration and acclaim.

SET SAIL FOR ADVENTURE!

It is those early island explorers, and the new ones too, that inspired us to make an equally spirited IPA. Take a sip of this copper-colored India Pale Ale and you'll taste bold, citrusy hops with a touch of tropical mango and passion fruit balanced by the rich caramel malts.

Castaway IPA has a clean, crisp finish that's as fresh as the wind in your face when you set sail for adventure."

See, e.g., Figure 11.

Aloha Series

55. On both the bottle label and the packaging of Lemongrass Luau beer there is imagery of three women dancing hula on the beach with the mountains in the background. On the cardboard packaging of six-pack containers it prominently states, "ALWAYS ALOHA." *See, e.g.*, Figure 12.

56. On both the bottle label and the packaging of Pipeline Porter beer there is imagery of a surfer standing on the beach about to paddle out into the surf. It also says, "PIPELINE porter made with HAWAIIAN KONA COFFEE."

57. The name "Pipeline Porter" refers to one of the world's most famous surf breaks, the Banzai Pipeline, which is located on the north shore of Oahu

58. On the label of the neck of the bottle of Pipeline Porter it states, "Our Pipeline porter is a bold, but smooth blend of roasted barley and rich Hawaiian-grown coffee-the perfect ode to the Banzai Pipeline, one of the most spectacular surf spots on the planet." On the cardboard packaging it prominently states, "A WAVE LIKE NO OTHER." *See, e.g.*, Figures 13 and 14.

59. On both the bottle label and the packaging of Koko Brown beer there is imagery of a man paddle surfing in front of Koko Head. It also says, "Ale brewed with TOASTED COCONUT."

60. The name Koko Brown refers to Koko Head – a landmark in Oahu, Hawaii.

61. On the label on the neck of the bottle of Koko Brown beer, it states, "the ancient Hawaiian tradition of Standup Paddling appreciates a revival in the idyllic setting of Maunalua Bay." *See, e.g.*, Figure 15.

62. In sum, the prominent Hawaii imagery and wording on the product labels, taken in both isolation and as a whole, are clearly designed to create the mistaken impression that Kona Brewing Co. beer is made in Hawaii.

Kona Brewing Co. Beer Bottles Falsely State They are Brewed in Hawaii

63. Kona Brewing Co. beer bottles contain an affirmative, false statement that the beer is made in Kona, Hawaii.

64. In small lettering on the side of the bottle labels of all Kona Brewing Co. beer it states:

> "KONA BREWING COMPANY CO KONA HI · PORTLAND, OR · WOODINVILLE, WA · PORTSMOUTH, NH · MEMPHIS TN
>
> FRESH, RESPONSIBLE, ALWAYS ALOHA."

See, e.g., Figure 16 (relevant portion circled in red).

65. There is no other information on the bottle, can, or on any of the packaging of Kona Brewing Co. beer that could be construed as any type of disclosure regarding the beer's origin.[4]

66. To the extent Craft Brew intended the language quoted above to be some type of disclosure, or that a reasonable consumer understands the above-listed locations to be where the beer is brewed, this labeling constitutes a flat-out misrepresentation, since none of the bottled/canned beer, or draft beer sold in the continental United States, is brewed in Hawaii. In other words, the statement "Kona, HI" is false. The only specific information regarding geographic origin affirmatively misrepresents to consumers that Kona Brewing Co. beer is made in Kona, Hawaii.

Kona Brewing Co. Beer is Falsely Advertised as Made in Hawaii

67. In addition to false advertising and statements on the product labels and packaging themselves, Craft Brew has undertaken a pervasive advertising campaign to cultivate its unique Hawaii image.

68. Kona Brewing Company's social media – which on information and belief is operated by Craft Brew – is rife with Hawaii imagery and references.

[4] During a small portion of the beginning of the statute of limitations period the language quoted in paragraph 64 may not have been listed, and there was simply no information on Kona Brewing Co. beer labels or packaging relating to geographic origin.

69. For instance, on its Twitter Homepage, it states, "Fresh brews made with spirit, passion, and quality. The brewery is headquartered where it began in 1994, in Kailua-Kona on Hawaii's Big Island." There are 4,235 tweets, 1050 photos, and 28.2k followers as of the date the Complaint was filed.

70. Almost every single one of these thousand-plus photos depicted on Twitter have strong Hawaii imagery. *See*, *e.g.*, Figures 17-20.

71. Many of the tweets also contain Hawaii references. Some of these tweets include:

- "Fire up, bruddahs and sistahs! Fire Rock is now available with your other craft beer favorites…" December 19, 2016.
- "What's cooler than a pineapple wearing shades? A pineapple wearing shades with a Longboard Lager…" November 6, 2016.
- "Spending your #AlohaFriday right?" October 28, 2016
- "A Hanalei sunset in a glass." September 30, 2016.

Kona Brewing Co. Beer is Made in the Continental United States

72. Kona Brewing Co. beer brands are widely distributed and sold in every state in the United States and in 26 different countries. This widespread distribution has been facilitated by Anheuser-Busch InBev's acquisition of a significant percentage of Craft Brew.

73. Kona Brewing Co. beer that is bottled and canned, and draft beer sold in the mainland, is made by Craft Brew in the continental United States.

74. On Kona Brewing Company's website, it states:

> "Kona Brewing Company runs its flagship brewhouse in Kailua-Kona on Hawaii's Big Island, which produces more than 12,000 barrels of beer annually.
>
> Under strict guidance, Kona Brewing Company also produces its bottled beer and mainland draft beer in Portland, Oregon, Woodinville, Washington, Memphis, Tennessee, and Portsmouth, New Hampshire, as part of its partnership with Craft Brew Alliance Inc.
>
> Recipes and beer specifications are dictated by Kona Brewing Company's brewmaster, who oversees each of Kona Brewing Company's partner breweries as the beer is brewed and packaged. The beer brewed at Kona Brewing Company's partner breweries utilizes Kona's hops, malt and proprietary yeast. The water mineral levels at each brewery are adjusted to replicate the water used in Hawaii. A sample of each batch of beer is sent to the

> Kailua-Kona brewery for sensory evaluation. The brewmaster and quality assurance employees are in daily contact with mainland partner breweries.
>
> An integral component of Kona Brewing Company's business plan is to grow the business with ecological integrity, reducing the company's carbon footprint whenever possible. By producing its bottled beer and mainland draft beer on the mainland, close to markets, Kona Brewing Company has dramatically reduced its reliance upon transportation fuel for raw materials, packaging and distribution."[5]

See Figure 21 (relevant text circled in red).

75. Thus, Craft Brew admits that all bottled/canned and mainland draft Kona Brewing Co. beer is made in Oregon, Washington, Tennessee, and/or New Hampshire.

76. Moreover, Craft Brew and/or Kona Brewing Co. state in a YouTube video published March 19, 2014, entitled "THE SOURCE of Liquid Aloha Discovered: Kona Brewing Hawaii," "at this brewery [the flagship Kailua-Kona brewery], the staff of 6 produces an impressive 310 gallons of brew a year, or 4,000 kegs, *for enjoyment throughout the islands*." (emphasis added). Kona Brewing Co.'s Managing Director for Restaurants and Retail then states, "as of 2013, we were in 35 states, we'll be launching four more states in 2014."[6]

77. By comparison, Craft Brew produced 154,700 kegs of beer in 2014 alone.

78. The significance of brewing Kona Brewing Co. beer in the mainland, as opposed to Hawaii, extends beyond consumer sentiment. Craft Brew and/or Kona Brewing Co. publicly acknowledge that, as a result of brewing Kona Brewing Co. beer in the continental United States, this beer does not contain Hawaii water. Craft Brew and/or Kona Brewing Co. further acknowledge that using mainland water materially impacts the taste and quality of the beer. The Kona Brewing Co. website states, "The beer brewed at Kona Brewing Company's partner breweries utilizes Kona's hops, malt and proprietary yeast. The water mineral levels at each brewery are adjusted to replicate the water used in Hawaii."

79. In an article published on June 26, 2015, Kona Brewing Co.'s brewmaster at the time, Billy Smith, was quoted as saying: "Hawaii County water is hard and high in calcium

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[5] http://konabrewingco.com/about/

[6] https://www.youtube.com/watch?v=PZ4ihoclNCs

chloride. Fortunately, these characteristics are great for making beer and can help showcase the malt and hop flavor."[7] Smith goes on to state, "I was one of the brewers at the brewery that brewed the first batch of Longboard Island Lager on the East Coast, so I know the challenges they face on the mainland, firsthand." According to the article, Kona Brewing Co. installed a water treatment system to mimic Hawaiian water. Smith further stated, "Today, every week a sample [of the beer] is sent to the brewery in Kona to make sure the recipe at her sister breweries are 'on.'"

80. Indeed, water makes up more than 90 percent of beer. It is generally accepted that the type of water used impacts the taste and quality of the beer.[8] And even if Craft Brew could adequately replicate the taste of Hawaii water in its mainland beer (Plaintiffs allege it cannot) consumers are still being deprived of what Craft Brew has promised them and what they have paid for – namely, a Hawaiian beer.

81. On information and belief, Craft Brew owns and operates Kona Brewing Company's website. For instance, if you click on the "CAREER OPPORTUNITIES" link from the dropdown menu "ABOUT US" on the Kona Brewing Company website, it immediately redirects you to Craft Brew's website. *See* Figure 22. Similarly, if you click on the "Investor Relations" section of Kona Brewing Company's website, it directs you to a link to Craft Brew's investor relations page. Moreover, on Craft Brew's website, there is a direct link to the Kona Brewing Co. website. *See* Figure 23. These websites are interrelated and are either controlled solely by Craft Brew or jointly by Craft Brew and Kona Brewing Company.

Consumers Purchase Kona Brewing Co. Beer Because They Reasonably Believe That it is Made in Hawaii

82. The Hawaii-brand image in the context of marketing and consumer purchase decisions is extremely powerful.

[7] https://munchies.vice.com/en/articles/your-favorite-hawaiian-beer-is-actually-brewed-in-new-hampshire

[8] https://beerandbrewing.com/VUKd4igAABcrKdWe/article/brewing-water

83. Consumers purchase items, and are willing to pay more for items, because they are from Hawaii. Craft Brew is well aware of this.

84. In an August 2016 article in Hawaii Business Magazine, business coach and author Mark Brigden was quoted as saying, "There's German efficiency and Swedish creativity. Hawaii, on the other hand, brings an emotive feeling of relaxation, enjoyment, well-being and being on Island time."[9]

85. The same article noted that large companies are offering more made in Hawaii products. For instance, Whole Foods Market says it purchased nearly $12 million in products from Hawaii suppliers in 2015. Dabney Gough, metro marketing field team leader at Whole Foods, was quoted as saying, "Hawaii boasts not only an incredible diversity of agricultural products that cannot be grown on the Mainland, but the quality of our local coffee, bean-to-bar chocolate, and dried fruits and nuts – just to name a few – is simply unbeatable. The opportunities are ripe for additional Mainland and global expansion."

86. In the same article, the director of retail operations for Big Island Candies (a Hawaii company), Lance Duyao, stated, "One thing that kept us afloat and sustained us is that we are careful about our expansion. Quality is so important to us. We don't want to spread ourselves thin by opening too many locations. Nothing is made anywhere else but here. And when people order stuff online and see that the box is actually postmarked in Hilo, there is an incredible value to that."

87. In a November 2011 article in Hawaii Business Magazine, Jeff Leichleiter, general manager for Tim's Cascade Snacks (a mainland company), which sells Hawaiian style chips, was quoted as saying, "We know 'Luau Barbeque Rings' doesn't make sense, but 98 percent of the country doesn't know . . . The Hawaii image is a powerful brand – and it's done well for us."[10] In the same article, Mr. Leichleiter also said, "Everybody wishes they were in Hawaii enjoying the

[9] http://www.hawaiibusiness.com/made-in-hawaii/

[10] http://www.hawaiibusiness.com/not-made-in-hawaii/

surf, sunny weather and cool tropical breezes and the Hawaii name evokes all those things. That's one of the reasons our chips have been so successful."

Plaintiffs' and Class Members' Purchases

88. During the statute of limitations period, Plaintiffs each separately purchased Kona Brewing Co. beer at retail stores located in the State of California.

89. Plaintiffs each read the labels on the Kona Brewing Co. beer bottles and packaging, and based on this labeling and advertising, they reasonably believed that the beer was made in Hawaii.

90. Plaintiffs' reasonable beliefs that the Kona Brewing Co. beer they purchased was made in Hawaii was a significant factor in their decision to purchase the beer. Plaintiffs would not have purchased the beer, or would have paid significantly less for the beer, had they known the true origins of the Kona Brewing Co. beer they purchased.

91. As with Plaintiffs, Class members were likely to be deceived by Craft Brew's misrepresentations regarding the origin of Kona Brewing Co. beer, in that they would not have purchased the beer, or would have paid substantially less for the beer, but for the misrepresentations.

92. As a result of Craft Brew's misrepresentations, Plaintiffs and the Class have been injured to the financial benefit of Craft Brew.

CLASS ACTION ALLEGATIONS

93. Plaintiffs bring this class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, individually and on behalf of all members of the following Class and California Subclass:

Class

All persons who purchased any Kona Brewing Co. beer in the United States at any time beginning four (4) years prior to the filing of this action and ending at the time this action settles or proceeds to final judgment.

California Subclass

All persons who purchased any Kona Brewing Co. beer in the State of California at any time beginning four (4) years prior to the filing of this action and ending at the time this action settles or proceeds to final judgment.

94. Excluded from the Class and California Subclass are the following individuals and/or entities: all persons who purchased any Kona Brewing Co. draft beer (i.e., non-bottled or canned) in the State of Hawaii; Craft Brew and its parents, subsidiaries, affiliates, officers and directors, current or former employees, and any entity in which Craft Brew has a controlling interest; all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

95. Plaintiffs reserve the right to modify or amend the definition of the proposed classes and/or add subclasses before the Court determines whether certification is appropriate.

96. The proposed classes are so numerous that joinder of all members would be impractical. The number of individuals who purchased a Kona Brewing Co. beer within the United States and the State of California during relevant time period is at least in the thousands. These Class members are identifiable and ascertainable through Craft Brew's records and other records and proofs of purchase.

97. There are questions of law and fact common to the proposed classes that will drive the resolution of this action. These questions include, but are not limited to, the following:

a. Whether Craft Brew misrepresented material facts and/or failed to disclose material facts in connection with the labeling, marketing, distribution, and sale of Kona Brewing Co. beer;

b. Whether Craft Brew's use of false or deceptive labeling and advertising constituted false advertising;

c. Whether Craft Brew engaged in unfair, unlawful and/or fraudulent business practices;

d. Whether Craft Brew's unlawful conduct, as alleged herein, was intentional and knowing;

e. Whether Plaintiffs and the Class are entitled to damages and/or restitution, and in what amount;

f. Whether Craft Brew is likely to continue using false, misleading or unlawful conduct such that an injunction is necessary; and

g. Whether Plaintiffs and the Class are entitled to an award of reasonable attorneys' fees, interest, and costs of suit.

98. Craft Brew engaged in a common course of conduct giving rise to violations of the legal rights sought to be enforced uniformly by Plaintiffs and Class members. Similar or identical statutory and common law violations, business practices, and injuries are involved. Therefore, individual questions, if any, pale in comparison to the numerous common questions presented in this action.

99. The injuries sustained by members of the proposed classes flow, in each instance, from a common nucleus of operative fact. Each instance of harm suffered by Plaintiffs and Class members has directly resulted from a single course of illegal conduct – namely, Craft Brew's false labeling and advertising of Kona Brewing Co. beer.

100. Given the similar nature of the Class members' claims and the absence of material differences in the statutes and common laws upon which the Class members' claims are based, the proposed classes will be easily managed by the Court and the parties.

101. Because of the relatively small size of the individual Class members' claims, no Class member could afford to seek legal redress on an individual basis. A class action is superior to any alternative means of prosecution.

102. The representative Plaintiffs' claims are typical of those of the Class and California Subclass, as all members of the proposed classes are similarly affected by Craft Brew's uniform unlawful conduct as alleged herein.

103. Craft Brew acted, and failed to act, on grounds generally applicable to Plaintiffs and the proposed classes, supporting the imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class and California Subclass.

104. Plaintiffs will fairly and adequately protect the interests of the proposed classes, and they have retained counsel competent and experienced in class action litigation. The Class representatives have no interests which conflict with or are adverse to those of the other Class members.

COUNT I

Violation of the California False Advertising Law

(On behalf of Plaintiffs and the California Subclass against Craft Brew)

105. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 104.

106. California's False Advertising Law ("FAL"), California Business and Professions Code § 17500, *et seq.*, prohibits unfair, deceptive, untrue, or misleading advertising.

107. Craft Brew's practice of representing that its Kona Brewing Co. beer is made in Hawaii violates the FAL. Specifically, the FAL makes it unlawful for "[a]ny person . . . to make or disseminate or cause to be made or disseminated from this state before the public in any state . . . in any advertising device . . . or in any other manner or means whatever, including over the Internet, any statement, concerning . . . personal property or services, professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading." Cal. Bus. & Prof. Code § 17500.

108. Craft Brew has engaged in a scheme of offering mislabeled beer for sale to Plaintiffs and Class members by way of product packaging, labeling, internet advertising, and other promotional materials. These labels and materials misrepresented and/or omitted the true content and nature of the mislabeled beer. Craft Brew's labels, advertisements, and inducements were made in California and come within the definition of advertising as contained in Bus. & Prof. Code § 17500, *et seq.*, in that the product packaging, labeling, and promotional materials were intended as inducements to purchase Kona Brewing Co. beer, and they are statements disseminated by Craft Brew to Plaintiffs and Class members. Craft Brew knew or should have known that these statements were inaccurate and misleading.

109. Craft Brew's false advertisements, as alleged herein, were calculated to induce Plaintiffs and Class members to purchase beer they otherwise would not have and/or to spend more money than they otherwise would have spent, in order to increase Craft Brew's profits.

110. Through its unfair acts and practices, Craft Brew has improperly obtained money from Plaintiffs and the Class. As such, Plaintiffs request that this Court cause Craft Brew to restore this money to Plaintiffs and all Class members, and to enjoin Craft Brew from continuing to violate the FAL in the future.

111. In prosecuting this action for the enforcement of important rights affecting the public interest, Plaintiffs also request that the Court award reasonable attorneys' fees and costs pursuant to Cal. Code of Civ. Proc. § 1021.5.

COUNT II

Violation of the California Consumer Legal Remedies Act

(On behalf of Plaintiffs and the California Subclass against Craft Brew)

112. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 111.

113. This cause of action is brought pursuant to the California Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1750, *et seq.*

114. Plaintiffs and Class members are "consumers" within the meaning of Cal. Civ. Code § 1761(d).

115. The sale of Kona Brewing Co. beer to Plaintiffs and Class members were "transactions" within the meaning of Cal. Civ. Code § 1761(e). The beer purchased by Plaintiffs and Class members are "goods" within the meaning of Cal. Civ. Code § 1761(a).

116. As alleged herein, Craft Brew violated the CLRA by falsely labeling and advertising that the beer is made in Hawaii, when in fact, the beer is made in the continental United States.

117. In so doing, Craft Brew has violated several provisions of the CLRA. Cal. Civ. Code § 1770(a)(4) prohibits using "deceptive representations or designations of geographic origin in connection with goods or services." Cal. Civ. Code § 1770(a)(5) prohibits "[r]epresenting that

goods or services have . . . characteristics, ingredients, uses, benefits, or quantities which they do not have . . . " Cal. Civ. Code § 1770(a)(7) prohibits representing "that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another. Finally, Cal. Civ. Code § 1770(a)(9)) prohibits "[a]dvertising goods or services with intent not to sell them as advertised."

118. By engaging in the conduct alleged herein, Craft Brew violated, and continues to violate, sections 1770(a)(4), (5), (7) and (9) of the CLRA.

119. Plaintiffs relied on the misrepresentation that the Kona Brewing Co. beer they purchased was made in Hawaii. Plaintiffs would not have purchased the beer, or would have paid significantly less for the beer, but for Craft Brew's unlawful conduct. Plaintiffs and Class members acted reasonably when they purchased Kona Brewing Co. beer based on the belief the beer was made in Hawaii because they were misled by the clear-cut and deceptive representations alleged herein.

120. Under Cal. Civ. Code § 1780(a), Plaintiffs and Class members seek injunctive and equitable relief for Craft Brew's violations of the CLRA. On February 28, 2017, Plaintiffs sent a notice letter by certified mail to Craft Brew of their intent to pursue claims under the CLRA, and an opportunity to cure, consistent with Cal. Civ. Code § 1782. Concurrent with the filing of the Complaint, Plaintiffs are filing declarations of venue, consistent with Cal. Civ. Code § 1780(d), attached hereto as Exhibit A.

121. Plaintiffs seek injunctive relief only pursuant to the CLRA. If Craft Brew fails to take corrective action within 30 days of receipt of the notice letter, Plaintiffs intend to amend the Complaint to include a request for damages as permitted under Cal. Civ. Code § 1782(d).

COUNT III

Violation of the California Unfair Competition Law

(On behalf of Plaintiffs and the California Subclass against Craft Brew)

122. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 121.

123. Plaintiffs and Class members are "persons" within the meaning of Cal. Bus. & Prof. Code § 17204.

124. The California Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200, *et seq.*, defines unfair business competition to include any "unlawful, unfair or fraudulent" act or practice, as well as any "unfair, deceptive, untrue or misleading" advertising.

125. A business act or practice is "unfair" under the UCL if the reasons, justifications and motives of the alleged wrongdoer are outweighed by the gravity of the harm to the alleged victims. A business act or practice is "fraudulent" under the UCL if it is likely to deceive members of the consuming public. A business act or practice is "unlawful" under the UCL if it violates any other law or regulation.

126. Craft Brew has violated the "unfair" prong of the UCL by mislabeling and falsely advertising its Kona Brewing Co. beer in order to induce consumers to believe the beer is made in Hawaii when it is not.

127. The business acts and practices alleged herein are unfair because they caused Plaintiffs and Class members to falsely believe that Craft Brew is offering a beer that is superior and/or more desirable to what they actually received. This deception was likely to have induced reasonable consumers, including Plaintiffs, to buy Kona Brewing Co. beer, which they otherwise would not have purchased, or would have paid substantially less for such beer.

128. The gravity of the harm to Plaintiffs and Class members resulting from these unfair acts and practices outweighs any conceivable reasons, justifications and/or motives of Craft Brew for engaging in such deceptive acts and practices. By committing the acts and practices alleged herein, Craft Brew has engaged in, and continues to engage in, unfair business practices within the meaning of California Business & Professions Code § 17200, *et seq*.

129. Craft Brew has also violated the "unlawful" prong of the UCL by violating several California laws, as alleged herein, including the FAL, Cal Bus. & Prof. Code § 17533.7 and the CLRA.

130. Craft Brew also violated the "fraudulent" prong of the UCL by misleading Plaintiffs and Class members to believe that its Kona Brewing Co. beer is Hawaii-made, when in actuality, it is brewed in the continental United States.

131. Through its unlawful acts and practices, Craft Brew has improperly obtained money from Plaintiffs and the Class. As such, Plaintiffs request that this Court cause Craft Brew to restore this money to Plaintiffs and the Class, and to enjoin Craft Brew from continuing to violate the UCL as alleged herein.

132. In prosecuting this action for the enforcement of important rights affecting the public interest, Plaintiffs also request that the Court award reasonable attorneys' fees and costs pursuant to Cal. Code of Civ. Proc. § 1021.5.

COUNT IV

Breach of Express Warranty

(On behalf of Plaintiffs and the Class against Craft Brew)

133. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 132.

134. In connection with the sale of its Kona Brewing Co. beer, Craft Brew issued an express warranty that these brands of beer were in fact made in Hawaii.

135. Craft Brew's affirmation of fact and promise on the beer labels and packaging themselves and in advertisements became part of the basis of the bargain between Craft Brew and Plaintiffs and Class members, thereby creating express warranties that this beer would conform to Craft Brew's affirmation of fact, representations, promise, and description.

136. Craft Brew breached its express warranty because its Kona Brewing Co. beer is not made in Hawaii, but rather, is made in the continental United States. Simply put, the beer at issue here does not live up to Craft Brew's express warranty.

137. Plaintiffs were injured as a result of Craft Brew's breach because they would not have purchased the Kona Brewing Co. beer if they had known that the beer did not have the characteristics or qualities as expressly warranted by Craft Brew, or they would have paid substantially less for the beer had they been aware of its true quality and characteristics. Similarly,

Class members are likely to have reasonably relied upon Craft Brew's express warranties in purchasing Kona Brewing Co. beer.

COUNT V

Negligent Misrepresentation

(On behalf of Plaintiffs and the Class against Craft Brew)

138. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 137.

139. As alleged herein, Craft Brew misrepresented that its Kona Brewing Co. beer is made in Hawaii.

140. At the time Craft Brew made these representations, Craft Brew knew or should have known that these representations were false, or made them without knowledge of their truth or veracity.

141. At minimum, Craft Brew negligently misrepresented and/or negligently omitted material facts about its Kona Brewing Co. beer.

142. The negligent misrepresentations and omissions made by Craft Brew, upon which Plaintiffs and Class members reasonably and justifiably relied, were intended to induce, and actually induced, Plaintiffs and Class members to purchase the beer at issue.

143. Plaintiffs would not have purchased the Kona Brewing Co. beer, or they would have paid substantially less for the beer, if the true qualities and characteristics of the beer had been known to her. Similarly, Class members are likely to have reasonably relied upon Craft Brew's deceptive labeling and advertising in purchasing Kona Brewing Co. beer.

144. The negligent actions of Craft Brew caused harm to Plaintiffs and Class members, who are entitled to damages and other legal and equitable relief as a result.

COUNT VI

Unjust Enrichment and Common Law Restitution

(On behalf of Plaintiffs and the Class against Craft Brew)

145. Plaintiffs incorporate herein by specific reference, as though fully set forth, the allegations in paragraphs 1 through 144.

146. As a result of Craft Brew's wrongful and deceptive conduct, Plaintiffs and Class members have suffered a detriment while Craft Brew has received a benefit.

147. Craft Brew's misleading, inaccurate and deceptive marketing and labeling intentionally cultivates the perception that consumers are being offered a product that they are not. Plaintiffs and Class members were intended to rely upon Craft Brew's misrepresentations when they purchased Kona Brewing Co. beer. Plaintiffs and Class members likely would not have purchased Kona Brewing Co. beer, or would have paid significantly less for it, if Craft Brew had not misrepresented the nature of this beer.

148. Craft Brew has received a premium price benefit and/or additional sales from Plaintiffs and Class members as a result of this unlawful conduct.

149. Craft Brew should not be allowed to retain the premium price profits and/or additional sales generated from the sale of products that were unlawfully marketed, advertised and promoted. Allowing Craft Brew to retain these unjust profits would offend traditional notions of justice and fair play and induce companies to misrepresent key characteristics of their products in order to increase sales.

150. Thus, Craft Brew is in possession of funds that were wrongfully retained from Plaintiffs and Class members that should be disgorged as illegally gotten gains.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the Class and California Subclass, respectfully pray for following relief:

1. Certification of this case as a class action on behalf of the Class and California Subclass defined above, appointment of Plaintiffs as Class representatives, and appointment of their counsel as Class counsel;

2. A declaration that Craft Brew's actions, as described herein, violate the claims described herein;

3. An award of injunctive and other equitable relief as is necessary to protect the interests of Plaintiffs and the Class, including, *inter alia*, an order prohibiting Craft Brew from engaging in the unlawful act described above;

4. An award to Plaintiffs and the proposed classes of restitution and/or other equitable relief, including, without limitation, restitutionary disgorgement of all profits and unjust enrichment that Craft Brew obtained from Plaintiffs and the proposed classes as a result of its unlawful, unfair and fraudulent business practices described herein;

5. An award to Plaintiffs and their counsel of their reasonable expenses and attorneys' fees;

6. An award to Plaintiffs and the proposed classes of pre and post-judgment interest, to the extent allowable; and

7. For such further relief that the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves and the proposed classes, hereby demand a jury trial with respect to all issues triable of right by jury.

DATED: February 28, 2017 THE WAND LAW FIRM

By: /s/ Aubry Wand
AUBRY WAND

Figure 1

LONGBOARD
Island Lager
BIG WAVE
FIRE ROCK
CASTAWAY
LEMONGRASS
LUAU

Figure 2

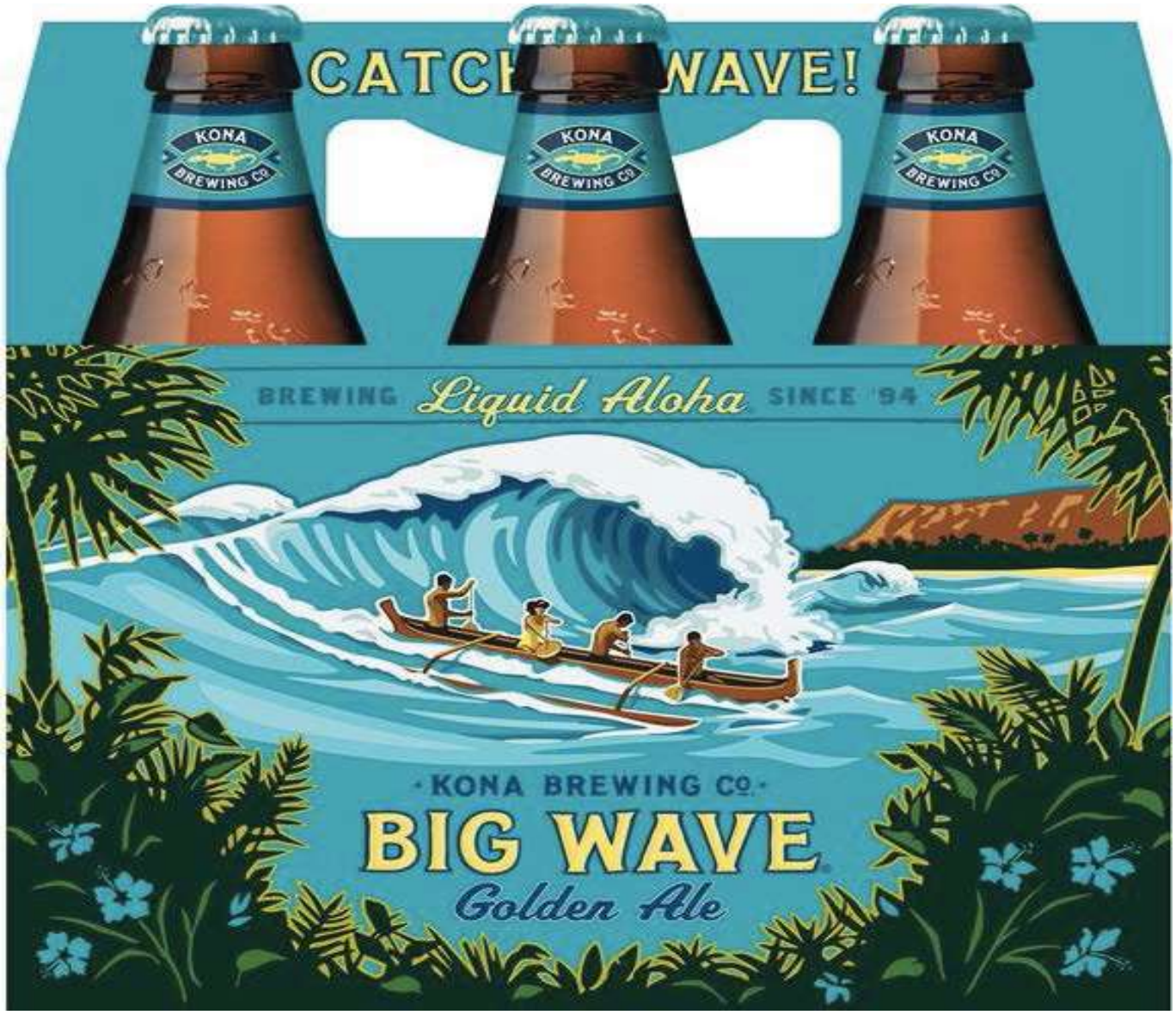

CATCH WAVE!
KONA BREWING CO
BREWING Liquid Aloha SINCE '94
KONA BREWING CO.
BIG WAVE
Golden Ale

Figure 3

KONA BREWING CO.
Liquid Aloha
THE BEACH WHERE IT BEGAN
Waikiki Beach in Honolulu is the birth place of Longboard surfing. Kona Brewing pays tribute to this iconic place with our own Longboard Island Lager. A spirited, crisp and refreshing brew. Longboard is a smooth ride all the way in.
Since 1994, Kona Brewing Co. has been committed to making handcrafted ales and lagers of uncompromised quality. We invite you to visit our brewery and pubs whenever you're in Hawaii.
MAHALO!
WWW.KONABREWINGCO.COM
• BREWING SINCE 1994 •
Liquid Aloha
KONA BREWING CO.
LONGBOARD
Island Lager
KONA BREWERY LLC. KONA, HAWAII
BEER
12 FL. OZ. • 355mL
PLEASE RECYCLE • ENJOY RESPONSIBLY

Figure 4

konabrewingco.com
ABOUT US BEERS STORE FIND BEER
KONA BREWING CO.
PUBS BREWERY NEWS SUSTAINABILITY
Longboard
ISLAND LAGER
Kauai
Oahu
Waikiki Beach
Longboard surfing in the shadow of Diamond Head has been a tradition for over 100 years at Waikiki beach. Our Longboard Island Lager pays tribute to this grand history.
HANG LOOSE WITH OUR REFRESHING AND SPIRITED ISLAND LAGER - PURE LIQUID ALOHA.
LONGBOARD
THE LATEST BREWERY NEWS
Kona, Hawaii
Weather Report
February 10, 2017
Skies: Sunny
High: 0°F
Low: 0°F
Join our Ohana on Facebook!

Figure 5

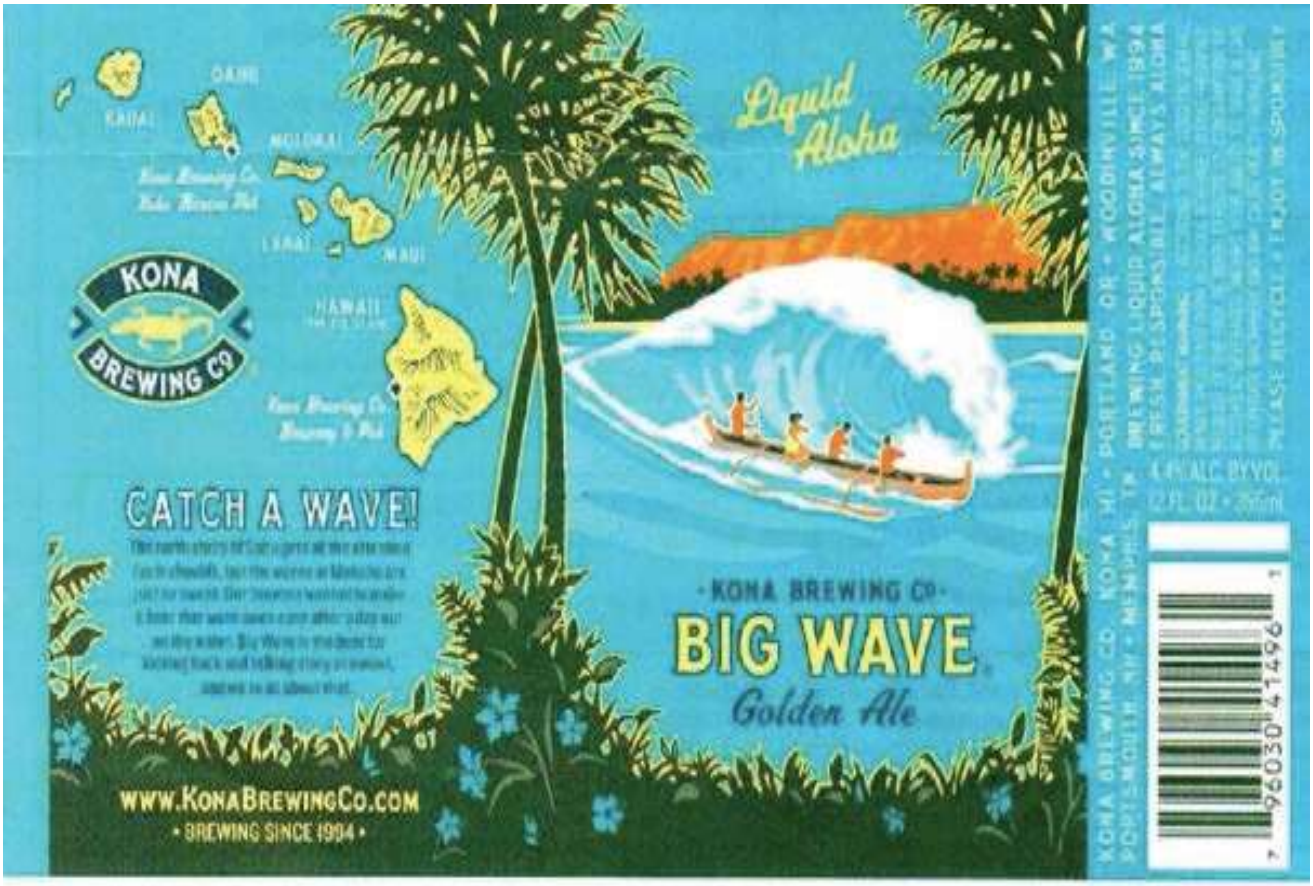

Liquid Aloha
KONA BREWING CO.
CATCH A WAVE!
KONA BREWING CO.
BIG WAVE
Golden Ale
WWW.KONABREWINGCO.COM
• BREWING SINCE 1994 •

Figure 6

KONA BREWING Co
BREWING Liquid Aloha SINCE '94
KONA BREWING Co
FIRE ROCK
Pale Ale

Figure 7

konabrewingco.com
ABOUT US BEERS STORE FIND BEER
KONA BREWING CO
PUBS BREWERY NEWS SUSTAINABILITY
Fire Rock
PALE ALE
Hawaii
Kilauea Caldera
The power and copper glow of molten lava flowing to the sea from the Big Island's Kilauea Caldera is evoked in our Fire Rock Pale Ale.
THE SIGNATURE BIG ISLAND BEER, OUR PALE ALE IS THE PERFECT TICKET TO PARADISE.
FIRE ROCK
THE LATEST BREWERY NEWS
Kona, Hawaii
Weather Report
February 10, 2017
Skies: Sunny
High: 0°F
Low: 0°F
Join our Ohana on Facebook!

Figure 8

Aloha Series
SEASONAL
Aloha Series
RELEASE
KONA BREWING CO.
WAILUA ALE
brewed with
TROPICAL PASSION FRUIT

Figure 9

konabrewingco.com
ABOUT US BEERS STORE FIND BEER
KONA BREWING CO.
PUBS BREWERY NEWS SUSTAINABILITY
Wailua
WHEAT
Wailua Falls
This spectacular 95' waterfall on Maui inspired our refreshing Wailua Wheat ale.
Molokai
Kahului
Lanai
Hana
Maui
THIS GOLDEN ALE HAS A BRIGHT, CITRUS FLAVOR THAT COMES FROM THE TROPICAL PASSION FRUIT WE BREW INTO EACH BATCH.
WAILUA
THE LATEST BREWERY NEWS
Kona, Hawaii
Weather Report
February 10, 2017
Skies: Sunny
High: 0°F
Low: 0°F
Join our Ohana on Facebook!

Figure 10

KONA BREWING CO
Liquid Aloha
BREWING Liquid Aloha SINCE '94
PASSIONFRUIT · ORANGE · GUAVA
KONA BREWING CO.
HANALEI
Island IPA

Figure 11

Figure 12

KONA BREWING CO.
Aloha Series
SEASONAL Aloha Series RELEASE
KONA BREWING Co.
LEMONGRASS LUAU
blonde ale brewed with natural
GINGER & LEMONGRASS ADDED

Figure 13

Aloha Series
PIPELINE PORTER
HAWAIIAN KONA COFFEE
Aloha Series
PIPELINE PORTE
HAWAIIAN KONA COFFEE
Aloha Series
PIPELINE

Figure 14

konabrewingco.com

Figure 15

Figure 16

Aloha Series
LEMONGRASS
LUAU
Ale with Natural Lemongrass and Ginger flavoring added
WWW.KONABREWINGCO.COM
GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCOHOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.
KONA BREWING CO. KONA, HI • PORTLAND, OR
WOODINVILLE WA • PORTSMOUTH, NH • MEMPHIS, TN
FRESH. RESPONSIBLE. ALWAYS ALOHA
CA CRV

Figure 17

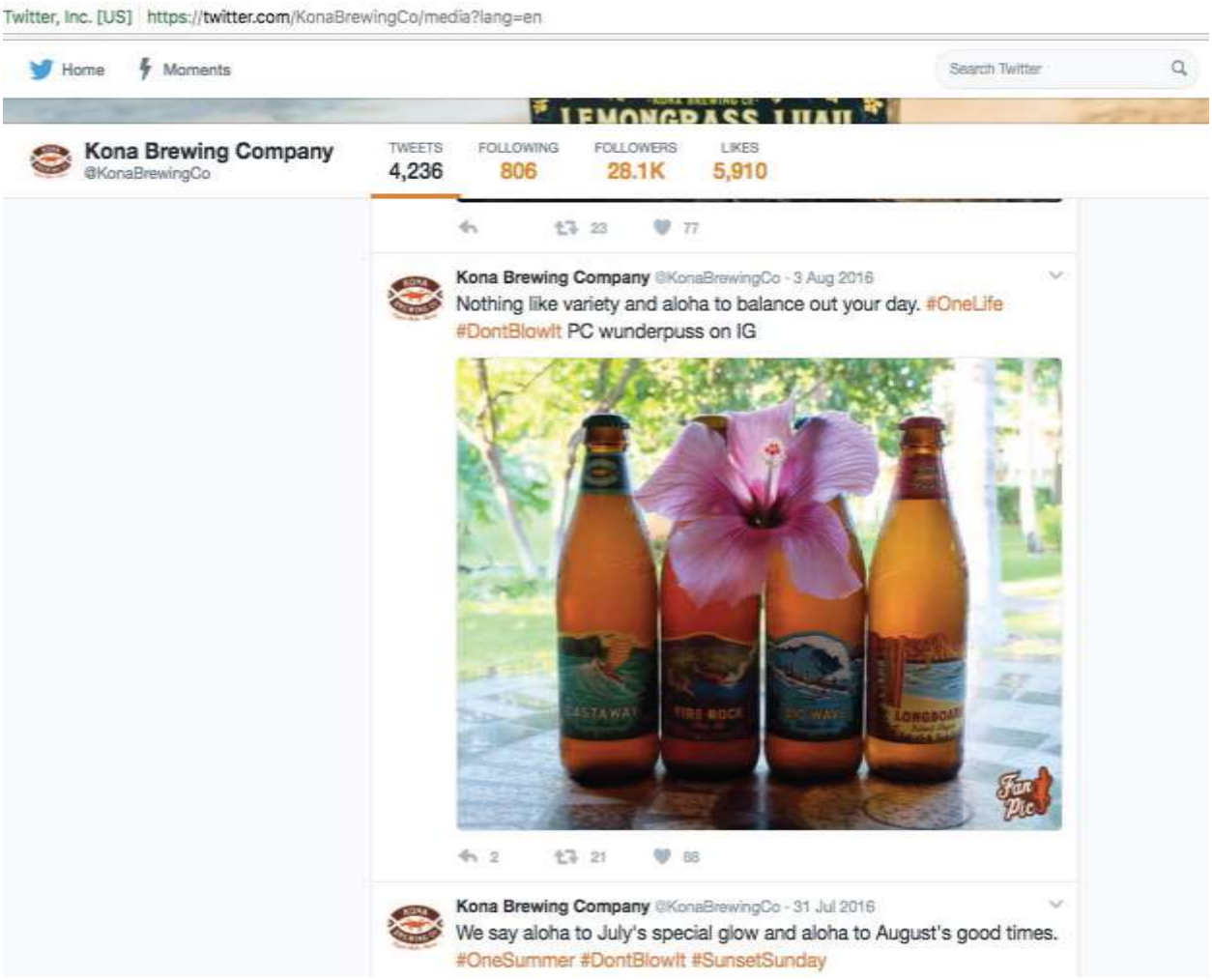

Twitter, Inc. [US] https://twitter.com/KonaBrewingCo/media?lang=en
Home
Moments
Search Twitter
Kona Brewing Company
@KonaBrewingCo
TWEETS 4,236
FOLLOWING 806
FOLLOWERS 28.1K
LIKES 5,910
23
77
Kona Brewing Company @KonaBrewingCo - 3 Aug 2016
Nothing like variety and aloha to balance out your day. #OneLife #DontBlowIt PC wunderpuss on IG
2
21
88
Kona Brewing Company @KonaBrewingCo - 31 Jul 2016
We say aloha to July's special glow and aloha to August's good times. #OneSummer #DontBlowIt #SunsetSunday

Figure 18

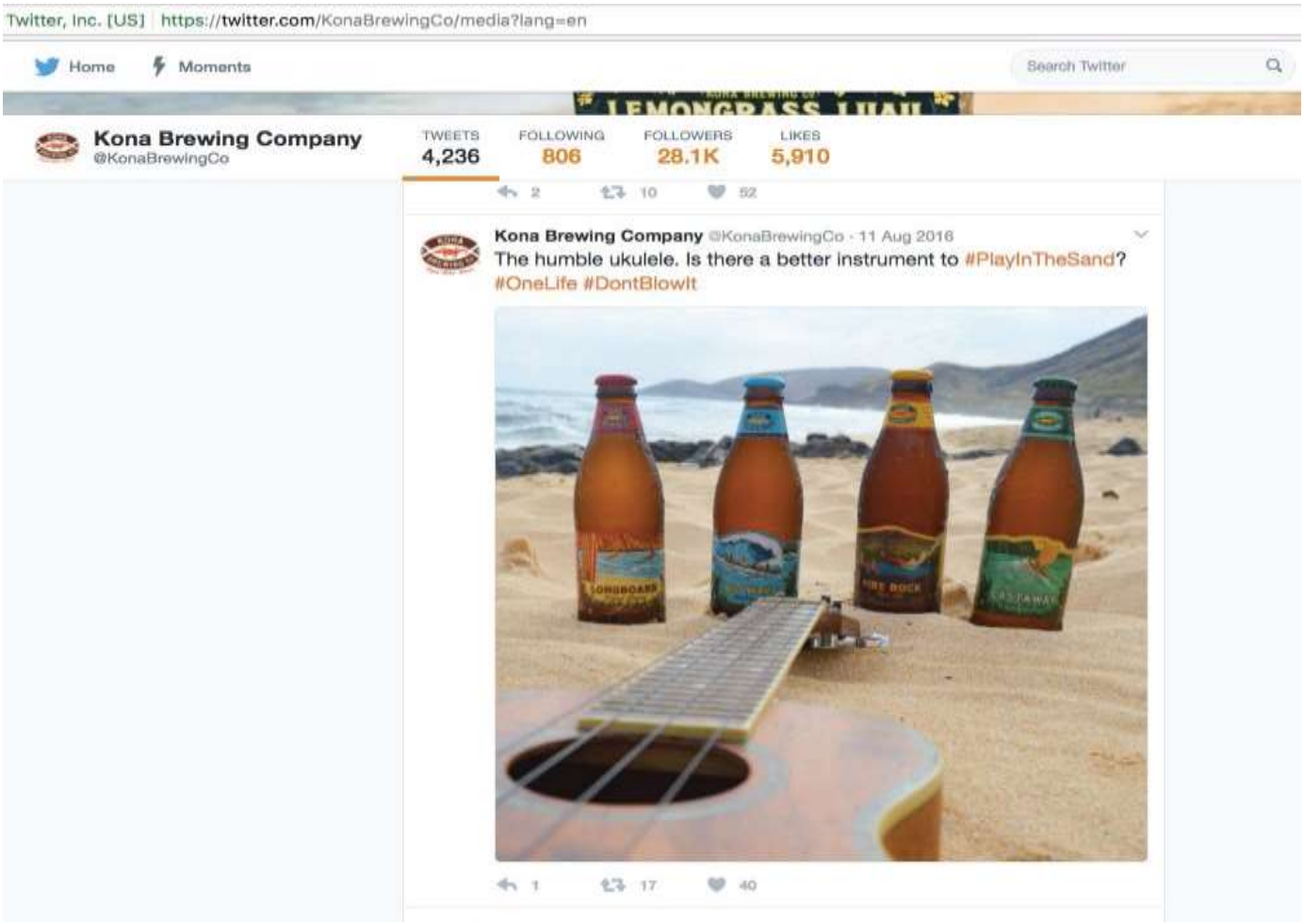

Twitter, Inc. [US] https://twitter.com/KonaBrewingCo/media?lang=en
Home
Moments
Search Twitter
Kona Brewing Company
@KonaBrewingCo
TWEETS 4,236
FOLLOWING 806
FOLLOWERS 28.1K
LIKES 5,910
Kona Brewing Company @KonaBrewingCo · 11 Aug 2016
The humble ukulele. Is there a better instrument to #PlayInTheSand?
#OneLife #DontBlowIt

Figure 19

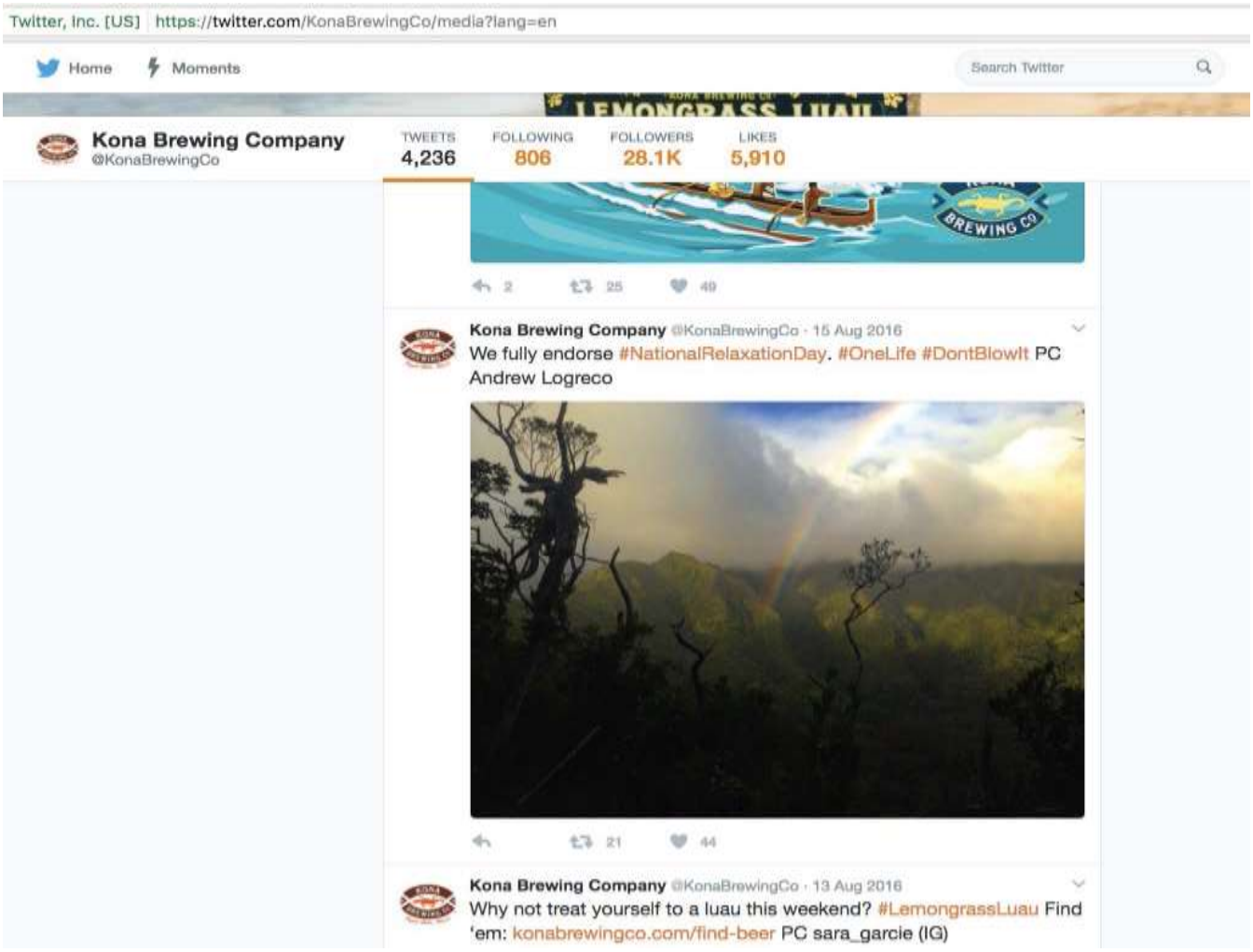

Twitter, Inc. [US] https://twitter.com/KonaBrewingCo/media?lang=en
Home
Moments
Search Twitter
Kona Brewing Company
@KonaBrewingCo
TWEETS 4,236
FOLLOWING 806
FOLLOWERS 28.1K
LIKES 5,910
BREWING CO
2
25
49
Kona Brewing Company @KonaBrewingCo · 15 Aug 2016
We fully endorse #NationalRelaxationDay. #OneLife #DontBlowIt PC Andrew Logreco
21
44
Kona Brewing Company @KonaBrewingCo · 13 Aug 2016
Why not treat yourself to a luau this weekend? #LemongrassLuau Find 'em: konabrewingco.com/find-beer PC sara_garcie (IG)

Figure 20

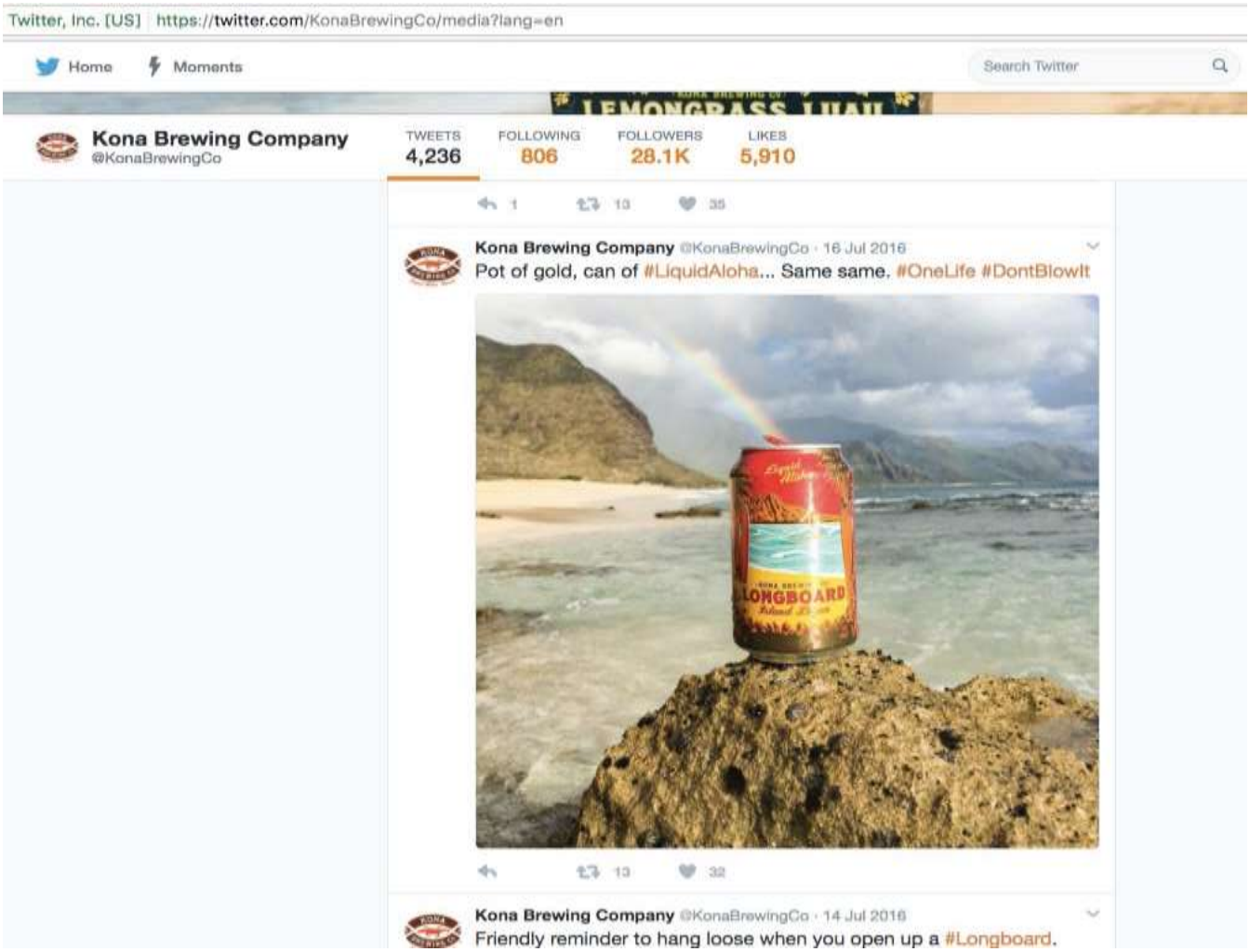
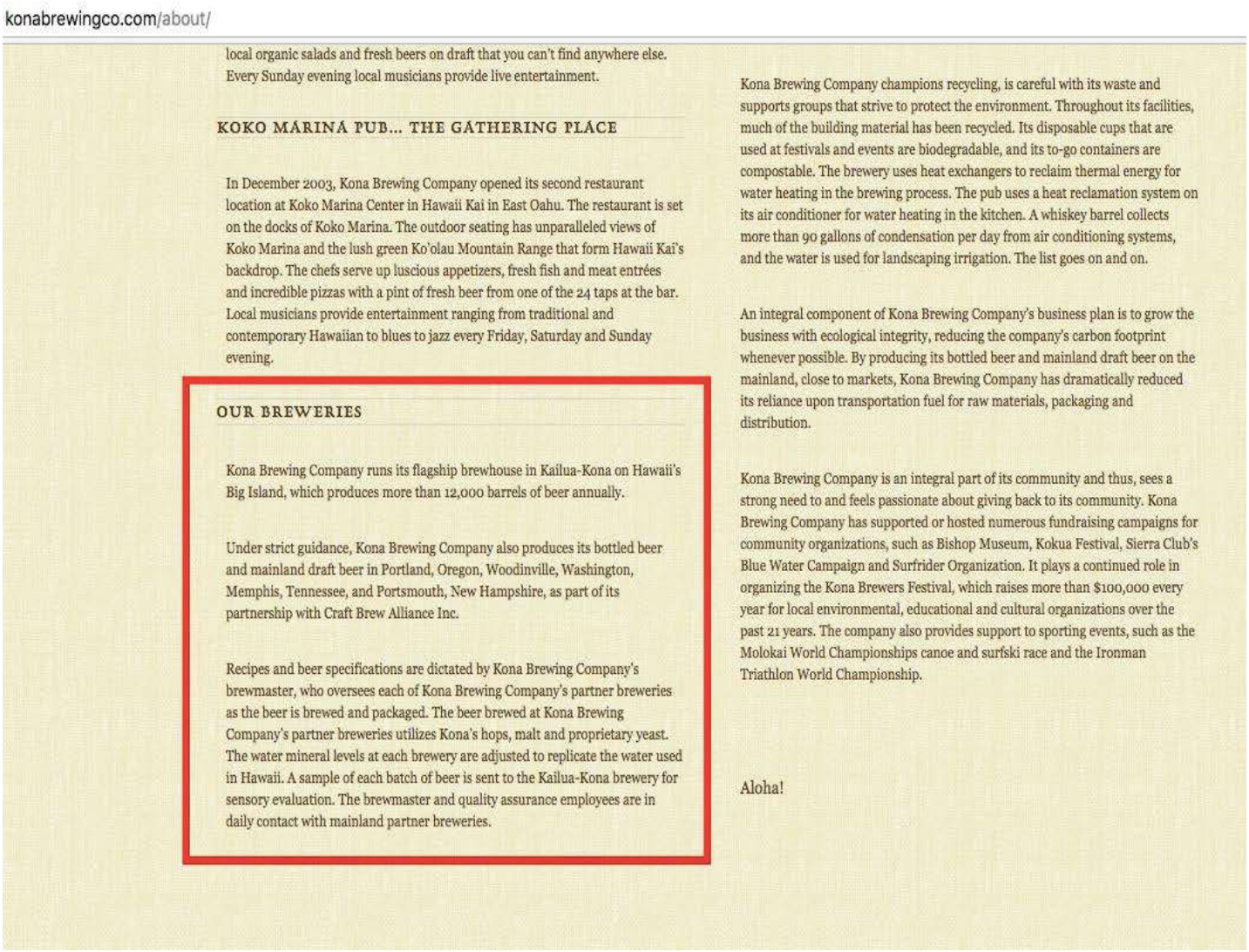

Twitter, Inc. [US] https://twitter.com/KonaBrewingCo/media?lang=en
Home
Moments
Search Twitter
Kona Brewing Company
@KonaBrewingCo
TWEETS 4,236
FOLLOWING 806
FOLLOWERS 28.1K
LIKES 5,910
Kona Brewing Company @KonaBrewingCo · 16 Jul 2016
Pot of gold, can of #LiquidAloha... Same same. #OneLife #DontBlowIt
LONGBOARD
Kona Brewing Company @KonaBrewingCo · 14 Jul 2016
Friendly reminder to hang loose when you open up a #Longboard.

Figure 21



konabrewingco.com/about/

local organic salads and fresh beers on draft that you can't find anywhere else. Every Sunday evening local musicians provide live entertainment.

KOKO MARINA PUB... THE GATHERING PLACE

In December 2003, Kona Brewing Company opened its second restaurant location at Koko Marina Center in Hawaii Kai in East Oahu. The restaurant is set on the docks of Koko Marina. The outdoor seating has unparalleled views of Koko Marina and the lush green Ko'olau Mountain Range that form Hawaii Kai's backdrop. The chefs serve up luscious appetizers, fresh fish and meat entrées and incredible pizzas with a pint of fresh beer from one of the 24 taps at the bar. Local musicians provide entertainment ranging from traditional and contemporary Hawaiian to blues to jazz every Friday, Saturday and Sunday evening.

OUR BREWERIES

Kona Brewing Company runs its flagship brewhouse in Kailua-Kona on Hawaii's Big Island, which produces more than 12,000 barrels of beer annually.

Under strict guidance, Kona Brewing Company also produces its bottled beer and mainland draft beer in Portland, Oregon, Woodinville, Washington, Memphis, Tennessee, and Portsmouth, New Hampshire, as part of its partnership with Craft Brew Alliance Inc.

Recipes and beer specifications are dictated by Kona Brewing Company's brewmaster, who oversees each of Kona Brewing Company's partner breweries as the beer is brewed and packaged. The beer brewed at Kona Brewing Company's partner breweries utilizes Kona's hops, malt and proprietary yeast. The water mineral levels at each brewery are adjusted to replicate the water used in Hawaii. A sample of each batch of beer is sent to the Kailua-Kona brewery for sensory evaluation. The brewmaster and quality assurance employees are in daily contact with mainland partner breweries.

Kona Brewing Company champions recycling, is careful with its waste and supports groups that strive to protect the environment. Throughout its facilities, much of the building material has been recycled. Its disposable cups that are used at festivals and events are biodegradable, and its to-go containers are compostable. The brewery uses heat exchangers to reclaim thermal energy for water heating in the brewing process. The pub uses a heat reclamation system on its air conditioner for water heating in the kitchen. A whiskey barrel collects more than 90 gallons of condensation per day from air conditioning systems, and the water is used for landscaping irrigation. The list goes on and on.

An integral component of Kona Brewing Company's business plan is to grow the business with ecological integrity, reducing the company's carbon footprint whenever possible. By producing its bottled beer and mainland draft beer on the mainland, close to markets, Kona Brewing Company has dramatically reduced its reliance upon transportation fuel for raw materials, packaging and distribution.

Kona Brewing Company is an integral part of its community and thus, sees a strong need to and feels passionate about giving back to its community. Kona Brewing Company has supported or hosted numerous fundraising campaigns for community organizations, such as Bishop Museum, Kokua Festival, Sierra Club's Blue Water Campaign and Surfrider Organization. It plays a continued role in organizing the Kona Brewers Festival, which raises more than $100,000 every year for local environmental, educational and cultural organizations over the past 21 years. The company also provides support to sporting events, such as the Molokai World Championships canoe and surfski race and the Ironman Triathlon World Championship.

Aloha!

Figure 22

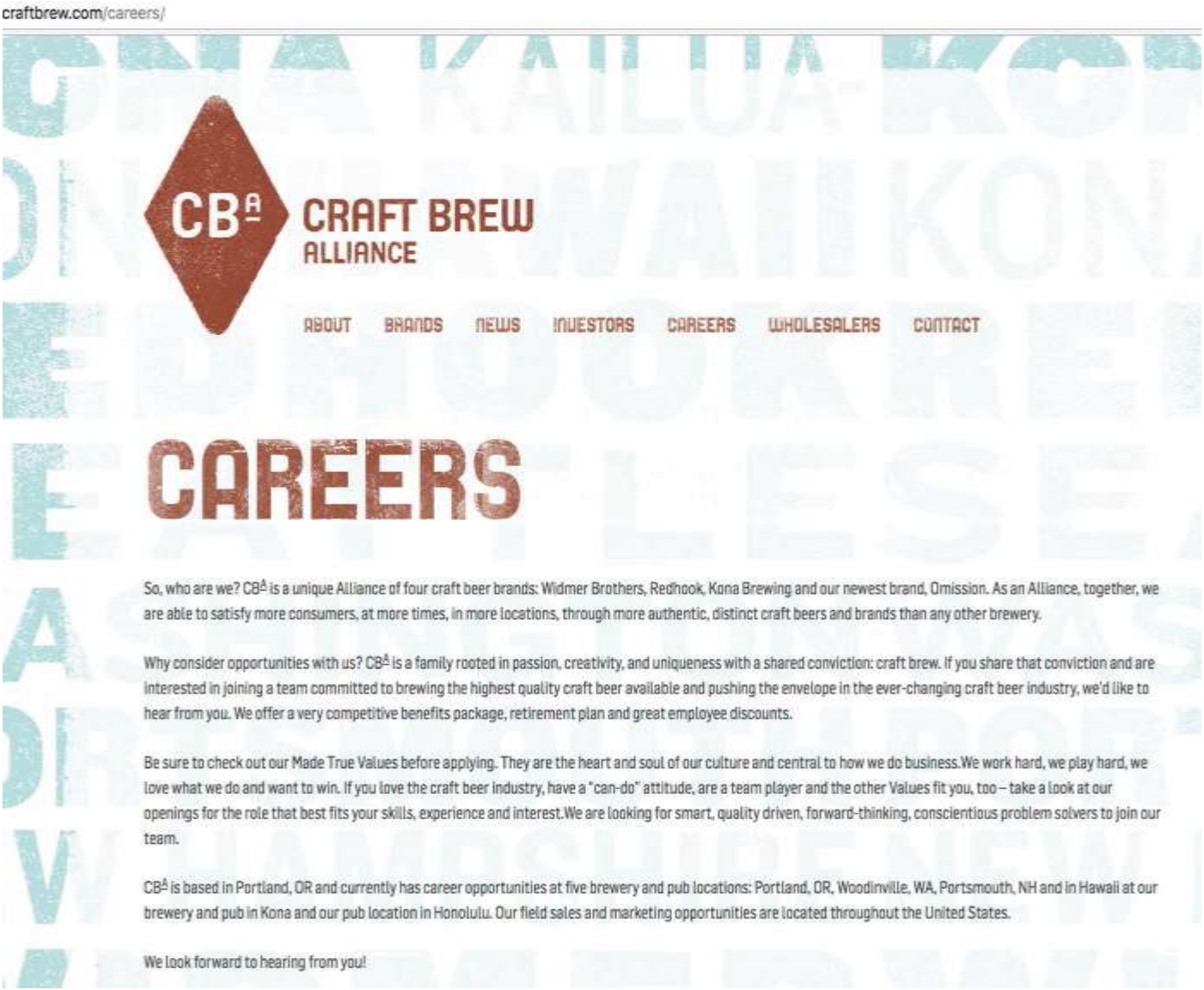

craftbrew.com/careers/
CB
CRAFT BREW
ALLIANCE
ABOUT
BRANDS
NEWS
INVESTORS
CAREERS
WHOLESALERS
CONTACT
CAREERS
So, who are we? CB is a unique Alliance of four craft beer brands: Widmer Brothers, Redhook, Kona Brewing and our newest brand, Omission. As an Alliance, together, we are able to satisfy more consumers, at more times, in more locations, through more authentic, distinct craft beers and brands than any other brewery.
Why consider opportunities with us? CB is a family rooted in passion, creativity, and uniqueness with a shared conviction: craft brew. If you share that conviction and are interested in joining a team committed to brewing the highest quality craft beer available and pushing the envelope in the ever-changing craft beer industry, we'd like to hear from you. We offer a very competitive benefits package, retirement plan and great employee discounts.
Be sure to check out our Made True Values before applying. They are the heart and soul of our culture and central to how we do business.We work hard, we play hard, we love what we do and want to win. If you love the craft beer industry, have a "can-do" attitude, are a team player and the other Values fit you, too – take a look at our openings for the role that best fits your skills, experience and interest.We are looking for smart, quality driven, forward-thinking, conscientious problem solvers to join our team.
CB is based in Portland, OR and currently has career opportunities at five brewery and pub locations: Portland, OR, Woodinville, WA, Portsmouth, NH and in Hawaii at our brewery and pub in Kona and our pub location in Honolulu. Our field sales and marketing opportunities are located throughout the United States.
We look forward to hearing from you!

Figure 23

craftbrew.com/brands/
CRAFT BREW ALLIANCE
ABOUT BRANDS NEWS INVESTORS CAREERS WHOLESALERS CONTACT
BRANDS
RED HOOK
WIDMER BROTHERS BREWING
KONA BREWING CO.
Omission
SQUARE MILE CIDER CO
KCCO
Kona Brewing Company View Website
Kona Brewing Company was started in Kailua-Kona on Hawaii's Big Island in the spring of 1994 by father and son team Cameron Healy and Spoon Khalsa, who had a dream to create fresh, local island brews made with spirit, passion and quality. Today, Kona is Hawaii's largest and favorite craft brewery, known for top-selling flagship beers Longboard Island Lager and Big Wave Golden Ale and award-winning innovative small-batch beers available across the Islands. The Hawaii born and Hawaii-based craft brewery prides itself on brewing the freshest beer of exceptional quality, closest to market. This helps to minimize its carbon footprint by reducing shipping of raw materials, finished beer and packaging materials.
Kona Brewing has become one of the top craft beer brands in the world, while remaining steadfastly committed to its home market through a strong focus on innovation, sustainability and community outreach. In 2014, the company achieved a milestone in its home state, selling more than 1 million cases in the Islands for the first time in its history.

EXHIBIT A

DECLARATION OF SARA CILLONI

I, Sara Cilloni, hereby declare:

1. I am a Named Plaintiff in the above-entitled action. I am a competent adult over eighteen years of age and I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would testify competently thereto.

2. I am a citizen of the United States and California. I am a resident of the County of Santa Clara in the State of California.

3. The transaction that forms the basis of my claims asserted in this case – namely, my purchase of Kona Brewing Company beer – occurred at a store located in the County of Santa Clara.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on 2.17.17 at Los gatos, California.

Sara Cilloni

DECLARATION OF SIMONE ZIMMER

I, Simone Zimmer, hereby declare:

1. I am a Named Plaintiff in the above-entitled action. I am a competent adult over eighteen years of age and I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would testify competently thereto.

2. I am a citizen of the United States and California. I am a resident of the County of San Bernardino in the State of California.

3. The transaction that forms the basis of my claims asserted in this case – namely, my purchase of Kona Brewing Company beer – occurred at a store located in the County of San Bernardino.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on Feb 15, 2017 at Rancho Cucamonga, California.

Simone Zimmer

Simone Zimmer