

No. \_\_-\_\_\_\_

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

\_\_\_\_\_  
ANHEUSER-BUSCH, INC., WHOLESALER )  
EQUITY DEVELOPMENT CORPORATION, )

Plaintiffs-Appellants, )

CITY BEVERAGE – ILLINOIS, L.L.C., CITY )  
BEVERAGE L.L.C., CITY BEVERAGE – )  
MARKHAM L.L.C., CHICAGO DISTRIBUTING )  
L.L.C., SD OF ILLINOIS, INC., And DOUBLE )  
EAGLE DISTRIBUTING COMPANY )

Plaintiffs, )

v. )

STEPHEN B. SCHNORF, JOHN M. AGUILAR, )  
DANIEL J. DOWNES, SAM ESTEBAN, )  
MICHAEL F. MCMAHON, MARTIN )  
MULCAHEY, DONALD O’CONNELL, )  
Commissioners, of the Illinois Liquor Control )  
Commission, in their official capacities; And )  
RICHARD R. HAYMAKER, Chief Legal Counsel )  
of the Illinois Liquor Control Commission, in his )  
official capacity )

Defendants-Appellees. )

On Appeal from the United States  
District Court for the Northern District  
of Illinois, Eastern Division

Case No. 10 CV 01601

Hon. Robert M. Dow, Jr.

Hon. Michael T. Mason

**PLAINTIFFS-APPELLANTS’ DOCKETING STATEMENT**

Plaintiffs-appellants Anheuser-Busch, Inc. (“AB Inc.”) and Wholesaler Equity Development Corporation (“WEDCO”) respectfully submit this docketing statement pursuant to Circuit Rules 3(c)(1) and 28(a).

## **I. Jurisdictional Statement**

1. Plaintiffs' claims in this action arise under 42 U.S.C. § 1983 and the Commerce Clause of the United States Constitution. Plaintiffs commenced this action on March 10, 2010, by filing a Complaint for Declaratory Judgment and Injunctive Relief. The Complaint, brought pursuant to 42 U.S.C. § 1983, sought redress for three violations of the United States Constitution: Count I (violation of the Commerce Clause); Count II (violation of Procedural Due Process of the Fourteenth Amendment); and Count III (violation of Contracts Clause). The district court's jurisdiction over the subject matter of this action thus arose under 28 U.S.C. §§ 1331 and 1343(a).

2. On September 3, 2010, the district court issued a Memorandum Opinion and Order (the "Sept. 3 Order") granting plaintiffs' motion for summary judgment on their Commerce Clause claim. (Docket No. 118.) To remedy defendants' violation of the Commerce Clause, the court enjoined enforcement of (or "nullified") certain provisions of the Illinois Liquor Control Act of 1934 (the "Liquor Control Act"), such that no brewer may distribute beer in Illinois, and denied plaintiffs' request to enter an injunction that would have permitted AB Inc. and its affiliates to distribute beer and to continue owning and be affiliated with an entity that distributes beer in Illinois. (*Id.* at 37-38.) The court stayed enforcement of its ruling until March 31, 2011. (*Id.* at 2, 38.)

3. Plaintiffs-appellants filed their notice of appeal on October 1, 2010, within 30 days from entry of the Sept. 3 Order, denying plaintiffs' request to enter an injunction that would have permitted AB Inc. and its affiliates to distribute beer and to continue owning and be affiliated with an entity that distributes beer in Illinois, and that instead enjoins enforcement of certain provisions under the Illinois Liquor Control Act of 1934, such that no brewer may

distribute beer in Illinois. This Court therefore has jurisdiction over this matter pursuant to 28 U.S.C. § 1292(a)(1).

## **II. Claims and Parties that Remain for Disposition in the District Court**

4. Plaintiffs moved for summary judgment only on their Commerce Clause claim. Therefore, plaintiffs' Contracts Clause and Due Process claims against all defendants remain for adjudication in the district court.

## **III. Parties to the Litigation Appearing in Their Official Capacity**

5. Defendants Stephen B. Schnorf, John M. Aguilar, Daniel J. Downes, Sam Esteban, Michael F. McMahon, Martin Mulcahey, and Donald O'Connell, appear in this litigation in their official capacities as Commissioners of the Illinois Liquor Control Commission (the "ILCC"), and Richard R. Haymaker appears in this litigation in his official capacity as Chief Legal Counsel of the ILCC.

6. Pursuant to Circuit Rule 3(c)(1), plaintiffs-appellants state that to the best of their knowledge the current occupants of the offices that appear in this litigation are Stephen B. Schnorf, James Pandolfi, Amy Kurson, Sam Esteban, Michael F. McMahon, Martin Mulcahey, Donald O'Connell, and Richard R. Haymaker.

## **IV. Related Appeals**

7. On June 30, 2010, The Wine and Spirits Distributors Association ("Wine & Spirits") filed a notice of appeal from the district court's denial of its motion to intervene in this action. This appeal was captioned as *The Wine & Spirits Distributors Association v. Schnorf, et al.*, bearing Appeal No. 10-2570.

8. On July 27, 2010, Wine & Spirits filed a motion in Appeal No. 10-2570 to hold briefing in abeyance, pending resolution of plaintiffs' motion for summary judgment. On August 3, 2010, this Court entered an Order suspending briefing in the appeal until further order and directed Wine & Spirits to submit a status report regarding the summary judgment proceedings by October 1, 2010. On October 1, 2010, Wine & Spirits filed with this Court a stipulation that voluntarily dismisses its appeal.

Dated: October 1, 2010

Respectfully submitted,

/s/ Edward M. Crane

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**Counsel for Plaintiffs Anheuser-Busch, Inc.  
and WEDCO**

**CERTIFICATE OF SERVICE**

Edward M. Crane, an attorney, hereby certifies that on October 1, 2010, he caused true and correct copies of the foregoing to be served on the following counsel for defendants via hand delivery:

Michael Dierkes, Esq.  
Ann Walls, Esq.  
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/s/ Edward M. Crane

Edward M. Crane