

S. C. A. J. D. E.

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No. 1429.

Anheuser Busch Brewing
Association

VS

Edmonton Brewing & Malting
Company, Limited.

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AFFDT. OF WILLIAM H. SHEPPARD.

.....

Supreme Court,

FILED
OCT 14 1910
FILED



Emery, Newell & Bolton.

IN THE SUPREME COURT OF ALBERTA-JUDICIAL DISTRICT OF EDMONTON:

B E T W E E N:

Anheuser Busch Brewing Association,
Plaintiffs,

- and -

Edmonton Brewing & Malting Company,
Limited,
Defendants.

I, WILLIAM H. SHEPPARD, of the City of Strathcona,
in the Province of Alberta, the Managing Director of the above
named defendants make oath and say:-

1. I am the Managing Director for the above named defendants
and have a knowledge of the matters herein deposed to:
2. That for a number of years I was engaged in the Hotel business,
and since then have been connected therewith, from my position
with the above named defendants, and am familiar with the sale
of liquor, both wholesale and retail:
3. When bottled beer is asked for at the bar, the same is asked
for by its name, as for instance, a person wanting the plaintiffs'
beer would ask for Budweiser, and the person asking for the
defendants' beer, would ask for Capitol beer:
4. The labels on the bottles of the plaintiffs' beer and the
defendants' beer are very dissimilar:
5. Almost on all occasions the bar-tender would place the glass
on the bar in front of the customer, and either himself fill the
glass out of the bottle, while sitting ~~at~~ on the bar in front of the
customer, or hand the bottle to the customer for him to pour it
out himself, in either case the neck of the bottle is immediately
in front or very close to the face of the customer, and the

customer could easily see in all cases whether he was getting Capitol Beer or Budweiser Beer:

6. I do not think it is possible to deceive the customer any more with the Capitol for the Budweiser Beer than it is in the case of any other beer:

7. The labels selected by the defendants for the Capitol beer were not adopted with any intent to deceive any person, nor was it with any intent to try to pass off the defendants' goods for the plaintiffs':

8. I verily believe the defendants have a much larger sale of their goods at Edmonton than the plaintiffs have ever had, and that the said sale is due not to the labels, but because of the quality of the beer, and of its notoriety as Capitol Beer:

9. If the above named defendants were restrained from disposing of the said beer, the damage to the Company would be very considerable, and if the injunction continued for any length of time, it would compel the defendants to practically go out of business in regard to that brew of beer:

10. So far as I am aware no agent of the defendants nor any person in the employ of the defendants has ever made any attempt to pass off the said beer, otherwise than as Capitol Beer, and as a beer brewed by the defendants:

SWORN before me at the City of)
Edmonton, in the Province of)
Alberta, this 13th. day of)
October, A.D., 1910.)

W. H. Sheppard

J. A. Macdonald

A Comm'r. etc.