



**BLOGS**  
Damages

## No Attorneys' Fees Awarded in Distributor's Case Under New Jersey Law

A recent decision in *Warren Distributing Co. et al. v. Inbev USA and Anheuser-Busch, Inc.*, 2011 U.S. Dist. LEXIS 19721 (D.N.J. Feb. 28, 2011), demonstrated the significant limitations that courts may impose on the award of attorneys' fees to prevailing parties. In this case under New Jersey law, after more than three years of litigation and a 13-day jury trial, the plaintiffs, who are former beer distributors for Anheuser-Busch, were awarded damages of \$390,000 for Anheuser-Busch's violations of New Jersey's Malt Alcoholic Beverage Practices Act. However, Anheuser-Busch recovered over \$638,000 from the beer distributors on its counterclaims for unjust enrichment and tortious interference.

The beer distributors then sought recovery of the \$4.2 million in attorneys' fees they had spent on the case under the New Jersey industry statute, which allows a wholesaler who is "successful" on a claim for violation of the statute to recover the cost of the action including "reasonable attorneys' fees." The court found that although Anheuser-Busch was the "prevailing party" in the case because it had recovered more in the way of damages than did the distributors, the latter had "successfully" litigated their statutory claim and were technically entitled to recover the fees they incurred. The court then closely analyzed the distributors' fees petition. While the court found reasonable the hourly rates for senior litigators—who charged \$750—and the number of hours spent on the claims, the court nevertheless ruled that the distributors would not get a penny of what they had spent on the case. The court found that the overall outcome of the litigation favored Anheuser-Busch and that the amount of damages awarded to the distributors was "nugatory" compared to \$41 million they claimed in damages. In addition, the court noted that the distributors had turned down a settlement offer before the action was filed that would have paid them exactly the amount they ended up winning on their claims. Thus, the court noted, after three and a half years of litigation and a long jury trial, the distributors "landed in the same position they had occupied months before the beginning of the litigation." Accordingly, it reduced the fees award by "one hundred percent."