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**1. Beer Maker is Reaching Up**

From *Wire & Staff Reports*

May 30, 2006

**With Martin Agency Ads, Miller Brewing Targets Mature 20-Somethings**

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|  | Miller Brewing Co.  Miller Brewing Co. |

Proclaiming Miller Genuine Draft as "Beer. Grown Up," Miller Brewing is repositioning the brand to attract sophisticated 20-somethings, a segment that is straying from domestic brews.

The campaign was created by The Martin Agency, Richmond's largest advertising firm.

From helping launch a fashion designer on the Sundance Channel to partnering with GQ magazine, Miller's second-largest premium brand is being targeted to drinkers who are in their mid- to late 20s. They often have grown out of the party scene, might be making more money and want the better things in life.

"We're talking to people who have evolved to a stage of life where they would rather sip a flavorful beer out of a Pilsener glass than chug a watered-down beer out of a plastic red cup, funnel, helmet or some other jerry-rigged apparatus," said Rob Schapiro, a writer and creative director at The Martin Agency who worked on the campaign.

With beer sales falling flat across the industry, brewers are diversifying their reach, especially those in the domestic-premium market.

Light beer now takes about 49 percent of the market and is considered the standard beer, according to the trade newsletter Beer Marketer's Insights. So domestic-premium brands such as Miller Genuine Draft, Budweiser and Coors Banquet are trying to grow their roughly 16 percent stake in a stagnant market, according to a study in a recent issue of the newsletter.

Coors Brewing Co. is also changing the way it talks to consumers about its premium beer, said spokeswoman Kabira Hatland. New ads will focus on how Coors Banquet differs from others in the category, highlighting its use of water from the Rocky Mountains, she said. The last ad campaign centered on men going out on the town.

"What we are finding in a category like domestic-premium beer is it's important to differentiate yourself from the other beers, so that when a consumer sits down at a bar he or she understands why he wants to order your beer," according to Hatland.

Domestic-premium sales have dropped 22 percent since 2000 and 7 percent from 2004 to last year, said Benj Steinman, publisher of Beer Marketer's Insights. Imports have a 12 percent share and craft beer is at 3.5 percent, so domestic premium is still larger than those. But it has been losing ground, he said.

The key this year will be whether light beer continues to grow or domestic brewers step up to regain lost drinkers, he said, though it is not clear how much success Miller will have with its new branding effort.

The mainstream-sophistication campaign of Miller, a unit of SAB Miller PLC, accompanies sponsored events with GQ magazine and a Sundance Channel show about British designer Ozwald Boateng's introduction to America.



**2. Two Cited for Selling to Minors**

*The Burlington Hawk Eye*

May 27, 2006

Employees at two local businesses were cited for selling tobacco to a 16–year–old working with Burlington Police officers Thursday.

Amber Mandrell, 25, of Walgreens on Agency Street and Haley Zart, 17, of Tom's Market and Meats on Division Street were cited for selling tobacco to minors.

Police visited 10 businesses during the tobacco sting. The following businesses did not sell to the teen: Big Shots, Burlington Shell, Hy–Vee on Angular Street, Kmart, Kum and Go on Agency Street, the Liquor Depot, the Sombrero and the South Side Inn.

The compliance check was made possible through funding by Iowa Alcoholic Beverages Division's Tobacco Enforcement Pledge Program.

**Police ticket drivers along U.S. 34**

Burlington police officers gave out 31 tickets between 7 a.m. and midnight Thursday for traffic violations along U.S. 34 as part of a traffic enforcement effort.

The goals of the day were to raise Iowa's seat belt usage rate from the 87 percent and also reduce impaired driving in order to prevent fatalities and injuries on Iowa roadways.

The officers gave out 24 seat belt tickets and five seat belt warnings, three speeding tickets and four speeding warnings, four other traffic citations, 10 other motor warnings, eight equipment violations and two no proof of insurance warnings.

Other local agencies monitored traffic along Iowa highways 2 and 92. Their statistics were unavailable Friday.



**3. Iowa Supreme Court Reverses Parks Decision**

By Russ Oechslin, Correspondent – *Sioux City Journal*

May 28, 2006

OKOBOJI, Iowa -- Okoboji city attorney Mike Chozen said the city and property owners adjacent to Okoboji Boats hope they can "find a mutually satisfactory solution to the use of the (Okoboji Boats) property," on Smith's Bay at West Lake Okoboji.

The Iowa Supreme Court Friday overturned a lower court ruling, issued by District Court Judge John Duffy in 2004, that allowed Okoboji Boats to operate a bar, a nonconforming use of the property, which is in a residential area.

In 15 days, Chozen advised, the Supreme Court will order Duffy to issue a permanent injunction against the sale on liquor by the drink on the premises.

The dispute centered on the historic use of the property as a marina, dating back to the 1890s. In 1972, the city enacted new zoning that made the area residential, but allowed continued operation of two marinas that eventually became one business.

That marina, known as Okoboji Boats, was purchased by Leo "Butch" Parks Jr. in 2001. After initially leasing the site to another business, Okoboji Barz Inc., a corporation controlled by Parks, leased the marina property and applied for an on-premises class C commercial liquor license that would allow the it to sell alcohol for consumption on the premises.

It was Parks' contention that the bar filled "the piece of the puzzle to make a modern day marina complete," much like Parks' Marina, the East Lake Okoboji marina operated by Parks.

In 2003 the city denied Parks' application for a class "C" liquor license, citing a zoning ordinance. But when Parks appealed to the state's Alcoholic Beverages Division, he was granted a license. The city then sought an injunction against the operation, and lost the case in Duffy's court. It then appealed to the Iowa Supreme Court.

In its decision Friday, the court cited the bar as "an unlawful expansion of a prior nonconforming use under the zoning ordinance and the special use permits granted by the board of adjustment."

The court said, "Parks proposal to use the premises as such is illegal. Accordingly, the district court should have granted the city's request for a permanent injunction.

"Therefore, we reverse the judgment of the district court ..."

**Reaction mixed**

Okoboji mayor Mary Vander Woude said she was elated. Vander Woude, who inherited the lawsuit with her victory over Jim Hentges in November, explained she was against the marina being used as a bar not only as a citizen, but also as someone living nearby on Smith's Bay.

"Nobody wants to live next to a bar," she said.

After conferring with Chozen, Vander Woude agreed the city should extend an olive branch at this point. "That's what I'd like to do. This is a neighborhood, after all. I'm not sure what Parks has on his mind -- what he wants to do with the property," she added.

The biggest job the mayor of Okoboji has, Vander Woude explained, involves zoning issues. Her election, she indicated, was based on that. "We have to find a way to utilize our green space, at least what we have left of it. We have to think of the lakes first," she said.

Neighbor Jim Caffrey said he's glad to "finally see the law defined. This shows that the business community, the city government and the residents need to work together."

Parks, who did not have a chance to confer with his attorneys Friday, said his primary concern involves his 200 employees who were working to ensure visitors enjoyed their Okoboji visit during the holiday weekend.

The marina operator said he'd have more information about his future plans once he talked with his attorneys, Phil Redenbaugh, Storm Lake, and retired Supreme Court Justice Mark Mc McCormick, Des Moines. Neither attorney was available for comment on Friday.

There probably won't be more legal action, said Chozen. "There's no appeal left here. The Supreme Court was the 'court of last resort.' There's no federal jurisdiction," he said.

While he expects off-premises sale of beer to continue through a convenience store at Okoboji Boats, Chozen noted the decision helps "protect the residential nature of the neighborhood."

Parks' father, Leo Parks Sr., was mayor of Okoboji from 1974 to 1994. The younger Parks bought Okoboji Boats from Robert Schneider, who was mayor from 1994 to 2006, including the time period Parks applied for a liquor permit and was declined by the city.

Schneider declined comment Friday.



**4. Lagging Beer Sales May Herald Price War**

Source: *Courier Journal*

May 28, 2006

In the beverage business, Memorial Day also means beer season.

Bear Stearns' Carlos Laboy expects a price war between Anheuser-Busch and SABMiller's Miller Brewing.

The Beer Institute's "surprisingly negative" April report showed domestic beer volumes down 2 percent.

"If industry volumes had been positive for April, the risk of A-B and Miller having to cut prices into Memorial Day would have been diminished," he says. "We suspect our expectations of 'a messy summer' are increasingly relevant."



**5. Online Extra: Inside the "Able Challenger" Strategy**

Source: *Business Week*

May 29, 2006

**CEO and president Norman Adami discusses how Miller reversed declines that dogged the beer business for 15 years**

In his three years at Miller, Norman Adami has managed to breathe life into a business that had been in decline for 15 years. Last year, Miller Lite grew 3.2%, following strong double-digit growth in 2004, according to figures from the publication Beer Marketer's Insights. More notably, he has helped ruffle the feathers of Anheuser-BuschBUD ), the industry leader. In 2005, Bud Light sales were flat, and the company posted its first profit decline in a decade.

But Miller's story goes beyond the numbers. The turnaround is really about how Adami has managed to make-over the mind-set at Miller. He has done so through what he calls the "able challenger" mentality, a strategy he developed in his first six months on the job.

In part, it's a strategy that takes aim at the industry leader, in this case, Anheuser -- which Miller has done most visibly through its marketing and advertising. But it's also about challenging conventions, challenging people, and challenging the status quo. BusinessWeek's Chicago correspondent Adrienne Carter sat down with Adami in his modest office in the company's Milwaukee headquarters to talk about how to create an environment that fosters that mentality.

What was your first impression of the culture at Miller?

One of the early lessons I learned is that one needs to be cautious about denigrating the past. Because if one is trying to lead change and bring people along it's not going to be helpful.

The short story is that the Miller culture at the time was not necessarily going to be appropriate for the challenges ahead. At the same time, we knew that trying to impose the SAB culture (South African Breweries PLC bought Miller from Philip Morris in 2002 for $5.6 billion to form SABMiller) was not going to be appropriate.

We've had to form a culture that's unique and appropriate to Miller's situation going forward. Miller's got a proud tradition and history of having overcome very difficult obstacles, and that was something we wanted to tap into. At the same time, there were aspects of SAB that we wanted to tap into and come up with something that's unique and relevant to Miller.

How do you change a culture and make sure it takes root at every level of the company?

Culture is quite a subtle thing. When one is trying to lead change it's very important that it's not limited to a few people. You have to engage the hearts and minds of everyone. People also have to believe that it's more than strictly business. People are not going to just want to do something to impress the shareholders. Yes, I think that's important. But it has to have some personal appeal. They've got to feel they're doing something that makes a difference.

So how did you make it personal for the folks at Miller?

There are many reasons why Miller's success matters. It matters to Milwaukee, to retain the heritage of Milwaukee. It matters to the beer industry that there is a strong alternative, that this isn't a monopoly industry. It matters broadly to the public out there that we maintain this famous, proud institution called Miller.

One of your first decisions at Miller was to build a pub in the Milwaukee headquarters. Why was that crucial?

We work for a brewing company. We need to be proud of what we stand for, of what we do as a company. We need to be knowledgeable about what it is that we do.

We need to have a more open, engaging, challenging culture, and that's what we're working toward. I think people must not be afraid to talk up. People must feel confident enough to engage in debate and that makes them feel part of what's going on. It's also about enabling change. People talk about the fact that people resist change. They don't resist change. They resist being changed. Change is a constant. It's not a variable. It's really about how you enable change to happen, and it's got to be an environment to enable change.

You're also a regular at the pub. What do you get out of your visits?

People think that leaders have all the answers. But quite frankly I think the wiser leaders are the ones that realize they have to learn. I've learned a lot since I've been in the U.S. and throughout my management career. The pub is one way to stay in touch with the realities of the business and a way to get the perspective of the people on issues. It helps connect the dots.

I think there is also a reciprocal benefit for the individual because people sometimes want to ask questions of the CEO. They want to have access. They want to be able to engage without making a formal appointment.

You talk a lot about "failing forward" -- enabling people to take risks without fear. How do you create an environment that supports risk taking?

I think the risk of staying still and doing nothing is often much worse that the risk of making an attempt to do something and maybe failing. One is not always going to know the odds. I'm much more heartened by the fact that they made an attempt to do something, took the initiative in an informed way -- not in a blind, naive way. You learn by your mistakes. And really it's by example of people taking risks and celebrating appropriate failing-forward, and encouraging people in that regard.

Have you failed forward?

If we think about the way we went about our DMA [distinct market area] planning process, we knew we were trying to move a lot faster than maybe would have been the case if someone took a lower risk strategy. We pushed it harder, knowing there might be some consequences. We didn't get everything right. I don't think that's something people have to feel uncomfortable about. It was a useful learning.

At every turn, it seems that Miller is going head to head with Anheuser-Busch. Why was taking on Anheuser a critical element of being an able challenger?

The able challenger strategy stemmed from two facts: One, Miller had been in decline for 15 years and two, we were a distant No. 2 player. We knew that for us to be successful we needed to do something different. We couldn't just continue on the same strategy of prudently managing the decline of Miller Brewing Co. We wanted to establish growth. And if we wanted to establish growth, we knew we had to take on the dominant industry leader. They were so big we couldn't avoid bumping into them. If we could have avoided them, that would have been great.

It started with Miller Lite and reminding consumers they had a choice. AB had done such a great job of marketing that effectively Bud Light had become the default choice for the consumers.

But being an able challenger is about more than just challenging the industry leader, correct?

It wasn't just about challenging dominances. We knew that if we wanted to turn this business around we had to challenge the conventional orthodoxy of this industry, in many of the dimensions of this business: the way we interact with distributors, the way we operate the brewery. It was about challenging the legend and the law of the industry that once brand is in decline it could never be revived. It was about challenging ourselves.

You've just completed the three-year "turnaround" phase of the company and now you're entering what you call the "step-up" phase, which involves not only maintaining growth in Miller Lite but also bringing life to the rest of your portfolio, like Miller Genuine Draft. At the same time, you've awoken a sleeping giant in Anheuser-Busch. So which phase is harder?

Business is tough. It doesn't matter which business you're in. You talk to Google (GOOG ). It's one of the most successful businesses in America, but they have their challenges. AB has its challenges. They're different, but they have their challenges. The small craft-brewers have their challenges. We have our challenges.

If we're talking about Miller, there is no doubt that the turnaround phase was a tough period, a lot of newness, a lot of change, a lot of alignment, building the team, building the mindset of the organization, ensuring that everyone is on the same page, and actually taking that first step into the water. There was a lot of fear from people, trepidation. So there was a lot of challenge that went into the first phase, there's no doubt.

The step-up phase is just as tough, or more so. The competitive environment is tough, and there are different challenges we face as we take things to the next level. I wouldn't say that one is more difficult than the other. Frankly, they're both challenging.



**6. Stadium Vendor Asks Court to Void DWI Crash Liability (New Jersey)**

By Ana M. Alaya, Staff Writer – *Star-Ledger*

May 31, 2006

Lawyers for the company that sells beer at Giants Stadium asked a state appeals court yesterday to throw out a jury's $135 million award to a child paralyzed in a drunken driving accident and to order a new trial.

Calling the landmark case a "train wreck," attorneys for Aramark Corp. said a litany of errors tainted the trial, and that the punitive damages included in the award are not allowed under New Jersey's alcohol liability statute.

The arguments came a year after a Bergen County jury found Aramark liable for serving beer to a drunken fan who later caused a car crash that left Cliffside Park resident Fazila Verni injured and her 2-year-old daughter, Antonia, paralyzed from the neck down.

The Vernis' attorney, David Mazie of Roseland, successfully argued that a "culture of intoxication" at the stadium led to the man being served even though he was visibly drunk.

Aramark's lawyers contend that argument was irrelevant and impermissible under state statute. "The jury was irrevocably tainted by evidence that was clearly inadmissible," Stephen A. Cozen said during yesterday's hearing in Trenton.

Nevertheless, Judge Mary Catherine Cuff asked Cozen about evidence of repeated violations of a two-beer-per-person sales limit at the stadium. And Judge Anthony Parrillo asked, "What about past service to intoxicated patrons?"

Cozen argued that the evidence should have focused on whether the individual fan was served while he was visibly intoxicated on the day of the accident.

"It was a thin case," Cozen said. "There was no evidence of service to a visibly intoxicated person."

Antonia's testimony about her life in a wheelchair brought jurors to tears during the trial in a Hackensack courtroom.

On Jan. 18, 2005, the jury awarded $60 million in compensatory damages to Antonia and her mother, splitting the liability 50-50 between Aramark and Daniel Lanzaro of Cresskill, the drunken driver. The following day the jury agreed to $75 million in punitive damages against Aramark, bringing the total against the corporation to $105 million.

It was the largest alcohol liability award in the country, according to legal experts. It was also the first reported alcohol liability case in New Jersey in which punitive damages were awarded, with statewide implications for the alcohol service industry.

Aramark's lawyers argue that because New Jersey's alcohol liability law is silent on punitive damages, such awards are not allowed. The Vernis claim they are allowed, and the trial judge agreed.

"It would be an affront to public policy to cut out punitive damages in a situation where someone intentionally serves someone who is visibly intoxicated and lets them get into a car and lets something like this happen," Mazie told the three-judge appellate panel yesterday.

During the four-week trial, Mazie presented evidence that Aramark vendors repeatedly violated rules against selling more than two beers to a single fan at a time. Lanzaro was called to the witness stand and testified he drank the equivalent of 16 twelve-ounce beers on Oct. 24. 1999, most of them at the stadium, and was slurring his speech when he tipped a vendor at halftime to buy six beers at once.

After leaving Giants Stadium, Lanzaro crashed into the Vernis' car as they returned home from a pumpkin-picking trip. Lanzaro's blood-alcohol level was measured at 0.266 percent, more than 2 1/2 times what was then the legal limit of 0.1 percent. He is serving a five-year prison term.

As part of its appeal, Aramark also argued that the trial judge erred by dismissing claims of liability against the Giants, the National Football League and the New Jersey Sports and Exposition Authority, which had settled with the Vernis for about $700,000. Aramark argued that the jury should have been able to consider whether those defendants were partly responsible for the accident.

Aramark's attorneys also argued that the jury should have considered the potential liability of other parties: Antonia Verni's father, who did not put Antonia in a child car seat before the accident; a friend of Lanzaro who drank with him before the game and was in the car with him at the time of the crash; and a local strip club that the pair patronized shortly before the car crash.

<http://www.nj.com/news/ledger/jersey/index.ssf?/base/news-3/1149050538256250.xml&coll=1>



**7. Tickets Written After Alcohol Banned at Story County Beach**

*KCCI.com*

May 30, 2006

DES MOINES, Iowa -Drinking got so out of hand at one Iowa beach that officials had to shut it down.

Authorities said some Story County beachgoers at West Peterson Park were ticketed. Drinking at the beach got so out of hand, authorities said, conservation officers decided to ban alcohol.

Officers have issued 12 to 15 tickets for drinking so far this year. The fine is about $100.



**8. AMA Reacts to Lung Association Tobacco Report; Concerns that Flavored Cigarettes May Be Attractive to Young Adults**

Contact: Erin Woods of *American Medical Association*, 312-464-5926

May 31, 2006

CHICAGO, May 31 /U.S. Newswire/ -- The following is a statement by J. Edward Hill, M.D., American Medical Association President, on the recent American Lung Association report:

"The findings in the report released by the American Lung Association Alcohol-Flavored Cigarettes -- Continuing the Flavored Cigarette Trend are of grave concern to the American Medical Association. The AMA is extremely concerned that the tobacco industry is allowed to market alcohol-flavored cigarettes since these products could easily appeal to youth who are beginning to experiment with alcohol.

"Tobacco use is the single most preventable cause of disease, disability, and death in the U.S. The AMA is alarmed about tobacco products that mask their dangers to the health of teens and young adults. The AMA supports authorizing the Food and Drug Administration to regulate tobacco products, including their manufacture, sale, distribution, and marketing."

**EDITOR'S NOTE:**

The full American Lung Association Tobacco Policy Trend Alert Addendum: Alcohol-Flavored Cigarettes -- Continuing the Flavored Cigarette Trend can be viewed on the web at [http://slati.lungusa.org/alerts/Alcohol-Flavored-Addendum.pdf](http://releases.usnewswire.com/redir.asp?ReleaseID=66655&Link=http://slati.lungusa.org/alerts/Alcohol-Flavored-Addendum.pdf) .

[http://www.usnewswire.com/](http://releases.usnewswire.com/redir.asp?ReleaseID=66655&Link=http://www.usnewswire.com/)



**9. Beer Bust Nets Nine Underage Drinkers**

By Pete Graham, Editor – *Missouri Valley Times News*

May 31, 2006

It's that time of year, party time with illegal kegging going on. Harrison County Sheriff Terry E. Baxter said his department broke up a big beer party May 12 at the old missile base property on the Beebeetown road southeast of Missouri Valley.

He said Deputy Sheriff Dallas Clemens, assisted by the Iowa State Patrol and Missouri Valley Police, responded to the missile base on a report of suspicious activity and trespassing.

Baxter said that upon arrival, officers found a large beer party underway and several partygoers tried to flee the scene, but were subsequently identified. Adam Smith, 22, Omaha, was arrested on nine counts of contributing to the delinquency of minors and nine underage persons were charged with possession of alcohol while under the legal age.

"This is particularly vexing," Baxter said. "Here we just had Operation Prom and other anti-drinking programs at Missouri Valley High School, and we found a large number of Missouri Valley kids at this party. They just don't seem to get it."

Baxter said he hopes his proposed keg registration ordinance (see story elsewhere) would help control teenage parties and illegal use of alcohol, whether obtained by teenagers or brought in by adults.

<http://www.zwire.com/site/news.cfm?BRD=326&dept_id=449012&newsid=16716635&PAG=461&rfi=9>



**10. Is Keg Registration in Harrison County’s Future?**

By Pete Graham, Editor – *Missouri Valley Times News*

May 31, 2006

If Harrison County Sheriff Terry E. Baxter has his way, those ubiquitous kegs of beer that become the hubs of illegal youthful drinking parties will become easier to trace.

Baxter has asked the Harrison County Board of Supervisors to enact a county ordinance requiring all kegs sold in the county to be numbered and registered with the county.

The supervisors will hold a public hearing and first reading on the proposed Keg Registration Ordinance, Thursday, May 25, at 10 a.m. in the boardroom on the second floor, of the Courthouse, Logan. Waiving the second and third readings will be considered at that time.

Copies of said ordinance are available for public inspection at the Harrison County Auditor's office.

Oral comments will be heard at the time of the hearing, or written comments may be addressed to Harrison County Board of Supervisors, 111 N Second Ave., Logan, IA 51546 prior to the hearing.

Anyone with questions should call Susan Bonham, Harrison County Auditor at 712-644-2401.

Baxter's ordinance pertains to any container of alcoholic beverage of two gallons or more in volume intended for retail sale and off-site consumption. The ordinance calls for labeling of the containers with a registration sticker that would be issued to the seller by the Auditor's Office, containing a registration number and warnings about illegal use.

Registration would include the seller's registration number, the purchaser's name, address and identification number and return information for each keg. The registration labels would be obtained form the Auditor's Office and would be consecutively numbered and issued only to licensed alcoholic beverage retailers. The Auditor would be required to maintain a record of each seller to whom a label was issued.

Retailers would be required to affix the label and maintain a record of the purchaser. The purchaser would be required to present a photographic identification with name, address and individual ID number to the seller prior to purchase or transfer of the container (keg). This information would be verified by the seller and the return date is to be included.

The purchaser would be required to return the empty keg to the seller by the date affixed and it would be illegal to tamper with or deface the label. The seller would make a record of who returned the keg and when, and attest to the condition of the label when returned.

The ordinance would call for the retailer to remove the label upon return of the keg and keep it, along with the registration log, for a period of 12 months.

Baxter said the seller would have to maintain the record and make it available to any law enforcement officer for investigation. It would also be used in criminal or civil proceedings that might arise.

The ordinance goes beyond wishful thinking. If enacted, it will become illegal for anyone to possess a keg purchased or sold in a retail sales transaction in Harrison County with out an intact, legible and undamaged label attached. It would also be illegal for anyone to alter, damage, destroy or remove a keg label.

Violation of the ordinance would be a simple misdemeanor, punishable by a fine of at least $50 and no more than $500, and by up to 30 days in jail.

**HOPING FOR OUTSIDE COOPERATION**

Baxter said Tuesday that he is hoping for cooperation of law enforcement and retailers in areas outside of Harrison County, particularly in Nebraska. "There's not much we can do if they buy the keg over there and bring it in - unless we can convince those retailers to help us, which we're in the process of trying to do." He also said that Pottawattamie County is working on a keg ordinance of its own and he sees such laws spreading as the problem of youthful beer parties continues to grow.

"We're also hoping we can get an ordinance here that would mandate that if you buy a keg outside the county, you must bring it in and register it here before you use it," Baxter said.

"We're just wanting to get a hold of some of these beer parties and stop them before someone gets hurt or killed," the sheriff said.



**11. High Court Will Review Tobacco Case From Oregon**

By Ashbel S. Green – *The Oregonian*

May 31, 2006

**Damages - Justices will examine a Portland jury's $79.5 million punitive award in a janitor's cancer death**

The U.S. Supreme Court agreed Tuesday to review a Portland jury's $79.5 million punitive damages award against tobacco giant Philip Morris.

Although many observers expect the court to reduce the verdict, a complicated ideological split and the arrival of two new justices in the past year make predictions difficult.

"It's a little hard to count the noses right now," said Carl W. Tobias, a University of Richmond School of Law professor.

Still, Philip Morris officials and business groups cheered the Supreme Court's decision to scrutinize the largest standing verdict against a cigarette maker.

"Philip Morris USA looks forward to an opportunity to explain to the court why the punitive damages award in this case should be vacated or drastically reduced," William S. Ohlemeyer, vice president and associate general counsel, said in a prepared statement.

A Multnomah County jury in 1999 ordered Philip Morris to pay $821,486 in compensatory damages and $79.5 million in punitive damages to the family of Jesse Williams, a former Portland janitor who died of cancer. Philip Morris appealed the verdict, first through the Oregon appellate system and finally to the U.S. Supreme Court.

The nation's highest court in 2003 ordered Oregon to re-evaluate the verdict, which most observers took as a strong hint to reduce it.

The Oregon courts reviewed the case again -- and decided that Philip Morris' deception about the dangers of smoking was so "reprehensible" that the $79.5 million award was warranted.

This time around, many observers expect the U.S. Supreme Court to chop the verdict, as it has done to other punitive damage awards in the past decade. But some factors weigh against an easy bet.

The ideological split on the Supreme Court over punitive damages awards is unconventional. A moderate majority has held that the U.S. Constitution requires judges to review punitive damages for excessiveness, while the most conservative and liberal justices oppose limiting awards on constitutional grounds.

Two members of the most recent 6-3 majority on the issue have left the court, and two new conservative justices -- John Roberts and Samuel Alito -- have yet to rule on a punitive damages case. If they align with the previous minority -- conservatives Antonin Scalia and Clarence Thomas, and liberal Ruth Bader Ginsburg -- the court could dramatically change its stance on punitive awards and uphold the Oregon verdict.

One of the key issues in the case is the ratio of punitive damages to compensatory damages. The Supreme Court said in a 2003 case from Utah that the ratio should generally be no greater than 9-to-1. The ratio in the Williams case is 97-to-1.

But the high court also has said judges should take into account the reprehensibility of the defendant's conduct. For example, a key 1996 Supreme Court ruling on punitive damages involved the relatively minor issue of a paint job that covered up acid rain damage to a BMW. By contrast, a Multnomah County jury determined that Philip Morris' conduct was partially responsible for Williams' death.

In upholding the $79.5 million award in February, Oregon Supreme Court Justice Michael Gillette wrote for the unanimous court that "Philip Morris's conduct here was extraordinarily reprehensible, by any measure of which we are aware. It put a significant number of victims at profound risk for an extended period of time. The State of Oregon treats such conduct as grounds for a severe criminal sanction, but even that did not dissuade Philip Morris from pursuing its scheme."

Anti-tobacco groups intend to argue that the Williams case warrants such a large award.

"The behavior by Philip Morris, particularly when it has resulted in death, in many ways is much more comparable to criminal behavior than merely a dispute over contractual matters," said Edward Sweda, senior attorney for the Tobacco Products Liability Project at Northeastern University School of Law in Boston.

The court won't hear oral arguments in the Williams case until its next term, which begins in October. A decision is expected either late this year or early next year.

<http://www.oregonlive.com/news/oregonian/index.ssf?/base/news/1149044119123580.xml&coll=7&thispage=2>



**12. Glazer’s Distributors Appointed Distributor Partner for Ste Michelle Wine Estates in Indiana and Iowa**

Source: *Glazer's*

May 31, 2006

Dallas, TX- Glazer's Midwest Region President Keith Petrauskas and Tom Patinella, Midwest Region Vice President for Ste Michelle Wine Estates, announced today that Glazer's has been appointed as Ste Michelle's distributor for the state of Iowa. Petrauskas and Patinella also announced that Olinger Distributing Company has been appointed as Ste Michelle's distributor for the state of Indiana. Both appointments are effective June 1, 2006. Ste Michelle Wine Estates brands include Columbia Crest, Chateau Ste Michelle, Domaine Ste Michelle, Villa Mt. Eden, Conn Creek, Snoqualmie Winery, Red Diamond, Col Solare, and the recently acquired Antinori Italian Wine portfolio.

"We are extremely pleased that Ste Michelle Wine Estates has chosen Glazer's and Olinger as their distributor partner for its brands in Iowa and Indiana," said Keith Petrauskas. "We congratulate our Iowa and Indiana teams, as their reputation for brand building and customer service have been rewarded with these important appointments. We are confident that we will realize the tremendous upside of the Ste Michelle Wine Estates portfolio."

Tom Patinella complimented Glazer's and Olinger's management team, saying "We believe that Ste Michelle Wine Estates can forge a mutually beneficial strategic alignment with the Glazer's and Olinger teams, and we look forward to maximizing our business in the Iowa and Indiana markets."

Indiana's Olinger Distributing Company is a partnership between Glazer's and M & D Investments. For more information, please visit our web site at <www.olingerindiana.com>.

Glazer's, currently operating in 12 states, is one of the nation's largest wholesale distributors of wine, spirits, and malt beverage products. The third-generation family business was founded in Dallas in 1933. For more information, please visit our Web site at <www.glazers.com>.



# 13. Neighborhood Liquor Stores Raise Risk for Violence

*HealthDay News*

May 31, 2006

While fights that break out in bars are well-documented, alcohol bought in a neighborhood liquor store is more likely to lead to violence, new research shows.

The study, conducted by the Pacific Institute for Research and Evaluation (PIRE), concluded that stores selling alcohol amplify violent incidents in all communities, while bars have an effect primarily on neighborhoods already prone to violence.

PIRE used data from 1,637 California zip codes as the basis for the study, which was done for the U.S. government's National Institute of Alcohol Abuse and Alcoholism.

Researchers analyzed hospital discharges for adults 15 and older and data gathered from the U.S. Census concerning education, ethnicity, race, and poverty. They found that stores that sell alcohol are more numerous in poorer areas.

On the other hand, bars affected the violence rate in communities already prone to such behavior; these neighborhoods were characterized by a lack of stability, wealth and "organization," the researchers said.

"The regulation of alcohol outlets in violence-prone areas clearly is an important step to reducing crime," study author Paul Gruenewald, science director at Pacific Institute for Research and Evaluation (PIRE), said in a prepared statement.

"In areas where bars are a particular problem, special effort should be made to reduce the potential for violence in these establishments," said Gruenewald.

The study appears in the May issue of Addiction.

<http://www.forbes.com/forbeslife/health/feeds/hscout/2006/05/31/hscout532847.html>

