



## AT THE BAR WITH BOWDITCH

A Legal Blog for the Craft Brewing Community

### When Beer Giants Collide: Pabst Versus MillerCoors

BY AIVI NGUYEN • MAY 23, 2016

In case you missed it, Pabst sued MillerCoors in a Milwaukee circuit court in March. Of course you missed it – no one knew about the lawsuit because it was only made public recently. What you also may not have known is that MillerCoors brews Pabst beers, currently making around 45 Pabst products at 7 MillerCoors plants, pursuant to a contract entered into in 2007. These types of contract brewing arrangements [are rather common in the industry for brewers of all sizes](#).

The contract provides that MillerCoors will brew Pabst products through 2020. However, the contract mandates that the parties would start negotiating in 2015 over whether they would extend the contract for an additional 5 years, providing Pabst with ample time to find alternative brewing arrangements if the contract was not extended.

As it turns out, MillerCoors opted not to extend the contract. This decision came on the heels of MillerCoors' announcement that it was closing its brewing facility in Eden, North Carolina in September 2016. The Eden brewery is the main MillerCoors facility for brewing Pabst products.

In the lawsuit, Pabst claims that MillerCoors' decision not to extend the contract is an attempt to sabotage Pabst's business and an act of bad faith. Pabst alleges that MillerCoors would only move forward with an extension if Pabst paid an exorbitant fee after 2020.

MillerCoors denies these allegations and maintains that it acted in good faith throughout the negotiations. MillerCoors says that its production is down 15% since 2008 and that it has no obligation to keep breweries open just to benefit Pabst, especially since the contract is not profitable for MillerCoors.

Pabst claims that when MillerCoors announced that it was closing the Eden facility, Pabst offered to buy or lease the plant. MillerCoors responded by calling the proposals "commercially unreasonable at best" and that "Pabst hinted at (but never formally proposed) paying \$100 million over an indeterminate number of years for a facility worth many multiples of that amount – and then only subject to a procurement requirement extending through 2030."

Pabst is claiming \$400 million in damages.

MillerCoors has asked the judge to suspend the lawsuit and have the parties try to mediate. Should the dispute go to trial, its resolution may help to illuminate the obligations that parties to a contract brewing arrangement owe each other, adding clarity to a type of business relationship that is increasingly commonplace for not only macro beer producers, but also small artisan brewers hoping to expand or jump-start production.