

2008 Million-Dollar Verdicts & Settlements



#8

Business seeks refund for 1997 deduction

Beverage group says steps it took in
lease termination were legitimate

This case, filed in United States District Court, Western District of Michigan, was for an income tax refund. It was based upon plaintiff ABC Beverage Corp.'s claim to a lease-termination expense deduction in excess of \$6 million arising out of its purchase of a bottling facility. ABC had previously won summary judgment against the government on the issue of the legitimacy of the deduction.

The issue at trial was whether the deduction was appropriately taken in 1997, even though the purchase did not close until 1999. ABC presented evidence that all of the events necessary to consummate the transaction had occurred by 1997, and that the transaction had essentially been performed that year. ABC relied upon expert witnesses and individuals involved in the transaction.

The defense presented documentary evidence relating to the transaction to show that the lease wasn't paid until 1999. The jury, however, was convinced that ABC did enough to entitle it to take the deduction from the earlier year, even though the amount to buy out the lease wasn't presented until 1999.

A verdict for ABC entitled it to take the 1997 deduction. The refund amount was entered at \$2,003,798, and depending on interest, total judgment could reach \$4 million.

Type of action: Federal income tax refund suit

Type of injuries: Economic damages

Name of case: *ABC Beverage Corp. v. United States*

Court/Case no./Date: United States District Court, Western District of Michigan; 1:07-CV-051; Dec. 11, 2008

Tried before: Jury

Name of judge: Paul L. Maloney

Verdict amount: \$2,003,798 plus interest

Most helpful experts: Diane Kroll, PriceWaterhouseCoopers

Attorneys for plaintiff: Ronald G. DeWaard, Brion B. Doyle, Kaplin Jones

Attorney for defendant: U.S. Department of Justice

Key to winning: Common-sense presentation of complex theories to jury