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## **9<sup>th</sup> Circuit Ruling Upholds California Tied-House Laws That Prevent Pay-to-Play**

SACRAMENTO, CA – California Beer and Beverage Distributors (CBBB), the largest state-based trade association of beer distributors in the United States, issued the following statement regarding the Opinion issued on June 14, 2017, by a 10-1 majority of the *en banc* panel of the United States Court of Appeals for the Ninth Circuit, in *Retail Digital Network, LLC v. Ramona Prieto*, Appeal No. 13-56069.

CBBB welcomes the Ninth Circuit's *en banc* opinion in *Retail Digital Network*, which held that California Business and Professions Code Section 25503(h) is consistent with the First Amendment, as it "directly and materially advances the State's interest in maintaining a triple-tiered distribution scheme." More specifically, the Ninth Circuit concluded that "Section 25503(h) serves the important and narrowly tailored function of preventing manufacturers and wholesalers from exerting undue and undetectable influence over retailers." In so holding, the Ninth Circuit reiterated that "there is little question that California has a 'substantial' interest in exercising its twenty-first amendment powers and regulating the structure of the alcoholic beverage industry in California."

CBBB, in partnership with the California Craft Brewers Association, the Wine and Spirits Wholesalers of California and each of their corresponding national associations, advocated for the preservation of Section 25503(h), which restricts alcohol manufacturers and wholesalers from paying money or furnishing anything of value in exchange for the privilege of advertising in California retail locations. Over thirty years ago, in *Actmedia, Inc. v. Stroh*, 830 F.2d 957 (9th Cir. 1986), the Ninth Circuit rejected a First Amendment challenge to Section 25503(h). In *Retail Digital Network*, the plaintiff challenged the same law, arguing that the United States Supreme Court had subsequently changed the legal standard for evaluating restrictions on commercial speech. The Ninth Circuit, sitting *en banc*, properly concluded that the controlling test had not been modified and that *Actmedia* "correctly held that Section 25503(h) survives scrutiny."

CBBB President, Victoria Horton, said, "CBBB members remain committed to fulfilling their longstanding, statutorily-mandated role as the independent, locally present, regulated buffer between beer manufacturers and licensed retailers. The need for a strong and independent distribution tier that ensures market access for all beer brands and facilitates an orderly marketplace, has not waned in the slightest. The Ninth Circuit has reaffirmed those key principles."

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California Beer and Beverage Distributors (CBBB) is a nonprofit trade association representing California's beer distributors. CBBB is dedicated to: (1) sustaining and strengthening the triple-tier regulatory system governing the manufacture, sale and distribution of alcoholic beverages; (2) supporting an independent and competitive system of distribution; and (3) maintaining an orderly market for the sale of alcoholic beverages in California. Please visit [www.cbbd.com](http://www.cbbd.com).

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