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LITIGATION NOTE: Crowell & Moring Secures Win for Client Molson Coors' Hard Seltzer Launch

New York – April 10, 2020: In February 2019, Future Proof Brands LLC filed a trademark infringement lawsuit against Crowell & Moring client Molson Coors Beverage Co. and requested a preliminary injunction to bar it from selling or marketing its new Vizzy hard seltzer, citing a November 2018 trademark application for the name Brizzy. On March 25, 2020, U.S. District Judge James R. Nowlin denied Future Proof's motion.

The hard seltzer market is exploding and Molson Coors had made it a priority to launch Vizzy in March. The plaintiff, Future Proof, launched its Brizzy hard seltzer in September 2019 and claimed Molson Coors' Vizzy hard seltzer would be confused with Brizzy. With Vizzy's launch pending, Future Proof moved for a preliminary injunction to block Molson Coors from its launch. The Crowell & Moring team challenged the preliminary injunction and early discovery motion on the grounds that the Brizzy mark was weak, there was little evidence of actual or prospective confusion for consumers, and there was no irreparable harm.

The judge set both for a hearing and then allowed a full expedited briefing. On reading the briefs, however, Judge Nowlin canceled the hearing and denied both. In addition, the judge noted that Molson Coors came up with the name Vizzy for its hard seltzer product before Brizzy was launched, making it "incredibly unlikely" that it intended to capitalize on the Brizzy name. Vizzy is now launching nationwide.

Crowell & Moring represented Molson Coors in the matter. The team included partners [Mark Klapow](#), [Chris Cole](#), [Vince Galluzzo](#) and [Dave Ervin](#), and associate [Mara Lieber](#). The team was assisted by local counsel Pete Marketos and Brett S. Rosenthal of Reese Marketos LLP.

The case is *Future Proof Brands LLC v. Molson Coors Beverage Co. and MillerCoors*, No. 1:20-cv-00144, in the U.S. District Court for the Western District of Texas.

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