

Specialty Wine Retailers Association Supports Lawsuit to Allow Retailers to Ship Wine to Texas Consumers

April 3, 2006, SACRAMENTO, CA – The Specialty Wine Retailers Association (SWRA) supports a lawsuit filed today challenging the constitutionality of Texas' laws prohibiting adult consumers from purchasing and receiving wine directly from out-of-state retailers. (www.specialtywineretailers.org)

Filed in U.S. District Court for the Northern District of Texas, Fort Worth Division, by Kenneth W. Starr of Kirkland & Ellis in conjunction with Texas counsel, named defendant is Alan Steen, administrator of The Texas Alcoholic Beverage Commission. Plaintiffs for this case include Wine Country Gift Baskets.com, K&L Wine Merchants, Beverages & More, Inc., David L. Tapp, Ronald L. Parrish, and Jeffrey R. Davis.

"A great state has done a real wrong, by engaging in an archaic form of economic protectionism that plainly violates the constitutional rights of citizens. As the U.S. Supreme Court made clear in its recent *Granholm v Heald* decision, the Commerce Clause requires that out-of-state wine retailers be treated the same as in-state wine retailers," said James Shannon, partner of Kirkland & Ellis. "Rather than abide by the U.S. Constitution, however, Texas apparently has decided to favor the interests of its powerful liquor lobby, by seeking to prevent out-of-state wine retailers from delivering wines directly to Texas consumers. That unconstitutional decision also punishes Texas consumers, who are made to pay more for wine and have a lesser selection of it," he added.

In *Heald*, the U.S. Supreme Court ruled that "states may not enact laws that burden out-of-state producers or shippers simply to give a competitive advantage to in-state businesses." *Heald* applies to both wineries and retailers, but many states, including Texas, that enable direct-to-consumer shipments from wineries and in-state retailers do not extend the same privilege to out-of-state retailers. This lawsuit has been filed to correct this issue and allow Texas wine consumers the ability to purchase wines from out-of-state retailers and have them shipped straight to their homes or offices.

"It is the right of every wine consumer to have greater choice and access to wines across America, regardless of whether they're purchasing from a winery or retailer," said Lesley P. Berglund, President of the SWRA. "We support this lawsuit filed by Kirkland & Ellis that challenges Texas' unfair laws and look forward to helping consumers access the wines they prefer from retailers of their choice across the country." she added.

The Specialty Wine Retailers Association has been formed to encourage states to create a borderless national wine marketplace that offers consumers more choice, lower pricing and more convenience, and offers states increased tax revenues.

SWRA members include, but are not limited to, wine merchants, wine auction houses, wine e-tailers, catalogers, and wine clubs. Members operate in 30 states, including 1-800-flowers.com (Ambrosiawine.com), Beverages & More, Bonhams & Butterfields, K & L Wine Merchants, My Wines Direct, Rare Wine Company, Signature Wines, Vinesse, Vinfolio, Winebid.com, and Wine Country Gift Baskets, among others. The organization is in active membership discussions with hundreds of other wine retailers -- and even wineries -- across the country that are supportive of a national wine market.

Headquartered in Sacramento, California, SWRA is organizing as a 501(c)(6) not-for-profit trade association. The Association serves its members in various legislative and regulatory arenas and by litigating to improve the system for all constituencies.
(www.specialtywineretailers.org)

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