

Specialty Wine Retailers Association Applauds Agreement to Allow Out-of-State Retailers to Ship Wine Directly To Texas Consumers

May 23, 2006, SACRAMENTO, CA – United States District Judge John H. McBryde of the Northern District of Texas, Fort Worth Division, approved a preliminary injunction yesterday creating a level-playing field for in-state and out-of-state wine retailers. The Texas Attorney General's office and Kirkland & Ellis LLP, on behalf of wine retailer and Texas consumer plaintiffs, agreed to a preliminary injunction that prohibits Texas from enforcing its discriminatory ban on shipments from out-of-state wine retailers directly to Texas adult consumers. On April 3, the Specialty Wine Retailers Association (SWRA) announced its support for the lawsuit, filed by Kirkland & Ellis LLP, in conjunction with Texas counsel, challenging the constitutionality of Texas' laws prohibiting such shipments. (www.specialtywineretailers.org)

Under this preliminary injunction, out-of-state wine retailers selling directly to Texas adult consumers must use a state-approved common carrier permitted to do business in Texas. The next step is for the common carriers, such as FedEx and UPS, to receive such permits and incorporate retailer-to-consumer shipping procedures into their systems.

"The ruling is a milestone in our mission to remove archaic laws and create a borderless national marketplace that is consistent with *Granholm v. Heald*," said Lesley P. Berglund, president of SWRA. "It's a great day for Texas wine lovers, who can anticipate competitive pricing, more convenience, and greater choice," she added. The Specialty Wine Retailers Association has been formed to encourage states to create a borderless national wine marketplace that benefits consumers and increases state tax revenues. While 33 states allow licensed *wineries* to ship directly to their consumers, only 12 states, at most, allow *retailers* to do the same.

The named defendant was Alan Steen, administrator of The Texas Alcoholic Beverage Commission, and plaintiffs included Wine Country Gift Baskets.com, K&L Wine Merchants, Beverages & More, Inc., David L. Tapp, Ronald L. Parrish, and Jeffry R. Davis.

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, 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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