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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROBERT FREEMAN, et. al.,)	
)	
Plaintiffs)	Case no. 03cv03140 (KSH)
)	
vs.)	Judge Katharine S. Hayden
)	
JAMES E. McGREEVEY, Governor)	
of New Jersey, et. al.)	
)	
Defendants)	

**PLAINTIFFS' MOTION FOR JUDGMENT ON THE PLEADINGS
(DISPOSITIVE MOTION)**

Come now plaintiffs, by counsel, and move the Court pursuant to FED. R. CIV. P. 12(c) to grant judgment on the pleadings in favor of plaintiffs for the relief requested in the complaint.

In support of this motion, plaintiffs would show:

1) This case challenges the constitutionality of New Jersey laws that prohibit out-of-state wineries from selling and shipping wine directly to customers in New Jersey.

2) On May 16, 2005, the Supreme Court issued a decision in *Granholm v. Heald*, 125 S.Ct. 1885 (2005), in which it struck down similar laws in Michigan and New York as unconstitutional. The Court held that it was a violation of the Commerce Clause for a state to allow in-state wineries to sell wine directly to consumers but to prohibit out-of-state wineries from doing so. The Court said that the states' interests in protecting minors, raising revenue, and regulating distribution were inadequate to justify the prohibition.

3) New Jersey law allows its in-state wineries to sell directly to consumers but prohibits out-of-state wineries from doing so. This statutory scheme is unconstitutional on its face under *Granholm*. No matters outside the pleadings are needed to enter judgment in favor of plaintiffs in the present case.

WHEREFORE, as more fully elaborated in the accompanying memorandum of law, plaintiffs request that this Court issue judgment on the pleadings:

a) Granting plaintiffs' motion for judgment on the pleadings.

b) Declaring that New Jersey Statutes § 33:1-2(a) and New Jersey Administrative Code §§ 13:2-21.1, 13:2-21.6 and 13:2-23.12(a) violate the Commerce Clause as applied to wine, by prohibiting out-of-state wineries from selling and delivering their products directly to purchasers in New Jersey, while not similarly limiting in-state wineries.

c) Declaring that New Jersey Statutes § 33:1-2(a) and New Jersey Administrative Code § 13:2-21.2 violate the Commerce Clause as applied to wine, by prohibiting New Jersey residents from personally transporting wine into New Jersey that was bought out of state, while not similarly limiting the transportation of wine bought within the state.

d) Enjoining Defendants from enforcing said laws and regulations so as to prohibit out-of-state wineries from selling and delivering wine directly to adult New Jersey residents, or to prohibit commercial carriers and private persons from transporting wine into New Jersey from out-of-state wineries.

e) Awarding costs, disbursements and reasonable attorneys' fees to Plaintiffs, to be paid by Defendant, pursuant to 42 U.S.C. § 1988.

Dated: _____, 2005.

Respectfully submitted by
Attorneys for Plaintiffs:

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CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, 2005, I filed the foregoing with the Clerk of the Court through the Electronic Case Filing system that will send notice automatically to the attorney of record, and mailed a copy of the foregoing document by United States mail to the attorney of record for Defendants:

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