

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ALEXIS BAILLY VINEYARD, INC.,)
a Minnesota Corporation, and)
THE NEXT CHAPTER WINERY, LLC)
a Minnesota Limited Liability Company,)

Plaintiffs,)

v.)

JOHN HARRINGTON, in his official)
capacity as Commissioner of the)
Minnesota Department of Public Safety,)

Defendant.)

CIVIL FILE NO. 0:17-CV-00913
(WMW/HB)

PLAINTIFFS’ RENEWED MOTION FOR SUMMARY JUDGMENT

COME NOW ALEXIS BAILLY VINEYARD, INC. and THE NEXT CHAPTER WINERY, LLC., Plaintiffs, and ask that this Court enter summary judgment in their favor and against Defendant, JOHN HARRINGTON, in his official capacity as Commissioner of the Minnesota Department of Public Safety.

Because the challenged statute is unconstitutional, as summarized below, Plaintiffs ask that this Motion be granted:

1. Plaintiffs are Minnesota wineries and holders of farm winery licenses issued pursuant to Minnesota’s Farm Winery Act, Minn. Stat. §§ 340A.101 subd. 11; -.315 subd. 4, who make and sell wine; sometimes with a majority of ingredients grown or produced outside of Minnesota. *See* ECF 21 at

2-8 (and, as noted with particularity in ECF 21, declarations in support, ECF 22-24).

2. The Act, as administered by Defendant, defines “farm winery” as “a winery operated by the owner of a Minnesota farm and producing table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota.” Minn. Stat. § 340A.101 subd. 11; *see* ECF 21 at 6-8. This means licensed farm wineries must produce a majority of their wine from ingredients grown or produced in Minnesota. There is also a related provision which allows for a temporary waiver in the case of bad weather. Minn. Stat. § 340A.315 subd. 4; *see* ECF 21 at 8-9. Plaintiffs refer to these provisions of the Farm Winery Act as the “In-State Mandate.”

3. The In-State Mandate is discriminatory under the dormant Interstate Commerce Clause and the dormant Foreign Commerce Clause of the United States Constitution. U.S. Const., art. I, § 8, cl. 3. It is discriminatory on its face, in purpose, and in effect. ECF 21 at 12-27; ECF 31 at 15-18.

4. Because the In-State Mandate is discriminatory, it is reviewed under strict scrutiny, which makes it virtually *per se* unconstitutional. ECF 21 at 22-24.

5. Defendant cannot overcome strict scrutiny review. ECF 21 at 22-24; ECF 31 at 15-18; ECF 41 at 18:20-19:18 (Defendant conceding that he has not

offered any evidence to survive strict scrutiny). The In-State Mandate is therefore unconstitutional.

6. In light of the foregoing, this Court should grant summary judgment in Plaintiffs' favor, declare the In-State Mandate unconstitutional under the dormant Interstate Commerce Clause and the dormant Foreign Commerce Clause of the United States Constitution, and enjoin its enforcement.

7. In support of this Motion, Plaintiffs rely on their initial briefing with record exhibits, (ECF 21-24, 31), the district court argument transcript (ECF 41), and their Supplemental Brief attached hereto.

Dated: September 27, 2019

Respectfully submitted,

/s/ Anthony B. Sanders
Anthony B. Sanders (MN Bar No. 0387307)
Jaimie N. Cavanaugh (MN Bar No.
0399960)*
Lee U. McGrath (MN Bar No. 0341502)
INSTITUTE FOR JUSTICE
520 Nicollet Mall, Suite 550
Minneapolis, MN 55402
Tel: (612) 435-3451
Fax: (612) 435-5875
Email: asanders@ij.org, jcavanaugh@ij.org,
lmcgrath@ij.org

* Petition for admission pending