

Law

Vintners get their way: High court sides with SLO winery

Tony Biasotti
Staff Writer

05-20-05

Terry Speizer might be the wine world's favorite vintner right now.

It's not for his wine, though the chardonnays and pinot noirs at his winery, Domaine Alfred in San Luis Obispo, have both won 90-plus ratings from Wine Spectator.

Speizer is a hero to his fellow winemakers, and to wine drinkers across the country, because he helped lead the fight to allow consumers to order wines directly from out-of-state wineries. On May 16, the U.S. Supreme Court came down on his side, with a 5-4 ruling that struck down laws in Michigan and New York that banned direct-to-consumer shipments from out of state.

Small wineries like Domaine Alfred often bypass the wholesale-retail distribution chain, so direct shipment is the only way for many wine drinkers to get their products. Speizer got involved when he tried to ship a case of wine to a wine critic in Michigan. The winery and the critic sued to overturn the law, and in doing so, they took on the state of Michigan and its powerful beer and wine distributors.

"We're a small winery, and I didn't think our odds were real good," Speizer said. "I had no concept that it would ever go to the Supreme Court."

A local take

Vintners and lawyers who specialize in the wine trade say the decision is a victory for both winemakers and consumers. It is especially important to the small, boutique wineries in the tri-county region, because they are less likely than large wineries to use wholesale distributors.

"This will make it much easier for people to get those really small wines. ... It's just a huge opportunity," said Jerry Lohr, the owner and president of J. Lohr Vineyards and Wines, a San Jose-based winery with vineyards near Paso Robles. His winery sells through licensed distributors.

"It's a great decision for a lot of the local wineries, and for people who love wine," said Eric Berg, an attorney with Santa Barbara-based Hatch & Parent

BOOK OF LISTS
The complete
county business
reference guide



Community Part
GoVentura
SB Downtow
SLO Chambe
VCEDA
Small Busine:
Administratio
Gold Coast Broad
SLO Economic V
Corp.
UCSB Econon
Forecast
IntroNetwork
PropertyNet.n
KCBX.org

Chambers:
Thousand
Oaks/Westlat
Camarillo
Oxnard
Paso Robles
Simi Valley
Lompoc
Santa Barbar
Santa Maria
Solvang
Ventura
Goleta

and the leader of the firm's wine industry group. "It's a decision in support of free commerce. It's the beginning of the end of any other state regulations that try to mirror what went on in New York and Michigan."

However, Berg said it's too early to tell exactly what effect the Supreme Court's decision will have. The laws in Michigan and New York were struck down because they discriminated against out-of-state wineries; states could decide to keep their direct-shipment bans in place, by applying them evenly to in-state and out-of-state wineries.

According to the Wine Institute, a lobbying group for California wineries, 24 states have some restrictions on direct wine shipments from other states. California allows direct shipments from wineries in other states, as long as they allow direct shipments from California wineries.

Victor Gallegos, the general manager of Sea Smoke Cellars in Lompoc, said he expects states like Michigan, with virtually nonexistent wine industries, to ban direct shipment of all wine. New York and other states are more likely to drop their bans. Texas dropped its direct-shipping ban on May 9.

If other states follow suit, Gallegos thinks Sea Smoke can sell half of its wine through direct shipments to consumers. The winery now sells 37 percent of its wine that way.

"Every week I get probably five or 10 e-mails on this issue," he said. "These are people that aren't really in tune with their state's laws, and once they find out, they're really upset."

Direct shipments are crucial for a small winery like Sea Smoke. "The more people who can get our wines, who don't have the opportunity to get them in the local market, the better," Gallegos said.

Gallegos said he won't start shipping to states with direct-shipment bans until they reconcile their laws with the Supreme Court decision.

The ruling

The court ruled that preferential treatment for in-state wineries violates the Constitution's commerce clause, which guarantees free trade between the states. "States may not enact laws that burden out-of-state producers or shippers simply to give a competitive advantage to in-state businesses," Justice Anthony Kennedy wrote in the majority opinion.

Michigan and New York argued that alcoholic beverages are different, and four justices, led by Clarence Thomas, agreed. The 21st Amendment, which repealed Prohibition, gives the states the right to regulate beverages.

The majority ruled that while the 21st Amendment allows states to ban wine altogether, they cannot impose extra restrictions on wine from other states.

"[The 21st Amendment] does not supersede other provisions of the Constitution and, in particular, does not displace the rule that states may not give a discriminatory preference to their own producers," Kennedy wrote.

Atascadero
Ojai
Arroyo Grande
Moorpark
Santa Barbara Hills

Enter stock tickers
to get a quote!

[Download Book of Lists](#) | [Reprints](#) | [Sales Lead Center](#) | [Editorial Calendar](#) | [Executive Recruitment](#) | [Letters to](#)

[Home](#) | [About Us](#) | [Subscriptions](#) | [Advertising](#) | [Where to Find Us](#) | [Search](#)

Website Design and Hosting By [ProSolutions.tv](#) | If you experience any problems with this website please contact qualitycontrol@prosolut