

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

KAMBIS ANVAR, VINCENT COLAPIETRO, and :
MICHELLE DRUM :
Plaintiffs :

v. :

C.A. NO.: 1:19-cv-00523

ELIZABETH M. TANNER, Director of Department of :
Business Regulation, and PETER F. NERONHA, :
Attorney General of Rhode Island, :
Defendants :

DEFENDANTS’ STATEMENT OF THE CASE

Now come Defendants Elizabeth M. Tanner, in her official capacity as Director of the Rhode Island Department of Business Regulation (“DBR”) and Peter F. Neronha, in his official capacity as Rhode Island Attorney General (collectively “Defendants” or “the State”) and hereby submit this written statement in accord with this Honorable Court’s Notice of Telephonic Rule 16(b) Scheduling Conference. *See* ECF 16.

Facts

Plaintiffs, Kambis Anvar, Vincent Colapietro, and Michelle Drum, are alleged Rhode Island residents and wine consumers who are raising a constitutional challenge to certain Rhode Island liquor statutes and regulations. *See* Plaintiffs’ Complaint, ECF 1, at ¶¶ Introduction, 3-6, 19. Specifically, Plaintiffs allege that these certain Rhode Island statutes and regulations violate the Commerce Clause of the U.S. Constitution, as they allegedly prohibit out-of-state wine retailers from directly shipping wine to the Plaintiffs but permit in-state wine retailers to ship directly to Plaintiffs. ECF 1 at ¶¶ 19-24. Plaintiffs seek a declaratory judgment declaring R.I. Gen. Laws §§ 3-4-8(a) and 230 R.I. Admin. Code §§ 30-10-1.4.19(B)(1) unconstitutional, in violation of the

Commerce Clause of the U.S. Constitution; a declaratory judgment that §§ 3-5-10, 3-5-11, 3-5-15, 3-5-17, 3-7-18 and 230 R.I. Admin. Code §§ 30-10-1.4.19(B)(1), 30-10-1.4-10(B), and 30-10-1.4.27 are unconstitutional as applied separately or collectively to prohibit out-of-state retailers from delivering wine directly to consumers in violation of the Commerce Clause of the U.S. Constitution; and an injunction that prohibits the State from enforcing those statutes and regulations.

Possible Legal Issues

Defendants anticipate the following legal issues, though this list is neither intended nor expected to be exhaustive: whether the Plaintiffs possess standing; whether the challenged statutes and regulations discriminate against out-of-state wine retailers; and whether the challenged statutes and regulations are constitutionally and/or congressionally authorized. Some discovery is anticipated; specifically, discovery directed at the named Plaintiffs and expert discovery. Defendants respectfully request that the standard scheduling order be set for this case.

Respectfully submitted,
Defendants,
ELIZABETH M. TANNER, in her official
capacity as Director of the Rhode Island
Department of Business regulation, and
PETER F. NERONHA, in his official
capacity as Rhode Island Attorney General.

By:

PETER F. NERONHA
ATTORNEY GENERAL

/s/ Andrea M. Shea
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CERTIFICATION

I hereby certify that I e-filed the within through the ECF filing on this 9th day of January, 2020 and that it is available for viewing and downloading.

/s/ Colleen Cole