

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEBAMOFF ENTERPRISES, ET AL.,

Plaintiffs,

v.

RICK SNYDER, ET AL.,

Defendants,

MICHIGAN WINE & BEER
WHOLESALE ASSOCIATION,

Intervening Defendant.

Case No. 17-10191

SENIOR U.S. DISTRICT JUDGE
ARTHUR J. TARNOW

U.S. MAGISTRATE JUDGE
STEPHANIE DAWKINS DAVIS

**ORDER GRANTING DEFENDANTS' MOTION [45] TO STAY THE COURT'S
INJUNCTION PENDING APPEAL**

The Michigan State Defendants ask this Court to stay its September 28, 2018 injunction pending appeal. The Court enjoined the State from enforcing M.C.L. 436.1203 to discriminate against out-of-state retailers of wine [Dkt. # 43]. This Court last enjoined Michigan from regulating wine in violation of the Commerce Clause on September 30, 2008. *Siesta Village Market, LLC v. Granholm*, 596 F.Supp.2d 1035. In that case, the parties stipulated to a stay of the injunction pending appeal. *Siesta Village Market, LLC v. Granholm*, Docket 2:06-cv-13041-DPH-MKM # 56. Here, there is no such stipulation, but the Supreme Court's

recent decision to grant certiorari in *Tennessee Wine and Retailer's Association v. Clayton Byrd*, 883 F.3d 608 (6th Cir. 2018), cert. granted, (U.S. Sep. 27, 2018) (No. 18-96), has created a great degree of uncertainty in the law governing the interplay of the Commerce Clause of the Twenty-first Amendment. Defendants' argument that the Michigan Liquor Control Commission cannot properly regulate wine shipments into the State without legislative action is well taken. The Court is aware that legislative efforts to bring Michigan into compliance with the injunction may need to be duplicated after the Supreme Court's ruling on *Byrd*, and that an environment of legal uncertainty is not ideal for well-reasoned lawmaking.

Accordingly,

IT IS ORDERED that Defendants' Motion for a Stay Pending Appeal [45] is **GRANTED**.

IT IS FURTHER ORDERED that the Court's September 28, 2018 Injunction will be **STAYED** until the Supreme Court rules on *Tennessee Wine and Retailer's Association v. Clayton Byrd*, 883 F.3d 608 (6th Cir. 2018), cert. granted, (U.S. Sep. 27, 2018) (No. 18-96).

SO ORDERED.

Dated: October 11, 2018

s/Arthur J. Tarnow
Arthur J. Tarnow
Senior United States District Judge