

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA
DEPARTMENT OF REVENUE,
et al.,

Appellants,

Case No.: SC15-1249
L.T. Case Nos.: 1D14-492, 1D13-5444
05-CA-1037

DIRECTV, INC., et al.,

Appellees.

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**THE NATIONAL ASSOCIATION OF WINE RETAILERS’
UNOPPOSED MOTION FOR LEAVE TO FILE AN
AMICUS CURIAE BRIEF IN SUPPORT OF APPELLEES**

Pursuant to Florida Rule of Appellate Procedure 9.370(d), the National Association of Wine Retailers (“NAWR”), moves for leave to file an amicus curiae brief in support of Appellees, as it believes it can offer the Court unique and helpful insight regarding the issues on appeal. In support, NAWR states as follows.

1. NAWR is a nonprofit trade association that represents the interests of specialty wine retailers and the consumers they serve across the United States. Its membership is broad, spanning classic brick and mortar wine merchants, Internet-based wine retailers, wine cataloguers, auction retailers, mass-market merchants, and wine lovers who support and patronize these respective types of retailers.

2. NAWR members do business in Florida and may be subject to

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taxation in Florida. The goal of NAWR is to ensure that channels of commerce remain open, and free from protectionist tax burdens, so that consumers can choose for themselves from among the available alternatives in the national market.

3. The issue before this Court is the constitutionality of a state statute that differentially taxes cable and satellite pay-TV customers based on whether the service they buy runs through cables in the ground or is beamed in from satellites in orbit. The answer to that question will extend far beyond the specific facts of this case into all areas where a new technology that does not use in-state infrastructure threatens and entrenched technology that does use in-state infrastructure.

4. NAWR members have been targeted by discriminatory tax and regulatory measures similar to the unequal pay-TV tax scheme at issue in this case. NAWR's members thus have a vested interest in the issues on appeal.

5. NAWR's proposed Amicus Brief, filed conditionally with this Motion, explains how this case could affect more than just the parties and their particular industry, and highlights how this case can have widespread impact on business entities and consumers in other industries. NAWR's Amicus Brief also offers additional legal authority from the wine and liquor context, which is instructive on the constitutional issues before the Court. In short, NAWR's proposed Amicus Brief does not repeat the arguments made by Appellees, but

rather provides a broader perspective of businesses and consumers on a national level regarding the important constitutional issues in this appeal.

6. Undersigned counsel has conferred with counsel for the parties in this case and is authorized to represent that all parties consent to the relief requested in this motion.

7. NAWR's Amicus Brief is filed conditionally with this Motion.

WHEREFORE, the National Association of Wine Retailers respectfully requests that it be granted leave to file its amicus brief, conditionally filed herewith, in support of Appellees in this matter.

Respectfully submitted,

/s/ Christine Davis Graves

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been electronically uploaded to the Florida Supreme Court’s eFiling portal and served via e-mail this 3d day of December 2015, to the following:

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