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**Syllabus and Course Schedule**

**278.8S Sec. 001 – Wine Law**

**Summer 2023, Quarter 2, 1 Unit**

**Instructor Information**

Instructor: John Trinidad

Email: john.trinidad@berkeley.edu

Phone: *707-261-7042*

Office Hours: By appointment. Please email to schedule.

**Course Information**

### Meetings: June 6-15

### Tuesdays / Thursdays 2:00pm – 5:15PM

**Welcome and Course Description**

Welcome to California – home of some of the world’s most acclaimed wine growing regions. California accounts for 81 percent of all wines produced in the United States and is the fourth largest wine producer in the world behind France, Italy, and Spain. The California wine industry has an annual impact of $57.6 billion on the state’s economy and $114 billion on the national economy. Wine is the number one finished agricultural product in the state. This course examines the major legal issues facing the wine industry in the areas of constitutional law, administrative law, and intellectual property. Specific topics include Prohibition and Twenty-first Amendment jurisprudence, federal and state alcohol beverage regulatory systems, wine labeling, and appellations of origin. There are no prerequisites.

### Textbook/Course Materials

### Required Reading: Richard Mendelson, ed., Wine in America: Law and Policy (Second Edition, Aspen Publishing 2023)

### Recommended Reading: Richard Mendelson, From Demon to Darling: A Legal History of Wine in America (UC Press 2009) *(electronic version available via Berkeley Law Library – ProQuest)*

### Other reading material will be posted to bCourses.

**bCourses**

Our class bCourse site is [TBD].

We will use the site to post assignments and course updates, as well as post wine industry news stories that may be of interest as part of discussion forums.

Class Meetings Format

This class will meet in person and attendance is required.

**Technology Help**

As a Berkeley Law student, you are entitled to general software support for your computer from the law school, and certain free software downloads from UC Berkeley, while enrolled. UC Berkeley does not provide hardware support. Information, links, and instructions for many common computer/technical questions can be found in the law library's online computing guide: <http://libguides.law.berkeley.edu/computing/home>.

For bCourses, Zoom, and technical support questions, please contact [studentcomputing@law.berkeley.edu](mailto:studentcomputing@law.berkeley.edu) or you can use the [Student Computing Chat](https://www.law.berkeley.edu/library/internal/techChat.php). In both cases, someone will respond to you during our regular business hours. You can also find information, links, and instructions for many common computer/technical questions in the [law library's online computing guide](http://libguides.law.berkeley.edu/computing/home).

If you have research-related questions, please contact the reference librarians by filling out the form here: <https://www.law.berkeley.edu/library/dynamic/students/researchRequest.php>. You can also reach reference librarians during business hours by using our chat service (<https://www.law.berkeley.edu/library/dynamic/internal/chat.php>).

## Learning Outcomes

## *Berkeley Law Learning Outcomes* are the competencies that students will develop by the conclusion of their legal education. Students in the course will be expected to achieve the following:

(a) Knowledge and understanding of substantive and procedural law;

(b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context;

(c) Exercise of proper professional and ethical responsibilities to clients and the legal system;

(d) Other professional skills needed for competent and ethical participation as a member of the legal profession; and

(e) Using the law to solve real-world problems and to create a more just society.

## *Course-Specific Learning Outcomes*

The ABA requires that the law school as a whole, as well as individual instructors, adopt learning outcomes for students. Upon completion of this course, students will be able to:

(1) Describe the both the substantive and procedural aspects of wine law and the federal and state regulatory framework governing the production, labeling, marketing, and sale of wine;

(2) Understand the legacy of Prohibition in the current wine regulatory framework;

(3) Track the evolution and the likely future of 21st Amendment jurisprudence; and

(4) Read and understand wine labels.

## Exam

There will be a two-hour, open-book, take-home exam consisting of one essay question and several multiple choice questions.

**Grading**

100% of your course grade will be based on the final exam. However, class participation will be factored in for students at grade borderlines.

**School-wide Policies**

* Student Services schedules all exams, including accommodated exams, as the law school is committed to anonymous grading. **Professors do not have the authority to reschedule exams.** Any student who seeks an accommodated or rescheduled exam for documented medical reasons, disability, or for religious observance, should contact [Student Services](https://www.law.berkeley.edu/students/student-services/), 510-643-2744, [kvalenti@berkeley.edu](mailto:kvalenti@berkeley.edu).
* The Academic Honor Code [[Academic Honor Code](https://www.law.berkeley.edu/academics/registrar/academic-rules/academic-honor-code/)] governs the conduct of all students during examinations and in all other academic and pre-professional activities at Berkeley Law. We expect students to adhere to this code scrupulously. If you have any question about whether your conduct may violate the code, please contact your professor before you act. You may face severe consequences, including a failing grade in this class or removal from the program, if you violate the code, even if similar conduct is not considered wrong in your home country.
* A common and serious form of misconduct and Honor Code violation is plagiarism. You must cite the sources of any words or ideas that are not your own. Cite all sources — hard copy, web-based, and others — in proper academic format.
* If you are in need of economic, food, or housing support, you can find basic needs information [here](https://basicneeds.berkeley.edu/) You may be eligible for money to buy groceries via [CalFresh](http://calfresh.berkeley.edu/) or our Food Assistance Program. If you need food immediately, please visit our [UC Berkeley Food Pantry](https://pantry.berkeley.edu/).
* The University of California is committed to creating and maintaining a community dedicated to the advancement, application and transmission of knowledge and creative endeavors through academic excellence, where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. Every member of the community should be aware that the University prohibits sexual violence and sexual harassment, retaliation, and other prohibited behavior (“Prohibited Conduct”) that violates law and/or University policy. The University will respond promptly and effectively to reports of Prohibited Conduct and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates this policy. For the complete UC Policy, definitions, compliance and procedures, please access the [Sexual Violence and Sexual Harassment Policy](https://policy.ucop.edu/doc/4000385/SVSH).
* Resources: If you have further questions or concerns about reporting behavior related to sexual harassment, sexual violence, and/or protected category discrimination, please contact the Office for the Prevention of Harassment and Discrimination (OPHD) by phone 510-643-7985 or email ask\_ophd@berkeley.edu.
* [Path to Care Center](http://sa.berkeley.edu/dean/confidential-care-advocate) Confidential Advocates provide affirming, empowering, and confidential support for those that have experienced gendered violence, including: sexual harassment, emotional abuse, dating and intimate partner violence, sexual assault, stalking, and sexual exploitation. Advocates bring a non-judgmental, caring approach to exploring all options, rights, and resources. They can be reached by phone at (510) 642-1988.

**Course Schedule**

**Class#1          Introduction to the Business of Wine; Prohibition and Repeal (1920-1933)**

(June 6, 2 – 5:15pm PT)

Required Reading

Richard Mendelson, Wine in America: Law and Policy, Chapter 1 (U.S. Wine Law: An Overview) and Chapter 4 (Business Models for Making Wine and Growing Grapes).

Recommended Reading

Richard Mendelson, From Demon to Darling: A Legal History of Wine in America, pp. 1-93; 187-190.

Mike Veseth, Wine Wars II: The Global Battle for the Soul of Wine, Chapter13 (How to Make a Small Fortune: Wine’s Economic Crisis) and Chapter 14 (The Elephant in the Room: Wine’s Identity Crisis), available via Berkeley Law Library – Proquest - <https://ebookcentral-proquest-com.libproxy.berkeley.edu/lib/berkeley-ebooks/detail.action?docID=7007517>

Relevant Learning Outcomes

* Understand basic structure of wine industry as well as how the primary actors (growers, producers, distributors, retailers) interact and historical underpinnings for regulation of alcohol in America.

**Class #2a          Administrative Law: Concurrent Regulation, State and Federal**

(June 8, 2 - 5:15pm PT)

Required Reading

Richard Mendelson, Wine in America: Law and Policy, Chapter 2 (Tied House and Trade Practices)

Recommended Reading

Richard Mendelson, From Demon to Darling: A Legal History of Wine in America, pp. 94-136.

Relevant Learning Outcomes

* Understand current regulatory structure governing the production and sale of wine at both state and federal level, as well as trade practice regulations governing how industry members interact.

**Class #2b          21st Amendment Jurisprudence & Direct to Consumer Shipping**

(June 8, 2:00pm - 5:10pm PT)

Required Reading

Richard Mendelson, Wine Law in America: Law and Policy, Chapter 5, The Commerce Clause and the 21st Amendment: An Evolving Constitutional Puzzle

*Granholm v. Heald*, 544 U.S. 460 (2005)

*Tennessee Wine & Spirits Retailers Association v. Thomas*, 139 S. Ct. 2449 (2019)

Recommended Reading

Richard Mendelson, *From Demon to Darling: A Legal History of Wine in America*, pp. 172-186.

*B-21 Wines, Inc. v. Bauer*, 36 F.4th 214 (4th Cir. 2022)

Relevant Learning Outcomes

* Understand how the interpretation of the 21st Amendment has changed over time, and the impact it has had on ability of wineries to ship wine in interstate commerce.

**Class #3          Appellations of Origin; Wine Labeling**

(June 13, 2:00pm - 5:10pm PT)

Required Reading

Richard Mendelson, Wine Law in America: Law and Policy, Chapter 3 (Labeling and Advertising) and Chapter 6 (Wine Brands and Appellations of Origin rom p. 212-246)

Recommended Reading

Richard Mendelson, Wine Law in America: Law and Policy, Chapter 6 (Wine Brands and Appellations of Origin rom p. 183-212)

Richard Mendelson, From Demon to Darling: A Legal History of Wine in America, pp. 137-158 (Chapter 4, Transforming Wine in American Culture, until the beginning of the section on Public Health).

Relevant Learning Outcomes

* Be able to distinguish between mandatory and optional information on wine labels and understand what information (such as appellation, varietal type, and vintage) indicates.

**Class #4            Internet & Social Media; Hot Topics in Wine Law**

(June 15, 2:00pm - 5:10pm PT)

Required Reading

Richard Mendelson, Wine Law in America: Law and Policy, Chapter 8 (The Impact of Climate Change on Wineries and Vineyards)

TTB Industry Circular 2022-2, Use of Social Media in the Advertising of Alcohol Beverages, <https://www.ttb.gov/industry-circulars/ttb-industry-circular-2022-2>

CA ABC Industry Advisory, Third Party Providers, 2011, <https://www.abc.ca.gov/third-party-providers/>

New York SLA, Declaratory Ruling, Determination on Legality of Internet Advertising Platform (2013), https://www.sla.ny.gov/system/files/2013-01006A\_-\_Internet\_Advertising\_Platform.pdf

Recommended Reading

Esther Mobley, *Did Winemaker Joe Wagner Misrepresent where his Oregon Pinot Noirs came from?* SF Chronicle (Sep. 23, 2018), available at <https://www.sfchronicle.com/news/article/Did-winemaker-Joe-Wagner-misrepresent-where-his-13245903.php>

Carol Ritter, 2020: The Year Testing Availability and Technology Failed Our Wine Industry Economy (September 15, 2020), available at <https://www.dpf-law.com/blogs/lex-vini/2020-the-year-testing-availability-and-technology-failed-our-wine-industry-economy/>