

Nos. 25-1703, 25-1705, 25-1754

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Wineries of the Old Mission Peninsula Association; Bowers Harbor Vineyard & Winery, Inc.; Brys Winery, LC; Chateau Grand Traverse, Ltd.; Chateau Operations, Ltd.; Grape Harbor, Inc.; Montague Development, LLC; OV the Farm LLC; Tabone Vineyards, LLC; Two Lads, LLC; Villa Mari, LLC; Winery at Black Star Farms LLC; Chateau Operations, Ltd.,

Plaintiffs – Appellees [25-1703/25-1705]/Cross-Appellants [25-1754],

v.

Township of Peninsula, MI,

Defendant – Appellant [25-1703]/Cross-Appellee [1754], and

Protect the Peninsula, Inc. (25-1705/25-1754),

Intervenor – Appellant [25-1705]/Cross-Appellee [25-1754].

Appeal from the United States District Court
for the Western District of Michigan
No. 1:20-cv-1008 (Hon. Paul L. Maloney)

**MOTION FOR LEAVE TO FILE BRIEF AMICI CURIAE OF
HOOPES FAMILY WINERY PARTNERS, LP; HOOPES
VINEYARD, LLC; AND LINDSAY BLAIR HOOPES IN SUPPORT
OF PLAINTIFFS-APPELLEES/CROSS APPELLANTS
AND AFFIRMANCE**

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Amici curiae Hoopes Family Winery Partners, LP, Hoopes Vineyard, LLC, and Lindsay Blair Hoopes (collectively, “Hoopes”) respectfully request leave of the Court to file the accompanying Brief Amicus Curiae in Support of Plaintiffs-Appellees/Cross Appellants and Affirmance. In support of their motion, amici state:

1. Rule 29(a)(3)(A): Interest of Hoopes

Hoopes Family Winery Partners, LP, owns a small winery located in Napa County, California, called Oasis by Hoopes, which is operated by Hoopes Vineyard, LLC, and second-generation proprietor Lindsay Blair Hoopes. Hoopes is similarly situated to the wineries in this case, having suffered under a nearly identical regime of unconstitutional restrictions in Napa County, to what the wineries suffered in Peninsula Township.¹

Hoopes Family Vineyard is more than just an award-winning winery—it’s a home for the next generation of wine innovators, a new hotbed of local biodiversity and regenerative agriculture, a safe haven for animals, and a hidden destination for Napa travelers seeking great wine.

¹ Many of the Peninsula Township ordinances were originally modeled after Napa County’s; Napa County was one of the first regions to regulate winery tourism, thus other communities looked to Napa County as a template.

Lindsay Hoopes took over management of the vineyard in 2012 following a family illness. Lindsay wanted to connect to consumers by inviting them to personally experience the winery by hosting wine tastings and other events on a newly-acquired property that had been hosting them for over 40 years. The new property would be known as “Oasis by Hoopes.” People travel to Napa specifically to try new wine. By adding tastings and other events to her business model, she could introduce Hoopes wine to a whole new audience. But Napa County’s patchwork of vague land use restrictions made compliance a Sisyphean task for Hoopes as they gave the historic winery a modern facelift and navigated Napa’s vague regulations. Every time one issue was resolved, the County always found something else. But Lindsay jumped through every hoop, obtaining multiple building permits, seeking and obtaining approval from every department in Napa County that the building possessed sufficient infrastructure for winery use. Lindsay complied with all requirements.

Like these Michigan wineries, Hoopes secured state authorization—a State Alcoholic Beverage Control (ABC) Type 02 License (“liquor license”), which entitled her to serve wine to customers

on the premises (host wine tastings). Napa told the ABC that this use was and is “allowed and approved” on the property and had been since 1987, when all required use permits had been originally approved through what Napa calls a “Small Winery Exemption” (SWE) which runs with the property.

But in February of 2020, the County sent Lindsay a Notice of Apparent Violation alleging that she was “exceeding the allowed uses of the approved Small Winery Exemption (approved in 1984 and amended in 1987) by allowing tours, tasting and marketing events without the benefit of a Winery Use Permit.”

This seemed like it must be a mistake, especially since the Hoopes Oasis wasn’t open yet, due to building permit delays and wildfires. Lindsay discovered that this “apparent notice of violation” was based on pictures from her website—clear commercial speech.

After a meeting with the code enforcement personnel, the matter seemed resolved, and Lindsay confirmed compliance with Napa’s codes. She was even told that if the County had wanted to escalate the situation, they would have issued an actual citation. Lindsay requested an

administrative hearing to clarify the alleged violation, but was denied this opportunity and told there was no process for one.

Then, in March of 2021 the ABC approved Lindsay's application to expand her licensed consumption area to include an outdoor deck and tastings within the garden, and confirmed in writing that this activity was not in conflict with local zoning ordinances.

Two months later, she received a Second Notice of Apparent Violation for "tours and tastings," even though Napa County had specifically told her (and the ABC) that Hoopes was allowed to host wine tastings on the property. Lindsay asked to discuss the matter. The County never responded.

Eight months later, she received a notice stating that she was operating without a Winery Use Permit, even though she had a use permit exemption dating back to 1987, which entitled the property to operate as a winery and host tastings and also had the required state license from the ABC.

In October 2022, after ignoring Hoopes' requests for explanation, the County sued Hoopes and requested that the judge immediately shut the business down. The enforcement action was based on Napa County's

vague and arbitrarily enforced land use restrictions that mirror those of Peninsula Township: “marketing” of wine and other commercial speech restrictions, non-wine related retail, local grape requirements, restrictions on the sale of other retail items, etc.

Following a three-year legal battle, the court upheld Napa County’s citations and ordered Hoopes to pay nearly \$4 million in fines. If enforced, this penalty will bankrupt Hoopes and destroy the family business. Napa County asked the court for immediate collection of the fines and told Hoopes that she should “welcome bankruptcy.” Fortunately, the appellate court has granted a temporary stay to stop the County from enforcing the monetary penalties.

Hoopes Vineyard, LLC also brought a lawsuit in federal court to challenge Napa County’s unconstitutional land use restrictions—just as the restrictions mirror those of Peninsula Township, the claims mirror those brought by Plaintiffs-Appellees/Cross Appellants in this case. When those claims were thrown out on abstention grounds, Hoopes filed a cross-complaint in the state court enforcement action, but unfortunately, no court has been willing to hear her constitutional claims.

2. Rule 29(a)(3)(B): Why Hoopes' Amicus Brief Is Desirable and Relevant

This amicus brief will provide valuable context to the broader policy implications of this case. Hoopes will provide its firsthand perspective of exactly how regulations identical to Peninsula Township's have been weaponized to destroy a small family winery—this is not a hypothetical, this is reality in Napa County. Napa County's aggressive enforcement of its vague and arbitrarily enforced regulations against Hoopes illustrates a “worst case scenario” of how Peninsula Township's regulations can be weaponized against small wineries and evade constitutional review. Napa County presents an alternate universe of what happens when courts do not fulfill their duty to uphold the Constitution and instead allow local governments to railroad small businesses.

The proposed amicus brief bears on the constitutional claims before this Court including the dormant Commerce Clause issues, commercial speech restrictions, and due process violations. Napa's similar restrictions damaged Hoopes even before the aggressive enforcement action in the Superior Court, and this never should have been allowed to happen. Drawing on its firsthand experience with Napa County's eerily similar land use restrictions, Hoopes is uniquely positioned to inform the

Court about the dangers of allowing such regulations to continue unchecked and to explain why significant damages must be imposed to deter local governments from weaponizing similar restrictions for destructive ends.

WHEREFORE, amici curiae respectfully pray that this Court will grant this motion and accept the proposed amicus curiae brief for filing and consideration.

DATED: April 24, 2026.

Respectfully submitted,

s/ Stephen S. Davis

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CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2026, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Stephen S. Davis

STEPHEN S. DAVIS