



A Pioneer of Legal Advice in Oregon's Wine Industry

BY WINE PRESS STAFF

The Oregon wine industry is booming. Pinot Noir sales are at an all-time high and new wineries and labels seem to pop up every day.

The latest count shows Oregon on track to have 400 wineries very soon. This growth has fueled demand not only for new vineyards, new winery facilities, equipment and barrels, but surprisingly also for help from a small group of Oregon lawyers with expertise in providing legal advice to a rapidly growing wine industry.

One attorney in particular, Chris Hermann, a partner at Stoel Rives LLP in Portland and chair of the firm's Winery and Vineyard Group, has seen a huge jump in recent years in requests for help from wineries and vineyard owners. Hermann has been a part of the Oregon wine scene for almost 20 years.

Because he has been combining his passion for wine with his work for the industry since the late 1980s, he is often the first person Oregon winemakers call when they run into a legal problem or for help in developing winery properties.

"He's discovered this niche," said John Paul of Cameron Winery. "He's really visible in the wine industry and he patronizes the wine industry, too."

Hermann first became aware of Oregon's promising wine industry while growing up in Corvallis.

"I remember hearing about family friend David Adelsheim and how he wanted to start a winery," Hermann said.

His parents, who are both German, were interested in wine. In the '60s and '70s, they visited early wineries like Hillcrest, Ponzi, Eyrie and Erath. The wine industry was still in its infancy when Hermann went away to college on the East Coast in 1971, with time spent studying in Germany and Switzerland. Hermann earned a law degree from the University of Oregon with an environmental and natural resources certificate in 1981. He then began practicing law in Colorado.

In 1987, he returned to Oregon and joined Stoel Rives. While he was away, the Oregon wine industry had taken off.

"Something enormous had happened," Hermann said. "The pioneer wineries had gotten something tremendous going and they were doing it in an Oregon way."

Hermann met John Paul from Cameron Winery and David Adelsheim while their three daughters attended the French-American School. Stoel Rives was already involved in representing wineries by this time and he jumped at the chance to work with them and the rapidly developing industry.

"There weren't really any attorneys who were working with winery problems back then," Paul said.

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Hermann saw the need to provide advice on specialty issues and to advise members of the growing wine industry as transactions grew more complex. In the early '90s, he guided Tualatin Vineyards to a successful merger with Willamette Valley Vineyards. Several years later the Stoel Rives wine law team represented Columbia Winery in its sale to Constellation.

Hermann and the members of the Stoel Rives Wine Law Group have worked for dozens of wineries in Oregon, Washington and California. The firm's winery practice extends from assisting industry pioneers such as Eyrie and Adelsheim to small Oregon start-ups such as Twelve, Barbara Thomas and Black Cap, to working with industry giants such as Gallo.

Hermann, who is Austria's honorary consul to Oregon, also has worked with foreign companies that have winemaking activities in Oregon such as Maison Joseph Drouhin (Domaine Drouhin Oregon) and Weingut Dr. Loosen (Loosen Bros. USA). The latter is a German winery that, at Hermann's suggestion, entered into a joint venture with Northwest winery giant Chateau St. Michelle to produce international class Riesling in Washington under the Eroica label.

Hermann says that in his practice the most striking development has been the advent of "virtual wineries."

During the 1980s and early 1990s newcomers to the industry were most likely to buy or lease land to develop their own winery properties. Then in the late 1990s a major shift occurred. Some wineries began making wine for people who did not own their own vineyard or winery and instead paid a per case fee to have grapes they grew or purchased turned into wine at someone else's facility. This became known as a custom crush arrangement and allowed many people to begin to make their own wine with a relatively small capital investment: basically the cost to buy grapes, bottles, corks, capsules, labels and case cartons and pay a per case fee ranging from \$15 to \$45 to the custom crush operator.

Prime examples of these types of operations are Laurent Montalieu's Northwest Wines in McMinnville, Joe Dobbies' Pinot Station and the 12th and Maple facilities in Dundee. The advent of this new model required lawyers like Hermann to develop and refine a form of agreement: the custom crush agreement, which spells out the work the custom crush operator does for the party paying to have their wine made at a particular facility.

Similarly, Hermann reports, with the passage of state legislation due in large part to Eric Hamacher's efforts, multiple bonded wineries are now allowed to operate at the same facility. This permits wineries with excess production capacity to contract with other bonded wineries to make wine using their equipment. Under this legislation, the new arrangement is allowed by the TTB and OLCC, but only with the preparation and filing of a so-called alternating premises agreement between the owner of the wine facility and the winery owner who would be making wine in the existing facility.

By the late '90s and into the 2000s Hermann and his group began to see winery and vineyard transactions that looked more like typical commercial transactions.

"People began asking for the standard representations and warranties, assurances and indemnities found in typical commercial transactions," Hermann said. "They wanted the same due diligence process to make sure all the pieces were there to run a business."

While he is active in his firm's representation of wine industry clients in Washington and California, Hermann's largest client base remains the Oregon wine industry. His long time association with Oregon wineries has given him a special perspective.

"Winemaking is a business, but in Oregon it is more," Hermann said. "It is the art of imprinting a special place on the wine.

"Winemakers are exciting people to know and wonderful, generous friends to have."

In response to frequent inquiries about basic issues in connection with the wine business and to steer winemakers away from common problems, Hermann has compiled a guidebook, 'Legal Issues Affecting Wineries and Vineyards in Oregon' and has given away dozens of copies. Versions also are available for California and Washington. The text can be found at his firm's Web site, www.stoel.com.
