

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

ABRAHAM & VENEKLASSEN JOINT VENTURE,
ABRAHAM EQUINE, INC., and
JASON ABRAHAM

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V.

CASE NO. 2:12-CV-103-J

AMERICAN QUARTER HORSE ASSOCIATION

ORDER

Before the Court is *Defendant/Appellant's Motion for Stay of Equitable Relief Pending Appeal*.¹

Appellant AQHA correctly recognizes that courts consider four factors in determining whether to grant a stay of equitable relief pending appeal: (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987). Under this traditional standard, the first two factors are the most critical. *United States v. Transocean Deepwater Drilling, Inc.*, No. 13-20243, 2013 WL 3803873, at *2 (5th Cir. July 23, 2013).

AQHA has failed to make a strong showing that it is likely to succeed on the merits.

¹ The requirement that AQHA immediately register clones and offspring of clones was temporarily stayed by Order of 11/26/13 pending an order resolving AQHA's motion for stay pending appeal.

Based on the evidence at trial, it overstates the injury that it could suffer absent a stay. In its argument that its regulations require that an animal to be registered require a sire and a dam, it ignores the fact that a clone is genetically the same as the donor and has, in effect, the same sire and dam as the donor horse. AQHA does so at the same time that it has acknowledged that fact in its post-trial correspondence with owners of clones seeking registration. AQHA's own witness acknowledged that there are methods by which the offspring of a stallion can be distinguished from the offspring of his clones so that a parentage identification problem, if any, can be resolved. Further, AQHA has before this suit was filed, begun such a process of drafting amendments required to allow the registration of clones and their offspring.

While the Plaintiffs will clearly be damaged by a stay, the full amount of the damages cannot be determined until it actually occurs.

On the other hand, the interests of persons who are not parties to this case will be affected by reliance on registration of clones or offspring of clones.

Therefore, the Judgment of this case is stayed to the extent, but only to the extent, that American Quarter Horse Association is required to actually register clones or the offspring of clones pending resolution of the appeal. This Order does not stay the Judgment otherwise, and specifically does not stay the requirement the Defendant immediately develop appropriate rules for the registration of clones and their offspring.

IT IS SO ORDERED.

Signed this 2nd day of December, 2013.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE