

## LEGAL AND VETERINARY JOURNAL

## PRELIMINARY INJUNCTIVE RELIEF



**Mr. L.M. Schelstraete**  
Active in the fields of company law and equine law. Within the equine law practice, Luc Schelstraete provides services to Dutch yet often also foreign equine businesses, riders, horse owners and equine authorities.

In this issue we take a look with our readership across the Atlantic Ocean. The US based alliance partner of EEL Mrs Tamara Tucker of Tucker Law Firm reviews the equestrian cases in the United States related to preliminary injunctions.

### RESOLVEMENT

As lawyers, we often have clients come to us with a dispute that they would like resolved immediately. If the parties cannot resolve the dispute without court intervention, then the relative position of the parties remains the same until a court can decide the case on the merits. But what if the status quo is highly unfair to one of the parties? For example, what if a trainer is suspended by the governing federation and appeals the suspension? Can the trainer ask the court to delay the suspension until a full appeal on the merits is heard? Or what if there is a billing dispute over a horse and the party with possession of the horse is threatening to sell it? Can a court enter a preliminary order preventing the sale until the billing dispute is fully litigated? The answer depends on whether providing relief before a final decision on the merits is fair and just under the circumstances. An order known as a preliminary injunction or a temporary restraining order (TRO) may be sought in certain circumstances.

Although there are some differences between a preliminary injunction and a TRO, both are considered “extraordinary remedies” and the standard for prevailing on a motion for this type of relief is very high. As a general rule, courts in the United States require that the party seeking a preliminary injunction demonstrate that: 1) he is likely to succeed on the merits; 2) he is likely to suffer irreparable harm in the absence of preliminary relief; 3) the balance of equities (fairness) tips in his favor; and 4) an injunction is in the public interest. A court applies these factors to the specific facts of each case to determine whether a preliminary injunction is warranted. Thus, each case is unique. As is shown in the following two case examples, equestrian-related cases can give rise to a preliminary injunction or a TRO because of the distinctive nature of the sport horse industry.

### JOHN DOE\* V. USEF

Mr. Doe was an inactive member of the United States Equestrian Federation. At a Federation sanctioned horse show, Mr. Doe participated as a trainer without an active membership and without paying the non-member fee for that show. At the show, Mr. Williams was observed whipping a horse excessively and was charged by the Federation for violating the rule against excessive punishment of a horse. Mr. Doe was suspended by the Hearing Committee for his actions. Nevertheless, Mr. Doe continued attending horse shows and participating as a trainer.

### ATTENDING HORSE SHOWS

The Federation then charged Mr. Doe with violating the rules by attending horse shows while suspended. As a result, Mr. Doe filed suit against the Federation seeking that he be allowed to attend horse shows because he was not a member and the Federation had no authority to suspend him. At the beginning of the case, the Federation sought a preliminary injunction requesting that the court bar Mr. Doe

from attending any Federation sanctioned horse shows while the case was pending. The Federation argued that it was likely to succeed on the merits because it had the authority to prohibit members who had been suspended from attending horse shows, regardless of whether the membership was active or inactive. The Federation also argued in support of the other factors that Mr. Doe was threatening to continue attending horse shows despite the suspension and the only action it could take against Mr. Doe for his conduct was to prohibit him from show grounds. Such prohibition, the Federation asserted, was in the public interest because it protected the horses and members at horse shows from a person who had repeatedly violated the Federation’s rules.

### PRELIMINARY INJUNCTION

On the other side, Mr. Doe sought a preliminary court order allowing him to attend horse shows while the case was pending. Mr. Doe argued that he would be irreparably harmed because, as a bloodstock agent, his livelihood depended on being able to attend horse shows, even if only as a spectator. The Court denied Mr. Doe’s motion for preliminary injunction and granted the Federation’s motion for preliminary injunction. The court stated in its Order that it was “in full agreement with [the Federation] that a person who is found to have abused a horse has no place at events where horses take center stage, namely equestrian competitions recognized and sanctioned by the Federation.”

### SMITH V. JONES\*

Ms. Smith boarded several equines owned by Ms. Jones. Ms. Smith and Ms. Jones had a dispute over various charges and over the sale of a horse. When Ms. Jones refused to pay her outstanding bill, including both disputed and undisputed charges, Ms. Smith filed for a “writ of attachment” that would allow her to sell a \$250,000.00 pony owned by Ms. Jones at public auction in order to satisfy the outstanding amounts allegedly owed. In response, Ms. Jones asked the

court to halt the auction of the pony. Ms. Jones argued that: 1) none of the disputed charges were related to the pony to be sold at auction; 2) the pony was being housed in a padlocked stall, which was detrimental to the pony’s health, safety and value; 3) the pony was an irreplaceable, unique living animal; 4) the pony’s fair market value far exceeded the disputed charges; and 5) selling the pony at auction would yield a much lower sale price than the actual value of the pony. The court granted the TRO finding that Ms. Jones would suffer “irreparable injury” if the pony was sold at public auction, but required Ms. Jones to pay the charges related to the pony.

### BE PREPARED

As shown by these examples, if you are engaged in litigation, you should be prepared to provide specific facts that show how and why you will be harmed if the status quo persists. Your lawyer can advise you if preliminary relief may be warranted under the circumstances. ■

\*The names of individuals have been changed for purposes of this article.

Text by: Tamara Tucker



If you have any questions and/or comments after reading this article, we would be happy to hear from you. You can also contact us for all equine-law related questions or matters. Please contact us by e-mail via [info@europeanequinelawyers.com](mailto:info@europeanequinelawyers.com) or telephone on +31-(0)135114420.

