

COURT OF APPEALS OF KENTUCKY
Case No. 2011-CA-000232

AMERICAN SADDLEBRED
HORSE ASSOCIATION, INC.

APPELLANT

v.

EDWARD BENNETT, ET AL.

APPELLEES

Appeal from Fayette Circuit Court
No. 09-CI-05292

EMERGENCY MOTION FOR STAY

MAY IT PLEASE THE COURT:

Pursuant to CR 65.08(7), Appellant, American Saddlebred Horse Association, Inc. (“ASHA”), respectfully moves this Court for an Emergency Order to stay execution of or any proceedings to enforce the trial court’s final judgment of January 6, 2011, which incorporates in full the Opinion, Order and Judgment of December 2, 2010 (the “Final Judgment and Order”), pending final disposition of ASHA’s appeal. ASHA has good cause in bringing this Motion and states as follows:

This case is a declaratory judgment action construing the scope of the statutory right afforded members of a nonprofit association to inspect books and records of the association. The trial court in its Final Judgment and Order ruled that the Appellees are entitled to inspect all books and records, without limitation.

ASHA appealed from the Final Judgment and Order on February 3, 2011. On or about the same date, ASHA’s Executive Director was advised that a representative or

representatives of the Appellees may appear at ASHA's corporate offices located at 4083 Iron Works Parkway, Lexington, KY 40511 to request that all documents be immediately produced for inspection and copying pursuant to the Final Judgment and Order despite the appeal being taken. On February 7, 2011, ASHA moved the Fayette Circuit Court for a stay pending appeal. The Fayette Circuit Court denied ASHA's motion on February 28, 2011, and stayed enforcement of the Final Judgment for only Forty-Five (45) days, or until April 4, 2011, unless a longer stay is granted by this Court pursuant to CR 65.08.¹

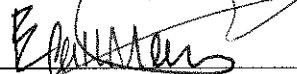
ASHA is filing herewith a motion for stay of the Final Judgment and Order pending appeal. However, to the extent the trial court stayed enforcement of its Final Judgment and Order for only Forty-Five (45) days, there is a significant likelihood that the Court of Appeals will be unable to hear and rule on ASHA's underlying motion for stay before the conclusion of that Forty-Five (45) day period, or April 4, 2011. As the sole issue on appeal of this declaratory judgment action is the scope of a nonprofit association member's right of inspection, enforcement of inspection before the Court of Appeals can even consider that issue would render the appeal meaningless. Therefore, an emergency stay pursuant to CR 65.08(7), until the underlying motion to stay before the Court of Appeals can be heard and ruled upon, is necessary in order to maintain the status quo and avoid irreparable injury. See Maupin v. Stansbury, 575 S.W.2d 695, 698 (Ky. 1978) ("clearest example of irreparable injury is where it appears that the final judgment would be rendered completely meaningless should the probable harm alleged occur prior to trial").

¹ Pursuant to CR 65.08(4), ASHA attaches a copy of the Final Judgment and Order, ASHA's Notice of Appeal filed on February 3, 2011, and the Order from Fayette Circuit Court entered on February 28, 2011, as Exhibits 1, 2 and 3 to this Motion.

Accordingly, ASHA moves this Court for emergency relief pursuant to CR 65.08(7) and requests that any enforcement of the Fayette Circuit Court's Final Judgment and Order be held in abeyance pending a ruling on ASHA's motion to stay execution of or any proceedings to enforce the trial court's Final Judgment and Order pending final disposition of ASHA's appeal. ASHA's motion for stay is filed herewith and all arguments set forth in said motion are hereby incorporated by reference as if set out herein and in full. A copy of ASHA's motion for emergency relief under CR 65.08(7) and motion for stay under CR 65.08 have been served upon counsel for the Appellees this date.

Respectfully submitted by:

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CERTIFICATE OF SERVICE

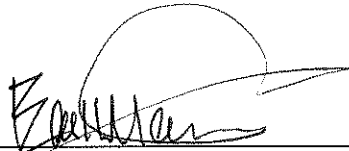
It is hereby certified this 17th day March, 2011 that a copy of the foregoing was served via First Class Mail, postage prepaid, to the following:

Hon. Lewis G. Paisley
Culver V. Halliday
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A copy was also served electronically upon Stephen A. Houston, at:

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Clerk, Fayette Circuit Court
120 N. Limestone Street
Lexington, KY 40507



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