

**Keith, Emily**

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**From:** Houston, Stephen  
**Sent:** Tuesday, February 23, 2010 4:17 PM  
**To:** 'Edward Stopher'  
**Subject:** ASHA v. Bennett, et al.  
**Follow Up Flag:** Follow up  
**Flag Status:** Green  
**Categories:** In DM  
**Attachments:** ASHABennett.pdf

Dear Ed:

Please see the attachment.

Sincerely,  
Stephen

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February 23, 2010

**BY HAND DELIVERY**

Honorable James D. Ishmael, Jr.  
Fayette Circuit Court, Division 3  
551 Robert F. Stephens Court House  
120 North Limestone  
Lexington, Kentucky 40507

**American Saddlebred Horse Association, Inc. v. Edward Bennett, et al.**  
**Case No. 09-CI-5292**

Dear Judge Ishmael:

On January 25, 2010, the Defendants moved this court to enter an order compelling the Plaintiff to provide appropriate discovery in the form of depositions and the production of documents. This Court entertained oral arguments on that motion on February 2, 2010. Following that hearing, the Court instructed the parties to tender a joint proposed order. Counsel for the plaintiff provided me with a draft of a proposed order on February 3, 2010. That same day, I returned the draft order reflecting what were presumed to be two non-controversial, but important, clarifications.

First, the Defendants' draft order merely identified the specific dates for each deposition as stated previously by counsel for the Plaintiff. The Plaintiff's proposed order failed to identify any of the deposition dates. The second revision was to clarify that the Defendants, just like the Plaintiff, will have the opportunity to file a reply in support of their motion for summary judgment.

The Plaintiff did not respond to my proposed revisions to the draft order. In fact, when I raised the topic of the draft order during a telephone call with counsel for the Plaintiff, he said that he was very busy and did not know when he would have time to provide a response to my proposed revisions. Instead of providing a response, the Plaintiff tendered its own proposed order on February 18, 2010. I received a copy of that correspondence on Friday, February 19, 2010. Unfortunately, the Plaintiff's proposed order reflects unilateral changes to a deposition date, and it does not allow the Defendants the opportunity to file a reply in support of their motion for summary judgment.

Enclosed, please find the Defendants' proposed order reflecting the original deposition dates, including the original date proposed by the Plaintiff for the deposition of Ms. Wasserzug, who, as the Plaintiff was aware before it tendered its proposed order, had already been served with a subpoena

Honorable James D. Ishmael, Jr.

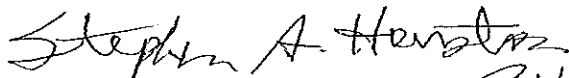
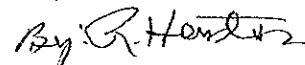
February 23, 2010

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requiring her attendance for deposition on the original date of March 15. The Defendant's proposed order also makes clear that both parties will have an opportunity to file a reply in support of their respective motions for summary judgment.

We regret that the Plaintiff chose to tender a proposed order unilaterally rather than to correspond with counsel for the Defendants to resolve any differences.

Yours Very truly,

  
By 

Stephen A. Houston

Enclosure

cc: Edward H. Stopher, Esq. (w/enc.)

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AMERICAN SADDLEBRED HORSE  
ASSOCIATION, INC.

PLAINTIFF

v.

**PROPOSED ORDER**

EDWARD R. BENNETT, CARL T.  
FISCHER, JR., KRIS KNIGHT, TOM  
FERREBEE, SIMON FREDRICKS,  
M.D. AND LYNN W. VIA

DEFENDANTS

\* \* \* \* \*

This matter came before the Court for hearing on February 2, 2010 at 8:30 a.m., on the motion of the Defendants asking the Court to enter an Order (i) compelling Plaintiff to produce Carl Holden for deposition and to provide a date for the deposition of Jennifer Wasserzug; and (ii) overruling the objections made by the Plaintiff in response to discovery requests and requiring the Plaintiff to answer the interrogatories and produce responsive documents. The Court having reviewed the briefs and having heard oral argument of counsel and being otherwise duly and sufficiently advised hereby **ORDERS** the following:

1. The following depositions shall take place, unless both parties agree otherwise, as follows: Carl Holden on March 11, Jennifer Wasserzug on March 15, Alan Balch on March 16 and Joan Jones on March 17.
2. Defendants' Motion to Compel Plaintiff to answer interrogatories and produce documents is held in abeyance;
3. On or before April 15, 2010, Plaintiff shall file its Motion for Summary Judgment on the merits of its action;

4. On or before May 14, 2010, Defendants shall file their Response to Plaintiff's Motion for Summary Judgment and their Cross Motion for Summary Judgment on the merits of their Declaratory Judgment action;

5. On or before June 1, 2010, Plaintiff shall file its Reply in Further Support of its Motion for Summary Judgment and its Response to Defendants' Motion for Summary Judgment;

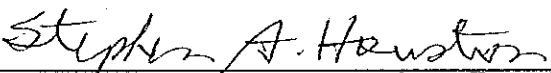
6. On or before June 15, 2010, Defendants shall file their Reply in Further Support of their Motion for Summary Judgment; and

7. Counsel for the parties shall arrange a joint call with the Court to assign this matter for oral argument at the Court's earliest convenience.

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
JUDGE

**Tendered by:**

  
Culver V. Halliday *By: S.A. Houston*  
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COUNSEL FOR DEFENDANTS

**CLERK'S CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been served, by U.S. Mail, on this the \_\_\_\_ day of \_\_\_\_\_, 2010, on the following:

James B. Cooper  
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CLERK, FAYETTE CIRCUIT COURT