

4. Plaintiff Lee Crutchfield, an individual, is a resident of North Carolina.
5. Plaintiff Kirby Jones, an individual, is a resident of North Carolina.
6. Defendant American Miniature Horse Association (the "AMHA"), is Texas non-profit corporation located in Tarrant County, Texas. The AMHA may be served with process by serving its registered agent, Randall W. Peacock, 5601 S Interstate 35 W, Alvarado, Tarrant County, Texas 76009.
7. Defendant Ed Sisk, and individual resident of Texas, may be served with process at 15150 Whitman Road, Washington, Washington County, Texas 77880.
8. Defendant Gary Barnes, and individual resident of Texas, may be served with process at 1900 Campbell Road, Tolar, Hood County, Texas.
9. Defendant Jim Barenklau, an individual resident of South Dakota, may be served with process at his home office located at 25231 448th Avenue, Montrose, South Dakota 57048.
10. Defendant Frank Lupton, an individual resident of Oklahoma, may be served with process at his home office located at 6804 Acorn Drive, Oklahoma City, Oklahoma 73151.
11. Defendant Mike Want, an individual resident of California, may be served with process at his home office located at 14910 Grassland Road, Lodi, California 95241, or alternatively at P.O. Box 2451, Lodi, California 95241.

IV. JURISDICTION

12. The Court has jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.
13. The Court has jurisdiction over the AMHA, Gary Barnes, and Ed Sisk because they are all residents of Texas for purposes of jurisdictional analysis under Texas law.

14. The Court has long-arm jurisdiction over Jim Barenklau because Mr. Barenklau engaged in negligent conduct in Fort Worth, Texas at the 2009 American Miniature Horse Association World Show. As discussed below, Mr. Barenklau negligently disregarded the AMHA rules and allowed James Walsh to appeal the protest of a horse entered by Plaintiffs into the AMHA World Show in Fort Worth, and this conduct resulted in damages to Plaintiffs.

15. The Court has long-arm jurisdiction over Frank Lupton because Mr. Lupton caused at least one defamatory email to be sent to individuals residing in the State of Texas, including but not limited to AMHA board members Gary Barnes, Ed Sisk and Mark Wilson. The email Mr. Lupton caused to be sent to Texas board members was later broadcast to an unidentified number of other AMHA members and individuals residing in the State of Texas. This tortious conduct caused damages to Plaintiffs.

16. The Court has long-arm jurisdiction over Mike Want because Mr. Want caused at least one defamatory email to be sent to individuals residing in the State of Texas, including but not limited to AMHA board members Gary Barnes, Ed Sisk and Mark Wilson. The email Mr. Want caused to be sent to Texas board members was later broadcast to an unidentified number of other AMHA members and individuals residing in the State of Texas. This tortious conduct caused damages to Plaintiffs.

V. VENUE

17. A mandatory-venue statute applies to actions based on libel or slander. TEX. CIV. PRAC. & REM. CODE §15.017. One of the mandatory venues for a suit for damages for defamation is the domicile of any corporate defendant. *Rodriguez v. Printone Color Corp.*, 982 S.W.2d 69, 71 (Tex.App.—Houston [1st Dist.] 199, pet. denied). The AMHA is domiciled in Fort Worth, Tarrant County, Texas. Therefore, venue for this case is proper in Tarrant County.

18. Furthermore, Rule 110 of the General Rules and Regulations of the AMHA provides that “no legal action of any kind, whether in law or equity, will be commenced against the Association in any courts other than those federal and state courts located in Tarrant County, Texas.” This provision indicates that the AMHA agrees that Tarrant County is the proper venue for an action against it.

19. Venue is proper in Tarrant County as to all Defendants because venue is proper as to the AMHA. In a suit where plaintiff has established proper venue against a defendant, the Court also has venue of all the defendants in all claims or actions arising out of the same transaction, occurrence, or series of transactions or occurrences. TEX. CIV. PRAC. & REM. CODE §15.005.

20. Venue would be proper in Tarrant County, Texas under the general venue rules. The 2009 AMHA World Show located in Fort Worth, Tarrant County, Texas is where a substantial part of the events giving rise to Plaintiffs’ claims occurred. TEX. CIV. PRAC. & REM. CODE §15.002(a)(1).

VI. ATTEMPTS TO EXHAUST REMEDIES WITHIN AMHA IGNORED

1. The Plaintiffs made at least two attempts to exhaust administrative remedies on the association level before bringing this legal action for money damages. All of Plaintiffs’ requests were ignored.

2. Plaintiff Lee Crutchfield requested that the AMHA initiate a disciplinary proceeding on many of the aforementioned issues through a letter to the AMHA, through its President, Jim Barenklau, dated August 17, 2009. Mr. Barenklau waited until December 30, 2009 to respond to this request, referring to Mr. Crutchfield’s request for action by the AMHA as “an informative reference.”

3. On February 12, 2010, the Plaintiffs, through the undersigned counsel, transmitted to Mr. Barenklau a second, formal complaint and request that a disciplinary investigation and hearing on the matters at issue in this suit by the appropriate AMHA officials be held within 60 days. The formal complaint asked Mr. Barenklau to advise Plaintiffs as to how the AMHA suggested that Plaintiffs were to proceed with their complaint under AMHA's current rules, if they decided not to give Plaintiffs a hearing. The Plaintiffs never received a response.

VII. FACTS

4. Laura Mullen's Mishandling of Protest. It is undisputed that Laura Mullen, the show manager at the AMHA Eastern Championship Show, accepted a \$100 protest fee from James Walsh and caused Mr. Crutchfield's class to be halted so that Mr. Walsh could protest a horse being shown by Mr. Crutchfield. There is substantial evidence that Mr. Walsh was not an AMHA member at the time he paid the \$100 protest fee and was allowed to protest Mr. Crutchfield's horse. Mr. Crutchfield, on the other hand, was a member in good standing at the time of the illegitimate protest. This protest was allowed in violation of Article IV, Section 3 of the AMHA Bylaws and caused Plaintiffs humiliation and financial injury. There is also evidence that John Mullen, the official AMHA show measurer, inappropriately discussed the measurements of Mr. Crutchfield's horses with Mr. Walsh.

5. AMHA Directors' Slander of Mr. Crutchfield. There is evidence that Pamela Walsh sent a complaint letter to "AMHA Official" after the 2009 Eastern Championship Show containing untrue allegations that Plaintiffs cheated in the protest measurement instigated by her son, James Walsh. Mr. Crutchfield was never disciplined or suspended for any alleged rule violations at that show, nor has he ever been disciplined or sanctioned in the past. However, AMHA directors Ed Sisk, Mike Want, Gary Barnes and Frank Lupton wrote emails to the Board

of Directors Yahoo Group leading many people who read them to believe that the allegations made against Mr. Crutchfield were true and that Mr. Crutchfield had a history of cheating in the registration and showing of miniature horses. Mr. Sisk's email refers to Mr. Crutchfield as "a cancer eating us [AMHA] from the inside out," and stated the Mr. Crutchfield "has run over, around and through about every rule you can mention, and is still getting away with it." The emails from the directors written to the Board Group should have been kept confidential, but were not. It is impossible to know how many people got copies of these emails, but they made their way to Plaintiffs through other concerned AMHA members.

6. It bears repeating that Mr. Crutchfield was an AMHA member in good standing at the 2009 Eastern Championship Show, and James Walsh was not. The aforementioned directors' conduct constitutes a clear violation of their duty of loyalty to AMHA members provided for in Article V, Section 5 of the AMHA Bylaws.

7. Other Rule Violations. Two people were involved in the measurement of the horses at the 2009 AMHA World Show in Fort Worth, in violation of AMHA Show Rules GR-020 B and GR-020 C. Several of the horses entered by Plaintiffs were protested at that show, and at least one of the horses entered by Plaintiffs ("Robin") and owned by Don and Beverly Burdette, was not allowed to show in the youth class due to an inappropriate protest measurement. Further, Mr. Barenklau allowed James Walsh to appeal the decision of the protest height measurement of Robin when it should have been final under the height protest rules. This conduct humiliated Plaintiffs and caused them financial injury.

8. Arbitrary and Capricious Application of AMHA Rules. Mr. Barenklau sent Kirby Jones a reprimand letter dated December 31, 2009 (with no enclosures) for

“unsportsmanlike conduct” at the 2009 Eastern Championship Show that proposed a fine and suspension from the AMHA. These disciplinary actions was taken without any notice to Mr. Jones, without any request for information from Mr. Jones, without a hearing, and without even notifying Mr. Jones of the details of the complaint made against him.

9. By contrast, James Walsh was apparently never disciplined for protesting Mr. Crutchfield’s horse as a non-member. Nor was he disciplined for harassing Mr. Crutchfield and Mr. Jones at both of the aforementioned shows by filing numerous (ultimately unsuccessful) protests to horses entered by them. There is evidence that James Walsh was allowed to show at the 2009 Eastern Championship Show as a non-member. The AMHA also apparently permitted Mr. Walsh to keep all the points he earned during the 2009 show season, allowing him to show at the 2009 AMHA World Show, even though he was not an AMHA member when he accrued the points. Again, Article IV, Section 3 of the AMHA Bylaws clearly prohibits the award of AMHA points to any non-member.

Count 1 – DEFAMATION

10. As described above, Defendants Gary Barnes, Ed Sisk, Frank Lupton and Mike Want published, or caused to be published, oral and written statements asserting as fact that Plaintiffs were involved in fraudulent conduct in the measurement, showing, and registration of miniature horses. The statements were false, as evidenced by the fact that none of the Plaintiffs have ever been reprimanded, suspended, or disciplined by the AMHA for cheating in the registration, showing, or measurement of miniature horses.

11. Defendants Barnes, Sisk, Lupton and Want are strictly liable to Plaintiffs for the defamation. Strict liability applies to these Defendants because each of these Defendants is a

non-media Defendant, Plaintiffs are private figures, and the defamation involves a private issue. *See, e.g. Peshak v. Greer*, 13 S.W.3d 421, 425-26 (Tex. App.—Corpus Christi 2000, no pet.)

12. The false statements of Defendants Barnes, Sisk, Lupton and Want caused injury to Plaintiffs, including irreparable damage to Plaintiffs' business reputation, irreparable damage to Plaintiffs' personal character and reputation within the horse industry, loss of future income, lost profits, and emotional distress.

Count 2 – BREACH OF FIDUCIARY DUTY

1. Defendants Barnes, Sisk, Lupton and Want had a fiduciary relationship with Plaintiff Lee Crutchfield. Mr. Crutchfield was an AMHA member during the relevant time period. Article V, Section 5 of the AMHA Bylaws provides that the AMHA directors owe a duty of loyalty to AMHA members. Barnes, Sisk, Lupton and Want breached their fiduciary duty to Mr. Crutchfield by publishing the defamatory emails described above.

2. The breach of fiduciary duty committed by Barnes, Sisk, Lupton and Want damaged Mr. Crutchfield by causing irreparable damage to Mr. Crutchfield's business reputation, irreparable damage to Mr. Crutchfield's personal character and reputation within the horse industry, loss of future income, lost profits, and emotional distress.

Count 3 – NEGLIGENCE

3. Defendants AMHA and Barenklau owed the legal duties of loyalty and ordinary care to Mr. Crutchfield, as Mr. Crutchfield was an AMHA member during the relevant time period.

4. Defendants AMHA and Barenklau breached their duties of loyalty and ordinary care to Mr. Crutchfield in the mishandling of the protests at the 2009 Eastern Championship Show and the 2009 World Show and their arbitrary and capricious application of the AMHA

rules, described above. Defendants AMHA and Barenklau also breached their duty of ordinary care by failing to put in the place the necessary safeguards to keep the defamatory emails written by Want, Sisk, Lupton and Barnes from being broadcast to others besides the necessary AMHA officials.

5. The breach of fiduciary duty committed by AMHA and Barenklau damaged Mr. Crutchfield by causing irreparable damage to Mr. Crutchfield's business reputation, irreparable damage to Mr. Crutchfield's personal character and reputation within the horse industry, loss of future income, lost profits, and emotional distress.

VIII. PRAYER

For these reasons, Plaintiffs ask that they be awarded a judgment against all Defendants, jointly and severally, in the maximum amount of \$2.5 million for the following:

- a. Actual damages within the jurisdictional limits of this Court;
- b. Prejudgment and postjudgment interest;
- c. Court costs;
- d. All other relief to which Plaintiffs are entitled.

Respectfully submitted,

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March 2, 2010

Thomas A. Wilder
Tarrant County District Clerk
Justice Center
401 W. Belknap
Fort Worth, Texas 76196

FILED
TARRANT COUNTY
2010 MAR -5 AM 10:03
THOMAS A. WILDER
DISTRICT CLERK

Re: *Aloha Training Center, Inc. Lee Crutchfield, and Kirby Jones v. American Miniature Horse Association, Inc., Ed Sisk, Gary Barnes, Jim Barenklau, Frank Lupton, and Mike Want* in the District Court of Tarrant County, Texas.

Dear Mr. Wilder:

Please find enclosed an original and seven (7) copies of Plaintiffs' Original Petition.

Please return one of the file-stamped copies to me in the self-addressed, stamped envelope and serve the other six copies via Certified Mail, Return Receipt Requested on the six defendants.

Enclosed you will also find a check in the amount of \$597 to cover the filing, issuance and service of citation fees.

Thanks in advance for your assistance with this matter. Please feel free to contact me if you have any questions.

Sincerely,

Alison M. Rowe
Alison M. Rowe

3/5/10 (Date)
sent a copy of letter
To Doc prod AR (initials).

3-5-10
m/c
& npt
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