

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY**

BOB BAFFERT, and BOB BAFFERT	)	
RACING STABLES, INC.,	)	
Plaintiffs,	)	
vs.	)	
	)	3:22-cv-123-RGJ
CHURCHILL DOWNS, INC., WILLIAM C.	)	
CARSTANJEN, and R. ALEX RANKIN,	)	
Defendants.	)	
	)	
Serve: 600 North Hurstbourne Parkway, Suite	)	
400, Louisville, Kentucky 40222	)	<b>Jury Trial Demanded</b>

**COMPLAINT**

COMES NOW the Plaintiffs, Bob Baffert (“Baffert”) and Bob Baffert Racing Stables, Inc., by and through counsel, and hereby state as follows for their Complaint against the Defendants, Churchill Downs, Inc. (“CDI”), William C. Carstanjen (“Carstanjen”), and R. Alex Rankin (“Rankin”):

**PRELIMINARY STATEMENT**

1. This is an action brought pursuant to [42 U.S.C § 1983](#); [15 U.S.C. §§ 1, 2, 15, & 26](#); the Fourteenth Amendment to the United States Constitution; and Kentucky State law, arising from actions taken by CDI and its officers and directors, including Carstanjen and Rankin, under the color of state law, which have unlawfully deprived and will continue to deprive Baffert of his right to due process of law guaranteed under the Fourteenth Amendment and of his right to participate in horseracing in Kentucky under Kentucky law. Specifically, Baffert maintains a right to enter horses in races and apply for stall occupancy at CDI-owned racetracks. CDI has, without legal authority and without any notice or opportunity to be heard, “suspended” Baffert’s right to race horses on CDI properties, precluding him from practicing his chosen profession or using his license on CDI properties. CDI’s actions also constitute an unlawful restraint on trade.

2. Following the 147<sup>th</sup> running of the Kentucky Derby, Baffert-trained thoroughbred horse MEDINA SPIRIT, the winner, was reported to have tested positive for betamethasone, an anti-inflammatory drug that is commonly used as an approved therapeutic medication in the routine care of horses. Mistakenly believing that Baffert *injected* the horse with a “prohibited” medication, CDI immediately “suspended” Baffert from entering horses at any CDI racetrack and barred Baffert-trained horses from receiving qualifying points (earned on non-CDI racetracks) for subsequent runnings of the Kentucky Derby. On several occasions as the facts have developed, Baffert asked CDI for an opportunity to rebut the allegations. Each time, it denied those requests.

3. The governmental agency that oversees horse racing in Kentucky, the Kentucky Horse Racing Commission (the “Racing Commission” or “KHRC”), regulates betamethasone in its injectable form: *betamethasone acetate*. Betamethasone acetate poses possible risks to a horse because it is injected directly into an articular joint and is subject to a mandatory fourteen-day standdown period in Kentucky. The Racing Commission does not regulate or prohibit betamethasone in its topical form, *betamethasone valerate*. Betamethasone valerate is a common, FDA-approved, ethical medication used to increase the efficacy of antibiotics and antifungal medications applied as topical salves or ointments. Betamethasone valerate solutions (typically with gentamycin) are commonly prescribed not only to horses but also to household pets like cats and dogs to treat skin, eye, and ear infections. Betamethasone valerate ointments are in the same class of medications available to humans for minor rashes and skin irritations associated with insect bites or contact with plants like poison oak, ivy, and sumac. Surprisingly, the Racing Commission’s post-race testing did not distinguish between the two varieties of betamethasone. Subsequent scientific analysis on MEDINA SPIRIT’s post-race biological samples, however, have definitively proven that the betamethasone detected in the post-race testing was from the topical

betamethasone valerate. The picogram-level amount (a picogram is one-trillionth of a gram) of betamethasone absorbed through the skin (as opposed to injected) is biologically irrelevant, has no potential to enhance a horse's performance, has no potential to mask joint pain, and poses no danger to the safety and welfare of the horse. Most importantly, whereas a finding of betamethasone acetate could serve as proof of a violation of the KHRC rules of racing, a finding of betamethasone valerate cannot.<sup>1</sup>

4. On those facts, Baffert is currently availing himself of the legal regulatory system established by the Commonwealth of Kentucky, which makes this case about who gets to hold Baffert accountable, for what (if anything), and how. Baffert expressly agreed to cooperate with the *Racing Commission's* regulatory process when he entered horses at Churchill Downs and to submit to any penalties imposed after a final order issued by that body. Baffert's culpability, if any, will be determined in that forum. The first step of that process, an initial hearing before the stewards, occurred on February 14, 2022. CDI participated in that hearing by nominating Tyler Pickelsimer, a CDI employee, as one of the three stewards. The stewards recommended imposing a 90-day suspension and disqualifying Medina Spirit, which initiated the administrative adjudicatory process. The next step is a full evidentiary hearing before an administrative law judge, who will recommend a decision to the full board of the Racing Commission. A judicial appeal may follow. Although a final decision is pending, CDI's suspension purports to be independent of that regulatory process and is not contingent on its outcome.

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<sup>1</sup> The Kentucky Rules of Racing hold a trainer strictly responsible for the presence of any substance in the horse "except as permitted in 810 KAR Chapter 8." 810 KAR 8:010 Section 2(2). The use of antiseptic/antifungal ointments is expressly permitted by 810 KAR Chapter 8 under a rule captioned "*Certain Permitted Substances.*" 810 KAR 8:010 Section 4. A rule violation in Kentucky for the use of betamethasone is limited to a violation of the "restricted administration time" rule, which prohibits the *injection* of betamethasone acetate within fourteen days of a race. Betamethasone acetate is not covered by the exception for "products used in the daily care of horses" because it is injected. 810 KAR 8:010 Section 4(2).

5. In this action, Baffert seeks, among other relief, a declaration pursuant to 28 U.S.C. § 2201, *et seq.*, that CDI is prohibited from a) denying racehorses owned and/or trained by Baffert or those racing and/or training racehorses under Bob Baffert Racing Stables, Inc., entry into races contested at CDI racetracks, including, but not limited to, Churchill Downs, Oak Grove, and Turfway Park; b) denying Baffert the privileges of the grounds of the foregoing Kentucky racetracks; c) denying Baffert or those racing and/or training under Bob Baffert Racing Stables, Inc., stall space at Kentucky racetracks; d) prohibiting Baffert and/or any horse trained directly or indirectly by him and/or Bob Baffert Racing Stables, Inc., from earning points to qualify for the Kentucky Derby; and e) refusing to recognize qualifying points Baffert-trained horses have already earned for the upcoming Kentucky Derby.

6. Baffert also seeks, among other relief, entry of a preliminary and permanent injunction enjoining CDI from further barring (either by denying entry or refusing to recognize qualifying points) him and those racing and/or training racehorses under Bob Baffert Racing Stables, Inc., into races contested at CDI racetracks, including but not limited to Churchill Downs, Oak Grove, and Turfway Park. If CDI is not immediately enjoined, Baffert will suffer immediate and irreparable harm.

#### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over Baffert's claims brought under 42 U.S.C. § 1983 pursuant to its original jurisdiction as set forth in 28 U.S.C. § 1331 and 1343. Baffert's claims arise under the Constitution and laws of the United States, and he alleges that an entity acting under color of Kentucky State law violated his civil rights protected under the Fourteenth Amendment to the United States Constitution.

8. This Court has jurisdiction over Baffert's claims brought under 15 U.S.C. §§ 1, 2, 15, and 26 pursuant to its original jurisdiction as set forth in 28 U.S.C. § 1331, given that such claims arise under the laws of the United States.

9. This Court has jurisdiction over this matter pursuant to its original jurisdiction as set forth in 28 U.S.C. § 1332. This is a civil action between parties of diverse citizenship, seeking relief and damages in excess of \$75,000.

10. This Court has supplemental jurisdiction over Baffert's state and common law claims by virtue of the provisions of 28 U.S.C. § 1367(a) because those claims form part of the same case or controversy under Article III of the United States Constitution.

11. Venue is proper in this district under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to Baffert's claims, set forth herein, have occurred and continue to occur within this district — specifically within the County of Jefferson.

### **PARTIES**

12. Baffert is an individual and resident of the State of California who is a nationally recognized thoroughbred trainer at the top of his field. He has been a trainer for over 46 years, and the horses he has trained have won races at the highest level of the sport. His horses have won the Kentucky Derby seven times (contested over CDI operated Churchill Downs Park); the Preakness Stakes seven times; the Belmont Stakes three times; and Breeders Cup Races eighteen times. Of the thirteen American Triple Crown Winners in history, Baffert has trained two of them: AMERICAN PHAROAH in 2015 and JUSTIFY in 2018. Baffert has since won the Kentucky Derby with AUTHENTIC in 2020 and MEDINA SPIRIT in 2021 to push his record number of Triple Crown race wins to seventeen, including a record seven editions of the Derby. Through

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