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HORSES

Lexington attorneys made false claims in lawsuit against horse veterinarians, judge rules

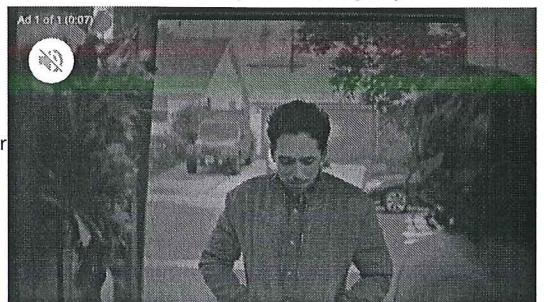
BY TAYLOR SIX

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Buyers of young thoroughbreds want to know if the horse they're eyeing can compete as a stakes racehorse class races. Here veterinarians review x-rays before a buyer bids on a horse. BY VETERINARIANS ON CALL

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Two Lexington attorneys have been sanctioned for violating state court rules after they were found by a judge to have put forth false claims in a class action lawsuit against equine veterinarians who X-rayed horses to be sold at Keeneland.

Mason Miller and William Rambicure of Miller Edwards Rambicure Law were at the head of a [2019 lawsuit](#) which alleged veterinarians at the Hagyard Equine Medical Institute in Lexington falsified the dates on X-ray images of horses sold at Keeneland public auctions “in order to make it appear the X-rays were taken within three weeks of the sale. In fact, those X-rays were older than that,” the suit alleged.

They represented Tom Swearingen in the initial suit, a horse buyer who claimed the misdated X-rays affected his business. The case was [dismissed by the Kentucky Court of Appeals](#) who found that Swearingen [lied in his complaint](#) and did not suffer any damages as a result of the claimed issues.

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In a sanction order filed Dec. 1, Fayette Circuit Judge Julie Goodman ordered that Rambicure and Miller pay attorneys’ fees for the defendants after Goodman found that the two attorneys had filed the complaint before they even had a client who wanted to sue the veterinarians.

“Far from meeting the class action requirements, by all appearances Miller and Rambicure were trying to find a plaintiff who could carry a class action,” court documents state. “It is clear to the Court that, ... plaintiff’s counsel, and not plaintiff, is the driving force behind this action.”

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Neither Miller nor Rambicure were immediately available for comment.

JUDGE: ATTORNEYS 'UNNECESSARILY' CONTINUED LAWSUIT

The court documents allege that once Miller and Rambicure became aware of the X-ray dating issues, the attorneys “set out to find a plaintiff to support the legal theory they had already devised.”

“Clearly, their attempts to find a suitable plaintiff fell short. And yet, they filed this suit anyway,” Goodman wrote in the order.

Goodman’s order imposing sanctions found that the attorneys had violated Rule 11 of the Kentucky Rules of Civil Procedure.

That rule states that the “signature of an attorney or party constitutes a certification by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.”

Goodman wrote that Miller and Rambicure “unnecessarily continued proceedings in the case” by carrying on with the lawsuit despite testimony from Swearingen that indicated allegations in the lawsuit were unfounded.

The original lawsuit claimed Swearingen purchased 24 horses at Keeneland sales during the time when the misdated X-rays were filed. It went on to say that Swearingen would not have bought the horses had he known that the repository’s X-rays had potentially been misdated.

In a subsequent deposition, Swearingen admitted he had never been at the repository when buying a horse. He also said he had never gotten a veterinarian to review an X-ray at the Keeneland sales years in question.

“Any attorney acting reasonably in the circumstances would have known from Swearingen’s discovery responses and deposition testimony that the allegations in the complaint were untrue,” Goodman wrote.

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'THESE PEOPLE LOVE THE THOROUGHBRED INDUSTRY'

Tom Miller, an attorney for one of the defendants, Robert Hunt, said the veterinarians who were sued for malpractice ended up being found as the victims.

"The general public may have assumed that these were terrible people, that they were doing something that hurt the industry and hurt purchasers of horses," Miller told The Herald-Leader. "These people love the thoroughbred industry and (the industry) is the basis of their practice."

"When this information was put into the (media), once their reputation was harmed, throughout the community and nation, they had to confirm to their friends and their clients and others in the industry that they are not bad people," Miller said. "Now the courts have said, 'It is not true,' what had been alleged, but also that the plaintiff's attorneys had done something that was really so bad.

"It's a very atypical occurrence."

Goodman ordered Miller and Rambicure to either pay jointly or separately the attorney fees and costs of the defendants from the day following the production of discovery response, until the date of the order marked as Dec. 1, 2022.

The suit had been filed against Hagyard and veterinarian Drs. Michael T. Hore, Robert J. Hunt, Dwayne Rodgerson and Michael Spirito, whom the suit says were partners at Hagyard. The accounting firm Dean Dorton Allen Ford, which provided computer and information technology services for Hagyard, was also named as a defendant.

Tom Miller said four law firms involved have applied to have their attorneys fees paid for by Miller and Rambicure. He estimated this would cost no less than \$200,000. Dean Dorton Allen and Ford – originally a defendant listed in the lawsuit – has applied for nearly \$51,000 in attorney fees, according to court documents.

Hore, Spirito and Rodgerson have also filed for \$89,395 in attorney fees, according to court documents.

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TAYLOR SIX



Taylor Six is the criminal justice reporter at the Herald-Leader. She was born and raised in Lexington attending Lafayette High School. She graduated from Eastern Kentucky University in 2018 with a degree in journalism. She previously worked as the government reporter for the Richmond Register.

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