



Legal

With Robin Trupp

To Clone or Not to Clone?

AQHA Fights Anti-Trust Law to Bar Registration of Clones

Cloning of horses is still a relatively new venture in the equestrian world, but with clones of great horses such as Sapphire and Gem Twist already born, many are eager to see if they can live up to their great namesakes.

In 2012, the FEI announced that cloned horses could compete in international competition. This opened the door for many breed registries to allow cloned horses to become registered, including the KWPN (Dutch Warmblood), the BWP (Belgium Warmblood), Zangersheide, the German Sport Horse Registry and the Anglo European Stud Book.

However, the American Quarter Horse Association (AQHA) currently precludes the registration of horses produced by any cloning process. The first equine clone was created in 2003, and in 2004, the AQHA board of directors approved Rule 227(a), which prohibits cloned horses or their offspring from being included in the organization's breed registry. The rule was recently challenged in court in the matter of *Abraham & Veneklasen Joint Venture, Abraham Equine, Inc. and Jason Abraham v. The American Quarter Horse Association*.

The AQHA stance is that only horses resulting from the breeding of a mother and a father (the joining of an egg and a sperm) are eligible for registration. Cloning involves taking tissue cells from a horse – even from a dead horse – and injecting it into an egg to make a copy of that horse. Clones do not have parents, so therefore cloning is not breeding in the eyes of the AQHA.

Just a few weeks ago, the Abraham court determined that the prohibition of both clones and their descendants from the AQHA's breed registry violated Section 1 and 2 of the Sherman Anti-Trust Act and Section 115.05(a) and 15.05(b) of the Texas Free Enterprise Anti-Trust Act.

The Quarter Horse market is one of the biggest breed registries in the United States and Canada. By not allowing cloned horses to become registered and compete, the AQHA is barring breeders and owners from selling their animals and enjoying the profits from their efforts.

The AQHA committee that determined clones could not be registered feared that owners could pay a large sum of money to re-create a champion gelding. If this

were to become a regular method of purchasing a horse, the committee feared, there would be a group of "Elite Quarter Horses," thus rendering the remaining breeding market inadequate.

However, advocates of cloning believe that there is more involved with a horse's success than genes. While genes certainly afford a certain amount of talent, there is nothing that guarantees a clone will compete at the same level as an original, as the upbringing would be different. However, cloning does allow great bloodlines to be preserved for the breed.

Attorney Nancy Stone, who represents Abraham & Veneklasen Joint Venture, commented, "We are confident that the favorable jury verdict will result in the court ordering AQHA to register [cloned horses belonging to] Jason Abraham, Gregg Veneklasen, DVM, and others, and that the registration of these horses will further the mission of AQHA to maintain the integrity of the breed."

The AQHA countered as follows: "Since the first cloning proposal in 2008, not a single AQHA member attending the convention membership business meeting has spoken or voted at such meeting in favor of registering clones or their offspring. Likewise, since 2008, not a single member of the Board of Directors attending the final Board meeting has spoken or voted at such meeting in favor of registering clones or their offspring."

In a statement by the AQHA, Executive Vice President Don Treadway, Jr., expressed his disappointment, stating "It continues to be our position that our rule prohibiting the registration of clones and their offspring is both reasonable and lawful."

Following the court case, the Court entered an injunction that effectively froze Rule 227(a) and rewrote the AQHA Rules regarding the registration of clones or their descendants. It is anticipated that the AQHA will appeal this order. **HSI**

Attorney Robin Trupp is a partner in the Tampa and West Palm Beach offices of Greenspoon Marder. He's had an interest and love of the sport since his own days as a rider. He can be reached at robin.trupp@gmlaw.com