SUMMARY OF NEW LAWSUIT CHALLENGING
HORSE PROTECTION ACT REGULATIONS AND POLICIES

On March 11, 2024, trainers Michael Wright, Casey Wright, and Josh Wright sued the U.S. Department of Agriculture ("USDA" or "Agency") challenging multiple USDA decisions disqualifying their horses in past shows and challenging the USDA rules that were applied to disqualify their horses. The Tennessee Walking Horse Industry supports the Wrights in their lawsuit, which raises issues that are important for the entire industry. The lawsuit asserts that USDA has been unlawfully disqualifying horses and violating trainers' and owners' due process rights by failing to provide any mechanism to review disqualification decisions. The lawsuit focuses on three challenges that may have impacts across the industry.

First, the lawsuit argues that the USDA has been violating constitutional due process rights by disqualifying horses without giving owners or trainers any opportunity to challenge disqualification decisions. USDA's rules provide no hearing or other means—either before or after a disqualification—by which a trainer can challenge a disqualification and argue why a horse inspector's decision was wrong. That violates the most fundamental principles under the Due Process Clause, which requires a meaningful opportunity to be heard in connection with any government deprivation of a liberty or property interest. As the lawsuit points out, a federal court determined eight years ago that the USDA violated due process rights by failing to provide any review mechanism, but the USDA has continued to operate under the same unconstitutional regime. The suit seeks an order declaring the USDA's practice unlawful and an order requiring USDA to provide due process in connection with any disqualification decisions.

Second, the suit challenges the USDA's continued enforcement of the Scar Rule, a regulation describing certain conditions which, if found on a horse's legs, require deeming that horse to be sore. The Scar Rule exceeds the USDA's authority under the Horse Protection Act ("HPA") by using criteria different from those set by Congress in the Act. In addition, after a review conducted at USDA's request, the National Academy of Sciences, Engineering, and Medicine told the USDA years ago that the criteria in the Scar Rule have no actual scientific connection to soring and that they cannot be consistently applied—and thus produce arbitrary results. For those reasons, too, the rule is inconsistent with the statute.

Third, the suit challenges USDA's policy under which inspectors must disqualify a horse as sore if the horse shows any signs of inflammation in a post-show inspection, without regard to how the inflammation was caused. That approach also violates the statute by departing from the statutory definition of "sore," which is triggered only when a person has taken some deliberate action to make a horse sore. Contrary to the USDA's approach, any inflammation caused naturally during a competition—such as that caused by horse's rear legs rubbing on the dirt or gravel in the ring—cannot be treated as a sign of soring under the Act.

The lawsuit asks the court to declare that the USDA's rules are unlawful and to set them aside so that they can no longer be enforced against the Wrights or any other horse owners and trainers.

QUESTIONS AND ANSWERS

How does this lawsuit relate to the new rule USDA has proposed? This lawsuit challenges USDA's existing rules and policies, not the new rule USDA has proposed. We are still waiting for USDA to issue the new rule, at which time there will likely be another lawsuit to challenge it. However, the issues raised in this lawsuit—in particular the due process concerns—are unlikely to go away once the new rule is adopted. A favorable ruling in this lawsuit will prevent USDA from enforcing its existing unlawful rules and should be taken into account by the USDA in the new rules it adopts.

Does the lawsuit help only the Wrights? What about other horse owners and trainers? The lawsuit is brought on behalf of the Wrights, but it seeks relief that would affect all horse owners and trainers. Because the rules and policies used to disqualify the Wrights' horses are unlawful each and every time they are used, the complaint asks the court to prevent USDA from using them at all moving forward.

What about other things the USDA does? Why isn't the USDA's foreign substance policy part of this lawsuit? The lawsuit challenges rules and policies that were used against the Wrights in specific instances. It also challenges rules and policies that we believe give us a high chance of success. Should we win, we hope to be able to use that ruling to stop USDA from enforcing other unlawful rules (like its foreign substance policy) that go beyond the scope of its authority.

When will the court rule on the lawsuit? That depends on several factors, some of which will be up to the judge and the government. We hope to press for a ruling sometime this year.