

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

WEST PALM BEACH DIVISION

CASE NO.: 9:16-80353-cv-MARRA

**SILVER CREEK FARMS, LLC,
an Oklahoma limited liability company,**

Plaintiff,

v.

MAGGIE FULLINGTON,

Defendant.

**PLAINTIFF'S EMERGENCY MOTION FOR
INSPECTION OF THE STALLION APIRO**

Pursuant to Rule 34 and Local Rule 7.1(e), Plaintiff, SILVER CREEK FARMS, LLC ("Silver Creek Farms"), hereby requests the Court enter an Order permitting the immediate inspection of the stallion Apiro, currently in the possession of Defendant, MAGGIE FULLINGTON ("Fullington") at an undisclosed location.

In support thereof, Plaintiff relies upon the following:

1. As alleged in Plaintiff's Complaint [DE 1], Defendant Fullington owes Plaintiff \$100,000.00 for the purchase of the stallion Apiro and straws of his frozen semen as of October 1, 2016, pursuant to the terms and condition of the Bill of Sale (the "Bill of Sale"). *See* Bill of Sale [DE 44-1].

2. Defendant Fullington has defaulted pursuant to the terms and conditions of the Bill of Sale by failing or refusing to make payments for the purchase of Apiro when due, despite

demand from Plaintiff. Defendant Fullington continues to wrongfully retain the stallion Apiro at some undisclosed location. *See* Plaintiff's affidavit [DE 44-2].

3. Plaintiff has filed for a Pre-Judgment Writ of Replevin [DE 44], which is currently pending.

4. On June 2, 2017, Defendant's counsel confirmed via e-mail the Deposition of Plaintiff would occur on June 9, 2017. See **Exhibit A** attached hereto.

5. In reliance upon that representation by Defendant's counsel, Plaintiff has secured travel to Florida and has incurred these travel expenses.

6. On June 5, 2017, Defendant's counsel filed a Renewed Motion to Withdraw which was granted on June 6, 2017 [DE 50].

7. Given the sudden withdrawal of Defendant's counsel, and the expressed concerns of the Court in permitting Defense Counsel to withdraw yesterday, [DE 53], Plaintiff now has immediate and grave concerns about the location and welfare of the stallion Apiro, as well as whether the stallion is intact and able to breed.

8. To ensure the status quo remains through the pending Pre-Judgment Writ of Replevin and the trial of this matter, Plaintiff requests an immediate inspection of the stallion Apiro with a veterinarian licensed in the state of Florida to ensure Apiro is in good health, is capable of breeding and being cared for properly.

WHEREFORE, Plaintiff requests that the Court immediately order that Defendant Fullington immediately:

1. Disclose the actual whereabouts of the stallion Apiro; and

2. Provide Apero for inspection at that location by Plaintiff, Plaintiff's counsel and a Florida licensed veterinarian on June 9, 2017 between the hours of 12:00pm - 3:00pm.
3. A Certificate of Emergency has been filed the within Motion.

Dated this 7th day of June, 2017.

Respectfully submitted,

CHAPMAN LAW GROUP, PLC

Avery S. Chapman

Avery S. Chapman, Esq.

FL Bar No. 517321

CHAPMAN LAW GROUP, PLC

12008 South Shore Blvd., Ste 107

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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of June, 2017, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF filing system, which will then serve all counsel of record or pro se parties on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by the CM/ECF system or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Maggie Fullington
13215 Running Water Road
West Palm Beach, FL 33418
Maggie@MarabetFarm.com

Avery S. Chapman

Avery S. Chapman, Esq.

Rate My Horse PRO

EXHIBIT A

Rate My Horse PRO

Taryn Hartnett

From: lisa@lboswelllaw.com
Sent: Friday, June 2, 2017 4:08 PM
To: Taryn Hartnett
Cc: S. Avery; Dominique Torsiello
Subject: RE: SERVICE OF COURT DOCUMENT SDFL CASE # 9:16-cv-80353

Taryn,

Yes, we're still on for Silver Creek's deposition next Friday, June 9.

Also, my earlier email to Dominique "bounced" back, apparently her mailbox is full.

Thanks and have a nice weekend,

Lisa M. Boswell

Lisa M. Boswell, P.A.
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Lisa@LBoswellLaw.com
www.LBoswellLaw.com

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----- Original Message -----

Subject: RE: SERVICE OF COURT DOCUMENT SDFL CASE # 9:16-cv-80353
From: "Taryn Hartnett" <teh@chapmanlawgroup.net>
Date: Thu, June 01, 2017 7:03 pm
To: <lisa@lboswelllaw.com>, "Avery Chapman, Esq." <ascsq1@cs.com>, <djt@chapmanlawgroup.net>

Lisa,

Are you planning on taking our client's deposition next Friday?

From: lisa@lboswelllaw.com [mailto:lisa@lboswelllaw.com]
Sent: Tuesday, May 9, 2017 5:19 PM
To: S. Avery

Cc: Taryn Hartnett; Dominique Torsiello
Subject: SERVICE OF COURT DOCUMENT SDFL CASE # 9:16-cv-80353

Court: U.S. District Court for the Southern District of Florida
Case No.: 9:16-cv-80353
Style: Silver Creek Farms, LLC v. Maggie Fullington
Document: Notice of Taking Deposition Pursuant to Fed. R. Civ. P. 30(b)(6)
Sender: Lisa M. Boswell, Esq.
Sender's Ph.: (561)227-1529

Lisa M. Boswell

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 9:16-CV-80353 CV/CR Marra/Matthewman
(Judge's Last Name/Magistrate's Last Name)

SILVER CREEK FARMS, LLC

_____/Plaintiff(s)
(Full Name of Plaintiff/s)

v.
MAGGIE FULLINGTON

_____/Defendant(s)
(Full Name of Defendant/s)

CERTIFICATION OF EMERGENCY

I hereby certify that, as a member of the Bar of this Court, I have carefully examined this matter and it is a true emergency.

I further certify that the necessity for this emergency hearing has not been caused by a lack of due diligence on my part, but has been brought about only by the circumstances of this case. The issues presented by this matter have not been submitted to the Judge assigned to this case or any other Judge or Magistrate Judge of the Southern District of Florida prior hereto.

I further certify that I have made a bona fide effort to resolve this matter without the necessity of emergency action.

Dated this 7 day of JUNE, 2017.

Signature: _____

Printed Name: Avery S. Chapman

Florida Bar Number: 517321

Telephone Number: 561-753-5996

=====

FOR CLERK'S OFFICE USE ONLY

I hereby certify that the Judge assigned to this case is unavailable for this emergency. (A copy of notification to the Clerk is on file). In accordance with the Court's Internal Operating Procedures, the matter has been assigned to the Honorable _____ through a blind random assignment process. The assignment of this emergency matter shall be of temporary duration, limited only to the immediate relief sought and the case for all other purposes or proceedings shall remain on the docket of the Judge to whom it was originally assigned.

[If Applicable] I hereby certify that the above Judge randomly assigned to this emergency is unavailable. (A copy of notification to the Clerk is on file). Therefore, in accordance with the Court's Internal Operating Procedures, the Honorable _____ has subsequently been assigned to the matter through a blind random assignment procedure. The assignment of this emergency matter shall be of temporary duration, limited only to the immediate relief sought and the case for all other purposes or proceedings shall remain on the docket of the Judge to whom it was originally assigned.

Dated this _____ day of _____, 20____.

STEVEN M. LARIMORE
Court Administrator · Clerk of Court

By: _____, Deputy Clerk