

CAUSE NO. 236-220623-06

LAINIE WHITMIRE and
RAY WHITMIRE
Plaintiffs,

v.

NATIONAL CUTTING HORSE
ASSOCIATION,
Defendant.

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IN THE DISTRICT COURT

OF TARRANT COUNTY, TX

236TH JUDICIAL DISTRICT

FILED
TARRANT COUNTY
2011 MAY 13 PM 12:31
THOMAS A. WILDEBERG
DISTRICT CLERK

RECEIVED

MAY 16 2011
COURT CLERK
SECOND DISTRICT OF TEXAS
DEBRA SPISAK, CLERK

NOTICE OF APPEAL

Plaintiffs, Lainie Whitmire and Ray Whitmire file this Notice of Appeal as follows:

1. The trial court from which this appeal is taken is the 236th Judicial District Court for Tarrant County, Texas. The appeal is taken from the matter styled *Lainie Whitmire and Ray Whitmire v. National Cutting Horse Association*, Cause No. 236-220623-06.

2. Lainie Whitmire and Ray Whitmire now desire to appeal the trial court's judgment dated April 15, 2011. A true and correct copy of the Judgment from which an appeal is now taken is attached hereto as Exhibit "A".

3. This appeal is taken to the Second Court of Appeals located at the Tarrant County Justice Center, 401 W. Belknap, Suite 9000, Fort Worth, Texas 76196.

4. This appeal is timely filed under Texas Rules of Appellate Procedure 26.1 because this Notice of Appeal is filed within thirty days after the judgment was signed.

Respectfully submitted,

WALKER SEWELL LLP

By: 

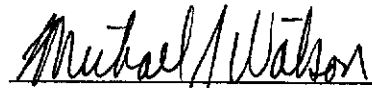
JAMES W. WALKER
State Bar No. 20709600
MICHAEL J. WATSON
State Bar No. 24008246
901 Main Street, Suite 5000
Dallas, Texas 75202
Telephone: (214) 871-0765
Facsimile: (214) 871-2795

**ATTORNEYS FOR PLAINTIFFS
LAINIE AND RAY WHITMIRE**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document was served upon all attorneys of record in the above-captioned cause pursuant to TEX. R. CIV. P. 21a on this the 13th day of May, 2011, by:

Hand Delivery: _____
Certified Mail: XX
Fax Transmittal: _____


MICHAEL J. WATSON

NO. 236-220623-06

LAINIE WHITMIRE and
RAY WHITMIRE,

Plaintiffs,

vs.

NATIONAL CUTTING HORSE
ASSOCIATION,

Defendant.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

236TH JUDICIAL DISTRICT

FINAL JUDGMENT

On the 10th day of January 2011, came on to be heard the above-entitled and numbered cause. Plaintiff Lainie Whitmire ("Whitmire") and Defendant, National Cutting Horse Association ("NCHA"), appeared in person and by attorney of record and announced ready for trial. A jury, having been previously demanded, consisting of twelve qualified jurors was duly impaneled and the case proceeded to trial.

Prior to trial, summary judgment on all of Lainie Whitmire's claims against the NCHA in this case, except for false imprisonment and intentional infliction of emotional distress, had been granted by this Court, those claims were severed from this case and were appealed. The Second Court of Appeals affirmed this Court's grant of summary judgment on all claims except for the breach of oral agreement claim on which it found a fact issue and remanded that claim to this Court. Additionally, summary judgment on all claims asserted by Ray Whitmire against the NCHA in this case were granted by this Court before trial. Trial proceeded on Lainie Whitmire's claims for false imprisonment and breach of oral agreement and those claims were submitted to the jury. Issues relating to attorneys' fees were submitted to the Court by agreement of the parties. The

Copy mailed to each

Attorney of record

On FINAL JUDGMENT - 04750-018/232783

4/15/11

Court's Minutes

JM Transaction # 385

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EXHIBIT

A

charge of the Court and the verdict of the jury are incorporated by reference for all purposes. After the jury returned its verdict, the parties filed post verdict motions including Plaintiff's Motion for Entry of Final Judgment, Plaintiff's Motion for Award of Costs and NCHA's Motion for Judgment or, in the Alternative New Trial. The parties also made submissions on their attorneys' fees claims.

The Court, having considered the verdict, the post-verdict motions, (including all responses and replies thereto) and all submissions on attorneys' fees is of the opinion that judgment should be rendered as follows:

IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff Lainie Whitmire take nothing against the NCHA on her claims for breach of oral agreement, false imprisonment, exemplary damages and attorneys' fees.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Ray Whitmire take nothing by way of his claims against the NCHA for declaratory judgment, violations of due process, breach of fiduciary duty and attorneys' fees.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, as part of this judgment, NCHA recover from Plaintiff Lainie Whitmire reasonable and necessary attorneys' fees pursuant to Texas Civil Practice and Remedies Code § 37.009 in the amount of \$302,000⁰⁰ through the date of this Judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, as part of this judgment, NCHA recover from Ray Whitmire reasonable and necessary attorneys' fees pursuant to Texas Civil Practice and Remedies Code § 37.009 in the amount of \$45,000²⁰ through the date of this Judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, should Lainie Whitmire and/or Ray Whitmire appeal this judgment and be unsuccessful, the attorneys' fees award against Ray Whitmire will be increased by a further amount

of \$25,000.00 for an appeal to the Intermediate appellate court; a further \$15,000.00 if a Petition for Review is filed; and a further \$25,000.00 if the error is granted.


IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the amounts awarded in this judgment shall bear interest at the highest rate allowed by law from the date of judgment until paid in full.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court finds that good cause exists in this case to tax costs against the party incurring same and, therefore, all costs of court expended or incurred in this cause are adjudged against the party incurring same.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all relief not expressly granted herein is denied and that this judgment disposes of all claims between the parties and is a final judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all writs and processes for the enforcement and collection of this judgment issue as necessary.

SIGNED this 15 day of April, 2011.


JUDGE PRESIDING