

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

LAWRENCE REYNOLDS,
ANTHONY MAWING, ALEXIS
RIOS-CONDE, JESUS SANCHEZ,
DALE WHITTAKER, LUIS PEREZ.
and TONY A. MARAGH,

Plaintiffs,

v.

Civil Action No. 09-C-688

THE WEST VIRGINIA RACING
COMMISSION, a public corporation,

Defendant.

TEMPORARY RESTRAINING ORDER

This matter came before the Court on April 16, 2009, at 9:00 a.m., upon the application of Plaintiffs for a temporary restraining order.

After consideration of the specific facts shown by the Verified Complaint and by argument, this Court finds:

1. That the notices sent to Plaintiffs by Defendant were facially and constitutionally insufficient;
2. That the manner in which the Defendants conducted proceedings against the Plaintiffs appears to have violated his constitutional rights to due process in multiple ways;
3. That the injuries caused by Defendant's actions, including the inability of Plaintiffs to race, are immediate and irreparable in that monetary damages appear difficult to establish;

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KANAWHA COUNTY CIRCUIT COURT

4. That the harm to Defendant caused by staying the Plaintiffs' suspensions until such time as proper notice can be given and a constitutionally proper hearing can be held is negligible; and

5. That the public interest is best served when the constitutional rights of public license holders are respected and protected by public agencies.

Accordingly, as the facts found above, the Court concludes as a matter of law:

a. That Plaintiffs are substantially likely to succeed on the merits of the underlying litigation;

b. That, in the absence of a temporary restraining order, Plaintiffs will suffer immediate and irreparable injury for which there is no adequate remedy at law;

c. That the issuance of a temporary restraining order will not inflict greater or undue injury upon those restrained or third parties; and

d. That the issuance of a temporary restraining order will serve the public interest.

Plaintiffs' Applications for Temporary Restraining Order are therefore granted and it is hereby ORDERED that the suspensions of the plaintiffs' racing permits are stayed until the Court hears Plaintiffs' Motion for Preliminary Injunction.

This action is binding on the parties to this action, their officers, agents, servants, employees, and attorneys, and on those persons in active concert or participation with them who receive actual notice of this Order.

This Order was issued at 10:00 a.m./p.m. on April 16, 2009, and will expire upon the conclusion of the de novo hearing before the West Virginia Racing Commission, on April , 2009, unless extended for good cause shown or by agreement of the parties, which will occur within thirty days of the filing of the Request for Hearing, unless extended for good cause shown or by agreement of the parties.

