

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

NATIONAL HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
ARIZONA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
ARKANSAS HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
INDIANA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
ILLINOIS HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
LOUISIANA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
MOUNTAINEER PARK HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
NEBRASKA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
OKLAHOMA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
OREGON HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
PENNSYLVANIA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION, AND
WASHINGTON HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,

Plaintiffs,

v.

JERRY BLACK; KATRINA ADAMS; LEONARD COLEMAN; MD NANCY COX; JOSEPH DUNFORD; FRANK KEATING; KENNETH SCHANZER; the HORSERACING INTEGRITY AND SAFETY AUTHORITY, INC.; the FEDERAL TRADE COMMISSION; REBECCA KELLY SLAUGHTER, in her official capacity as Acting Chair of the Federal Trade Commission; ROHIT CHOPRA, in his official capacity as Commissioner of the Federal Trade Commission; NOAH JOSHUA PHILLIPS, in his official capacity as Commissioner of the Federal Trade Commission; and CHRISTINE S. WILSON, in her official capacity as Commissioner of the Federal Trade Commission,

Defendants.

No. 5:21-cv-00071-H

**APPENDIX TO
DEFENDANTS
JERRY BLACK,
KATRINA ADAMS,
LEONARD COLEMAN,
NANCY COX,
JOSEPH DUNFORD,
FRANK KEATING,
KENNETH SCHANZER,
AND HORSERACING
INTEGRITY AND SAFETY
AUTHORITY, INC.'S
BRIEF IN SUPPORT OF
OPPOSITION TO
PLAINTIFFS' MOTION
FOR PARTIAL SUMMARY
JUDGMENT**

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NATIONAL HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
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WASHINGTON HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,

Plaintiffs,

v.

JERRY BLACK; KATRINA ADAMS; LEONARD COLEMAN; MD NANCY COX; JOSEPH DUNFORD; FRANK KEATING; KENNETH SCHANZER; the HORSERACING INTEGRITY AND SAFETY AUTHORITY, INC.; the FEDERAL TRADE COMMISSION; REBECCA KELLY SLAUGHTER, in her official capacity as Acting Chair of the Federal Trade Commission; ROHIT CHOPRA, in his official capacity as Commissioner of the Federal Trade Commission; NOAH JOSHUA PHILLIPS, in his official capacity as Commissioner of the Federal Trade Commission; and CHRISTINE S. WILSON, in her official capacity as Commissioner of the Federal Trade Commission,

Defendants.

No. 5:21-cv-00071-H

**DECLARATION OF
BRENNAN H. MEIER**

DECLARATION OF BRENNAN H. MEIER

Pursuant to 28 U.S.C. § 1746, Brennan H. Meier declares as follows:

1. This declaration is submitted in support of Defendants Jerry Black, Katrina Adams, Leonard Coleman, Nancy Cox, Joseph Dunford, Frank Keating, Kenneth Schanzer, and the Horseracing Integrity and Safety Authority, Inc.'s (collectively, "Authority Defendants") opposition to Plaintiffs' motion for partial summary judgment.

2. I am an attorney in good standing licensed to practice law in the State of Texas and authorized to practice law in this Court. I am currently employed as an attorney with Akin Gump Strauss Hauer & Feld LLP and represent the Authority Defendants in this case.

3. I am over 18 years old and have personal knowledge of the facts stated in this declaration.

4. Attached to this declaration as Exhibit A is a true and correct copy of a Horseracing Integrity and Safety Authority Press Release entitled "HISA Nominating Committee Announces Board, Standing Committee Members to Comprise the Horseracing Integrity and Safety Authority," dated May 5, 2021. I obtained the attached copy on or around May 26, 2021, by visiting <https://www.hisaus.org/>.

5. Attached to this declaration as Exhibit B is a true and correct copy of an article from ESPN News Services entitled "Derby winner Medina Spirit fails postrace drug test; Bob Baffert banned at Churchill Downs," dated May 9, 2021. I obtained the attached copy on or around May 26, 2021, by visiting https://www.espn.com/horse-racing/story/_/id/31416038/kentucky-derby-winner-medina-spirit-tests-positive-anti-inflammatory.

6. Attached to this declaration as Exhibit C is a true and correct copy of an article by John Clay entitled "Triple Crown-sized black eye for horse racing, and Bob Baffert is involved again," dated May 9, 2021. I obtained the attached copy on or around May 26, 2021, by visiting

<https://www.kentucky.com/sports/horses/kentucky-derby/article251274384.html>.

7. Attached to this declaration as Exhibit D is a true and correct copy of an article by Nathan Solis entitled “Bettors Sue Medina Spirit Trainer Over Kentucky Derby Win Fouled by Doping Scandal,” dated May 14, 2021. I obtained the attached copy on or around May 26, 2021, by visiting <https://www.courthousenews.com/bettors-sue-medina-spirit-trainer-over-kentucky-derby-win-fouled-by-doping-scandal/>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 27, 2021.

A handwritten signature in black ink, appearing to read 'Brennan H. Meier', written over a horizontal line. The signature is stylized and cursive.

Brennan H. Meier

EXHIBIT A

HISA Nominating Committee Announces Board, Standing Committee Members to Comprise the Horseracing Integrity and Safety Authority

May 5, 2021 – The Horseracing Integrity and Safety Authority’s (the “Authority”) nominating committee announced today members of its board of directors and standing committees. The process was led by Nancy Cox, University of Kentucky vice president for land-grant engagement and dean of the College of Agriculture, Food and Environment, and Leonard Coleman, former president of the National League of Professional Baseball Clubs.

The 2020 Horseracing Integrity and Safety Act (“HISA”) created the Authority as the independent governing structure charged with proposing and enforcing health-and-safety standards subject to consideration and adoption by the Federal Trade Commission over Thoroughbred racing in the United States. The independent nominating committee reviewed more than 160 nominations, evaluating nominees from within and outside of the industry. In addition to ensuring a diversity of professional backgrounds, the committee took into consideration geographic, racial and gender diversity.

Under the authority and oversight of the Federal Trade Commission, the Authority board and standing committee members are responsible for developing, implementing and enforcing a series of uniform anti-doping, medication control, racetrack safety and operational rules to enhance equine safety and protect the integrity of the sport.

Board of Directors

The nine-person board includes five members from outside of the Thoroughbred industry and four industry representatives. The two chairs of the Authority’s standing committees serve on the board of directors, and the board is expected to select the board chair at its first meeting. The board of directors includes:

- Steve Beshear, Kentucky (independent director)
- Leonard Coleman, Florida (independent director)
- Ellen McClain, New York (independent director)
- Charles Scheeler, Maryland (independent director)
- Adolpho Birch, chair of the Anti-Doping and Medication Control standing committee, Tennessee (independent director)
- Joseph De Francis, Maryland (industry director)
- Susan Stover, chair of the Racetrack Safety standing committee, California (industry director)
- Bill Thomason, Kentucky (industry director)
- DG Van Clief, Virginia (industry director)

“Over the past several months, the nominating committee carefully reviewed each nominee with a deep and enduring understanding of the important responsibility entrusted to them in selecting the inaugural board and standing committees of this essential entity charged with standardizing safety in the industry” said nominating committee co-chair Nancy Cox. “Thanks to the time and effort of the committee, we have a diverse board and standing committees with broad expertise who will bring the thoughtfulness and skill needed in implementing the Horseracing Integrity and Safety Act.”

Anti-Doping and Medication Control Standing Committee

The committee is comprised of four independent members and three industry members:

- Adolpho Birch, chair (Tennessee, independent director)

- Jeff Novitzky, Nevada (independent member)
- Kathleen Stroia, Florida (independent member)
- Jerry Yon, Florida (independent member)
- Jeff Blea, California (industry member)
- Mary Scollay, Kentucky (industry member)
- Scott Stanley, Kentucky (industry member)

Racetrack Safety Standing Committee

The committee is comprised of four independent members and three industry members:

- Susan Stover, chair (California, industry director)
- Lisa Fortier, New York (independent member)
- Peter Hester, Kentucky (independent member)
- Paul Lunn, North Carolina (independent member)
- Carl Mattacola, North Carolina (independent member)
- Glen Kozak, New York (industry member)
- John Velazquez, New York (industry member)

“The overwhelming response to the call for nominees is a clear example of the industry’s interest in and commitment to addressing the safety needs in this sport,” said Leonard Coleman, co-chair of the nominating committee and incoming board member. “The members of the Authority’s two standing committees bring extraordinary knowledge to the process of developing uniform standards in anti-doping and medication control and racetrack safety—a critical need for the horseracing industry.”

Members of the board of directors and standing committees underwent a comprehensive screening process, and the members of the board of directors and any independent member of a standing committee are subject to HISA’s strict conflict of interest restrictions to ensure the Authority’s independence and integrity.

“On behalf of the Authority, we want to thank the lawmakers who sponsored and supported this legislation in Congress, as well as the members of the nominating committee for their time, effort and professionalism,” said Cox.

Today’s announcement received praise and support from Congressional leaders who shepherded the passage of the Horseracing Integrity and Safety Act last December.

“The official formation of the Horseracing Integrity and Safety Authority is the critical next step in safeguarding this cherished sport. I’m grateful to University of Kentucky Vice President Nancy Cox, and the other members of the nominating committee for their diligence in selecting respected individuals to serve on thoroughbred racing’s independent governing body, said U.S. Senate Republican Leader Mitch McConnell (R-KY), who introduced the Horseracing Integrity and Safety Act in the Senate and led it to enactment. “With uniform, national standards for medication-use and track safety, we can address the challenges facing horse racing and preserve one of Kentucky’s signature industries for generations to come. Along with all horse racing fans, I look forward to the Authority’s work to protect horses and jockeys and to give every competitor a fair shot at the winner’s circle.”

“Today, the Horseracing Integrity and Safety Authority Nominating Committee put forward an impressive slate of individuals that will lead the Thoroughbred racing industry forward,” said Congressman Andy Barr (R-KY-06). “This group of regionally and professionally diverse

individuals will guide the implementation of uniform standards of safety and competition. I want to thank each member for volunteering their time and talents to serving this vital industry. The Horseracing Integrity and Safety Act is a historic reform that will strengthen Kentucky's signature industry for generations to come."

"Reforming the noble sport of horse racing—and implementing the high standards we established in our Horseracing Integrity and Safety Act—will require a deft, experienced and compassionate group of hands that can balance the historic and geographically diverse character of this sport's past with a resounding and ethical vision for its bright future. The group of leaders advanced by the nominating committee today has what it takes to meet that challenge, and I look forward to working with them to ensure they get the job done for the sake of our equine athletes and the many people and communities who depend on them," said Representative Paul Tonko (D-NY-20).

Additional information on HISA can be found at hisaus.org

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Biographical information

Horseracing Integrity and Safety Authority Board of Directors

- Steve Beshear is an independent director from Kentucky. He served two terms as the 61st governor of Kentucky. An attorney by trade, Beshear has an extensive background in public service in Kentucky, including terms as Lieutenant Governor, Attorney General and a member of the Kentucky House of Representatives.
- Adolpho Birch is an independent director from Tennessee who will chair the Anti-Doping and Medication Control Standing Committee of the Authority. Birch is senior vice president of business affairs and chief legal officer for the Tennessee Titans. Prior to joining the Titans, he spent 23 years at the National Football League's headquarters, with responsibilities that included administration and enforcement of the NFL's policies related to the integrity of the game, substance abuse, performance-enhancing drugs, gambling and criminal misconduct.
- Leonard Coleman is an independent director from Florida. Coleman is the former president of the National League of Professional Baseball Clubs. He joined Major League Baseball in 1992 as the executive director of market development. Previously, Coleman was a municipal finance banker for Kidder, Peabody and Company and served as commissioner of both the New Jersey Department of Community Affairs and Department of Energy. Coleman is also a former board member of Churchill Downs.
- Ellen McClain is an independent director from New York. McClain serves as the chief financial officer for Year UP, a nonprofit organization dedicated to closing the opportunity divide by ensuring that young adults gain the skills, experience and support that will empower them through careers and higher education. From 2009-2013, she served in various leadership roles with the New York Racing Association (NYRA), including as its president.

- Charles Scheeler is an independent director from Maryland. Scheeler is a retired partner at DLA Piper. He has an extensive legal career in the private and public sector. Prior to joining DLA Piper, Scheeler was a federal prosecutor in the US Attorney's Office and served as lead counsel to former Senator George Mitchell in his investigation of performance-enhancing substance use in Major League Baseball. Scheeler also has extensive experience investigating and monitoring Division I athletics programs' compliance with the National College Athletics Association.
- Joseph De Francis is an industry director from Maryland. De Francis is the managing partner of Gainesville Associates, LLC. Prior to this role, he was a senior executive for various Thoroughbred racing entities including the Maryland Jockey Club and Magna Entertainment Corporation. De Francis has served on several industry and charitable organization boards, including the National Thoroughbred Racing Association ("NTRA") and the Johns Hopkins Heart Institute, among others.
- Susan Stover is an industry director from California, and she will chair the Racetrack Safety Standing Committee of the Authority. Stover is a professor of surgical and radiological science and the University of California, Davis and an expert in clinical equine surgery and lameness. Her research investigates the prevalence, distribution and morphology of equine stress fractures, risk factors and injury prevention, as well as the impact of equine injuries on human welfare.
- Bill Thomason is an industry director from Kentucky. Thomason is the immediate past president of Keeneland, a role he served in from 2012 to 2020. Throughout his career, Thomason has been engaged with several industry organizations, including the NTRA and American Horse Council, as well as several civic and corporate boards, including the Kentucky Chamber of Commerce and the University of Kentucky Gluck Equine Research Foundation.
- DG Van Clief is an industry director from Virginia. Van Clief retired in 2006 from serving as president of the Breeders' Cup since 1996. A long-time racing executive, Van Clief was chairman of the Fasig-Tipton Company and a trustee of the Jockey Club Foundation. For several generations, his family operated Nydrie Stud in Virginia, and his grandmother bred 1947 Kentucky Derby winner Jet Pilot.

Anti-Doping and Medication Control Standing Committee Members

- Jeff Novitzky is an independent member from Nevada. Novitzky is Ultimate Fighting Championship's (UFC) vice president of athlete health and performance. In this role, he partnered with the United States Anti-Doping Agency to implement UFC's anti-doping program. Prior to UFC, Novitzky was a federal agent for the Food and Drug Administration and an investigator for the Internal Revenue Service.
- Kathleen Stroia is an independent member from Florida. Stroia is senior vice president of sport sciences and medicine and transitions for the Women's Tennis Association (WTA) and the WTA's representative on the board of the Society for Tennis Medicine and Science. Stroia has served on various committees related to her sport, including the International Tennis Federation Medical Commission, the Tennis Anti-doping Committee and the U.S. Tennis Association Sport Science Committee, among others.

- Jerry Yon is an independent member from Florida. Yon is a retired gastroenterologist and previous member of the Kentucky Horse Racing Commission (“KHRC”), where he helped establish the Kentucky Equine Medical Director position, and is a past chair of the Equine Drug Research Council, which advises the KHRC on drug testing, regulations and penalties.
- Jeff Blea is an industry member from California. Blea is equine medical director at the University of California, Davis School of Veterinary Medicine. He is also a partner/owner in Von Bluecher, Blea, Hunkin, Inc., an equine veterinary medicine and surgery practice. Blea has served on and led several equine industry organizations including the American Association of Equine Practitioners (“AAEP”), Southern California Equine Foundation and the NTRA’s Safety and Integrity Alliance.
- Mary Scollay is an industry member from Kentucky. Scollay is the executive director and chief operating officer of the Racing Medication and Testing Consortium (RMTC), one of the industry’s foremost scientific authorities on performance enhancing drugs, therapeutic medications and laboratory testing. She has served as a racing regulator since 1987 and is an active member in several industry and professional practice organizations including the AAEP and the International Group of Specialist Racing Veterinarians.
- Scott Stanley is an industry member from Kentucky. Stanley is a professor of analytical chemistry at the University of Kentucky’s Maxwell H. Gluck Equine Research Center and director of the Equine Analytical Chemistry Laboratory. A research scientist with more than 30 years of regulatory drug testing experience, his work focuses on developing new anti-doping approaches and the establishment of the Equine Biological Passport project.

Racetrack Safety Standing Committee Members

- Lisa Fortier is an independent member from New York. Fortier is the James Law Professor of Surgery, Equine Park Faculty Director and associate chair for Graduate Education and Research at the Cornell University College of Veterinary Medicine. Her primary clinical and translational research interests are in equine orthopedic surgery, tendonitis, arthritis and regenerative medicine.
- Peter Hester is an independent member from Kentucky. Hester is an orthopedic surgeon specializing in sports medicine and previously worked for equine veterinary surgeon William Reed at Belmont Park. While in medical school, he was a night watchman at Ballindaggin Farm and has maintained a passion for the sport and rider safety.
- Paul Lunn is an independent member from North Carolina. Lunn is dean of the College of Veterinary Medicine at North Carolina State University. Previously he was a professor and administrator at Colorado State University and the University of Wisconsin-Madison. Lunn’s scholarly interests are in equine immunology and infectious disease.
- Carl Mattacola is an independent member from North Carolina. Mattacola is dean of the University of North Carolina, Greensboro School of Health and Human Sciences. Prior to this, he was associate dean of academic and faculty affairs for the College of Health Sciences at the University of Kentucky. Mattacola’s research has focused on neuromuscular, postural and functional considerations in the treatment and rehabilitation

of lower extremity injury.

- Glen Kozak is an industry member from New York. Kozak is senior vice president of operations and capital projects for the New York Racing Association's (NYRA) facility and track operations, which include Belmont Park, Saratoga Race Course, Aqueduct Racetrack and others. Prior to joining NYRA, Kozak worked for the Maryland Jockey Club as vice president of facilities and racing surfaces.
- John Velazquez is an industry member from New York. Velazquez is one of the most accomplished and respected jockeys in the history of horse racing, having won almost 6,250 races. He is North America's all-time leading money-earning jockey and holds the record for most graded stakes wins. He is a board member of the Permanently Disabled Jockeys' Fund and co-chairman of the Jockeys' Guild. He was inducted into the National Museum of Racing and Hall of Fame in 2012.

Nominating Committee Members:

- Len Coleman is the former president of the National League of Professional Baseball Clubs. He joined Major League Baseball in 1992 as the executive director of market development. Previously, Coleman was a municipal finance banker for Kidder, Peabody and Company and served as commissioner of both the New Jersey Department of Community Affairs and Department of Energy. Coleman is also a former board member of Churchill Downs.
- Nancy Cox is the vice president for Land-grant Engagement and the dean of the College of Agriculture, Food and Environment at the University of Kentucky. Prior to that, she served as associate dean for research and director of the Experiment Station at the University of Kentucky. Cox championed the formation of the UK Equine Initiative (now UK Ag Equine Programs), recognizing the importance of the horse industry and its significance to Kentucky.
- Katrina Adams is the immediate past president of the United States Tennis Association (USTA), following two consecutive terms as the USTA's chairman and president. A successful professional tennis player, Adams was elected vice president of the International Tennis Federation in 2015 and was appointed as chairman of the Fed Cup Committee in 2016.
- Jerry Black is a visiting professor at Texas Tech School of Veterinary Medicine and is an emeritus professor and Wagonhound Land and Livestock chair in Equine Sciences at Colorado State University. He is the former president of the American Association of Equine Practitioners and former chair of the board of trustees of the American Horse Council.
- Joseph Dunford is the former chairman of the Joint Chiefs of Staff, the nation's highest-ranking military officer, and was the principal military advisor to the president, Secretary of Defense, and National Security Council from Oct. 1, 2015, through Sept. 30, 2019. Prior to becoming chairman, General Dunford served as the 36th Commandant of the Marine Corps.
- Frank Keating is the former governor of Oklahoma. Prior to that role, his career in law enforcement and public service included time as a Federal Bureau of Investigation agent, U.S. Attorney and state prosecutor, and Oklahoma House and Senate member.

He served as assistant secretary of the U.S. Treasury, associate U.S. attorney general, and general counsel for the U.S. Department of Housing and Urban Development.

- Ken Schanzer served as president of NBC Sports from June 1998 until his retirement in September 2011. He also served as chief operating officer. During Schanzer's tenure, he secured the television rights to the Triple Crown races and Breeders' Cup for NBC. Before joining NBC Sports, he served as senior vice president of government relations for the National Association of Broadcasters.

EXHIBIT B



Sunday, May 9, 2021
Updated: May 10, 10:02 AM ET

Derby winner Medina Spirit fails postrace drug test; Bob Baffert banned at Churchill Downs

ESPN News Services

LOUISVILLE, Ky. -- Medina Spirit's victory in the Kentucky Derby is in serious jeopardy because of a failed postrace drug test, one that led Churchill Downs to suspend Hall of Fame trainer Bob Baffert on Sunday in the latest scandal to plague the sport.

Baffert denied all wrongdoing and promised to be fully transparent with the Kentucky Horse Racing Commission during its investigation. Baffert's barn received word Saturday that Medina Spirit had tested positive for an excessive amount of the steroid betamethasone, which is sometimes used to treat pain and inflammation in horses.

Medina Spirit's win over Mandaloun in the Derby stands -- for now.

"To be clear, if the findings are upheld, Medina Spirit's results in the Kentucky Derby will be invalidated and Mandaloun will be declared the winner," Churchill Downs officials said in a statement shortly after Baffert held a hastily planned morning news conference outside his barn to announce and respond to the allegations.

The track said failure to comply with the rules and medication protocols jeopardizes the safety of horses and jockeys, the sport's integrity and the Derby's reputation.

"Churchill Downs will not tolerate it," the statement read. "Given the seriousness of the alleged offense, Churchill Downs will immediately suspend Bob Baffert, the trainer of Medina Spirit, from entering any horses at Churchill Downs Racetrack."

In a statement sent to [Horse Racing Nation](#) by Baffert's attorney, Craig Robertson, the legendary trainer said he plans to be proactive in verifying the test results.

"I intend to thoroughly and transparently investigate the matter to determine how this could have happened," Baffert said in the statement. "We will have the split sample analyzed and DNA testing performed. That will be the first step in the process."

Medina Spirit is expected to run in the Preakness on Saturday, barring some abrupt change in plans or a decision from officials at Pimlico or Maryland's racing commission that would prevent him from entering the race for the second jewel of the Triple Crown.

Officials from 1/ST Racing, which operates Pimlico, and the Maryland Jockey Club said Sunday they would consult with state authorities and that "any decision regarding the entry of Medina Spirit in the 146th Preakness Stakes will be made after review of the facts." Officials rescheduled the post position draw for Tuesday afternoon, moving it back a day in light of the uncertainty.

"I got the biggest gut punch in racing for something that I didn't do," Baffert said of the failed drug test. "And it's disturbing. It's an injustice to the horse. ... I don't know what's going on in racing right now, but there's something not right. I don't feel embarrassed. I feel like I was wronged. We're going to do our own investigation. We're going to be transparent with the racing commission, like we've always been.

"He's a great horse. He doesn't deserve this. He ran a gallant race," Baffert added.

The only horse to be disqualified for medication after winning the Derby is Dancer's Image in 1968.

Medina Spirit is Baffert's fifth horse known to have failed a drug test in just over a year. Flanked by his attorney, Baffert said his barn was told that Medina Spirit was found to have 21 picograms of betamethasone -- slightly more than double what the trainer said was the allowable amount -- in a postrace sample.

However, in August a new standard was passed that any detectable amount of betamethasone in race testing is a violation. Betamethasone is legal under Kentucky racing rules, though it must be cleared 14 days before a horse races.

Betamethasone is the same drug that was found in the system of Gamine, another Baffert-trained horse who finished third in the Kentucky Oaks last September. Gamine was eventually disqualified from that finish because of that test and Baffert was fined \$1,500.

Baffert said Sunday that neither he nor anyone in his barn -- including his team's veterinarians -- ever administered betamethasone to Medina Spirit. Baffert insisted the horse has never been treated with the drug.

"I'm not a conspiracy theorist," Baffert said. "I know everybody is not out to get me, but there's definitely something wrong. Why is it happening to me? You know, there's problems in racing, but it's not Bob Baffert."

Mandaloun, which lost the Derby by a half-length, is not going to the Preakness. If Mandaloun is declared the Kentucky Derby winner, that would mean the Triple Crown pursuit for 2021 would end right there. It is unknown how long Kentucky officials will take to determine whether the results of the Derby should stand or will change.

If Medina Spirit is disqualified, his connections will not receive the \$1.86 million winner's share of the Derby purse money. But for bettors, anything that happens next won't matter -- those who cashed in on Medina Spirit still win, those who didn't still lose and those who backed Mandaloun missed out on a winning ticket that would have returned more than \$50 on a \$2 wager.

Approximately \$155.4 million was bet on the Kentucky Derby pari-mutuel pool. An estimated \$11 million-\$12 million was bet on Medina Spirit, based on his odds to win (12-1). An estimated \$3 million-\$4 million was staked on Mandaloun, who went off at 26-1.

Churchill Downs And Out

Bob Baffert has been banned from entering horses at Churchill Downs after Medina Spirit, his record seventh Kentucky Derby champion, failed a postrace drug test. Here's a look at the past Derby champions trained by Baffert.

	Year
Silver Charm	1997
Real Quiet	1998
War Emblem	2002
American Pharoah*	2015
Justify	2018
Authentic	2020
Medina Spirit	2021

* *Triple Crown winner*

Baffert was planning to saddle Medina Spirit and Concert Tour in the Preakness, going for a record eighth victory in that race. Except for 2020, when the races were run out of order due to the coronavirus pandemic, Baffert is undefeated with a Derby winner in the Preakness.

Last month, Baffert won an appeals case before the Arkansas Racing Commission after he had been suspended by Oaklawn Park stewards for 15 days for a pair of positive drug tests involving two of his horses that won at the track on May 2, 2020. The horses tested positive for the painkiller lidocaine, which Baffert said they were exposed to inadvertently.

But as Baffert insisted that horse racing can do better preventing doping, he also acknowledged the spotlight.

"I know I'm the most scrutinized trainer and have millions of eyes on me. But you know what? I don't have a problem with that," Baffert said. "The last thing I want to do is do something that would jeopardize the greatest two minutes in sports."

Animal Wellness Action executive director Marty Irby said in a statement that racing authorities "should throw the book" at those found guilty of violations.

The failed drug test is just another in a long series of events shadowing the sport -- and the Derby, its best known and most prestigious race -- in recent years.

Maximum Security crossed the line first in the 2019 Kentucky Derby before being disqualified by Churchill Downs stewards for interference in what was an unprecedented move. Country House, which crossed the line second in that race, is now considered the winner.

In March 2020, Jason Servis -- who was Maximum Security's trainer -- was part of a sweeping indictment that involved trainers, veterinarians and pharmacists in a horse doping ring. Baffert faced the doping allegations in Arkansas and Kentucky last year with Gamine, and now this.

"I'm worried about our sport," Baffert said. "Our sport, we've taken a lot of hits as a sport. These are pretty serious accusations here, but we're going to get to the bottom of it and find out. We know we didn't do it."

Information from ESPN's David Purdum and The Associated Press was used in this report.

EXHIBIT C

KENTUCKY DERBY

A Triple Crown-sized black eye for horse racing, and Bob Baffert is involved again

BY JOHN CLAY

MAY 09, 2021 01:57 PM, UPDATED MAY 10, 2021 02:14 PM



Trainer Bob Baffert watches horses on the track during morning workouts at Churchill Downs on April 28. Three days later, he won the Kentucky Derby with Medina Spirit. A week after that, his Derby winner tested positive for overuse of a medication. ALEX SLITZ ASLITZ@HERALD-LEADER.COM

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This couldn't look much worse.

horse racing's most famous event, the Kentucky Derby. Horse racing's most famous trainer, Bob Baffert. A positive drug test. A Baffert horse. Again.

The news hit like a thunderbolt Sunday morning, that Medina Spirit, the 12-1 shot who won last Saturday's 147th running of the Kentucky Derby, giving Baffert a record seventh triumph in the event, had tested positive for an overage of betamethasone, a corticosteroid injected into joints to reduce pain and swelling.

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Medina Spirit isn't disqualified. Not yet. The stewards at Churchill Downs are following the proper protocol, submitting a split sample to see if the positive test is confirmed by an outside body. If so, Baffert has the right to appeal the ruling.

Still, it is Baffert's history that is the problem here. In a little more than the past year, the trainer's horses have already tested positive five times, according to the New York Times. Just last year, Baffert was fined after two of his horses, Gamine and Charlatan, tested positive on Arkansas Derby day.

The Kentucky Derby is a fair race

Outside his barn at Churchill Downs on Sunday morning, Baffert denied that anyone in his barn had given the drug to Medina Spirit, who had won just one of 11 races in 2021, though the son of Protonico had never finished worse than second. **Auth: App'x 18**

“We’re going to get to the bottom of this,” Baffert said. “We didn’t do it.”

Churchill Downs did not wait for the investigation to play out before taking action.

The racetrack suspended Baffert from racing horses at Churchill until a ruling comes down “given the seriousness of the alleged offense.”

What does this mean for the Preakness? Can the officials at Pimlico Race Course allow the Kentucky Derby winner to compete in Saturday’s second jewel of the Triple Crown now that a positive test — and a suspension in Louisville — hangs over Baffert and Medina Spirit?

Preakness officials said Sunday they are investigating the matter. Originally scheduled for Monday, the post position draw for the race has been pushed back to Tuesday. The Daily Racing Form reported Monday that Baffert attorney Craig Robertson is prepared to [file a temporary restraining order](#) if Medina Spirit is not allowed to run in the Preakness.

Baffert said Monday he [will not be going](#) to Baltimore. “I don’t want to be a distraction,” said the trainer.

More importantly, what does this mean for horse racing? Just once in Kentucky Derby history has the winner been disqualified for a positive drug test. That was in 1968 with Dancer’s Image. Runner-up Forward Pass was declared the winner. But a series of legal challenges lasted years until finally the original DQ was finally upheld.



Fans fill Churchill Downs, but not quite packed as usual for the 147th running of the Kentucky Derby. The track was at 40-50% normal capacity due to the COVID-19 pandemic.

BY [ALEX SLITZ](#) | BRIAN SIMMS | RYAN HERMENS

And we’re just two years removed from the controversial 2019 Kentucky Derby in which winner Maximum Security was taken down by the stewards because of interference during the race. Country House was declared the winner.

Maximum Security was then trained by Jason Servis, who just last year **Auth.App'd 19** for allegedly administering PEDs to his horses. In an ironic twist, owner Gary West

moved Maximum Security to Baffert's barn.

Case 5:21-cv-00071-H Document 56-1 Filed 05/28/21 Page 22 of 27 PageID 844

Suspicious and rumors have followed Baffert his entire career. Part of that is because Baffert wins, and wins big, often in the biggest races. In 2015, he became the first trainer in 37 years to saddle a Triple Crown winner (American Pharoah). And three years later, he repeated the feat with Justify. He has won the Kentucky Derby twice in a row — Authentic won in 2020 — and four times in the last seven years. His seventh Derby win broke Ben A. Jones' long-standing record.

But Baffert keeps giving his critics every right to be suspicious. His horses have tested positive over 30 times since the mid-1990s when he stopped training quarter horses to move up to the more lucrative Thoroughbred game. With his most recent proliferation of positives, the trainer promised to be more vigilant about what was happening in his barn. But now, this.



Trainer Bob Baffert describes watching Medina Spirit win the Kentucky Derby, Baffert's 7th victory in the Run for the Roses. BY KENTUCKY DERBY

We're also in an era in which there is more focus on cleaning up the sport. Just last week, board members were named to the new Horse Racing Safety and Integrity Act, passed by Congress to establish a national review entity that would make rules more uniform and the sport safer.

This Kentucky Derby was the first to be run in which the 3-year-old colts were not allowed to be administered Lasix on race day. Lasix is a drug that can prohibit the bleeding that happens when horses run. As a way of phasing in the new Lasix rule, the 2021 Kentucky Derby colts were prohibited from using Lasix in graded stakes as 2-year-olds in 2020.

Had the Kentucky Derby been won by a different horse with a different trainer, Sunday's news might not have had the same impact. But this is Bob Baffert. The best trainer in the sport. With a history of positive tests in his background.

No matter the outcome, it couldn't look much worse.

Auth.App'x 20

When: 6:45 p.m. Saturday

Where: Pimlico Race Course in Baltimore, Md.

TV: NBC-18

Purse: \$1 million

Distance: 1 3/16 miles

For: 3-year-old Thoroughbreds

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EXHIBIT D

Bettors Sue Medina Spirit Trainer Over Kentucky Derby Win Fouled by Doping Scandal

NATHAN SOLIS May 14, 2021

Horse race bettors claim they lost thousands of dollars when a colt who later tested positive for a steroid was crowned winner of the Kentucky Derby.



In this May 5, 2018, file photo, Mike Smith rides Justify to victory during the 144th running of the Kentucky Derby horse race at Churchill Downs in Louisville, Ky. (AP Photo/Morry Gash)

LOS ANGELES (CN) — A group of bettors say in a federal [lawsuit](#) their horses lost the Kentucky Derby on May 1 thanks to Medina Spirit, a colt they argue was “doped” with performance enhancing drugs and now they are the suing the horse’s trainer Bob Baffert for fraud and racketeering.

Eight days after crossing the finish line at the 147th Kentucky Derby and winning the first race in the Triple Crown, Baffert revealed that Medina Spirit, a 3-year-old Protonico colt, tested positive for a steroid. Baffert said the positive test result might have been due to an ointment used to treat a skin rash.

On Friday, the colt passed the latest battery of drug tests, according to the Maryland Jockey Club. This clears the way for a run in the Preakness Stakes, the second leg of the Triple Crown. On the same day, four horse bettors filed a class action lawsuit in the Central District of California against Baffert, his racing stables and Zedan Racing Stables, Inc.

Baffert's attorney W. Craig Robertson III from Wyatt, Tarrant & Combs called the lawsuit "completely frivolous and without legal merit. We will be promptly moving to have it dismissed."

The complaint argues that Baffert repeatedly enters race horses who test positive for medication, drugs or other substances. Michael Beychok of Louisiana; Justin Wunderler of New Jersey; Michael Meegan of New York; and Keith Mauer of California claim they lost between \$100 to \$100,000 in bets because Medina Spirit won the race. They claim a class action lawsuit is necessary.

"Medina Spirit won the race, contrary to what plaintiffs' analysis and observations of the horse's previous racing form and analysis of the race suggested would be the result," says the complaint. "Consequently, the other horses on which Plaintiffs placed their bets finished second, third, fourth, and fifth, instead of first, second, third, and fourth."

Baffert won \$1.8 million thanks to his colt finishing in first. If race organizers disqualify Medina Spirit's win, the winnings would go to the other winners.

"However, the bettors of the race, including Plaintiffs, will not receive the payoffs they would have been entitled to, but for the illegal participation of Medina Spirit," says the complaint.

They claim Baffert is part of an "scheme" where he trains horses for other people to claim a profit. Baffert travels across the world to train horses and that includes entering horses in the famed Churchill Downs where the Kentucky Derby takes place. They claim a pattern where horses test positive for banned substances.

"For example, in January 2021, the California Horse Racing Board voted to let eventual 2018 Triple Crown winner and Baffert-trained horse, Justify, keep his Santa Anita Derby victory, despite the detection of scopolamine in postrace samples Justify," says the complaint.

They list several other instances where racing boards fined Baffert when his horses tested positive for other substances.

"These and many other confirmed acts of horse doping by the Baffert defendants in recent years and throughout his career were attempts to further their goal of collecting the winning purse from the events in which their trained horses compete," says the complaint. "Although continually fined by stewards for medication violations, the violations have continued, finally leading to a violation in the most important horse race in America, the 147th running of the Kentucky Derby."

Baffert's pattern extends as far back as 1993, according to the plaintiffs. The men are seeking a nationwide class action lawsuit. They allege violations of the federal RICO Act, racketeering, fraud and equitable fraud. They are represented by Robert Green from Green & Noblin. They attached rulings from multiple racing bodies against Baffert and his horses who tested positive for substances.

Another class action complaint on Friday filed in Jefferson County Circuit Court in Louisville, Kentucky makes similar claims against Baffert. That complaint names Baffert, his racing group and Churchill Downs.

The famed race track organization did not immediately respond to requests for comment via email.

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September 11, 2019

In "Law"

[Feds Sweep 27 in Racehorse Doping Probe](#)

March 9, 2020

In "Criminal"



CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2021, I served the foregoing appendix upon all counsel of record by filing a copy of the document with the Clerk through the Court's electronic docketing system.

/s/ Pratik A. Shah
Pratik A. Shah