

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 06-cv-02528-JLK

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CHRISTOPHER BRAY,  
SABINE BRAY,  
TRAINING PROS, INC.,  
HAKIM ABID,  
ALLISON ABID,  
BRAD FIX,  
JAN FIX, and  
BJ AND F LLC,

Plaintiffs,

v.

QFA ROYALTIES LLC, a Delaware limited liability company,

Defendant.

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**DECLARATION OF GREGORY STROSS, ESQ.**

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I, Gregory R. Stross, declare as follows:

1. A hearing on the plaintiffs' Motion for Preliminary Injunction was scheduled by the Court to commence on February 12, 2007.

2. In leading up to the court-ordered hearing, Justin M. Klein, Esq., co-counsel for Plaintiffs, and I divided certain work to be performed on behalf of the plaintiffs. Mr. Klein undertook all discussions and negotiations with opposing counsel concerning settlement for a limited number of plaintiffs. I played no role in the negotiation for the settlement agreement,

which involved several weeks and numerous edited versions of a final settlement agreement. (The agreement was signed and forwarded to Defendant's counsel by Mr. Klein the day after filing the Trial Brief, on February 10, 2007.)

3. With our division of duties, I was to present the plaintiffs' evidence at the February 12, 2007 hearing. I therefore prepared the Plaintiffs' Trial Brief for Hearing On Preliminary Injunction (CM/ECF #38, "Trial Brief"). The Trial Brief was prepared during the week prior to its filing on Friday, February 9, 2007.

4. Although I never reviewed the settlement agreement prior to its execution, while composing the Trial Brief I was aware of its general terms. I was also aware that the intended settlement contemplated including a provision of confidentiality by the parties.

5. In preparing the Trial Brief I utilized an appellate-brief format that included a table of contents, a statement of the claims and relief sought, a procedural history of the case, a factual history underlying the claims, and a discussion of the legal issues that comprised the central body of the pleading. This is a pleading format that I have used repeatedly over fifteen years in the Colorado Court of Appeals. The format is specifically designed to comport with Colorado Appellate Rule 28(b)(3), which requires a separate statement of the case that includes the course of the proceedings below. C.A.R. 28(b)(3).

6. In preparing the Trial Brief I attempted only to provide the Court with a brief review of the procedural history of the case, however, I improperly included a discussion that included a limited amount of information concerning the settlement of five of the plaintiffs' groups. Trial Brief, p. 5.

7. The inclusion of this confidential information was wholly inadvertent.

8. In the preparation of the Trial Brief I never gave specific thought to what I was including, nor what I was excluding, concerning the settlement information. Inclusion of these comments was not in any way intended to benefit the other plaintiffs, nor to harm the Defendant, but only to provide the Court with information to aid in its determination of the issues to be presented at hearing.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Dated this 21<sup>st</sup> day of February, 2007.

*s/ Gregory R. Stross*

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Gregory R. Stross