

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

CASSANDRA WALLACE, MICHAEL
WALLACE, JAMONE BRADFORD,
LAKOSIA FISHER AND WILLIAM
FISHER

NO. 2013 CW 0349

VERSUS

HOUSTON T. PENN,
INDIVIDUALLY, AND ON BEHALF
OF HOUSTON PRIDE AND
GLORY HORSE RANCH, AND XYZ
INSURANCE COMPANY

April 24, 2013

In Re: Houston T. Penn, applying for supervisory writs,
19th Judicial District Court, Parish of East
Baton Rouge, No. 541-040.

BEFORE: PARRO, WELCH AND DRAKE, JJ.

WRIT GRANTED WITH ORDER; REQUEST FOR STAY DENIED. The trial court did not abuse its discretion in applying District Court rule 9-8(a) to preclude the introduction of testimony by defendant/relator, Houston T. Penn, during the February 4, 2013 hearing scheduled to address plaintiffs' motion to compel specific performance of the June 19, 2012 consent judgment and defendant's petition to vacate the June 19, 2012 consent judgment. However, because the issues presented in plaintiffs' motion and defendants' petition are factual, requiring evidence regarding the parties' intent at the time they entered into the compromise agreement, we conclude that the trial court erred by ruling on the matter rather than rescheduling the hearing for a future date at which time the pertinent testimony could have been heard. Accordingly, we grant the writ, vacate the February 19, 2013 judgment, and remand the matter for an evidentiary hearing.

**JEW
EGD
RHP**

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DEPUTY CLERK OF COURT
FOR THE COURT