

EXHIBIT

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April 21, 2017

VIA FACSIMILE (434-295-3151)

C. James Summers, Esquire
Attorney at Law
415 Park Street
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**RE: *John H. Birdsall, et al. v. Foxfield Racing Association, Inc., et al.*
Case No. CL17000001-00**

Dear Jim:

I received your voicemail and letter earlier today requesting that my clients agree to suspend discovery in the above-captioned case pending resolution of your outstanding demurrer and motion to dismiss.

You will recall that when we filed the Complaint and *lis pendens*, we did not serve the Complaint on your client, hoping instead that there would still be an opportunity to discuss a mutually satisfactory resolution before turning to active litigation. It was your client who chose to actively litigate the matter. It was also your client who chose to go outside the four corners of the Complaint by alleging numerous facts in a supporting affidavit and in the body of the pleadings you filed. Your assertion of these facts makes discovery critical.

In addition, as you know, Va. S. Ct. R. 4:1(d)(2) provides that “[d]iscovery shall continue after a demurrer, plea or dispositive motion addressing one or more claims . . . has been filed and while such motion is pending decision,” unless the court enters an order suspending discovery. Thus, the default rule in Virginia is that discovery is to take place regardless whether a demurrer or other dispositive motion is pending.

That said, in an effort to accommodate your concerns, we are willing to suspend the due date for any documents created or received before January 1, 2011, until after we have had the opportunity to review your initial production of documents and give you written notice of a new deadline.

We also are willing to suspend the due date for responses to interrogatories to the extent those interrogatories seek information regarding events occurring before January 1, 2011.

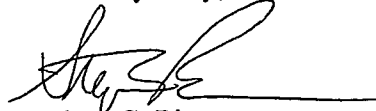
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Again, we will provide you written notice of a new deadline after we have reviewed your initial responses to those interrogatories.

Please confirm that you will be responding to our discovery requests within the twenty-one days provided in the Rules. We are not asking you to waive, at this point, any specific objections that you may have to any individual discovery items, however, we are asking that you not use the pendency of your demurrer and motion to dismiss as a blanket excuse not to provide the information and documents that our discovery seeks.

Yours very truly,



Stephen C. Piepgrass

cc: Ashley L. Taylor, Jr., Esq.
William H. Hurd, Esq.