

IN THE COUNTY COURT, THIRD JUDICIAL CIRCUIT,
IN AND FOR MADISON COUNTY, FLORIDA.

The Hon. BEN STEWART, in his
official capacity as the Sheriff
of Madison County, Florida,

Petitioner,

vs.

CASE NO. 2012-25-CC

CABOODLE RANCH, INC.,
a Florida not-for-profit corporation,

Respondent.

ORDER RESPONDENT'S MOTION FOR STAY PENDING APPEAL

THIS CAUSE having come before the court for hearing on June 29, 2012, on the MOTION FOR STAY PENDING APPEAL served on June 28, 2012, (hereinafter the "MOTION") by the Respondent, CABOODLE RANCH, INC., a Florida not-for-profit corporation, (hereinafter "CABOODLE") and the court having considered the argument DAVID W. COLLINS, Esq., counsel for CABOODLE, and GEORGE T. REEVES, Esq., counsel for the Petitioner, the Hon. BEN STEWART, in his official capacity as the Sheriff of Madison County, Florida, (hereinafter the "SHERIFF") and the other matters presented and being fully advised in the premises finds as follows:

1. The court has entered its ORDER PLACING ANIMALS, dated June 22, 2012 (hereinafter the "ORDER") which takes certain animals (hereinafter the "ANIMALS") from CABOODLE and places them with the SHERIFF for disposition.
2. In the MOTION, CABOODLE seeks a stay of the ORDER pending CABOODLE's appeal of the ORDER.

3. The court has the authority to stay the ORDER pending appeal. Fla.R.App.P. 9.310(a) (“[A] party seeking to stay a final or non-final order pending review shall file a motion in the lower tribunal, which shall have continuing jurisdiction, in its discretion, to grant, modify, or deny such relief. A stay pending review may be conditioned on the posting of a good and sufficient bond, other conditions, or both.”)

4. A stay is necessary in this case to preserve the *status quo* during the pendency of the appeal provided that the rights of the SHERIFF can be adequately protected.

5. CABOODLE asserts in the MOTION that the rights of the SHERIFF may be adequately protected by requiring CABOODLE to post a bond. (Paragraph 5 of the MOTION.) The court agrees with this assertion.

6. The court must now determine the amount of the bond. The amount of the bond is the amount necessary to pay the, “[C]osts; interest; fees; and damages for delay, use, detention, and depreciation of property, if the review is dismissed or order affirmed ...” Fla.R.App.P. 9.310(c)(2)

7. The court finds that if the ORDER were affirmed on appeal, that SHERIFF would suffer damages in the form of the costs for the care of the ANIMALS during the pendency of the appeal.

8. The SHERIFF represented at the hearing that the costs for the care of the ANIMALS during the pendency of the appeal would be no less than \$1,800,000.00. CABOODLE did not dispute that this was a reasonable estimate of the costs which would likely be incurred.

NOW THEREFORE it is hereby ORDERED and ADJUDGED as follows:

1. The effect and operation of the ORDER is hereby stayed effective immediately,

provided that CABOODLE shall post a bond in an amount of not less than \$1,800,000.00, by no later than July 16, 2012 at 3:00 p.m. (hereinafter the "BOND DEADLINE").

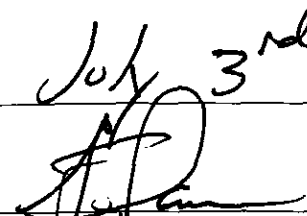
2. To entitle CABOODLE to a stay under this order, the bond must meet the requirements Fla.R.App.P. 9.310(c). Further, should the bond be posted through the use of a surety, the bond shall be in the form set out in Fla.R.App.P. Forms 9.900(i).

3. Should CABOODLE fail to post a bond meeting the above requirements prior to the BOND DEADLINE, the stay set out in this order shall be automatically and immediately lifted as of the BOND DEADLINE, without the need of further action of the court.

4. During the term of the stay (regardless of whether such stay extends past the BOND DEADLINE) the SHERIFF shall continue to have the authority to spay, neuter, micro-chip, vaccinate and provide other veterinary care to the ANIMALS. Further, the SHERIFF may euthanize any ANIMAL where euthanasia is recommended in writing by a licensed veterinarian.

5. The court retains and shall have continuing jurisdiction to modify or rescind the stay set out herein. Fla.R.App.P. 9.310(a) Further the court retains and shall have continuing jurisdiction to determine the actual sufficiency of the bond ordered herein and modify such bond if necessary. Fla.R.App.P. 9.310(c)(1)

DONE and ORDERED in chambers on July 3rd, 2012,



Gregory S. Parker
Acting County Judge

Copies to:

George T. Reeves
Post Office Drawer 652
Madison, Florida 32341

David W. Collins
Post Office Box 541
Monticello, Florida 32345

Gary E. Brown
8855 141st Lane
Live Oak, Florida 32060-6357

This certifies copies were
furnished on: July 3, 2012
By: McDougle, JA