

GOVERNMENT LAW CENTER OF ALBANY LAW SCHOOL
GOVERNMENT LAW ONLINE

ALL CLEAR ON THE RACING FRONT

MARCH 30, 2005



80 New Scotland Avenue
Albany, NY 12208

www.als.edu

GOVERNMENT LAW ONLINE publications are available at www.governmentlaw.org

ALL CLEAR ON THE RACING FRONT

**Bennett Liebman, Esq.
Coordinator/Staff Attorney
Racing and Gaming Law Program**

MARCH 30, 2005

These materials are copyright by Albany Law School (ALS) on behalf of its Government Law Center or ALS licensors and may not be reproduced in whole or in part in or on any media or used for any purpose without the express, prior written permission of Albany Law School or the licensor. Neither Albany Law School, the Government Law Center or any licensor is engaged in providing legal advice by making these materials available and the materials should, therefore, not be taken as providing legal advice.

All readers or users of these materials are further advised that the statutes, regulations and case law discussed or referred to in these materials are subject to and can change at any time and that these materials may not, in any event, be applicable to a specific situation under consideration. The information provided in these materials is for informational purposes only and is not intended to be, nor should it be considered to be, a substitute for legal advice rendered by a competent licensed attorney or other qualified professional. If you have any questions regarding the application of any information provided in these materials to a particular situation, you should consult a qualified attorney or seek advice from the government entity or agency responsible for administering the law applicable to the particular situation in question.

All Clear on the Racing Front

Thoroughbred racing rules normally specify that a horse when clear is entitled to any part of the course. For example, New York rules state “When clear, a horse may be taken to any part of the course provided that crossing or weaving in front of contenders may constitute interference or intimidation for which the offender may be disciplined.” The model rules of racing similarly provide, “When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul.”

The problem is that all these rules of racing don't define what “clear” is. At a recent program for prospective stewards conducted by the University of Arizona Race Track Industry Program, the students were provided with a set of instructions that were to be given by the stewards to jockeys at the start of a race meeting.

The instructions say, “You can take any part of the track when clear. (Clear is an **extended horse's length of light** between two horses.)” [Emphasis Added]

Let's be generous here and say that under this nebulous concept of “clear” an extended horse's length of light is $1 \frac{1}{16}$ th lengths. I've been at administrative hearings where stewards have testified that “clear” is variously a length and one quarter or a length and one half. Nobody is clear as to the meaning of clear.

It's difficult to believe that a horse tiring on the lead going at a rate of 28 seconds per quarter mile (32.14 miles per hour) can legally shift into the lane of a horse a length and $1/16$ th back running at 24 seconds per quarter-mile (37.5 mile per hour). That is a formula for disaster, and yet there is nothing in the rules of racing that can provide an accurate guide as to the meaning of clear. One steward's clear is another steward's obstructed.

Clearly, thoroughbred racing needs to establish some benchmark as to the meaning of clear. Perhaps, the benchmark should be set out at a length and one quarter with a proviso that where a horse moves into the path of another horse that is running much faster than the first horse, the clearance for the first horse should exceed a length and a quarter, and that the act of moving into another horse's path under such circumstances could be considered an act of intimidation.

There are numerous open questions in the thoroughbred rule book, but few are as significant as the definition of clear. Horses routinely change paths in the stretch of races; yet there is little guide other than the discretion of the stewards to determine whether these path changes are permissible. For the sake of the fans, the riders, the horses, and even the stewards themselves, it's time to shine the light of uniformity and make the definition of “clear” less obscure. Too many observers of horse racing look at stewards' inquiries as a crapshoot. Let's try to make the process as clearly rational as possible.

