

In the Israel Supreme Court in its capacity as the High Court of Justice

### EXPERT TESTIMONY

I the undersigned, Dr. Eva Berriman, veterinarian and horse welfare consultant, was requested by Concern for Hakol Chai Helping Animals in Israel to give my professional opinion on the matter of horse racing that arises in this Court.

I give this opinion in lieu of a testimony in court, and I hereby declare that I know well that, for purposes of the Penal Law concerning perjured testimony in court under warning or oath, the law that applies to this opinion, when it is signed by myself as requested by the law, is the same as the law that applies to in-court testimony under warning or oath.

Address: Lot 8 Bowtell Dve, Highfields, Queensland, Australia 4352.

#### Education:

1962–1966 Bachelor of Veterinary Science (BVSc), University of Queensland.  
1985–1986 Diploma of Teaching (TAFE – Technical and Further Education)(In Service), (Dip T [TAFE]), Queensland University of Technology.

#### Publications:

Horsekeeping: A Sane Approach to the Care and Management of Horses (1992). This book focuses intensively on horse welfare issues.

Horse Care and Management (1987). Principal advisor and co-writer for this series of 18 videos produced by the School of Electronic Media Studies, TAFE, Brisbane, and used throughout Australia for tertiary (post-secondary education) teaching purposes. The videos are also shown on Briz 31, the primary community TV channel in Brisbane.

Author of numerous letters and articles published in leading newspapers and magazines in Australia on horse welfare and other animal welfare issues.

Guest on metropolitan radio programs and interviewed in newspaper articles as an expert on horse and other animal welfare issues.

#### Relevant Experience:

2004–Present — Horse and cat welfare specialist, and member, by invitation, of Animal Consultants International, [www.animalconsultants.org](http://www.animalconsultants.org), an elite group that offers expertise to animal protection organizations around the world on various aspects of animal welfare.

1999–Present — Developer, writer and tutor for a horse management course offered by the Open Learning Institute of TAFE, Queensland, Australia.

1999–Present — Wrote, designed, and maintain Animal Welfare: Human-dependant Animals <http://www.users.bigpond.com/berrime/animalwelfare.htm>, a library of constantly updated and revised horse management articles.

1985–2000 — Teacher, tutor, and curriculum researcher and writer, TAFE, Brisbane. Biology instructor in the veterinary nursing program, and instructor on all subjects in the equine curriculum. Provided major input into the design and development of all horse courses, including farriery, stablehand, stud groom, and stud management. Wrote and researched various other TAFE materials.

1969–1984 — Owner/operator of various horse studs, specialist in mare infertility treatment and welfare-aware mare and stallion handling techniques; showed and competed with Arabians; trained endurance horses and actively competed in major events; trained trotters and racehorses; swabbing vet for 6 years to the major Brisbane (Australia) racing and trotting clubs. Held an Owner/Trainers Permit to train Standardbreds 1973–76. Held an Open Trainer's License to train racehorses (Thoroughbreds) 1975–1985.

1982 — Nutrition advisor to the Macau Trotting Company in Macau.

1967–1969 — clinician at the University of Queensland Veterinary School, also in private practice.

As a racing veterinarian, breeder, owner, and trainer of both Standardbreds and Thoroughbreds over some years, I have intimate grass roots knowledge of the industry.

And this is my opinion:

The horse racing industry advertises itself as “glamorous”, but in reality, exploitation, welfare violations, outright cruelty, and premature deaths are an inherent and unavoidable part of the industry.

1. Of the many thousands of horses bred to race, very few make the grade. There is an enormous amount of “wastage” of Thoroughbreds (euthanizing those not fast enough, or those with career-limiting injuries) in every country where this issue has been studied, including England, Germany, Japan, Macau, and the U.S. This is true for all age groups, but particularly for two-year-olds.

Race horses frequently suffer injuries because they are forced to train and race before their skeletal system has finished growing. Their limbs are pounded against a hard track, on which they are forced to run at high speed. One study showed that for every 22 races, at least one horse suffers an injury severe enough to prevent him or her from finishing a race. Another study estimated that 800 Thoroughbreds die from injuries

every year in North America. **See:** Ted Miller, *Six Recent Horse Deaths at Emerald Downs Spark Concern*, Seattle Post-Intelligencer (8 May 2001); Glenn Robertson Smith, *Why Racehorses Are Cracking Up*, Australia: The Age (15 Nov. 2002).

A study in the Equine Veterinary Journal noted that leg fractures are the most common cause of equine fatality on UK race tracks. Other studies performed in England, South Africa, and Japan that were reported in the same journal, or in the Journal of the South African Veterinary Association, all stated that musculoskeletal injuries are the most common cause of wastage of Thoroughbreds.

Certain injuries, such as strained tendons or hairline fractures, are difficult to diagnose, and during the next training session or race, the horse is irreparably damaged. Most owners are not willing to pay high veterinary fees for an injured horse, without the possibility that the horse will never race again, and instead, choose to euthanize the animal.

**See:** Scientific studies: Craig J. Bailey, *Wastage in the Australian Thoroughbred Racing Industry*, Rural Industries Research and Development Corporation (Jun. 1988); Y. Kasashima, T. Takahashi, R.K. Smith, A.E. Goodship, A. Kuwano, T. Ueno, S. Hirano, *Prevalence of superficial digital flexor tendonitis and suspensory desmitis in Japanese Thoroughbred flat racehorses in 1999*, Equine Research Institute, Japan Racing Association: Equine Veterinary Journal (May 2004); S.J. More, *A longitudinal study of racing Thoroughbreds: performance during the first years of racing*, School of Veterinary Science and Animal Production, The University of Queensland, PO Box 125, Kenmore Queensland: Vol. 77 No. 2 Australian Veterinary Journal (Feb. 1999); A. Olivier, J.P. Nurton, A.J. Guthrie, *An epizootological study of wastage in Thoroughbred racehorses in Gauteng, South Africa*, Department of Surgery, Faculty of Veterinary Science, University of Pretoria, South Africa: Journal of the South African Veterinary Association (Dec. 1997). Newspaper articles: Allen G. Breed, *And What of the Spent Racehorse?* Associated Press (25 Nov. 1999); Joe Drape, *At The Derby, Racing Is Facing Its Drug Problem*, New York Times, page 1 (2 May, 2005); *Macau horse slaughter exposed*, South China Morning Post (16 Jun., 2002); *Shameful Slaughter*, Sunday Morning Post, (June 16, 2002).

2. Horses are forced to race even while injured, causing enormous suffering. Veterinarians recommended that War Emblem, the racehorse who won the first two legs of the Triple Crown in 2001, undergo surgery to repair bone chips in one ankle and both knees. His trainer, deciding that surgery would take away from training and racing time, forced him to race while injured. War Emblem lost the Belmont Stakes, no longer races, and has been sold twice. The same trainer continued to race a 3-year-old Thoroughbred after knee surgery. The horse broke his shoulder during a workout and had to be euthanized.

Most young horses will develop shin soreness and should be given a break from racing for several weeks until they recover, but it is not uncommon for trainers to

force them to continue training and racing, believing this “compacts the bone”. These horses are in agony and collapse if touched on the shins.

**See:** *Baffert-Trained Del Mar Futurity Winner Is Euthanized*, Associated Press (20 Feb. 2003); *War Emblem Taken Over by Insurance Firms*, Associated Press (5 Jun. 2003).

3. Horses are drugged so they can race even when injured because in the horse racing industry, the profit-making motive, not animal welfare, is all that matters. Every horse at the 2003 Kentucky Derby was given a shot of Lasix to control bleeding in the lungs, and most were probably given the anti-inflammatory drug, phenylbutazone.

A recent front page New York Times article listed the most common ways used to enhance a race horse’s performance: bronchodilators to widen air passages, hormones to increase oxygen-carrying red blood cells, cone snail or cobra venom injected into a horse’s joints to ease pain and stiffness, and a “milkshake” of baking soda, sugar, and electrolytes delivered through a tube in the horse’s nose to increase carbon dioxide in the horse’s bloodstream and lessen lactic-acid buildup, warding off fatigue. The article noted that batteries are even concealed under a horse’s skin that deliver a shock when the horse is flagging.

Laboratories cannot detect every illegal drug, of which there could be thousands, according to the executive director of the Racing Medication and Testing Consortium. Morphine was suspected in the case of Be My Royal, who won a race limping. Trainer Bob Baffert was suspended for using morphine on a horse. One trainer was suspended for using an Ecstasy-type drug on five horses and another was barred from racetracks for using clenbuterol and, in one case, for having the leg of a euthanized horse cut off “for research.” A New York veterinarian and a trainer were brought up on felony charges when the body of a missing racehorse was found at a farm and authorities concluded that the cause of her death was a “performance-enhancing drug.”

**See:** Joe Drape, *At The Derby, Racing Is Facing Its Drug Problem*, New York Times, page 1 (2 May, 2005), Tom Keyser, *Gill Is Still Permitted to Stable, Race Horses at Pimlico, Laurel*, The Baltimore Sun (6 Apr. 2003), William Nack & Lester Munson, *The Breaking Point*, Time, Inc: Sports Illustrated (1 Nov. 1993), Alex Straus, *Dark Horses*, Maxim (May 2002), *Baffert Suspended for 60 Days*, CNN: Sports Illustrated (17 June 2001). *Trainer, Vet Charged in Trotter’s Death*, Albany, NY: Times Union (22 Apr. 2001).

4. Training and racing cause and/or exacerbate other serious problems, such as stomach ulcers, heart murmurs, and bleeding in the lungs. One study reported in the Equine Veterinary Journal noted a doubling of one type of heart murmur and a tripling of another in 2 year-olds after 9 months of training. A study in the Equine Veterinary Journal found hemorrhaging in the lungs in 95% of horses checked during two post-race examinations. An article in the Veterinary Clinics of North America: Equine

Practice Journal states that hemorrhaging in the lungs is “a condition affecting virtually all horses during intense exercise worldwide....there is no treatment that is considered a panacea, and the currently allowed treatments have not proven to be effective....” Another study in the Equine Veterinary Journal noted that inflammatory airway disease is common in young race horses. As long as a horse continues to undergo training and racing, the lungs cannot heal.

**See:** L.M. Begg & C.B. O’Sullivan, *The Prevalence and distribution of gastric ulceration in 345 racehorses*, Vol 81, No. 4 Australian Veterinary Journal (April 2003), E.K. Birks, M.M. Durando, S.McBride, *Exercise-induced pulmonary hemorrhage*, Sports Medicine and Imaging, Department of Clinical Studies, University of Pennsylvania School of Veterinary Medicine: Veterinary Clin North America Equine Pract, (Apr. 2003), E.K. Birks, K.M. Shuler, L.R. Soma, B.B. Martin, L. Marconato, F.Del Piero, D.C. Teleis, D. Schar, A.E. Hessinger, C.E. Uboh, *EIPH: postrace endoscopic evaluation of Standardbreds and Thoroughbreds*, Department of Clinical Studies, University of Pennsylvania: Equine Veterinary Journal Supplement (Sep. 2002), J.L. Wood, J.R. Newton, N. Chanter, J.A. Mumford, *Inflammatory airway disease, nasal discharge and respiratory infections in young British racehorses*, Animal Health Trust, Suffolk, UK: Equine Veterinary Journal (May 2005), L.E. Young, J.L. Wood, *Effect of age and training on murmurs of atrioventricular valvular regurgitation in young Thoroughbreds*, Animal Health Trust, Newmarket, Suffolk, UK: The Equine Veterinary Journal (May 2000).

5. Overuse of whips and spurs in races and the use of batteries and electric goads on training tracks are all illegal but they all still occur. Excessive use of the whip is supposed to be strictly policed by the stewards during an actual race, but often is not. When I was still involved in the industry, I saw horses come back into the enclosure after a race with pronounced welt marks.
6. The industry promotes the false image of race horses retiring to lives of luxury as pets, well-cared-for riding horses, or stud horses. In reality, when horses can no longer race, they are usually sent to slaughterhouses. The United States alone slaughters tens of thousands of horses every year, of which many are ex-race horses.

Ferdinand, a Derby winner and Horse of the Year in 1987, was sold three times and then sent to a Japanese slaughterhouse. Exceller, a million-dollar racehorse who was inducted into the National Racing Museum’s Hall of Fame, was killed at a Swedish slaughterhouse.

Horses sent to slaughterhouses travel for days in cramped trailers, usually without access to water or food. Injuries are common: A University of California, Davis study of 306 horses destined for slaughter found that 60 of them sustained injuries during transport. Some travel in double-decker trailers designed for cattle or sheep, vehicles not tall enough for horses, though the U.S. Department of Agriculture banned the use of these trailers for horse transport in 2006. Horses are subject to the same method of slaughter as cattle, but since horses are generally not used to being herded, they tend

to thrash about to avoid the pneumatic gun that should render them unconscious before their throat is slit.

Macau imports approximately 300 horses per year and retires approximately the same number, most of which are euthanized. Some who do not make the grade, but who can still race, are exported to race and/or to an unknown fate in China or Vietnam. A local Macau newspaper published photos of perfectly healthy horses (some as young as 4 years old) who were no longer fast enough to win races, being lined up and shot, their bodies dumped at a local landfill. The expose led to a public outcry. The horses were shot because shooting is a cheaper, though much less humane method of euthanasia than lethal injection.

**See:** Craig J. Bailey, *Wastage in the Australian Thoroughbred Racing Industry*, Rural Industries Research and Development Corporation (Jun. 1988); Allen G. Breed, *And What of the Spent Racehorse?* Associated Press (25 Nov. 1999); A. Olivier, J.P. Nurton, A.J. Guthrie, *An epizootological study of wastage in Thoroughbred racehorses in Gauteng, South Africa*, Department of Surgery, Faculty of Veterinary Science, University of Pretoria, South Africa: *Journal of the South African Veterinary Association* (Dec. 1997); C.L. Stull, *Responses of Horses to Trailer Design, Duration, and Floor Area During Commercial Transportation to Slaughter*, 77 *Journal of Animal Science* 2925–2933 (1999); *Horsemeat Slaughtered/Prod Animals (Head), 2002 and Horsemeat Exports—Value, 2001*, Food and Agriculture Organization of the United Nations; *Macau horse slaughter exposed*, *South China Morning Post*, (16 Jun. 2002); *Shameful Slaughter*, *Sunday Morning Post*, (June 16, 2002); *Take Care of Our Horses. Commercial Transportation of Equines to Slaughter*, United States Department of Agriculture, Animal and Plant Health Inspection Service 2 (Jan. 2002).

7. Ex-racehorses who are not euthanized often suffer an even worse fate. Homes cannot be found for all the injured horses, those who didn't run fast enough to make the grade at the major tracks, and those at the end of their racing career. Most horse owners do not have land on which they can retire ex-racehorses and reasonable quality boarding is prohibitively expensive, even here in Australia.

Few members of the public have the expertise to care for and handle horses properly, or understand how expensive it is, especially where land is at a premium and all their food must be provided for them because there is inadequate grazing. Many horses end up totally neglected and some are left to starve to death.

Horses sold to riding schools or trail riding clubs can lead a miserable existence of hard work, improper care, and insufficient feed. Horses sent to race at smaller, less well known racetracks do not receive proper care and are forced to race on very bad surfaces, some of which are little more than ploughed paddocks, that are very hard on their legs.

In Israel, racehorses who don't make the grade could well end up in the same terrible situation as the cart horses of Jaffa. The temperament of most Thoroughbreds is not suited to that sort of work, but any animal can be starved into submission.

Some examples of common abuses to which race horses are subjected in Australia, particularly at the hands of ignorant, and even cruel people associated with secondary race tracks:

- Oral purgatives (“physics”) are considered necessary to “clean out” a horse, but actually render them weak and susceptible to colitis X, or intractable diarrhea, which can lead to death.
- Roughage is restricted in the belief that it is detrimental to a working horse, when in fact, the lack of it causes ulcers.
- The constant stabling is in itself a stress for many horses. Horses are animals of the open plains in nature (unlike forest-dwelling cattle).
- Diuretics are given, or water intake is restricted when the horse goes down in the back while being mounted, in the mistaken belief that the horse has an electrolyte imbalance or kidney problem, when in fact, the behavior is symptomatic of a musculoskeletal injury and what the horse requires is rest.
- A rug is put on the horse regardless of the outside temperature, which blocks the horse's ability to cool down by sweating. This is done in the mistaken belief that horses need to be kept warm and should not sweat. Horses cool down when sweat evaporates from their skin. It is incredibly cruel to prevent a horse from sweating, not unlike locking a dog or child in a hot car. It is also extremely damaging physiologically due to the development of heat stress.

**See:** Allen G. Breed, *And What of the Spent Racehorse?* Associated Press (25 Nov. 1999);

8. Fraudulent and criminal practices are inherent in horse racing, despite the best efforts of controlling authorities. Besides the illegal drugging of horses noted in point #5, which has been virtually impossible to stop, despite the large sums, effort, and sophisticated laboratory techniques employed in drug testing and control, one British Broadcasting System (BBC) article noted that “Prison sentences, illegal betting coups, question marks over doping offences and cheating at race courses across Britain have all occurred over the last 30 years.”

An insurance scandal in the U.S. cost the life of Alydar, who came in second in all three races of the 1978 Triple Crown. After being retired to stud at a Kentucky farm, it was thought that he shattered his leg by kicking a stall door and was euthanized when he wasn't able to maintain a splint, but ten years later, an FBI investigation revealed that his leg was deliberately broken using a rope tied to a pickup truck. The

disappearance and suspected murder of Brach candy heir Helen Voorhees Brach was traced to the Chicago horse “mafia,” whose leader was known for burning barns and killing horses for insurance money.

**See:** John Scheinman, *Horses, Drugs Are Racing’s Daily Double; No Uniform Policy in Industry*, The Washington Post (27 Apr. 2003); Alex Straus, *Dark Horses*, Maxim (May 2002); *Horse Racing Betting Fraud*, Fraud Alert, London Metropolitan Police Intelligence Briefings Archives (Nov. 2002); *The Candy Lady*, narr. Dennis Murphy, NBC: Dateline NBC, (21 Feb. 1996); *Three Decades of Scandal*, BBC Sport (5 Oct. 2002).

9. Very few of the hundreds of thousands of horses bred win any money at all, let alone return their training and veterinary costs, or their sometimes astronomical purchase price. One study conducted in Australia of 1,804 race horses aged 2–5 years revealed that 87% did not earn enough to cover their training costs, and 40% earned no money at all. **See:** S.J. More, *A longitudinal study of racing Thoroughbreds: performance during the first years of racing*, School of Veterinary Science and Animal Production, The University of Queensland, Australian Veterinary Journal, Vol. 77, No. 2, 105–112, February 1999.

Apart from this huge loss of earning capacity due to lack of ability, there is also major loss of earning capacity due to injury and chronic illness, according to another study performed in Australia. This report also notes that the industry does not reveal these realities to the public, in order to continue luring people into buying race horses. Catastrophic racing injuries requiring immediate euthanasia on the track are another cause of loss of earning capacity, and are extremely distressing to all concerned, including racegoers and the general public.

**See:** Craig J. Bailey, *Wastage in the Australian Thoroughbred Racing Industry*, Rural Industries Research and Development Corporation (Jun. 1988); Andrew Beyer, *A Beyer’s Guide for Racehorses*, The Washington Post (3 Jun. 2003); *The Odds Are You’ll Lose: Owning a Racehorse*, Financial Times (1 Feb. 2003).

Horses are sentient creatures, not inanimate, disposable objects. There is nothing romantic or glamorous about racing, despite the industry’s media promotions, and there are many ways to gamble besides racing horses. In this day and age, it is unconscionable to exploit animals so humans can gamble, particularly when such serious violations of basic welfare are an inherent part of the industry.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Dr. Eva Berriman