

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

### EXPERT TESTIMONY

I the undersigned, Holly Cheever, Doctor of Veterinary Medicine, was requested by Hakol Chai Concern for 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:

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Voorheesville, NY 12186  
U.S.A.

#### Education:

Harvard University, A.B. 1971 Summa Cum Laude.  
College of Veterinary Medicine at Cornell University (top ranking veterinary school in the U.S.),  
D.V.M. 1980, class rank number one.

#### Publications:

Contributing author to How to Investigate Animal Cruelty in New York State: A Manual of Procedures, published by the New York State Humane Association, Inc., 1996.

Contributing author to Shelter Medicine for Veterinarians and Staff, published by Blackwell Press, 2004. The chapters Dr. Cheever authored include a guide to investigating animal abuse, especially equine abuse, and a guide to rehabilitating horses seized in cruelty cases.

Good Housekeeping magazine's regular veterinary columnist, 1997-2001.

Author of numerous articles for dog and cat journals and magazines, including Dog Fancy.

#### Awards:

Phi Beta Kappa, Iota Chapter 1970 – Honor Society.

Awards for proficiency in academic medicine, in various disciplines, including: Physiology, bacteriology, etc.

The Upjohn Award for proficiency in small animal medicine.

The Horace K. White Award for highest academic record.  
First Class Marshall (class rank #1), 1980, Cornell School of Veterinary Medicine.  
Humane Society of the U.S. (HSUS) commendation, 1995, for investigation and prosecution of animal cruelty cases.  
New York State Troopers Award for outstanding service in the prosecution of cruelty cases, 1993.  
Veterinarian of the Year Award from the New York State Humane Association, 1991.  
American Society for the Prevention of Cruelty to Animals (ASPCA) Award for improving the condition of NY's carriage horses, 1990.  
(The HSUS and the ASPCA are the largest humane organizations in the U.S.)

Relevant Experience:

Now 55, I have been actively involved with riding and training horses since the age of 6.

Employed as an Exercise Girl to gallop race horses.

Worked on thoroughbred race tracks, 1973-1975.

Employed as a veterinary assistant for The Rochester Equine Clinic, a race horse practice in Rochester, New Hampshire, 1974.

Treat horses in my veterinary practice, 1980 - the present.

Lobbied for, educated, or worked on horse-related abuse issues, including the premarin industry, horse and mule diving, rodeo, and the New York City carriage horse trade.

Served as an expert consultant to approximately 15 municipalities across the U.S. in efforts to ban tourist/carriage horse rides in their city, or to develop regulations to protect carriage horses in the tourist trade.

Teach seminars to New York State's animal control officers and law officers (the police and state troopers) three times a year, instructing them in the proper implementation of New York State's anti-cruelty laws.

Currently serve as the Vice President of the New York State Humane Association.

Current Vice-President and spokesperson for the Association of Veterinarians for Animal Rights (AVAR), a national animal protection organization.

And this is my opinion:

1. This opinion focuses upon cruelties involved in the horse racing industry, both regulated and unregulated.
2. Cruelty to horses is inherent in the horse racing industry, even though racing is an activity many horses enjoy as members of an athletic species with a competitive nature. In the wild, or when playing with pasture mates, their speed is maintained only for short sprints. In order to make them race over the longer distances at race tracks, a jockey is required to urge them on, with or without the added use of a whip to encourage greater bursts of speed.
3. This opinion adds to that of Jennifer Hack, Tim O'Brien, and Eva Berriman, BVSc. I fully agree with Ms. Hack's, Mr. O'Brien's, and Dr. Berriman's opinions and, in what follows, elaborate on two particular aspects of cruelty against horses. Both of these aspects are an inevitable consequence of the horse-racing economics. Horse-racing entrepreneurs have only one incentive: to maximize their returns from the enterprise. The horse-racing industry systematically allows this economic incentive to override the basic moral prohibition of cruelty against horses and against animals in general.
4. This phenomenon is well-known and well documented. The United States legislators, both state and federal, have attempted to constrain the industry's economically-driven incentives and proven cruelty against horses through an elaborate set of statutes and regulations. Unfortunately, these attempts have largely failed. The industry continues to operate at the status quo, which includes drugging, and other unacceptable practices. See: *Three decades of scandal*, BBC Sport, (5 October, 2002), and references listed for point 8 re drugging.
5. The first cruelty of the horse-racing industry occurs at both ends of the horses' life cycle, resulting from the overpopulation generated by the industry, and is, therefore, an inescapable part of their racing career. First, very large numbers of foals must be produced annually in order to generate a few fast ones to be selected to compete. This leaves hundreds and even thousands of horses who are not eligible to race, and who must consequently be "disposed of". Then, when race horses have finished their career, usually at a very early age, before they are fully mature, they, again, must be "disposed of," since their numbers exceed by far the number of humane retirement facilities.

Therefore, inevitably, the horse-racing industry causes thousands of horses to be born only to be slaughtered or abandoned to an existence of neglect, starvation, and suffering (see references listed for point number 12).

6. The second aspect of the industry's inherent cruelty against horses occurs during the training and racing process. To compete in the races with the largest purses, which are for 2 and 3 year olds, horses must be trained and raced at too young an age before their bones' growth plates have matured. This causes many lower limb ailments and injuries,

including fractures, pulled ligaments, and strained tendons. Such injuries are common in horse racing, particularly on tracks where the desire for speed records induces the entrepreneurs to build firm track surfaces, thoroughly unforgiving on the horses' lower limbs. For horse-racing entrepreneurs, such surfaces generate profits by enhancing the entertainment value of high-speed racing. For horses, these surfaces are damaging and potentially devastating.

See:

Scientific studies:

B.J. Johnson, S.M. Stover, B.M. Daft, H. Kinde, D.H. Read, B.C. Barr, M. Anderson, J. Moore, L. Woods, J. Stoltz, et al., *Causes of death in racehorses over a 2 year period*, California Veterinary Diagnostic Laboratory System: 26(4) Equine Veterinary Journal., 327-30 (Jul. 1994).

Kasashima Y., Takahashi T, Smith RK, Goodship AE, Kuwano A, Ueno T, Hirano S., *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).

A.Lindner & A. Dingerkus, *Incidence of training failure among Thoroughbred horses at Cologne, Germany, Institute of Anatomy, Physiology and Hygiene of Domestic Animals, Katzenburgweg 7-9, 5300, Bonn 1, Germany*, 16(2) Preventive Veterinary Medicine, 85-94 (June 1993).

Oikawa and Kasashima, Equine Research Institute, Japan Racing Association, *The Japanese Experience with Tendonitis in Racehorses*, (13, 2) Journal of Equine Science, 41-56, (2002).

Verheyen KL, Wood JL, *Descriptive epidemiology of fractures occurring in British Thoroughbred racehorses in training*, 36(2) Equine Veterinary Journal, 167-73, (March 2004).

Articles: Bill Finley, *Sadly, No Way to Stop Deaths*, New York Daily News (10 Jun. 1993); Glenn Robertson Smith, *Why Racehorses Are Cracking Up*, Australia: The Age (15 Nov. 2002).

7. When these injuries occur — and they occur more and more frequently due to the owners' over-driving of their horses to achieve faster records and more money and fame — the owners make economic choices. Many of them use drugs to counteract the damage caused by the horses' overuse.

See: Alex Straus, *Dark Horses*, Maxim, (May 2002); *Baffert Suspended for 60 Days*, CNN: Sports Illustrated (17 June 2001); Joe Drape, *At The Derby, Racing Is Facing Its Drug Problem*, New York Times, (2 May 2005), Page 1; Janet Patton, *HBPA Proposes Uniform Policy On Drugs in Racing; Horsemen's Group Targets Maze of State Rules*, The Lexington Herald Leader (17 Oct. 2001); John Scheinman, *Horses, Drugs Are*

*Racing's Daily Double; No Uniform Policy in Industry*, The Washington Post (27 Apr. 2003).

8. The unnatural stresses inherent in competing so aggressively and at such a young age also engender problems such as gastric ulceration and pulmonary (lung field) bleeding, not observed in horses worked at reasonable levels. These health and injury problems once again necessitate — economically — the use of drugs to maintain the horse's racing value (but not well-being).

See: J.M. Lapointe, A. Vrins, E. McCarvill, *A survey of exercise-induced pulmonary haemorrhage in Quebec Standardbred racehorses*, Department of Medicine, Faculty of Veterinary Medicine, University of Montreal, Quebec, Canada: *Equine Veterinary Journal* (Nov. 1994).

M.J. Murray, G.F. Schusser, P.S. Pipers, S.J. Gross, *Factors associated with gastric lesions in Thoroughbred horses*, 28(5) *Equine Veterinary Journal* 368–374 (1996).

M. Oikawa, *Exercise induced haemorrhagic lesions in the dorsocaudal extremities of the caudal lobes of the lungs of young Thoroughbred horses*, 121(4) *Journal of Comparative Pathology* 339–347 (1999).

J.R. Pascoe, G.L. Ferraro, J.H. Cannon, R.M. Arthur, J.D. Wheat, *Exercise-induced pulmonary hemorrhage in racing Thoroughbreds: a preliminary study*, 42(5) *American Journal of Veterinary Res.* 703–7 (May 1981).

Murray MJ, Schusser GF, Pipers PS, Gross SJ: *Factors associated with gastric lesions in thoroughbred horses*; 28 (5) *Equine Veterinary Journal* 368-374 (1996).

9. Furthermore, some horse-owners are either unwilling or unable to provide expensive veterinary care for a horse who may not be successful enough to earn his or her keep. Even when they provide veterinary care, they typically do not allow the horse sufficient time for recovery. Instead, they send the horse out to train or race on still-unhealed limbs. This purely economic motivation stands behind the racetrack saying “A horse makes no money just standing in his stall.”
10. Many horse-owners and trainers therefore do not allow the necessary “lay-up” time to permit the horse's complete healing. Once they decide that the horse does not have or had exhausted his race-winning potential, they sell the horse to an equine auction, from where horses are either sent to a slaughterhouse that ships horse meat to the European and Japanese market, or into a downward spiral of abuse at the hands of new owners who may think they would like a retired racehorse, but forget about horses' longevity and the expense necessary to maintain them properly.

See: Kris Axtman, *Horse-Meat Sales Stir Texas Controversy*, *Christian Science Monitor*, (28 Apr. 2003); Craig J. Bailey, *Wastage in the Australian Thoroughbred Racing Industry*, (June 1988), Rural Industries Research and Development Corporation; Barbara

Bayer, 1986 *Kentucky Derby Winner Ferdinand Believed to Have Been Slaughtered in Japan*, *The Blood-Horse Magazine*, (26 Jul. 2003); Allen G. Breed, *And What of the Spent Racehorse?*, Associated Press, (25 Nov. 1999); Olivier A. Nurton JP, Guthrie AJ, *An epizootological study of wastage in thoroughbred racehorses in Gauteng, South Africa*, Department of Surgery, Faculty of Veterinary Science, University of Pretoria, South Africa, (December 1997), *Journal of the South African Veterinary Association*.

11. Experience in the U.S. shows that the most expensive horses and the wealthiest owners race their horses at the most expensive racecourses, while less wealthy owners with less expensive horses race at marginal courses. The profit margin at these marginal venues, where the “has-been’s” or the ones who never made it to the top are raced, is lower. At these places, where owners have fewer funds and the prizes are smaller, horse care is compromised even more and the cruelty is even more damaging and prevalent.
12. This distressing fate of the thousands of abused, neglected and abandoned horses in the United States is recognized by the American Association of Equine Practitioners — the world’s premiere equine veterinary organization — as its primary and most pressing problem.
13. How will the Israeli people feel if the specter of numerous starved and abandoned horses — the result of unfettered greed — becomes a major blot on the nation’s honor? I ask this Honorable Court to make sure that this question remains hypothetical.

Date \_\_\_\_\_

Signature \_\_\_\_\_