

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

**EXPERT TESTIMONY**

I the undersigned, Dr. Tim O'Brien, 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:**

**Education:**

Ph D, Biological Sciences, University of Leicester UK 1980.

**Publications:**

Authored research reports on factory farming and human health, farm animal genetic engineering, and the links between intensive livestock farming, poverty, and the environment, and on the welfare of racehorses.

**Relevant Experience:**

Independent animal welfare researcher (1998 to the present).  
Head of Research at Compassion in World Farming (1995-1998).  
Director of The Genetics Forum (1996-1998) .

Advised UK government select committees on dairy farming, and on the use of antibiotics in farming.

**And this is my opinion:**

The horse racing industry is associated with appalling animal suffering. Horses used in racing endure some of the worst welfare abuses of any animal species. Specifically:

1. Horses are often raced when less than two years old. Horses should not be subjected to weight-carrying or strenuous work at this age, but in the racing industry they are; and they suffer a whole range of welfare problems, as a result, which are specified below.

Such young horses are prone to become injured by the rigours of training and racing. During the first three years of their lives, horses' bones are immature, with open growth plates, and are very prone to stress-and trauma-induced injuries. One study reported in the Preventative Veterinary Journal found a strong link between the degree to which horses were pushed to exert themselves during training or racing and the rate at which they suffered catastrophic musculoskeletal injury. Such injuries are the most common reason for euthanizing horses on race tracks.

A November 1993 Sports Illustrated article stated that 840 horses suffered fatal racing breakdowns on American tracks in 1992, but far more break down during morning workouts. In 1992, a total of 3,566 horses broke down so severely that they could not finish the races in which they were hurt. That is one breakdown for every 22 races. The article concludes "the figures are appalling and unacceptable by any humane standard."

**See:**

L. Estberg, I.A. Gardner, S.M. Stover, B.J. Johnson, A case-crossover study of intensive racing and training schedules and risk of catastrophic musculoskeletal injury and lay-up in California Thoroughbred racehorses, 33 (159-170) Preventative Veterinary Medicine, (1998).

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*, 26 (4) Equine Veterinary Journal 327-30 (July 1994);

R.C. Murray, N. Znaor, K.E. Tanner R.M. DeBowes, E.M. Gaughan, A.E. Goodship, *The effect of intra-articular methylprednisolone acetate and exercise on equine carpal subchondral and cancellous bone microhardness*, Center for Equine Studies, Animal Health Trust, Newmarket, Suffolk, UK: 33(4) Equine Veterinary Journal 345-53 (Jul. 2001);

T.D. Parkin, P.D. Clegg, N.P. French, C.J. Proudman, C.M. Riggs, E.R. Singer, P.M. Webbon, K.L. Morgan, *Horse-level risk factors for fatal distal limb fracture in racing Thoroughbreds in the UK*, Department of Veterinary Clinical Science, University of Liverpool Veterinary Teaching Hospital: Equine Veterinary Journal (Sep. 2004);

K.L. Verheyen & J.L. Wood, *Descriptive epidemiology of fractures occurring in British Thoroughbred racehorses in training*, Epidemiology Unit, Animal Health Trust, Lanwades Park, Kentford, Suffolk CB8 7UU, UK: Equine Veterinary Journal (Mar. 2004);

R.B. Williams, L.S. Harkins, C.J. Hammond, J.L. Wood, *Racehorse injuries, clinical problems and fatalities recorded on British racecourses from flat racing and National Hunt racing during 1996, 1997, and 1998*, The Jockey Club, London, UK: Equine Veterinary Journal (Sep. 2001).

Nack, William, Munson, Lester, The Breaking Point, *Sports Illustrated*, Time, Inc., (1 Nov. 1993).

Research at the University of Kentucky has shown that horses' bones actually become weaker during the course of a race, sometimes by over forty per cent. This can have disastrous consequences. **See:** T. Tobin: *Drugs and the Performance Horse*; Charles C. Thomas Pub., Illinois (1981). This is the standard textbook in the area of equine medication control.

For example, in September 1999, in the United States, twenty-three year-old jockey, J. C. Gonzalez and his 4-year-old mount Wolfhunt, died within minutes of each other. As they rounded the final turn of a one-mile race, Wolfhunt suddenly fell, throwing jockey Gonzalez to the track.

A racehorse trainer fifty feet away described what happened next: "The horse tried to stand, and first the right leg snapped, right between the knee and the ankle. Then, he tried to put weight on the left leg, and it went above the knee. I could barely take my eyes off this horse trying to stand with these bloody stumps". Jockey Gonzalez, with massive head injuries, was pronounced dead minutes later. Wolfhunt was destroyed on the racetrack. The story of Wolfhunt is, tragically, just one among many. **See:** S. Diaz, *One Risk Too Many*, C01 *Riverside Press-Enterprise* (17 September 1999).

2. Racehorses exhibit massively high incidences of stomach ulceration. Researchers in the USA have found gastric ulcers in ninety-three per cent of horses in race training; in horses that had actually raced, the incidence was a staggering one hundred per cent. **See:** Murray MJ, Schusser GF, Pipers PS, Gross SJ: *Factors associated with gastric lesions in thoroughbred horses*; 28(5) *Equine Veterinary Journal* 368-374 (1996).
3. Another welfare problem endured by racehorses is their tendency to bleed from the lungs. A research study, reported in 1999, examined racehorses performing low-intensity exercise at speeds of up to nineteen miles an hour. In race conditions, horses may frequently be required to achieve speeds in excess of thirty-five miles per hour. More than three-quarters of the horses suffered haemorrhaging into their lungs, which can result in sudden death. **See:**

Oikawa M: *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.B. West, O. Mathieu-Costello, J.H. Jones, E.K. Birks, R.B. Logemann, J.R. Pascoe, W.S. Tyler, *Stress failure of pulmonary capillaries in racehorses with exercise-induced pulmonary hemorrhage*, 75(3) 1097-109 *Journal of Applied Physiology* (September 1993);

Wood JL, Newton JR, Chanter N, Mumford JA, *Inflammatory airway disease, nasal discharge and respiratory infections in young British racehorses*, Animal Health Trust, Suffolk, UK, *Equine Veterinary Journal* (May 2005).

4. Horses' heartbeats can increase tenfold during a race, from a relaxed 25 beats per minute to an excessive 250 beats, leading to exhaustion, collapse, and sometimes, to a potentially fatal heart attack. **See:**

H.B. Gelberg, J.F. Zachary, J.I. Everitt, R.C. Jensen, D.L. Smetzer, *Sudden Death in Training and Racing Thoroughbred Horses*, 187(12) *Journal of the American Veterinary Medical Association* 1354-6 (December 15, 1985);

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. Abuse of horses in the horse-racing industry goes beyond the excessive racing and training that can rapidly damage the horse. The abuse can also include the aggressive administration of a range of stimulant and/or pain-killing substances, aimed at enhancing the horse's performance for a short period of time, at the expense of the long-term welfare of the animal. The drugs push the horses beyond their natural limits. **See:** Peat Bee, *Cut the Poppycock and Treat Drugs With Horse Sense*, *The Guardian* (13 Jan. 2003); John Scheinman, *Horses, Drugs Are Racing's Daily Double; No Uniform Policy in Industry*, *The Washington Post* (27 Apr. 2003).
6. Racehorses are whipped up to 30 times during one race, according to a survey conducted by the non-profit organization Animal Aid. The survey showed that the whip was used even on young horses, during their first race. Horses in a state of total exhaustion and already out of contention were also beaten. The whip was used on the neck and shoulders, as well as the hind quarters. Horses were observed being whipped 20, even 30 times during a race.
7. The Jockey Club is responsible for regulating and enforcing the Rules of Racing, but the rules are lacking in clarity and very poorly enforced by Race Stewards. None of the violations observed during the survey period drew a sanction for the offending riders.
8. Every year, around 300 racehorses die on British race tracks as a result of a.) fatal falls or serious injuries, most often breaks to the legs, backs, or shoulders, b.) heart attacks, or c.) a drop in performance that makes them commercially non-viable. In addition to the hundreds raced to death, thousands more are killed or abandoned to neglectful or abusive situations every year because they can no longer run fast enough to be profitable.
9. Around 5,000 leave racing every year, the same number who enter it. Very few enjoy a decent retirement. Some are shot within weeks of their money-earning days coming to an end. A small number become breeders. Many are slaughtered, their bodies sold to countries like France, where people eat horse meat, or they end up as pet food. Others are exported, or sold from owner to owner in a downward spiral of abuse and neglect. In the U.S., according to an Associated Press article, as many as 7,100 registered thoroughbreds went to slaughter in 1998, the equivalent of 22 percent of the 1998 U.S.

thoroughbred foal crop. **See:** A.G. Breed, *And What of the Spent Racehorse?*, *Associated Press* (25 Nov. 1999).

Because of their personal histories and temperament, only a very few retired racehorses make good “pets”. All retired race horses are very high-maintenance, expensive to maintain, and long-lived. The specter of having to spend many thousands of dollars on them over several decades predisposes them to being abandoned.

Some have been discovered weak, emaciated, and forgotten. Even champion prize winners, once their racing days are over, have been found in appalling conditions. The 1984 UK Grand National winner “Hallo Dandy” was found in a field, thin, tired, with scars on his back and his ribs poking through.

Despite the large profits earned from treating race horses like commodities, it was not until 2000 that the British Racehorses Board - in the face of mounting criticism - set up a scheme to provide funds for retired horses. Since then, it has made much of its project, Rehabilitation of Racehorses (RoR). Yet in fact, the amount donated is only a token sum compared to the profits earned by the three major bookmakers, and far too little to solve the extensive problem. Carrie Humble, who runs a rehabilitation centre in Lancashire for Thoroughbreds, told *The Guardian* newspaper in 2002 that she is still forced to raise more than 70% of the funding she needs herself, and turns away two or three horses every day. 'It's getting worse, not better', she said. **See:** Greg Wood, *RSPCA Acts in Newmarket Neglect Case*, 29 *The Guardian* (8 February 2002).

10. English law includes numerous statutes that protect animals, and horses in particular, against cruelty. This extensive regulation reflects widespread social concern over the systematic abuse of animals, including horses. The remedy the regulation offers, however, is clearly insufficient.

Horse abuses are tempting to perpetrate not only because of the anticipated profits, but also because such abuses may be virtually impossible to detect. A violator's risk of being apprehended and punished is low, while his potential financial gain can be great. Following are British laws passed in a futile attempt to protect horses:

- a.) The Protection of Animals Acts 1911, as amended throughout nearly 100 years, broadly criminalizes any infliction of “unnecessary suffering” upon a domestic or captive animal. Infliction of unnecessary suffering on an animal includes (inter alia) cruelly beating, kicking, ill-treating, over-driving, over-loading, torture, enraging, and terrifying. Animal-fighting, as well as administering poisonous or injurious substances without good reason, are also forbidden. These offenses are punishable by fines, imprisonment, and animal-confiscation.
- b) The 2000 Amendment to the Act protects animals kept for commercial purposes. This includes exhibition and racing horses.
- c) The Performing Animals (Regulation) Act 1925 adds to the general protection of

animals against cruelty and neglect provided by the Protection of Animals Act 1911. The 1925 Act applies to performing animals and is, therefore, of particular relevance to exhibition and racing horses.

This Act regulates the training and exhibition of performing animals, by requiring the animals' trainers and exhibitors to register with the local authority. The police and the local authority officials are authorized to enter premises where animals are being trained and exhibited. Upon finding cruelty to, or neglect of an animal, a court may issue an order that prohibits or sets special conditions on the training or the exhibition. The court may also cancel the businesses' registration and license.

- d) Finally, under the Riding Establishments Act 1964, any horse-riding establishment must have a license from the local authority. The local authority can impose conditions on the licence to protect the horses' health and well-being.

In spite of all these extensive laws, severe and widespread abuse of racehorses usually goes unpunished, and even undetected.

- 11. Horse racing in Israel is likely to be even more cruel than in England. The horse-racing industry is a highly competitive, multimillion enterprise (in both US dollars and Euros) that is becoming increasingly globalized. Tele-gambling, internet gambling, and entertainment tourism are manifestations of this increasing globalization. Besides being globalized, the horse-racing industry is fiercely competitive for patrons and profits, including across national borders.

To be competitive, any new horse-racing business must match the worldwide standards set by its wealthy, but sometimes ruthless, competitors. To match those standards, a new business needs to purchase horses genetically disposed to high-speed racing. Such horses are scarce and extremely expensive. If the newcomers are unable to do this, there is a very real danger that they will enhance the performance of cheaper horses by using inhumane measures to force them to run fast, if only for a short period of time.

The horse-racing industry is built on the severe exploitation of horses for the sake of entertainment and gambling. It is cruel to horses, bad for people, and has no place in an enlightened society.

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Dr. Tim O'Brien

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