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CRIMINAL DIVISION  
KING COUNTY PROSECUTOR'S OFFICE

NO. 69968-7-1

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

Jason Markley,

Appellant.

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Nielsen, Bromen & Kech, PLLC.

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COURT OF APPEALS  
DIVISION ONE  
SEP 19 2014

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE CHERYL CAREY, JUDGE

APPELLANT'S STATEMENT OF ADDITIONAL GROUNDS –

Response to prosecution's oral argument

**Clarifications to claims presented at oral arguments**

- 1) "Subjective" vs. "Objective" standard of care. With the exception of publications sourcing from the Humane Society of the US (HSUS) – who is a suspected PETA/ALF animal rights extremist group intent on the persecution of animal owners such as Ringling Brothers Circus for alleged animal abuse (\$\$) - there does not appear to be any legislation legally defining a standard of care for horses – neither "subjective" or "objective."

What a "reasonable person" would do in any situation with a horse is often a moment by moment decision, individual to that person and is absolutely and completely subjective.

Attempting to apply a legally established tort standard of care for that of children, elder care or of any tort law is a legal misnomer when there does not appear to be any legislation established to define it.

If one asked 10 horse owners how to handle any situation with a horse, it is likely one would get 20 different opinions – completely subjective – even among equine veterinarians. AND horse owners are some of the most opinionated demographic on the planet.

[Under Rule 10.10(a)]

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION I**

STATE OF WASHINGTON,	)	
	)	
Respondent,	)	
	)	
v.	)	Court of Appeals Cause No. (69968-7-1)
	)	
	)	Notice of PROOF of Service
	)	
JASON MARKLEY,	)	
	)	
Appellant.	)	

I, Jason Markley, do hereby declare that I have served all parties my motion for SAG extension by US Mail and/or in person as follows:

Prosecuting Atty King County  
King Co Prosecutor's Office  
W554 King County Courthouse  
Seattle, WA 98104  
Attn: Gretchen Holmgren

Nielsen Broman & Koch, PLLC  
Attn: Casey Grannis  
1908 E Madison St  
Seattle, WA 98122-2842

The Court of Appeals Div I  
Attn: Richard Johnson  
One Union Square  
600 University Street  
Seattle, WA 98101- 4179

Respectively submitted this 18<sup>th</sup> day of September, 2014.

Signature:   
Jason Markley, Appellant

**COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION I**

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**STATE OF WASHINGTON,**

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- 1) “Subjective” vs. “Objective” standard of care. With the exception of publications sourcing from the Humane Society of the US (HSUS) – who is a suspected PETA/ALF animal rights extremist group intent on the persecution of animal owners such as Ringling Brothers Circus for alleged animal abuse (\$\$) - there does not appear to be any legislation legally defining a standard of care for horses – neither “subjective” or “objective.”

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Attempting to apply a legally established tort standard of care for that of children, elder care or of any tort law is a legal misnomer when there does not appear to be any legislation established to define it.

If one asked 10 horse owners how to handle any situation with a horse, it is likely one would get 20 different opinions – completely subjective – even among equine veterinarians. AND horse owners are some of the most opinionated demographic on the planet.

- 2) Negligence. Did I make mistakes in taking care of our Alex? Where I would readily admit I'm not perfect, I am clear on the care of Alex. I did everything by the book. I did what any reasonable person would do. I studied in advance and had a plan of educational action for our children. I researched how to feed an old horse.

For everyone there is a first time. I should not be demonized because I chose to learn about horses and buy one. Every single horse owner in the state had a first time.

Half the horse owners in this state have less knowledge about horses than I do and they seem to do just fine. In evaluating Ms. Holmgren's presentation, her expertise is questionable.

It is not illegal to be inexperienced and buy a horse for the first time or this would be very problematic to the commerce of buying and selling of horses.

Many of horse owners have old horses who have become family members and they want to keep them alive for as long as possible just like grandpa. But because an animal becomes old does not mean that the owner is a fault for that condition. This is tantamount to kicking the dog because your wife yelled at you that day.

- 3) Feed given to Alex. In addition to the three different types of hay on the premises, beet pulp, alfalfa pellets and Senior feed, Alex was on pasture – 4.5 acres of it. Pasture counts as food. Horses are foragers. Grazing is what they do.

The prosecution completely ignores this fact.

Alex had access to food 24 hours a day. He had hay 3 - 4 times a day; he had beet pulp (a calorie/bulk booster) and Senior Feed (designed to help old horses keep up weight). That is about all that can be done with an old horse. At some point an old horse – person - is going to die. This is a presumed fact unless someone knows about a fountain of youth I have not heard of.

- 4) The amounts of money derived from a malicious prosecution.

The fact that the prosecution's "experts" stood to make a substantial amount of money for manufactured fabrications of Alex's care (around \$66,000) - and that's not counting the embezzlement of municipal funds burdened by the good taxpayers of King County - is a huge issue in these cases. Money, since time began, acts as great incentive to say whatever the prosecutor wants them to say (and get paid extra for that too). \$66,000 calculated in Alex's care, could act as a great incentive.

Ms. Mueller in particular is getting better at it now. Last year she was billing King County for the Laurie Hart Case #13-1-10914-6 seizure of 19 horses all year at the going rate of \$40,000 a month. She had no expense as she uses "volunteers" and the county paid for every stitch of feed, grooming supplies and hauling as well as pitchforks and buckets.

Would any reasonable person find Ms. Mueller's credibility questionable when informed of the kinds of money that she is billing and receiving from King County?

Combine that with KC ACO Jenae Westberg's career criminal/drug history over the past 14 years and it is not a huge leap to believe that they might find incentive to disagree with how I

cared for an old elderly horse who was doing just fine until the day before ACO Westberg showed up.

Between Mueller, Westberg, SAFE and Ms. Holmgren, there was no chain of evidence present in my case. And it is the same in every other case reviewed. There is also no evidence that I starved and/or abused our Alex.

The prosecution only has the “opinion” and assumptions of a young questionable veterinarian who financially benefits for her testimony at great expense to the county and the word of a two-time convicted drug felon who manages to continue to work for King County despite her 40 some concealed police records found through public records that Ms. Holmgren failed to mention.

- 5) *“whether or not it would be obvious to anyone looking at these horses (plural) – that the horse (singular) was thin.”*

Ms. Holmgren is not responsive to her own question. In doing so, she obfuscates “Hebo” from the response in her own Q and A – who was doing well under our care also. She then only focuses on “Alex.” She does not point out that Hebo was robust.

- 6) *“Two random people making the report.”*

At oral argument Ms. Holmgren claims there were two complaints of a starved horse yet no one ever provided evidence at trial that any two such people really existed.

There was an implication from Westberg’s supervisor, Dave Morris, that the two complainants were in fact, one Ryan Stover, our neighbor who was moving out the same day Westberg showed up the first time. This was never documented however.

There was also never any suggestion that either of the “one” complainant(s) “*could have been a veterinarian driving by*” as Judge Spearman suggested.

Ms. Holmgren failed to produce any evidence of either at trial and she again failed to produce any evidence these complainants existed by proxy at COA oral arguments.

This is part of the trial record. Yet Ms. Holmgren inappropriately brings that non-evidentiary claim to the COA as if it was documented evidence at trial.

When Ms. Holmgren uses this claim at oral argument she implies that this is “proof” in attempt to establish justifiable grounds for the terrorism that career criminal and drug addict King County ACO Jenae Westberg implemented that day on our entire family with four young children present.

That one of the so-called complainants was a *veterinarian* was never part of the trial record and as such was inappropriately capitalized on by Ms. Holmgren at the COA.

We don’t know that it was “*significant enough to reach out to animal control and to seek out a welfare check for these animals (again plural)*” then she corrected it to singular doing both misleading (that both horses were thin) and obfuscating the robust horse at the same time.

- 7) *Troubling*, Ms. Holmgren, instead of correcting this misstatement, capitalized on it as if it were evidenced in the trial, then embellished Judge Spearman’s comment by restating that could have “*just been veterinarian driving by.*”

It is not physically possible for anyone to be *“just driving by”* our property.

- a) Our 5 - parcel is located in the center of a township subsection of 320 acres.
- b) The private right-of-way access is approximately one mile from the north border with many properties in-between that completely obscures any view of our property from anyone who might *“just be driving by.”*
- c) IE = it is not possible to view our property from the main road without traversing one-mile interior of the township section of 640 acres on a marked private dirt road right-of-way.

This is in the trial record and well-documented in the trial exhibits.

- 7) *“The horse in this case was a quarter horse.”* As stated by Ms. Holmgren. Save a Forgotten Equine states on their website “Alex” aka “Mr. Pibb” is a Morgan. Has anyone noticed the before and after horses are not the same horse? The jury did in their decision to dismiss my wife’s case during our simultaneous trial.

- 8) *“When he was first observed by officer Westberg with animal control she immediately noticed and was able to tell by sight and by touch that he had literally no fat or muscle on this body.”*

Alex is old. If Jenée Westberg was competent around horses she would have immediately recognized that this was an elderly horse.

In addition, Jenée Westberg is a career criminal and drug addict. She pled guilty to VUCSA in Judge Marianne Spearman’s courtroom and got a deferred sentence with 12 months probation.

Ms. Westberg’s criminal VUCSA case has never been vacated for non-violation of her probation. This is probably because, at the exact same period of time that she was being prosecuted by the King County Prosecutor’s Office, she was involved in an ATV criminal activity incident where she was obviously the deterrent while her buddies fled with suspected drug activity. Ms. Westberg never mentioned to Judge Spearman that she is in the middle of another case where she was a criminal defendant and was violating her parole at the time she was sentenced in VUCSA by Judge Spearman.

Any attempt to vacate would involve a background check and that would risk a discovery of a parole violation et al, and the year in jail that was deferred.

Ms. Westberg has no credibility. The classes she took that sound very important consist of a few hours of continuing education.

Westberg’s criminal career was never disclosed by Ms. Holmgren prior to trial constituting a bona fide Brady violation that was never acted on by any party.

- 9) *“Alex” was not purchased.* Ms. Holmgren stated to the panel that:

*“He did not inherit this horse. This was a conscious decision. This was a purchased animal. As evidence suggests, this was an animal that was sought out along with another animal that was purchased at the same time. This*

*animal was visited. This animal was researched. This animal was visited twice. This animal was transported to their home."*

Ms. Holmgren seems to be arguing two opposite positions. Either I was an irresponsible animal owner or I researched.

The truth of the acquisition of Alex is documented at trial. Since we are "rookies," buying a horse was something we did research on and made a conscious decision. This is what any reasonable responsible person would do.

Alex was not purchased. He was forced as a "bonus" into our purchase of "Hebo" the other horse we went out to view the first time. We were told we had to take the elderly Alex or we could not purchase "Hebo." The second visit was about transporting them to our home. I understand, that even now, that is how it is done.

Hebo maintained his weight easily and is rarely mentioned by the prosecution for apparent reasons. We found them via Craigslist.

Ms. Holmgren misrepresented the information presented at trial and at the COA oral argument specifically claiming that Alex was the horse we went to view the first time. This is not correct.

This is part of the trial record.

10) "The animal was shod." "Shod" is not a word. The proper term for putting shoes on a horse is "shod." Ms. Holmgren's own lack of knowledge about horses is evident here. But she doesn't stop there.

11) "The only reason for a horse to be shod, as presented by testimony during trial, is so that the animal can be ridden."

Not only was this claim absurd on its face, that it was presented by testimony during trial is also patently untrue.

Ms. Holmgren knows this yet, aggressively misrepresented the facts at COA oral argument as if this were a standard of horse husbandry and testified to at trial. She is capitalizing upon the panel's presumed lack of experience with horses or Ms. Holmgren is incompetent to try these cases.

At trial Ms. Holmgren's own witness, Ms. Mueller aka Evergreen, responded to that topic by stating that shoes can be put on for "therapeutic reasons." It was not pursued any further (for obvious reasons).

The facts are that our farrier found a crack in one of Alex's hooves and recommended he have shoes put on to keep the crack from expanding until it had a chance to grow out. This is common. Thus we shod Alex for "therapeutic reasons." He was NOT shod for riding.

Ms. Holmgren does not bring forth any evidence of the trial record at oral argument and in fact misleads the panel into believing that "the only reason for a horse to be shod...is so that the animal can be ridden" is some official standard when that statement is completely untrue.

Ms. Holmgren misrepresented the facts presented at trial.

This is part of the trial record.

12) "This is a farrier." Ms. Holmgren begins to make an argument that I had actually done research in order to find a farrier – something it seems a reasonable person would do. The farrier was never part of the evidence at trial. Ms. Holmgren changes the topic mid sentence stating "*it was clear that some research was done for Mr. Markley to get what he wanted out of the horse.*" It appeared she realized she was admitting that I was reasonable then abruptly changed direction and topic to:

13) "However the hay that was provided was of no nutritional value."

This is one of the most ridiculous claims Ms. Holmgren has made so far. Unless the hay is dead straw – to a horse – all hay has nutritional value. Ms. Holmgren never presented any evidence of this claim at the trial court or at her oral argument.

Ms. Holmgren's presentation on "local hay vs. Eastern WA hay" was nonsensical. There is no such standard between the two areas of the state. I know because I checked and researched hay and feed.

Having a legal debate over a fictional misrepresentation as to what a "*reasonable person would do*" over a fictional claim is a legal exercise in futility.

There is no way to determine the quality of any hay over another without having it tested.

There is no "rumor", "claim," or "standard" anywhere that Eastern WA hay is better quality than local hay. Again this claim is complete fiction.

Ms. Holmgren makes this claim as a basis for her prosecution - that I starved our "Alex" by feeding him inferior hay as if it were a diet of "*cabbage soup*" and so claims I am negligent.

Ms. Holmgren never produced any evidence of this claim at any time.

There were no \$30 tests done on the nutritional content of the three types of hay I had on premises including the "local" organic pesticide free hay. It was a claim that *never* met prima facie and *never* had any merit. And it makes a farce of the judicial system. In fact it is outright appalling.

Ms. Holmgren did not provide any evidence of this claim at trial or at oral argument. The reason she didn't is because she can't. This claim does not exist in reality.

This claim appears to simply be a problem manufactured by Ms. Mueller aka Evergreen and Ms. Holmgren to fuel Ms. Holmgren's malicious prosecution to pretend it had merit with people who don't know any better.

This issue was also discussed at trial. There was no evidence ever provided and was an unsubstantiated accusation– and now also – during COA oral arguments.

Even now, anyone can get this information. I have information provided by Tipton Hudson, who is a specialist in the state's hay quality for WSU College of Agricultural Human and Natural Resource Sciences as well as the County Director of CAHNRS Extension for Kittitas County. Hay is what he does. He has a Master of Natural Science. I believe he qualifies.



Per Mr. Hudson in an email just this week:

*"It is impossible to make a generalization about hay quality anywhere that would have any relevance to a specific hay bale.*

*Hay quality is driven by dozens of factors, including grass stand species composition, plant stage of growth at harvest, environmental conditions leading up to harvest, soil quality and soil nutrient availability, amount of fertilizer applied and application timing, weather conditions at the time of harvest and in the subsequent curing period, hay storage conditions, length of time between harvest and feeding -- the list could go on and on.*

*Any forage specialist will say that the only way to accurately and fairly evaluate the relative feed value of a given load of hay or bale of hay is to submit a sample for testing through a forage analysis laboratory. This usually costs \$20-50 per sample.*

*While Eastern Washington is known for producing high quality hay consistently because of the increased portion of the growing season with favorable conditions for curing hay, there is certainly plenty of high quality hay produced in Western Washington that is successfully fed to livestock, including horses.*

*Making generalizations about hay-growing regions of the state and applying that to a given situation without forage test data, and without any other relevant supporting information, would be an error.*

*Matching hay quality to an individual animal's nutritional needs is a different question. Not every animal requires top quality hay.*

*In particular, older animals have different nutritional needs and feeding challenges that have to be addressed which may have little to do with hay quality." – Comment by Tipton Hudson. MNS*

Not only did the prosecution fail to spent the \$30 to test my hay and fail to produce ANY evidence that local hay was inferior to Eastern Washington hay, at the same time, the originators of this tale were bilking the county out of \$1,000's quadruple-billing for their manufactured "care" of three additional horses they claim were "Alex."

Stating the obvious - "Alex" could not have been in four places at the same time.

- 14) Judge Verellen asked "Did the farrier observe that the horse was emaciated in January?"  
Ms. Holmgren's answer, "Yes, we don't specifically know when in January."

Verellen: *"Was the expert testimony that the horse had been deprived of nutrition for a long period of time?"*

Ms. Holmgren: *"For a long period of time but it was also... there was no specific testimony that the horse was emaciated when they purchased it. It was fairly consistent that the horse was likely thin."*

*"Likely?"* Ms. Holmgren provides no evidence. Was it "likely" sunny out yesterday? How can one know if they were not there? Unless Ms. Holmgren provides proof of what Alex looked like when we bought him or during the time we had Alex and Hebo there is no proof and the burden of proof is on the prosecution.

No one used our family shots at trial that showed Alex's true condition though we made them available. In Ms. Holmgren's oral argument there is no evidence of any of her claims. I cannot be presumed guilty on an assumption with no witnesses or evidence. There was no proof of the condition that Alex was starved. Alex had one problem and one problem only that we all will face at some point. He was old.

- 15) *"This horse was ridden."* Ms. Holmgren makes the claim that Alex was ridden yet she provides no evidence that he was ridden. No one observed Alex being ridden. They could not have because Alex was tested once where I led him with one child on him. He walked approximately 50 feet with his new shoes. This was the only time anyone was on him. We planned to have the children learn to ride first while getting comfortable handling the horses on the ground.

- 16) Sgt Eykle. *"A sergeant with KCAC with 30 years experience evaluated this horse a day or two after it had been surrendered by Mr. Markley, she honestly considered euthanizing the horse based on a quality of life standard."*

Given the abundance of "after" horses showing up and the lack of the chain of custody in this case, there is no way of knowing whether Sgt Eykle actually was viewing the real "Alex" or the severely emaciated horse (not Alex) displayed on SAFE's website at Ms. Mueller's compound three weeks later that clearly was a good 100 lbs lighter than Alex was when he left our care under the extortion of Officer Westberg.

- 17) *"It's likely that horse remained in that condition for the entire three months."* Again this is making me guilty of something based on an assumption. There is no proof of this allegation. There was no testimony from the farrier. There is no photo evidence either. Our family photos however, show a healthy elderly Alex under our care.

This horse "Alex" that they claim was so ill and barely able to stand - his quality of life was so compromised - was walked by animal control Officer Westberg one and a half miles to Reber Ranch where there is no record of him being fed or watered save Sgt. Eykle's oral testimony that she was there three times in at least 15 feeding cycles in 5 days.

Alex was imprisoned in a box stall at Reber Ranch with no access to any food or water under King County's care, rather than having access to the pasture, hay, beet pulp and Senior feed he would have had at our home.

- 18) There was no evidence at trial of the Body Condition Scoring yet Ms. Holmgren used this as part of her COA oral arguments. (In Mr. Grannis comments in response to the panel questioning that one could see the ribs on our "Alex," Mr. Grannis could only respond to the photos used at trial.

As the panel is aware in my previous SAG, it has been definitively determined that the photos used at trial had been tampered with and the horse switched for another horse. It was not our Alex. This was fraud.

- 19) Comment on the elderly and elderly horses. There are numerous significant differences of Alex's age among Ms. Holmgren's "experts." Most independent experts/equine veterinarians that I showed pictures of Alex thought he was in his early thirties because of the placement of his teeth in his face. Horse's teeth tend to drop in old age just like people. They also start to lose the ability to make muscle mass which is why hips and the backbone of elderly horses begin to become more predominant as they age - just like people.

We were given no papers on our Alex. But Save a Forgotten Equine displayed our "after" "Alex" as a purebred Morgan in his twenties. Our experts, across the board stated they could never be sure of a horse's age without papers after the Galvayne's groove is gone after age 20 or so.

- 20) What happens to elderly things. There is a point where no one can save an old horse or person from their destiny. They begin to deteriorate no matter what one does when they are old. This is a natural process most rational people understand.

In our case, Alex was actually doing quite well under my care until a day or so before Ms. Westberg, the animal control officer who held my family hostage for 4 hours by patting her gun (she claimed she didn't have) while she appeared to have a drug fit in front of my entire family.

The Rose Ridlon Case # 14-1-03235-4 had this same script/behavior from Westberg. That case was dismissed August 22, 2014 because of problems with evidence collected by Ms. Westberg and the court audio of the hearing is currently missing.

- 21) Other claims and interesting phenomena. Alex had developed diarrhea - something that could have been from the worming meds (that is a normal part of horse husbandry) I gave him the day before or someone poisoned him in anticipation of Ms. Westberg's "just driving by" down a private dirt road right-of-way a mile from the main road.

Alex was clearly not suffering at the time and had just developed the diarrhea. I hardly had time to call a vet on my own before Westberg showed up.

- 22) Bait 'n Switch. There can be no doubt that the "after" horse the prosecution used at trial was a completely different horse. The jury saw it and dismissed against my wife, I saw it and I was muzzled by the bench.

Since trial, there appear to be numerous "after" horses. And this is not just conjecture, it is definitive and it is fraud.

23) The application of “res ipsa loquitur.” (rayz ip-sah loh-quit-her) n. Latin for "the thing speaks for itself."

*A doctrine of law that one is presumed to be negligent if he/she/it had exclusive control of whatever caused the injury even though there is no specific evidence of an act of negligence, and without negligence the accident would not have happened.*

*Examples:*

*a) A load of bricks on the roof of a building being constructed by Highrise Construction Co. falls and injures Paul Pedestrian below, and Highrise is liable for Pedestrian's injury even though no one saw the load fall.*

*b) While under anesthetic, Isabel Patient's nerve in her arm is damaged although it was not part of the surgical procedure, and she is unaware of which of a dozen medical people in the room caused the damage. Under res ipsa loquitur all those connected with the operation are liable for negligence.*

Ironically, the misapplication of “res ipsa loquitur” was also used as grounds for alleged malicious prosecution against Ms. Holmgren in the State vs. Loisel #67909-1-1-Dec 2012 by seasoned appellate attorney Tom Kummerow WSBA#21518.

In my case, Ms. Holmgren also misapplies “res ipsa loquitur” though, since Loisel, it is now left unsaid while she applies it in her charges against me. It becomes a misrepresentation instead, in order to maliciously prosecute innocent community members.

In the reverse, correctly and appropriately applied in this case, “res ipsa loquitur” becomes an unsaid defense.

For example:

- a. Ms. Holmgren misrepresents that there is a fictional standard that *the only reason to put shoes on a horse is to ride it*. She then argues that I am negligent for a problem that doesn't exist that she made up and contrary to her own expert witness's testimony at trial.

Stating that this is the only reason to put shoes on a horse is patently untrue - anyone with horse experience knows this – even a “rookie” like me.

In order for Ms. Holmgren to prevail as a basis for alleging negligence that caused “Alex” to suffer, she has to convince inexperienced horse people that her misrepresentation is a standard though it does not exist. (She has to lie).

- b. Ms. Holmgren misrepresents that there is a non-existent standard that “*Eastern Washington hay is far superior over local hay.*” (She lied).

Just because I did my due diligence and got a better deal on local hay does not mean I should be prosecuted because I was cost-effective in attempting to make more calories available for our Alex.

“Res ipsa loquitur” therefore becomes the defense “*the thing that speaks for itself.*” I.E.;

- a. Most experienced horse people would know there are many reasons to put shoes on a horse including therapeutic uses as in our Alex's case for his cracked hoof = *Res ipsa loquitur*".
- b. Most experienced horse people would know there is no standard of quality between Eastern Washington hay over local hay = *Res ipsa loquitur*"

Thus Ms. Holmgren (and her "experts" who are busy bilking the county out of thousands of taxpayer dollars in the interim) is capitalizing on the lack of experience of those in the public (and the judicial system) to win her case at any cost.

There is no way around this. This is malicious prosecution.

Ms. Holmgren does not get to just make things up as she goes along and call that justice. Nor does the judicial system get to just allow her (or any attorney) to do so.

24) Is Ms. Holmgren an anomaly? Is she incompetent? Or is she part of a system of corruption that is so vast it is hard to understand it?

25) The Shannon Dunham case. Case # 11-1-10721-0. (Of record)

This is a case where Shannon Dunham was prosecuted for animal abuse for two mini-horses and a goat.

Ms. Dunham's defense counsel, Jeff Williams, WSBA# 18625 ensured Ms. Dunham agreed to not attend her own restitution hearing by checking the tiny little box on the court form after the plea agreement during sentencing.

Ms. Holmgren then later made a restitution demand of some \$14,000 for the care of those two mini horses and a goat PLUS our Alex (why it is relevant to this case) and two more full-sized horses from another case for a period of eight months.

This represented \$12,000 worth of care that Ms. Dunham was not responsible for. The invoices were clear. It is just not a credible claim that it was an accidental miscalculation.

If Ms. Dunham had not accidentally gotten notice of the restitution demand in advance by the restitution investigator, she would have learned after the fact (and court order) that she was being charged for two other cases (three full-sized horses that didn't belong to her).

What happened next according to court records:

- a. The restitution demand never got filed in the court file (though its existence is not in question since it is discussed in some detail in other court documents).
- b. Mr. Williams did everything in his power to mitigate the liability of his client's discovery resulting in protecting Ms. Holmgren from allegations of fraud.
- c. Kelsey Schirman, WSBA# 41684, another King County deputy prosecutor who seems to be the backup quarterback for Ms. Holmgren at times (and also prosecutes community members for alleged animal abuse), steps into the case with no notice of appearance or withdrawal from Ms. Holmgren.

- d. Ms. Schirman manages to correct the “miscalculation” but adds in language that will ensure Ms. Dunham pays for care of her two minis for an additional year with no stated amounts defined.

26) No attorney should be afforded special consideration to facilitate fictional allegations against an innocent community member. And no court should be allowed to participate in such injustice regardless of one’s stature in the prosecutor’s office, community or high-profile familial political ties.

Case in point, it could hardly go unnoticed that Ms. Holmgren’s high-profile millionaire father, former Seahawks coach, Mike Holmgren, was attending my COA oral arguments hearing Friday. This was an unfair legal strategy that few attorneys have available to attempt to save an impotent prosecution.

How many other prosecutors have their high-profile father openly show up to a controversial hearing where there is significant evidence of malicious prosecution and fraud allegations pointed straight at their daughter?

27) Malicious prosecution and Gretchen Holmgren. What we have is a prima facie case for malicious prosecution for numerous cases definable, five of which came before the Court of Appeals under Ms. Holmgren’s guidance. There is massive evidence of those acts.

Ms. Holmgren is not a stranger to allegations of malicious prosecution in her short career.

- I. Ms. Holmgren has been accused of malicious prosecution just two years ago in the Court of Appeals unrelated to animal abuse.
- II. She is committing malicious prosecution in three other active cases concurrently right now. She just graduated from law school in 2006 and has been working part-time. These stats are alarming.
- III. In 20 cases of King County animal abuse allegations since Ms. Holmgren’s law school graduation, she is prosecuting a majority of the animal abuse cases and is involved behind the scenes in others. All contain the same “experts,” the same allegations, the same scripts and the same events.
- IV. Invoicing demonstrates the embezzlements epidemic in Ms. Holmgren’s cases. In a period of a year and a half King County Licensing and Records has not produced most of the invoices used as evidence of care in my trial.
- V. Ms. Holmgren’s colleague Kelsy Schirman maliciously prosecuted yet another case that was dismissed due to Westberg’s evidence collecting – Rose Ridlon.

28) Ms. Holmgren cannot just bring empty claims into a court of law then make an argument with new claims to the Court of Appeals, I.E., misrepresenting that *the only reason to shoe a horse is to ride them* when she herself, established with her own expert the exact opposite in trial. My understanding is that one must use what exists in the Superior Court trial.

29) Not guilty. As I have adamantly stated ad nauseum, I am NOT guilty of starving any horse or of animal abuse of any kind.

Dated this 18<sup>th</sup> day of September, 2014.

RESPECTFULLY submitted,

By: \_\_\_\_\_



Jason Markley, Appellant