

TESTIMONY IN THE MINSHALL V HARTMAN CASE

The following testimonies include the highlights from notes taken by hand during most of the trial. No tape recorders, cell phones or computers were allowed in the courtroom - only a pad and pencil. I was present most of the time; however, I was not in court the first day and did not arrive when testimony first started on other days so I did not hear all of the testimonies.

PLAINTIFF LISA MINSHALL'S TESTIMONY:

Lisa Minshall testified that she found out that Miss Tassa Lena, a daughter of Smart Little Lena, was a carrier after they bred her to High Brow Cat. Three years later, she suspected she had a HERDA-afflicted horse. It was rumored in the industry that High Brow Cat was a carrier as well as Miss Tassa Lena's sire Smart Little Lena, since this was before testing was available. She also testified that they never tested Miss Tassa Lena for HERDA, knowing her pedigree. By the time tests became available, she knew that the stallion Auspicious Cat sired by High Brow Cat needed to be bred to mares that were HERDA N/N.

[Click for pedigree of Auspicious Cat>>](#)

[Click for pedigree of Miss Tessa Lena>>](#)

Lisa testified she did her research, talked to people and arranged for Auspicious Cat's semen to be shipped from David Hartman's Hartman Equine Production Center, P.A. (HERC), located in Whitesboro, Texas. The decision to breed to Auspicious Cat was shared by both her husband Shawn and her daughter Lauren; however, her husband mostly just paid the bills. Lauren Minshall was involved; however, she testified that she spent a lot of her time at cutting horse shows during this time, showing her horse as a non-pro and on occasion visited with the Dufurrenas, but also testified that she had never personally talked to Dr. Hartman.

Lisa hadn't contacted Hartman either, saying, "I didn't see a need to as my daughter already talked to him," said Lisa.

Lisa said she knew of Hartman's facility and that he was an expert in reproduction and a very reputable vet but she had never personally met him or talked to him. She said she would usually call the breeding facility prior to breeding a mare and that she could have called but didn't remember calling even though it was her policy to call. Also she said she couldn't remember ever talking with Dr. Hartman but she did remember talking to someone at the facility about receiving semen from Auspicious Cat - but not about his HERDA status.

She also testified that the resulting offspring, Otto, was born in 2013 and that she never sent a test into the AQHA for HERDA. Also, she testified that even if Miss Tassa Lena had been bred with an N/N horse, there would have been a chance that the foal could have been a carrier (not afflicted).

"From the time he was born, I knew he would be a gelding though we usually make that decision later," said Lisa.

Lisa also testified that during this time Lauren had been offered a free breeding to Metallic Cat (a winning son of High Brow Cat) by Beau Galyean, who is a top trainer and trains horses for Metallic Cat's owner, Alvin Fults. However, they turned him down as she had vowed to never breed to another carrier.

"Some stallion and mare owners think it's ok to breed HERDA carrier mares if the stallion is a HERDA carrier," said Lisa. "Also, some stallion owners who have a HERDA carrier stallion offer a free breeding if you have a mare that is a HERDA carrier, as it's well known in the industry that the resulting foals win more money. Asked if she would have bred Miss Tassa Lena to Auspicious Cat if she would have known he was a HERDA carrier, she replied she would not have bred her mare.

When she learned that her foal was HERDA afflicted, one of the first things she did was call Ed Dufurrena to complain and Ed said do what you need to do and offered her a free breeding. Also her husband had two meetings with Ed and Shona was sitting in on one of the meetings.

“They got together in July and Ed rebuffed,” said Lisa. “He later called and said he couldn’t get together with us. That was when we filed the lawsuit.”

Asked if she called Dr. Hartman before they filed the lawsuit was filed, she said, “No, there was no reason to call him.

DR NENA WINAND TESTIMONY FOR PLAINTIFFS:

Dr. Nena Winand, a senior research associate at Cornell University, who had done years of genetic research on HERDA and was the one who discovered it was a genetic disease and later found the test for the disease, gave her expert testimony on the stand for the Plaintiffs. Winand agreed that she had never had a vet practice of her own and never was involved in reproductive activity, but said that the education of veterinarians is very uniform and regulated to assure conformity. She said that stallion stations and their managers should educate owners about HERDA. The equine vet is in a unique position of preventing suffering and financial losses.

“We are charged with the specialized knowledge for the health and welfare of animals,” said Winand, who was then asked to give her opinion on a variety of questions.

“A stallion station manager is in a unique position and can set policy for the stallion station,” said Winand. “There is no law preventing a vet from firing clients who won’t comply with his policies.”

She continued that each stallion station should be required to undergo HERDA testing of customers’ horses. She believed that after acquiring a client’s horse, the stallion station should keep records in their files and DNA tests should be maintained in their medical records.

“They are in a position and have the duty to counsel folks when they are not doing the right thing and if they can’t, they have the obligation to direct them to someone who can give them advice,” said Winand. “If a client refuses to go along with the vet’s recommendations, he or

she can show them the door.”

“People try to game the system and cover up results.” she said.

Dr. Winand gave her estimate of costs of caring for a HERDA affected horse over a 20-year time span. She gave costs for wall padding in stalls, nutritional supplements, protection from sunlight, a safe stall and fencing and the possibility of cornea ulcers as being from \$162,192.12 to a high of \$233,872.12.

Asked if there was a peer review on the pain tolerance of HERDA animals, Winand responded “No, but in defense of people in the industry who have the opinion that a HERDA horse is a better horse, HERDA carriers have won significantly more money. However, scientifically, those peoples are drawn to the pedigrees of the horses who have HERDA.

One of the more interesting things that Winand said was that the Patent rights for the HERDA test are now owned outside of the United States.

Under cross examination, she said she had never been part owner of a stallion station nor worked in a stallion station, regularly collected semen, engaged in embryo transfer, had a breeding facility, owned or handled a stallion or was a member of the the American Veterinarian Medical Association (AVMA).

TESTIMONY OF ANN RASHMIR FOR DEFENDANTS:

Two of the most educated HERDA specialists were on separate sides. Ann Rashmir, a surgeon and vet educator and an expert in HERDA, testified for the defense. The Associate Professor of the Large Animal Clinical Sciences at the College of Veterinary medicine at Michigan State University in East Lansing, Mich., testified for the Defense.

She had called the Defense attorneys and told them she wanted to work for them as a Stallion Station middleman with a different view. She was asked when she came into the courtroom if she had any

idea of the policies of the clinics: ESMS, Dr. Chris Crowe, Dr. Leah Arnold, Dr. Julia Reithaler and Dr. Glenn Blodgett at the 6666s. She said “No.”

When asked if she would breed a HERDA carrier to a HERDA non-carrier, she responded “Yes, it’s not a tremendous problem. She had seen and heard up close personally that they would love to see the HERDA gene eradicated; however, she said stallion owners and mare owners should be informed. Mare owners must be responsible to gather up the information about stallions.

When asked if a person wants to find out if a horse has been tested, can they call U.C. Davis, Rashmir responded, “No, That is confidential information.” Also she was asked if she was aware of any statute or regulation that requires one to test other people’s horses, Rashmir responded “No.” She was also asked if stallion stations require 5-panel tests for stallions and responded, “Some do.”

Rashmir had a herd of 25 horses and was doing day-to-day HERDA testing. During that time she authored publications (up to 20) and made over 100 presentations. She said she kept over 100 HERDA horses temporarily; however, they were not in pain. Asked if they suffered, she said, “By all measures, pain was on a scale of 0. There was no overt pain.

Asked if a HERDA-affected horse is ineffective for breeding, she said she disagreed, saying they can have normal foals when bred to non carriers. However she said with line breeding, every HERDA affected horse is breeding a cousin to a cousin. But look at the stallions siring offspring making the most money. The top two have offspring that have made in excess of \$100 million and they are both carriers. The HERDA gene can be a performance advantage.

Asked her thoughts on the financial analysis, Rashmir stated she did not share Nena Winand’s financial analysis. Then asked if she knew if HERC knew or was aware and had any knowledge that Auspicious Cat was a HERDA carrier, Rashmir responded “No.” Asked if HERC had any legal obligation to disclose the stallion’s genetics, she

responded “No” and asked if HERC had an ethical obligation to check the stallion’s genetic status, she responded that it would be an ethical violation of the doctor/patient agreement. Asked if it was irresponsible to breed a carrier to a carrier, she responded “No.”

When asked who is responsible to get the horse tested for HERDA, Rashmir responded, “The owner. He can do it himself since all you need is some hair from the horse’s mane or tail and they don’t need a vet.” Asked if a vet should counsel people, Rashmir responded, “That’s ridiculous. There is no law whatsoever, no rule, no guidelines, no ethical obligation. It’s between the stallion owner and the mare owner.”

However, when the witness was passed to the Plaintiff’s lawyer, who questioned her on her research of HERDA horses, and asked if all the affected horses in her research were euthanized. Rashmir responded “Yes.”

Attorney Burke then brought up a published article by Les Selnow with Rashmir, where she said that she had seen cases of horses with HERDA where they lived to a fairly old age and in dramatic cases the skin can split and roll down the sides. She did say she had never seen multiple horses where their skin hurt.

Asked if having an affected foal would be heartbreaking, Rashmir said in the article that all that money spent would be heartbreaking. I have only seen one horse in pain. However, Rashmir asked to see the dates of those articles and when the lawyer refused, she said, “My ideas have changed over the years.

DR. HARTMAN’S TESTIMONY FOR HIS DEFENSE:

On March 6, the day before the final day of the trial, Dr. David Hartman of HERC gave his testimony to the jury. Following are segments of the questions and answers.

Hartman agreed that he owed vet confidentiality to Dufurrena and could not reveal the HERDA status of Auspicious Cat, even if he

knew it. He said that the Dufurrena's would send customers to him to make arrangements for semen. The Dufurrena's were hands on and wanted to talk to the clients themselves. They wanted the checks made out to them.

"My only job was to collect the semen from the stallion and send it out," said Hartman. "If people called my number from the advertising, they were not my clients. There are three things that have to be met for someone to be a client: 1) approach the vet and ask for help 2) be involved with answer and 3) the vet examines the animal. The Minshalls wanted me to send them semen - that's all they wanted. They never asked me about Auspicious Cat being a HERDA carrier and I never said to them that he was a HERDA carrier."

When asked what it would take to have him change his policy so he would require testing of the stallion and make it available to the mare owners, Hartman replied, "I'd simply quit doing stallion work." Burke pointed out that he required EVA testing to anyone who brings a stallion or mare on the property, with Hartman replying That's different. You can catch EVA from the horse next door. It's not a genetic disease. He was also asked how many mares at any given time he had on his place. Hartman replied, "At a high, 100 recipient mares, 20 pregnant mares that the owner takes home after she is checked. Asked how many mares he personally owned, Hartman replied 10-15.

Asked if he heard Nena Winand's testimony, Hartman replied he had but said, "I don't agree with it."

He was asked when Auspicious Cat started standing at his facility and Hartman replied 2009. Asked if he asked the Dufurrenas for a HERDA test, Hartman replied, "I did not."

"You could have just pulled the hair and ordered a test," said Burke. Hartman replied, "It was their horse." Burke asked if he tested yearlings when he sold them, with Hartman replying that no one tested at that time. Burke also asked, "If you had an opportunity to change your mind, do you agree it would be responsible for a stallion

station in 2011-2012 to require owners to test and make the results available. Hartman responded, "No." Asked if he thought breeding two carriers together would be irresponsible, Hartman replied "for myself?" with Burke saying "everybody." Hartman responded "No."

Asked if he thought it was irresponsible in this industry to cross two carriers together, Hartman responded, "No. People do what they want to do with their horses. I can't interfere."

Burke asked if people wanted to breed a carrier stallion to a carrier mare, he would do that. "People can do what they want to do with their horses. I can't interfere," said Hartman.

Burke asked if he thought a stallion station could discuss with the stallion owner and make suggestions. Hartman said, "Yes." Burke continued, "When you stood Auspicious Cat, you could have counseled Ed to do the right thing. Hartman replied, "I did that."

When Auspicious Cat became more popular after winning some events, Hartman said he went to Ed and said, "You know most good sons of High Brow Cat are HERDA carriers?" He said Dufurrena's response was, "Is that so?"

Burke said, "Didn't you ask him again?" Hartman responded that he had asked him twice.

"It was ridiculous for a stallion owner to lie about the HERDA test because they would get caught," said Hartman. "He led me to believe he had him tested and he was negative. I believed him but I hadn't seen the test. I didn't know the man that well at that time. Then when I talked with him about it on the phone, I thought it was very clear that the horse was negative."

In reality, Auspicious Cat had been tested in 2009 and Shona had received the document showing he was a carrier.

Hartman was then cross-examined by his own lawyer who asked about personal information. He answered that his clinic is in

Whitesboro, Texas, he is married with two kids going to Texas A&M. He was born in Southern Colorado and went to Vet school at Colorado State. He worked with Dr. Ed Murray for a year and for Dr. Glenn Blodgett for 3 years in Spearman, Texas.

His own practice was started in the 1980s, treating horses and cattle but mostly with horses because he loved horses.

“Every day of my professional career, I worked with horses,” said Hartman. “I started HERC seven or eight years ago doing general equine work but I liked reproduction the best.”

He said he cares for broodmares and babies, breeding broodmares - normal and subnormal - taking embryos out of one mare and putting it in a recipient mare. Embryo transfer started in 1985. He was one of the first to do embryo transfer non-surgically - a pioneer in the field. Over 90 percent of his business is involved with mares and he has two other vets working for him - with one being involved in internal medicine. He has purchased state-of-the-art equipment for collecting semen.

Hartman said he bred Auspicious Cat from 2009-2013. At the end of the 2013 breeding season, he stopped standing Auspicious Cat.

Asked why, he said, “I couldn’t make them happy (referring to the Dufurrena’s). We had a lot of disagreements and he insisted on hauling the stallion in and out. They also owed us a lot of money. He paid us and that was the end.”

Hartman said he bred Miss Tessa Lena for the Minshalls in 2012. A HERDA test was not required and the offspring called Otto was born in 2013. When he went to the trainer in 2015, it was determined he was afflicted.

“It was not Minshall’s intent to breed a carrier mare to a carrier stallion and I sympathize with them,” said Hartman.

After leaving HERC, Auspicious Cat was moved to the Reata Ranch

in Pilot Point, Texas, and Reata's advertising also said Auspicious Cat was HERDA N/N. That was the second stallion station that had been lied to.

"At least we never did advertising that showed the stallion was N/N," said Hartman.

From the Reata Ranch, Auspicious Cat went to Humphrey Quarter Horses and that's when the Minshalls called them and from talking to them found out Auspicious Cat was a carrier.

Hartman said there was clear evidence showing that HERDA carriers have a physical advantage over normal horses. But if horse owners need to do their due diligence, with the main thing being she will cross good with the stallion. They need to know how much the stallion has won on a long-term basis and what type of classes he was showing in: Upper-end Open or lower-end Non-Pro.

Asked about the leading sons of High Brow Cat and their offspring, Hartman said it's well known that Metallic Cat, whose offspring have won a half million, is a HERDA carrier, as is Smooth As A Cat and High Brow CD. Some weren't carriers; they all had opportunities but some were not so successful.

Asked if the Minshalls knew a lot of sons of High Brow Cat were carriers, Hartman answered "Yes." He said it was ridiculous for the stallion owners to tell a lie, suggesting that money is the motive to hide the identity of Auspicious Cat being positive. However, Hartman felt that if it was known that Auspicious Cat was positive, his breedings would have "increased." "Looking at all potential mares that might be interested in breeding to a stallion that is a HERDA carrier, 30% were carriers and 70% were negative. If 70% are not carriers, you have a larger pool to pick from."

Hartman said that most people agree that the carriers do the best as sons of High Brow Cat that were HERDA N/N never did very well. Top trainers only will ride carriers! So Durfurrena was letting everyone think he was N/N doesn't make sense. But I don't fault the

Minshalls for believing Ed. If they would have called me, we wouldn't be here today! I would have told them what Ed told me, that the horse was N/N and I believed him. But there was no test, no proof and they should talk to Ed.

Hartman was questioned why on Auspicious Cat flyers it was stated that the horse was EVA and GBED negative but there no mention of HERDA. Hartman explained that HERDA is a genetic disease and is not contagious. No other horse in the barn has a chance of catching it. EVA is a viral infections disease and an owner has the right to expect you to not put their horse next to one with EVA.

Asked when he first found out about being sued, he said when he was served, he thought it was that they wanted me to be a witness for them.

"I was a victim too. Dufurrena misrepresented to me, to Lisa, to Sean, to Lauren, the trainer and others," said Hartman.

Asked if most common afflicted horses are put to sleep. Hartman says he tells them they don't have to do that. They can take them home and sell have them. I disagree that there is tremendous suffering and pain. If they are truly suffering, you can put them down, but the owner makes that decision. It's always hard to put a horse down and many customers ask me, "When is it the time? How do I know?"

"My answer is the horse will tell you," said Hartman. "They tell you when they are no longer interested in their buddies. They are herd animals. They stand in a stall with their head in the corner, they don't eat - they are suffering and should be put to sleep.

One of the most interesting things that Hartman said was that the wounds caused by being afflicted with HERDA have a gap in the sore and the skin pulls apart.

"It looks bad and can be painful," said Hartman, "but the horse's system fills the gap with granulation tissue. Horses are champions for

making granulation tissue which is produced by cell fiberglass making collagen. Horses are highly vascular, meaning they have lots of blood vessels, which helps. There are no nerve endings in granulation tissue, but skin can't grow over it. So I cut off the overlapping skin and it doesn't hurt. I bandage it and the next day take it off. Mother nature fixes the rest. The initial wound is painful for 24-48 hours - not constant and not permanent. As soon as granulation tissue happens, the horse is pain free. In a couple of days you can wash it clean. But they do leave ugly scars."

I have several in my pasture now that belonged to other people. Too many horses with HERDA are put to sleep; the owners just didn't want to take care of them. If the Minshalls called and asked if I wanted this horse, I would have taken him."

"I think the training process for a cutting horse is a far worse form of punishment than HERDA," said Hartman. "Training starts as a 3-year-old and goes until they retire - from 3 to 6 - some beyond. It gets a little easier as they get older but it's really hard on them. They put a wire snaffle bit in their mouth and spur them. They hurt them. They have to do that. No horse wants to cut cattle that bad - they'd rather not do that. They break them, get their mind right and ride them down. It's accepted in the industry. I've sewed up tongues in many horses that were cut off from the trainer jerking them with the bit. They have spur marks on them and are so tired, they just give up."

"A 2- or 3-year-old stallion is difficult to train without hard training. Big money is up and there are a lot of injuries. You compete at a high level and it's unbelievable what they can do with a 200-pound man on their back and it can break their bones. They also pay for it in later life. It's not common to have ligament, tendon and joint injuries. Injecting their hocks repeatedly is common and stifles are injected every couple of months. There's a lot of lameness, joint damage. These horses hurt bad every day - there's no relief. Pain from HERDA is not above any of these other things."

"The willingness to put horses with HERDA to sleep is common. They could stay in a pasture. But I think if the horses had a choice, they'd

pick HERDA over training.”

PLAINTIFF’S FINAL ARGUMENTS:

In final arguments, the Plaintiffs’ lawyer, Aaron Burke said that “this case will be one of the most important cases to be tried in Texas this year.”

He asked why Hartman would lie, stating it was due to what was at stake - money. The greatest irony was that Hartman acted as if he was a victim of the Dufurrenas and it was in the Minshalls’ mind that “something shady was going on.” Burke continued that it was common knowledge in the industry that “most good offspring of High Brow Cat were carriers, but according to Dufurrena, his response was “not my Aussie.”

Burke contended that silence is lying, omission is lying and that should be worth \$1 million. Also hiding something is lying, such as Dufurrena saying “Is that so,” when confronted with the statement that “most good offspring of High Brow Cat were carriers.”

Burke compared it being with someone getting a suitcase filled with \$100,000 from someone and delivering it to Mexico. When they get caught and it’s illegal, that someone’s response is, “I didn’t know.”

Burke continued that Hartman said he had two conversations with Ed Dufurrena regarding the HERDA status of Aussie, one being in person and one on the phone when Dufurrena’s response was “not my Aussie.” He said that Hartman’s own opinion was that he knew that couldn’t be right, he couldn’t take it at face value at the time. Hartman had a motive for that.

An advertisement in several horse publications was brought up, where Auspicious Cat’s HERDA status was listed as HERDA N/N or his HERDA status was not even mentioned while other diseases EVA and GBED were, and HERC’s name was included in the ad reflecting where the stallion was standing.

“Lisa Minshall won’t lie to you,” said Burke. “Ever since that incident

when they had another colt that was born with HERDA, she always called the stallion owner asking about his HERDA test. I put a larger percentage on HERC. Dufurrena needed HERC; it was a money-making scheme working, with a \$600 profit being made on each stallion and \$3,000 on each Embryo Transfer mare. He wanted Hartman to ignore Auspicious Cat's HERDA status."

"In defense," said Burke, "If Dufurrena would have bred the stallion himself, it would have caused harm to only a few people."

"Suffering is where the punitive damages come in. The reason being, if you feel you are doing bad things, you must justify it to yourself. When Ann Rashmir (the Defense's witness) was confronted with past articles, she said that over the years she had changed her mind. She had 100 horses euthanized. Shane Plummer said that a stallion station should know as much as they can. The 6666s tested all 17 stallions they stood.

"My Plaintiffs think substantial expense should go to HERC and Dufurrena. Justice will be served on them," ended Burke.

DEFENDANT'S LAWYER'S FINAL ARGUMENTS:

In final arguments, Jeffrey Ryan said, "From the onset of this trial, the Plaintiffs have tried to make this case bigger and more complicated. He tried to tell us that this case was the biggest in the State of Texas and wanted to create images and reasons.

"This case is big for Dr.Hartman and, no doubt, for the Minshalls. But it's not the biggest in Texas and its not over complicated.

"Everyone knows what happened to the Minshalls and that it happened because of Ed and Shona Dufurrena misleading a lot of people. We didn't hear a lot about them - they were the 'elephant in the room.'

"Ed and Shona misled people, misrepresented Auspicious Cat's HERDA status to the Minshalls, the trainer, Dr. Hartman and potential breeders.

“In conversations with Dr. Hartman about ‘all the best sons of High Brow Cat are HERDA carriers,’ he says, “Is that so?” Another time he said, “Not my horse.” We know that when they had him tested in 2009, he was a carrier. They lied to people wanting to breed to their horse.

“The Minshalls knew their mare was a carrier and talked to Ed about it. From 2009 - 2012, Lauren competed in the same cuttings as the Dufurrena’s and they sat around and talked quite a bit. Lauren decided to breed Auspicious Cat and asked Ed about his HERDA status on two occasions. His response was ‘not my horse - he’s not a carrier.’

“In the common-sense world, the blame lies at the feet of Ed and Shona. They knew their horse was a carrier and on multiple occasions said “Not my horse.” Lauren even testified that she not only asked his HERDA status but told him she wanted to avoid breeding to a carrier stallion. Ed and Shona are the sole cause and 100% responsible.

“Unfortunately this is a parallel lawsuit. It’s common sense that the Dufurrenas are guilty but in the lawsuit world it doesn’t depend on common sense. After the colt was found positive, the Minshalls went to the Dufurrenas to complain, as they were the owners of the stallion. He lied to them. They never contacted Dr. Hartman; it never crossed their minds to blame Hartman - until lawyers got involved. When served with the lawsuit papers, Hartman said he was surprised. He thought he would be asked to back up the Minshalls. Hartman was also lied to - this doesn’t make any sense. The Dufurrenas want you to believe there were no misrepresentations. HERDA wasn’t mentioned on their flyer.

“Lauren said she pulled up his pedigree and said, because of what she saw, she asked Ed and Shona Dufurrena about their stallion’s HERDA status and they said he was HERDA N/N. That was misrepresentation. No misrepresentations were made by HERC. Lauren said she never talked to Hartman or the HERC staff. She

never even asked to talk to Dr. Hartman. The reality is that Lauren found out from the Dufurrenas that he was HERDA N/N and she just went with it. No representation was made by Dr. Hartman - In fact he said he would have told her how important it was to talk to Ed about this.

“The Minshalls knew who the culprit was - the Dufurrenas - until the lawyers got involved. They said the thing that HERC could have done and should have done, was simply standard duty, have integrity, and required more than he did. There is no duty of the stallion station or by the AQHA. Everything we do in life, you can come up with hindsight. More could be done. It was not the standard.

“No one disputed HERDA. In 2012, when the Minshall’s mare was bred, there was no requirement to test for HERDA. Does it make sense to require someone else to do something when their own organization doesn’t require testing? Stallion stations are not the property police - not the HERDA police. If AQHA doesn’t require testing, AVMA doesn’t require testing and the organization that oversees (AQHA) doesn’t require testing, does its make sense to do it?

“What we heard last week, Mr. Burke wants it to be done. He’s the one hoping to get \$1.5 million. He makes money. Statements made by counsel are not evidence. The plaintiffs had one witness to help support the organization’s duty and responsibility to do more - Dr. Winand - a reluctant witness.

“Credibility - you are the sole judges. There’s no magic test, no formula for common sense. We evaluate credibility in everyday life. Winand originally agreed that HERC was a victim, then when she got back to New York and read the depositions, she wasn’t sure HERC was a victim. It helped the 90-10 deal. It helped the Plaintiff’s with their theory.

“Winand changed her mind and didn’t think HERC was a victim and tried to suggest a vet/client relationship with the Minshalls. No expert in a clinical vet practice needs to explain what vets at stallion stations

should do - they were never involved in or practiced the collection of semen. What Nena does is vastly different from what they do in a stallion station.

“Who has the burden of proof? The Minshalls and their lawyer. They have been involved for decades breeding horses multiple times. They had lots of their own vets. Where are those witnesses? Where are the people in the industry? Their own vet doesn’t know about this case.

“The Minshalls are breeders and they make all of the decisions. They spent three years competing, talking and getting to know the defendants. Lauren was the only one who had contact with the Dufurrenas and left the payment and everything else to her mom and dad. She was busy - just didn’t have time. She chose the stallion for their carrier mare. Why didn’t she go to Dufurrena and say, “I need to see the test?”

“Dr. Hartman testified yesterday and you heard him talk from his heart. I saw a man who spent 40 years taking care of horses and there’s a suggestion he violated his oath and was cruel to animals - That’s offensive. He had a customer’s horse with HERDA and took it in and kept it. That’s character. It’s not a dollar motive. Even good people exaggerate and stretch the truth keeping in mind that the Minshalls wanted to shift the blame - that’s offensive.

“Burke’s expert Ann Rashmir worked for a research lab and researched eight horses. In the end she euthanized all eight. That’s not what people expect from a stallion station.

“We talked to Dr. Glenn Blodgett of the 6666’s and past president of the AQHA. He said the AQHA just didn’t have the capacity to include HERDA in their records, but said, “I can’t wait for the day. We will start with the stallions. Until then, stallion stations should do what’s right.”

