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Consulting v. Testifying Expert



(Photo by iStockPhoto.com)

If you are considering filing a lawsuit for harm that was done to you or your horse, consider the following regarding the use of an expert:

Almost every case needs some type of expert to aid the parties in understanding the horse business.

Your attorney may wish to consider a consulting expert whose identity need not be revealed unless their testimony is required.

Such an expert can candidly help the attorney understand the complexities of the case without having to expose case theories to the opposing side.

On the other hand, a testifying expert is one who is disclosed immediately. Such disclosure can help to make a future settlement conference more productive if the expert's credentials are awesome. Please note that the testifying expert is almost always subject to vigorous deposition examination by the other party's attorney.

Genetic Weakening of Equine Blood lines



(Photo by iStockPhoto.com)

... was highlighted at the recent Conference on Equine Law held at the University of Kentucky Law School in May, 2006.

Because of the desire to breed for a relatively small number of desirable traits, closed breeding will tend to lose genetic diversity. As an example, the relatively small number of Standardbred (Harness racing) stallions are being used for an increasing number of mares per stallion.

“Such loss in diversity will result in unhealthy traits showing up more frequently in development, growth, fertility and viability,” stated Kenneth L. Jackson of Kentuckiana Farms, Lexington, KY.

Some solutions include increasing the number of breeding lines, introducing distinct lines from outside North America and limiting the “books” of over-used stallions.

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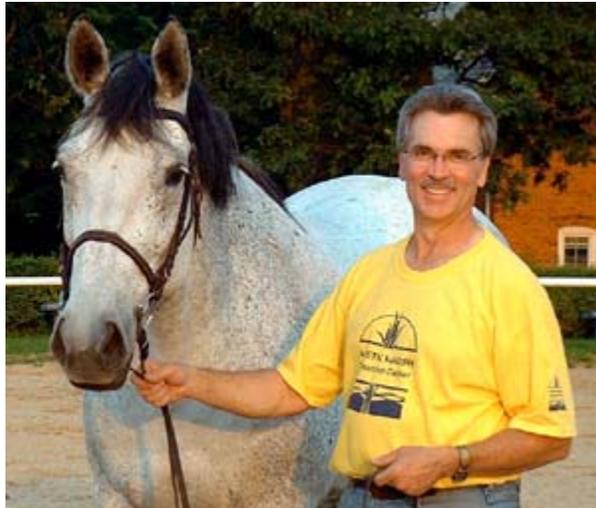
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Comments from Bill Maybee, Esq., Kalamazoo, Michigan



(Photo of Bill Maybee & his "Samba" used with permission of William Maybee, Esq.)

I recently defended a horse seller (the veterinarian had his own insurance-paid attorney) on a breach of contract and fraud claim based on the sale. The veterinarian was sued for malpractice.

The buyer, a middle-aged woman, who was a novice riding at training level dressage, wanted to ride at second level dressage.

The seller represented that the horse could do "first level" movements" and much more." However, no competition history for the horse was provided.

The seller e-mailed the health history of the horse and detailed problems with legs in the past, including a prior surgery and therapeutic injections.

The horse was ridden by the buyer's trainer, barn manager, a friend and buyer more than once. All proclaimed the horse a "good fit" for the buyer.

Unfortunately, the buyer sued the vet claiming the vet had "passed" the horse for second level dressage. The buyer apparently didn't understand the significance of what the seller and veterinarian had told her before and at the pre-purchase exam.

When confronted with the paper work (none of which indicated that the veterinarian had "passed" the horse), the buyer claimed the veterinarian didn't take the time to "make her understand" the problems the horse had.

Because of the buyer's own lack of knowledge, the veterinarian's Insurance Co. and seller had to expend significant attorneys fees to settle the action for "nuisance value," which was only a small percentage of the lawyer's fees.

The moral of the story: Sellers must reveal everything but disclaim responsibility for suitability for the buyer. Veterinarians must document (x-rays included) their findings, but specifically disclaim any representation of the horses' abilities, leaving that specifically to the buyer's trainer.

(Submitted by Michigan attorney, Bill Maybee, Esq. He may be contacted at 269-345-6185, Kalamazoo, MI.)

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NAES' Spotlight focuses this issue on Tim McQuay



(Tim McQuay on "Mister Montana Nick," Photo Courtesy of McQuay Stables)

Tim McQuay the leading All Time money earner in the National Reining Horse Association, with over \$2 million dollars in winnings to his credit.

Tim has won every major National Reining Horse Association sanctioned event at least once, including the NRHA Futurity, the National Reining Breeders Classic, the NRHA Derby, and the NRHA Superstakes.

Tim qualified at least two horses for the NRHA Futurity finals each year from 1987 to 2000, and in '94, '95, and '96 he brought back all three. In 2000, he was inducted into the National Reining Horse Association Hall of Fame. In 2001, even after being sidelined mid-year with a life-threatening illness, he was still an NRHA Futurity Finalist.

With a worldwide clientele, Tim frequently travels abroad where he presents reining clinics and consults with horse owners and professionals. He has won the Italian Open Derby and along with his daughter, Mandy, he won the '93 World Cup, representing the United States. He has qualified multiple horses for the US Equestrian Team Reining Championship Finals.

Originally from Minnesota, Tim McQuay, his wife, Colleen and daughter Mandy moved to Tioga, Texas in 1989. Since then, McQuay Stables has made the north Texas town a focal point for the equine world.

ICY's Column



(Photo by NAES and used with permission of Home Depot, North Valley Parkway, Phoenix, AZ and Barb Phillips, associate)

I went with Dave to a big building with lots of stuff and humans that had the same vests on, (Home Depot). I always like to go to these places 'cause they give me treats which is good.

After understanding what some humans do in selling horses and not telling all the stuff they know about their horse, it would be a good thing if humans gave each other treats, too. Maybe they'd get along better with each other and not have to find lawyers.

.....of course Dave takes me to see lots of lawyers and they all seem very nice to me like they pet me a lot.

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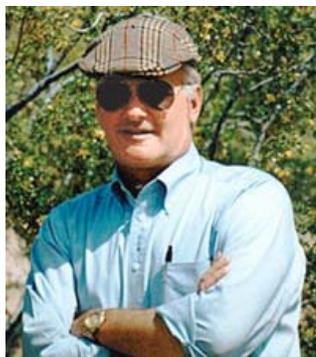
(Photo by NAES)

Colonel "ICY" is the Director of NAES Security and is a purebred Doberman Pincher. She's soon to be 7 years old on July 21st; (yes, I'm sure she'd appreciate treats).

Every month "ICY" uses ESP to communicate with Dave and create articles from a dog's point of view since she can't type worth beans.

She tends to be a very practical thinker and looks at life with either "black" or "white" views. I know she hopes you enjoy her thoughts as much as she does, since every day is new and wonderful to her.

About Dave Johnson



(Photo by NAES)

Dave started NAES more than 15 years ago with an eye to making sure all horse owners and those interested in horses could depend on NAES for the straight scoop on horses and prices.

In addition, Dave is one of the busiest horse activity experts in North America.

Because of his long history of working with so many breeds and disciplines he's called upon to give his opinion in literally hundreds of legal cases and horse appraisals.

Dave is still an active horse show judge and, when time permits, continues teaching at his wife's nationally known stable, Willoway Farm, Inc., in Phoenix, Arizona.