KING COUNTY SUPERIOR COURT No. 11-1-06177-5
(Former) (COA -NO. 71125-1
(Former Petition for Review) Supreme Court No. 91772-8

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In Re: the Personal Restraint of

CHRISTY RUTH DIEMOND

Petitioner,

PERSONSAL RESTRAINT PETITION – Suppl. [Reserved]

MOTION FOR DISCRETIONARY REVIEW EN BANC AND ORAL ARGUMENT DUE TO COA Div I CONFLICTS OF INTEREST - VIOLATIONS OF JUDICIAL CONDUCT – RCW VIOLATIONs and,

MOTION to ENJOIN

BRADY ISSUES, fraud and Perjuries of:
Jenee Westberg, Bonnie Soule, Robin Cleary, Hannah Mueller aka Evergreen DVM, Dave Roberson, Margaret Nave, Gretchen Holmgren, Dave Morris, Jenny Edwards, Bonnie Hammond, Jamie Taft, Judge Jim Rogers and et al, Related embezzlements upon the good taxpayers of County King and,
The RICO conspiracy of Elected King County Prosecutor Dan Satterberg, Kelli Williams of the King County Office of Civil Rights & Open Government, Civil Rights/ Ethics, Public Records Act Program/ Boards & Commissions, King County Sheriff John Urquhart and Norm Alberg, Records and Licensing Services.

Christy Ruth Diemond, pro se
[redacted]

State of Washington
King County Prosecutor Off
Daniel T. Satterberg
Criminal Division
W554 Third Avenue
Seattle, WA 98104-2385
(206)296-9000
FAX (206)296-0955

Comes now Christy Diemond who motions for en banc oral argument discretionary review in ***response*** to Jurist Michael Trickey's improper review, failure to recuse due to inherent conflicts of interest and subsequent erroneous and bias decision to dismiss Diemond's Personal Restraint Petition. This is the reserved supplemental.

Trickey failed to recuse for cause upon April 28th, 2017 direct request. He failed to act on motions for change of venue, failed on motion to enjoin, failed to vacate and dismiss with prejudice for unequivocal evidence of RICO and fraud in this case, et al, and failed a finding of a malicious prosecution claim while it is profoundly clear all the elements proving malicious prosecution and fraud were profoundly present.

Trickey was lead counsel on the original - now exposed as *rigged* - unanimous direct appeal panel. For that reason alone, Trickey should never be in a position where he would review his own prior jaded decision from direct appeal.

Trickey's actions constitute a hypocritical violation of *Code of Judicial Conduct Cannons 2.1 -2.11*, the *Appearance of Fairness Doctrine* as well as a direct violation of:

RCW 42.12.040 Prejudice of judge, transfer to another department.

> *(1) No judge of a superior court of the state of Washington shall sit to hear or try any action or proceeding when it shall be established as hereinafter provided that said judge is prejudiced against any party or attorney, or the interest of any party or attorney appearing in such cause. In such case the presiding judge in judicial districts where there is more than one judge shall forthwith transfer the action to another department of the same court, or call in a judge from some other court. In all judicial districts where there is only one judge, a certified copy of the motion and affidavit filed in the cause shall be transmitted by the clerk of the superior court to the clerk of the superior court designated by the chief justice of the supreme court. Upon receipt the clerk of said superior court shall transmit the forwarded affidavit to the presiding judge who shall direct a*

visiting judge to hear and try such action as soon as convenient and practical.
(2) The presiding judge in judicial districts where there is more than one judge, or the presiding judge of judicial districts where there is only one judge, may send a case for trial to another court if the convenience of witnesses or the ends of justice will not be interfered with by such a course and the action is of such a character that a change of venue may be ordered: PROVIDED, That in criminal prosecutions the case shall not be sent for trial to any court outside the county unless the accused shall waive his or her right to a trial by a jury of the county in which the offense is alleged to have been committed.

Diemond became aware of Trickey's conflicts et al, on April 28th, 2017, she motioned for recusal and change of venue, which was inappropriately denied.

Diemond does declare under penalty of perjury under the laws of the State of Washington that she is the petitioner, that she has read the petition, knows its contents, and believes her petition and reply to be true.

TRICKEY'S CONFLICT OF INTEREST

Trickey forced his own review of his own decision from direct appeal. Trickey's must recuse and rescind for cause his dismissal dated June 6, 2017 of Diemond's Personal Restraint Petition. It must be vacated for the reasons forthwith.

a) Michael Trickey was lead jurist with Jurist Michael Spearman (who also has a conflict of interest that he failed to recuse on direct appeal) and Jurist James Cox, on Diemond's direct appeal panel that found April 20, 2015 unanimously against Diemond.

Their opinion admitted in a footnote on page 10, that they failed to review "*Supplemental clerk's paper and other documents submitted thereafter*."

The COA stated these papers were "*untimely*" when, in fact, they were not.

They then claimed Diemond did not show she was prejudiced while in

addition to supplemented SAGs with scores of exhibits, they could have seen 350 pages of extensive documentation submitted to the trial court that demonstrated her claims. This panel chose to act contrary to Diemond's constitution rights to due process and rig the decision against her.

b) That 2015 COA panel found against Diemond on direct appeal in the face of unambiguous exculpatory evidence of prosecutorial misconduct through evidence of prosecutorial misrepresentation of fact and fraud placed in the record at that time. It is apparent now that the COA panel was certainly aware of the second undisclosed Brady officer, KCSO Robin Cleary during their deliberations.

Their actions forced Diemond to seek relief at a higher court. The exculpatory evidence of fraud has only gotten more undeniable and more abundant since.

Trickey's participation in the former decision is unmistakable. His participation in the direct appeal decision as lead jurist precludes any and all of his participation in any of Diemond's subsequent Personal Restraint Petition or any other participation as Trickey cannot be unbiased. His review explicitly violates RCW 42.12.040 Prejudice of a judge, Code of Judicial Conduct Cannons 2.1 -2.11 *(Including grounds for disqualification)* and the Appearance of Fairness Doctrine **.**

Thus it is improper.

In addition, Mr. Trickey, being a barred attorney and judge, would be more aware of these conflicts than a pro se litigant and should have never have taken the review in the first place. To do so, in the manner in which he did, foreshadows his own level of integrity, personal motivations, and intent.

c) Thus Trickey may carry more responsibility in the culpability of his participation on the 2015 opinion when this case, along with a multitude of other cases just like it, is federally investigated.

d) Trickey is fatally conflicted, incapable of being unbiased and any decision on Diemond would have clearly identifiable appearance of self-dealing to avoid his own indictment in the unthinkable fraud and RICO that is documented and has taken place in this case and the 22 other cases just like it.

e) COA Court Administrator/Clerk Richard Johnson advised Diemond in a letter that there would be an "Acting Chief Judge" reviewing Diemond's PRP. He did not identify who that "Acting Chief Judge" was as would be a normal, expected and reasonable practice.

Diemond checked and identified Trickey in that role. She then immediately demanded he recuse for cause. He refused to do so.

Failing to identify the reviewer appears to be an intentional act by Clerk Johnson, he did the same ambiguous letter to enjoiner Jason Markley to insure that Markley would have no opportunity to neither object nor ask for recusal for cause. Thus it appears to be a pattern of behavior. [Markley is at Discretionary Review presently for the same reasons.]

Trickey's participation is improper and cannot be seen as anything but bias since he would have every reason to suppress the fraud he and his colleagues are responsible for in the direct appeal. He would deny relief for Diemond in order to protect himself and his colleagues who participated in the rigged 2015 direct COA opinion.

f) A conflict of interest therefore exists and Trickey must be recused for cause, his decision rescinded and since his in a supervisory position in District I, it

must be reviewed en banc by a different court. He did not recuse on his own volition, he did not recuse under proper motion for cause. This clearly shows his prejudice from the inception.

This decision should be immediately rescinded and vacated.

The above is codified by:

1) RCW 42.12.040
2) Code of Judicial Conduct Cannons 2.1 -2.11 *(Including grounds for disqualification)*
3) Appearance of Fairness Doctrine

Declaration

Jurist Trickey is sitting in review of his own decision from direct appeal. He has failed in his capacity to recuse himself for cause while he quite clearly was acting in a well-founded conflict of interest in his capacity by reviewing his own earlier disputed ruling that is fraught with documented corruption.

Both decisions – direct appeal and the June 6, 2017 PRP denial - profoundly misrepresented submitted evidence, distorted facts of the case and altered the evidence contained in Diemond's PRP to his own bias. This recent act appears to be an apparent effort to protect his prior corrupted decision on direct appeal.

Trickey fails to reference King County Prosecutor Amy Meckling's improper Response in his decision. Meckling's Response offered no defense argument. Instead it was full of marginalization, misrepresentations of fact and legal cites that were replete with RPC violations and violations of criminal law.

Diemond's Reply, which Trickey also fails to acknowledge, explicitly points out the prolific and stunning flaws in Meckling's Response.

Trickey's denial omitted any reference to Meckling's improper and criminal Response. He also fails to reference Diemond's Reply that points out Meckling's improper briefing that in addition to her RPC violations, violated at least 4 criminal statutes that are Class C and Class B felonies.

Trickey chose instead to continue, in-kind, of Meckling's unlawful strategy, taking Meckling's place by prosecuting Diemond from the bench within his decision.

Meckling – subsequently as did Trickey - additionally violated at least four (4) state public records criminal statutes in the process – a true "*fox guarding the hen house*" scenario demonstration of why conflicts of interests are improper.

The statutes include the following criminal violations:

1) *RCW 40.16.030- Offering false instrument for filing or record* – Class C Felony.

   Every person who shall knowingly procure or offer any false or forged instrument to be filed, registered, or recorded in any public office, which instrument, if genuine, might be filed, registered or recorded in such office under any law of this state or of the United States, is guilty of a class C felony and shall be punished by imprisonment in a state correctional facility for not more than five years, or by fine of not more than five thousand dollars, or by both.

2) *RCW 9A.72.020 – Perjury in the first degree* – Class B Felony

   (1) A person is guilty of perjury in the first degree if in any official proceeding he or she makes a materially false statement which he or she knows to be false under an oath required or authorized by law.

   (2)Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his or her statement was not material is not a defense to a prosecution under this section.

   (3) Perjury in the first degree is a class B felony.

3) *RCW 40.16.010 – Injury to public record* – Class C Felony

   Every person who shall willfully and unlawfully remove, alter, mutilate, destroy, conceal, or obliterate a record, map, book, document, or other thing filed or

deposited in a public office, or with any public officer, by authority of law, is guilty of a class C felony and shall be punished by imprisonment in a state correctional facility for not more than five years, or by a fine of not more than one thousand dollars, or by both.

4) *RCW 40.16.020 – Injury to misappropriation of record* – Class B Felony
"Every officer who shall mutilate, destroy, conceal, erase, obliterate, or falsify any record or paper appertaining to the officer's office, or who shall fraudulently appropriate to the officer's own use or to the use of another person , or secrete with intent to appropriate to such use, any money, evidence of debt or other property in trusted to the officer by virtue of the officer's office, is guilty of a class B felony and shall be punished by imprisonment in a state correctional facility for not more than ten years, or by a fine of not more than five thousand dollars, of by both."

Without a doubt the only advantage Jurist Trickey has in this case is that he was appointed to a position of power by Governor Jay Inslee. This is a benefit that Diemond does not enjoy as a constituent of Washington State.

Diemond does have, by law, the constitutional right to have unbiased review done in her case - as does every one of the other 22 defendants in the "like" cases of malicious prosecutions listed for enjoinment like hers. The judicial system thus far has denied her that recourse. Trickey was directly involved with at least one other case, Markley.

Trickey has, (as has King County), abused his judicial position by violating his oaths criminally with deliberate violations of *42 U.S. Code § 1983 - Civil action for deprivation of rights* violations in order to protect himself et al.

Trickey has violated an unthinkable amount of his judicial canons repeatedly in just this one document. He has also broken numerous criminal laws listed above as well as RICO laws involving racketeering although those allegations are part of this brief. Federal authorities will handle that part.

Trickey has failed to review Diemond's claims by selectively picking out a few items and then marginalize those chosen while omitted others. Thus a majority of Diemond's claims continue to be left un-adjudicated.

The following is study of Trickey's June 6, 2017 improper decision and is in support of the motions for discretionary review, et al.

Mr. Trickey has participated in not only unlawful acts but shameful acts in the United States of America. The unlawful acts are so numerous it is challenging to list them all. We will start by following Trickey's own brief.

"1. Brady Violations" [Page 3 – 4] (the omission of Brady Officer Jenee Westberg's criminal career).

King County Prosecutor Maggie Nave committed in a textbook Brady violation during Diemond's trial, by failing to disclose the Brady material on Regional Animal Services of King County (RASKC) ACO Brady officer, Jenee Westberg. Nave did this both prior to Diemond's trial and also when requested by defense counsel at the beginning of the prosecution in discovery requests.

Nave concealed her own direct personal knowledge of Brady Officer Jenee Westberg. This is a fact of the case. This is a Brady violation.

Westberg has been found to have participated in a massive wide-spread conspiracy, in not only this case, but a plethora of other innocent people like Diemond.

To some degree, Ms. Nave continues to act with impunity into her recent retirement without a single person in the King County Prosecutor's Office lifting a finger to correct her heinous crimes against the innocent.

When Nave was exposed for the same crime by the Markley and Thomas cases post Diemond trial, Nave then, on the record in Diemond's case, and in front of the

tribunal (Jim Rogers) and on the record, feigned that she had no idea that Westberg had a criminal record.

This was a blatant lie. Ms. Nave was the lead prosecuting attorney who prosecuted Brady officer Jenee Westberg for her 2008 spectacular 19-count VUSCA arrest.

It is apparent, certain components within King County conspired to conceal this arrest in order to employ Westberg in at least 22 other malicious predatory prosecutions against innocent people where King County wantonly omitted the Brady material.

Today it is unmistakable that a large group of actors (more are still being discovered) within King County acted to conceal Brady Officer Westberg criminal career from the innocent victim/defendants of these predatory prosecutions in order to prevail in violation of *Napue vs. Illinois, Strickle vs. Greene* and *Brady vs Maryland*.

Nave was the "*fixer*" in the KCPAO who made the plea deal to keep Westberg's VUSCA drug conviction case under the radar so that at least 15 other innocent people that Westberg predatorized could be gainfully prosecuted by the King County Prosecutor's office.

Though Nave was the lead prosecutor in the Diemond case, Nave's colleague, KCPA Gretchen Holmgren acts as the primary prosecutor in a majority of the other cases. There are many others, the same people from case to case, operating in the backgrounds that are not as visible.

As investigations progresses, a number of these individuals have taken flight in an apparent attempt to escape what will be a certain exposure to a massive criminal tribunal in the end.

At the time of Westberg's VUSCA prosecution just three years earlier, Nave was well aware of at least two other criminal prosecutions of Westberg's but made sure none of those other transgressions were entered into the VUSCA court record in front of then District Court Judge Mariane Spearman [domestic spouse to COA jurist Michael Spearman who sat on both Diemond's *and* Markley's direct appeals]. This facilitated Westberg's rather spectacular 19-count drug arrest with K9 dogs, to be sentenced as if she were first-time offender. And Mariane Spearman complied by giving Westberg what is referred to as a "*free pass*" (something much better than any of her victims have gotten).

After submitting a guilty plea, Westberg was convicted and given a deferred sentence for 12 months probation where she has since been unable to demonstrate she has remained criminal-free. There is no record – no audio – no judge of any hearing heard that her case has been dismissed. It has been 9 years.

Jenee Westberg also had an "*in*." Public documents show her mother, Ann Westberg, worked for the KCPAO. Anne Westberg (now conveniently retired) served KCPA Dan Clark, the original and current chair of the Brady Committee. This is the same ad hoc "committee" that failed to designate Jenee Westberg as a "Brady cop" in 2006, 2008 and a second time for a different criminal case in 2008. [More recently, Mr. Clark is also the lead in the decision to conceal Brady officer KCSO Robin Cleary from Diemond while Diemond was in direct appeal. A well documented choice through 4 weeks of emails between 40 attorneys when the PbK system appropriately alerted them there was a Brady issue with Cleary in Diemond's case.]

Dan Clark's decision to withhold Robin Cleary's Brady action resulted in a second public records litigation filed against King County prior to the discovery that

40 prosecutors discussed it for 4 weeks on email and chose to conceal it from Diemond while she was actively in direct appeal].

Brady Officer Jenee Westberg has been allowed to prey upon innocent property owners, ad nauseum, until her termination in late 2014. She was fired for filing false reports and theft of county time [dishonesty] following a year-long investigation [her fifth investigation/Loudermill]. Interestingly Westberg and Cleary's terminations were within one day of one another.

Just as Diemond employed in this case, King County investigators used Westberg's GPS data and falsified animal control documents Westberg had filed to gather grounds to fire her. This is documented in King County public records as exhibits in the Diemond case file.

King County has profoundly – unthinkably – failed to correct this and has only acted to cover-up their deeds.

They continue to file false court records while withholding and concealing public records that would have explicitly exposed it.

The truth is, Ms. Westberg was and is a career criminal. Her criminal history starts before she was of legal age and continues to the present of our knowledge level. 45 police events have been gathered attributed to Ms. Westberg so far.

One of the other arrests Nave was keenly aware of was Westberg's 2006 KMart shoplifting and attempted bribery of a police officer in the City of Kent.

A third ATV misdemeanor violation was being prosecuted at the same time in 2008 in King County as the VUSCA prosecution.

There is no evidence that Nave disclosed neither the active ATV violation nor the shoplifting/bribery case in the 2008 VUSCA case but public records examination of her case file shows that Nave was well aware of both outside criminal cases.

Trickey, in his most recent action, instead of addressing Nave's deliberate and habitually contrived Brady violation that is a fact of the case instead argues a sidestep circular argument that is not only flawed but has nothing to do with the Brady violation itself (just like the avoidance that took place on Diemond's direct appeal with Trickey's earlier decision with the conflicted Michael Spearmen and James Cox as well as trial judge Jim Rogers before them). Trickey is clearly attempting to protect them all from the exposure of their misdeeds.

Now what Trickey has done is expose it all in a public court document available to any member of the public, the press and the federal authorities. It would appear the attempts to suppress this case et al, are unraveling uncontrollably and becoming the elephant-in-the-room public document.

Trickey's stated argument - that all the rest of the witnesses testified cumulatively - is not the point. His debate is a "*what does that have to do with the price of tea in China"* argument.

Maggie Nave committed a textbook Brady violation. That is an undeniable fact of the case and documented in the court records.

What the issue really is – is the fact is Nave was never held accountable nor has the Brady violation been cured. Neither of which have been adjudicated. Dancing around the Brandy issue in a *what if* "cumulative" argument, is not ***adjudicating*** it.

This Brady issue has been circularly argued around by Diemond's corrupt defense counsel, Dave Roberson, with a *what if*, *we don't think it would be*, *cumulative* (corrupt) *witnesses, circular in-a-box* argument that has nothing to do with the actual Brady violation (or the price of tea in China).

Subsequently trial judge Jim Rogers, Michael Trickey, Michael Spearman and James Cox, followed suit and skirted adjudication of the Brady violation while

making it sound – *kind of* – that they did. And now they disingenuously misrepresent that the Brady issue was "*adjudicated*" when actually - it was not.

This contravention has been done in pages and pages of documents ad nauseum while the Brady violation itself has never been adjudicated by any of those individuals who have touched it including Trickey who obviously had every incentive to skirt it as well.

This behavior serves only one purpose. It acts to conceal and protect Ms. Nave, et al, at Diemond's, et al, expense. It saves King County from corrupt malicious prosecution charges and RICO. It is risk management to a fault by those who created it. *To Hell with civil rights or protecting the innocent*. They would rather prey upon the innocent to create insurmountable recovery and distressed properties to be available for 1 – to 30% of market value. All on the tax dollars of the victims they prey upon.

The jury in Diemond's case never heard about the Brady violation at all because it was exposed *after* Diemond's trial verdict. [An apparent faux pas by defense counsels Kevin Tarvin and Gene Piculell in the Markley and Thomas cases].

There is NO argument that can overcome the fact that the jury had no opportunity, nor did Diemond (who demanded that jury), to bring forth any of the Brady material in front of the jury that was Diemond's by right.

When Diemond chose a jury trial it was not to give Judge Jim Rogers the right to usurp those jury rights when he denied Diemond her right to due process through a new trial. A new trial was the only way to cure the many-many acts of corruption that have been exposed since.

The lack of correction and the profuse denial makes the King County Prosecutor's Office and its elected prosecutor, Dan Satterberg, nothing short of domestic terrorists.

To say that the jury would have decided the same way if they had this information is absolute folly. No one can know an outcome of an imaginary event without a crystal ball and thus the Brady issue has not been adjudicated nor has it been resolved.

Trickey includes *altered* legal cites to support his unrelated – "*what does that have to do with the price of tea in China*" debate.

Trickey is cheating to prevail. This is in strict violation of *Napue* because he knows the facts of the case while prolific amounts of documentation have been introduced. He cannot lucidly deny that Diemond is innocent and yet he is attempting to conceal, marginalize, spin, "*lawyer*" his way around the truth in order to prevail – a brazen violation of *Napue* directly from the bench.

Trickey first argues that Diemond is "*renewing issues that were considered and rejected.*" [P3] [Untrue.]

He then erroneously states that Diemond does not have the right to a collateral action. In doing so, *he is rewriting legislation of the State of Washington* because that is untrue also.

A Personal Restrain Petition under RCW 10.73.090 and RCW 10.73.100 is collateral. That is, Diemond has the right to address these issues in a collateral manner. It is defined in the legislation as follows:

> *(2) For the purposes of this section, "collateral attack" means any form of post conviction relief other than a direct appeal. "Collateral attack" includes, but is not limited to, a **personal restraint petition**, a habeas corpus petition, a **motion to vacate judgment**, a motion to*

withdraw guilty plea, a ***motion for a new trial****, and a motion to arrest judgment.*

Trickey's disingenuous legal cite in his attempt to support his erroneous claims under *Lord 123 Wn2d 296, 303, 868 P.2d 825 (1994)* is not congruent with Diemond's case.

Lord was a violent murderer. Diemond is not. But more troubling, Trickey omits a portion of his quoted legal cite – a portion of a sentence which *would not* support his bias. He only employs the portion that will.

This is deceitfully fraudulent though a common tactic with those willing to cheat to prevail while violating *Napue*.

It should not have to be said that in order to be completely objective and accurate one must include the whole quote. It is improper to edit comments out-of-context for a self-serving debate.

Trickey is an attorney. He knows this. This makes his actions upon Diemond even more disturbing violations of Diemond's constitutional right to due process.

The *Lord* cite Trickey used was actually quazi-quoted from a "***standard of review.***" The full quote is as follows:

[1-4] As a threshold matter, it is important to note that a personal restraint petitioner may not renew an issue that was raised and rejected on direct appeal - omitted was: ***unless the interests of justice require relitigation of that issue.***

With 22 other cases just like Diemond's all containing groups of the same actors, committing all the same crimes, it is clearly in *the interest of justice* to correct this. This case, et al, is a template for RICO using our tax dollars to fund it.

Here, Trickey has misrepresented the legal cite to suit his bias and abhorrently violated Diemond's constitutional rights doing so.

Trickey furthers his disingenuous cites by quoting the authority of *Pers. Restraint of Pirtle, 136 Wn 2d 467, 491, 965 P.2d 593 (1998)* that:

> "*Nor may a petitioner simply revise a previously rejected argument by alleging different facts or by asserting different legal theories.*"

Trickey acts again to misrepresent a second legal cite this time by omitting that Pirtle's PRP is a *revised* PRP, the first of which already traveled to the US Supreme Court over many years and Pirtle is submitting another amended PRP after he has exhausted his initial legal remedies.

Pirtle would not apply to Diemond as this is Diemond's first PRP - not to mention the Pirtle case also is not congruent with Diemond - *Pirtle* is a murderer while Diemond is not.

Trickey's then concludes, based upon his bastardized legal cites, that "*Diemond fails to establish that the interests of justice require allowing her to relitigate this claim.*"

Though the above tactic is intentionally ambiguous, Tricky has succeeded in offering ***no grounds*** for his conclusion. In other words, what he cited was pure smoke n mirrors. The Brady violation thus remains un-adjudicated, just as it has been all along.

Trickey then chooses to place what are major legal exposures to malicious prosecution (that continue to mount) in footnote [2] [P3] as if it were just a immaterial side note so as to not draw too much attention to the fact that Westberg was involved in a massive conspiracy that involved all those identified "*cumulative*" witnesses - all of who are absolutely exposed in public documents through the prolific amounts of submitted exhibits in this

case. They were – in fact – "*cumulative perjurers*" in defined criminal conspiracy RICO.

There are NO exceptions to the actors in this play. Public documents identify every one of the "*cumulative witnesses"* knowingly participating in the conspiracy to commit fraud upon Diemond. They operated from a "*script*" one they typically use from case to case. [E.G., "*all the bark was eaten from the trees*." In one of the cases, Dunham, there were no trees at all yet they used the same script.]

In placing a major complaint in a footnote, Trickey is applying this to his high jacked smoke 'n mirrors argument [*I.E., that it wouldn't have mattered because the testimony was "cumulative"*] a ploy designed by the very actors who are guilty of the crime of RICO conspiracy.

Again this was to circumvent the actual and continuing Brady violations those have been left un-adjudicated and un-responded to by both the State and the courts since.

Footnote[2] [Page 3] Trickey states the following:

> [2] *"Diemond contends that she has since discovered other impeachment evidence regarding Westberg,*
> [True. There are unthinkable amounts – scores of which have been submitted as exhibits to this case]
> "*including that Westberg was allegedly a 'person of interest' in other crimes."*
> [Also true and submitted to this case as an exhibit Westberg's admission Westberg of her involvement in an attempted manslaughter case in Auburn. Trickey ignores mentioning this part].
> *" Because this court determined in Diemond's direct appeal that Westberg's credibility was not critical to the State's case, these*

> *allegations, even if true, do not serve a basis for reconsidering the claim."*
>
> [The direct appeal court panel, which Trickey sat on as lead, chose to not consider the additional evidence submitted post trial pre sentencing that demonstrated KCS Robin Cleary's fraud in tampering with her evidence photos in the photo expert report, the altered transcripts et al. They employed the same"*footnote*" plan in the erroneous decision there, that they did not consider this evidence claiming "*it was untimely*." Public records show these 350 pages of "*clerk's papers*" were timely. That footnote was a lie. Trickey. et al, just *capriciously decided* not to consider the evidence of fraud that was timely submitted for consideration.]

This latest footnoted comment can serve only one purpose.

After circumventing the un-adjudicated and continual oozing Brady violation wound, Tricky has taken a profound amount of submitted evidence of fraud listed in the abundant amounts of newly discovered Brady materials, put it all in a bag and swept it into this footnote under "*other impeachment evidence*" and called it "*Westberg*." Thus he never adjudicates all the items listed. This is a common tactic employed within his decision.

The submitted evidence tells the story. This is a RICO business model involving an unthinkable amount of actors endemic within our municipal government funded by the innocent's own tax dollars.

Westberg is but one of a rather ugly component of a massive conspiracy that has been exposed through the cross-referencing of 23 cases – Diemond's case being just one of them. There appear to be well over 150 active players.

Trickey defends [bottom of page 3] I.E., King County's failure to disclose the second Brady officer in Diemond's case – the Brady condition of Robin Cleary while Diemond was in direct appeal.

Trickey defends the well-documented admission of King County's Brady violation of the second Brady officer in Diemond's case.

King County Sheriff Detective Robin Cleary - whose Brady demise and termination was openly discussed among 40 attorneys on email for 4 weeks – included KCDP Chief Dan Clark. Clark decided to withhold it from Diemond's direct appeal.

One might think Trickey was the prosecutor rather than the bench. Trickey's impotent argument of this was shocking. It was documented through King County's own public records.

On Page 3 Trickey states Diemond "*claims that the State failed to disclose that King County Sheriff's Detective Robin Cleary was terminated for cause in late 2014, while Diemond's case was pending appeal*,"

This is not a "*claim*." There is not an iota of a doubt. It is a documented fact by open admission in King County emails. These emails were over a four weeks period and between forty in-house King County attorneys discussing it.

[*These emails were sourced from King County and were submitted as an exhibit to this case.]*

Diemond still has a pending lawsuit against King County for withholding this information where King County has admitted all guilt and refuses to defend the allegations.

Trickey's response to Nave's using tampered evidence [Page 3-4].

Trickey admits: "*in a criminal case, the prosecution must disclose to the defense any evidence that is favorable to the accused and material to guilt or punishment. Brady, 373 U.S. at 87."* Yet Trickey fails to hold Nave et al, accountable for violating just that.

In addition to failing to disclose her own prosecution of Westberg as a Brady material, KCPA Maggie Nave and DA Dave Roberson ensured that Diemond never saw any of the digital photo images Nave intended to be used at trial [as required under *Rule CrC 4.7(a)(1)(v) - Discovery* no later than omnibus.

It was at trial that Diemond first saw the altered "*airbrushed*" hard copies of the digital images the first time while the "cumulative perjurers" testified under oath; the tampered exhibits were what they saw. Diemond was not shown the digital images until after trial. The jury *never* saw them. They are quite different than the "*air-brushed*" altered hard copies shown to the jury at trial. Even a non-expert could easily see it. We now have a photo expert report that finds all the photos were tampered with in one way or another. All the State's "*cumulative witnesses*" lied.

No digital images were shown to the jury nor to Diemond. Only altered "*air-brushed*" hardcopies were employed at trial. Some were not even photos of Diemond's property while the prosecution alleged it ***was*** Diemond's property in their "cumulative" perjuries. [Exhibit 11 was of a shed that did not belong to Diemond].

It has been discovered and documented through the photo expert report, that Brady officer KCSO Robin Cleary lied about ***when*** she took her photos of Diemond's horses by nearly 3 months after Mueller and Jaime Taft/Bonnie Hammond had starved them for emaciated photo shoot to blame on Diemond. **Brady officer Robin Cleary committed perjury. Both Cleary's and Westberg's manipulated tampered photos were testifying in front of the jury the entire trial in their absence.**

It was after trial that Diemond discovered and copied two CDs that Roberson had secreted in her case file while reviewing her case file for appeal. Absent was a third CD of Westberg's photos.

Roberson attempted to lose those same CDs within weeks of Diemond's viewing not realizing Diemond already had copied them.

Those two CDs exposed Brady officer Robin Cleary, Westberg, Jenny Edwards, Bonnie Hammond, Bonnie Soule and Jaime Taft's (SAFE) fraud, perjuries and conspiracies.

KCSO Bonnie Soule, of note, was part of the false reporting from the day she set foot on Diemond's property. Her entire visit was peppered with requests to come into the house to "*help*" Diemond with her elderly mother.

This was no doubt, an attempt to employ Bonnie Soule as an additional "*witness*" with the phony Adult Protection Services (APS) complaint, the "anonymous" Jenny Edwards had set up for a secondary criminal charge of elder abuse [with 4 KCPAs] using the animal abuse charge as a 404(b) character assassination. It has come to light this has been used to gain control of the victim's property through a rigged guardianship action in order to steal the property.

It was eight months after trial and much complaining by Diemond, that a third CD showed up in her case file under Ramona Brandes's care. All three CD's exposed Brady officer Robin Cleary's, et al, perjuries and fraud, Brady officer Jenee Westberg's perjuries and the fraud of Jaime Taft, et al (SAFE) fraud.

Trickey states in his opinion that: "*in order to prevail on a Brady claim, a defendant must show three things: (1) that the evidence in question is favorable to the defendant 'either because it is exculpatory, or because it is impeaching; 2) that the evidence was "suppressed by the State, whether willfully or inadvertently"; and 3) that "prejudice must have ensued." State v. Mullen. 171 Wn. 2d 881, 895, 259 P.3d 158 (2011).* [All of which elements have been met.]

Trickey then concludes additionally that:

> "*Diemond fails to establish a Brady violation. Detective Cleary did not testify at trial. She testified only in a pretrial hearing* ***as to the admissibility of statements made by Diemond*** **[<u>Untrue. See CP Sept. 27, 2012-P89 –P103</u>]**...*" "Thus, Diemond does not establish that any alleged misconduct by Cleary would have had any effective on the verdict."*

Again Trickey debates through omission and misrepresentation of the facts. Cleary testified to a lot more than "*the admissibility of statements made by Diemond*." Trickey has no credibility.

There were at least 12 other topics Cleary spoke to that Trickey omitted in misstating the facts of the case. Cleary's testimony on Sept. 27, 2012 had the following subjects that Trickey omitted from his claim that it was only to the *admissibility of Diemond's statements*:

1) [CP Sept. 27, 2012 P87L3-24] Cleary testified to the details of her job.

2) [CP Sept. 27, 2012 P88L1-24] Cleary testified as to her involvement with KCS Sgt Bonnie Soule and Brady officer animal control officer RASKC Jenee Westberg.

3) [CP Sept. 27, 2012 P897L16-18] Cleary perjured herself claiming she and Westberg [two Brady officers] went out to Hannah Mueller [embezzler] Evergreen's facility – verifying in her police reports that Westberg picked Cleary up at the RJC on the morning of Feb. 28, 2011 while Westberg was nowhere near the RJC that day as reflected on Westberg's GPS records.

4) [CP Sept. 27, 2012 P90L10-11] Cleary perjured herself by stating she took her evidence photos the next day after Diemond gave the horses up for adoption. The temperature was 38°F at Mueller's on Feb. 28, 2011 and Cleary's Canon Powershot G11 was registering at a balmy 61°F. It could not have happened that way.

5) [CP Sept. 27, 2012 P90L15-20] Cleary referenced "*the veterinarian*" [the conflicted embezzler Hannah Mueller Evergreen who was actually the one who starved Bud and Brandy] and that Mueller talked about how horses should look.

6) [CP Sept. 27, 2012 P90L10-11] Cleary misrepresented [perjury] that she had taken her digital evidence photos – used throughout the trial - on Feb. 28, 2011.

7) [CP Sept. 27, 2012 P91L1-8] Cleary perjured herself claiming she talked to "Carol Deyoung" when it was Carol "Gallagher." This facilitated Nave to bring Gallagher as a prosecution *expert witness* later and make it appear Diemond used "*just a feed clerk*" (who was also Carol Gallagher - the same person) while vilifying Diemond for asking the "*feed clerk*" [Gallagher] questions about feed for a simple feed purchase. It can't be both ways.

8) [CP Sept. 27, 2012 P91L22-25] Cleary perjured herself by claiming she talked to "Voigt" [Diane Vogt] as someone at Diemond's mother's church who was "*checking on Ms. Diemond's mother*." [Vogt is a volunteer for Hope for Horses/ Jenny Edwards, Edwards sent Sgt Soule the email to check on the horses and the "*Anonymous*" APS complainant who, (along with Diane Vogt) has never been to Diemond's residence. – CONSPIRACY]. [Note – all this is while HOSPICE had no less than 20 mandatory reporters on premises that year who had not made one complaint and the APS Supervisor Carol Hammel, "*screened out*" – I.E., *closed* – the "*Anonymous*" complaint six days before Cleary was assigned the case. This was on the fax that was sent to Cleary on March 1, 2011. [It is an exhibit to the case.]

9) [CP Sept. 27, 2012 P94L1-25] Cleary talked about the interview between Diemond and Cleary that Dave Roberson failed to enter into the record. It showed that Diemond told Cleary the correct amounts of feed (not in Roberson's fabricated script), and that Diemond owned the house).

10) [CP Sept. 27, 2012 P94L1-11] Cleary stated she disclosed to Diemond she was "investigating." This is perjury. This conversation was recorded on Diemond's side from pickup to hang-up. Cleary never disclosed anything like that.

11) [CP Sept. 27, 2012 P110L23-25] The transcript was significantly altered twice to make Nave state Cleary responded an affirmative when the audio shows it was a negative. "But she [omitted – "*never*"] told the defendant that. She told [omitted – "*did not tell"*] the defendant she was investigating animal cruelty in the first degree…"

12) [CP Sept. 27, 2012 P111L1-5] Nave lied that Cleary told Diemond all the information and "*we go to the prosecutor's office.*" The complete audio does not reflect anything like this. [Diemond holds an audio of this interview. This includes the entire conversation from pick up to hang up].

Cleary confirmed that she took her "evidence" photos on Feb. 28, 2011 when the camera metadata demonstrated they were taken nearly 3 months later after the horses had been systematically starved to blame on Diemond.

These photos testified in Cleary's absence in front of the jury during the entire trial in airbrushed hard copy altered form.

If Trickey acknowledged the gargantuan amount of fraud that Cleary was responsible for and was submitted to the court file in the form of a profuse amount of exhibits, he would have to admit Diemond [*through submitted exhibits sourced from King County*] *DID* establish that Cleary's misconduct *was exculpatory, impeaching, deliberately suppressed by the State* [*see emails*], *that prejudice ensued thus had a severe and detrimental effect on the verdict.* This is profoundly clear. It could not be any clearer.

Trickey additionally fails to bring up the newly discovered evidence submitted to the court that during Cleary's testimony, she claimed she took the evidence photos of Diemond's horses on February 28, 2011. [CP Sept. 27, 2012 P90L11]. This information was used along with Cleary's phony photos [that were really taken sometime in late May after Hannah Mueller (vet), Jaime Taft and Bonnie Hammond (Save a Forgotten Equine - SAFE) had time to starve Bud and Brandy enough to facilitate Cleary's "*emaciated horse photo evidence*" to blame on Diemond]. Cleary's photos – as well as Westberg's tampered photos and SAFE's graphically altered photos were used throughout the trial through other corrupted co-conspirator actors/"witnesses," I.E., "*cumulative witnesses*."

It is unmistakable that Cleary committed a profound amount of perjury and fraud. Yet Trickey fails to mention it. There was a vast amount of evidence devoted just to Cleary's fraud in an extended dedicated exhibit soured from King

County public records on her contrived theft to lose her camera - the vehicle repair, police report, her own case report "*evidence*" photos of the damaged car [that are indecipherable] sourced from various divisions of King County submitted to the court. This documented Cleary's attempt to stage a theft of her police issued laptop in order to suppress the loss of her Canon Powershot G11.

It is unlikely that Trickey merely overlooked it.

In addition to Cleary's perjury claiming that she took her evidence photos on February 28, 2011, Brady officer Cleary noted that Brady officer Jenee Westberg picked her [Cleary] up that morning at the Regional Justice Center (RJC) where they both together [*conspiracy*] traveled to Hannah Mueller's facility in Monroe and took Cleary's evidence photos that Cleary actually took in late May. This is not the "**story**" that Westberg's GPS revealed and this is why we know it was perjury:

1) Subsequent *GPS* examination shows that Westberg was nowhere near the RJC on Feb. 28, 2011 that day. [*Submitted as an exhibit – newly discovered evidence*]
2) The Office of Public Defense $5,000 funded *photo expert report exam* shows that the date/times on Cleary's camera had been manipulated and incorrectly set at 2 AM [obvious the content was during the day outdoors].

   The date/time is a user-defined function on this Canon Powershot G11 digital camera. It shows Cleary attempted to adjust the date/time on the camera for the shots which were taken during the day. Once one sets up the date/time on a camera, there is little reason to reset it. Cleary got it wrong because apparently she did not know it was in military time. [*Submitted as an exhibit*]

3) The *photo expert report* was unequivocal. The metadata records over 150 different items in each image. It demonstrated that Cleary was not on Mueller's property on February 28, 2011 because the metadata in those images registered a camera temperature of a constant balmy 61°F when the historical weather data is recorded within a mile of the location at the same time claimed was at 38°F on the coldest winter on record. [*Both the historical weather data and the metadata were submitted as exhibits.*]
4) According to *historical weather records*, the first opportunity that camera would have had to register 61°F was nearly three months later - mid May (after Mueller, Jaime Taft and Bonnie Hammond had time to starve Bud and Brandy for Cleary to capture them in an emaciated state the coconspirators created in order to blame on Diemond.

   The camera temperature on the Canon Powershot G11 is NOT user-defined so it cannot be altered ergo why Cleary "lost" the camera. [*Submitted as an exhibit*]. And indeed, in the content of her photos, both horses were in mid-shed of their winter coats which is metabolically triggered by the longer daylight hours and warmer temperatures occurring only in May.

   The pastern wound on the unidentified horse [taken by SAFE all of whose images the photo expert reported was visited by a graphics program] that Nave had in front of the jury during the entire trial had miraculously disappeared and all the hair grew back inside 5 hours in Cleary's photos that she testified she took the next day February 28, 2011. It was an act of God – a miracle.

5) The Canon Powershot G11 has a range of safe operating temperatures. 38°F is in the low range of temperatures that the manufacturer [Canon] states the camera would malfunction. This is well known phenomena it the photographic world. The historical recorded temperature was 38°F on Feb. 28, 2011 at 2:00PM within a mile of Mueller's facility. At this temperature, the camera would have started to mis-fire reaching "*dew point*" had the camera actually been on Mueller's facility on Feb. 28, 2011.

   There was no evidence of any misfire or "*dew point*" neither in the metadata nor in the content. If Cleary was actually there when she claims, the evidence would have shown in the metadata as misfires and "*dew point*" [lens condensation] that would have appeared. [This has been tested on two Canon Powershot G11s in controlled conditions and both cameras misfired and reached "*dew point*" around the fifth shot.]

6) And last but not least, Trickey fails to acknowledge that though Cleary did not testify in trial, she testified in front of Judge Jim Rogers AND - ALL of Brady officer Robin Cleary's fabricated-tampered-altered "*evidence*" photos were visually "*testifying*" in her absence the entire trial [*as were Westberg's phony photos and Jaime Taft and Bonnie Hammond's altered glamour shots*]. [*Samples submitted as exhibits*]

Conclusion – There is no possible way that Brady officer Robin Cleary could have taken the evidence photos on February 28, 2011. She committed repeated perjuries that oozed into the jury trial throughout. She became a Brady officer for dishonesty shortly after which forty prosecutors from the King County Prosecutor's Office selectively concealed from Diemond while

Diemond was on direct appeal. The King County Prosecutor's Office committed a second textbook – documented – Brady violation.

Those phony photos were in front of the jury in "*air-brushed*" hard copy print form for the entire trial. The prosecution *rigged* the evidence.

The King County Prosecutor's Office is guilty of second additional and massive Brady violation that was documented.

The facts on Cleary destroying evidence through her staged vehicle theft to keep the camera from examination.

In 2013 as Diemond discovered more photos anomalies herself, she placed what she discovered at that point in a pro se brief in March 2013 to wit, three weeks later Cleary staged a break-in of her police vehicle and among the items stolen was her Canon Powershot G11 used to take the evidence photos of Diemond's horses in May of 2011 that Cleary lied about taking on February 28, 2011. Cleary's phone card mysteriously disappeared in the fray.

A few months later Diemond submitted the OPD funded photo expert report that confirmed what Diemond already had discovered despite her appellate defense counsel, Ramona Brandes's attempts to suppress it.

Diemond has unmistakably demonstrated these events through these exhibits [*largely sourced from King County after direct appeal*] that according to Trickey's own legal cite under *State v. Mullen 171 Wn.2d 881, 895, 259 P.3d 158 (2011)* that:

1) The evidence in question was favorable to the defendant because it was both exculpatory and impeaching. [*Demonstrated that Cleary lied under oath regarding the date she took the photos*]

2) The evidence was obviously suppressed by the State. [*The images were not disclosed to Diemond and the State continues in their attempts to suppress the issue in their replies.*]
3) That prejudice ensued because the phony images were in front of the jury the entire trial. [*If the jury had known that Cleary had lied about the day she took the photos by three months, they could not have taken any of the photos seriously*]

"2. Prosecutorial Misconduct" [Page 4]

Trickey states that '*Diemond also raises wide-ranging claims of prosecutorial misconduct,*" while omitting 48% of the items on Diemond's list as if Diemond's rights to due process (and these additional items) were not materially important to this case. [10 items that Trickey omitted remain un-adjudicated].

Trickey listed 11 (52%) of 21 items on Diemond's list under the item "*prosecutorial misconduct*." Of those he listed, he also omitted portions of Diemond's comments to make it appear that Diemond said something else.

By taking Diemond's comments out of context without the whole comment he could then marginalize (and he did) Diemond's claims on his cherry-picked portion of Diemond's list.

He listed following:

1) "*The State presented false evidence*."

   [True. There was an abundance of this. Virtually every hard-copy print was air-brushed and tampered with. In addition the digital images were tampered with through the three sources used by misrepresenting the date they were taken, cropping the shot to omit what was really present, photo shopping and actually using a shed that did not belong to Diemond.

There was no custody of evidence. Exhibit 11 entered into evidence is a shed that did not belong to Diemond where it was alleged Diemond kept the feed. This created an alternate reality that did not exist.

Trickey fails to mention the phony shed in Exhibit 11] [*Submitted as an exhibit and is part of the court record.*]

2) "*Failed to produce photos prior to trial*."

[A prosecutor is required to produce evidence by Omnibus before trial under CrR 4.7 Discovery rules so that the defense can have an opportunity to review.

Had Diemond had opportunity to review the digital images prior to trial, she would have instantly seen the fabrications since Diemond is a professional photo expert in her own right.] [The expert photo report backing up Diemond's own discoveries was submitted as an exhibit and is part of the court record.]

3) "*Failed to file a notice of appearance*."

[Where this may on its face seem trivial, Diemond might well have found the Westberg convictions herself had she had the opportunity to research Nave's past cases and personnel files.] [Submitted as an exhibit and is part of the court record.]

4) "*Conspired to fabricate evidence regarding Diemond's mother*."

[Nave placed a 42-page private document amounting to a [HIPAA violation] caseworker notes on Diemond's mother – that showed positive comments - in Diemond's case file in an attempt to terrorize Diemond to plea hoping Diemond would not actually read it (obviously she did).

Later discovered emails between KCPAs Page Ulrey, Kathy Van Olst, Heidi Jacobson-Watts, Robin Cleary and Jenee Westberg demonstrate that this private health information was illegally sourced from KCPA Page Ulrey through Steve Allar at DSHS then given to Nave.

Nave then put it in Diemond's defense case file with defense counsel Dave Roberson.

Diemond was both her mother's POA and executrix of her will. Though it appeared from the email exchange with Allar, he was communicating clearly to Page Ulrey that APS would not be a party to her conspiracy to frame Diemond, Diemond never gave anyone permission for unfettered access to Diemond's mother's private medical records with the State or otherwise.

The series of emails unequivocally demonstrate the presence of their conspiracy to attempt to use a 404(b) character assassination [*stated within the email*] from the animal abuse allegations to crush Diemond with a second phony prosecution of phony elder abuse allegations of Diemond's dying elderly mother who was in HOSPICE care at the time]. [*Those emails were sourced from King County and submitted as an exhibit and is part of the court record.*]

The plan to allege elder abuse was present from the inset of the first day KCS Bonnie Soule showed up at the Diemond property.

KCS Bonnie Soule kept asking to "help" Diemond with her mother during her visit (which Diemond politely declined). It was VERY out of place.

It is now clearly apparent that Soule was a party to the plan from the beginning to fabricate evidence to frame Diemond for the APS false report made by "Anonymous" (*Jenny Edwards*) from the beginning.

5) "*Failed to disclose that **a** prosecutor had received an employment reprimand*."

[Trickey fails to identify who this "*prosecutor*" was. He obviously was implying it was someone not close to the case when it was, in fact, lead prosecutor, Maggie Nave.

Trickey's comment here was obviously an act to protect Maggie Nave.

It was Nave who received the gargantuan reprimand.

It was hardly a small event. Nave was investigated for six months, 117 unfiled case files were seized from her office dating back to 1999, KCPA Chief Mark Larson [*second in command to head prosecutor Dan Satterberg*] who terminated her from her prestigious 12-year position as chair of the criminal district court committee, Larson called it "*legal malpractice*" and threatened to terminate her remaining tenure.

Given it has since become apparent Nave was the KCPAO in-house "*fixer*," it is assumed these 117 files seized were cases that she was "*fixing*" as a favor rather than prosecute them and somehow was exposed – I.E., the in-house fox in the hen house "*investigation*" served to stop the completion of exposing Nave in that discovery.

Here Trickey attempts to conceal the identity of the employee "*prosecutor*" in question implying it is someone else unrelated by omitting Maggie Nave's name.

Certainly had Diemond known any of this was going on during her prosecution, she would have absolutely used it to question Nave's credibility on her case – which is obviously why it was hidden from Diemond.] [*This reprimand letter was submitted as an exhibit and is part of the court record*.]

6) "*Failed to call Diemond's veterinarian to testify*."

[This was a precursor to Nave, Roberson, Mueller et al's perjuries and obviously part of a co-conspired co-conspired "*script*". While Nave let Mueller make perjured comments that Diemond did not provide veterinarian care and relied solely on the advice of Diemond's farrier, Nave failed to call or mention Diemond had her own veterinarian on site just two months earlier. There was a reason for this.

Diemond's vet was Dr. Larry Pickering the number one equine veterinarian in the state – *who believes Mueller is incompetent*. [This event is part of the court record.] Clearly neither Nave, nor Roberson, were interested in including what would certainly be exculpatory testimony to Diemond's trial.

In every other case like Diemond's where Pickering was part of as a witness, the prosecution summarily omits his name from the record or abandons the prosecution case altogether.

7) "*Improperly told the jury in closing argument that one of the horses was currently healthy when it in fact had been euthanized*."

[This was not quite the quote. It was: *"That horse has long since gained weight and is healthy now."* Nave was referencing the conditions of both horses at the time knowing full well they were both dead.]

There is no softening this up. Maggie Nave misled the jury by committing perjury herself. She committed a textbook mistrial. Judge Jim Rogers could not un-ring that bell and he failed to correct it through his only option - declaring a mistrial. [*This was submitted as an exhibit and is part of the court record.*]

8) "*Euthanized the horses to cover up evidence*."

   [Trickey got that wrong too. Diemond did not allege this deed of Nave. Diemond alleged that Hannah Mueller was destroying evidence to conceal her lie that the horses each had one abscessed tooth – a diagnosis she was alleging and billing King County for in nearly every case she was bilking at the time.]

9) "*Altered transcripts*."

   [This in itself should give rise to the credibility of the entire court record because there is no credible trial record for Diemond to use for appellate review. Yet it has gone completely un-adjudicated. Here though Trickey lists it, he does not offer any kind of defense instead relying on his covert efforts to marginalize Diemond.] [*85 pages of corrected to audio transcripts and audio were submitted as an exhibit and is part of the court record.*]

10) "*Failed to produce invoices and other financial records regarding care of the horses.*"

    [Trickey got this one wrong too. And though this was not actually in Maggie Nave's list, she was certainly an active participant. It was listed in the complaints against KCPA Gretchen Holmgren, Westberg and Robin Cleary.

The abundant evidences of bilking invoices were submitted as numerous exhibits and are part of the court record. Much of the financial records – *like the Brady materials* – King County withheld from Diemond until she was out of direct appeal precipitating two public records claim lawsuits against King County that remain unresolved].

11) "*Enlisted Diemond's ex-boyfriend to break into Diemond's house and steal her hair follicles and identity*."

Trickey then omits the first meat of the claim and primary sentence in item "p" of Maggie Nave's list of "***prosecutorial misconduct.***"

That complaint is first, in bold and italicized as follows:

***"Maggie Nave desperately participated with and rose to another - unimaginable – unthinkable – level of conspiracy together with KCDPA's Page Ulrey, Kathy Van Olst, Heidi Jacobson-Watts, KCSO Robin Cleary, RASKC ACO Jenee Westberg, and Dave Roberson, et al."* => A portion of the sentence Trickey omits.** [*Source -DIEMOND PRP AMENDED – P41-Item "p"*].

He further misquotes Diemond.

Diemond did not use the word "*enlisted*" meaning: "*enroll or be enrolled in*."

Diemond used the word "*elicited*" meaning: "*evoke or draw out from someone in reaction to one's own actions or questions*."

There is a difference. Mr. Rondorf was attempting to sabotage Diemond's ownership of her property, on his own volition, prior to joining the co-conspiracy of the "***unimaginable – unthinkable – level of conspiracy together with KCDPA's Page Ulrey, Kathy Van Olst, Heidi***

Jacobson-Watts, KCSO Robin Cleary, RASKC ACO Jenee Westberg, and Dave Roberson, et al."

Trickey consistently fails to mention the other co-conspirators by name (*including her former boyfriend*) involved with the RICO business model used against at least 23 innocent people to produce distressed properties under the Growth Management Act and its urban development.

Trickey is clearly attempting to marginalize Diemond's claims to make them *sound* frivolous.

Diemond knows from Rondorf's own drunken admissions that "*they are going to take your house Christy,*" his squirreling on Diemond's home roof, breaching of her second story bedroom window, in broad daylight, while she was in the shower three times - showing an interest in the brush he hid in the closet where he was hiding, the attempts to break into Diemond's locked mailbox to intercept the evidence he was trying to change the T-Mobile account, is of record in King County. It necessitated Diemond filing a restraining order against him.

All are events that drove the pursuit of the subsequent restraining order. As horrific and shocking as it was to Diemond at the time, all of it served to document that Rondorf was an active participant and he clearly had inside knowledge of the conspiracy.

Diemond would later learn Rondorf would lie to anyone who would listen (outside Diemond's earshot) that Diemond was the live-in daughter and that Diemond's mother owned the property when he knew personally (*he is a loan officer in the State of Washington*) this was a complete fabrication, untrue and easily verifiable with county records.

1) This was yet another action that implicated Rondorf as he was duplicating Jenny Edward's *false report* to APS and Brady officer KCS Robin Cleary's falsified police reports.
RCW 9A.84.040 False Reporting – a gross misdemeanor,
RCW 74.34.053(2) False reports - a gross misdemeanor,
RCW 40.16.030- Offering false instrument for filing or record – Class C Felony.

Trickey claims [Page 5] "*to prevail on a claim of prosecutorial misconduct, a defendant must establish that the conduct was both improper and prejudicial*"….Any defense error is waived unless "***the prosecutor's misconduct was so flagrant and ill intentioned that an instruction could not have cured the resulting prejudice.***" Here Trickey admits one of the major complaints with this case – "*that the prosecutor's misconduct was so flagrant and ill intentioned that an instruction could not have cure the resulting prejudice*."

Trickey continues to state that "*a personal restraint petition must set out the facts underlying the claim and the evidence available to support the factual assertions*."

He then makes the outlandish claim, when nearly 200 exhibits in this case consisting of primarily King County public record documents – exhibits that drive the whole PRP narrative - consisting of several reams of paper, that "*Bare assertions and conclusory allegations are not sufficient to command judicial consideration and discussion in a personal restraint proceeding."* under *Rice.*

From this statement, one might assume Trickey did not review any of the submitted documents and exhibits. However, his very decision is cold hard evidence he absolutely did review at least some of the exhibits of nearly a 1,000 pages in whole –in the court file supporting Diemond's claims because he pulled his trademark misrepresentations directly from data that were only in the exhibits.

Trickey asserts Rice *re Pers. Restraint of Rice. 118 Wn.2d 876, 885-86, 828 P.2d 1086 (1992)*. Rice is about hearsay.

Here Trickey attempts to dismiss Diemond's prolific and detailed lists of wrong-doing and meticulously prepared exhibits submitted to the court, exhibits largely sourced from King County themselves, exhibits that took 1,000's of hours to compile, by numerous individuals including Diemond (who is a journalist) as merely "*hearsay*."

It is apparent from the legal cites employed that this ploy is commonly used. However it is not going to work here nor will it work in the other cases like it. The credibility of the bench here is in serious question.

Trickey misrepresents what is actually only a description of an exhibit as if it were an isolated claim without an exhibit attached. It is a convoluted way of lying.

Trickey states that Diemond *"failed to produce financial records and engineered a residential burglary are not supported by any credible evidence."*

Financial records of embezzlement by Hannah Mueller-Evergreen – NW Equine Stewardship Center and Cedarbrook Veterinary Care (formerly Evergreen Holistic Veterinary Care), Jaime Taft and Bonnie Hammond from Save a Forgotten Equine (SAFE) et al, were profuse.

These financial records sourced directly from King County Accounts Payable records were carefully compiled and then were submitted as exhibits.

The evidence of the breach of Diemond's home is a court record in the Redmond District Court records where Diemond sought a restraining order. It was simply worth mentioning for informational purposes to tie the conspiracy together while the more tangible evidences, such as the embezzlements by virtually all the prosecution's witnesses, were profusely submitted as exhibits to the court.

This is how the prosecution's case is unraveling:

1) Two CDs of Photos are sourced from two Brady officers who are terminated.
2) The third set of photos sourced from two embezzlers [Taft and Hammond] from SAFE working together with;
3) The prosecution's incompetent veterinarian, Hannah Mueller who is also an embezzler.
4) Nave had DeYoung's "*feed clerk*" Carol Gallagher (*unnamed*) testify through hearsay as "*Carol DeYoung*" in KCS Brady officer Robin Cleary's perjuries [PS Sept 27, 2011 – P91L6] while Cleary was allegedly with Westberg fabricating a statement from a terrified Carol Gallagher at the feed store called DeYoungs.

   Then "*cumulative*" perjurers, Cleary, Mueller and Westberg marginalized Diemond in concert for relying only on a "*feed clerk*" while failing to produce Diemond's own equine veterinarian, Dr. Larry Pickering, the lead equine expert in the State of Washington who had been on premises just two months earlier.
5) The next day, Nave produced the real *Carol Gallagher* as an "*expert*" feed witness with "*credentials*" from college. The petrified Gallagher was to testify to Diemond's use of *Dairy 16* – a sweet feed that was the predecessor to *Purina Senior Feed* for keeping weight on elderly horses or "*hard keepers*." Gallagher is old enough to know that Dairy 16 was the predecessor to Purina Senior Feed and the only suggestion she could make to Diemond including it in the recipe was price – a difference of $2.93 though Diemond included both feeds.

Here the prosecution orchestrated a lie in order of marginalize Diemond for relying on a lowly "*feed clerk*" and the next day the prosecutor employed the same "*feed clerk*" in a dramatically opposite role now as a "*feed expert*."

The prosecution cannot have it both ways.

What this argument completely leaves out was that Diemond was obviously purchasing feed to supplement the horse's existing diet, they were doing well, and the horses were hardly starved.

They were talking about horses that were getting fed grain mush twice a day, got alfalfa twice a day and were on pasture 24/7.

Trickey then "cherry-picks" isolated items, as if the entire case hinged upon it, and concludes a second time, e.g., that Diemond does not identify how she was prejudiced by the prosecutor's alleged failure to file a notice of appearance or provide exhibits [part of the court record].

To this line of reasoning, under Trickey's interpretation of the law, a prosecutor can do whatever he/she wants with impunity with no regard to the laws they have broken. Laws that are there precisely to keep prosecutors from violating a defendant's constitutional rights of due process as was done here, et al.

Trickey capriciously chooses to focus on individual items while omitting others - many that are more material and substantial - he leaves un-adjudicated. It would appear this was an intentional strategy to disguise Diemond's very valid documented complaints directed at the RICO within the judicial system.

"3. Ineffective Assistance" [P 6]

Here Trickey admits that Diemond is "*entitled under the sixth amendment to the United State Constitution and article I, Section 22 of the Washington State Constitution, a defendant is guaranteed the right to effective assistance of counsel in*

criminal proceedings." Under Strickland v. Washington 466 U.S. 668, 684-86, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)." He quotes those Strickland elements which Diemond has already quoted in her PRP:

1) *that her attorney's representation was deficient, I.E. that it fell below an objective standard of reasonableness*,
2) *resulting prejudice I.E., a reasonable probability that, but for the counsel's deficient performance, the result of the proceeding would have been different.*

While at the same time, Trickey does not seem to think Diemond is entitled to those rights.

Trickey states that "Diemond "*contends" that DA Dave Roberson was ineffective for failing to investigate Westberg's background prior to trial*." [True.]

Trickey then states "*it is unclear what information would have been available or admissible had Roberson done so*."

This comment is pure legal masturbation. Diemond listed 54 reasons complete with exhibits. It is absolutely clear what the Brady violation is all about. Trickey is an attorney. He knows what it means.

Whether or not Westberg's theft conviction/attempted bribery, half-erased ATV misdemeanor, and most spectacular 19-count VUSCA conviction with the K9 unit dismantling her car "*would likely not have been admissible*" is immaterial.

Might, maybe, probably, likely not, *<u>are not absolutes</u>*. Trickey is admitting he doesn't know what the outcome would be yet he asserts his bias opinion as if he does.

The fact is that Diemond was denied any opportunity to bring the Brady material forth in front of a jury, guaranteeing that her constitutional rights to due process were

unavailable to her, that is, Diemond requested a jury trial. Rogers intervened and made it a bench trial.

Where it is true that there is not an affidavit from Larry Pickering as a direct result of Roberson's ineffective assistance of counsel and Nave's omitting exculpatory evidence, there absolutely ***is*** a photo expert report in the record verifying photo manipulation. There is no way around this though Ramona Brandes and the panel on direct appeal [Trickey, Spearman and Cox] attempted to suppress it.

King County funded the photo expert report in the Office of Public Defense. It was $5,000 funded expert report that confirms that all the photos were altered. Not some, not a few, but *all of them from three different sources* – all of whom were demonstratively co-conspirators and guilty of criminal violations of fraud and conspiracy.

Roberson's problem is that he did not secure a photo expert himself when he could have. (He also lost control of his client because his abusiveness and lying was hallmark criminal behavior in itself). On this item alone it made him ineffective. He has committed gross malpractice and it is obvious he did it intentionally in conspiracy with Maggie Nave, et al. It is clear in every piece of evidence of fraud that Diemond would find prior to trial, Roberson would then make sure Nave suppressed it in her prosecution. That would include the video taken of Mueller and Westberg chasing around the "*lethargic*" horses (*who were galloping, trotting, lunging and frolicking during the event*) on the day Diemond gave them up for adoption.

Ramona Brandes secured a photo expert then later she suppressed it from her own motion for a new trial. [*No doubt she was pressured to do so by Roberson who was her former supervisor. Diemond attempted to fire her for the omission of the*

photo expert, failing to bring forth Roberson's admission of being ineffective and knowingly filing altered trial transcripts to the court record – which Roger denied to her].

Nonetheless, therein is an expert photo report paid for by the OPD that confirms the photos were altered, complete with the expert's affidavit. [Submitted into the court record pre-sentencing. This is part of the 350 pages of omitted briefs and evidence that the conflicted jurist Trickey sat on along with the conflicted Spearman and Cox, on direct appeal and refused to consider it on page 10 footnote of their opinion].

When Trickey states "*Diemond presents no evidence to show*" this, he is grossly misrepresenting, to a fault – to the point of lying - the facts of the case, exhibits and evidence filed and breaking criminal laws.

Trickey is a jurist who is committing perjury and violating criminal statutes.

Trickey discusses Diemond's complaint [PRP Amend P69 Item "q"] that Roberson failed to establish the ages of the horses then states that Diemond fails to establish that if the jury had been instructed as to their actual ages, the outcome the proceedings would have been different.

The fact that the prosecution was attempting to pawn off these elderly horses as half their age – with an expectation of a completely different younger appearance - requires no explanation unless you are a complete moron. This was deceit and an age old device known as "bait n switch."

These horses lived to twice their life expectancy under the 20 years of Diemond's exculpatory care. Had the jury known the horses lived to twice their life expectancy under the 20 years of loving care Diemond gave them, there can be no doubt this would have made a difference in the erroneous vile color painted by the

prosecution. Here Trickey is deliberately misleading the content of Diemond's PRP Suppl.. No more needs to be said.

Dave Roberson admitted on the record he was ineffective for failing to investigate Westberg's background prior to trial. [CP Jan. 11 2013 – P21L1-25]

Trickey next attempts to circumvent the well-documented and exhibited 54 item list Diemond included in her PRP Suppl. Just on Dave Roberson's ineffective assistance by again cherry-picking only a few items, putting them all in the same bag, then falsely claiming that those claims were "*too vague and conclusary to warrant review."* Trickey did this in the face of court records, exhibits, and Roberson's own admission on the record.

Apparently jurist Trickey does not feel that Diemond's constitutional rights and due process in the United States of America are important enough for him to address any of them. As a result nearly all Diemond's complaints remain un-adjudicated.

Trickey attempts to defend Dave Roberson's indefensible criminal charade to Diemond that Roberson intentionally failed to show Diemond's non-lethargic spirited, frolicking, healthy, galloping, trotting, and lunging horses video to defense expert Dr. G. Paul Mabrey so he could testify to it. [Page 8]

Trickey states: "*Diemond contends that Roberson failed to show a video that she took of the horses the day they were removed to Dr. Mabrey, the defense expert. She contends that the video shows the horses galloping around instead of standing lethargically, as Dr. Mueller had testified."* [This demonstrated Mueller's brazen perjury]. [This video was submitted several times as an exhibit to this case. – it was never acknowledged until now.]

Trickey then attempts to "*debunk*" this rather troubling video with a "*gotcha*" argument by alleging that:

1) "*Mueller's* [the embezzler, animal abuser , and perjurer] *testimony indicates that Diemond was not recording when she first noticed the horses standing lethargically."*

   This argument seems to say that the horses were only "*lethargic and suffering*" when Diemond did not have a camera recording for the moments it took Mueller to get out of her truck and come knock on the door. How convenient.

   It would turn out that Diemond <u>*was*</u> video recording just minutes before Mueller arrived. Apparently Mueller wasn't aware of that.

2) "*Diemond did not begin recording until Dr. Mueller attempted to catch the horses to examine them, at which point the horses began running away*."

   Diemond had been recording most of the time (98%) including prior to Mueller's arrival while with Westberg. There were a few minutes in-between when Diemond was getting her tripods and checking on her elderly mother.

3) According to this "*theory*" the only time the horses were "*lethargic*" is the 2% of the time Mueller thought the camera was not recording.

4) That "*even the State's witnesses* [who are documented co-conspirators] *acknowledged that the horses were able to have bursts of energy when pressured*."

   Here Trickey is suggesting there were other witnesses (plural). He fails to identify who said this. It's like a giant game of whack-a-mole to fact check the prolific misdirection he creates to avoid the deep chasm of criminal acts discovered in this case.

> Hannah Mueller was the only witness who said this. She said it under oath and on the stand [Mueller is documented embezzler, an animal abuser (starved Bud and Brandy) was being investigated by child protective services, co-conspirator and perjurer.]
>
> If these things were not good enough, Trickey conveniently fails to identify the location of the quote as is habitually demanded by the court or they will not consider it. For clarification, the quote is located at [CP Oct 3, 2011-P53L12-14].

On this version of "*gotcha*," Trickey did not do his homework. The fact is that Diemond was videotaping most of the time that day.

Only the video footage of Mueller and Westberg attempting to get themselves trampled by two rather rambunctious spirited elderly horses, were submitted to the court as an exhibit. This was because including all the video would make a cumbersome exhibit and this part, clearly shows both horses trotting, galloping, frolicking and lunging for nearly 15 minutes while Mueller steps in front of a galloping 1,000 lb horse Brandy and attempts to stop her with a ***dog*** hand signal (she is an idiot) while Brandy lunges around her with all that energy Mueller says she doesn't have.

Bud and Brandy were fooling with them, generally having their way with Mueller and Westberg who communicated their incompetence to not only Diemond but to Bud and Brady. Horses are intelligent animals. They know when someone is not well tenured while Mueller, Westberg and Soule attempt to parade themselves to the court as "*equine*" experts. [They are not anything of the sort. It is surprising they have not been seriously hurt].

Mueller attempts to explain their spirited behavior away by blaming the footage show of galloping, trotting and lunging as [CP Oct. 3, 2012-P53L3] "*They hadn't been handled regularly.*" **It should be pointed out here that 15 minutes of prolonged energetic activity can hardly be described as a "*burst*" - Burst - *defined as sudden, erupt, rush, surge, plunge – NOT 15 minutes of prolonged energy expenditure.***

Then Mueller attempts to explain away Bud's cooperation under halter as; "*Nave: "Was Bud cooperative?*
Mueller: Once he was caught, yes, he was pretty exhausted from being caught –". [CP Oct 3, 2011-P58L9-12]

The video clearly shows that the horses were far from the condition Mueller described I.E., "*stable enough to be standing there though lethargically*." [CP Oct 3, 2011-P33L21-22]. "*Head down. Eyes dull and depressed. Not really wanting to move around much. Very weak. Yeah, I mean, it was a sad sight*." [CP Oct 3, 2011-P33L4-25]. "*But they were definitely in pain and suffering um from the starvation and neglect* [that the video unquestionably contradicts]*, and it was quite apparent, and up to their – past their ankles in mud and manure um yeah."* [no mud - it was frozen – see historical weather data exhibit] *from all that abuse and starvation* [CP Oct 3, 2011-P34L4-7] [No one witnessed Diemond withholding feed – in fact everyone, there are 15 letters in the case file, stated they saw Diemond feeding the horses regularly.]"

Some of Mueller's abundant perjuries during trial.

Diemond was actually recording most of the time that weekend.

In addition to the prolonged chase video, as stated above, there is additional raw footage of the horses *just minutes prior to Muellar's arrival* while Diemond was

videotaping Westberg falsifying [*cropping*] her photos to create the illusion that Diemond didn't have any feed in the garage which was later changed to the shed in Exhibit 11 that was not Diemond's shed. [Westberg went off site at almost three hours later instead to create the illusion that the feed she omitted and cropped out was kept in Exhibit 11 - that is not on Diemond's property. The shed in Exhibit 11 was taken hours after Westberg left Diemond's property on Saturday February 26, 2011 verified by Westberg's GPS and cross referenced with the metadata retrieved from her digital shots Diemond did not get until 8 months after trial.

Westberg's GPS and the metadata are unmistakable that Exhibit 11 was taken while Westberg was off the property later that night. It was of a shed next to a 30' cement DOT noise barrier somewhere at least 5 miles from Diemond's property. That photo was then printed in hard copy, "*air-brushed*" to obfuscate the 30' DOT noise barrier and a blue tarp then used as Exhibit 11. In the digital version of these photos, the 30' cement noise barrier is quite clear. Everyone lied about this shed including the prosecution attorney, Tony Wisen.

The 4 nice amtching sheds Diemond *REALLY* has on her property, would not present so credibly to the State's false narrative. [Just like leaving out the 1.5 acres of full pasture grass behind the house]. They would not want anyone to think the horses had access to pasture grass [food] 24 hours a day.

Tony Wisen told the jury that shed in Exhibit 11 was "*just a little shed where food and such was stored*" [CP Oct 1, 2011-P145L21-24]. This comment was a complete fabrication. Wisen committed perjury.

When Bud and Brandy noticed Diemond open the garage with Westberg, they came scurrying right on over to investigate. They could not believe their good fortune that they might be getting an extra treat at least earlier than they usually do

for their second mush supplement - like all healthy horses would do when they are conditioned to regular meals or treats like "*sweet feed*" [the mush is a *treat* to a horse].

These horses were *NOT* under any pressure at that time. They were excited. They were bright, alert and responsive (BAR) to Diemond's affectionate chatter to them [in the recording audio]. Their ears were perked up and pointed directly at Diemond as was their typical normal response. The video clearly shows this.

Had Diemond known that DA Dave Roberson was breaking attorney-client privilege by showing Nave the video so that they could conspire together in an attempt to excuse away the horses' non-lethargic behavior in trial (while failing to share it with Diemond's defense expert veterinarian Dr. G. Paul Mabrey), Diemond certainly would have included more footage. Instead, Trickey attempts to "*debunk*" Diemond with a "*gotcha.*" Unfortunately for Trickey's "*gotcha*" argument, the chase footage is not the only footage.

As a courtesy, Diemond has added a copyrighted "*raw cut*" documentary on this case that includes this additional footage of Bud and Brandy taken moments before Mueller arrived on Diemond's property to the submitted exhibit footage for the court's review in the name of truth and justice. [*See video on attached CD*] This documentary will soon to be public exposing malicious prosecution and corruption in King County. It is already out for sale with online channels and copies sent to authorities.

To that end, Trickey uses only the verbal description of the 54 item, documented, exhibited list as if it were a stand-alone allegation rather than a description in total of each of the 54 items documented exhibited list on Roberson.

[On page 6] Trickey skips corrupt defense counsel Jeff Jared brief employment and erroneously states Ramona Brandes was Diemond's next appointed appellate counsel. Trickey is changing the facts of the case that is clearly dated and marked in the court record and the clerk's papers.

Trickey addresses 6 of the some 32 violations on Ramona Brandes list of ineffective assistance of counsel in the same slipshod manner as the rest. He fails to adjudicate the 6 as well as the remaining omitted 26 items he left unmentioned.

He lumps them all together and states: "*none of these claims are supported by credible evidence.*"

In Brandes's case, a majority of her violations are recorded as part of the court record as Diemond's complaints were submitted to the court clerk, filed and before Judge Rogers. It was also transcribed in the Clerk's Papers. This is a court record one would assume Mr. Trickey has direct access to in order to be in review of Diemond's case.

If "*none of these claims are supported by credible evidence*" as Trickey states, then he is actually admitting and agreeing that the altered transcripts are not credible.

If the transcripts are not credible then there is no credible record of the trial and therefore Diemond has no recourse for appeal – a violation of her constitutional rights. Trickey has ruled that they are not credible in this decision.

Though Diemond has submitted prolific amounts of exhibits/documents sourced largely from King County in the case, Trickey would deceive the reader into believing Diemond did not provide the abundant amount of exhibits she has to back up her claims AND/OR Mr. Trickey is reviewing in the dark with no court records or transcripts/Clerk's papers – again a violation of Diemond's constitutional rights.

Is Trickey saying that the court record and exhibits sourced primarily from King County is not credible?

Here Trickey is saying that having 100's of pages of corrected transcripts complete with court audio attached is not credible evidence of altered, profoundly edited, tampered transcripts.

Tricky takes Jeff Jared out of order as if Jared was employed after Brandes when he was in the case prior to Brandes and was fired when he was caught sabotaging the case [no doubt at the behest of Dave Roberson].

That Jeff Jared withheld and suppressed evidence is part of the court record and clerk's papers. Jared was exposed and he admitted it to the tribunal then was fired. This is in the Clerk's Papers, in the docket as well as transcribed.

In stating that "*Diemond fails to present any credible evidence to support these assertions,*" Trickey is claiming that these court records are not credible evidence. These are proceedings in the Clerk's Papers that were recorded and transcribed.

"4. Judicial Bias" [Page 10]

Trickey states that "*Diemond contends that Judge Jim Rogers, who presided over the trial;"*

"(1) *interfered with the jury's viewing of a defense exhibit*;"

> [This is an item Trickey added to the list he sourced from the exhibit he claims Diemond didn't submit. The exhibit is under item "j" in Diemond's amended PRP]." It is contained within exhibit 41. It was ***not*** actually an item on Diemond's list of complaints. Trickey must have thought it material. Thus Trickey created an additional 15th complaint on his own. This is evidence - and an admission that he reviewed at least one of the exhibits he

claims Diemond did not submit. He then attributed it to Diemond's list. Diemond's item "j" – Page 110].

"(2) *failed to declare a mistrial after the prosecutor's* [Maggie Nave} *inaccurate statement in closing argument regarding the horses' condition*" Diemond's item "j" [Page 110].

[Trickey misstates what was really said to fit his own narrative. This serves to soften what Nave actually said. Nave stated *that "the horse has long since gained weight and is healthy now*" when both horses were dead at the time under the care of the "rescues." [CP Oct. 9, 2012 – Pg90Ln14-18]" – This is part of the court record and exhibited in" j" Exhibit 41].

"(3) "*feigned that he could not find the order of another judge* [Mary Roberts] *in an unrelated case suppressing evidence collected by Westberg.*" Diemond's item "d" [Page 109].

[Trickey fails to identify who this judge is then misstates that Mary Roberts is unrelated to Diemond's case.

Mary Roberts absolutely is related to Diemond's case. She signed Diemond's unlawful probable cause. She is also related to at least 11other enjoiner phony animal abuse cases for failing to file her findings to her order to suppress evidence unlawfully collected by Brady officer Jenee Westberg in the Darryl and Gina Lindsey cases guaranteeing that none of those cases could use it including Diemond. This was in part what Roger's feigned he could not find.

Mary Roberts was also related directly to at least 6 other cases where she failed to disclose her own ruling in the Lindsey cases.

In addition Mary Roberts has been found guilty by the CJC for the same violation in 8 more cases for failing to file judicial documents. With these additional 11 cases, Mary Roberts now has a total of 19 cases submitted to the Commission on Judicial Conduct];

"(4) *improperly denied Diemond's motion for a new trial based on the alleged Brady violation*;" Diemond's item "k" [Page 110-111].

[The Brady violation was not "*alleged*." – Maggie Nave failed to disclose Jenee Westberg's criminal history that she had personal and professional knowledge of. This is part of the court record. This particular complaint included the Brady violation regarding KCSO Robin Cleary. Trickey omits Cleary in this part.

Both are bona fided Brady violation. It is part of the record. Whether Nave was sanctioned for it is another issue that falls upon Judge Jim Rogers who acted unlawfully to protect her. That Nave was the lead prosecutor in Brady officer Westberg's VUSCA prosecution is also part of the record escalating Nave's lie to prosecutorial misconduct.] In omitting Nave's lie Trickey also omits here;

"(5) *attempted to use his position as the judge of criminal court to issue s phony bench warrant for a defendant in an unrelated case*." Diemond's item "c" [Page 109].

[That case is absolutely related to Diemond. The case was Jason Markley and Cherish Thomas/Carita cases where defense counsel Kevin Tarvin exposed Westberg's Brady material concealed by prosecutor Gretchen Holmgren (Maggie Nave's in-house NBF) which flowed through to Diemond's case post trial.

Diemond's defense counsel Roberson conspired with Rogers in chambers to fabricate a phony bench warrant to suppress Markley and the BW case – the evidence for this is solely sourced from the King County court file, it is in an exhibit and part of the Diemond record.

Then Trickey wrongly concludes that "*Diemond's failure to cite to relevant portions of the record renders these claims largely unreviewable*."

There was no failure to cite portions of the record. [Note – Trickey does not cite any of his portions of the court record throughout his decision as he demands of Diemond (who is citing a profound amount of references throughout her pleadings.)]

There were 14 complaints listed regarding Judge Jim Rogers's judicial misconduct. Here Trickey not only creates a 15th complaint, he selectively chooses - five (35%). This is an obvious attempt to marginalize Diemond while Trickey fails to adjudicate the remaining 10 complaints that are exhibited and/or part of the court record. Again he is omitting and obfuscating to fit his bias.

Those un-adjudicated MIA items are:

a) "Rogers failed to recuse himself because he worked with and knew expert Brady officer Westberg's mother who held a high ranking supervisory position in the KC Prosecutor's Office both while he was a judge as well as when he was a prosecutor in the King County Prosecutor's office."

b) "Rogers failed to recuse himself because he was an old law school classmate of defense counsel Dave Roberson." (He cannot be unbiased).

c) Trickey included. *"Rogers inappropriately used his position, in collusion with …Dave Roberson, to… issue a phony bench warrant against another victim of Westbergs's, Jason Markley…"*

d) Trickey included. "*Rogers feigned he could not find Judge Mary Robert's Order to Suppress evidence unlawfully collected by Brady officer Jenee Westberg in the Lindsey cases…"*

e) "Roger denied defendant her right to due process by denying her right to a new trial when Westberg's Brady violations were exposed post trial before sentencing." (Constitutional violation).

f) "Rogers failed to sanction KCDPA Maggie Nave for her bona fide Brady violation on Westberg." (Unlawfully protecting in-house employees).

g) "Rogers usurped the jury in his order by deciding what their decision would have been if they had known about Westberg's criminal convictions when he could not possibility know." (In that move, Rogers converted Diemond's jury trial to a bench trial against her wishes. Thus Rogers was solely responsible for taking the right to jury away from Diemond unlawfully).

h) "Rogers violated the rules of law under Brady vs. Maryland." (He failed to hold Maggie Nave responsible for *fixing* the trial.)

i) "In his order, Rogers misrepresented and created fiction he claimed occurred at trial. (That a "neighbor" testified who did not)."

j) Trickey includes twice. *"failed to call a mistrial when Nave misrepresented facts to the jury".*

k) "Rogers denied defendant Diemond her right to due process while violating Brady vs. Maryland and by denying her right to a new trial." (Incurable mistrial due exclusively to Maggie Nave's drunken misstatement to the jury that the horses were well when they were, in fact dead).

l) Trickey included twice through his insertion of the exhibit he apparently feels is material. "Roger usurped the jury by deciding himself what the jury might have done had they known about Westberg."

m) "Rogers added events to his order that did not occur nor are they part of even the ***altered*** court record by claiming a "neighbor" testified. **[There was no "*neighbor*" who testified during trial.**" (Rogers altered the court record in his ruling. Class B felony).

[This juror appears to be juror #50 when there were only 49 jurors in the pool.]

n) "Rogers also failed to consider that the other witnesses present [*whom he lists as KCSO Bonnie Soule and Hannah Mueller in his order*] may have been in collusion with Westberg (and they were) – the latter who was the first exposed Brady officer directly after trial. It would turn out public records would demonstrate ***they all were in collusion including the second revealed Brady officer KCSO Robin Cleary***."

King County Sheriff Deputy Cleary became a Brady officer during Diemond's direct appeal - information that King County chose to suppress from Diemond. There is little doubt that Trickey, Spearman and Cox were aware of it. This appears to have driven their decision to omit the 350 pages of post trial briefs and exhibits Diemond discovered were concealed in the exhibit room [Page 10 of their decision]. This protected the King County Prosecutor's Office. It did not protect Diemond.

Trickey goes on to state that "*Diemond also makes allegation of bias and misconduct against two other judges who presided over trials of other, unrelated defendants who were charged with animal cruelty. Diemond fails to establish that she was prejudiced thereby*."

[Those cases are related and requested to be enjoined to Diemond. Those two would have Judge Cheryl Carey who presided over the Markley and

Thomas cases and suppressed Westberg's Brady material during trial. Carey also conspired and participated with Rogers in attempting to issue bench warrants against Markley during a stay she herself signed. She then made two more attempts to further incarcerate Markley during the same stay. The other judge is Mary Roberts discussed above with her problems with the Commission for Judicial Conduct of 19 case file complaints for failing to file required documents and findings in those cases.]

"5. Other Claims" [Page 10}

Trickey states that "*Diemond alleges that the King County Sheriff's Office lacked jurisdiction to respond to a complaint on her property, located in the City of Woodinville. But Diemond cites no authority is support of this proposition."* [This is untrue. There was authority cited under *42 U.S. Code § 1983 under the color of authority*. The facts are clear that KCSO Bonnie Soule, who admitted under oath, she was outside her jurisdiction and trespassing under the color of authority. It is part of the record and admitted events on its face under the obvious authority under RCW 10.73.100(5).

Tricky states that "Diemond *claims that the photographs offered into evidence were altered as to when they were taken* [True]. *The claim was raised and rejected in Diemond direct appeal.* [Untrue – The photo expert report was obfuscated from the direct appeal by the panel – Trickey, Spearman and Cox - leaving only Diemond's allegations.] *This court held that "the witnesses all testified that the photographs accurately depicted their memory of the day and the condition of the horses, all of which the jury heard" and the case did not rise or fall on the photographs."*

[Trickey again obfuscates important information. His quote omitted the final sentence which said, "*And none of Diemond claims regarding the photographs are supported by any evidence other than her own speculation*."

This was a very interesting omission since on Page 10 of that same opinion, the COA admitted; "[3]*…supplemental clerk's papers and other documents submitted thereafter are untimely and were not considered by this court."*

This is where the photo expert report was located that the direct appeal decided to "*not consider*" though it was absolutely "*timely*."

Three briefs submitted by Diemond during moments that Diemond was pro se post trial - pre sentencing were hidden in the exhibit room and not sent with the rest of the clerk's papers to the COA. When Diemond discovered this, she immediately implemented those papers – they were extensive with prolific exhibits – to the COA. They were absolutely timely. The court record shows that.

Within those concealed clerk's papers was the OPD funded photo expert report demonstrating Cleary's, et al perjuries. That expert photo report, paid for by King County Office of Public Defense (OPD) has been resubmitted as an exhibit numerous times.

On direct appeal, the panel that Trickey led and sat on, omitted that evidence submitted, relied upon two Brady officers [the liars Westberg and Cleary] whom they surely knew both were Brady cops before releasing their opinion 6 months later, an embezzler [Mueller] and a police officer violating 42 U.S. Code §1983 [Soule], all who were committing conspired perjuries along with 4 additional co-conspirator prosecutors (unknown at the time) and numerous horse rescue service providers – Jenny Edwards/Hope for Horses [Edwards, whom Trickey is actively within his denial, attempting to protect through the misspelling of her name – even while

Diemond points it out and he mentions it], Jaime Taft/Bonnie Hammond/Safe a Forgotten Equine (who were embezzling and participating in fabricating evidence against the innocent Diemond).

Trickey then wrongfully concluded then and now that: "*And none of Diemond claims regarding the photographs are supported by any evidence other than her own speculation.*" [Untrue and demonstrated though out ad nauseam].

This is called *rigging a case*. Here Trickey spells it out. He admits he participated in it and he repeated the rigging again in his June 6, 2017 opinion of Diemond's PRP.

Trickey then states that: "*Diemond contends that the verbatim reports of proceeding were altered.* [True.]

She includes several pages [False - **not "*several*"** there were 85 pages] *of the transcript along with her notes as to how the transcript should actually read based on her review of the audio recording.*

"But Diemond does not establish how she was prejudiced by any allege inaccuracies."

[Untrue. In addition to an 18 page list of extensively laid out, detailed, significant changes of the trial audio compared to the altered transcripts with location, Diemond included what was changed, *how it prejudiced her*, gave explanation and marked it on the actual transcript with a link to the audio. Diemond also quotes **42 U.S. Code § 1983** Page 116)].

There were, in the 42 pages excerpt of KCSO Bonnie Soule's Oct. 2, 2011perjurious testimonies, in 1,033 lines, 1,256 "edits" = an average of 1.12588 "edits" per line. Within that there were over 139 *very significant "edits"* that

changed the events as they occurred at trial. This was listed in great detail within the submitted exhibit.

In the transcription of Oct. 9, 2011 [Pages 83 -100]

Diemond submitted in her exhibits, a total of 85 pages demonstrating examples of alterations to audio of her trial transcripts.

Diemond's Exhibit 21 listed 1,256 "edits' in 139 pages of Bonnie Soule's Oct. 2, 2012 testimony alone.

Those 139 significant alterations changed the events of the trial into an alternate reality.

There were another 22 significant changes and omissions within 17 pages from Oct 9, 2012 (also with linked audio of the trial) that includes 2:30 minutes [CP Oct 9, 2011-P94L10-11] of missing transcription that appeared on the audio. [This is apparently where Trickey got the idea that Rogers was withholding defense exhibits –there were only 3 submitted defense exhibits out of 43 – from the jury. He was right. This is likely why the missing 2:30 minutes of the exhibit inventory were obfuscated from the transcripts.]

As far as establishing prejudice, it is apparent on its face that if transcripts are altered beyond the accuracy of the event, they no longer represent the trial as it occurred.

Diemond does not have accurate court records of her trial in which to appeal. Her right to appea, her due process and constitutional rights are thus forever denied to her.

Trickey states Diemond alleges several conspiracy theories. [Page 11]

"(1) that Detective Cleary purposely staged a break-in of her work vehicle and engineered the theft of a laptop to conceal evidence."

[This was no conspiracy "*theory*." A complete review was done of Cleary's staged theft based on documents sourced and cross-referenced from King in her *Supplemental Addendum* 34 pages dedicated to outlining Cleary's fraud including 10 exhibits of documents cross-referenced and compared from various departments within King County. Cleary knows how to present a case. This is her job. She did it with this phony "*theft*" she conjured up to "lose" her Canon Powershot G11 so it could not be examined in Diemond's case. Her KCSO buddy Tony McNabb helped her. Only the cross-referencing of her evidence trail does not work].

"(2) that the King County Prosecutor's Office actively suppressed "the fact that there is full bore animal sex trade going on" in Enumclaw."

[This was no conspiracy "*theory*." It is not clear where this quote came from but what Diemond actually stated was "*in 2005 Maggie Nave was the "fixer" who rigged zoophile James Tait a free pass. James Tait was responsible and confessed to running an animal sex brothel where a man, Kenneth Pinyan, died having rectal receptive sex with a horse in Enumclaw. This is no different than when Nave was found in 2011 sitting on 117 "fileable cases in her office dating back to 1999 when she was terminated from the prestigious chair of the District Court Unit of 12 years by KCDP Chief Mark Larson Exhibit 24) James Tait police report."*

This complaint was based on documents sourced from King County that Maggie was the lead prosecutor for. That in-house investigation served to stop Nave's exposure. She must have been getting too visible to those who might question the formidable piles of 117 file-able cases sitting in her office dating back to 1999. It was a clean-up.

"(3) *that the King County Prosecutor's Office prosecuted Diemond and other innocent property owners under the guise of animal cruelty to create distressed properties*;"

[There is no conspiracy "*theory*" here either. Diemond simply outlined what has happened in virtually every case of animal cruelty reviewed as a result of King County's malicious prosecution of innocent property owners. Every case was a vulnerable [hand -picked demographic] property owner within the Growth Management Act's urban development zones, 100%].

"(4) that Hope for Horses [Jenny Edwards] targeted innocent horse owners in hopes of making a profit [*and succeeded*] by boarding the horse for King County;"

[There is no conspiracy "*theory*" here. It is clearly documented in the prosecutor's own discovery that Edwards lied when she claimed on Feb. 26, 2011, that she had possession of Diemond's horses on her Facebook page. (This was a day before Diemond released them).

It is well-documented in the prosecutor's case file that Edwards planned a successful attack in the Dean Solomon case (20 acres were distressed in this case) as well as other cases throughout King, Pierce County, et al.

Brady officer Robin Cleary documented Edward's shill's APS contacts through Diemond's mother's church in Woodinville and employed them as "witnesses" (when they were not witnesses). Cleary matched her police report to the "anonymous" Jenny Edwards APS complaint even though APS had investigated and "*screened out*" [found no merit] the complaint just days before KCSO Bonnie Soule showed up on Diemond's property at Jenny Edward's personal request.

The falsified APS complaint to Carol Hammel, APS supervisor, resulted in Hammel advising them all that Diemond's mother was in HOSPICE and dying from old age six days before Cleary was assigned to the case. Edwards has provided falsified evidence to the King County Prosecutors in numerous other cases, E.G., Dean Solomon with her shills there.

"(5) that the director of Hope for Horses [Jenny Edwards] reported Diemond to Adult Protective Services (APS) for elder abuse in order to discredit her."

[It is abundantly clear that along with Edward's personal email complaint to Bonnie Soule compelling Soule to travel out of her jurisdiction to do a "*well horse visit*" that was sent to Soule's personal email, on her personal computer in her personal residence that, within days, Edwards was the individual who had made the APS complaint as part of her convoluted conspiracy plan. Jenny Edwards is the only actor unaccounted for while APS claims the other actors were not the complainant.]

Trickey's only reference to Diemond's reply brief. [Page 12]

In Trickey's only reference to Diemond's reply brief, [he never references King County Deputy Appellate Prosecutor Amy Meckling's profoundly improper response that was full of her own criminal violations], Trickey merely mentions Diemond requested that her petition be decided by Division Two of this court and then claims Diemond raises new claims "*including new allegations of alleged judicial misconduct.*"

These "*new allegations of alleged judicial misconduct*" are about Trickey. They were produced by Trickey yet a second time by Trickey himself reviewing his own decision – *of course it was new* – it had not happened until he decided he

was going to ignore Diemond's objections and review his own decision on direct appeal. How more self-servicing can that be?

He then has the audacity to add *"...this court generally will not consider issues raised for the first time in a reply brief."* Really?

This beyond the pale and hardly applies. This was not an issue of the nuts and bolts of the case itself. It is a bona filed conflict-of-interest by Trickey, the violation of at least 11 Judicial Cannons, violations of judicial RCWs and the Appearance of Fairness Doctrine by Trickey that only came up because he failed to recuse himself from reviewing his own decision from direct appeal.

Add that to his omission of the criminal violations of law that King County appellate Prosecutor Amy Meckling made on the record in her response to Diemond's PRP (and that Diemond voraciously called out in her reply).

Trickey apparently cannot defend his own actions thus adds it in third person as if he were not the party involved.

Diemond, et al, has not gotten a fair judicial process ever in this malicious prosecution scam because it has been rigged continually by a group of criminals who have taken control of our judicial system funded by honest constituent's tax dollars. This is fraud. It is RICO. It is racketeering.

MOTION

Based upon the above hereby find MOTIONS FOR:

DISCRETIONARY REVIEW EN BANC motions on PRP,

ORAL ARGUMENT DUE TO Jurist Trickey and COA Div I CONFLICTS OF INTEREST, VIOLATIONS OF JUDICIAL CONDUCT,

VIOLATIONS OF THE APPEARANCE OF FAIRNESS ACT,

RCW VIOLATIONS and, MOTION to ENJOIN listed cases.

Motion to recuse conflicted Jurist Trickey for cause; rescind his June 6th, 2017 decision as improper and illegal, review all other issues contained in Diemond's PRP, properly finding malicious prosecution, prosecutorial misconduct, ineffective assistance of counsels, judicial misconduct and sanctions upon Trickey, and all costs.

I declare under penalty of perjury under the laws of the State of Washington that I am the petitioner, that I have read the petition/ motions, know their contents, and I believe them to be true.

Respectively submitted this 21th day of July, 2017 at Woodinville, WA 98072.

pro se

Christy Ruth Diemond, pro se

[redacted]

Certificate of Service

I, Christy Diemond do wear under the penalty of perjury of the laws of the state of Washington that the following is true and correct. On July 21th, 2017 I delivered, uploaded, emailed, and/or mailed a copy of the foregoing to the following:

Washington State Supreme Court
415 12 Ave SW
Olympia, WA 98501-2314
supreme@courts.wa.gov

Prosecuting Attorney King County
King Co Prosecutor's Office
W554 King County Courthouse
Seattle, WA 98104
Attn: Amy Meckling, Dan Satterberg
amy.meckling@kingcounty.gov
paoappellateunitmail@kingcounty.gov

The Court of Appeals Div I
Attn: Richard Johnson
One Union Square
600 University Street
Seattle, WA 98101- 4179
JacQualine.Harvey@courts.wa.gov

Dated this 21th day of July, 2017 by,

[redacted] pro se

Christy Ruth Diemond, pro se

[redacted]

ATTACHMENTS

CD of additional video footage