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Sellecks prevail in San Diego court

High-profile parents sue trainers, vet over daughter's show horse

By Alice Knox, Editor

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When actor Tom Selleck appeared on the morning TV program *Live with Regis and Kelly* earlier this year, his admonition to novice horse show mom Kelly Ripa had more meaning than the audience could possibly know.

“Watch your wallet,” he warned.

Mr. Selleck and his wife Jillie Mack-Selleck had already filed a civil lawsuit against trainers and a veterinarian back in November 2006, after purchasing a show horse for their daughter Hannah, an accomplished rider on the hunter/jumper circuit. The horse's former owner was also named in the complaint.

Eventually the Sellecks' litigation would shed light on a tawdry but accepted way of doing business in the southern California show horse market.

The Sellecks' story revolves around *Zorro*, a handsome, middle-aged, 17 hand gray Holsteiner gelding, who resembled his famous father, *Carthago Z*. *Carthago Z* was an Olympic show jumper, and competed in the Atlanta Games and in Sydney. True to his elite bloodlines, *Zorro* became a show jumper too.

But the pounding work of clearing 4' jumps took its toll on his front legs. In late December 2003 at the age of 7, *Zorro* was injected with medications to help ease his pain. After being given tranquilizers to keep him still, *Zorro* received five separate shots of the joint lubricant hylauronic acid, combined with the steroid Depo-Medrol, in his front feet. He was also given the pain killer Banamine.

The cocktail was meant to help him, but months later, after repeated treatments and an investigative MRI, his vet noted that *Zorro* was chronically lame.

Nevertheless, the therapy continued, and in the autumn of 2004, *Zorro* competed in the Junior/Amateur Owner Jumper division at the Del Mar International Horse Show. The jumps were 4'3" in height. Ridden by his owner, Delores Cuenca, they placed 5th in one class, and 7th in another.

In 2005, two months after competing at the spring-time Del Mar National, *Zorro* was lame again. In July he was given four injections of steroids in his front hooves to manage the problem and keep him going.

He competed in September and November, but by December 1, his condition had deteriorated and he was quite unsound. *Zorro* was given multiple shots to relieve the debilitating soreness in his feet. By now his therapy consisted of using a combination of two different steroids as a remedy.

The new year brought little relief. In January 2006, with the mega-show circuit in the California desert about to begin, *Zorro's* vet, Richard Markell, took a look at him for a pre-Indio exam. Since he was still hurting, *Zorro* was given a sedative followed by shock wave therapy on his front right pastern and foot.

Shock wave therapy requires a course of treatments, and is designed to help the healing of long term chronic injuries. It shakes up the cell structure in damaged tissues, and stimulates the blood supply. But while it's doing that, it also destroys pain sensors.

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- Plaintiffs' attorney Paul Husband

Selleck

And so *Zorro's* series of shock wave treatments continued. Isoxsuprine, a medication used to treat navicular disease, was added to his medicine chest.

It was weeks later at the 2006 Indio Desert Circuit when *Zorro's* trainer, Lynn Obligado of Woodgrove Farm in San Diego, approached Karen Healey, Miss Selleck's longtime riding instructor. Ms. Healey operates Karen Healey Stables in Ventura County, north of Los Angeles. Ms. Obligado was very familiar with Ms. Healey's successful training business, and knew that Ms. Healey often had clients looking for top horses. Ms. Obligado was also well aware of Miss Selleck's numerous championships on the highly competitive hunter/jumper show tour.

In her conversation with Ms. Healey, Ms. Obligado described a horse she had available for sale that would make a good equitation mount. According to Ms. Healey, Ms. Obligado told her the horse was sound. The horse's name was *Zorro*.

Months later, *Zorro* was busy at the Del Mar National, jumping over the slightly lower fences of Training Jumpers and the hunter division. He was entered in 16 classes with four different riders. Miss Selleck was one of them. Together they placed second in the ASPCA Maclay Medal Class.

The day after Del Mar ended, Monday, May 8, Dr. Markell checked on *Zorro*. How was the big gray coping after a long week of competing? Dr. Markell found him to be lame again, and after a nerve block in the right front fetlock, he gave *Zorro* five separate injections of hylauronic acid and the potent pain reliever Vetalog deep inside his front feet.

Three days later, on Thursday, May 11, Ms. Obligado, acting as sales agent for owner Ms. Cuenca, presented *Zorro* for a pre-purchase examination conducted by veterinarian Paul McClellan. Dr. McClellan was looking at the horse on behalf of the Sellecks. Although Dr. McClellan was not the Selleck's regular vet, Ms. Healey would often ask him to do vet work when she had business in San Diego. Neither the prospective buyers, nor *Zorro's* owner, were present for the examination.

Dr. McClellan's pre-purchase paperwork included a brief "Sellers Statement", where questions were asked of the seller regarding the horse's medical history. When asked if *Zorro* was on any present medication, the answer was No. When asked about any medications in the past 30 days, the responses were "Banamine and Ketofen last Sunday" [May 7] and "Banamine at Del Mar National". Ketofen is a non-steroidal anti-inflammatory drug, used to relieve pain.

No mention was made of the injections Dr. Markell had given just three days before, and no mention was made of the aggressive treatments *Zorro* had been receiving during the previous three years to reduce his discomfort and treat his chronic unsoundness. The omission of such information is astounding.

The sale of *Zorro* to the Selleck's Descanso Farm was finalized on May 17, when the purchase price of \$120,000 was wired into Ms. Cuenca's bank account.

One week later, *Zorro* returned to the show ring with his new owner - the daughter of a movie star - competing in the equitation division at the Memorial Day Classic Horse Show in Los Angeles.

It wasn't long before *Zorro* became sore without his usual regimen of injections. Veterinarians at Alamo Pintado Equine Hospital in Santa Ynez confirmed that his show career was over.

Armed with attorneys, the Sellecks filed their civil lawsuit in San Diego County Superior Court in November 2006. Named as Defendants were *Zorro's* former owner Delores Cuenca, trainers Lynn Obligado and Guillermo Obligado, and Dr. Paul McClellan. The nature of the case against all of the defendants was conspiracy to defraud, and negligent misrepresentation in a sale.

The Obligados and Ms. Cuenca responded that the Sellecks, being regulars on the show circuit, knew that the type of treatments given to *Zorro* was standard care for show horses with a moderate competition schedule.

They also offered that the plaintiffs should have looked into the horse's complete medical file before the sale. Ms. Cuenca even went so far as to say *Zorro's* lameness after the purchase was caused by the Sellecks.

Dr. McClellan maintained his innocence from the beginning and claimed that he had been deceived by the Obligados and Dr. Markell. The Selleck legal team believed his testimony to be true, and he was later dropped as a defendant.

Dr. Markell was called in to give a deposition only as a witness. In his testimony, he admitted that he had given *Zorro* five injections three days prior to the pre-purchase exam. He also stated he was not aware of the impending pre-purchase, and that he did not tell the Obligados, or Ms. Cuenca, about the shots given to *Zorro* shortly before the pre-purchase testing. His testimony was considered doubtful, and he was added to the list of defendants. Dr. Markell settled out of court with the plaintiffs before the trial began.

Selleck

After years of delays and legal maneuvering, the trial date was set for August 19, 2009. Both the plaintiffs and defendants agreed to the date.

However, a month before the trial was to get underway, the defendants' attorney, Robert Scapa, asked for a postponement. His clients were under financial hardship, he said, and the trial would conflict with horse shows they had already entered. Since the Obligados were professionals in their business, their presence at the shows was a must.

The Sellecks' attorney, George Knopfler, strongly urged the court not to grant the continuance. He pointed out that Ms. Obligado and her husband, Guillermo, employ an assistant trainer capable of doing the work for them. Mr. Knopfler illustrated this point by recalling that when Mr. Obligado was suspended from the FEI in 2006 for drugging horses, the same assistant trainer took over for him. [Ed. Note: Mr. Obligado's explanation for the positive FEI drug tests was cross contamination and a miscommunication among grooms. In Mr. Obligado's statement to the FEI Tribunal after he was found guilty, he expressed his apologies and said he would do all he could to prevent it from happening again. The date of his statement was May 26, 2006, two weeks after *Zorro's* pre-purchase exam].

The Selleck trial began in earnest in San Diego Superior Court on August 25, 2009, nearly three years after the suit was originally filed.

The witness list included top veterinarians: Dr. Norm Rantanen, the renown specialist in radiology and ultrasound diagnostics, and Dr. Chris Kawcak, an assistant professor in the Orthopaedic Research Center at Colorado State University's College of Veterinary Medicine. But it was the distinguished Mr. Selleck who took the witness stand first. Several other witnesses were also heard, and by September 2, the defense rested their case. The plaintiffs did as well.

The jury entered deliberations late that same afternoon. They were careful in their examination of the evidence, sending notes to the judge asking for clarification. They also asked to review an exhibit board showing the horse show calendar and schedule of *Zorro's* steroid and shockwave treatments.

By 4:00 pm the very next day, verdicts had been reached. Nearly all of them were unanimous.

Trainer Lynn Obligado was found guilty of fraud, and intentional and negligent misrepresentation. Mr. Obligado was also found guilty of deceiving the plaintiffs.

The jury panel found that although Ms. Cuenca learned of Ms. Obligado's misrepresentation of *Zorro* after it happened, she went along with the deception.

Jurors recommended awarding the sum of \$187,811 to the Sellecks. The amount reflected *Zorro's* purchase price plus board bills.

The second phase of the trial, for punitive damages, was scheduled for September 8. When jurors assembled in the court room that morning, they were told that a settlement had been reached between parties over the Labor Day weekend. In the end, the Sellecks would take home a total of \$250,000.

Attorney Paul Husband served as the Sellecks' co-counsel. Mr. Husband's law practice emphasizes equine law, and when asked about any repercussions within the horse industry the verdicts may have, he responded, "I think the Selleck case could become an important landmark. I think there was already a groundswell of people wanting to do something about fraud in horse sales, and that the Sellecks have contributed a good example - defrauded buyers don't have to just take it - they can fight back."

A longtime horseman himself, Mr. Husband added, "If we, as a horse industry allow fraudulent sellers to run rampant with impunity, we are allowing them to severely damage our business and sport. Newcomers who get cheated often go away, and do not buy any more horses. I am grateful to the Sellecks for hanging in there and seeing the matter through."

So what became of *Zorro*? The tall gray gelding with the famous father is retired at a private farm, enjoying a comfortable stall and a large turnout.

There is no cure for his lameness.