

-Statement Addtl GROUNDS-

**Date January 8, 2007**

**To: The Clerk of  
Court of Appeals of the  
State of Washington Div. II**

**At: 950 Broadway, Suite 300  
Tacoma, WA 98402-4454**

**Re: Appeal In State of WA  
Versus  
Lowell W. Stambaugh  
By L. W. Stambaugh  
Cause No. 34900-1-II**

Please reference this to the form 23 that accompanying. Total here 6 pages

Additional Ground 2 ( NOTE: Additional Ground 1 at the end as what precedes helps to establishes it. )

The feature character of this trial was of HASTE. I believe this had an effect to particularly limit my defense making reasonable opportunity to confront mischaracterizations and untrue statements made by the clever prosecutor and his witnesses.

This occurred because the judge opened by declaring that this trial was not to be longer than two days. This he repeated, and acted to cut short attempts by defense witnesses to clarify our understandings. Many accusations were made that time was not available for an answer in this format.

This is an instance of and several direct conflicts between the statements of the plaintiffs witnesses and those of the defense. When the facts do not get out clearly any conjecture is possible.

I believe the record shows the judge was not as impartial as he may assert he was, particularly as the prosecutor took his time with witness opening triple wrapped Surprise! Shot pellets. I would never deny shooting the cat. The prosecutor was able use time as he pleased the defense was hampered.

One other significant cost to the defense was that the judge did not allow witness Robert Keen a mechanic who had himself pointed out to me a cat fight involving 'Smokey' then not known to me and feral cat. He had been awoken by this cats'

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night attacks as well. The judge ruled him out. I believe to save time.

### **Additional Ground 3**

One of the primary issues disputed was the CHARACTER of this CAT. But when witness Ross Stambaugh my 85 yr old father gave testimony to his own observations of this cat as STALKING his characterization was objected to ( sustained ) as he was not expert.

How far can we stay from reality. Commonly children use toys to play with and accurately observe cats and kittens learning to stalk and pounce. Surely a person with a Masters Degree as well as a lifetime of experience with many cats ought to be able to describe the creatures characteristic behavior. The prosecutor may disagree with a witnesses qualifications, but fairness should require the court to allow a witness to describe his observations to the jury, those in the character of the animal. My own reaction at the time was quiet outrage at the venal treatment by both the courts officers toward my frail parent, beyond observing the loss to the defense.

### **Additional ground 4**

The charge was animal cruelty. As a layman, the graduations of this in law are somewhat obscure to me. I will not attempt them. I will point out what occurred from my prospective. First I deny any cruel intention.

Previous to my departure to Alaska for 3 months I observed my own cat a small Manx tom severely clawed and weak. By my own knowledge of cats I expected him to be finished off by his antagonist soon. This I am certain occurred. The cat I, and my witnesses, had seen persue my cats by day and night, was the one I shot.

Being aware of a problem is not the same as solving it. I had not seen this furtive cat at other than a fight or a flight. Further business has me often occupied and away so this could not be my own first priority. Upon my return I observed that this same CRUEL cat was with the same agenda and my new kittens were being hunted by him. When I shot him it was the first time I observed him not in full flight. He ran out of my garage across in front of me exposing himself, whereupon he slowed and took cover under a tree limb 38 feet away. He was now bolder. I went in, down the hall and got the shotgun. Standing on my porch 3 feet in front of the front door and still under the roof of my own home took aim for a 38 foot shot ( later measured ).

The cat lay crouching, concealed under a thick low tree limb.

**I judged it to be a safe down angle shot. I did not want shoot off the limb and judged shooting low would put most of the pellets of the, bird shot 12 gage shell, into the cat anyway. As it happened the cat did not die instantly but rolled back then wobbled west 15 feet onto my driveway then turned and ran north into cover. I was chagrined that it did not instantly die, but expected it would as I understand it did within 20 minutes. Two points are that shooting directly through the limb may not have produced better results, and this was the best shot I had seen to date as the cat lay motionless.**

**Shooting cats is not easy and they are renown for the blows they can take. I do not miss this animal though he may have gotten his justice for what he inflicted. I did not have cruel intent. By shooting this cruel persisting predator I acted in mercy.**

**Note: I particularly concur with my attorney Thomas Weavers' Brief Ground 1, though my objections to the way the trial operated should not be understood as limited to that. It is the principle of my right to defend my own home from aggressive and intrusion, that should stand out, that any citizen should be able to rely on.**

**The following is a partial list of what I believe are factual errors that either got put into or came out of this case.**

**The tenants Deputy Goodwin made several accusations or claims that are untrue in court and before or during investigation.**

**One blatant example being to claim that I had not spoken to them about the pet conditions of their tenancy. Before they moved in the principle was laid down that they may have no creature that made or was perceived as a threat to our pets and particularly people here. This was to be at my discretion. They agreed! Further this was not the only time and that this and other issues involving their rights as tenants was discussed. With Melany Church I had a particular, with her crying and yelling confrontation where I pointed out to her the limits of her rights. She accused me of being an illegal shooter. This is not true as I pointed out to her then. What I said to her was, "that her view of what was legal was wrong, that I had shot nothing illegally, that on my property I had both the right and responsibility to protect the people and property here, and that I did not much care who thought otherwise, particularly herself."**

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When I spoke to the 2 armed deputies more than 1 year later I described this heated conversation quoting myself closely, citing that Statement as one of the reasons that I believed that the tenants well knew that they had no right to have here a pet that harassed my own creatures.

To my chagrin an unqualified variant of this statement was used to quote me repeatedly not my own words for I NEVER said to anyone “ This is my property, I will shoot whatever I want when I want! “ nor anything close to that. This is not in my own view so subtle, but part of the prosecutions unreal portrayal of me. In court Deputy Goodwin misquoted me as an example of “my out of control behavior that shocked him.” Were I not before a court it would not matter what connivers say I said but, here the truth ought to count.

Melany Church claims she “ saw him shoot Smokey “ this is not so as there are 2 stands of trees between and I examined the periphery before I shot. I could hear her making ready to get in their car and hear conversation with Lori and her son still at the house entrance. When she heard the shot she instantly ran west whereupon the cat having run west put her in line to see me coming off the porch to head off the cat to possibly finish it. The cat turned toward and past her. We were approaching 90 ft apart by then. She wailed out “ why didn’t you just say shoo? My exasperated reply to this ridiculous suggestion was a loudly measured “EH, HUH do you suppose it would work?” She was now turned away chasing after the cat I started to say “ If it worked we wouldn’t have this problem,” but I came to see she was running the other way nearly 100 ft off and was unlikely to hear, so turned myself. I know Melany did not see the shot there was no line of sight and she was preoccupied until she heard the shot. I would have pursued the cat as I was sure it was mortal shot. but not with the safety concern of 2 distraught women chasing around. So this to their characterization of me laughing at them.

About 1 hour later the deputies spent a large part of their time trying to assert that my aim was, through malice or carelessness to shoot the renters or their child. I naturally took strong objection and when these arguments went circular I suggested we were wasting time this way and they left. As I walked away I thought to look at my watch and put the interview down as 23 minutes, or less. This is important because Deputy Goodwin testified later in court, that it was about 45 minutes long. Further he denied in court the subject of upon which we wangled for more than half that time.

**That being of his accusing me of being wild, and irresponsible, with guns. He asked if I had shot seals then later denied this Too.**

**He did not compile his notes for more than a week and did not Merandize me till at least 5 minutes into the interview. Does he do a good job? I rather think he jobbed me. As commercial fish boat operator of more than 40 years experience I learned long ago the importance of timing and logging events of all types, as I did of this event.**

**When I first encountered the 2 Sheriff deputies I was concerned as I had 3 recent brushes with one. Despite having a recent District Court ruling in my favor defining my property rights at issue, this officer had refused to read My offered copy, and instead aided my antagonists, remaining ignorant of the situation while trying to accuse me of theft twice.**

**This, for removing impediments from my right of way as allowed by the judgment. I will not build on this at length as it is probably off track for this appeal. I will simply take this swipe and state that anyone who knows the half of it will probably feel that neither the Sheriff Deputies nor the prosecutors office are likely to really be fair regarding me.**

**As to how or when I became aware that the renters claimed 'Smokey' which name I only became aware of in the court papers, I wish to point out that when I asked, the renters claimed that "their cat was never out at night." This one obviously was. As they fed even strays raccoons etc. despite my wishes, to me this cat was a probable recent stray they had begun feeding, one that I never saw but in flight or fight.**

#### **Additional Ground 1**

**As a final bite the judge granted the plaintiffs a no contact order. What is this about? I have not threatened personal violence nor to my knowledge was there any testimony about this. As a witness Deputy Goodwin denied raising this issue in his interview. I was surprised because, at the time he threatened me with the loss of my firearms, because the tenants claimed they feared for their lives. There was no testimony on this and there should be none, as these are their own unfounded fears and in my view blatant manipulation. On what basis does it now come, secret? I thought I was accused of being cruel to cats. No one seems to be concerned how I treat my cats. Well is that rational?**

These women testified at this trial, that 'prior to shooting their cat, I had been generous and kind, and this is so. I could easily fill a page with deference or favors they have received from me as their neighbor and landlord. Having lent them many tools, never to have them returned, and overheard their screaming verbal abuse among themselves and to the child, I came to view them as the maladjusted people. I am not interested in any more contact with those deceitful swindlers.

I have lived done business in this area for more than 30 years, they barely over 5. I would never seek their company. They probably would not like to face me as they know, I know them for what they are. They owe \$ 2000 back rent. They vengefully tried to get the trailer condemned the septic system and more. They used me and they used the legal system very cleverly. This may seem small but it makes greater jeopardy for me, should I encounter them in any innocent way. This is further injustice. I do not see proper due process of law. It is action without evidence.

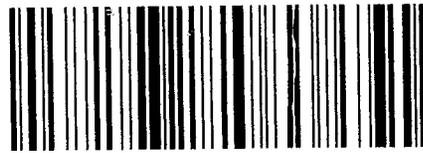
Thank you for the opportunity to put this before you, Lowell W. Stambaugh  
End Page 6



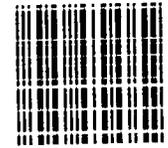
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