In this document, I make statements and accusations of criminal behavior by judges and others. These statements must be understood to be my opinion. I've been denied the right to legally establish their truth. The documentation I provide here will support my claims for the reader.

Skip this Introduction and go directly to ***Beres v. United States* (2012)**

Introduction and Analysis of Beres v. United States (2012)

by John Rasmussen

Background:

The four *Beres* opinions I present on my website resolve taking claims which resulted from the 1998 Railbanking of the East Lake Sammamish (ELS) right-of-way in King County, Washington. They are important to my website trailofshame.com because they properly construe the 1887 SLS&E Hilchkanum right-of-way deed to the Seattle Lake Shore and Eastern Railway (SLS&E) as an easement.

Beres v. United States (2005)
Beres v. United States (2010)
Beres v. United States (2011)
Beres v. United States (2012)

The above *Beres* opinions stand in stark contrast to the Ninth Circuit and Washington State opinions in which judges intentionally misconstrued that same Hilchkanum deed, stealing more than $10 million in ELS right-of-way land by dishonestly awarding it to King County. The three opinions listed below are criminal acts from the bench which cover-up the East Lake Sammamish Federal tax fraud scheme.

King County v. Rasmussen (2001)
King County v. Rasmussen (2002)
Ray v. King County (2004)

After my land was stolen and my property rights were destroyed in Ninth Circuit courts (*King County v. Rasmussen*), my neighbors Gerald and Kathryn Ray took the identical property rights issue through the Washington State Courts. (*Ray v. King County*) Their land was stolen and their rights were denied, too. Then, a number of East Lake Sammamish (ELS) landowners filed taking claims with the United States Court of Federal Claims. (*Beres v. United States*) The *Beres* opinions resolve those claims. The critical issue in both the earlier lawsuits and the *Beres* opinions was determining whether the 1887 SLS&E right-of-way deeds conveyed easements or fee

simple title to the Railway. In *Beres*, claims were made by forty-nine parties, representing more than eighty-four individuals. That group included Gerald and Kathryn Ray and twenty-three other individuals basing their taking claims on the Hilchkanum right-of-way deed. In *Beres* (2010), the claim by Gerald and Kathryn Ray was dismissed due to collateral estoppel, but the other twenty-three parties basing claims on the Hilchkanum deed were allowed to proceed. In spite of the Ninth Circuit and Washington State Hilchkanum opinions providing precedent that the Hilchkanum right-of-way deed granted fee simple title of the land underlying the right-of-way, Court of Federal Claims Judge Marian Horn decided that the Hilchkanum deed and all the other ELS deeds in *Beres* granted easements. In her well organized and carefully documented opinions, Judge Horn refused to accept the dishonest findings in *Ray v. King County* even after she was advised by the judges of our Washington State Supreme Court to use *Ray* as legal precedent. This supports my opinion that Ninth Circuit and Washington State judges intentionally committed crimes from the bench with their *Rasmussen* and *Ray* opinions. The refusal of our Washington State Supreme Court to correct *Ray,* implicates the highest court in our State in the East Lake Sammamish federal tax fraud scheme.

Introduction and Analysis of *Beres v. United States* (2012)

This is the fourth of the *Beres* opinions that I've been able to obtain. The previous three opinions established that the original right-of-way deeds conveyed easements. This opinion determines the claimant's eligibility for a taking compensation by examining the scope of their easements. If the scope of the right-of-way easements is found to be so broad that a trail is allowed, then the taking claims will be dismissed. If the scope of the right-of-way easements are too narrow to allow a trail, then the combined lawsuit continues toward compensation for a taking.

On Page 8, The discussion starts and explains the only issue is the scope of the easements.

On Pages 9 through 12, The appropriateness of summary judgment is determined.

On Pages 12 through 15, The criteria for a Tucker Act taking is discussed.

On Pages 15 through 17, The criteria for a Rails to Trails taking is discussed.

On Page 17, The discussion on the scope of an easement is started.

My accusations of dishonesty and statements of criminal behavior in this document must be understood as my opinion. I have been denied the right to legally establish these crimes as fact.

On Pages 19 through 35, The scope of the SLS&E easements is discussed.

On Page 34, This statement summarizes the scope of the SLS&E easements.

> "Regardless of the information offered by both parties, the record includes no information, historical or otherwise, to suggest that the original grantors intended the easements conveyed to the SLS&E to be for anything other than railroad purposes. In fact, the language of the conveyances themselves clearly indicates that the conveyances to the railroad were for 'the location, construction and operation of the Seattle, Lake Shore & Eastern Railway.'"

On Page 35, This statement concludes the analysis of the scope of the SLS&E easements.

> "In conclusion, the scope of easements of the SLS&E Deeds was exceeded by the conversion of the railroad easement to trail use."

On Pages 35 through 38, The scope of the 1904 Reeves easement is discussed.

On Page 38, This statement concludes the analysis of the scope of the 1904 Reeves easement.

> "In the case under consideration by this court, the purpose of the easement in the 1904 Reeves Quit Claim Deed was stated as "the intention being to convey herein a right of way fifty feet on each side of said track," which was limited by the grantors to railroad use only. Any use other than railroad use would exceed the scope of the easement. Therefore, in the above captioned consolidated case, by converting the railway to a public recreational trail, the scope of the easement for the 1904 Reeves Quit Claim Deed was exceeded."

On Pages 39 through 44, The scope of the prescriptive SLS&E easement is discussed.

On Page 7, The scope of the prescriptive SLS&E easement is described.

> "The Morel plaintiffs,19 Case No. 04-1467L, and the Brown plaintiffs,20 Case No. 04-1473L, are 'successors-in-interest to landowners who retained a fee interest

My accusations of dishonesty and criminal behavior here must be understood to be my opinion.

in the right-of-way subject to, or burdened by, the railroad's easement acquired by adverse possession/prescriptive easement.,"

On Pages 43 and 44, The scope of the prescriptive SLS&E easement is summarized.

"...the prescriptive easement acquired by the SLS&E did not encompass trail use, and the conversion of a railroad easement into a public recreational trail exceeded the scope of the prescriptive easement."

On Pages 44 through 62, The scope of the easement created by the General Railroad Right of Way Act of 1875 is discussed.

On Page 62, Conclusion of the scope of the easement created by the General Railroad Right of Way Act of 1875.

"A Judge of the United States Court of Federal Claims in Ellamae Phillips, finding trail use was outside the scope of the easement granted by the 1875 Act, summed up by stating, "[r]ailbanking does not convert trail use into a railroad use," and "[t]here is clear consensus that recreational trail use is fundamentally different in nature than railroad use." Ellamae Phillips Co. v. United States, 99 Fed. Cl. at 487. Defendant's railbanking arguments are without merit."

On Page 62, The Conclusion of *Beres* (2012):

"For the reasons discussed above, the court finds that the scope of the easements in the SLS&E Deeds, the 1904 Reeves Quit Claim Deed, the prescriptive easement, and the 1875 Act easements, were exceeded by the establishment of the public recreational trail. Therefore, the court DENIES the defendant's cross-motion for partial summary judgment, and GRANTS the plaintiffs' cross-motion for partial summary judgment. The plaintiffs in the above captioned consolidated cases may proceed with their causes of action for Fifth Amendment takings. The parties shall consult and propose procedures for the further proceedings to resolve all of the above captioned consolidated cases."

Go to ***Beres v. United States (2012)***