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.

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Introduction and Analysis of
Beres v. United States (2010)

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 this Beres (2010) opinion, the claim by Gerald and Kathryn Ray is dismissed due to collateral estoppel, but the other twenty-three parties basing claims on the Hilchkanum right-of-way deed are 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 to *Beres v. United States* (2010)

In this second of the *Beres* opinions, *Beres v. United States* (2010), Court of Federal Claims Judge Marian Horn consolidates the other East Lake Sammamish takings claims into one lawsuit. This adds claims from more than eighty-four individuals to Warren and Vicki Beres' lawsuit. In considering the claims, six 1887 SLS&E Railway right-of-way deeds and a 1904 quit claim deed are added to the right-of-way deed considered in *Beres v. United States* (2005). From my point of view, the most important issue in this opinion is whether the earlier *Ray* and *Rasmussen* opinions should cause dismissal of all of the SLS&E taking claims based on their construing of 1887 Hilchkanum right-of-way deed to convey fee simple title.

In *Ray v. King County* (2004) the Washington State Court of Appeals found the Hilchkanum right-of-way deed granted fee simple title to the underlying land. The Washington State Supreme Court denied appeal. In this opinion, a taking claim by Gerald and Kathryn Ray is considered and denied based on the doctrine of collateral estoppel. This doctrine prohibits the Rays from relitigating their *Ray v. King County* (2004) opinion. Here, Judge Horn determines that collateral estoppel does apply to the Rays, but does not apply to the other ten parties (twenty-three persons) making taking claims based on the Hilchkanum right-of-way deed.

Other legal issues are considered in *Beres* 2010. It is determined that the Rooker-Feldman doctrine did not apply. Rooker-Feldman allows only the U.S. Supreme Court to review final state court judgments (meaning Washington State Supreme Court opinions in this case). Also, it is determined that the other parties making taking claims were not in "privity" with the Rays. Had they been in privity, the *Ray* findings would apply to them. Further it is determined that the other parties are not barred from making claims based on the principle of "Virtual Representation". Again, the *Ray* opinions would have applied to the other parties if the cases were so similar that they were "represented" by the Ray's arguments even though they were not actual parties to the Ray lawsuit.

I'd like to think Judge Horn was offended by the dishonesty of the Hilchkanum opinions and tried to set things right with this opinion. She certainly could have denied all the Hilchkanum deed claims because of *Ray v. King County* (2004) finding Hilchkanum granted fee simple title. Then, since the Hilchkanum deed was based on the same 1887 SLS&E form deed as five of the other deeds considered in *Beres*, the finding in *Ray* could have been used as justification to deny the taking claims of the other parties basing claims on SLS&E deeds. But, she didn't!

This *Beres* 2010 opinion is one step towards final resolution of the claims. Other steps are to determine if the original railroad deeds grant easements. If they are determined to grant easements, then in subsequent rulings, the Court of Federal Claims would need to first determine if a Tucker Act taking occurred with the Railbanking of the BSNF East Lake Sammamish (ELS) right-of-way. If a Tucker Act taking is determined, then the court would need to determine if the scope of the easements supports a taking. Next, it would be necessary to determine if the chains of title lead from the original right-of-way deeds to the lawsuit claimants. Finally, the court would determine what compensation is due to the qualifying ELS landholders.

As I wrote above, in this opinion Judge Horn denied Gerald and Kathryn Ray's right to make a claim, based on the doctrine of collateral estoppel. But, this would still leave the Rays the right to appeal to the U.S. Supreme Court as explained by the Rooker-Feldman doctrine. I don't know if they made that appeal of if they just gave up. I was denied appeal of the same issue by the U.S. Supreme Court, but the Rays would have a stronger argument based on this opinion and the 2011 and 2012 *Beres* opinions.

I understand the importance of the doctrine of collateral estoppel, but there should be a path to justice, to relitigate, for those who suffer the injustice of the Hilchkanum opinions. The U.S. Supreme Court cannot accept all legitimate appeals because it does not have the time or resources. After I was denied appeal of King County v. Rasmussen (2002) by the U.S. Supreme Court, I filed a complaint of judicial

misconduct for the injustice I suffered in the Ninth Circuit courts. My complaint was denied. With respect to complaints of judicial misconduct the "fox was guarding the hen house" in my situation. The Chief Judge of the Ninth Circuit dismissed my complaint of judicial misconduct after she had earlier dishonestly denied my appeal of *King County v. Rasmussen* (2001). Effectively, she was issuing a decision exonerating herself. I suspect this is the case for many others who file complaints of misconduct against judges. Our appeals system is designed to correct judicial errors, not to fix judicial corruption. Based on my experience, corruption is widespread in our judicial system.

Go to ***Beres v. United States* (2010)**