

INTRODUCTION

INCORPORATING ANIMAL LAW INTO PRIVATE PRACTICE

By
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As the field of animal law grows, more and more law students attend school with dreams of a career in animal advocacy upon graduation. Unfortunately, many of them become disillusioned when they realize how few jobs are available in that practice area. Nevertheless, a small number find success establishing an exclusively animal-law practice. To these brave souls I say “kudos!” For most of us, focusing exclusively on animal law is not a reasonable option. Fortunately, non-profit organizations such as the Humane Society of the United States and the Animal Legal Defense Fund are doing great things for animals; however, there is fierce competition for a limited number of positions at these organizations. An alternate solution for both new and seasoned attorneys is to incorporate animal law into their preexisting private practices. Creating a niche within a solo practice or large firm allows attorneys to help animals who need advocacy, increase job satisfaction by working with like-minded clients, and enhance their ability to afford school loans.

As animal law develops in the courts and through legislation, it will provide more legal remedies for disputes and increase the need for qualified animal-law attorneys. In this slow economy, employment is more competitive than ever, and having a specialty niche makes us more marketable to both clients and employers. At the same time, peo-

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ple today are developing different, closer relationships with their companion animals than they have in the past.¹

We love our companion animals. Nearly one-half of American pet owners surveyed consider their pets to be family members.² Furthermore, “Americans now spend \$41 billion a year on their pets—more than the gross domestic product of all but 64 countries in the world.”³ This aptly illustrates the high value we place on our companion animals.

My niche is creating highly customized pet trusts within my estate planning practice, which I have found to be extraordinarily gratifying. I have a number of clients who travel three hours to utilize my services simply because I honor the importance of their companion animals. I know that similar client loyalty exists in other areas of animal law practice because a large number of clients with animal-law issues ask me for referrals. Examples of issues that I regularly refer to other animal-friendly attorneys include:

- companion-animal custody
- veterinary malpractice
- companion-animal insurance issues
- pet policies within homeowner insurance plans
- dog bite issues
- landlord/tenant companion-animal policy issues
- wrongful death or injury to a companion animal

This list represents a few of the specialties that attorneys can develop to attract and benefit a specific client base.

A note on marketing: While I rely heavily on client referrals in my estate planning practice, I also advertise and give seminars. I believe it is a good idea, when you have a niche, to create different advertisements and presentations for different audiences. For example, I may create a brochure that focuses on pet trusts to take to local veterinary offices and humane societies. Likewise, I may offer to give presentations on charitable giving for fundraisers that benefit animal sanctuaries or breed-specific rescue organizations. I also establish relationships with professionals I respect, such as bankers, financial planners, and CPAs. I take them to lunch to explain pet planning and why it may be important to their clients. We offer each other invaluable third-party credibility when working with shared clients, who in turn appreciate having a team that works together to meet their needs.

To best serve modern clients, I concentrate on educating them about both estate planning in general and, especially, on the importance of including their companion animals in their estate plans. Most

¹ Although there are many species in need of legal advocacy, the author focuses on companion animals.

² Am. Veterinary Med. Assn., *U.S. Pet Ownership & Demographics Sourcebook 7* (2002).

³ Diane Brady & Christopher Palmeri, *The Pet Economy*, *Bus. Week* 45, 45 (Aug. 6, 2007) (available at http://www.businessweek.com/magazine/content/07_32/b4045001.htm (last accessed Apr. 5, 2010)).

people are unaware that they have the ability to provide protections for companion animals in their estates. For example, most people assume that the purpose of estate planning is to ensure that their assets go to whom they want upon their deaths. Although this is accurate, it is not the whole picture. Rarely do new clients consider the need to plan for a companion animal's care upon their own incapacity, a scenario that is more likely as we live longer and longer lives. An example of a service I offer for incapacity planning is an emergency pet care card for clients to carry in their wallet. The laminated card includes pet caregiver contact information as well as express permission for the caregiver to enter the house. Then, when emergency responders go through the wallet, they will be aware of the existence of companion animals. Another service I offer is appointing a successor trustee who will care for pets upon the incapacity of a trustmaker. This appointment is for situations that extend beyond an immediate emergency but are not permanent, such as a long hospital stay. Knowing that companion animals will be protected by a trustworthy caregiver provides invaluable peace of mind.

In my practice, I have three general types of clients. First, there is a small group of clients who either do not have pets or are satisfied that their children will take care of their critters if needed. With this group, I ask questions and listen closely during initial consultations and keep in mind that not everyone shares a deep bond with their companion animals. Second, there are those who do share a close bond with their companion animals but have not yet considered the important decisions that they need to make regarding their pets' well-being upon their own deaths. Third, some clients come to see me for the sole purpose of ensuring care for their companion animals.

For all three of the above-mentioned groups, I stress the importance of talking to family or friends about their willingness to temporarily care for, or permanently adopt, Rover. Most clients want to avoid placing an unnecessary burden on their loved ones by expecting them to take responsibility for Rover's care during an already stressful time without a pre-established plan. Especially in the event of death, those left behind need the space to grieve with as few decision-making responsibilities as possible. Although a discussion with friends and family is not legally binding, for the first group of clients, it is sufficient. However, many clients fall into the second group and prefer to compensate those who will become permanent caregivers for their companion animals. A common way to provide compensation is to bequeath a one-time cash gift through a will or trust and request that the caregiver use it to offset the costs of Rover's care.

Finally, for those in the third group, companion animals serve as the motivation for creating an estate plan. For these clients, I create pet trusts, where the clients provide a set amount of money that will be used exclusively to provide for their pets' welfare for the life of the animals. While some clients are comfortable with a relatively simple pet trust, others require sophisticated planning. Two of my favorite cli-

ents, Jamie and Bailey,⁴ have a large number of animals consisting of three different species. In their pet trusts, each species has its own committee of people who will make decisions regarding the placement and care of that species according to specific guidelines. The planning was so complex that we drafted a particularly customized Definition of Terms section. I include it below to share the flavor of devotion that some clients have for their companion animals.

Definition of Terms

Animals: A combination of 1) all the animals I own at the time of my death (Companion Animals), and 2) all the animals whom Bailey and/or I have helped place with Caretakers in adoptive homes (DMAC Graduates), as well as any whom we have micro-chipped, but who are currently “missing in action.”

Caretaker (of DMAC Graduate): A person or persons who own Duke Memorial Animal Complex Graduates and provide the Graduates with permanent homes and care.

(My) Companion Animals: Animals I own at the time of my death.

DMAC (Duke Memorial Animal Complex): Created in loving memory of my and Bailey’s beloved Duke. The DMAC refers to all of Bailey’s and my Companion Animals of all species and the place where they reside.

DMAC Graduates: Animals whom Bailey and/or I have helped place with Caretakers in adoptive homes. (See chart.)

DMAT (Duke Memorial Animal Trust): Testamentary Trust created for the benefit of my Animals.

Godparent: Person who has agreed to become a Guardian of a specific animal at my death.

Guardian (of Companion Animal): A person or persons who have custody of, and provide permanent homes and care for, my Duke Memorial Animal Complex Companion Animals.

We also included a beautiful Dedication, which Jamie had drafted, in the memory of Duke.

Jamie and Bailey are obviously highly devoted to their companion animals, which is one of the reasons why working with them was so rewarding. They were exceedingly happy with their estate plans, and they have referred a number of clients to me who have similar values and priorities. I attribute much of my job satisfaction to the fact that I work with people who are caring and passionate.

I have found that integrating animal law into my practice has been both emotionally and financially rewarding. I enjoy advocating for animals by ensuring that they will be cared for upon their owner’s incapacity or death. I further contribute to animal welfare by helping clients arrange charitable gifts that benefit animal organizations. Practicing animal law also helps me build my clientele, because clients

⁴ Names changed to protect confidentiality.

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who love their companion animals want an attorney who will take their concerns seriously; when they find one, they tell their friends. Attorneys who are passionate about animals can do their part to fight the good fight within most areas of law without making animal advocacy their sole focus.

