

INTRODUCTION

PASSING THE BATON: HOW TEAMWORK AND UNBRIDLED OPTIMISM CREATED LEWIS & CLARK'S ANIMAL LAW PROGRAM

By
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One of the most exciting races to watch is the relay race. Teamwork, individual talent, grace, and an exquisite sense of timing are ingredients for success, and the strategic roles for the initial runner, the middle legs, and the anchor are each different. The creation, expansion, and success of the animal law program at Lewis & Clark Law School have followed similar roles, with each generation of students building upon what they were handed and then relinquishing their command at the appointed time. The anchor has not yet taken her place on the track, and I suspect she will never need to, given the trajectory the animal law program has followed.

Here is a chance to tell a story that has been glamorized at times and has not always been recounted with a full appreciation for the many other instigators and compatriots who played critical roles. I will not invoke legal citation here or seek to impress with academic prowess. This is simply my account of our animal law relay team and how we started this race. I hope that by providing my own memory of the

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Nancy has testified before U.S. House and Senate committees and worked directly with legislators on pending federal and state legislation on puppy mills, horse protection, and other high priority bills. Since 1995, Nancy has been a key architect and leader on more than twenty state ballot measures that were successful in protecting animals.

beginning, I can honor my colleagues and my mentors as well as inspire those who face seemingly insurmountable odds in trying to realize their own dreams.

It is hard to say how long the flier was there. In the midst of the hustle and bustle outside the law school cafe, sometime during my first week on campus in 1992, I suddenly zeroed in on it. A small flier posted on the bulletin board exposed the horrors of animal experimentation and described how to avoid products tested on animals. The flier was the first clue that others had come before me but had left no other visible trail. It lacked any identifying information—and no one I asked seemed to know who had placed it there or when. This artifact emboldened me to take the next step, despite my best intentions to remain keenly devoted to my studies. I simply had to know if others on my new campus had a passion for animal welfare. The starter's gun had sounded.

The Environmental Law Caucus (ELC) seemed like a good starting point, so I attended their first meeting. Glen Tarr,¹ the president, was an amiable person with a wry sense of humor. He spoke about what ELC intended to accomplish and then listed the current activities and issues on their agenda, explaining the several subcommittees formed to address their priority issues. When I was sure there was to be no mention of animals, I raised my hand and asked if anyone had an interest in animal issues. Glen smiled broadly and responded swiftly "I do—I'm a vegan!" And so the Animal Rights Committee under ELC was born.

We posted notices all over the law school that the Animal Law Project (ALP) would hold its inaugural meeting the following week at my apartment about a mile from campus. Nine bright, enthusiastic students found their way to our gathering that evening. It was a strong start—the group was diverse and full of talent. At that first meeting, we discussed why we cared about animals and our concern over the lack of any formal structures for animal welfare concerns at a school with such depth in environmental law. We agreed that it was time to lay down roots for future students and form an animal-focused group on campus. Brainstorming about projects and educational opportunities for ALP ensued.

That first year, we remained a committee under ELC to enjoy the benefits of student-body recognition and funding. This designation afforded us a tiny budget for photocopying and other provisions. We decided we would table on campus and educate the student body about threats to wild and domestic animals. We thought a speaker series would be a great way to help students meet professionals who were using the law to help animals. I started an informal e-mail newsletter to keep the group and our growing list of supporters aware of our next

¹ Glen Tarr graduated from Lewis & Clark Law School in 1993. He currently works for the U.S. Fish and Wildlife Service as a biologist.

steps. Our first guest speaker was Roger Anunsen,² an attorney in Salem who represented the Fund for Animals along with his enthusiastic wife, Cathy Sue. Roger spoke of his work to protect bighorn sheep in Olympic National Park from being shot as purported non-native species despite strong evidence to the contrary, and his experience negotiating conflicts between mainstream environmental groups and animal protection interests.

Soon after that event, Matt Howard,³ one of our highly motivated and talented founding members, suggested that we create bylaws so that we could become our own group the next academic year. Matt drafted the first set along with Ben Allen,⁴ another founder and leader of ALP. With great earnestness, we asked anyone we knew in the legal field to review our draft bylaws to ensure that we had a structure that would endure into the future. Matt thought we should approach the Animal Legal Defense Fund (ALDF) since they appeared to be a natural fit for us to work with. In order to demonstrate our organization's leadership and thereby secure the level of guidance and support we would need to realize our vision of a long-term presence for animals at the nation's top environmental law school, we thought we should become the first student chapter of ALDF. I made the phone call to Joyce Tischler,⁵ the president of ALDF, to issue our request.

I will never forget how important that task felt to me—I prepared diligently, drafting a series of benefits we felt we could realize as well as advantages for ALDF. I also presented the idea that the field of animal law was truly emerging in its own right, with intersections with many traditional fields of law—a theory our group had been nurturing as we made mental connections between our class work and the cases we had seen involving animals.

Joyce was very pleasant as she listened to my pitch, and then I remember that she sighed and took a long pause. Finally, she explained that ALDF had worked with students in the past and that while they had always had a lot of enthusiasm and energy, their schedules had not allowed them to commit seriously to projects. ALDF found that student groups tended to be driven by one or two leaders, and that when those students graduated, the groups fell apart. I asked Joyce

² Roger Anunsen led a twenty-six-year legal career, during which he litigated on behalf of wildlife and served as co-chair of the Oregon Medical Association/Oregon State Bar Legal-Medical Committee. He is a founding principal in mindRAMP & Associates, LLC, a science writer, and the creator of MemAerobics cognitive intervention programs. mindRAMP & Assocs., *Who We Are*, <http://mindramp.org/who-we-are.php> (accessed Apr. 7, 2012).

³ Matt Howard graduated from Lewis & Clark Law School in 1994. He currently lives in Boise, Idaho.

⁴ Ben Allen graduated from Lewis & Clark Law School in 1994. He currently works on the Judicial Reform and Government Accountability Project in Belgrade, Serbia.

⁵ Joyce Tischler is still at ALDF. The American Bar Association Tort Trial & Insurance Practice Section Animal Law Committee honored Joyce with the Excellence in the Advancement of Animal Law Award in 2009. ALDF, *Joyce Tischler*, <http://aldf.org/article.php?id=587> (accessed Apr. 7, 2012).

what we could do to prove that our intent was to be different and to lay a foundation that could never be shaken. She said we should pursue recognition by the school, obtain funding, and become our own group—and she agreed that we could call ourselves the Student Animal Legal Defense Fund (SALDF). This victory was sweet, but it carried a reminder that our very existence was probationary. Our efforts to create a structure that could survive beyond our years were critical if we were to prove ourselves to the greater animal protection community.

We finalized our bylaws, submitted them to the administration, and ultimately gained approval. However, student organizations do not receive any funding in their first year. We did manage to secure a shared office in Gantenbein hall, and the key to this tiny space felt like the key to our future. It might not have been *A Room of One's Own*,⁶ but I suspect Virginia Woolf would have understood the empowerment we felt, regardless.

We plotted out our second year with blind ambition and an absurd level of optimism. It seemed to us that the nation's first student animal law chapter should make its mark by holding the nation's first animal law conference. Even before we had funding or reason to believe this was a viable notion, we reserved rooms for a fall 1993 conference and sketched out the theme and structure for a one-day conference. Wildlife law seemed like a natural opening salvo, because the environmental audience at the law school would be drawn to it, and because we could still take the opportunity to introduce concepts of individual animal protection rather than population-level conservation.

In late spring of 1993, we got an exciting call from Roger Anunsen. He said that Wayne Pacelle, the national director for the Fund for Animals, was flying to Portland in June to testify at the Oregon Fish and Wildlife Commission's (OFWC) public hearing. Because Wayne preferred not to spend the Fund's money on a rental car, Roger was hoping that a student could ferry him over to the OFWC and then back to the airport. I immediately responded that I would be happy to do this myself, as long as Wayne agreed to come to the law school and speak to the students while he was in town.

This twist of fate opened a new chapter for animal welfare advocacy in Oregon. I knew Wayne from years past when I worked in Cambridge, Massachusetts for a tiny non-profit trying to pass a local ordinance to protect lab animals—he had visited Boston a few times and knew my colleagues. Wayne was a Yale student with an inquisitive nature and a piercing intelligence, and anyone could sense he would become a movement leader, even back in those early college days. I knew he would be an inspiring speaker, given his most recent work to protect animals at the federal level.

Wayne came to town, fulfilling his duty to speak at the law school by giving a compelling talk about federal wildlife law. He then testified before the OFWC regarding its arcane policy allowing hounding of

⁶ Virginia Woolf, *A Room of One's Own* (Harcourt Inc. 1989).

bears and cougars and baiting of bears. He warned the commissioners that if they did not prohibit these unsporting practices, the people of Oregon would organize a ballot measure and change the law for them.

It was stunning to learn that citizens could engage in law making rather than being entirely at the mercy of elected or appointed officials. In that visit, with what little spare time was left between engagements, I conveyed our plans for the animal law group and the conference, while Wayne shared how we could help organize a state-wide network, gather the necessary signatures, and change the law. He also provided great contacts for potential speakers for the conference.

As SALDF was gearing up for the conference, we spent the rest of our first summer imploring speakers to come despite our inability to reimburse for time and expenses, and convincing the law school to pay for the conference banquet on credit, with faith that we would cover the costs with continuing legal education (CLE) fees. For some reason, no one refused us. We were thrilled at the assembled panel of speakers and the elegant menu we were able to offer our guests.

Simultaneously, we held organizational meetings and located individuals across the state who would be willing to volunteer for the state ballot campaign for bears and cougars. Wayne continued to visit and encourage our work, and we remained loyal to the bear and cougar campaign, finding an excellent symbiosis between our academic development and the rigors of political campaigning

Recruitment was another critical aspect of our work that first summer. We knew that locating new members was a necessary ingredient for our long-term success. The rigors of the first several months of law school, coupled with the conservative framework that intimidates all but the most idealistic of students, are more than enough to overwhelm any dreams of championing legal rights for the oppressed. We knew that we had to secure the interest and commitment of incoming students swiftly so as not to lose them to their packed schedules and harried lives.

Our strategy for recruitment was simple. We secured prominent placement on orientation day for incoming first-year students and we provided them with the exciting details of our plans for the year, including invitations for their direct involvement in the conference and campaign. Our e-mail list doubled in one day as our theory bore out. People entering law school are devoting their lives to a new endeavor, and most of them, certainly at Lewis & Clark, harbored a strong desire to use their legal training to effect social change. The school's environmental excellence drew students whose social agendas included, and even focused on, animals. Our job was to make clear that they were needed and could make a difference.

When the conference day finally arrived, we were so busy with the details of greeting our guests, providing CLE recipients with materials, offering attendees nametags and schedules, and squaring away any mishaps that we hardly had time to hear the speakers we had so

carefully picked and relished the thought of bringing to our campus. Throughout that day, we shared fleeting impressions, formed when walking through the room and pausing, but we felt as though we had missed our own conference.

Matt, Ben, and I met the following weekend to share our experiences, debrief, and count the money we took in to see if we could cover our bill from Bon Appétit, the school's catering service, for our sumptuous vegan dinner. After a thorough accounting, we had nearly \$40 to spare, making the conference not just a success, but also a profitable one. This was no small feat for a group with neither a budget nor a track record. We sat back, still exhausted, and absorbed the fact that it was over and that it had gone as well as we had hoped.

The next moment is as clear to me now as if it were happening again before my eyes. I remember a small smile creeping over Matt's face as he looked at me. He sat forward, and in typical fashion when he had a big idea that he wanted to introduce gently, he launched into a wandering sort of wondering about what it might take to put together a law review. I remember thinking that surely Matt was not serious, even though I had heard him and Ben talking about this notion before. In fact, we had introduced the idea and asked for advice and support from some learned and wise animal lawyers already ("Hi Richard"). But it seemed like the worst time, right after finishing this massive endeavor, to start in on the planning process, and I said so.

Matt would hear none of my whining and instead grinned and said, "I think now is the perfect time for the nation's first student animal law chapter that just held the nation's first animal law conference to get serious about publishing the nation's first animal law review." It was this irresistible and indomitable spirit that propelled us to our next chapter.

Matt and Ben, both members of the *Environmental Law* staff, started brainstorming about funding sources, potential faculty supporters, and innovative strategies like providing first-year students with the opportunity to volunteer their way onto the review. This wild idea started to take shape and began to feel like a reality well before it was.

We spent our second year preparing for the next conference, which we determined would be an annual event, and laying groundwork for the journal. We drafted and relentlessly edited proposals. Conversations with our supporters at ALDF indicated that funding could come from our mother organization, even if the faculty at the law school rejected our proposal for the journal to be a law school publication. We searched our membership for additional talent for a project of this proportion. We knew that we had to have our next leg runner queued for the handoff soon. Joyce's words about unreliable student organizations still rang in my ears, and Matt and Ben wanted to ensure that the journal was poised for success by the time they graduated.

James Goldstein⁷ stepped forward to take the exciting post of Editor in Chief, and a host of bright first- and second-year students, energized by their participation in the animal law conference and the ongoing campaign to ban bear-baiting and hounding of bears and cougars, surfaced to take on staff positions. Ben, as Form and Style Editor, provided his guiding vision, along with the petroglyph image used as the cover for the first twelve volumes. This image struck us as a reminder of the archetypal importance of animals and our interdependence with them.

I worked with the core team and Professor Michael Blumm⁸ to present the concept to the faculty. The reception was lukewarm, at best, with traces of polite but undeniable skepticism. However, although efforts to secure the faculty's approval were not successful, the team was undeterred. ALDF committed the necessary funding, and we rolled ahead with plans for an inaugural issue.⁹ Michael Blumm, Richard Katz,¹⁰ and Joyce Tischler provided a steady stream of guidance and emotional support for our growing team of students pushing their way through a project with no marked path ahead. Looking back now, we must have seemed naïve, but I am convinced that our unbridled optimism and complete disregard for convention were instrumental to our ultimate success.

No one had much time to stand back and watch as the journal unfolded, because the pressures of the ballot campaign and the ever-present conference-planning process demanded the attention of our growing ranks. Thankfully, the second conference was less stressful and even more successful, and within a few months Measure 18 passed, thanks in no small part to the work of students at Lewis & Clark Law School.¹¹ A repeal campaign in the spring of 1995 then required us to caravan to Salem to testify against several repeal bills. Students took up the cause swiftly that spring, going in groups and learning how to testify before a state legislative committee. Personal investment in Measure 18 was high for us, and it was our victory to

⁷ James Goldstein graduated from Lewis & Clark Law School in 1995. He currently works at McNeil & Goldstein, LLC and specializes in family law, criminal law, and estate planning and administration.

⁸ Michael Blumm is the Jeffrey Bain Faculty Scholar and Professor of Law at Lewis & Clark Law School. He continues to serve as a faculty advisor for *Animal Law*. Lewis & Clark L. Sch., *Michael Blumm*, http://law.lclark.edu/faculty/michael_blumm/ (accessed Apr. 7, 2012).

⁹ To this day, ALDF supports *Animal Law Review* (ALR) by providing a generous operating grant and purchasing hundreds of subscriptions for its own members, as well as copies of the journal for its offices each year. Further, ALDF provides guidance on the future of the journal. ALR could not continue to publish without the critical support it receives from ALDF.

¹⁰ Mr. Katz helped found *Animal Law* and is currently a national advisor for the journal. He has been practicing animal law for over twenty-five years.

¹¹ Measure 18 banned hunting bears with bait, and hunting bears and cougars with dogs. Ballotpedia, *Oregon Bans Hunting Bears with Bait or Cougars with Dogs, Ballot Measure 18 (1994)*, [http://ballotpedia.org/wiki/index.php/Oregon_Bans_Hunting_Bears_with_Bait_or_Cougars_with_Dogs,_Ballot_Measure_18_\(1994\)](http://ballotpedia.org/wiki/index.php/Oregon_Bans_Hunting_Bears_with_Bait_or_Cougars_with_Dogs,_Ballot_Measure_18_(1994)) (accessed Apr. 7, 2012).

defend. We learned that spring that we could effectively defeat our opponents with stronger preparation, better research, and greater determination to prevail.

It was a hectic time that certainly took time away from our studies. Yet, the synergy of so many exciting projects propelled our organizational growth by demonstrating to students that there were meaningful ways to lend their talents to the animal law program and that those efforts led to tangible change in the way society viewed and treated animals. Their real-world experiences were worth the sacrifices.

For those of us who had first tentatively pushed off from the starting blocks, this was our final bend before the homestretch. Fresh team members, like Starla Dill, Gerald Pederson, and Lee Friedman were waiting, hands outstretched, poised to advance the animal law program.¹² We reluctantly offered our baton and watched them as they sprinted ahead. They would take the program places we could not imagine.

After graduation and the bar exam, I moved on to join The Humane Society of the United States. Matt took a job in Idaho with a private practitioner, and Ben left the country to do international aid work. My professional life included continuing contact with the law school and the animal law program. I watched as each new leg grasped the baton and then injected new layers of sophistication and professionalism into the nascent program we had handed off. By 1997, Coby Dolan's¹³ steady hand kept the program forging ahead. His inspired work brought important advancements for the journal and the conference. Coby is now making valuable contributions as a staff member for a prominent member of Congress and finding ways to aid animals through his work. He nurtured another bright star before he left the law school.

In 2000, the rising star named Laura Ireland took the lead.¹⁴ At that point, the faculty had not only accepted the journal as an official publication of the law school, but many members had also embraced their role as faculty advisors. I attended the first animal law conference under Laura's leadership and instantly recognized her extraordinary talent. It was clear that Laura would make a special mark on the program at Lewis & Clark. Laura's contribution as a student was sur-

¹² Starla Dill Roels, Gerald Pederson, and Lee Friedman graduated from Lewis & Clark Law School in 1996.

¹³ Coby Dolan graduated from Lewis & Clark Law School in 1999. After graduation, he worked as a staff attorney for Earthjustice until 2001, followed by the Ocean Conservancy until 2007. He currently works as a legislative director for Congresswoman Debbie Wasserman-Schultz.

¹⁴ Laura Ireland Moore graduated from Lewis & Clark Law School in 2001. After graduating, she founded, and served as Executive Director of, the National Center for Animal Law. In 2010, she joined the Sheriff's Office as the manager of the Lincoln County Animal Shelter. Ctr. for Animal L. Stud., *Laura Ireland Moore '01*, <http://law.lclark.edu/live/news/11573-laura-ireland-moore-01> (accessed Apr. 7, 2012).

passed only by her continuing involvement as a faculty member in the animal law program after she graduated from the law school. Laura envisioned and implemented the moot court competitions, initiating an animal law moot court event at Harvard Law School and then adding a lobbying moot court competition initially held at George Washington School of Law, both firsts of their kind.¹⁵ She also developed the summer animal law courses, a groundbreaking idea that allowed students from other law schools to enjoy the benefits of the Lewis & Clark program. Laura's work was awe-inspiring and left an indelible mark on the animal law program and the field of animal law as a whole.

Students working under Laura's leadership continued to thrive, with each generation handing off a better program to the next. Through all these years and innovations, advisors like David Wolfson and professors Michael Blumm, Arthur LaFrance, Peter Nycum, Daniel Rohlf, Janet Weis, and Chris Wold were stalwart supporters and devotees of this program.¹⁶ Each year built to the next, and each turn was stronger than the last.

Recent innovations have led to the creation of the Center for Animal Law Studies and the unique contributions of professors Pamela Frasch and Kathy Hessler, along with innovation from the modern generation of animal law movers and shakers.¹⁷ Never would

¹⁵ For more information on the National Animal Law Competitions, see Ctr. for Animal L. Studies, *National Animal Law Competitions*, https://law.lclark.edu/centers/animal_law_studies/events/national_animal_law_competition/ (accessed Apr. 7, 2012).

¹⁶ Michael Blumm, *supra* n.8.

Arthur LaFrance served as the dean of Lewis & Clark Law School (which was then called the Northwestern School of Law) from 1982 to 1986. Currently, Mr. LaFrance teaches criminal law as a visiting professor at the University of Arizona Law School. U. of Ariz., *Faculty Profile: Arthur LaFrance*, <http://www.law.arizona.edu/faculty/getvisitorprofile.cfm?facultyid=706> (accessed Apr. 7, 2012).

Peter Nycum is an Emeritus Professor of Law at Lewis & Clark Law School. Lewis & Clark L. Sch., http://law.lclark.edu/faculty/peter_nycum/ (accessed Apr. 7, 2012). He continues to serve ALR as an emeritus faculty advisor.

Daniel Rohlf is a professor at Lewis & Clark Law School and is Of Counsel to the Pacific Environmental Advocacy Center. Lewis & Clark L. Sch., *Daniel Rohlf*, http://law.lclark.edu/faculty/dan_rohlf/ (accessed Apr. 7, 2012). He continues to serve as an ALR faculty advisor.

Janet Weis is a professor at Lewis & Clark Law School and Associate Dean and Director of the Environmental & Natural Resources Law Program. Lewis & Clark L. Sch., *Janice Weis*, http://law.lclark.edu/faculty/janice_weis/ (accessed Apr. 7, 2012). She continues to serve as an ALR faculty advisor.

Chris Wold is a professor at Lewis & Clark Law School and Director of the International Environment Law Project. Lewis & Clark L. Sch., *Chris Wold*, http://law.lclark.edu/faculty/chris_wold/ (accessed Apr. 7, 2012). He continues to serve as an ALR faculty advisor.

¹⁷ Pamela Frasch is Assistant Dean of the Animal Law Program and Executive Director of the Center for Animal Law Studies and an ALR faculty advisor. Lewis & Clark L. Sch., *Pamela Frasch*, http://law.lclark.edu/faculty/pamela_frasch/ (accessed Apr. 7, 2012).

Kathy Hessler is Clinical Professor of Law and Director of the Animal Law Clinic, as well as an ALR faculty advisor. Lewis & Clark L. Sch., *Kathy Hessler*, http://law.lclark.edu/faculty/katherine_hessler/ (accessed Apr. 7, 2012).

we, sitting in our tiny office in Gantenbein, dreaming our big dreams while working as the subcommittee of the ELC, have imagined that someday the program would give birth to the nation's first Animal Law LL.M. program.

Now, this issue of *Animal Law* presents the fruits of the inaugural Animal Law Review Symposium, an afternoon event prefacing the 2011 Animal Law Conference that marked yet another milestone for the journal and the animal law program. At the symposium, four renowned animal law scholars shared their scholarship and expertise on international animal law with a filled room of eager listeners from around the country.¹⁸ Organized entirely by students but receiving financial support from Lewis & Clark Law School as well as ALDF, the inaugural symposium embodied yet another passing of the baton.

No single element of this team can be considered more important than any other. I remember literally envisioning roots when Matt and Ben and I would talk about the future. I felt that our greatest contribution would be to create something solid enough to support the weight of the big ideas and dreams of future generations of animal law students. And yet my deepest fear, throughout the years, was that future students would not pick up and carry forward the animal law program. I could almost see the baton, covered in dust, cast off to the side of the track. It seemed impossible that each subsequent generation would devote themselves to these same goals and would nurture this program through whatever challenges it might face. It would only take one generation to let go, and the program could be lost forever. Yet the vibrancy of Lewis & Clark's animal law program was made possible by the sustained inspiration and commitment each runner, each participant, each advisor, and each leader brought to this team. Thanks to them, there is no finish line in sight.

We cannot fully grasp what lies ahead and what is possible for the animal law field and the program at Lewis & Clark Law School, but we can cease wondering about its future existence. The roots of the animal law program are deep, the structure is strong, and the passion and energy of this team constitute the only anchor we will ever need.

¹⁸ Symposium speakers included the following scholars: David Cassuto, Professor of Law at Pace Law School; Maneesha Deckha, Professor of Law at the University of Victoria (Canada); David Favre, Professor of Law at Michigan State University College of Law; and Peter Sankoff, Associate Professor of Law at the University of Western Canada.