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## Even animals need legal assistance

*Anna Morrison-Ricordat, managing member of AMR Law Group in Chicago, posed with her cat, Tuxie. She opened her practice in 2007, primarily because she wanted to handle more animal law cases. Photo by David Durochik.*

By Sherry Karabin

**C**ompared to the once esoteric environmental law movement, many lawyers now focus additional attention on animal rights issues, along with changes in statutory and case law.

While most do not maintain dedicated practices, more lawyers devote a large portion of their time to civil matters like pet trusts, custody disputes, housing discrimination and veterinary malpractice.

On the criminal side, lawyers see a rise in the number of cases involving violations of anti-

cruelty laws. Many bar associations also added committees or sections devoted to these issues and about 100 law schools now offer classes focusing on animal law.

### Picking up speed

Many legal professionals said animal law began picking up momentum about 10 years ago as more states passed laws to allow for the creation of pet trusts and courts cracked down on those who harm animals.

Attorney Amy Breyer, who now lives in Cal-

ifornia, said she believes that she became the first attorney in Chicago to devote her practice to animal law.

"My interest in the area began around 1995 or '96," Breyer said. "I actually went to law school for the purpose of going into animal law. Back then, there were no textbooks on the subject, so I had to do the research on my own."

Breyer attended Northwestern University School of Law, helping to start a student chapter of the Animal Legal Defense Fund at the school.

"At the time I petitioned the school to found the chapter, I think there were four of us," Breyer said. "Within a few years it became a thriving part of the school landscape."

After graduating she helped start the Animal Law Committee at The Chicago Bar Association and later became a principal founder of the Illinois State Bar Association's Animal Law Section.

She opened her law office in March 2002, handling cases ranging from veterinary malpractice and boarding injuries to disputes with breeders and co-op and condominium boards as well as representing owners in cases where police were charged with wrongfully shooting animals.

Breyer is in the process of founding the first animal history museum in California.

Breyer said the area of animal law evolved quite a bit since she started — mainly because the laws change and additional attention causes more people to come forward and file cases.

"As the area becomes a little more mainstream, increasing numbers of attorneys are willing to take on cases," Breyer said. "Some are doing this as a side interest to their main practice, but there are an increasing number making the area their exclusive focus."

#### **A vast area**

Anna Morrison-Ricordati, managing member of AMR Law Group in Chicago, said animal law issues crop up in multiple practice areas and can involve everything from tort and contract matters to constitutional and criminal law.

Morrison-Ricordati opened her practice in 2007, primarily because she wanted to handle more animal law cases.

"I always cared about animals," Morrison-Ricordati said. "I think animal law is one of the most forward-thinking, creative, cutting-edge areas of the law."

She said about 50 percent of her cases involve animals.

"I defend a number of dog bite cases," she said. "Back in the 1970s, the courts began developing the 'reasonable dog standard,' which has since been used in numerous civil cases concerning the defense of provocation. It takes into account what is reasonable in the eyes of a dog.

"For example, even an unintentional act like stepping on a dog's tail could cause a 'reasonable dog' to snap at or bite the offending person.

"Every municipality does have its own rules, and some people think there is a one free bite rule, but the truth is that if a bite is severe enough, it can result in an animal being eu-

thanized," she said. "That's why the circumstances have to be fully investigated, and suits can become complex, sometimes involving expert animal behaviorists when the animal has been provoked."

Morrison-Ricordati also handles a number of veterinary malpractice cases.

"Like medical malpractice, veterinary malpractice involves proving that the care provided was below reasonable standards. Other vets review the records to determine whether reasonable standards were met before a case goes to court," she said.

Although courts seldom award damages for the pain and suffering of the owner, Morrison-Ricordati said monetary amounts have grown.

She said she sees a rise in wrongful death and injury cases resulting from animal boarding and emotional distress claims from the "wanton and willful disregard for an animal's life."

"For example, in cases where a person shoots a dog without cause, the owner can now bring civil damages suits for up to \$25,000 plus attorney fees, under the Illinois Humane Care for Animals Act," Morrison-Ricordati said.

"This is in addition to any other tort claims the owner might bring, such as intentional infliction of emotional distress."

Another part of her practice involves handling housing disputes in which co-ops, condominiums or rental facilities refuse to allow therapy animals.

"These cases involve violations of the Americans With Disabilities and Fair Housing acts," she said.

Other matters receiving more attention, she said, include consumer fraud and misrepresentation involving pet shops selling sick animals or retailers mislabeling real fur as "fake."

While Morrison-Ricordati does handle suits involving formerly co-habiting couples battling over the ownership of a dog or cat, she said family law experts handle the bulk of those cases.

#### **The crossover**

Family law practitioner David H. Hopkins said more and more of his cases include animal custody issues.

"Unfortunately, these questions are not well addressed in Illinois case law," said Hopkins, a partner at Schiller DuCanto & Fleck. "Courts currently treat cats and dogs much the way they do in marital property disputes. There are debates over the best interest of the pet. Usually in cases not involving abuse, it comes down to things like who was responsible for adopting

the pet or who the primary caregiver may be."

Hopkins said he also handles cases involving orders of protection.

"Fortunately, the Illinois Domestic Violence Act was amended in 2008 to offer protection to pets in instances of physical abuse or the threat of physical abuse," Hopkins said.

Domestic violence shelters also started addressing the issue of making provisions for pets, he said.

"Over the last 20 years, I would say there has been a major evolution in the way animals are viewed in family law cases," he said.

Peter Canalia, a partner at the Law Office of Canalia & Clark, said he began handling pet-related estate planning issues about six years ago. The bulk of his animal-related matters involve pet trusts and powers of attorney for pet care.

"While pets are still considered property, a number of amendments have been made to the Uniform Probate Act and Uniform Trust Act that allow for enforceable pet trusts," said Canalia, who handles all types of estate planning issues.

He said he encourages all his clients to make provisions for their animals, even creating a website called [peaceofmindpettrust.com](http://peaceofmindpettrust.com), where owners can purchase trusts for \$89.

"Overall, I would say more people are becoming aware of the necessity to make provisions for their animals, realizing that if they don't plan for their care, no one else will," Canalia said.

While Morrison-Ricordati spends a lot of time defending animal bite lawsuits, those at the plaintiff catastrophic injury firm, Shea Law Group, recovered about \$2 million for dog bite victims.

Attorney Joseph Patrick Shea said he sees a rise in the number of calls and referrals pertaining to dog bite injuries and attacks.

"Most of the dog bite cases involve large, vicious dogs, such as pit bulls or Rottweilers," said Shea.

"From a practical standpoint, one of the first issues a lawyer needs to ascertain is whether or not there is insurance coverage for the injury," Shea said. "Generally, if the defendant owns a home, there will be homeowner's insurance and there will be coverage for the victim's injuries. If the dog owner is a tenant, there will not be coverage, which makes recovery much more difficult."

#### **Lawyers as advocates**

Valerie Schramm, a former assistant state's

attorney, said she prosecuted a number of animal-related misdemeanor offenses.

"I took a personal interest in the cases involving animals," said Schramm, who now chairs The Chicago Bar Association's Animal Law Committee.

"Either these cases are more prevalent, or we're seeing more of these cases in court because they're being taken more seriously by law enforcement."

Schramm said Cook County Sheriff Tom Dart also gives animal abuse offenses attention.

"He created an animal crimes unit, a specialized unit of police officers to investigate crimes against animals and enforce our animal protection laws," Schramm said.

Tracy McGonigle, executive director of the Hooved Animal Humane Society in Woodstock, said she works with prosecutors around the state, investigating cases of cruelty and neglect involving hoofed animals.

McGonigle said another important part of her job at the humane society involves commenting on and working to change laws for the "betterment of animals."

A solo practitioner in Chicago and the collar counties, she represents clients involved in civil disputes over the ownership of horses and dogs and files civil suits against those she is charging with perpetrating acts of cruelty.

"I think there is more awareness that it is not only crimes against people that must be punished," McGonigle said.

Vandhana Balasubramanian, the Chicago-based general counsel of the nonprofit Mercy for Animals, spends much of her time advocating for legislation on behalf of farm animals, including successfully opposing the recent 'ag-gag' legislation in the Illinois legislature.

"The 'ag-gag' bill attempted to criminalize undercover investigations within factory farms by forbidding photographic or audio recordings within a factory farm and making it a crime to possess or distribute such a recording," Balasubramanian said.

She said the proposed bill also aimed to make it a crime to gain entry into an agricultural facility by false pretenses or by making false statements on an employment application.

For now, the Illinois bill has been tabled by lawmakers.

"The implications of this bill are significant," Balasubramanian said. "This bill would not only hide animal abuse, but it would also keep food contamination issues, environmental

and labor violations and other illegal practices hidden from public view."

### Getting educated

As interest continues to grow, about 100 legal institutions in the U.S. now offer animal law courses.

Pamela Hart, who serves as director of the animal law program at the Animal Legal Defense Fund, works closely with law schools and firms, helping them to foster the development of animal law in schools and in legal practice.

She also teaches an animal law course at the University of Chicago Law School, where there is a student chapter of the Animal Legal Defense Fund.

"There is an amazing amount of interest from students in the Chicago area," Hart said.

"Many of the schools now have student chapters and offer courses on the subject."

Hart became the first person to teach the animal law course at the University of Chicago Law School.

"When I first started four years ago, I had five to six students," said Hart. "Last year I had 18.

"Animal law intersects with multiple areas of traditional law and for this reason, it's important that students are exposed to it as they prepare to become attorneys.

"Additionally, because it is a relatively new field, it offers those who choose to practice animal law a unique opportunity to help set legal precedent."

At Northwestern University School of Law, professor Leigh Bienen taught the first animal law class in 1999.

"I started the class partially because of student interest and partly because I wanted to learn more about the topic," Bienen said. "It focused on regulation and legislation concerning wildlife and the farm industry as well as other matters of concern involving animals."

After the course got announced, the school received a grant from Bob Barker, the former host of "The Price Is Right."

Cherie Travis, former Chicago Animal Care and Control executive director, teaches an animal law course at both Northwestern and DePaul University College of Law.

"The class touches on many aspects of the laws affecting animals," said Travis, also a former animal law practitioner. "I once had a case involving whether or not it would be a copy-right infringement to videotape a rodeo."

The class continues to generate a lot of in-

terest at both schools, Travis said, adding that she noticed one change.

"When I started teaching around 2006, the class was almost exclusively female now I am seeing more male students," Travis said.

DePaul's law school also maintains a Center for Animal Law, where professor Margit Livingston serves as co-director.

She said each year the center hosts a symposium, bringing in experts to discuss timely topics.

"We also train members of the public to become humane investigators, so they can go out and investigate situations that involve cruelty," Livingston said.

"The law school recently created a student chapter of the Animal Legal Defense Fund, which has become quite active on campus.

"I think the opportunities are growing for attorneys who want to focus on this area."

The John Marshall Law School offers animal law courses, which professor Susann MacLachlan has taught for many years.

MacLachlan said her classes reach capacity and she also receives calls from attorneys asking for guidance on animal law issues that crop up in their practices.

"Our school has received a lot of recognition in this area because we have repeatedly won the closing argument portion of the National Animal Law Competitions at Harvard," she said.

The school also sponsors a student Animal Legal Defense Fund chapter with about 30 members.

Second-year John Marshall law student RaeLeann Smith, a member of the legal defense fund student chapter, said: "I was an officer last semester and we raised funds for different animal charities through bake sales."

"I have always been interested in animal law issues and am hoping the class will help me to use the law to better advocate for legislation that helps animals," said Smith, who worked for People for the Ethical Treatment of Animals before starting law school and is now taking the animal law class.

"My dream job would be working for the Animal Legal Defense Fund.

"I think a lot more people are considering careers in this area. As a student, I have found it hard to find work at the nonprofit organizations and I don't think it was like that five years ago," she said. ■

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