

20th Anniversary
(1995-1996—2015-2016)

STATE BAR OF MICHIGAN

ANIMAL LAW SECTION NEWSLETTER



Summer 2016

Table of Contents

Tax Man's Best Friend: An Overview of Tax Issues Affecting Pet Trusts ...	1
Co-Editor's Note	2
Is a Warrantless Canine Blood Draw and Test an Unreasonable Search? Case Note: <i>Oregon v. Newcomb</i> , 359 Or. 756 (2016).....	5
Update on Nonhuman Rights Project's Efforts to Free Chimpanzees Leo, Hercules, and Tommy	6
Recent Animal Law News.....	7
Nominating Committee Report: Section Council Nominees, 2016-2017	10
Treasurer's Report.....	11
Upcoming Events	12



Tax Man's Best Friend: An Overview of Tax Issues Affecting Pet Trusts

By Rebecca Wrock

Introduction

In the Spring 2016 issue of this Newsletter, estate planning considerations relating to pets were addressed. As no estate planning conversation is complete without a corresponding discussion of tax consequences, a follow-up article addressing those tax considerations is appropriate. Scholarly articles have been written on the topic, including the history of how pet trusts came to be taxed within the Internal Revenue Code (IRC). This article, however, will provide a practical overview for attorneys practicing in the area, rather than an in-depth academic examination.

Tax considerations in this arena span the areas of income tax as well as estate and gift tax. Both will be explored in turn. Following the trend toward a priority for income tax planning over estate and gift tax planning within the field as a whole (due to the estate and gift tax affecting only a minuscule segment of the population), this article will be primarily focused on income tax considerations affecting pet trusts.

Income Taxes

Pet Trusts are Subject to Income Tax

To begin, some clarification in terminology is appropriate, as the IRC is rife with terms of art. Typically, the pet for whom a pet trust is created is considered the beneficiary of the pet trust (rather than the pet's caretaker). However, the IRC defines "beneficiary" in Section 643(c), for purposes of Part 1 Subchapter J, to include "heirs, legatees, and devisees," all of which are persons. The IRC further construes "persons" to include an individual, trust, estate, association, corporation, partnership, or company¹. As animals do not fall within the IRC construction of "persons," they cannot be considered beneficiaries under Section 643(c).

"To ensure consistency between tax treatment and local law, and to ensure that taxation is not avoided, a pet trust that is valid under state law should be classified as a trust under IRC Section 641."

If you are familiar with the estate planning field and are following the above tax reasoning, you are probably asking at this point, "wait, but aren't pet trusts allowed by state law?" and "well, if a pet can't be a beneficiary for tax purposes, that means that no tax

Continued on next page

**Animal Law Section Council
2015-2016**

Chairperson

Laurie A. Hrydziusko, Lansing

Chairperson-Elect

Ann M. Griffin, Bingham Farms

Secretary

Myla L. Ford, Brown City

Treasurer

Donald R. Garlit, Canton

Term Expires 2016

Richard C. Angelo, Jr., Davison
Thomas M. Boven, Grand Haven
Sara R. Chisnell, Portage
Kieran Patrick Marion, Lansing

Term Expires 2017

Rajesh Krishna Prasad, Detroit
Andrea Lynn Sebring, Linden
Meredith R. Sharp, Okemos

Term Expires 2018

Stephanie N. Olsen, Troy
Anna Marie Scott, East Lansing
Stephen A. Seman, Saginaw

Ex-Officio

Jennifer L. Pierce, Harrison Twp.

Commissioner Liaison

Krista Licata Haroutunian,
Bingham Farms

Newsletter Editors

Donald R. Garlit
(734) 451-9950
donaldgarlit@yahoo.com

Ann M. Griffin
(313) 310-3411
annmgriffin@hotmail.com

Co-Editor's Note

Welcome to the second issue of the Newsletter for 2016 and our second issue in our 20th Anniversary Year. The Section had its initial official meeting at the 1995 State Bar of Michigan Annual Meeting.

Our lead article is on the taxation of pet trusts by Rebecca Wrock. (Rebecca earned the Wanda Nash Award from the Animal Law Section in 2014.) We have articles on many other topics such as an update on the Nonhuman Rights Project (which we have been covering in recent issues), a summary of a recent decision by the Oregon Supreme Court on a search/blood test of a dog, recent Animal Law News, the Nominating Committee report, and the financial report for the section.

We continue to print the issue in all color including photographs and graphics. We are using better quality paper. This greatly increases the visual appeal of the Newsletter. The photographs are much clearer with this approach.

As always I will make my standard request, please remember that this is your newsletter, too. Helpful articles are always needed. In fact, if we can get one good main article for each issue, we can do the rest. Please consider writing an article that will be of interest to your fellow Section members.

I have had several members suggest or volunteer articles and I am looking forward to these articles. We will also continue our occasional articles about individual member activities in animal law in the future.

The next regular issue is scheduled for November. We are also planning a special 20th Anniversary issue which is most likely to be published after our 20th Anniversary year has concluded in September. Nevertheless, the issue will show how far our section and animal law has progressed in 20 years.

Donald Garlit, Newsletter Co-Editor
donaldgarlit@yahoo.com

Tax Man's Best Friend ... *continued from page 1*

must be due, right?" To ensure consistency between tax treatment and local law, and to ensure that taxation is not avoided, a pet trust that is valid under state law, as it is in Michigan, should nonetheless be classified as a trust under IRC Section 641.²

So far, we have established that pet trusts are subject to taxation just as trusts for beneficiaries who are legal persons are subject to taxation. As far as the trust is concerned, there is little difference in taxation whether the pet is considered to be the beneficiary of the trust, or the pet's new caretaker is considered to be the beneficiary of the trust (for example, as might be the case in a state where the validity of pet trusts is not established by local law). However, the taxation of distributions will be treated very differently, depending on this classification.

Basic Income Tax Principles for Gifts, Bequests, and Devises – In or Out of Trust

As a basic income tax principle, income and other property received by bequest, devise, or inheritance is generally not taxable at the federal level (IRC Section 102).

However, when that income or property generates further income, that further income is taxable. For example, if A receives as an inheritance from B property worth \$50 and having a \$50 basis, A is not taxed on that \$50. If A reinvests that money elsewhere and makes \$25, the \$25 is taxable as income to A.

In the context of a will or property passing through intestate succession, this means that the fair market value of a pet, and any funds set aside for his or her care, will not be taxable to the pet's new caretaker. If funds are left for the pet and those funds are put into a bank account, for example, interest earned on the funds will be taxable to the caretaker just as interest earned on the caretaker's own funds will be taxable. This is, of course, assuming that a constructive trust is not established in favor of the pet, but that an outright gift was made to the new caretaker with precatory language that the pet be cared for. This route is not encouraged, and a pet trust should be used whenever possible, but it is worth knowing the tax consequences.

The same tax principles are true in the context of pet trusts, but there are several additional rules that come into play when a trust is involved. The rules are not imposed because the trust is a pet trust. Rather, these rules apply to trusts generally. Income taxation of trusts can be a complicated subject, but an important one because of (1) the nature of the trust tax brackets and (2) the potentially complicated question of who is responsible for the tax.

First, most people are familiar with the graduated tax rates imposed on individual tax payers. But while individual tax payers do not reach the top tax bracket of 39.6% until their income exceeds \$415,050 (for single filers in 2016), trusts reach that top tax bracket when income exceeds only \$12,400. Now, there is typically some sticker shock involved with that number, bearing a reminder that the \$12,400 refers only to *income* generated by the trust, not the *principal* actually in the trust. Again, we are only concerned in this section with taxes pertaining to income.

Second, deciphering who the responsible party for the tax payment is can be a product of the type of trust, the terms of the trust, whether income is required to be distributed, and whether income actually is distributed. The taxpayer can be the trust grantor, the trust beneficiary or beneficiaries, or the trust itself. Careful planning and drafting are imperative because the taxpayer can vary depending upon the trust terms. For example, some trusts, called "grantor trusts," specify by their terms that income will remain taxable to the grantor (often an incredibly valuable planning tool for a taxpayer - with enough wealth to have a taxable estate - to remove some of that wealth tax free). Otherwise (and usually) income is taxable to the beneficiaries, to the trust, or to both. For the purposes of this article, and the remainder of this section, we'll focus on this more common arrangement.

Whether income is taxable to the trust or to the beneficiaries often turns upon whether income is required to be dis-

tributed currently or whether income actually is distributed. When the income of a trust is not distributed, it is "accumulated" or added to the trust principal. Unless the trust is a grantor trust, the trust itself will be taxed on the accumulated income. Relating back to the previous section, this is true whether the pet is considered to be the trust beneficiary or the pet's caretaker is considered to be the beneficiary. In the next section, however, the two will be treated differently.

How Distributions from Pet Trusts are Taxed

Deciphering the party responsible for taxes on income distributed out to beneficiaries, known as fiduciary income taxation, is a complex process and involves the calculation of distributable net income (DNI). This calculation refers to the maximum amount on which a beneficiary can be taxed, and any amount exceeding the DNI figure will be received by the beneficiary tax-free.³

The DNI figure is not only important to the beneficiary, but is important to the trust. When a trust distributes income to beneficiaries, the trust also receives a current distribution deduction on its own tax return (Form 1041). This distribution deduction is limited to the lesser of trust income or DNI for simple trusts, or the lesser of actual distributions or DNI for complex trusts. This means that a beneficiary could be taxed on income that he or she did not actually receive, but it also means that a beneficiary could receive income that he or she will not be taxed on. The DNI calculation is beyond the scope of this article, but it is important to know that it exists because it effects the amount that a trust may deduct on Form 1041, and deductions are where the treatment of pet beneficiaries and human beneficiaries diverge within the IRC.

For a human beneficiary, the trust receives a deduction and the human beneficiary must include the corresponding amount as income, as noted in the previous paragraph. However, since a pet cannot be a beneficiary for IRS purposes, a distribution made for a pet is not taxable to anyone under IRC Sections 652 and 662. If that sounds too good to be true, it is. That also means that the trust will not receive a corresponding deduction for amounts distributed under IRC Sections 651 and 661. As such, an enforceable pet trust established under state law is taxable on all of its income – at the higher trust tax brackets – regardless of whether any distributions are made from the trust for the benefit of the pet beneficiary.⁴

"An enforceable pet trust established under state law is taxable on all of its income – at the higher trust tax brackets – regardless of whether any distributions are made from the trust for the benefit of the pet beneficiary."

Estate and Gift Taxes

Gifts to a Pet Mirror Normal Estate and Gift Tax Rules

Just as the rules for income taxation of pet trusts mirror those for taxation of trusts generally, the estate and gift tax rules to be aware of are no different than those that the estate planning practitioner will already be familiar with. Simply put, any amount contributed to a pet trust as an inter vivos gift or as a gift upon death will count toward the owner's unified estate and gift tax credit, just as if the owner instead made a gift to a human beneficiary. At that point, if the owner's cumulative gifts are under the lifetime exemption (\$5.45 million per individual in 2016), there will be no tax due; if the owner has given more than that amount during his or her lifetime and after his or her death, tax will be owed.

“Most pet owners who care enough about their pets to include them in their estate plan will want to ensure their long term care even with the possibility of tax.”

Notably, there is no charitable estate tax deduction available on any amount passing for the lifetime benefit of a pet, even when there is a qualifying charity as the remainder beneficiary. However, legislation has occasionally been introduced to allow a pet trust to qualify as a charitable remainder trust (CRAT or CRUT) by naming a charitable remainder beneficiary. This would be a valuable benefit to benevolent pet owners because charitable beneficiaries – often animal rescues or other animal non-profits – are often named as the remainder beneficiary to a pet trust as a matter of course, though not usually for tax motives.

Conclusion

Tax and estate planning is often a balancing act between achieving certain desired outcomes while sacrificing others, the practice of prioritizing. Consistent with the trend toward income tax planning over estate and gift tax planning, great thought should be given as to whether income tax concerns are more of a priority – especially if your trust will generate more than \$12,400 of income each year – than using the trust vehicle itself to protect your pet, and ensure his or her longevity, comfort, and care. As with grantors who might use a trust to protect assets for human minor beneficiaries, from human spendthrift beneficiaries, or from their human beneficiaries' creditors and predators, any extra tax burden is well worth the cost of protecting both the beneficiary and the assets. Most pet owners who care enough about their pets to include them in their estate plan

will feel the same way and want to ensure their long term care even with the possibility of tax.

Estate and gift tax continue to be a concern only for the very wealthiest of tax payers, and inter vivos gifts to pets, as well as gifts made to pets at death, will be treated in the same manner as if the beneficiary were a human. For planning in this arena, the cumulative amount of lifetime gifts and gifts at death is what is important, rather than who the beneficiary is (unless, of course, your beneficiary is a qualified charity, as noted above).

As with estate planning generally, the tax consequences can be complex and extensive. This article is meant to give the practitioner a broad overview in order to spot issues relating to pet trusts, gifts to pets, and the related taxation of each. For issues involving the calculation of DNI, it is suggested to consult a tax attorney or a CPA. Finally, when in doubt, remember the rule of thumb that it is difficult to avoid the tax man, even for man's best friend. 🐾

About the Author

Rebecca Wrock concentrates her practice in estate planning and taxation. She holds a B.S. from the University of Michigan, a J.D. from Wayne State University Law School, and will complete her LL.M. in tax from the University of Alabama School of Law this year. She will be joining the firm of Couzens Lansky in September.

Endnotes

- 1 IRC Section 7701(a), CFR Section 301.7701
- 2 Rev. Rul. 58-190, 1958-1 C.B. 15
- 3 IRC Section 643(a)
- 4 Rev. Rul. 76-486, 1976-2 C.B. 192



Is a Warrantless Canine Blood Draw and Test an Unreasonable Search?

Case Note: *Oregon v. Newcomb*, 359 Or. 756 (2016)

By Ann Griffin

In June 2016, the Oregon Supreme Court issued yet another noteworthy opinion regarding animals.

The case began with a call to the Oregon Humane Society from a person concerned that her neighbor, Amanda Newcomb, was neglecting her dog, Juno. Based on that complaint, the Oregon Humane Society sent a cruelty investigator to the defendant's apartment. After talking with the defendant and seeing the dog's condition, the cruelty investigator seized the dog against the defendant's wishes and took him to the humane society for evaluation and treatment.

Upon evaluation at the humane society, Juno was assessed as having a body condition score of 1.5 out of 9. The humane society veterinarian took a blood sample to rule out any medical cause for the dog's emaciation. As a result of the blood test, the veterinarian determined that Juno's condition was the result of malnourishment, and charges were filed against the defendant.

At trial, the defendant moved to suppress the results of the blood test and argued, *inter alia*, that the veterinarian violated her state and federal constitutional rights by taking the blood sample. The Oregon Supreme Court described the defendant's argument:

Defendant . . . argued that [the veterinarian] had engaged in an unreasonable search of defendant's property—i.e., Juno—by drawing and testing Juno's blood without a warrant, in violation of Article I, section 9, of the Oregon Constitution and the Fourth Amendment to the United States Constitution. In arguing that the blood testing was an unlawful search, defendant emphasized that dogs are personal property under Oregon law; defendant therefore took the position that dogs are “no different than a folder or a stereo or a vehicle or a boot” or other items of personal property.

The trial court denied the defendant's motion to suppress, and the defendant was convicted of second-degree animal neglect for failing to feed her dog.

The defendant appealed her conviction. The court of appeals reversed, holding that the blood test “was not justified by any recognized exception to the warrant requirement . . .

[and] was an unlawful search under Article I, section 9.”

The Oregon Supreme Court summarized the issue before it as follows:

The chief point of contention between the parties is whether defendant had a protected privacy interest in Juno's blood once Juno was in the state's lawful custody and care. That, in turn, is essentially a disagreement over whether drawing and testing Juno's blood was a “search” for purposes of either Article I, section 9, or the Fourth Amendment. The parties further dispute whether, if the blood testing was a search for constitutional purposes, that search was reasonable in these circumstances despite the state's failure to get a warrant.

The Oregon Supreme Court held that the defendant's constitutional rights had not been violated. The court acknowledged that legally, dogs are property and subject to ownership. However, the court noted the special nature of living property and held that rights of ownership did not extend to the right to mistreat a sentient being.

Live animals under Oregon law are subject to statutory welfare protections that ensure their basic minimum care, including veterinary treatment. The obligation to provide that minimum care falls on any person who has custody and control of a dog or other animal. A dog owner simply has no cognizable *right*, in the name of her privacy, to countermand that obligation.

The court did limit its decision to the facts of the case and stated that it applied specifically to a situation where an animal has been lawfully seized based on probable cause to suspect abuse or neglect and where a medically appropriate diagnostic procedure is performed.

Despite the court's prudent limitation of its decision to the facts of the instant case, *Oregon v. Newcomb* represents another substantial installment in the court's jurisprudence in the area of animal law and its consistent refusal to view an animal as “just property.” 🐾

Update on Nonhuman Rights Project's Efforts to Free Chimpanzees Leo, Hercules, and Tommy

By Ann Griffin

The Animal Law Section Newsletter has featured updates regarding the Nonhuman Rights Project (NhRP) and its efforts to secure freedom for Leo and Hercules, two nine-year-old chimpanzees who have been kept since their infancy in a research lab in miserable conditions, and Tommy, a chimpanzee who has been kept in a cage for decades at a used trailer lot.

Hercules and Leo

Hercules and Leo were the subjects of invasive research at Stony Brook University on Long Island in New York. When they were three years old, they were leased to Stony Brook University by the University of Louisiana New Iberia Research Center (NIRC).

For more than two years, the NhRP has been working diligently to secure the chimpanzees' release by seeking an Order to Show Cause pursuant to New York's habeas corpus statute, which was granted by a New York trial court. While the NhRP prevailed on a number of critical arguments, the court dismissed the case because of an adverse New York Third Department intermediate appellate court decision. The NhRP's appeal has been pending since August 5, 2015.

Even before the trial court's decision, the NhRP had been negotiating with the involved parties to rehome the chimps to Save the Chimps, a sanctuary in St. Pierce, Florida, which has agreed to take them at no charge. While Stony Brook University announced in late July 2015 that it would discontinue experiments on Hercules and Leo, the NIRC has refused to allow them to be transferred to the sanctuary.

In May 2016, the NIRC announced that it would send Leo, Hercules, and the 218 other chimpanzees in its facility to the new Project Chimps sanctuary in Blue Ridge, Georgia. While some of the chimps are supposed to be moved this summer, the NIRC estimates that it could take as long as three to five years to transition all 220 chimpanzees to the sanctuary.

Concerned about the timeline for moving the chimpanzees to the sanctuary, the NhRP continues to demand that Hercules, Leo, and other chimps

be sent to Save the Chimps, the sanctuary that has agreed to take them in and care for them for life. The NhRP asks supporters to sign its petition and to contact Louisiana's governor, the University of Louisiana System President, and the President of the University of Louisiana at Lafayette, which includes the NIRC, and urge them to send Hercules and Leo to Save the Chimps.

Source: <http://www.nonhumanrightsproject.org/category/courtfilings/hercules-and-leo-case/>

Tommy

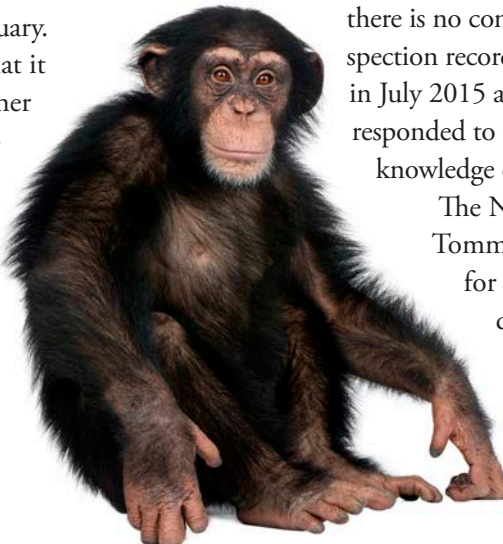
As it has done on behalf of Hercules and Leo, the NhRP has been fighting on Tommy's behalf in New York courts.

On December 2, 2015, the NhRP filed a new lawsuit and request for an Order to Show Cause on Tommy's behalf with the New York County Supreme Court. The request was denied on December 23, 2015 by Justice Barbara Jaffe, the same justice who decided the Hercules and Leo case. In Tommy's case, Justice Jaffe deferred to the Third Department intermediate appellate court's prior decision and noted that the new suit did not raise any sufficiently distinct allegations or grounds than those included in the first petition. The NhRP has appealed the decision.

On February 12, 2016, the NhRP reported that it had learned that Tommy had been moved "some months ago" to a roadside zoo in Michigan. The NhRP currently believes that Tommy is being kept at the DeYoung Zoo in Michigan, but there is no conclusive proof that he is there. USDA inspection records show that the zoo had one chimpanzee in July 2015 and two in November 2015. The zoo has responded to questions about Tommy by denying any knowledge of him or saying "no comment."

The NhRP is doing all that it can to confirm Tommy's whereabouts and evaluate options for securing his freedom. It has already decided that its habeas corpus strategy would not work well in Michigan "for a number of reasons."

Source: <http://www.nonhumanrightsproject.org/category/courtfilings/tommy-case/>



Recent Animal Law News

By Donald Garlit

(Co-Editor's Note: The news below includes brief summaries of important or newsworthy items. We chose these as being of most interest to our members. Many other items are now appearing in the legal and national press and not all can be included. Additionally, we discuss several recent cases which have involved dog attacks and subsequent serious charges against the owner/guardian. It appears that prosecutors are taking these situations much more seriously, especially when there is a past pattern of dog aggression.)

Detroit Dog Owner Found Guilty and Sentenced in Attack of 4 Year Old Boy by Dogs

Xavier Strickland, 4 years old, was attacked and killed by 3 dogs (described as pit bulls – some earlier articles stated 4 dogs) while walking with his mother in December 2015. His mother, Lucille Strickland, was injured while defending her son before the dogs dragged Xavier away. Three dogs were killed by responding police and a fourth in the yard (who may not have participated in the attack) was euthanized.

Geneke Lyons is the dogs' owner/guardian. He was found guilty of involuntary manslaughter in June 2016. He had been charged with 2nd degree murder although that charge was dismissed at trial by Wayne County Circuit Court Judge James Callahan. Judge Callahan also ordered Lyons not to have further contact with any dogs.

Lyons was sentenced to 5 years of probation although the first year will be in jail with work release.

Sources are stories from the Detroit *Free Press* at: <http://www.freep.com/story/news/local/michigan/detroit/2016/06/09/pitbull-attack-detroit-xavier-strickland/85646180/> and <http://www.freep.com/story/news/local/michigan/detroit/2016/06/30/man-whose-dogs-killed-boy-4-gets-probation-jail/86545812/>

(We reported on this case in the Spring 2016 issue.)

Animal Law Section of Florida Bar is Formed

The Animal Law Section of the Florida Bar began operating on July 1. According to a story in the South Florida *SunSentinel*: "Florida joins 17 other states with animal law sections, although many more have committees." More than 1,000 Florida Bar members signed a petition indicating an interest in belonging to the section.

Source is South Florida *SunSentinel* at: <http://www.sun-sentinel.com/features/ft-animal-law-section-florida-20160408-story.html>

Section website is at: <http://www.flabaranimals.org/>



Supreme Court of Georgia Allows Recovery of Veterinary Expenses after Dog's Death as a Result of Improper Medicine

Lola, an eight year old Dachshund, allegedly was given improper medicine while boarded at a Georgia kennel named Barking Hound Village. She suffered from acute kidney failure and required dialysis which cost about \$67,000 until her death. Her guardians sued the kennel.

The kennel claimed that recovery should be limited to the fair market value of Lola (a traditional common law view) in arguments in January 2016. Lola was a rescue dog. Plaintiffs sought to recover the "actual value" of Lola to them, and veterinary expenses related to Lola's treatment. The trial and appellate courts issued contradictory findings.

A ruling basically favorable to plaintiffs was issued in June 2016. The Georgia Supreme Court found that plaintiffs are entitled to the fair market value of Lola as well as the reasonable veterinary costs incurred in the attempt to save her life if they prevail at trial. The court noted that, in establishing Lola's fair market value, plaintiffs could introduce opinion evidence, "both qualitative and quantitative, of an animal's particular attributes." The court recognized that, although animals are personal property, there is long-settled precedent (over 100 years) in Georgia that expenses to save or try to save an injured animal's life when injuries resulted from negligence are recoverable.

The case was remanded to trial court and if the plaintiffs prevail a jury will determine the fair market value of the dog and the reasonable cost of veterinary care spent trying to save her life.

The Supreme Court of Georgia did not, however, expand the law to allow for recovery of damages based on the sentimental value of the animal to the owner, stating that the human-animal bond, "while cherished, is beyond legal measure."

Source is Summaries of Opinions from the Supreme Court of Georgia at: http://www.gasupreme.us/wp-content/uploads/2016/06/Jun616_Ops.pdf

(We reported on this case in the Spring 2016 issue.)

Continued on next page

Justice the Dog, Victim of Animal Cruelty, is Adopted

Michael Hill of Amherstburg, Ontario was convicted of animal abuse in February 2016 after he bound the snout, neck, and legs of Justice (a 7-year old small breed dog) and abandoned him at a shopping center in Windsor. Justice survived the ordeal.

Justice has now been adopted and is beginning his new life with new guardians.

Source is CTV News, Windsor at: <http://windsor.ctvnews.ca/justice-settling-into-forever-home-1.2983347>

(We reported on this case in the Spring 2016 issue)

Washington State Man is Awarded \$36,475 for Wrongful Death of Dog – Adam Karp is Attorney – Award Includes \$15K for Emotional Damages

James Anderson's dog, Chucky, was shot in March 2014 and neighbors were accused of the action and concealing it. Chucky was a well-trained and intelligent dog. Anderson is disabled.

A jury found for plaintiff Anderson on August 3, 2106 awarding him \$36,475 which included \$15,000 in emotional damages. We will report more on this case as more information becomes available.

Source is Tri-City Herald at: <http://www.tri-cityherald.com/news/local/article93861967.html>

James Anderson talks about Chucky during an interview with the Tri-City Herald at: <http://www.tri-cityherald.com/news/local/article94080707.html>

Crush Video “Film Maker” Found Guilty of 4 Federal Counts – Previously Sentenced to 50 Years in Texas Case

Defendant “film maker” Brent Justice was sentenced to 50 years in prison on Texas charges for making and distributing animal “crush” videos in Houston in mid-February 2016. He was found guilty after a trial in which he represented himself.

Defendant Ashley Richards who performed in the videos was sentenced to 10 years in prison on state charges after she pled guilty to crush video charges. She was later convicted of federal charges and sentenced to 33 months in prison although given credit for time served while awaiting trial.

Justice was convicted of four federal charges in May 2016 (each count has a possible sentence of seven years). He is scheduled to be sentenced on August 18, 2016.

Source is Animals 24-7: <http://www.animals24-7.org/2016/05/28/crush-video-maker-brent-justice-convicted-at-2nd-federal-trial/>

(Note that we have reported on this case in the Spring 2016, Spring 2015, and Summer 2014 issues.)

Article: “In a Divorce, Who Gets to Keep the Family Dog?” Published by Many Media Outlets

Ben Steaverman's article about divorce and the family dog was published across the country earlier this year. For instance, it was published by Bloomberg and the Sacramento *Bee*. It is a good and brief article about the possibly very contentious issue of dog possession after a divorce.

The article mentions New York attorney Debra Vey Voda-Hamilton, a former divorce lawyer, who started a firm, Hamilton Law & Mediation. The firm specializes in resolving pet disputes outside of court.

Source is Bloomberg at: <http://www.bloomberg.com/news/articles/2016-04-29/in-a-divorce-who-gets-to-keep-the-family-dog>

Ohio Court Rules Deceased's Survivors May Sue Animal Control Director for Dog Attack Death

Dayton, Ohio resident, Klonda Richey, was killed by neighbor's dogs in 2014. She allegedly made many calls to the Montgomery County Animal Resources Center and other government agencies about loose and dangerous dogs beginning in 2011 until her death. Richey's survivors brought a suit against the county animal control director for negligence leading to her death.

The Ohio Second Appellate District Court of Appeals on July 29, 2016 overturned an earlier trial court finding and ruled that Montgomery County Animal Resources Center director Mark Kumpf may be sued for alleged negligence leading to the fatal mauling of Richey on February 7, 2014.

This law suit is in the very early stages and the alleged facts and legal theories are complex. The summary above is a very brief overview. Much more information is at the links below.

Source is a two part series from Animals 24-7 at: <http://www.animals24-7.org/2016/08/05/animal-control-director-can-be-sued-for-dog-attack-death-court-rules/> and <http://www.animals24-7.org/2016/08/05/court-rejects-animal-control-chief-mark-kumpfs-defenses/>

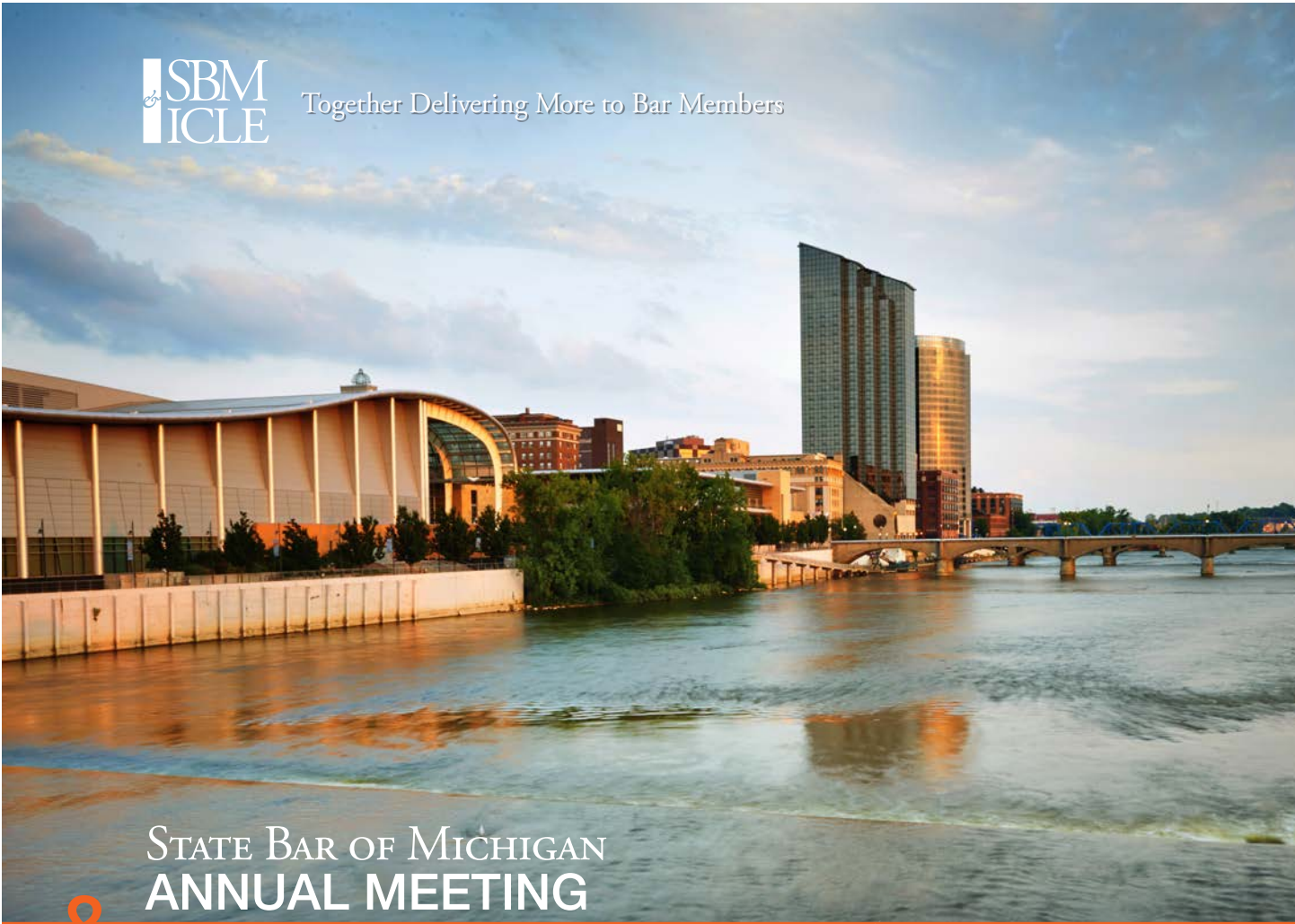
Correction to Summary Comment on Warrantless Searches in Detroit in Spring 2016 Issue

In the last issue's Recent Animal Law News, we reported that US District Judge Nancy Edmonds issued a temporary injunction to end warrantless searches and seizures of vicious animals in Detroit which had been permitted by local ordinance.

Section member Celeste Dunn correctly pointed out that the ordinance permitted warrantless searches and seizures for any violation of the city's animal control ordinance (for instance, the dog licensing requirement). The temporary injunction applies to all searches and seizures previously permitted by ordinance.



Together Delivering More to Bar Members



STATE BAR OF MICHIGAN ANNUAL MEETING

& ICLE SOLO & SMALL FIRM INSTITUTE

DeVos Place, Grand Rapids September 21–23

2016

COSPONSORS

- Solo and Small Firm Section, *Founding Sponsor*
- Law Practice Management & Legal Administrators Section
- Practice Management Resource Center
- Probate & Estate Planning Section

*The Largest Gathering
of Legal Professionals
in One Location*



www.michbar.org/annualmeeting

#SBMmeeting



follow us on
Facebook



LIKE State Bar of Michigan News
& JOIN the Event

Photograph courtesy of Experience Grand Rapids

Nominating Committee Report: Section Council Nominees, 2016-2017

Submitted by Bee Friedlander, Section member in charge of Nominations

Submitted to Chair on July 23, 2016 (60 days before Annual Meeting) and members by mail prior to August 23, 2016 (at least 30 days before Annual Meeting) as per bylaws.

The following information was requested and received from all candidates not previously on the Council.

Each Candidate shall affirm:

1. Candidate has read and will support the Section's Bylaws, specifically its Purpose (Section 2) and Goals (Section 3).
2. Candidate is a member in good standing of the Animal Law Section.
3. Candidate will respond to e-mail communications in a timely fashion (requires signing up for SBM Connect "real-time" notifications).

Each Candidate shall provide:

1. Resume
2. Date admitted to the bar
3. Amount of time as an Animal Law Section member
4. List of involvement in animal advocacy activities, committee participation, authored articles both as an individual and as a member of the Animal Law Section
5. Short explanation of interest in the Council position (100 words maximum)

Nominations:

1. Section Council 2016-2019 (4 vacancies)
 - **Richard C. Angelo, Jr.**, Davison, Law Offices of Richard C. Angelo Jr. PLLC (second term)
 - **Kieran Patrick Marion**, Lansing, Michigan Dept. of State, Director, Office of Policy Initiatives (second term)
 - **Christopher Iannuzzi** (new to Council), Lansing, Governmental Consultant Services Inc. His statement says in part: *"I have been a licensed attorney since 2011 and a lobbyist since 2015. I have been working in the political arena for the past year and a half, which may bring helpful insight to the Animal Law Section. My work with the Michigan Humane Society, as well as several other clients, give me the background to be a valuable member of the board and would appreciate your consideration."*

- **Brittany L. Taratuta** (new to Council), Ferndale, recent graduate of Detroit Mercy Law, admitted to the Bar, May 2016. Her statement says in part: *"I am looking to get involved in the legal community and besides my passion for the law, my other passion is animals. I have always hoped to do something with animals and with my background in Public Administration/Non-Profit I think I can be a valuable asset on the Council. I am hoping that the position on the Council will give me an opportunity to voice my opinion on topics and bring awareness to those animals in need. I would like to thank the Board and Section for this opportunity."*

Two Council members whose terms are expiring this year are term limited. On behalf of the Section, I acknowledge with gratitude the service of Thomas M. Boven and Sara R. Chisnell.

The Section Council may accept further candidate nominations subsequent to official slate publication to Chair and membership as Bylaws permit.

Voting will be at the Annual Meeting of the Section on Friday, September 23, 2016, 10 AM, in Grand Rapids, in conjunction with the Annual Meeting of the State Bar of Michigan. 🐾



Vote

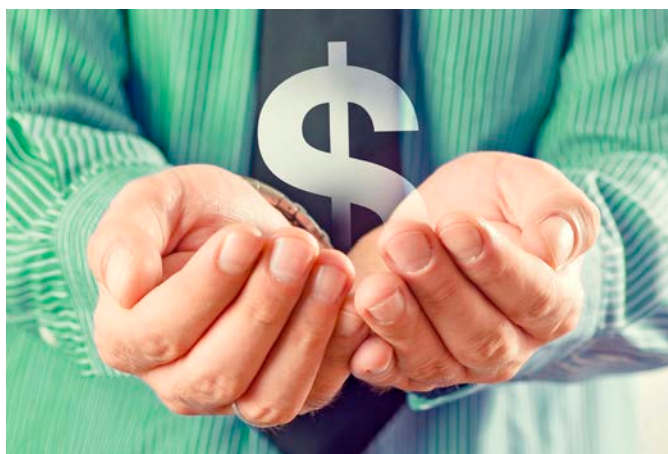
at the Annual Section Meeting
Friday, September 23, 2016
10AM

in Grand Rapids
in conjunction with
the Annual Meeting
of the State Bar of Michigan

Treasurer's Report

2015-2016 FY (10 Months Ended July 31, 2016)

This is a summary of the Animal Law Section's financial status as of July 31, 2016 (first 10 months of the Fiscal Year). The purpose of this summary is to report on our financial results, assure the members that the Animal Law Section is operating and maintaining a sound financial status, and confirm that your Section dues are being spent responsibly and for appropriate purposes.



Membership now totals 265 members. We are not a large section although far from the smallest within the State Bar of Michigan. Note that in the 2014-2015 FY, 54% of State Bar of Michigan sections had less than 800 members.

Revenue through July is \$4,785.

Expenses through July totaled \$3,666. Primary expenses were the 20th Anniversary Annual Meeting and Conference of \$889 (total expenses of \$1,054 with expenses incurred in the prior FY) which included room rental, food, and conference-call capable telephone; and the 1Q 2016 issue of the Newsletter of \$964. Other expenses included \$80 for the Listserv

(service now ended and transferred to SBM Connect as of the end of November), Wanda Nash Award ceremony at MSU College of Law of \$165, committee conference calls of \$60, postage of \$8, Sadie Award honorarium of \$250 to SASHA Farm, student awards of \$500 to the two Wanda Nash Award recipients, and a \$750 grant for a display table (at the Great Lakes Animal Welfare Conference) for Attorneys for Animals

(our Section's predecessor organization) and their Animal Welfare Fund Project.

The present fund balance is \$13,244; an increase of \$1,119 from the prior FY year-end balance of \$12,125. We will still have major expenses later this fiscal year including the Annual Meeting and 1 or 2 issues of the Newsletter.

Respectfully submitted,

Donald Garlit, Treasurer
August 2016

Practice Management Downloadable Library

For many years, the State Bar's Practice Management Resource Center has offered a lending library that ships printed copies of books upon request. As an enhancement to that service, a free online library is now available that allows members to download e-books and audio books to office computers, laptops, smartphones, and tablets. Unlike the lending library, which requires return shipping, the downloadable library items are free to members and will automatically delete after the designated lending period expires. Follow these PRACTICE ez™ instructions to borrow a book today! Visit the library at <http://michbar.lib.overdrive.com/>

50 New e-Books and Audio Books!

- 20 Retirement Decisions
- Partner Track
- Mining the Social Web
- Project Manager
- Your Billable Life
- Why I Failed



Upcoming Events

Section
Event

September 23, 2016, 10 AM in Grand Rapids (during State Bar of Michigan Annual Meeting)
Animal Law Section Annual Meeting

Other Events

September 14-16, 2016 – Austin, TX

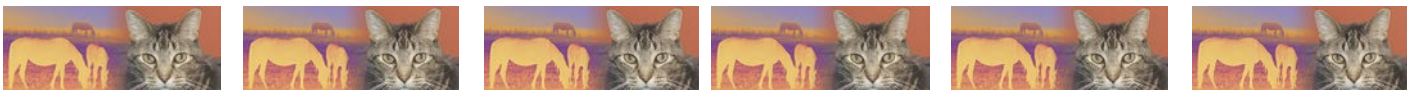
National Animal Cruelty Prosecution Conference presented by the Association of Prosecuting Attorneys (www.APAInc.org) and Animal Legal Defense Fund (<http://www.aldf.org>)

September 24, 2016 – Los Angeles

Animal Law Guild Conference, Victims of the System: Helping Companion Animals Survive in Modern Day Society, at Loyola Law School

October 7-9, 2016 – Pace University, New York

24th Animal Law Conference, Animals, Law & Culture: Live from New York!



Animal Legal Lifeline Toll-free Number for Referrals: (866) 211-6257