



Ingham County Legal News

Newspaper of Record Serving the Business, Legal and Financial Communities of Ingham County

Vol. 3 No. 24

Thursday, February 7, 2008

50c

Bills bring greater convenience to new driver's license requirements

Secretary of State Terri Lynn Land has urged swift approval of legislation that eases the identification burden on residents traveling to Canada, and also allows those who are in the U.S. legally but temporarily to apply for a driver's license or ID card.

"Protecting our borders is critical in this post-911 world," Land told the Senate Transportation Committee. "Ensuring the integrity of state-issued documents is an important step toward that goal. However, we can and must implement these safeguards in a reasonable manner. This legislation provides travelers with greater convenience, protects our economy and recognizes the needs of residents who are here legally but are not permanent residents. Most important, it does so without sacrificing the safety of our great state and nation.

I encourage the Legislature to pass these measures without delay."

The pending legislation is based on Land's proposal to enhance driver's license and ID card security. Land said that prompt action is needed due to recent developments. Michigan law now bars legal residents who are in the country on student and work visas from obtaining a driver's license or ID card. Land wants the law changed to avoid unintended consequences for job providers and legal but temporary residents.

(continued on page 2)

MORE INSIDE



Above: Al, the cockatoo. Above right: Max, the Bichon. Below right: Otis, the cat. - Pet photos courtesy of their respective owners.

Animal law: A bird's eye view

BY ROBERTA M. GUBBINS
Legal News

"Animal law," said Anna Rose Stern, Co-chair of the Animal Law Section of the State Bar of Michigan and attorney with Loomis Law Firm, "is the interchange between animals and animals and humans. Animal law includes statutory, regulatory and common law...it traverses many other practice areas."

Animal law "... exists at the local, state, federal and international levels," Stern continued. "For example, at the international level you have import and export regulation and treaties. The European Union has treaties including conventions for the protection of animals."

While the field of animal law cuts across many legal areas, the most popular topic is

animal rights. Standing to sue, the legal right to bring a judicial action on your own behalf, is at the heart of the matter.

"The case of Animal Legal Defense Fund (ALDF) v Espy," said Stern, "was a famous case that went up and down (the court ladder) and eventually the federal Animal Welfare Act was amended to include mice, birds and aquatic animals, but the regulations of the Secretary of Agriculture excluded this group from protection in the section on animal research."

"When the Legal Defense Fund tried—saying we want the USDA (United States Department of Agriculture) to enforce the statute, the court said 'we are sorry, but you don't have standing to bring the action because there is no injury to you, no causal connection between you and the damage and

this court can't redress it because who are we going to give damages to? It is the animals that are being treated outside the statutory limits not you."

"The bottom line," said Stern, "is that a law was put into place to protect animals yet who can enforce it since animals and animal welfare groups or humane societies have no standing (to being legal action.)"

"Estate planning is another perfect example," she said. "I have a cockatoo, Al, who will most likely live for sixty years. He will survive me. Before the Michigan statute was enacted allowing for pet trusts and standing for the pet through a trustee, I could have found someone to take care of Al after my death and drafted a contract saying 'I give you \$150,000 to care for my bird.' However,

(continued on page 2)

Global outlook: acting dean at MSU blazes worldwide trail

BY TOM KIRVAN

"jumped at the opportunity to

Sentient property: Animals are living, feeling companions

News you can use

The American Bar Association has an animal law section, as does the State Bar of Michigan.

The animal law section of the SBM will host a symposium April 11th at Michigan State University from 1 to 4:30 p.m. Presentations will include practice pointers, case law and statutory updates. Supreme Court Justice Marilyn Kelly will speak on contracts related to purebred dogs.

For more information, please contact arstern@loomislaw.com.

(continued from page 1)

after I die, the person could receive the \$150,000 and euthanized my pet. Who could enforce the contract? The owner is dead—the bird has no standing.” Many other states still have no pet trust statute.

Welfarism or rights are “two possible theories...” of standing. “The rights camp,” said Stern, “says that animals should have a right, not a human right because they can’t go to court but they should have an inalienable right to be treated humanely...from a practical standpoint, these would be basic rights.”

“Welfarism,” she said, “argues that we keep the status quo, that animals are still property of the owner, however, we want a new class of property... sentient property is the phrase

used by legal theorists.”

“People violently disagree on what sentient property is,” said Stern, “generally it means it (the animal as property) is not a chair—it has responses on its own, it is mobile, it responds to people. Under this concept, individual guardians could act on behalf of...” the animal.

The animal rights theorists “...talk about ‘do we give these animals certain inalienable rights and (the reaction is) people roll their eyes, however, it is practical problem that needs to be addressed. How do you enforce (agreements involving animals) if the thing that needs to be protected doesn’t have the right to have its day in court, even if there is a guardian for the benefit of the animal,” she said.

Stern noted that over time the

ability of children to sue on their own behalf has changed. Historically, children were considered chattel—without rights—“now children have rights...asserted by a guardian...for their protection. This is a similar situation with animals, particularly companion animals.”

“The law is changing to handle these situations---pet trusts appoint a trustee who can act on behalf of the animal so it has standing,” said Stern. “This is not a hard concept—it is quite simple.”

When asked about the cases that come her way, Stern said, “I get a lot of cases where the neighbor’s dog attacks my client’s dog or cat...” resulting in vet bills to treat the animal. “They want their vet bills paid... I get calls in the family law area where the couple are not getting

along—one person takes the animal to the humane society or threatens to kill or harm the pet.”

Contract cases are another area. “There are a number of contracts involving animals such as purebred dogs or race horses or the animal is used for entertainment,” she said.

Animal law is considered one of the nation’s fastest growing fields of study and practice. More than 80 law schools offer an animal law course. Some provide seminars and clinics. Both Michigan State University (MSU) College of Law and Thomas M. Cooley Law School offer animal law classes. Professor David Favre of MSU is internationally known for his books, articles and an animal legal and historical website. (www.animallaw.info/).

MSU College of Law acting dean Cliff Thompson is a “Spartan”

(continued from page 1)

most everybody else, I seem to fit in quite well. They ignore me and I ignore them. On the other hand, I’ve found the dorm food to be fabulous. It’s all-you-can-eat, which is entirely too dangerous for me.”

Thompson is the older of two children raised in the Sunflower State by his parents, Fred and Gracie. His father was a catalog manager for a mail order company, while his mother was a housewife. Their son was

degree at his alma mater.

“When I graduated from Harvard Law School, I was intrigued by the possibility of working in Africa,” Thompson related. “At that time, a lot of African countries were emerging from colonialism and becoming independent. I had this fanciful notion that my American and British law backgrounds could be put to good use over there, helping with the development of law schools in those countries.”

It would be the start of a 10-

members out of twenty-one and ended with a majority-Ethiopian faculty,” according to Thompson.

He continued his overseas work from 1993-97 and from 2000-04, serving as a legal education advisor for the government of Indonesia. He recently was a consultant with the Chinese University of Hong Kong related to the start of its new law school and last August advised the University of Malaya in Kuala Lumpur on its law school

he admitted. “My strength was in not giving up. For two years, every night and weekend I tried to learn Indonesian, though I did not tell people how hard I worked because there was nothing to show for it—until, finally, there was.”

Intertwined with his stays abroad were deanships at the University of Hawaii, the University of Idaho, and the University of Wisconsin law schools. He has taught law school courses

His stay at MSU figures to come to end in August when a new dean of the law school is in place. A search committee recently narrowed the field of candidates to four, all of whom were interviewed during on-campus visits in January, according to Thompson. When he leaves East Lansing, Thompson will return to dean emeritus status at the University of Wisconsin Law School, teaching full time and continuing his legal consulting