



Baltimore County Bar Association
CONTINUING LEGAL EDUCATION PROGRAM
Animal Law, much more than animal rights!
Wednesday, October 17, 2007

SPEAKER Kathleen Masterton, Esquire
Program Chair Debra G. Schubert, Esquire
BCBA Immediate Past President

DATE Wednesday, October 17, 2007
TIME 8:00 - 9:00 a.m.
LOCATION Check-in at the Bar Office (County Courts Building)
for program location

The practice of Animal Law has become increasingly prevalent in recent years, including courses taught at area law schools. Many people mistakenly believe that “animal law” means animal rights. Ms. Masterton, a longtime horsewoman, founding member of the MSBA Animal Law Section and a member of its Section council, will refute that notion and discuss the many areas of contract, tort, criminal, family, land use, administrative, and other kinds of substantive law which involve animal law. General practitioners will learn how they should be prepared to address animal law issues that arise in connection with traditional types of cases. Ms. Masterton also will discuss the Animal Law Section and its planned functions and possible future programs.

KATHLEEN (“KATE”) MASTERTON

LAW OFFICES OF KATHLEEN J. MASTERTON, P.C.

1107 Kenilworth Drive, Ste 312

Towson, MD 21204

Voice 410.339.7111

Fax 410.339.7112

kmasterton@verizon.net

www.mastertonlaw.com

ANIMAL LAW---MUCH MORE THAN ANIMAL RIGHTS !

What is Animal Law? Defending dog bite cases? Banning human consumption of animals?
Some would argue both, or neither. Newly emerging area of practice.

Animal Law—My definition: the practice of traditional legal disciplines with a focus on, and often requiring some special knowledge about, animals. Like entertainment law, will involve traditional disciplines such as contracts, torts, property, estates and trusts, and may involve statutes that don't fit neatly into traditional common law concepts. Has special dimension: involves living beings. Common misconception that “animal law” equals “animal rights,” a la PETA. PETA & even Humane Society occupy controversial position among practitioners of animal law. Many viewpoints re what status of animals is/should be in American society.

Overriding concept: tangible personal property

--Asset/liability—implications for tax law, probate, divorce, business valuation, bankruptcy, measure of damages in tort/contract actions (limited to fair market value of animal) etc. Concept of animals as pure property led to many abuses (remember that many traditional forms of chattel were subject to abuse—including, in times past, women and enslaved humans). But evolving appreciation of complexity and intelligence of animal societies, and human societies' increasing embrace of animals, is leading to recognition of new issues and evolving treatment of animals under the law.

Examples: As TPP, ordinarily not subject to protective order, but often targeted by abusive partner in relationship.

As TPP, ordinarily cannot be the beneficiary of a trust, but often outlive loving owner who wishes to provide for their lifetime welfare.

As TPP, measure of damages for veterinary malpractice traditionally limited to fair market value of property—the animal

Right? Wrong? Growing debate & interest.

In response to these perceived gaps in law, number of animal law practitioners is growing and law schools increasingly offer animal law courses—some w/“animal rights” focus, others on more general notion of animal law.

In 2005 the MSBA authorized formation of an Animal Law Committee to determine level of interest in this area. Quickly grew to over 120 members and at 2006 Annual Meeting, MSBA voted to make it a permanent section. Members as diverse as lawyers themselves, with varying areas of practice, all linked by commonality of addressing issues involving animals.

Programs/foci to date: attempting to obtain passage of law authorizing owners to establish trusts for benefit of animals; educating public about documented links between animal abuse and human abuse; program on prosecution of dog fight cases; educating public about value and scope

of services provided by service animals; program on regulation of fisheries and link to environmental health of oceanshperere. Possible future program: representing dog owners before administrative boards.

Common areas general practitioner will see animal law issues:

Domestic law: animal abuse to “get back” at partner (Animal Law Section working on legislation that would allow animals to be covered by protective orders); custody battles/property division

Animal Control/Administrative Law

--“Dangerous animals,” nuisance, contraband. “Dog bite” tort cases.

Criminal Law

--Animal neglect and cruelty laws. Often has psychological dimension; APA recognizes “animal hoarding” as mental illness, law ill equipped to address repeat offenders.

Commercial law

--Contracts of every kind—breeding, sales & purchase, leasing, boarding, training, adoption, etc. Animals may be subject of agister’s and similar liens. Representing animal businesses—farms, breeders, grooming salons, veterinarians—and those who have used their services. How far out? I represent companies that deal exclusively in high-value animal semen for worldwide breeding.

Land Use

Sprawl leads to limits on ag enterprises. “Right to farm” movement; fight to have horses included as agriculture. Zoning; conservation easements et al.

Agriculture/Environmental

--Food/livestock/commodity: cattle, swine, sheep, poultry, goats, farmed fish, exotics such as beefalo, ostrich, emu
--Other: horses, llamas, reptile and exotic avian breeding
--Depending on animal, may be treated as specially protected or as source of environmental degradation (e.g., manure management regulations)

Securities Law

--Stallion and other breedstock syndication
--Racing syndicates
--Various co-ownership arrangements

Science/Medicine/Administrative Law

--Laboratory animals for experimentation; agricultural testing projects; source of biomaterial/bioterrorism
--Veterinarian regulations, acupuncture, other animal health professions
--Containment of disease

Very recent:

--Recognition that animals are a special form of tangible personal property, alive and subject to pain
--Regulation of industry aimed at obtaining humane conditions
--Disaster relief (more economic in orientation)