Introduction

1. A Sampling of Animal Law

Crowder v. Kitagawa

The Criminal Prosecution and Capital Punishment of Animals

Animal Legal Defense Fund Boston, Inc. v. Provimi Veal Corp.

New Zealanders Press Plan for Apes' Rights

2. What is An Animal?

A. "Animal"

Knox v. Massachusetts Soc'y for the Prevention of Cruelty to Animals

State v. Buford

State v. Cleve

Lock v. Falkenstine

Animal Legal Defense Fund v. Espy

Definitions of "Animal" Applicable to Selected State Anti-Cruelty Statutes

Texas Penal Code, §42.09
Texas Health and Safety Code Ann. 821.001

B. "Domestic" and "Wild" Animals

Holcomb v. Van Zylen

Smith v. State Farm Fire & Casualty Co.

United States v. Gideon
Commonwealth v. Massini

Commonwealth v. Comella

City of Rolling Meadows v. Kyle

Gallick v. Barto

Bueckner v. Hamel

Ridgewood Homeowners Association v. Mignacca

Definitions of "Domestic Animal" in Selected State Anti-Cruelty Statutes
Texas Penal Code §38.151, §42.09

Property and Beyond: The Evolution of Rights

1: Slaves

2: Women
   A. As Chattel
   B. Movement Into Traditionally Male-Dominated Fields

3: Children
   A. As Property
   B. The Fourteenth Amendment and Public Schooling
   C. Child Welfare and Children's Rights
   D. Emancipation

4: Potential Humans—Fetuses, Embryos and Prezygotes: Property, Persons or Something In Between?

5: Nonhumans

6. Patents, Human use of Non Human Animals
   Application of Bergy, 596 F. 2d 952-959, 985 (U.S. Ct. of Customs and Pat. App. 1979) – not in text book
Torts

1. Emotional Distress and Loss of Companionship; Punitive Damages In Non-Veterinary Cases

   *Campbell v. Animal Quarantine Station*

   *Rabideau v. City of Racine*

   *Burgess v. Taylor*

   *La Porte v. Associated Independents, Inc.*

   *Green v. Leckington*

   *Corso v. Crawford Dog and Cat Hospital, Inc.*

   *Brousseau v. Rosenthal*

   *Johnson v. Douglas*

   *Gluckman v. American Airlines, Inc.*

   *Katsaris v. Cook*

   *Petco Animal Supplies, Inc. v. Schuster*, 2004 WL 903930 (Tex. App. – Austin, April 29, 2004) no writ. History: Dog-owner brought action against pet store to recover damages allegedly incurred when dog was killed in traffic after escaping from pet groomer. The 200th Judicial District Court, Travis County, Darlene Byrne, J., entered default judgment in favor of dog-owner and awarded damages. Pet store appealed. Court held for Pet store, reversing an award of damages. Court holds there can be no recovery for emotional distress suffered when pet dog dies due to negligence of the defendant. – not in text book

2. Veterinary Malpractice

   *Price v. Brown*

   *Posnien v. Rogers*


   *Gabriel v. Lovewell*


3. Strict Liability and Negligence—Injuries Caused by Animals

   *Baugh v. Beatty*
Eyrich v. Robert Earl, d/b/a Roberts Bros. Circus


Drake v. Dean

Pullan v. Steinmetz

Priebe v. Nelson, 14 Cal.Rptr.2d 173 (App. 2004), where a dog bit an employee at a boarding kennel held that the dog owner could argue to the jury the defense of “occupational assumption of the risk,” – not in text book

4. Common Law Defamation and Invasion of Privacy

Texas Beef Group v. Winfrey

People for the Ethical Treatment of Animals v. Bobby Berosini, Ltd.

Constitutional Law

1. Legal Standing, Justiciability and Other Limiting Doctrines

Jones v. Beame

Sierra Club v. Morton

Animal Lovers Volunteer Ass’n, Inc. v. Weinberger

Humane Society of the United States v. Hodel

Lujan v. Defenders of Wildlife

Citizens to End Animal Suffering and Exploitation, Inc. v. New England Aquarium

Animal Legal Defense Fund v. Espy

Bennett v. Spear

Animal Legal Defense Fund v. Glickman

Alternatives Research & Development Foundation v. Glickman

Humane Society of Rochester and Monroe County for Prevention of Cruelty to Animals, Inc. v. Lyng

ASPCA v. Ringling Bros. & Barnum & Bailey Circus, 317 F.3d 334 (D.C. Cir.)
2003) (former elephant trainer’s emotional attachment to elephant gave him standing to sue for redress under the Endangered Species Act based on cruel treatment of the elephant by circus personnel) – not in text book

2. First Amendment
   A. Free Exercise of Religion
      Church of the Lukumi Babalu Aye v. City of Hialeah

   B. Freedom of Speech
      First Amendment Rights—Hunter Harassment Statutes
      Dorman v. Satti
      Dorman v. Satti
      State v. Miner

3. Due Process—Challenges and Claims
   Kostiuk v. Town of Riverhead

   American Dog Owners Association v. the City of Yakima
   Garcia v. the Village of Tijeras
   Phillips v. San Luis Obispo County Department of Animal Regulation

Criminal Law
1. Overview of State Anti-Cruelty Statutes

   Texas - House Bill 653 and Senate Bill 1724, commonly known as “Loco’s Law,” went into effect September 1, 2001, making animal cruelty a felony and punishable by a $10,000 fine and up to two years in jail. Prior to Loco’s Law, animal cruelty was not considered a felony under Texas law. Today, animal cruelty convictions are classified as either a felony or misdemeanor. – not in text book

   Texas Penal Code §42.09

   Celinski v. State

   People v. Bunt
   People v. Dunn
People v. Voelker

People v. Thomason

State v. Bruner


Evidence that juvenile's actions caused unnecessary or unjustifiable pain or suffering to an animal was sufficient to support juvenile's adjudication as delinquent based upon charge of cruelty to an animal by torture – not in text book

3. Failure to Act
People v. O'Rourke

People v. Speegle

People v. Youngblood

Labarbera v. Ulster County Society for the Prevention of Cruelty to Animals

State v. Schott

4. Animal Fighting
A. Bullfighting
C.E. America, Inc. v. Antinori

B. Cockfighting
Brackett v. State

State Ex Rel. Miller v. Claiborne

Robert MEDINA, Appellant, v. The State of Texas, Appellee. Jan. 24, 2002 2002 WL 87335 (Tex.App.-Hous. (14 Dist.)) Appellant was arrested by police who observed him and his co-defendant holding a cock fight. The fight occurred on property owned by Quintero. Over a plea of not guilty, the trial court convicted appellant of cruelty to animals. Punishment was
assessed at six months’ confinement in the Brazos County Jail, probated for one year. A $2,000.00 fine was imposed, $1,250.00 of which was probated. Appellate court affirmed the judgment of the trial court.

C. Dogfighting
   *Ash v. State*

   *Hargrove v. State*

   *People v. Bergen*

5. State-Sanctioned Activities
   A. Hunting
      *Boushehry v. State*

      *Mohler v. Labor Day Committee, Inc.*

      *Waters v. People*

   B. Animal "Drives"
      *Fund for Animals, Inc. v. Mud Lake Farmers Rabbit Committee*

6. Pet Theft
   *People v. Sadowski*

   *Swanson v. State*

7. Cross-Protecting: The Link Between Animal Abuse and Human Violence
   A. Introduction
   B. Case Law
      *Schambon v. Commonwealth*

      *People v. Farley*

      *State v. Thompson*

      *People v. Brian*

      *Florida Board of Bar Examiners Re P.K.B.*

Animal Welfare Act and Selected Other Statutes
1. Animal Welfare Act
   A. General Provisions
B. Direct Violations
   *Haviland v. Butz*

   *Toney v. Glickman*

C. Application of Freedom of Information and Open Meetings Laws
   *Citizens for Alternatives to Animal Labs, Inc. v. Board of Trustees of State University of New York*

   *Medlock v. Board of Trustees of University of Massachusetts*

D. Preemption
   *Dehart v. Town of Austin*

   *Taub v. State*

E. Procedural Violations
   *Marine Mammal Conservancy, Inc. v. Department of Agriculture*

F. Regulatory Interpretations
   *Hoctor v. U.S. Department of Agriculture*

   *Animal Legal Defense Fund, Inc. v. Glickman*

2. Selected Other Statutes
A. Endangered Species Act
   *Tennessee Valley Authority v. Hill*

   *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*

   *Hamilton v. City of Austin*

B. Marine Mammal Protection Act
   *Committee for Humane Legislation v. Richardson*

   *Earth Island Institute v. Brown*

   *Animal Welfare Institute v. Kreps*

   *United States v. Mitchell*

C. Wild Horses and Burros Act
   *Animal Protection Institute of America, Inc. v. Hodel*

   *Fallini v. Hodel*
Note: April 2005 (Washington, DC) - A recent amendment to the Wild Free-Roaming Horses and Burros Act. Last year, Senator Conrad Burns (R-MT) slipped language into the Consolidated Appropriations bill that undermined the 1971 Act by permitting “excess” horses and burros to be sold at auction “without limitation.” Two bills have been introduced in the House of Representatives in response to public demand to protect America’s wild horses from slaughter. Representative Nick Rahall (D-WV), and Representative Ed Whitfield (R-KY) introduced H.R. 297 to repeal the rider and restore the Wild Free-Roaming Horses and Burros Act to its original language. Senator Robert C. Byrd (D-WV) is sponsoring a companion bill, S. 576, in the Senate.

D. Animal Damage Control Act

E. National Wildlife Refuge System Administration Act

F. Refuge Recreation Act

G. National Environmental Policy Act

Contracts

1. Landlord/Tenant Disputes
   Young v. Savinon

2. Condominium Law
   Nahrstedt v. Lakeside Village Condominium Association

3. Marital Dissolution: Custody Disputes
   Akers v. Sellers
   Bennett v. Bennett
   Arrington v. Arrington
   In Re The Marriage of Stewart

4. Bailment
   A. Definition, Burdens of Proof, and Scope
   Gebert v. Yank
   David v. Lose
B. Common Carriers

5. The Sale of "Goods" and "Products"
   William C. Mitchell, Ltd. v. Brown

6. Insurance

7. The Horse and Dog Racing Industries
   Dimario v. Coppola

Wills and Trusts

   Capers Estate

   In Re Estate of Howard H. Brand

2. Validity of Will Provisions Providing for the Care of Companion Animals Upon Testator's Death: Historical Perspective
   In Re Howells' Estate

   In Re Renner's Estate

   In Re Lyon's Estate

   In Re Searight's Estate

3. Companion Animal Trusts Under Modern Statutes
   Texas - Governor Perry just signed into law HB 1190 which, among other things, adds a new Section 112.037 to the Texas Property Code which allows for the creation of a trust for the care of an animal. HB 1190 becomes effective January 1, 2006

Other Reading, Optional:

Articles
1. Livingston, The Calculus of Animal Valuation: Crafting a Viable Remedy, 82 Neb. L. Rev. 783 (2004) surveys the caselaw suggesting a pet owner can recover more than market value (usually zero) for the tortious death of a pet including the "value to the owner" approach, an award for loss of societal benefits, and emotional damages. The author urges that the pet owner should be able to recover both the latter two types of damages but that the defendant who killed the pet can reduce damages essentially on theory of failure to mitigate damages if the plaintiff did not soon after the loss acquire a new pet to provide societal companionship and to reduce grief.

3. Note, Bailment and Veterinary Malpractice: Doctrinal Exclusivity, or Not? 55 Hastings L. J. 1009 (2004), argues that if the courts insist that pets are mere property, owners should get the benefit of bailment law when the pet is not returned from the veterinary hospital because it died and should not have to prove negligence in the manner of a case of malpractice by a physician treating a human being.