

Animal-Related Legal Disputes: Litigation, ADR, and Court Appointments

by Gabriela N. Sandoval

Many individuals, government agencies, nonprofit organizations, and corporations own, work with, sell, keep, or protect animals. This article provides a brief overview of typical obstacles encountered when such parties enter into litigation, along with possible alternative options for dispute resolution.

Animal-related litigation poses interesting and complex challenges for disputing parties, legal practitioners, and judges. The practice of animal law is diverse and complex because many of the more traditional areas of law are implicated, requiring legal practitioners to demonstrate competency in a wide range of practice areas.

Civil disputes may include claims of negligence, injury, or death; custody or possession; fraud; or duty of care violations. Various matters may arise related to contract and sale agreements; bailment issues; consumer protection and deceptive trade practices; animal insurance coverage; landlord, tenant, and homeowners association issues; torts, such as trespass and conversion; animal control officer authority and practice; breed-specific legislation; and unconstitutional searches, seizures, or taking of property.

Litigants may be in conflict over alleged professional negligence or malpractice; neglect or cruelty allegations; implementation of statutory pet trusts; available damages for injury or harm to an animal; temporary injunctions or protective orders; the effect of state laws, including the Pet Animal Care Facilities Act and Colorado Department of Agriculture regulations; violations of animal-related federal laws, including the Americans with Disabilities Act, Animal Welfare Act, or the Endangered Species Act; and dangerous dog allegations, including whether the dog will live or die, under what circumstances, and where the dog should be housed pending trial.

Animal protection laws are not consistently enforced due to a variety of circumstances. For example, when animals are injured or killed, it may be difficult to prove the required elements of standing to sue, or the party with standing may not have the resources or requisite interest to litigate.

In cases where standing is easily established, the available causes of action may be limited because animals are not recognized as legal persons, but are instead classified as personal property. Whenever a party litigating an animal dispute wins a case on the merits, the award is routinely a small fraction of the perceived actual harm suffered.

An adequate remedy may or may not exist based on the fact that damages available in animal-related disputes are ambiguous and/or inconsistently applied. Attorneys will analyze both sides of potentially relevant statutory and case law and explore secondary sources that may shed light on how the court may interpret the law and calculate an award, but the outcome is largely left to the judge's discretion. As a result, the "fundamental principle to be applied . . . to restore the injured party, as nearly as possible, to the position he would have been in had it not been for the wrong of the other party"¹ seems to get lost.

A Review of Applicable Statutes and Case Law

Numerous civil and criminal laws recognize, in one form or another, that animals require unique treatment under the law. Every state in the nation has passed laws that recognize special treatment with regard to animals. Colorado has enacted many laws, and amended others, relating to animal issues, including:

- mistreatment or neglect of an animal²
- intentional abandonment of a dog or cat³
- general cruelty to animals⁴
- care of pet animals held in certain facilities⁵
- domestic violence⁶
- protective orders⁷

Coordinating Editor

Kate A. Burke, Durango, of Colorado
Animal Law, LLC —(970) 385-7409,
kburke@coloanimallaw.com



About the Author

Gabriela N. Sandoval is the founder of the Child & Animal Welfare Law Offices. She is a board-certified child welfare law specialist. Her practice includes expert witness work as a child and family investigator (CFI), as well as child- and animal-related mediation and parent coordination/decision making and child legal representative court appointments—www.gabrielasandoval.com, info@childandanimallaw.com, (303) 954-4580.

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- seizure⁸
- mandatory reporting⁹
- dangerous dogs¹⁰
- animal fighting.¹¹

Cities throughout Colorado have enacted their own ordinances related to animals, as well.¹²

Criminal laws aim to protect animals from neglect and cruelty, recognizing that animals are sentient beings and can and do suffer neglect and abuse. It is relevant to note that the animal cruelty laws of Colorado are listed in the Criminal Code within Offenses Against Public Peace, Order and Decency,¹³ and not in the sections for Offenses Against the Person or Offenses Against Property. Referring to the section of the Criminal Code that prohibits animal cruelty, one court noted that the aim of the section “is not only to protect these animals, but to conserve public morals, both of which are undoubtedly proper subjects of legislation.”¹⁴

Colorado has modeled some animal-related laws after other laws already in place to protect vulnerable members of society—namely children. Colorado’s mandatory reporting laws require certain professionals to report suspected child abuse to proper government officials.¹⁵ In 2007, Colorado created a mandatory reporting law for animals, modeled after the mandatory reporting law related to children, which requires veterinarians to report suspicion of animal cruelty to appropriate officials.¹⁶

The link between animal violence and human violence has been researched and explored and is better understood today than it has been in the past.¹⁷ The complex dynamics of domestic violence and coercive control in relationships also has been further examined and realized. The recognition that these forms of violence are inter-related motivates increased protection of animals as a way of protecting human beings. In Colorado, criminal and civil protection orders now may apply to and protect animals, as well as humans, from potentially violent people.¹⁸

Despite the recognition that animals require and do enjoy unique treatment under the law, litigants routinely face an uphill battle if they want to sue regarding an animal dispute. In many instances, complex issues have not been properly analyzed; therefore, the court is unable to consider important interpretations of relevant law. As in cases that are not animal-related, the specific causes of action, claims, interpretations of relevant law, and arguments presented will influence which remedies, damages, or restitution apply to the facts presented. The main obstacle in an animal dispute is that animals are neither people nor truly “things,” and the law traditionally has categorized violations against one or the other.

Many courts around the United States and the world¹⁹ have noted in their opinions the importance and history of animals in society, and have used legislative history and intent to uphold action to protect animals or the people who provide their care, or for the sake of environmental protection. However, the remedies and damages in similar cases may not be adequate or consistently applied in all courts.

Disputes involving domestic animals are continuing. Damages available to plaintiffs in animal injury cases have bewildered attorneys around the country.²⁰ Because there are widely varying interpretations of the current law, it is not always clear how compelling one’s argument may be, whether one’s client should pursue trial, or what precedent exists with regard to a client’s unique circumstances. Attorneys will continue to analyze potentially relevant case

law and identify and draw on similarities or distinctions that will help their legal arguments.

In an effort to clarify how animal-related cases will be examined by the court, some states have added new language to their current statutes and have included details as to how damages should be calculated when animals are involved.²¹ No such laws currently exist in Colorado.

Although states may continue to implement new laws that will govern damages or other aspects of animal-related disputes, parties currently can take advantage of alternatives to litigation. These alternatives likely will enable parties, attorneys, and judges to avoid many of the difficulties that emerge when animal-related issues are the focus of the case.

Alternative Dispute Resolution Options

In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client’s situation.²² In a matter involving or expected to involve litigation, a lawyer should advise the client of alternative forms of dispute resolution that might reasonably be pursued to attempt to resolve the legal dispute or to reach the legal objective sought.²³

With few exceptions, any court of record may refer a case to any ancillary form of alternative dispute resolution (ADR), including: arbitration, early neutral evaluation, med-arb, mini-trial, multi-door courthouse concepts, settlement conference, special master, summary jury trial, or any other form of ADR the court deems an effective method for resolving the dispute in question.²⁴ Animal dispute litigation is a developing area, and these established options offer possible solutions for the complex cases that may arise.

Mediation

Mediation is the most widely used method of ADR in civil cases. Although parties may opt for mediation on their own, court-ordered mediation is common. Mediation is recognized as an excellent opportunity for self-determined parties to work with a professional neutral.²⁵

The mediator facilitates confidential discussion and mutual understanding between the parties, and fosters brainstorming in an effort to allow the parties to focus on their interests. The mediator motivates the parties to generate and evaluate new ideas for resolving their dispute. Mediation is an ideal alternative to litigation in that parties are encouraged to think outside the box and get creative with possible solutions. It is cost-effective, quick, and empowering in that parties decide the outcome of their dispute themselves without the formalities of a trial or having a judge render a decision that might not satisfy either party.

Arbitration

Arbitration is considered a fair, expeditious, and cost-effective alternative to traditional litigation,²⁶ and its use is on the rise.²⁷ A dispute may be referred to one or more neutral²⁸ third parties for a decision based on evidence and testimony provided by the disputants.²⁹ The arbitrator has flexibility in how and where the arbitration may occur and he or she may hold conferences with the parties as necessary and proper.³⁰ The arbitration may be binding or nonbinding; many people seek binding arbitration as an alternative to traditional litigation.

Parties have the flexibility to waive the applicability of some discovery provisions and the arbitrator may permit discovery when appropriate, taking into consideration the needs of the parties. The arbitrator has the authority to order a party to comply with discovery-related orders, including taking action against a non-complying party to the same extent as a court in a civil action.³¹

Among other powers, the arbitrator can issue an order for provisional remedies, including injunctions and protective orders (that is, a temporary order to prevent a party from conveying or encumbering property subject to a pending arbitration), and can subpoena witnesses.³² Animal-related disputes may be arbitrated by a professional neutral with relevant expertise who can bring the legal knowledge necessary to determine the outcome of disputes in a less costly and more expeditious manner than litigation.

Early Neutral Evaluation

Early neutral evaluation (ENE) is an intervention in a lawsuit by a court-appointed evaluator to narrow, eliminate, and simplify issues and assist in case planning and management.³³ It may be an informal and confidential session without the examination of witnesses. The rules of evidence do not apply. During the evaluation, each party presents its claims or defenses and the respective basis of each to the evaluator or evaluators. Parties may agree to participate in follow-up sessions to further facilitate settlement.

The evaluator will assess the information and input provided by each party, and will present his or her nonbinding recommendation as to how the issues would be analyzed in court and offer ideas

for settlement. The evaluator's recommendation may be used by parties to reach agreement or can assist parties in reaching an agreement efficiently in a follow-up mediation session if the parties so choose.

Evaluators often are attorneys or former judges. Evaluators have the skills to offer quick assessments for parties at a fraction of the cost of litigation. ENE is a process that allows parties flexibility in how the process will occur. As with any professional neutral, parties are free to select a neutral evaluator with whom they both feel comfortable. When animal-related disputes go to court and parties want the input of an appointed evaluator in an effort to create possible agreements, ENE is an attractive alternative to litigation for consideration.³⁴

Expense

ENE and mediation likely are the most cost-effective means of ADR. Arbitration can become more costly because the process allows for discovery and the presentation of evidence through testimony. An arbitrator also may be asked to issue provisional orders depending on the situation. With all of the methods discussed above, the parties largely determine how involved the process will become and how formal or informal the sessions will be. This allows parties to maintain control over costs.

ADR is intended to give parties an opportunity for a more efficient solution than traditional litigation will provide. Recommendations or rulings frequently come within days or weeks, as opposed to the months or years it may take to resolve the case at a trial.

Locating and Selecting Professional Neutrals

Professional neutrals include mediators, arbitrators, ENE evaluators, and many experts that may be appointed by a court. Countless professional neutrals are located throughout Colorado. Finding a professional neutral to assist in a case will require brief interviews to find the right professional for the issues in dispute and one who will be a good fit for the particular parties.

Although there currently is no certification process for professional neutrals in Colorado, there are organizations that require particular education, training, and experience of their members. It is important to inquire about memberships in local or national ADR organizations to which the neutral belongs, understand the work history of a professional neutral, and confirm his or her direct experience serving as a court appointed neutral.³⁵

Court Appointments

In addition to party-initiated ADR options, the court may appoint an expert to assist with clarifying complex issues that arise in pending, animal-related litigation. These are discussed below.

Masters

The Colorado Rules of Civil Procedure delineate the procedure a court must follow when appointing a master—a referee, auditor, or examiner in a pending action.³⁶ Many courts have come to rely on masters to assist in framing and enforcing complex decrees and to deal with individual cases. For example, a master may receive the referral, make a report, or perhaps have a hand in facilitating set-

tlement of a case or in administering damages or other relief.³⁷ A master may be useful and proper in a variety of cases, including those involving animal disputes.

The question of whether a master appointment is necessary or proper has caused confusion and debate over the years. In one Colorado domestic relations matter, the assigned magistrate had appointed a master because the magistrate believed that the master was better qualified than the court to address the special needs of the child involved in the case.³⁸ On appeal, the court had no issues with the fact that a master was appointed for the task and under such justification.³⁹

It stands to reason that a master⁴⁰ may be appointed to examine intricate animal issues, facts, and/or the remedies and damages available in a particular case. The related Federal Rule of Civil Procedure notes that in matters of accounting or difficult computation of damages, use of a master is appropriate regardless of whether “exceptional conditions” are present.⁴¹ The exceptional conditions requirement has been traditionally viewed as a difficult standard to meet (when both parties do not consent to the appointment); there is uncertainty as to what exactly qualifies as an “exceptional condition.”

Unlike judges, masters may use informal proceedings to fulfill their mandate.⁴² For instance, they may organize roundtable discussions with the parties, engage in shuttle diplomacy, conduct personal interviews, confer with experts, and participate in on-site fact gathering.⁴³

The most famous example in recent years of a master appointment was in the Michael Vick dog-fighting case. Prosecutors petitioned the court to appoint a guardian/special master to determine whether fifty-three dogs—the animals involved in Vick’s illegal dog-fighting scheme—could be placed in the community and, if so, to secure such placement.⁴⁴ The master was given the authority to investigate, interview, confer, and examine various animal-related issues that came up in the case, and had the authority to execute the logistics necessary to fulfill her court-appointed duties.

Redirecting some of the more complex issues involved in animal disputes to an expert may reduce expenses during all stages of litigation. The recommendations of a third party also may facilitate settlement and assist the court in decision making. For example, when parties disagree about the computation of damages when an animal is injured or killed, an expert can render a recommendation or decision after meaningfully exploring the facts, issues, and law related to market, actual, sentimental,⁴⁵ consequential, and/or punitive damages available.

Parenting Coordinator/Decision Maker

Professional neutrals routinely are appointed in domestic relations cases involving children. These cases can involve animal issues in two ways: (1) animals may be an important part of parental decisions; and (2) these models might be extended for use in disputes over animal custody.

A parenting coordinator (PC)⁴⁶ or domestic relations decision maker (DM) may be appointed to assist parties in carrying out their court-ordered parenting plan.⁴⁷ These are discussed below.

Parenting coordinator. The duties of a PC include, but are not limited to, helping the parties create an agreed-on, structured guideline for implementing the plan; developing guidelines for communication; informing the parties about appropriate resources to assist them in developing improved parenting skills; assisting

the parties in realistically identifying the sources and causes of conflict between them, including but not limited to identifying each party's contribution to the conflict, when appropriate; and assisting the parties in developing parenting strategies to minimize conflict.⁴⁸

A PC may help parties resolve pet animal issues that arise in relation to the language in the parenting plan. If there is no specific language in the parenting plan about the pet, the topic may fall within the decision-making piece of the plan. The PC assists parties in examining the best interests of the child and finding an agreed resolution. For example, there may be a dispute as to whether the child should live with an animal that one parent may consider dangerous. There may be disagreement as to whether a pet animal should move into the other parent's home or transition⁴⁹ between homes with the child as related to the child's best interests when there is a strong bond between the child and the animal.

Decision maker. A DM may be appointed after the parenting plan is ordered on consent of both parties. The DM has binding authority to resolve disputes between the parties as to implementation of existing orders concerning the parties' minor or dependent children, including but not limited to disputes concerning parenting time and specific disputed parental decisions.⁵⁰ Unlike a PC, a DM has the authority to make binding determinations to implement or clarify the provisions of an existing court order in a manner that is consistent with the substantive intent of the court order.

Child Legal Representative

A child legal representative (CLR)⁵¹ may be appointed by the court to represent the child's best interests. As with the PC or DM, a CLR may consider animals as part of the child's best interests. The CLR must represent the best interests with respect to the child's custody, the allocation of parental responsibilities, support for the child, the child's property, parenting time, or any other issue related to the child that is identified by the legal representative of the child or the appointing court.

A variety of issues arise in a pre- or post-decree domestic relations matter that potentially affect the best interests of the child involved. One issue may be related to a child's companion animal. One New Mexico judge recalled:

I'll never forget one father who purchased his two small daughters kittens. The kittens lived at dad's house. The girls lived at mom's house and visited dad every other weekend. One weekend the father was cited for driving under the influence of alcohol. The girls were with him. The mother asked the court for assistance to keep the children safe. When the matter came to court, the children's lawyer reported that his young clients had begged him to ask the court not to stop the visitation because their dad had told them that if they didn't visit him, their kittens would have to be "put to sleep."⁵²

In this case, a CLR equivalent was appointed for the children and had the duty to examine all issues relevant to the children's best interests. If an attorney had not been appointed in this role, the court may not have had the benefit of the information or the perspective of the children.

A CLR in Colorado would have had the statutory authority to request that the Court find that the kittens "belonged" to the children, that the father should be prohibited from making threats to the children and from euthanizing or harming the kittens in any

way. The CLR also may have requested that the kittens move from the father's to the mother's house.⁵³

In the News

The complexities of animal-related litigation are not new and are not always obscure. Such cases have created debate, dialogue, and legislation around the nation over the last several decades. Five of numerous examples that demonstrate the breadth of the area are mentioned below.

- A landmark lawsuit was filed as to the use and protections for animals used in laboratory experiments. The issue in the 1983 "Silver Spring Monkeys" case was whether the animal cruelty statute was applicable to a research institute conducting medical and scientific research pursuant to a federal program.⁵⁴ Images and descriptions of neglect, abuse, and mistreatment generated debate as to whether to use these monkeys in research or release them to a sanctuary. It was the first police raid in the United States against an animal researcher.⁵⁵ He was convicted on six of seventeen counts of animal cruelty; five were overturned during a second trial, and the final conviction was overturned on appeal in 1983, when the court ruled that Maryland's animal cruelty legislation did not apply to federally funded laboratories.⁵⁶
- Hurricane Katrina exposed the dichotomy between people's attachment to their animals and the unwillingness or inability of shelters, police, and other rescue officials to accommodate pet owners.⁵⁷ Besides being a wake-up call to officials that

pets are more than property, Katrina was a pet health and welfare disaster.⁵⁸ As a result, the U.S. Senate passed the Pets Evacuation and Transportation Standards (PETS) Act, which requires local and state disaster plans to include provisions for household pets and service animals in the event of a major disaster or emergency.

- Police wrongfully shooting pet dogs has been a frequent occurrence throughout the United States, including Colorado.⁵⁹ In the wake of dogs being killed by police at an alarming rate, Colorado recently passed a bill that will require additional training for police officers to prevent them from mistakenly shooting people's beloved animal companions.⁶⁰

Parties involved in animal-related litigation may have even more options for resolution in the future. They may be able to specifically request the appointment of an animal advocate.

- As of 2012, animals in Rhode Island can have an advocate in court when the animal's welfare is at stake. The law calls for a licensed veterinarian from the state Department of Environmental Management or "a general agent or special agent" from the Rhode Island Society for the Prevention of Cruelty to Animals to make a recommendation to the court in cases that involve the animal's custody or well-being.⁶¹ The law also gives the state veterinarian or RSPCA agent authority to secure a warrant to investigate suspected animal cruelty cases.⁶²
- The Connecticut Legislature is considering introducing animal advocates to its court system after Rhode Island made a similar move last year.⁶³ State lawmakers have discussed making these advocates available in pet custody disputes, as well as in animal abuse cases.⁶⁴

Conclusion

When obstacles are present in animal-related litigation and likely will hinder a party's chances of adequate recovery, the methods discussed in this article may assist the lawyer, the parties, and the court in reaching resolution—especially when the damages are uncertain or when one party's calculation of damages is very different from the other's. The use of experts can assist the court and

parties by providing that a professional with specialized expertise is focused on the complex issues and investigates them meaningfully in a more timely and cost-effective manner than traditional litigation would allow.

The professional neutral and court-appointed representative methods discussed in this article could be used in many situations, including disputes related to: ownership/guardianship; whether a dog is "dangerous" or "vicious" and, if so, whether the dog can be placed in a community or alternative home; veterinary malpractice; animal control; and death or injury to an animal and the appropriate calculation of damages.

When self-determined parties seek resolution and are open to methods other than litigation in front of a judge, a form of ADR may be the best way to determine the outcome in a manner where parties are meaningfully involved in the process. Such an experience may prevent future litigation between parties, allow them to better understand each other's interests, and facilitate healthy communication for those parties who will have ongoing contact.

Professional neutrals or court-appointed experts can enable attorneys and their clients to reach a meaningful resolution that is efficient and cost-effective. Providing these options and alternatives may allow attorneys to assist more clients in a shorter period of time and with better results.

Notes

1. *United States v. Hatabley*, 257 F.2d 920, 79 A.L.R.2d 668 (10th Cir. 1958).
2. CRS § 35-42-109(1).
3. CRS § 18-9-202.
4. *Id.*
5. CRS § 35-80-103, 8 CCR 1201-11.
6. CRS § 18-6-800.3.
7. CRS §§ 13-14-101(2.4) and 18-6-803.5.
8. CRS § 18-9-202(1.8).
9. CRS § 12-64-121.
10. CRS § 18-9-204.5.
11. CRS §§ 18-9-204 and -205.
12. Revised Municipal Code, Denver, Title II, Chap. 8, available at library.municode.com/index.aspx?clientId=10257&stateId=6&stateName=Colorado; Colorado Springs City Code, Chap. 6 Articles 7 to 11 available at www.sterlingcodifiers.com/codebook/index.php?book_id=855; Aurora Code of Ordinances, Chap. 14, available at library.municode.com/index.aspx?clientId=10331; Boulder County Animal Ordinances, available at www.boulderhumane.org/online-resources/animal-laws-and-regulations.
13. CRS § 18-9-202.
14. *Waters v. People*, 46 P. 112 (Colo. 1896).
15. CRS § 19-3-304.
16. CRS § 12-64-121.
17. Institute for Human Animal Connection, Graduate School of Social Work, University of Denver, available at www.humananimalconnection.org/r_colo_link.htm.
18. CRS §§ 13-14-101 and -102 and 18-6-803.5.
19. Various governments around the world have declared specific protections for animals, recognizing that they should be uniquely considered under the law. On February 28, 2007, the Parliament of the Balearic Islands, an autonomous community of Spain, passed the world's first legislation that would effectively grant legal personhood rights to all great apes. See "Great Ape Personhood," available at en.wikipedia.org/wiki/Great_ape_personhood#cite_note-8. See also Rose, "Going ape over human rights," *CBC News* (Aug. 2, 2007, archived from the original on Feb. 3, 2010). On June 25, 2008, a parliamentary committee set forth resolu-

tions urging Spain to grant the primates the rights to life and liberty. See “Spanish parliament to extend rights to apes,” *Reuters* (June 25, 2008), available at www.reuters.com/article/2008/06/25/us-spain-apes-idUSL256586320080625. In 1992, Switzerland amended its constitution to recognize animals as beings and not things. See “Germany guarantees animal rights in constitution,” *USA Today* (May 18, 2002), available at usatoday30.usatoday.com/news/world/2002/05/18/germany-rights.htm. A decade later, Germany guaranteed rights to animals in a 2002 amendment to its constitution, becoming the first European Union member to do so. See “Germany guarantees animal rights,” *CNN.com/world* (June 21, 2002), available at edition.cnn.com/2002/WORLD/europe/06/21/germany.animals/index.html. New Zealand granted basic rights to five great ape species in 1999. Their use is now forbidden in research, testing, or teaching. Taylor, “A Step at a Time: New Zealand’s Progress Toward Hominid Rights,” 7 *Animal Law* 35 (April 2001), available at www.animallaw.info/journals/jo_pdf/lralvol_7p35.pdf.

20. Burke, “Measuring Damages for Tortious Injury to Companion Animals,” 42 *The Colorado Lawyer* 21 (Feb. 2013); *Rabideau v. City of Racine*, 243 Wis.2d 486 (2001); *Campbell v. Animal Quarantine Station*, 632 P.2d 1066 (Haw. 1981); *Corso v. Crawford Dog and Cat Hospital, Inc.*, 415 N.Y.S.2d 182 (N.Y. City Civ. Ct. 1979); *Brousseau v. Rosenthal*, 443 N.Y.S.2d, 285 (N.Y. City Civ. Ct. 1980); *La Porte v. Associated Independents, Inc.*, 163 So.2d 267 (Fla. 1964); *Kennedy v. Byas d/b/a Agape Animal Hospital*, 867 So.2d 1195 (Fla.App. 2004); *Liotta v. Segur*, 36 Conn.L. Rptr. 621 (Conn. Super. 2004) (unreported); *Burgess v. Taylor*, 44 S.W.3d 806 (Ky. 2001); *Ammon v. Welty*, 113 S.W.3d 183 (Ky.App. 2002); *Oberschlake v. Veterinary Associates Animal Hospital*, 151 Ohio App. 3d 741 (2003); *Green v. Leckington*, 236 P.2d 335 (Or. 1951); *Lockett v. Hill*, 51 P.3d 5 (Or.App. 2002); *Petco Animal Supplies, Inc. v. Schuster*, 144 S.W.3d 554 (Tex.App. 2004); *Katsaris v. Cook*, 180 Cal.App.3d 256 (1986).

21. See TCA § 44-17-403; 510 ILCS 70/16.3.

22. Colo. RPC 2.1.

23. *Id.*

24. CRS § 13-22-313.

25. Colo. RPC 2.4.

26. Carr *et al.*, “Colorado’s Revised Uniform Arbitration Act,” 33 *The Colorado Lawyer* 11 (Sept. 2004). See also CRS § 13-22-217(3).

27. Carr, *supra* note 26.

28. Generally, arbitrators are appointed as “neutrals.” *But see supra* note 6.

29. CRS § 13-22-302.

30. CRS § 13-22-215.

31. Carr, *supra* note 26.

32. CRS § 13-22-217.

33. CRS § 13-22-302(2).

34. Some courts use the term “ENA,” which refers to early neutral assessment. This is common in domestic relations matters when divorce and parental responsibilities are in dispute.

35. See, e.g., The Mediation Association of Colorado, available at coloradomediation.org/pg5.cfm; JAMS The Resolution Experts, available at www.jamsadr.com/neutrals-search; National Academy of Distinguished Neutrals, available at www.nadn.org/colorado-arbitrators; CMS Mediation Services, available at www.cobar.org/page.cfm/ID/1090; Jefferson County Mediation Services, available at jeffco.us/human-services/financial-assistance/mediation-services.

36. CRCP 53(a).

37. “2004 Special Masters Conference: Transcript of Proceedings,” 31 *William Mitchell L.Rev.* (2004–05), available at open.wmitchell.edu/wmlr/vol31/iss3/14.

38. *Marriage of Newell*, 192 P.3d 529, 532 (Colo.App. 2008).

39. Memorandum by Ann Gill Re: Special Master Issue (Feb. 9, 2012) and included in King, “Family Law Spring Update” materials, *MASTERS* (April 12, 2013).

40. CRCP 53.

41. FRCP 53(a)(1)(B)(ii).

42. Fox, “Using Special Masters to Advance the Goals of Animal Protection Laws,” 15 *Animal Law* 87 (2008). See also Farrel, “The Function and Legitimacy of Special Masters,” 2 *Widener L. Symposium J.* 235, 237 (1997).

43. *Id.*

44. *Id.*

45. The question of sentimental value in pets is an unsettled one, but has some recognition in Colorado. See *Chryar v. Wolf*, 21 P.3d 428, 430 (Colo.App. 2000) (“sentimental and emotional value of lost or damaged property may be considered in measuring damages for such emotional distress”).

46. CRS § 14-10-128.1

47. CRS § 14-10-128.3

48. CRS § 14-10-128.1

49. Whether it is appropriate for the specific animal to transition between homes will depend on the type of animal and the ability of the individual animal to tolerate transition in a safe and comfortable way.

50. CRS § 14-10-128.3

51. CRS § 14-10-116.

52. Kass, “Divorcing Parents May Use Pets to Control Children’s Decisions,” available at www.alllaw.com/articles/family/child_custody/article_8.asp.

53. However, if mother disagreed with moving the kittens to her home, or if she were not in a position to have them live with her, another professional appointment may be appropriate or the CLR would be able to recommend another course of action, including mediation or arbitration on that issue.

54. *Taub v. State*, 463 A.2d 819 (Md. 1983); *IPPL v. Institute for Behavioral Research, Inc.*, 799 F.2d 934 (4th Cir. 1986). See also Association of the Bar of the City of New York Committee on Legal Issues Pertaining to Animals, “HR 5852—Great Ape Protection Act,” available at www.nycbar.org/pdf/report/Great_Ape_Act.pdf.

55. Silver Spring Monkeys, en.wikipedia.org/wiki/Silver_Spring_monkeys.

56. *Id.*

57. Thornton, “Katrina leading to better pet rescue efforts,” *NBC News* (Aug. 21, 2006), available at www.nbcnews.com/id/14353134/ns/health-pet_health/t/katrina-leading-better-pet-rescue-efforts/#.UfraYG0yjfI.

58. *Id.*

59. “Don’t Shoot My Dog’ Bill Protects Dogs From Police Shooting,” *Inquisitr* (July 9, 2013), available at www.inquisitr.com/839155/dont-shoot-my-dog-bill-protects-dogs-from-police-shooting.

60. Bartels, “Senate panel Oks ‘Don’t Shoot My Dog’ bill after emotional testimony,” *The Denver Post* (April 30, 2013), available at www.denverpost.com/breakingnews/ci_22938136/coloradans-cheer-bill-aimed-at-preventing-dog-deaths.

61. Armental, “Animals Get Court Advocate in R.I.,” *Providence J.* (June 14, 2012).

62. *Id.*

63. Kalin, “Animals may get legal counsel in Connecticut,” *The Boston Globe* (April 22, 2013), available at www.bostonglobe.com/metro/2013/04/22/connecticut-considers-court-advocates-for-animals/TYHVAe8ACQqbcNEIAfpFO/story.html.

64. *Id.* ■