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Good morning, everybody. Good afternoon. I'm Cheryl Nolan with Nolan law, and welcome to animal law foundations. I'm going to talk today about some of the substantive law cases that comprise an animal law practice and some legislative campaigns that are on the forefront and going on right now, as well as some progress that has been made by California. But I'm going to talk about some miscellaneous matters that come under the field of animal advocacy, and then take questions. So it's going to be a general overview of the type of law that animal lawyers typically practice. One of the main questions that I'm asked when I tell people I'm an animal lawyer is one where do you get your clients and to Who are your clients? So I hope that this presentation will help answer those questions for you. A little bit about myself. I was raised by a mother who was a dog trainer, she started her dog training business to hear a dog school in 1974. I used to say I thought I was six or seven. But I realized when I saw the data, I was actually a little older than that, but I was really young. The picture up there is me, teaching Irish setter puppies how to drink their milk on their own. This is me showing a Springer Spaniel named Hopi. And down there, that's my mom, Ginger Nolan at one of our dog training classes. In addition to working helping my mom Saturday morning with the dog training classes, I also was a junior handler with a KC Kennel Club shows and fun matches, as well as I worked at puppy world, which was a pet store in Clermont, years ago, I worked there one summer volunteering, helping people find cats and puppies and fish and crickets for their birds and lizards. And I also worked one summer with a veterinarian named Dr. resol. He had an office over in sports arena, now was back when I thought I wanted to be a veterinarian. But at the end of that summer, I decided that being a veterinarian was not as exciting as I thought it would be. My mother always had dreams of me being a dog trainer and living and growing up around it. It just wasn't exciting. But I never dreamed that I'd be able to find a way to merge this vast experience with animals and specifically dogs. With my legal career. my legal career, for the most part has been in public interest. I'm a league leader at heart. And it wasn't until I actually did an MC CLE, myself for an

animal law conference. I needed credits badly and at the last minute, and it looked like an interesting topic. And so when I saw other attorneys talking about how they themselves merge their passion and excitement for the animal world, and with their legal practice, I thought, what the heck, I can do this too. So let's talk about areas of law that come under the field of animal law, the one that most people are familiar with are dogs that bite. As you know, most people are aware that dogs bite cause civil liability, there's the one bite rule, and there's 100% on strict liability for dog bites. So you're not only if your dog bites somebody or another dog, you're not only 100% liable for those damages, but you can also be held, and all kinds of other liabilities for failures to license your dog failure to control your dog. Other kinds of damages can also follow from that. So it's more than just the one bite. Most animal lawyers are not the same as dog bite attorney. So that's one distinction. A lot of attorneys who say that they do dog bites are personal injury lawyers, and most animal lawyers don't do personal injury. So that's one. If I can say generalization that I see amongst my colleagues who are animal lawyers, we, we refer the dog bites out to the personal injury attorneys. A couple other things to know about when it comes to dog bites are that those other liabilities I was talking about is that you can be subject to an administrative determination for having a vicious dog. These are administrative hearings that are administered through the Humane Society. They are may may or may not be overseen by an administrative law judge or hearings officer who may or may not be an attorney themselves. There's a lot at risk at this level. And that is one place that a lot of animal Lord lawyers, animal attorneys can jump in and really do a lot of good. The determination of a vicious dog are made very quickly. And once that determination is made, you'll typically have about 18 to 19 different conditions that you have to comply with. So the role for an attorney in this particular case is huge and significant, you can make a big impact in your client's case. Finally, as I had mentioned before their civil infractions that are usually fines as a predicate to the offense of a civil administrative or criminal sanction for having a dog bite. So when I mentioned earlier that it's more than just the one bite, it's truly as it can Domino into multiple other offenses and infractions and penalties.

04:50

So let's move out of dog bites. veterinary malpractice is another area that is it follows some of the similar causes of action as you would see in medical malpractice. We have, of course, your negligence and all of the the company of causes of actions that come in your malpractice in negligent cases, as well as the the defenses to negligence. So you would have to prove, just like you would in a malpractice case with a doctor, you'd have to prove the duty of care and the standard of care that was not followed, you'd have to also prove the damages and the causation. And then you would also have to come up with some intentional infliction of emotional distress, distress or your emotional damages. In addition to malpractice, for negligence, we typically bring in other causes of action to increase our damages. We bring in property claims. So one property claim is called breach of bailment. And what a breach of bailment claim is basically, it would be a

Quinn to if I had loaned you my car, and while you had my car, it got hit by another car, I would then sue you for breaching your duty of bailment to me, by holding my car for me. So the same, the same cause of action can be applied to a veterinarian for malpractice. For them having your dog while they had your dog, they damaged your dog in some way or cause the death of that dog. And that is essentially what the breach of bailment is. And then ultimately also takings cases, takings case, they're also known as conversion. Those are also argued in malpractice cases. Essentially, if the animal it deceased is deceased, through the negligence or the malpractice actions, you would say that though the actions of the veterinarian converted the property basically deprived you of your right to that property. So those are those are the main causes of action. There's a few others that come into malpractice, but that's kind of the overview of those cases. And then also licensing board claims, you can actually file will not the attorney but the dog owner or cat owner, or horse owner, can then also file a complaint with the licensing board against a veterinarian. And what a lot of animal law attorneys will do is hold ask the animal owner to hold off on that complaint. And you can use that as a bargaining chip in negotiation for settlement. For malpractice, most of these cases do settle very rarely do they go to court, they're not high damages cases, which is why we look to bring in the other causes of action, we're not going to make a lot of money on these cases. But you'll find that the clients in these matters feel very strongly about their their animals. What I hear from my clients, and I've heard from other attorneys is that the animal owners want to make a point out of it, they often feel that the veterinarian treated their animal like a commodity without worth and so they want to send a message and a very clear message that that Marian other clients will say that they want to make sure that that veterinarian learns from their mistakes or is rectified that behavior is rectified to prevent further malpractice or negligence for other animals. So these are high emotion cases, not high dollar. But again, if you prevail, you will have a client that's very happy with your services.

08:05

Who wants the horse so title and title and ownership interests are also big for animal attorneys. custody disputes, most people are really common are really aware of the common cases of divorce or relationship splits, who's fighting over the cat who owns the dog. Oftentimes, in divorce cases, you'll hear that the parents know who's going to get the children, but they're fighting over who gets the fish or the parrot or fill in the blank animal. These, unfortunately, are a really big portion of the cases that we handle. Also title and ownership, you see more title and ownership problems come up with horses, horses have a lot, a lot of different forms of title that follow the animal. And many times, especially also with dogs, many times those title documents are not kept up to date. So the animal will change ownership, but the paperwork will not be changed. And then later on, there'll be some kind of dispute about the animal. And I can name four different types of disputes right now that I'm working on with my own cases or with other attorneys that are come really down to who owns that animal. And what does the paperwork say? Another thing that comes out of title and ownership are rescue organizations. A lot of times they have poorly

written adoption contracts if they even have them at all. And animals will change hands and maybe change multiple hands and then there'll be something that goes wrong with the animal, the dog gets loose, maybe and the microchip hasn't been updated. And so the rescue will find out that the dog got loose and want to take the dog back they'll they'll require relinquishment of the animal. So that's just one example of how a dispute over ownership can flow from improper title and ownership documentation. breeders, dog breeders in particular are famous for having co ownership requirements. So they will sell a dog that is not show quality. they'll sell it for 1000s of dollars and then they'll force you to sign an agreement that states that you should You're co owning the animal with them the dog, and you have to abide by certain conditions. Sometimes the conditions are that you won't breed without their approval, or you won't spare neuter without their approval or you won't give the dog to another family without their approval. The problem with that is, I think many attorneys would know is that is that really an enforceable contract? So that's one area with dog show breeders or purebred breeders that there's a lot of work to be done. Rescue contracts. I mentioned that earlier, a lot of work is being done with rescue organizations, sometimes on a pro bono basis, where you review the contract and help them understand where they need to have more warranties of liability limitation of liability in there and also help them understand that they need to pull back from these relinquishment clauses. Again, just kind of a lot of the rescues like to maintain ownership and control over their property as they consider it. But really, they're adopting the animal out. So that is an area where there's a lot of legal work to be done. Lost pets. Again, I mentioned that earlier with the rescues animals get lost all the time, rescues in particular, it's interesting that animals who are rescued are runners, and some of it has to do with kind of like their upbringing and the nomadic but transitory nature of their early life. And also maybe they haven't bonded with their new owner. So they'll run an escape. And again, if the microchip hasn't been updated, or if they haven't been microchipped, you know, you name it, any of these things can happen. There, there's been a dispute of who owns the animal. A lot of people feel when they find a pet, it's Finders keepers. So, and this brings me into disaster rescues happened, the biggest one was happening Katrina, a lot of the families had as you know how to evacuate and they were forbidden from bringing their animals with them. So we had an ordinate amount of dogs and cats that didn't have their owners and they had no way of finding them. The rescues came in and did a wonderful thing. They rescued as many dogs and cats as they could and horses and rehome them very quickly. But then afterwards, once those families recovered from the disaster wanted to find their animals again. Some of them did find their dogs or cats. There was a documentary called mine and in mind, there was actually a German Shepherd that they had followed. He had been rescued from Katrina and placed in a home here in San Diego, his owner was a homeless man who had a pro bono attorney and actually had to fight multiple hearings in court here in San Diego to get that dog back. He ultimately did win the dog back, but that other family that had that dog through the adoption was not going to let go of him and he had become a part of their family. So high value high, high emotional, low monetary value, high emotional values, these cases is a lot going on. Ultimately, the final one on here are liens. veterinarians will place liens on your animals, not all of them. But

some will place a lien if you have an unpaid vet bill. And so that again impacts your title and ownership and your ability to transfer that animal.

13:01

Housing so housing law is another area where there's a lot of legal work being done on behalf of animals. unlawfully evictions are the people of landlords who wrongfully evict the disabled, or the people with the emotional support animals. There were two cases in Northern California that settled for over $500,000 each, in separate cities in the northern California area and your San Francisco and they all sprang out of one notice from one property manager trying to remove people who were lawfully documented, disabled and had service animals with them. So what's happening now is that a lot of homeowners associations and landlords are afraid of being sued. And the flip side of that is that they get a lot of applications or people claiming to have service animals or emotional support animals or needs for such. And in response to that and the fear of being sued, they just do nothing. They're really literally frozen. I'm working with several homeowners associations and a couple landlords and helping to educate them on what the law requires, and how they can handle those applications properly and what the law does and does not require for them to do. Unfortunately, in housing, there's a lot of gray areas still, there's a need for a lot of regulation from the government to help the guidance be there. So there's a lot of work to be done both in rulemaking in casework. And in representing these property owners. In housing, we see a lot of breed restrictions and breed bias. A lot of it springs from the pit bulls, but then there's spring off breeds that look like pit bulls, maybe a mix of a pit bull, or maybe breed restricted based on weight, or based on what they look like. And the problem with this is that this is you know, you're you're relying on a landlord or a property manager who may or may not know, dog breeds very well and they'll just look at it and say, Nope, that looks like a pit bull. So there's a lot of work to be done for people who have a dog that may not fall within the breed restriction credit criteria or Maybe the weight restriction there under the weight restriction. And that just requires some assistance to get them over the hurdle. In military housing, this is a big problem, because unfortunately, unfortunately, our military families don't get to pick where they move. They may have acquired a dog, and the dogs become part of their family. And then they're uprooted and moved to another state and their first housing property allowed that dog allowed that breed allowed that weight and the new one does not. And so unfortunately, the military families have to give up their family member at the very last minute, it's very traumatic for the children especially, there's some advocacy being done on this part by the ABA to put an exception to the breed restrictions for military personnel. But there's still a lot of work to be done on that. Okay, what happens when humans go away? Humans is actually a animal lawyers are kind of quirky people. No surprise. homens is what dogs on Instagram say when they're just doing the describing us. So it used to be our people, but now they call us humans. So estate planning. When dogs want to know what happens when they're human goes away. A lot of times people are very good with their estate planning. And they'll have a trust set up and it covers all their finances, and

they'll forget to do their dog. They may even say, I know my sister, Camilla will take my dog, she loves my dogs. But maybe my sister Camille's never said to me that she really didn't like my dogs that much. And so when I pass away, what happens? I told my mom, I told my brother Camille is going to take my dogs and leaves her with no other direction, no information about my dogs. So what animal lawyers, I think the bigger role for us is that we we are not necessarily doing estate planning on our own. We refer the estate planning clients out for the, for the large part. But what we do is provide a lot of consultation from two other estate planning attorneys and I have a checklist that I use, or things that clients can think about to put in their trust. And it's more like an addendum to the estate plan that kind of outlines who the veterinarian is. What's the status of vaccinations? What's the licensing? What are some backup plans if Camilla doesn't want to take my animals? Who's the second and third alternates for my pets? And what are my preferences with my pets? Should they be euthanized? If they have a fatal illness? Do I want the veterinarian to conduct life saving techniques? And how am I going to pay for that, so I might put aside some money to make sure Camille can afford to do that.

17:26

Another like I said earlier, rescue organizations, there's a lot of work to be done for animal lawyers with the rescues. They are kind of floating out there on their own kind of running on their own. A lot of them are nonprofit. So it's not their fault. But this is an area where some volunteer work would be warranted. It's not difficult work. But it's more about educating them, again, helping them with their contracts, and maybe also helping them with liability for their adoption events. Dogs bite at adoption events, who is responsible for the dog bite? How are you training your volunteers, there's an insurance carrier that provides does it's a broker for insurance coverage just for rescue organizations, they have a checklist that they go through to help determine what the liability coverage will be in the premiums. That checklist is a fabulous document to use to work with your rescue with your rescues. And some of the things that they look for are, you know, how do you recruit your volunteers? What's the turnover rate? What kind of training and supervision? Do you provide your volunteers? Where do you get them from? What are their ages? How much how much requirement of time do you require from your volunteers, a lot of focus on the volunteers because that's where they see a lot of these lawsuits coming up. And then again, working with your rescues on the documentation. Um, other problems with rescues again, I mentioned liability hoarding. So rescue organizations have hoarding problems. They're not the angels that they have. They it's like really nice to say, yes, this rescues doing this great work, they have a really hard time saying no. And the flip to that inability to say no is that they start hoarding pets. And so the the thing to know with these organizations, if you're going to work with them is kind of open their minds to that. There's a rescue organization that I know of in LA county that has had criminal charges filed against them. And they've had several rounds with those with plea deals, and penalties and actually being found guilty of animal hoarding and neglect and abuse. And so it's, you know, they're very nice people, they're kind people, their hearts in the right

place, but they can very quickly get themselves in a bad situation. In that particular case, they had animals that were ill, that required medical care that were double housed up and triple housetop that were left unsupervised, and other properties. And then there was noise complaints, complaints about neglect and abuse to the animals themselves, and also concerns about liability. So, if you're going to work with rescues, that's something just to kind of keep your eyes open for and keep in the back of your mind. Just kind of watch For the hoarding and know what your local ordinance says about hoarding and and noise control. Also under rescues, we have our horse rescues. So equine therapy refers to the rescue organizations that do therapy programs for wounded warriors is the one that comes up a lot, PTSD. And also, courses that do therapy for children with autism or even adults with autism. Horses have proved to be very effective therapy tools for those populations for multiple reasons. One of the reasons is that they require a lot of focus. But they also have a real calming effect. And they react to your inner being and how your your energy flow is. And that's something that's really helpful if you're a victim of PTSD, or your child with autism, that you can develop a rewarding relationship, and it's an enriching experience. And so those therapy programs are fantastic, and they're really doing wonders. We also have equine facilitated learning. So this is a little bit different. These are the stables that had they may have a therapy program, but facilitated learning would be where they use horses to do like leadership programs, corporate off site, week long seminars that work more on not so much a disability. But how can we all as a company go together and learn better organizational skills or mission work or vision planning around horses. A lot of these programs are in other countries because they require the like international countries where they have the room to move out, or like the East counties where we see a couple of them. Law enforcement so I would be remiss if I don't discuss how law enforcement plays with animal law.

21:48

A lot of times we hear of unlawful shooting of an animal or law enforcement are trained that they need to protect themselves first and shoot first. And many times our dogs get in the way of that if a dog presents any kind of a threat, they won't think twice about shooting the animal. If your dog is shot by an officer, there is an administrative procedure you can go through about that shooting. Ultimately, these again, are not high dollar value cases. But they do result in the end, like I said at the bottom about more better training calls or protocols, a training like a review of what they're doing with their training. One case that is an exception to that, that I know of happened up in Seattle where an officer came in and there were two boxers, the boxers were barking and acting menacingly towards the police officers, they went to shoot the boxer that missed and hit the child. The child did not die, thankfully, but was injured. And that that is a reason why the training protocols are so important. The boxers actually weren't even aggressive, it was just a high, highly charged situation. And there was a lot of fear and stress going on. So they reacted too quickly. I don't know if they even saw the child there or not. But that's what happened. So that's that's a real problem. The other problem with law enforcement is you might have an ability to file a claim

for excessive force to either excessive use of force to either impound or repel your animal. So these are not necessarily shootings. But maybe they take your dog as part of some other activity that they're on the property for, or a neighbor's property, and then also repel, so using some of their other techniques that they use to repel humans against your dog. animal abuse and neglect. So April is animal abuse and neglect month. One of the interesting fascinating things that we're finding about is that animal abuse and neglect is actually proven to be a predictor for domestic violence and other crimes, other related violence crimes. There's been a lot of studies enough now where it's uncontroverted. And actually, the district attorney's office here in San Diego last year launched a task force where they are actually doing vertical prosecutions on these domestic violence cases. And they're that even start with animal abuse. Vertical prosecution means that it's the same attorney that takes the case from beginning through prosecution through trial to the end. And what they're doing is they pulled in, I think the last count I saw last year, they had pulled in about 200 animal neglect cases, and had targeted those are red flagged them as potential domestic abuse cases. So it's just a much better way more holistic way of looking at our abuse cases against other individuals and looking at them broader and maybe catching them a lot earlier. domestic violence shelters are also getting better about letting our victims bring their pets with them. Again, kind of like the military families, there's so much crisis going on to begin with. And this animal is probably one of the most important pieces to keeping that family together and especially for the children. So we do have some shelters in San Diego that do allow pets to come in. I talked about the prosecution of abuse and neglect that is been in addition to the task force With the dais office that has been prioritized overall. And also, abuse and neglect comes in in some of our other cases that we see like anti tethering. So there's right now an ordinance against tethering your animal outside meaning leaving it chained up or roped up outside in the backyard on attended, that's against the law. And if you are found guilty of that you can be taught like flit red flag for abuse and neglect of the animal. Other laws that relate to that would be leaving your dog in a car with the windows rolled up or in the car on a hot day, leaving your dog outside without, without proper hydration or nutrition, or even just dogs that show up with strange injuries on them, our veterinarians know to look for that. And just like with our kids, they'll make a report if they believe that there's some potential of abuse going on the homeless and their pets. So this is one of my favorite things to talk about. I I like many people used to see homeless people on the streets with their animals. And I was saying, how's that dog getting fed? You know, I see the guy walking on the street with the crate on top of the shopping cart and think, how's he how's that dog sleeping at night. But here's the reality of it. The homeless actually take fabulous care of their pets, and they have a lot of resources there to help them do that. One of the things there's been several studies on this also, both internationally, especially in Australia and locally, that the homeless take good care of their pets, because it's often the last piece of structure they have in their life, when they've lost the home that they lived in, they've lost the family that they can count on. Many times that animal is this structure for them, the animal requires them to get up at a certain time, feed them at a certain time, take them for a walk, get them some water. And as we know dogs and cats give us unconditional love. Maybe the cat's not so much but

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but the dogs give us unconditional love, and they'll keep coming back for more. And that's something else that you really can't I mean, this is they say it's the money loves that money cannot money that love, love money that love can love them money can buy, that's it. The homeless also get a lot of security out of their animals. So a lot of our homeless people can't sleep during the night time they have to sleep during the day because they must always be vigilant against other predators in the environment. Right. So dogs will alert and bark and help protect them. And that's free security. Like I said earlier, it's probably the last family member that they have left. The good news, it says there's a lot of community resources dedicated to helping the homeless with their pets. There's veterinarians who will visit shelters and also come on the streets and do like out out in the street clinics where they'll review the health of the animal, provide vaccinations. Look, if their nails need to be clipped, make sure they're properly groomed. There's also groups like Wags does it some other of the rover comm and even like the law schools, the law students will do it. They do food drives, so there's food that's dropped off for the dogs and also groomers also do regular stops, where they actually help bathe the animal and groom the animals. So one thing that I do now after I kind of did them turn around is that I look at the dogs when I walked by, and I to this day, I've not seen a dog or a cat that looked like they were in ill health or looked like there are macerated. And only one time that I feel like I wanted to give somebody food for their dog. But it was only because I don't know, I just felt like it that day. But it wasn't like there was any need for it. So I asked that if you had this other opinion before maybe you kind of consider these concepts. And keep that in mind as you see our homeless. This is kind of a miscellanea of daily risks to the health and safety of animals. I think you've kind of got the feel for it by now that animal lawyers are generally focused on animals and what's in their best interest in their welfare. This is a list of things that can come into play that hurt our dogs and cats. tainted food and dangerous medication. So we would have like lawsuits about what's the word I'm looking at product liability, right? defective leashes are collars and technology technology with our pets now is really big. So there's any any week I see some new piece of technology or software program that helps us monitor our pets are going How much are they sleeping? Where are they walking? Are they healthy? Are they not healthy? How do they feel? There's a camera that you can use to watch your pets while you're gone like a baby camera that even shoots out treats and lets you talk to your pet. I have said I have said device. And I have been known to walk down the street talking to my dog. So anyways, with this technology and these new devices brings with it potential for liability and attorneys are watching for it. It's very exciting and technology is changing rapidly for our animals, but it also is an area that we should kind of keep our eye on To open as an attorney and see if there's some harm or currents concern for our animals, negligent driver. So who knew this is a thing, this is a thing.

30:10

I'll go back up to the other one negligence of guests in business invitees. So say you have the

cable guy come to your house, and he leaves the front door open and your dog gets out, or the any utility person, or you have friends over for a cocktail party, and you've told her your friends Watch out for my dog she runs out, but your friend leaves the door open anyways. That's that would be the negligence if it resulted in any harm or damage to your dog or cat. That would be the negligence of your guests or business invitee. And then the negligent driver is the guy who's driving down the street not paying attention and hits your cat, and maybe was speeding against the speed zone, or driving drunk or any of the other things that would cause a driver to be negligent. Those are causes of action that you can that you can raise against the driver. Accidents during transport. I think a lot of us are more familiar with that. These are the dogs and cats that get loose on the plane and run out on the tarmac, we've lost a lot of animals that way. irate neighbors. So we know that neighbors get irate with us for a variety of things, irate neighbors can harm our animals. And this is something that actually I caution everyone to caution others about. If you think that a barking dog is just a problem about barking, you really need to think again, there's people out there that will not think twice about throwing poison over your fence and wrap it up in some raw meat to get back at your dog that's driving them crazy. Or tell their kids it's okay to poke sticks in the fence. And it's okay to throw trash into your yard. These are actual things that actually happen. What I tell people all the time is that if you have someone who complains to you about a barking dog, it's best to nip it in the bud and deal with it right? Then talk to them, talk to your neighbors and make it go away. You don't The last thing you want is some kind of harm become your animal because there's people who just not everybody thinks the same way about animals as most of us animal lovers do. And then barking I just mentioned that so yeah, people will taunt animals and then get bit and that animal wears, we consider that a safety risk to your animal. Because your animal ultimately, if they're charged with the bite could be deemed a vicious dog, which takes us all the way back up to the top, where I was talking about why it's so critical to deal with those cases right from the beginning. service animals, this one's easy, I'm not gonna spend a lot of time on it. everyone's familiar, most people are familiar with public accommodations for the disabled with their service animals. We're all aware with emotional support animals, and what's been happening with that, and most people know about emotional support animals, not a lot of people know about fake service animals. And I'm going to get into that next. That's a real thing. But in this area, we are seeing more and more new laws being passed by specifically in the field of air travel, the emotional support animal sector has become really out of control. And airlines are kind of dominating now to restrict some of the restrictions that they've placed or that you can no longer fly with a puppy less than six months old. There's also restrictions on the old the elder age of the animal and also on your medical documentation. So it used to be you could just get a medical certificate and show it before the flight or carry it with you on the flight. Now you have to have medical certification for move that near and at least 30 days prior to the flight. And it has to be for that particular flight. This isn't the same for every single airline. This is kind of where airlines are going. But I think delta is one of the ones and I can't remember the second one. But as the airlines are moving kind of together, I think they're all kind of headed towards the same place limiting the type of animals so no more peacocks. No more

chickens, No more monkeys and age requirements because of obviously the health risks of flying. And also those certifications are more important. So fake service animals. So fake service animals are a big problem. Actually, we have we have a penal code for it now service dog fraud. It's been in place for a while almost every state in the US has won some states are still missing, but is largely not enforced. Unfortunately, the disability community's perspective on this is that they really want they would really love to see something done from the government. They want certification to be in place right now there is no certification program or form or training program that is either required or documented. So it's kind of wild west out there right now. And that's the reason why I was saying earlier these law landlords and homeowners are having such a problem with enforcing the the accommodations, how do they enforce it properly if they don't know what the rules are? Same thing with the service dog fraud. Some of the feedback I got from

34:54

attorneys who would be enforcing it have said that their problem with enforcing it is just that how do you prove it? How do you just Prove it. It's a public image problem, though, because most people go shopping and you'll see so many dogs everywhere. And the question is, how come that dog gets to go shopping and sit in the car and my dog doesn't. So it's a big problem, service animal standards. So there are actually training standards that will dictate whether the dog is a service animal or not one of the service animals standards, these are standards that are followed by service animal handlers is what this the term that we use service animal handlers. Usually the standard is that the dog requires over 100 hours of training, and that training should be updated. Another typical standard that you can look for if you want to know if a dog is a service animal, is that the dog does not react to its environment in any way. It is completely attentive to the handler and no one else and nothing else. So the disability community what they're one of their problems with this is that they'll be I've heard of a story with a woman who's in a wheelchair in an elevator, her dog was attacked by a fake service animal, and her dog was looking at her asking her what to do. And that's a real problem. Obviously, there's nothing there's no dispute there. And especially if someone's blind or somehow disabled, a dog fight is the last thing they need. Okay, I'm gonna transition us a little bit. This is a mix of case law and legislation. This is the famous flog rock case, which made California kind of the leader and swag raw swag raw for the animal world is what it is, is it's the reason it's a focus for animal lawyers is that the production of swag raw requires a system or a practice called garage. garage is the means of feeding geese in a highly rapid with highly fatty foods using a tube that's placed down their throat and stuffing them until they're in gorge. So they're livered literally in gorgeous in a very short period of time. Guevara obviously is harmful and distasteful to just the thought of it. It's abusive to animals. Before gras, people like to order it and eat it in fancy restaurants. So this is this some balance. All right, and California was passed in 2014. No 2004 sorry, it was passed in 2004, implemented in January 2012. January 2012, was the filing of the lawsuit. It was a lawsuit by the Hudson Valley flog raw, a Canadian former producer and Hots restaurant group, which was the California party. So they joined together both

New York company Canada and the state of California. The lawsuit went through this is your your procedural history, in case you want to geek out on that. The interesting thing about this is that it went up to the Supreme Court in 2018. There were five amicus briefs filed in support. And I thought this was interesting. The Supreme Court saw a US Solicitor General brief, conveying the US views on flour raw. I haven't got my hands on that brief, but I think it's interesting that they just never heard of that before. And then after they got that brief, they denied cert. So where we are today is that the ban is in effect. Does that mean you won't see Flogger on restaurants in California? No, you probably well, and it's back to how do those things based on on the defensive consumers be enforced by local attorneys. Legislation California hands down is a leader in legislation for animal welfare. What you see here is just a small list. It is even a complete list of the 2019 legislative campaigns that are in place right now just the first part of 2019. It's an amazing this social compassion legislation is kind of like the grassroots legislative body that pushes forward and lobbies all of these different initiatives. So that's why I have them up here. They are, I think hands down responsible for the majority of these actions. Some of the ones that I just want to highlight for you here, the blood bank bill, I think is interesting. So this allows individuals to bank the blood of their own pets. So if their veterinarian needs that blood for surgery for their animal, it's there and ready versus using animals in labs that are that are used to farm the blood. Um, we've got California transparency and research. So under the recent federal administration, one of the first things they did was begin hiding all of the data at the USDA and FDA. So what this law will do is aimed to turn that over and release information to us about animal testing and euthanasia in shelters. What are some other plant based meal options in K through 12 is an interesting one. This follows. It was an initiative to offer plant based meal options in hospitals and

39:53

and jails. And so that was passed last year and now what we're doing is focusing on plant based meal options. As in K through 12, and microchipping as the 64 that will require that every animal that comes into a shelter if they are not already microchip will be automatically microchipped. And then the final one down there animal pack we have right now, in the very beginning stages the formation of a political action committee for animal rights. And what they've done so far is put together a list of legislators that have a focus of animal rights, and they're working with them in a real, focused strategic way on continuing some of these campaigns. cruelty free cosmetics act, this gets its own slide, because it's such a huge deal. So this passed last year, it goes into effect January 2020. What it means that is that as of January 120 20, any cosmetic that you purchase in the state of California, shampoo lotions, so not just makeup in the pretty stuff, but anything that you use that is considered under cosmetics, will be cruelty free, no animal testing. What this means is that all the inventory that they currently have that is not cruelty free, which right now, it's probably it depends on the store, but probably 5050, they'll have to clear out that inventory, or come up with a plan for it. The reason it's such a big deal is that no other state has passed it but because of the size of California and the impact it will have on all these companies,

we believe that the other companies will have no choice but to go cruelty free, or at least that's the hope the optimistic whole does it apply to I know

41:28
when I'm searching for cruelty free sometimes there's the there's like the smaller company is owned by like Revlon. And so Revlon is not cruelty free, but the smaller company is So would that companies still be allowed to sell under the Do you know,

41:42
any company selling anything? So Revlon products sold in California will also have to be cruelty free. It's going to is a game changer. There's no question about it. So I presented on this last October in front of animal advocates and lawyers from across the world. And it everyone was just clapping. It's like everyone's watching it very excited about it. It's fascinating to see, it's interesting to see it will be interesting to see how it impacts international sales. We also have our ban on milk, red dogs, cats and rabbits. That's effective. Now it started this January. The interesting thing is that what has happened, though, like almost immediately was that we started seeing red fake rescue organizations and puppy laundering. Fake rescues are basically our puppy mills, who have not changed anything except their name to give them a name. That sounds like a rescue. But they still have the same. The same animals, they're still selling to the same retailers. Nothing's changed. They probably don't even have a real nonprofit. They're just hiding under the purview of some name. Animal Legal Defense Fund brought a lawsuit against a local puppy mill located in Menifee, California selling to selling to San Diego retailers. And so that was just I think that lawsuit was filed in late February, early March on puppy laundry just refers to the commodification of animals through the puppy mills. Impact advocacy, there's lots of work that you can do if you're interested in advocacy work to add on to your practice, puppy lemon laws refers to the retail stores that sell these puppies from mills and you get them and they have a lot of medical problems just like a lemon car, you have to take it to the shop all the time. So a lot of people will buy a cat and not know until about a month later that this cat has got some serious health issues, and it costs them 1000s of dollars to treat that animal. Try to go back to the puppy world of today and find out if they'll refund your money or reimburse you the puppy lemon laws. There's a lot of activity on this in the East Coast. A lot of the receipts that you'll the purchase agreement that you sign says that you have like less than 14 days or less than 10 days to notify them of any health problems. And even then they weren't they may not reimburse you the full amount of the battles. So that is a consumer consumer defense action. Again, focusing on the quality of animals in the dogs and cats coming from the mills, protesters and access so there is a subset of a subset. So animals are a subset of lawyers. Our first amendment free speech lawyers are a subset of animal lawyers, and they do nothing but represent and protect and defend our protesters. They get themselves into a lot of problems with arrests, and also with other violations of local ordinances.

And these guys are very active and there's a lot of activity I see on those cases. So you could easily build up good part of your practice on just doing that work. These people these these cases are also the people who free the animals from the research in the testing facilities. How can you get involved so if you're interested in learning more about animal law or getting involved yourself. San Diego County Bar Association has an animal law section and we're very active. We have a lot we have a lot of fun activities coming up this year. We have the Humane Society walk for animals, we're gonna have a booth and participate in that this may 4, we are doing it fast Island dog park beach cleanup in June. We're doing it up in North County, the Rancho coastal Humane Society mixer, it's gonna be involving both donations and some advocacy education. And then our big event is August 22, and 23rd is we're fortunate to be hosting the international animal law symposium here in San Diego. So that's going to be two full days of CLE. Credit is going to have presenters probably over 30 presenters from every state in the US as well as countries around the world, including Russia, Costa Rica, we're gonna have someone from London and running out of other countries. But But yeah, it's going to be a big deal. So if you're interested, that that save the data is already up at the bar association. And then finally, though, and the last section is looking to do an animal law legal clinic focused on on simple problems that we can provide advice to. And that's it. So now I have time for questions.

46:06

Are there lawful restrictions? Like is there a law somewhere that says an owner may restrict based on this screen?

46:13

Yes, so last lubri restrictions are based on if you feel that there's a fear of safety or likelihood to cause harm, and that would be your pitbulls are easy one. So you could lawfully restrict on a pitbull based on the history.

46:30

So as the law, the law is the name of the breed, the law just tells us like the owner, like if you if someone applied and that dog looks like,

46:39

yeah, are you talking about in the landlord housing, housing situations, what they can do is they can actually deny any animal is not the breed restriction, per se, is that they, they deny it on the basis that that animal poses both a likelihood of harm to a person, or likelihood of destruction of property? So they just have to say that they believe one or the other will happen.

47:02
Yep. What's going on a law that was passed a couple of years ago that required restaurants and bars to allow customers to come in with their dogs about outdoor seating.

47:13
I don't think you're making that up that might be tied to the service animal thing. It might have been if they had a service animal. But then maybe the restaurant tours decided that it was just easier to rather than pick and choose to just open it up to the outside. Yeah, there's a question back here,

47:29
that appears to be more about animal and animals on flights. Because there are people who are allergic to air, or some people who also have been bitten in like, fear and like, I love animals, when I'm so allergic to cats, if someone showed up with a cat, I assume we would be able to breed. So I'm just wondering, that was on a flight where there were multiple service animals, and they were talking a lot to each other throughout the flight and stuff. And I was just curious too, about like, I understand the restriction but you said about what can what kind of dog What about the behavior with interaction was there?

48:05
This is a fabulous question. So this is exactly what is answered with going into the service animal standards. So to the one question about whether a fear of biting or aggression, that would be instant cause for dismissal, even if the dog was a qualified service animal. And so what the the onus is on the property owner or the airline, if they see that, or they know that there's a complaint of aggression, that animal booted automatically no questions asked, because it doesn't comport with service animal guidelines. Also, because it also presents a fear to your safety, I mean, a cause of fear and potential liability and of your safety. Then your other question about allergies. So this is fascinating to allergies, unfortunately, will not Trump a service animal. So there's case law coming out of New York State for sure. And I think Florida, where it was in the education arena, where a young boy had a service animal, and another boy had an allergic had an allergy to dogs. And they could not restrict the service animal out. And so what they had to do was put them in separate rooms, they had to come up with some other way of handling it. But I looked into that because I had a client who had a homeowner's association I represented. a homeowner wanted to bring his dog into the homework meetings. And there was another homeowner who is deathly allergic to dogs and has respiratory illness and is 90 years old. And I'm thinking who wins the the disabled person or the 90 year old with the allergy. And at the end of the day, we couldn't

exclude the disabled person. And the option we posed was that we had to place in separate areas in the room. And then we notify the dog owner or the handler that if the dog ever comported in a way that did not comply with service animal standard, and we outlined what those were, the dog would be dismissed. So that's how you handle allergies. That's evolved.

49:55
So the person that you just mentioned the nine year old with the respiratory illness, and allergies and that at some point, disability laws a whole other thing. But that to me sounds like a disability. It seems like it's really compared like, this sounds like more more gray area, because I would be very, very concerned about both people know, it's, I guess within I think it sounds I've been that person that there's an issue with like knee disability advocacy, right?

50:25
Yes, it's actually that would be a prime case for a lawsuit, because it's never actually been fully litigated where you have competing extreme disability or whose disability is worse. Yeah. But that's where I thought we were going. So, but there's no case that I am aware of that litigated that issue. Thanks, Megan,

50:44
for those of us that have pets, and we were talking about estate planning is that is is accommodating for a pet and an estate plan. Is that something most estate planning attorneys know how to do? Or is that something where if I'm working with my own estate planning attorney, I might say can you refer?

51:00
Can you talk with Cheryl about this? Because I want to make sure that what we've written here is, is going to stand up?

51:06
Yes. And pass away. Right, exactly. Yeah. So most animal law attorneys will consult with other attorneys it same in the family law arena, but for your estate planning attorney, right, they would consult with the animal law attorney and would give them the direction on how to create that agenda of what should be in the agenda. I think this question, I'll come over here. Okay, yeah. You do animal litigation? Yes. So yeah. So the beginning when I was going through the different subject matters, those are all cases that can be litigated. There are examples of the topics and

types of cases that are litigated regularly. Any day. Just question back here.

51:49

Just a quick question when you're talking about the homeless. And I wasn't aware that there was a shelter in San Diego. Yes. Yeah. And yes, I'm sorry. Can you tell me what it is? Oh, yeah. So

52:03

I know father Joe's has a portion that allows pets and what's the other one that starts with an A? It's escaping me right now. Alpha help. The Alpha project also allows pets so alpha project when they did the tents over on the 20th and B, they had about 30 pets there in the tent section. You welcome line between a puppy mill and a gray area when people talk about um, some breeders become puppy mills. There's no fine line like as of numbers of dogs I think it comes down to are the are the puppies how many litres do you have? Are they properly cared for? And do they have like individual sleeping areas? Or are they stacked in crates? I guess it's kind of like one of those you know it when you see it, or when you smell it. Like they're, they're the dogs that are packed up and the houses you know, overrun by, you know, multiple litters at once and puppy mill puppy mills will run litter after litter after litter out of the same dog. Or bitches we call them the same bitch will do multiple litters until her body gets out. And she's kept in the crate. And breeders might do multiple readings out of the same bitch but she would not the dog the puppies are kept in crates, she might the breeder might sell those puppies first and then wait a while and then re breed. But that's a very good question. Many breeders can be deemed puppy mills.

53:40

What I'm interested in making money, isn't there? Isn't there a statute with civil code that said if you went under the statute to get statutory attorneys to say I remember years, I made $10,000 saving Charlie, which was a lapse on us. So that jumped up and down and scratch the bed rails of this kid who was spastic quadriplegic. When he got caught it and then the landlord wanted to get rid of it. They had no pet class. Oh, no, no, no, this is and I got this like 20 years ago when I got statutory attorneys fees. Yes, you

54:10

can. It's on civil code before something rather than before but also I was looking at it this morning silicone. Oh, I forgot the number already. He's 177011

54:22
don't need rich clients to make money. No. Five suits under statute which authorized statute right

54:28
you can get attorneys fees in the malpractice cases and also in contractual cases. You can get them also in like the negligence cases from like Wags rover.com rover.com, like the pet sitting business invitee type cases. So yes, you can get you can make a good living out of it for sure. Yes, so,

54:51
I have a little Pomeranian and I understand why I was looking for a day, dark hairs, but I found out that all of them are there. Like nearby, and it was supposed to require them to stay here. And all I see, obviously, you know, the benefits of having your dogs or cats go through that process. I've also heard and done some research about the negative side, or like the people post or like it affects their behavior, and you know, different things like that. So at that time, she was probably like, what, six months, you know, like not even a year, but I saw I found across that everyone required them to be either spayed or neutered. So, to me, it was just like, well, it's hard to feel like it was imposing, you know, you have to kind of like what you were talking about that co ownership and you know, like, you can't read them, because I'm like, I know about that, too. But it's like, Is there anything that, you know, like, restricts maybe, you know, like, the dark hair? Or, you know, that is, are they allowed to put that restriction? Because they're all like, Oh, no, no, no, no, no. Ma'am. Okay.

56:02
Let me just ask clarify, if I understand the question correctly, is that you were looking for somebody to watch your dog or take care of pets at your dog. And they had a clause in all the contracts that required your dogs spayed or neutered. The ones that say, oh, that take the dog for you? Yeah, I'm

56:17
like, so just like, I was like, you know, my hands were tight, because no, I would take her

56:23
and she was too young. And I have heard from other veterinarians, it's like, well, you let them have

like, do their menstrual cycles.

56:31
So it was just interesting to me. It's like, Okay, well, if you want that service, you kind of have to put your dog through that.

56:40
So the question is that the pet said, the pet watching business that would take your dog onto their property, can they legally put that clause in their contracts? So that's a good question. I have not seen that litigated. I think that I know that the pet industry, the watching sitting, you know, mining industry, has their contracts have a ton of different clauses. They have requirements for arbitration as an example. And I think I mean, I don't know if that's legal or not legal? I can't tell you. But I would think there's a lot of other liability concerns about having them take they're probably wanting to protect themselves against a pregnancy. But yeah, I don't know. I think that might be something good for a lawyer to research for you. Maybe you can research it. And get back to me. That's a good question. Yes,

57:32
you mentioned rover. And I was actually curious, because I know like Uber and Lyft. And all those kind of apps totally changed a lot of law around rideshare, and all those things. And so I was thinking I rover, actually was looking for it the other day, and I don't know what details but I'm I my first thing was like, Well, how good is this? Like, who's worse? Who's taking care of a liability and like, and I don't know, the details of whether that's built into us. I know that rover takes a cut from if you if you work for them. So I was actually going to look on their site. And I didn't get there yet. But it might be there like whether rover takes up they're complying with laws by taking on the liability or if this is another Wild West.

58:21
So the question is rover.com, by the like Uber, are they taking over or changing the market with return with regards to liability, or is it wild west? Yeah, like any private company, they if if they're the harm, like they're your dog dies in their care, I know of lawsuits going on right now, where they're denying all liability. They're basically putting the onus on the dog owner for having signed the contract that you assume the liability and it's not their fault, or the handlers or the pet sitters fault.

58:56
A few landlords who, according to that nice day, and their tenants can be used by some of the same online therapists for their certification for the ESA get emotional support animals. And they get very upset whenever they see the therapist name on letters. As far as I know, there's nothing we can do to discredit that as long as there are licensed therapists out there.

59:19
So the question is on the emotional support animals when they you when a landlord, or somebody sees the same online therapist be utilized for same people, and maybe it's, if I can extend your question is probably somebody that they consult with online, who doesn't live in the same city and maybe not even has an office? I saw someone like that. The question is, what can the landlord or homeowner do with regards to that? The answer is very little, unfortunately, because of the fact that it's private health care information. And because the compliance with emotional support animals and service animals in regards to the disability side is very limiting. But the flip side to that and I think right Now the only answer we have as animal lawyers is to go back to the service animal standards. And I personally spent, I didn't want to tell you how many hours researching it. But the service animal standards, I think, is the answer. Because if the animal is really not a service animal, sooner or later, they'll jump on somebody else sniff somebody else react to something in their surroundings bark at something. Megan just wanted to add that,

1:00:24
under the Americans with Disabilities Act, that service animals and emotional support animal that's only providing emotional support doesn't qualify as a service animal for entities who are required to comply with the ADA or section 504. So I work with a lot of schools and disability. And so there's some times I don't I do not know, landlord law. So that's I'm not answering that question. But there are some times where you can make a legal distinction to say that this this particular animal doesn't fall within that those provisions under the ADA.

1:00:56
Right. And and actually, in addition to what Megan said, which is 100%. Correct, thank you is that there's also we're seeing more of psychiatric service animals. And that's another fairly new category. And so, you know, my situation that I had my case I described earlier, that dogs started as emotional support animal and the next year was reported to be a psychiatric service animal and have the same doctor's note, with the same certification. The only thing that changed was the date on the letter. So,

1:01:27

yes, I'm a little bit of experience with emotional support animal because I have one. But there are probably 90% of people that ask me about to think that it has to be they go online, and they get a certificate, which I guess they get the letter. And they will argue, right, there is a list of these dogs online, and they're running through it. So talking about advocacy, I think something that they these organizations might want to think about is getting it out there. These there is no list of service animals online. There's no

1:02:06

list of emotional support animals online, and you have to get the letter, do what you have to do to get it but there are people who argue with me, I am wrong. Yeah, list.

1:02:20

So I'll repeat it for the for the video that the point being made is that it's an important area for advocacy that a lot of people believe with emotional support animal, there's a requirement that they be certified by some agency online or that there's some piece of paper that's required to deem them an emotional support animal. And that's actually not true, and it's not required, and it never has been. And there are perfectly legitimate emotional support animals out there, that just there's no certification required. They don't have to wear a certain vest, there's no card that has to be displayed. Nothing is just that there's a need for it and that they fulfill that need. That's correct. Well, thank you all for your time and for listening