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ARTICLES
THE STATUTORY PET TRUST: RECOMMENDATIONS FOR A NEW UNIFORM LAW BASED ON THE PAST TWENTY-ONE YEARS ................................... Shidon Aflatoonii

Nearly three-fourths of American households include pets. Often, these pets are considered to be members of the family and are cared for as such. When a pet owner dies, however, questions often arise as to who will be responsible for continuing to care for the animals. Previously, probate and trust laws did not allow pet owners to provide for the care of their pets after death. In 1990, the National Conference of Commissioners on Uniform State Laws (NCCUSL) enacted the first pet trust statute in the Uniform Probate Code. Since then, the NCCUSL passed the Uniform Trust Code, which included a pet trust provision, and currently forty-six states and the District of Columbia have passed statutes specific to pet trusts. These laws are designed to create enforceable trusts for the care of animals after an owner's death. Variations in these statutes across jurisdictions, however, lead to situations where a pet owner's wishes may not be honored or enforced. This Article analyzes the statutory language found in the Uniform Probate Code, the Uniform Trust Code, and various state statutes relating to pet trusts. This Article identifies the strengths, weaknesses, and purposes of the pet trust statutes, and it concludes with a draft of improved pet trust legislation that will be beneficial to pet owners, trustees, caretakers, and pets alike.

STATE ANIMAL USE PROTECTION STATUTES: AN OVERVIEW ............ Jen Girgen

Although much attention has been given to the Animal Enterprise Terrorism Act, a federal statute enacted to deter and punish extra-legal animal rights activism, comparatively little attention has been afforded the various state versions of this law. This Article is an attempt to help remedy this deficit. It offers a comprehensive overview of existing state animal use protection statutes and describes legislative trends in this area.

ESSAYS
A "FISHEYE" LENS ON THE TECHNOLOGICAL DILEMMA: THE SPECTER OF GENETICALLY ENGINEERED ANIMALS .................................. George Kimbrell & Paige Tomaselli

One year ago, the United States Food and Drug Administration (FDA) proposed approval of the first genetically engineered (GE
or transgenic) animal for food production—a salmon engineered to grow much faster than normal using genetic material from an ocean pout. Faced with concerns from scientists and the public that these “super” salmon will escape into the wild and be the final blow to wild salmon, proponents crafted a scheme that is half Michael Crichton, half Kurt Vonnegut: The engineered salmon eggs will begin life in a lab on a frozen Canadian island, then be airlifted to a guarded Panamanian fortress, where they will grow in inland tanks. After the fish reach maturity, the company will ship them back to the U.S. and sell them in grocery stores, likely without any labeling.

Unfortunately, this is not a bad science fiction novel. How did we get to this juncture, the brink of this approval? This Essay is a snapshot of GE animals through the lens of the first one proposed for commercial approval. Part I discusses AquaBounty’s “AquAdvantage” GE salmon, with a focus on the environmental risks it poses. Part II looks behind the camera, explaining the philosophy that has fostered the emergence of engineered animals for industrial food production. Part III provides an overview of genetic engineering and transgenic animals. Part IV summarizes health, environmental, and animal welfare concerns. Part V explains what the lessons of agricultural biotechnology portend for animal biotechnology. Part VI discusses FDA’s problematic regulatory pathway. This Essay concludes by returning to underlying principles.

THE ANIMAL COMPANION PUZZLE: A WORTH
UNKNOWN THOUGH HEIGHT TAKEN ................... 105
Ronald B. Lansing

A tort occurs where one individual breaches a duty allegedly owed to another. When the damage necessitates a judicial remedy, it is up to the courts to fix the appropriate level of compensation. The law distinguishes between two categories of compensatory awards and labels them “economic” and “noneconomic” remedies. When a loss falls into the latter category—that is, the damages suffered lack an ascertainable market value—judges have struggled to put a price on the harm.

This jurisprudential puzzle is particularly apparent in the pet loss context. Companion animals are defined as property under the law in all fifty states. Thus, when a court is confronted with the wrongful injury or death of a pet, it is generally reluctant to grant an award above and beyond the so-called market value of that animal. In response, economists have proposed a variety of valuation methods to better assess the “true” companion value of a pet.

But it is impossible to evaluate the companionship of breathing, sentient creatures using classic economic vernacular. In truth, the loss of a pet simply cannot be remunerated with money; no dollar amount can compensate for the loss of a companion animal. Instead, courts should recognize a new category of noneconomic “solace damages,” whereby judges may grant damage awards designed not to restore but to rectify or pacify the loss.
WHO THE JUDGE ATE FOR BREAKFAST: ON THE LIMITS OF CREATIVITY IN ANIMAL LAW AND THE REDEEMING POWER OF POWERLESSNESS .............. Matthew Liebman

Drawing upon various schools of legal thought, this Essay explores how ideological and non-legal factors influence the adjudication process in animal law cases. The Legal Realist and Critical Legal Studies movements highlighted the indeterminacy present in legal doctrine and undermined trust in judges' ability to arrive at "correct" answers to legal questions. In the midst of such indeterminacy, where legal texts do not predetermine legal outcomes, judges tend to render decisions that are consistent with pervasive societal norms and existing distributions of political power. Starting from these premises, the Author questions whether innovative and creative impact litigation by the animal law movement can succeed in fundamentally challenging speciesism through a legal system that is pervasively hostile to the interests of animals. Although incremental and meaningful gains are possible through litigation, we must recognize the limits of legal reform in the short-term. Although such limitations are typically seen as cause for despair, the Author argues that recognizing our powerlessness can be a source of compassion and an opportunity to experience our shared existential vulnerability with animals.

COMMENT CONFINED TO A PROCESS: THE PREEMPTIVE STRIKE OF LIVESTOCK CARE STANDARDS BOARDS IN FARM ANIMAL WELFARE REGULATION ....................... Lindsay Vick

In recent years, livestock care standards boards have emerged as an innovative way for state agencies to regulate farm animal welfare. Far from improving farm animal welfare, however, these boards are frequently a way to codify existing industry standards. The Ohio Livestock Care Standards Board, for example, had a nominal mission to establish regulations governing the care and well-being of livestock and poultry. Other states have created similar mechanisms for regulating farm animal welfare. This Comment maintains that the Ohio Livestock Care Standards Board regulations merely codify the existing status quo on Ohio factory farms rather than improving the health and welfare of animals. This Comment also discusses the successes and failures of other livestock care standards boards. This Comment then considers ways that livestock care standards boards, or alternative methods, could improve farm animal welfare.