

ANIMAL LAW COMMITTEE
2009-2010

CHAIR: Joan Schaffner

CHAIR-ELECT: Mariann Sullivan

Awards

At the 2010 ABA Annual Meeting in San Francisco on August 7, the Committee held its fourth annual reception sponsored by Best Friends Animal Society and Aspen Publishing. The ALC “Excellence in the Advancement of Animal Law” award was given to Professor David Favre of the Michigan State University School of Law for his many years of excellent work toward the advancement of animal law in the United States.

CLE Programs

At the 2010 ABA Annual Meeting in San Francisco on August 7, the ALC presented a panel entitled “*What Price Love? Mass Tort Actions and Animals*” to address the litigation issues which arise in mass torts involving animals and moderated by Ashley Dobbs, attorney. Panelists included Professor James O’Reilly, University of Cincinnati, College of Law; Adrian Hochstadt, Assistant Director, State Legislative and Regulatory Affairs, American Veterinary Medical Association; Chris Green, Dr. Melinda Merck, DVM, Sr. Vice President, Veterinary Forensic Sciences, ASPCA; Gregory C. Ward, Partner, Ward Kim LLP; and P. Christine Deruelle, Associate, Weil, Gotshal and Manges. The panel included a debate on the issue of companion animal valuation between Chris Green and Adrian Hochstadt. Several panelists and ALC members present at the meeting enjoyed an outstanding vegan dinner the evening before at Millenium Restaurant in San Francisco.

After release of the U.S. Supreme Court’s decision in *United States v. Stevens* a webinar was planned entitled “Deconstructing U.S. v. Stevens: Animal Cruelty and Freedom of Speech.” The webinar, originally scheduled for June 2 and later scheduled for September 23, 2010, analyzed the case and discussed its potential impact on the future of animal advocacy. The panel of experts included: Moderator Joan Schaffner, Associate Professor, George Washington University Law School, Joyce Tischler, Founder of Animal Legal Defense Fund; Michael Dorf, Professor, Cornell Law School; and Madeline Bernstein, President, spcal.A. Jane Graham was the program chair.

“Farmed Animal Welfare and Consumer Labeling Issues” webinar was approved and scheduled for September 28, 2010. The webinar discussed efforts made by certain segments of the animal-derived food industry to inform consumers about animal welfare and their legal implications. The panel was moderated by Mariann Sullivan, Deputy Chief Court Attorney, New York State Appellate Division, and the panelists included:

Temple Grandin, Professor of Animal Science, Colorado State University; Cheryl Leahy, General Counsel, Compassion Over Killing; and Craig Pease, Professor and research scientist, Vermont Law School. Jane Graham was the program chair.

Julie Fershtman, Of Counsel, Zausmer, Kaufman, August, Caldwell & Tayler, P.C. put together an excellent webinar proposal entitled “Animal-Related Liability and Insurance Issues” to address common law liabilities inflicted by house pets as well as livestock and other animals and related specialized statutes with Julie and Daniel Simmons, Partner, Royster, Voelker & Allen, P.C. as panelists. Unfortunately, although approved, insufficient registration required that the webinar be postponed indefinitely.

Legislation and Policy

The American Bar Association House of Delegates approved ALC’s Model Act *Holding Period Recommendation* and recommended its adoption by state legislative bodies. The Model Act calls for states and territories to adopt a statute to establish guidelines for animal shelters and mandatory minimum hold periods for companion animals separated from their human families following natural disasters. Leaders in this effort were David Favre, Barbara Gislason, and Jim Carr.

The TIPS Council approved the Committee’s recommendations for handling animal seizures following raids on enterprises such as animal fighting ventures and puppy mills. Rebecca Huss, Ledy Vankavage and Michelle Welch worked tirelessly for this success. The recommendations will be presented in 2011 to the ABA House of Delegates at the ABA Mid-Year Meeting in Atlanta, GA.

The following proposal was presented to the TIPS Council: *Recovery for Harm to a Companion Animal* that would allow for recovery of non-economic damages in cases of wrongful injury to or death of a companion animal proposed by David Favre, Kristina Hancock, and Chris Green. The proposal was ultimately tabled with plans to revise and resubmit in the future.

Mariann Sullivan and the Agricultural subcommittee prepared a proposal concerning animal welfare and health issues surrounding methods of production in animal agriculture. The proposal was presented to TIPS Council at the 2010 ABA Annual Meeting and tabled for revisions with plan to revise and resubmit in the future. Three new proposals for recommendations to the TIPS Council were developed:

Two additional proposals were prepared: (1) a proposal headed by Ledy Vankavage with recommendations regarding laws governing dangerous dogs and (2) a proposal developed by Frances Carlisle on recommendations relating to the tax treatment of pet expenses and pet trusts. The first proposal will be presented to TIPS Council in 2011. The second proposal was tabled by the Committee until a later time given the number of proposals under consideration by TIPS and the ABA from the Committee.

Two of these proposals were initiated after a review of federal legislation concerning animals. And suggested that the Committee begin a routine effort of reviewing federal legislation addressing animals and selecting key bills the ALC would want TIPS and ABA to support. It is unclear how useful this will be and it was left to future chairs to determine how best to address these issues. The bills considered this year were: H.R. 3501: The Humanity and Pets Partnered Through the Years (HAPPY) Act that will allow taxpayers to deduct up to \$3,500 per year in qualifying pet expenses; H.R. 1549: a bill to regulate the use of antibiotics in farmed animals; H.R. 503/ S.727: The Prevention of Equine Cruelty Act, to ban the slaughter of American horses for human consumption overseas, as well as the export of American horses to other countries for slaughter; and H.R. 1018: a bill to reform Bureau of Land Management procedures and prevent the slaughter of healthy horses and burros as a means of management.

Public Service Activity

This year, the Humane Education Project, a joint public service project with the Animal Law and Law in Public Service Committee and Humane Education Advocates Reaching Teachers (HEART) expanded its pilot program to Chicago. Spearheaded by Meena Alagappan., the project was initiated with training programs in New York City and Washington, DC for ACL volunteers to teach humane education to 4th and 5th graders.

At the Spring Meeting in San Juan, Puerto Rico, Joan Schaffner and others found a homeless and injured dog on the street. All Sato Rescue and Jasmin Singer helped to take care of the dog and transport him to the U.S. where he found a new home with Jay Young. Rico, aka TIPS, is a very happy and loved canine now!

At the ABA Annual Meeting in San Francisco, the ALC Companion Animal subcommittee in collaboration with the TIPS Law in Public Service Committee and BADRAP of San Francisco sponsored “Celebrate Your Pit Bull” a project to help provide low-cost vaccinations for companion animals. Rebecca Huss and Ledy Vankavage spearheaded this effort.

Publications and Internet

Sales of the ALC’s three published books were as follows:

	Fiscal 09-10	Fiscal 09-10	Life of book
Wildlife Law	5	\$ 412	\$27,707
Animal Law Litigation	81	\$ 7333	\$50,599
Dangerous Dogs	215	\$ 4,068	\$27,014

The ABA Law Practice Management Section accepted Yolanda Eisenstein’s proposal for a fourth book entitled *Careers in Animal Law*. In preparation, Eisenstein interviewed a number of attorneys practicing animal law in the U.S.

Adam Karp prepared and submitted a book proposal entitled **E Pluribus Unum & the Nonhuman-Americans: Reconstituting Animal Responsibilities and Remedies under the Bill of Rights and State Constitutions** at the 2010 ABA Annual Meeting. The proposal was rejected by the TIPS Publications Committee. The Committee found that the topic would not be of sufficient interest to the target audience of TIPS publications for it to be profitable.

Kathy Meyer, Eric Glitzenstein and Howard Crystal prepared and submitted a book proposal entitled: **Using Administrative Law for Public Interest Advocacy (with a focus on animal and wildlife protection)** at the 2010 ABA Annual meeting. The proposal was rejected by the TIPS Publications Committee but forwarded to the Administrative Law Section's Publication Committee where it was again rejected due to financial considerations.

Julie Fershtman and Adam Karp submitted an article on behalf of the Committee for the 2009 Annual Survey on Animal Law to the *Tort Trial and Insurance Practice Law Journal*.

Three issues of the ALC newsletter (Fall 2009, Winter 2010 and Summer 2010) were published and placed on the ALC website thanks to the work of editor Rebecca Tinsley, editor, and all those who submitted articles.

The history of the ALC Committee was written by Marianne McDermott and placed on the ALC website.

The Animal Farm Foundation, a frequent sponsor, agreed to purchase and distribute, with the help of Best Friends Animal Society, 750 copies of the ABA book *A Lawyer's Guide to Dangerous Dog Issues* to be sent gratis to city attorneys considering dangerous dog laws. Thanks to Ledy Vankavage, the Animal Law Committee's proposal to the TIPS Enterprise Fund Board was approved for a \$15,000 grant. The Government Law Committee was a co-sponsor of the project.

Mariann Sullivan created the Committee's Facebook page, maintaining it to provide members with current animal law news. It can be found at:
<http://www.facebook.com/home.php?ref=home#!/pages/Animal-Law-Committee-of-the-ABA-Tort-Trial-and-Insurance-Practice-Section/81318181919?ref=search&sid=695006154.2442432568..1>.

Subcommittees

Yolanda Eisenstein formed a special subcommittee to explore the ethical and professional responsibility issues related to animal law cases.

Meetings and Membership Communication

This year, Chair Joan Schaffner instituted a new means of communicating with ALC members: a bi-monthly conference call of 45 minutes available to all members. The call was used to update members on current activity of the Committee as well as reports from subcommittee co-chairs. Each conference call featured a speaker on a topic of interest. Speakers included Michelle Welch, Robin McVoy, Paul Waldau and Adam Karp. Minutes of the teleconferences were placed on the ALC website.

A business meeting of the Animal Law Committee was held at the ABA Mid-Year Meeting in Orlando in February, 2010, at the TIPS Spring Meeting in Puerto Rico in May 2010, and at the 2010 ABA Annual Meeting in San Francisco on August 6, 2011.

Membership Activity

Work on the publication of a revised ALC brochure was begun to have available for distribution in member recruitment in the fall of 2010.

Recruitment efforts included:

- An e-mail letter was sent to the Animal Legal Defense Fund listserve of persons teaching animal law in U.S. law schools.
- A list of prominent attorneys doing pro-bono work in animal law was researched and a letter e-mailed to interest them in joining the ALC with a copy of the ALC brochure.
- Efforts to reach law students active in animal law groups was continued.
- Efforts to reach animal law attorneys in state, regional and local bar associations was on-going.
- Members were encouraged to circulate the ALC brochure at every opportunity and ALC maintained an active Facebook page.

Membership in August of 2010 stood at 338. 67 new members were processed and sent welcoming letters with sign-up forms for interest in subcommittees. Subcommittee chairs were informed of any interest.