Contents

About the Author xvi
Acknowledgments xxi
Foreword xxiii
Introduction xxv

Chapter 1: Companion Animals and the Law

Defining Pets and Companion Animals 2
American Pet Products Association 3
Pets in the Legal System 4
Legal Precedent 5
Absolute Rights 5
Animal Welfare Act 6
Animal Enterprise Terrorism Act 7
Statutes and Ordinances 7
Applying the Law to Pet Custody Disputes 8
Law and Culture 8
Conclusion 9

Chapter 2: Family Law and Replevin Actions

Fictitious Standard of Value 11
Criteria for the Record 12
Joint Custody and Visitation 12
Animal/Human Bonds 13
Animal/Animal Bonds 14
Determining Family Members 14
Replevin 14
Best-Interest Factors 15
Pets and Domestic Abuse 18
Fostering Animals 20
Loss of Companionship 20
Benefits of Owning a Pet 21
Equitable Principles 21
Identifying a Pet Owner 22
Conclusion 22
Applicable Case Law 23
Chapter 3: Alternative Dispute Resolution

Media tion
  Types of Mediation
  Choosing a Mediation Type
  Choosing a Mediator
  Mediator Approaches
  Med/Arb
  Final Disposition
  Positional and Interest-Based ADR Processes
  Mediation, Neuroscience, and Objectivity
  Records for Mediation
  Mediation Questions
  Mediators with Animal Expertise
  Attorney Expertise
  Model Standards of Practice for Family and Divorce Mediation
  Making Deals
  Client Preparation
  Attorney Awareness
  Court Action
  Animal-Focused Facilitation Team
  Collaborative Law and Uniform Collaborative Law Rules/Act

Arbitration
  Types of Arbitration
  Arbitration Benefits
  Family Law Arbitration Act
  Vacating Arbitration Award
  Binding Arbitration
  Single-Issue Arbitration
  Jurisdiction and Waivers
  Finality Requirement
  Perception of Case
  Co-Ownership Agreements
  Arbitration Controversy
  Private Agreements
  Drafting Arbitration Agreements
  Private and Public Justice

Conclusion

Chapter 4: Estate Planning, Wills, and Trusts

Estate Planning for Animals
  Euthanasia
  Oral Communications

Wills
Contents

Trusts 143
- Traditional Trusts 143
- Honorary Trusts 144
- Conditional Trusts 144
- Uniform Probate Code 144
- Pet Trust Basics 145
Estate Planning Case 147
Durable Powers of Attorney 149
Companion Animal Care through Veterinary College 150
Loved for Life Program 150
Conclusion 151

Chapter 5: Contract Law and the Uniform Commercial Code 153
- Contract Concepts 153
  - Statute of Frauds 154
  - Equitable Principles 154
- Replevin Actions 155
- Contract Practice Pointers 156
  - Tests, Liens, and Doctrines 158
- Contract Law and Pet Custody Disputes 158
  - Void and Voidable Contracts 159
  - Rescue Group Contracts 159
  - Breeder Contracts 161
  - Standard Contract Clauses 162
  - Show Dogs and Cats 162
  - Reputable Breeders 162
  - Foster Contracts and Bailments 163
  - Indicia of Ownership 163
  - Veterinarians 164
- Prenuptial and Antenuptial Agreements Addressing Animals 164
- Uniform Commercial Code 166
- Pet Custody and Access Contracts 167
- Animal Transport by Airline 169
- Conclusion 169

Chapter 6: Property Law and the Meaning of Things 203
- Lost and Found Animals 203
  - Title Passing through Operation of Law 204
  - Title Not Passing through Operation of Law 204
- Owners of Lost Animals 204
Contents

Owners of Found Animals 205
Notti Legal Questions 205
Problem Solving 206
Key Research Terms 206
Microchips 206
Conclusion 207
Applicable Case Law 207

Chapter 7: Tort Law Affects Pet Law 245
Old Conceptions of Animals 245
How Animals Are Valued 246
Tort Claims 246
Economic Damages 247
Noneconomic Damages 247
Punitive Damages 250
Tort Transformation 250
Veterinary Liability and Medical Malpractice Model 251
Fundamental Interest Tort 253
Other Claims and Conceptions 254
Tort Law Impacts Family Law 255
Conclusion 256
Applicable Case Law 257

Chapter 8: Animal Cruelty, Crimes, and the Constitution 323
Human and Animal Abuse Link 324
State Animal-Related Regulations and Statutes 325
Animal Sex Offenders 325
Bestiality 326
Felony and Misdemeanor Animal Cruelty Laws 326
Animals as Victims 327
Personhood 327
Animal Mistreatment 327
Pit Bull Cruelty 328
Horse Cruelty 330
Animal Hoarders 330
Federal Laws 331
Horse Permit Requirements 331
Crush Videos 332
U.S. Constitutional Amendments 332
First Amendment 332
Fourth Amendment 333
Fifth Amendment 333
Fourteenth Amendment 334
Animal Control Officers 335
Evidence 395
Statutes and Ordinances 395
Client Financial Commitment 396
Lower Expectations 396
Filing Pleadings 396
Lawyer Strategy 397
Hearing Officers 397
Animal Control 398
Making a Good Impression 399
Witnesses 399
Experts 399
Body Language 399
Legal Arguments 400
Mistaken Identity 400
Provocation 401
Nature or Nurture 402
Dangerous Dog Proceedings and Divorce 403
Client To-Do List 403
Owning an At-Risk Animal 404
Conclusion 406
Applicable Case Law 406

Chapter 11: Science and Technology 429
Genetic Testing 429
Conformation Standards 430
Cloning 431
Bioethics Involving Animals 432
ART Common Law 432
Near-Future Pet ART Issues 434
Family Values 435
Defining Patents 435
What Is Patentable? 436
Animal Patents 437
Patent Case Law 437
Tech Transfer 438
Copyrights 438
Conclusion 440

Chapter 12: Potpourri of the Predicates of Change 441
Charles Darwin 441
Freud and Jung 442
B. F. Skinner 442
Neuroscience 442
Appendix 9: Breeder Agreement for Pet-Quality Dog 539
Appendix 10: Pet Custody Discovery 549
Appendix 11: Order Denying Replevin 579
Appendix 12: Replevin Pleadings and Analysis 587
Appendix 13: Order Regarding Motion to Dissolve Ex Parte Writ of Replevin 629
Appendix 14: Proposed Dangerous Dog Determination and Order 639
Appendix 15: Animal Law Books Published by the American Bar Association 649

Table of Cases 651
Index 655

Appendices available for download