



Pathfinders in Elder Law



***Remembering The Furry
Beneficiary: Protecting Pets
When Owners Are No
Longer Available***

By Jeffery Stinson

Once He greets me every evening with the enthusiasm of a child on Christmas morning. It is his unconditional devotion that makes the anxieties of even the most stress-filled day disappear.

When I open the door and his burst of energized happiness greets me, I cannot help but be as giddy as he. Who is this wonderfully, staunch supporter of Jeff? Actually it is no person at all, but rather my dog, Snoopy.


When my wife and I first got Snoopy, he was just a dog. I could not see myself becoming one of those “pet parents.” After all, I am the son of a farmer. An animal is just an animal. Cows are hamburgers, pigs are bacon, dogs are loyal servants who disposed of the scraps leftover after an evening’s meal. Frankly people who let their pets sleep in their bed, dressed them in outfits, and referred to themselves as their pet’s “mommy” or “daddy” always seemed a little goofy to me. Not until Snoopy made his home with us did I

understand the level of emotional connection a person can have with his or her pet. Now I am the one who saves a spot for Snoopy at night, refers to my wife and I as his parents, and buys him his own Halloween costume.

At least I am not alone in the pet parenting realm. The typical Petsmart has 10,000 square feet of inventory devoted to our four-legged friends. The phone book now lists doggy day cares, doggy spas, animal psychiatrists and mobile groomers. Experts predict Americans will spend approximately \$40.8 billion on their pets this year. Goofy or not, Americans love their pets.

Yet the law continues to regard pets as property, unless specific provisions are added to wills, powers of attorney and trusts. Consider the story of the daughter who was sued by her two sisters for using her mother’s trust funds to care for mother’s dog.

The elderly woman had named one of her three daughters to be trustee of her living trust. After the mother was admitted to a nursing home, the trustee-daughter spent over \$5,000.00 from the trust to care for her mother’s devoted dog. After the mother died, the other two daughters, who were to share in the inheritance, sued the trustee-daughter. They won. The Court found that since the Trust was silent about care for the dog, the Trustee was wrong to treat some trust property, the



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dog, more favorably than other property.

Even mentioning the pet in a will and setting aside money may fail if not done according to the law:

Mrs. Jones died leaving a Last Will and Testament with the following provision, “I leave my beloved cat, Mittens, and the sum of \$10,000.00 to help him care for Mittens, to my nephew, Eddie Haskell.” The Personal Representative of Mrs. Jones’ estate gives Mittens and the \$10,000.00 to Eddie. As Mrs. Jones’ will was written, however, Mittens and the \$10,000.00 are both property received by Eddie. Eddie can use the \$10,000.00 for a new Corvette and drop Mittens off at the nearest animal shelter.

Fortunately, pet lovers do have good legal options. First, any pet owner should consider adding specific instructions to the power of attorney or living trust, authorizing funds to be used to care for the individual’s pet, in the event that the owner becomes incapacitated. The agent or trustee will know that he or she is expected to care for the pet and will be protected from legal liability when he takes the pet to the veterinarian.

A specific Pet Trust, recently authorized in


Indiana law, is what Mrs. Jones could have used.

With a Pet Trust, she could have assured that funds will be used only to let Mittens live a full life after she was gone. A few restrictions apply: Mrs. Jones must appoint an individual to enforce the trust terms. The trust cannot be overly funded—no Dynasty Trust for Mittens. The Trust can provide for more than one animal, but it cannot provide for all of Mittens’ future offspring. When Mittens dies, the trust must terminate. Mrs. Jones can instruct that the remaining money be distributed to her nieces and nephews, or perhaps to the local animal rescue organization.

Pet parents can now provide for their pet children. Snoopy can save others from their daily stress, even when he can no longer save me from mine. ▲

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