

the Animals' ADVOCATE

Fall 2006
Volume 25 Number 3

A NEWSLETTER FOR SUPPORTERS OF THE ANIMAL LEGAL DEFENSE FUND

INSIDE:

**Historic
Ruling for
Animals**

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A Crateful of Cruelty

ALDF files lawsuit against industrial pig operation

Imagine—you are pregnant, and you must spend nearly every minute of every day locked in a crate so small you cannot move or lie comfortably. The “walls” of the crate are steel bars, and the floor is concrete. For a brief moment you feel some relief from this prison, but it’s only because you are being moved to another, similar enclosure. Here you will give birth, your babies will nurse from outside the enclosure so you can never touch or interact with them until they are taken away, and then you will be artificially inseminated. The cycle will begin again.

As painful as it is to contemplate, this is the miserable reality for roughly 9,000 breeding sows who are now enduring constant suffering at CorcPork, Inc., California’s largest industrial pig farming operation. Such miserable confinement is also illegal—and the Animal Legal Defense Fund is working to stop it.

By keeping sows in this intensive confinement, CorcPork is in violation of Section 597t of the California Penal Code, which requires that “every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area.” ALDF recently filed a lawsuit in California Superior Court asking that this law be upheld and that the pigs currently agonizing at CorcPork be granted the right to exercise and walk around at will.

“The female pigs at CorcPork are forced to endure a cruel, prolonged confinement in a facility that resembles a series of cells in which the inmates are not able to move at all,” says Bruce



Wagman, chief outside litigation counsel for ALDF. “They are mothers, like dairy cows, who spend their entire lives in that stressful cycle of pregnancy and birth—until they are slaughtered. Section 597t is not an agricultural statute; it’s an anti-cruelty statute. With this lawsuit, we are trying to change the treatment of sows who are often pressed against bars on all four sides of the crate – their snouts, tails and bodies in constant contact with metal.”

No person, or business, is above the law, and ALDF’s lawsuit seeks nothing more than what current law requires for these pigs: the opportunity for basic exercise and some freedom of movement. A sow should be given room to turn around without difficulty, to relax and move her legs, to walk and

Continued on page 6

A sow at CorcPork, Inc. peers from the crate where she will spend most of her life

For the **RECORD**

"For one thing, juries like dogs more than people."

—**Harold Potter**, the assistant city attorney who negotiated the settlement in which the city of Costa Mesa, Calif. agreed to pay a family \$225,000 after two police officers shot and killed their pit bull

"Most of us think of vegetarians as nuts, and I'm not a vegetarian, but I wouldn't be surprised if we came to a time in 50 or 100 years when civilized people everywhere refused to eat animals. I could be one of them."

—**CBS News correspondent Andy Rooney** in his weekly commentary for *60 Minutes*

Letter from the **EXECUTIVE DIRECTOR**



It's Time We're Aware...

It's a small world. You just never know what effect something we do or say about protecting animals might have. Recently, my dad e-mailed me a newsletter from an investment firm—his not-so-subtle way of reminding me that I need to be saving for my retirement. The editor of the newsletter used his recent adoption of a dog from a shelter to illustrate a point he was making about how he chooses investments. He said part of his reason for going to a shelter rather than a pet store was that buying a dog from a pet store probably meant getting a “puppy mill” dog.

What's remarkable was that the newsletter had nothing to do with animals. But someone, somewhere had obviously informed the writer about the misery and suffering of animals raised in puppy mills, and the connection between puppy mills and most pet stores. As a result, tens of thousands of subscribers who received that newsletter will now also be aware of this issue.

It's a reminder of how important it is to look for opportunities to create awareness and change whenever and wherever they may arise. In addition to our legal work, we look for those kinds of opportunities everyday here at ALDF—after all, changing the law begins with raising awareness.

Here's a recent example: Lisa Franzetta, our communications director, discovered that a short film “starring” one of Sid Yost's* chimps won an annual filmmaking contest sponsored by Coca-Cola. You'll recall that ALDF has sued Yost for beating and abusing the chimpanzees in his care as a means of “training” them to perform (as is common practice in this violent industry). Lisa contacted Coca-Cola and issued an alert to our members asking them to write the company to change its policy. Within days, thanks to all of our members who wrote, Coca-Cola revised its policy for the contest by completely banning the use of chimpanzees and other primates.

Not only will this prevent chimps from being used (and abused) for this contest, but every one of the participants who reads the guidelines will be made aware that there is something inhumane about using primates for entertainment.

ALDF will continue to fight for the rights of animals in the courts, but even our victories there depend on more and more people, including lawyers and judges, becoming aware of the pervasive abuse that animals too often suffer in our society.

Each of us has the power to create this kind of change. In our individual, day-to-day actions and our interactions with people, we can help raise awareness about the animals who suffer every day—in puppy mills, backyards, and factory farms.

Who knows? The person you talk to or the person they talk to, or the next, may wind up being the judge in one of ALDF's cases. It's a small world.

Thank you for caring and supporting our work.

Happy Holidays,

Stephen Wells
Executive Director

P.S. Since this is the last issue of the *Animals' Advocate* you'll receive before the holidays, be sure to check out our online store at www.aldf.org for some great gift ideas that will let you shop and support ALDF's important work at the same time. See page 8 for details.

Historic Ruling in Cruelty Case

Court of Appeals recognizes new claim for injury to companion animals

It was one of the cruelest animal abuse cases imaginable. Three young men took Max, a brown tabby cat, from his home in Spokane, Washington, doused him with gasoline, and set him on fire in a field. Max suffered extensive burns and, after veterinary efforts to save him were unsuccessful, had to be euthanized to end his suffering.

Two of the teens were arrested, and an Animal Legal Defense Fund supporter who knew the prosecutor turned to ALDF's Criminal Justice Program for much-needed assistance. ALDF offered advice on legal strategies for the prosecutor and assisted with research and sentencing recommendations.

Furthermore, using its database of more than 2,500 cruelty cases, ALDF compiled a customized report of similar cases involving animals being burned, including the factual scenarios, case outcomes, and sentences—all the information needed to make a compelling argument that the judge should sentence the two young men strongly. The teens were found guilty of first-degree animal cruelty in September 2003. Unfortunately, the convicted abusers got off with a mere slap on the wrist.


But the fight for justice for Max was not over yet. Bernadette Womack, Max's guardian, brought a civil suit against Jason Brumback, Rusty Von Rardon, and Jayson Anderson—the three who abducted and maliciously tortured Max—as well as some of their parents. (Anderson was not charged in the criminal case because it was not known at the time of the criminal trial that he had also participated in Max's torture.) Ms. Womack sought compensation for the severe emotional pain and distress she had suffered, as well as for Max's inherent value. She received a \$5,000 award, which included some unspecified amount for her emotional distress. The trial court also dismissed other claims relating to the torture. Womack filed an appeal on the dismissed claims.

In May 2006, a Washington Court of Appeals upheld the judgment in Womack's favor, but notably overturned the Spokane Superior Court's ruling with respect to some of the dismissed claims. In an historic ruling, the court recognized a new cause of action in cases involving animal abuse. As Adam Karp, Womack's attorney and an attorney member of ALDF's Animal Law Program, explains, "When you sue someone civilly, you must assemble the facts in a way that triggers liability under some legal claim. That claim is

known as a 'cause of action.' With this case, we now have a new cause of action in Washington: malicious injury to a pet." In fact, for the first time anywhere, malicious injury to a companion animal resulting in a guardian's emotional distress is a legitimate legal claim.

To assist Karp on the appeal, ALDF filed an *amicus curiae* ("friend of the court") brief, which stated, "Unlike other property—that has no sentient life and cannot even be killed—Max was not a disposable item that can be replaced on the market.... Max was indisputably a...living, breathing, feeling being who formed a valuable relationship with [Ms. Womack] and had an identifiable emotional life and consciousness. There should be no doubt that when [she] lost Max, [Ms. Womack] lost an important member of her family." ALDF argued that the Court should reject an evaluation of Max based on "market value" and instead award a measure of compensation for the loss of Max that reflects his "actual value to [Ms. Womack]." ALDF argued that the "traditional market value" approach to damages does not reflect society's values and does not adequately compensate a guardian when someone wrongfully kills or injures his or her companion animal.

Karp, who has been practicing in Washington State since 1999, got into animal law after becoming a vegan. He is currently the sole attorney in Washington who practices animal law exclusively. In addition to his practice, Karp teaches animal law at Seattle University and the University of Washington, and he founded the animal law section of the Washington State Bar Association.

"The Max case is significant from the standpoint of the court starting to 'get it,'" he says. "They see that animals aren't like other property, and that emotional attachments to them are genuine and foreseeable. This is a great step forward in judicial recognition of the inherent value of living beings." 

For the first time anywhere, malicious injury to a companion animal resulting in a guardian's emotional distress is a legitimate legal claim.

**Animal attorney
Adam Karp**



Cruising for Compassion

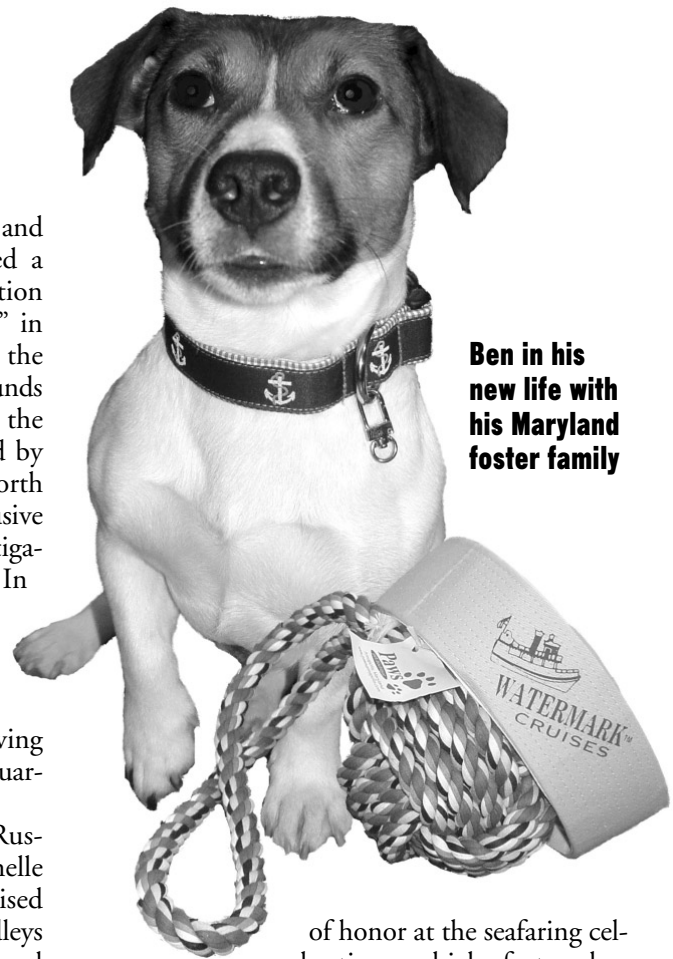
It was a doggone good time as 165 people and 80 of their canine companions enjoyed a beautiful September night of celebration aboard “Little Ben’s Big Fundraiser Cruise” in Annapolis, Maryland. Under perfect skies, the sold-out cruise raised awareness and critical funds for ALDF’s work to stop puppy mills—like the commercial hoarding facility once operated by Barbara and Robert Woodley in Sanford, North Carolina. When ALDF heard about this abusive dog-breeding business, it launched an investigation, then filed suit against the Woodleys. In March 2005, ALDF was awarded custody and care of 325 dogs rescued from the Woodleys, who were found guilty of multiple counts of animal cruelty for keeping their animals in hideous conditions and depriving them of proper veterinary care, clean living quarters, and love.

Among the dogs saved was Ben, a Jack Russell terrier now living with foster mom Michelle Kownacki, who organized the cruise that raised nearly \$5,400 for ALDF. (Because the Woodleys have appealed the Court’s decision, the rescued dogs cannot be permanently adopted as the case drags on, and ALDF continues to fight for these animals as they embark on new lives in foster homes around the country.) Ben was the guest

All aboard for Little Ben’s Big Fundraiser Cruise!



PHOTO BY CAMERON ADAMS



Ben in his new life with his Maryland foster family

of honor at the seafaring celebration, which featured a silent auction for items donated by local merchants, entertainment by the dog-loving band Ben’s Bones, and even a sit/stay dance contest for dogs.

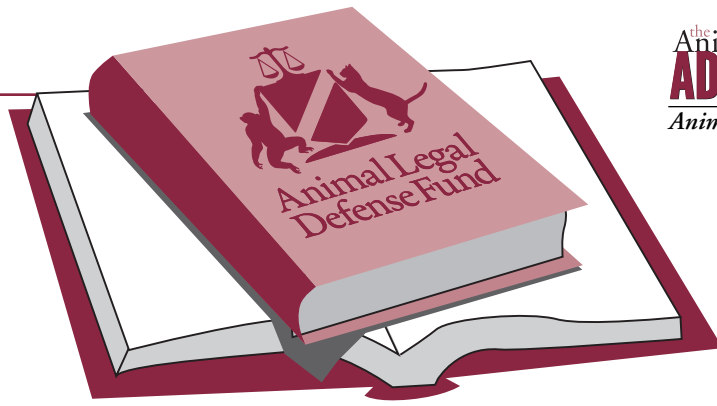
Michelle reports that Ben has come a long way since he nervously arrived in Maryland and began to adjust to life outside the puppy mill. “The bed was instantly his safety zone as he warmed up to home living,” she reports. “Initially uncertain of stairs, sidewalks, toys, people, and the world for that matter, he has slowly made progress.” Now an outgoing dog who likes to play, Ben is never far from Michelle. “He goes to work with us (me, my husband, and our other dogs) every day, so he is slowly improving on a leash as he takes on sidewalks and people. He now enjoys tossing toys in the air and getting belly rubs from his select few. Every day is an adventure and a blessing to have him in our lives. It has been a wonderful experience to watch him learn to love life.”

Owner of the Paws Pet Boutique in Annapolis, Michelle says she organized the fundraiser cruise out of appreciation for what the Animal Legal Defense Fund has done for Ben and for all the other deserving animals. “We are grateful to know tireless pet ambassador Madeline Davis, our friend and longtime advocate for animals, who led us to ALDF,” adds Michelle. “Many thanks to all those behind ALDF who give the animals a voice.”

Thank you, Michelle!



We Wrote the Book on Animal Law!



The Animal Legal Defense Fund understands the critical role that today's law students will play in protecting the lives and advancing the interests of future generations of animals. That's why our Animal Law Program collaborates with students, faculty, and school administrations to assist with the development of animal law courses at law schools across the country.

Using new technology in the service of this goal, ALDF recently hosted a first-of-its-kind "Ask the Authors" conference, a web-based meeting that brought together in a "virtual meeting" some of the most dedicated and talented minds in the emerging field of animal law.


Just in time for the fall semester, dozens of law school instructors from around the country participated in the conference, previewing the just-published third edition of *Animal Law: Cases and Materials* and engaging in conversation with the book's authors, Pamela Frasch, Bruce Wagman, and Sonia Waisman.

Pamela Frasch is ALDF's vice president of legal affairs, overseeing ALDF's Litigation Program. She is also an adjunct professor of law at the Northwestern School of Law of Lewis and Clark, where she has been teaching survey and advanced animal law courses for the past eight years. Bruce Wagman is ALDF's chief outside litigation counsel and a partner in the San Francisco law firm of Morgenstein & Jubelirer, where he practices almost exclusively animal protection law. Bruce teaches animal law at the University of California Hastings College of Law, the University of California Berkeley School of Law, Stanford Law School, and the University of San Francisco School of Law. Former ALDF board member Sonia Waisman is a partner in the international law firm of Morrison & Foerster. She is also an adjunct professor teaching animal law at Loyola Law School in Los Angeles, and she has previously taught animal law at Vermont Law School and California Western School of Law in San Diego.

Among the topics the group discussed were the challenges of teaching animal law and how dynamic classes can be. "The first class I ever taught I had two hunters and a guy who worked in a slaughterhouse, and it was fantastic," said

Bruce during the discussion. "Even last year I had these two guys at Stanford who had no interest in animals; they just figured it is a two-hour class-- 'We will get up at eight o'clock in the morning. We won't really be awake, but who needs to pay attention to this guy anyway?'—and they loved it, and they were really good counterpoints to my arch-radical animal rights students in there."


Conference coordinator Pam Alexander, director of ALDF's Animal Law Program, was very pleased with the turnout. "Since the conference, more than 35 animal law instructors have asked to be added to a listserv ALDF set up to facilitate communication among them," she says.

ALDF's Animal Law Program will be expanding the "Ask the Authors" web conferencing series, promoting the growing field of animal law until it is firmly rooted in the curriculum of every law school in the country. *Animal Law: Cases and Materials*, meanwhile, continues to be the gold standard of legal texts addressing animal law. Carolina Academic Press, the casebook's publisher, observes, "The third edition of the premier book on animal law covers a rapidly developing field that is exponentially increasing its presence in both the public eye and on the list of desired classes for law students. In the past ten years, the number of animal law classes in American law schools has gone from less than ten to more than seventy, and this casebook has been used as a model for courses internationally." 

ALDF recently brought together in a 'virtual meeting' some of the most dedicated and talented minds in animal law.

SALDF KEEPS GROWING!

Students interested in getting more involved with animal law have been joining and starting Student Animal Legal Defense Fund (SALDF) chapters in law schools throughout North America. Moreover, law schools are responding to students' interest and efforts by offering more animal law classes and seminars. As we go to print, 85 SALDF chapters have been established!

For more info, please visit www.aldf.org/saldf. 

WHAT YOU CAN DO:

The easiest way to be sure you aren't supporting the kind of systematic cruelty thousands of sows must endure every day at CorcPork is to keep pigs off your plate. A wide variety of vegetarian alternatives to pork products on your supermarket shelves make it easier than ever to reject the cruelty of factory farming outright. 🐷

**ASK JOYCE****Dear Joyce:**

How can I make sure that my cats are well cared for if I become incapacitated or die?

Dear Reader:

Our companion animals are important members of our family, and we want them to be loved and well treated in the event that we die, become incapacitated, hospitalized or are otherwise unable to be there for them. The key is to plan for those possibilities now. Here are a few basic suggestions:

1. If a will is your primary estate planning tool, it should

Pig Cruelty

continued from front page

run to the extent she desires, to groom, and to comfortably get up and down. ALDF also believes sows should be able to walk and run on surfaces natural for pigs, such as grass or dirt, rather than the cold concrete at CorcPork.

Central to the lawsuit is CorcPork's use of "gestation crates" and "farrowing crates." Both are routinely used in corporate factory farming and are designed to promote economic efficiency in the production of pig meat, rather than the welfare of the pigs. These are individual metal crates approximately two feet wide and seven feet long, and sows are typically kept in gestation crates for the entire four months of their pregnancies. In such tight confinement, the only movement the sows can manage is to stand or lie down; neither position is comfortable on the concrete floor, which is devoid of any straw bedding material.

Shortly before a sow gives birth, she is moved from a gestation crate to a similarly restrictive farrowing crate, which is approximately two feet wide and six feet long. Once born, her 20 or so piglets have access to an area adjacent to the mother sows and can suckle when the sows are lying on their sides—but otherwise cannot engage in normal mother-infant behavior, which is natural, and similar, in all mammals. As soon as their piglets are weaned, at less than one month old, the sows are once again artificially inseminated and moved back to gestation crates.

Such intensive confinement would be miserable for any animal, but it is especially painful—physically and mentally—for pigs, who are highly intelligent, sensitive animals, with complex social lives. Add to that the stress of undergoing this treatment while being pregnant or nursing, and the practice is unquestionably cruel. CorcPork's treatment deprives the sows of every opportunity to engage in important behaviors. Numerous research studies con-

ducted over the last 25 years have demonstrated that intensively confined sows experience a number of physical disorders, including obesity, joint damage, leg weakness, a reduction in total bone mass, cardiovascular problems, impaired mobility, and urinary tract infections (due in part to having to sit and lie in their own waste). Moreover, when allowed to live naturally, pigs live in groups and form strong social bonds. Enduring tight confinement and a stark environment of solitary deprivation also cause sows to suffer chronic stress, frustration, and depression and to exhibit neurotic coping behaviors such as bar biting, head waving, licking, and "vacuum chewing" (where they chew repeatedly, but are chewing only air).

"I think gestation crates for pigs are a real problem," says Temple Grandin, Ph.D., a professor of animal science at Colorado State University and one of the nation's top designers of livestock handling facilities. "I mean basically you're asking a sow to live in an airline seat. I think that's something that needs to be phased out. I'm not in favor of gestation stalls."

Joining the lawsuit as co-plaintiffs are East Bay Animal Advocates and three consumers of pork products—Ann DeChenne, Susan Jackson, and Christy Morgan, all of whom unknowingly purchased products they believed to be produced under humane standards.

"In the past," says Susan, "I believed that all companies represented in the California marketplace that were involved in raising, breeding, and slaughtering animals were following basic, legally-mandated humane guidelines. As a result of learning how CorcPork treats its pigs, I realized that my trust in animal anti-cruelty laws was a blind trust, based on the assumption that as a 'progressive' state, California was a leader in the humane treatment of animals. Now, I buy meat that is family-raised or raised according to the guidelines of California state law. Condoning any company that maintains its animals in crates too small to allow normal movement, in a continual state of pregnancy or nursing, is shameful." 🐷

include a provision for your companion animals. Identify a person and an alternate person (in case the first person becomes unavailable) who will assume responsibility for providing care for your animals. Include sufficient funds and instructions for your animals' care. If you cannot find an individual to serve in this role, consider making arrangements with a local charitable animal protection organization that you trust to care for or place your animals.

2. Create a trust for your companion animals. Trusts for companion animals are now legally enforceable in some states. Check out www.aldf.org for a current list of those states. Name a trustee (to handle the funds) and a caregiver (to provide care for the cats). Make sure you choose a caregiver who will act in the best interests of your animals and provide that person with detailed, written


Barney's Legacy is Helping Animals

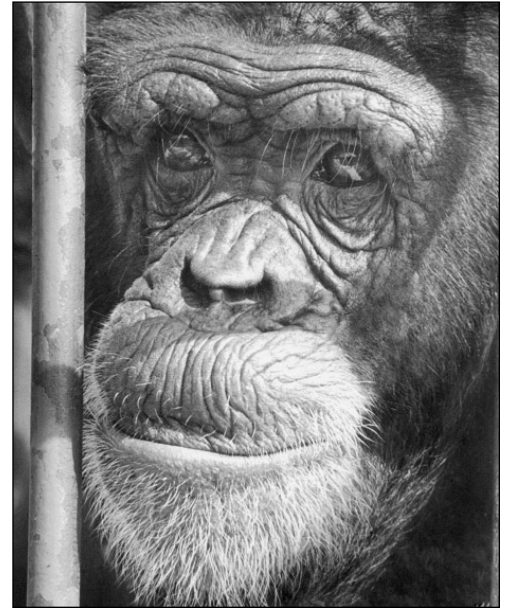
Like humans, chimpanzees are social animals—highly intelligent, curious beings who need interaction and the presence of others of their own species to thrive. So when Marc Jurnove, a retired park ranger, visited the Long Island Game Farm Park and Zoo in the spring of 1995, he was concerned to discover a lonely 19-year-old chimpanzee named Barney living all by himself, with nothing but a rickety swing to distract him. Jurnove complained about Barney's treatment to the United States Department of Agriculture (USDA), which is charged with enforcing the federal Animal Welfare Act's (AWA) provision that zoos provide primates an environment conducive to their psychological well-being. When the USDA refused to act, the Animal Legal Defense Fund intervened, taking the historic step of suing the USDA on Jurnove's behalf for failing to enforce the AWA. In October 1996, a U.S. District Court Judge found the USDA in violation of the AWA, and, even more significantly, the final decision in 1999 established for the first time ever the right of citizens to challenge federal agencies regarding the treatment of animals.

But this landmark victory was bittersweet: three years before the landmark ruling, Barney escaped from his unlocked cage and was shot and killed by a game farm employee. Born and raised in captivity, Barney deserved better than life in solitary confinement. In his honor, ALDF established the Barney Legacy Society, a recognition program for people who have chosen to include ALDF in their wills and estate planning. In this way, donors can not only help ensure the fight for legal protection for animals continues for years to come—they can also ensure that the memory of Barney lives on.

Among the more than 500 caring individuals who have joined the Barney Legacy Society since it was formed in 2002 is Susan Mason of Alachua, Florida. She is deeply concerned that animals are abused and considers being a member of the Society

empowering. "I'm convinced that the only way most domestic animals—sadly, even those used for food and labor—will be treated humanely in this country is if the law requires it, imposing stiff penalties for infractions," says Susan. "While there are other animal welfare organizations that promote respect and compassion (which is wonderful), and still others that serve as sanctuaries (also wonderful), ALDF is the only charity of which I'm aware that exclusively targets legislation and enforcement issues. In general, Americans still hold to that 'frontier' culture, which utilized animals as tools, assuming them to be expendable and unfeeling chattel—in the same way that African Americans were once 'utilized'—and this is unlikely to change for many generations without legal mandate. From America's labs to its slaughterhouses, legal sanctions are the only way we have of imposing humaneness on intrinsically inhumane processes."

Bequests to ALDF have an enduring impact. As the legal arm of the animal protection movement, ALDF is a powerful voice for imperiled animals in our communities, on farms and in the entertainment industry. Each time a law is passed, or an historic case like Barney's is won, the lives of thousands or even millions of animals are changed for the better, forever. Moreover, ALDF's educational and training programs are changing the views of the general public and both current and future legal professionals, including judges, prosecutors and attorneys. To learn more about the Barney Legacy Society, estate planning, gift annuities, and other giving options, please contact ALDF President Steve Ann Chambers at sachambers@aldf.org, or at 402-345-1951. 



Barney, whose sad life and tragic death led to an historic judgment for animals

instructions for their care.

3. Identify friends or relatives willing to provide short term care for your animals in the event of an emergency, such as when a guardian becomes hospitalized, incapacitated or otherwise unavailable. Provide them with access to your home, the name and contact information of your animals' veterinarian and detailed instructions about care.

4. Discuss your needs with a qualified estate planning attorney to determine the best estate plan for you. There are strengths and drawbacks to each estate planning tool as well as associated costs. Choose the plan that meets your needs.

Plan thoughtfully so that the care you have given to your beloved cats will continue when you are no longer able to provide it by yourself.

For more in-depth information about this important topic visit the ALDF website, www.aldf.org, and check out: *All My Children Wear Fur Coats: How to Leave a Legacy for your Pet*, by Peggy R. Hoyt, which can be purchased online at www.legacyforyourpet.com.

All the best—Joyce 

If you have a question you would like to see answered in The Animals' Advocate newsletter, email me at: askjoyce@aldf.org, or write to "Ask Joyce," Animal Legal Defense Fund, 170 East Cotati Avenue, Cotati, CA 94931. We regret that we are unable to publish answers to all questions. This column provides general information only. Each state and, in some cases, each county has its own rules and procedures, so please consult a local attorney to assure that you receive advice specific to your jurisdiction.


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SURF AND SHOP AT ALDF'S NEW WEBSITE!

Want to do a little holiday shopping and help animals? It's easy – and you can do it without hassling with parking lots or crowded malls. Just visit ALDF's newly redesigned website at www.aldf.org and click on "Go Shopping" to enter the ALDF Store. We've teamed up with CafePress.com to bring you tons of great merchandise, including a wide assortment of t-shirts, mousepads, mugs, posters, tote bags, and more – something for everyone on your list! You can also order ALDF's special checks, labels, and checkbook covers, or apply for the ALDF Visa card.

Also be sure to check out our sale items for great deals, and shop till the cruelty stops!

All proceeds help ALDF in our mission of protecting the lives and advancing the interests of animals through the legal system. 



*ALDF and Sidney Yost have reached a settlement of all litigation between them, with both sides denying the other's allegations and neither side admitting any liability. For additional information, click this link.

<http://aldf.org/statement-of-settlement/>