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Animal Legal Defense Fund
FALL 2011
THE ANIMALS' ADVOCATE
A NEWSLETTER FOR SUPPORTERS OF THE ANIMAL LEGAL DEFENSE FUND



One of the victims rescued from the squalid conditions at a hoarder's home

Loving Animals to Death

ALDF provides key assistance in sentencing of Oregon cat hoarder

IT WAS THE OVERPOWERING STENCH of urine coming from Terrianne Hess' Gresham, Oregon apartment that prompted her neighbors to call the Oregon Humane Society last year. When humane society officials and police arrived to investigate, they discovered 38 cats living amid garbage and feces in the small residence. They also found the bodies of seven cats in the backyard. Gresham police charged Hess with 45 counts of animal neglect. She might have gotten off with a slap on the wrist were it not for the efforts of a dedicated deputy district attorney—and some expert assistance from the Animal Legal Defense Fund.

After a trial that lasted a day and a half, a Multnomah County jury returned a guilty verdict on all 45 counts—seven counts of first-degree animal neglect for the deceased cats, and 38 counts of animal neglect in the second degree relating to the 38 felines removed from the apartment. It was looking like Hess would be held accountable for 45 cases of animal cruelty. But at the sentencing phase, things took an unexpected turn. "Essentially, the defense argued that all of Ms. Hess' 45 convictions should be merged into a single conviction because each count did not represent separate 'victims,'" says Deputy District Attorney Jacob Kamins, who prosecuted the case. Kamins turned to Scott Heiser, director of ALDF's Criminal Justice Program, for last-minute assistance.

"Oregon has a unique statute that, for crimes involving the same victim, requires a judge to merge or consolidate multiple convictions into just one count," explains Heiser. "The defense argument was simple: Because the defendant owned all 45 cats, the state should be considered the victim,

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LETTER FROM THE EXECUTIVE DIRECTOR

Degrees of Progress

JUST WHAT IS AN LL.M. ANYWAY? (And what does it mean for animals?)

If you're a lawyer or law student, you can skip the first two paragraphs, because you're probably wondering how anyone could not know the answer to that question. (But please stay tuned for the exciting news after that!) For the rest, I'll start by saying it is not the latest Internet chat shorthand (LOL). But I recognize that it is probably equally mystifying to those not in the legal profession, so let me explain.

An LL.M. is an advanced law degree, also known as a Master of Laws. Law students and professionals frequently pursue the LL.M., after gaining their J.D. (Juris Doctor) degree to become a lawyer, to gain expertise in a specialized field of law—for example, in the area of tax law or international law. Many law firms prefer job candidates with an LL.M. degree because it indicates that a lawyer has acquired advanced, specialized legal training and is qualified to work in a multinational legal environment.

What does an advanced law degree have to do with animals? In early July, Portland, Oregon's Lewis & Clark Law School received accreditation from the American Bar Association to offer the world's first-ever LL.M. degree in animal law! Until now, the thousands of law students interested in animal protection have only had a class or two or, at best, a hands-on legal clinic available to them in law school to support their goals. Pending final approval from within the law school (expected in early September), for the first time, these pioneering students can get a degree in the field they want to pursue.

This truly historic moment for animal law and, indeed, for animals, was made possible by the close collaboration between ALDF and Lewis & Clark for more than a decade, culminating in the creation, in 2008, of the Center for Animal Law Studies at Lewis & Clark. It is also the culmination of the years of leadership ALDF has been able to provide within law schools generally to advance the study and practice of animal law, thanks to dedicated ALDF supporters like you.

For the animals,

Stephen Wells, Executive Director

FOR THE RECORD

"Someone should not be able to walk into a restaurant and order a plate of an endangered species."

— U.S. Atty. Andre Birotte Jr., regarding a man who pled guilty in June to illegally importing Japanese whale meat and selling it to a Santa Monica sushi restaurant

Animal Legal Defense Fund

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West Hollywood Bans Fur

THE ANIMALS' ADVOCATE
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Animal Legal Defense Fund

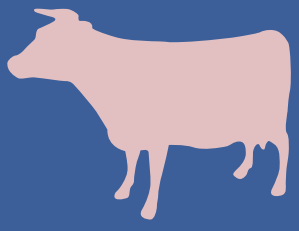
WEST HOLLYWOOD LOVES ITS ANIMALS. The Southern California city, which operates as a "Cruelty-Free Zone for Animals," has already passed a historic ban on the inhumane practice of declawing cats, and last year it banned the sale in pet stores of dogs and cats from cruel puppy and kitten mills. It's now about to become the first municipality in the country to outlaw the sale of fur. Armed with model language provided by the Animal Legal Defense Fund, the City Attorney of West Hollywood is drafting an ordinance prohibiting the sale of fur apparel products in the city limits.

"West Hollywood is the country's vanguard for advances in animal protection law," says Stephan Otto, director of legislative affairs for the Animal Legal Defense Fund. "As with their retail pet sales ban, we worked to assist in pushing the fur ban proposal forward by providing the city with model language. We also supplied legal research on the proposal to help build support for this momentous new law."

Well known for its social justice legislation, West Hollywood has been at the forefront of progressive laws that protect animals. "West Hollywood has the opportunity to once again be a leader for animal welfare by becoming the first fur-free city in the nation," says City Councilmember John D'Amico, who won his seat in March after promising voters that he would make banning fur a legislative priority. "We have pledged to be a place that is free of cruelty to animals, and we can no longer support the barbaric fur trade by selling the products of that cruelty in our city."

Ed Buck, a West Hollywood animal advocate who helped bring together the people and pieces that made this ban possible, says ALDF's help was invaluable. "Very often, the people in the political arena who want to resist change say, 'Oh, I'd like to do that too, but it's not legal.' So we called Stephan and said, 'We know they are going to tell us this is a great idea, it's the humane thing to do, but you'll get shot down by the commerce clause or something else.' Stephan did some homework and provided a brief that eliminated all the potential arguments before they raised them, thus clearing the way to get this passed."

"West Hollywood is poised to position itself as a humane, thoughtful place and to extend that invitation to people from around the world who visit here as well as those who do business here," adds D'Amico. "This is about who we are and the way we live now."



"We can no longer support the barbaric fur trade by selling the products of that cruelty in our city."

— West Hollywood City Councilmember John D'Amico

The Cruelty of Fur

OF THE ESTIMATED 40 MILLION ANIMALS killed by the fur trade every year worldwide, about 31 million are raised on fur farms. Here, mink, foxes, chinchillas and other fur-bearing animals are intensively confined in wire cages that deny them the ability to engage in even the most basic expression of their natural behaviors. These barren cages, covered only by open-sided sheds, do not protect animals from extreme heat, bitter cold, or insects. As a result of the stressful conditions, animals on fur farms frequently exhibit a variety of abnormal behaviors, including pacing back and forth and gnawing on cage wire. Wild animals who have large territories in nature, such as foxes and sables, have a particularly difficult time in confinement. These animals routinely self-mutilate, chewing on their tails and limbs out of extreme frustration. When their fur is deemed ready for market, animals face death through electrocution, lethal injection, decompression, gassing, or broken necks – all methods that ensure their fur remains unblemished. There is even evidence that some animals are skinned alive. The U.S. offers no federal laws that govern the humane treatment or killing of animals on fur farms, and state anti-cruelty statutes often exempt such practices for falling within "accepted industry standards."

A fox on fur farm, confined to a tiny cage

THE ANIMALS' WHAT YOU CAN DO

If you suspect someone is keeping too many companion animals to reasonably care for, please contact your local humane society, SPCA or law enforcement.

Alert ALDF so we can track the case and offer our professional assistance to local authorities. Contact officials and the media when hoarding cases are in the news and ask that hoarders be barred from all contact with animals and ordered to undergo psychiatric evaluations and appropriate treatment.

Preventing hoarding begins with addressing pet overpopulation. Please spay and neuter your animals!

Cat Hoarder

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not the 45 individual cats who all suffered at her hands." Not only was this an injustice to every cat who was victimized by Hess' neglect, but, if her defense were successful, she could only be formally convicted of one charge, rather than 45. In addition to limiting the severity of the potential sentence the court could impose (either at sentencing or in any subsequent probation violation proceedings), such a result allows an offender to get her conviction sealed after she completes the terms of her sentence. These are clearly unacceptable outcomes, especially in hoarding cases, where recidivism rates run near 100 percent. "The issue before the court was whether each cat subjected to criminal neglect constitutes a 'victim' for purposes of Oregon State law," says Heiser. "If each animal is considered a victim, it would prevent the merger of convictions at sentencing, where Hess was found guilty of multiple counts of criminal animal neglect involving separate animals she owned or possessed."

The provisions of Oregon law exist to meet the unique needs of animals who have been the victims of abuse or neglect. "The legislature has ensured that no law enforcement bias will stand in the way of making an arrest in an animal neglect case," says Heiser, "thus elevating animals to the same status as domestic violence victims when it comes to a peace officer's duty to immediately abate the abuse." In addition, inspired by child abuse reporting laws, the Oregon legislature has ordered veterinarians to report aggravated animal cruelty and encouraged the reporting of animal neglect with a grant of immunity. "These two examples demonstrate that the legislative intent is clear: animals who are starved at the hands of their owners are to be regarded as the victims of the neglect, because it is they who have suffered the harm that is the essence of the crime. As such, each of the 45 cats in this case qualified as a unique victim under Oregon law, and the court was right not to merge them."

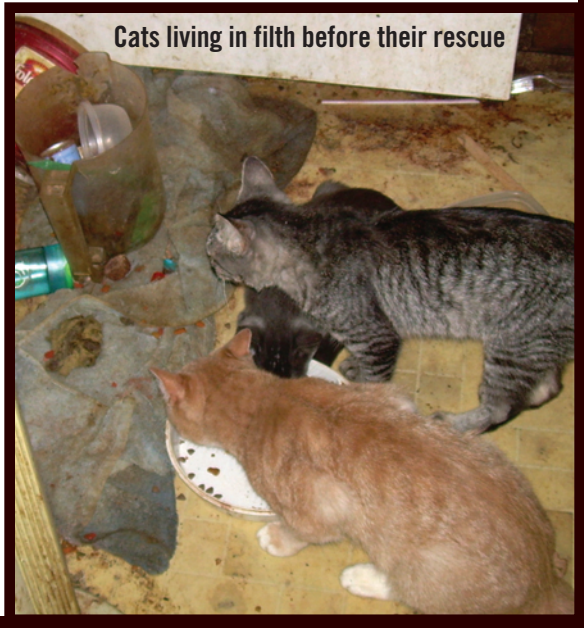
Although Kamins' call for help was at the eleventh hour, Heiser was prepared. He sent the deputy district attorney an amicus brief ALDF had filed on a very similar case, *State v. Nix*, that was pending in the Court of Appeals. "I used arguments from ALDF's amicus brief—as well as the State's brief—to argue my point," says Kamins. "We prevailed, and 45 separate convictions were entered."

ALL TOO COMMON

The judge sentenced Hess to five years of probation, 100 hours of community service, and a $5,000 fine. While it's not the jail time ALDF was hoping for, Hess will be required to undergo any psychological or psychiatric treatment her probation officer recommends.

That last requirement is important. To some observers, animal hoarding may simply seem like good intentions gone wrong—an equine rescue center with too many horses to care for, for example, or even a family member who swears she loves her dozens of dogs, though they are clearly being neglected. Once described as "collectors," animal hoarders are today recognized as individuals with mental health problems that can have severe consequences for animals. Indeed, hoarding is the biggest crisis facing companion animals today because of the sheer number of animals affected—an estimated 250,000 each year in the U.S.—and the degree and duration of their suffering is immense.

According to Gary Patronek, V.M.D., Ph.D., the principal consultant on Animal Planet's *Confessions: Animal Hoarding* and the founder of the Hoarding of Animals Research Consortium, "The onset of cruelty begins when the hoarder simultaneously becomes unable to provide even minimal standards of



Cats living in filth before their rescue

Identifying a Hoarder

The Hoarding of Animals Research Consortium has identified four key characteristics of animal hoarders:

- Having more than the typical number of companion animals.
- Failing to provide even minimal standards of nutrition, sanitation, shelter and veterinary care, with this neglect often resulting in illness and death from starvation, spread of infectious disease, and untreated injury or medical conditions.
- Denial of the inability to provide this minimum care and the impact of that failure on the animals, the household, and human occupants of the dwelling.
- Persistence, despite this failure, in accumulating animals.

care and fails to recognize and correct this deficiency. Eventually, animal hoarding degenerates into protracted animal suffering and death, potentially encompassing human victims who are either financially or emotionally dependent upon the hoarder."

Failure to provide animals with proper care is illegal in every state. Although it was an Oregon hoarding case that resulted in one of the strongest felony anti-cruelty laws in the country, prosecuting such crimes can be extremely challenging. That's one reason the Animal Legal Defense Fund's Criminal Justice Program provides free prosecution assistance in animal neglect and cruelty cases throughout the nation, giving prosecutors like Jacob Kamins the tools they need to win the fight against animal abuse.

All 38 cats removed from Hess' residence have found new, loving homes.

Tony in his concrete enclosure at the Tiger Truck Stop

ALDF Wins Lawsuit to Free Tony the Tiger!

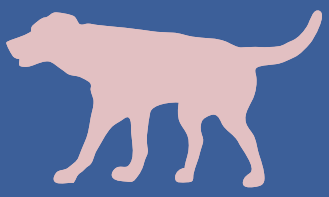
GRRRRREAT NEWS IN THE ANIMAL LEGAL Defense Fund's ongoing legal battle to free Tony, the tiger who has spent every day and night of the last 10 years at the Tiger Truck Stop in Grosse Tete, Louisiana. As we reported in our last issue of *The Animals' Advocate,* ALDF filed a lawsuit in Louisiana state court to force the Louisiana Department of Wildlife and Fisheries (LDWF) to revoke the permit that allows Tony's owner, Michael Sandlin, to keep the tiger at his truck stop, where Tony has been on display since 2001.

On May 6, 2011, a judge in East Baton Rouge District Court granted ALDF's request for a permanent injunction against the LDWF; as the ruling stands now, when the current permit expires in December 2011, Sandlin will no longer be able to keep Tony confined as a tourist attraction. The court also assessed costs against the Department in the case.

While the victory is excellent news for Tony, the Animal Legal Defense Fund believes the tiger should not be forced to languish as a roadside exhibit until the current permit expires in December. "To that end, we have filed a motion for mandatory injunction to get Mr. Sandlin's permit revoked immediately," says ALDF staff attorney Matthew Liebman. ALDF attorneys will be back in court soon, trying to win Tony's immediate release.

As for what will become of Tony once he is free, ALDF hopes that Tony will be allowed to live out his life in a peaceful, natural environment. "If Mr. Sandlin really cares about Tony, as he claims he does, he will do the right thing and send him to a reputable, accredited animal sanctuary," says Liebman.

In the meantime, we encourage our supporters to visit www.aldf.org/tony and sign the petition urging the Department to revoke Sandlin's permit. Even though the court has thus far refused to order the Department to revoke the current permit, the Department retains the authority to do so on its own if it chooses.



"We have filed a motion for mandatory injunction to get Mr. Sandlin's permit revoked immediately."

—ALDF staff attorney Matthew Liebman

Coyote Penning

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ning, following the lead of other states that saw that this is basically a glorified version of dogfighting," says Carter Dillard, ALDF's director of litigation. "But under pressure from the hunting lobby, they essentially legalized the practice." ALDF's lawsuit does not ask that the state ban penning. Instead, explains Dillard, ALDF and its co-plaintiffs (including two Indiana residents) are going after the Department's decision to violate its own rules in order to protect penning.

"Under current state law, anyone who keeps a fox or coyote outside of hunting season is required to have a permit," explains Dillard. "It was clear that the people operating the one legal penning facility in Indiana didn't have those permits, because what they do with those animals—throw them into a pen to be chased and likely mauled—is inconsistent with the permit requirements. So we challenged the refusal of the Department to require those permits."

The lawsuit alleges that if the Department's misinterpretation of the law were allowed to stand, anyone in Indiana could avoid the wildlife possession permit requirement simply by failing to maintain the fencing within which they have enclosed an animal. By removing the state's wildlife permit requirement—intended to serve as a significant deterrent to possessing wildlife—the Department's conduct makes it more likely that humans and wildlife will be harmed or infected with communicable diseases. Other states already have banned the practice of penning, including Florida in September 2010.

"As a nation, we have banned dog- and cockfighting because of their inherent cruelty," says Camilla Fox, executive director of Project Coyote and wildlife consultant with the Animal Welfare Institute. "Like these other savage bloodsports, coyote and fox penning is unacceptably cruel and should be relegated to

Coyotes being shipped to a penning facility

"As a nation, we have banned dog- and cockfighting because of their inherent cruelty. Like these other savage bloodsports, coyote and fox penning is unacceptably cruel and should be relegated to America's dark past."

— Camilla Fox, executive director of Project Coyote

America's dark past."

Although hunters and other supporters of penning say the dogs can be called off before a bait animal is attacked, foxes and coyotes are often torn apart and killed by the dogs. Penners buy foxes and coyotes from trappers, who routinely use steel leg-hold traps to catch the animals before caging them with other injured animals and transporting them without food or water. Some penners have been known to cut an animal's tail off so that the dogs cannot catch them and end the chase "too soon."

Penning is not only cruel for the bait animal, but also for the dogs, who are often injured in the chase by the fox or coyote or even by one another. Despite the potential harm, some dogs are given steroids and other drugs to enhance their endurance and aggression in this extremely competitive practice.

"What is shocking is that a state agency charged with protecting Indiana's wildlife is bending over backward to violate its own law in order to allow the trapping of that wildlife so that those animals can be thrown into an enclosure to be mauled," says Dillard. "That is inconsistent with any reasonable notion of what a wildlife protection agency should be doing."

A Legacy for Animals

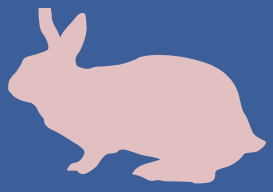
HERE AT THE ANIMAL LEGAL DEFENSE FUND, we often receive donations in the mail with a heartfelt note saying, "I wish I could give more." Many members don't realize that, as members of our Barney Legacy Society, they *can* make a substantial contribution to help ALDF win the case against cruelty. Through our planned giving program, individual donors have the opportunity to make a donation to ALDF as part of their financial and estate planning—a gift that can potentially be larger than a member could make from current discretionary income. Wills, bequests, life insurance policies, retirement accounts and other planning vehicles offer wonderful opportunities for leaving a lasting legacy to help animals in need.

Planned gifts play a vital role in our fight against animal cruelty. They give ALDF a stable base of income, enabling us to carry out programs and projects that provide long-term benefits to animals in need. Our Barney Legacy Society, named after a chimpanzee who was neglected and isolated in a roadside zoo, includes those individuals who have provided for ALDF as part of their estate planning. In this way, donors can ensure the fight for legal protection for animals like Barney continues for generations to come.

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. It is because of the generosity of members like you that we are able to pursue our shared goals for animals. And because ALDF is a nonprofit charitable organization recognized under Section 501(c)(3) of the Internal Revenue Code, tax savings resulting from a gift can be substantial. For more information about ALDF's planned giving opportunities, please contact ALDF Director of Development William Rivas-Rivas, at wrivasrivas@aldf.org, or at 707-795-2533, x1033.

Barney the chimpanzee, namesake of the Barney Legacy Society

The Animal Legal Defense Fund is proud to be a Better Business Bureau Accredited Charity and to have been awarded the Independent Charities Seal of Excellence, ensuring that we meet the highest standards of public accountability, program effectiveness, and cost effectiveness.



"My husband and I are proud to be members of ALDF and to support the truly groundbreaking work of creating real legislative protection and justice for animals. We are also grateful to be able to donate to ALDF through our Living Trust, so that our support will continue beyond our lifetimes and into the future."

Rachael L., Barney Legacy Society Member
Beaumont, California

THE ANIMALS' ADVOCATE

Animal Legal Defense Fund

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INSIDE

Coyote Ugly

ALDF files suit in Indiana over practice of penning

UNLIKE MOST ANIMAL FIGHTING, the bloodsport known as "penning" has received little attention from the mainstream media. As a result, few people outside the hunting world have heard of this horrific practice, which involves trapping wild coyotes and foxes, placing them one at a time in a fenced enclosure, and then turning hunting dogs loose on them. Proponents of the practice say that penning is merely a training exercise for their hounds. Yet the captive wild animal is chased and often, with no way to escape, can be killed by the frenzied dogs. To help combat this cruelty, the Animal Legal Defense Fund has joined Project Coyote and the Animal Welfare Institute in a lawsuit against the Indiana Department of Natural Resources (DNR) and its director Robert Carter Jr. over the Department's decision to waive state permit requirements for a coyote and fox penning facility in Greene County.

"Indiana had originally intended to ban pen-

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Coyotes killed at a vicious penning event