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A NEWSLETTER FOR SUPPORTERS OF THE ANIMAL LEGAL DEFENSE FUND

THE ANIMALS'



Tails wagging at Harvard Law School for ALDF's Future of Animal Law Conference

Back to the Future of Animal Law

ALDF presents a weekend of scholarship and insights

TAKE MORE THAN 300 ATTORNEYS, law students, academics and animal advocates from around the globe, gather them at one of the world's most prestigious law schools, and you've got more than an international perspective on legal issues – you've got the Future of Animal Law at Harvard University.

Sponsored by ALDF and the Harvard Student Animal Legal Defense Fund (SALDF) chapter, the April 9–12 conference was the scene of strategies, panel discussions and workshops, all aimed at educating and inspiring those who want to use the legal system to advance the interests of animals.

In addition to covering companion

animal law, veterinary forensics and toxicity testing without animals, the conference addressed what is doubtless the most pressing issue advocates face: animals used as food.

FARMED ANIMALS

Charting a Course for the Protection of Farmed Animals was one of the highlights of the Future of Animal Law, and it featured a panel representing the fields of law, science, policy and economics. Speakers included Patrick Brown of the Stanford University School of Medicine; Carter Dillard, counsel to the Humane Society of the United States; Bruce Myers, senior attorney

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LETTER FROM THE EXECUTIVE DIRECTOR



Putting Teeth in Animal Laws



Steve Wells with law conference keynote speaker Richard Wrangham

FOR THE RECORD

“We’ve progressed to the point where we as a legislature are moving in a direction of this bill, which is ultimately: How do we in essence prevent repeat offenses when it comes to cruelty to animals in the state of California?”

— Senator Dean Florez, sponsor of California’s abuser registry bill SB 1277, drafted with assistance from ALDF

AS AN ALDF MEMBER, you know how hard we work every day to assure that animal protection laws are enforced, by filing lawsuits or working directly with law enforcement and prosecutors. And we are proud of our record of success. But, let’s face it; the laws themselves have got to be stronger. So let me share with you just a few examples of the ways we are building stronger laws.

In 1995, only a dozen states had felony provisions in their anti-cruelty laws--meaning animal abuse, no matter how severe, could only be considered a misdemeanor. ALDF set a goal to assure that every state had felony provisions in its anti-cruelty law and began working state by state. Today, 46 states, the District of Columbia and Puerto Rico have felony animal cruelty laws.

In 2008, in the wake of the famous Michael Vick dogfighting case in Virginia, ALDF recognized that it took far too long for the state to be able to rescue the victims -- Vick’s dogs -- from harm’s way. Seizing the opportunity, ALDF drafted a bill making dogfighting a predicate act for invoking Racketeering Influenced and Corrupt Organizations (RICO) laws, allowing for immediate seizure of assets and tougher penalties. The law was signed by the governor of Virginia on July 1, 2008.

Earlier this year, ALDF worked with local rescue groups and the city of West Hollywood to craft an innovative law to ban the sale of dogs bred in horrific commercial puppy mills. On February 1, the city council passed the law making “WeHo” one of the first cities to enact such a ban. Already other communities are contacting ALDF to work on similar bans.

Also in February, ALDF launched a new campaign to create animal abuser registries in every state, including offering a model law. Such laws would require convicted felony animal abusers – who, too frequently repeat their crimes – to be registered in a publically-accessible database. This would allow shelters, cops and communities to keep their animals safe. Since February, three states have already introduced registry legislation.

Of course, ALDF will continue to do everything we can to make sure our existing animal protection laws are strictly enforced, but we also recognize the need for stronger laws. Rest assured that ALDF is working on the next generation of animal laws that will give us, and law enforcement officials, more tools with which to confront animal cruelty.

For the animals,

Stephen Wells, Executive Director



Animal Legal Defense Fund

Stephen Wells
Executive Director

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Victory in California!

Appeals court reinstates law banning downed animals from food supply

THE ANIMALS' ADVOCATE

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LAST SUMMER, WE TOLD YOU ABOUT the Animal Legal Defense Fund's role in appealing a trial court's decision to block the State of California from enforcing a law banning the use of sick and disabled ("downed") animals in the human food supply. The decision was the result of a lawsuit filed by the National Meat Association, which represents major meat-packing and slaughter-plant companies, and another industry group, the American Meat Institute.

The Animal Legal Defense Fund, the Humane Society of the United States, Farm Sanctuary and the Humane Farming Association intervened in the lawsuit in 2009, and we're pleased to report that the Ninth Circuit Court of Appeals has reinstated the ban. Since 1994, the law had required that any downed animal at any point in the process from transport to slaughterhouse be euthanized immediately. The law was amended and strengthened in 2008 following the Humane Society's undercover investigation at the Hallmark/Westland slaughterhouse in Chino, Calif. Video from the investigation shows slaughterhouse employees dragging animals with chains, shocking them, prodding them in the eyes and ramming them with forklifts.

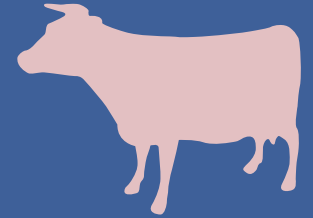
California's meat industry balked at the bolstered law, arguing that the Federal Meat Inspection Act covers animal welfare issues, says Bruce Wagman, chief outside litigation counsel for the Animal Legal Defense Fund. "We had an expert testify that there are between 12 and 15 diseases that people can get from downed animals. The meat industry's response was, 'Well, no one's gotten sick yet, so there's no reason not to have the food in the supply.' The position is outrageous and shows a lack of respect for all life, human and nonhuman" Downed animals are more likely to be infected with bovine spongiform encephalopathy (BSE), more commonly known as "mad cow disease," and a host of other fatal diseases. Studies suggest that animals too sick or injured to stand and walk may also be more likely to carry *E. coli* and *Salmonella*, which kill hundreds of Americans every year.

After losing in the trial court, ALDF and our codefendants turned to the Ninth Circuit

Court of Appeals, which unanimously ruled in our favor, eliminating the injunction and reinstating the law. "We probably had the most liberal and the most conservative judges in the Ninth Circuit Court of Appeals on our panel, and it may be the first time they've ever agreed on anything," says Wagman. "The most conservative judge is the one who wrote the opinion – and in our favor – noting that the meat industry wanted to be able to put pigs on the table who had been rolling around in other pig's waste because they couldn't stand. Although it only applies in California, it's a huge victory for us and the animals."

Wagman adds that the case is not over. "The meat industry has moved for an *en banc* hearing, which would include all the court judges, not just the three-judge panel of the appeals court. Essentially, they're asking the appeals court to reconsider its ruling." This doesn't mean they'll get what they're asking for, he says. "But if the court denies the request for an *en banc* hearing, the meat industry then has the option of going to the Supreme Court."

All because meat suppliers want to sell the public the flesh of sick and disabled animals. 🐮



"The most conservative judge is the one who wrote the opinion – and in our favor."

— Bruce Wagman,
chief outside litigation
counsel for ALDF





Back to the Future

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ney, Environmental Law Institute; Bailey Norwood, associate professor of agricultural economics at Oklahoma State University; Peter Stevenson, chief policy advisor, Compassion in World Farming; and Joyce Tischler, ALDF's founder and general counsel, who moderated.

The panel took a broad view of factory farming, examining farmed animals as sentient beings and the impact industrial agribusiness has on the environment – all through the prism of the legal challenges confronting advocates. In discussing his recent study on how the public regards animals raised for food, Dr. Norwood said that although some consumers are willing to pay more for humanely-raised meat and eggs, most Americans view animal welfare as unimportant when compared with poverty, food safety, the environment and the financial well-being of U.S. farmers. Interestingly, he noted that “Products like organic beef and milk have small and dubious effects on animal welfare.”

Bruce Meyers, meanwhile, addressed Big Ag's political clout and its destruction of America's water systems from sources like land runoff, precipitation and seepage. “That is,” he explained, “pollutants that accumulate from across the landscape, not necessarily resulting from a single, discrete source – like the end of a pipe.” Two of the major culprits, according to Meyers, are nitrogen and phosphorous, “leftover nutrients from excess agricultural fertilizer that make their way to waterways from factory farm manure and even from the fields where commodity crops needed to feed animals are grown.” Nutrient pollution creates dead zones that starve aquatic life of oxygen, and it adds toxins harmful to both humans and non-humans to our already stressed waters. “Although some legal tools are available for regulating farm runoff, and innovative legal and policy approaches to address the problem are now being attempted, the federal Clean Water Act falls noticeably short with respect to enforcing limitations on this insidious form of ‘non-point source’ pollution.”

The European Union's recent declaration of animals as sentient beings was the crux of Peter Stevenson's presentation. He said that member states “must pay full regard to the welfare requirements of animals” in formulating and implementing policy, and these policies must be based on scientific research. For example, the EU ban on conventional battery cages that will go into effect in 2012 is based on a report that concluded “because of its small size and its barrenness, the battery cage as used at present has inherent severe disadvantages for the welfare of hens.”

Carter Dillard said that although U.S. law gives farmed animals no real protection, he's excited to see lawyers working in a progressive social movement. He cautioned against using the law in a way that unnecessarily reinforces the notion of animals as property and said we should be careful to avoid creating high standards that are never enforced. Dillard noted two inherent causes of cruelty in factory farming: a power dynamic reminiscent of the controversial Zimbardo prison experiment, in which college students playing prison guards in a mock jail at Stanford University began to exhibit sadistic tendencies, and an economic model designed to externalize costs by de-prioritizing animal welfare.

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GROUNDBREAKING TOOLS & THEORIES

Of course, attorneys and other animal advocates are working on far more than just farmed animal issues, and as these challenges grow, so do the strategies to address them. One of the most cutting-edge tools available in the fight against cruelty is veterinary forensics, a science discussed in our *Canine CSI* panel featuring Scott Heiser, director of ALDF's Criminal Justice Program; Steve Payne of the Oregon State Police; and Melinda Merck, DVM. Their presentation covered where to look for evidence, forensic testing available and how to prove timelines.

Pet Theories raised innovative theories in companion animal law, including new measures of calculating the value of companion animals in injury and death cases, proposals for new legislation and an analysis of pathways for companion animal litigation. *Almost a Person* analyzed issues in chimpanzee protection, with talks covering sanctuaries, domestic and foreign laws protecting chimpanzees in research and the current status of the Nonhuman Rights Project, which hopes to establish legal rights for chimpanzees through litigation. *Replacing the Use of Animals in Toxicity Testing* discussed the recent position paper from the National Academy of Sciences, “Toxicity Testing in the 21st Century: A Vision and a Strategy,” which proposes a transition toward toxicity tests without animals.

On Day 2, *Defining the Second Wave of Animal Law* brought legal experts together to address the theme of the conference and ask what the future of animal law promises. *Proposing a Federal Animal Protection*

Attorneys and other animal advocates are working on far more than just farmed animal issues, and as these challenges grow, so do the strategies to address them.

Conference attendees checking out ALDF signature merchandise between panels




Students Get Real-World Experience

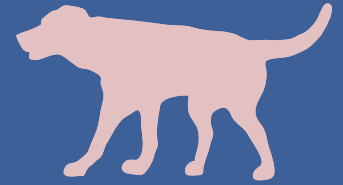
FRIDAYS AT THE ANIMAL LEGAL DEFENSE FUND'S Portland office were especially busy last semester, as a select group of students from nearby Lewis & Clark Law School participated in an exciting new program. The Animal Law Legislative Clinic gave student participants the opportunity to research, analyze, develop and advance local legislation under the guidance of attorney Stephan K. Otto, ALDF's director of legislative affairs.

The one-of-a-kind clinic was a collaboration between ALDF and Lewis & Clark Law School's Center for Animal Law Studies. Equipped with the experience and skills gained through this program, participants are better prepared for future work in government and administrative agencies, as well as to represent a variety of clients with government and public policy interests. Participants were involved in weekly interactive seminars, which covered a variety of legislative issues — such as statutory construction, strategy, legislative history, preemption and conflicts, lobbying and other related topics — and included a discussion of ongoing projects.

“Our ALDF Animal Law Legislative Clinic through Lewis & Clark Law School was a great success,” says Otto. “Law students researched laws and politics in municipalities in Wisconsin, Idaho, Montana and Washington and worked collaboratively to

develop unique proposals to better protect animals in these places. It was particularly rewarding to see the creative efforts by the clinic participants to address real ongoing issues in these locales. We had a variety of strong proposals, including local protective orders for animals, establishing standards of care, civil penalty alternatives to address state law deficiencies, anti-hoarding measures, regulation of exotic animals, fixing inequities with dangerous dog ordinances and more.” Otto adds that the clinic will be offered again next year. “I am very much looking forward to building on the momentum we have established this year.”

Alison Longley was pleased to be among those to participate. “I always hoped to build a career in animal law, and the ALDF legislative clinic was one of the main reasons I chose Lewis & Clark,” she says. “I was lucky to have such a wonderful opportunity to learn about the legislative process as it relates to animals from such an effective and experienced organization. Working with Stephan, we were able to acquire real-world experience and tools that will serve us well in our future careers.” Longley will spend the summer as a post-graduate fellow with the Lewis & Clark Animal Law Clinic. “I hope to then transition into a full-time animal law career.” Sounds like she's got a great head start. 



“Our ALDF Animal Law Legislative Clinic through Lewis & Clark Law School was a great success.”

— Stephan Otto,
ALDF director of
legislative affairs


Commission, meanwhile, explored the possibility of establishing a body within the federal government to coordinate animal protection policy. Finally, *Putting the Critter in Critical Legal Theory* discussed how critical legal theory is relevant to animal law, emphasizing that the basic concepts in Critical Race Theory, Critical Legal Studies and postcolonial theory can help animal advocates navigate the possibilities and pitfalls of legal change for animals.

KEYNOTES

Although originally scheduled as keynote speaker, Bob Barker sustained a minor injury just before the conference and had to send his regrets. Fortunately, the television personality and generous animal advocate also sent his remarks, which included his thoughts on animal law. “I have long believed that the road to success for the animal rights movement is through the legal community,” he wrote. “We need to create and pass effective laws that will address

widespread animal abuse that continues to exist, but we also need to assure that the laws, once enacted, are enforced and obeyed.” Barker has demonstrated his belief in animal protection legislation and enforcement by establishing endowments for the study of animal law at many of the nation's top law schools.

We're grateful to primatologist Richard Wrangham for stepping up and giving attendees the official keynote address. A professor of biology and anthropology at Harvard University, Dr. Wrangham spoke about his work with chimpanzees in Uganda. Conference attendees were enlightened—and delighted—by Dr. Wrangham's anecdotes about just how intelligent chimpanzees are.

Thanks, too, to the Harvard chapter of SALDF for helping us make this another outstanding event. ALDF will build on this success for animals, and we look forward to seeing everyone at the next Future of Animal Law conference! 



Pushing for Compliance

Rockcastle County, Kentucky, shelter agrees to changes



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IN THE FACE OF A POTENTIAL LAWSUIT alleging severe neglect and other abuses, Kentucky's Rockcastle County has agreed to bring its animal shelter into full compliance with the state's Humane Shelter Law.

The Animal Legal Defense Fund drafted a complaint on behalf of Rockcastle's Animals In Need (RAIN), a non-profit rescue organization, and RAIN's president, Amanda

Chism. The complaint notes, among other violations, that the shelter fails to provide dogs and cats with veterinary care; doesn't segregate the male and female animals, often resulting in pregnancies and thus exacerbating the county's dog and cat overpopulation crisis; fails to provide separate runs for ill and injured animals, housing them in the same kennels as healthy animals; and does not provide potable, uncontaminated water at all times.

The situation took an interesting – and hopeful – turn after ALDF contacted Rockcastle County representatives about these violations in March. “We sent them a letter, attaching the lawsuit we would file if necessary, and asked them if they'd like to talk about it, and they said they would,” explains Bruce Wagman, ALDF's chief outside litigation counsel. He and ALDF Board Chair and Louisville attorney Katie Brophy then arranged to present their concerns to the county. “Katie and I met with the entire fiscal court, which is the governing body of the county, and they agreed to address and correct all the violations we identified.”

Wagman believes the county's promise of compliance is a testament to the extensive evidence collected prior to filing the complaint. The documented problems were undisputed and all in violation of Kentucky's Humane Shelter Law. “To their credit, they said, ‘We don't want to be breaking the law. We want to do things right, and if this is the situation we will agree to change it all.’”

The Humane Shelter Law sets minimum standards that Kentucky's 120 counties must meet in caring for their homeless animals, including operating (or contracting with other counties that are operating) animal shelters that provide food and water, shelter, public access, veterinary care and humane euthanasia. The complaint also notes that personnel at the Rockcastle shelter store dead animals in a freezer and, on at least one occasion, shoved a pair of puppies who were very much alive into a plastic bag and dumped them in the freezer.

It's now up to Rockcastle County to make the necessary changes. Wagman, for one, is optimistic. “I was honestly surprised by how well it went,” he says. “We're still waiting for them to sign the agreement, but we're hopeful that they will.”



THE ANIMALS'



Rockcastle County animal shelter prior to ALDF's intervention



ASK JOYCE

Dear Joyce:

I read about the animal abuser registry law in ALDF's last newsletter, and I want to get a law like that passed in my state. How do I do that? —Roxanne


Dear Roxanne:

As you know, an animal abuser registry law will force criminals convicted of felony animal cruelty to register for an online database that will identify who they are and where they live. This includes convicted animal hoarders, whose recidivism rate is nearly 100% and who cause long term suffering to hundreds of animals; criminals convicted of dog fighting and cockfighting; and abusers convicted of violently torturing and/or killing animals. Mandatory registration of these convicted felons will aid dramatically in keeping them away from potential new animal victims, by alerting police and the general public of their whereabouts, as well as allowing humane societies and shelters to thoroughly screen potential adopters and weed out convicted animal cruelty felons.

Since Animal Legal Defense Fund started this campaign in February, over 18,000 people have signed our petition asking their state legislators to

sponsor and support animal abuser registry bills, legislation has been introduced in California (SB 1277), Louisiana (HB 201) and New York (AB 10387), and legislators in twelve other states have expressed an interest. So the actions of our members are already having an enormous impact.

If you want an animal abuser registry law passed in your state, go to www.ExposeAnimalAbusers.org, where you can sign our petition asking for an animal abuser registry, and a letter will automatically be sent to your state representatives. You can also watch our video and get valuable information, statistics and talking points to provide to your state legislators. Additionally, you can spread the word to your friends and family: encourage them to watch our video, sign the petition and contact their legislators. Finally, you can share this important information on websites like Facebook, Twitter and MySpace.

Help us get the word out and pass animal abuser registries in every state: convicted felony animal abusers will have nowhere to hide!
—Joyce 

If you have a question you would like to see answered in The Animals' Advocate newsletter, email Joyce Tischler, ALDF's founder and general counsel, 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.


Overtured: Law Banning Depictions of Cruelty

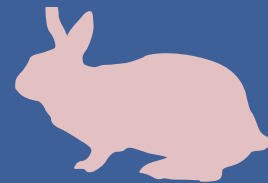
IN APRIL, THE U.S. SUPREME COURT issued its decision in the case of *United States v. Stevens*, a constitutional challenge to a 1999 federal law that criminalized the sale of depictions of animal cruelty. ALDF had submitted an *amicus curiae* brief urging the Court to uphold the law.

Unfortunately, by a vote of 8 to 1, the Court held that the law violates the Free Speech Clause of the First Amendment and is therefore unenforceable. The decision throws out the criminal conviction of Robert Stevens, who was sentenced to prison for making and selling videos of dogfights. The decade-old law Stevens violated was originally intended to ban so-called "crush" videos, which depict puppies, kittens, hamsters and other small animals being tortured and crushed to death, typically beneath the spiked heel of a woman's shoe. The

Court held that the law was overbroad.

Only Justice Samuel Alito dissented in the case, observing that the harm animals suffer in dogfights was enough to sustain the law. He also singled out crush videos and noted that "[t]he animals used in crush videos are living creatures that experience excruciating pain." The courts, Alito noted, have "erred in second-guessing the legislative judgment about the importance of preventing cruelty to animals."

But ALDF Staff Attorney Matthew Liebman suggests the ruling may not be as bleak as it seems. "Although the Court held that the law is overbroad as written, it left open the possibility that a narrower law targeted at depictions of extreme animal cruelty could still be constitutional," he says. A new law tailored to crush videos has already been introduced in the House of Representatives. 



WHAT YOU CAN DO

In response to the Supreme Court's decision, Representative Elton Gallegly (R-CA) has introduced HR 5092, new federal legislation that will prohibit the sale, or offering for sale, of animal crush videos in interstate or foreign commerce. Please contact your representatives in Washington and encourage them to support HR 5092. Visit aldf.org to contact your representatives directly through the ALDF website.



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7 Supreme Court Rules on Animal Abuse Videos

Puppy Killer Sentenced

ANIMAL LEGAL DEFENSE FUND MEMBERS will no doubt recall the heartbreaking story of the Toole family's dog Karley, who was beaten so badly by neighbor Glynn Johnson that the pup had to be euthanized. Thanks to a campaign led by the Tooles, Johnson was convicted in January of felony animal cruelty. Although the defendant could have received four years in prison, a court in Riverside, Calif., sentenced him on April 2 to only 90 days of weekend jail time and three years of probation.

Having the courts even pursue this case is something of a victory, but Jeff and Shelley Toole expected a stiffer penalty for the man who crushed their puppy's skull with a large rock in 2008. "We were in shock when the judge read his sentencing," says Shelley. "Going into the court, we felt pretty confident that he would receive at least a year and

maybe more. We feel that the judge took into consideration Johnson's career as a firefighter, the overcrowding of the jails and also this being his first offense."

"Although we were not satisfied with the punishment, we must move on," adds Shelley's husband, Jeff. "We still have the civil case and hope for a more positive outcome."

ALDF worked with the Tooles to draft their proposed "Karley's Law," a Civil Right of Action for Cruelty to an Animal, which will give parties whose animals are subjected to acts of cruelty the opportunity to bring a civil action against the perpetrator

for the full range of their loss. In addition to that law, the Tooles say they are focused on helping ALDF get the animal abuser registry law passed in California. "We would love to see Glynn Johnson's name at the top of the list," says Shelley.



Convicted killer Glynn Johnson

