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PERSPECTIVE

## Trust your dog: estate planning for pets in California

By Christopher D. Carico

To maintain our passion for our profession, we each need to figure out our own way of stepping back, keeping it real, living in the present, slowing it all down and taking a deep breath. For me, the reality check is my wife, kids and “Moolah.” Not the kind of moolah you can spend, but a 110-pound, 4-year old female bullmastiff we adopted. The rescue (Noah’s Bark) that spent a small fortune saving her gave Moolah her name. It fits.

When I get home and open that front door, the golden brown freight train comes directly toward me. She darts in my path and moves to block my progression. Moo lies down on my feet to keep me from moving. She then flips to her back, and begins pawing at me to rub her belly. This ritual is not reserved for just family members. New visitors get the full treatment from Moo as well. Moo isn’t thinking about what happened an hour ago, or what will happen an hour from now. She lives only in the present. I need to take a page from her book.

I am reminded of the phrase “it takes a village to raise a child.” The same can be said of raising a bullmastiff. Her care is a shared venture between all five of our family members. Moo, as we affectionately call her, gets most of the family’s attention. My daughters enviously call her the “House Diva.”

She gets walked daily, fed on time, a bath and pedicure every two weeks at the pet spa, and has been to the vet more times in the past year than the kids went to the doctors in the past five years. She has a dermatologist for the growth on her paw and cardiologist to treat her hurt murmur. She doesn’t have a psychiatrist yet, thankfully.

She eats everything within her reach, can sleep anywhere, snores, talks in her sleep, and over heats if given too much exercise. To us, she qualifies as a person, a cherished family member. If the law defines a corporation, trust or other entity as a “person,” certainly our dogs deserve the same respect.

In exchange for letting Moo be Moo, we receive her unconditional love and admiration. When Moo is not with us, we think about her often and even worry about her, like one of our children.

California Probate Code Section 15212 now gives us the tools to protect our beloved dogs, when we are no longer present to do it ourselves.

But, notwithstanding are arguably neurotic obsession with the care of our dog, we have put little thought into who would care for Moo if the plane went down with the whole family on board.

While everyone that meets Moo falls instantly in love with her, finding a home for our gentle giant is not that simple. She is the size of an individual and needs some space of her own. Heck, she thinks she is human, tries to make herself at home on the sofa and loves to counter surf for food. She believes that anything dropped to the floor is food. In sum, she is “special” and needs a “special” family to give her the love she deserves.

Ideally, Moo would live with a family that she already knows, has at least one person at home most of the time to keep her company, has no other pets, has a fenced in yard, and has teenagers old enough to help with her care. That family would need to have access to enough money to ensure that Moo’s

needs are met.

Crazy as it may sound, Moo needs to have an estate plan set up for her. The essential characteristics of the plan would be:

- A caregiver companion, who Moo lives with;
- A trustee in charge of the money for her care;
- An overseer that can make unannounced visits and may remove Moo from a negligent care giver and place her with another companion;
- A vet to ensure her continued good health; and
- A mechanism for the periodic payment of fees to be paid to those involved to recognize their contribution toward her care.

California Probate Code Section 15212 now gives us the tools to protect our beloved dogs, when we are no longer present to do it ourselves. Specifically, Section 15212 allows us to create a written trust document for the benefit of our pet. This trust agreement can be included as a section in our revocable family trust or established as a separate stand-alone trust. The terms of the Pet Trust can vary, but some provisions are essential. The basics include:

- Leaving a specific amount of cash or liquid investments to be held in trust for your pets living at the time of your death.
- Designating an individual to act as trustee over the funds left for the pet’s care.
- Appointing an individual to act as care companions with whom the pet would live.
- Determining remainder beneficiaries who will receive the assets left on the death of the last pet.

Ideally, the terms of the trust agreement would also include provisions that:

- Direct the trustee to make specific distributions to meet the pet’s needs during your any incapacity

and following your death, including extraordinary distribution to meet emergency medical needs.

- Appoint a successor trustee and successor companion care giver if the initial selections decline.
- Allow the remainder beneficiaries or other “watchdog” to demand and receive an accounting from the trustee with respect to the use of trust funds to ensure that the trust is really being used for the pet and not the trustee’s expenses.
- Give basic information about Moo, including her breed or possible breeds, her estimated age, her estimated life expectancy, a list of the approved foods for her to eat, and how much and how often.
- Provide medical information, including the contact information for Moo’s regular veterinarian, and the nearest 24-hour emergency vet clinic, any known allergies or other health problems, the recommended amount of exercise, and information on her compatibility or incompatibility with other pets. (Sadly, Moo is not other-pet compatible.)

• Authorize the trustee to hire accountants and lawyers to address any tax, accounting or legal issues.

Authorize the trustee to pay himself or herself a reasonable trustee’s fee and pay the care companion a reasonable fee.

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