

# With animals, courts look not to cost but to value

Imagine your pet has been injured or killed by unlawful poisoning or shooting, by veterinary malpractice or by negligence at a boarding facility. While criminal charges may or may not result, you decide to bring your own lawsuit.



**Kate  
Burke**

In your civil case, the court can make two main types of awards: monetary damages and injunctions, which require or forbid certain conduct. Even where the parties work together to settle the case in their own

way, at least a portion of most settlements will include an effort to compensate loss with money.

Putting a price on life is distasteful and extremely difficult. Nonetheless, courts and juries are asked to do it all the time when people are wrongfully injured or killed. Most victims will say that the money itself does nothing to

heal the loss, but it can ease some practical types of suffering and give a sense of justice achieved.

In animal injury cases, valuing life and companionship is further complicated by the fact that, legally, animals are personal property. Generally, if someone negligently impairs or destroys your property, they need to pay you the cost to repair or replace that property. This is the rub in companion animal cases – an average cat or mixed-breed dog may be “worth” less than \$20 on the open market, while no pet owner would feel justly compensated by such an award. Even a purebred animal purchased for \$1,000 or more will yield what feels like a paltry sum under the cost-to-replace approach if wrongfully and tragically killed.

Courts in other states – not so much in Colorado yet – have struggled with attaching dollar figures to killed or injured animals. Courts naturally, and probably rightly, shy away from looking at the “sentimental” value of property. Sentiment is so deeply subjective that it is vulnerable to both abuse and confusion when trying to attach numbers to it.

Nonetheless, carefully sidestepping the sentiment question, courts around the country have begun to work out a system of evaluating an animal’s “value” – as opposed to its “cost” – by looking at numerous factors. These include money spent on veteri-

*Our idea of the “use” of animals has largely shifted in the last 100 years. Decades ago, and to this day in some areas, animals such as horses, dogs, oxen and the like worked closely with and for their owners.*

nary care during the animal’s life, training costs, the age and general health of the animal, the “usefulness” of the animal and the special traits or characteristics of the animal.

Going into court to talk about the intrinsic value of a pet, based

on its unique characteristics, may sound like a radical move in the often cold-blooded legal system. To the contrary, Colorado state and federal courts, as well as the U.S. Supreme Court, have long recognized a broader definition of an animal’s “value.”

In 1889, the U.S. Supreme Court, reviewing a case out of Colorado dealing with stolen cattle, noted that compensation for animals that provide services – as opposed to those sold only for consumption – is measured by the “value of the use” of those animals. In 1900, the Colorado Court of Appeals applied the same rule, finding that the loss of goods can be measured by a somewhat complicated mathematical formula but that domesticated animals that work with and for people should be measured by the value of that work. In 1958, the 10th Circuit Court of Appeals, seated in Denver, found that “every domestic animal is developed and trained for the purpose to which the owner intends to use it ... [which] adds to its usefulness and generally increases the market value of the animal.”

Our idea of the “use” of ani-

mals has largely shifted in the last 100 years. Decades ago, and to this day in some areas, animals such as horses, dogs, oxen and the like worked closely with and for their owners. Few who owned and relied on the services of a horse or dog over a course of years, training and acclimating that animal to its owner and its job, would easily exchange that animal for an unfamiliar one or for its purchase price. Today, more people are familiar with the “uses” of companion animals – enjoyment, recreation, stress relief and simple friendship – but the principle is the same.

This change is one the courts can embrace because it is a change in form but not fact. And it is a change to be welcomed; more accurate values assigned to companion animals mean more accurate compensation for grieving owners and more accurate consequences for those responsible for death or injuries.

*Kate Burke is an attorney in general practice, including animal law, with Insight Law LLC in Durango. Reach her at 385-7409.*