

## Pet Custody in North Carolina: Fighting Over Cats & Dogs

Disputes over who gets the family dog or cat between divorcing couples are becoming more common. In a 2006 survey by the American Academy of Matrimonial Lawyers (AAML), a quarter of respondents said pet custody cases had increased noticeably since 2001.<sup>i</sup>

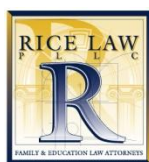
There appears to be a trend to treat household pets more like children than property where courts determine the better custodian for the pet and grants visitation rights to the other “parent.” North Carolina is not embracing this trend. Pets are considered property in North Carolina. In divorce proceedings, the pets are valued and divvied up like household goods without considering the pet’s best interests or who would be the better custodian.<sup>ii</sup> One exception to this, however, is when there is domestic violence. Our legislature enacted a law that allows the family pet to be awarded to the victim of domestic violence as part of a domestic violence restraining order.<sup>iii</sup>



In putting a value on the family dog, our courts consider replacement costs only and not the intrinsic value of the animal.<sup>iv</sup> Therefore, if the parties can’t agree on who gets the dog, if an equal distribution of property is made by the Court, the party who did not get the dog will not get extra property as a result.

A few years ago, a New Hanover County attorney brought a custody action regarding a dog under the statutes addressing child custody. The trial court was not amused, considered it an improper action, and the action was promptly dismissed.

Even though our courts are slow to recognize the needs of the pet, individuals often settle the issue with a pet custody agreement which defines the sharing arrangement, visitation and may even provide financial payments for the benefit of the dog or cat.



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## ENDNOTES

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- i <http://www.spokesman.com/stories/2012/mar/03/divorce-lawyers-see-increase-in-pet-custody-cases/>
- ii See *Jones v. Craddock*, 210 N.C. 429, 431, 187 S.E. 558, 559 (1936); *Davis v. Sineath*, 129 N.C. App. 353, 354, 498 S.E.2d 629, 630 (1998) (dog valued at \$550.00 distributed as marital property); *Lawing v. Lawing*, 81 N.C. App. 159, 164, 344 S.E.2d 100, 105 (1986) (five cats divided as marital property worth \$25.00). However, in contrast our Legislature has enacted laws to prohibit cruelty to animals (e.g., N.C. GEN. STAT. § 19A-1 *et. seq.*) and to encourage suitable care for an animal but such considerations are improper in divorce proceedings.
- iii See N.C. GEN. STAT. § 50B-3(a)(8)
- iv *Shera v. N.C. State Univ. Veterinary Teaching Hosp.*, \_\_\_ N.C.App. \_\_\_, \_\_\_ S.E.2d. \_\_\_, 2012 WL 539989 (2012).