

Planning for the Four-Legged Member of a Family



By: Ruth Ryan-Cruz, Esq.

Over the years, studies have shown that owning a pet provides social, psychological, and emotional stimulation and health benefits. If you're a pet owner, you know what I am referring to.

When you arrive home after a long day at work, the one member of the family who will always greet you at the door and demonstrate unconditional love is your furry pal. Some may even refer to a pet as the four-legged member of the family.

As estate planning attorneys, our main focus is ensuring continuity amongst family members through preparations of wills of trusts. Agents are selected for financial and healthcare planning and guardians are appointed for the care of underage children. Plans are made for the family members, but what happens to the family pet upon the pet owner's death? Do you currently make it part of your practice to ask about this additional family member? If not, perhaps this is the moment to add a pet section to your estate plan questionnaire for your client meetings. With so many families owning a pet, there are plenty of potential clients who could benefit from a pet trust—a non-charitable purpose trust. According to the Humane Society of the United States, there are 164.6 registered dogs and cats living with American families, giving you many opportunities to prepare full estate plans for their complete families.

Make Pet Trusts a Part of Your Client Questionnaire

Unintentionally omitting a plan for a pet's welfare after the owners' death or disability could be considered an incomplete estate plan for a family. So how do we know which families to engage these pet planning discussions with? The answer is simply every client and every family. Some families make it obvious that pets are an important element to their families by showing you photographs of their pets which they lovingly refer to as their "children." Other clients travel with their pets or need them as a service pet. Others may own one, but don't know to raise the issue during the estate plan process.

How to Start Drafting Pet Trusts

Helping your pet-owning client plan their pet's care after their death is just as important as planning for children, especially when pets with special needs are involved. A pet trust can assist a pet owner separate and divide trust property for the benefit of a pet's care during its lifetime and including its death. A pet trust is drafted similarly to a person's trust instrument including administration of trust terms, care and custody planning, medical care, grooming requirements, exercise requirements, general care giving plans, including memorial instructions. A pet trust is funded with sufficient assets to assist the designated trustee and caregiver care for your pet. California probate code 15212 sets out certain requirements and methods of applying pet care within a trust instrument and can serve as a guide in drafting a pet trust. Through the appointment

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of a trustee, a pet can be provided with care for the rest of its life. California probate code 15212(a) reads that “unless provided in the trust, the trust terminates when no animal living on the date of the settlor’s death remains alive.”

As with revocable living trusts, a pet trust requires special attention and a thorough review of the California probate code. Be sure to follow specific guidelines to ensure a validly drafted trust. With changes to the California Probate code in 2009, estate planning attorneys can now assist their clients by drafting enforceable pet trusts. As of 2012, a majority of the states across the United States have enacted laws permitting valid pet trusts with the exception of Kentucky, Louisiana, Minnesota, and Mississippi.

When to Raise the Topic

Discussing pet trusts should be a topic that becomes part of your regular practice and client intake questionnaire. A great time to discuss these extensions of a family’s estate plan is while exploring the family’s general needs or when a family moves into the state of California. If you have already drafted your client’s estate plan, raise this topic during the maintenance stage of the estate plan. Family circumstances change and family members grow as the years go by; you may wind up learning an important four-legged friend has become an added member of the family and engage in pet trust development.

Be sure to discuss the type of animal involved, any specific purpose for the dog such as service dogs, the standard of living your client desires for the pet, specific trust assets to be used for the pet’s care, caregiver nominations and their willingness to conduct their obligations, and adoption limitations in the future.

Educate Your Clients and Offer Them the Option of a Pet Trust

A pet trust instrument may not be of common knowledge to the average pet owner. You may help educate your client about this available option now permitted in California. Your clients may appreciate how attentive you are to the whole family’s needs by including estate planning elements for your pet. Adding pet elements to your estate planning practices is a great tool to retain your attorney-client relationship and simultaneously gain additional business. Be sure to ask plenty of questions and inform your clients of the benefits behind drafting a pet trust. There is a good chance that until the moment you ask your clients questions about their pets future care, they had not given it much thought. While cats and dogs are common house pets, the pet trust can be drafted for the benefit of other animals such as horses, cows, or any other domestic or pet animals. Be sure to ask about all types of four-legged pals and explore your state’s probate code for pet trust provisions.

About the Author:

Ruth Ryan-Cruz is an attorney at Kehr Law in San Diego, CA and an alumni from the California Western School of Law. Although Ms. Ryan-Cruz’s principal interest is in business, corporate law, and estate planning, Ms. Ryan-Cruz has immersed herself throughout various organizations and associations including the San Diego County Bar Association, the Federal Bar Association, and others to expand her familiarity with various areas of law. Ms. Ryan-Cruz previously obtained legal experience from a business and corporate law firm located in Orange County, California.