

Question One
(worth 15 points)

Plaintiffs were the guardian and owner of two cats: Jellicle and Obi. Jellicle and Obi lived with the plaintiffs as members of their family. Both cats suffered from hypertension which defendant veterinarians treated through the prescription of 1.25 mg amlodipine chew tabs. On December 2nd, the plaintiffs purchased a refill of the medication at Valley Veterinary Services, prescribed by Dr. Paula Yanka, and dispensed from a stock bottle purchased from The Veterinary Pharmacy (“TVP”). Although the tablets were specifically warranted to carry a dose of 1.25 mg, they actually carried a higher dose of at least twenty times that amount; and thus the medication was toxic. On December 4th, the plaintiffs gave Jellicle and Obi tablets from the new batch of medicine. Both cats resisted taking the medication, but the plaintiffs followed the veterinarian’s order and gave the cats the prescribed tablets. The next day, both cats were anorexic, cold to the touch, and lethargic. The plaintiffs brought Obi to Dr. Cynthia on December 6th. Dr. Cynthia diagnosed Obi with an upper respiratory illness and released him. The next day the plaintiffs called Dr. Vallerie, also at Valley Veterinary Services because the cat’s condition was worsening. The plaintiffs once again expressed concern that the cats resisted taking their medication, which they had not resisted in the past. Dr. Vallerie told the plaintiff to continue to administer the tablets. On December 8th, Jellicle’s condition was much worse, so the plaintiffs rushed her to the Valley Veterinary Services where Dr. Charles determined the cat was severely hyperglycemic and azotemic. Realizing Obi had the same symptoms, the plaintiff rushed home to get Obi. Within a few hours of being admitted, Jellicle died. Obi died three days later.

Plaintiffs file a suit alleging, inter alia, negligence, and negligent infliction of emotional distress. They specifically claimed non-economic damages, including loss of companionship, and emotional distress.

The veterinarians filed a motion for summary judgment with regard to the plaintiff’s claims.

- A). What result?
- B). Make the plaintiffs’ argument.
- C). Make the defendant’s argument.

Question Two
(worth 5 points)

Massachusetts enacts legislation that provides that:

No person shall (1) interfere with the lawful taking of wildlife by another, or acts in preparation for such taking with intent to prevent such taking, or (2) harass another person who is engaged in the lawful taking of wildlife, or acts in preparation of such taking.

Is this act constitutional? Fully support your answer.

Question Three
(worth 5 points)

Of the three animal acts – AWA, ESA, & MMPA – which is the strongest & why?

Question Four
(worth 15 points)

Quincy, a 29 year old horse, had severe arthritis and weak legs, and frequently collapsed. She leaned against a wall to hold herself up. Elliot S. Saffron is Quincy's owner. Saffron has been accused of using "rough methods" to get Quincy up, including throwing cold water in her face and pulling her aggressively. Saffron claims that Quincy is not suffering. The MSPCA visited Quincy at the farm she is kept at and told Saffron that the horse should be euthanized. Saffron refused because he couldn't bear to lose Quincy. Ultimately, Saffron was charged for "willfully allowing the animal to suffer" as he refused to euthanize.

- A. Make the arguments that you would make if you were prosecuting this case.
- B. What arguments would you make if you were defending Saffron?
- C. How would you rule if you were the judge? Why?

Question Five
(worth 10 points)

Holly and Diane are married. For Diane's birthday four years ago, Holly adopted a Chow, Diane's favorite breed, and gave it to her. Diane named him Big Papi, after her favorite Red Sox player. In the beginning, both Diane and Holly would share the responsibilities equally. Diane would take Big Papi for a long walk every morning before work, and Holly would do the same when she got home in the afternoon. Whichever one wasn't teaching would bring

the dog to the vet or groomer's when needed. Whenever they traveled, they always brought Big Papi, or else Diane's family members would dogsit. They adored the dog and incorporated him into their leisure activities whenever they could.

Earlier this year, Diane and Holly filed for divorce. Holly moved out, and Big Papi stayed with Diane. For the first month after moving out, Holly continued to take Big Papi for his afternoon walks when her classes ended. But because of the impending divorce, Holly decided to seek new employment, and she took a job two hours away. This distance meant she could no longer walk Big Papi, and she couldn't easily bring him to the vet unless the appointment was made in advance and she was in the area. At the divorce hearing, the only matter in dispute was who should have custody of Big Papi, and whether the losing party can have visitation rights.

How should the court decide? Fully support your answer.

QUESTION 1

As you know, Heather Mills McCartney, wife of Paul McCartney, campaigned for a ban on cat and dog fur. Such a ban is now in place in the United States. Assume Andy Activist becomes aware that the ban is being ignored and coats with false labels are being imported from China (fur coats are made from alsatian puppies). Andy files suit. What Result?

Fully support your answer.

QUESTION 2

On December of 2004, Howard Horrible contacted Attorney Fuller for the purpose of requesting a codicil to his last Will and Testament. The purpose of the amendment was to provide for the destruction of Mr. Horrible’s animals owned by him at the time of his death. The codicil was signed on December 8, 2004 and he died on January 8, 2005. Attorney Fuller was appointed as executor of Howard Horrible’s estate. A coalition to save Howard’s animals formed, including a neighbor, Mary, who had spent significant time with the animals in question; The Massachusetts Society for the Prevention of Cruelty to Animals, The Humane Society of The United States; and The Student Animal Defense Fund, a Massachusetts-based affiliate of the National Organization located at the Massachusetts School of Law.

You are the Attorney for the coalition to save Horrible’s animals. Please make your argument at the hearing for allowance of the last Will and Testament. Horrible’s animals include a horse, dog, and cat.

QUESTION 3

I write this as my last Will. “I leave everything I own real and personal to my companion George Bourque and my dogs Akuna Sullivan and Whitey Sullivan, except for my piano and golf clubs which I leave to my only sister, Nancy.”

- A. Will the Court uphold this Will? Fully support.
- B. How would you assist a client in the client’s desire to provide for his/her companion animal(s) after death?

QUESTION 4

Betty Boyle's 2 year old dog, a shepherd-collie mix, was struck and killed by a Massachusetts Electric truck when the driver pulled into Boyle's front yard to read her meter at 123 Sadville Street, Andover, MA. Boyle still cries aloud when she talks about cradling her dog as he lied in her arms dying. Boyle is suing the utility company seeking compensation for pain and emotional distress she suffered from losing "Buddy."

- A. What result? Fully support your answer.
- B. You are counsel for Betty Boyle. Make your argument.

QUESTION 5

Is the Marine Mammal Protection Act ("MMPA") effective?
Why or why not?

"We must be the change we wish to see." Mohatma Gandhi