



## Pathfinder: Animals and the Law

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### Overview

Animals provide us with companionship, recreation and revenue. Human lives, interests, and money are entwined with animals, which in turn leads to the intersection of animals and the law. This pathfinder is intended to provide a starting place in your research. It addresses a few of the major areas that may be of interest to lawyers. However, be aware that legal issues can arise in many other aspects of the human/animal relationship that are not covered here. You may find useful information in texts devoted to many different areas of law, including municipal, real property, family, or environmental law. It is always worth taking the time to look at materials on the broader area of law that you are dealing with.

### General Resources

These materials address a wide variety of topics, usually not specific to any particular species of animal. Unfortunately, many of these works are quite old and/or are from non-Canadian jurisdictions. However, they may still contain useful information.

#### [American Bar Association, The Animal Law Committee of the Tort Trial and Insurance Practice](#)

This ABA committee's site includes a regular newsletter, U.S. federal and California legislative tracking and a few articles.

*An Introduction to Animals and the Law* (Toronto: Continuing Legal Education, Law Society of Upper Canada, 2007) ([KF 390.5 .A5 L393 2007](#))

This seminar includes papers on animals in divorce and estate planning proceedings, animals in condominiums and rental apartments, and material on harm done to and caused by animals.

#### [Animallaw.com](#)

Maintained by the International Institute for Animal Law

This nicely put together American site contains a variety of materials on animal law. It includes US case law and legislative materials. Most interestingly, it currently contains an excellent searchable bibliography that covers a wide range of animal law related topics.

*Canadian Abridgment*, 3rd ed., 84+ vols. (Toronto: Thomson Carswell, 2003-). (Great Library Digest Room) Full text available from [Westlaw](#) (Accessible on Great Library computers)

This title contains case law digests relating to a variety of animal law topics, spread out over a number of volumes. This is a very good source for Canadian case law on animals in a variety of contexts. Some headings of particular interest: Commercial law — Agricultural products, Criminal law — Offences — Cruelty to animals, Natural resources — Fish and wildlife, Personal property — Animals, Professions and occupations — Veterinarians, Torts — Negligence — Liability of owner or

possessor of animals

*Canadian Encyclopedic Digest (Ontario)*, 4th ed., looseleaf (Toronto: Carswell, 2009-). (Great Library Digest Room) Full text available from [Westlaw](#) (Accessible on Great Library computers)

See vol. 2, "Animals." Provides a fairly current and comprehensive overview of Canadian law, based on case law and legislation. The "Animals" heading includes information on property in animals, bailment, sale of animals, pedigrees and associations, liability, stray animals and more. This is often an excellent place to start your research.

Favre, David S., *Animal Law: Welfare, Interests, and Rights* (Austin: Wolters Kluwer, 2008) ([KF 390.5 .A5 F38 2008](#))

Friedman, Jennifer, *Ontario Society for the Prevention of Cruelty to Animals Act, Annotated* (Toronto, Ont.: Claudia Sniffer Press, 2008) ([KF 390.5 .A5 O58 2008](#))

*Halsbury's Laws of Canada* (Markham, Ont.: LexisNexis, 2006-). (Great Library Digest Room)

Titles: Agriculture, Hunting and Fishing

### [International Society for Animal Rights](#)

This organization offers a variety of resources on topics including bequests, model laws, and animals and "standing to sue." Although somewhat U.S.-focused, the site is intended to be international in scope.

### [Michigan State University College of Law: Animal Legal & Historical Web Center](#)

This excellent and up-to-date American resource center includes maps of various animal-related laws across the U.S., case digests, podcasts, and an extensive library of journals and articles.

Sandys-Winsch, Godfrey, *Animal Law* (London: Shaw, 1978). ([KF 390.5 .A5 S36](#))

Addresses ownership, owners' responsibilities, sales, animals as game, animal protection, diseases and pests. Although this is an older (1978) U.K. text, it offers both a valuable historic perspective and sets out some basic common law.

Smither, Michael, *Animals: Control and Compensation* (St. Thomas, Ont.: Municipal World, 1973). ([KF 390.5 .A5 A54](#))

This title is dated (1973) but does offer a Canadian, or even specifically Ontarian, perspective on animals and the law. Addresses animals at large, killing of dogs, land use and other topics. Any legislation mentioned will require extensive updating, but this text serves as a useful local starting point.

Waisman, Sonia, Bruce Wagman, and Pamela Frasch, *Animal Law: Cases and Materials*, 4th ed. (Durham, N.C.: Carolina Academic Press, c2010). ([KF 390.5 .A5 W35 2010](#))

This recent American title contains primarily selections from American case law with some commentary and discussion. It covers many of the major areas of interest in animal law, including punitive damages in non-veterinary cases, veterinary malpractice, cruelty and wills and trusts.

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## Forms and Precedents

Animal-related forms and precedents can be found in a variety of sources. Many of these forms are specifically related to the care and sale of animals intended for meat. However, some sources contain materials dealing with animals used for recreation or sport, and a few address companion animals. Generally speaking, this is a case where forms from jurisdictions other than Canada may be useful. In

many instances, forms originate in areas of the world where the particular animal or activity have a history of popularity. For example, many excellent forms related to horses can be found in British or Texan sources. There are many U.S. form collections available in the Great Library on Westlaw Canada. The Great Library does not, at this time, have any forms and precedents collections dealing solely with animals. However, most of the larger collections do include useful forms.

*American Jurisprudence Legal Forms* Full text available from [Westlaw](#) (Accessible on Great Library computers)

The forms in this American collection focus on economic issues. There is little material dealing with companion animals. Use the index to find forms. Possible index topics of interest include: Animals, Veterinarians, Dogs, Horses, Dairies, Fish and Game, or Poultry.

*The Encyclopaedia of Forms and Precedents* [Ask a Law Librarian](#) to access this resource for you.

This British collection of forms includes, in addition to forms devoted solely to economic considerations, some forms that take into account animals kept as companions or for recreation. Entries found in the index include: Animal, Agistment, Cattle, Horse, Racehorse, Stallion, Pig, Livestock, or Riding Establishment.

*O'Brien's Encyclopedia of Forms*, 11th ed., 29 vols., looseleaf (Aurora, Ont.: Canada Law Book, 1987-). ([KF 170 O27 1987](#)) Also online in [O'Brien's Internet](#) available on Great Library workstations.

This Canadian source includes a few animal-specific forms. Most are designed for use in agribusiness. Index entries of interest include: Animals, Agriculture.

*West's Legal Forms* Full text available from [Westlaw](#) (Accessible on Great Library computers)

This American source offers a limited number of animal-related forms. Index terms of interest include: Animals, Pets, Horses, Pastures, Sheep, or Dogs.

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## Specific Topics and Species

Some resources in selected major areas of the topic are set out below.

### ***i) Animals and Tort Liability***

Liability for the actions of animals is one of the more common areas of interest relating to animals and the law. Most general texts on tort liability have at least one section on the topic. In addition, there are a number of works devoted solely to this aspect of the law.

Fridman, G.H.L., *Introduction to the Canadian Law of Torts*, 2nd ed. (Markham, Ont.: LexisNexis Butterworths, 2003). ([KF 1249 F892 2003](#))

This recent Canadian text contains a relatively lengthy chapter on animals.

Manitoba, Law Reform Commission. *Tort Liability for Animals* (Winnipeg: Manitoba Law Reform Commission, 1992). ([KF 1293 L375 1992](#))

Although somewhat dated (especially in regards to Manitoba legislation), it contains an excellent discussion of the history of the various torts related to animals. This study predates major legislative change in Manitoba, as the study informed the changes.

North, P.M., *The Modern Law of Animals* (London: Butterworths, 1972). ([KF 1293 N66](#))

In many ways intended as an "update" to Williams' *Liabilities for Animals*, this 1972 text also has a primarily British focus. It does include some Canadian case law and discussion.

Osborne, Philip, *The Law of Torts*, 3rd ed. (Toronto: Irwin Law, 2007). ([KF 1250 O83 2007](#))

This recent Canadian text on torts contains a section of materials specific to animals.

Williams, Glanville Llewelyn, *Liability for Animals: An Account of the Development and Present law of Tortious Liability for Animals, Distress Damage Feasant and the Duty to Fence, in Great Britain, Northern Ireland and the Common-Law Dominions* (Cambridge: University Press, 1939). ([KF 1293 W72 1939](#))

Although this text is British and quite old, it remains a popular source, extensively quoted in modern texts. It does include some Canadian case law. It is a classic in the field.

### **ii) Veterinary Malpractice**

While there are not yet a large number of resources available, especially in Canada, this is an area of law that promises to develop more significance in the near future.

Wilbur, Tom, "Will Canadian Courts Go to the Cats and Dogs?" *The Lawyers Weekly* 25:8 (June 2005) 1.

Also [online](#).

*American Jurisprudence Pleading and Practice Forms Annotated* Full text available from [Westlaw](#) (Accessible on Great Library computers)

See Table of Contents entry "Veterinarians."

### **iii) The Horse and the Law**

Some of the law related to horses can be found in texts covering broad areas, such as tort liability. However, there are also more specific materials dealing with a variety of equine-related activities. Note that some of the language used in these texts does not match "real world" usage. For example, many legal texts use the term "agistment" for what is more commonly known to horse-people in North America as "boarding." Regional differences may occur as well; New Zealanders and Australians "float" their horses, while North Americans "ship" or "trailer" them. Keep these differences in mind when consulting these sources.

*American Jurisprudence Trials* Full text available from [Westlaw](#) (Accessible on Great Library computers)

Search for citation 39 Am. Jur. Trials 527, "Fraud in the Sale of a Show Horse."

This is a model trial, which while somewhat dated and very American, does offer a look at some of the many aspects of the issue.

### [Equine Law and Horsemanship Safety](#)

This site contains solely American materials. Nevertheless, it contains a wealth of useful materials, including unreported case law and original articles on equine law and safety.

Oliphant, George Henry Hewitt, *The Law of Horses: Including the Law of Innkeepers, Veterinary Surgeons, &c.*, 6th ed. (London: Sweet & Maxwell, 1908). ([KF 390.5 .H6 O47 1908](#))

This is an old U.K. text. However, it is heavily quoted in older case law and does address Canadian law as well. In addition, many of the cases cited herein are also cited in more recent works. The text offers a fascinating look at veterinary medicine and equine vices in the early 20th century.

Pannam, Clifford, *The Horse and the Law*, 3rd ed. (Pymont, NSW: Lawbook Co., 2004). ([KF 390.5 .H6 P36 2004](#))

This is a recent Australian text that cites case law from the U.K., New Zealand and Canada as well. Aside from some regional variations in language, this is a very intelligible text. It contains some useful materials on the increasing popularity of giving horses away, with conditions as to their use. This text is skewed toward racehorses but includes a fair amount of other material as well. There is some valuable discussion of the growing trend toward valuation of horses based on factors other than market value.

Sophian, Theodore, *Horses and the Law* (London: J. A. Allen, 1972). ([KF 390.5 .H6 S72 1972](#))

This is a U.K.-focused text, with extensive discussion of legislation. It touches on most major topics of interest as well, such as rider negligence, liability of riding establishments, and the sale of horses. Overall, this text includes as much practical advice as it does law, citing hypothetical situations, and offering advice of interest to a horseperson (e.g., in addition to citing the U.K. *Highways Act* in regards to where to lead a horse on the road, this title also offers detailed instructions on how and where to hold the reins and how to control the horse).

#### **iv) Other Areas of Interest**

Continuing legal education materials sometimes contain articles that may be of use in the search for information about animals in the law. These articles may not be particularly easy to find, as they may be subsumed within more general topics. The following articles, while interesting in their own right, also serve as examples of where a useful article might be located.

Cochrane, Carol A., "In the Best Interest of the Canine: Custody Determination of Pets" in *15th Annual Institute of Family Law 2006* (Ottawa, Ont.: County of Carleton Law Association, 2006) ([KF 505 .ZA2 I5774 2006](#))

Engell, Bruce, "The Zoo Next Door II" in *Nasty Neighbours III: Return of the Feuding* (Toronto: Canadian Bar Association-Ontario, 2004). ([KF 634 .A2 N37 2004](#))

Koltun, Nadia, "The Zoo Next Door I - Cats, Dogs and Other Pets" in *Nasty Neighbours III: Return of the Feuding* (Toronto: Canadian Bar Association-Ontario, 2004). ([KF 634 .A2 N37 2004](#))

Petrie, P. Douglas, "Intensive Agriculture" in *Land Use Conflict in Urbanizing Rural Areas* (Toronto: Canadian Bar Association-Ontario, 2001). ([KF 5700 .A75 I573 2001](#))

Randolph, Mary, *Every Dog's Legal Guide: A Must-Have Book for Your Owner* (Berkeley, CA: Nolo, 2007) ([KF 390.5 .D6 R36 2007](#))

This American text is intended for a general audience, but is nonetheless an entertaining and useful source on the many issues related to domestic canines.

Rust-D'Eye, George H., "New Nuances of Nasty Neighbours' Noises and Nuisances" in *Nasty Neighbours III: Return of the Feuding* (Toronto: Canadian Bar Association-Ontario, 2004). ([KF 634 .A2 N37 2004](#))

This article includes a number of examples of animal-related nuisance complaints, including issues related to odour and dairy farm nuisance.

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### **Recent Journal Articles**

This sampling of recent articles from legal periodicals offers a suggestion of what type of information might be found in journal articles.

Battle, Tim, "Animal Cruelty, Domestic Violence and Child Abuse: The Many Victims of Violence" (2006) 30:4 L. Now 27-32.

Perell, Paul, "A Bit about Bites: Liability for Damages Caused by a Dog" (2006) 31 Adv. Q. 347.

Skibinsky, Christina G., "Changes in Store for the Livestock Industry?: Canada's Recurring Proposed Animal Cruelty Amendments" (2005) 68 Sask. L. Rev. 173.

Unger, Jason, "Exotic Pets and Animal Trade: Do you Have a

#### **Finding Journal Articles on Your Topic**

These subject headings are used in legal indexes such as the *Index to Canadian Legal Literature* (ICLL: available in paper, on Quicklaw or Westlaw Canada) or LegalTrac (available on Great Library computers). ICLL is best for finding Canadian material. However, other jurisdictions such as the U.S., U.K. or Australia may also have useful sources. LegalTrac indexes English-language legal periodicals from a variety of jurisdictions. You can use these subject headings to find journal articles dealing with particular aspects of animal law. Some of these subject headings are general, and others are more specific. Try experimenting with subject headings to find out which ones are most useful to you. This is not an exhaustive list, but rather is intended to serve as a starting point for your research.

Permit for That Grizzled Tree Kangaroo?" (2006) 30:4 L. Now 27.

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## Journals

### *Animal Law*

Full text available from [HeinOnline](#) (Accessible on all Law Society network computers): 1995 to 2009

Full text available from [Westlaw](#) (Accessible on Great Library computers): 1995 to present

### *Stanford Journal of Animal Law and Policy*

Full text available from [Westlaw](#) (Accessible on Great Library computers): 2007 to present

### *Journal of Animal Law*

Full text available from [HeinOnline](#) (Accessible on all Law Society network computers): 2005 to 2009

Full text available from [Westlaw](#) (Accessible on Great Library computers): 2005 to present

### *Journal of Animal Law and Ethics*

Full text available from [HeinOnline](#) (Accessible on all Law Society network computers): 2006 to 2007

Full text available from [Westlaw](#) (Accessible on Great Library computers): 2006 to present

### *Kentucky Journal of Equine, Agriculture, and Natural Resources Law*

Full text available from [HeinOnline](#) (Accessible on all Law Society network computers): 2008 to 2010

Full text available from [Westlaw](#) (Accessible on Great Library computers): 2008 to present

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## Subject Headings (*Index to Canadian Legal Literature*)

### General Headings

*Animals*

*Animal health*

*Animal industry*

*Pets*

*Domestic animals*

*Dangerous animals*

### Specific Headings

*Animal experimentation*

*Animal waste*

*Animal welfare*

*Laboratory animals*

*Livestock*

*Species--Migration*

*Liability for animals*

*Animals, Prosecution and punishment of*

*Animal welfare--Litigation*

*Dogs*

## Subject Headings (LegalTrac)

### General Headings

*Pets*

*Human-animal relationships*

*Cruelty to animals*

*Liability for animals*

*Animal attacks*

### Species-Specific Headings

*Horse sports*

*Swine*

*Horse breeding*

*Horses*

*Dogs*

*Dog breeds*

*Cattle*

*Poultry*