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MATSUMURA LAW FIRM

Wills, Trusts, Probate
And Estate Planning

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How Do Pet Trusts Work?

Providing For The Care of Your Non-Human Beneficiaries

According to the American Veterinary Medical Association, more than 60% of U.S. households (58.2 million) own a cat or dog. Many pet owners consider their pets as family members and wish to provide for continuing care and well-being of a particular pet or number of pets after their passing.

Pet Trusts Are Now Legal. Historically, pets were not recognized as

are the same person, then an independent trustee should be named to serve along with the trustee. Furthermore, if the trustee is not the caregiver, a reasonable stipend should be offered to the caregiver as incentive to take care of the pets as best as possible so they can receive the trust payment each month ongoing. In addition, it is preferable for a charity or other third party be named as the remainder beneficiaries of the pet trust (i.e., the persons or entities to receive the remaining trust assets after your pet passes away). It is not advisable for the caregiver to be named as remainder beneficiary, as this might reduce the caregiver's motivation to properly care for pets.

In any event, pet owners should ask prospective caregivers about their willingness to care for pets. Alternate permanent caregivers should also be considered in the event circumstances prevent the primary caregivers to fulfill their promise. A permanent caregiver would be a pet shelter, such as Animal Rescue Foundation.

Pet Trust Provisions. Good pet trusts specify the care and treatment of pets as detailed as possible. Some specifics include:

- Naming a primary trustee and alternate trustees.
- Naming a primary caregiver and alternate caregivers.
- Detailed information identifying your pet (such as a microchip or DNA information).
- Instructions for the trustee to regularly inspect the pet to prevent identity fraud.
- Standard of living and care you wish to provide for your pet

legal beneficiaries, since they cannot sue to enforce their rights. However, in keeping with modern times, thirty-two states (including California) have enacted laws to make pet trusts legal entities [Cal. Probate Code Section 15212]. As a result, a pet trust allows pet owners to provide for a pool of funds to care for their pets, as if the pets were minor children. The issue of trustee oversight still remains and issue, so the selection of trustee and of pet caretaker is critical to carrying out wishes for pet beneficiaries.

Choosing the Trustee, Caregiver and Remainder Beneficiary of The Pet Trust. As the creator (i.e., grantor) of the trust, you fund the trust with sufficient property to care for your pet or pets for their expected lifetime. The trustee will make regular payments to your pet caregiver for costs to care for your pets.

For checks and balances, the trustee should be different than the caregiver. If the trustee and caregiver

Pet Owners Should Provide Care Instructions for Their Pets In Case They Cannot Care for Their Pets Themselves

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Pet Trusts: Providing for Non-Human Beneficiaries (continued)

- Type of food your pet prefers.
- Exercises for your pet.
- Veterinarian information and check-up routines.
- Health conditions, medications for your pet.
- Remainder beneficiaries for the trust after pet's passing.
- Disposition of pets remains.

How Much Money Should Be Funded into a Pet Trust? Another consideration in establishing a pet trust is determining the sum to leave in trust. The amount to leave can vary widely, depending

alternatives to a pet trust is a "conditional bequest". In this case, you leave cash for a chosen caregiver (or successor caregivers), who can only receive the funds if he or she cares for your pet(s). This type of provision is not as "secure" as a pet trust, but is a more reasonable disposition if minimal sums are involved.

Another alternative is to provide separate written and detailed instructions regarding the care of pets in a "Letter of Instructions". The "Letter" should be kept with other estate planning documents.

Pet Trusts Are Now Valid In 32 States, Including California

upon the age, health, estimated lifespan and number of pets involved. For example, owners of turtles or parrots (pets with long lifespans) may wish to leave more in trust than aged cats or dogs. The amount to leave in trust also depends upon how much care the owner wishes the pets to receive—i.e., measures of treatment in case some ailment arises.

Some pet owners with modest estates reserve funds for their pets by designating proceeds from a life insurance policy to the pet trust.

Alternative to Pet Trusts. Normally, since trusts do have an administrative cost (i.e., trustee fees, tax return preparation, taxes, reporting, etc.), pet trusts are usually established when a pet owner wishes to reserve a significant sum for the care and maintenance of a pet.

If a pet owner does not a substantial estate to set up a pet trust, an



Advantages of Planning. Most pets need care daily and need immediate attention if the pet owner becomes ill or incapacitated. By planning ahead, an owner will receive greater peace of mind knowing that their pets will be cared for as intended. Furthermore, the pets themselves will be much more likely to experience a smooth transition to a new home. Others may not want the responsibility of caring for pets, and will appreciate knowing the pet provisions have been made in advance by the pet owner.

Resources. For further information, the Humane Society of the United States (HSUS) provides a free kit, "Providing for Your Pet's Future", complete with fact sheets, wallet cards, emergency decals, and caregiver forms. The HSUS can be reached at www.hsus.org/petsinwills or 1-800-808-7858 for more information. ♦

About Me & My Practice

I have practiced exclusively in the area of estate planning, probate and trust administration for approximately nine and a half years.

In my non-work hours, I support Cal athletics, the SF Giants, the Sacramento Kings, and play tennis! ☺

Next Issue: Trust Mills: How To Avoid These Damaging Scams