

Who Gets the Dog Post-Relationship and Love?



By Jacqueline Newman

A couple of years ago, a lovely woman named Sara came into my law office for an initial consultation. One of the first things she said to me was, “All I care about is Molly. I do not care about the money – I need her to be with me.” Now, this is not uncommon as many of my clients who have fallen out of a relationship and love feel that protecting their children is their number one concern. I asked the client, “Who would you say is the primary caretaker for Molly?” Her response (again, very typically was) “I am the one who takes care of her daily needs. I feed her, I wash her, I take her to the doctor, I take her to the park, I set up her play dates – I do absolutely everything for her.” When I asked her about her

spouse, Linda's, relationship with Molly, she responded, "She does love Molly and will play with her occasionally, but she does not care for her the way that I do." Sara then whipped out her heart shaped keychain that had a picture of Molly ... her little pug puppy.

In the days when a dog was just a dog and slept on the rug by the bed instead of in the bed, I would have explained to Sara that courts treat animals like any other personal property.

Now in the pet-centric society that we live in, courts are trending toward looking at animals differently and applying similar standards to those used when determining custody of children when people fall out of their relationships and love.

A court will often consider who the primary caretaker of the pet is and will look to the "best interests" standard when determining custody.

The advice I gave to Sara is similar to the advice that I would give any parent. I said, "If you want to be awarded custody of Molly, you need to be able to show a court that you are and have been during the marriage, the primary caretaker for the puppy." The history of caretaking plays a large role in custody determinations and it is logical to think the same mindset will apply in a pet custody fight. I told Sara to keep a journal of the times that she takes Molly to the vet and a detailed list of what she does to care for Molly. If the judge needs to select one party to have Molly reside with, Sara

needs to be able to show that her pup will thrive best in her care.

Typically if there are young human children within the marriage, I find that most parents agree that the dog will follow the children. When the children are packing up to spend the weekend with one parent, the dog packs up his dog bones, too. This way the children are not deprived of time with their pet and it aids in their transition between homes. Even when children are not in the picture, people can also share custody of their pets and set up a specific access schedule. Expenses for the pet can also be shared (which can be quite significant when you factor in doggy day care and veterinarian expenses – Molly needs to have her organic high fiber dog food!).

Up next... prenupts for pups!

Jacqueline Newman is a Family Law Attorney & Managing Partner at Berkman Bottger Newman & Rodd in NYC. Ms. Newman's practice consists of litigation, collaborative law and mediation. Jacqueline specializes in complex high net worth matrimonial cases and negotiating prenuptial agreements. She has appeared as a commentator on various television shows and has been quoted as an expert in numerous publications, including Glamour Magazine, Crain's New York Business, U.S. News and World Report, Woman's Day and The Huffington Post.