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Fluffy's Love Can't be Quantified: "Pet Parents" and Noneconomic Damages

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Is a beloved family cat a pet or a fur baby? Is a man who dresses his labradoodle in hand-knit booties a dog owner, or a pet parent? Increasingly, the language applied to animal companions has shifted from a property-based context to a context that borrows from parent-children relationships. Some of this linguistic shift is due to changes in how the popular culture think about family and the owner-pet bond, and some of it is the result of savvy marketing by the pet care industry: Maybe you won't shell out cash for a new bed for Fluffy, but why wouldn't you want the plushest lounger possible for your fur baby?

Unfortunately, while the emphasis on the familial bond we may have with our pets can be great for selling pet products and services, it may also have the unintended side effect of encouraging pet owners to seek damages for emotion-based or other non-economic damages when a pet is harmed by a product or service. In the appropriate case, a mother whose child is injured by medical malpractice may be awarded non-economic damages for her emotional distress, but the law does not (yet) recognize a claim for damages from emotional distress arising from injury to a pet. An amici curiae brief issued in Idaho by non-profit associations dedicated to animal welfare and responsible animal ownership noted that jurisdictions from Texas to New York to Alaska have “broadly rejected emotion-based liability in negligence, recklessness and non-malicious cases” of deaths or injuries to pets.

Despite that broad rejection, many courts have gone out of their way to assert that a powerful sentimental bond exists between pets and people—but have emphasized that the existence of that bond is one that simply can't be monetized. For example, in North Carolina the court stated, “[T]he sentimental bond between a human and his or her pet companion can neither be quantified in monetary terms or compensated for under our current law.” *Shera* v. *N.C. State Univ. Veter. Teach'g Hosp.*, 723 S.E.2d 352, 357 (N.C. Ct. App. 2012). In Iowa: “[S]entimental attachment of an owner to his or her dog has no place in the computation of damages for the dog's death or injury.” *Nichols* v. *Sukaro Kennels*, 555 N.W.2d 689, 691 (Iowa 1996).

This rejection of noneconomic damages may seem “anti-pet,” but from a public policy standpoint it would actually be deeply damaging to pets should noneconomic emotion-based damages be granted. Factoring in the new potential liability of emotion-based damages would mean pet services, veterinary care, pet insurance, and pet products would all become more

expensive—for many prohibitively so. If fewer pet owners could afford regular vet checkups and preventive care for their pets, their pets' health issues might worsen. Without regular care, owners might find themselves unable to treat ill pets, causing unneeded physical suffering for the pets and unneeded emotional suffering for the owners. Ultimately, these pets might need to be euthanized. Should a few pet owners suffering emotional distress win economic gains from emotion-based damages, many more animals would be disproportionately harmed as the costs of litigation and insurance rippled through the pet care industry.

Language, like the bond with a pet, can be powerful, emotional, sentimental. But as case after case throughout the United States' court system has shown, the marketing copy that tugs on the heartstrings of pet owners for the industry's own economic gain simply doesn't lead to economic gains for those same “pet parents” in court.

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