

News

It's not a dog's life for pets that are named in wills

You can provide for their care, but can't leave them money

DONALEE MOULTON

Chouette Lagerfeld lives a life of luxury. She flies in a private jet using her own custom-designed luggage. Two ladies-in-waiting hover close by while her personal bodyguard keeps a watchful eye on her surroundings. A private medical consultant is only a phone call away. Mademoiselle Chouette is partial to caviar and chicken pâté. Indeed, they make the three-year-old Birman positively purr.

Fashion designer Karl Lagerfeld's cat is among the world's most pampered pets. But the desire to spoil, coddle and protect the animals with whom we share our lives is not the exclusive domain of the rich and famous. According to the Alberta Department of Agriculture and Rural Development, 57 per cent of Canadian households owned



Campbell

pets — overall, roughly 5.9 million dogs and 7.9 million cats.

While those animals will bring joy and the occasional furball into their owners' lives, the sad reality is that some owners will predecease their much-loved additions to the family. In preparing for this potentiality, owners will discover the law can

help them do this through their estate planning — and hinder them.

Under Canadian law, pets are the equivalent of property, not people. "They are property with a somewhat enhanced level of protection due to animal cruelty laws incorporated in both provincial law and the *Criminal Code*, but property just the same for the purposes of caring for them once you are gone," said Gordon Campbell, an animal law lawyer in Lancaster, Ont.

As property, pets cannot, in turn, own property of their own. For this reason, owners will not legally be able to leave money to their pet.

"Gifts in a will to a pet directly will probably fail and the gift may fall back into the residue of the estate, if a bequest fails, or may be distributed according to the rules for intestate succession,"

said Toronto estate and trusts lawyer Suzana Popovic-Montag.

As a result, owners may opt to leave pets out of their will, she said.

"In most cases, a family member or friend will simply adopt the pet and continue to care for it. In some cases, this is arranged ahead of time. In others, the family will figure out what to do with the pet after the death."

If this is not an option for pet owners or they are looking for an alternative with more legal weight behind it, instructions can be included in a will regarding how their pet is to be cared for after the owner's death. Lawyers and their clients should be more general than specific in one key area, said Campbell.

"You shouldn't specifically name the pets, because you might have different pets at the time you die than you had when you

made your will."

Instead, owners should provide for pets by the type of animal. This could include stipulating a specific sum of money per cat or dog that will be paid to the caregiver. In addition to financial resources, specific instructions should be provided about who will provide care or how the executor should evaluate potential caregivers.

Confidence in the caregiver will be a critical component.

"You need to trust those taking the pets — ideally people you have discussed guardianship with prior to you making the will — to provide adequate care for them, rather than getting too caught up in creating complex and costly legal structures to control pet care from the grave," said Campbell.

The simplest approach is to

Trusts, Page 27

Expert Witness Directory

LIFE & HEALTH INSURANCE
LITIGATION

Barry J. Plener
CONSULTING

EXPERT

UNDERWRITING
OPINIONS ON
LIFE, DISABILITY,
CRITICAL ILLNESS
INSURANCE CLAIMS
AND LIFE EXPECTANCY

- Former Chief Underwriter
- Over 25 years of Underwriting Experience
- Available to both Plaintiffs & Defendants

Contact:

Barry J. Plener, BA
Tel: 416-402-0008
www.barryplener.com

FORENSIC INVESTIGATORS

Need
professionals
who can see
the forest
for the trees?

- Litigation Support
- Forensic & Investigative Accounting
- Fraud Investigations
- Fraud Prevention & Detection

Look for a **Certified Forensic Investigator of Canada "CFI"** who has demonstrated competency through examination, experience and education — and continually maintains their proficiency.

For more information contact the *Association of Certified Forensic Investigators of Canada*
Alan M. Langley, Executive Director
(416) 226-3018 or
(877) 552-5585

ACFI
ASSOCIATION OF CERTIFIED FORENSIC INVESTIGATORS OF CANADA
www.acfi.ca

INVESTIGATIVE EXPERTS



Specialists in
"Workplace Investigations"
for HR Professionals/Senior
Management/In-House
Counsel

- Bullying and Harassment
- Stalking
- Malicious E-mails/Poison Pen Letters
- Libel and Slander
- Threats/Extortion

Most workplace investigations unfold incrementally. The process includes five distinct phases:

- Planning and Preparation
- Information Gathering and Fact-finding
- Verification and Analysis
- Determination and Disbursement of Disciplinary and/or Corrective Action
- Prevention and Education

We also assist with "High Risk Terminations", as well as "Exit Interviews".

TORONTO TEL: (416) 386-1957
KAWARTHA DISTRICT TEL: (705) 652-9090
E-mail: berkeley@nexicom.net

BUSINESS VALUATIONS

BUSINESS
VALUATIONS

Experience
Credibility
Reliability
Timeliness
Concise

EXPERIENCE WITH:
Matrimonial Matters
Reorganizations
Shareholder Disputes
Estate Planning
Litigation Support
Damages Quantification

Douglas L. Craig, CPA, CA, CBV
Equity Trends Valuations Inc.
905.695.9706
doug.craig@equitytrends.ca

Carlo Viola, CPA, CA
Fazzari + Partners LLP
905.738.5758
carlo@fazzaripartners.com



equitytrends.ca

FORENSIC ACCOUNTING &
INVESTIGATIONSFORENSIC
ACCOUNTING &
INVESTIGATIONS

Forward Thinking
Analytically Proficient
Inquisitive
Intuitive
Ethical

EXPERIENCE WITH:
Shareholder Disputes
Breach of Contract
Assessments
Litigation Support
Arbitration and
Mediation Resolution
Due Diligence Investigation

Frank Fazzari, FCPA, FCA, CFE
Partner
905.738.5758
frank@fazzaripartners.com

FAZZARI PARTNERS LLP
CHARTERED ACCOUNTANTS

fazzaripartners.com