Family Animal Trust Drafting Considerations

Educational Resource for Attorneys

A general educational framework highlighting issues attorneys may wish to consider when evaluating whether a family animal trust or related planning provisions are appropriate for a client's estate plan. This resource is not a legal form and should not be relied upon as legal advice.

Purpose

Many clients consider family animals to be members of their family, yet traditional estate planning documents often provide limited guidance regarding their long-term care.

This reference identifies common planning topics that may arise when discussing family animal care with estate planning clients. Attorneys should evaluate each matter based on the client's goals and the laws of the applicable jurisdiction.

Planning Objectives

When appropriate, discuss whether the client wishes to:

- Provide care during temporary incapacity.
- Provide care after death.
- Identify one or more preferred caregivers.
- Establish funding for future care.
- Preserve the client's desired standards of care.
- Minimize the likelihood of disputes.
- Coordinate family animal planning with the client's overall estate plan.

Identifying the Family Animal

Consider whether planning documents should adequately identify each family animal through information such as:

- Name
- Breed
- Date of birth or approximate age
- Registration information
- Photographs
- Species
- Sex
- Microchip number
- Distinguishing characteristics
- Veterinary records

Selecting a Caregiver

Discuss:

- Primary caregiver
- Alternate caregiver(s)
- Successor caregiver(s)
- Willingness to serve
- Geographic considerations
- Housing restrictions
- Experience caring for the species involved
- Existing relationship with the animal

Funding Considerations

Clients may wish to discuss:

- Estimated lifetime care expenses
- Veterinary care
- Grooming
- Training
- Emergency expenses
- Administrative costs
- Food
- Insurance
- Boarding
- Specialized medical care
- Inflation considerations

Trustee Considerations

If a trust is appropriate under applicable law, discuss whether a trustee should:

- Manage trust assets.
- Authorize distributions.
- Maintain financial records.
- Monitor expenditures.
- Receive periodic reports.
- Resolve disputes.
- Appoint successor fiduciaries where permitted.

Care Standards

Clients frequently wish to provide guidance regarding:

- Daily routine
- Veterinary care
- Medications
- Behavioral enrichment
- End-of-life preferences
- Diet
- Exercise
- Grooming
- Socialization
- Religious or cultural considerations, if applicable

Veterinary Decision-Making

Consider discussing:

- Preferred veterinarian
- Emergency veterinary providers
- Medical treatment preferences
- Quality-of-life considerations
- Access to medical records
- Authority to obtain treatment during emergencies

Incapacity Planning

Long-term planning often extends beyond death.

Attorneys may wish to discuss:

- Temporary caregiver designation
- Emergency access to the family animal
- Long-term rehabilitation
- Nursing home admission
- Natural disasters
- Financial authority during incapacity
- Hospitalization planning
- Assisted living transitions
- Military deployment

Distribution of Remaining Funds

If permitted by applicable law, clients may wish to consider how remaining trust assets should be distributed following the death of the family animal.

Possible discussions may include:

- Remainder beneficiaries
- Animal welfare organizations
- Other beneficiaries designated by the client
- Charitable organizations
- Rescue organizations

Trustee and Caregiver Oversight

Depending on applicable law and client goals, planning discussions may include:

- Accounting requirements
- Reporting obligations
- Replacement procedures
- Successor appointments
- Court supervision where applicable
- Enforcement mechanisms authorized by law

Coordination with the Overall Estate Plan

Family animal planning should generally be reviewed together with other estate planning documents, which may include:

- Last Will and Testament
- Revocable Trust
- Irrevocable Trust
- Durable Financial Power of Attorney
- Health Care Directives
- Beneficiary Designations
- Letters of Instruction
- Business succession planning
- Farm succession planning, when applicable

Client Discussion Checklist

- ☐ Identify all family animals.
- ☐ Confirm ownership.
- ☐ Discuss caregiver selection.
- ☐ Discuss alternate caregivers.
- ☐ Review estimated care costs.
- ☐ Discuss funding mechanisms.
- ☐ Evaluate whether a trust is appropriate under applicable law.
- ☐ Coordinate planning documents.
- ☐ Review incapacity planning.
- ☐ Review successor fiduciaries.
- ☐ Schedule periodic review of planning documents.

Educational Disclaimer

This publication is provided by PawsinTrust™ solely for educational purposes. It is intended to assist attorneys in identifying issues that may arise when discussing family animal planning with clients. It does not constitute legal advice, is not a model trust agreement, and should not replace independent legal analysis or drafting. Attorneys should adapt all planning recommendations and documents to the governing law of the applicable jurisdiction and the unique circumstances of each client.