

Client's Cat (Probate)

A previous client came to me to do his will. He is young and never married.

He basically wants to leave his assets to his girlfriend and his father.

Specifically, he wants to make sure his girlfriend takes care of the cat.

They already live together and she already helps out, he would just feel better knowing that "she gets the cat." What, if any, formal language should his will contain regarding ownership of the beloved kitty?

You could insert some pet trust language into the Will appointing gf or successor to take care of the cat. One drawback would be the lapse of some time before the Will is probated and proper appointments made / funds allocated. Your client may want to consider a stand-alone pet trust they can fund now. But at the very least, testamentary pet trust would be good.

Vlad Portnoy, New York

Thank you, Vlad. That is very helpful!

Jason Komninos, New Jersey

My pleasure.

Vlad Portnoy

In my experience, pets always get cared for after an owner's death. He can bequeath the cat and some \$\$ to the GF. No cat, no GF, no bequests.

Deb Matthews, Virginia

Yes, from what my client tells me there isn't really a doubt that the girlfriend won't look after the cat. It's pretty much "their" cat. But I always like going that extra mile to make the client feel special when I can.

Jason Komninos

Depending on your Jdx you may have legally enforceable pet trust, nonetheless I usually use precatory trusts. "if upon my death I own any pets, I devise the sum of \$2000 to Suzy Q conditioned upon her taking possession of that pet or those pets and the devise to her is to be used to defray the expenses of caring for the pet or pets" or something like that.

Ronald Jones, Florida

Most states nowadays have enforceable pet trusts. I helped with the Illinois one a number of years ago (although beyond that, I don't do estate planning, for pets, people or otherwise). Looks like you are in NJ, and Jersey does have an enforceable pet trust law: NJ Rev Stat § 3B:11-38 (2013). Here's one link:
<https://law.justia.com/codes/new-jersey/2013/title-3b/section-3b-11-38/>

Precatory trusts are ok so long as your client is really, REALLY sure his wishes will be honored. I'm more of a cynic, I imagine, than Ron (or most people), and would opt for an enforceable trust as long as the option is there. It can be a freestanding document or (more commonly) just a couple of provisions within your main trust document. Basic idea is, like with children, you want one person responsible for the cat and another person responsible for the money. One of the biggest problems is the lag time between someone's death and administration of the estate, so your client needs to make his wishes known and have specific instructions at the ready so anyone (because what if his girlfriend is killed in the same car accident as him?) can step in

and know 1) where the cat food is, 2) any special medical needs and who the vet is, 3) have cash on hand to buy food and supplies, etc., in the interim.

Here's one resource from the NYC Bar's animal law cmte that's been around for years, and looks like it was updated fairly recently:

https://www2.nycbar.org/pdf/report/uploads/8_20072453-

[ProvidingforYourPetintheEventofDeathHospitalization.pdf](#). Hope this helps.

Amy A. Breyer, California

Amazing responses, thank you!

Jason Komninos

One resource can be pulled from Professor Beyer's website. It includes discussion and forms for pet trusts. Look under

<http://www.professorbeyer.com/Articles/Articles.html>

Darrell G. Stewart, Texas

I highly recommend you reach out to Debra Hamilton, who is an expert in these issues: <http://hamiltonlawandmediation.com/HLMHome.html>

Here's a great podcast and overview of her work:

<https://puredogtalk.com/podcast/96-divorce-disease-disaster-disability-delay-death-and-your-dogs-debra-hamilton-esq-how-to-make-a-maap-plan-2/#:~:text=As%20the%20principal%20at%20Hamilton,over%20a%20barking%20dog%2C%20and>

Jacqueline Horani, New York

You can find lots of form "pet trusts" around. Look for some from your state.

Robert W. Hughes, Jr., Georgia

As someone who does many pet trusts, and works with pet rescues and humane societies in my personal life, I have to completely disagree with Deborah.

The large chunk of pets going into shelters are there because the owner has died and family doesn't want them. HSUS/ASPCA have statistics on it.

Right now, there are a couple dogs and a pig/pet that are looking for homes here after owner passed. I've placed several with rescues in these situations.

A pet trust is best but will language coupled with a bequest is certainly better than nothing. For anyone interested in pet trusts, Google "Gerry Beyer" at Univ of TX for comprehensive resources, attorney Peggy Hoyt in FL, and I'm happy to send what I have.

Julie Mills, Ohio

NJ Statute on pet trusts:

http://www.professorbeyer.com/Articles/Animal_Statutes/NewJersey.html.

Julie Mills

Correction as to location. Gerry Beyer is at Texas Tech. His website is professorbeyer.com.

Darrell G. Stewart

Smack me--my alma mater's GOAT went from Indiana Univ to Texas Tech, and I knew that. My apologies to The General, and Prof. Beyer! Thanks Darrell.

And fortunately, Coach is back in Bloomington. No offense to Texas.

Julie Mills

Struggling right now with a client who is in Skilled Care (probably for life) she is angry because her friend placed her dogs with a rescue, she wants them back. Of course, she can't care for them.

It is a very difficult situation as client is calling everyone she knows trying to get the dogs back. Back where? Don't know her house is sold.

Martha Jo Patterson, California

Martha Jo, I'm so sorry to hear that. Here in central Ohio is a nonprofit called "Hospets," which finds homes for pets of people going into assisted living/nursing homes, in terminal conditions. It's a great organization, I hope similar ones exist elsewhere. <https://hospets.org/>

Julie Mill

Ya know, you won't know if the cat's dead or alive unless you open the box.

Russ Carmichael, Pennsylvania

I thought that was Schrodinger's cat only. :)

Darrell G. Stewart

Martha Jo - That is an extremely sad situation. Perhaps it would be possible to negotiate with the rescue to simply have one of the volunteers bring the dogs for a visit to the skilled care facility? If she's unable to care for the dogs, then it's not in their best interests (or even hers) to try to get them back, but perhaps a little closure would do the trick. Maybe if your client had a chance to meet someone from the rescue she'd also get a greater comfort level that her dogs will be taken care of, which is probably the thing she wants the most (and you can probably help adjust her expectations here by leading her to make this realization for herself).

If the new foster or adoptive family would agree, they could even send you some photos to share with your client of the dogs in their new home (without any geographically identifiable markers, of course). When we adopted our previous cat, Shauna, she was actually living with a foster mom who was crazy about her, but the foster mom's previously-adopted dogs were not. So the foster mom transferred Shauna to us, but I kept in touch with her for the remainder of Shauna's life, sending pics once or twice a year just so she could see how Shauna was doing. It's possible that the dogs' new family might even be agreeable to something similar here, but at least one photo should be fairly easy to negotiate with the rescue, in exchange for what the rescue really wants, which is to re-home the dogs without the prior owner continually pleading for the dogs back, legal action, etc., etc.. Best, Amy

Amy A. Breyer

Nope. It's all cats, including "fat", "hep", and "booted".

It's a law. Or something.

Russ Carmichael

Again, sorry, late to the party. You can do a pet trust, but with something as simple as this I'd put a devise of "any pets I own at the time of my death" to girlfriend and maybe a contingent cash devise if he has pets and she accepts.

Local to my Florida office we have a local pet shelter organization specifically to take in pets for people who are ill.

<https://www.pawspetsanctuary.org>

Cynthia V. Hall, Florida

