

Animals in Court: Dangerous, Wild, Service, and More!

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Class Topics:

- Service Animals
- Dangerous Dogs
- Dangerous Wild Animals
- Cruelly Treated Animals
- Parks & Wildlife

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Service Animals

How might the issue of service animals come up in your court?

What types of cases?

Who has had prior experience?

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Service Animals in Justice Court

**Physically present
in the courtroom**

**Evictions - lease
violation**

**Small claim for
personal property**

Writ of retrieval

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Service Animals 101

When can they come to court?

- Almost always

How do they qualify as a service animal?

- We will discuss this more in a minute, but
- **“Service animal”** is defined in the ADA
- There is a more broad term of **“assistance animal”** that includes: service animals, emotional support animals, and therapy animals

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Definitions

Service Animal: Any dog that is individually trained to do work or perform tasks for a person with a disability

Emotional Support Animal (ESA): Any animal that is necessary to give an individual with a disability an equal opportunity to use and enjoy a residence or travel on an airplane.

Therapy Animal: An animal used to provide affection and comfort to people.

- Can be any species of animal.
- Can benefit multiple people
- Person benefited doesn't have to have a disability.

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Differences

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Americans with Disabilities Act (ADA)

- Service animals are allowed to accompany people with disabilities in all areas where members of the public are allowed to go.
- Applies to all public entities.

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ADA Definitions

Disability:

A physical or mental impairment that substantially limits one or more of the major life activities of such individual.

Includes:

- *Physical,*
- *Sensory,*
- *Psychiatric,*
- *Intellectual, or*
- *Other mental disability.*

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Prohibiting Animals Under ADA

The use of service animals can be prohibited if:

- The entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.
 - *ex: animal is out of control and the handler doesn't take effective action to control it, or animal is not housebroken.*
- Direct threat to the health and safety of others.

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Discussion 1

Can you require that a person with a service animal provide documentation regarding the animal's certification and their disability to bring them into the courtroom?

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Fair Housing Act (FHA)

- Requires a landlord to make reasonable accommodations in rules, policies, practices, or services when such accommodation is necessary to afford a person with a handicap equal opportunity to use and enjoy a dwelling.
- Applies to ALL housing providers covered by the FHA and/or the ADA.
- Persons with a *handicap* may request a reasonable accommodation for any assistance animal, including an ESA
- The animal is for the benefit of 1 person with a handicap.

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FHA Definitions 1

Handicap:

A mental or physical impairment that substantially limits one or more major life activities.

Includes (but not limited to):

- *Blindness, Hearing impairment, Mobility impairment, HIV infection, Mental retardation, Alcoholism, Drug addiction, Chronic fatigue, Learning disability, Head injury, and Mental illness.*

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FHA Definitions 2

Major Life Activity:

Includes (but not limited to):

- *Seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working*

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FHA Accommodation Process

Upon receiving the request, the landlord must consider:

- Does the person seeking to use and live with the animal have a disability?
- Does the person making the request have a disability-related need for an assistance animal?
- *Both questions must be answered "yes."*

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FHA Accommodation Denial

The request may be denied if the specific assistance animal:

- Poses a direct threat to the health or safety of others that can't be reduced or eliminated by another reasonable accommodation, or
- Would cause substantial physical damage to the property of others that can't be reduced or eliminated by another reasonable accommodation.

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Discussion 2

Can a landlord require documentation of the disability and need for the service animal?

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What does this look like in the courtroom?

Service animal helping a plaintiff, defendant, or witness carry out a life function while that person is there to conduct a court related action.

- The judge has no discretion whether or not to allow the animal's presence, the animal **must** be allowed.

ESA or therapy animal providing support to traumatized witnesses, usually children, while they testify.

- ***It is up to the judge to determine whether or not to allow the animal in the courtroom.***

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Resources

- <https://www.ada.gov/resources/service-animals-faqs/>
- https://www.hud.gov/program_offices/fair_housing_equal_opp/assistance_animals#_Obligations_of_Housing

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Dangerous Dogs

Who handles these in your court often?

Does anyone know the 4 types of these cases we handle in justice court from memory?

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Dangerous Dogs 4 Types

Type 1 - dog allegedly caused death, or serious bodily injury to a person

Type 2 - determination of whether dog is "dangerous dog" (report to animal control and appealed to justice court)

Type 3 - determination of whether dog is "dangerous dog" (direct report to justice court)

Type 4 - owner of a "dangerous dog" has allegedly failed to comply with statutory requirements

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Discussion 3

Do you charge a filing fee?

Where do we discuss this in the Deskbook?

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Flowcharts

Take a look at your handouts to find the flowcharts for each type of Dangerous Dog Hearing.

Highlight the steps where the clerk will be involved.

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Dangerous Wild Animals

Who has prior experience with these?

Can anyone tell us where the list of animals is found?

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Dangerous Wild Animal Proceedings

- Generally, a person needs a certificate of registration from a local agency to own a **“dangerous wild animal.”**
- If a certificate of registration is denied or revoked by an animal registration agency, then the person can appeal to justice or municipal court.
- These cases don’t usually include animals kept in research facilities, zoos, as part of a circus, or by a government agency.

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Dangerous Wild Animals

Dangerous wild animal: a lion, tiger, ocelot, cougar, leopard, cheetah, jaguar, bobcat, lynx, serval, caracal, hyena, bear, coyote, jackal, baboon, chimpanzee, orangutan, gorilla, or any hybrid of an animal listed.

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Dangerous Wild Animal Procedure

- No filing fee.
- Must be filed no later than the 15th day after the certificate of registration is denied or revoked.
- Appeal in justice court will stay the denial or revocation until the appeal is ruled on
- No notice/hearing provisions in the statute, so reasonable notice applies.
- Appeal from justice court goes to county court or county court at law.

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Discussion 4

Who can find what the judge should base their ruling on in a TJCTC Deskbook?

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Cruelly Treated Animals

What kind of animals do you see in these cases?

Does your county have animal control?

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Disposition of Cruelly Treated Animal Proceeding

Purpose:

Determine if an animal has been cruelly treated by their owner, and if so, to take the animal away from the owner and remove their ownership rights.

Cruelly Treated Definition:

- tortured;
- seriously overworked;
- unreasonably abandoned;
- unreasonably deprived of necessary food, care, or shelter;
- cruelly confined; or
- caused to fight with another animal.

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Disposition of Cruelly Treated Animal Procedure

- Initiated by an application for a warrant by a peace officer or animal control officer
- No filing fee
- County-wide jurisdiction
- Judge finds probable cause and issues a warrant
- Hearing must be within 10 calendar days
- Animal owner is entitled to a jury trial upon request

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Disposition of Cruelly Treated Animal Hearing

- County attorney or other prosecutor represents the state
- Each side presents evidence
- If the owner was convicted in a related criminal case for animal cruelty or bestiality that is prima facie evidence that the animal has been cruelly treated.

Does anyone know what prima facie evidence means?

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Disposition of Cruelly Treated Animal Orders

No Finding of Cruel Treatment:

Order animal returned to owner

If Finding of Cruel Treatment:

Order that owner no longer owns animal, plus:

- order a public sale of the animal at auction;
- order the animal given to local shelter (city, county, non-profit), or
- order animal humanely destroyed if in best interests of animal or public health and safety would be served.

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Discussion 5

Who pays the court costs?

What are they made up of?

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Discussion 6

What is the procedure for the sale of the animal?

Why might a judge order destruction vs. sale?

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Disposition of Cruelly Treated Animal Appeal

- *Very important part of the procedure, especially if animal is ordered destroyed!*
- Who can find the procedure for appeal in the Deskbook?

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Flowchart

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Parks and Wildlife

Do you have a state park or public waterway where you might get these cases?

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Parks & Wildlife (PW)

Generally, PW offenses are treated just like other criminal offenses, but they do have a few things that only apply to PW.

- Defendants arrested for a PW offense may be required to appear within 15 days of the offense if the officer gives them a written notice
- Failure to appear within the 15 days is a Class C PW misdemeanor under PW Code 12.06(b) (remember the warrant requirements)
- PW offenses have a fine range of \$25-\$500
- 85% of PW fines must be paid to PW Department

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Question 7

How much of the fine on an arrest by a marine safety enforcement officer (other than a game warden) must be remitted to the game, fish, and water safety account?

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Question 8

Do you send any of the PW court costs to the PW Department?

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Parks & Wildlife Resources

Information on **Violation Codes** for
Disposition Reports as well as **Game
Wardens** listed by county can be found by
going to <http://tpwd.texas.gov/warden>.

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Thank you!

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