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To Love, Honor and Belly-Scratch

■ Marriages come and go. Judging by the rising number of pet-custody disputes, though, some passions endure.

By Sanjiv Bhattacharya

In a vet's office in Brentwood, a wife sits with her divorce lawyer and her husband sits with his, both of them waiting in opposite corners of the room for a Pomeranian we'll call Lemons, the pet they bought together when they were happily married. Today, now split, they're here to settle who gets Lemons. Her case is that she fed the dog, but he insists he walked it. As with most everything else in this marital meltdown, the dog has become a bone of contention.

As the vet brings Lemons in, both wife and husband spring to life, both of them calling and patting their knees. "Here girl! Come on Lemons!" The poor creature looks confused for a moment. Then he bounds over to the wife. It's settled—Lemons apparently has a greater emotional bond with her. Such is the force of these calling contests that ultimately, in an out-of-court settlement two months later, she will be awarded full custody of the dog. In return she will compensate her ex with \$1,200.

"These things are a big deal," says the wife's attorney, J. Michael Kelly of Santa Monica. "First you need a neutral ground, like a vet's office—not the regular vet, though. Beach is good. You could go to a park as long as there aren't too many other dogs around—you don't want [the dog] to be distracted. For a couple of days beforehand, it has to stay with a third party so that nobody has an unfair advantage, which you would if you fed the dog that morning. But you still have to be careful. People always try things. They rub their hands with sausage so the dog will come to them. That's why you need the vet there, to

check their hands."

That couple certainly isn't the only one warring over a pet these days. A combination of a vigorous divorce industry and an equally vibrant pet industry—spending on pet products and services was expected to hit a record \$34.3 billion last year—has led to a dramatic increase in pet custody disputes during the last decade. Though accurate figures have yet to be compiled in this fledgling field, one attorney and legal scholar believes there has been a hundredfold increase in the frequency of these cases since 1990.

The lengths to which couples will go for their pets knows no limit. Smearing sausage on your hands is only the beginning. Kelly has dealt with cases in which dogs are traded in divorce settlements for sums of up to \$30,000. "I've seen animals traded for jewelry, for part of a pension plan, for a fraction of the cost of a house," he says.

Then there are the legal fees. In 2000, one San Diego couple, Stanley and Linda Perkins—an anesthesiologist and a bespoke publisher respectively who owned two Porsches, a Ferrari and a house with an ocean view—spent \$146,000 on their divorce battle, some of which concerned custody of a pointer-greyhound mix named Gigi. Among evidence shown to the court was a "Day in the Life of Gigi" video, shot by Linda, featuring Gigi snoozing under her chair at work, playing at the beach and cuddling at home. She got the dog.

Typically, those involved in pet custody cases are affluent, childless couples—which fits both of the cases just described. According to surveys by the American Pet Products Manufacturers Assn., pet ownership has grown in two specific demographics—young couples who are waiting longer to have children, and baby boomers whose children have grown up and left home. These childless couples develop the strongest attachments to pets. They treat them like children—the kind you can spoil with gifts and dress in cutesy outfits without

worrying whether they're doing well at school or making the right kinds of friends.

And so animal custody cases increasingly resemble child-custody cases, and can be just as bitterly fought and expensive. While child psychologists are employed to determine the child's living conditions and health with each parent, so vets and animal evaluators are employed for pets. Like children, pets suffer from being tussled over. According to Deanie Kramer, a mediator for Divorce Resource Inc., one high-profile news anchor had his dogs flown back and forth from New York to Los Angeles as part of an elaborate visitation agreement. "I also had a bizarre case with a parrot," she says. "Before he gave it to her, he taught it to say [obscenities] just to embarrass her." There are also stories of spouses killing the pet to spite the other; stories of pups in washing machines, cats in microwave ovens, a strangled macaw.

The key difference between child and animal custody cases, however, is that in the former, the welfare of the child is paramount, whereas the animal's interest rarely has a bearing. The letter of the law in all 50 states is stark on the subject—a pet is property, "chattel," more like a piece of furniture than a family member. To arrange joint custody for a dog is legally equal to arguing a visitation schedule for a sofa, and many judges apply the law literally, to avoid burdening the courts with yet more custody arrangements to monitor. But then other judges, often pet owners themselves, understand the emotional difference between relating to a dining table and relating to a dog. Increasingly, these judges have ruled to protect this relationship.

That bodes well for Los Angeles attorney Sandra Toye, one of a growing number of lawyers in the relatively young field of animal companion law whose mission is to enhance the legal status not merely of pets, but of all animals. In her office at Melrose and Vine,

