

**ANIMAL LAW 101 &  
ADDING ANIMAL LAW TO YOUR PRACTICE**  
Animal Law Section Program

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Thursday, June 10, 2010  
10:00 a.m. – 12:00 p.m.



## **Yolanda Eisenstein**

Yolanda Eisenstein is an attorney with an animal law practice in Dallas, Texas. She represents clients in animal-related matters including dangerous dogs, deceptive trade practices, contract disputes, and estate planning for pets. She is an adjunct professor in animal law at SMU Dedman School of Law. She is chair of the State Bar of Texas Animal Law Section and co-chair of the international law subcommittee of the ABA TIPS Animal Law Committee. She is currently writing a book, *Careers in Animal Law*, to be published by the ABA Law Practice Management Section. Eisenstein graduated with honors from SMU Dedman School of Law. She is licensed to practice in Texas and New Mexico.

## **Don Feare**

Don Feare practices civil litigation and criminal defense in Arlington, Texas. He regularly handles a large volume of animal law cases, which are diverse in nature and include: an action against a gun club to prevent the sport shooting of pigeons; an in-depth review of the fatal shooting of Jabari, the lowland gorilla at the Dallas Zoo; and a variety of seizure and dog bite related cases. Most recently he was one of the attorneys involved in the largest animal seizure in history in Arlington, Texas. Feare is a photographer and field contributor to *Nature Photographer* magazine, and writes about animal law and waterfowl behavior and diseases. He lives on the sanctuary he established in the late 1980's known as the Wildflight Rescue Foundation. Feare is also an Adjunct Professor at Texas Wesleyan School of Law teaching Animal Law.

## **Randy Turner**

Randy Turner has been practicing law for almost 30 years and is a partner in Turner and McKenzie in Fort Worth, Texas. He is board certified in personal injury law and civil trial law by the Texas Board of Legal Specialization; and a certified civil trial specialist by the National Board of Trial Advocacy. Turner regularly represents rescue groups, humane societies, and animal rights activists in civil and criminal cases and is a frequent lecturer on animal law. He has worked as a volunteer in orangutan conservation in Borneo, elephant conservation in Kenya, and black rhino conservation in Zimbabwe.

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**USEFUL STATUTES & CASES IN ANIMAL LAW**

The following statutes and cases are offered for use in many animal law cases and although not exhaustive, provide a starting point for the practitioner not acquainted with the practice of animal law.

**STATUTES:**

**ANIMAL CRUELTY:**

- Civil           Ch. 821 Texas Health & Safety Code
- Criminal       § 42.09 & 42.092 Texas Penal Code
- Criminal       Dog fighting - §42.10 Texas Penal Code

**THEFT OF ANIMAL:**

- Criminal       §31.03 Texas Penal Code

**ASSISTANCE ANIMAL:**

- Criminal       §42.091 Texas Penal Code

**DANGEROUS DOG :**

- Civil           Ch. 822 Texas Health & Safety Code

**DOG BITE – FELONY:**

- Criminal       Ch. 822, §822.005 Texas Health & Safety Code

**LOCAL REGULATION OF DANGEROUS DOGS:**

- Civil           Ch. 822 §822.047 Texas Health & Safety Code

**LEASH LAW-RESTRAINT:**

- Civil           Ch. 821 Texas Health & Safety Code

**DANGEROUS WILD ANIMAL:**

- Civil           Ch. 822, Sub. Ch. E Texas Health & Safety Code

PET TRUST:

Civil Ch. 112, §112.037 Texas Property Code

ANIMAL SHELTER REGULATION:

Civil Ch. 823 Texas Health & Safety Code

LIVESTOCK AT LARGE:

Civil Ch. 143 Texas Agriculture Code

EQUESTRIAN ACTIVITIES & LIABILITIES:

Civil Ch. 87 Texas Civil Practice & Remedies Code

SUIT AGAINST VET (DTPA-Prohibited):

Civil §801.507 Texas Occupations Code

**CASES**

SUIT AGAINST VETS:

Civil Downing v. Gully, 915 S.W.2d 181 (Tex. App. – Fort Worth 1996)

Zeid v. Pearce, 953 S.W.2 368 (Tex. App. – El Paso 1997)

TRUE RULE OF DAMAGES FOR LOSS OF DOG:

Civil Heiligmann v. Rose, 16 S.W. 931 (Tex.1891)

PETCO Animal Supplies v. Schuster, 144 S.W.3d 554 (Tex. App. – Austin 2004)

Bueckner v. Hamel, 886 S.W.2d 368 (Tex. App. – Houston [1st Dist.] 1994 reh overruled)

DOGS AS PROPERTY:

Civil Arrington v. Arrington, 613 S.W.2d 565 (Tex. App.- Fort Worth 1981 no writ)

DOG ATTACK CASES:

Civil Searcy v. Brown, 607 S.W.2d 937 (Tex. App. – Houston [1st Dist.] 1980)

DOG ATTACK CASES – CONT.

Rodriguez v. Haddock, 2003WL178493 Tex. App. - Fort Worth

Thompson v. Curtis, 127 S.W.3d 446 (Tex. App. – Dallas, 2004)

Jones v. Gill, 2005WL503182 Tex. App. Fort Worth

LIABILITY FOR ANIMAL ATTACK:

- Civil            Marshall v. Ranne, 511 S.W.2d 255 (Tex.1974)  
                  Dunnings v. Castro, 881 S.W.2d 559 (Tex. App. – Houston [1st Dist.] 1994)

DAMAGE TO PROPERTY & PEOPLE-LIVESTOCK:

- Civil            Haralson v. Suzuki, 300 S.W. 190 (Tex. App. – Texarkana 1927)  
                  Gibs v. Jackson, 990 S.W.2d 745 (Tex.1999)  
                  Monreal v. Hildebrand, 2002WL432564 Tex. App. – San Antonio  
                  Goode v. Bauer, 109 S.W.3d 788 (Tex. App. Corpus Christi 2003)  
                  Ramey v. Richardson, 397 S.W.2d 288 (Tex. App. – Amarillo 1965)

LOCAL REGULATION OF ANIMALS:

- Civil            City of Richardson v. Responsible Dog Owners of Texas, 794 S.W.2d 17 (Tex.1990)

APPEAL – DANGEROUS DOG & CRUELTY SEIZURE CASES:

- Civil            In re Loban, 243 S.W.3d 827 (Tex. App. – Fort Worth 2008)  
                  Granger v. Folk, 931 S.W.2d 390 (Tex. App. – Beaumont 1996)

INJURY BY ANIMAL – AMUSEMENT PARK:

- Civil            Lewis v. Great Southwest Corp., 473 S.W.2 228, (Tex. App. – Fort Worth 1971)

DUTY OF DOG OWNER DURING ATTACK:

- Civil            Bushnell v. Mott, 254 S.W.2d 451 (Tex.2008)

RIGHT TO KILL DOG ATTACKING ANIMALS:

- Civil            Volosen v. State, 2007WL3317941 Tex. Fort Worth Nov. 9, 2007  
                  Volosen v. State, 2007WL2330931 Tex. Fort Worth August 16, 2007  
                  Volosen v. State, 227 S.W.3d 77 (Tex. Crim. App 2007)

ANIMAL FEREA NATUREA:

- Civil            Wiley v. Baker, 597 S.W.2d 3 (Tex. App. – Tyler 1980)  
                  Nicholson v. Smith, 986 S.W.2d 54 (Tex. App. – San Antonio 1999)