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Fighting Over Cats and Dogs During a Divorce

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The emotional attachment between an owner and a pet can be incredibly close and it appears that this bond is increasingly serving as a source of contention during divorce. Overall, 27 percent of respondents to a recent survey of the American Academy of Matrimonial Lawyers (AAML) have noted a rise in the number of couples who have fought over the custody of a pet during the past five years. In addition, 22 percent of the attorneys find that courts are more frequently allowing pet custody cases and 20 percent cited an increase in courts deeming pets to be an asset during a divorce. If you were curious about the animals involved in these disputes, dogs held the top spot as the most disputed family animal with 88 percent while cats were in second with 5 percent of respondents.

Pet custody cases are certainly not an everyday occurrence. I would roughly estimate that the issue is initially raised in about 15 percent of divorce cases, while probably less than 5 percent of these kinds of disputes make it all the way to court. I find that far too many spouses attempt to initiate these disputes merely as some kind of negotiating strategy, often believing they can use the animal as a bargaining chip. As a result, on one side you have the

spouse with a real emotional attachment, while on the other is someone looking for an upper hand in negotiations.

To do this, all the spouse really has to do is to threaten to manipulate the other's attachment to the pet by stating that he/she is going to ask the court to give them the animal as a part of the assets to be placed on their side of the tally. If the other party is extremely close to the pet, they may not want to risk losing this argument and could consequently give in on some other issues or assets.

Having had clients attempt and threaten to use these strong arm tactics with a pet, I generally advised against it, even in my most unique pet dispute involving llamas. The bottom line is that this tactic is rarely effective and can come back to hurt the aggressor throughout the divorce process. Whenever it comes to a pet, it is often obvious which of the spouses has the strongest emotional bond.

If the proponent of this tactic still decides to take the next step and bring the issue to court, after it has not been completely settled before trial, the judge will most likely see this ploy for what it is. Judges are human just like anyone else and certainly don't like to see cynical and outrageous demands being made, especially when there is an intimidating attempt to separate someone from their pet. Once the aggressive party is perceived as having ill motives by the judge, the rest of the case may be negatively affected by the way the court then perceives that client and their motives or tactics.

For the spouse who might be facing threats of a battle over a cherished pet, I always offer words of encouragement and support. As mentioned, the commitment and emotional attachment that this spouse has usually shines through to everyone very clearly. I advise them not to panic and to definitely not give in simply because they may fear their pet could be taken away and awarded to the other party.

As the issue of pets in divorces continues to garner more attention, we will most probably see an increase in these types of disputes. Spouses that believe this tactic offers an easy way to gain an edge in negotiations should seriously think twice and be aware that this can come back to "bite" them in the long run.

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