

HORSE DIVORCE

Recently, an interesting bumper sticker caught my eye, "My wife left with my horse—God, I'll miss that horse." The number of divorces in America has escalated to around 1,000,000 annually and a reported fifty percent of all marriages in this country are ending in divorce within twenty years. Not only have divorce numbers increased, but pet ownership numbers have also increased. Recent

oftentimes imposes stress and havoc on a family in divorce.

There is a growing national movement towards expanding the common law treatment of pets as property, toward a new concept of our role as "guardians of animals" and animals having certain rights of their own. In Colorado, "custody disputes" do not include pets, only children — pets are still legally defined as "personal

used by the courts in pet custody disputes. Under Colorado law, the value of an animal is generally based on its fair market value (for instance, an auction sale value for livestock or common newspaper prices of a certain breed of dog, etc.). There is often a wide disparity in the value which should be attributed to some animals, such as show dogs or sport horses, as their values are not easily determined. Even qualified professionals often find it difficult to agree upon a creditable appraisal of such an animal's value.

Contentious litigation can arise over an award of an animal to a party. This argument is often coupled with arguments over the animal's value for property division purposes, the animal's sentimental value, the costs of "ongoing support" for the animal, and any factors which might be in a child's best interests to retain the animal for his or her lifestyle. For the sake of everyone involved in a divorce proceeding, it is usually best to resolve these disputes without calling upon a judge, who is generally not in as good of a position as the parties themselves, to make the best decision. Parties should seek the advice of an attorney experienced in these matters, and often times a skilled mediator can help bridge the gap, as well. These professionals are often able to artfully craft settlements, which have a far greater likelihood of success for each party and each animal involved, if the parties are able to resolve these issues without resorting to a court making the decision for them. **H**



figures show pet ownership is currently at its highest level, with 63 percent of all American households owning a pet, some 69 million households. With these statistics, it is easy to see why matrimonial attorneys often deal with "pet custody" issues in divorce proceedings. Animals such as dogs, cats, and horses are often the most emotional property to divide in a dissolution of marriage proceeding. Among some 2 two million or more horse owners in this county, there is an expanding concept of horses as companion animals which makes separation from them as emotionally complex as other domestic animals. This concept coupled with the higher average costs of owning a horse versus other household pets

property." The standards used to determine the custody of children do not apply to awards of custody of animals in Colorado divorce courts, since animals are part of the property division. However, to the extent that such disputes involve the determination of the guardianship of the pet, they can be commonly termed, "custody disputes," but a much different legal standard applies to disputes over pets than children.

As animals are treated as a form of personal property in divisions of marital property, they are assigned a monetary value and are awarded to one party or the other. In child custody disputes, Colorado courts generally apply the "best interest standard." While it is sometimes argued, the "best interest standard" is generally not

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