



## DIVORCE — Who Gets the Dog?



In the summer of 2004, I pulled out of the driveway of the home I'd shared with my soon-to-be ex-husband for five years. Tears streamed down my face, and although I had three canines nervously panting in the back of my SUV, all I could think about was the one I was leaving behind: a seven-year-old Staffordshire Terrier named Ginger that my ex and I had rescued together. Our separation and subsequent pet division had been bitter; it was likely I would never see her again.

Similar scenarios play out everywhere all the time, and households with pets aren't any less likely to suffer through a divorce or break-up. What is different these days is the way we view our animal companions—more often than not as members of the family. In line with this, our pets have become a hot-button of contention when marriages and partnerships dissolve.

“People being concerned about their pets, especially in the Portland Metro area, seems to be something that we encounter pretty frequently in a divorce,” says Paige DeMuniz, family law attorney with Gevurtz Menashe.

But if you think the court will consider your pet's feelings and lifestyle when deciding who gets ownership, think again. Max may sleep in your bed and know you better than your ex, but to the court he's still just property.

“This means a monetary value will be attributed to the animal and the pet will be awarded to one party,” says DeMuniz. “Basically, the law says we divide pets in the same way we divide the dishes and the furniture.”

The court can, however, take into consideration which spouse or partner's name is on adoption papers, vet records, and licenses — a good reason to make sure both owners appear on the original documents involving an adoption or purchase.

Also, when minor children are involved, the pet is often awarded to the parent with primary custody. However, this is usually done to benefit the kids or in the name of equitable property division rather than what's best for the animal.

Still, court-awarded ownership will not resolve all the issues if both parties want to continue to have a relationship with the pet. A judge doesn't have the authority to grant visitation, financial support, or any directives for future care.

## Don't hesitate to mediate

Before Tara McMillan\* and her husband legally divorced, they agreed he would keep the couple's two dogs and four cats—with the proviso that if at any time he could no longer care for them, the pets would go to her.

“They could stay in their own home with someone who loved them and could afford them — not with someone who could barely make ends meet living in a little apartment,” McMillan says. “Walking out was one of the hardest things I've ever done. The dogs were at the door and knew what a suitcase meant.”

When her ex later decided that the herd was indeed too much to handle, McMillan was given the option of taking them back because she and her ex had discussed the future of their animals before physically splitting up. Planning ahead — informally, or with the help of a mediator — can make things exponentially easier for you, your pets, and (assuming it matters to you) your former partner.

“I would definitely recommend mediation,” DeMuniz says. “That's probably the only way to seriously talk about an issue. The parties could also put in a prenuptial agreement — or in any sort of written agreement between them — what would happen to the animal should their relationship dissolve.”

And while a verbal understanding worked for McMillan and her ex-husband, DeMuniz strongly advises that any decisions between parties be documented in order to be enforceable.

## Making it work and moving on

So you've debated and mediated and are ready to start again. Unless your dog or cat is staying in the same home with most of the same people, a divorce can be almost as hard on fur kids as it is on children.

Steven May, a veterinary consultant and co-author of the book *What About Wally: How To Co-Parent A Pet With Your Ex*, says the most common mistake people make is not considering all the changes a pet will go through when a relationship ends, especially if there's joint “custody.”

“You have to acclimate them slowly,” says May. “In the beginning, you want to travel with the same carrier, same blanket, same feeding bowls, same toys.” May also suggests that the pet's routine — just like a child's — should be kept as normal as possible.

“If they're fed twice a day, if they're in a training program, all that should continue with both spouses,” he says, stressing that consistency in the latter is especially important.

“If you've gone through a long period of training with your pet, and one stops the training and one continues, it is the worst thing that can happen.”

May also urges pet parents moving a pet to a new residence to have a plan of action should the pet get lost or run off. Implanting or updating a microchip is a great start, as is having a list of the local shelters and veterinarians.

One thing May is adamant that pet owners NOT do, no matter the situation: animals should never be used as pawns to get back at an ex. “Just like children . . . it’s going to be the pet who suffers.”

Unless your pet is unsafe with your former partner, it’s always to the pet’s benefit to have that person remain in his/her life if you can work it out. May suggests keeping in mind why you got the pet in the first place. “If there was a love for that pet, love to share, then there’s something good deep down between both of you,” he says.

That shared mutual affection for a dog was on my mind when I finally did see Ginger again. Two years ago my ex-husband passed away and I immediately made the five-hour drive to get her. A year later, at the age of 14, she died in my arms. Despite the divorce, it seemed we both ended up being lucky in love.

\*Name changed