

# UNDERSTANDING ANIMAL LAW



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**Adam P. Karp**



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# Dedication

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**1984, Miami Beach, Florida:** At the age of 11, preoccupied by *Choose Your Own Adventure* books, body surfing, playing shuffleboard with my grandmother, and oblivious to the treatment of animals, I received my first exposure to the concept of animal suffering. After years of dining on veal parmigiana at an Italian restaurant on Collins Ave., my father stated that he would no longer order veal. When asked why, he explained that he could not eat baby calves who were forcibly separated from their mothers shortly after birth and conscripted to a short, brutish life before being slain for the premium placed upon their pale flesh. From that point forward, I, too, swore off veal. While my ageist speciesism persisted, I thank my father for planting a small seed of compassion.<sup>1</sup>

About 13 years later, while attending law school and then graduate school, a convergence of ethical storms buffeted my senses. No matter how hard I tried to batten down the hatches and pump the bilge of my mind (a desperate effort to remain afloat upon the bloody waters of gastronomic ignorance), humane messages continued to seep in: whether it was Brandyn Miller, vegetarian peer at the University of Washington School of Law (and now practicing Washington attorney) who made me rethink my misperceptions; or Erik Sundin, former Swedish merchant mariner turned vegan and electric vehicle entrepreneur, whose decades of righteous living set me on the right path; or Dave Bemel, founder of Action for Animals, whose campus kiosk with looping video footage finally made inroads the fiftieth day I passed by; or PETA's *Seven Minutes of Reality* ([https://new.vk.com/video-5044443\\_171287108?list=072aea63f2e80752cd](https://new.vk.com/video-5044443_171287108?list=072aea63f2e80752cd)) that I watched, wanting desperately to turn away, but unable to do so;<sup>2</sup> or gems found in Peter Singer's classic *Animal Liberation* and James Serpell's *In the Company of Animals*, which, while not a book on vegetarianism *per se*, drew attention to the cognitive dissonance in the curious and confoundingly inconsistent treatment of animals by various human societies; so many personalities and opportunities for enlightenment aided my transition.

Having become vegan at the age of 26, I decided to make personal commitments a professional endeavor, joining the Animal Legal Defense Fund as a young attorney member willing to take on cases pro bono and putting up my shingle as a self-employed solo practitioner in Seattle. In 2001, then-ALDF Board member Steve Ann Chambers met with me to introduce me to the basics of practical legal practice and, from there, my first case. A referral through ALDF, I co-represented Cindy Foster, who rescued an unidentified and ailing Beagle only to be sued over a year later and forced to return her (sans ovaries and uterus) after a bench trial. I handled the appeal from an award against her in the sum of \$5,000 for allegedly "wrongfully spaying" the dog, and prevailed. *Williams v. McMahan*, 110 Wash. App. 1031 (II, 2002, unpub.) Since then, I have come

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<sup>1</sup> Many years later, my father, a physician, confessed guilt using rabbits as part of his graduate medical research studies. Though he did not kill them, I know he was discomfited by this quite common practice in the 1960s.

<sup>2</sup> A much longer, more thorough, and modern cinematic treatment of the subject, which only strengthened my resolve, was the 2005 documentary *Earthlings*, which I recommend to everyone. <http://www.nationearth.com/earthlings-1/>. Indeed, I donated copies to high schools where I had been invited to speak to students about animal rights.

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## *Dedication*

to know and respect the many involved in organizing and furthering the goals of ALDF, to whom I owe a huge debt of gratitude: Joyce Tischler, David Favre, Steven Wise, Bruce Wagman, and Scott Heiser.

While I dedicate this book to the above-identified individuals, and many others not listed, the primary dedication goes to my wife, Kim — beautiful, intelligent, and ethically impassioned, a vegan of 25 years, a former shelter worker, and an animal rights activist — with deepest gratitude. Her abiding love and profound patience made this book possible.

*Bhavatu sabba mangalam,*

Adam P. Karp  
Bellingham, Wash.  
July 4, 2016

# Preface

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Since the first attorney sent a dunning letter or made an opening statement, counsel have bemoaned the increasing incivility of colleagues whose cutthroat tactics confirm the nasty prejudices held by the public and drive morally upstanding lawyers from its fold. Yet, for those who remain, the promise of animal law is both jurisprudentially substantive and ethically normative. For if, as the *Preamble to the Rules of Professional Conduct* state, we desire “the respect and confidence of the members of the legal profession and the society which the lawyer serves,” while aspiring to the “highest possible degree of ethical conduct,” what better way to revise the notion of the lawyer as barbarian than to replace it with the archetype of lawyer as benevolent gendarme for all creation?

Altruist and philanthropist Albert Schweitzer’s magnanimity benefited all species. Despite his harried life, it has been said that Schweitzer, while traversing a sidewalk, encountered an earthworm directly in his path. Languishing under the oppressive sun, he bent down to remove it from the hot pavement and place it on cool grass. If one were to begin this vignette by swapping an “average lawyer” for Albert Schweitzer, how would most finish the tale? Instead of weaving through lush greenery, the earthworm would likely end up in court, squished under the heel of the lawyer’s expensive shoes. This is not to say that all lawyers must rescue insects from going down the drain or practice with a Jainist’s discipline. But our profession must grapple with this worrisome truth — in the eyes of non-lawyers, we are not trusted. Far from preserving the sanctity of the law, we are seen as the key saboteurs willing to prostitute dignity for pecuniary gain. We may reconstitute ourselves as impassionate warriors, engaging in adversarial combat with an honor and vision lost among many. Reaching back to core principles, that is, in our conduct toward nonhuman animals, we might find a way to reestablish professional respectability.

If asked to share the moments in my life where perfect clarity and joyful endeavor align, I describe a bay in Western Washington into which I routinely cold-plunged, wading out to waist depth. From the corner of my eye, I sensed almost imperceptible movement breaking the smoothness of the water. Adrift what must have seemed like miles from shore was a completely unexpected creature clinging to flotsam, water droplets beading on fragile wings, delicate legs and antennae curled into a ball, and the current slowly pulling him out to certain death in the sound — a *malacosoma constrictum*, or a Pacific tent caterpillar moth (a much-scorned defoliator of deciduous trees). Cupping my palms around him, I withdrew from the bay and set him down on a dry log. Slowly his antennae poked at the air, his legs got under him, and the beautiful wings started to vibrate — a happy, preflight systems check before he took to the safety of the sky.

Since the *malacosoma* experience, I continue to lend aid to creatures great and small, including the stinging or biting variety, without casualty to myself or the subject of my compassion, and in spite of the inevitable eye-rolling and harrumphing of those who fail to approach life in more principled, humane, karmic, and respectful fashion, who refuse to stretch Hobbes’s social compact theory (see his comments in *Leviathan*, Ch. III on the

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## *Preface*

prudent beast)<sup>3</sup> to encompass all species. And being vegan for 16 years illustrates this commitment.

These same impulses that motivate rescue of the voiceless from a linguistically and culturally impenetrable sea of law, sacrifices made while rendering aid to the derelict, and rejuvenation that follows the consummated endeavor translate to the practice of animal law save one key difference: scale matters. As lawyers, we have the ability and privilege to turn each individual plight into a precedential miracle, what I call the *malacosoma* principle in honor of the little moth who saved me. May this book guide you through your career and the animal lives you touch.

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<sup>3</sup> Hobbes claimed that humans could not enter into contracts with “brute beasts,” calling it “impossible, because not understanding our speech, they understand not, nor accept of any translation of right, nor can translate any right to another: and without mutual acceptance, there is no covenant.” *Leviathan*, Ch. XIII. Yet consider the latest peer-reviewed research by psychologist John Pilley, who proved that his Border Collie named Chaser knew over one thousand words and demonstrated both inferential reasoning and an ability to communicate beyond the capability of a toddler. John Pilley and Hilary Hinzmann, *Chaser: Unlocking the Genius of the Dog Who Knows a Thousand Words* (Houghton Mifflin Harcourt: 2013).



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