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Pet custody a prominent issue

BY LINDA LOMBARDI
For The Associated Press

When Hurricane Katrina hit New Orleans and the levees broke, many who were forced to leave without their pets endured long searches to find animals that had been ferried to safety without them. You'd think that finding that their pets were alive and well after the storm would be pure joy, but for some, it was more complicated.

The documentary "Mine," being released at some theaters this month, tells the stories of people who found their pets in new homes, with rescuers or adopters who didn't want to give them back.

"A lot of the people that I met just didn't know what they could do," said filmmaker Geralyn Pezanoski. "Their animals were out of state, they didn't have the resources."

But a few, with the help of good Samaritans and lawyers, fought to get their dogs back — sometimes for years. One subject of the film, Jesse Pullins, was reunited with his dog J.J. last June.

But it doesn't take a natural disaster to set up a conflict over ownership of a beloved animal. It can happen to anyone who is part of a couple, as Doreen Houseman, of Williamstown, N.J., found.

After their relationship of over a dozen years ended, she and her ex managed to share their pug, Dexter, at first. Then one day, her ex said he wasn't bringing Dexter back to her again. "It felt like someone told me my best friend died," she said, and the next day, "I woke up hoping it was a nightmare, but it wasn't."

At first, a judge refused to hear a case for enforcing the sharing arrangement. Instead, he awarded monetary compensation for Dexter and for other property that had not been



Associated Press photo by MEL EVANS
Doreen Houseman shows off Dexter, her 6-year-old Pug, at her home in Williamstown, N.J.

divided.

While we feel very differently about our pets, they are property in the eyes of the law, said Joyce Tischler, founder and general counsel of the Animal Legal Defense Fund, which has filed briefs in many similar cases.

"Judges can decide these cases very simply by awarding the animal to the person who appears to be the owner," she said. Factors considered include who pays the vet bills and walks the dog most of the time.

Arguments can also be based on other laws that treat animals differently.

"Every state has an anti-cruelty law," said Tischler.

"There isn't any anti-cruelty law for my rug or my toaster. The law recognizes that animals need special protection."

Under current law, then, what a law-

yer can argue is that animals are a special kind of unique and irreplaceable property, and in Houseman's case, the New Jersey appellate court agreed. Such property, like an antique or a valuable painting, is treated differently under the law, so the case was sent back to the original judge for a new decision. He ordered shared possession of Dexter, five weeks at a time each.

"What's really interesting is how important pets are to people and how far people will go," the filmmaker said, despite the fact that not everyone sympathizes.

A lot of the resistance that her subjects encountered, said Pezanoski, was "people who asked, why don't you just get another dog?"

Houseman did that when a co-worker knew of a pug that was looking for a home at the time of the first trial. But, said Houseman, "Getting her was in no way to replace Dexter, it was to comfort me." The two are different personalities, she said: "She's a little firecracker. He's very laid back."

The law is catching up to our feelings about the uniqueness of pets, said Gina Calogero, Houseman's lawyer.

The New Jersey case continues a trend set by decisions in a handful of other states and helps set precedent that can be used where courts have not yet considered the issue.

Such precedent is valuable because lawyers see these cases increasing.

"Ten years ago I would have been laughed out of the courtroom," Calogero said.

"Now in the last five years it's accelerating, and it's being taken seriously."

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