

SOCIAL JUSTICE, PRACTICAL LAWYERING,
AND THE ELEPHANT IN SOLITARY CONFINEMENT:
WHY ANIMAL LAW BELONGS IN THE LEGAL
WRITING CLASSROOM

By
Conley Wouters*

Animal law has grown exponentially since its genesis in the late 1970s. It is the subject of survey courses, seminars, clinics, and law reviews. But animal law per se has not made its way into the legal writing discipline, and its absence creates missed opportunities for legal writing instructors to improve our teaching and help our students develop critical lawyering skills. This Article argues that we should seize these opportunities and incorporate animal law into legal writing classes.

The Article begins by summarizing the argument and offering a general description of how legal writing professors and their students stand to benefit from animal law. Next, the Article provides a brief overview of animal law as both a legal practice area and an academic field. It then moves to a discussion of the specific ways in which animal law can improve legal writing pedagogy. These include the subject's timeliness, novelty, and practicality, as well as its capacity to introduce students to emotionally challenging aspects of lawyering. The Article illustrates these benefits in action through accounts of animal law exercises that the author designed and assigned to his legal writing students, including an objective memorandum problem. The social justice issues implicated by such assignments reflect animal law and legal writing's shared disciplinary commitment to compassionate yet practical lawyering. A Conclusion offers directions for future research on this topic and explains why using animal law to teach legal writing will benefit the entire legal profession.

* Assistant Professor of Law, University of Illinois Chicago School of Law. I have many people and one animal to thank. I'm grateful to James Gesualdi, Michael Dorf, Kathy Hessler, Rajesh Reddy, Megan Senatori, and Rebecca Critser for their ongoing support of my work in animal law. Kaiti Bestor and Richard Gutierrez gave me insightful feedback on early versions of this project, and Zeke Ahmed provided excellent research support. I am also indebted to the editors of ANIMAL LAW, whose hard work made this article possible; to Sherry Colb, who made me question my own assumptions; and to Stevie, who changed everything.

I.	INTRODUCTION	142
II.	WHAT IS ANIMAL LAW (AND WHAT IS IT DOING IN OUR CLASSROOMS)?	144
III.	WHY USE ANIMAL LAW TO TEACH LEGAL WRITING? . . .	147
	A. ANIMAL LAW AND LRW BOTH LEND THEMSELVES TO SKILLS-BASED LEARNING AND DIVERSE SUBJECT MATTER	147
	B. ANIMAL LAW ENGAGES STUDENTS THROUGH ITS TIMELINESS, NOVELTY, AND PRACTICALITY	149
	i. Timeliness	150
	ii. Novelty	154
	iii. Practicality	157
	C. ANIMAL LAW RESOLVES CHALLENGES THAT COMMONLY ARISE FROM EMOTIONALLY CHALLENGING SUBJECT MATTER	161
	i. Trauma vs. Discomfort: Calibrating Challenging Content With Animal Law	162
	ii. Nonhuman Experience Provides a Buffer Against Trauma Responses	164
	iii. Instructors Should Apply Trauma-Informed Pedagogy by Prioritizing Student Agency and Transparent Dialogue	165
IV.	CONCLUSION: ANIMAL LAW, LEGAL WRITING, AND THE FUTURE OF THE PROFESSION	166

I. INTRODUCTION

In 1981, a Massachusetts appellate court decided that goldfish are animals.¹ A year earlier, an animal protection group had learned about a carnival game in which participants could win a live goldfish; they warned the operator that his game violated a state statute protecting “any live animal” from being used as a prize in a game of “skill or chance.”² When the parties sought a declaration of the scope of the statute, the appellate court was faced with one question: “whether the word ‘animal’ includes goldfish.”³ It took the panel just over 1,000 words to answer in the affirmative.⁴

The opinion sees the court grappling with one of animal law’s foundational queries: legally speaking, which beings count as “animals”?⁵ More questions inevitably follow. Why are some nonhuman animals

¹ *Knox v. Mass. Soc’y for the Prevention of Cruelty to Animals*, 425 N.E.2d 393 (Mass. App. Ct. 1981).

² *Id.* at 395.

³ *Id.*

⁴ *Id.* at 396.

⁵ See BRUCE A. WAGMAN, SONIA S. WAISMAN & PAMELA D. FRASCH, *ANIMAL LAW: CASES AND MATERIALS* 3 (6th ed. 2019) (“In the animal law field, [“animal”] has many meanings. . . . the definition in each situation depends on a variety of factors.”)

entitled to legal protections while others are not?⁶ Why do animal cruelty prohibitions exempt cruelty inflicted in the name of human interests like food production or scientific research?⁷ Despite its seeming simplicity, *Knox* opens the door to animal law's pervasive ethical complexity. These moral undercurrents highlight the links between compassion, empathy, and advocacy—qualities the legal writing discipline has long held are essential for students to develop.⁸

This Article argues that Legal Research and Writing (LRW) instructors should use animal law in their classes, including in problem design, class discussions, or formative assessments. Animal law has an exceptional capacity to demonstrate the real-world impact of legal reasoning, which makes it uniquely valuable for LRW pedagogy. The questions under the surface of the *Knox* opinion (What is an animal? Which animals deserve protection from harm?) remind us that the skills we teach do not exist in a vacuum. Rather than fixating on 'winning or losing' their case, good lawyers think about how their practice will impact public policy, social values, and individual lives (human or nonhuman).⁹ Animal law encourages this kind of thinking and demonstrates its importance to legal reasoning.

Additionally, animal law enhances students' understanding of traditional 1L material like Contracts or Torts. That makes it a good fit for problem design since memorandum and brief problems often use 1L and bar exam subjects. It also means there is no barrier to entry for professors who lack previous animal law experience.

⁶ For example, there are very few laws protecting the welfare of farmed animals like pigs, chickens, or cows, despite the staggering number of them raised for slaughter each year, and state anti-cruelty laws often expressly exempt harm inflicted on animals raised for food. See, e.g., Pamela D. Frasch et al., *State Animal Anti-Cruelty Statutes: An Overview*, 5 ANIMAL L., 69, 77 (1999), <https://lawcommons.lclark.edu/alr/vol5/iss1/> (accessed Feb. 21, 2025) (discussing exemptions for "commonly accepted animal husbandry practices" like "dehorning, castrating, and branding"). In addition, the federal Animal Welfare Act excludes mice and rats from its definition of "animal," 7 U.S.C. § 2132(g), even though rodents account for 95% of all animals used in research, David Grimm, *How Many Mice and Rats Are Used in U.S. Labs? Controversial Study Says More than 100 Million*, SCI. (Jan. 12, 2021), <https://www.science.org/content/article/how-many-mice-and-rats-are-used-us-labs-controversial-study-says-more-100-million> (accessed Feb 28, 2025).

⁷ See GARY FRANCIONE, ANIMALS, PROPERTY, & THE LAW 23 (1995) ("[T]here is . . . no animal interest that cannot be sacrificed if some human decides that the animal's . . . suffering is 'necessary.'").

⁸ See, e.g., Kristen Konrad Tiscione, *Feelthinking Like a Lawyer: The Role of Emotion in Legal Reasoning and Decision-Making*, 54 WAKE FOREST L. REV. 1159, 1183 n.253 (2019), https://www.wakeforestlawreview.com/wp-content/uploads/2024/04/w10_Tiscione.pdf (accessed Feb. 21, 2025) (explaining how employing empathy can help advocates change other people's minds and uncover "new intuitions in their own minds"); Kristin B. Gerdy, *Clients, Empathy, and Compassion: Introducing First-Year Students to the "Heart" of Lawyering*, 87 NEB. L. REV. 1, 56–57 (2008) <https://digitalcommons.unl.edu/nlr/vol87/iss1/1> (accessed Feb. 21, 2025) (reasoning that the legal writing classroom is a "natural place" for students to develop compassion and empathy).

⁹ See JOAN M. ROCKLIN, ROBERT B. ROCKLIN, CHRISTINE COUGHLIN & SANDY PATRICK, AN ADVOCATE PERSUADES 22 (2d ed. 2022) ("Winning is not always about winning the case.").

Animal law has gone underappreciated in the LRW context. One casebook aimed at professors teaching 1L doctrinal courses presents subjects like Contracts, Torts, and Property through an animal law lens,¹⁰ but no similar guidance exists for legal writing faculty. This Article aims to provide such guidance by explaining why we should use animal law in first-year writing classes and how to do so in a way that makes students strong writers and compassionate lawyers. I hope it marks the beginning of a broader conversation.

Part II offers a brief overview of the field of animal law and its evolving place in legal academia. Part III explains why we should use animal law in legal writing. Specifically, it discusses how the subject's novelty, timeliness, and practical qualities increase student engagement. Then, applying trauma-informed pedagogy,¹¹ Part III also demonstrates how animal law can introduce students to the emotionally challenging subject matter they will encounter as lawyers, whatever their practice area. The conclusion explains why using animal law to teach legal writing benefits the LRW pedagogy and the legal profession.

II. WHAT IS ANIMAL LAW (AND WHAT IS IT DOING IN OUR CLASSROOMS)?

Animal law is law that affects nonhuman animals.¹² This expansive definition stems from the field's history and originating philosophy. In the 1970s, a handful of American lawyers coalesced around "animal-related legal issues from the perspective of the animal's interests[.]"¹³ They asked how the American legal system might address the animal exploitation lurking in every corner of society.¹⁴ These lawyers were as passionate as they were creative. They pushed for new animal protection laws while using the few that did exist to forge new paths in

¹⁰ KATHY HESSLER, JOYCE TISCHLER, PAMELA HART & SONIA WAISMAN, *ANIMAL LAW: NEW PERSPECTIVES ON TEACHING TRADITIONAL LAW*, at xxvii (2017).

¹¹ See Alison M. Mikkor, *Problematic Problems*, 26 *LEGAL WRITING: J. LEGAL WRITING INST.* 35, 38 (2022), <https://www.legalwritingjournal.org/article/32598-problematic-problems> (accessed March 11, 2025) (explaining trauma-informed pedagogy and trauma within the law school).

¹² See, e.g., Kate Taylor, *Animals' Best Friends: Oregon Takes the Lead in Advocating for All Creatures*, 80 *OR. ST. B. BULL.* 20, 22 (Nov. 2019) (defining animal law as simply "the combination of statutory and case law that impacts nonhuman animals, including pets, wildlife, and those used in research and entertainment or raised for food"); *Animal Law*, BLACK'S LAW DICTIONARY (12th ed. 2024) ("The field of law dealing with vertebrates other than humans."); WAGMAN ET AL., *supra* note 5, at xxxi (defining animal law as "a combination of the statutory and decisional law in which the nature—legal, social, or biological—of nonhuman animals is an important factor").

¹³ Joyce Tischler, *A Brief History of Animal Law, Part I (1972–1987)*, 1 *STAN. J. ANIMAL L. & POL'Y* 1, 3 (2008), <https://law.stanford.edu/wp-content/uploads/2018/05/tischler-1.pdf> (accessed Feb. 21, 2025).

¹⁴ *Id.*

animal rights and welfare.¹⁵ Moreover, they exploited statutes and common law ostensibly irrelevant to nonhuman animals. In the 1980s, for example, there were developments in fields as diverse as securities law and criminal law. The latter included the highly publicized (and, to date, only) prosecution of a respected researcher for animal cruelty,¹⁶ while the former used shareholder proposals to fight corporate animal exploitation.¹⁷ This innovative approach found its way into animal law's DNA and still characterizes the field today.¹⁸ Animal attorneys' commitment to creative lawyering mirrors the resourcefulness of LRW instructors, whose creative pedagogy has continually advanced the discipline.¹⁹

As they continued experimenting with legal campaigns, animal lawyers were also cementing their professional presence. In 2004, Barbara Gislason established the Animal Law Committee within the Tort Trial and Insurance Practice Section (TIPS) of the American Bar Association, bringing "credibility and respect" from the broader legal profession.²⁰ Animal law sections began to appear in state and local bar associations²¹; academia followed suit. In 1977, Theodore Sager Meth taught the first animal law class in the country at Seton Hall Law

¹⁵ See, e.g., Megan A. Senatori & Pamela D. Frasch, *The Future of Animal Law: Moving Beyond Preaching to the Choir*, 60 J. LEGAL EDUC. 209, 209 n.3 (2010), <https://jle.aals.org/cgi/viewcontent.cgi?article=1231&context=home> (accessed Feb. 21, 2025) (discussing how animal lawyers "seek, through the legal system, additional protections for and more compassionate treatment of animals").

¹⁶ *Taub v. State*, 463 A.2d 819 (Md. Ct. App. 1983).

¹⁷ Tischler, *supra* note 13, at 39–44.

¹⁸ See, e.g., *Animal Activist Legal Defense Project*, STURM COLL. OF L., <https://www.law.du.edu/academics/practical-experience/animal-activist-legal-defense-project> (accessed Feb. 15, 2025) (describing the University of Denver's Animal Activist Legal Defense Project, which represents one such innovation in its defense of animal activists prosecuted for rescuing animals from factory farms and animal research facilities); see also Justin Marceau et al., *Voluntary Prosecution and the Case of Animal Rescue*, 137 HARV. L. REV. F. 213, 215 (2024), <https://harvardlawreview.org/wp-content/uploads/2024/02/137-Harv.L.-Rev.F.-213.pdf> (accessed Feb. 21, 2025) (contending that while "[p]rosecution has long been feared as the worst possible outcome for activists . . . criminal prosecutions and trials" are in fact "a potentially viable element of long-term law reform strategies").

¹⁹ See, e.g., Kristen Konrad Robbins-Tiscione, *A Call to Combine Rhetorical Theory and Practice in the Legal Writing Classroom*, 50 WASHBURN L.J. 319, 319 (2011), <https://scholarship.law.georgetown.edu/facpub/629> (accessed Feb. 21, 2025) (arguing that LRW professors should resist the traditional practice-theory binary and instead take a "more holistic approach to teaching"); Susan L. DeJarnatt, *In re MacCrate: Using Consumer Bankruptcy as a Context for Learning in Advanced Legal Writing*, 50 J. LEGAL EDUC. 50, 51 (2000), <https://www.lwionline.org/sites/default/files/2020-05/3dejarnatt.pdf> (accessed Mar. 2, 2025) (explaining the author's use of bankruptcy law in LRW courses to "prepare students for the ethical and competent practice of law").

²⁰ Joyce Tischler, *A Brief History of Animal Law, Part II (1985-2011)*, 5 STAN. J. ANIMAL L. & POL'Y 27, 34–35 (2012), <https://heinonline.org/HOL/P?h=hein.journals/stanilpo5&i=27> (accessed Feb. 15, 2025).

²¹ *Animal Law*, ILL. STATE BAR ASS'N, <https://www.isba.org/sections/animallaw> (accessed Feb. 15, 2025).

School,²² but the subject remained on the fringes for decades.²³ Most faculty viewed the discipline skeptically, and most animal law courses were taught by adjunct and part-time instructors.²⁴

2000 marked a turning point in animal legal education. That year, the Animal Legal Defense Fund (ALDF) “committed its resources to the introduction of animal law classes and support of student chapters at law schools,” and the first casebook was published.²⁵ An animal law section was established within the Association of American Law Schools, and over the next decade or so, the number of animal law courses rose from 9 to nearly 150.²⁶

Today, about 200 schools worldwide offer seminars, survey courses, and clinics in animal law.²⁷ Student ALDF chapters continue to proliferate,²⁸ and following the 1994 founding of the *Animal Law* at Lewis & Clark Law School, more journals have been established.²⁹ Dedicated animal law programs exist at the law schools of Lewis & Clark, Harvard, Yale, University of Vermont, University of Denver, and George Washington University.³⁰ In sum, the discipline has become increasingly prominent in the legal profession and the academy. Yet there remains a long way to go in terms of mainstream acceptance of animal law in legal education.³¹

Incorporating animal law into LRW classrooms will accelerate that acceptance and benefit the LRW discipline. Animal law and legal writing are both defined by practical, skills-based pedagogies. As LRW instructors, we are not taking advantage of this shared disciplinary identity to the best of our ability. The remainder of this Article offers

²² Senatori & Frasch, *supra* note 15, at 211.

²³ *Id.* at 212.

²⁴ Tischler, *supra* note 20, at 36.

²⁵ *Id.*

²⁶ *Id.* at 37.

²⁷ RAFFAEL N. FASEL & SEAN C. BUTLER, ANIMAL RIGHTS LAW 1 (2023).

²⁸ *Where Should You Go to Law School?*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/article/where-should-you-go-to-law-school/> (accessed Mar. 2, 2025).

²⁹ *Animal Law Books & Periodicals*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/article/animal-law-books-periodicals/> (accessed Feb. 15, 2025); *Animal Law Review*, LEWIS & CLARK L. SCH., https://law.lclark.edu/law_reviews/animal_law_review/ (accessed Mar. 2, 2025).

³⁰ *Center for Animal Law Studies*, LEWIS & CLARK L. SCH., https://law.lclark.edu/centers/animal_law_studies/ (accessed Feb. 13, 2025); *About Us*, BROOKS MCCORMICK JR. ANIMAL L. & POLY PROGRAM, HARVARD L. SCH., <https://animal.law.harvard.edu/about/> (accessed Feb. 13, 2025); *The Law, Environment & Animals Program*, YALE L. SCH., <https://law.yale.edu/animals> (accessed Feb. 13, 2025); *Animal Law & Policy Institute*, VT. L. & GRADUATE SCH., <https://www.vermontlaw.edu/academics/centers-and-programs/animal-law-policy-institute> (accessed Feb. 13, 2025); *Animal Law*, STURM COLL. OF L., <https://www.law.du.edu/animal-law> (accessed Feb. 13, 2025); *Animal Law*, GW L., <https://www.law.gwu.edu/animal-law> (accessed Feb. 13, 2025).

³¹ See Senatori & Frasch, *supra* note 15, at 221 (likening today’s animal lawyers to environmental law pioneers in that both groups have “suffered harmful stereotypes that make it difficult to garner the credibility critical to effective advocacy”).

thoughts on why and how we can do so. To return to the question posed earlier: What is animal law doing in our classrooms? Plenty, but not enough. Using animal law to teach legal writing—just as faculty have deliberately incorporated other discrete practice areas into legal writing courses³²—will fully engage our students and better prepare them to become successful advocates.

III. WHY USE ANIMAL LAW TO TEACH LEGAL WRITING?

A. ANIMAL LAW AND LRW BOTH LEND THEMSELVES TO SKILLS-BASED LEARNING AND DIVERSE SUBJECT MATTER

Communication skills and legal analysis form the blueprint for everything we teach our students, but they account for only a portion of what goes on in the LRW classroom. Beyond learning research, writing, citation, and oral communication, students are exposed to topics they probably did not anticipate would form part of the curriculum, like the development of a professional identity.³³ Work product encompasses more than memos and briefs. Students might be assigned to conduct a client interview, draft a demand letter, or participate in a simulated meeting with a supervising attorney to discuss their ongoing legal research.³⁴ There is no doubt that communication skills are at the heart of these pragmatic lawyering exercises. But the shorthand we use to refer to these courses—“legal writing,” “legal research and writing,” etc.—fails to capture the expansiveness of the curricula.³⁵

Put differently, when we teach students writing skills, we also teach them how to *apply* those skills to legal practice. ‘Legal practice’ takes many forms, and it is often in their legal writing class that students first see the endless list of communicative genres in which lawyers must be fluent: briefs, demand letters, pleadings, and transactional documents, to name a few.³⁶ No professor can cover all of this in detail in one year, but each of us can help our students grasp the practicality and versatility of what they learn in our class. One way we do this is by incorporating several areas of substantive law into legal writing

³² *E.g.*, DeJarnatt, *supra* note 19 (bankruptcy law).

³³ See SECTION LEG. EDUC. & ADMISSIONS TO THE BAR, AM. BAR ASS’N, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2024–2025 r. 303(b)(3) (2024) (requiring that students be provided “substantial opportunities for the development of a professional identity”).

³⁴ *Id.* Interpretation 303–2, at 21 (“Factors to be considered in evaluating the rigor of a writing experience include the number and nature of writing projects assigned to students[.]”).

³⁵ See generally AM. BAR ASS’N, LEGAL WRITING SOURCEBOOK (J. Lyn Entrikin & Mary B. Trevor eds., 2020) (entire book written on how to develop curricula for the course).

³⁶ See ALEXA Z. CHEW & KATIE ROSE GUEST PRYAL, THE COMPLETE LEGAL WRITER, at xxiii (2d ed. 2020) (using a “genre discovery approach” to teach students how to write “*any legal document type*”) (emphasis in original).

courses. However, based on a literature review, animal law has rarely, if ever, been incorporated into LRW courses.

At a basic level, animal law is well-suited for legal writing because it shares the attributes just described. First, even more than other practitioners, animal lawyers must become proficient in an array of lawyering skills. Most transactional attorneys, for example, rely on their drafting and negotiating expertise regardless of the specific matter they are handling. Animal lawyers, on the other hand, might need to excel at disparate tasks, from drafting FOIA requests to counseling clients experiencing extreme distress. And because our system generally does not recognize animals as beings entitled to legal rights, animal lawyers must be creative in litigation strategies. Inadequate animal protection laws and the necessity of innovative advocacy means that diverse practice skills are required even when animal lawyers limit themselves to a specific subfield (e.g., wildlife law or companion animals).³⁷ In short, practicing animal law means becoming proficient in not just some but all of the legal skills LRW professors teach.

Second, like legal writing, animal law spans nearly every conceivable area of law. In LRW assignments aimed at basic transactional skills, students might encounter estate law in fact patterns in which companion animals are named as beneficiaries under a will.³⁸ Alternatively, an objective memo might require a Fourth Amendment analysis to determine whether taking a blood sample from a neglected and malnourished dog violates the owner's constitutional rights.³⁹

Hopefully, this diversity of legal skills and substantive doctrine aligns with how students already experience their LRW courses, where the law is not confined to a casebook. Animal lawyers must be fluent in multiple skill sets and practice areas, and legal writing instructors expect the same from our students.⁴⁰ But beyond animal law's general fit with LRW's practice-based pedagogy and diverse subject matter content, it offers additional discrete benefits for legal writing courses. First, animal law is likely to engage students more than other subjects because it is novel, timely, and full of real-world application. Additionally,

³⁷ As a general example of the lack of protections that require animal lawyers to be imaginative and resourceful, consider animals traditionally used as food. Only two federal laws cover such animals, both of which are severely underenforced: the Humane Methods of Slaughter Act, 7 U.S.C §§ 1901 *et seq.*, and the Twenty-Eight Hour Law, 49 U.S.C. § 80502, which regulates long-distance animal transport. Akela Baldwin & Jamie McLaughlin, *Chapter 9: Federal Law*, in *GUIDE TO REPRESENTING ANIMAL PROTECTION ORGANIZATIONS* 216–20 (Daina Bray & Yolanda Eisenstein, eds. 2023). No federal law governs the treatment of animals during the course of their lives on a CAFO. WAGMAN *ET AL.*, *supra* note 5, at 486.

³⁸ *See, e.g.*, *In re Estate of Russell*, 444 P.2d 353 (Cal. 1968) (resolving ambiguity within a will in which the testatrix attempted to leave one half of her estate to her pet dog).

³⁹ *State v. Newcomb*, 375 P.3d 434 (Or. 2016).

⁴⁰ *See generally* AM. BAR ASS'N, *LEGAL WRITING SOURCEBOOK*, *supra* note 35 (providing resources for professors designing, directing, and teaching legal writing programs).

animal law allows instructors to incorporate trauma-informed pedagogy (TIP)⁴¹ into our teaching. TIP helps students work with triggering content in productive ways, preparing them for challenging, even traumatic, client matters they may encounter in their careers. The remainder of this Part discusses each of these attributes in more detail.

B. ANIMAL LAW ENGAGES STUDENTS THROUGH ITS TIMELINESS, NOVELTY, AND PRACTICALITY

In *National Pork Producers Council v. Ross*,⁴² pork producers challenged a California law prohibiting the confinement of farmed animals, including pigs, “in a cruel manner.”⁴³ While Proposition 12’s requirements resulted in only modest improvements for farmed animals,⁴⁴ the Court upheld the state law.⁴⁵ The pork industry, meanwhile, continues to fight it.⁴⁶

The petitioner’s arguments concerned the dormant commerce clause,⁴⁷ yet Justice Gorsuch veered into animal welfare territory in his opinion. He situated Proposition 12 within a broader tradition of animal protection laws⁴⁸ and recognized that Californians’ ethical concerns could form a sufficient basis for upholding the law.⁴⁹ Moments like these reveal the connections between animal suffering and the law’s alleged economic burdens. They imply that both issues deserved the Court’s attention.⁵⁰

Justice Gorsuch’s comments and *Ross* as a whole demonstrate three key characteristics that make animal law so valuable for LRW instructors. First, animal law is timely because it is a constantly developing

⁴¹ See generally Mikkor, *supra* note 11 (advocating for the conversations around the use of TIP in legal writing courses).

⁴² *Nat’l Pork Producers Council v. Ross*, 598 U.S. 356, 365–66 (2023).

⁴³ CAL. HEALTH & SAFETY CODE § 25990(b)(2) (West 2018).

⁴⁴ See Marina Bolotnikova, *Republicans Want to Put Pigs Back in Tiny Cages. Again.*, VOX (June 4, 2024, 3:30 AM PDT), <https://www.vox.com/future-perfect/353393/farm-bill-republicans-prop-12-gestation-crates-pork> (accessed Feb. 16, 2025) (explaining that the California law “merely requires providing enough space for sows to be able to turn around and stretch their legs”).

⁴⁵ *Nat’l Pork Producers Council*, 598 U.S. at 390–91.

⁴⁶ *Ninth Circuit Upholds Proposition 12, Again*, BROOKS INST. (July 13, 2024), <https://thebrooksinstitute.org/animal-law-digest/us/issue-252/ninth-circuit-upholds-proposition-12-again> (accessed Feb. 16, 2025).

⁴⁷ *Nat’l Pork Producers Council*, 598 U.S. at 368.

⁴⁸ *Id.* at 365.

⁴⁹ *Id.* at 381 (“States may sometimes ban the in-state sale of products they deem unethical or immoral And, at least arguably, Proposition 12 works in just this way—banning . . . pork products derived from practices [California’s] voters consider ‘cruel.’”).

⁵⁰ *Id.* at 382; see also The Animal Law Podcast, *Animal Law Podcast #96: What Happened to the Pigs at the Supreme Court?*, OUR HEN HOUSE, at 16:48 (May 24, 2023), <https://www.ourhenhouse.org/alp96/> (accessed Feb. 17, 2025) (discussing Justice Gorsuch addressing “California’s moral interest in how animals are treated . . . with real respect”).

field.⁵¹ *Ross* was decided in 2023, but the fight over farmed animal confinement continues. When this Article was being written, federal legislation was pending that would undo Proposition 12 and similar laws.⁵² Second, animal law is novel. It provides a new way of looking at well-established legal doctrine, which results in creative thinking and lawyering. Third, it is *practical*. Many people assume that animal law is a niche practice area. In fact, it presents varied career opportunities in diverse legal fields, including family law, criminal law, or even (as in *Ross*) constitutional law. The following sections provide further illustrations of each characteristic.

i. Timeliness

Animal law shapes (and is shaped by) ongoing shifts in many areas of law, making it a uniquely timely subject. In the LRW context, this timeliness drives students to invest in developing lawyering skills. Law students, after all, “naturally will be more engaged if they perceive what they are learning to be . . . relevant . . . and timely.”⁵³ In the context of animal law, ‘timeliness’ also takes on a second connotation: *urgency*. Animal lawyers’ more profound project is to advance nonhuman animals’ interests and protect them from harm. But that project must be advanced in the face of relentless animal exploitation on an astronomical scale—most of which does not result in a cognizable legal harm for which a remedy is available. Animals suffer incessantly; the clock is always ticking. As such, any legal effort to save animals—or even marginally improve their conditions—is marked by an exigency particular to animal law. It is this sense of ‘timeliness’ that I have discovered students connect with. It allows them to see how high the stakes can be in, for example, a motion for a temporary restraining order or other equitable remedies meant to address time-sensitive harms. This inherent urgency also helps students understand the relevance of what we teach: they see animal lawyers apply foundational lawyering skills to particularly pressing matters of justice.

An in-class exercise illustrates these features. To teach oral advocacy to 1Ls, I used a jury trial of members of Direct Action Everywhere (“DxE”),⁵⁴ an animal protection group founded in 2013. DxE uses the prosecutions of its members to reshape the public’s perception of

⁵¹ See generally *Animal Law Digest*, BROOKS INST., <https://thebrooksinstitute.org/animal-law-digest> (accessed Mar. 4, 2025) (providing a “high-level overview of weekly developments” in the field of animal law).

⁵² *Ninth Circuit Upholds Proposition 12, Again*, *supra* note 46; Elizabeth Rumley, *Farm Animal Housing in 2024: Laws, Proposals and Challenges*, NAT’L AGRIC. L. CTR. (Mar. 26, 2024) <https://nationalaglawcenter.org/category/author/elizabeth-rumley/> (accessed Mar. 4, 2025).

⁵³ Patricia Grande Montana, *Bridging the Reading Gap in the Law School Classroom*, 45 CAP. U. L. REV. 433, 451 (2017) (citations omitted).

⁵⁴ *What is Direct Action Everywhere?*, DIRECT ACTION EVERYWHERE, <https://www.directactioneverywhere.com/about-us> (accessed Feb. 11, 2025).

animal-use industries and to reveal courts' failure to hold corporate actors accountable for the cruelty they inflict on animals used in research or food production.⁵⁵ The cutting-edge legal pathways lawyers carved in one of these proceedings—which turned on the urgent, timely nature of animal exploitation—helped my students understand the basis of oral persuasion.

The trial arose from an open rescue, an action in which animal advocates publicly, and without an owner's consent, remove animals from a farm, research facility, or slaughter truck.⁵⁶ When rescued, the animals are severely ill or on the brink of death.⁵⁷ After removing the animals and securing veterinary care, the rescuers are often arrested and charged with trespass or theft crimes.⁵⁸ The animals' corporate owners have yet to be charged with a crime resulting from the rescues.

While covering the basics of oral advocacy, I played clips of attorney and DxE founder Wayne Hsiung's closing argument in the open rescue trial of Alexandra Paul and Alicia Santurio.⁵⁹ Paul and Santurio were charged with theft after they removed two chickens from a slaughter truck.⁶⁰ The chickens, Ethan and Jax, were "severely ill and struggled to stand."⁶¹ Paul and Santurio refused the plea deals they were offered, choosing instead, in the words of one commentator, to "intentionally provok[e] conflict with a legal system that treats living beings . . . as though they were inanimate property rather than sentient individuals."⁶² A jury acquitted Paul and Santurio of the charges.⁶³

Student reactions to Hsiung's closing argument revealed the timeliness and urgency of the trial and its underlying issues. The discussion

⁵⁵ E.g., Farhad Manjoo, *Rescuing Animals from Cruelty Should be Legal*, N.Y. TIMES (Feb. 14, 2023), <https://www.nytimes.com/2023/02/14/opinion/foster-farms-chicken-slaughterhouse-animal-cruelty.html> (accessed Feb. 10, 2025); Bill Lueders, *Activists Demand that Dane County DA Prosecute Ridgland Farms for Animal Cruelty*, ISTHMUS (Mar. 18, 2024, 3:50 PM), <https://isthmus.com/news/news/activists-demand-that-dane-county-da-prosecute-ridgland-farms/> (accessed Feb. 10, 2025); Marina Bolotnikova, *The Fight Against Factory Farming is Winning Criminal Trials*, VOX (Mar. 21, 2023, 4:30 AM), <https://www.vox.com/future-perfect/23647682/factory-farming-dxe-criminal-trial-rescue> (accessed Feb. 10, 2025).

⁵⁶ See *Open Rescue*, DIRECT ACTION EVERYWHERE (Nov. 2, 2023), <https://www.directactioneverywhere.com/open-rescue> (accessed Feb. 10, 2025) (chronicling past and ongoing open rescue actions).

⁵⁷ See Bolotnikova, *supra* note 55 (describing two separate open rescues involving severely ill chickens and piglets).

⁵⁸ *Open Rescue*, *supra* note 56; Michelle Pardo, *Animal Rights Activist Gets Rammed by NFL Player*, DUANE MORRIS LLP (Oct. 6, 2022), <https://blogs.duanemorris.com/animaldevelopments/tag/dxe/> (accessed Mar. 7, 2025).

⁵⁹ Direct Action Everywhere, *Foster Farms Trial - March 16th - Part 2 #RightToRescue* at 18:42, YOUTUBE (Mar. 16, 2023), <https://www.youtube.com/watch?v=baAy7UisCDI> (accessed Feb. 15, 2025).

⁶⁰ Bolotnikova, *supra* note 55.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

began with a critique. Some students believed that the entire prosecution was a waste of resources, being centered on the welfare of two chickens who would soon be killed anyway. Another student criticized what she saw as Hsiung's over-reliance on *pathos* at the expense of logical argument.

Then the conversation turned to a necessity-defense-like argument Hsiung made: he compared the defendants' actions to a Good Samaritan breaking a car window to rescue a trapped dog on a hot day.⁶⁴ In Hsiung's account, Paul and Santurio lacked the intent required for a conviction because they had only meant to stop the birds' ongoing suffering.⁶⁵ They had no plans to deprive the plaintiff of its property, which they believed was without monetary value given the condition of the birds.⁶⁶ (Foster Farms valued each chicken at around \$8.)⁶⁷ One student suggested that such an argument required roughly equal degrees of *pathos* and *logos*. Hsiung, she explained, first needed to convince the jury that something terrible was happening at the time of the alleged crime and then that the defendants acted only to prevent the harm from continuing.

That terrible thing—the animals' suffering—lay at the intersection of *logos* and *pathos*. On the one hand, the suffering itself was the key to the *logos* piece, in that it undermined the intent element of petty theft.⁶⁸ The defendants did not intend to deprive the owner of their "property" any more than the person saving the dog from heatstroke wanted to deprive someone else of their dog. It is, therefore, possible to view the argument as purely *logos*-based, even when it turns on facts we might usually associate with *pathos* (i.e., animal suffering).

The student further contended that the argument deployed *pathos* skillfully and subtly. Hsiung was not simply preaching to the jury about criminally abused chickens. He was arguing that the defendants' response to the injustice of animals' treatment was fatal to the prosecution's case. Without the defendants' intervention, the birds would have continued to endure terrible pain. How, the student asked, was it different from the dog in the car? If saving a dog can constitute an affirmative defense to what would otherwise be a crime, why can't saving chickens?

I had decided to use the closing argument in class simply because I had been following the case and it illustrated basic oral advocacy techniques. I had no grand designs on using animal law to teach oral advocacy. However, after reflecting on the session, and on this student's comments, I realized that the timeliness of the subject matter had elevated the discussion.

⁶⁴ *Foster Farms Trial March 16th – Part 2 – #RightToRescue*, *supra* note 59, at 24:55.

⁶⁵ *Id.* at 19:58.

⁶⁶ *Id.* at 20:29.

⁶⁷ Bolotnikova, *supra* note 55.

⁶⁸ See THEFT BY LARCENY, 1800 CAL. CRIM. JURY INSTRUCTIONS (2024) ("When the defendant took the property (he/she) intended to deprive the owner of it permanently . . .").

First, the trial was unfolding in near-real time. Students were interested to learn that the defendants had been acquitted a week earlier.⁶⁹ A few mentioned they had read about another recent DxE acquittal.⁷⁰ That seemed like another sign that the timeliness of the video clip was working to my advantage, given that students are more likely to appreciate material that can be easily tied to current events.⁷¹ In short, the material was ‘timely’ in the familiar sense of that word.

Additionally, my student’s observation of the interdependence of *pathos* and *logos* led us to another kind of ‘timeliness’—urgency. As the dog-in-a-hot-car analogy demonstrates, decriminalizing rescue is an urgent, continuous project. The animals are suffering *now*, so activists are responding in kind: rescuing them from slaughterhouses and arguing in court that the law must protect, not punish, the citizens who try to help. The closing argument shown in class thus exemplified ‘timely’ advocacy in the more profound sense of lawyering as an ongoing project of social progress and institutional change. That project continues. Activists are still being prosecuted for open rescues,⁷² and their lawyers are still adding layers of legal infrastructure to legitimize the concept of open rescue.⁷³

Maintaining momentum in this way is essential to the broader goals of animal law. The necessity of this momentum results from an intention to advance the legal interests of nonhuman animals. Because that intention clashes with the structure of the American legal system, which largely refuses to recognize those interests in the first place, animal attorneys are always fighting an ideological battle. No matter what they are working on, they are also simultaneously pushing for systemic change: a world where legal protections for animals enjoy broad public support, recognition from the judiciary, and consistent enforcement. Creating that world demands unending invention and tireless advocacy. Animal lawyers push for revolutionary change using the incremental

⁶⁹ Bolotnikova, *supra* note 55.

⁷⁰ Andrew Jacobs, *Animal Rights Activists Are Acquitted in Smithfield Piglet Case*, N.Y. TIMES (updated Oct. 18, 2022), <https://www.nytimes.com/2022/10/08/science/animals-rights-piglets-smithfield.html> (accessed Feb. 15, 2025).

⁷¹ Grande Montana, *supra* note 53.

⁷² See Grace Hussain, *A New Open Rescue Trial is Now Underway. Here’s the Latest.*, SENTIENT (Sept. 14, 2023), <https://sentientmedia.org/sonoma-open-rescue-trial/> (accessed Feb. 10, 2025) (reporting on a Sonoma County, California, criminal trial of activists accused of taking seventy birds from three different factory farms in the area); Jessica Scott-Reid, *Beagles Are Bred by Thousands on Factory Farms, and It’s Perfectly Legal*, SENTIENT (Mar. 8, 2024), <https://sentientmedia.org/beagles-bred-on-factory-farms/> (accessed Feb. 10, 2025) (analyzing charges arising from open rescue of three beagles from a large breeder/supplier to research facilities).

⁷³ See, e.g., Kenny Torrella, *Justin Marceau Is Defending a New Generation of Animal Rights Activists*, VOX (Nov. 29, 2023, 3:00 AM), <https://www.vox.com/23903831/justin-marceau-animal-law-direct-action-factory-farm-future-perfect-50-2023> (accessed Feb. 10, 2025) (discussing the Animal Activist Legal Defense Project at the University of Denver Sturm College of Law); Marceau et al., *supra* note 18.

(or, depending on one's view, regressive) features of the legal system that we have, in order to build the legal system we should have.

Urgency and perpetual motion are therefore baked into animal law. The field is so expansive that it is effectively ubiquitous,⁷⁴ and therefore always developing: about as “timely” as it gets. Using the urgency of animal law as a vehicle for fundamental skills like oral advocacy can help students more fully engage with the course material.

Regardless of their feelings about nonhuman animals, students are more likely to become invested in current legal developments and creative, committed lawyering than they are the Torts or Contracts doctrine that often form the raw material for memo problems.⁷⁵ To be sure, there is nothing wrong with a memo centered on a breach of a non-disclosure agreement. But there is also nothing to lose by trying something new. Animal law's “newness” is, paradoxically, permanent. The field is marked by the inspired lawyering that social progress demands, which makes it useful for any number of learning objectives.

ii. Novelty

The open rescue cases are also novel, a quality typical of animal law. Like its dimensions of “timeliness,” the Foster Farms Trial's novel qualities are layered on top of one another. There are at least two separate layers, and each offered a different entry point into my class's discussion of oral advocacy.

First, the trial featured a social justice issue not often taught in law school: farmed animal welfare. There are endless examples of lawyers using written and oral advocacy to advance social causes, and they frequently make for great teaching tools.⁷⁶ Indeed, as a discipline, legal writing has vocally advocated for incorporating social justice into the classroom.⁷⁷ But there is a gap in the pedagogical LRW literature: none of it discusses the exploitation of farmed animals—or, for that matter, of any animals.

The idea that the Foster Farms prosecution might be about a social justice issue and not merely about a theft sparked a dynamic

⁷⁴ See Pamela Frasch & Joyce Tischler, *Animal Law: The Next Generation*, 25 ANIMAL L. 303, 312 (2019) (“We often say that animal law is all law. That may sound simplistic, but it is true. The use and exploitation of animals is pervasive in all societies, and touches on legal issues in all realms of the law.”).

⁷⁵ See, e.g., Grande Montana, *supra* note 53 (explaining that students are likely to become “more engaged” with their work when the material incorporates “current events that deal with the same topic”).

⁷⁶ See, e.g., Julie Spanbauer, *Teaching First-Semester Students that Objective Analysis Persuades*, 5 J. LEGAL WRITING INST. 167, 178, 182 (1999), <https://ssrn.com/abstract=1762172> (accessed Mar. 11, 2025) (demonstrating the pedagogical value of *Walker v. City of Birmingham* and *Shuttlesworth v. City of Birmingham*, two cases arising from 1963 Civil Rights demonstrations).

⁷⁷ See, e.g., Pamela Edwards & Sheilah Vance, *Teaching Social Justice Through Legal Writing*, 7 J. LEGAL WRITING INST. 63, 64–70 (2001), <https://www.legalwritingjournal.org/article/24676-teaching-social-justice-through-legal-writing> (accessed Mar. 11, 2025) (identifying benefits of teaching social justice in LRW classes).

conversation in the classroom. The proposition that animals should be legally shielded from the way they are routinely treated in the animal agriculture industry was just controversial enough to keep students' attention without alienating anyone the way a more controversial topic would have.

Second, the defense team put forth a novel *narrative* of the Foster Farms Trial. Compelling legal narratives unfurl with ease in animal law, a field in which animals are assumed to be individuals with legal entitlements. This assumption radically conflicts with animals' legal status, that of personal property, and the conflict engenders new stories of rights and redress.⁷⁸ These legal narratives have two benefits. First, they teach students that *logos*-based argument cannot persuade on its own; rather, story plays an equal part in the persuasive process.⁷⁹ Reasoned arguments are always grounded in some subjective view, agenda, or feeling; some scholars have proposed that arguments that lack these qualities and consist only of "empirical reasoning" are incapable of "promot[ing] justice."⁸⁰ Second, animal law narratives offer a window into the potential force of policy-based arguments—a topic that, due to time constraints, often receives limited coverage in the LRW classroom.

Like most good stories, the one that advanced a policy argument was simple: the defendants should not have been on trial. They had done nothing wrong, having sincerely believed that they were rescuing animals, not breaking the law. Foster Farms, on the other hand, *had* repeatedly violated the law by subjecting its animals to criminal abuse and neglect. In hashtags and press releases referring to the case, DxE began to disseminate this narrative in three words: "Foster Farms Trial."⁸¹ The wording made clear it was the farm that should be standing trial.

⁷⁸ See Tischler, *supra* note 13, at 3 (tracing the field's origins to "attorneys and law students" whose goal was to "fil[e] lawsuits to protect animals and establis[h] the concept of their legal rights, regardless of . . . the ownership interest of humans"). The story of Happy, an elephant in the Bronx Zoo who became the subject of a *habeas corpus* petition (discussed *infra* Part III, Section B, Subsection 3), captures animal law's natural narrative capacities. It has been retold in various journalism outlets and even adapted into a graphic novel. Tracy Tullis, *The Bronx Zoo's Loneliest Elephant*, N.Y. TIMES (June 26, 2015), <https://www.nytimes.com/2015/06/28/nyregion/the-bronx-zoos-loneliest-elephant.html> (accessed Jan. 22, 2025); SAM MACHADO ET AL., *THING: INSIDE THE STRUGGLE FOR ANIMAL PERSONHOOD* (Island Press 2023).

⁷⁹ See, e.g., Robbins-Tiscione, *supra* note 19, at 332 (explaining that certain forms of understanding are not accessible through reason alone); Kenneth D. Chestek, *Judging by the Numbers: An Empirical Study of the Power of Story*, 7 J. ALWD 1, 5–6 (2010), https://www.alwd.org/index.php?option=com_attachments&task=download&id=258 (accessed Feb. 13, 2025) (analogizing legal arguments to a double helix, where one strand of the argument is *logos*-based, and the other is grounded in story).

⁸⁰ Kenneth Chestek, *Dimensions of Being and the Limits of Logic: The Myth of Empirical Reasoning*, 19 LEGAL COMM'N & RHETORIC: JAWLD 23, 25 (2022), <https://www.alwd.org/lcr-archives/fall-2022-volume-19/662-dimensions-of-being-and-the-limits-of-logic-the-myth-of-empirical-reasoning> (accessed Feb. 13, 2025).

⁸¹ See, e.g., Direct Action Everywhere, *Foster Farms Trial Courtroom Cam Playlist*, YOUTUBE, <https://www.youtube.com/playlist?list=PLFRx5N8oro--vstBsPt1w0O9-JJN->

The strategy, then, was comprised of both a *logos*-heavy legal argument—defendants lacked the requisite intent for theft, and they did not deprive the victim of anything of value—and a story grounded in reformist policy: a Kafkaesque tale in which two women were prosecuted for helping animals who had been abused by a corporation, and a government that presented that corporation as a victim. This novel narrative arises from the novelty of animal law itself. It is only because the law fails to recognize animals as individuals that people can be criminally liable for helping animals. The “Foster Farms Trial” story vividly illustrates this absurdity and the importance of correcting it.⁸²

The story worked. In a post-trial interview, jurors explained that deliberations had focused on the way Foster Farms seemed to be breaking the law with impunity.⁸³ Some jurors were left with doubts about the viability of our legal system;⁸⁴ one of them, after hearing the defense’s “heart-wrenching” stories of farmed animal suffering, stopped eating meat.⁸⁵ The story of the “Foster Farms Trial” was therefore essential to the defendants’ acquittals, and it caught on in mainstream accounts of the trial.⁸⁶

The narrative therefore accomplished one thing that “legal stories are—or should be—designed” for: “not only to engage [the audience’s] acceptance of the story . . . but perhaps to change . . . [their] current

py8b4 (accessed Feb. 23, 2025) (showing a series in which DxE posted recordings of each day of the trial, and each video title begins with the words “Foster Farms Trial”).

⁸² As another example of using animal law to teach policy arguments, I designed a dog-bite negligence problem that served as my students’ first objective memo. Part of the assignment required students to apply the Illinois common-law rule against considering a dog’s breed in determining whether he or she was “dangerous” for the purposes of a negligence claim. After completing the assignment sequence, we read excerpts of Ann Linder’s *The Black Man’s Dog*, which takes up a similar issue: breed-specific legislation (“BSL”), or statutes that ban the ownership of particular dog breeds within various municipalities. Ann Linder, *The Black Man’s Dog*, 25 ANIMAL L. 51, 51 (2018), <https://lawcommons.lclark.edu/alr/vol25/iss1/4/> (accessed Feb. 11, 2025). Linder argues that the debates over public safety and breed stigmatization miss another damaging effect of these laws: their capacity to act as a modern form of redlining and other racist policies. *See id.* at 52 (noting that advocates of breed bans may be less concerned “with dogs and more to do with the individuals that own them” and that “[b]reed-specific legislation may be being used as a new form of redlining to keep minorities out of majority-white neighborhoods”). The article provides a straightforward illustration of how species discrimination often intersects with discrimination against members of minority human communities, and students were engaged with its novel yet easy-to-grasp position.

⁸³ ANIMAL L. PROGRAM, UNIV. OF DENVER STURM COLL. OF L., FOSTER FARMS TRIAL JUROR INTERVIEWS 7, 14 https://www.law.du.edu/sites/default/files/2024-08/Foster_Farms_Juror_Interview_Transcripts.pdf (accessed Mar. 24, 2025).

⁸⁴ *See id.* at 5 (“If my two chickens were in the condition these two chickens were in I would be charged with animal cruelty. . . the prosecution is here because it’s Foster Farms.”).

⁸⁵ Rachel Fobar, *Activists Call It Rescue. Farms Call It Stealing. What is ‘Open Rescue’?*, NAT. GEO. (Aug. 7, 2023) (“I can’t stomach it. . . I cannot eat animals who are being tortured.”), <https://www.nationalgeographic.com/animals/article/activists-call-it-rescue-farms-call-it-stealing-what-is-open-rescue> (accessed Feb. 10, 2025).

⁸⁶ *See id.*

attitudes . . . or behaviors.”⁸⁷ As a result of the attorneys’ storytelling success, students saw how well-developed narratives matter as much as any technical skill.

The defense offered a familiar story, one where the State punishes good people for doing the right thing and ignores corporate malfeasance, in the novel contexts of animal law and open rescue. One student said that this narrative was more persuasive than Hsiung’s legal arguments because she, too, distrusted most government and corporate actors. Her comment resonates with key developments in legal storytelling scholarship⁸⁸ and suggests that the Foster Farms Trial helped students recognize the essential role that creative, original narratives play in legal persuasion.⁸⁹

In all, my class recognized that this was not a straightforward theft case. It was one piece of a larger endeavor. By orchestrating their own trial, the activists dented the firewall that surrounds everyday animal exploitation. Students saw that the effects of the acquittals extended beyond the courtroom and into a future imagined by the defendants, where factory farms no longer exist. Our discussion would not have materialized if Santurio and Paul had not engaged in “voluntary prosecution”⁹⁰ as a form of activism, or if their legal team had not built the narrative of the Foster Farms Trial. The open rescue movement, and the legal stories at its core, exemplify the extent of originality and novelty that animal law demands and makes possible.

iii. Practicality

Lawyers and law students are pragmatists. Those who understand animal law to be a niche practice area might therefore have an aversion to it. Legal writing faculty who share this view may question the wisdom of using animal law in the classroom. After all, students are unlikely to invest energy in a topic they perceive as, at best, tenuously connected to what lawyers do in the real world.⁹¹ The perception of

⁸⁷ Ruth Anne Robbins, *Fiction 102: Create a Portal for Story Immersion*, 18 *LEGAL COMMUN & RHETORIC: JAWLD* 27, 27 (2021), https://www.alwd.org/index.php?option=com_attachments&task=download&id=290 (accessed Feb. 23, 2025).

⁸⁸ See, e.g., J. Christopher Rideout, *Storytelling, Narrative Rationality, and Legal Persuasion*, 14 *LEGAL WRITING: J. LEGAL WRITING INST.* 53, 54 (2008), <https://digitalcommons.law.seattleu.edu/faculty/315> (accessed Feb. 11, 2025) (describing research showing effective “lawyers use storytelling strategies to construct their cases” and “persuade by telling stories”).

⁸⁹ See, e.g., Steven J. Johansen, *Was Colonel Sanders a Terrorist? An Essay on the Ethical Limits of Applied Legal Storytelling*, 7 *J. ALWD* 63, 63 (2010), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1649840 (accessed Feb. 11, 2025) (“This much we know: stories can change people’s minds.”).

⁹⁰ See Marceau et al., *supra* note 18, at 216 (describing voluntary prosecution as a way “social movements can attract public attention to their cause by leveraging the fact of a criminal prosecution against activists”).

⁹¹ Grande Montana, *supra* note 53.

animal law as a fringe subject has been around for decades,⁹² but this perception is misguided. Animal law is a grounded, growing field,⁹³ and it is ‘practical’ in two ways.

First, it is ‘practical’ in the traditional sense: there are careers in animal law.⁹⁴ Moreover, these careers are quite varied.⁹⁵ Animal lawyers work in government, private practice, academia, and the nonprofit sector.⁹⁶ Others take on a compliance role with a focus on animal protection statutes.⁹⁷ These attorneys have expertise in areas including administrative law, criminal law, family law, and constitutional law.⁹⁸ As we continue to deepen our understanding of nonhuman animals, the field is likely to continue expanding.⁹⁹

Second, in part because of the many career opportunities animal law provides, the subject facilitates practical assignments “based on real-world examples,”¹⁰⁰ which legal writing scholarship has long advocated for.¹⁰¹ A problem’s practicality, or its ‘real-world’ value, can be assessed by asking whether it presents legal questions that attorneys regularly encounter and whether it allows students to develop the lawyering skills needed to answer those questions.¹⁰² To be practical, then, an LRW problem need not correspond with the substance or underlying facts of a specific legal claim.

Take *Knox*, the goldfish case.¹⁰³ Not many lawyers advocate for goldfish. Yet many do argue over the meaning of a simple phrase like “any live animal,” the one at issue in *Knox*.¹⁰⁴ The pragmatic value of the case lies in its potential to expose students to statutory interpretation. The case exemplifies how the choice of substantive law is “fungible” in the LRW context. That choice often turns on the best way to deliver

⁹² Tischler, *supra* note 20, at 33 (recounting attorney Elinor Molbegott’s description of how animal law “was taken as a complete joke” by ABA leadership in the 1980s).

⁹³ Kathy Hessler, *Animal Law: Gaining Ground*, ABA YOUNG LAWYERS DIV. (May 12, 2022), https://www.americanbar.org/groups/young_lawyers/resources/tyl/practice-areas/animal-law-gaining-ground/ (accessed Jan. 22, 2025).

⁹⁴ *Id.*

⁹⁵ See YOLANDA EISENSTEIN, CAREERS IN ANIMAL LAW: WELFARE, PROTECTION, AND ADVOCACY 21–25, 30–31 (2011) (providing a non-exhaustive list briefly summarizing “key areas of the law that are relevant to animal law”).

⁹⁶ *Id.*

⁹⁷ See JAMES F. GESUALDI, EXCELLENCE BEYOND COMPLIANCE: ENHANCING ANIMAL WELFARE THROUGH THE CONSTRUCTIVE USE OF THE ANIMAL WELFARE ACT 97 (1st ed. 2014) (advising that zoological organizations should strive to enhance animal welfare through AWA compliance).

⁹⁸ EISENSTEIN, *supra* note 95, at 21–23.

⁹⁹ Hessler, *supra* note 93.

¹⁰⁰ Grande Montana, *supra* note 53, at 450–51.

¹⁰¹ See, e.g., Ellie Margolis & Susan L. DeJarnatt, *Moving Beyond Product to Process: Building A Better LRW Program*, 46 SANTA CLARA L. REV. 93, 114 (2005), <https://digitalcommons.law.scu.edu/lawreview/vol46/iss1/3/> (accessed Feb. 23, 2025) (discussing the development of legal writing programs focusing on “real-world context[s]”).

¹⁰² *Id.* at 111.

¹⁰³ *Knox*, 425 N.E.2d at 393.

¹⁰⁴ *Id.* at 395.

the practical, skills-based knowledge at the heart of the work.¹⁰⁵ We do not expect that every student “will ever really *need* to know the substantive rules that they are tasked with learning”¹⁰⁶ (like which beings are “animals” under Massachusetts law). But we expect that students know basic canons of statutory interpretation, which cases like *Knox* support them in understanding.

Knox also reveals the more important dimension of ‘practical’ lawyering: An enlarged capacity for empathy, or the ability to “recogniz[e] . . . the feelings of others.”¹⁰⁷ Qualities like empathy are no less essential to good lawyering than writing skills or attention to detail.¹⁰⁸ One cannot successfully represent (or “re-present”) a client’s interests without first feeling, at some level, the client’s experience: their challenges, goals, fears, and accomplishments. Animal law facilitates empathy by simply reminding us that legal questions affect real lives. Whether we might have legal recourse for harm to our companion animals, for instance, depends on how we answer the question implicated by *Knox* and by all animal law—the question of why some nonhuman species are granted legal entitlements while others are not.

Students therefore begin to see the way legal problems are the same “problems and challenges people face in their everyday lives.”¹⁰⁹ In fact, animal law allows them to go a step further and grapple with the law’s impact on the lived experiences of *nonhuman animals*. Scholars recognize that effective legal writing requires relatable accounts of others’ experiences;¹¹⁰ it is these stories, not the rote application of law to fact, that capture the reader’s attention.¹¹¹ Good writing generates compassion and empathy in its reader,¹¹² and good lawyers cultivate empathy and deploy it in their advocacy.¹¹³ Using the law to connect to

¹⁰⁵ Leonore F. Carpenter & Bonny Tavares, *Learning by Accident, Learning by Design: Thinking About the Production of Substantive Knowledge in the LRW Classroom*, 88 UMKC L. REV. 39, 49, 55 (2019), <http://dx.doi.org/10.34944/dspace/6763> (accessed Feb. 23, 2025).

¹⁰⁶ *Id.* at 55.

¹⁰⁷ Tiscione, *supra* note 8, at 1173.

¹⁰⁸ *See, e.g., id.* at 1183 (“[O]ur moral reasoning . . . can change *other* people’s minds.”).

¹⁰⁹ Mark Osbeck, *What is Good Legal Writing and Why Does it Matter?*, 4 DREXEL L. REV. 417, 448 (2012), <https://drexel.edu/law/lawreview/issues/Archives/v4-2/osbeck/> (accessed Feb. 23, 2025).

¹¹⁰ *See, e.g.,* Kenneth D. Chestek, *The Plot Thickens: The Appellate Brief as Story*, 14 J. LEGAL WRITING INST. 127, 130 (2008), <http://ssrn.com/abstract=998388> (accessed May 12, 2025) (lamenting that “legal briefs focus so much on the abstract law and overlook the people” they affect); Tiscione, *supra* note 8, at 1188 (collecting sources in which legal scholars discuss “the power of stories”).

¹¹¹ Tiscione, *supra* note 8, at 1188.

¹¹² *See* Susan Chessler & Karen Sneddon, *From Clause A to Clause Z: Narrative Transportation and The Transactional Reader*, 71 S.C. L. REV. 247, 275 (2019), <https://scholarcommons.sc.edu/sclr/vol71/iss2/5> (accessed Mar. 9, 2025) (“Empathy is a powerful emotional response that will affect how the reader engages with the narrative and supports a positive impression of the narrative.”).

¹¹³ *See id.* at 260–62 (discussing how emotional responses, driven by the reader’s identification with characters, enhance immersion in a narrative, foster empathy and

a nonhuman animal requires the highest degree of empathy; it means identifying with a being who, from the time we are young children, we are culturally conditioned to see as fundamentally distinct from ourselves.

Hoping to illustrate empathy's role in rhetorical persuasion, I told students the story of Happy the Elephant. Called the Bronx Zoo's loneliest elephant by *the New York Times*, Happy is a female Asian elephant born wild in Thailand in 1971.¹¹⁴ After being stolen from her home and separated from her family, Happy ended up at the Bronx Zoo in 1977.¹¹⁵ Since then, she has endured the deaths of three Bronx Zoo elephants in a four-year period and the resulting shutdown of the Zoo's captive elephant program.¹¹⁶ In 2006, the Zoo moved Happy into a solo enclosure; she has been alone there ever since.¹¹⁷ In 2018, the Nonhuman Rights Project ("NhRP") filed a writ of habeas corpus on Happy's behalf, asking the trial court to release Happy to a sanctuary.¹¹⁸ Their petition was unsuccessful, and four years later, the New York Court of Appeals affirmed its dismissal.¹¹⁹

During a discussion of the narrative and rhetorical techniques at the heart of written advocacy, I shared a paragraph from an NhRP brief with my students. The paragraph ended with a sentence describing the defining condition of Happy's existence: "For many . . . years[,] Happy has been alone."¹²⁰ Next to the excerpt, I posted a screenshot of what I had seen when I googled the words "Happy the Elephant":

People also ask :

Where is happy the elephant now? ▾

Is happy the elephant still alone? ▾

Why is happy the elephant alone? ▾

Why is happy the elephant separated? ▾

Feedback

sympathy, influence critical analysis, and contribute to a lasting, favorable recollection of a piece of writing).

¹¹⁴ Tullis, *supra* note 78.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *See id.* ("[Happy's] solitary existence is . . . unlike the life of a wild elephant. In nature, elephants live in closely bonded matriarchal families, which cooperate to raise their young. Females never leave the herd, forming lifelong attachments with siblings . . . [and] their mothers.").

¹¹⁸ Nonhuman Rts. Project v. Breheny, 197 N.E.3d 921, 924 (N.Y. 2022).

¹¹⁹ *Id.* at 932.

¹²⁰ Brief for Petitioner-Appellant, Nonhuman Rts. Project v. Breheny, 189 A.D. 3d 583 (N.Y. App. Div. 2020) (No. 2020-02581), 2020 WL 7233939 at *2.

Students grasped the point quickly. Legal arguments and legal narratives shape the real world.¹²¹ It was not simply the story of Happy's captivity that sparked the public outcry reflected in the suggested search terms—it was her forced isolation. Her solitude, so at odds with elephants' social instincts, was central to the NhRP's habeas argument,¹²² and to one of two dissents in the case.¹²³

All this amounts to a potent form of 'practicality' that dissolves the illusion of standalone 'legal reasoning' that law students might encounter in their casebooks or legal writing texts. 'Practical lawyering' must account not simply for rules and doctrine, but for the experience of those affected by those rules—especially those, like Happy, affected in arbitrary and unjust ways. In Happy's case, students saw compelling arguments and opinions that were compelling because they *incorporated* Happy's experience into their reasoning.¹²⁴ These sorts of arguments demonstrate that 'the law' is never just about the law.¹²⁵ Understanding this reality and learning how to use it to advance a client's interests is an essential, pragmatic lawyering skill.

In sum, animal law is timely, novel, and practical in various senses of each word. These qualities make animal law a powerful framework for teaching lawyering skills.

C. ANIMAL LAW RESOLVES CHALLENGES THAT COMMONLY ARISE FROM EMOTIONALLY CHALLENGING SUBJECT MATTER

While writing memo problems, professors often find themselves in a familiar bind. They must strike a balance between shielding students from traumatizing subject matter while sufficiently preparing them for a career that often encompasses direct engagement with trauma.¹²⁶ Animal law can help resolve this bind. It gives instructors an

¹²¹ See ANTHONY G. AMSTERDAM & JEROME BRUNER, *MINDING THE LAW* 111 (2000) (“[M]uch of human reality . . . [is] not merely recounted by narrative but *constituted* by it.”) (emphasis in original).

¹²² Brief for Petitioner-Appellant, *Nonhuman Rts. Project v. Breheny*, 189 A.D. 3d 583 (N.Y. App. Div. 2020) (No. 2020-02581), 2020 WL 7233939 at *2–3, *8–10, *21–22.

¹²³ *Nonhuman Rts. Project*, 197 N.E.3d at 961 (Wilson, J., dissenting) (“[Since] . . . 2006, Happy has been living alone at the Bronx Zoo, in a one-acre enclosure . . . [Happy] understands that her life progresses sequentially, and she is aware that she is alone.”).

¹²⁴ *Id.* at 934–35 (Wilson, J., dissenting) (“Whether an elephant . . . is a ‘person’ is not relevant to determining whether the writ of habeas corpus can be used to challenge a confinement . . . [T]he correct question [is]: given what we know about the qualities an elephant has—and in particular, the qualities Happy has—should the law afford her certain rights through habeas corpus?”).

¹²⁵ See, e.g., Chestek, *supra* note 110, at 133–36, 146 (explaining that judges favor legal briefs that employ narrative storytelling).

¹²⁶ Mikkor, *supra* note 11, at 36–37 (“To help students develop essential competencies, it is necessary to expose them to challenging and troubling legal topics And yet, we cannot ignore trauma. When an exercise tips a student over the edge from discomfort into a state of trauma, that student stops learning and is denied the opportunity to develop as a lawyer.”)

unusual amount of control over challenging subject matter. Moreover, even upsetting animal law fact patterns may be less problematic for students than, say, problems centered on sexual assault, racial discrimination, or other traumas that some students in the classroom will have undoubtedly personally experienced. Relying on Professor Alison Mikkor's application of TIP to law school teaching,¹²⁷ this Part demonstrates the advantages of using animal law to overcome the challenges of difficult content and explains how two precepts of TIP can be used in concert with animal law.

Faculty must be proactive, deliberate, and transparent in approaching potentially traumatic content.¹²⁸ We should not shield students from difficult content; nor should we flood them with it and hope for the best. Both approaches threaten to perpetuate the reality of many lawyers, whose law school "training d[id] not provide protective factors that buffer them from the . . . effects of an . . . adverse . . . work environment."¹²⁹ To remedy this failure, legal writing faculty should understand what trauma is and then develop a plan for working with potentially trauma-inducing legal sources. Animal law simplifies this process.

*i. Trauma vs. Discomfort: Calibrating Challenging Content
With Animal Law*

Trauma is "an event . . . experienced by an individual as . . . harmful or threatening and that has lasting adverse effects on the individual's functioning and . . . well-being."¹³⁰ Trauma responses "plac[e] a person in a state of terror that he cannot easily escape,"¹³¹ and thereby pose obstacles to student learning.¹³² Moreover, because trauma is "highly unpredictable and individualized,"¹³³ it can be hard for instructors to ascertain which materials threaten to undermine learning. But while trauma cannot be predicted with certainty, we do students a disservice by attempting to shield them from *any* potentially traumatic material. Because trauma is individualized, such an attempt would require excluding swaths of essential case law and exposing law students only to anodyne content. Instructors need to be able to work with trauma, not

¹²⁷ See generally *id.* (explaining the advantages of using TIP in law school writing courses).

¹²⁸ In my Animal Law syllabus, I include a general content warning, which explains that while I have tried to exclude much of the most egregious content, animal abuse and exploitation are inseparable from the subject matter.

¹²⁹ Lee Norton et al., *Burnout and Compassion Fatigue: What Lawyers Need to Know*, 84 UMKC L. REV. 987, 992 (2016).

¹³⁰ Mikkor, *supra* note 11, at 41 (citation omitted).

¹³¹ *Id.* at 42.

¹³² See, e.g., Diana J. Simon, *Focused and Fun: A How-To Guide for Creating Hypotheticals for Law Students*, 19 SCRIBES J. LEGAL WRITING 161, 167 (2020), <https://ssrn.com/abstract=3445522> (accessed Feb. 23, 2025) ("While an argument can be made that law students will have to face . . . disturbing issues as lawyers, in my courses, I want them to learn how to write effectively.").

¹³³ Mikkor, *supra* note 11, at 42.

against it, because it “has always been in our classrooms”¹³⁴ and presumably always will be.

One way to begin this work is to recognize that trauma is not the same as discomfort. Trauma presents an obstacle to basic functioning; it forces the victim to relive the traumatic event, thereby “preventing him from performing in the present . . .”¹³⁵ Discomfort, on the other hand—and associated emotions like shock, sadness, or disgust—can be deeply distressing but does not interfere with performance. On the contrary, discomfort has pedagogical value.¹³⁶ It helps students prepare for the troubling, depressing aspects of the legal profession.¹³⁷ Instructors therefore need to understand which materials are likely to traumatize students and which are more likely to induce a productive degree of discomfort.

Animal law helps us refine this selective instinct. Its subject matter runs the gamut from the merely discomforting¹³⁸ to the truly traumatic,¹³⁹ a spectrum that allows professors to carefully calibrate challenging content. When designing animal law problems, LRW instructors will find no shortage of cases on the milder end of the continuum. For example, one could write a problem based on a companion animal custody dispute in a divorce proceeding (another timely, evolving space).¹⁴⁰ These fact patterns are more likely to generate sympathy than to trigger trauma. Even if students have personally experienced similar situations, companion animal custody issues are distinguishable from events most likely to trigger trauma, like physical or sexual abuse or “chronic stressors” such as racial discrimination.¹⁴¹

The custody cases minimize the risk of trauma without obscuring the fact that legal careers can be unusually stressful and emotionally difficult.¹⁴² Students are best served when they understand this early in law school. In addition to assigning calibrated animal law subject matter, instructors should openly discuss the emotionally challenging nature of legal practice in connection with these cases. Inviting students

¹³⁴ *Id.* at 38.

¹³⁵ *Id.* at 42.

¹³⁶ *Id.* at 36 (distinguishing between traumatic and discomforting material and noting associated pedagogical obstacles and opportunities).

¹³⁷ *Id.*

¹³⁸ *See, e.g., Taub*, 463 A.2d at 820, 822 (reversing a conviction of animal cruelty against a scientist who was accused of failing to provide proper veterinary care to his research monkeys).

¹³⁹ *See, e.g., People v. Thomason*, 84 Cal. App. 4th 1064, 1065–66 (2000) (affirming an animal cruelty conviction based on defendant’s production of “crush” videos).

¹⁴⁰ *Compare, e.g., Travis v. Murray*, 977 N.Y.S.2d 621, 628, 632 (2013) (holding that “dogs . . . simply do not rise to [a] . . . level of importance” meriting a “best interest of the canine” standard in custody disputes), *with L.B. v. C.C.B.*, 175 N.Y.S.3d 705, 710 (N.Y. Sup. Ct. 2022) (noting a recently enacted New York statute “requir[ing] courts to consider ‘the best interest’ of a companion animal” in divorce or separation proceedings).

¹⁴¹ Mikkor, *supra* note 11, at 48–49.

¹⁴² *See Norton et al., supra* note 129, at 992–93 (discussing stressful nature of legal practice and noting the legal education’s failure to prepare students for such stressful and “adverse” work environments).

to participate in an honest, supportive conversation on this topic ultimately “promote[s] student agency,” which can provide “a counterpoint to trauma and its effects.”¹⁴³

I attempted to implement these principles with an in-class exercise based around a companion animal custody dispute. The exercise had a written component, where students read a fact pattern and were asked to reflect on how they would use various rhetorical techniques to advocate for their client, and a guided class discussion. During that conversation, some students shared stories of parents’ or friends’ separations, and the effect they had on the family dog or cat. One student discussed their own experience in relation to the hypothetical fact pattern. In short, the exercise was designed to show students that “[e]veryone has a role to play” in discerning the nuanced connections between personal adversity (even personal trauma) and legal advocacy.¹⁴⁴ During that discussion, my intention was to level the playing field and foster a collaborative environment. To do so, I relegated my role to conversation moderator rather than authority figure. I wanted our conversation to “recogniz[e],” center, “and buil[d] upon” the students’ own experiences.¹⁴⁵

Animal law was instrumental in accomplishing these goals because the companion animal issue struck a balance. It was relatable in that many students had either experienced a similar situation or knew someone who had. And while it was uncomfortable and perhaps even distressing, it avoided more predictably traumatizing content.¹⁴⁶ Put differently, animal law allowed me to *calibrate* the content of the assignment and create a supportive yet realistic environment in which we could, as a group, confront some of the stressful aspects of practicing law.

ii. Nonhuman Experience Provides a Buffer Against Trauma Responses

The gulf between human and nonhuman experience helps instructors avoid crossing the line from productive discomfort to trauma. Human trauma requires lived human experience.¹⁴⁷ The chasm between our own lived experience and that of nonhuman animals therefore provides a buffer against trauma responses. In part because humans oppress nonhumans and not the other way around, much of the disturbing content that one encounters in animal law cannot be ‘experienced’ by humans in any sense that would trigger individual trauma.

¹⁴³ Mikkor, *supra* note 11, at 55.

¹⁴⁴ *Id.* at 51–53.

¹⁴⁵ *Id.* at 53.

¹⁴⁶ See *id.* at 49 (identifying experiences commonly associated with trauma, including “living in poverty and in circumstances in which housing and financial resources are chronically unstable”).

¹⁴⁷ *Id.* at 41 (emphasis added) (citation omitted) (noting that trauma is “an event . . . experienced by an individual”).

To return once again to *Knox*, some might find the idea of reducing a living creature to a “prize” in a carnival game reprehensible.¹⁴⁸ But the goldfish’s subjective experience itself is not one that any student can know: swimming in a bowl, being moved to a small bag, having gills rather than lungs, etc. This is not to trivialize the inherent worth of any nonhuman animal. It is simply to point out that no human can *know* the subjective experience of a goldfish. By contrast, it is certain that some students in any class will know the experience of sexual assault or racial discrimination. In this sense, while animal law cannot prevent trauma responses altogether, it can perhaps mitigate the reality that “[r]egardless of the . . . area of the law, the ‘material facts’ of [a case] . . . may include circumstances that amount to traumatic events.”¹⁴⁹ Professors can therefore use animal law to introduce some of the distressing characteristics of legal practice while lessening the risk of traumatizing students.

iii. Instructors Should Apply Trauma-Informed Pedagogy by Prioritizing Student Agency and Transparent Dialogue

As noted above, animal law cannot wholly preclude trauma responses, because no learning environment is free of trauma.¹⁵⁰ Fortunately, the basic tenets of TIP prepare us to effectively handle trauma responses that inevitably arise in connection with animal law. This Section briefly discusses two of these tenets.

First, prioritizing students’ agency allows students to control how they interact with disturbing readings.¹⁵¹ I attempted to do this with my companion-animal custody exercise. The exercise began with individual work so that students could express thoughts or experiences that they might be comfortable sharing only with me. Then, during the group discussion portion of the exercise, students could choose to share with their classmates. That conversation felt more open and thoughtful than previous class discussions, possibly because the assignment was intentionally designed to “promote students’ agency and to maximize opportunities for them to make independent choices.”¹⁵²

TIP also stresses the importance of students’ sense of safety and well-being.¹⁵³ Ensuring well-being means being upfront with students and acknowledging that a particular case might be disturbing for some, and it means “*facilitating* conversations that may strike the third rail.”¹⁵⁴ In my experience, communicating my pedagogical intention also helps students feel safe. For example, I explained to the class

¹⁴⁸ *Knox*, 425 N.E.2d at 395.

¹⁴⁹ Mikkor, *supra* note 11, at 51.

¹⁵⁰ *Id.* at 38.

¹⁵¹ *Id.* at 54–55.

¹⁵² *Id.* at 54.

¹⁵³ *Id.* at 52, 54.

¹⁵⁴ *Id.* at 58–59 (emphasis in original). Mikkor points out that for some faculty, “safety” has a negative association with the concept of “safe space.” *Id.* at 58. TIP, however, does not equate student safety with the elimination of sensitive material, but rather creates

that the custody exercise was meant to illustrate how difficult, real-life elements of legal issues are inseparable from the work of rhetorical persuasion and analysis. For lawyers, ‘the facts’ and ‘the law’ are meaningful only insofar as they relate to one another. I encouraged to see facts as something the writer must interpret, just as she interprets the law. These facts are often outcome-determinative, so dealing with disturbing content is an important part of the analytical work of lawyering.

In sum, when incorporating traumatic or discomfoting content, we should prioritize student agency and well-being by being honest—both about the material and our intentions. Students should know we have their backs, “even when they have a strong or unconventional reaction to the material [or] take an unpopular position.”¹⁵⁵ When they do, they will be more likely to directly engage with readings and discussions. These goals are more easily achieved using animal law, because it is a uniquely expansive field with insights into the lived experience of our nonhuman counterparts.

IV. CONCLUSION: ANIMAL LAW, LEGAL WRITING, AND THE FUTURE OF THE PROFESSION

As the public shifts to a more nuanced, sympathetic view of non-human animals,¹⁵⁶ animal law is becoming a more visible, influential practice area. Although the subject continues to flourish in legal education,¹⁵⁷ animal law should be incorporated into LRW classes, where its timeliness, novelty, and practical value will benefit students as they develop key lawyering skills.

Professor and animal lawyer Bruce Wagman has explained animal law’s pedagogical value by emphasizing its overlapping intellectual, ethical, and emotional dimensions.¹⁵⁸ He stresses how the law’s incoherent approach to animal well-being—its insistence on protecting certain animals from cruelty while subjecting others to “unregulated acts of pain”—implicates “profound considerations” and results in “weighty fodder for classroom discussion.”¹⁵⁹

These qualities are especially powerful in the LRW context, where first-year students must not only develop writing and analytic skills, but understand wide-ranging substantive doctrine, perform policy reasoning, and critically engage with matters of equity and social justice.

supportive environments in which students feel safe to risk experiencing adverse reactions to the material. *Id.* at 58–59.

¹⁵⁵ *Id.* at 59.

¹⁵⁶ Hessler, *supra* note 93.

¹⁵⁷ FASEL & BUTLER, *supra* note 27, at 1–2.

¹⁵⁸ Bruce A. Wagman, *Growing Up with Animal Law: From Courtrooms to Casebooks*, 60 J. LEGAL EDUC. 193, 196 (2010), https://jle.aals.org/cgi/viewcontent.cgi?params=/context/home/article/1230/&path_info=jle602wagman.pdf (accessed May 5, 2025).

¹⁵⁹ *Id.*

Animals' treatment under the law is an urgent social justice issue, yet it remains absent from legal writing curricula. Advocates have made significant progress in the six decades since the Animal Welfare Act was first enacted, but serious obstacles remain. Billions of farmed animals' lives consist entirely of darkness and suffering; most laws meant to protect animals remain underenforced; and activists engaging in the non-violent rescue of injured animals are imprisoned while corporate actors who cause those injuries are cloaked with impunity. These are only a few examples of the countless injustices we inflict on nonhuman animals every minute of every day. Any of them could form the basis of legal writing assignments that challenge students to develop their lawyering skills and interrogate their implicit biases toward nonhuman animals. Expanding animal law to the legal writing classroom could help push our legal system to better reflect the reality that nonhuman animals are sentient, complicated beings who, like humans, are inherently worthy of compassion and respect. It could also facilitate the same recognition in individuals and guide them toward more sustainable, compassionate choices.

I hope that this Article will spark a larger conversation about the lasting impact that animal law could have on both the legal writing discipline and on legal pedagogy. In turn, our graduates will be better positioned to bridge the divide between our shared rejection of animal cruelty and our legal system's facilitation of it. Thirty years ago, William Kunstler wrote,

[M]ost of us reject the imposition of "unnecessary" suffering on animals and agree that animals ought to be treated "humanely." Although these sentiments are broadly held, the law has lagged behind, and instead of evolving principles of animal protection that reflect our growing moral awareness, the law has continued to protect virtually every form of animal exploitation.¹⁶⁰

Notwithstanding significant gains by lawyers and activists over the last few decades, the law still lags behind. It always will. But that is more reason to build a justice system that reflects the values shared by the majority of us, not just those who identify as animal advocates. Legal skills professors engage in this work by ensuring our students understand that as legal professionals, they will have an opportunity—an obligation, really—to push our deeply flawed legal system toward sustained, holistic, *planetary* justice. We do not need to encourage students to pursue animal law to persuade them of this responsibility. We need only encourage them to remain open to the idea that "[w]e owe it to ourselves . . . to create not merely a body of [law] to govern our conduct but a . . . sensibility that makes us care, deeply and constructively, about the entire planet and all of its varied inhabitants."¹⁶¹

¹⁶⁰ WILLIAM M. KUNSTLER, Esq., *Foreword*, in GARY L. FRANCIONE, *ANIMALS, PROPERTY, AND THE LAW*, at x (1995).

¹⁶¹ *Id.*, at xi.

Long before the ABA caught up,¹⁶² legal writing instructors recognized our obligation to teach students the skills needed to recognize systemic bias, remedy injustice, and fight oppression—in all its insidious forms.¹⁶³ Doing so means challenging students to “reasses[s] their vision of what social justice means to them now and what social responsibility will mean to them later as attorneys.”¹⁶⁴ Animal law—a field in which lawyers attempt to protect the interests of those who the law often treats as either not entitled to, or incapable of holding, such interests¹⁶⁵—can help students expand this vision and dismantle the still-common assumption that our legal system is a value-neutral enterprise that is somehow immune to ideology. When students grasp this reality, they are more likely to critically question the ends to which they will apply the skills we teach them. And they are more likely to become careful, compassionate lawyers.

¹⁶² See SECTION LEG. EDUC. & ADMISSIONS TO THE BAR, AM. BAR ASS'N, 2024–2025 STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS r. 303(c) (2024) (requiring law schools to educate students on “bias, cross-cultural competency, and racism”).

¹⁶³ Edwards & Vance, *supra* note 77, at 64–69.

¹⁶⁴ *Id.* at 67.

¹⁶⁵ See, e.g., *Nonhuman Rts. Project*, 197 N.E.3d at 927–28 (the right to liberty is available “to humans *because* they are humans. . . . Happy, as a nonhuman animal, does not have a legally cognizable right to be at liberty”) (emphasis in original); *Naruto v. Slater*, 888 F.3d 418, 432 (9th Cir. 2018) (Smith, J., concurring) (arguing that an animal “can actually *never credibly articulate its interests*”) (emphasis in original).