

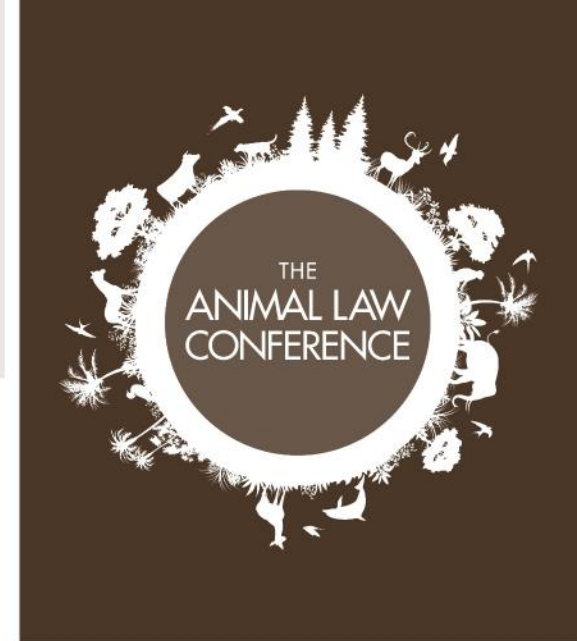
27TH ANNUAL
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Transforming Animals' Status through Civil Litigation

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Animal Legal Defense Fund





















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Memorandum

To: Pamela Frasch & Joyce Tischler

Fr: Delcianna Winders, Tanya Sanerib, & Katherine Meyer

Dt.: Jan. 2, 2008

Re: ALDF Project: Negligence Per Se Proposal



“(1) defendants violated a statute;

(3) plaintiff was a member of the class of persons meant to be protected by the statute; and

(4) that the injury plaintiff suffered is of a type that the statute was enacted to prevent.”

McAlpine v. Multnomah Cty., 131 Or App 136, 144, 883 P2d 869 (1994).



Prong 3

“[T]he principal purpose of adopting the [anti-cruelty laws] was to prevent the suffering of animals. Although early animal cruelty legislation may have been directed at protecting animals as property of their owners or as a means of promoting public morality, Oregon’s animal cruelty laws have been rooted—for nearly a century—in a different legislative tradition of protecting individual animals themselves from suffering.” *State v. Nix*, 355 Or 768, 796–97, 334 P3d 437 (2014).



Is Justice a person?

A legal person is any entity with legally protected rights to whom others owe a duty of care.

“A person is any being whom the law regards as capable of rights or duties...whether a human being or not[.]” Sir John William Salmond, *Salmond on Jurisprudence* § 61 (P.J. Fitzgerald ed. 12th ed 1966).

“To confer legal rights or to impose legal duties . . . is to confer legal personality.” Bryant Smith, *Legal Personality*, 37 Yale LJ 283, 283 (1928).

“Where there is a legal right or duty recognized by criminal law, so there is a legal person, though if rights are few, the person is a weak one.” Ngaire Naffine, *Legal Persons as Abstractions: The Extrapolation of Persons from the Male Case*, in *Legal Personhood: Animals, Artificial Intelligence and the Unborn*, 17 (Visa A.J. Kurki & Tomasz Pietrzykowski eds. 2017).

“In a sense . . . , the concept of legal personality . . . is an empty slot that can be filled by anything that can have rights or duties.” Richard Tur, *The “Person” in Law*, in *Persons and Personality: A Contemporary Inquiry*, 121-122 (Arthur Peacocke & Grant Gillett eds. 1987).



Procedural Timeline

May 1, 2018 – ALDF files lawsuit representing Justice.

August 14, 2018 – Vercher's attorney files motion to dismiss.

September 14, 2018 – Pro Tem Judge John S. Knowles holds hour-long hearing on motion to dismiss and takes the matter under submission.

September 17, 2018 – Judge Knowles issues an opinion letter dismissing the case.

December 24, 2018 – Judge Knowles enters order and judgment dismissing the case.

January 22, 2019 – Animal Legal Defense Fund files Notice of Appeal on Justice's behalf.

July 8, 2019 – Animal Legal Defense Fund files Opening Brief.

July 15, 2019 – Amicus curiae file amicus briefs (academics brief and equine experts brief).

October 11, 2019 – Vercher's attorney files Answering Brief.

Mid-December 2019 – Reply Brief due.



