

Animal Law Section

March 10, 2014

Idaho State Bar

Meeting Minutes

In attendance: E. Don Copple, Susan Brooks, Frederick Freezoe, Joanna Band, Mike Band, Elham Marder, Ed Guerricabeitia, Heather, Sunrise, Sharon Dearing, Lisa Kauffman, Adam Karp, Ken McClure, Linda Pall, Evan Roth, Ashley White, Rick Freeman, Joe Larson, Nancy Checkerelli

- I. Call to Order
- II. John McGowan – Dispute Resolution Section
 - a. Reaching out to other sections re: how might mediation work for you?
 - b. Court setting may take away option for creative solutions
 - c. Facilitative mediation – listen, control the process, good fit for non-monetary issues
 - d. Evaluative – mediator gives an idea of how judge or jury might decide a case
- III. Minutes – Prior minutes voted on and approved
- IV. Membership – Have 30 attorneys and 5 non-attorney members, need to get to 40 attorney members
- V. Budget – a little in the red, April CLE should help, sign up if you can
- VI. Rick is working on setting up the prior presentations and links to be accessed online and should be up and running by Friday
- VII. Representative Ken Andrus – Rep. Andrus is a rancher, has been sympathetic to issues re: animal cruelty and torture
 - a. Animal cruelty previous legislation – Rep. Andrus has been on the house Ag Committee for 10 years. Every year a bill comes to increase penalties for animal abuse. Two years ago, due to a threat of a ballot initiative, the Cattleman’s Association drafted a bill that makes it a felony for 3rd offense but had to prove intent. Rep. Andrus sat down with Lisa Kauffman and Jeff Rosenthal and felt they needed to do something that was reasonable that protected livestock. He crafted legislation to address cock fighting (dog fighting had been previously addressed following the Vick case). He drafted a bill that cock-fighting organizer, where gambling is also present, is a felony on the 1st offense. If gaffs attached or inject the roosters w/ a drug, then it is a felony on the 2nd offense. Addressed torture as well – “malicious intent” to cause pain or suffering is a felony on 2nd offense. Senate refused to hear the bill. Two years ago that bill passed except the torture

provision. Senate still won't have a hearing on it, won't have a hearing on any bill dealing with animal cruelty.

- b. Agriculture Protection Bill was passed b/c we wanted to protect privacy of private property. So that begs the question, what have we done in regards to animal cruelty? Nothing. We have protected privacy, but have not done anything re: animal cruelty. The Chair in Senate feels we should not feel threatened by a ballot initiative b/c they are so difficult to get done and he feels that if we give animal welfare groups an inch, they won't stop. What are the chances of a ballot initiative? The public response to the ag gag bill shows that the public is ripe for something like that, b/c of the public outrage. None of us want to tolerate child abuse, spousal abuse, or animal abuse; but can't pass a law that will stop all incidents.
- c. Questions
 - i. Any concern about attracting ag producers with lower standards re: animal care and welfare? No, not really.
 - ii. If an employee takes a photo or video, the law wouldn't apply to that person? If they did so without the owner's permission or consent but were not hired under false pretenses? If used without the employer's permission, yes, that person would be guilty of violating the law.
 - iii. What about whistleblower protections? If you report something to the ID Dept of Agriculture, they are required to investigate.
 - iv. If my boss asked me to do something illegal, could I report that? Not sure, if employee went to the owner and they said "don't report," they might still be in trouble. Actually, there is no law violation unless photos or video are taken.
 - v. Regarding the chair of the Senate Ag Committee – who are his constituents? His constituents were not aware prior to the Ag Protection Act, but now b/c of the publicity, constituents might be more aware.
 - vi. What should a ballot initiative address? Torture on a 2nd offense to a companion animal; avoid neglect b/c people's perceptions are too subjective and most people have no experience with livestock. There is concern that a ballot initiative could go too far. He has warned that them that a ballot initiative could be coming, so if it happens, he will say "I told you so, I warned you."
 - vii. What about the explanation that companion animal torture legislation wouldn't impact livestock? They just say "we aren't going there." Because of the ads against the Ag Protection Act,

some of the groups are trenching in and even more adamant in their position.

- viii. Senate Ag Committee seems hopeless re: animal cruelty legislation, any way to get it presented through another Committee? Senate would likely be supportive of Rep Andrus's bill, so he went to the Pro tem and asked about routing it to another committee and he said no, they won't do that. But dog fighting did go through Judiciary and Rules.
- ix. Any concern about the litigation against similar legislation in Utah – would Idaho legislators tweak the bill if Utah's bill is found unconstitutional? His feeling is do what is right and let the chips fall where they will, if litigation follows, we'll be bound by what litigation dictates.
- x. Thank you to Rep. Andrus for coming!