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From: TVMA [info@tvma.org]

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To: drblount@vonallmen.net

Subject: IMPORTANT: Texas Supreme Court Decision Impacts Veterinary Practice



Texas Supremes Issue Ruling in Pet Damages Case, Medlen v. Strickland

TVMA is happy to report that this morning the Texas Supreme Court handed down a very favorable ruling in the extremely important case of Medlen v. Strickland. This case was on appeal to the Supreme Court as a result of a Fort Worth Court of Appeals decision last year that broke with established legal precedent to allow emotionally based damages in animal injury lawsuits.

The case was filed after the Medlens' dog Avery escaped their backyard and was picked up by local animal control. The Medlens did not have the money to pay the fees required to retrieve the dog from the shelter and were told they could return later and that a hold-for-owner tag had been placed on the dog's cage. Several days later, the dog was accidentally euthanized by shelter employee Carla Strickland, and the Medlens filed suit in the trial court alleging that her negligence proximately caused Avery's death and requested damages for sentimental or intrinsic value. The trial court threw out the case because the traditional damage recovery in such a case is market value or special pecuniary value. However, the Medlens appealed, and the Court of Appeals overturned precedent and sided with them, sending the case back to the trial court to determine damages.

Unfortunately, this ruling was set to stand because appeals are expensive and the City of Fort Worth was responsible for the legal defense of their employee, Carla Strickland. Also, due to other Supreme Court rulings relating to the immunity of city employees that were decided in the time between these cases, the trial court would have thrown out the case on remand, leaving the bad precedent in place to impact and influence cases across the state and country.

This is when the Texas Veterinary Medical Association's Board of Directors decided that it was TVMA's duty to help fight such a precedent that would eventually affect the practice of every veterinarian in the state. Financing litigation is not something that TVMA typically does, but this matter was too important and our board was encouraged by some financial support from the American Veterinary Medical Association.

In its decision, the Supreme Court quoted amicus briefs by the American Kennel Club and the Cat Fanciers Association, which worried that, "*Pet litigation would become a cottage industry,*" exposing veterinarians, shelter and kennel workers, animal-rescue workers and even dog sitters, to increased liability. Further, the decision stated, "*Litigation would arise when pets are injured in car accidents, police actions, veterinary visits, shelter incidents, protection of livestock and pet-on-pet aggression, to name a few.*" The court also noted, "*The Texas Veterinary Medical Association sounds alarms of 'vast unintended consequences,' asserting its members would have no choice but to practice defensive medicine 'to safeguard against potential claims of malpractice.' The unfortunate outcome, they contend, would be higher prices for veterinary care, thus fewer owners bringing in their pets for needed treatment. Families, particularly lower-income families, will avoid preventive care for their pets, not seek needed care for ill or injured pets, and be more apt to euthanize a pet.*"

The court went on to note, "*Dogs are treasured companions whose deaths generate tremendous sorrow;*" however, they indicated their concerns about the wide-reaching public policy implications, noting that such questions are best suited to the legislature. The court said, "*Our carefulness is augmented by two legal policy concerns: (1) the anomaly of elevating 'man's best friend' over multiple valuable human relationships; and (2) the open-ended nature of such liability.*"

This decision is a very well-written and interesting read. If you would like to review it for yourself, please click [here](#). TVMA will certainly be reporting more on the implications of the decision.

TVMA is an association run for and managed by our members that goes to bat for veterinarians in many different arenas whether that be on an individual, legislative, regulatory or now judicial basis. It's often difficult for some veterinarians to understand what TVMA does for them and their practice beyond getting them discounts with our business alliances. Perhaps one of the reasons for this is because it's hard for the association to quantify and explain all of the bad things that TVMA actually stops from happening to our members within the legislative and regulatory environments. This court decision is perhaps the most illustrative of how TVMA seeks to protect our members. The veterinary profession needs and deserves a strong advocate, and we are proud that you allow us to be that advocate.

If you have questions, comments, a legal question or simply want to become more involved in the legislation that impacts your practice, please contact Elizabeth Choate, JD, director of government relations/general counsel at TVMA, by emailing echoate@tvma.org or calling 512/452-4224.



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