How do you put a price on the life of a beloved pet?

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In modern society, it is no exaggeration to say that dogs, cats, and other domestic pets are considered members of the family. An owner's relationship to his or her pet is often characterized by a strong emotional attachment. This phenomenon has undoubtedly contributed to the rise of nationwide animal-medicine practices and hospitals, the burgeoning industry of pet insurance, and the proliferation of pet store chains, pet products, luxury pet resorts, and various other business ventures seeking to profit off the special bond between owner and pet.

It is thus unsurprising that incidents of accidental or intentional injury to beloved pets can be emotionally devastating and especially tragic for their owners. Unfortunately for those pet owners, the law has not caught up to this reality.

The majority of courts continue to adhere to the historic and arguably outmoded rule that classifies domestic pets as chattels or as just another form of personal property, thus they strictly limit the damages recoverable for a pet's injury or death to its "fair market value" and prohibit recovery of any damages for emotional distress, mental suffering, loss of companionship, or other non-monetary losses. In the eyes of the law, the sentimental value of the pet or the special value derived from the familial-like attachment between the owner and his or her pet is unworthy of legal protection in the form of an action for civil damages. In the vast number of cases, this failure to acknowledge the emotion value of pets means a pet's owner is left with little or no recourse because most pets have very little, if any, economic value.

South Carolina's appellate courts have not definitively resolved this issue, although it appears our state will follow the mainstream rule. Several years ago, in Bales v. Judelsohn, 2005-UP-509 (S.C. Ct. App. Aug. 30, 2005), which is an unpublished decision that has no precedential value, the South Carolina Court of Appeals confronted this question in the context of a lawsuit involving negligently inflicted injuries to a pet dog. The Court acknowledged the dearth of state law on the subject, but observed that "[t]ypically, the courts [from other jurisdictions] have limited the award of damages to the dog's market value in view of the general recognition of dogs as personal property."

The Bales decision is in accord with the rule followed in most other states. Most courts hold that the proper measure of damages recoverable for the negligent injury or death of a pet animal includes the pet's fair market value and any reasonable medical costs incurred in

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treating the animal for its injuries. This means that the loss of companionship and emotional injuries resulting from the negligent death of a pet are not compensable injuries.

The outcome may be different if the wrongdoer intentionally or maliciously—rather than merely negligently—caused the injuries to the pet. In such a case of intentional or malicious conduct, the recoverable damages may include the owner's mental suffering as a result of the injury to the pet, but again, South Carolina's courts have not yet addressed this issue.

The wisdom of this distinction in the law is debatable. From the owner's perspective, it matters little whether the loss of his or her pet was the result of some negligent or intentional act. However, until the law catches up with the current concept of the relationship between owner and pet and the new role that pets play in society, pet owners may not receive full compensation for their losses when their pet is injured or even killed unless they can show intentional or malicious conduct.

The attorneys at Rosen Hagood understand that pets are family. If you are struggling with the loss of a pet and need legal guidance, we are here for you.

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