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I have no need for an alarm clock. Every morning without fail, the repeated and increasingly frantic cries of "Where's my mommy?" alert me to the fact that the time has come to get out of bed. The first thing that I do every day after having been awakened in such a manner is get my daughter Daphne and take her into the kitchen, where I prepare a breakfast that we share. As with any parent, my first thoughts in the morning are of Daphne, and likewise, she is the last thing that crosses my mind before I fall asleep at night. Although the sentiment is the same, there is one big difference between me and most parents with whom I am acquainted: my daughter is not a human being to whom I have given birth, but rather a little green Quaker parrot whom I adopted from her biological mother when she was less than six months old. While some may scoff at my affection for this animal, I cannot help but feel the strong bond of love that unites parent and child when she cocks her little head to one side, looks up at me, and asks for her mommy.

Whether or not one can identify with these feelings, one cannot deny that companion animals play an integral role in today's society. Their importance in our lives can be seen in everything from the rise in the availability of animal-oriented products and services, to people's reactions to the most destructive of natural disasters. In the wake of the recent devastation caused by Hurricane Katrina, there was not only a concerted rescue effort directed at human victims, but there was also tremendous concern for the animal companions that many people were forced to leave.
behind. Indeed, many of the images from the aftermath of Hurricane Katrina depict frantic and distraught residents of New Orleans roaming the vestiges of their former homes and towns in search of the animals that many of them consider to be the only family they ever had.

This comment will explore the role of companion animals in the law and propose several necessary steps that courts and legislatures must implement in order to ensure that companion animals are valued as true companions, and not just as property. Part II of this comment will discuss the traditional legal characterization of companion animals as property. It will also explore how courts and legislatures have attempted to lessen the harsh impact of that characterization on guardians whose companion animals are wrongfully killed or injured. Part III will then analyze the extent to which judicial and legislative attempts at compensation have been successful in recognizing the fact that companion animals are more than mere property. Finally, Part IV will propose changes in current judicial and legislative actions to ensure a legal characterization of companion animals that adequately reflects the increasingly important role companion animals play in modern society.

II. BACKGROUND

A. Mere Property: The Traditional Approach

At common law, companion animals were not considered to be property because they were thought to be economically useless creatures kept solely for the personal enjoyment of their guardians; thus, the loss of a companion animal was not compensable at law because its economic value was virtually nonexistent. However, as society changed, courts slowly began to allow limited recovery for the loss of companion animals.

2. For this Comment, I have chosen to follow Debra Squires-Lee's designations of what most people refer to as "pets" and "owners" rather as "companion animals" and "human guardians." I too believe that the former designations wrongly connote property values, rather than suggesting the close bond of companionship and love that can be shared between human animals and those animals of a different species. Debra Squires-Lee, In Defense of Floyd: Appropriately Valuing Companion Animals in Tort, 70 N.Y.U. L. REV. 1059, 1059 n.2 (1995).

3. See Lisa Kirk, Note and Comment, Recognizing Man's Best Friend: An Evaluation of Damages Awarded When a Companion Pet is Wrongfully Killed, 25 WHITTIER L. REV. 115, 118 (2003) (explaining that common law courts based their refusal to characterize companion animals as property on the fact that they served no specific purpose, but were "kept solely for the 'pleasure of their owners'").

4. As one commentator has explained:

As man's concerns about the treatment of animals increased, animal anti-
companion animals are legally considered to be property, the destruction of which gives rise to monetary damages.\(^5\)

Traditionally, the legal approach to recovery for loss of property is based on the property's fair market value.\(^6\) Thus, because companion animals are legally considered to be personal property, the fair market value is the majority-approach employed by courts when determining how to award damages for the loss of a companion animal.\(^7\)

In *McDonald v. Ohio State University Veterinary Hospital*, plaintiff Janice McDonald's eight-year old show dog was severely injured by a negligently performed surgery.\(^8\) In that case, the court held that because dogs are considered by Ohio law to be personal property, the usual market value method of recovery was

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5. See Kirk, *supra* note 3, at 118 (discussing the law's characterization of companion animals as property).

6. See *McDonald v. Ohio St. Univ. Veterinary Hosp.*, 644 N.E.2d 750, 752 (Ohio Ct. Cl. 1994) (explaining that according to Ohio law, dogs are considered to be personal property, and that the standard measure of recovery used for valuation in cases of loss of personal property is the market value standard).

7. See Richardson v. Fairbanks N. Star Borough, 705 P.2d 454, 456 (Alaska 1985) (concluding that because the legal status of dogs is one of personal property, courts generally limit the recovery of damages for the wrongful death of an animal "to the animal's market value at the time of death," although special exceptions have been allowed in cases of "working dogs"); Fackler v. Genetzky, 595 N.W.2d 884, 892 (Neb. 1999) (discussing the majority's characterization of animals as personal property as being consistent with Nebraska law, and therefore as barring any recovery for emotional distress resulting from the negligent destruction thereof); Gill v. Brown, 695 P.2d 1276, 1277 (Idaho Ct. App. 1985) (holding that because the proper measure of damages for the tortious destruction of personal property is the fair market value of the property, the plaintiffs' claim for mental anguish damages for the death of their donkey is barred); Oberschlake v. Veterinary Assoc. Animal Hosp., 785 N.E.2d 811, 812-13 (Ohio Ct. App. 2003) (detailing the Ohio legislature's explicit characterization of dogs as personal property having "all the rights and privileges," and being subject to the same restraints as "other livestock," and thus declining to consider the plaintiffs' claims for noneconomic damages arising from the injury of their dog).

8. *McDonald*, 644 N.E.2d at 751. The dog in *McDonald* was a "notable eight-year-old imported male German Shepherd pedigree," whom the plaintiff had spent much time and effort in training as a sport dog. *Id.* The dog also performed stud services approximately five times, thereby yielding a total of thirty-one puppies, before becoming paralyzed by the surgery. *Id.*

8. *Id.* at 752.
appropriate to determine damages. However, the court noted that market value is a "standard not a shackle," and found that where market value is not readily ascertainable, other factors may be considered in determining the value of the property. In *McDonald*, the court allowed recovery based upon such factors as the dog's unique pedigree and the amount of time and effort that McDonald had spent training him. However, lest the distinction between appropriate and inappropriate factors considered in damage awards in companion-animal cases was to be blurred, the court pointed out that "[s]entimentality is not a proper element in the determination of damages caused to animals."

B. Judicial Discretion: Toward a More Appropriate Valuation of Companion Animals

The law's persistent characterization of companion animals as personal property has consistently impeded courts in awarding damages for their loss. However, more and more courts have attempted to circumvent the consequences of that characterization by allowing greater recovery to companion-animal guardians based on a variety of factors.

1. Awarding Damages for Mental Distress

In *City of Garland v. White*, a city police officer shot and killed the White's three year old male boxer after receiving a call from a neighbor who alleged that the dog came onto her property several times and charged at her. In reviewing the facts, the
Court of Civil Appeals of Texas upheld the lower court’s award to the plaintiffs of $300 for the fair market value of the dog prior to his death and of $200 for the physical pain and mental anguish that Talmadge White suffered from witnessing the killing of his dog.\(^{15}\)

In *LaPorte v. Associated Independents*, the Supreme Court of Florida upheld a damage award based on mental suffering.\(^{16}\) While the plaintiff was making breakfast, her miniature dachshund Heidi was tethered outside of the house.\(^{17}\) After collecting the trash, an employee of the defendant garbage collecting corporation hurled the empty trash can at Heidi.\(^{18}\) When the plaintiff came outside to find her dog injured, the collector but that after one of the officers shot him, the dog ran back to the White residence, jumped into a car, and then ran toward the White’s garage when the three officers started advancing toward him with a shotgun. *Id.* at 15. The officers did not contest the evidence that the dog was not advancing toward them nor acting in a threatening manner at the time they shot him. *Id.* Nor did the officers contest the evidence that they made no inquiry whatsoever as to the dog once they arrived on the White’s property. *Id.*

15. *Id.* at 17. In upholding the lower court’s award of $200 in damages for the mental anguish that Talmadge White suffered, the reviewing court pointed to the evidence presented by White indicating his nervousness, frustration, and related absence from school caused by witnessing the killing of his dog. *Id.* The defendant police officers argued that the mental anguish award was not supported by the evidence, but the appellate court found that White had indeed presented sufficient evidence of the mental anguish and resulting physical pain he suffered as a result of the police officers’ unjustified killing of his dog. *Id.* The court did not draw a clear line between the physical pain and mental anguish suffered by White, and it is unclear whether or not the court would have awarded mental anguish damages for the killing of the animal if the anguish had not been accompanied by attendant physical pain. *Id.* Other cases have suggested, however, that mental anguish suffered because of the tortious killing of a companion animal may in and of itself be compensable at law. See *Gill*, 695 P.2d at 1277-78 (suggesting that the plaintiffs may have a cause of action for the tort of intentional infliction of emotional distress if they could allege and prove that the defendants’ conduct was “outrageous” and that the mental anguish the plaintiffs suffered was “severe”); Langford v. Emergency Pet Clinic, 644 N.E.2d 1035, 1037 (Ohio Ct. App. 1994) (granting summary judgment against a companion animal guardian because of her failure to prove that the defendants’ conduct was intentional or reckless, and that the plaintiff suffered severe mental anguish, thus implying that a claim for intentional infliction of emotional distress could exist if these two elements had been met).

16. *LaPorte v. Associated Indeps.*, 163 So. 2d 267, 268 (Fla. 1964). The judge at the trial level instructed the jury that the plaintiff’s mental suffering was a proper element to consider in awarding the plaintiff damages for the death of her dog. *Id.* at 267. However, on appeal, the appellate court reversed that decision for reconsideration of the amount of compensatory and punitive damages, holding that the plaintiff’s mental anguish over the killing of her dog was not a proper consideration in determining her damage award. *Id.* at 267-68.

17. *Id.* at 267-68.

18. *Id.* at 268.
laughed and left. In upholding the plaintiff's damage award, the Supreme Court of Florida noted that "the affection of a master for his dog is a very real thing and that the malicious destruction of the pet provides an element of damage for which the owner should recover." The court emphasized the defendant's malicious conduct as a basis for allowing the plaintiff to recover damages for her mental suffering.

The court in LaPorte allowed recovery through a new cause of action, based on malice, for emotional distress in cases involving companion animals. This cause of action afforded greater opportunity for recovery to companion animal guardians because it circumvented the necessary elements of both the intentional infliction of emotional distress ("IIED") and negligent infliction of emotional distress ("NIED") causes of action. Thus, while

19. Id.
20. Id. The court found immaterial the evidence presented by the plaintiff as to the physical effects she suffered because of her mental anguish, and narrowed its focus to the question of whether or not the issue of mental suffering was a proper consideration for the jury in its determination of damages.
21. Id. at 269. The Supreme Court of Florida discussed the appellate court's holding that generally, in the case of injury to or destruction of an animal, recovery is limited to the market value of the animal, and that the sentimental value of the animal to the owner is an improper factor to consider in awarding damages. Id. at 268-69. Although the Supreme Court declined to distinguish between "sentimental value" and "mental suffering," it is clear that the court felt uncomfortable with the majority's characterization of animals as mere property, and with the necessary limitation of damages to the animal's market value. Id.
22. Id. at 268. The court in LaPorte followed a rule set forth by a previous Florida Supreme Court decision, which distinguished between mental suffering in the context of intentional or malicious conduct and mental suffering in the context of negligence, for which recovery could only be had if the mental suffering were accompanied by physical injury. Id. Thus, because of the court's characterization of the defendant's actions as malicious and evincing an "extreme indifference" to the rights of the plaintiff, the court allowed for punitive damages based on the plaintiff's mental suffering. Id.
23. See Squires-Lee, supra note 2, at 1078 (explaining that Florida broadened the scope of its emotional distress cause of action to allow for recovery in cases in which the elements of IIED or NIED cannot be satisfied, by creating the malicious infliction of emotional distress cause of action).
24. Id. To recover for the tort of IIED, a plaintiff must show that: (1) the defendant intended to cause the plaintiff emotional distress, (2) the defendant's conduct was extreme and outrageous, (3) the defendant's conduct was the proximate cause of the plaintiff's emotional distress, and (4) the plaintiff's mental distress was of such a serious nature that no reasonable man could be expected to endure it. Langford, 644 N.E.2d at 1037. Most courts hold that for a claim of NIED the plaintiff must have been related to the victim as parent-child, grandparent-grandchild, spouse, or sibling, in order to recover. Rabideau v. City of Racine, 627 N.W.2d 795, 798 (Wis. 2001). Thus, because the relationship between companion animals and human guardians
generally declining to recognize a cause of action for intentional or negligent infliction of emotional distress based on the death of a companion animal, courts have nevertheless employed various rationales in their attempts to appropriately value companion animals.

2. Loss of Companionship

Loss of companionship is based on the concept of consortium, which arises out of the marriage relationship. Given this association, courts have generally declined to consider such an element when awarding damages in companion-animal cases. Although companion-animal guardians have argued for the establishment of a separate cause of action based on the loss of companionship of their companion animals, courts have uniformly refused to create such a cause of action.

Recognizing that significant bonds of companionship can and do exist outside the confines of marriage, some courts have extended the concept of loss of companionship to include recovery of NIED for the death of a dog.

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25. See Daughen v. Fox, 539 A.2d 858, 865 (Pa. Super. Ct. 1988) (explaining that because companionship is an element of consortium, which is a “right growing out of a marriage relationship,” there can be no recovery under Pennsylvania law for the loss of companionship of an animal, which is considered by Pennsylvania law to be personal property); see also Squires-Lee, supra note 2, at 1082 (remarking on the historical expansion of the concept of consortium from being premised solely on conjugal rights between a husband and wife to include claims for the loss of a spouse’s companionship and affection, and noting the inherent inconsistency of courts that recognize the value of the human-companion animal relationship, but refuse to allow compensation for loss of companionship in the context of a relationship that many people consider to be just as valuable as their relationships with other humans).

26. See, e.g., Jankowski v. Preiser Animal Hosp., 510 N.E.2d 1084, 1085 (Ill. App. Ct. 1987) (considering the specific question of whether an independent cause of action for the loss of companionship of an animal exists in Illinois). Here, the plaintiffs brought a claim against the defendant animal hospital and two of its employees after their dog died from negligently administered anesthesia. Id. Although the plaintiffs could have, under existing Illinois law, brought an action for negligent damage to or destruction of property, they chose to bring a claim for loss of companionship before the court, expressly disavowing any property damage claim. Id. The plaintiffs acknowledged that Illinois law characterized dogs as personal property, and thus only allowed market value recovery, but asked the court to recognize an independent cause of action for the loss of companionship of a companion animal. Id. The court, acknowledging that the loss of companionship cause of action has been extended in Illinois beyond the marital relationship to a parent-child relationship, nevertheless refused to further extend that cause of action to human-companion animal relationships, stating that such an extension would be inconsistent with Illinois law. Id. at 1087.
based on such other relationships as parent and child.\textsuperscript{27} A New York trial court in \textit{Brousseau v. Rosenthal} took this expansionary trend one step further when it ruled that loss of companionship was an appropriate element to consider in awarding damages to a guardian for the loss of her companion animal.\textsuperscript{28} The \textit{Brousseau} court based its theory of recovery on the animal's "actual" value as opposed to its market value, because the latter was incapable of calculation under the circumstances.\textsuperscript{29} The court recognized that the loss of her dog was a painful and traumatic event for the plaintiff, and that in order to be adequately compensated for that loss, the plaintiff's emotional damages, including the loss of companionship of the dog, should be taken into account.\textsuperscript{30} Thus, while remaining within the traditional confines of the legal characterization of companion animals as property, courts

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27. \textit{Id.}; see also Squires-Lee, supra note 2, at 1099 n.164 (listing examples of courts that have extended their loss of consortium claim to include relationships such as parent-child, sibling, and unmarried cohabitants).

28. \textit{Brousseau v. Rosenthal}, 443 N.Y.S.2d 285, 286 (N.Y. Civ. Ct. 1980). The dog in \textit{Brousseau} was a healthy, eight-year-old mixed breed that had been given to Ms. Brousseau as a puppy shortly after the death of her husband. \textit{Id.} The testimony in the case indicated that the plaintiff, a retired widow living alone, relied heavily on the dog's watchdog qualities and never left the house at night alone without him. \textit{Id.} Ms. Brousseau delivered her dog to the defendant's kennel for boarding, and was told when she returned to retrieve him that the dog had died. \textit{Id.} at 285. Although Ms. Brousseau consented to having an autopsy performed on her dog, the defendant, Dr. Rosenthal, produced no report, and proffered only contradictory explanations as to the dog's death. \textit{Id.} at 286. The court determined that because the goal of the action was to compensate the plaintiff for her loss, to the "meager extent that money can make her whole," the unusual circumstances of the case mandated the inclusion, in the damage calculation, of not only the dog's protective value to the plaintiff, but also of the loss of companionship that Ms. Brousseau suffered due to the death of her dog. \textit{Id.} at 286-87.

29. \textit{Id.} at 286. The sympathetic \textit{Brousseau} court reasoned that, "[a]lthough the general rules and principles measure damages by assessing the property's market value, the fact that Ms. Brousseau's dog was a gift and a mixed breed and thus had no ascertainable market value need not limit plaintiff's recovery to a merely nominal award." \textit{Id.}

30. \textit{Id.} at 286-87. It should not be overlooked that the \textit{Brousseau} court, in using the "actual value" standard by which to measure damages, did not go beyond the scope of the traditional legal concept of companion animals as property. \textit{Id.} at 286. Rather, the court, in allowing the plaintiff to recover for the loss of her dog's companionship, found a way of circumventing the necessary harshness of limiting recovery in companion animal cases to the fair market value of the animal, thus evincing a certain level of discomfort with the very notion that companion animals are mere property. \textit{Id.} at 286-87. In reading the \textit{Brousseau} opinion, this value judgment manifests itself through the court's use of such language as "it would be wrong" to reject the traditional approach to calculating damages, and in determining that the dog's companionship must be legally acknowledged for the plaintiff to be fully compensated for her loss. \textit{Id.}
following the Brousseau example have begun to extend the concept of loss of companionship to the companion animal context.

C. Legislative Attempts at Companion Animal Valuation

Tennessee was the first state to go beyond the scope of the common law when it enacted legislation dealing with the wrongful death of or injury to companion animals; however, several other states have also proposed similar legislation. Tennessee's T-Bo Act of 2000 permits a companion animal guardian to recover noneconomic damages for the "loss of the reasonably expected society, companionship, love and affection of the pet." However, the statute's narrow definition of "pet" includes only dogs and cats. Moreover, recovery for the death of a "pet" is limited to $5,000, and the statute specifically exempts governmental agencies and veterinarians from liability. Proposed legislation in other states goes beyond the scope of the Tennessee statute by allowing greater economic damages, expanding the definition of "pet," and explicitly allowing for damages caused by the negligence of veterinarians.

31. See Elizabeth Paek, Fido Seeks Full Membership in the Family: Dismantling the Property Classification of Companion Animals by Statute, 25 HAW. L. REV. 481, 517-18 (2003) (detailing the circumstances surrounding the proposal and enactment of the Tennessee statute commonly referred to as "T-Bo"). Paek explains that Tennessee Senator Steve Cohen proposed the bill after his Shitzu, T-Bo, was wrongfully killed by another dog. Id. at 517. Senator Cohen sued in small claims court and was only allowed to recover T-Bo's medical expenses. Id. The Senator was precluded from bringing a claim based on the emotional distress he suffered as a result of T-Bo's death because companion animals were considered to be property. Id. See also Elaine T. Byszewski, Valuing Companion Animals in Wrongful Death Cases: A Survey of Current Court and Legislative Action and a Suggestion for Valuing Pecuniary Loss of Companionship, 9 ANIMAL L. 215, 226-30 (2003) (discussing Tennessee's T-Bo Act of 2000 and surveying proposed and/or failed legislation in other states).

32. T-Bo Act of 2000, TENN. CODE ANN. § 44-17-403 (2003). The statute does not distinguish between intentional and negligent conduct on the part of the defendant, except to the extent that if the conduct resulting in the death of the "pet" is negligent, the death or fatal injury must have occurred on the "owner's" property, or while the "pet" was under the control and supervision of the "owner." Id. The statute also specifies that the limitation on noneconomic damages does not apply to causes of action for IIED or "any other civil action other than the direct and sole loss of a pet." Id.

33. Id.

34. See Byszewski, supra note 31, at 226-30 (examining proposed legislation in states other than Tennessee, and detailing statutory similarities and differences among the various proposed legislation and Tennessee's T-Bo Act of 2000). The proposed California legislation would limit the amount of noneconomic compensation recoverable for the death of a companion animal to $4,000, which, like Tennessee's T-Bo Act, would take into account the "reasonably expected society, companionship, love, and affection of the pet." Id. at 226. The limitations of the proposed California bill are also similar to those of T-Bo. Id. Damages resulting from negligence would be limited to
III. ANALYSIS

The courts' inconsistency in determining the appropriate value of companion animals has led to confusion and uncertainty about those animals' proper place in society and in the law.\(^{35}\) The first part of this analysis will compare and contrast the implications that arise from the courts' various methods of valuing companion animals in the context of their status as property. The second part of this analysis will discuss the implications of the characterization of companion animals as property and will address various arguments that have been made in favor of changing that status. The last part of this analysis will consider the extent to which legislative attempts at providing a uniform method of valuation of companion animals have and have not been successful.

A. Inconsistency and Paradox: Market Value, Actual Value, and Sentimental Value

The majority of courts limit the amount of damages recoverable for the loss of a companion animal to the animal's fair market value.\(^{36}\) However, in an attempt to provide relief to guardians whose companion animals have no ascertainable market value, such as in the case of mixed breeds, courts have allowed recovery to be determined by the animal's "actual value" to her guardian.\(^{37}\) Thus, if a companion animal guardian can prove those cases in which the animal was injured on the property of the owner, or while under the owner's care. Damages would not be allowed in cases in which the defendant is a nonprofit or governmental agency, in cases in which the killed or injured companion animal had previously killed or worried another animal, or in cases in which the defendant is a veterinarian. \(\text{Id.}\)

In contrast to both T-Bo and to California's proposed legislation, Colorado's proposed bill would allow noneconomic damages of up to $100,000, and would make no exemption for veterinarians. \(\text{Id.}\) Yet, unlike most of the other legislation dealing with the death of companion animals, the proposed Massachusetts bill does not mention noneconomic damages, but rather includes loss of a companion animal's companionship in the calculation of the animal's fair market value; nor does the bill limit the dollar amount of recovery. \(\text{Id. at 227.}\)

Other interesting aspects of various proposed legislation include: the use of the term "domesticated pet" as opposed to "companion animal" or simply "pet," as employed by T-Bo (Mississippi); and, the limitation of damages for loss of companionship to $500, and the requirement that the injured companion animal must have been "on the premises of its owner, unlawfully removed from the premises of its owner, or under the direct control and supervision of its owner" (New Jersey). \(\text{Id. at 227-28 (emphasis added).}\)

35. \textit{See} Kirk, \textit{supra} note 3, at 126-29 (noting the contradiction inherent in court decisions that acknowledge the close, oftentimes familial relationship between human guardians and companion animals, but refuse to take that relationship into account when awarding damages).

36. \textit{Id.} at 126.

37. \textit{See} McDonald, 644 N.E.2d at 752 (holding that although market value
that her companion animal has an ascertainable market value, her recovery will be limited to that value; however, in cases in which a companion animal has no ascertainable market value, recovery will be based upon the more flexible actual value standard, which may, at the discretion of the court, include such elements as loss of companionship. This inconsistent and paradoxical system of valuation leads to confusion among companion-animal guardians (and courts as well), by placing a higher value on property that in the open market has virtually no value, and by devaluing property whose value can be ascertained with certainty.

A similar problem arises when courts recognize the bond between companion-animal guardians and their companion animals, but refuse to allow recovery for that bond. Although some courts have gone beyond only awarding market value damages, most courts are still hesitant to focus on the importance of the bond between a companion animal and a human guardian. These courts instead choose to allow expanded damages based on the guardian's mental distress or the willful and malicious conduct of the defendant. Indeed, most courts that have refused to allow damages in companion animal cases based on IIED or NIED, or on loss of companionship as a separate cause of action have emphasized the idea that even though a strong emotional bond may exist between a companion animal guardian and the

is the normal standard employed by the courts in determining damages for the death of a companion animal, a court may also employ the more flexible actual value standard, which allows for consideration of various factors beyond market value that make a companion animal uniquely valuable to his human guardian in cases in which the market value of the animal cannot be "feasibly obtained").

38. Compare Richardson, 705 P.2d at 456 (concluding that because a dog has the legal status of personal property, the lower court was correct in excluding the plaintiffs' "subjective estimation of Wizzard's value as a pet" and limiting the plaintiffs' damages to the market value of the animal), with Brousseau, 443 N.Y.S.2d at 286-87 (holding that the difficulty of measuring the pecuniary value of the plaintiff's loss should not bar her from recovering damages from the death of her dog, and that in order to make the plaintiff whole, the loss of the dog's companionship and protective value must be considered).

39. See Rabideau, 627 N.W.2d at 798 (acknowledging the longstanding bond between humans and animals, but nevertheless holding that the law's characterization of animals as personal property bars the plaintiff from bringing a claim for emotional distress based on the loss of her dog).

40. See Gill, 695 P.2d at 1277-78 (holding that although the plaintiffs could not recover for their emotional damages in the context of their property damage claim, recovery could be had for these damages in connection with the independent tort for IIED, if the plaintiffs could prove that the defendant's conduct was "outrageous" and that the plaintiffs' mental distress was "severe"); LaPorte, 163 So. 2d at 268-69 (allowing the plaintiff to recover emotional damages for the loss of her dog where the defendant's conduct was "malicious and demonstrated an extreme indifference to the rights of the petitioner").
companion animal, that bond is not legally recognized, and therefore cannot serve as a basis for recovery.\footnote{See Fackler, 595 N.W.2d at 892 (disallowing the plaintiffs' claim for emotional damages based on the negligent killing of their horses because although "[people may develop an emotional attachment to personal property," the law's very characterization of animals as property precludes recovery for its negligent destruction); Nichols v. Sukaro Kennels, 555 N.W.2d 689, 691 (Iowa 1996) (holding that in order for the plaintiffs to recover damages for emotional distress, they would have to be related to the victim as a spouse, or be "related to within the second degree of consanguinity or affinity").}

\textit{Rabideau v. City of Racine} is illustrative of the public policy concerns courts have used in declining to allow the relationship between a companion animal and guardian to serve as a basis for recovery in cases in which recovery has traditionally been limited to certain legally recognized relationships.\footnote{Rabideau, 697 N.W. 2d at 799.} In \textit{Rabideau}, after describing the longstanding relationship between dogs and humans, the court nonetheless declined to allow the plaintiff to recover for the emotional distress she suffered as a result of her dog's death.\footnote{Id.} The court's decision, based on "well-established public policy criteria," expressed concern that a legal recognition of the relationship between the plaintiff and her dog would open the door to claims for emotional damage arising from relationships between humans and any other type of animal. As the court reasoned: "Humans have an enormous capacity to form bonds with . . . an infinite number of other beings that are non-human."\footnote{Id.}

The court's "floodgates" argument does not address the fundamental question of why the relationship between humans and nonhuman animals should not be legally recognized. This argument does, however, express a general distaste, shared by the majority of courts, for allowing that relationship to stand on equal legal footing with relationships between human beings.\footnote{See Jankowski, 510 N.E.2d at 1086 (distinguishing the loss of companionship cases on which the plaintiff relies from the case at bar on the basis that the former involved "human beings, not dogs").}

While courts have difficulty articulating exactly why relationships between humans and nonhuman animals should not stand on equal footing with other legally recognized relationships, companion-animal guardians find no difficulty at all in expressing why they should: because the relationship between a companion-animal guardian and her companion animal is as important as any other relationship in her life.
B. Like a "Prized School Ring": No More Than Property?  

Despite whether we consider our companion animals to be family members, the majority of courts continue to characterize these animals as items of personal property. However, at the same time, most courts that find themselves constrained by the animals-as-property paradigm express an intrinsic discomfort with that notion. In Johnson v. Douglas, the Supreme Court of New York recognized the fact that many people consider their companion animals to be members of the family, yet refused to allow recovery for the plaintiffs' emotional distress caused by witnessing the killing of their dog. The court in Johnson was primarily concerned with the idea that, were it to allow emotional damage recovery based on the death of a dog, it could not justifiably deny recovery to plaintiffs who suffered emotional damage due to the destruction of other items of personal property, such as "a family heirloom or prized school ring." No legal analysis is required to explain the seeming inconsistency of the Johnson court's disposition of the case and its simultaneous expression of empathy for the plaintiffs. Just as the court in that case was concerned about the legal implications of allowing emotional damages based on one form of "property," we should all be concerned about the social and moral implications of allowing animals to be deemed legally equal to a "prized school ring." If animals are considered to be no more than items of personal property, what is there to stop us from tossing them aside when we tire of them, or from destroying them on a whim?

46. In ruling against allowing the plaintiffs to recover emotional distress damages based on the negligent killing of their dog, the Supreme Court of New York in Johnson v. Douglas likened companion animals to "a family heirloom or prized school ring." Johnson v. Douglas, 723 N.Y.S.2d 627, 628 (N.Y. 2001). Although most of us would consider this comparison to be flagrantly offensive and intuitively wrong, it is illustrative of one of the main problems to which the legal classification of companion animals as property can lead.

47. The Supreme Court of Wisconsin in Rabideau, while denying the plaintiff's emotional distress claim based on the death of her dog, pointed out that though it was confined to analyze the case in a property context, it was "uncomfortable with the law's cold characterization of a dog... as mere 'property.'" Rabideau, 627 N.W.2d at 798.


49. Id.

50. Id.

51. There has been much important case law, as well as scholarly theory, suggesting that at the very least, companion animals should be considered as a special category of property, conceptually distinct from real property. See Paek, supra note 31, at 508 (discussing a Texas appellate decision in which the judge recognized the fact that companion animals belong in a "unique category of 'property' that neither statutory law nor case law has yet recognized").
In fact, the law has already implicitly recognized that animals are more than mere property by passing animal anti-cruelty statutes.\textsuperscript{52} If animals were truly no more than property, there would be no need for Congress to enact statutes that specifically single out animals from all other types of "property" for special protection.

Many important arguments for changing the legal status of animals as property have been made in recent years.\textsuperscript{53} Such arguments have generally been met with a backlash, as have nearly all important social movements throughout history.\textsuperscript{54} One of the biggest concerns with the abrogation of animals' status as property has been the idea that the elimination of that status will lead to granting animals independent rights as individuals, which would in turn lead to the breakdown of an economy that is partly based on animal exploitation.\textsuperscript{55} Although this type of "floodgates" argument may sound persuasive, the premise on which it is founded is not sound. Abrogating animals' property status for the purposes of tort law (i.e., allowing causes of action based on emotional distress or loss of companionship suffered at the death of a companion animal) does not necessarily imply that animals should be given the same rights enjoyed by humans.\textsuperscript{56}

\textsuperscript{52} See id. at 513-14 (explaining that the very enactment of animal anti-cruelty statutes in all fifty states, as well as the more than sixty federal statutes, impliedly acknowledges that animals are more than just property); Squires-Lee, supra note 2, at 1071-72 (noting that, although tort law classifies animals as personal property other types of law, exemplified by animal cruelty statutes, recognize the fact that animals are different from personal property).

\textsuperscript{53} See GARY L. FRANCIONE, RAIN WITHOUT THUNDER: THE IDEOLOGY OF THE ANIMAL RIGHTS MOVEMENT 177 (1996) (asserting that animal rights activists will achieve no progress in the struggle for legal rights for animals as long as animals have the legal status of property); Root, supra note 1, at 446 (proposing that by removing the property label from animals courts will achieve greater flexibility in awarding damages in companion animal cases); Paek, supra note 31, at 524 (arguing that the abrogation of animals' legal status as property is necessary in order to accurately reflect modern social values regarding companion animals).

\textsuperscript{54} Lisa Kirk exemplifies the typical concerns with the animal rights movement worrying that the elimination of companion animals' property status will lead to giving all animals "rights," which will in turn lead to "the demise of the meat industry and possibly scientific experimentation." Kirk, supra note 3, at 134.

\textsuperscript{55} Id.

\textsuperscript{56} As Harold W. Hannah states: "One of the reasons for removing the property status from an animal is to permit its owner to recover for emotional distress." Hannah, supra note 4, at 576. Hannah goes on to point out that the basis for recovery in such a claim is the relationship of the animal and his human companion. Id. While some people advocate the abrogation of the property status of animals as a necessary step in the fight for complete animal rights arguments like Hannah's demonstrate that others find the elimination of animals' property status necessary only for the limited purpose of promoting judicial recognition of the relationship between companion animals and
C. Deconstructing Legislative Attempts at Full Valuation of Companion Animals

As the first of its kind, Tennessee's T-Bo Act has been hailed as a significant advancement in the fight for full valuation of companion animals.57 The statute codifies the important value that society places on companion animals by awarding noneconomic damages for "loss of the reasonably expected society, companionship, love and affection of the pet."58 Whereas courts may employ various rationales for awarding (or not awarding) noneconomic damages to a companion-animal guardian, the Tennessee legislature explicitly provided that the statutory basis for an award of noneconomic damages is the special relationship of "society, companionship, love and affection" shared by human guardians and companion animals. Other proposed legislation dealing with companion animals has gone so far as to recognize that "companion dogs and cats often are treated as members of a family."59

The trend of legislative valuation of the relationship between human guardians and companion animals is an inexorable manifestation of the values of our modern society. But statutes such as T-Bo create new problems that must be addressed before the role of companion animals in the law can properly be determined. As the Supreme Court of Wisconsin noted in Rabideau, "Humans have an enormous capacity to form bonds with dogs, cats, birds and an infinite number of other beings that are non-human."60 Yet T-Bo narrowly defines the term "pet" to include only "domesticated dog[s] or cat[s] normally maintained in human guardians. Allowing that relationship to stand as the basis for an award of damages would reflect the real importance of that bond.

57. Elizabeth Paek calls Tennessee's enactment of the T-Bo statute an example of an impressive advancement "in facilitating an animal guardian's recovery of non-economic damages for the wrongful death of their companion animal." Paek, supra note 31, at 517. See also Root, supra note 1, at 435 (noting that the T-Bo Act is a "positive development" in the struggle for appropriate companion animal valuation and that T-Bo "provides a starting point for other states to adopt similar statutes").

58. T-Bo Act of 2000, TENN. CODE ANN. § 44-17-403 (2003). The statute places a limit of $5,000 on the non-economic damages that may be awarded for the death of or injury to a companion animal, but subsequently specifies that that limit "shall not apply to causes of action for intentional infliction of emotional distress or any other civil action other than the direct and sole loss of a pet." Id.

59. Paek, supra note 31, at 519 (quoting general assembly findings and determinations proposed in Section 13-21-1001 of Colorado House Bill 03-1260). Paek points out that the proposed Colorado bill would go beyond the scope of T-Bo by far exceeding the maximum recovery of non-economic damages for the death of a companion animal and by specifically including liability for veterinarians. Id.

60. Rabideau, 627 N.W.2d at 799.
or near the household of its owner.\textsuperscript{61} While it is true that dogs and cats are the most common type of companion animal, the statutory limitation of the definition of "pet" is an arbitrary distinction that wrongfully excludes relationships between humans and all other types of companion animals from the protection of the law.\textsuperscript{62}

Another important limitation of T-Bo is that it specifically exempts veterinarians, as well as nonprofit and governmental organizations and their agents from liability.\textsuperscript{63} The idea of providing special exemptions for veterinarians finds a notable exception in only one proposed bill to date.\textsuperscript{64} The exemption of veterinarians from liability for negligently causing the death of a companion animal has drawn critical attention from many legal commentators.\textsuperscript{65} While no explanation need be proffered for the veterinary support of this exemption, a viable reason for its existence has yet to be given, especially in light of the fact that veterinarians are some of the most prevalent defendants in cases involving the death of companion animals.\textsuperscript{66} To exclude

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  \item 61. § 44-17-403(b).
  \item 62. Language employed by other statutory attempts at companion animal valuation includes: "pet" (California), "companion cats and dogs" (Colorado), "companion animal" (Massachusetts, New York, Rhode Island), "domesticated pet" (Mississippi), and "domesticated companion animal" (New Jersey). Byszewski, supra note 31, at 226-29. Thus, while several states have expanded upon the definition of "pet" used in T-Bo, others have chosen to employ a definition that, similarly to T-Bo, would restrict recovery to only those cases in which a dog or cat is injured or killed.
  \item 63. Section (e) of the T-Bo Act provides "nor shall this section be construed to authorize any award of noneconomic damages in an action for professional negligence against a licensed veterinarian." § 44-17-403(e).
  \item 64. See Byszewski, supra note 31, at 226 (explaining that the companion-animal bill proposed in Colorado would specifically apply to veterinarians).
  \item 65. Elaine Byszewski explains that veterinarians should not be exempt from liability for a companion-animal's injury or death because of the inherent contradiction in the veterinary profession, itself built on and sustained by the strength of the human/animal bond, yet, insisting that animals are mere property for the purposes of litigation. Byszewski, supra note 31, at 230. Byszewski insists that this type of contradiction is "morally bankrupt." \textit{Id.} Byszewski also points out that courts' inappropriate devaluation of companion animals may lead to decreased levels of safety and consumption as there would be, on the one hand, no pecuniary incentive for veterinarians to use the requisite level of care when treating companion animals, and, on the other hand, no way for companion animal guardians to "accurately assess whether the risk of harm to their companion animal is worth engaging the veterinary services." \textit{Id.} Thus, Byszewski asserts that imposing liability for the death or injury of a companion animal on veterinarians would both appropriately acknowledge the human/animal bond on which the veterinary profession is built, and increase market efficiency by deterring veterinary negligence and ill-informed decision making by companion animal guardians.
  \item 66. See \textit{id.} at 230-31 (rebuttering the argument that drastic increases in veterinary-malpractice insurance would result if liability were to be imposed on veterinarians for the injury to or death of companion animals, by asserting
veterinarians from liability for their negligence when they kill or injure a companion animal is to effectively vitiate, with respect to a considerable number of potential claims, the statutory goal of expanded relief for companion-animal guardians.67

IV. PROPOSAL

A. Counterbalancing the Harsh Effects of the Legal Status of Companion Animals as Personal Property

1. Courts

a. Expanding Existing Causes of Action

Though in recent years there has been an increasing number of exceptions to the courts' general disallowance of emotional distress/mental anguish claims arising out of the relationship between humans and companion animals,68 the majority of courts continue to limit these causes of action (specifically, IIED and NIED) to such well-established legal relationships as parent-child

that passing the cost of increased veterinary-malpractice insurance onto consumers of veterinary services will not necessarily price these services out of the market because companion animal guardians may purchase health insurance for their companion animals).

67. See Root, supra note 1, at 441-46 (emphasizing the significant impact that imposing liability on veterinarians for negligently causing the injury to or death of a companion animal would have on the veterinary profession). Root argues that though veterinarians have traditionally been shielded from liability for emotional damages caused by their negligence in treating companion animals, the imposition of such liability is necessary in order to fully compensate companion animal guardians for their loss when a companion animal is negligently injured or killed. Id. Root justifies the idea of veterinary liability by pointing out the fact that “[t]he function of law is to adapt to the ever-changing views of society,” and argues that because society clearly values companion animals as more than mere property, the law should reflect that belief without discriminating on the basis of who the offender is. Id. at 444. Root also notes that even though it is conceivable that veterinary malpractice insurance would increase if veterinarians were held liable for the emotional injuries caused by their negligence, the full effects of that increase are too speculative to constitute a persuasive argument against imposing liability, especially since many potential claims have been barred by the law's characterization of companion animals as personal property. Id. at 444-45.

68. See LaPorte, 163 So. 2d at 268-69 (holding that although the general measure of damages in the case of injury to or death of a dog is the market value of the animal, awarding the plaintiff damages for the mental anguish that she suffered was appropriate when the conduct of the defendant was malicious); Gill, 695 P.2d at 1277-78 (suggesting that the plaintiffs' allegations that the defendant "negligently and recklessly" shot and killed their pet donkey and that the plaintiffs suffered "extreme mental anguish and trauma" as a result might, if proven, support a claim for intentional infliction of emotional distress) (internal quotation marks omitted).
and husband-wife.\textsuperscript{69} If, however, as many courts have held, the purpose of tort law is to "make the plaintiff whole,"\textsuperscript{70} then courts must be consistent in allowing plaintiffs to recover for the emotional distress they suffer from the loss of a relationship that, although not yet recognized by the law, nevertheless plays an increasingly important role in our modern society.\textsuperscript{71}

Given that most people consider their companion animal to be part of the family,\textsuperscript{72} it is hard to imagine that they would feel the loss of that animal any less intensely than they would the loss of any other family member. Yet the law's refusal to allow the relationship between human guardian and companion animal to serve as a basis for emotional distress recovery constitutes a persistent and arbitrary devaluation of this relationship that is clearly out of sync with modern societal values. To allow companion-animal guardians to recover emotional distress damages for the injury to or death of their companion animal, courts must take the necessary first step and appropriately value companion animals. The courts will thereby serve as a catalyst for the law's recognition of the important role that companion animals play in today's society.

b. Creating a New Cause of Action

Loss of companionship is an element of damages traditionally included in the concept of consortium, which originally arose out of the marriage relationship.\textsuperscript{73} Although there have been

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\item \textsuperscript{69} See Fackler, 595 N.W.2d at 890-92 (upholding the lower court's grant of partial summary judgment in favor of the defendants based on the determination that Nebraska law does not support recovery for mental anguish resulting from the destruction of personal property); Nichols, 555 N.W.2d at 691 (finding that the plaintiffs could not recover for the emotional distress they suffered as a result of their dog's injuries at the hands of the defendant for two reasons: (1) Iowa law requires that a plaintiff must actually witness the tortious event giving rise to the claim, and (2) the plaintiff must be related to the victim "within the second degree of consanguinity or affinity," nor did plaintiffs did not allege that the injury to their dog was malicious); Rabideau, 627 N.W.2d at 798-99 (denying plaintiff's claim for NIED based on the killing of her dog because the plaintiff was not "related to the victim as spouse, parent-child, grandparent-grandchild, or sibling").

\item \textsuperscript{70} See Brousseau, 443 N.Y.S.2d at 285-87 (holding that in order for the plaintiff to be fully compensated for the loss of her dog "to the meager extent that money can make her whole," it was not only acceptable, but moreover necessary to take into account the dog's protective value and the value of the dog's companionship to the plaintiff).

\item \textsuperscript{71} See Paek, supra note 31, at 482-83 (citing statistics that indicate the importance of companion animals in today's society, including the fact that over eighty percent of companion-animal guardians consider their companion animals to be family members).

\item \textsuperscript{72} Id.

\item \textsuperscript{73} See Daughen, 539 A.2d at 865 (explaining that "[c]ompanionship is included in the concept of consortium, which is a right growing out of a
exceptions, the majority of courts remain consistent in their refusal to consider the loss of a companion animal's companionship when determining damages for the death of or injury to a companion animal. Intrinsic in the very term "companion animal" and central to the role that these animals play in our lives is the idea of companionship. Although it may be hard to put a precise definition to the term "companionship," one court has said that loss of companionship is based on an individual's "right to... companionship, society and affection," which forms the basis of the cause of action.

Just as courts have begun to recognize that the companionship in relationships other than marriage is worthy of compensation, courts must now further extend that reasoning. Any human who has ever shared his life with a companion animal knows that the bond of "companionship, society and affection" shared with that animal can be felt just as strongly, if not stronger, than the bonds that unite humans. The very words with which we refer to our companion animals suggest that we truly value the companionship that these animals bring to our lives. A uniform judicial allowance of a cause of action based solely on the loss of companionship of companion animals is an integral step in the fight for full legal recognition of the value of companion animals.

2. Legislatures

The goal of proper valuation of companion animals cannot be achieved by judicial action alone. Federal and state animal anti-cruelty statutes have already implicitly recognized that companion

74. See Brousseau, 443 N.Y.S.2d at 286 (holding that because loss of companionship is a well-established element of damages in New York, the court must consider the loss of the dog's companionship in order to assess the dog's actual value to the plaintiff).

75. See Daughen, 539 A.2d at 864-65 (refusing to allow consideration of the loss of a dog's companionship as an element of damages in order to adhere to the majority view that characterizes companion animals as personal property, and thus allows recovery only for the fair market value of the animal); Jankowski, 510 N.E.2d at 1085-87 (explaining that loss of companionship in Illinois "has been recognized as an element of damages in cases brought under the Wrongful Death Act," which would preclude recovery on the basis of the relationship between human guardian and companion animal, as companion animals are considered by the law to be personal property).

76. Daughen, 539 A.2d at 865.

77. See Jankowski, 510 N.E.2d at 1085 (pointing to the history of the Illinois Wrongful Death Act as a rationale for the extension to other cases of claims for loss of companionship in relationships, such as parent-child, that fall outside the traditional scope of the claim for consortium).
animals are more than mere property. More recently, several state legislatures have passed companion-animal valuation statutes that constitute an important step in the law's recognition of the important role that these animals play in our lives. The very enactment of such statutes paves the way for the eventual fulfillment of the goal to legally value companion animals in a manner consistent with the value that we as a society afford them, but this goal cannot be achieved if we allow ourselves to be content with enactment alone.

In examining Tennessee's T-Bo Act, the first companion animal valuation statute enacted, which has served as a model for similar statutes in other states, it becomes clear that the limitations of the statute constitute a real impediment to the goal of proper companion-animal valuation. As anyone who has ever shared her life with a companion animal other than a dog or cat knows, "Humans have an enormous capacity to form bonds with ... an infinite number of other beings that are non-human." Likewise, as any human guardian of any species of companion animal knows, the fact that the wrongdoer, vis-à-vis the animal, is a licensed veterinarian is immaterial in the context of the guardian's emotional damages. Moreover, the restriction, on an already limited emotional damage recovery, to $5,000 is arbitrary, and cannot come close to compensating the guardian for her actual loss. In order to achieve appropriate legal recognition of the importance of companion animals, statutes such as T-Bo must apply to all companion animals, must not provide exceptions for licensed veterinarians, and must allow more than a nominal monetary recovery for the emotional damages suffered from the loss of a companion animal.

78. See Paek, supra note 31, at 513-14 (reviewing the history of federal and state animal anti-cruelty statutes and determining that their very enactment reveals a concern for animals' rights—at the very least for the right of animals to be treated in a humane fashion—that implicitly acknowledges the fact that animals are not property).

79. As the first companion animal valuation statute to be enacted, Tennessee's T-Bo Act has largely served as a model for other similar statutes, and has incited much commentary from legal scholars about the legislative solution to the problem of companion animal valuation.

80. T-Bo limits the amount of noneconomic damages based on the loss of companionship of the companion animal to $5,000, includes only dogs and cats in its definition of "pet," and provides an exemption for licensed veterinarians. T-Bo Act of 2000, TENN. CODE ANN. § 44-17-403 (2003). For a more thorough discussion of the circumstances surrounding the enactment of T-Bo and its limitations, see supra notes 31-34 and accompanying text.

81. Rabideau, 627 N.W.2d at 799.

82. § 44-17-403(e). T-Bo also does not apply to not-for-profit or governmental agencies or their employees in actions for professional negligence. § 44-17-403.

83. § 44-17-403(a)(1).
B. Rejecting the Animals-as-Property Paradigm

For most people, the idea of removing the property status from animals necessarily connotes placing animals on an equal level with human beings, giving the former all the rights and privileges traditionally enjoyed by the latter. The response to scholars who advocate the abrogation of animals' legal status as property\(^{84}\) has been a general concern that our modern society, based to a certain extent on the exploitation of animals, would fall apart if we were to remove the property label that currently defines the legal relationship between human beings and animals.\(^{85}\) Although a complete animal rights agenda may be a goal for some, a more appropriate and feasible solution, and a solution that would not fundamentally interfere with our modern societal and economic structure, would be to abrogate the property status of animals in the law for the limited purpose of awarding companion animal guardians proper compensation when their companion animal is wrongfully injured or killed. This solution would, practically speaking, be akin to considering animals as a special type of property. Nevertheless, due to the negative connotations of possession associated with property in any context, it would be better to consider animals as a special type of entity, nonhuman, but nevertheless particularly capable of sharing a strong bond of affection and companionship with humans that is recognized under the law. Changing the property status of animals for the limited purpose of appropriately valuing companion animals would allow courts and legislatures greater flexibility to recognize and provide compensation for a relationship that plays an integral role in our modern society.

V. CONCLUSION

This Comment has analyzed the law's current treatment of the relationship between human guardians and companion animals and its historical basis. It has proposed ways in which the law may better reflect the growing societal importance of that relationship. I challenge those who still think that companion

\(^{84}\) See Root, supra note 1, at 446 (advocating the removal of animals' property status in order to reflect modern social values and allow courts more flexibility in awarding damages in cases in which a companion animal is killed or injured); Paek, supra note 31, at 524 (arguing that the property status of all animals must be completely abrogated, and that the enactment of both state and federal statutes currently provides the “strongest force in dismantling the property status of companion animals”).

\(^{85}\) See Kirk, supra note 3, at 134 (equating the abrogation of animals' property status with giving animals independent rights on par with those enjoyed by humans, and concluding that the problem of disparate treatment of companion animals in the law can be solved from within the traditional property framework).
animals should be considered personal property to maintain that conviction after seeing my own precious “property” look up at me and ask for her mommy.