



BLEATS NEWSLETTER

December 2009

Dear Panellists

We hope this newsletter finds you all well and gearing up for the Christmas festivities ahead. We thought it would be a good idea to get in one last newsletter edition before the end of the year to advise you of a number of recent developments including some great RSPCA prosecution results achieved via the generous and superb representation provided by BLEATS Panellists.

Recent cruelty cases

RSPCA v Kachel

BLEATS Panellists Michael Anderson and David Topp secured an excellent result in representing the RSPCA in its prosecution of 19-year-old Kurt Kachel for cruelty to three kittens. Kachel was charged with inhumane killing for drowning two kittens, and cruelty to the third kitten after he admitted to physically hurting the kitten over the course of a week including hitting and kicking it, pulling its tail and throwing it against a wall. Despite suffering severe head injuries this kitten survived and has now been rehabilitated and rehoused.

Kachel received a \$5000 fine, two years probation, and was ordered to pay \$2499.31 in costs, undertake 150 hours of community service, and to attend whatever counselling and or other psychological treatment directed by his probation officer. Michael and David's efforts were praised by the RSPCA Inspectorate Department.

RSPCA v Brew

BLEATS Panellist Christopher George also secured an excellent result for the RSPCA when he appeared in the Southport Magistrates Court on 18 December 2009 in the prosecution of Cassandra Brew. Ms Brew was charged with offences under the Animal Care and Protection Act 2001 for keeping a female dog and her eight puppies in squalled living conditions and for failing to provide appropriate treatment for the mother dog resulting in her emaciation. Below is an excerpt from RSPCA Assistant Chief Inspector Tracey Jackson:

"Another great result for Bleats and we especially would like to thank Bleats barrister Chris George for his professionalism, hard work, and brilliant submissions. Sommer (RSPCA Inspector) described Chris' performance in court as exceptional! The Magistrate obviously had no hesitation in giving us everything we asked for and so the result reflects the quality of legal representation RSPCA were fortunate to have on the day."

Ms Brew was convicted and received a \$3,000 fine and was ordered to pay \$4,426.99 in costs.

RSPCA v Makutu

BLEATS Panellist Gareth Beacham appeared on behalf of the RSPCA in the prosecution of Steven Makutu for failing to treat his dog for a severe injury. RSPCA inspectors involved with the prosecution spoke very highly of Mr Beacham's representation. Below is an extract from an email from RSPCA Inspector Aubra Deardon summarising the outcome of the prosecution:

"Today the matter of Steven MAKUTU was mentioned and finalised before Richlands Magistrates Court.

MAKUTU attended without representation and entered a plea of guilty. He was subsequently fined \$1200.00 (with half to the RSPCA) and ordered to pay both costs of \$71.70 for the filing fee application and \$681.00 for costs of RSPCA and UQ treatment.

Although the comparatives were handed up to the Magistrate and requests were made for a penalty on a scale between \$2000.00 and \$5000.00, a penalty of \$1200.00 was imposed.

In his judgment, Magistrate STJERNQVIST noted several facts. The magistrate fully acknowledged the severity of the injury sustained by the dog, including the fact that it was subsequently euthanased as a result. He made comment that the injury was still on the severe end of the scale in relation to comparatives, however noted several mitigating factors in favour of the defendant when making his determination as to an appropriate penalty. These included his co-operation with RSPCA throughout the entire investigation, his attendance at both mention dates (which he took into consideration as an "early plea"), his subsequent surrender of another puppy he owned to the RSPCA due to financial hardship, his young age, nil previous history, the fact that he wasn't responsible for the injury and several financial issues.

The costs and fine will be referred to SPER.

The defendant was also noted to cry throughout the entire proceedings - which could have weighed heavily on the result."

Poodle case update

In further developments, District Court Judge Devereaux has struck out an appeal of the RSPCA's successful application for the forfeiture of over 100 dogs that were seized during a raid on Geraldine Robinson's Waterford property almost two years ago. Judge Devereaux also refused Ms Robinson's application to amend her appeal on a point of law. This case marked the end of a long line of legal proceedings concerning the dogs' forfeiture to the RSPCA. The RSPCA is now finally able to place the dogs in permanent homes.

The RSPCA thanks barrister Richard Fryberg and Clayton Utz special counsel Tony Deane for their tremendous effort in assisting with this difficult and time-consuming case. The RSPCA may now concentrate on finalising the 147 cruelty charges that have been laid against Ms Robinson.

Disappointing District Court decision

In disappointing news, Judge Pack of the Townsville District recently reduced the original fines handed down to Frederick Dart and Megan Hajridin in the Townsville Magistrates Court for breaching their duty of care under the Animal Care and Protection Act 2001 in respect of over 800 animals including dogs, cats, rats, guinea pigs and birds. Their fines were reduced from \$12,500 to \$5,000 each and the professional costs awarded to the RSPCA were reduced from just over \$60,000 to \$45,000.

RSPCA CEO Mark Townend said the reduction in costs was particularly disappointing considering that the RSPCA has a statutory entitlement to be reimbursed for costs incurred in the course of seizing animals and rendering care while legal proceedings are on foot.

Voiceless Animal Law Toolkit

In other news, Voiceless the Animal Protection Institute recently released its new animal law publication, "The Animal Law Toolkit". The Animal Law Toolkit was launched by the Honourable Justice Ruth McColl AO at the annual Voiceless Awards Event in Sydney. The Animal Law Toolkit is expected to serve an important role in introducing legal practitioners, academics, law students and others to the emerging field of animal protection law. It is a brilliant report on the status of the animal law movement in Australia and includes:

- an examination of key animal law issues;
- a review of many of Australia's significant animal law cases;
- details of animal law courses on offer;
- details of animal law associations; and
- a comprehensive bibliographical reference section.

BLEATS is referred to in the Toolkit on numerous occasions. The Toolkit is freely available to the public and can be downloaded at http://www.voiceless.org.au/Law/Misc/The_Animal_Law_Toolkit.html.

New functions for BLEATS on hold

As you may recall BLEATS introduced two new functions (Legislative Affairs and The Animal Law Program) to its activities in its September 2009 newsletter. These functions have been put on hold pending the appointment of suitable coordinators. The initial coordinator, Jed Goodfellow, is no longer able to take on this role as he has accepted a position as the Prosecutions Officer for RSPCA SA based in Adelaide.

If you would be interested in taking on a role as the coordinator of Legislative Affairs, or the Animal Law Program please contact Tracy-Lynne Geysen at tracy-lynne.geysen@tlglawyers.com.au. Jed is still happy to be contacted at jed.goodfellow@hotmail.com if you are interested and require any assistance or further information about taking on either role.

BLEATS Christmas Party

BLEATS will hold a celebratory party early in the New Year to provide an opportunity for Panellists and prospective Panellists to catch up with one another and meet face to face. Stay tuned for a formal invitation soon.

Merry Christmas and Happy New Year!

On behalf of BLEATS and the RSPCA we would like to again thank all BLEATS Panellists for donating their incredible skill and knowledge in service of the protection of all animals. We would like to wish you all a merry Christmas and a safe and happy holiday season.

Yours sincerely,



Graeme Page SC

This newsletter was prepared by Jed Goodfellow.