

BLEATS

BRISBANE LAWYERS
EDUCATING & ADVOCATING
FOR TOUGHER SENTENCES



WANTED

BLEATS is looking for volunteers who can assist with the following:

- Updating the website when needed and possibly assisting with other web projects.

If you or your firm are interested in helping out please contact Tracy-Lynne.

Alternatively please pass on Tracy-Lynne's email to anyone you know with the right skills who may feel like doing a bit of volunteer work in the spirit of the Season!



Prosecution Updates

Thank you to Tracey Jackson, Assistant Chief Inspector, RSPCA, Queensland.

SALKO-SARRI - a prosecution brought by Inspectorate Operations Manager Daniel Young

A 50 year old Macgregor woman, Merlina Salko-Sarri, pleaded guilty to one charge of cruelty under Section 18 of the *Animal Care and Protection Act 2001*, for placing a small white Poodle-cross dog in a wheelie bin at a vacant dwelling, approximately 300 metres from her home.

The small dog was rescued two days later when neighbours heard it crying, and it was returned safely to its owner. The action was the result of a long-standing dispute between the defendant and the dog's owner.

Daniel used his finely tuned investigative skills to track down the defendant and she made full admissions on the phone and in a record of interview. After hearing submissions from the defendant's solicitor, and taking into consideration the comparatives, the mitigating circumstances and her early guilty plea and cooperation with RSPCA, Magistrate Strofield fined Salko-Sarri \$4,000 plus costs (and 50% moiety to RSPCA). No conviction was recorded. The Magistrate commented that any reasonable thinking member of the community would regard the defendant's actions as reprehensible, and said that he wanted to send a strong message that cruelty to animals will not be tolerated. In this matter RSPCA was represented by BLEATS panel member Mr Joshua Jones of Counsel.

LA RUE - a prosecution brought by Inspector Melissa Barraud

Remington La Rue of Chambers Flat pleaded guilty to breaching his duty of care for failure to provide treatment for a 10 year old Wolfhound-cross dog.

When the dog was seized by the RSPCA the dog was in very poor condition, underweight, had a thick green discharge in both eyes, was suffering a skin condition, and had badly infected ears. The dog emitted a very strong, foul odour. The dog was examined at RSPCA by vet Vicki Lomax, who provided a detailed statement that was tendered in evidence, and which the Magistrate commented was extremely useful. Sadly, the dog had to be euthanased due to its condition and prognosis. Having accepted the defendant's guilty plea, the Magistrate ordered the defendant to pay a \$5,000 fine, with 50% moiety payable to RSPCA, as well as costs of \$608.98.

In this matter the RSPCA was represented by BLEATS panel member Alistair McDougall of Counsel.

BLEATS WISHES TO ACKNOWLEDGE...

Alistair McDougall of Counsel for his time and efforts in the La Rue and Nieass cases.

Michael Byrne QC for his time and efforts with the Dart and Hajridin and Brennan cases.

Joshua Jones of Counsel for his time and efforts in the Salko-Sarri case.

Tracy-Lynne Geysen of Couper Geysen-Family and Animal Law, for her time and efforts in the Brennan case.

Jenni Weick of Couper Geysen-Family and Animal Law, for her time and efforts in the Nieass case.

Beau-Lea Miller – whose witness testimony in the Brennan case was very helpful to the prosecution and whose selflessness and compassion in assisting animals in need was noted by the Magistrate (and by all of us too!)

Alicia Bennett for her valuable assistance in transcribing interview tapes for various matters.



HAJRIDIN AND DART- further prosecution

In 2008 Megan Ann Hajridin and Frederick William Dart pleaded guilty to 131 breaches of the *Animal Care and Protection Act 2011* and were banned for two years from owning dogs or rats for commercial purposes. This prosecution followed an RSPCA raid on their Calcium property where 113 dogs, 488 rats, 73 mice, several guinea pigs and birds, and a cat were seized. The animals were all kept in a tin shed the size of a four-car garage where the defendants also resided. The stench inside the shed was overwhelming and the ammonia inhaled by the inspectors during the seizure caused many to later attend hospital with headaches, sore throats, and coughs associated with likely ammonia poisoning. Greg McGuire of counsel represented RSPCA pro-bono at the lengthy sentencing hearing.

Despite having pleaded guilty to the charges, Mr Dart and Ms Hajridin appealed their convictions but their appeal was dismissed by the Court of Appeal. RSPCA were represented pro-bono throughout the appeal by Richard Fryberg of Counsel. During this time Mr Fryberg also represented RSPCA in several civil matters where Mr Dart and his father sought, amongst other things, to have RSPCA stripped of their powers under the *Animal Care and Protection Act 2011*.

Following further RSPCA raids on their property, on 7 November 2011 Ms Hajridin was found guilty of breaching the court's order on three occasions while Mr Dart was found guilty of breaching the order on one occasion. The couple were also found guilty of several further offences under the *Animal Care and Protection Act 2011* by Townsville Magistrate Kay Ryan. Ms Hajridin and Mr Dart claimed that they had transferred ownership of their business Topdogzdownunder to Mr Dart's father but Magistrate Ryan rejected this argument, noting:

“The purported transfer of the business was a sham designed to circumvent an order which the court would make and indeed did make.”

On 1 December 2012 Ms Hajridin was sentenced to 3 months imprisonment for each of the four breaches of prohibition order offences. This sentence was to be suspended after 1 month and remain

“For an animal person, an animal-less home is no home at all.”

~ CLEVELAND AMORY



POODLE CASE UPDATE

As you may recall from last newsletter, the defendants' application for a stay of proceedings was dismissed with Michael Byrne QC appearing to oppose the application.

On 16 September 2011, the defendants' appeal was dismissed with costs with Brett Charrington of Counsel acting for the prosecution witnesses. Many thanks to Michael, Brett and Alison King from McCarthy Durie Lawyers for their sterling efforts.

Many thanks also to Tony Deane and Ann Taylor from Clayton Utz, Stephen Keim SC and Richard Fryberg of Counsel and for their ongoing involvement and commitment to this case.

Look out for a full summary of the poodle case by Tracey Jackson in the next edition of the BLEATS newsletter.

operative for 12 months. Both defendants were sentenced to 3 years probation, were together ordered to pay more than \$80,000 in costs to RSPCA, and were prohibited from possessing any animals other than desexed companion animals. All of the animals seized, along with all animals currently in the possession of the defendants, were forfeited to RSPCA. A fuller account of this very challenging and important case, as written by Tracey Jackson has been attached separately to this edition of the BLEATS newsletter.

NIEASS - a prosecution brought by Inspector Julia Steley

A 54 year old Glenwood woman, Janice Nieass, pleaded guilty in the Gympie Magistrates Court to six counts of tail docking Rottweiler pups which she had bred. Tail docking is an offence under *the Animal Care and Protection Act 2011*. Magistrate Baldwin fined Ms Nieass \$2,000, with 50% moiety payable to RSPCA, and ordered her to pay RSPCA costs of \$2936.58. RSPCA was represented by Alistair McDougall of Counsel and solicitor Jenni Weick of Couper Geysen-Family and Animal Law.

BRENNAN - a prosecution brought by Inspector Cliff Singer

On 28th October 2011 Lynda and Gary Brennan were found guilty of six charges of breach of duty of care in relation to five horses kept on the couple's One Mile property. The horses were found by Inspector Singer and Inspectorate Operations Manager Daniel Young in extremely poor condition, appearing to have some form of skin disease consistent with bacterial infections and rain scald. All horses also appeared to be suffering from dehydration. The Inspectors were advised by locals that the horses had been left at the property by the defendants who had been evacuated to a local hall due to imminent flooding.

The defendants were both placed on 12 months probation and were prohibited from owning, acquiring or taking possession of horses for 2 years. In sentencing the defendants, the Magistrate took into account the defendants' financial circumstances and their extremely poor health, as well as the extenuating circumstances of the flood. RSPCA was represented by Michael Byrne QC and solicitor Tracy-Lynne Geysen of Couper Geysen-Family and Animal Law.

"If a man aspires towards a righteous life, his first act of abstinence is from injury to animals."

-LEO TOLSTOY

Five minutes with...

BLEATS panel member Matt Black of Counsel takes five minutes out of his busy day to chat with Siobhan Ford.

Hi Matt. How long have you been working in the legal field and what attracted you to the law?

My first degree is actually in criminology, because I was always very interested in criminal justice issues. As part of that study, I observed some criminal trials and became interested in court work. Towards the end of my studies, I did an internship at the Australian Institute of Criminology in Canberra and worked on some research projects that got me more interested in the legal side of things. Of course, there might also have been some influence from watching too many TV shows, like Law and Order. I would say that I first started working in the legal field in 2003, when I worked as an Associate within the Administrative Appeals Tribunal. I found that experience very helpful and interesting. It gave me a good chance to observe lawyers in "action", and started my interest in administrative law. In 2004, I took a position with one of the Queensland tribunals where I was lucky enough to be doing legal research for two tribunal members who have since been appointed as judges. That experience cemented my decision to stick with the law.

What are your main areas of practice and what are some notable cases you have worked on?

My background is in administrative law, and that remains one of my main interests. One of the good things about administrative law is that it covers a very broad spectrum of cases, and it involves principles that can be applicable in many other areas of the law. In fact, a lot of animal law and environmental law involves fundamental administrative law concepts.

My other main areas of practice are family law and criminal law, both of which I enjoy in different ways. They are also both areas which involve a good amount of court work, which is the part I enjoy the most. Couper Geysen, as well as being a supporter of BLEATS, likes to find cases where they can send counsel to court appearances on the shortest of notice. Luckily, I find it almost as entertaining as they do!

I have worked on a couple of cases through BLEATS, which has been both challenging and rewarding. My more notable cases have probably been in the administrative law area, including a Supreme Court judgment regarding the legality of promotion procedures with the police service (*Mills v Commissioner of the Queensland Police Service* [2011] QSC 244) and a Court of Appeal judgment regarding the procedures for releasing prisoners on parole (*Queensland Parole Board v Moore* [2010] QCA 280).

When did you begin volunteering for BLEATS and what attracted you to the cause?

I first put my name down to volunteer with BLEATS when I started at the Bar in March 2010. I have always had pets of one kind or another, and I have a family that values pets highly. I also found the study of animal welfare and rights very interesting at university. I saw BLEATS as a cause that might allow me to contribute to animal welfare in some way.

What changes would you like to see made to the current animal protection laws?

I don't have any specific suggestions for changing current laws, and I tend to think that it is community attitudes and understandings that really need to develop. At present, I think that BLEATS is an excellent way of making use of the existing laws and of drawing attention to animal welfare issues. It would be good to seem an increase in public funding for this type of work, because having laws really only pays off if they are effectively enforced.

Do you have any pets? If so, please tell me a bit about them. If not, what kind of pet would you have, if you were going to have one?

I currently have two cats, although I tend to say I "inherited" them because I didn't pick them and never really intended to have cats. Of course, now I would never part with them. The older cat is named "Turin" and he's nearly 16; the younger is named "Ivy" and she's nearly 9. I grew up with dogs, cats, fish and at one point chickens. I've always had an interest in having a Mexican Walking Fish, but if I get another cat I'd like a Savannah cat. ☺

*BLEATS wishes all its members and friends a very joyous and safe holiday season.
See you for more brilliant achievements in 2012!*