



ANIMAL LAW DOCKET

Practice Tips For Animal Law Cases

Following Sharks, and Their Fins, to the Future of Animal Law

"You've got fins to the left, fins to the right..."¹

*"I've been out in front of a dozen dead oceans,
I've been ten thousand miles in the mouth of a graveyard"²*

The above quotes signify the gratitude we should have for the continued existence, and increased population, of sharks and other finned animals, owing much to animal advocates (including lawyers) working for their protection. They also raise the specter of what might happen if we relented and relaxed, if we did not continue to advocate, for the oceans and all their inhabitants, with the very real potential of oceans losing their diversity and turning into mass cemeteries for the species that are so important to our world, in sea or on land.

That concept made me think about the seminal shark fin cases that concluded favorably for the sharks and the advocates. So I was thrilled to see a recent article that reported that the California Department of Fish and Wildlife had seized a shipment of forty "suspected" shark fins on a plane that had brought them in from Hawai'i.³ I guess the "suspected" qualifier was just a protective addition to the headline, since the article says the "individuals on the plane admitted to possessing shark fins" but the focus for me was that the law written by animal lawyers in 2011, and successfully defended in litigation in 2015 at the Ninth Circuit Court of Appeals and separately in California state court,⁴ was actually having a continued impact on the scourge on our oceans and the inhumanity that is an inherent part of the shark finning industry.

The campaign to end shark finning, and the important victories on two constitutional challenges in the *Chinatown Neighborhood* case, are also part of the precedential set of cases upholding states' rights to prohibit products of animal torture from their borders and their markets.⁵ Animal cruelty, of course, was the genesis of the shark

By: Bruce A. Wagman

Riley Safer Holmes & Cancila

Bruce Wagman is a lawyer with Riley Safer Holmes & Cancila with an almost exclusive practice in animal law (litigation, legislative drafting, education, and counseling), representing both individuals and animal protection organizations. He teaches animal law at three Bay Area law schools, is coeditor of the Animal Law casebook, soon to be in its sixth edition, and the 2017 book Wildlife Law and Ethics, and coauthor of A Global Worldview of Animal Law, published in 2011.

[Read more on page 29](#)



Following Sharks... Continued from page 19

fin prohibition as well as these cases. Section 1 of the original law included the following preamble:

SECTION 1. The Legislature finds and declares all of the following:

- (a) Sharks ... are critical to the health of the ocean ecosystem.
- (b) Sharks are particularly susceptible to decline due to overfishing because they are slow to reach reproductive maturity and birth small litters
- (c) [The decline of shark populations] constitutes a serious threat to the ocean ecosystem and biodiversity.
- (d) The practice of shark finning, where a shark is caught, its fins cut off, and the carcass dumped back into the water, causes tens of millions of sharks to die each year. Sharks starve to death, may be slowly eaten by other fish, or drown because most sharks need to keep moving to force water through their gills for oxygen.



The Court of Appeal affirmed the dismissal of the federal lawsuit seeking to invalidate the law, and recognized the valid basis for the laws:

In 2011, ... finding that shark finning ... continued to “cause[] tens of millions of sharks to die each year,” thereby threatening a critical element of the ocean ecosystem, and that “California is a market for shark fin” that “helps drive the practice of shark finning,” the California legislature passed the Shark Fin Law... see Cal. Fish & Game Code §§ 2021(b), 12000. (Citations omitted).⁶

While the *Chinatown Neighborhood* case and the precedential value of it are key building blocks in establishing states’ rights to keep cruelty off of their shelves, the recent bust of 40 shark fins flown into California reflects a more important notable moment, and one that provides us with a lesson for the past and a roadmap for the future of animal law.

Animal law and the legal movement to use the law to foster positive change for animals are now broadly recognized as “here to stay” by social change commentators, political analysts, and journalists. State legislatures and Congress are seeing more activity in the animal protection realm and are understanding that this is a field that has grown and truly changed the fabric of society. And while animal law is still in its



toddler years in terms of an established discipline, many are inquiring about “what now?” The question arising in so many interviews, articles, podcasts and social media posts is: “What is the future of animal law?” And the recent shark fin bust provides a firm answer.

The shark fin laws were written by careful draftspersons at the Humane Society of the United States,⁷ contemplating both the effectiveness of the law in practice, and the defensibility of the law in court. They were then vigorously defended by the state and a group of intervenor-defendants who were avid supporters of the laws, and who stand to lose big if the laws they had worked so hard for—and the principles in the lawsuits—were shot down. But they were not, leading to at least a partial answer to the question. The recent California plane bust confirms that in many areas, the work has already been done, and that government officials are accepting their obligations and following through with enforcement that establishes that the work from day one was not just worthwhile but achieved the desired end.

So, what is the future? Well, that's easy: keep up the good work, and don't stray from the path. The future of animal advocacy is both learning from, and building on, the success of the past, in just about every area of animal law. The collective of animal lawyers carefully focusing on these issues has made significant legal and practical strides in the food animal area, from sharks to ducks used to produce foie gras, to pigs, egg-laying hens, and veal calves. Ironically, the law around companion animals and animal shelters is the one area that needs further development, and that also has the greatest potential to affect universal change with respect to society's (and the courts' and the legislatures') view of animals. This is because the animals we have in our homes across the country, but especially dogs and cats, are the “gateway species” to a modified view of the way animals fit into our world, and their important connection to us. By promoting and using those animals that the world views in the best fashion, we have the opportunity to shed the spotlight of justice and compassion in all the dark corners of the country (and the world) where other animal species are ignored, commodified, or discounted. In other words: learn from the past and repeat or, “if it ain't broken, don't fix it.”

Although there have been plenty of losses to get to the wins, those who have been leading the charge have been doing it carefully, and prevailing not just for the individual animals, but in establishing specialized legal doctrine to support the work. Creativity and new ideas are vital to any growing legal practice, but so is an adherence to winning formulas. This all supports a determination that relying on tried-and-true methods will continue to propel us forward. The analogy to actual shark life is very apt, as those majestic beings must continue to move forward, or die.



The winning cases bring the animals who are subjects of the statutes and litigation into the courtroom and the halls of legislatures—not literally but figuratively, so that the public, along with judges and lawmakers, can hopefully appreciate the lives and feelings behind the eyes and the nonhuman bodies who the laws will impact.

So certainly one big part of the future of animal law is to continue to work and improve upon the methods that have given the animals so much over the last thirty years—the end to chimpanzee research; the protection of farm animals in various states and the determination from the courts that states get to make their own decisions with respect to animal cruelty; a prohibition on egregious practices like dogfighting, cockfighting, crush videos, and many kinds of live animal acts; the development of a core curriculum in animal law in law schools across the country. Just to name a few.

This reality teaches us much, and also provides another answer, that is, what the future of animal law is **not**. In other words, when we stray from direct impact on individual animals into abstract concepts involving the establishment of some kind of actual civil rights for animals, the public either cannot understand what that means, or does not buy in to the propositions expounded in the more fringe arguments. Those paths and arguments are likely to distract, to waste money and minds, and even possibly to delay positive change, by alienating people who might otherwise agree with general notions of animals as deserving of some protection, and to further the divide between the tiny percentage of people who think these concepts have a prayer, and the much larger portion of society who think there are humans, and then there are all other living beings, and that distinction makes all the difference in how we treat them. ➤ w

Endnotes

1 JIMMY BUFFET, *Fins*, on VOLCANO (MCA Records, 1979).

2 BOB DYLAN, *A Hard Rain's A-Gonna Fall*, on THE FREEWHEELIN' BOB DYLAN (Columbia Records, 1963).

3 Kailee Bryant, *40 suspected shark fins seized from private jet in California, investigation ongoing*, ABC10 (Apr. 29, 2026, 5:35 AM), <https://www.abc10.com/article/news/local/california/shark-fins-seized-private-jet-california/103-e93e34a5-6f41-4f9b-b423-c4e72c855e5c>.

4 See *Chinatown Neighborhood Ass'n v. Harris*, 794 F.3d 1136 (2015); *Asian American Rights Comm. Calif. v. Brown*, No. CGC-12-517723 (Cal. Sup. Ct. Jan. 27, 2012).

5 In *Chinatown Neighborhood*, the court found that the Shark Fin Laws were not preempted by federal laws governing fishing and did not discriminate against out-of-state sellers of shark fins, and therefore, did not violate the dormant Commerce Clause. *Id.*

6 *Chinatown Neighborhood*, *supra* note 4 at 1140.

7 Now known as Humane World for Animals.