

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Appellate Case No. 2024-001363

Sarah Rock,

Petitioner,

v.

Dog Daze of Charleston, LLC
and Charlie Freeman,

Respondents.

APPENDIX

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SC Court of Appeals

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RECORD ON APPEAL
VOLUME II

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

SARAH ROCK,

Plaintiff,

v.

DOG DAZE OF CHARLESTON, LLC and
CHARLIE FREEMAN,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2022-CP-10-05585

AFFIDAVIT OF DR. LESLIE IRVINE

PERSONALLY appeared before me, Dr. Leslie Irvine, who having first been duly sworn,
deposes and says:

1. I am over the age of eighteen and of sound mind to give this affidavit.
2. I am competent to swear to the matters herein and do so of my own free will.
3. I earned a Ph.D in sociology from The State University of New York at Stony Brook.
4. I am a professional sociologist focused on the study of the roles of animals in society.
5. I am a professor of sociology at the University of Colorado Boulder.
6. As a professor of sociology, I teach graduate and undergraduate courses in sociological theory and methods and in the roles of animals in society.
7. I authored numerous books and research articles published in peer-reviewed journals and edited volumes.
8. My professional qualifications, experience, and publications are set forth in my

curriculum vitae attached hereto as **Exhibit A**.

9. As set forth in my curriculum vitae, my research has focused extensively on relationships between people and animals, particularly pets. I have studied the significance of the human-animal bond in various contexts. My research has examined the grief and trauma people experience upon the death of a pet, beginning with the aftermath of Hurricane Katrina and most recently following Colorado's Marshall Fire, which took the lives of an estimated 1000 dogs, cats, and other pets.

10. My opinions stated in this affidavit are made based on my knowledge, research, skill, experience, training, and education in the field of sociology.

11. My opinions stated in this affidavit are made to a reasonable degree of certainty in my field of expertise.

12. The societal status of dogs has evolved significantly in recent decades (Grimm 2014). The way people value and regard animals, in general, and pets, in particular, has changed, such that both scholars and members of the public recognize their roles as family members, companions, and best friends (Franklin 1999; Kellert 1985). Pets are no longer seen as objects, but as "minded" beings who have active roles in relationships with people (Sanders 1999). Research now confirms that dogs and cats (as well as other animals) possess "at least a rudimentary ability to construct meaning—to purposefully define situations and devise coherent plans of action on the basis of these definitions" (Sanders 1999, p. 5).

13. This newer status of dogs is widely accepted throughout the United States (Irvine and Cilia 2017). A 2023 survey by the Pew Research Center reports that 97% of people who have pets regard them as family (Brown 2023; see also Charles 2014; Charles and Davies 2008; The Harris Poll 2015).

14. This status of family member is not simply a turn of phrase; over 50% of the Pew survey respondents consider pets as much a part of the family as human members.

15. Integrating pets into families indicates the presence of deep and mutual emotional bonds. Beyond engaging in the necessary practices of care, such as feeding, walking, and providing veterinary care, people and pets develop close attachments and rely on each other for the emotional support that characterizes kinship (Charles 2014). As family members, pets influence domestic rituals from the mundane, such as finishing the milk at the bottom of a bowl or closing the dishwasher after clean-up (Power 2008), to the noteworthy, such as birthday and holiday celebrations, even receiving their own gifts (The Harris Poll 2015). Courts have also begun to recognize the status of pets as family members, with some “analyzing custody issues with respect to pets in a manner similar to custody issues with respect to children” (Buhai 2020, p. 173; see also

16. The bonds between people and pets reflect the characteristics of specific relationships in which each animal is considered a unique individual. As with relationships between people, one animal cannot simply “replace” another. The relationship with a specific animal is inimitable; it defies imitation (Wilson 2009). In my review of Ms. Rock’s deposition, I saw that she clearly articulates this inimitability in describing her dogs and how they adapted their demeanors once a part of her household. For example, she describes Ruben and Xumi’s relationship as “love at first sight.”

17. The irreplaceability of individual pets means that their death brings significant grief, distress, sadness, depression, helplessness, anger, and guilt (Quackenbush and Glickman 1984; Stallones 1994). Research shows that the emotional impact can be debilitating and enduring (Park, Royal, and Gruen 2023). The person has not only lost the animal, but the relationship that

fundamentally shaped who they are. Notably, research finds that grief following the loss of a pet can be even more intense and severe than that experienced after the death of human family members (Behler, Green, and Joy-Gaba 2020).

18. While even a “normal” pet death can be traumatic, the sudden, unexpected death of a pet, as occurred with Xumi, can result in more pronounced trauma symptoms and other mental health consequences (Irvine and Andre 2023). Moreover, the violent death of a pet, as opposed to a natural death, exacerbates grief, anger, and distress. In Ms. Rock’s case, she experienced both the sudden *and* violent death of Xumi.

19. The death of Xumi fundamentally transformed Ms. Rock’s family. The description of the lethargy and depression experienced by Ruben indicates that Xumi’s death traumatized her mentally and emotionally, beyond the physical injuries she suffered in the attack. This again speaks to the point about the irreplaceability of individual animals. Ms. Rock’s relationship with Ruben has been changed by Xumi’s death. Bringing a new dog into the home would not restore the kind of relationship that Ms. Rock had with the dogs together.

20. Because of the current position of dogs as both legal property and beloved family members, the emotions following the death of a pet seldom receive the same validation or empathy from others that might be provided if the deceased were human. In the aftermath of pet loss, people often feel their emotions are unacceptable. This lack of support, known as disenfranchised grief, leaves those who lose a pet feeling isolation and shame, as well as experiencing reduced quality of life (Spain, O’Dwyer, and Moston 2019).

21. Based on the information provided to me and in my opinion as a scholar of human-animal relationships, Ms. Rock has experienced not only the loss of Xumi’s companionship, but also the disruption of her family life, her work, and her daily routine. It is my opinion that the

support Ms. Rock deserves for the range of impacts she experienced in the aftermath of Xumi's death goes well beyond replacement value.

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FURTHER AFFIANT SAYETH NOT.

Leslie Irvine
Dr. Leslie Irvine

SWORN to before me this 12 day of April, 2024.

Mistie R. Lozinski
NOTARY PUBLIC FOR State of Colorado
My commission expires: March 20, 2027
County of Boulder



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Academic Positions

2014-present Professor, Department of Sociology, University of Colorado Boulder
2004-14 Associate Professor, Department of Sociology, University of Colorado Boulder
1998-04 Assistant Professor, Department of Sociology, University of Colorado Boulder
1997-98 Field Researcher, Center for Social and Religious Research, Hartford Seminary
1996-98 Visiting Lecturer and Assistant Professor, Department of Sociology, Wesleyan University

Education

1997 Ph.D., Department of Sociology, State University of New York at Stony Brook
1992 M.A., Department of Sociology, Florida Atlantic University, Boca Raton
1990 B.A., Department of Art, Florida Atlantic University, Boca Raton
1988 A.A., Palm Beach Junior College, Boca Raton

Books

- 2022 [*Regarding Animals*](#), 2nd. ed., with A. Arluke and C. Sanders. Temple University Press.
• [Audio version](#), Audible.com
- 2019 [*We are Best Friends: Animals and Society*](#), editor. MDPI.
- 2019 [*Narrative Sociology*](#), co-edited with J. Pierce and R. Zussman: Vanderbilt University Press.
- 2019 [*The Social Self and Everyday Life: Understanding the World through Symbolic Interactionism*](#), with K. Charmaz and S. Harris. John Wiley & Sons.
- 2013 [*My Dog Always Eats First: Homeless People and Their Animals*](#). Lynne Rienner.
• 2014 Finalist, Colorado Book Awards
• 2013 Bronze Medal, Independent Publisher Book Awards
• 2013 Honorable Mention, New York Book Festival
- 2011 [*The Self and Society*](#). Cognella Academic Publishing.
- 2009 [*Filling the Ark: Animal Welfare in Disasters*](#). Temple University Press.
• 2021 Paperback edition with new Foreword. Temple University Press.
• 2021 [Audio version](#), Audible.com
- 2004 [*If You Tame Me: Understanding our Connection with Animals*](#). Temple University Press.
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• 2011 Translated into Turkish: *Biz ve Onlar*. Istanbul: İletişim.
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• 2007 Distinguished Scholarship Award, Animals and Society Section, American Sociological Association.
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- 1999 [*Codependent Forevermore: The Invention of Self in a Twelve Step Group*](#). University of Chicago Press.
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Funding Received

- | | |
|------|--|
| 2022 | Sponsorship, "Supporting Well-Being within the Veterinary Community," University of Colorado Office for Outreach and Engagement. (\$500.00) |
| 2022 | Quick Response Grant, "Tracking the Effects of the Marshall Fire on Pets and People" from Natural Hazards Center, University of Colorado, supported by the National Science Foundation (Award #1635593). (\$1969.20) |
| 2016 | American Veterinary Medical Association for "The Value of Pets to Public and Private Health and Well-Being." (\$49,885.00) |
| 2016 | Dean's Fund for Excellence for "The Social Self and Everyday Life: Understanding the World through Symbolic Interactionism." (\$918.00) |
| 2010 | LEAP Associate Professor Development Grant for "Life Histories of Homeless People and Their Pets." (\$3100.00) |
| 2010 | Dean's Fund for Excellence for "Life Histories of Homeless People and Their Pets." (\$700.00) |
| 2007 | Dean's Fund for Excellence for "Young People's Interactions with Livestock in 4H Programs." (\$500.00) |
| 2005 | Quick Response Grant, "Providing for Pets following Disasters Part II: Animal Response Volunteers in Gonzales, Louisiana" from Natural Hazards Center, University of Colorado, supported by the National Science Foundation under Grant No. CMS 0408499 (\$800.00) |
| 2004 | Conference Grant from University of Colorado's Council on Research and Creative Work for 2005 Couch-Stone Symposium of the Society for the Study of Symbolic Interaction (\$2000.00) |
| 2004 | Quick Response Grant, "Providing for Pets following Disasters" (Charlotte County, FL, post-Hurricane Charlie) from Natural Hazards Center, University of Colorado, supported by the National Science Foundation under Grant No. CMS 0080977 (\$818.00) |
| 2004 | Dean's Fund for Excellence for guest speaker, Donna Haraway (\$700) |
| 2002 | University of Colorado's Council on Research and Creative Work for "Self-Perception at the Dawn of the Twenty First Century." (\$600.00) |

Professional Conferences and Presentations

- | | |
|------|---|
| 2022 | Panelist, "Symbolic Interactionism and the Study of Human-Animal Domination." International colloquium, "On Interspecies Domination," University of Liege, Belgium. |
| 2022 | Keynote Speaker, "Lessons Learned from Homeless Pet Owners." Spring Conference, Association for Animal Welfare Advancement , Chicago. |
| 2022 | Featured Speaker, "Street-level Insights from Homeless Pet Owners." Animal Welfare Leadership Roundup, sponsored by Maddie's Fund. |
| 2021 | Featured Speaker, "Lessons Learned from Homeless Pet Owners." Annual conference, Animal Welfare Association of Colorado. |

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- 2021 Panelist, "Human-Animal Studies: Developments, Problematics, Trajectories." Annual meeting, [Human-Animal Studies Israel](#).
- 2021 Featured Speaker, "More-than-Human Families: Animals, Practices, and Personhood." Department of Sociology Virtual Colloquium. University of California-Berkeley.
- 2021 Keynote Speaker, "Lessons Learned from Homeless Pet Owners." [My Dog is My Home's Co-Sheltering Conference](#).
- 2021 Keynote Speaker, "Why Animals Matter for Emergency Management." [Global Animal Disaster Management Conference](#).
- 2020 Keynote Speaker, Conference cancelled due to COVID. "Broken World." Annual conference, The Australian Sociological Association. Australian National University, Canberra.
- 2020 Panelist, "Animals in Crises." [Animals, Climate Change, and Global Health](#) webinar series.
- 2019 Featured Speaker, "Animals and Social Problems: A More-than-Human Perspective." Animals, Ecology, and Society Mini-Conference, sponsored by the Animals and Society Section, American Sociological Association. New York University.
- 2018 Panelist, "Multidisciplinary Health Approaches to Disasters." American Veterinary Medical Association Annual Convention, Denver CO.
- 2018 "Animals, Value, and Vulnerability in Disaster Response" and "Filling the Ark, Animal Welfare in Disasters." Minding Animals International Conference, Mexico City.
- 2017 "My Dog Always Eats First: Homeless People and their Animals" and "Filling the Ark: Animal Welfare in Disasters." Cecil H. and Ida Green Honors Chair lectures, Texas Christian University
- 2017 Plenary Speaker. "My Dog Always Eats First: Homeless People and their Animals." Human-Animal Studies Summer Institute. Center for Advanced Study, University of Illinois at Urbana-Champaign.
- 2016 "The Value of Pets to Public and Private Health and Well Being." Annual Economic Summit, American Veterinary Medical Association, Schaumburg, IL.
- 2016 "Animal Welfare in Disasters." Colorado Animal Welfare Conference, Black Hawk CO.
- 2016 "The Trouble with Service Animals," Annual meeting, Society for the Study of Symbolic Interaction, Seattle WA.
- 2015 "Qualitative Data Analysis Software Workshop," Couch Stone Symposium, Society for the Study of Symbolic Interaction, St. Augustine, FL.
- 2014 "Do Animals have Selves? Exploring Connections, Interactions, and Otherness." Fort Lewis College, Durango CO.
- 2014 "Best Friends: Understanding our Connection with Animals." University of Denver Enrichment Lecture Series.
- 2014 "Bridging the Species Boundary: Understanding the Human-animal Connection." Animal Agency and Selfhood Workshop, Animals and Post-human Futures Research Network, University of Warwick, Coventry, UK.
- 2013 "The Changing Face of Veterinary Medicine." French National Institute for Agricultural Research, RiTME Unit. Paris, France.
- 2013 "My Dog Always Eats First: Homeless People and their Animals." National Museum of Animals and Society Lecture Series, University of Redlands, Redlands, CA.

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- 2012 “My Best Friend and My Family: Narratives of Homeless People’s Relationships with their Pets.” Annual Meeting, American Sociological Association, Denver.
- 2012 “Redemption Narratives among the Homeless: Stories of how Companion Animals saved or Changed People’s Lives.” Annual Meeting, American Sociological Association, Denver.
- 2010 “Filling the Ark: Animal Welfare in Disasters.” Annual meeting, International Association of Emergency Managers, San Antonio TX.
- 2010 “Filling the Ark: Animal Welfare in Disasters.” Annual Natural Hazards Research and Applications Workshop, Broomfield CO.
- 2010 [“Why Animals and Speciesism Matter to Social Justice.”](#) Panelist, CU Boulder Diversity Summit.
- 2008 Plenary speaker. “If You Tame Me.” Annual Compassionate Living Festival, Durham, NC
- 2008 (with Colter Ellis), “Reproducing Dominion: Emotional Socialization in the 4H Youth Livestock Program.” Annual Meeting, American Sociological Association, Boston.
- 2007 (with Lori Peek, Department of Sociology, Colorado State University), “Increasing your Productivity: A Professional Development Seminar.” Annual Natural Hazards Research and Applications Workshop, Boulder CO.
- 2007 Panelist: “Who Let the Dogs Out? Pets in Disasters.” Annual Natural Hazards Research and Applications Workshop, Boulder CO.
- 2006 (with Ann Branaman, Department of Sociology, Florida Atlantic University), “Teaching Workshop in Sociology of Emotions.” Annual Meeting, American Sociological Association, San Francisco.
- 2006 “Social Impact of Animals in Disasters.” Invited speaker, Rocky Mountain Regional Conference on Biodefense and Emergency Animal Response, Colorado State University.
- 2005 Panelist, Hurricane Katrina Quick Response Grant Symposium, sponsored by the Natural Hazards Research and Applications Information Center.
- 2005 “Animals in Disasters: Issues for Sociological Study.” Annual meeting, Society for the Study of Social Problems, Philadelphia PA.
- 2005 “No Longer ‘Us’ and ‘Them’: Sociological Insights into the Connections between Humans and Animals.” Annual meeting, International Society for Anthrozoölogy, Niagara Falls, NY.
- 2005 “The Selves of Animals.” Presented at Willamette University, Salem OR.
- 2005 “Minding Animals: A Workshop on Selfhood and Compassion.” Sixth Annual Ethnography Conference, Buffalo State College, Buffalo NY.
- 2004 “Is it Immoral to Keep Pets?” Presented at Norlin Library’s “It’s Our Treat” Series, University of Colorado, Boulder CO
- 2004 (with Ann Branaman, Department of Sociology, Florida Atlantic University), “Teaching Workshop in Sociology of Emotions.” Annual Meeting, American Sociological Association, San Francisco.
- 2004 Panelist, James Downton’s “Life Gardening Project.” Department of Sociology, University of Colorado Boulder.
- 2003 “‘Hey You Guys!’ Everyday Sexism and Why Language Matters.” Department of Sociology Gender Colloquium, University of Colorado Boulder.
- 2003 “Mead’s Myopia: What his Dog Could Have Told Him about the Self.” Annual Meeting, American Sociological Association, Atlanta GA.
- 2002 Rethinking the Human/Animal Boundary: The Historical Role of Pets in the Construction of Social

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- Class.” Annual Meeting of the American Sociological Association, Chicago IL.
- 2002 Featured Scholar, “Exploring Society,” Video Course, LeCroy Center for Educational Telecommunications
- 2000 Invited panelist, Author-meets-Critics session, *Understanding Dogs: Living and Working with Canine Companions*, by Clinton Sanders. Annual meeting, Eastern Sociological Society, Philadelphia PA.
- 2000 “Seeing Ourselves: The Draw-A-Sociologist Project” (with Patrick Krueger). Poster session, annual meeting of the American Sociological Association, Washington DC.
- 1999 “A Postmodern Design for a Modern Self: Life Narratives in Recovery Discourse.” Annual meeting, American Sociological Association, Chicago IL.
- 1999 “Codependency and Empowerment.” Opening Plenary, Third Annual Feminist Symposium, University of Colorado Boulder.
- 1998 “Narratives of the Self in Codependency.” Annual meeting, Eastern Sociological Society, Philadelphia PA.
- 1995 “In These Rooms: Emotion Management in Codependents Anonymous.” Annual meeting, American Sociological Association, Washington DC.
- 1993 “My Fieldwork Made Me Codependent: Comments on Researching a Twelve-Step Group.” Annual Qualitative Research Conference, McMaster University, Hamilton, Ontario, Canada.
- 1994 (with Robert Dotzler, Rosanna Hertz, Karen Frederick, Ross Koppel, and Susanne Bleiberg Seperson) “Problems of the Profession: Assessing the 1994 Membership Survey.” Annual meeting, Eastern Sociological Society, Philadelphia PA
- 1994 “What is Codependency and Why Are They Saying Such Terrible Things about It?” Women’s Studies Panel, State University of New York at Stony Brook.
- 1994 (with Erich Goode) “Ethical Problems in Qualitative Research.” Department of Sociology Seminar Series, State University of New York at Stony Brook.
- 1993 “Codependency and Recovery: Gender, Self, and Emotions in Popular Self-Help.” Annual meeting, American Sociological Association, Miami Beach FL
- 1993 Discussion leader: “Problems of Reporting Sexual Harassment.” Annual meeting, Sociologists Against Sexual Harassment, Miami Beach FL.
- 1992 “The Pathologizing of Love: A Sociological Analysis of Codependency.” Arts, Humanities, and Social Sciences Research Series, Florida Atlantic University, Boca Raton FL

Awards and Honors

- 2023 Outstanding Faculty Mentor Award from the Graduate Students, Department of Sociology.
- 2019 Excellence in Leadership and Service Award, University of Colorado Boulder Faculty Assembly
- 2018 Helena Lopata Mentor Excellence Award, Society for the Study of Symbolic Interaction.
- 2017 Cecil H. and Ida Green Honors Chair, Texas Christian University.
- 2014 Finalist, Colorado Book Awards for *My Dog Always Eats First*. Boulder: Lynne Rienner.
- 2013 Bronze Medal, Independent Publisher Book Awards for *My Dog Always Eats First*.
- 2013 Honorable Mention, New York Book Festival for *My Dog Always Eats First*.
- 2007 Distinguished Scholarship Award, Animals and Society Section, American Sociological Association, for *If You Tame Me*.
- 2003 Marinus Smith Teaching Award from the University of Colorado Parents Association.
- 2002 Outstanding Faculty Mentor Award from the Graduate Students, Department of Sociology.

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- 2000 Award for dedication to teaching, University of Colorado's Academic Support Assistance Program.
- 1997 Herbert Blumer Award from the Society for the Study of Symbolic Interaction, for "Story Driven: Autobiographical Occasions and the Case for the Narrative Study of the Self."
- 1993 Rose Laub Coser Award for Best Graduate Student Paper in the Study of Gender from the Department of Sociology, SUNY Stony Brook, for "Childbirth without Illusions: A Critical Review of the Literature."
- 1992 Graduate Student Paper Award, Sociology of Emotions Section, American Sociological Association, for "The Pathologizing of Love: Codependency and the Naming of Emotion."
- 1992 Nominated to Alpha Kappa Delta.
- 1990 Nominated to Phi Kappa Phi.

University, College, and Departmental Service

College and University

- 2020-2021 Chair, College of Arts and Sciences Council Online Education and Technology Committee
- 2018-2022 Member, Chancellor's Fellowship Review Committee
- 2019 Member, College of Arts and Sciences Council (Online Education and Technology Committee)
- 2017-present Director, Animals and Society Certificate Program
- 2017 Member, William R. Payden Award Committee, College of Media, Communication, and Information.
- 2017 Member, Joseph L. Frasca Teaching Excellence Award Committee, Leeds School of Business
- 2016-17 Member, General Education Implementation Committee, College of Arts and Sciences
- 2016-2019 Member, Appeals Committee on Academic Rules and Policies, College of Arts and Sciences
- 2015-2019 Chair, College of Arts and Sciences Curriculum Committee
- Member, Executive Committee, Arts and Sciences Council
- 2015-2021 Department of Sociology representative to Arts and Sciences Council
- 2015-2019 Faculty advisor, University of Colorado Student Animal Welfare Society
- 2015 Workshop leader, Qualitative Data Analysis, President's Teaching and Learning Collaborative
- 2013 "'Hey, You Guys' Redux: Why Sexist Language Still Matters." Presented to the NSF GK-12 Fellows Program, Integrated Teaching and Learning Program and Laboratory, College of Engineering and Applied Science.
- 2013 Presenter, Faculty Mentor colloquium series, Miramontes Arts & Sciences Program
- 2013 Workshop leader, Qualitative Data Analysis, University Libraries Digital Humanities Task Force
- 2012-2015 Member, College of Arts and Sciences Curriculum Committee
- 2013-2015 Associate Chair, College of Arts and Science Curriculum Committee
- 2011 Member, subcommittee for College of Arts and Sciences Curriculum Committee (writing requirement review)
- 2010 Panelist, Graduate Admissions Panel, University Village
- 2008-2011 Member, Graduate Fellowship and Dissertation Completion Fellowship review committees, Graduate School
- 2008 Member, Flagship 2030 Taskforce on Graduate Education
- 2008 Member, Graduate Fellowship Committee, Graduate School
- 2008-2020 Faculty Associate, Faculty Teaching Excellence Program
- 2008 Faculty Mentor, President's Teaching and Learning Collaborative
- 2007 Panelist, Creativity in Teaching Workshop for Engineering Lead Teaching Assistants 2007
- Member, University Fellowship Committee
- 2007 Member, Dean's Advisory Committee, School of Journalism and Mass Communication
- 2005-2007 Workshop leader, "The Power of Creativity in Teaching," Graduate Teacher Program Fall Intensive

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2004	Presentation, "If You Tame Me," Norlin Library
2004	Presentation, "If You Tame Me," Department of Psychology
1998-2005	Boulder Faculty Assembly. Subcommittees: Student Affairs Committee, 2003-04; Minority Affairs Committee, 2000-02
2000-2020	Standing Review Committee, Office of Discrimination and Sexual Harassment
1999	Evaluator, Beverly Sears Dean's Small Grant Committee, College of Arts and Sciences

Department

2021-2023	Associate Chair, Undergraduate Program
2022	Chair, Quality Teaching Initiative
2020	Search Committee Chair, Instructor/Continuing Education Liaison
2019	Member, Executive Committee; Merit Review Committee (Spring)
2018	Member, Merit Review Committee; Executive Committee (Spring)
2017	Member, Merit Committee; Executive Committee (Fall)
2016	Chair, Promotion Committee for Lori Peek; Member, Reappointment Committees for Instructors Matthew Brown and Glenda Walden
2014-2016	Member: Merit Committee; Committee on Course Commitment Reallocation
2012-14	Member, Graduate Committee
2013-15	Third-Year Paper Coordinator
2012	Member, Reappointment Committees for Instructors Matthew Brown and Michael Haffey
2005-2011	Webmaster liaison
2005-2010	Associate Chair for the Graduate Program
2010	Chair, Reappointment Committees for Instructors Matthew Brown, Michael Haffey, and Glenda Walden
2008	Chair, Reappointment Committee for Assistant Professor Hillary Potter
2006	Member, Theory Search Committee
2006	Member, ad hoc Grade Appeal Committees (2)
2005	Chair, Search Committee (Qualitative, Gender, Theory position)
1998-2005	Member of Graduate Committee
1998-2011	Theory Comprehensive Examination Committee
1998-present	Coordinator, Departmental Concentration in Qualitative Research
2001	Advisor, Sociology Club
1998-99	Coordinator, Graduate Sociology Forum

Professional Affiliations

American Sociological Association

Sections: Animals and Society, Sociology of Emotions, Social Psychology, Teaching Sociology

International Society for Anthrozoölogy

Professional Service

2022	Discussant, "Sites of Engagement in the Anthropocene" panel. Annual meeting, Human-Animal Studies Israel .
2021	Discussant, "Reconsiderations" panel. Annual meeting, Human-Animal Studies Israel .
2020	Member, Outstanding Recent Contribution in Social Psychology Award, Social Psychology Section, American Sociological Association
2019-2020	Chair, By-law Revision Committee, Society for the Study of Symbolic Interaction
2019	Chair/Discussant, "Emotions and Emotion (Work)," Annual meeting, Society for the Study of Symbolic Interaction
2019	Chair, Mentor Excellence Award Committee, Society for the Study of Symbolic Interaction
2016-17	President, Society for the Study of Symbolic Interaction

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- 2015 President-Elect, Society for the Study of Symbolic Interaction
- 2015 Session Organizer, "Human-Animal Interaction," Annual Meeting, American Sociological Association
- 2015 Session Presider, "Troubling Ethnography," Couch Stone Symposium, Society for the Study of Symbolic Interaction, St. Augustine, FL
- 2014-15 Member, Nominating Committee, Sociology of Emotions Section, American Sociological Association
- 2014-15 Member, George Herbert Mead Lifetime Achievement Award Committee, Society for the Study of Symbolic Interaction
- 2014 Session organizer, "Narrative Analysis," Annual meeting, Society for the Study of Symbolic Interaction, San Francisco
- 2013 Chair, Charles Horton Cooley Award, Society for the Study of Symbolic Interaction
- 2012 Chair, Mentor Excellence Award Committee, Society for the Study of Symbolic Interaction
- 2011 Extramural Reviewer, Initial Review Group Subcommittee, National Institutes of Health/National Institute of Child Health and Development, Human-Animal Interaction Research, The Role of Human-Animal Interaction in Child Health and Development (R03), Washington DC, August 18-19
- 2010-2015 Member, Emergency Services Advisory Committee, American Humane Association
- 2010 Extramural Reviewer, Initial Review Group Subcommittee, National Institutes of Health/National Institute of Child Health and Development, Human-Animal Interaction Research, The Role of Human-Animal Interaction in Child Health and Development (R01 and R03), Washington DC, March 22-24
- 2009-11 Secretary/Treasurer, Animals and Society Section, American Sociological Association
- 2009 Chair, Graduate Student Paper Award Committee, Animals and Society Section, American Sociological Association
- 2006-07 Chair, Animals and Society Section, American Sociological Association 2005-06 Chair-elect, Animals and Society Section, American Sociological Association
- 2003-05 Chair, Membership Committee, Animals and Society Section, American Sociological Association
- 2004 Faculty Advisor to Graduate Student Research Collective, organizing body of 2005 Couch-Stone Symposium, Society for the Study of Symbolic Interaction
- 2004 Session Organizer, American Sociological Association Annual Meeting, San Francisco. Section on Animals and Society, Session title: "Animals and People Sharing the World."
- 2004 Chair, Feminist Mentor Award Committee, Society for the Study of Symbolic Interaction
- 2002-03 Member, Nominations Committee, Sociology of Emotions Section, American Sociological Association
- 2002 Chair, Herbert Blumer Award Committee, Society for the Study of Symbolic Interaction
- 2002-04 Member, Publications Committee, Society for the Study of Symbolic Interaction
- 2002 Member, Organizing Committee, Section on Animals and Society, American Sociological Association
- 2000 & 01 Chair, Graduate Student Paper Award Committee, Sociology of Emotions Section, American Sociological Association.

Editorial Positions

Current:

- 2016-present Editorial Board member, *Sociology Compass* (Social Psychology)
- 2016-present Series Editor, *Studies in Animals and Social Problems*, Palgrave Macmillan
- 2015-present Editorial Board member, *Human-Animal Studies Book Series*, Brill
- 2012-present Editorial Board member, *Animals*
- 2010-present Associate Editor, *Society & Animals*

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2006-present Editorial Board member, *Anthrozoös*

Completed:

2020 Guest Editor, Special Issue, *Animals*, “Encountering Animals.”
 2018-19 Guest Editor, Special Issue, *Social Sciences*, “We are Best Friends: Animals in Society”
 2017-2019 Editorial Board member, *Social Problems*
 2016-2019 Editorial Board member, *Social Psychology Quarterly*
 2012-14 Guest Editor, Special Issue, *Animals*, “Animal Management Following Natural Disasters”
 2008-09 Book Review editor, *Society & Animals*
 2007-08 Guest Editor, Special Issue, *Humanity and Society*, “Social Justice and the Animal Question”
 2006-10 Editorial Board member, *Society & Animals*
 1999-2002 Editorial Board, *Teaching Sociology*
 1999-2004 Book Review Editor, *Qualitative Sociology*

Promotion and Tenure Reviews: Michigan State University (2022); Western Washington University, 2021; Three Rivers University (Kamloops, BC), 2021; Georgia State University, 2021; University of Delaware, 2021; Illinois State University, 2021; University of California-Riverside, 2020; Auburn University, 2019; University of Windsor, 2019; University of Exeter (UK), 2017; Indiana University South Bend, 2014; Northern Illinois University, 2014; Manhattanville College, 2014; Northern Illinois University, 2011; Western Washington University, 2010; State University of New York at Old Westbury, 2010; Montclair State University, 2008

Departmental External Review: University of California at Davis, 2019

Outreach And Community Service

2023 “Lessons Learned from Homeless Pet Owners.” Presented at “The Art of StreetVetting,” London, England
 2023 “Data Collection in Animal-Related Disasters.” Presented to Volunteer Capacity Building Workshop, Colorado Department of Public Health and Environment. Denver, CO
 2022 “Why Cats Matter.” Presented to Founders Society, Dumb Friends League of Denver.
 2022 “Lessons Learned from Homeless Pet Owners.” Presented to Humane Society of Silicon Valley.
 2021, 22 Judge, Colorado Book Awards, Colorado Humanities Center for the Book
 2018, 19 Judge, Colorado Book Awards, Colorado Humanities Center for the Book
 2017 “Filling the Ark: Animal Welfare in Disasters.” Presented to Humane Society of Boulder Valley
 2017 “Animals—and their People—in Disasters: Insights from Sociology.” Presented to HOPE Animal-Assisted Crisis Response Regional Conference, Colorado Springs, CO
 2017 “My Dog Always Eats First: Homeless People and their Animals.” Presented at Colorado Chautauqua Author Series, Boulder CO
 2016, 17 Judge, Colorado Book Awards, Colorado Humanities Center for the Book
 2016 “The Animal Self: Insights from Sociology.” Presented at CU on the Weekend.
 2016 “Protecting Pets in Disasters.” Presented to Longmont Humane Society, Longmont CO
 2015 “My Dog Always Eats First.” Presented to Friday Book Club, Windsor Gardens, Denver CO
 2015 “Why Cats Matter (Even if you don’t like them).” Presented to Longmont Public Library, Longmont CO.
 2014 Keynote speaker, annual fundraiser, Animal Help Now, Longmont CO
 2013 “Exploring the Human-Animal Connection,” Presented to Golden West/Flatirons Terrace Senior Residence, Boulder CO
 2008 “Animals in Disasters.” Presented to Colorado Greyhound Rescue, Lakewood CO
 2007 “Relationships between People and Animals.” Golden West Senior Residence, Boulder CO
 2005 “If You Tame Me: The Sense of Self in Animals.” Presented at “Ideas for Today” series, Boulder CO Senior Center

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- 2005 Humanitarian Award from Humane Society of Boulder Valley
- 2004 "Managing Emotions in Client Services." Presented to Humane Society of Boulder Valley, Boulder CO
- 2004 "Animal Problems/People Skills." Presented to Colorado Federation of Animal Welfare Agencies. Boulder CO
- 2004 Presentation to Ken Benson's Sociology class, Niwot High School, Niwot CO
- 2000 Invited author, "Boulder Reads," a benefit for literacy sponsored by Barnes and Noble
- 2000 Invited speaker, Conference on World Affairs, Boulder CO
- 1999 Invited author/speaker, seventh annual Rocky Mountain Book Festival, Denver CO
- 1998 Mentor, WISE Program, Mapleton Elementary School, Boulder CO
- 1998-2021 Volunteer, Humane Society of Boulder Valley, Boulder CO

Graduate and Undergraduate Students Supervised

Ph.D. Dissertation Committees Chaired (Completed)

- 2021 Hillary Steinberg. "Born and Raised in Pediatrics: Becoming a Patient in a Children's Hospital." Postdoctoral Research Fellow, A.J. Drexel Autism Institute, Philadelphia PA.
- 2020 Sherri Sasnett-Martichuski. "The Transgender Experience: Exploring the Politics of Being." Instructor, Florida Gulf Coast University and University of Colorado Boulder.
- 2020 Laurent Cilia. "'It's Never been a better Time to be a Beekeeper!': Large-scale Beekeeping and the Plight of Honeybees in the United States." Instructor, University of Colorado Boulder.
- 2019 Allison Scott Pruitt: "Managing the Inclusivity-Exclusivity Dialectic: A Comparison of Women in Tech, Funeral Directing, and Cannabis." Data and Evaluation Specialist, The Cloudburst Group, Housing and Community Development.
- 2019 Aaron Johnson, "Being a Bicyclist: A Dramaturgical Analysis of Bicycling and People who ride Bikes." Instructor, University of Colorado Denver.
- 2015 Jenny Vermilya: "Tracking 'Large' or 'Small': The Human-Animal Relationship for Veterinary Students within the Tracking System." Assistant Clinical Professor, Department of Sociology, University of Colorado Denver.
- 2015 James Do: "Becoming Cadets: A Culture of Non-Compliance at the U.S. Air Force Academy" Assistant Professor, United States Air Force Academy, Colorado Springs CO
- 2014 Amanda Shigihara: "A 'Professional Back Place': An Ethnography of Restaurant Workers." Assistant Professor, Department of Sociology, California State University, Sacramento
- 2013 Kristina Kahl: "The Crisis of Social Change for Simple Livers: How a Faith-Based Organization and its Members affect the Voluntary Simplicity Movement." Professor, Social and Behavioral Sciences Department, Front Range Community College, Westminster CO
- 2013 Jesse Smith: "Atheists in America: Investigating Identity, Meaning, and Movement." Associate Professor, Department of Sociology, Western Michigan University, Kalamazoo MI
- 2011 Colter Ellis: "Breeding inequality: Human-Animal Interactions in Beef Production." Associate Professor, Department of Sociology, Montana State University, Bozeman MT
- 2010 Dawn Stanley: "Becoming Psychic: Embodying Incorporeal Experience." Independent scholar.
- 2009 Bryce Merrill: "Making It, Not Making It: Creating Music in Everyday Life." Music Programs Director at Bohemian Foundation, Fort Collins CO.
- 2009 Angel Hoekstra: "A Socio-Cultural Analysis of the Use of Clickers in Higher Education." Lecturer, Humanities and Social Sciences. Anglo-American University in Prague.
- 2008 Jodi Morrow: "Creating the Blue Code: Identity, Gender, and Class in a Police Training Environment." Mortgage broker, Luna Lending, Denver CO.
- 2008 Jennifer Snook: "On Being Heathen: Negotiating Identity in a New Religious Movement." Lecturer, Department of Sociology, Grinnell College, Grinnell IA

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- 2007 William Rocque: "Producing Personhood in Children with Autism." Professor, Department of Sociology, University of Redlands, Redlands CA
- 2005 Keri Brandt: "Intelligent bodies: Women's Embodiment and Subjectivity in the Human-Horse Communication Process." Professor, Department of Sociology, Fort Lewis College, Durango CO
- 2004 Robert Gardner (co-chair with Patti Adler): "Welcome home": Performing place, Community, and Identity in the New West Bluegrass Music Revival." Professor, Department of Sociology, Linfield College, McMinnville OR
- 2004 Patrick Krueger (co-chair with Richard Rogers): "Social, Cultural, and Economic Capital, and Behavioral Investments in Health." Associate Professor, Department of Sociology and Department of Health & Behavioral Sciences, University of Colorado, Denver
- 2003 Kristine DeWelde: "Women Warriors Fight Back: Resistance and White Femininity in Self-Defense." Director of Women's and Gender Studies and Professor of Sociology, College of Charleston, Charleston SC
- 2002 Marnie Enos Carroll: "Internet Chat Rooms: A Comparison of Conversations among Women's, Men's and Mixed Groups." Independent scholar, Santa Fe NM

Major Advisor

Jessica Austin (PhD in progress)

Robert Scott (PhD in progress)

Sal LaPuma (pre-PhD)

Member of Ph.D. Dissertation Committee (Department of Sociology except where noted; *denotes in progress)

- *Raaj Chandran (College of Media, Communication, and Information, University of Colorado Boulder)
- *Jose Sanchez
- *Elizabeth Weltman
- 2021 Joanne Lauck Hobbs (Transformative Studies, California Institute of Integral Studies, San Francisco)
- 2021 Cheryl Anne Travers (School of Health and Society, University of Wollongong, Australia)
- 2019 Melia Repko-Erwin (School of Education)
- 2018 Joshua Trigg (Department of Psychology, Social Work, and Community Services, Central Queensland University, Adelaide, Australia)
- 2017 Fenella Eason (Program in Anthrozoology, University of Exeter, United Kingdom)
- 2017 Jamie Vickery
- 2015 Joanne White (University of Colorado Boulder, Alliance for Technology, Learning, and Society)
- 2015 Colleen Hackett
- 2013 Patrick O'Brien
- 2012 Kristofer Hoyt
- 2012 Sharyn Spicer (Department of Anthropology & Sociology, University of the Western Cape, Bellville, South Africa)
- 2011 Marc Eaton
- 2011 Tabitha Garvin (University of Colorado Boulder, School of Education)
- 2011 Leith Lombas
- 2010 Allison Hicks
- 2009 Alison Hatch
- 2007 Heidi Petersen (University of Colorado Boulder, Department of Philosophy)
- 2007 Charles Murnieks (University of Colorado Boulder, School of Business)
- 2007 Ildiko Rezmuves (University of Colorado Boulder, School of Journalism and Mass Communication)
- 2007 Matthew Vorrell (University of Colorado Boulder, Department of Communication)

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2006 Jin-Kyu Park (University of Colorado Boulder, School of Journalism and Mass Communication)
 2005 Sandra Marker
 2004 Christine DeVries (University of Colorado Boulder, Department of History)
 2004 Amy Leisenring
 2004 Robyn Marschke
 2004 J.T. Young
 2004 Elisabeth Scheff
 2003 Matt Brown
 2003 Glenda Walden
 2003 Anna Maria Russo (University of Colorado Boulder, School of Journalism and Mass Communication)
 2002 Allison Cotton
 2001 Michael Breszniak (University of Colorado Boulder, Department of Psychology)
 2001 Adina Nack
 2000 Jennifer Lois
 1999 Pamela Behan

Master of Arts Committees Chaired

2018 Hillary Steinberg
 2016 Althea Godfrey
 2010 Matt Bear
 2009 Jesse Smith
 2007 Linda Ramos
 2006 Dawn Stanley
 2006 Paula Lewis (University of Edinburgh, Scotland)
 2005 Julie Gailus
 2005 Patricia Vigil
 2001 Cynthia Hernandez

Member of Master of Arts Committee

2022 Sal LaPuma
 2021 Sara Veljic
 2017 Michael Burtis
 2016 Allison Madera
 2015 Jamie Vickery
 2010 Mollie Stauss
 2009 Rolando Perez (University of Colorado Boulder, School of Journalism and Mass Communication)
 2008 Elizabeth Schweigert
 2005 Tamar Silberman
 2003 Christopher McAvoy (University of Colorado Boulder, School of Education)
 2001 Tiffany McNeil
 2001 Rajshree Shrestha
 1999 Rebecca Anderson

Undergraduate Sociology Honors Thesis Committees Chaired

2023 Lillian Herpers, *summa cum laude*; Emily Sickler, *magna cum laude*
 2022 Kaitlyn Sorenson, *summa cum laude*; Hannah Wilkinson, *summa cum laude*
 2016 Summer Sinsigalli, *magna cum laude*
 2015 Wisam Alshaibi, *summa cum laude*
 2008 Lindsay Scott, *summa cum laude*
 2007 Karolyn O'Krent, *summa cum laude*

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2006	Sarah Helper, <i>magna cum laude</i>
2003	Laura Gustaferrero, <i>cum laude</i>
2001	Michelle King, <i>summa cum laude</i>
2000	Adrienne Young, <i>summa cum laude</i>
1999	Shara Brun, <i>cum laude</i>

Member of Honors Committee

2020	Caitlyn Roe (Department of Psychology)
2018	Anisah Spahn (Department of Humanities and School of Education)
2016	Aerin Scoles (Department of Psychology)
2014	Christopher Cavazos (Department of Psychology)
2013	Genevieve Dambrowski (Environmental Studies Program)
2012	Sherri Sasnett (Department of Sociology)
2011	Elyssa Smith (Department of Communication)
2008	Jennifer Donnelly (Department of Psychology)
2006	Heidi Brevick (Department of Sociology)
2004	Meredith McNown (Department of Sociology)
2000	Noelle Oberg (Department of Communication)

Faculty Mentor, Ronald E. McNair Postbaccalaureate Achievement Program

2007-08	Eric Snodgrass
---------	----------------

Faculty Mentor, Undergraduate Research Opportunities Program (UROP)

2022	Isabella (Bella) Trachtenberg
2021	Halima Afra
2016-17	Jenna Bateman, Anisah Spahn
2013-14	Wisam Alshaibi
2010-11	Nancy Keen Palmer
1998-99	Shara Brun

Internships Supervised

2023	Andrew Josephson (Humane Society of Boulder Valley Veterinary Clinic); Sophia Valentine (Louisville Veterinary Clinic); Justin Rapp (Greenwood Wildlife Rehabilitation Center).
2022	Kaylie Flores (Animal Friends Alliance); Hannah Schum (Fall: Humane Society of Boulder Valley; Spring: Greenwood Wildlife Rehabilitation Center); Jasmine Groves (Johnson Lab, EBIO, CU Boulder); Lauren Uram (Fall: Factory Farming Awareness Coalition; Spring: Prairie Dog Coalition); Hannah Wilkinson (Animal Assisted Therapy Programs of Colorado)
2021	Carly Berland (Research Assistant); Kara Brock (Luvin' Arms Animal Sanctuary); Kelly Doody (Groundworks Ranch); Grace Foster (Animal Help Now); Tucker Harju (Humane Society of Boulder Valley Veterinary Clinic); Braden Holt (Animal Help Now); Girija Kulkarni (Boulder's Natural Animal Hospital); Anthony Kunkel (Butterfly Pavilion); Aric McCarty (Animal Help Now); Victoria McCann (Animal Help Now); Tamara Soleta (Humane Society of Boulder Valley); Maddy Stowell (Greenwood Wildlife Rehabilitation Center); Baely Urban (Humane Society of Boulder Valley); Hannah Wilkinson (Animal Assisted Therapy Program); Anne Will (Rocky Mountain School of Animal Acupuncture and Massage)
2020	Madison De Martini, Cheyenne Cooper (Humane Society of Boulder Valley); Isabel Brown (BowHaus); Eric Albanese (Butterfly Pavilion); Paige Lucas (Colorado Horse Rescue); Koby Boynton (Animal Help Now); Holly Woodbury (Laika Magazine)
2019	Grace Hackett (Denver Animal Shelter); Rachel Kisse, Lindsey Visscher, (Humane Society of Boulder Valley); Aynsley Jessip (PetSmart); Paige Lucas (Colorado Horse Rescue); Lissette Montano, Vitor Pagano, and Emiko Patterson (Greenwood Wildlife Rehabilitation Center); Nicole

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- Schroeter (CU and City of Broomfield, CO, Coyote Behavior Study)
- 2018 Ashley Schuler (Humane Society of Boulder Valley); Lindsey Mai (Larimer Humane Society); Brenna Swafford (Greenwood Wildlife Rehabilitation Center)
- 2017 Sophie Mercuris, Zane Haertling, Grace Ronning (Humane Society of Boulder Valley)
- 2017 Diana Trusova (Animal Help Now)
- 2016 Donna Grau, Sophie Mercuris, Mackenzie O'Connell, Diana Trusova (Humane Society of Boulder Valley)
- 2015 Rachel Calomino, Diana Tieu (Humane Society of Boulder Valley); Melissa Angelatos, Kendell Green, Anna Hirsch, Audrey Sabo, Talia Soorenko (Animal Help Now)
- 2014 Brenna Bishop (Humane Society of Boulder Valley)
- 2013 Claire Feigal-Henry, Jessica Schonberg (Humane Society of Boulder Valley)
- 2011 David Cockcroft, (Humane Society of Boulder Valley)
- 2010 Kristin Toler, Haley Lumb, Jen Foland, Bo Gallagher, Peter Pace, and Julie Brock (Humane Society of Boulder Valley)
- 2009 Michael Coringrato, Hannah Dillon, Morgan Embleton, Sadie Thimsen, and Meredith Pedrick,
- 2008 Amy Larson, Ashley Le Rossignol, Katie Finn (Humane Society of Boulder Valley)
- 2007 Kristie Clune, Erin Auerbach, Caitlin Tuel, Heidi Hock (Humane Society of Boulder Valley); Elise Lovell (Longmont Humane Society)
- 2006 Kristie Clune (Humane Society of Boulder Valley)
- 2005 Jessica Fishkin, Julia Morriston, Karolyn O'Krent, Michelle Pendergrass (Humane Society of Boulder Valley); Ruth Fucello; Audra Dixon (Rocky Mountain Animal Defense);
- 2004 Sarah Weingberger (Colorado Public Interest Research Group)
- 2003 Paula Pant, Sarah Weinberger (Colorado Public Interest Research Group)

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

SARAH ROCK,

Plaintiff,

v.

DOG DAZE OF CHARLESTON, LLC and
CHARLIE FREEMAN,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2022-CP-10-5585

STIPULATION

Plaintiff Sarah Rock ("Plaintiff"), by and through her undersigned counsel, stipulates that she was paid in full for and she does not claim damages in this action for the amount needed to purchase a new dog of equivalent breed, physical characteristics, and training as Xumi, the veterinary bills incurred, the travel expenses incurred, and any other expenses she incurred and paid due to the events of July 14, 2022. Plaintiff further stipulates that the damages she claims in this action are limited to claims for her emotional distress, anguish, suffering, loss of companionship, loss of emotional support, and loss of affection and for the lost emotional support and companionship component of the actual value to Plaintiff of her pet dogs Xumi and Reuben.

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Stipulation

Rock v. Dog Daze of Charleston, LLC, et al., 2022-CP-10-5585

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1 STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT 9
2 COUNTY OF CHARLESTON) COURT C.A NO. 2022-CP-10-05585
3
4 Sarah Rock)
5 Plaintiff,)
6 Versus)
7 Dog Daze of Charleston, LLC;)
8 Charlie Freeman)
9 Defendant.)
10
11 H E A R I N G
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13 DATE: April 16, 2024
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15 LOCATION: South Carolina Circuit Court 9
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17 JUDGE: George M. McFadden
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EXHIBITS

(None marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 PROCEEDINGS

2 THE COURT: I have read the motion last night and
3 I'll hear from you. It's unlikely you'll get it through, you
4 strike from this bench though from there. Okay?

5 MR. COBB: The issue about -- David Cobb on behalf of
6 Dog Daze of Charleston LLC and Mr. Freeman on the Defense. The
7 case and obviously lost [indiscernible] to the Plaintiff for
8 what happened [indiscernible], what happened. The Motion to
9 Consider for whether or not the Plaintiff is making a claim for
10 emotional distress after the Jennifer versus [indiscernible].
11 And there are a couple cases that are cited in the motion that
12 are admittedly unpublished opinions, but there's also reference
13 in the cases that you can look to other things to supplement
14 what is in those unpublished opinions.

15 Clearly, the unpublished opinions said that as a matter of
16 policy in this state, your pet is treated as if it were
17 furniture, chair, child whatever. So, the issue here though is
18 whether or not there's -- the best way I can describe the claim
19 is if a person had an animal and that animal was accompanied by
20 a child and they were somewhere for both the child and the
21 animal were injured and the owner/carrier was not present.

22 The parent could not recover from the injury of the child
23 under the Kinard v. Augusta Sash, because that's the case that
24 sets forth the claim for negligence infliction of emotional

1 distress.

2 And for whatever reason, our courts have said that
3 that is a very limited recovery, that is the elements of very
4 specific where you have to have some bad relationship with the
5 injured person. You have to be in the zone of danger and you
6 have to actually contemporaneously perceive the event.

7 And so, if the owner would not be able to recover for
8 injuries for -- you know, God forbid the death of a child.
9 That same owner, that same parent, that same owner should not
10 under South Carolina law be allowed to recover those damages
11 for the injury or the death to the pet. I think that's very
12 clear, that's the basis of the motion. We understand that this
13 has been a very traumatic situation for Ms. Rock, but the way
14 the law is written now, you know, and the other thing about it
15 is too is that if there is going to be a -- of this case. That
16 this is a case that the appellate courts, if there's going to
17 be one needs to make their ultimate ruling.

18 Because one of the issues that floats out there too
19 is that are you going to have prospective application of the
20 new rule or are you going to have retroactive applications of
21 the new rule? Either, does it apply to this case or does it
22 only apply cases to come back? Those are also issues that have
23 to be decided on appeal, but as the case law stands now under
24 the counter brief Augusta Sash's case, she doesn't need any of
25 these elements to recover if in fact, unfortunately, this is

1 her child. So therefore, it's a pretty easy comparison to say
2 she also cannot claim these -- recover under this cause of
3 action for parents. Thank you.

4 THE COURT: Yes, sir. Can I have a reply --
5 response?

6 MR. QUINN: Your Honor, Elliotte Quin for the
7 Plaintiff here. I want to address a couple of points that Mr.
8 Cobb raised. I know you've indicated that you have looked at
9 the materials. In fact, I have a binder of our memo and I'm
10 happy to bring that up if you would like to. But one thing
11 that I want to make sure that you caught because we had to file
12 it separately as we filed an affidavit in support, but the
13 system won't allow us to file that in exhibit but it is
14 included in that binder.

15 Turning to what Mr. Cobb mentioned I think first, Your
16 Honor, we don't dispute that that's our property, I don't see
17 how they could be anything else. We agree that they're our
18 property, the issue is we can attest what did the law allow
19 going to recover for the death, injury of that property.

20 Your Honor, the child analogy that Mr. Cobb says,
21 it's an interesting analogy but I don't think it's on point.
22 The problem there would be that the child can recover for
23 themselves. If the child is injured, the child can bring a
24 claim whether it's through a guardian or whatever other means
25 but can recover. If my pet is injured, I as the owner I'm the

1 only one that can bring the claim. And Mr. Cobb has indicated
2 that this is just emotional distress.

3 As we lay out in the brief, Your Honor, I'd suggest
4 that the Court across the country have looked at this in two
5 different ways to allow Plaintiffs to recover more than just
6 [indiscernible]. I guess let me start with -- as we lay out in
7 the brief. In South Carolina this law -- the law in this issue
8 is unresolved. We have two unpublished, unprecedential, Court
9 of Appeals opinions and then some older case law from 1899 that
10 only addresses whether a pet is property, doesn't address the
11 value issue.

12 The Court is in other jurisdictions, some have said you
13 can recover for emotional distress. You have either emotional
14 distress cause of action or a recoverable emotional distress
15 damages. Other courts have kind of looked at the flip side of
16 it and said, well, your pet is property and it's not property
17 that can just be replaced by going and getting a new one.

18 My dog Fritz at home is not replaceable by just going
19 and getting a new German Shepherd puppy. They aren't one and
20 the same. Each of them provides me with an emotional
21 attachment, an emotional connection that is unique to that
22 individual. And so, the courts have said, when you have that
23 kind of property, you get the actual value to the owner. What
24 is the value to the owner, including loss of companionship,
25 loss of emotional support, loss of attachment?

1 So, I see that as being the other side of the coin of
2 emotional distress. If I lose the companionship, I lose the
3 emotional support. Evidence of that is my emotional distress
4 due to that loss. So, that's the other way of viewing it, Your
5 Honor. So, in general, Your Honor, it is unresolved law in
6 South Carolina as to what the recoverable damages are.

7 We would suggest and we have provided both court
8 decisions from outside of South Carolina as well as affidavit
9 of a sociologist expert, that the role of pets in society has
10 developed over the past decade or over the past hundreds of
11 years. They're no longer just wild beast in the yard that
12 protect us from robbers.

13 They're now members of our family and our sociologist
14 experts says that is broadly accepted across American society.
15 If the common law is going to track changes in society like
16 it's supposed to, it should track that change. And a pet
17 should be treated as property that has a value that is more
18 like a family bible or family pictures. An heirloom, unique
19 value, not replaceable by a substitute unlike your car or your
20 boat that you could just go buy a new one. Thank you, Your
21 Honor.

22 MR. COBB: If I get -- I want to point from the law -
23 - South Carolina law towards Fifth edition. Professor Harper
24 and Professor Felix, I'll start on Page 43. Dealing with this
25 topic it says, "In contrast where mental trauma does not result

1 from a physical trauma, limits are necessary. Given the
2 variety of situations where mental distress has been caught by
3 negligence. It's hard to state precisely reporting concerning
4 these limits." The third example they used is the Agatha Sash's
5 case where it says third, that's on Page 44.

6 "In order to avoid the problem of disproportionate
7 liability arising cases, where mental trauma results from
8 witnessing an injury or from responding emotionally to a
9 physical injury to a friend or relative. The Courts generally
10 deny recovery for such indirect emotional trauma, except very
11 narrowly limited situations." In South Carolina, such indirect
12 emotional distress only recoverable Number 1, under Kinard
13 versus Augusta Sash & Door, which provides a limited right of
14 bystander recovery for emotional distress from witnessing the
15 death of serious injury of a close relative."

16 It also talks about -- the record talks about lawful
17 consortium, wrongful death, special situations which shall
18 apply. So, it goes back to the point of the Plaintiff is
19 chasing in the Bahamas when the incident happened here in
20 Charleston, so she did not see the event.

21 Under Kinard, she does not recover under a negligent
22 infliction of emotional distress theory if that was allowed,
23 because whether it's her -- you know, it's not -- the case
24 doesn't apply to animals but if it was a human being she can't
25 recover from that theory and that's the only viable theory that

1 she can push for her emotional distress Plaintiff, because she
2 did not get injured herself nor did she perceive the event.

3 Mr. Freeman provided, I'm not sure if it's part of
4 the record that you've been provided, but after this happened,
5 he mainly contacts her. He paid for her to come back to
6 Charleston to pay for [indiscernible]. He provided a full,
7 about \$3,000 in reimbursements to her about 1800 that is for
8 her direct expense. The other \$1,200 is for just general,
9 sorry, this happened kind of thing.

10 So, this is not a situation and where she has been
11 hung out to dry. With regards to what she can claim at trial,
12 she can claim, you know, the value of the animal and that --
13 I'm sure that would be at some point some bone of contention.
14 You know, again, not trying to in anyway be disrespectful to
15 her, but the testimony was both of these animals were rescued
16 animals, she paid I think \$200 for one then \$175 for the other
17 one. But, again, I'm not in any way saying that's bad to these
18 animal, but nevertheless that's extorting them. And the only
19 thing this motion is that she can claim whatever she wants to
20 claim regarding the value of the animals or those types of
21 things just left on that day.

22 It's just simply the issue of and she recovered for
23 her mental trauma from what happened and the case law was very
24 clear both on the unpolished opinions, which were then also
25 supported by -- I mean, the unpublished opinions are spot on.

1 I mean, I don't know if you've had a chance to read the
2 unpolished opinions, but one of them has been from last year,
3 2023. And it's spot on and says, "Unfortunately, the owner of
4 the animal is not allowed to recover for emotional distress or
5 trauma from the death of the animal."

6 That's -- while those were in public, they're based
7 off of a reading of the Kinard v. Augusta Sash case based on
8 the motion for -- thank you.

9 THE COURT: Those unpublished opinions have been
10 here?

11 MR. COBB: They were part of Defendants motion; they
12 were here so I do have it.

13 MR. QUINN: You have them in the record, Your Honor.

14 MR. COBB: It's I -- it's all live, I think it was
15 filed, Your Honor.

16 THE COURT: Okay. Yeah, I was completely
17 [indiscernible] with Plaintiff's statement. I think they have
18 no value but [indiscernible] read anyway [indiscernible] since
19 you mentioned Augusta Sash kind and I want to have the People's
20 case. I was his law clerk soon after that, he was quite proud
21 of that case.

22 MR. COBB: Sure. How long was this?

23 THE COURT: All right. You know, I'm going all
24 [indiscernible] this in a few days. Number 1, I've got a hard
25 duck ahead this week. So, any deep diving I do of any ruling

1 will be probably next week or over the weekend. So, deep dig
2 into this. So, be patient as you have been and I appreciate
3 it. Thanks so much.

4 MR. QUINN: Thank you, Your Honor.

5 THE COURT: If I have a further question, I will
6 email it to both sides, I think.

7 MR. COBB: Thank you, Judge.

8 [END OF HEARING]

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CERTIFICATE OF TRANSCRIBER

I, ERIN REILLY, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9, on the 16th day of April, 2024.

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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

March 6, 2025

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Appellate Case No. 2024-001363

Sarah Rock,

Appellant,

v.

Dog Daze of Charleston,
LLC and Charlie Freeman,

Respondents.

BRIEF OF APPELLANT

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STATEMENT OF ISSUES

- I. Did the Circuit Court err in granting summary judgment on the basis that South Carolina law does not permit a dog owner to recover emotional distress damages caused by the tortious loss of or harm to a dog?
- II. Did the Circuit Court err in granting summary judgment on the basis that South Carolina law does not permit a dog owner to recover emotional distress damages caused by the tortious loss of or harm to a dog?

STATEMENT OF THE CASE

Appellant filed this action in the Charleston County Court of Common Pleas on December 5, 2022. Respondents moved for partial summary judgment on July 10, 2023. A hearing on Respondents' motion for summary judgment was held before the Honorable Circuit Court Judge George M. McFaddin, Jr. on April 16, 2024. The Circuit Court granted partial summary judgment for Respondents on May 28, 2024. On June 6, 2024, Appellant moved for reconsideration of the Circuit Court's May 28 Order granting summary judgment. The Circuit Court denied Appellant's motion for reconsideration on July 19, 2024. On August 14, 2024, Appellant filed a stipulation as to the damages claimed in this action, stipulating that her claims are limited to those damages for which partial summary judgment was granted for Respondents. On August 16, 2024, Appellant filed her Notice of Appeal.

STATEMENT OF FACTS

Appellant owned two dogs—Xumi and Ruben—which she regularly boarded at the dog boarding facility owned and operated by Respondents Dog Daze of Charleston, LLC and Charlie Freeman. (R. p. 80, line 3-p. 81 line 20; p. 123 line 18-p. 124 line 18; p. 139, line 16-p. 140 line 5; pp. 229-30; pp. 238-39) Xumi was an approximately twelve pound miniature poodle and Schnauzer mix. (R. p. 64 lines 14-20; p. 230) Ruben was an approximately sixteen pound miniature pinscher and Shih Tzu mix. (R. p. 48, lines 8-10; p. 230) Xumi and Ruben were incredibly valuable to Appellant and were like her family members, providing her with companionship, emotional support, and affection. (R. p. 81, line 21-p. 82, line 24)

On July 14, 2022, while Xumi and Ruben were boarded at Respondents' facility while Appellant traveled for work, Respondents' German Shepherd dog got into the area where Xumi and Ruben were located, attacked and killed Xumi, and wounded Ruben. (R. p. 72, line 9-p. 73,

line 8; pp. 112-13; p. 134, line 12-p. 135, line 4; p. 153, line 23-p. 169, line 20; pp. 225-26; pp. 230-31; p. 239) Respondents' German Shepherd was able to access and attack Xumi and Ruben because Respondents negligently failed to secure the German Shepherd and negligently failed to observe, monitor, and ensure the safe care of Xumi, Ruben, and the German Shepherd. (R. p. 144, line 3-p. 145, line 24; pp. 154, line 3-p. 158, line 8; p. 231)

The loss of Xumi and injury to Ruben caused Appellant to suffer significant emotional distress, anguish, pain, suffering, depression, anxiety, trauma, loss of companionship, and loss of emotional support.¹ (R. p. 75, line 14-p. 79, line 4; p. 232) Appellant filed this action seeking “an award of the actual value of Xumi including her sentimental value and the loss of her companionship,” “an award of the diminution in the actual value of Ruben including his sentimental value and the loss of his companionship,” and “an award for her grief, anxiety, and emotional pain and distress damages.” (R. pp. 234-37) Appellant stipulated that “the damages she claims in this action are limited to claims for her emotional distress, anguish, suffering, loss of companionship, loss of emotional support, and loss of affection and for the lost emotional support and companionship component of the actual value to [Appellant] of” Xumi and Ruben. (R. p. 274) Appellant further stipulated that she “does not claim damages in this action for the amount needed to purchase a new dog . . . , the veterinary bills incurred, the travel expenses incurred, and any other expenses she incurred and paid due to the events of July 14, 2022.” (R. p. 274)

¹ In the interest of brevity, the term “emotional distress” is hereinafter used herein to mean all the non-economic damages resulting from the negligent killing of or harm to a pet dog, including emotional distress, anguish, pain, suffering, depression, anxiety, trauma, loss of companionship, and loss of emotional support.

STANDARD OF REVIEW

Summary judgment is only appropriate when there is “no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law.” Rule 56, SCRCP. “The party moving for summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact.” *Miller v. Blumenthal Mills, Inc.*, 365 S.C. 204, 220, 616 S.E.2d 722, 729 (Ct. App. 2005). “In determining whether any triable issues of fact exist, the evidence and all inferences which can reasonably be drawn from the evidence must be viewed in the light most favorable to the non-moving party.” *Koester v. Carolina Rental Center, Inc.*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). “Because it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues.” *Miller*, 365 S.C. at 220, 616 S.E.2d at 729.

ARGUMENT

I. South Carolina Law Has Not Yet Addressed Whether and Should Provide as a Matter of Common Law that a Dog Owner Can Recover Emotional Distress Damages Caused by the Negligent Killing or Injury of the Owner’s Dog, and the Circuit Court Erred in Holding Otherwise.

The Circuit Court held that “South Carolina law does not support a cause of action for emotional distress for injury to one’s pet.” (R. p. 1) The Circuit Court thereby erred because South Carolina law has not yet addressed the damages recoverable when a pet dog is tortiously harmed and because as a matter of common law, South Carolina law should and would provide that a dog owner can recover for emotional distress caused by tortious harm to the owner’s dog.

In support of the position that South Carolina law does not permit the recovery of emotional distress damages for tortious harm to a dog, the Circuit Court relied on two decisions by South Carolina courts. However, those two decisions do not support that position, and South Carolina law has not yet addressed the damages a dog owner may recover when a pet dog is tortiously

harm or killed. The common law as it has developed in other jurisdictions, relevant South Carolina law, and the status of dogs in the twenty-first century as companions and family members rather than working animals, all compel the conclusion that South Carolina common law must give legal recognition to the modern status of dogs and provide that dog owners can recover emotional distress damages caused by the tortious harm or killing of a dog.

A. South Carolina Law Has Not Yet Addressed the Damages Recoverable When a Pet Dog is Tortiously Harmed.

The first of the two decisions relied on by the Circuit Court and Respondents is the recent unpublished decision of the Court of Appeals in *Fowler v. Fedex Ground Package System, Inc.*, Op. No. 2023-UP-020, 2023 WL 234557 (S.C. Ct. App. filed Jan. 18, 2023). As stated at the top of the decision provided by Respondents in support of their Motion, the *Fowler* decision is unpublished, “has no precedential value,” and “should not be cited or relied on as precedent in any proceeding except as provided by Rule 268(d)(2), SCACR.” (R. p. 10) Rule 268(d)(2) of the South Carolina Appellate Court Rules states: “Memorandum opinions and unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved.” Under Rule 268(d)(2), Respondents cannot cite *Fowler*, and the Circuit Court erred in considering, much less relying on, *Fowler* as support for its decision.

Even were the *Fowler* decision not an unpublished decision and were proper for consideration in this case, the *Fowler* decision does not address the issue of whether a dog owner can recover emotional distress damages. The *Fowler* decision addressed only whether a plaintiff could recover for “pain and suffering” caused by the death of a pet dog. Moreover, even were *Fowler* proper for consideration here and did address the issue here, *Fowler* failed to address relevant legal and societal developments, as discussed in detail *infra*, and should not be followed here.

The second decision relied on by the Circuit Court is *State v. Langford*, 55 S.C. 322, 33 S.E. 370 (1899), which does not address any of the issues present in this case. In *Langford*, the issue was whether stealing a dog was larceny. The *Langford* decision first reviewed the old common law rule that a dog had no value and therefore the theft of a dog could not give rise to larceny. The Court rejected that old rule and recognizing the value of dogs to their owners, adopted a common law rule that the theft of a dog is larceny. *Langford* did not address the measure of the value of a dog to its owner or whether the owner of a dog can recover for emotional distress caused by the death or injury of the dog. Rather, *Langford* merely rejected the old position that a dog has no value to its owner and recognized that a dog has value to its owner.

While the Circuit Court did not rely on any other authority in support of its holding that a dog owner cannot recover emotional distress damages, Respondents cited to *Coleman v. Levkoff*, 128 S.C. 487, 122 S.E. 875 (1924), and *Bales v. Judelsohn*, Op. No. 2005-UP-509, 2005 WL 7084365 (S.C. Ct. App. filed Aug. 30, 2005), as supporting that position. Neither decision provides any such support.

The *Coleman* decision concerned damage to an automobile and unremarkably, held that the measure of the damage to the automobile was the diminution in value of the automobile: “the general rule is that the owner of personal property, injured by the negligence of another, is entitled to recover the difference between the market value of the property immediately before the injury and its market value immediately after the injury.” *Coleman*, 128 S.C. at —, 122 S.E. at 876. As discussed *infra*, that measure of damages is inapplicable to a claim for the death of or injury to a pet dog, but here, the key point is that *Coleman* did not address the value of a pet dog or what the owner of a pet dog can recover when the dog is killed or injured by the negligence of another.

Like *Fowler*, the *Bales* decision is an unpublished decision, has no precedential authority, and was improper for Respondents to cite. More importantly, in the *Bales* decision in 2005, the Court of Appeals acknowledged that it had “not found any jurisprudence in South Carolina that addresses damages resulting from an injury to a pet.” *Bales*, 2005 WL 7084365, at *1. Notably, that statement of the law in the *Bales* decision, and the Court of Appeals’ statement of the law in *Fowler* that a dog owner cannot recover damages for “pain and suffering” for the negligent death of a pet dog, cannot both be correct. The *Fowler* decision did not cite to any decision issued by any South Carolina court between 2005 when the *Bales* decision was issued and 2023 when the *Fowler* decision was issued. As evidenced by the foregoing discussion of the other decisions relied on by the Circuit Court and Respondents, the *Bales* decision was correct that there is no South Carolina jurisprudence addressing the damages recoverable for the negligent death of or injury to a pet dog.

In short, there is no South Carolina authority on whether a dog owner can recover for emotional distress caused by the negligent injuring or killing of a dog. The Court therefore must look to South Carolina common law and common law from across the United States to ascertain how our State’s common law would address the issue. As set forth in the following section, once the Court undertakes that analysis, it should conclude that South Carolina common law permits a dog owner to recover emotional distress damages.

B. South Carolina Common Law Supports and Should Permit the Recovery of Emotional Distress Damages.

The courts of several states have recognized as a matter of common law that a dog owner can recover noneconomic damages caused by the negligent death of or injury to a pet dog. For example, where a veterinary hospital negligently injured the plaintiffs’ dog, the Florida District Court of Appeal held that a trial court “did not commit err by including for consideration of the

jury the element of the mental pain and suffering of the plaintiff-owners of the dog.” *Knowles Animal Hosp., Inc. v. Wills*, 360 So. 2d 37, 38 (Fla. Dist. Ct. App. 1978). The Supreme Court of Hawaii held that a plaintiff could recover for mental distress caused by the negligent death of the plaintiff’s dog. *Campbell v. Animal Quarantine Station*, 632 P.2d 1066, 1071 (Haw. 1981). Oregon, Louisiana, and Texas courts have similarly held. *See Freedden v. Stride*, 525 P.2d 166, 169 (Or. 1974) (affirming jury verdict of damages for mental anguish caused by veterinarian’s conversion of the plaintiff’s dog); *City of Garland v. White*, 368 S.W.2d 12, 13–14 (Tex. Civ. App. 1963) (affirming jury award for mental pain and suffering from death of the plaintiff’s dog); *Linceum v. Smith*, 287 So. 2d 625 (La. Ct. App. 1973) (affirming jury award for mental anguish caused by conversion of the plaintiff’s dog).

Several federal courts have arrived at the same legal conclusion. A federal district court held that as a matter of “federal common law,” where officers killed the plaintiffs’ dog, the plaintiffs were entitled to recover “emotional distress damages arising from [the defendant’s] unlawful seizure of [the plaintiffs’] dog.” *Moreno v. Hughes*, 157 F. Supp. 3d 687, 690 (E.D. Mich. 2016); *see also Henning v. Nicklow*, No. 1:08-cv-180, 2009 WL 2642739 (N.D. Ind. Oct. 30, 2009) (arriving at same conclusion based on similar facts). The *Moreno* decision reasoned that if the plaintiffs were not permitted to recover “mental and emotional damages,” the plaintiffs would “not be compensated for their ‘actual losses.’” *Moreno*, 157 F. Supp. 3d at 690. The *Moreno* decision also relied on the fact that “some states award emotional damages for injury to pets.” *Id.*

Decisions from other states arriving at the opposite conclusion—holding that the damages recoverable for the negligent loss of a dog are limited to economic damages—are the continuation of an outdated legal concept of dogs. As the *Langford* decision discusses, English common law

originally considered dogs to be wild beasts incapable of being a person's property. Margit Livingston, *The Calculus of Animal Valuation: Crafting a Viable Remedy*, 82 Neb. L. Rev. 784, 785 (2004). Developments in the relationship between people and dogs and the changed role of dogs in society since the medieval period that gave rise to the old English common law rule, resulted in courts, like the South Carolina Supreme Court in *Langford*, holding that dogs are the property of their owners and have value to their owners. See *Langford*, 55 S.C. at —, 33 S.E. at 371; *Salley v. Manchester & A.R. Co.*, 54 S.C. 481, 32 S.E. 526 (1899) (reversing dismissal of civil action for killing the plaintiff's dog on basis that dogs are valuable property and can give rise to a civil claim). As *Langford* discussed in terms of whether a thief was immune from prosecution for stealing a dog under the old English common law rule or committed larceny because a dog is valuable property, "[t]he reason for the outlawry of dogs in favor of thieves can hardly be regarded as persuasive at this day and here, and such crude application of the principles of the common law must yield to common sense." *Langford*, 55 S.C. at —, 33 S.E. at 371.

While the common law evolved to recognize dogs as valuable property, many jurisdictions saw dogs as interchangeable units for which the recoverable value is limited to the cost to purchase a new dog of the same breed and with the same training as the deceased dog. In earlier times, dogs were valued for the services they provided around the home, rather than for their companionship. Livingston, *Animal Valuation*, 82 Neb. L. Rev. at 785. The old English common law considered any dog the equivalent of any other dog because any dog—controlling for breed, health, and training—can perform the same economic services as any other dog. In some jurisdictions that reasoning has carried forward to the present, but the reasoning is a relic of an outdated societal view of dogs, a view that does not comport with modern society's view of dogs.

As acknowledged by *Langford* and again more recently, South Carolina courts have “the right and duty to develop the common law of South Carolina to better serve an ever-changing society as a whole.” *State v. Horne*, 282 S.C. 444, 447, 319 S.E.2d 703, 704 (1984); *see also Langford*, 55 S.C. at —, 33 S.E. at 371. While the unpublished, non-precedential *Fowler* decision declined the request to develop South Carolina common law in response to societal developments on the basis that “public policy considerations do not warrant intervention by this court in the absence of legislative action,” such a view disregards the role of South Carolina courts in determining and applying the common law. *Fowler*, 2023 WL 234557, at *1. Due to the common law’s nature as a judicially declared and developed system of law, South Carolina courts have the power to declare and change the common law. *See, e.g., Marcum v. Bowden*, 372 S.C. 452, 458, 643 S.E.2d 85, 85 (2007) (“It is within this Court’s purview to change the common law.”); *Singleton v. State*, 313 S.C. 75, 84, 437 S.E.2d 53, 58 (1993) (“It has always been the purview of a court to change the common law . . .”). Courts’ purview over the common law is so substantial that courts can change part of the common law even when the General Assembly has recognized that portion of the common law. *See, e.g., Stone v. Thompson*, 428 S.C. 79, 85, 833 S.E.2d 266, 269 (2019) (“As discussed—and perhaps intuitively—common-law marriage’s origins lie in the common law, and consequently, it may be removed by common-law mandate, regardless of tacit recognition by our legislature.”); *Russo v. Sutton*, 310 S.C. 200, 204, 422 S.E.2d 750, 753 (1992) (“Criminal conversation and alienation of affections are of common law origin. Their common law origin exists despite any subsequent recognition of the torts by our legislature. Thus, both criminal conversation and alienation of affections may be removed from the common law by common law mandate.”). South Carolina courts change the common law “when necessary to serve the needs of the people” and when the common law has become “outdated.” *Stone*, 428 S.C. at

85, 833 S.E.2d at 269 (2019) (“The common law changes when necessary to serve the needs of the people. [Courts] will act when it becomes apparent that the public policy of the State is offended by outdated rules of law.”); *see also Russo*, 310 S.C. at 204, 422 S.E.2d at 753 (1992) (“The common law changes when necessary to serve the needs of the people.”). Following these legal principles, South Carolina courts routinely change the common law when necessary to align the common law with societal developments and serve the needs of South Carolinians. *See, e.g., Stone*, 428 S.C. at 85–86, 833 S.E.2d at 269 (changing the common law of common-law marriage due to a societal “shift” where “society no longer conditions acceptance upon marital status or legitimacy of children” and “non-marital cohabitation is exceedingly common and continues to increase among Americans of all age groups”); *Marcum*, 372 S.C. at 460, 643 S.E.2d at 89 (extending the common law to “impose liability on adult social hosts who knowingly and intentionally serve [alcohol to] underage guests” due to the Court’s “responsibility to adapt the common law to the realities of the modern world”); *Russo*, 310 S.C. at 204, 422 S.E.2d at 753 (eliminating the common law causes of action for criminal conversation and alienation of affection as “rooted in antiquated perceptions that wives are chattel of their husbands” and as having “outlived any usefulness they may have possessed in regard to preventing the dissolution of marriages”); *Hossenlopp v. Cannon*, 285 S.C. 367, 371, 329 S.E.2d 438, 441 (1985) (“The dog-bite law is of common law origin. It may be changed by common law mandate. The time has come when our rule must give way to the more commonly accepted rule of law indicated in other states by both case law and by statute.”). Accordingly, South Carolina courts should recognize that the evolved, modern societal role of pet dogs, discussed in detail *infra*, necessitates that South Carolina common law provide that a dog owner can recover emotional distress damages and declare the common law of South Carolina accordingly.

Moreover, South Carolina public policy, as already expressed by the General Assembly, values pet dogs for their emotional support and companionship value, rather than merely as working animals under the older societal view of dogs, and therefore, the Court declaring that the common law permits the recovery of emotional distress damages comports with and advances the State's existing public policy. Chapter 3 of Title 47 of the South Carolina Code of Laws provides for the protection and care of "Dogs and Other Domestic Pets," thereby distinguishing "dogs and other domestic pets" from other animals and giving them greater legal protection. Section 47-3-20 provides that counties and municipalities "may enact ordinances and promulgate regulations for the care and control of dogs, ..." Sections 47-3-55 and 47-3-60 require an animal shelter in possession of a dog to undertake specific efforts to return the dog to the owner and to wait for the owner to claim the dog, thereby legislatively acknowledging the importance of a specific dog to its owner. Section 47-3-530 makes it a crime to kill a dog "when owner [sic] may be identified by means of a collar bearing sufficient information or some other form of positive identification," as distinguished from the killing of a dog without an owner. The General Assembly thereby legislatively acknowledged the importance of a specific dog to its owner due to the relationship between the dog and owner as greater than the value of a presumptively unowned dog.

As widely acknowledged by courts and American society today, dogs are no longer considered interchangeable animals and are primarily, if not exclusively, valued for their emotional and companionship value as quasi-family members. As stated by the United States Court of Appeals for the Fourth Circuit:

Dogs have been aptly labeled 'Man's Best Friend,' and certainly the bond between a dog owner and his pet can be strong and enduring. Many consider dogs to be their most prized personal possessions, and still others think of dogs solely in terms of an emotional relationship, rather than a property relationship.

Altman v. City of High Point, 330 F.3d 194, 205 (4th Cir. 2003). Similarly, the Supreme Court of Vermont recognized that “[a] pet dog generally has no substantial market value as such,” and “[l]ike most pets, its worth is not primarily financial, but emotional.” *Morgan v. Kroupa*, 702 A.2d 630, 632–33 (Vt. 1997).

That recognition by courts evidences the broad shift in the societal status of dogs in American over the past hundred or so years. As Appellant’s expert Dr. Leslie Irvine, a sociologist who has spent decades studying the relationship between people and pets, observes, “[t]he way people value and regard animals, in general, and pets, in particular, has changed, such that both scholars and members of the public recognize their roles as family members, companions, and best friends.” (R. p. 246) *See also* Sonia S. Waisman & Barbara R. Newell, *Recovery of ‘Non-Economic Damages’ for Wrongful Killing or Injury of Companion Animals*, 7 *Animal L.* 45, 57–64 (2001). Survey research indicates that 97% of American pet owners today regard pets as family members and that 50% of Americans today consider pets to be family members equivalent to human family members. (R. pp. 246–47) In modern American society, “people and pets develop close attachments and rely on each other for the emotional support that characterizes kinship.” (R. p. 247)

Additionally, given that evolved role in modern society where dogs are valued as companion animals, dogs are no longer viewed as interchangeable, replaceable property. “The bonds between people and pets reflect the characteristics of specific relationships in which each animal is considered a unique individual” and “[a]s with relationships between people, one cannot simply ‘replace’ another.” (R. p. 247) Today, society acknowledges that “an individual’s bond with a particular animal is unique.” *Livingston, Animal Valuation*, 82 *Neb. L. Rev.* at 806. The rejection of a replacement value approach to damages for the death of a dog follows naturally from

this evolved societal view. When dogs are no longer owned primarily for their economic services and instead are owned for companionship and a psychological bond, one dog cannot replace another.

Moreover, due to the unique, irreplaceable nature of a pet dog, the loss of a dog typically causes the dog owner to suffer “significant grief, distress, sadness, depression, helplessness, anger, and guilt.” (R. p. 247) The loss of a pet dog can be “debilitating and enduring” and can result in “trauma symptoms and other mental health consequences,” especially when the death is sudden and violent. (R. p. 248)

While the common law is to evolve with and comport with society, the modern societal valuing of dogs means that the old common law rule that the damages recoverable for the wrongful death or injury of a dog is limited to the cost of a replacement dog or other economic damages no longer comports with modern society. Fulfilling the right and duty to develop the common law, South Carolina courts should reject the approach of some jurisdictions that adhere to a medieval view of dogs and should follow the common law rule that comports with modern American society by allowing the recovery of emotional distress damages caused by the negligent death of or injury to a dog. Numerous federal and state courts have held that dogs are valued primarily for their emotional and companionship value and that therefore, dog owners can recover emotional distress damages caused by the negligent death of or injury to a dog. The reasoning employed by those federal and state courts comports with dogs’ place in modern American society and applies with equal force in South Carolina, and therefore, South Carolina courts should follow that reasoning in declaring South Carolina’s common law on the issue.

While the foregoing analysis is more than a sufficient basis for South Carolina courts to decide that South Carolina common law permits the recovery of emotional distress damages here,

South Carolina common law as to forms of unique, irreplaceable property other than dogs provides additional legal support for allowing recovery of emotional distress damages here. As discussed in detail in the following section, South Carolina law provides that where property is uniquely valuable to the owner—rather than replaceable by a new item of the same type—the owner is entitled to recover the actual value to the owner—the property’s “special value to him”—when the property is negligently destroyed or damaged. *See Nelson v. Coleman Co.*, 249 S.C. 652, 659, 155 S.E.2d 917, 921 (1967). That common law rule accounts for the fact that property that is not interchangeable and is “personal to the owner” has a “special value” to the owner. *See id.* The logical next steps that follow necessarily from that rule are that a dog is a unique, irreplaceable item of property valued primarily for its emotional and companionship value, and the negligent loss of or injury to a dog results in emotional distress damages that the dog owner can recover for due to the unique nature of a dog as property.

In conclusion, because South Carolina law has not yet addressed the issue, because other jurisdictions hold that emotional distress damages are recoverable, because allowing the recovery of emotional distress damages properly develops the common law in accordance with the changed societal role of pet dogs, and because South Carolina law already acknowledges that certain property can have a unique value to an owner thereby permitting the owner to recover damages typically not recoverable for the negligent loss of personal property, the Court should reverse and hold that if Respondents are found liable, Appellant is entitled to recover emotional distress damages caused by the loss of Xumi and Ruben’s injuries.

II. Even Were Emotional Distress Damages Not Independently Recoverable, the Circuit Court Erred in Not Permitting Appellant to Proceed on Claims for Emotional Distress Damages as Part of the Loss of the Companionship and Emotional Support Value of Her Dogs.

Even assuming *arguendo* that South Carolina law does not permit Appellant to recover for her emotional distress damages as a standalone category of recoverable damages, South Carolina law permits Appellant to recover for the loss of the companionship and emotional support of her dogs as a component of the actual value of the dogs as her property, and her emotional distress damages are part of those damages. In other words, even if Appellant cannot independently recover her emotional distress damages, those damages are evidence of, are part of, and can be recovered as part of the actual value of her dogs. The Circuit Court erred in holding that Appellant could not recover emotional distress damages through her claim for the lost value of her dogs and by finding that Appellant's claims for the lost value of her dogs are limited to "the general rule . . . that the measure of damages for injury to personal property is the difference between the market value of the property immediately before and its value immediately after the injury." (R. pp. 1, 4)

South Carolina law recognizes that where property "has no actual market value," the owner is entitled to recover the property's "special value to him." *Nelson*, 249 S.C. at 659, 155 S.E.2d at 921. The Supreme Court of South Carolina explained:

Recovery may be had for the loss or destruction of property even though it has no actual market value, in which case the owner is entitled to recover its actual or reasonable value, or its special value to him. Household goods and wearing apparel in the owner's possession differ from many other items of personal property. They are often more personal to the owner in the sense that another item of equal age, quality, and condition is not interchangeable, in the opinion of the owners generally, with the item damaged or destroyed. In these cases, courts do not limit damages to secondhand market value, but allow the owner to recover either the actual value of the item or its value to the owner excluding any fanciful or sentimental value which the owner may place on the item.

Id. That is the common law rule across jurisdictions, with one of the most widely recognized and authoritative treatises explaining:

Occasionally, chattels have no market value, simply because they are not salable. More often, the market value clearly would not be adequate compensation. In these cases, there may be recovery of the value to the owner, as distinguished from value to others. This is true of family heirlooms and other articles that have a purely personal value to the plaintiff and no one else. It is also true, in general, of clothing, books, pictures, furniture and household goods, which will be worth more to the owner than their value to a second-hand store.

Victor E. Schwartz, *et al.*, Prosser, Wade and Schwartz's Torts 549–50 (11th ed. 2005); *see also*, *e.g.*, *Anzalone v. Kragness*, 826 N.E.2d 472, 477 (Ill. Ct. App. 2005) (“The Restatement and most jurisdictions take a position that in such cases it would be unjust to limit the damages to the fair market value and, instead, use the so-called ‘value to the owner’ . . . as the measure of damages.”); *Shaffer v. Honeywell, Inc.*, 249 N.W.2d 251 (S.D. 1976) (trophies from horse shows); *Brousseau v. Rosenthal*, 443 N.Y.S.2d 285 (N.Y. Civ. Ct. 1980) (dog); *S. Express Co. v. Owens*, 41 So. 752 (Ala. 1906) (unpublished manuscript).

In modern society a pet dog cannot be replaced by a new dog. Dogs are unique, irreplaceable property valued for their companionship and emotional support. As property of that nature, under South Carolina law a dog owner must be permitted to recover the actual value of the dog to that owner—including the loss of companionship and emotional support—when the dog is negligently killed or injured.

Courts outside South Carolina have employed that common law rule of damages to hold that a dog owner is entitled to recover the actual value of the dog to the owner, including the companionship and emotional support value of the dog, rather than just the cost to obtain a new dog. For example, in *Brousseau v. Rosenthal*, 443 N.Y.S.2d 285 (N.Y. Civ. Ct. 1980), the court found the proper measure of damages for the death of a dog “must assess the dog’s actual value to

the owner in order to make the owner whole.” 443 N.Y.S.2d at 286. The court further concluded that an element of the dog’s actual value to the owner was the loss of companionship provided by the dog. *Id.* Similarly, in *Jankoski v. Preiser Animal Hospital, Ltd.*, 510 N.E.2d 1084 (Ill. App. Ct. 1987), the court held that the measure of the recoverable damages for the negligent death of a dog is the “actual value of the object to the owner” and that one element in the actual value of a dog is loss of the dog’s companionship. 510 N.E.2d at 1087.

Accordingly, because Xumi and Ruben were Appellant’s unique, irreplaceable property, of great value to Appellant for the companionship, emotional support, and affection they provided her, Xumi and Ruben were unique property for which Appellant is entitled to recover their actual value to her. Xumi and Ruben were like a family Bible, a grandmother’s wedding dress, or family photographs; all items irreplaceable and of unique value to the owner, but of minimal value to anyone else. Except Xumi and Ruben were even more uniquely valuable than those items because they were living animals that could provide companionship, emotional support, and affection. The value of Xumi and Ruben was that companionship, emotional support, and affection, and those must be included in determining the actual value to Appellant. The emotional distress Appellant suffered from Xumi’s death and Ruben’s injury is part of and evidence of the companionship, emotional support, and affection Xumi and Ruben provided. In other words, Appellant’s emotional distress damages are the inverse of the companionship, emotional support, and affection that Xumi and Ruben provided. Appellant is entitled to recover the lost companionship, emotional support, and affection value of Xumi and Ruben, Appellant’s emotional distress is part of that value, and therefore, Appellant is entitled to present evidence as to and recover for her emotional distress suffered by the loss of Xumi and injuries to Ruben. At minimum, Appellant is entitled to present evidence as to her emotional distress as evidence of the companionship, emotional support,

and affection value of Xumi and Ruben and recover damages for that lost companionship, emotional support, and affection value.

CONCLUSION

For the reasons set forth herein, the Court should reverse.

Respectfully submitted,

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Feb 21 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
George M. McFaddin, Jr., Circuit Court Judge

Appellate Case No. 2024-001363

Sarah Rock,

Appellant,

v.

Dog Daze of Charleston,
LLC and Charlie Freeman,

Respondents.

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February 21, 2025

VIA U.S. MAIL AND EMAIL

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Re: *Rock v. Dog Daze of Charleston, LLC, et al.*
Appellate Case No. 2024-001363
Final Brief of Appellant

Dear Hon. Jenny Abbott Kitchings,

Please find enclosed the final Brief of Appellant in the above-referenced appeal. An additional bound copy of the final Brief of Appellant is being delivered to the Court of Appeals separately. Thank you for your assistance, and please do not hesitate to contact me should you have any questions.

Regards,

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Feb 18 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
George M. McFaddin, Jr., Circuit Court Judge

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Sarah Rock,

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v.

Dog Daze of Charleston,
LLC and Charlie Freeman,

Respondents.

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SPECIFIC ISSUES ADDRESSED

- I. Did the Circuit Court err in granting summary judgment on the basis that South Carolina law does not permit a dog owner to recover emotional distress damages caused by the tortious loss of or harm to a dog?
- II. Did the Circuit Court err in granting summary judgment on the basis that South Carolina law does not permit a dog owner to recover actual value damages caused by the tortious loss of or harm to a dog?

STATEMENT OF THE CASE

Pursuant to SCACR 208(b)(6), ALDF adopts and incorporates by reference the Statement of the Case as set forth in Appellant's Brief.

STANDARD OF REVIEW

Pursuant to SCACR 208(b)(6), ALDF adopts and incorporates by reference the Standard of Review as set forth in Appellant's Brief.

INTRODUCTION

This is a story about Xumi and Ruben, two rescue dogs cherished by Appellant Sarah Rock. It is a story with themes most Americans can intimately relate to—the irreplaceable bonds we forge with our companion animals, the lengths we go to ensure their wellbeing, and the grief we endure when they pass, regardless of their price or pedigree. When that grief is the result of a legal violation by one entrusted with their care—like how Respondents’ negligence as a boarding facility for “four-legged family member[s]”¹ caused Xumi’s death and Ruben’s injury—courts have confronted the incongruence between archaic legal rules and our emotional, familial attachments to our companion animals.

Over time, many courts arriving at a just valuation in pet loss cases have moved away from the longstanding rule that dogs possess only economic worth—a shift likely influenced by judges reflecting on their own experiences with companion animals and recognizing that the common law must evolve to honor the special nature of the human-animal bond when it is wronged. Like others before it, this Court is empowered to usher the state’s common law into harmony with the values of everyday South Carolinians who view their dogs as family and grieve them as such.

Drawing from its ample experience advocating for the noneconomic valuation of companion animals, ALDF aims to assist this Court in understanding that assessing the bond between companion dogs and their humans with antiquated common law rules is no longer sustainable or just in a modern society. As Ms. Rock

¹ *Our Philosophy*, DOG DAZE BOARDING (last visited Jan. 21, 2025), <https://dogdazeboarding.com/> [<https://perma.cc/B7TP-BRPE>].

establishes in her initial brief, none of the cases relied on by Respondents and the Circuit Court preclude this Court from holding that South Carolina law allows for the recovery of emotional distress and actual value damages for the negligent loss of a companion animal.² Thus, this Court can and should consider persuasive authority from other jurisdictions that have moved the common law forward to align with the contemporary view that the value of companion animals to their owners is inimitable and primarily noneconomic.

To this end, Section I outlines the compelling societal and legal mores that establish why South Carolina common law is ready to evolve on this issue. Next, Section II turns to persuasive authority from other jurisdictions to argue for allowing a plaintiff to recover emotional distress damages when their companion animal is tortiously injured or killed. Lastly, Section III establishes why the market value approach to companion animals invariably fails to make plaintiffs whole. Instead, assessing the actual value of animals as inimitable personal property is entirely compatible with South Carolina common law, which already applies this analysis to inanimate objects. Even if the Court rules that emotional distress damages are not independently available, it should recognize that actual value damages are recoverable and that a key piece of evidence for this analysis is the emotional distress that a plaintiff suffers due to the injury or loss of their companion animal.

² ALDF incorporates Appellant’s definition of “emotional distress” to include “all the non-economic damages resulting from the negligent killing of or harm to a pet dog, including emotional distress, anguish, pain, suffering, depression, anxiety, trauma, loss of companionship, and loss of emotional support.” Appellant’s Initial Brief (AIB) at 3 n.1.

The arguments ALDF advances here will not cause an upheaval of the legal status of companion animals. Instead, a ruling for Ms. Rock would allow for a gradual elevation of companion animals' status within the existing property regime and better achieve the compensation goals of tort law.

ARGUMENT

I. This Court Is Empowered to Allow Noneconomic Damages in Companion Animal Tort Cases to Align South Carolina Common Law with Compelling Societal and Legal Mores.

Both society and South Carolina law—beyond the tort realm—recognize companion animals as personal property that is uniquely living, breathing, and capable of forming emotional bonds with humans. This recognition provides a strong impetus for the Court to modernize the common law and allow noneconomic damages for the tortious loss or injury of a companion animal.

A. The reciprocal devotion between humans and their companion dogs is an undeniable social reality.

Companion dogs are family members—we love them, they love us, and we grieve their loss just as deeply. See Michael Cleary et al., *Grieving the Loss of a Pet: A Qualitative Systematic Review*, 46 DEATH STUDS. 2167 (2022), <https://pubmed.ncbi.nlm.nih.gov/33881389> [<https://perma.cc/8SYW-8V3L>] (“Animal owners who experience the death of a beloved family pet or companion animal may experience feelings of grief and loss that are synonymous with the death of a human.”); see also Zachary Paterick, Timothy Paterick, & Sandy Sanbar, *A Stepping Stone Toward Companion Animal Protection Through Compensation*, 22 ANIMAL L. REV. 79, 84 (2015) (“The results [of an MRI study] indicated that dogs have the ability

to experience positive emotions, like love and attachment, and suggested that dogs have a level of sentience and awareness.”). This profound emotional connection with dogs is neither frivolous nor new. *See, e.g.,* Lilian Bodson, *Motivations for Pet-Keeping in Ancient Greece and Rome*, in COMPANION ANIMALS AND US: EXPLORING THE RELATIONSHIPS BETWEEN PEOPLE AND PETS, 33 (Podberscek et al. eds., 2000) (describing the Ancient Roman custom of dedicating burial epitaphs to dogs, including one that “addressed his dead companion: ‘I am in tears, while carrying you to your last resting place as much as I rejoiced when bringing you home in my own hands fifteen years ago.’”).

With approximately 82 million families in the United States owning and caring for a companion animal, most Americans have experienced the joys of this mutual devotion and the heartbreak of loss. *Industry Trends and Stats*, AM. PET PRODS. ASS’N (last visited Jan. 27, 2025), <https://americanpetproducts.org/industry-trends-and-stats> [<https://perma.cc/W4US-KES9>]. A 2024 survey confirms that the prevalence of self-identifying “pet parents” continues to rise, with “82% of pet owners [stating], ‘My pet(s) is/are like my own child.’” *The State of Pets: Unpacking America’s Pet Preferences*, THE HARRIS POLL 3 (2024), <https://theharrispoll.com/wp-content/uploads/2024/10/State-of-Pets-October-2024.pdf> [<https://perma.cc/5S8V-PBUU>]. Notably, 63% of pet owners would “give years of [their] life to their pet(s) if they could live longer,” underscoring the force of the human-animal bond and the devastation pet owners experience when a beloved companion animal dies. *Id.* at 9.

Indeed, even Respondents recognize that this emotional connection translates into substantial financial investments—a dynamic that underpins their business model: “we provide the best possible care for your four-legged family member.” *Our Philosophy*, DOG DAZE BOARDING (last visited Jan. 21, 2025), <https://dogdazeboarding.com/> [<https://perma.cc/B7TP-BRPE>]. Respondents’ dog boarding business belongs to a multi-billion-dollar pet industry that continues to skyrocket as Americans devote increasing financial resources to ensure the wellbeing and longevity of their companion animals.³ From 24-hour emergency veterinary clinics to dog day cares, this industry would not thrive nor continue to expand without the unparalleled value Americans place on their individual dogs.

B. South Carolina law affirms that the primary nature of the human-companion animal bond is emotional and deserving of legal protection.

That dogs are an emotional anchor for millions of families, shaping the economy from the local to national level, matters for the law. It matters because interactions between animal-related businesses and pet owners have proliferated in ways unimaginable to the judicial architects of the common law’s framework for tort compensation. Among those interactions are the conflicts that arise when boarding facilities and other pet industry actors tortiously injure or kill a customer’s companion animal. Where tort law has been reticent, other areas of South Carolina

³ In 2023, American spent \$147 billion on pets in the U.S. market, including pet food and treats (\$64.4 billion), supplies, live animals, and over the counter medicine (\$32 billion), vet care and product sales (\$38.3) and other services such as pet insurance, boarding, and grooming (\$12.3 billion). This figure represents a \$10.2 billion increase from 2022. In comparison, U.S. pet industry expenditures in 2018 totaled \$90.5 billion. AMERICAN PET PRODS. ASS’N, *supra*.

law have responded to the elevated role of the dog and cat in the modern American family by allowing pet owners to ensure their wellbeing in times of crisis and uncertainty—not because they have economic value, but because they are cherished.

For instance, South Carolina’s Protection from Domestic Abuse Act permits a judge to issue a protective order that prohibits “harm or harassment . . . against any pet animal owned, possessed, kept, or held by: the petitioner; any family or household member designated in the order; or the respondent if the petitioner has a demonstrated interest in the pet animal.” S.C. Code § 20-4-60(C)(8). South Carolina’s Family Court specifically allows petitioners to request that the court “issue an order” making the respondent “forbidden to abuse, harm, or molest, or threaten to abuse, harm or molest any pet animal owned, possessed, kept, or held by Petitioner/Victim.” Form SCCA 425 – Petition for Order of Protection, SC COURTS (rev. Mar. 2019), <https://www.sccourts.org/forms/pdf/SCCA425.pdf> [https://perma.cc/8KZL-ZVFQ]. This protection evidences a recognition by both the legislature and courts that harm to a companion animal can inflict severe emotional distress on its owner, even though that animal is still classified as personal property under the Act, rather than a “household member.” S.C. Code § 20-4-20(b).⁴

⁴ See, e.g., Phil Arkow & Tracy Coppola, *Expanding Protective Orders to Include Companion Animals* 4 (2007), <https://www.sheriffs.org/sites/default/files/Expanding%20Protective%20Orders%20to%20Include%20Companion%20Animals.pdf> [https://perma.cc/UQ95-DUUH] (“When victims seeking shelter leave pets behind, abusers often retaliate by torturing or killing the pets. Twelve independent surveys have reported that between 18% and 48% of battered women have delayed their decision to leave, or have returned to their batterer, out of fear for the welfare of their pets or livestock.”); Emilie B. Ridge, *Protecting Animals: Domestic Abuse and Animal*

Moreover, South Carolina allows pet owners to establish a trust for the care of their companion animal, just like they can for other family members. “A trust may be created to provide for the care of an animal or animals alive or in gestation during the settlor’s lifetime, whether or not alive at the time the trust is created.” S.C. Code § 62-7-408(a). The law further ensures judicial oversight by providing that “a person concerned for the welfare of the animal may request the court to appoint a person to enforce the trust or to remove a person appointed.” *Id.* § 62-7-408(b). In doing so, South Carolina empowers courts to enforce the noneconomic interest a human guardian has in ensuring that their animals are provided for when they pass, going so far as to provide standing to a surviving family member or friend invested in the animal’s continued wellbeing.

These examples establish why this Court is empowered to allow the recovery of emotional distress and actual value damages in pet loss cases to align with South Carolina society. *See Marcum v. Bowden*, 372 S.C. 452, 455, 458, 643 S.E.2d 85–86, 88 (2007) (“creat[ing] tort liability [for social hosts serving alcohol to underage guests] where formerly there was none” by acknowledging that “[t]he common law changes when necessary to serve the needs of the people [and][w]e have not hesitated to act

Abuse Linked, ANIMAL LEGAL & HIST. CTR. (2008), <https://www.animallaw.info/article/detailed-discussion-protecting-animals-domestic-abuse-and-animal-abuse-linked> [<https://perma.cc/ZTG8-JGG3>] (“For many battered women, their companion animals are a source of comfort. They provide the women with emotional support and affection that is not found elsewhere in the violent relationship. Recognizing this aspect of support, the abuser will harm or kill the animal to further isolate their victim and increase her dependence on the abuser. More often than not, victims cannot bear to leave their once source of security.”) (internal citations omitted).

in the past when it has become apparent that the public policy of this State is offended by outdated rules of law”). Indeed, as Ms. Rock illustrates, South Carolina courts can update the common law without waiting for the legislature to speak directly to an issue when a rule of law is outdated and incompatible with modern life. *See* AIB at 10–11 (noting that South Carolina courts have removed common-law marriage and criminal conversation and alienation of affection from the common law without legislative intervention); *see also State v. Horne*, 282 S.C. 444, 447, 319 S.E.2d 703, 704 (1984) (“This Court has the right and the duty to develop the common law of South Carolina to better serve an ever-changing society as a whole. The fact that [a] particular issue has not been raised or ruled on before does not mean we are prevented from declaring the common law as it should be.”); *Johnson v. S. State Ins. Co.*, 288 S.C. 239, 242, 341 S.E.2d 793, 795 (1986) (“This Court has consistently spearheaded changes in the law.”).

Here, where tortious conduct remains largely governed by the common law, this Court has authority to allow recovery of noneconomic damages in cases involving the wrongful injury or death of companion animals. *See Denson v. Nat’l Cas. Co.*, 439 S.C. 142, 148, 886 S.E.2d 228, 231 (2023) (“Ordinarily the scope of the tort duty of care . . . is given by the common law.”). Allowing noneconomic damages in cases like this would be a recognition of the substantial emotional bonds between humans and their companion animals which permeate American society—households, the economy, and even family and probate courts. As demonstrated below, this Court

should exercise this authority to hold that Ms. Rock is entitled to emotional distress and actual value damages.

II. This Court Is Empowered to Allow Recovery of Emotional Distress Damages for the Negligent Injury or Death of a Companion Animal.

South Carolina has not yet addressed whether emotional distress damages are recoverable for the negligent injury or death of a companion dog. *See* AIB at 7. Thus, this Court has the authority to follow the compelling public policy interests elucidated above and align the common law with widely held social mores on companion animal ownership. The Court should also look to persuasive authority from other jurisdictions that permit emotional distress damages in pet loss cases.

Several jurisdictions permit the recovery of emotional distress damages for the negligent loss of a dog, charting a path forward that affirms the elevated status of companion animals in modern society within the property regime. Ms. Rock’s appellant brief cites a number of these cases. AIB at 7–8. Here, ALDF aims to highlight cases that reflect Ms. Rock’s traumatic experience to establish why she should also be entitled to emotional distress damages.

In *Campbell v. Animal Quarantine Station*, Hawaii’s Supreme Court upheld the trial court’s award for mental distress to five members of a family for the tortious death their nine-year-old boxer, Princess. 63 Haw. 557, 632 P.2d 1066 (1981). While being transported to an animal hospital by quarantine personnel, Princess died after being confined in an unventilated van under the hot sun for at least an hour. *Id.* at 558, 632 P.2d at 1067. The trial court awarded plaintiffs \$1,000 for their “severe emotional distress” after finding “that the entire family was preoccupied with

Princess’ death for two to three weeks after hearing the news, suffering serious emotional distress.” *Id.* at 558–59, 632 P.2d at 1067. Significantly, the family did not have to witness her death to recover for this distress; they were informed of her passing over the phone by a veterinarian. *Id.* at 561–62, 632 P.2d at 1069.

The *Campbell* court built its forward-looking holding on precedent that allowed recovery for severe emotional distress under a negligent destruction of property cause of action. *Id.* at 559–60, 632 P.2d at 1068. The court also acknowledged a Florida appellate decision that held a jury properly considered the plaintiffs’ mental suffering in determining an award for the negligent burning of a dog with a heating pad following an operation since the animal hospital’s behavior demonstrated “great indifference to the property of the plaintiffs.” *Id.* at 564 n.6, 632 P.2d at 1071 n.6 (quoting *Knowles Animal Hosp., Inc. v. Wills*, 360 So.2d 37 (Fla. App. 1978) (per curiam)). Permitting recovery of emotional distress damages is equally appropriate here, where Respondents exhibited substantial indifference to the wellbeing of Ms. Rock’s dogs despite being entrusted with their care.

Similarly, in *Barrios v. Safeway Insurance Co.*, the Louisiana Court of Appeals upheld a jury award for the “severe loss and severe emotional distress” plaintiff suffered after defendant’s insured ran over and killed his family’s twelve-year old Labrador retriever. 97 So. 3d 1019, 1023 (La. Ct. App. 2012). The court reconciled the property status of dogs with the importance of fully compensating a plaintiff for the mental anguish of losing their pet in a traumatic accident:

Although a pet is considered corporeal movable property in Louisiana, clearly, pets are not inanimate objects. This Court takes judicial notice

of the emotional bond that exists between some pets and their owners and the “family” status awarded some pets by their owners. In the present matter, the trial judge based her award of \$5,000.00 each to the Barrioses on her finding that they had a close family-like relationship with Yellow; that the dog was a part of their lives for approximately twelve years and that his loss caused them psychic trauma.

Id. at 1023–24. The court rejected the defendant’s argument that the plaintiff’s family should not be permitted to recover emotional distress damages since they were not present at the scene of the accident and did not seek assistance from a medical or mental health professional. *Id.*

Like the plaintiffs in *Campbell* and *Barrios*, Ms. Rock was devastated upon learning of Xumi’s death and Ruben’s injury from Respondents. She even turned to trauma-centered therapy such as Eye Movement Desensitization and Reprocessing to help her cope with the abrupt loss of these familial bonds. *See* Dep. of Sarah Rock, ROA 52. This Court should allow her to recover emotional distress damages. In short, “crude application of the principles of the common law must yield to common sense.” *State v. Langford*, 55 S.C. 322, 324, 33 S.E. 370, 371 (1899).

III. This Court Is Empowered to Assess the Actual Value of a Companion Animal as Special Property and Consider Noneconomic Evidence of Emotional Distress.

The South Carolina Supreme Court has held that where property “has no actual market value . . . the owner is entitled to recover its actual or reasonable value, or its special value to him.” *Nelson v. Coleman Co.*, 249 S.C. 652, 659, 155 S.E.2d 917, 921 (1967). An application of this valuation rule to the tortious injury or loss of companion animals is long overdue given that it has been applied to mere “[h]ousehold goods and wearing apparel.” *Id.* Going forward, South Carolina courts

should use an animal's special actual value, rather than its market value, to make plaintiffs whole. Even if emotional distress damages are not independently recoverable, Ms. Rock's emotional distress should be a central type of evidence for a trier of fact to assess the special value of Xumi and Ruben.

A. The market value rule does not make Ms. Rock whole because companion animals are non-fungible living beings with inimitable value to their owners.

In 2025, the market value approach is an archaic formula that fails to account for the emotional relationship between a human and their companion animal. *See, e.g., Zager v. Dimilla*, 138 Misc. 2d 448, 450, 524 N.Y.S.2d 968, 969 (Justice Ct. 1988) (acknowledging the impossibility of reducing the bond between a human and a dog to monetary terms). Courts' continued adherence to this rule out of an unwillingness to alter the common law falls short of compensating pet owners. *See* Margit Livingston, *The Calculus of Animal Valuation: Crafting a Viable Remedy*, 82 NEB. L. REV. 783, 847 (2004) ("Given the significance of companion animals in our lives, the market value standard of recovery is grossly undercompensatory."); *see also* Kelly Wilson, *Catching the Unique Rabbit: Why Pets Should Be Reclassified as Inimitable Property Under the Law*, 57 CLEV. ST. L. REV. 167, 183 (2009) ("With so many previously owned pets being abandoned and put to death, there can hardly be a market in which courts can fairly assess a market value . . . suggest[ing] a serious need to update and reconfigure the valuation process in pet loss cases.").

The South Carolina Supreme Court's *Nelson* framework, accordingly, should guide Ms. Rock's recovery of Xumi's and Ruben's actual value. Were the Court to

maintain the market value rule, Appellant would only recover a pittance for either dog because she adopted Xumi and Ruben—mixed-breed dogs—from animal shelters. *See* Dep. of Sarah Rock, ROA 66–67. Moreover, a fair market valuation would consider Xumi worthless as a senior dog of approximately eight years at the time of her death. Sebastien Gay, *Companion Animal Capital*, 17 ANIMAL L. REV. 77, 78 (2010) (noting that “the resale value of an adult dog is only slightly greater than zero.”); *see Martinez v. Robledo*, 210 Cal. App. 4th 384, 390, 147 Cal. Rptr. 3d 921, 925 (Ct. App. 2012) (emphasis in original) (“There can be little doubt that most pets have minimal to no market value, particularly elderly pets. As amicus curiae [ALDF] notes, while people typically place substantial value on their *own* animal companions, . . . there is generally no market for *other people’s* pets.”).⁵

Companion dogs are irreplaceable to their owners, and actual special-value damages account for this important reality—one that drives grieving pet owners like Ms. Rock to pursue litigation despite the emotional and financial toll. Jurisdictions that permit noneconomic damages recognize this. *See, e.g., Rabideau v. City of Racine*, 243 Wis. 2d 486, 491–92, 627 N.W.2d 795, 798 (2001) (“A companion dog is not a fungible item, equivalent to other items of personal property . . . [t]his term inadequately and inaccurately describes the relationship between a human and a

⁵ *See, e.g., Morgan v. Kroupa*, 167 Vt. 99, 102–03, 702 A.2d 630, 632–33 (1997) (explaining how a mixed-breed dog does lacks meaningful market value—“like most pets, its worth is not primarily financial, but emotional; its value derives from the animal’s *relationship* with its human companions”); *Ammon v. Welty*, 113 S.W.3d 185, 187 (Ky. Ct. App. 2002) (noting that an unregistered mixed-breed dog has no market value).

dog.”); *McDougall v. Lamm*, 211 N.J. 203, 225, 48 A.3d 312, 325 (2012) (“[O]ur courts recognize that pets have a value in excess of that which would ordinarily attach to property, because unlike other forms of personal property, they are not fungible. [We] therefore have permitted pet owners to be awarded costs in excess of the animal's value that represent . . . damages based on the intrinsic value of the pet . . .”).

Applying this valuation metric to Xumi and Ruben would permit a jury to assess these companion dogs as Ms. Rock’s inimitable property, instead of as readily replaceable with a dog of the same breed. Kelly Wilson, *supra*, at 171 (conceiving of pets as “inimitable property” which “takes into consideration the live, conscious, and unique qualities of pets that distinguish them from other sorts of inanimate property”; *id.* at 183 (“To be inimitable is to be so rare as to surpass or defy imitation . . . to be without compare.”). Indeed, were dogs mere fungible items, boarding facilities would not institute rigorous safety protocols to avoid incidents like the one that claimed Xumi’s life and injured Ruben. Yet, if damages for breaching their duty to pet owners remain minimal, such facilities will accept paying out minor damages—such as the market value of a senior shelter dog—as a mere cost of doing business. *See Zachary Paterick et al.*, *supra*, at 91 (“[T]ort law is failing to properly apportion fault and forcing [plaintiff] owners to subsidize the defendant’s negligence.”).

South Carolina jurisprudence recognizes that one reason for making a defendant liable in tort for injuries from a breach of duty is to prevent such injuries from occurring in the first place. *See, e.g., Simmons v. Tuomey Reg’l Med. Ctr.*, 341 S.C. 32, 49, 533 S.E.2d 312, 321 (2000) (stating that “the desire to give parties with

crucial duties a keen incentive to do everything possible to avoid violating those duties” is an “important aspect of tort law”); *Brown v. Anderson County Hosp. Ass’n*, 268 S.C. 479, 487, 234 S.E.2d 873, 877 (1977) (“Immunity fosters neglect and irresponsibility, while liability encourages the exercise of due care.”), *superseded by statute on other grounds as stated in Simmons*, 341 S.C. 32, 533 S.E.2d 312. Underlying this justification is the deterrence goal of tort law: that potential wrongdoers will avoid wrongful behavior if the benefits of that behavior are outweighed by the costs imposed by the payment of damages. *See, e.g., Tobias v. Sports Club, Inc.*, 332 S.C. 90, 92, 504 S.E.2d 318, 320 (1998) (“Imposing liability on a tavern owner for continuing to serve an intoxicated person who later injures others serves public policy by imposing upon the tavern owner a duty to use judgment and discretion.”); *Nichols v. State Farm Mut. Auto. Ins. Co.*, 279 S.C. 336, 340, 306 S.E.2d 616, 619 (1993) (stating that threat of tort action is necessary to ensure that insurance companies will act reasonably), *superseded by statute on other grounds as stated in Duncan v. Provident Mut. Life Ins. Co. of Phila.*, 310 S.C. 465, 427 S.E.2d 657 (1993).

Accordingly, awarding actual damages in pet loss cases would ensure South Carolina courts are fulfilling the deterrence and compensatory aims of tort law:

Actual damages are properly called compensatory damages, meaning to compensate, to make the injured party whole, to put him in the same position he was in prior to the damages received insofar as this is monetarily possible. The goal is to restore the injured party, as nearly as possible through the payment of money, to the same position he was in before the wrongful injury occurred.

Vaught v. A.O. Hardee & Sons, Inc., 366 S.C. 475, 480, 623 S.E.2d 373, 375 (2005) (internal citations omitted); *see, e.g., Brousseau v. Rosenthal*, 110 Misc. 2d 1054, 1055,

443 N.Y.S.2d 285, 286 (Civ. Ct. 1980) (“Although the courts have been reluctant to award damages for the emotional value of an injured animal, . . . the court must assess the dog’s actual value to the owner in order to make the owner whole.”). A ruling in favor of Ms. Rock would not trigger a radical overhaul of companion animal’s property status. Rather, Appellant’s ask here is sensible and comports with justice—to recognize that a companion animal’s special actual value is a sound measure of damages in light of *Nelson* and the overwhelming reality that society treasures dogs for their inherent, noneconomic worth. When courts impose the market value rule in pet loss cases, it sends a message to plaintiff pet owners, and society, that their grief over a companion animal is meaningless. South Carolina law can continue to regard animals as property while evolving to recognize their special value to owners who relate to them as family members.

B. Many U.S. jurisdictions acknowledge the unique property status of companion animals by allowing damages that exceed market value.

South Carolina courts can confidently apply *Nelson* to companion animals by looking to other jurisdictions that have recognized the availability of actual value damages in pet loss cases.

For instance, in *Anzalone v. Kragness*, the plaintiff’s cat was attacked and killed by a rottweiler while boarded at an animal hospital due to an employee’s failure to secure a door separating the animals. 826 N.E.2d 472, 473 (Ill. App. Ct. 2005). The lower court dismissed the plaintiff’s complaint because her valuation of her pet’s worth exceeded its market value. *Id.* at 474–75. The Illinois Appellate Court reversed,

acknowledging precedent that used an actual value “approach to the valuation of a pet as a unique item of personal property.” *Id.* at 477. This precedent “held that the value to the pet owner may ‘include some element of sentimental value in order to avoid limiting the [owner] to merely nominal damages.’” *Id.* (quoting *Jankoski v. Preiser Animal Hosp., Ltd.*, 510 N.E.2d 1084, 1087 (Ill. App. Ct. 1987)). The court also noted that “[t]he Restatement [(Second) of Torts] and most jurisdictions take a position that in such cases it would be unjust to limit the damages to the fair market value and, instead, use the so-called ‘value to the owner’ (also known as ‘actual value to the owner’ or ‘actual value’) as the measure of damages.” *Id.*⁶ Following *Jankoski* and *Anzalone*, Illinois courts have continued to apply an actual value analysis to dogs as special property. *See Leith v. Frost*, 899 N.E.2d 635, 641 (Ill. App. Ct. 2008) (holding that proper measure of damages was actual value where defendant’s dog attacked plaintiff’s dog). Here, where controlling South Carolina precedent also permits special actual value damages, the Court must recognize Ms. Rock’s right to recover her companion dogs’ intrinsic noneconomic worth.

Moreover, courts allowing for damages beyond market value have not been deterred by concerns about the difficulty of quantifying the special value of a

⁶ *See also, Corso v. Crawford Dog and Cat Hosp., Inc.*, 415 N.Y.S.2d 182 (N.Y. City Civ. Ct., 1979) (“In ruling that a pet such as a dog is not just a thing I believe the plaintiff is entitled to damages beyond the market value of the dog. A pet is not an inanimate thing that just receives affection[.] it also returns it.”); *Mitchell v. Heinrichs*, 27 P.3d 309, 313–14 (Alaska 2001) (adopting actual value measure of damages when defendant shot and killed plaintiff’s dog); *Hyland v. Borrás*, 719 A.2d 662, 663–64 (N.J. Super. Ct. App. Div. 1998) (distinguishing companion animals from other personal property and finding that market value fails to take into account the “length and strength of the owner’s attachment to the animal.”).

companion animal. *See, e.g., Sherman v. Kissinger*, 195 P.3d 539, 547-48 (Wash. Ct. App. 2008) (affirming plaintiff's ability to recover the intrinsic value of her dog and reasoning that "difficulty of assessment is not cause to deny damages to a plaintiff whose property has no market value"); *Brousseau*, 110 Misc. 2d at 1055, 443 N.Y.S.2d at 286 ([T]he fact that Ms. Brousseau's dog was . . . mixed breed and thus had no ascertainable market value need not limit plaintiff's recovery to a merely nominal award. An element of uncertainty in the assessment of damages or the fact that they cannot be calculated with absolute mathematical accuracy is not a bar to plaintiff's recovery.").

Assessing the special value of a companion animal to establish damages is administratively feasible. A court may consider elements of the plaintiff's personal relationship with their companion animal before they were killed or injured, which are able to be easily assessed by juries "on both a subjective level by focusing on how the particular pet owner and pet interact, and on an objective level by focusing on whether the claims and arguments advanced by the pet owner are reasonable and typical of other similarly situated pet owners in society." Kelly Wilson, *supra*, at 194.⁷

⁷ Such factors could include: "Length of time the pet has been residing with the owner"; "Examples of the personal preferences and behavioral traits exhibited by the pet"; "Special training or special uses of the pet"; "Evidence of the familial-type attachment between the owner and the pet including: photos of the pet paid to be taken or snapshots displayed, extraneous expenditures (treats, massages, birthdays, holidays, etc.), sleep patterns (special bed or with owner)"; "Participation in family activities: attending family vacations, shopping trips, or other outings"; "Ability of the pet to provide protection, or feelings of safety and wellbeing for the owner"; "Ability of the pet to provide comfort, depression reduction or antianxiety effects, or other therapeutic effects"; "Other aspects of the unique personality of the animal." Kelly Wilson, *supra*, at 194. For example, a trier of fact could measure the reduction

Next, even if emotional distress damages in pet loss cases are not allowed, courts should award actual damages based on the extent of a plaintiff's emotional distress following the sudden and traumatic loss of companionship she endures. *See Brousseau*, 110 Misc. 2d at 1056, 443 N.Y.S.2d at 286 (“[P]laintiff testified that she experienced precisely the kind of psychological trauma associated with the loss of a pet . . . loss of companionship is a long recognized element of damages in this state . . . the court must consider this as an element of the dog’s actual value to this owner.”). Thus, the Court should hold that the Circuit Court should have considered Ms. Rock’s emotional distress as evidence of the actual value of Xumi and Ruben. *See generally* Dep. of Sarah Rock, ROA 39–113 (describing the emotional consequences of Xumi’s passing and Ruben’s injury, including seeking mental health assistance); Aff. of Dr. Irvine ¶ 18, ROA 248 (describing how sudden and violent death of a pet can result in heightened trauma symptoms including grief, anger, and distress).

Lastly, awarding noneconomic damages for the tortious loss of a pet would not burden courts with frivolous litigation. *See Campbell*, 63 Haw. at 564, 632 P.2d at 1071 (“[T]he fears of unlimited liability have not proved true.”). There are safeguards courts can employ to ensure plaintiffs bring meritorious claims. *See* Lauren Sirois, *Recovering for the Loss of a Beloved Pet: Rethinking the Legal Classification of Companion Animals and the Requirements for Loss of Companionship Tort Damages*,

in Ruben’s actual value by taking into the account the depression she suffered after sustaining injuries and witnessing Xumi’s death, all which have impacted Appellant’s relationship with her. *See* AIB 248, Aff. of Dr. Irvine ¶ 19 (“Ms. Rock’s relationship with Ruben has been changed by Xumi’s death. Bringing a new dog into the home would not restore the kind of relationship that Ms. Rock had with the dogs together.”).

163 U. Pa. L. Rev. 1199, 1237–38 (2015) (proposing that courts impose a high burden of proof on a plaintiff to establish the length and significance of their relationship with their companion animal). To ALDF’s knowledge, none of the five states that permit intrinsic value damages in pet loss cases have reversed course to reinstate the market value rule, underscoring that allowing noneconomic damages does not inundate courts with meritless litigation. Moreover, the availability of actual damages in pet loss cases could reduce the incidence of litigation by having an important deterrent effect that ensures boarding facilities maintain high standards of care.

CONCLUSION

ALDF respectfully urges the Court to exercise its authority and duty to acknowledge the intrinsic value that South Carolinians place on their companion animals. Accordingly, the Court should reverse the Circuit Court’s Orders, which improperly rejected the availability of emotional distress and actual value damages, and ensure that Ms. Rock is made whole for Xumi’s death and Ruben’s injury.

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DATED: February 18, 2025

Respectfully submitted,

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Feb 14 2025

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Common Pleas Case No. 2022-CP-10-5585

Appellate Case No. 2024-001363

Sarah Rock, Appellant,

v.

Dog Daze of Charleston, LLC and Charlie Freeman, Respondents.

RESPONDENTS' FINAL BRIEF

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TREATISES:

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STATEMENT OF ISSUE ON APPEAL

- I. Did the trial court correctly apply South Carolina law when it granted the partial summary judgment motion that dismissed claims for emotional distress alleged by the owner of two dogs against a dog boarding facility and its owner after one dog died and the other dog suffered injury following an incident at the dog boarding facility?

STATEMENT OF THE CASE

Respondents agree with Appellant's statement of the case.

STATEMENT OF FACTS

At the outset, Respondents agree with most of Appellant's recitation of the facts. She boarded her two dogs (Xumi and Ruben) with Dog Daze of Charleston, LLC ("Dog Daze") on July 7, 2022 for a work trip to the Bahamas. During the afternoon of July 14, 2022, a Dog Daze employee put Xumi and Ruben in a run and Charlie Freeman's (owner of Dog Daze) German Shepherd dog in a crate in separate area of the Dog Daze facility.. Unfortunately, the German Shepherd dog escaped from his crate, found its way to, and accessed the "small dog" run where it became entangled with Ms. Rock's dogs. (R. pp. 153-159, 224). Xumi died in the incident and Ruben was injured. Mr. Freeman regrets that the incident occurred.

Mr. Freeman immediately notified Ms. Rock about the incident. He also paid her \$3,000.00 on August 26, 2022. That payment compensated her for her out-of-pocket expenses to fly back from the Bahamas to Charleston, for the cremation bill for Xumi, and for the veterinarian bill for Ruben. These expenses totaled \$1,851.07. The additional \$1,148.93 was paid, in good faith, to cover any different or additional expenses resulting from the occurrence. Ms. Rock accepted the \$3,000.00 payment. (R. pp. 59-62, 104-110).

Ms. Rock filed the lawsuit on December 5, 2022 and asserted causes of action for Negligence/Gross Negligence, Bailment, and Breach of Contract. She also claimed damages for:

- (a) “... the loss of Xumi and severe injury to Ruben and the resulting loss of companionship, grief, anxiety, and emotional pain and distress.” (R. pp. 233, 235, 237).
- (b) the “sentimental value” of Xumi and “the loss of her companionship.” (R. pp. 234, 235, 237)
- (c) “... the diminution in the actual value of Ruben including his sentimental value and loss of his companionship.” (R. pp. 234, 235, 237).
- (d) “... an award for her grief, anxiety, and emotional pain and distress damages.” (R. pp. 234, 236).
- (e) “post-traumatic stress.” (R. p. 237).

The trial court granted Dog Daze and Freeman’s partial summary judgment motion to dismiss the emotional distress and pain and suffering claims.

As part of this appeal, Ms. Rock filed a Stipulation that her claims in the trial court are limited to those damages for which that court granted summary judgment to Respondents. (R. p. 274).

ARGUMENT

I. RESPECTFULLY, PLAINTIFF CANNOT RECOVER DAMAGES FOR EMOTIONAL DISTRESS OR PAIN AND SUFFERING BASED UPON THE UNFORTUNATE AND UNDERSTANDABLY UPSETTING DEATH OF ONE OF HER DOGS AND FOR THE INJURY TO A SECOND DOG.

The issues raised by Ms. Rock in this appeal have been decided repeatedly adverse to her position by our courts with jurisdiction in South Carolina. As stated by Judge David Norton recently in Madden v. Petland Summerville, LLC, 2022 WL 2806408 (D.S.C. 2022):

Importantly, in South Carolina, as in many states, “[p]ets are considered personal property. Kirchner v. Kirchner, 2005 WL 7083859, at *4 (S.C. Ct. App. Mar. 23, 2005); Richardson v. Fla. Cent. & P.R. Co., 33 S.E. 466 (S.C. 1899)....Accordingly, in cases involving injuries to a pet, “courts have limited the award of damages to a dog’s market value” or the pecuniary loss to the owner for the

injuries sustained. Bales v. Judelsohn, 2005 WL 7084365, at *1 (S.C. Ct. App. Aug. 30, 2005) (citing 4 Am. Jur. 2d Animals §§ 6 and 165 (1995)). For example, in Bales, the South Carolina Court of Appeals held that “South Carolina law does not support a cause of action for emotional distress for injury to one’s pet” and further held “that a claim for lost wages resulting from injury to an animal is not actionable because a dog is considered personal property under our law.” 2005 WL 7084365 at *1....Although this approach may seem to take an insensitive—or perhaps overly harsh—view of pet ownership, as one court in this state recently observed, “[u]ntil either [the South Carolina legislature] or [] Supreme Court expressly recognizes the right of a pet owner to seek non-economic damages for the death or injury of a pet, this Court must rule as a matter of law that Plaintiff in the present case cannot seek damages for emotional distress, mental anguish, or anxiety at trial.” Fowler v. Fedex Ground Package Sys., Inc., 2019 WL 9573828, at *1 (S.C. Com. Pl. Sep. 23, 2019).”

2022 WL 2806408, at *5 (emphasis added).

While several of the cases cited by Judge Norton are unpublished opinions, the decisions rely on bedrock law. In Richardson, the South Carolina Supreme Court clearly stated that “[t]here is no longer any room to doubt that a dog is personal property in this state.” 55 S.C. 334. That law has not changed since the Court issued that decision in 1899. See also State v. Langford, 55 S.C. 322, 326, 33 S.E. 370, 371-72 (1899). Further, as noted in Hodge v. UniHealth Post-Acute Care of Bamberg, LLC, 422 S.C. 544, 555-56, 813 S.E.2d 292, 298-99 (Ct. App. 2018), a trial court’s examination of an unpublished opinion whose reasoning it found persuasive was harmless when the trial court relied on other published cases and the examination was not prejudicial.

Further, the general rule is that the measure of damages for injury to personal property is the difference between the market value of the property immediately before and its value immediately after the injury. Duke Power Co. v. Thornton, 303 S.C. 454, 457, 401 S.E.2d 195, 196 (Ct. App. 1991). See also Coleman v. Levkoff, 128 S.C. 487, 490, 122 S.E. 875, 876 (1924) (“the general rule is that the owner of personal

property, injured by the negligence of another, is entitled to recover the difference between the market value of the property immediately before the injury and its market value immediately after the injury.)”

Denying recovery for emotional distress or pain and suffering damages after injury or death to one’s pet remains consistent with existing state law. As noted by Professors F. Patrick Hubbard and Robert L. Felix in The South Carolina Law of Torts (Fifth Edition):

... [I]n order to avoid the problem of disproportionate liability arising in cases where mental trauma results from witnessing an injury or from responding emotionally to a physical injury to a friend or relative, the courts generally deny recovery for such “indirect” emotional trauma except in very narrowly limited situations. In South Carolina, such indirect emotional distress is only recoverable: (1) under Kinard v. August Sash and Door Co., which provides a limited right of “bystander recovery” for emotional distress from witnessing the death or serious bodily injury of a close relative; (2) for loss of consortium; (3) for wrongful death; and (4) in “special situations [such as defective product, injury to corpses, or interference with burial].”

P. Hubbard & R. Felix, The South Carolina Law of Torts (Fifth Edition), pages 44-45. None of those scenarios exist with this claim. For example, Ms. Rock’s claim would not qualify for recovery under a negligent infliction of emotional distress theory. The elements established in Kinard v. Augusta Sash & Door Co., 286 S.C. 579, 336 S.E.2d 465 (1985) require that (a) the negligence of the defendant must cause death or serious physical injury to another; (b) the plaintiff bystander must be in close proximity to the accident; (c) the plaintiff and the victim must be closely related; (d) the plaintiff must contemporarily perceive the accident; and (e) the emotional distress must both manifest itself by physical symptoms capable of objective diagnosis and be established by expert testimony. In the current facts, the unfortunate incident involving the dogs did not involve injury to any biological relative of Ms. Rock, she was not in close proximity to the incident, and she did not contemporaneously perceive the incident. Thus, her claims would not meet the Kinard elements.

Furthermore, any action for wrongful death made pursuant to S.C. Code Ann. § 15-51-10 must involve the death of a “person.” None of the other scenarios cited by Professors Hubbard and Felix apply to this claim.

CONCLUSION

Respectfully, Respondents ask this Court to affirm the trial court.

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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Final Brief filed with the Court on or about February 13, 2025 complies with Rule 211(b), SCACR.

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The issues raised in this appeal and the Amicus Brief have been decided repeatedly by South Carolina courts (and courts in other jurisdictions) adverse to Ms. Rock and the Amicus position. As stated by Judge David Norton recently in Madden v. Petland Summerville, LLC, 2022 WL 2806408 (D.S.C. 2022):

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property, injured by the negligence of another, is entitled to recover the difference between the market value of the property immediately before the injury and its market value immediately after the injury.”)

Denying recovery for emotional distress or pain and suffering damages after injury or death to one’s pet is consistent with existing and long-standing South Carolina law. As noted by Professors F. Patrick Hubbard and Robert L. Felix in The South Carolina Law of Torts (Fifth Edition):

... [I]n order to avoid the problem of disproportionate liability arising in cases where mental trauma results from witnessing an injury or from responding emotionally to a physical injury to a friend or relative, the courts generally deny recovery for such “indirect” emotional trauma except in very narrowly limited situations. In South Carolina, such indirect emotional distress is only recoverable: (1) under Kinard v. August Sash and Door Co., which provides a limited right of “bystander recovery” for emotional distress from witnessing the death or serious bodily injury of a close relative; (2) for loss of consortium; (3) for wrongful death; and (4) in “special situations [such as defective product, injury to corpses, or interference with burial].”

P. Hubbard & R. Felix, The South Carolina Law of Torts (Fifth Edition), pages 44-45. None of those scenarios exist with this claim. For example, Ms. Rock’s claim would not qualify for recovery under a negligent infliction of emotional distress theory. The elements established in Kinard v. Augusta Sash & Door Co., 286 S.C. 579, 336 S.E.2d 465 (1985) require that (a) the negligence of the defendant must cause death or serious physical injury to another; (b) the plaintiff bystander must be in close proximity to the accident; (c) the plaintiff and the victim must be closely related; (d) the plaintiff must contemporarily perceive the accident; and (e) the emotional distress must both manifest itself by physical symptoms capable of objective diagnosis and be established by expert testimony. By contracts, here, the unfortunate incident involving the dogs did not involve injury to any biological relative of Ms. Rock, she was not in close proximity to the incident, and she did not contemporaneously perceive the incident. Thus, her claims would not meet the Kinard elements.

Furthermore, any action for wrongful death made pursuant to S.C. Code Ann. § 15-51-10 must involve the death of a “person.” None of the other scenarios cited by Professors Hubbard and Felix apply to this claim.

II. SOUTH CAROLINA COURT DECISIONS AND THE DECISION OF THE TRIAL COURT IN THIS CASE ARE CONSISTENT WITH THE TRADITIONAL RULE APPLIED BY MOST JURISDICTIONS.

Courts in most states follow the traditional rule that owners are not entitled to recover non-economic losses for sentimental value or loss of consortium or companionship when a pet is killed through negligence. See e.g. Barking Hound Village, LLC v. Monyak, 787 S.E.2d 191 (Ga. 2016); Irwin v. Degtiarov, 8 N.E.3d 296 (Mass. App. Ct. 2014); Strickland v. Medlin, 397 S.W.3d 184 (Tex. 2013); and Kaufman v. Langhofer, 222 P.3d 272 (Az. 2009).

In the Barking Hound Village, LLC decision, the Supreme Court of Georgia stated that damages based on the sentimental value of a pet to the owners were not recoverable. In reaching that decision, the Court also considered but did not adopt similar arguments presented by the Amicus Curiae Animal Legal Defense Fund in this current appeal, stating:

We note that Amicus Briefs have been filed in this case by numerous entities concerned with the care and treatment of animals both in this State and nationwide. These groups include the Georgia Veterinary Medical Association, American Veterinary Medical Association, American Kennel Club, Cat Fanciers’ Association, Animal Health Institute, National Animal Interest Alliance, American Pet Products Association, American Animal Hospital Association, Pet Industry Joint Advisory Council, and The Animal Legal Defense Fund. The primary issue addressed by Amici, however, is whether the law in Georgia should allow for the recovery of damages based on a pet’s sentimental value to its owner, a position properly rejected by the Court of Appeals in this case and not disputed by either party on Appeal.

787 S.E.2d at 199.

In Kaufman, the Arizona Appellate Court noted that The Animal Defense League of Arizona, The PETA Foundation, and The Animal Protection and Rescue League filed Amicus Briefs asserting their opinions. The Arizona Court, however, ruled that the owner of the pet could not recover emotional distress damages and loss of companionship for a pet negligently injured or killed.

In Strickland, the Texas Supreme Court considered numerous Amicus Briefs from various animal-welfare groups and law professors. Yet, the Court ruled that an owner of a pet could not recover non-economic damages for loss of companionship because pets are considered personal property and loss of companionship is a component of a loss of consortium claim, a type of damage available only for especially close family relationships. The court further noted “[t]he Texas rule falls squarely within the national mainstream, which cuts overwhelmingly against sentimental-damages recovery. As noted earlier, most other states likewise do not allow pet owners to recover emotional-injury damages.” 397 S.W.3d at 192 (quoting footnote 57).

Further, the proponents of the theories espoused by Ms. Rock and the Amicus Brief should focus their attentions on the South Carolina Legislature for any statutory change to suit their wishes. See Tenn. Code § 44-17-403 (which allows for compensation “for the loss of the reasonably expected society, companionship, love and affection of the pet” with a cap for non-economic damages at \$5,000.00). Finally, any new liability, which Respondents argue is not warranted, as suggested by Ms. Rock and the amicus brief should have only prospective application. Hupman v. Erskine College, 281 S.C. 43, 314 S.E.2d 314 (1984).

CONCLUSION

The appellate courts review decisions granting summary judgment for errors of law. Ms. Rock and the Amicus Brief seek to change existing and established South Carolina law. Yet, as Professors Hubbard and Felix note in their treatise of South Carolina tort law, limits for claims involving emotional distress serve numerous

purposes and act to balance the concerns about proof and liability. P. Hubbard & R. Felix, The South Carolina Law of Torts (Fifth Edition), pages 41-45.

Moreover, South Carolina law on this issue comports with the majority of jurisdictions that have considered the claims made by pet owners and various advocacy groups. The majority rule is that a pet owner is not allowed to recover damages for emotional distress for the loss of a pet. Any change to that rule should be left to specific legislative enactments. Harris v. Anderson County Sheriff's Office, 381 S.C. 357, 673 S.E.2d 423 (2009) (holding decisions to modify policy rest exclusively in the legislature). Accordingly, Respondents respectfully ask this Court to affirm the trial court.

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Apr 18 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Common Pleas Case No. 2022-CP-10-5585

Appellate Case No. 2024-001363

Sarah Rock, Appellant,

v.

Dog Daze of Charleston, LLC and Charlie Freeman, Respondents.

PROOF OF SERVICE

The undersigned, certifies that she served a copy of **Respondents' Response to Amicus Brief** upon all other counsel of record by emailing a copy to:

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Sarah Rock, Appellant,

v.

Dog Daze of Charleston, LLC and Charlie Freeman,
Respondents.

Appellate Case No. 2024-001363

Appeal From Charleston County
George M. McFaddin, Jr., Circuit Court Judge

Opinion No. 6137
Heard November 12, 2025 – Filed February 11, 2026

AFFIRMED

Michael J. Jordan, of The Steinberg Law Firm, LLP, of
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Appellant.

David Starr Cobb, of Turner Padgett Graham & Laney,
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Office of W. Westbrook Wills, III, of Folly Beach, both
for Respondents.

Christian Suarez, of Cotati, CA; and Daniel R. Fuerst, of
Moore & Van Allen, PLLC, of Charleston, for Amicus
Curiae Animal Legal Defense Fund.

PER CURIAM: Sarah Rock appeals the circuit court's order granting partial summary judgment in favor of Respondents Dog Daze of Charleston and its owner, Charlie Freeman. The case stems from the tragic and justifiably upsetting death of Rock's pet dog, Xumi, and serious injury to her pet dog, Ruben. Rock seeks to recover several types of damages, including damages for emotional distress. The circuit court ruled that South Carolina law does not allow a plaintiff to recover emotional distress damages (as they are commonly understood in the law) for harm to a pet. The court specified that its ruling did not include other categories of damages sought in Rock's complaint. Based on South Carolina's classification of pets as personal property, we must affirm the partial summary judgment.

STANDARD OF REVIEW

When reviewing a grant of summary judgment, we apply the same standard as the circuit court under Rule 56(c), SCRPC. *Lanham v. Blue Cross & Blue Shield of S.C., Inc.*, 349 S.C. 356, 361, 563 S.E.2d 331, 333 (2002). Summary judgment is warranted "when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law." *Peterson v. W. Am. Ins. Co.*, 336 S.C. 89, 94, 518 S.E.2d 608, 610 (Ct. App. 1999) (citing Rule 56(c), SCRPC).

SOUTH CAROLINA LAW ON PERSONAL PROPERTY

In 1899, our supreme court recognized pet dogs as personal property in deciding whether a person's dog could be the subject of larceny. *State v. Langford*, 55 S.C. 322, 324–26, 33 S.E. 370, 371–72 (1899). Rock does not appear to dispute this designation. Instead, Rock's quarrel is with the traditional measure of damages for injury to personal property, which typically centers on market value. *See Coleman v. Levkoff*, 128 S.C. 487, 490, 122 S.E. 875, 876 (1924) ("The general rule is that the owner of personal property, injured by the negligence of another, is entitled to recover the difference between the market value of the property immediately before the injury and its market value immediately after the injury."). Rock argues this measure is not sufficient to encompass the emotional damages she suffered from the loss of Xumi and injury to Ruben. We sympathize with everyone involved in this case but based on *Langford* and the laws surrounding personal property, the circuit court was correct to conclude that the emotional distress damages that are often part of personal injury cases are not available when a pet is injured.

Two of this court's unpublished decisions—the first in 2005, the second in 2023—previously reached the same conclusion. Both cases held that South Carolina does not support a claim for emotional distress for injury to one's pet, and both cases

relied on dogs' status as personal property. *Bales v. Judelsohn*, Op. No. 2005-UP-509 (S.C. Ct. App. filed Aug. 30, 2005); *Fowler v. Fedex Ground Package Sys., Inc.*, Op. No. 2023-UP-020 (S.C. Ct. App. filed Jan. 18, 2023); *see also Madden v. Petland Summerville, LLC*, No. 2:20-CV-02953-DCN, 2022 WL 2806408, at *5 (D.S.C. July 18, 2022) (outlining South Carolina's designation of pets as personal property and finding damages limited to the dog's market value or "the pecuniary loss to the owner for the injuries sustained" (citing *Bales*)). The circuit court relied on our recognition that *Langford* established "the status quo" in reaching its conclusion that Rock may not seek emotional distress damages for her losses. *See Hodge v. UniHealth Post-Acute Care of Bamberg, LLC*, 422 S.C. 544, 555–56, 813 S.E.2d 292, 298–99 (Ct. App. 2018) (finding no prejudicial error in the circuit court's examination of an unpublished persuasive decision when the court relied on other published cases). We agree with this reading of these cases.

OTHER JURISDICTIONS AND PUBLIC POLICY

Rock does not seem to dispute our understanding of South Carolina law; instead, she suggests the specific issue of emotional distress damages presented here has yet to be addressed in South Carolina and urges us to hold, as a matter of common law, that emotional distress damages are available when a pet dog is tortiously harmed or killed. For support, she relies on "the status of dogs in the twenty-first century as companions and family members rather than working animals." She also relies on changes in the law of some other jurisdictions and on public policy.

Our reading of past decisions is that South Carolina follows the majority rule. Most jurisdictions do not allow emotional distress damages for tortious harm to a pet and would reach the same result the circuit court reached here. *See Nichols v. Sukaro Kennels*, 555 N.W.2d 689, 691 (Iowa 1996) ("[A]lthough we are mindful of the suffering an owner endures upon the death or injury of a beloved pet, we resolve to follow the majority of jurisdictions that do not allow recovery of damages for such mental distress."); *see also Richardson v. Fairbanks N. Star Borough*, 705 P.2d 454, 456 (Alaska 1985) ("[Because] dogs have legal status as items of personal property, courts generally limit the damage award in cases in which a dog has been wrongfully killed to the animal's market value at the time of death."); *Kennedy v. Byas*, 867 So. 2d 1195, 1197–98 (Fla. Dist. Ct. App. 2004) (holding emotional damages are not available in simple negligence veterinary malpractice cases).

Some states, but still the clear minority, allow emotional distress damages if the harm to a pet results from intentional or malicious conduct. *See La Porte v. Associated Indeps., Inc.*, 163 So. 2d 267 (Fla. 1964) (holding that in an action for

the intentional and malicious killing of a pet dog, the owner's damages are not limited to the market value of the dog but also include the element of the owner's mental suffering); *Richardson*, 705 P.2d at 456 ("We recognize that the loss of a beloved pet can be especially distressing in egregious situations. Therefore, we are willing to recognize a cause of action for intentional infliction of emotional distress for the intentional or reckless killing of a pet animal in an appropriate case."); *see also Fredeen v. Stride*, 525 P.2d 166 (Or. 1974) (allowing a jury to consider mental distress as an element of damages in a case against two defendants for the conversion of the plaintiff's dog where there was "evidence of genuine emotional damage . . . supplied by aggravated conduct on the part of the defendant[s]"). Here, however, there are no claims that the harm to Rock's dogs was the result of intentional conduct, so even this minority view would not apply to Rock's claims.

Rock and the Animal Legal Defense Fund contend that our legislature has already recognized a policy of protecting dogs in other areas of law, leaving room for this court to do the same under the common law. They cite several provisions, including sections of chapter 3 of title 47 of the South Carolina Code, titled "Dogs and Other Domestic Pets," *see* S.C. Code Ann. §§ 47-3-20, -55, -60, -350 (2017 & Supp. 2025); a subsection from South Carolina's Protection from Domestic Abuse Act, though the Fund admits that the act does not include pets as "household members," *see* S.C. Code Ann. § 20-4-60(C)(8) (2014 & Supp. 2025) and S.C. Code Ann. § 20-4-20(b) (2014); and the statute permitting the establishment of trusts for the care of pets, *see* S.C. Code Ann. § 62-7-408(a)–(b) (2022)). Although we are sympathetic to Rock's position, we are not persuaded that these examples justify the judicial innovation it would take to allow emotional distress damages when a pet is tortiously harmed. We must defer to the legislature to create such a remedy. *See Clarke v. S.C. Pub. Serv. Auth.*, 177 S.C. 427, 438–39, 181 S.E. 481, 485 (1935) ("The General Assembly has a right to pass such legislation as in its judgment may seem beneficial to the state, and to create such agencies of government as may be necessary to carry out its purpose, unless expressly prohibited by the Constitution."); *State v. Slocumb*, 426 S.C. 297, 314, 827 S.E.2d 148, 157 (2019) ("Respect for separation of powers compels us to recognize that the General Assembly is the author of our state's public policy . . .").

We recognize that dogs are important in many homes and to many people, and we appreciate the sources Rock and the Animal Legal Defense Fund provided to assist us in evaluating this case. However, based on South Carolina's recognition of dogs as personal property, the national trend of not permitting emotional distress damages for tortious harm to a pet, the absence of legislative action in South Carolina, and the many different ways a legislature could defensibly draw lines if it desired to

create this sort of claim, we must respectfully decline the invitation to deviate from our previous decisions or change the common law.

"SPECIAL VALUE" AS PART OF PROPERTY DAMAGE

Rock's secondary argument is that if emotional distress damages are not available as a standalone category of damages, she should still be able to recover the "special value" of her dogs, which she believes includes a consideration of loss of companionship and loss of emotional support. Rock argues this special value should be considered in calculating the "actual value" of her property damage. *See Nelson v. Coleman Co.*, 249 S.C. 652, 659, 155 S.E.2d 917, 921 (1967) ("Recovery may be had for the loss or destruction of property even though it has no actual market value, in which case the owner is entitled to recover its actual or reasonable value, or its special value to him."); *see also* Margit Livingston, *The Calculus of Animal Valuation: Crafting a Viable Remedy*, 82 Neb. L. Rev. 783 (2004) (discussing the "value to owner" concept).

This issue is not before us. Each of the three claims in Rock's complaint (negligence, bailment, and breach of contract) included the same three paragraphs itemizing Rock's requested damages. In its order denying reconsideration, the circuit court specifically listed the paragraphs that were covered by its partial summary judgment ruling. The paragraphs of Rock's complaint where she alleged that the actual value of her dogs included sentimental value and loss of companionship were not included in that list and thus are not encompassed in the summary judgment ruling. Therefore, the issue of whether any special value should be considered in determining the actual value of loss when a pet dog is tortiously killed or harmed, and whether that special value encompasses loss of companionship or sentimental value, remains a viable question for the circuit court.

AFFIRMED.

MCDONALD, HEWITT, and VINSON, JJ., concur.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
George M. McFaddin, Jr., Circuit Court Judge

Appellate Case No. 2024-001363

Sarah Rock, Appellant,
v.
Dog Daze of Charleston,
LLC and Charlie Freeman,
Respondents.

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, Appellant respectfully petitions the Court for a rehearing of its Opinion No. 6137, filed on February 11, 2026 (the “Opinion”), based upon the following points overlooked or misapprehended by the Court.

I. The Opinion Does Not Address and Overlooks the Issue of Whether South Carolina Law Applies the Standard Rule of Recoverable Damages for Lost or Damaged Personal Property to Dogs or Applies a Different Rule of Recoverable Damages Due to the Difference Between Pet Dogs and Other, Inanimate Forms of Personal Property.

The Opinion primarily relies on “South Carolina’s classification of pets as personal property” and “our supreme court [having] recognized pet dogs as personal property in deciding whether a person’s dog could be the subject of larceny” in *State v. Langford*, 55 S.C. 322, 33 S.E. 370 (1899). While *Langford* recognizes pet dogs are personal property that can be the basis for a

larceny charge, the *Langford* decision goes no further. Neither *Langford* nor any other precedential South Carolina decision cited by the Opinion or the parties addresses the damages recoverable from the loss of a pet dog. The issue before the Court is whether South Carolina common law applies the standard measure of damages for damage to or loss of personal property—the market value of the property or the special value to the owner if unique, irreplaceable property—to pet dogs or whether South Carolina common law permits the recovery of emotional distress damages for the loss of a pet dog given the difference between a pet dog and other, inanimate forms of personal property. That remains an open question in South Carolina common law and one that the Opinion does not answer or address. For the reasons set forth previously in Appellant’s briefing and at oral arguments, Appellant submits that South Carolina common law would and should apply a different rule of recoverable damages for the tortious loss of or damage to a pet dog.

II. The Opinion Misapprehends and Does Not Carry Out the Court’s Duty in Determining and Developing South Carolina Common Law.

While stating that the Court is “sympathetic to [Appellant’s] position,” the Opinion holds that the Court “must defer to the legislature to create such a remedy.” This is a misapprehension of South Carolina law and a failure to carry out the Court’s duty to develop the common law. South Carolina courts have “the right *and duty* to develop the common law of South Carolina to better serve an ever-changing society as a whole.” *State v. Horne*, 282 S.C. 444, 447, 319 S.E.2d 703, 704 (1984) (emphasis added). Contrary to the Opinion’s conclusion that the Court “must defer” to the General Assembly, the purview of South Carolina courts over the common law is so substantial that courts can change part of the common law even when the General Assembly has statutorily recognized that portion of the common law. *See, e.g., Stone v. Thompson*, 428 S.C. 79, 85, 833 S.E.2d 266, 269 (2019) (“As discussed—and perhaps intuitively—common-law

marriage’s origins lie in the common law, and consequently, it may be removed by common-law mandate, regardless of tacit recognition by our legislature.”); *Marcum v. Bowden*, 372 S.C. 452, 458, 643 S.E.2d 85, 85 (2007) (“It is within this Court’s purview to change the common law.”); *Singleton v. State*, 313 S.C. 75, 84, 437 S.E.2d 53, 58 (1993) (“It has always been the purview of a court to change the common law”); *Russo v. Sutton*, 310 S.C. 200, 204, 422 S.E.2d 750, 753 (1992) (“Criminal conversation and alienation of affections are of common law origin. Their common law origin exists despite any subsequent recognition of the torts by our legislature. Thus, both criminal conversation and alienation of affections may be removed from the common law by common law mandate.”). South Carolina courts can and do expand or alter the common law—including the common law as to the existence or scope of tort claims—when necessary to serve the needs of the people of South Carolina. *See, e.g., Stone*, 428 S.C. at 85–86, 833 S.E.2d at 269 (changing common-law marriage due to a societal “shift” where “society no longer conditions acceptance upon marital status or legitimacy of children” and “non-marital cohabitation is exceedingly common and continues to increase among Americans of all age groups”); *Marcum*, 372 S.C. at 460, 643 S.E.2d at 89 (extending the common law to “impose liability on adult social hosts who knowingly and intentionally serve [alcohol to] underage guests” due to the Court’s “responsibility to adapt the common law to the realities of the modern world”); *Russo*, 310 S.C. at 204, 422 S.E.2d at 753 (eliminating the common law causes of action for criminal conversation and alienation of affection as “rooted in antiquated perceptions that wives are chattel of their husbands” and as having “outlived any usefulness they may have possessed in regard to preventing the dissolution of marriages”); *Hossenlopp v. Cannon*, 285 S.C. 367, 371, 329 S.E.2d 438, 441 (1985) (“The dog-bite law is of common law origin. It may be changed by common law mandate. The time has come when our rule must give way to the more commonly accepted rule of law

indicated in other states by both case law and by statute.”). Exercising its right and duty to determine and develop South Carolina’s common law, the Court should have determined whether the common law must develop to address the role of pet dogs in South Carolina today. The General Assembly certainly could step in at any time to statutorily determine the law in relation to tortious harm to pet dogs, but the Court has the right and duty in the first instance to determine and develop the common law in relation to pet dogs.

III. The Opinion Erroneously Concludes the “Minority View” Would Not Apply to Appellant’s Claims on the Basis There Has Been No Allegation of Intentional Conduct.

The Opinion concludes that “there are no claims that the harm to Rock’s dogs was the result of intentional conduct, so even this minority view would not apply to Rock’s claims.” This conclusion is contrary to what the Opinion calls the “minority view” and decisions from other jurisdictions. The Opinion cites *Richardson v. Fairbanks North Star Borough*, 705 P.2d 454 (Alaska 1985) in support of the conclusion that the “minority view” would not apply here, but the quoted language from that decision explicitly permits recovery for emotional distress damages for the “intentional *or reckless* killing of a pet animal.” 705 P.2d at 456 (emphasis added). Thus, *Richardson*’s statement of the minority view explicitly permits recovery of emotional distress damages for more than just “intentional conduct.” Similarly, the Opinion cites *Freedden v. Stride*, 525 P.2d 166 (Or. 1974) in support, but *Freedden* contains no limitation of that “minority view” to intentional harms and as quoted by the Opinion, states that emotional distress “is a proper element of damages where evidence of genuine emotional damage is supplied by *aggravated conduct* on the part of the defendant. 525 P.2d at 168 (emphasis added). The Opinion also relies on *La Porte v. Associated Independents, Inc.*, 163 So. 2d 267 (Fla. 1964), but that decision does not hold that emotional distress damages can only be recovered in instances of intentional harm and rather, discusses conduct that “demonstrated an extreme indifference to the rights of the petitioner.” 163

So. 2d at 268. Additionally, Appellant cited several decisions in her briefing that do not require any showing of intentional conduct to permit recovery of emotional distress damages for the tortious loss of or damage to a pet dog. *See, e.g., Campbell v. Animal Quarantine Station*, 632 P.2d 1066 (Haw. 1981); *Linceum v. Smith*, 287 So. 2d 625 (La. Ct. App. 1973). Moreover, Appellant alleges that Appellees were more than just negligent here, alleging Appellees were “negligent, careless, reckless, and grossly negligent.” (R. 233 ¶40 & 234 ¶52) Accordingly, Appellant would be entitled to proceed on her claim for emotional distress damages under the “minority view” were the Court to determine South Carolina common law must develop to permit the recovery of emotional distress damages for the loss of or damage to a pet dog.

CONCLUSION

For the reasons set forth herein, Appellant respectfully requests a rehearing of this appeal.

Respectfully submitted,

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In The Court of Appeals

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Feb 26 2026

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Appellate Case No. 2024-001363

Sarah Rock,

Appellant,

v.

Dog Daze of Charleston,
LLC and Charlie Freeman,

Respondents.

CERTIFICATE OF SERVICE

The undersigned certifies on February 26, 2026, he caused a copy of the foregoing Petition for Rehearing to be served on all parties of record by e-mail as follows:

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Feb 26 2026
SC Court of Appeals

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February 26, 2025

VIA U.S. MAIL AND EMAIL

Hon. Jenny Abbott Kitchings
Clerk of Court
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Re: *Rock v. Dog Daze of Charleston, LLC, et al.*
Appellate Case No. 2024-001363
Petition for Rehearing

Dear Hon. Jenny Abbott Kitchings,

Please find enclosed a Petition for Rehearing in the above-referenced appeal. Thank you for your assistance, and please do not hesitate to contact me should you have any questions.

Regards,

s/Elliotte Quinn

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Enclosures:

1. Petition for Rehearing

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The South Carolina Court of Appeals

Sarah Rock, Appellant,

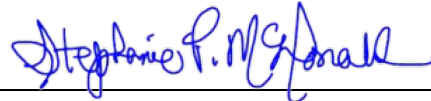
v.

Dog Daze of Charleston, LLC and Charlie Freeman,
Respondents.

Appellate Case No. 2024-001363

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



J.



J.



J.

Columbia, South Carolina

cc:

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Warren W. Wills, III, Esquire

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The Honorable George M. McFaddin, Jr.

FILED
Mar 10 2026