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Who Gets Fido?

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More and more, today's divorcing couples are willing to litigate the issue of which party should be awarded "custody" of the family pet.

"People who have dogs usually love their dogs forever. With divorce at record highs, the same however cannot be said about people who get married."

This statement was made by New York Judge Matthew Cooper in his oral opinion on a case before him involving a dispute over the custody of a miniature dachshund. In rendering his opinion, Judge Cooper opined that if people are willing to fight over a car, house, or other property, then it makes sense that they would certainly be willing to fight over a beloved pet.

Animals are generally regarded as personal property in Michigan and the term "custody" is not yet used in divorce disputes involving who will be awarded the family pet. Nevertheless, Judges strive to divide property in divorces as fairly as possible in light of all the circumstances. Hence, a Judge may consider such facts as which party:

- (1) primarily took care of the pet;
- (2) paid for medical care and food for the pet;
- (3) spent time with the pet; and
- (4) trained the pet.

These types of considerations resemble the child custody "best interest" factors. Since more and more trial courts acknowledge that custody-like terms such as "best interest" and "custodial environment" are not implausible terms to consider in pet-custody cases, lawyers are increasingly advocating that it is in the pet's best interest to be awarded to his or her client.