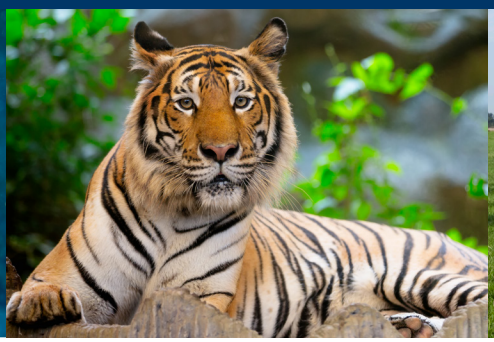
ANIMAL LAW

DuaneMorris®



Duane Morris attorneys have decades of experience representing businesses and institutions that feature or utilize animals or animal products and have obtained an international profile in the areas of animal law and defense of animal rights litigation.

PRACTICE HIGHLIGHTS

> Federal and state court litigation
> Regulatory advice and defense of enforcement actions
> Compliance and training
> Permitting and licensing matters
> Intellectual property matters
> Defamation, tortious interference and anti-SLAPP
> Defense of consumer fraud litigation
> Crisis communications and media relations

The practice involves global litigation, regulatory counseling and contentious matters before various administrative agencies, such as the U.S. Department of Agriculture (USDA), the U.S. Fish and Wildlife Service (FWS), the Food and Drug Administration (FDA) and the Federal Trade Commission (FTC), pre-litigation counseling and advice, media relations and crisis communications. The firm's lawyers have extensive experience with the Endangered Species Act (ESA), Animal Welfare Act (AWA), Marine Mammal Protection Act (MMPA), the Lacey Act, National Environmental Policy Act (NEPA) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). They also handle animal-related consumer law litigation and have been involved in judicial, administrative and legislative disputes with most of the major animal rights organizations over the past 20 years.

We understand that a well-developed litigation strategy often must be coordinated with a robust media and/or crisis communications plan. Our animal law litigators have extensive experience in developing media/crisis strategies, tactical messaging and media appearances that seamlessly meld the public relations and legal strategies into a focused and effective approach.

Our attorneys have extensive knowledge of veterinary practice, animal husbandry and welfare standards. We are well-versed in the biology and behavior of multiple animal species.

Our attorneys also have extensive experience in global intellectual property matters involving veterinary pharmaceuticals, biologicals (including vaccines) and homeopathic medicines.

Our attorneys are well-versed in preparing, prosecuting, maintaining, enforcing, licensing and defending patents involving veterinary medicines. We have experience combatting sales (including internet sales) of veterinary products that are contrary to USDA regulations under the AWA, the Food, Drug and Cosmetics Act (FD&C Act) and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

REPRESENTATIVE CLIENTS AND INDUSTRIES

> Animal exhibitors (circuses, zoos, aquariums, marine mammal, safari parks and wildlife preserves)
> Animal agriculture and food production
> Restaurants
> Animal exhibitor and agriculture trade associations
> Third-party certifiers of humane and ethical animal welfare
> Universities and research facilities
> Veterinary pharmaceuticals, biologicals and homeopathic medicine companies
> Equestrian and western sports
> Pets and companion animals

SELECT REPRESENTATIVE MATTERS

Animal Exhibitors

- Tried a landmark case involving Asian elephants to a defense verdict for Ringling Bros. and Barnum & Bailey Circus, which garnered international media attention. Obtained an unprecedented ruling that the client was entitled to recover attorneys' fees because the court found the plaintiffs' case to be "frivolous," "vexatious" and "groundless and unreasonable from its inception." Obtained recovery of more than $25.2 million from the adverse animal rights activist parties and their counsel.
- Represented multiple zoological facilities with respect to regulatory issues related to high-profile animal imports. Coordinated with foreign regulators and NGOs. Worked with in house communications teams on media and public relations strategies.
- Defended a marine mammal park in a California Unfair Competition Law (UCL) case in which, after a bench trial, the federal district court determined that plaintiffs had no standing, marking one of the few times in a California UCL case the issue of standing has been tried to the court.
- Obtained a dismissal with prejudice for a marine mammal park in a class action suit brought pursuant to multiple states' consumer fraud statutes, which was affirmed by the Ninth Circuit.

- Defeated a motion for a temporary restraining order for a coalition of zoos seeking to import wildlife from Swaziland (now known as Eswatini) to the United States in a case involving an animal activist group's challenge to the FWS's grant of an import permit that received international media attention.
- Defeated a habeas corpus petition and preliminary injunction motion brought by an animal activist group that sought to declare elephants as "persons" with the fundamental right to "bodily liberty" and gain release from an accredited zoo.
- Issued cease and desist letters to animal activists for publication of defamatory statements regarding multiple animal organizations and businesses, which resulted in immediate removal of defamatory statements without the necessity for litigation.
- Obtained an injunction (stay away order) to protect animal park employees against animal activists who engaged in violent behavior inside the park.
- Obtained a successful settlement of a California UCL matter brought by an animal activist organization against a zoo regarding elephant management techniques.
- Obtained dismissal of an Administrative Procedure Act case in California federal court brought by an animal activist group attempting to invalidate U.S. Fish and Wildlife Service permits and CITES certificates obtained by a U.S. circus to move Asian elephants and Bengal tigers to and from Mexico.
- Handled and resolved USDA enforcement actions and administrative appeals of inspection reports involving claims of mistreatment of animals and other AWA citations on behalf of licensed exhibitors.
- Served as regulatory counsel in sale transaction of a marine mammal park.

Agriculture and Food Production

- Obtained a successful settlement of a nationwide consumer fraud class action against an egg producer regarding the use of "free roaming" on the carton.
- Represented a food manufacturer of beef and pork products in connection with response to a USDA Food Safety and Inspection Service (FSIS) notice of intended enforcement and internal investigation regarding adulterated meat product.
- Obtained summary judgment for a certifier of humane farm animal welfare in a case involving consumer fraud claims challenging the certification on the label of chicken products, which was affirmed by the California Court of Appeal in a published decision.
- Represented a national association of pork producers in the U.S. Court of Appeals for the District of Columbia Circuit in a case brought by a major animal activist organization, which resulted in significant precedent on constitutional standing to sue with respect to federal commodity check-off programs.
- Handled and resolved FTC Bureau of Consumer Protection inquiries and investigations related to agriculture producer.

Life Sciences and Biomedical Research

- Represented a client in connection with obtaining Centers for Disease Control registration as an importer of, and quarantine facility for, nonhuman primates.
- Advised medical research, biotechnology and research animal transportation companies on USDA and FDA compliance matters.
- Represented an amicus curiae group of research institutions that was instrumental in federal district court dismissal of animal rights claim that excluding certain research animals from the AWA is an unconstitutional bill of attainder.

Pets/Companion Animals

- Handled and resolved FTC Bureau of Consumer Protection inquiry related to pet businesses and third-party certification organization.
- Advised an online pet marketplace on compliance with state sales law.
- Drafted and prosecuted patent applications for pet supplies (e.g. dog toys, aquariums, pet enclosures, harnesses, leashes) and, enforced and litigated patents.

Legislation Involving Animals

- Coordinated challenges to various state bills and legislation affecting animal interests and worked with lobbyists to defeat or amend legislation.

Technology/Biotechnology

- Advised technology client on state and federal regulatory requirements related to insect research.

Consumer Products/Apparel

- Advised restaurant clients on compliance with California's Proposition 12 and Massachusetts Question 3's regulations regarding animal confinement and sale of covered product in those jurisdictions.
- Advised a cold-weather clothing manufacturer with respect to defamatory statements contained in a shareholder proposal advanced by an animal activist organization.

Animal Imports and Exports

- Handled appeals of the denial of import permits and captive bred wildlife registrations by the FWS.
- Obtained a dismissal of a Lacey Act case related to international import of exotic animals.
- Advised and assisted clients in obtaining various federal permits, including captive-bred wildlife, import and export, and designated port exception permits.

ANIMAL LAW DEVELOPMENTS BLOG

Read the latest industry insights from our litigators at:
blogs.duanemorris.com/AnimalLawDevelopments

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