

LEGAL BULLETIN
Issue No. 51

Companion Animals in BC Family Law: Beyond Property

Introduction

Until recently, companion animals in British Columbia family law disputes were treated strictly as property, either personal property under section 3.1 of the *Civil Resolution Tribunal Act* or family property under section 84 of the *Family Law Act* (*Eggberry v. Horn et al*, 2018 BCCRT 224). Through these lenses, courts focused on ownership indicators such as purchase receipts, veterinary bills, and financial contributions. These produced winner-take-all outcomes that closely resembled equitable distribution principles. Considerations such as relational bonds or what was in the best interest of the pet were largely absent, as were shared care or visitation agreements.



The non-family member nature of companion animal was made clear in *Henderson v Henderson*, 2016 SKQB 282 and, ensuing cases in BC, such *Brown v. Larochelle*, 2017 BCPC 115 established the following rules:

- (a) pets will not be treated in a manner such as children;
- (b) courts are unlikely to consider interim applications for pet possession;
- (c) Canadian Courts are unlikely to find that joint sharing or some form of constructive trust remedy is apt;
- (d) that pets are a variant of personal property (para. 14)

Recent legislative amendments and emerging case law reflect a clear shift. Companion animals are now increasingly recognised as sentient beings that play an important role in the lives of many families. Section 97(4.1) of the *Family Law Act* now directs courts to consider a range of relational and welfare-based factors when determining who should have care of a companion animal.

Recent decisions, including *Bayat v. Mavedati*, 2024 BCSC 619, and *Bekar v. Mordo*, 2025 BCSC 1843, illustrate how courts in British Columbia are navigating this evolving legal landscape.

Legislative Framework

Section 97(4.1) of the *Family Law Act* sets out the factors courts must consider when resolving disputes over companion animals, including:

- how the animal was acquired;
- the extent to which each spouse cared for the animal;
- any history or risk of family violence;
- cruelty or threats toward the animal;
- the relationship between the animal and any children; and
- each party's willingness and ability to meet the animal's needs.
- any other circumstances the court considers relevant

These factors mark a significant departure from the traditional property-based approach and introduce a relational framework that places emphasis on caregiving, attachment, and welfare.

Case Background: *Bayat v. Mavedati*, 2024 BCSC 619

In *Bayat v. Mavedati*, the parties disputed ownership and care of their golden retriever following separation. Both claimed involvement in purchasing and caring for the dog. Associate Judge Nielsen noted that the evidence included a purchase receipt in the respondent's name, along with proof that the claimant had contributed financially at the time of acquisition:



I have been shown the receipt for Stella which is in the respondent's name, and I have also been shown an e-transfer from the claimant to the respondent, for precisely half the value of Stella that was made at the time of Stella's purchase. (Para. 4)

This reflects the traditional proprietary approach, where ownership was determined through documentary proof of purchase and financial contribution. However, the Court acknowledged that the recent amendments to the *Family Law Act* place companion animals within a framework that “goes beyond ownership of a chattel,” recognizing relational significance (para. 14).

Rather than awarding exclusive possession, the Court ordered an interim shared-care arrangement on a week-on/week-off basis, recognizing that both parties had contributed to the dog's care and had developed a meaningful bond with the animal. This decision illustrates a growing judicial willingness to consider relational dynamics and the animal's well-being while litigation is ongoing.

Case Background: *Bekar v. Mordo*, 2025 BCSC 1843

In *Bekar v. Mordo*, a high-conflict matrimonial dispute included competing claims over a dog, Frankie. The respondent sought the dog's return, alleging that the claimant had wrongfully removed him from the family home. The claimant, in contrast, maintained that Frankie had always been her companion and that she was primarily responsible for his care.

The Court approached the issue under s. 97(4.1) of the *Family Law Act*, which directs courts to consider factors such as the circumstances of acquisition, the extent of each party's caregiving, and each party's ability to meet the animal's needs.

In applying these factors, the Court placed significant weight on the claimant's evidence regarding her close relationship with Frankie, including that she fed him, took him to veterinary appointments, and attended to his daily care. The Court also noted her evidence that the dog had been adopted to provide her with emotional support and that she had remained his primary caregiver.

Ultimately, the Court concluded that the statutory factors “overwhelmingly favour[ed]” the claimant as the appropriate guardian for Frankie and declined to order his return (para. 74).

This decision reflects the increasingly relational lens through which companion animal disputes are assessed, with emphasis placed not on financial ownership but on caregiving patterns, attachment, and welfare.

Between Proprietary and Relational Frameworks

Taken together, these decisions illustrate a broader doctrinal shift toward what has been described as the “de-chattelization” of companion animals across multiple jurisdictions (Handy, 2018). Earlier Canadian cases, such as *Ireland v. Ireland* 2010 SKQB 454 explicitly rejected comparisons between pets and children and treated animals as divisible property, stating that “a dog is a dog” and that “any temptation to draw parallels between the court’s approach in this case to the principles applied to settle child custody disputes must be rejected” (para. 12). More recent decisions, in contrast, increasingly recognize that companion animals occupy a space that sits at the intersection of a “property/personhood dilemma” (Kymlicka, 2017).

While courts continue to avoid importing full child-custody frameworks, the statutory factors set out in the amended *Family Law Act* provision prioritizes caregiving patterns, emotional attachment, and each party’s practical ability to meet the animal’s needs. The result is a more contextual and welfare-based approach that better reflects the realities of modern family life and the significant role companion animals play within it.

At the same time, remnants of the proprietary model remain. As the above cases demonstrate, courts still tend to favour identifying one primary caregiver, and shared-care arrangements appear at the interim stage rather than in final orders. Despite these continuing proprietary elements, scholars suggest that the growing emphasis on relational dynamics signals a gradual movement beyond strictly property-based reasoning. Over time, this shift may open the door to intermediate forms of legal protection for companion animals, such as guardianship or representation (Montag, 2024).

Broader Implications

This emerging relational framework may carry implications beyond ownership disputes. One important area is family violence litigation. Companion animals are frequently implicated in patterns of coercive control, and the recognition of their relational significance may influence how courts assess risk, caregiving, and protective arrangements.

Canadian research has found that women whose partners mistreat companion animals are “at significantly greater risk of more frequent and severe forms of IPV, most specifically psychological, physical, and sexual abuse” (Barrett et al., 2020). Studies of domestic violence survivors similarly indicate that concern for companion animals can shape decision-making around safety, with “fifty six percent of the sample report[ing] they delayed leaving their abusive partner due to concern for their pets’ safety” (Barrett et al., 2020).

Scholars have also documented broader empirical links between violence against animals and violence against women and children. Swemmer (2022), drawing on Adams (1994), traces the relationship between abuse directed at animals and patterns of domestic violence, suggesting that recognition of companion animals within family structures may support more protective and context-sensitive approaches in family law proceedings.

As disputes involving companion animals become more common, practitioners should expect continued development in this area, particularly around:

- evidentiary expectations regarding caregiving roles;
- the use of interim shared-care arrangements; and
- the interaction between companion animal disputes and broader family dynamics, including family violence.

While companion animals remain legally categorized as property, the increasing emphasis on caregiving, attachment, and welfare reflects a shift away from purely proprietary reasoning. This shift is particularly significant in the context of family violence, where the presence of companion animals may heighten risk, shape survivors' decisions, and form part of broader patterns of control. As Canadian research observes, "domestic violence in all its forms... does not stop at the species line" (Barrett et al 2020); legal approaches should recognize companion animals as core components of many family units, requiring protection and decision-making grounded in their best interests.

Notes

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Brown v. Larochelle, 2017 BCPC 115

Civil Resolution Tribunal Act

Eggberry v. Horn et al, 2018 BCCRT 224

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Montag, Tristan. "Paw-tential Ways to Improve the Legal Status of Companion Animals." *Estates, Trusts & Pensions Journal* (2024).

Swemmer, Sheena. "Protecting Fido, Protecting the Family: Developing Domestic Violence Law to Include Companion Animals." *South African Crime Quarterly* 71 (2022): 75–86.

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