

Rebeka Breder:

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## **Justice for the Defenceless**

Still in its infancy, animal law is a growing area of practice and one that Rebeka Breder (class of '04) is passionate about. Her groundbreaking work in this area has garnered the attention of many and is changing the way we view law as it applies to non-humans.

*by Roberta Staley*



REBEKA BREDER (class of '04) nervously checked her watch. It was just after 9:00 AM on a chilly February morning and her client, Devin Kazakoff, hadn't arrived yet at Boughton Law offices in downtown Vancouver. Kazakoff had left Invermere, British Columbia, 900 kilometres away, late last night, navigating the treacherous Coquihalla Highway and Rogers Pass to deliver crucial documents to Breder.

This included potentially 30 affidavits opposing a deer cull in Invermere – an initiative undertaken by the hastily formed Invermere Deer Protection Organization (IDPO) that Kazakoff co-founded. The affidavits would be presented in British Columbia Supreme Court the next day to support a temporary injunction stopping the imminent slaughter of 100 whitetailed deer.

Councillors in Invermere, near Kootenay National Park, had voted to cull the animals in response to residents' complaints that the deer had become aggressive and were eating gardens and ornamental greenery. Citizens were incensed that the decision had been made without proper public input and that more humane animal-control methods weren't being considered. But the time for protest was past. At the same time that Kazakoff was pulling into Vancouver, clover traps were arriving in Invermere to be used for snaring the deer, allowing a contractor to dispatch them with a bolt gun to the head. The legal battle was on.

Breder was retained by the IDPO after the nascent group tried unsuccessfully to engage local lawyers to help them stop the cull. As it turns out, the blanket rejection was a blessing, says Kazakoff, as the resulting search led to Breder, a specialist in animal law cases. Breder was also driven, and she was undaunted by the urgency, the distance and the difficulty of the case. "It was impor-

night, jumped up on caffeine, to help Breder prepare for court.

Animal law constitutes at least 50 per cent of Breder's total caseload, which includes general corporate commercial litigation, municipal and administrative law, and environmental law. Breder's career in animal law started, she says, when she was 13 and found a dead duck peppered with buckshot

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***"This drive to advance the interests and welfare of animals is something I was born with."*** – Rebeka Breder

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tant for them to have a lawyer who believed in their cause," Breder says. The difficulty, however, "was being so far away. I had to rely upon the client to have the time and ability to meet with me on short notice." Kazakoff was ideal; he was willing to take the time off work, foot a \$400 round-trip fuel bill for his 1997 Dodge Ram van and drive wintery roads all

along a Montreal waterway. Migrating ducks would set down near shore to rest and feed, and hunters would flush the birds out with motorboats and shoot the fowl at close range as they took wing. The bylaw forbidding such abuse was never enforced. Breder took the dead bird home, put it in plastic and placed it in the freezer. She attended city council

meetings, holding the frozen fowl as evidence that the bylaw prohibiting the discharge of firearms was being ignored. It took five years, but Breder succeeded in convincing councillors to enforce the law prohibiting shooting within 1,000 metres of shore. The protracted fight taught Breder one key thing: existing law must be utilized creatively in order to uphold the loftier goal of animal welfare. "And that was the beginning of my legal career," says Breder, 35, who shares her home with a 62-kilogram Great Dane-mastiff cross and three cats.

Following the bird battle, Breder headed to McGill University. She worked for animal rights organizations, heading protests opposing the East Coast seal hunt. A few years later she received a JD from UBC. During her time at UBC, a visiting professor from Dalhousie, Vaughan Black, gave a seminar on animal law that convinced Breder it was possible to build a practice defending non-humans. Three years later in her legal career, in 2008, Breder created the country's first Animal Law Section with the Canadian Bar Association's BC branch. Working long hours – many pro bono – Breder saved dogs that had been declared dangerous from being euthanized and provided advice and assistance to groups like Shark Truth, which works to ban shark fin soup in restaurants.

Animal law, Breder says, is in its infancy – at the same point that environmental law, was 20 years ago. Along with a tiny coterie of animal lawyers across Canada, Breder pushes the modern notion that animals are neither property nor chattel – as existing law defines them – but sentient beings with the right to life, liberty and well-being. More and more, as families shrink, animals become beloved companions, which elevates their status to something closer to humans, says Breder. But law is evolving for the benefit of wilderness creatures, too. Having humans, like members of the IDPO, represent the interests of animals requires that a judge interpret the notion of standing within court in a pragmatic way. "You can argue that this is the biggest challenge," says Breder.

As it turned out, Kazakoff's journey was not in vain. BC Supreme Court Justice Paul J. Pearlman granted the temporary injunction. Because the case had been decided *ex parte*, the evidence and court documents had to be delivered to the City of Invermere by 4:30 PM the next day for the injunction to be valid. Kazakoff faced yet another hurried return trip along winter roads. But he made it – handing the box of documents to a disgruntled city employee at 4:00 PM, thus saving the lives of Invermere's deer. (An extension to the injunction was later denied, which allowed the city to dispatch 19 deer before the cull permit expired.)

The fight isn't over; the City of Invermere and the IDPO will lock horns again in January 2013 when the group files another petition against the cull. Breder is reluctant to predict the outcome and anticipates that it will take at least a month for the court to make a ruling on the lawsuit. However, Breder is optimistic the court will recognize that a fundamental, democratic right is at stake. "It's a legal argument about procedural fairness and the requirement that citizens who feel very strongly about an issue have the right to a say before a decision is made by a municipality. This is especially so in cases where the decision is lethal and not based on science," Breder says.

Win or lose, Breder wins. Other municipalities where deer proliferate in urban spaces are paying close attention to the eventual outcome, says Breder. Even if the IDPO loses, other municipalities will think twice before initiating a cull program and drawing the ire of its citizenry and fighting them in court, Breder says.

Breder is an iconoclast ahead of her time – one whose preternatural sensitivity towards animals matches a zeal to change society's ideas regarding our rights and responsibilities towards non-humans. "This drive to advance the interests and welfare of animals is something I was born with," says Breder. Eventually, she hopes, the courts will enshrine more of these enlightened notions into law. ■

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