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## Horses as Service Animals? (/full-blog/2011/09/horses-as-service-animals.html)

"Horses" (/full-blog?category=%22Horses%22)



(<https://static.squarespace.com/static/53fe85a0e4b0516a0c4fed1a/54002444e4b0123f9872f024/5400245fe4b0123f9872f2d6/1409295455347/1000w/>)

By: Catherine Barrett, Staff Member

On March 15, 2011, the definition of “service animal” under federal regulations changed from “any guide dog, signal dog, or other animal individually trained to do work or perform tasks”[1] (file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett.%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn1) to “any dog that is individually trained

to do work or perform tasks”[2]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn2) (emphases added). The new definition excludes all other species from full legal protection, including miniature horses.

Miniature horses are a new option in the field of assistance animals. Although few are in use in the United States, horses trained to guide the blind provide a valuable alternative when a dog is unsuitable, as in the case of observant Muslims, who view dogs as unclean.[3]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn3) Guide horses are trained to perform the same tasks as guide dogs.[4]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn4) Horses appeal to those who are allergic to dogs, have a task that requires greater strength and stamina, and those who simply prefer horses.[5]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn5)

Miniature horses are the only species other than dogs mentioned in the new regulations.[6]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn6) Although horses and their owners do not get the same level of protection, their utility is at least recognized; all other nontraditional species, including trained monkeys and parrots, are excluded from being considered service animals.[7]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn7)

It is important to balance the rights of the businesses expected to accommodate service animals. Even if miniature, a horse is much more difficult to accommodate in human spaces than a dog.

Horses cannot curl up compactly in vehicles or underneath tables. They require more space[8] (file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn8) and have more difficulty going down stairs than dogs.[9]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn9) While the new regulations segregate miniature horses from true “service animals,” public entities are required to make “reasonable modifications in policies, practices, or procedures” to permit their use.[10]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn10) When considering whether modifications are “reasonable,” the entity may consider the size of the miniature horse, whether the handler has control over it, whether it is housebroken, and whether the horse’s presence would compromise legitimate safety requirements.[11]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn11)

If guide horses are useful enough that they must be accommodated under “reasonable” circumstances, then they should be defined as “service animals.” While the regulations have separately protected their use in public, excluding horses may cause their owners other legal problems in private as landlords and state laws restrict where they may be kept.[12] (file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn12)

It is important to remember that America’s most iconic service animal, the Seeing Eye dog, is less than a hundred years old.[13] (file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn13) It would be naïve to assume that we have explored all the ways in which animals can help people to live fuller lives, and innovation cannot occur unless novel service animals can be used in public areas. Individuals need the freedom to be pioneers. Abuses should be punished,[14] (file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn14) but should not lead to a definition of “service animal” so narrow that it excludes domesticated animals with which humanity has had a long and successful partnership.

The clear solution is to legally define service animals by their training, not by their species. The original definition, emphasizing training to perform tasks, allowed those judging service animals to consider “function, not form.”[15] (file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn15) A broad definition lets each individual choose the service animal best suited to his needs, while still leaving room to protect public health and safety in its application by the courts.[16] (file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_edn16)

[1] (file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref1) “Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.” 28 C.F.R. § 36.104 (1991).

[2] (file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref2) “Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.” 28 C.F.R. § 35.104 (2010)(effective March 15, 2011).

[3] (file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-

%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref3) Ben Leubsdorf, *Seeing-eye horse guides blind Muslim woman*, Health care on MSNBC.com,[http://www.msnbc.msn.com/id/30155540/ns/health-health\\_care/](http://www.msnbc.msn.com/id/30155540/ns/health-health_care/) (last visited Sept. 5, 2011).

[4]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref4) *Common Misconceptions about Guide Horses*, The Guide Horse Foundation,<http://www.guidehorse.org/misconceptions.htm> (last visited Sept. 5, 2011).

[5]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref5) *Frequently Asked Guide Horse Foundation Questions*, The Guide Horse Foundation,[http://www.guidehorse.org/faq\\_GHF.htm](http://www.guidehorse.org/faq_GHF.htm) (last visited Sept. 5, 2011)-

[6]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref6) 28 C.F.R. § 35.136 (2010).

[7]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref7) Rebecca Skloot, *Creature Comforts*, N.Y. Times, December 31, 2008,<http://www.nytimes.com/2009/01/04/magazine/04Creatures-t.html?pagewanted=1> (last visited Sept. 5, 2011).

[8]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref8) Eugenia Firth, *The Guide Horse Foundation: Joke or Jeopardy?*, The Braille Monitor, April 2001, <http://www.nfb.org/Images/nfb/Publications/bm/bm01/bm0104/bm010404.htm> (last visited Sept. 5, 2011).

[9]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref9) Lyn Jacobs, *Get the real facts!*, GuideHorseNo.com,<http://www.guidehorseno.com/article1.html> (last visited Sept. 5, 2011).

[10]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref10) 28 C.F.R. § 35.136 (2010)

[11]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20-%20edit%20%28Steven%20A%20Neace%29.docx#\_ednref11) *Id.*

[12]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20- %20edit%20%28Steven%20A%20Neace%29.docx#\_ednref12) Robert L. Adair, Note, *Monkeys and Horses and Ferrets... Oh My! Non-Traditional Service Animals Under the ADA*, 37 N. Ky. L. Rev. 415 (2010).

[13]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20- %20edit%20%28Steven%20A%20Neace%29.docx#\_ednref13) The Seeing Eye has been training dogs since 1929. *Our Mission & History*, The Seeing Eye [http://www.seeingeye.org/aboutUs/default.aspx?M\\_ID=88](http://www.seeingeye.org/aboutUs/default.aspx?M_ID=88) ([http://www.seeingeye.org/aboutUs/default.aspx?M\\_ID=88](http://www.seeingeye.org/aboutUs/default.aspx?M_ID=88)) (last visited Sept. 5, 2011).

[14]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20- %20edit%20%28Steven%20A%20Neace%29.docx#\_ednref14) The appropriate response to concerns about pets being claimed as “service animals” is to punish fraud, not a species ban. Skloot, *supra* note vii.

[15]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20- %20edit%20%28Steven%20A%20Neace%29.docx#\_ednref15) *Id.*

[16]

(file:///C:/Users/Steven/Dropbox/UK%20Law/Law%20Journal/Blog/Staffer%20Blog%20Posts/Barr ett,%20Cathline/Barrett\_blog\_post\_final%20- %20edit%20%28Steven%20A%20Neace%29.docx#\_ednref16) *Id.*

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40508 (859) 257-4747 [BLOG.KJEANRL@GMAIL.COM](mailto:BLOG.KJEANRL@GMAIL.COM) (MAILTO:BLOG.KJEANRL@GMAIL.COM)