

Octogenarians fighting to keep cat held in contempt of court, required to pay \$12,000 in legal costs

By Eve Samples  
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In the end, it didn't matter that 88-year-old Bea Garza had dementia and depression.

It didn't matter that her cat, Mitzy, helped her cope with those ailments.

It didn't even matter that Bea and her husband removed Mitzy from their condo at Vista Pines on Wednesday morning, driving the green-eyed feline to Bea's son's house.

As the couple faced a judge in Martin County on Wednesday afternoon, all that mattered was that they had not gotten rid of the cat by Dec. 10, as required by a legal settlement with the condo association.

So Bea and 81-year-old Ron Garza, were held in contempt of court.

They will now have to pay \$12,000 to cover Vista Pines' attorney's fees and costs, according to a final judgment approved by Circuit Court Judge Sherwood Bauer.

Even Bauer acknowledged the ridiculousness of it all.

"I feel bad entering a judgment for \$12,000 because a cat wasn't removed," Bauer said.

But he didn't have a choice, he said.

A settlement agreement approved by Circuit Judge Gary Sweet in November imposed the Dec. 10 deadline. If the couple got rid of Mitzy by then, Vista Pines would waive the legal fees and costs.

But the Garzas maintain that their lawyer, who volunteered to handle the case for free, never informed them of the deadline.

Ron was frustrated and crestfallen as he addressed Bauer on Wednesday.

Bea sat behind him, quietly watching. A few rows back, the president of the Vista Pines Association, Richard Holleman, was silent, too.

"It just hurts to be in your 80s to have a physical problem," Ron told the judge. "No compassion."

Mitzy first came under fire in August 2009, when the Vista Pines association sent a letter to the Garzas, warning them to "remove the illegal cat" because it violated the "no pets" rule.

The Garzas didn't.

Vista Pines didn't back down.

That November, the association pursued arbitration through the Florida Department of Business and Professional Regulation. The arbitrator sided with Vista Pines — not because the Garzas had no legal right to keep Mitzy, but because they were arguing their case before the wrong agency.

The Garzas lawyer, Richard Brown of Vero Beach, was directed to file the claim that Mitzy was an "emotional support animal" with the Fair Housing Agency. He failed to do so by the deadline, and the arbitrator sided with Vista Pines, court records show.

When the Garzas still refused to get rid of Mitzy, Vista Pines sued them in Martin County Circuit Court, citing the arbitrator's decision.

Vista Pines' lawyer at Becker & Poliakoff, JoAnne Nesta Burnett, never proved that the Garzas didn't have legal rights to the cat.

She didn't have to.

No, all she proved was that they don't know how to navigate the legal system. And their pro bono lawyer didn't either, at least not in this area of the law.

Bauer acknowledged this, too.

"You may very well have a legal action against your attorney," the judge told the Garzas.

Brown was not present at the hearing, and his legal assistant told the Garzas he would no longer be representing them.

Brown has successfully written letters for other pet-owners — but this time he was up against a big opponent. Becker & Poliakoff is one of the largest condo-association law firms in Florida.

Pets in condos is a grey area of the law, something even Becker & Poliakoff's founders acknowledge.

In a column published last month in The Palm Beach Post, Gary and Ryan Poliakoff wrote that the definition of a "service animal" has gotten "extremely fuzzy."

"It used to be that only seeing-eye dogs and other trained, specialized animals qualified for the exception ... Today, even pets that are simply used for companionship may be claimed as service animals if a doctor 'prescribes' that pet is necessary for a person's health," the column stated.

Bea had a letter from a doctor, attesting to her disabilities and Mitzy's capacity to help them. That never mattered in the end.

Even the prevailing lawyers aren't winners in this case. The Garzas live off Social Security and Ron's earnings as a handyman. They can't afford to pay the \$12,000 legal fees and court costs.

"It's asinine," Bea said after Wednesday's hearing. "Absolutely asinine."