

RICH BITCH

The legal battle over trust funds for pets.

BY JEFFREY TOOBIN

The life of Leona Helmsley presents an object lesson in the truism that money does not buy happiness. Born in 1920, she overcame a hardscrabble youth in Brooklyn to become a successful condominium broker in Manhattan, eventually alighting, in the nineteen-sixties, at a firm owned by Harry B. Helmsley, one of the city's biggest real-estate developers. The two married in 1972, and Leona became the public face of their empire, the self-styled "queen" of the Helmsley chain of hotels. In a series of ads that ran in the *Times Magazine* and elsewhere, Helmsley's visage became a symbol of the celebration of wealth in the nineteen-eighties. She wouldn't settle for skimpy towels, the ads proclaimed—"Why should you?"

In private, as it turned out, the grinning monarch wasn't just demanding but despotic. Throughout her life, Leona left a trail of ruin—embittered relatives, fired employees, and, fatefully, unpaid taxes. Knowing that the Helmsleys had used company funds to renovate their sprawling mansion, Dunnellen Hall, in Greenwich, Connecticut, disgruntled associates leaked the records to the *Post*. Among the charges billed to the company were a million-dollar dance floor installed above a swimming pool; a forty-five-thousand-dollar silver clock; and a two-hundred-and-ten-thousand-dollar mahogany card table. In 1988, the U.S. Attorney's office charged the couple with income-tax evasion, among other crimes. (Harry Helmsley avoided trial because of ill health; he died in 1997, at the age of eighty-seven.) At the trial, a housekeeper famously testified that Leona had told her, "We don't pay taxes. Only the little people pay taxes,"

and the public warmed itself on a tabloid bonfire built under the Queen of Mean. Leona was convicted of multiple counts and served eighteen months in federal prison. In time, following her release, she became largely a recluse, and she died at Dunnellen Hall on August 20, 2007.

After her husband died, Leona Helmsley got a dog named Trouble, a



Leona Helmsley's will left millions to her dog, Trouble.

Maltese bitch. In her will, which she signed two years before her death, Helmsley put aside twelve million dollars in a trust to care for Trouble. Further, she directed that, when Trouble died, the dog was to be "buried next to my remains in the Helmsley Mausoleum," at Sleepy Hollow Cemetery, in Westchester County. Helmsley made only a handful

of relatively small individual bequests in the will, and left the bulk of her remaining estate to the Leona M. and Harry B. Helmsley Charitable Trust. Based on the figures in court files, that trust may turn out to be worth nearly eight billion dollars, which would make it one of the top ten or so foundations in the United States. (Leona's estate was so large because Harry left his fortune to her.) According to a "mission statement," which Helmsley signed on March 1, 2004, the trust was to make expenditures for "purposes related to the provision of care for dogs." The size of the bequests, to Trouble and to dogs generally, has generated widespread astonishment.

In fact, the clear motivation underlying Leona Helmsley's will—her desire to pass her wealth on to dogs—is more common than might be expected. Pet-lovers (many of whom now prefer the term "animal companion") have engineered a quiet revolution in the law to allow, in effect, non-humans to inherit and spend money. It is becoming routine for dogs to receive cash and real estate in the form of trusts, and there is already at least one major foundation devoted to helping dogs. A network of lawyers and animal activists has orchestrated these changes, largely without opposition, in order to whittle down the legal distinctions between human beings and animals. They are already making plans for the Helmsleys' billions.

For a couple that became emblematic of late-twentieth-century New York, Harry and Leona Helmsley were an unlikely pair. Harry, born in 1909 and raised in the Bronx, was sixteen when he joined a small Manhattan real-estate firm as an office boy for twelve dollars a week, and soon worked his way into a partnership. In 1938, he married the former Eve Green, a widow. Tall, stooped, a workaholic before the term was invented, Helmsley started buying buildings that were, in a way, a reflection of himself—drab but profitable. Often collaborating with a rotating group of partners on

different projects, he moved on to a few more glamorous acquisitions, like the Empire State Building, in 1961, but he seemed to go out of his way to avoid calling attention to himself. He and Eve had no children. "My properties are my children," he would say.

Lena Rosenthal, in contrast, was a raucous, disputatious presence seemingly from birth. (She later changed her name to Leona Roberts.) Nearly every aspect of her biography has been challenged, particularly if she was the source for it. She claimed to have worked as a model for Chesterfield cigarettes in her early years, but evidence for that assertion is elusive. She was married three times, but generally acknowledged having had only two husbands. She married Leo Panzirer in 1940, and they divorced twelve years later. Then she married and divorced Joseph Lubin (she usually neglected to mention him at all in later years), before her marriage to Harry Helmsley, who had left his wife of thirty-three years shortly after Leona's arrival at his firm. Leona had one child, Jay Panzirer, who died, of a heart ailment, in 1982, at the age of forty. Jay Panzirer had four children, and these grandchildren survived Leona. The will hints at the tense relationship between her and her only descendants.

Leona had contentious relationships with almost everybody (except Harry). In particular, she came to despise Jay's widow, Mimi, his third wife, for reasons that Mimi later said she never understood. Following Jay's death, the Helmsleys moved immediately to evict Mimi and their eldest grandchild, Craig, from their home in Florida, which was owned by a Helmsley subsidiary. During the next several years, the Helmsleys filed no fewer than six lawsuits against Mimi, asserting that they were entitled to the money in Jay's estate, a distinctly modest sum compared with their own fortune. After five years of rancorous litigation, Leona won about two-thirds of the two hundred and thirty-one thousand dollars at issue. As a result of Leona's legal triumph, each of her grandchildren was left with an inheritance from their father of a little more than four hundred dollars.

In her will, Leona Helmsley was more generous to two of her grandchildren, David and Walter Panzirer, who were left trusts and bequests worth ten million dollars, on the condition that

they visit their father's grave at least once a year. (Jay was buried in the family mausoleum, alongside Harry and Leona.) To make sure that they did, the will stipulated that the trustees "shall have placed in the Helmsley Mausoleum a register to be signed by each visitor." Leona's other two grandchildren, Craig Panzirer and Meegan Panzirer Wesolko, were excluded from any inheritance, "for reasons which are known to them." (The reasons were not disclosed.) That omission led to the first legal skirmish regarding the Helmsley estate. Lawyers for the two disinherited grandchildren filed a notice in Manhattan Surrogate's Court announcing that they planned to challenge the will on the ground that Leona "was not of sound mind or memory and did not have the mental capacity to make a Will" in 2005.

Leona's executors—her surviving brother, Alvin Rosenthal; her grandsons David and Walter Panzirer; her lawyer Sandor Frankel; and John Codey, a family friend—decided to settle the dispute quickly. They agreed to amend the will so that Craig and Meegan also received bequests: four million dollars for Craig, and two million for Meegan. In return, Craig and Meegan agreed to an elaborate confidentiality provision, promising not to "directly or indirectly publish or cause to be published any diary, memoir, letter, story, photograph, interview, article, essay, account or depiction of any kind" concerning the dispute over the will. Likewise, they agreed that all of their "personal correspondence . . . records, tapes, papers and financial information of or relating to" Leona must be given to the estate's lawyers. (Consequently, neither Craig nor Meegan, nor their attorneys, would comment on the dispute.) Still, the conflict among the human beneficiaries of the will was easy to resolve compared with the legal matters relating to dogs.

The modern history of legal rights for animals begins with a chimpanzee named Washoe. "He was the first 'signing chimp,' the first chimpanzee who learned sign language to communicate with people," Victoria Bjorklund, the head of the exempt-organizations practice at the New York law firm of Simpson Thacher & Bartlett, said. "There came a time when he was going to be sent off to be used in medical testing,

and there was a lot of distress about that possibility.” So Bjorklund and others set up a trust (funded with the proceeds of a book about Washoe), and appointed a guardian to protect him and several other chimps like him. The problem was that New York law said that a guardian could be appointed for a “person with a disability.” Was Washoe a “person” under New York law?

The lawyers at Simpson Thacher argued that “the mental, emotional, sociological, and biological characteristics” of Washoe and the other chimps “warrant their treatment as persons” entitled to representation. The lawyers submitted affidavits from such animal experts as Jane Goodall, who said that “chimpanzees are biochemically closer to humans than they are to any other of the great apes.” According to the brief in the case, the chimps “are capable of rational thought, communication, and other higher cognitive functions,” justifying their treatment as the legal equivalent of minors or disabled humans. In a 1997 decision, the surrogate of Nassau County agreed and appointed a guardian to administer the trust for the benefit of the chimps. “That trust was then respected by the State of Washington, where Washoe lived,” Bjorklund said. “We think it was the first trust ever established for the benefit of specific nonhuman primates.”

Jane Hoffman, a former associate at Simpson Thacher, had brought the Washoe case to the firm. “The idea was to create a right for a nonhuman animal to receive money—to push the envelope on the law, which at that point had only allowed trusts for the benefit of children or disabled adults,” she said. In 1990, Hoffman and a group of other lawyers founded a new committee at the Association of the Bar of the City of New York, on “Legal Issues Pertaining to Animals.” One of the first subjects that the committee’s members took up was the issue of inheritance. In 1996, they helped change the law to make it easier for any animal—especially a pet—to become the beneficiary of a trust. Many people wanted to make provisions for the care of their pets in their wills, but the law allowed no simple mechanism to do so. Frances Carlisle, a New York trusts-and-estates lawyer and a member of the committee, pushed the New York State Legislature to allow the creation of

“pet trusts,” which permit individuals to put aside money and instructions for their pets. New York approved the changes, and now thirty-eight states allow for the creation of such trusts. “We decided we didn’t want people to have to leave the disposition of their pets to chance, or a sudden decision, after they died,” Carlisle told me. “We want to give people peace of mind about their animals.”

The legal movement, which largely focussed on pets, was, of course, symbiotically aligned with the broader animal-rights movement, which also grew in the nineteen-nineties. But the theme remained the same—to extend the rights of humans to animals. In a country where most people eat meat, many hunt, and most others give little thought to the legal rights of their pets, the complexities of such a change are considerable. Even pro-animal-rights scholars, like Peter Singer, a professor at Princeton, recognize the difficulties. As Singer said at a recent conference in New York City, “We’re talking about beings as different as chimpanzees, pigs, chickens, fish, oysters, and others, and you must recognize those differences.” For the moment, the goals of the movement are modest, and largely limited to domestic animals.

“What the law is doing is catching up with the idea that people don’t consider their pets property, in the way a car or a chair is,” Hoffman told me. “I am not pumping for my cats to be able to vote for McCain or Obama. I’m not saying they could visit me at the hospital, though that’s probably a pretty good idea. The right category for pets is closer to children, who can’t vote, and can’t own property, but you can’t inflict pain on them, either. The law is catching up with societal beliefs.”

Leona had never had a dog before she got Trouble,” Elaine Silverstein, a co-founder of the Miami agency that created the “queen” advertisements for the Helmsley hotels, told me. “She

treated her like a person, and took her everywhere. She would take that dog to bed with her every night.” After Helmsley’s release from prison, she returned for a time to her hotels’ ads, but for one campaign she insisted that Silverstein feature Trouble instead. The ad showed the tiny white dog perched on a red velvet chair, and text that said, “‘Trouble,’ the Helmsley’s favorite four-legged guest,” recommends that you call for reservations. “It didn’t make much sense for a dog to endorse a hotel, but that’s what Leona wanted,” Silverstein said.

Still, Helmsley’s relationship with dogs reflected some of the distemper of her dealings with humans. According to Silverstein, one of Helmsley’s friends, seeing how much she loved Trouble, gave her another Maltese, who was named Double Trouble. “But Leona never liked that dog, so she got rid of it,” Silverstein said. “That was usually Leona’s solution. It was what she did with people.”

For all Helmsley’s love of Trouble, her will certainly made life complicated for the dog. She stipulated that Trouble, when her time came, join Leona, Harry, and Jay in the family mausoleum. (Leona also established a three-million-dollar trust for the “perpetual care and maintenance” of the mausoleum, directing that it be “acid washed or steam cleaned at least once a year.”) According to Carlisle, however, a joint human-canine burial is not possible at Sleepy Hollow. “Under New York law, animals can’t be buried in human cemeteries,” she said. “Leona could possibly be buried in a pet cemetery with Trouble, but not the other way around. That was an error in the drafting of the will.” (Trouble is still alive, so it’s not clear where she will be buried.)

The twelve-million-dollar trust for Trouble also created problems. The will stated that custody of Trouble should go to Rosenthal, Leona’s brother, or to her grandson David, and the trust agreement directed them to “provide for the care, welfare and comfort of Trouble at the highest standard.” But neither man wanted the dog. After the will was made public, Trouble received death threats, which may have had something to do with their refusal. (Both men declined to comment.) So the trustees had to find the dog a home. Moreover, the bequest



to Trouble was so self-evidently excessive for a single, aging dog that the trustees decided to take steps to reduce it.

As a guardian for Trouble, the trustees settled on Carl Lekic, who is the general manager of the Helmsley Sandcastle Hotel, in Sarasota, Florida. According to his affidavit in the case, Lekic had known Trouble since she was born, because Leona spent several months a year, late in life, at the hotel. "When I visited New York on business while Mrs. Helmsley was alive, I would also see Trouble and would pay attention to and play with her," Lekic said. The trustees agreed to pay him five thousand dollars a month to take care of Trouble. Lekic estimated annual security costs for the dog of a hundred thousand dollars, grooming costs of eight thousand dollars, food costs of twelve hundred dollars, and veterinary care of up to eighteen thousand dollars.

But how many years would Trouble likely live? To answer this question, the trustees sought an affidavit from Dr. E. F. Thomas, Jr., Trouble's veterinarian. Trouble was nine years old in early 2008 and had, according to Thomas, "several ongoing medical problems," including hypothyroidism and compromised kidney function. In the light of her medical issues, and the patterns of Maltese generally, Thomas estimated that Trouble was likely to live only three to five more years. In all, then, Lekic and the trustees concluded, only two million dollars of the trust's principal would suffice to cover all of Trouble's needs. On April 30, 2008, Judge Renee Roth, the New York surrogate who is supervising the Helmsley will, approved the reduction of ten million dollars in the trust. (If there is any leftover money in Trouble's trust following her demise, it goes to the Helmsley charitable trust.)

The local tabloids responded to Roth's ruling with feigned sympathy for Trouble's loss of ten million dollars. But some in the legal world of pet trusts saw the surrogate's decision as a substantial victory for their cause. "One of the greatest moments in my life was when the judge awarded two million in the Helmsley case," said Rachel Hirschfeld, a New York trusts-and-estates lawyer and the operator of *petriarch.com*, a Web site for pet owners. "It's not the reduction that's important; it's that the judge said two

SORRY YANKS VOW TO REVAMP IN '09



million was appropriate. It's a landmark case, for a judge to be able to say that we have a case for that amount of money."

The amount of money for Trouble, while substantial, pales compared with the sums at issue in the Leona M. and Harry B. Helmsley Charitable Trust. According to the estimate submitted in court by the trustees, the proceeds are between three and eight billion dollars. In the final years of her life, Leona appears to have given considerable thought to the trust, and to have reordered her priorities in a dog-focussed way.

To make her intentions clear for the trust, she signed two mission statements, which have not previously been made public. (The documents are available at *newyorker.com*.) On September 16, 2003, Leona signed a document that listed three goals for the planned expenditures. The

money was to go first "to the provision of care for dogs." The second was more conventional: "the provision of medical and health care services for indigent people, with emphasis on providing care to children." A third category covered "such other charitable activities as the Trustee shall determine." About six months later, however, Helmsley changed her mind. On March 1, 2004, she signed a new mission statement that revoked the previous one, and made one significant change. She now omitted the second purpose—medical care for the indigent, especially children—and left only the purpose of caring for dogs and the catch-all third category.

What this means for how the trust will operate is far from clear. "A mission statement is really just guidance to the trustees," Victoria Bjorklund, of Simpson Thacher, said. "It's not binding on them. It would only be binding if it was in the

will itself.” Still, the mission statement should have an influence on how the trustees allocate the funds. “The fact that she took out the care of children means to me that she probably experienced a change in her priorities that she expressed that way,” Bjorklund went on. “And there is a general-purposes clause that says the trustees can use the funds for anything that would be charitable. So they don’t have to use the money only for the care of dogs, but she is certainly indicating that it’s a priority.” The trust is not yet operating or making grants, and people familiar with the work of the trustees say that they are still trying to figure out what to do.

The animal-rights movement in New York is, however, already gathering proposals for how to use the money. The most detailed ideas so far come from Jane Hoffman. In 2002, the former corporate lawyer founded the group now known as the Mayor’s Alliance for NYC’s Animals, a not-for-profit organization that works as a public-private partnership with more than a hundred and forty animal-rescue groups and shelters around the city. “We are committed to making New York ‘no-kill,’ one community at a time,” she told me, using the movement’s term for eliminating euthanasia as a means of population control for any kind of animal.

To run the operations of the alliance, Hoffman secured a \$25.4-million grant over seven years from Maddie’s Fund, the largest-endowed dog-and-cat-centered foundation in America, which was created in 1999 by the founder of PeopleSoft software, Dave Duffield, and his wife, Cheryl. The Duffields have endowed the foundation with more than three hundred mil-

lion dollars and made grants of more than seventy-one million dollars. According to the fund’s Web site, “The Foundation makes good on a promise the Duffields made to their beloved Miniature Schnauzer, Maddie, to give back to her kind in dollars that which Maddie gave to them in companionship and love.”

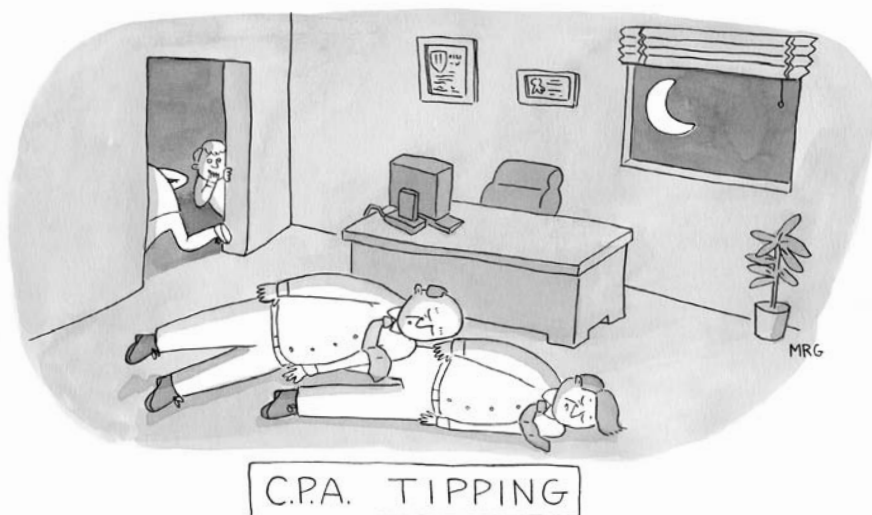
Hoffman and other animal-rights supporters have been nursing a grudge for years against the Doris Duke Charitable Foundation. Duke, the tobacco heiress, died in 1993 and left much of her wealth to a foundation that now has assets of about two billion dollars. In her will, Duke spoke of her interest in the “prevention of cruelty to children or to animals” and in “promoting anti-vivisectionism.” (Duke’s pets included two camels and a leopard, as well as several dogs.) The Duke foundation has a program to combat child abuse, but it has never invested in an animal-welfare program. Claire Baralt, a communications officer for the foundation, points out that the will says that support of animal rights was optional, not mandatory. According to Hoffman, however, “Doris Duke is a good example of how a testator’s intent has been thwarted. You know that person was extremely attached to her animals, but, at the end of the day, the trustees have made sure that very little has gone from that estate to animals. If you judge animal need against human need, human need is going to win most of the time, because we are human. We want to make sure the same mistakes are not made with Helmsley.

“The thing that I’m trying to get people to realize is this is not bling for dogs,” Hoffman went on. “When you think

about it, five to eight billion dollars isn’t that much. Foundations are required to give out at least five per cent of their assets every year, so we’re talking about two hundred and fifty million to four hundred million dollars.” This vast sum, which would dwarf the proceeds of Maddie’s Fund, could finance a great deal of medical research on or about dogs, but most of the ideas so far involve establishing no-kill policies for strays. Thanks in part to the efforts of the members of Hoffman’s alliance to foster adoptions and spaying and neutering, the percentage of animals killed in New York City shelters has dropped from seventy-four per cent, in 2002, to forty-three per cent, in 2007. Hoffman would like to use the Helmsley money to buy more spay-neuter vans, at two hundred thousand dollars each, and windowed vans for adoption events, at a hundred and seventy thousand dollars apiece; and to establish a “special Leona Helmsley Memorial Veterinary Hospital for needy pets,” at twenty million dollars a year, “providing medical treatment, inoculations, and training to help low-income families care for their dogs and create safer and more humane communities.” Hoffman wants to take these ideas nationwide. “A Leona Helmsley Trust dedicated to helping make the U.S. ‘no kill’ could actually achieve its goal in a remarkably short amount of time,” she said.

Hoffman’s enthusiasm obscures the fundamental moral question about how Helmsley hoped to dispose of her fortune. The way Leona altered her mission statement places the issue in especially stark terms. Version one proposed helping dogs and ailing poor children; version two—the final version—cut out the children and gave everything to the dogs. Is there any justification for such a calculation? Or does Helmsley’s change, along with the broader vogue for pet bequests, reflect a decadent moment in our history?

“In the nineteenth century, when the robber barons started modern American philanthropy, there were no tax deductions, no incentives from the government to give, just the growing idea that with wealth comes social and moral obligation,” Vartan Gregorian, the president of the Carnegie Corporation and a veteran of the New York philanthropic scene, said. “They could spend their money any



way they wanted, but, once we started giving tax deductions, which amounted to a publicly approved subsidy, you had to prove that the money was going for a philanthropic purpose, but that is so broad that you can give to almost anything.

"When you see a gift like Leona's, it's individualism carried to iconography," Gregorian went on. "The whole idea that individuals can do whatever they want is part of the American psyche. It's left to individual decision-making. That you can give to this sector of society, which is animals, as opposed to the other sector, which is human beings, tells you something about her and about the times in which we live."

The specific nature of Leona's gift appears consistent with the pervasive misanthropy of her life and her will. This was a woman, after all, who at her trial was quoted as saying about a contractor who was owed thirteen thousand dollars for installing a custom-made barbecue pit at the Helmsley estate and wanted to be paid because he had six children, "Why doesn't he keep his pants on? He wouldn't have so many problems." (In his opening statement at the trial, her defense attorney said, "I don't believe Mrs. Helmsley is charged in the indictment with being a tough bitch.") In the light of her vast wealth, the bequests to her relatives were grudging, small, and controlling, particularly the insistence that two of Jay Panziner's children visit his grave each year. As in life, Leona's disdain for others contrasted with her nearly fetishistic obsession with her husband. (While Harry was alive, she held an annual ball to celebrate his birthday, known as the "I'm Just Wild About Harry" party.) The transfer of this kind of obsessive affection from Harry to Trouble seems apparent. The twelve-million-dollar trust for the dog is bigger than any other single bequest in the will. On the whole, the will reflects contempt for humanity as much as love of dogs.

Under the law, certainly, it was Helmsley's right to divvy up her money any way she wanted. And she is not the first wealthy person to use a will to show a preference for dogs over humans. Rumors abound about major bequests to pets, although facts are difficult to pin down. Natalie Schafer, the actress who played Lovey, the millionaire's wife, on "Gilligan's Island," is said to have left her estate for the care of her dog. ("It is still getting

residuals," Rachel Hirschfeld said.) Toby Rimes, a New York dog, is said to have inherited about eighty million dollars, and Kalu, a pet chimpanzee in Australia, may have received a bequest of a hundred and nine million dollars. (A widely reported story that a German dog named Gunther IV inherited more than a hundred million dollars appears to be a hoax.)

Is it right to give so much money to a dog—or to dogs generally? And what is the limit of such dispensations to pets? Will there come a time when dogs can sue for a new guardian—or to avoid being put to sleep? One philosopher draws a distinction between the needs of Trouble and those of dogs as a whole. Helmsley "did a disservice to the people in the dog world and to dogs generally by leaving such an enormous amount of money for her own dog," Jeff McMahan, who teaches philosophy at Rutgers University, said. "To give even two million dollars to a single little dog is like setting the money on fire in front of a group of poor people. To bestow that amount of money is contemptuous of the poor, and that may be one reason she did it.

"But to give such a large sum of money to dogs generally is not frivolous," McMahan went on. "I think it shows some misplaced priorities, but many bequests do. In a world where there is starvation and poverty, you can say that it's wrong to give money to universities, or museums, or, worst of all, to divide it up for your children and heirs who are already rich. Welfare for dogs is better than more pampering of the rich. It may indicate misplaced moral priorities, but it's not frivolous or silly. It's disgraced by the context, but the two bequests should be separately evaluated."

Throughout her life, Leona Helmsley demonstrated not just a lack of affection for her fellow-humans but an absence of understanding as well. The irony is that, for all that her will purports to show her love for Trouble, Leona didn't seem to understand dogs very well, either. "What is funny about giving all this money to one dog is that it doesn't deal with the fact that the dog is going to be sad that Leona died," Elizabeth Harman, who teaches philosophy at Princeton, said. "What would make this dog happy is for a loving family to take it in. The dog doesn't want the money. The money will just make everyone who deals with the dog strange." ♦