

IN THE SUPREME COURT

On Appeal from the Michigan Court of Appeals  
Swartzle, P.J., and Ackerman and Trebilcock, JJ

NONHUMAN RIGHTS PROJECT, Supreme Court Docket No. 169351  
INC.,

Plaintiff-Appellant, Court of Appeals Docket No. 369247

v

DEYOUNG FAMILY ZOO, LLC Menominee Circuit Court  
AND HAROLD L. DEYOUNG LC Case No. 23-017621-AH

Defendants-Appellees.

---

Charissa C. Huang (P75501)  
SMITH HAUGHEY RICE & ROEGGE  
*Attorneys for Amici Curiae*  
100 Monroe Center NW  
Grand Rapids, MI 49503  
(616) 774-8000  
[chuang@shrr.com](mailto:chuang@shrr.com)

---

**MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF OF MATTHEW  
LIEBMAN, RANDALL S. ABATE, ZSEA BOWMANI, DAVID N.  
CASSUTO, LUIS E. CHIESA, MANEESHA DECKHA, DAVID S. FAVRE,  
ANGELA FERNANDEZ, ISELIN M. GAMBERT, SUE GREBELDINGER,  
KATHY HESSLER, JODI LAZARE, RUSS MEAD, MARTHA C.  
NUSSBAUM, JESSICA RUBIN, JOAN SCHAFFNER, SARAH  
SCHINDLER, KRISTEN A. STILT, JOYCE TISCHLER, LAURENCE H.  
TRIBE, DELCIANNA J. WINDERS, PAMELA D. FRASCH, AND  
DANIEL W. DYLAN**

The following law professors from across the United States and Canada  
(collectively “proposed amici curiae” or “proposed amici”) move for leave to file an

amici curiae brief in support of Plaintiff-Appellant Nonhuman Rights Project, Inc.

(“NhRP”), in this matter:

**Matthew Liebman**

Professor  
Chair of the Justice for Animals Program  
*University of San Francisco School of Law*  
San Francisco, CA  
(lead author)

**Randall S. Abate**

Assistant Dean for Environmental Law Studies  
*The George Washington University Law School*  
Washington, DC

**Zsea Bowmani**

Assistant Professor of Law  
*University of Toledo College of Law*  
Toledo, OH

**Luis E. Chiesa**

Professor of Law  
*Vermont Law & Graduate School*  
South Royalton, VT

**David N. Cassuto**

Professor of Law & Kerman Family Scholar  
Director, Brazil-American Institute for Law & Environment  
*Elisabeth Haub School of Law at Pace University*  
White Plains, NY

**Maneesha Deckha**

Professor and Landsdowne Chair  
*University of Victoria Faculty of Law*  
Victoria, BC

**David S. Favre**

Professor of Law  
*Michigan State University College of Law*  
East Lansing, MI

**Angela Fernandez**  
Professor  
*University of Toronto Faculty of Law*  
Toronto, ON

**Sue Grebeldinger**  
Professor  
Wake Forest University School of Law  
Winston-Salem, NC

**Iselin M. Gambert**  
Professor & Director, Fundamentals of Lawyering Program  
Faculty Co-Director, The Animal Legal Education Initiative  
*The George Washington University Law School*  
Washington, DC

**Kathy Hessler**  
Assistant Dean of Animal Law  
Director, Animal Legal Education Initiative  
*The George Washington University Law School*  
Washington, DC

**Jodi Lazare**  
Associate Professor  
*Schulich School of Law, Dalhousie University*  
Halifax, Nova Scotia

**Russ Mead**  
Shared Earth Visiting Professor  
*Lewis & Clark Law School*  
Portland, OR

**Martha C. Nussbaum**  
Ernst Freund Distinguished Service Professor of Law and Ethics  
*University of Chicago Law School and Philosophy Department*  
Chicago, IL

**Jessica Rubin**

Associate Dean for Experiential Education  
J. Agnes Burns Professor of Law and Director of Animal Law Clinic  
*University of Connecticut School of Law*  
Hartford, CT

**Joan Schaffner**

Associate Professor of Law  
Faculty Co-Director, The Animal Legal Education Initiative  
*The George Washington University Law School*  
Washington, DC

**Sarah Schindler**

Professor of Law and Maxine Kurtz Faculty Research Scholar  
Director, Environmental and Natural Resources Law Program  
*University of Denver Sturm College of Law*  
Denver, CO

**Kristen A. Stilt**

Professor of Law  
Faculty Director, Animal Law and Policy Program  
Director, Program on Law and Society in the Muslim World  
*Harvard Law School*  
Cambridge, MA

**Joyce Tischler**

Professor of Practice  
*Lewis & Clark Law School*  
Portland, OR

**Laurence H. Tribe**

Carl M. Loeb University Professor *Emeritus*  
*Harvard Law School*  
Cambridge, MA

**Delcianna J. Winders**

Associate Professor of Law  
Animal Law and Policy Institute Director  
*Vermont Law and Graduate School*  
South Royalton, VT

**Pamela D. Frasch**

Professor of Law

Brooks McCormick Jr. Scholar of Animal Law and Policy

Founder, Center for Animal Law Studies

*Lewis & Clark Law School*

Portland, OR

**Daniel W. Dylan**

Associate Professor

Bora Laskin Faculty of Law

Lakehead University

Thunder Bay, ON

The proposed amici curiae brief is attached as **Exhibit A** to this Motion. In support of this Motion, proposed amici curiae state as follows:

1. Proposed amici curiae are twenty-three law professors from across the United States and Canada who teach and research in the rapidly evolving field of animal law. Although once considered a niche area of law, today animal law commands respect as one of the fastest growing fields of law. More than 150 ABA-accredited law schools offer courses in animal law. In this state, the University of Michigan, Michigan State University, the University of Detroit Mercy, and Wayne State University offer animal law courses, with Michigan State hosting the largest online database and website dedicated to animal law. Outside of the law schools themselves, major legal institutions have recognized the importance of animal law, including the State Bar of Michigan, the American Bar Association, and the Association of American Law Schools.

2. This case raises one of the core issues in the courses proposed amici teach and the scholarship they write: whether our legal system should regard nonhuman animals as legal persons with legitimate claims to justice or, instead, as mere property that lacks enforceable legal rights. And, in light of this extensive public and professional interest in animal law, this case raises an “issue [that] involves a legal principle of major significance to the state’s jurisprudence.” MCR 7.305(B)(3).

3. Proposed amici have a special interest in assisting the Court in grappling with the foundational jurisprudential issues that this case raises. There have been significant shifts in how the legal system conceptualizes animals and their legal rights. Based on Amici’s interest in ensuring the field of animal law develops according to rational principles of justice that are consistent with our legal system’s commitment to liberty, the proposed amici brief will assist the Court in situating this case within the broader legal landscape.

4. Drawing upon proposed amici’s expertise in animal law, the proposed amici brief will ask this Court to grant Plaintiff-Appellant’s Application for Leave to Appeal because the Court of Appeals’ decision was clearly erroneous in relying upon archaic conceptions of personhood which would exclude many entities whose personhood we now take for granted. MCR 7.305(B)(5)(a).

5. The proposed amici brief will also ask this Court to grant Plaintiff-Appellant's Application for Leave to Appeal because the Court of Appeals' decision will cause material injustice. *Id.* The appellate ruling grounded its conclusions in undertheorized social contractarianism, in which only those who make law can be its beneficiaries. Applying the Court of Appeals' exclusionary approach to the issues raised in this case fails to account for the rights of those who bear the brunt of inequality, as well as those who cannot articulate their own interests.

6. Proposed amici do not seek to duplicate the arguments of the parties, but rather seek to supplement the Court's understanding of the legal and practical consequences of the issues presented.

For all the reasons stated above, proposed amici curiae respectfully request that this Court grant leave to file the proposed amici curiae brief in this matter.

Respectfully submitted,

Date: February 13, 2026

By: /s/ Charissa C. Huang  
Charissa C. Huang (P75501)  
SMITH HAUGHEY RICE & ROEGGE  
*Attorneys for Amici Curiae*  
100 Monroe Center NW  
Grand Rapids, MI 49503  
(616) 774-8000  
[chuang@shrr.com](mailto:chuang@shrr.com)

# EXHIBIT A

IN THE SUPREME COURT

On Appeal from the Michigan Court of Appeals  
Swartzle, P.J., and Ackerman and Trebilcock, JJ

NONHUMAN RIGHTS PROJECT,  
INC.

Plaintiff-Appellant,

v

DEYOUNG FAMILY ZOO, LLC  
AND HAROLD L. DEYOUNG

Defendants-Appellees.

Supreme Court Docket No. 169351

Court of Appeals Docket No. 369247

Menominee Circuit Court

LC Case No. 23-017621-AH

---

Charissa C. Huang (P75501)  
SMITH HAUGHEY RICE & ROEGGE  
*Attorneys for Amici Curiae*  
100 Monroe Center NW  
Grand Rapids, MI 49503  
(616) 774-8000  
[chuang@shrr.com](mailto:chuang@shrr.com)

---

**AMICI CURIAE BRIEF OF MATTHEW LIEBMAN, RANDALL S. ABATE, ZSEA BOWMANI, DAVID N. CASSUTO, LUIS E. CHIESA, MANEESHA DECKHA, DAVID S. FAVRE, ANGELA FERNANDEZ, ISELIN M. GAMBERT, SUE GREBELDINGER, KATHY HESSLER, JODI LAZARE, RUSS MEAD, MARTHA C. NUSSBAUM, JESSICA RUBIN, JOAN SCHAFFNER, SARAH SCHINDLER, KRISTEN A. STILT, JOYCE TISCHLER, LAURENCE H. TRIBE, DELCIANNA J. WINDERS, PAMELA D. FRASCH, AND DANIEL W. DYLAN**

## TABLE OF CONTENTS

INDEX OF AUTHORITIES.....	ii
I.    Statement of Interest of Amici Curiae.....	1
II.   Summary of the Argument .....	1
III.  Argument .....	3
A.   The Rapid Growth of Animal Law Demonstrates That the Issues This Case Raises “Involve[] a Legal Principle of Major Significance to the State’s Jurisprudence.” .....	3
B.   The Court of Appeals’ “Decision is Clearly Erroneous” Because It Relies on Archaic Conceptions of Personhood.....	6
C.   The Court of Appeals’ Decision “Will Cause Material Injustice” Because it Ignores Chimpanzees’ Liberty Interests and Relies Upon a Faulty Understanding of Social Contract Theory. ....	9
D.   Rights are Legal Protections Stemming from Legislative Enactments and Common Law Values.....	12
IV.  CONCLUSION.....	16
CERTIFICATE OF COMPLIANCE.....	21

**INDEX OF AUTHORITIES**

**Cases**

*Beech Grove Inv Co v Civil Rights Comm'n*, 380 Mich 405; 157 NW2d 213 (1968) .....7

*Bowers v Hardwick*, 478 US 186; 106 S Ct 2841; 92 L Ed 2d 140 (1986) (CJ Burger, concurring) (quoting W Blackstone, 4 *Commentaries* \*215) .....7

*Cetacean Community v Bush*, 386 F3d 1169 (CA 9, 2004)..... 13, 15

*Nonhuman Rts Project, Inc ex rel Happy v Breheny*, 197 NE3d 937 (NY 2022) .....8

*People v Stevenson*, 416 Mich 383; 331 NW2d 143 (1982).....7

**Statutes**

MCL 600.1405 .....11

MCL 750.50 ..... 11, 13

**Other Authorities**

Akisha Townsend, *An Opportune Quest: The Development of Animal Law Courses in the United States*, 3 J ANIMAL ETHICS 72, 72 (2013).....4

Angela P Harris, *Should People of Color Support Animal Rights?*, 5 J ANIMAL L 15 (2009).....4

Animal Legal Defense Fund, *Animal Law Courses*, <<https://aldf.org/article/animal-law-courses>> (accessed February 12, 2026) .....4

Anita L Allen, *Social Contract Theory in American Case Law*, 51 FLA L REV 1, 13 (1999).....10

Association of American Law Schools, *Section on Animal Law*, <<https://www.aals.org/sections/list/animal-law/>> (accessed February 12, 2026) .5

Bryant Smith, *Legal Personality*, 37 Yale LJ 283, 283 (1928) .....12

Carole Pateman, *The Sexual Contract* (1988).....10

Cass R Sunstein, <i>Standing for Animals (with Notes on Animal Rights)</i> , 47 UCLA L REV 1333 (2000).....	3
Cass R Sunstein, <i>Standing for Animals (with Notes on Animal Rights)</i> , 47 UCLA L Rev 1333, 1335 (2000).....	13
Cass R Sunstein, <i>The Rights of Animals</i> , 70 U CHI L REV 387 (2003).....	3
Catherine A MacKinnon, <i>Of Mice and Men: A Feminist Fragment on Animal Rights</i> , in <i>Animal Rights: Current Debates and New Directions</i> 143 (Cass R Sunstein & Martha C Nussbaum eds, 2004) .....	4
Charles W Mills, <i>The Racial Contract</i> (1997).....	10
Christopher D Stone, <i>Should Trees Have Standing?—Toward Legal Rights for Natural Objects</i> , 45 S CAL L REV 450, 453 (1972) .....	9
Claire Priest, <i>Enforcing Sympathy: Animal Cruelty Doctrine After the Civil War</i> , 44 Law & Soc Inquiry 136 (2019) .....	14
Congressional Research Service, <i>Federal Statutes Protecting Domesticated and Captive Animals</i> (Feb 5, 2021).....	12
David Favre & Vivien Tsang, <i>The Development of Anti-Cruelty Laws During the 1800's</i> , 1993 Det CL Rev 1 (1993).....	13
Harvard Law School, <i>Animal Law &amp; Policy Program</i> , <a href="https://animal.law.harvard.edu/about/">https://animal.law.harvard.edu/about/</a> (accessed February 12, 2026).....	5
International Law Section, American Bar Association, <i>Committees</i> , < <a href="https://www.americanbar.org/groups/international_law/committees/">https://www.americanbar.org/groups/international_law/committees/</a> > (accessed February 12, 2026) .....	5
Joyce Tischler, <i>A Brief History of Animal Law, Part II (1985-2011)</i> , 5 STAN J ANIMAL L & POL'Y 27, 36-37, 39 (2012).....	4
Karen Bradshaw, <i>Wildlife as Property Owners: A New Conception of Animal Rights</i> (2020) .....	3
Laurence H Tribe, <i>Ten Lessons Our Constitutional Experience Can Teach Us About the Puzzle of Animal Rights: The Work of Steven M Wise</i> , 7 ANIMAL L 1 (2001).....	3

Lewis & Clark Law School, <i>Center for Animal Law Studies</i> , < <a href="https://law.lclark.edu/centers/animal_law_studies/">https://law.lclark.edu/centers/animal_law_studies/</a> > (accessed February 12, 2026).....	5
Martha C Nussbaum, <i>Animal Rights: The Need for a Theoretical Basis</i> , 114 HARV L REV 1506 (2001) .....	3
Martha C Nussbaum, <i>Beyond “Compassion and Humanity:” Justice for Nonhuman Animals</i> , in <i>Animal Rights: Current Debates and New Directions</i> 299, 301 (Cass R Sunstein & Martha C Nussbaum eds, 2004).....	11
Martha C Nussbaum, <i>Working with and for Animals: Getting the Theoretical Framework Right</i> , 94 DENV L REV 609 (2017).....	3
Martha Nussbaum, <i>Frontiers of Justice: Disability, Nationality, Species Membership</i> (2006) .....	10
Martha Nussbaum, <i>Justice for Animals</i> (2022) .....	3
Matthew Liebman, <i>Animal Plaintiffs</i> , 108 Minn L Rev 1707, 1760 (2024) .....	3
Michigan State University, <i>Animal Legal &amp; Historical Center</i> , < <a href="https://www.animallaw.info/">https://www.animallaw.info/</a> > (accessed February 12, 2026). .....	5
Peter Sankoff, <i>Charting the Growth of Animal Law in Education</i> , 4 J ANIMAL L 105, 105–06 (2008) .....	4
Richard A Posner, <i>Animal Rights</i> , 110 YALE LJ 527 (2000).....	3
Richard L Cupp, <i>Cognitively Impaired Humans, Intelligent Animals, and Legal Personhood</i> , 69 FLORIDA L REV 465, 469, 467 (2017).....	4
Sherry F Colb & Michael C. Dorf, BEATING HEARTS: ABORTION AND ANIMAL RIGHTS (2016).....	4
State Bar of Michigan, Animal Law Section, < <a href="https://connect.michbar.org/animallaw/home">https://connect.michbar.org/animallaw/home</a> > (accessed February 12, 2026) ...	5
Tort Trial & Insurance Practice Section, American Bar Association, <i>Animal Law</i> , < <a href="https://www.americanbar.org/groups/tort_trial_insurance_practice/committees/animal-law/">https://www.americanbar.org/groups/tort_trial_insurance_practice/committees/ animal-law/</a> > (accessed February 12, 2026) .....	5

University of Connecticut School of Law, *Clinic: Animal Law*,  
 <<https://www.law.uconn.edu/academics/courses/LAW7384/clinic-animal-law>>  
 (accessed February 12, 2026) .....5

University of San Francisco, *Animal Law*,  
 <<https://www.usfca.edu/law/academics/areas-of-study/animal-law>> (accessed  
 February 12, 2026) .....5

Vermont Law & Graduate School, *Animal Law and Policy Institute*,  
 <<https://www.vermontlaw.edu/academics/centers-and-programs/animal-law-policy-institute>> (accessed February 12, 2026) .....5

Visa AJ Kurki, *A Bird’s-Eye View of Animals in the Law*, 87 *Modern L Rev* 1452  
 (2024).....3

William Blackstone, 1 *Commentaries* 442 (1765).....7

Yale Law School, *The Law, Ethics & Animals Program*,  
 <<https://law.yale.edu/animals>> (accessed February 12, 2026) .....5

**Rules**

MCR 7.305(B)(3).....1, 6

MCR 7.305(B)(3), (5)(a).....1

MCR 7.312(H)(4).....1

**Treatises**

Sir John William Salmond, *Salmond on Jurisprudence* § 61 (PJ Fitzgerald ed 12th  
 ed 1966).....12

## I. STATEMENT OF INTEREST OF AMICI CURIAE<sup>1</sup>

Amici curiae are twenty-three law professors from across the United States and Canada who teach and research in the rapidly evolving field of animal law. Amici have a special expertise in the issues presented by this case and a special interest in assisting the Court in grappling with the foundational jurisprudential issues that this case raises. Based on their interest in ensuring the field of animal law develops according to rational principles of justice that are consistent with our legal system's commitment to liberty, amici write to situate this case in the broader legal landscape. Amici respectfully urge the Court to grant the Plaintiff-Appellant Nonhuman Rights Project's application for leave to appeal.

## II. SUMMARY OF THE ARGUMENT

This brief argues that *Nonhuman Rights Project v DeYoung Family Zoo* warrants review by this Court because it raises an "issue [that] involves a legal principle of major significance to the state's jurisprudence" and because the Court of Appeals' "decision is clearly erroneous and will cause material injustice." MCR 7.305(B)(3) and (5)(a). This brief argues that developments in law, ethics, and science warrant the inclusion of at least some nonhuman animals, including the

---

<sup>1</sup> Pursuant to MCR 7.312(H)(4), amici state that no counsel for a party authored this brief in whole or in part, nor did anyone, other than amici or their counsel, make a monetary contribution intended to fund the preparation or submission of the brief.

chimpanzees at the DeYoung Zoo, in the community of legal rights-holders who are entitled to justice.

This brief explains the public importance of this appeal by describing the growth of animal law as a significant field of academic inquiry, then explains why this Court should reconsider the reasoning of the Court of Appeals.

The Court of Appeals' decision was erroneous because it rigidly applied archaic common law and social contract theory to reach the startling conclusion, belied by statutory law in Michigan, that "[a]nimals simply are not members of the political community." (App. Exhibit A (Decision, p. 13)). The appellate ruling grounded its conclusions in an undertheorized social contractarianism, in which only those who *make* law can be its beneficiaries. This brief cautions against adopting this exclusionary legal framework.

Amici argue that instead of grounding our legal community in a fictional social contract or in simple biological prejudice, the proper approach is to recognize that anyone with rights is a member. Rights are legal protections that stem from both positive law (such as legislation) and the fundamental values of the common law (such as liberty). Chimpanzees already have some rights as a matter of positive law (as evidenced by state and federal legislation), which makes them legal persons of a sort. This Court can use its authority under the common law to extend that legal personhood to recognize their substantive right to liberty and their consequent

procedural right to contest their captivity. If amici’s theory of legal animal rights is at least plausible (and contemporary legal scholarship argues it is not only plausible, but correct<sup>2</sup>), then this Court should grant leave to appeal and hear the case on its merits.

### III. ARGUMENT

#### A. The Rapid Growth of Animal Law Demonstrates That the Issues This Case Raises “Involve[] a Legal Principle of Major Significance to the State’s Jurisprudence.”

This case raises one of the core issues in the courses amici teach and the scholarship they write: whether our legal system should regard nonhuman animals as legal persons with legitimate claims to justice or, instead, as mere property that lacks enforceable legal rights. Some of the most influential and cited legal scholars of modern times have engaged with these questions, including Cass Sunstein, Martha Nussbaum, Richard Posner, Laurence Tribe, Deborah Rhode, Michael Dorf, Sherry Colb, Catharine MacKinnon, and Angela Harris, to name a few.<sup>3</sup> Although

---

<sup>2</sup> See, e.g., Karen Bradshaw, *Wildlife as Property Owners: A New Conception of Animal Rights* (2020); Martha Nussbaum, *Justice for Animals* (2022); Visa AJ Kurki, *A Bird’s-Eye View of Animals in the Law*, 87 *Modern L Rev* 1452 (2024); Matthew Liebman, *Animal Plaintiffs*, 108 *Minn L Rev* 1707, 1760 (2024).

<sup>3</sup> See, e.g., Cass R Sunstein, *Standing for Animals (with Notes on Animal Rights)*, 47 *UCLA L REV* 1333 (2000); Cass R Sunstein, *The Rights of Animals*, 70 *U CHI L REV* 387 (2003); Martha C Nussbaum, *Animal Rights: The Need for a Theoretical Basis*, 114 *HARV L REV* 1506 (2001); Martha C Nussbaum, *Working with and for Animals: Getting the Theoretical Framework Right*, 94 *DENV L REV* 609 (2017); Richard A Posner, *Animal Rights*, 110 *YALE LJ* 527 (2000); Laurence H Tribe, *Ten Lessons Our Constitutional Experience Can Teach Us About the Puzzle of Animal Rights: The Work of Steven M Wise*, 7 *ANIMAL L* 1 (2001); Sherry F Colb & Michael

these scholars reach different conclusions, they recognize that the normative and theoretical questions that animal law raises are novel and of significant legal significance – the same criteria that guides this Court’s decision whether to grant leave to appeal in this case. Even critics of animal personhood recognize that “the question of whether the law should consider particularly intelligent species of animals to be legal persons has developed roots as a matter of serious public debate” and that “the issues involved are on the cutting edge of legal rights jurisprudence.” Richard L Cupp, *Cognitively Impaired Humans, Intelligent Animals, and Legal Personhood*, 69 FLORIDA L REV 465, 469, 467 (2017).

Although once considered a niche area of law, today animal law commands respect as one of the fastest growing fields of law.<sup>4</sup> More than 150 ABA-accredited law schools offer courses in animal law, up from just nine such courses in 2000.<sup>5</sup> In this state, the University of Michigan, Michigan State University, the University of Detroit Mercy, and Wayne State University offer animal law courses, with Michigan

---

C. Dorf, BEATING HEARTS: ABORTION AND ANIMAL RIGHTS (2016); Catherine A MacKinnon, *Of Mice and Men: A Feminist Fragment on Animal Rights*, in *Animal Rights: Current Debates and New Directions* 143 (Cass R Sunstein & Martha C Nussbaum eds, 2004); Angela P Harris, *Compassion and Critique*, 1 COLUM J RACE & L 326 (2012); Angela P Harris, *Should People of Color Support Animal Rights?*, 5 J ANIMAL L 15 (2009).

<sup>4</sup> Akisha Townsend, *An Opportune Quest: The Development of Animal Law Courses in the United States*, 3 J ANIMAL ETHICS 72, 72 (2013); Peter Sankoff, *Charting the Growth of Animal Law in Education*, 4 J ANIMAL L 105, 105–06 (2008).

<sup>5</sup> Animal Legal Defense Fund, *Animal Law Courses*, <<https://aldf.org/article/animal-law-courses>> (accessed February 12, 2026); Joyce Tischler, *A Brief History of Animal Law, Part II (1985-2011)*, 5 STAN J ANIMAL L & POL’Y 27, 36-37, 39 (2012).

State hosting the largest online database and website dedicated to animal law.<sup>6</sup> Law schools at Harvard, Yale, and elsewhere not only offer introductory animal law courses, but have created robust programs that include advanced electives, clinics, and other opportunities for students to learn about the relationship between animals and the law.<sup>7</sup> Outside of the law schools themselves, major legal institutions have recognized the importance of animal law, including the State Bar of Michigan, the American Bar Association, and the Association of American Law Schools.<sup>8</sup>

---

<sup>6</sup> Michigan State University, *Animal Legal & Historical Center*, <<https://www.animallaw.info/>> (accessed February 12, 2026).

<sup>7</sup> See, e.g., Harvard Law School, *Animal Law & Policy Program*, <<https://animal.law.harvard.edu/about/>> (accessed February 12, 2026); Yale Law School, *The Law, Ethics & Animals Program*, <<https://law.yale.edu/animals>> (accessed February 12, 2026); Lewis & Clark Law School, *Center for Animal Law Studies*, <[https://law.lclark.edu/centers/animal\\_law\\_studies/](https://law.lclark.edu/centers/animal_law_studies/)> (accessed February 12, 2026); Vermont Law & Graduate School, *Animal Law and Policy Institute*, <<https://www.vermontlaw.edu/academics/centers-and-programs/animal-law-policy-institute>> (accessed February 12, 2026); University of San Francisco, *Animal Law*, <<https://www.usfca.edu/law/academics/areas-of-study/animal-law>> (accessed February 12, 2026); University of Connecticut School of Law, *Clinic: Animal Law*, <<https://www.law.uconn.edu/academics/courses/LAW7384/clinic-animal-law>> (accessed February 12, 2026).

<sup>8</sup> State Bar of Michigan, Animal Law Section, <<https://connect.michbar.org/animallaw/home>> (accessed February 12, 2026); Tort Trial & Insurance Practice Section, American Bar Association, *Animal Law*, <[https://www.americanbar.org/groups/tort\\_trial\\_insurance\\_practice/committees/animal-law/](https://www.americanbar.org/groups/tort_trial_insurance_practice/committees/animal-law/)> (accessed February 12, 2026); International Law Section, American Bar Association, *Committees*, <[https://www.americanbar.org/groups/international\\_law/committees/](https://www.americanbar.org/groups/international_law/committees/)> (accessed February 12, 2026); Association of American Law Schools, *Section on Animal Law*, <<https://www.aals.org/sections/list/animal-law/>> (accessed February 12, 2026).

In light of this extensive public and professional interest in animal law, amici contend that this case raises an “issue [that] involves a legal principle of major significance to the state’s jurisprudence.” MCR 7.305(B)(3).

**B. The Court of Appeals’ “Decision is Clearly Erroneous” Because It Relies on Archaic Conceptions of Personhood.**

The Court of Appeal denied the petition for a writ of habeas corpus on the grounds that chimpanzees are not “‘persons’ who enjoy what [William] Blackstone called a ‘right of personal liberty.’” (App. Exhibit A (Decision, p. 10)). While the court was correct to focus on the concepts of personhood, rights, and liberty, it erred in focusing its analysis on how Blackstone narrowly understood those concepts. NHRP’s case does not argue that chimpanzees would have been considered persons under the common law of England three centuries ago. Rather, it argues that the common law has evolved and should continue evolving from its historical limitations.

The Court of Appeals uses Blackstone as its main source of authority, citing him no fewer than ten times. But the problems with a static view of personhood, rights, and liberty that confines these concepts to their historical origins are almost too obvious to warrant discussion—such a view would exclude many entities whose personhood we now take for granted. For example, Blackstone’s conception of legal personhood excluded married women under the doctrine of coverture, through

which, in his own words, “the *very being* or legal existence of the woman is *suspended* during the marriage, or at least is *incorporated* and *consolidated* into that of the husband.” William Blackstone, 1 *Commentaries* 442 (1765) (emphasis added). Blackstone had similarly regressive views about gays and lesbians. Chief Justice Warren Burger, in his concurrence in the infamous (and overruled) *Bowers v Hardwick*, notes, “Blackstone described ‘the infamous *crime against nature*’ as an offense of ‘deeper malignity’ than rape, a heinous act ‘the very mention of which is a disgrace to human nature,’ and ‘a crime not fit to be named.’” *Bowers v Hardwick*, 478 US 186, 197; 106 S Ct 2841; 92 L Ed 2d 140 (1986) (CJ Burger, concurring) (quoting W Blackstone, 4 *Commentaries* \*215). While Blackstone is indisputably significant for summarizing the common law of his time, his archaic and exclusionary opinions should be viewed skeptically, especially when they concern the fundamental question of who matters before the law.

The whole point of the common law is to recognize historical failings and leave space for development and evolution. See *People v Stevenson*, 416 Mich 383, 390; 331 NW2d 143 (1982) (“This Court has often recognized its authority, indeed its duty, to change the common law when change is required.”); *Beech Grove Inv Co v Civil Rights Comm'n*, 380 Mich 405, 429; 157 NW2d 213 (1968) (common law must “adapt[] to, among other things, new institutions, public policies, conditions,

usages and practices, and changes in mores, trade, commerce, inventions, and increasing knowledge, as the progress of society may require”).

It would be one thing if Blackstone had articulated a reasoned and principled basis for recognizing the liberty of every human being while denying such an interest to every nonhuman animal, regardless of that animal’s capacities. But, as the Court of Appeals recognized, Blackstone’s authority for this fundamental bifurcation is “holy,” that is, it comes from “the creation narrative” in Genesis. (App. Exhibit A (Decision, p. 11)). According to Blackstone, “the all-bountiful Creator gave to man ‘dominion,’” and so “[t]he earth . . . and all things therein are the general property of all mankind, exclusive of other beings, from the immediate gift of the Creator.” *Id.* (quoting Blackstone). While it is no surprise that biblical doctrine influenced Blackstone’s commentaries in 18<sup>th</sup> century England, such reasoning cannot support the ruling of a secular court committed to the separation of church and state in 21<sup>st</sup> century Michigan.

No one doubts that the common law was historically hostile to the rights of animals. But that is not the issue. As Judge Rowan Wilson of the New York Court of Appeals noted in his dissent in a prior NHRP case, “[t]he correct approach is not to say, ‘this has never been done’ and then quit, but to ask, ‘should this now be done even though it hasn’t before, and why?’” *Nonhuman Rts Project, Inc ex rel Happy v Breheny*, 197 NE3d 937 (NY 2022) (Wilson, J., dissenting); see also, Christopher D

Stone, *Should Trees Have Standing?—Toward Legal Rights for Natural Objects*, 45 S CAL L REV 450, 453 (1972) (“Throughout legal history, each successive extension of rights to some new entity has been, theretofore, a bit unthinkable. We are inclined to suppose the rightlessness of rightless ‘things’ to be a decree of Nature, not a legal convention acting in support of some status quo.”).

**C. The Court of Appeals’ Decision “Will Cause Material Injustice” Because it Ignores Chimpanzees’ Liberty Interests and Relies Upon a Faulty Understanding of Social Contract Theory.**

Ultimately, the Court of Appeals defended its refusal to evolve the common law beyond Blackstone’s biblical anthropocentrism by referring to social contract theory, as articulated by Blackstone and Thomas Hobbes. (App. Exhibit A (Decision, p. 13)). As the court put it: “A central aspect of personhood is mankind’s capacity to ‘give[] up a part of his natural liberty and oblige[] himself to conform to those laws, which the community has thought proper to establish.’ Chimpanzees—and nonhuman animals generally—are incapable of making this exchange.” (App. Exhibit A (Decision, p. 13)) (quoting Blackstone). But the court’s logic falters: if chimpanzees have not exchanged their natural liberty – which NHRP’s voluminous scientific evidence establishes they possess – then they must still maintain it. And the deprivation of liberty is precisely the kind of harm for which habeas corpus provides a remedy.

If what the court means is that one cannot avail themselves of legal remedies such as the writ of habeas corpus unless one has assented to the social contract, then the implications are quite troubling. Some humans, such as infants and people with severe cognitive impairments, cannot assent to the social contract. Others, such as historically marginalized groups, lack equal bargaining power to participate in the fictional negotiations the contract presumes. Legal scholar Anita L. Allen argues that “judges’ reliance on social contractarianism has served the interests of injustice—even extremes of injustice.” Anita L Allen, *Social Contract Theory in American Case Law*, 51 FLA L REV 1, 13 (1999).

While the social contract theory purports to describe a basis for establishing political community among individuals, it has done so by drawing sharp distinctions among persons. Historically, social contract theory has presumed its archetypal contractors as property-owning, white men, to the exclusion of women, people of color, and people with disabilities, as scholars have exhaustively documented. See Carole Pateman, *The Sexual Contract* (1988) (describing social contract theory’s marginalization of women’s labor); Charles W Mills, *The Racial Contract* (1997) (describing the historical and conceptual exclusion of Black people from social contract theory); Martha Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (2006) (describing how social contract theory fails to account for the rights of people with disabilities). By restricting our political community to

only those with whom we can bargain on equal footing, social contract theory excludes those who bear the brunt of inequality, as well as those who cannot articulate their own interests.

In addition to the troubling exclusionary implications of social contract theory, it also rests on a faulty premise: that one must be able to *make* the laws to be entitled to their protection. As philosopher and legal scholar Martha Nussbaum astutely puts it, “all contractualist views conflate two questions which might have been kept distinct: Who frames the principles? And for whom are the principles framed?” Martha C Nussbaum, *Beyond “Compassion and Humanity:” Justice for Nonhuman Animals*, in *Animal Rights: Current Debates and New Directions* 299, 301 (Cass R Sunstein & Martha C Nussbaum eds, 2004). But it is a basic premise of contract law – to which the social contract theory analogizes itself – that one need not be a contractor to receive the benefits of an agreement. See, e.g., MCL 600.1405 (recognizing the rights of third-party beneficiaries). So too with the social contract: one need not be involved in the establishment of law to be entitled to its protections. Just because chimpanzees cannot “understand[] our speech” or provide “mutual acceptance” of a fictional “Covenant” does not mean they are not part of our community of concern. (App. Exhibit A (Decision, p. 13)) (quoting Hobbes). Indeed, the political community already includes animals as beings worthy of legal protection. See, e.g., MCL 750.50 (protecting animals from cruelty and neglect);

Congressional Research Service, *Federal Statutes Protecting Domesticated and Captive Animals* (Feb 5, 2021).

**D. Rights are Legal Protections Stemming from Legislative Enactments and Common Law Values.**

Rather than linking membership in the legal community with one's species or their ability to participate in the social contract, amici suggest an alternative account: rights are legal protections that stem from the positive enactment of legislation or from the extension of common law values to new cases in order to meet changing social norms. Where society, either through the democratic process of positive law *or* the judicial process of the common law, extends legal protections to others, it has conferred a legal right and thus recognized the legal personhood of those it protects.<sup>9</sup>

This perspective is consistent with the jurisprudential consensus that “a person is any being whom the law regards as capable of rights or duties . . . whether a human being or not[.]” Sir John William Salmond, *Salmond on Jurisprudence* § 61 (PJ Fitzgerald ed 12th ed 1966). See also Bryant Smith, *Legal Personality*, 37 Yale LJ 283, 283 (1928) (“To confer legal rights or to impose legal duties . . . is to confer legal personality.”). It also more accurately describes the legal reality of Michigan

---

<sup>9</sup> Animals' personhood stems in part from their status as the holders of legislatively-granted rights (such as the state anticruelty law or the federal Endangered Species Act, both of which grant rights to the chimpanzees in this case), but the contours and consequences of that personhood can be augmented and elaborated by judges in non-statutory, common law cases like this one.

and American law generally, which recognize the existence of legal rights even in the absence of the ability to hold legal duties or participate in the social contract. In our legal system, children, people with cognitive disabilities, and nonhumans have legal rights because (1) legislatures have passed statutes to protect them and (2) they hold the kinds of interests that the common law protects, including interests in liberty and equality, neither of which depends on capacity to contract.

Personhood is the label the legal system attaches to those entities who have legal rights (or duties). Animals fit that description. As the Ninth Circuit has observed, “[a]nimals have many legal rights, protected under both federal and state laws.” *Cetacean Community v Bush*, 386 F3d 1169, 1175 (CA 9, 2004). Constitutional scholar Cass Sunstein echoes that observation, stating “it is entirely clear that animals have legal rights, at least of a certain kind.” Cass R Sunstein, *Standing for Animals (with Notes on Animal Rights)*, 47 UCLA L Rev 1333, 1335 (2000). In Michigan in particular, animals have a negative right to be free from the infliction of unjustifiable pain and suffering and a positive right to the provision of adequate food, water, and shelter. See MCL 750.50.

There have been significant shifts in how the legal system conceptualizes animals and their legal rights, as documented by Michigan State law professor David Favre. See David Favre & Vivien Tsang, *The Development of Anti-Cruelty Laws During the 1800’s*, 1993 Det CL Rev 1 (1993). These transformations have been

most obvious in the development of anticruelty laws across the country. Early iterations of anticruelty laws were primarily concerned not with the animals themselves but with the property rights of animals' human owners or, slightly more altruistically, with the need to safeguard public morals from the coarsening effects of public displays of animal cruelty. See *id.*; Claire Priest, *Enforcing Sympathy: Animal Cruelty Doctrine After the Civil War*, 44 *Law & Soc Inquiry* 136 (2019)

As legislatures amended anticruelty laws, typically in response to advocacy from the animal protection movement, the statutes became more concerned with animal suffering and cruelty as moral wrongs in and of themselves. For example, in the late 19<sup>th</sup> century and early 20<sup>th</sup> century, many states began to eliminate the requirement that animals be the property of another to receive the protections of the statutes. By applying anticruelty laws to cruelty committed against one's own animals, state legislatures recognized the wrong of animal cruelty not as a property crime against the owner of the animal, but rather an invasion of the legally recognized interests of the animal herself.

This legislative tradition of protecting individual animals themselves from suffering constitutes the conferral of legal rights and thus personhood, as a "person" is simply an entity who holds legal rights. Given animals' legal personhood, they ought to enjoy not only those rights that have been legislatively conferred, as in the

anticruelty law, but also those that may be judicially elaborated through the common law, as in the writ of habeas corpus.

Taken together, these trends establish that animals can no longer be seen as rights-less things, but rather as the holders of legal rights, and consequently legal persons. As entities who “have many legal rights[] protected under both federal and state laws,” *Cetacean Community*, 386 F3d at 1175, animals are already legal persons, because “[t]o confer legal rights or to impose legal duties . . . is to confer legal personality.” Smith, *supra*, at 283.

Should this Court disagree with the *descriptive* claim that animals are already legal persons by virtue of their possession of legal rights, amici agree with the *normative* claim made by the Nonhuman Rights Project that chimpanzees should be recognized as member of the legal community because of their possession of those interests that the common law protects, namely interests in autonomy and liberty. To avoid redundancy, amici will not repeat those arguments here. Simply put, amici emphasize their agreement with the contention that chimpanzees have a substantive interest in autonomy and liberty and are entitled to equal treatment under the law when like cases arise. Because chimpanzees have the very interests that the common law protects, they are normatively entitled to consideration as legal persons. As legal persons, the chimpanzees in this case are entitled to a writ of habeas corpus to require

the DeYoung Zoo to justify their detention. If the Zoo cannot do so, the chimps should be transferred to a sanctuary.

**IV. CONCLUSION**

Because the Court of Appeals’ decision relied on an inaccurate and overly restrictive criterion for inclusion within the moral, political, and legal community, this Court should review its decision. Legal belonging extends not only to the archetypal humans of social contract theory, but also to those entities—human and nonhuman—who have secured the protection of their liberties through the enactment of legal protections or who are entitled to such protections by virtue of who they are. amici respectfully request that the Court grant NHRP leave to appeal and consider these issues on their merits.

Date: February 13, 2026

By: /s/ Charissa C. Huang  
Charissa C. Huang (P75501)  
SMITH HAUGHEY RICE & ROEGGE  
*Attorneys for Amici Curiae*  
100 Monroe Center NW  
Grand Rapids, MI 49503  
(616) 774-8000  
[chuang@shrr.com](mailto:chuang@shrr.com)

The following amici sign this brief in their individual capacity. Institutional affiliations are included for identification purposes only and the views expressed in this brief should not be regarded as the position of their respective law schools or universities.

**Matthew Liebman**

Professor  
Chair of the Justice for Animals Program  
*University of San Francisco School of Law*  
San Francisco, CA  
(lead author)

**Randall S. Abate**

Assistant Dean for Environmental Law Studies  
*The George Washington University Law School*  
Washington, DC

**Zsea Bowmani**

Assistant Professor of Law  
*University of Toledo College of Law*  
Toledo, OH

**David N. Cassuto**

Professor of Law & Kerman Family Scholar  
Director, Brazil-American Institute for Law & Environment  
*Elisabeth Haub School of Law at Pace University*  
White Plains, NY

**Luis E. Chiesa**

Professor of Law  
*Vermont Law & Graduate School*  
South Royalton, VT

**Maneesha Deckha**

Professor and Landsdowne Chair  
*University of Victoria Faculty of Law*  
Victoria, BC

**David S. Favre**

Professor of Law  
*Michigan State University College of Law*  
East Lansing, MI

**Angela Fernandez**

Professor  
*University of Toronto Faculty of Law*  
Toronto, ON

**Iselin M. Gambert**

Professor & Director, Fundamentals of Lawyering Program  
Faculty Co-Director, The Animal Legal Education Initiative  
*The George Washington University Law School*  
Washington, DC

**Sue Grebeldinger**

Professor  
Wake Forest University School of Law  
Winston-Salem, NC

**Kathy Hessler**

Assistant Dean of Animal Law  
Director, Animal Legal Education Initiative  
*The George Washington University Law School*  
Washington, DC

**Jodi Lazare**

Associate Professor  
*Schulich School of Law, Dalhousie University*  
Halifax, Nova Scotia

**Russ Mead**

Shared Earth Visiting Professor  
*Lewis & Clark Law School*  
Portland, OR

**Martha C. Nussbaum**

Ernst Freund Distinguished Service Professor of Law and Ethics  
*University of Chicago Law School and Philosophy Department*  
Chicago, IL

**Jessica Rubin**

Associate Dean for Experiential Education  
J. Agnes Burns Professor of Law and Director of Animal Law Clinic  
*University of Connecticut School of Law*  
Hartford, CT

**Joan Schaffner**

Associate Professor of Law  
Faculty Co-Director, The Animal Legal Education Initiative  
*The George Washington University Law School*  
Washington, DC

**Sarah Schindler**

Professor of Law and Maxine Kurtz Faculty Research Scholar  
Director, Environmental and Natural Resources Law Program  
*University of Denver Sturm College of Law*  
Denver, CO

**Kristen A. Stilt**

Professor of Law  
Faculty Director, Animal Law and Policy Program  
Director, Program on Law and Society in the Muslim World  
*Harvard Law School*  
Cambridge, MA

**Joyce Tischler**

Professor of Practice  
*Lewis & Clark Law School*  
Portland, OR

**Laurence H. Tribe**

Carl M. Loeb University Professor *Emeritus*  
*Harvard Law School*  
Cambridge, MA

**Delcianna J. Winders**

Associate Professor of Law  
Animal Law and Policy Institute Director  
*Vermont Law and Graduate School*  
South Royalton, VT

**Daniel W. Dylan**

Associate Professor  
Bora Laskin Faculty of Law  
Lakehead University  
Thunder Bay, ON

**Pamela D. Frasch**

Professor of Law  
Brooks McCormick Jr. Scholar of Animal Law and Policy  
Founder, Center for Animal Law Studies  
*Lewis & Clark Law School*  
Portland, OR

## CERTIFICATE OF COMPLIANCE

This Brief complies with the word limitation count set forth in MCR 7.305(E).

This Brief contains 4,398 words, exclusive of tables, indexes, and appendixes. The word processing software that was used to generate the word count is Microsoft Word 365.

This Brief also complies with the form requirements of MCR 7.212(B)(5).

Date: February 13, 2026

By: /s/ Charissa C. Huang  
Charissa C. Huang (P75501)  
SMITH HAUGHEY RICE & ROEGGE  
*Attorneys for Amici Curiae*  
100 Monroe Center NW  
Grand Rapids, MI 49503  
(616) 774-8000  
[chuang@shrr.com](mailto:chuang@shrr.com)

RECEIVED by MSC 2/13/2026 2:47:13 PM