

FELINE FRIEND 1, IRS 0

Some say the world is divided between dog lovers and cat lovers. Jan is the latter.

She has seven cats of her own that live with her in her modest California home. But Jan also puts her modest financial means where her mouth is. As a volunteer for a local IRS-approved charity, she has taken care of some 70 stray cats at her home while adoptive homes were being found for them. The charity's mission is to trap stray cats, neuter them, and then place them in homes temporarily until they can be adopted or released.

Jan's unreimbursed expenses for so many cats had a way of adding up fast. In a recent tax year, she claimed a deduction on her income tax return for that year's expenses of more than \$12,000, for everything from food and vet bills to kitty litter. The IRS took a dim view of the deduction, contending that the expenses were all personal nondeductible expenses and disallowing the deduction.

Representing herself because she could not afford to hire a lawyer, Jan handled her case all the way to the U.S. Tax Court, which sets precedents sometimes having broad application nationally. In that venue, she won on the most important issues, thereby improving the financial prospects for volunteers nationwide, especially those who incur unreimbursed expenses that can be shown to further the missions of groups like Jan's. There are more than 1.5 million IRS-recognized charities in the United States.

The Tax Court judge agreed with most of Jan's contentions. He permitted her to deduct most of her bills for feral cats, since such bills had been incurred to help a charitable group fulfill its mission. A couple of items were disallowed, such as the cost of cremating a cat and of repairing Jan's wet/dry vacuum. The deductible expenses included 90% of Jan's vet bills and 50% of her cleaning supplies and utility bills.

The total deduction was reduced somewhat for a reason that should be noted by others who might follow Jan's example—she didn't have a valid letter from the charity acknowledging her volunteer work for expenses of \$250 or more. In addition to getting such a letter, the taxpayer needs to keep good records of the pertinent expenses.

In Jan's case, the court ruled that the regulatory requirements for money contributions governed her expenses of less than \$250. Her records for such expenses were acceptable substitutes for canceled checks, under the "substantial compliance" doctrine.

CAR HORN HONKING AS FREE SPEECH

When Helen was reported to her homeowners association by a neighbor for violating a restrictive covenant against keeping chickens, she picked a rather odd way of getting even with the neighbor. She had to borrow a friend's car to do it, but she stopped the car in front of the neighbor's house at 6 a.m. and laid on the horn for 10 minutes.

The neighbor called the police, who first spoke with Helen and then went to get the neighbor's statement. Unable to leave well enough alone, Helen then drove past the neighbor's house and let out three more loud horn blasts for good measure. This promptly led to her arrest by the police officer and her subsequent conviction for violating the local noise ordinance barring the sounding of a horn except for public safety purposes or at officially sanctioned parades or public events.

Helen's conduct hardly summons up comparisons with grand orations on vital issues of the day, but her conviction was overturned by a state supreme court. More specifically, the county noise ordinance under which she had been arrested was struck down as being impermissibly overbroad, in violation of free speech protections of the federal and state constitutions, because horn honking could clearly be a form of expressive conduct in certain circumstances and the ordinance swept into its prohibition many such instances of "protected honking."

The court stated that the facts of the case were not critical in an overbreadth challenge. The larger principle was that there was a realistic danger that the ordinance would significantly compromise recognized free speech rights of parties not even before the court. Horn honking as a way to vent anger about a rather petty dispute between neighbors may not ring true as speech worthy of protection, but the court advanced some other, more plausible scenarios of honking as protected speech: a driver for a carpool toots the horn to let another worker know it is time to go; a driver responds to a sign saying "honk if you support our troops"; wedding guests celebrate the newlyweds' departure from the church with their car horns; or a driver honks in support of an individual picketing on a street corner.

Because these actions were swept within the ordinance's prohibition, as well as any other forms of car horn honking that did not involve public safety or an officially sanctioned parade or public event, the ordinance and Helen's conviction could not stand. The court suggested that a properly tailored ordinance, prohibiting, say, disturbing horn honking that is meant to annoy or harass, might have survived, but that was not the ordinance that led to Helen's arrest. In short, you might say that Helen had the last "honk" after all.