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# Roadside zoo: A term in search of legal definition?

BY VIRGINIA C. THOMAS

“As soon as we have the thing before our eyes, and in our hearts an ear for the word, thinking prospers.” — Martin Heidegger<sup>1</sup>

Our legal lexicon is anything but static. It evolves over time and, as it does, it can challenge the researcher trying to find the law. Here is the story of a single term which has been the subject of legislation, regulation, and litigation and the challenges it presents for researchers in finding the applicable law.

## WHAT IS A ROADSIDE ZOO?

“The word you’ve entered isn’t in the dictionary.”

This is the response given to a recent search for the definition of “roadside zoo” and synonymous term “roadside menagerie” in the Merriam-Webster online dictionary (available at [www.merriam-webster.com/](http://www.merriam-webster.com/)). Nor will legal researchers find these terms in Black’s Law Dictionary, Words and Phrases, and other secondary sources typically used to clarify the meaning of a word or document and its use in a legal context.

These findings are no surprise when one considers the broader landscape. Legal terminology is fundamentally formal and well-established, whereas “roadside zoo” is a colloquial term often used to refer to a subset of U.S. Department of Agriculture (USDA) class C exhibitors.<sup>2</sup>

Ambiguity does not mean that a term goes unused. News reports and popular press and social media posts aside, there are numerous references to roadside zoos in a variety of sources. Wikipedia, for example, includes this brief description in a featured article about zoos, generally:

Roadside zoos are found throughout North America, particularly in remote locations. They are often small, for-profit

zoos, often intended to attract visitors to some other facility, such as a gas station. The animals may be trained to perform tricks, and visitors are able to get closer to them than in larger zoos. Since they are sometimes less regulated, roadside zoos are often subject to accusations of neglect and cruelty.<sup>3</sup>

The Association of Zoos and Aquariums (AZA), an independent zoological accrediting organization, does not define the term “roadside zoo” but refers to “roadside menageries with inexperienced handlers and often inhumane conditions.”<sup>4</sup>

Other entities that advocate for animal rights and animal welfare have used the term in messaging and in litigating animal neglect and cruelty cases. One piece on the Animal Legal Defense Fund website succinctly described “roadside zoos” as “small menageries where wild animals like lions, tigers, monkeys, wolves, and others are kept in captivity, and often suffer badly.”<sup>5</sup> Further details include confinement in small cages, unsanitary conditions, inadequate food and veterinary care, lack of mental stimulation, and promotion of potentially dangerous interactions with patrons, such as bottle-feeding tiger cubs. Similarly, People for the Ethical Treatment of Animals notes that animals in “roadside zoos” are “forced to spend their lives behind bars just to entertain the public. Living conditions are often dismal, with animals confined to tiny, filthy, barren enclosures.”<sup>6</sup> Conditions of specific roadside zoos are often detailed in court filings.<sup>7</sup>

Law journal articles also discuss the term “roadside zoo.” As of this writing, 38 articles in the HeinOnline Law Journal Library and five in the Social Science Research Network include the term. These articles appear in flagship law reviews and those that focus on a special topic.<sup>8</sup> The 43 articles span 90 years — 30 were published between 2010-2021, two between 2003-2009, five between

1976-1994, and six between 1931-1939. One of the earliest articles describes a statute governing roadside zoos in Michigan.<sup>9</sup> Clearly, the term “roadside zoo” is not new to our vocabulary.

## USE IN PRIMARY LEGAL AUTHORITIES

This is where my hunt for definitions began, and I found the landscape curiously quiet. Except for several cases, mostly in state court, I discovered little in the way of judicial attempts to define “roadside zoo” or “roadside menagerie” — even in dicta. In one recent case from Montana, the court examined whether the appellant’s “roadside menagerie” license should be revoked.<sup>10</sup>

Neither compound term appears in a keyword search of the current U.S. Code, although “zoo” and “menagerie” returned numerous results, as one might expect. The same is true for the Michigan Compiled Laws, which does provide a definition of “zoo” in the Michigan Aquatic Development Act:

“Zoo” means any park, building, cage, enclosure, or other structure or premises in which a live animal is kept for public exhibition or viewing, regardless of whether compensation is received.<sup>11</sup>

This definition is substantially like the one set by the Animal and Plant Health Inspection Service, a USDA agency that regulates animal health and welfare.<sup>12</sup> As with the U.S. Code, a keyword search of the current Code of Federal Regulations did not yield “roadside zoo” or “roadside menagerie” or even “menagerie,” for that matter.

A similar search on Regulations.gov for recently proposed and final rules and related documents retrieved one proposed rule<sup>13</sup> that referenced “small zoos and roadside exhibits” and “petting/roadside zoos,” and a final rule<sup>14</sup> that referenced “small roadside zoos” in their respective preambles. Thousands of accompanying documents and public comments that included the term “roadside zoo” were retrieved from this source as well, underscoring the widespread popularity of the term.

## GOING FORWARD

Use of the term “roadside zoo” has been criticized on two counts. First, there does not appear to be consensus regarding the definition of the term across different venues, a scenario which invites subjective interpretation and ambiguity.<sup>15</sup> Second, the term is not neutral. Rather, it carries strong negative connotations which would transfer to referent entities whether or not they are warranted.<sup>16</sup> Both of these sources suggest the term “menagerie.”

Not all words evoke pleasant emotions, yet they are necessary. It seems there is work to be done in defining what is meant by

roadside zoo. “After all, language is perhaps the most obvious feature of the legal process, whether we have in mind statutes and regulations, contractual and testamentary instruments, writs, briefs or pleadings, or the response of the court.”<sup>17</sup>



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## ENDNOTES

1. Heidegger, *The Thinker as Poet* (1947), available at <<https://thefloatinglibrary.com/2008/06/30/the-thinker-as-poet-by-heidegger/>> [<https://perma.cc/5359-LZYN>]. All websites cited in this article were accessed February 9, 2022.
2. See 9 CFR 1.1 for definitions of “Class C licensee” and “Exhibitor.”
3. Zoo, Wikipedia <<https://en.wikipedia.org/wiki/Zoo>> [<https://perma.cc/LHH2-LSA8>]. Wikipedia does not recognize the term “roadside menagerie.”
4. The Accreditation Standards & Related Policies, Ass’n of Zoos and Aquariums (2022), p 91, available at <<https://assets.speakcdn.com/assets/2332/aza-accreditation-standards.pdf>> [<https://perma.cc/H4YJ-MY9U>].
5. Roadside Zoos: Small, unaccredited zoos where wild and exotic animals suffer in captivity, Animal Legal Defense Fund, available at <<https://aldf.org/issue/roadside-zoos/>> [<https://perma.cc/SM2D-UQGB>].
6. Roadside Zoos and Other Captive Animal Displays, People for the Ethical Treatment of Animals, available at <<https://www.peta.org/issues/animals-in-entertainment/zoos-pseudo-sanctuaries/>> [<https://perma.cc/K28T-Z77A>].
7. See, e.g., *Animal Legal Defense Fund v Vilsack*, 169 F Supp 3d 6 (D DC 2017), Brief for Appellants, pp 21-22 (referring to Cricket Hollow Zoo as an “unaccredited roadside zoo” with 300-350 exotic or wild animals which it housed in “isolated, barren, unsanitary and hazardous enclosures with insufficient access to drinking water and improper veterinary care.”).
8. Law journals retrieved by the search “roadside zoo” include flagship law reviews as well as topical journals, e.g., *Animal Law* and *Journal of Animal Law*.
9. Berry, *Law Regulating Roadside Zoos*, 70 *Our Dumb Animals* 168 (November 1937). The Massachusetts Society for the Prevention of Cruelty to Animals first published this monthly in 1887. Although it is not, strictly speaking, comparable to a law student edited journal, it does focus specifically on animal welfare issues and highlights law-related topics.
10. *Animals of Montana v Dep’t of Fish, Wildlife, and Parks*, 404 Mont 241; 487 P3d 384 (2021).
11. MCL 286.872.
12. 9 CFR 1.1, definition of “Zoo.”
13. Shift Cage Requirements, 71 FR 25101 (proposed April 28, 2006) (to be codified at 9 CFR 2).
14. Injurious Wildlife Species: Listing Three Anaconda Species and One Python Species as Injurious Reptiles, 80 FR 12702 (April 9, 2015) (to be codified at 50 CFR 16).
15. Burba, *A Home for Hope: Examining the History, Role and Purpose of the Modern American Zoo* (April 2018) (Honor Scholar Theses, DePauw Univ), available at <<https://scholarship.depauw.edu/studentresearch/81>> [<https://perma.cc/5B-VS-RHP6>].
16. Garner, *What’s in a Word? Why It’s Time to Retire “Roadside Zoo,” Why Animals Do the Thing* (April 7, 2017) <<https://www.whyanimalsdothething.com/whats-in-a-word-roadside-zoo>> [<https://perma.cc/JM4P-YG3T>].
17. Lasswell, *The Value Analysis of Legal Discourse*, 9 *Case Western Res L Rev* 188, 188 (1958), available at <<https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=3733&context=caselrev>> [<https://perma.cc/CUL2-A5DC>].