
**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA**

**ANIMAL LEGAL DEFENSE FUND,
IOWA CITIZENS FOR COMMUNITY
IMPROVEMENT, BAILING OUT BENJI,
PEOPLE FOR THE ETHICAL
TREATMENT OF ANIMALS, INC., and
CENTER FOR FOOD SAFETY**

Plaintiffs,

v.

KIMBERLY K. REYNOLDS, in her official
capacity as Governor of Iowa, **TOM
MILLER**, in his official capacity as Attorney
General of Iowa, and **BRUCE E.
SWANSON**, in his official capacity as
Montgomery County, Iowa County Attorney,

Defendants.

CASE NO. 4:17-cv-362

**STATEMENT OF UNDISPUTED
MATERIAL FACT IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

Facts Related to Animal Legal Defense Fund's Standing

1. Animal Legal Defense Fund (ALDF) is a national non-profit animal protection organization founded in 1979 that uses education, public outreach, investigations, legislation, and litigation to protect the lives and advance the interests of animals, including those raised for food. Plaintiffs' Appendix (Ps' Appx.) at 5 (Walden Aff. ¶ 3).

2. ALDF's mission is best served by demonstrating that meat, dairy, eggs, and related products are produced in a similarly cruel manner industry-wide, across the United States. Ps' Appx. at 5 (Walden Aff. ¶ 4). This requires the ability to gather evidence and information in a

variety of states, rather than in a select few. Ps' Appx. at 5 (Walden Aff. ¶ 4).

3. ALDF thus conducts investigations of facilities at various locations throughout the country. Ps' Appx. at 5 (Walden Aff. ¶ 5).

4. ALDF's investigations have focused on agricultural operations, including, among others, a Texas-based chicken slaughter plant operated by Tyson Foods that showed mistreatment of chickens, endangering of food safety, and disregard for worker well-being on the high-speed slaughtering line; and a Nebraska-based pig breeding facility owned and operated by the Maschhoffs, a major supplier to Hormel Foods, showing cruelty and neglect of pigs. Ps' Appx. at 5 (Walden Aff. ¶ 6).

5. ALDF has also conducted undercover animal welfare investigations in Iowa before, such as Cricket Hollow Animal Park in Manchester, Iowa. Ps' Appx. at 5 (Walden Aff. ¶ 7).

6. In conducting its investigations, ALDF has found that it is often necessary to use undercover investigators who access the facilities in question via the use of a false pretense because other methods of information gathering, such as communications with whistleblowers or filming from outside of factory farm facilities, are unreliable and frequently ineffective. Ps' Appx. at 5-6 (Walden Aff. ¶ 8).

7. During their investigations, investigators use hidden recording equipment to document violations of applicable laws and regulations, including unsanitary practices, cruelty to animals, pollution, sexual misconduct, labor law violations, and other matters of public importance—all while performing the tasks assigned by the employer (during employment-based investigations) or posing as a patron or buyer (during non-employment-based investigation). Ps' Appx. at 6 (Walden Aff. ¶ 9).

8. For example, ALDF conducted an employment-based investigation of Tyson Foods

wherein an investigator obtained a position as a slaughter-line employee and worked full time while using surveillance equipment to record the conditions in the facility. Ps' Appx. at 6 (Walden Aff. ¶ 10). In applying for the position, the investigator provided inaccurate information regarding her affiliation with an animal rights organization. Ps' Appx. at 6 (Walden Aff. ¶ 10). The investigation ultimately gave rise to four separate legal complaints. Ps' Appx. at 6 (Walden Aff. ¶ 10). Similarly, in ALDF's investigation of Cricket Hollow Animals Park, an investigator gained access to the facility via the use of a pretext by posing as a patron. Ps' Appx. at 6 (Walden Aff. ¶ 10).

9. ALDF is particularly interested in conducting agricultural investigations in heavily agricultural states such as Iowa. Ps' Appx. at 6 (Walden Aff. ¶ 11).

10. ALDF has identified agricultural production facilities where it would seek to conduct undercover, employment-based investigations, but it has not pursued employment at those facilities due to its reasonable fear of prosecution under the Ag-Gag law. Ps' Appx. at 6 (Walden Aff. ¶ 12).

11. ALDF would retain an investigator to conduct an undercover, employment-based investigation at an agricultural production facility in Iowa, but has refrained from doing so due to its reasonable fear of prosecution under the Ag-Gag law. Ps' Appx. at 6-7 (Walden Aff. ¶ 13).

12. The investigator would apply for employment with the agricultural production facility under the false pretense of being a typical applicant. Ps' Appx. at 7 (Walden Aff. ¶ 14).

13. The investigator would also make affirmative misrepresentations during the employment process with the intent of video recording the conduct of the facility, even where the facility does not authorize such recording. Those misrepresentations would include omitting investigator's affiliation with ALDF, omitting his or her status as a licensed private investigator

(where applicable), downplaying his or her educational background, and telling innocuous white lies to ingratiate themselves to their interviewers, such as “I like your tie (or local sports team or company philosophy).” Ps’ Appx. at 7 (Walden Aff. ¶ 15).

14. ALDF would retain a licensed investigator to conduct an undercover, non-employment-based investigation at an agricultural production facility in Iowa, but had refrained from doing so due to reasonable fear of prosecution under the Ag-Gag law. Ps’ Appx. at 7 (Walden Aff. ¶ 16).

15. The investigator would use false pretenses to gain access to the facility, either by stating overtly, or by letting the assumption go uncorrected, that they were a breeder or broker, when in fact, their intent was to document and expose practice that ALDF views as abusive, cruel, or illegal. Ps’ Appx. at 7 (Walden Aff. ¶ 17).

16. If the Ag Gag law is declared unconstitutional, however, ALDF will follow through with its plans to conduct and publicize an undercover investigation at an agricultural operation in Iowa. Ps’ Appx. at 7 (Walden Aff. ¶ 18).

17. ALDF also uses the results of undercover investigations by other organizations in its outreach and litigation projects and would do so with regard to any investigation conducted in Iowa. Ps’ Appx. at 7 (Walden Aff. ¶ 19).

18. ALDF’s core mission of improving the lives and advancing the interest of animals through the legal system is fundamentally impaired by Iowa’s Ag-Gag law. Ps’ Appx. at 8 (Walden Aff. ¶ 20). The law directly impedes ALDF’s ability to carry out its mission by diminishing the supply of information that supports ALDF’s litigation and advocacy, preventing the dissemination of information that protects the lives and advances the interests of animals, and directly impeding the improvement of animals’ status in the law. Ps’ Appx. at 8 (Walden Aff. ¶

20).

19. ALDF spends significant resources to prevent the spread of unconstitutional Ag-Gag laws, including the one enacted in Iowa. Ps' Appx. at 9 (Walden Aff. ¶ 21).

20. ALDF has diverted money and other organizational resources away from its core educational and outreach programs to focus on the social harms of the Ag-Gag law and laws like it. Ps' Appx. at 8 (Walden Aff. ¶ 21.)

21. The existence of Iowa Code § 717A.3A forces ALDF to do public outreach and education about Ag-Gag laws generally, including Iowa's, and as such they have less money and time to devote to outreach on topics that are central to their missions, such as animal rescues, educating the public about the harms of industrial farming, and other forms of abuse, neglect, and cruelty to animals. Ps' Appx. at 8 (Walden Aff. ¶ 22.)

Facts Related to People for the Ethical Treatment of Animals' Standing

22. Plaintiff PETA is a Virginia non-stock corporation and animal protection charity exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code. Ps' Appx. at 12-13 (Kerr Aff. ¶ 3).

23. PETA is dedicated to protecting animals from abuse, neglect, and cruelty, and undertakes these efforts through public education, undercover investigations, research, animal rescue, legislation, special events, celebrity involvement, protest campaigns, and lawsuits to enforce laws enacted to protect animals. Ps' Appx. at 13 (Kerr Aff. ¶ 4).

24. Central to PETA's mission are exposing cruelty to farmed animals, educating the public about such cruelty, and encouraging people to choose a lifestyle that does not involve or support abuse, neglect, or exploitation of animals. Ps' Appx. at 13 (Kerr Aff. ¶ 5).

25. PETA has a long history of using undercover investigations in order to expose cruelty

to animals. PETA's first undercover investigation—the 1981 investigation of Dr. Edward Taub's monkey testing laboratory in Silver Spring, Maryland—resulted in the nation's first arrest and criminal conviction of an animal experimenter for cruelty to animals. Ps' Appx. at 13 (Kerr Aff. ¶ 6).

26. PETA has conducted dozens of investigations in the United States over the past three decades, exposing illegal animal abuse and turning the results of each investigation over to appropriate law enforcement and/or regulatory authorities. Ps' Appx. at 13 (Kerr Aff. ¶ 7).

27. It continues to conduct these investigations to expose further illegal conduct on the part of workers and management personnel. Ps' Appx. at 13 (Kerr Aff. ¶ 8).

28. PETA's mission is best served by demonstrating that meat, dairy, eggs, and related products are produced in a similarly cruel manner industry-wide, across the United States. Ps' Appx. at 13 (Kerr Aff. ¶ 9). This requires the ability to access a diverse array of states and not just a select few. Ps' Appx. at 13 (Kerr Aff. ¶ 9).

29. PETA thus conducts investigations of agricultural facilities at various locations throughout the country. Ps' Appx. at 13 (Kerr Aff. ¶ 10).

30. During their investigations, investigators use hidden recording equipment to document violations of applicable laws and regulations, including unsanitary practices, cruelty to animals, pollution, sexual misconduct, labor law violations, and other matters of public importance—all while performing the tasks assigned by the employer. Ps' Appx. at 13-14 (Kerr Aff. ¶ 11).

31. PETA's investigations have focused on the type covered by Iowa Code § 717A.3A, including but not limited to (since 2013) Hudson Valley Foie Gras, Southern Quality Meats, Linda Bean's Maine Lobster, Babcock Genetics, Osborne Dairy Farm, Adams Valley View

Chinchilla Ranch, and Lone Star Alligator Farms. Ps' Appx. at 14 (Kerr Aff. ¶ 12).

32. In conducting its investigations, PETA has found it necessary, to use undercover investigators who access the facilities in question without disclosing that they are investigators, their animal-protection purpose, or their affiliation with PETA. Ps' Appx. at 14 (Kerr Aff. ¶ 13).

33. PETA has conducted previous investigations in Iowa. Ps' Appx. at 14 (Kerr Aff. ¶ 14). For instance, using an undercover, employment-based investigation, Plaintiff PETA exposed workers at a Hormel Foods supplier in Iowa beating pigs with metal rods and workers sticking clothespins into pigs' eyes and faces, and a supervisor kicking a young pig in the face, abdomen, and genitals to make her move while telling the investigator, "You gotta beat on the bitch. Make her cry." Ps' Appx. at 14 (Kerr Aff. ¶ 14).

34. Another employment-based investigation by Plaintiff PETA revealed horrific treatment of cows at an Iowa kosher slaughterhouse, some of whom remained conscious for as long as two minutes after their throats had been slit. Ps' Appx. at 14 (Kerr Aff. ¶ 15).

35. Since Iowa passed the Ag-Gag law in 2012, at least 15 whistle-blowers have contacted PETA alleging cruel or inhumane treatment of animals at Iowa agricultural facilities, including pig farms, chicken farms, egg farms, dairy farms, fur farms, and cow slaughterhouses. Ps' Appx. at 14 (Kerr Aff. ¶ 16.). Because of the threat of criminal liability under the Ag-Gag law, PETA was unable to conduct an employment-based investigation at any of these facilities. Ps' Appx. at 14 (Kerr Aff. ¶ 16).

36. PETA is committed to conducting investigations agricultural facilities in Iowa because the state is home to a large number of factory farms. Ps' Appx. at 15 (Kerr Aff. ¶ 17.).

37. PETA would have begun coordinating such investigations were it not for the threat of criminal prosecution under Iowa Code § 717A.3A. Ps' Appx. at 15 (Kerr Aff. ¶ 18).

38. In conducting such investigations, PETA would instruct its investigators to take photos and videos to document illegal conduct inside the facility, without the permission or consent of the owner, and their investigators would not disclose their affiliation with animal protection organizations. Ps' Appx. at 15 (Kerr Aff. ¶ 19). The investigator would be instructed either to enter the facility using a pretext (such as posing as a customer) or to obtain employment at the facility with the intent to make video or audio recordings therein. Ps' Appx. at 15 (Kerr Aff. ¶ 19).

39. If Iowa Code § 717A.3A is declared unconstitutional, PETA intends to move forward with undercover investigations of Iowa agricultural facilities. Ps' Appx. at 15 (Kerr Aff. ¶ 20).

40. PETA has diverted money and other organizational resources away from its core educational and outreach programs to focus on the social harms of the Ag-Gag law and laws like it. Ps' Appx. at 15 (Kerr Aff. ¶ 21).

41. The existence of Iowa Code § 717A.3A forces PETA to do public outreach and education about Ag-Gag laws generally, including Iowa's, and as such they have less money and time to devote to outreach on topics that are central to their missions, such as animal rescues, educating the public about the harms of industrial farming, and other forms of abuse, neglect, and cruelty to animals. Ps' Appx. at 15 (Kerr Aff. ¶ 22).

Facts Related to CCI's Standing

42. Iowa Citizens for Community Improvement (CCI) is a statewide Iowa non-profit organization that works to enable Iowans from all walks of life—urban and rural, young and old, immigrants and lifelong Iowans—to make change in their communities by raising their voices and doing grassroots advocacy. Ps' Appx. at 18 (Mason Aff. ¶ 3).

43. CCI's motto is "People Before Politics. People Before Profits. People Before

Polluters.” Its organizational priorities include fighting factory farms and protecting Iowa’s clean water and environment, as well as advancing for worker justice, racial justice, and immigrants’ rights. Ps’ Appx. at 19 (Mason Aff. ¶ 4).

44. CCI has more than 4,000 dues paying members around the state, in addition to another 17,000 supporters and activists. Ps’ Appx. at 19 (Mason Aff. ¶ 5).

45. Many of CCI’s members are workers in agricultural facilities. Were it not for the Ag-Gag law, CCI and its members, including whistleblower employees, would be able to engage in undercover investigations and evidence collection through surreptitious or undercover methods to support its mission. Ps’ Appx. at 19 (Mason Aff. ¶ 6).

46. CCI has had to limit whistle-blower investigations in which employees obtain employment with the intention simply of earning wages in exchange for their labor, but who, upon faced with worker rights or environmental violations by their employer, operate to gather evidence surreptitiously, without disclosing their intent to do so to their employer or obtaining permission, out of fear that workers—who are often marginalized, low-income, and/or immigrants—would face criminal liability under Ag Gag based upon their investigatory activities. Ps’ Appx. at 19 (Mason Aff. ¶ 7).

47. Prior to the Ag-Gag law, CCI’s members—who were workers in targeted facilities— would collect photographic evidence of poor or unsafe working conditions. Ps’ Appx. at 19-20 (Mason Aff. ¶ 8). Those photos were key components of the OSHA complaint that CCI members, who were Latino farmworkers, filed in 2012 against Angola Pork LLC, a factory farm near Algona, which resulted in citations and notifications of penalty by the agency to Angola Pork later that year. Ps’ Appx. at 19-20 (Mason Aff. ¶ 8). In that case, the ability for CCI, through its members, to obtain photographic evidence undercover while under the pretense

of simply being workers showing up for duty, was critical to the citations, which included serious violations for failing to furnish facilities that were “free from recognized hazards that were causing or likely to cause death or serious physical harm” to employees. Ps’ Appx. at 19-20 (Mason Aff. ¶ 8).

48. But after Ag Gag took effect, in 2015, CCI worked with Latino workers in an agricultural facility who had been forced to pay for their own protective gear. Unlike in the case of Angola Pork, in 2015 CCI members did not engage in any undercover investigatory activities as part of that advocacy, and did not collect footage of conditions for workers inside that facility, out of fear of criminal liability imposed by Iowa’s Ag-Gag law. Ps’ Appx. at 20 (Mason Aff. ¶ 9).

49. In addition, CCI utilizes video and images in its online and in-person activism, including online petitions and other forms of advocacy. Ps’ Appx. at 20 (Mason Aff. ¶ 10). For example, when CCI believes illegal dumping into Iowa waterways or other violations of the Clean Water Act are occurring, they have been chilled from obtaining video evidence of those violations. (*Id.*) Because of the fear of criminal prosecution imposed by the Ag-Gag law, CCI and its members do not collect those images or video by gaining access to agricultural facilities, and are limited to what documentation and images are viewable from public property. Ps’ Appx. at 20 (Mason Aff. ¶ 10). This necessarily severely limits what documentation and images are available for use in CCI’s advocacy. Ps’ Appx. at 20 (Mason Aff. ¶ 10).

50. CCI is also hindered by the Ag-Gag law in its mission to educate the public about the harms of factory farming to workers and the environment. Ps’ Appx. at 20 (Mason Aff. ¶ 11.) Under the law, CCI is unable to acquire and use in its advocacy efforts information or documentary evidence which was obtained by undercover investigators working for other

organizations, including ALDF, PETA, or other organizations that regularly conduct such investigation. Ps' Appx. at 20 (Mason Aff. ¶ 11).

51. If Iowa Code § 717A.3A is declared unconstitutional, CCI intends to resume its reliance on its members' investigations of Iowa agricultural facilities, including by undercover methods, specifically, by workers taking photographs or collecting eye witness testimony of workers' rights and environmental violations without the knowledge or permission of the employer/owner of the agricultural production facility. Ps' Appx. at 20-21 (Mason Aff. ¶ 12).

52. CCI has diverted money and other organizational resources away from its core educational and outreach programs to focus on the social harms of the Ag-Gag law and laws like it. Ps' Appx. at 21 (Mason Aff. ¶ 13).

53. The existence of Iowa Code § 717A.3A forces CCI to do public outreach and education about Ag-Gag laws generally, including Iowa's, and as such they have less money and time to devote to outreach on topics that are central to their missions, such as animal rescues, educating the public about the harms of industrial farming, and other forms of abuse, neglect, and cruelty to animals. Ps' Appx. at 21 (Mason Aff. ¶ 14).

Facts Related to Bailing Out Benji's Standing

54. Bailing Out Benji is an Iowa non-profit organization that works to protect companion animals and raise the public's awareness about various animal welfare issues impacting dogs. It focuses on puppy mills. Ps' Appx. at 23-24 (Callison Aff. ¶ 3).

55. Prior to the passage of the Ag-Gag law, Bailing Out Benji conducted undercover investigations into puppy mills by using false pretenses to gain access to facilities. Ps' Appx. at 24 (Callison Aff. ¶ 4-5).

56. Specifically, Bailing Out Benji volunteer Mindi Callison used false pretenses to

gain access to the Century Farm puppy mill in 2011 by posing as a potential buyer, when her true intent was to document unsafe and harmful conditions experienced by dogs and puppies in the facility. Ps' Appx. at 24 (Callison Aff. ¶ 5).

57. Likewise, Bailing Out Benji posed as a buyer to gain access to K-D Kennels in 2012 where a dog auction was being held, and documented conditions. Ps' Appx. at 24 (Callison Aff. ¶ 6)

58. Since the Ag-Gag law was signed into law, however, Bailing Out Benji has largely ceased its undercover activities for fear of being discovered and facing prosecution, and has refrained from publicizing evidence occasionally gathered by volunteers using undercover methods, because Ms. Callison, the organization's founder, an unpaid volunteer who is the only member of Bailing Out Benji who conducts undercover activities, believes she cannot safely do so. Ps' Appx. at 24 (Callison Aff. ¶ 7). She fears that the footage taken would be used as evidence against her under Ag-Gag. Ps' Appx. at 24 (Callison Aff. ¶ 7).

59. For example, after using an undercover camera to document abusive and negligent conditions for dogs at a 2013 dog auction she attended in Amanda, Iowa, including a dog fight and dogs kept in cages kept out in the rain with no protection from the weather, she was unable to use the footage in her advocacy by posting it on Bailing Out Benji's website, or in by using it to file complaints with the USDA or state of Iowa licensing authorities, for fear of Ag Gag. Ps' Appx. at 24-25 (Callison Aff. ¶ 8).

60. Bailing Out Benji also used images and video obtained by others who used false pretenses to gain access to puppy mill facilities, in furtherance of its mission. Ps' Appx. at 25 (Callison Aff. ¶ 9).

61. Prior to the passage of the Ag-Gag law, Bailing Out Benji would also use images

and video obtained through undercover investigations conducted in Iowa by another animal welfare organization, Companion Animal Protection Society (CAPS), in their public education activities. Ps' Appx. at 26 (Callison Aff. ¶ 10). Since the Ag-Gag law was enacted, CAPS no longer produces undercover materials of puppy mills in Iowa, and, as a result Bailing Out Benji can no longer use these materials in its advocacy. Ps' Appx. at 26 (Callison Aff. ¶ 10).

62. Finally, Bailing Out Benji accomplishes its mission is by exposing which puppy mills pet stores in Iowa are purchasing puppies from as well as the conditions of those puppy mills. Ps' Appx. at 26 (Callison Aff. ¶ 11). Without the materials produced through undercover investigations, it is unable to engage in that work as effectively, or at all, for fear their activities would constitute "harbor[ing], aid[ing], or conceal[ing] the person committing the agricultural production facility fraud under subsection 1, with the intent to prevent the apprehension of the person committing the agricultural production facility fraud" if they failed to disclose that they work for an animal advocacy organization. Ps' Appx. at 26 (Callison Aff. ¶ 11).

63. Since the Ag-Gag law took effect, Bailing Out Benji is in most cases unable to gain access to puppy mills or dog auctions on agricultural facilities by either posing as purchasers, breeders, or brokers either by stating so overtly or by letting the assumption go uncorrected, in order to investigate, document, and advocate against unsafe or inhumane practices in its work to protect dogs and puppies. Ps' Appx. at 24, 26 (Callison Aff. ¶¶ 7, 12).

64. When it has made a calculated risk assessment and determined it is unlikely to be discovered on-site in the process of the undercover investigation, it has determined that it is not able to actually use undercover footage for fear of prosecution under Ag-Gag. Ps' Appx. at 24-25, 26 (Callison Aff. ¶¶ 8, 12.)

65. Bailing Out Benji has diverted volunteer time and other organizational resources

away from its core educational and outreach programs to focus on the social harms of the Ag-Gag law and laws like it. Ps' Appx. at 27 (Callison Aff. ¶ 13).

66. The existence of Iowa Code § 717A.3A forces Bailing Out Benji to do public outreach and education about Ag-Gag laws generally, including Iowa's, and as such they have fewer resources to devote to outreach on topics that are central to their missions, such as animal rescues, educating the public about the harms of industrial farming, and other forms of abuse, neglect, and cruelty to animals. Ps' Appx. at 27 (Callison Aff. ¶ 14).

Facts Related to Center for Food Safety's Standing

67. Center for Food Safety (CFS) is non-profit environmental and consumer advocacy organization that empowers people, supports farmers, and protects the earth from the harmful impact of industrial agriculture. Ps' Appx. at 29-20 (Kimbrell Aff. ¶ 3). Through legal, scientific, and grassroots action, CFS protects and promotes the public's right to safe food and the environment. Ps' Appx. at 29-30 (Kimbrell Aff. ¶ 3).

68. CFS has more than 900,000 members nationwide, including more than 5,000 members in Iowa. Ps' Appx. at 30 (Kimbrell Aff. ¶ 4).

69. CFS's industrial animal agriculture program uses regulatory action, citizen engagement, litigation, and legislation to promote transparency and accountability in the animal agriculture industry. Ps' Appx. at 30 (Kimbrell Aff. ¶ 5).

70. The Ag-Gag law and laws like it frustrate CFS's mission to protect the earth from the harmful impact of industrial agriculture because they prevent CFS from disseminating information about the conditions at animal production facilities to their members, impede the transparency in agriculture that CFS promotes, and encourage the continuation of the harmful, inhumane, industrial animal agricultural model. Ps' Appx. at 30 (Kimbrell Aff. ¶ 6).

71. CFS has spent significant resources to stop unconstitutional the Ag-Gag law, and laws like it, and promote transparency in animal agriculture. But for these unconstitutional Ag-Gag laws, CFS would utilize its limited resources promoting alternatives to the industrial animal raising system. Ps' Appx. at 30 (Kimbrell Aff. ¶ 7).

72. CFS relies on and uses videos and recordings obtained during undercover industrial agriculture investigations for its legal, policy, advocacy, and educational and outreach work. Ps' Appx. at 30 (Kimbrell Aff. ¶ 8).

73. CFS relies on and uses video and recording obtained during undercover industrial agriculture investigation from a variety of organizations and sources, including ALDF and PETA. Ps' Appx. at 30 (Kimbrell Aff. ¶ 9).

74. Without access to undercover recordings CFS has difficulty fulfilling its mission and providing information to the public about food production at agricultural operations. Ps' Appx. at 31 (Kimbrell Aff. ¶ 10).

75. Were the Ag-Law declared unconstitutional and other organization conducted undercover investigation at animal production facilities in Iowa, CFS would use information derived from those investigations in its own advocacy. Ps' Appx. at 31 (Kimbrell Aff. ¶ 11).

76. CFS has diverted money and other organizational resources away from its core educational and outreach programs to focus on the social harms of the Ag-Gag law and laws like it. Ps' Appx. at 31 (Kimbrell Aff. ¶ 12).

77. The existence of Iowa Code § 717A.3A forces CFS to do public outreach and education about Ag-Gag laws generally, including Iowa's, and as such they have less money and time to devote to outreach on topics that are central to their missions, such as animal rescues, educating the public about the harms of industrial farming, and other forms of abuse, neglect,

and cruelty to animals. Ps' Appx. at 31 (Kimbrell Aff. ¶ 13).

Facts Related to Legislative Motive

78. Then-State Senate President Jack Kibbie told a reporter for the New York Times that he supported an earlier version of the bill that became the Ag-Gag law to “make producers feel more comfortable.” A.G. Sulzberger, *States Look to Ban Efforts to Reveal Farm Abuse*, N.Y. TIMES (Apr. 13, 2011), available at: <https://bit.ly/2sGruQp>.

79. Then-Senator Tom Rielly told a reporter for the Sioux City Journal that he supported an earlier version of that became the Ag-Gag law because animal right activists “want to hurt an important part of our economy These people don't want us to have eggs; they don't want people to eat meat What we're aiming at is stopping these groups that go out and gin up campaigns that they use to raise money by trying to give the agriculture industry a bad name.” Mike Wesier, *Iowa may be first to ban secret video on farms*, SIOUX CITY JOURNAL (May 22, 2011), available at: <https://bit.ly/2kYYA9L>.

80. The late Senator Joe Seng, a sponsor of the bill that became the Ag-Gag law, told a reporter for Iowa Public Television that the legislature passed the law to “protect agriculture . . . [and] not have any subversive acts to bring down an industry.” “*Ag Gag*” *Bill Passes Iowa Legislature*, IOWA PUBLIC TELEVISION (Mar. 2., 2012), available at: <https://bit.ly/2HsDYQ0>.

81. Senator Seng also told a reporter for Marketplace that the law was “passed mainly for protection of an industry that is dedicated to actually feeding the world in the next 25 years.” Kai Ryssdal, *Iowa's 'ag-gag- sponsor defends bill*, MARKETPLACE (Mar. 1, 2012), available at: <https://bit.ly/2JkHUZ5>.

82. A spokesman for then-Governor Terry Branstad told a reporter for the New York Times signed the Ag-Gag law because the Governor “believe[d] undercover filming is a problem

that should be addressed.” A.G. Sulzberger, *States Look to Ban Efforts to Reveal Farm Abuse*, N.Y. TIMES (Apr. 13, 2011), available at: <https://bit.ly/2sGruQp>.

Dated this 22nd day of June, 2018

/s/ Matthew Strugar

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing paper with the Clerk of Court by using the CM/ECF system.

All participants in this case are registered CM/ECF users and will served by the CM/ECF system.

Date: June 22, 2018

/s/Matthew Strugar
Matthew Strugar