
**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

**PLAINTIFFS' APPENDIX IN SUPPORT
OF THEIR MOTION FOR SUMMARY
JUDGMENT**

Table of Contents

Affidavit of Mark Walden in Support of Plaintiffs' Motion for Summary Judgment.....	3
Affidavit of Jeffrey S. Kerr in Support of Plaintiffs' Motion for Summary Judgment	11
Affidavit of Adam Mason in Support of Plaintiffs' Motion for Summary Judgment.....	17
Affidavit of Mindi Callison in Support of Plaintiffs' Motion for Summary Judgment	22
Affidavit of Andrew Kimbrell in Support of Plaintiffs' Motion for Summary Judgment ..	28

Exhibit A

**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

**AFFIDAVIT OF MARK WALDEN IN
SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

AFFIDAVIT OF MARK WALDEN

I, Mark Walden, swear and affirm as follows:

1. The facts contained in this declaration are known personally to me and, if called as a witness, I could and would testify competently thereto under oath.
2. I am the Chief Programs Officer at the Animal Legal Defense Fund (ALDF). I have served in this capacity since 2016. In this role, I am responsible for coordinating ALDF's activities across programs, including ALDF's civil Litigation Program, Criminal Justice Program, and Animal Law Program. I also coordinate among these programs and executive leadership, ALDF's communications department, and donor and member outreach. As such, I am

responsible for coordinating ALDF's activities with regard to litigation, outreach, and public advocacy efforts to address "Ag-Gag" laws, including Iowa Code § 717A.3A.

3. ALDF is a national nonprofit 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. ALDF is supported by hundreds of dedicated attorneys and more than 200,000 members and supporters nationwide, including in Iowa.

4. 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 factory farms throughout the United States. This requires the ability to gather evidence and information in a variety of states, rather than in a select few.

5. ALDF and its agents have thus conducted undercover investigations at animal facilities around the country, including facilities that would meet the definition of an "agricultural production facility" under Iowa Code § 717A.1(5)(1).

6. ALDF's undercover 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.

7. ALDF has also conducted undercover animal welfare investigations in Iowa before, such as the Cricket Hollow Animal Park in Manchester, Iowa.

8. 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 often unreliable and frequently ineffective.

9. During their investigations, undercover 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 investigations).

10. 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. In applying for the position, the investigator provided inaccurate information regarding her affiliation with an animal rights organization. The investigation ultimately gave rise to four separate legal complaints. Similarly, in ALDF's investigation of Cricket Hollow Animal Park, an investigator gained access to the facility via the use of a pretext by posing as a patron.

11. ALDF is particularly interested in conducting agricultural investigations in heavily agricultural states such as Iowa.

12. ALDF has identified agricultural production facilities, as defined by Iowa Code § 717A.1(5)(1), where it would seek to conduct undercover employment-based and non-employment-based investigations, but it has not pursued these investigations due to its reasonable fear of prosecution under the Ag-Gag law.

13. 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.

14. The investigator would apply for employment with the agricultural production facility under the false pretense of being a typical applicant.

15. 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)."

16. ALDF would retain a licensed investigator to conduct an undercover, non-employment-based investigation at an agricultural production facility in Iowa, but has refrained from doing so due to reasonable fear of prosecution under the Ag-Gag law.

17. 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 practices that ALDF views as abusive, cruel, or illegal.

18. If the Ag-Gag law is declared unconstitutional, ALDF will follow through with its plans to conduct and publicize an undercover investigation at an agricultural operation in Iowa.

19. 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.

20. ALDF's core mission of improving the lives and advancing the interests of animals through the legal system is fundamentally impaired by Iowa's Ag-Gag law. The law directly impedes ALDF's ability to carry out its mission by diminishing the supply of investigations that support 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.

21. ALDF spends significant resources to prevent the spread of unconstitutional Ag-Gag laws, including the one enacted in Iowa.

22. 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.

23. 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 it has less money and time to devote to outreach on topics that are central to its mission, such as educating the public about the harms of the animal agriculture industry and other forms of abuse, neglect, and cruelty to animals.

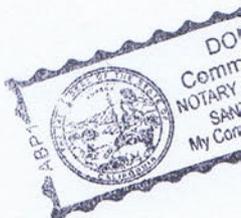
In accordance with 28 U.S.C. § 1746 and under penalty of perjury, I swear that the foregoing is true and correct.

Executed on June 21, 2018 in Los Altos, CA.



Mark Walden

WITNESSED BY NOTARY:



CALIFORNIA JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF Santa Clara)

Subscribed and sworn to (or affirmed) before me on this 21st day of June, 2018
Date Month Year

by MARK WALDEN

Name of Signers

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature: [Handwritten Signature]
Signature of Notary Public



Seal
Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent attachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: _____
Document Date: _____
Number of Pages: _____
Signer(s) Other Than Named Above: _____



Exhibit B

**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

**AFFIDAVIT OF JEFFREY S. KERR IN
SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

AFFIDAVIT OF JEFFREY S. KERR

I, Jeffrey S. Kerr, swear and affirm as follows:

1. The facts contained in this affidavit are known personally to me and, if called as a witness, I could and would testify competently thereto under oath.

2. I serve as the General Counsel to People for the Ethical Treatment of Animals, Inc. ("PETA"), a plaintiff in the above-captioned action. I have served as PETA's General Counsel for over 23 years, including at present. I am responsible for all legal matters concerning PETA. I also serve as Assistant Secretary for PETA.

3. 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.

4. 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.

5. A central tenet of PETA's mission is to expose cruelty to farmed animals, educate the public about such cruelty, and encourage people to choose a lifestyle that does not involve or support abuse, neglect, or exploitation of animals.

6. 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.

7. 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.

8. PETA continues to conduct these investigations to expose further illegal conduct on the part of workers and management personnel.

9. 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. This requires the ability to access a diverse array of states and not just a select few.

10. PETA thus conducts investigations of agricultural facilities at various locations throughout the country.

11. 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.

12. PETA's investigations have focused on operations of 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.

13. In conducting its investigations, PETA has found that it can be 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.

14. PETA has conducted previous investigations in Iowa. 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."

15. 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.

16. 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. 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.

17. PETA is committed to conducting investigations of agricultural facilities in Iowa because the state is home to a large number of factory farms.

18. PETA would have begun coordinating such investigations were it not for the threat of criminal prosecution under Iowa Code § 717A.3A.

19. 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. The investigators would be instructed either to enter the facility without disclosing that they are investigators, their animal-protection purpose, or their affiliation with PETA or to obtain employment at the facilities with the intent to make video or audio recordings therein.

20. If Iowa Code § 717A.3A is declared unconstitutional, PETA intends to move forward with undercover investigations of Iowa agricultural facilities.

21. 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.

22. 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.

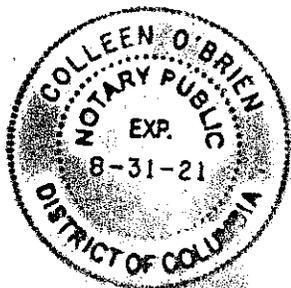
In accordance with 28 U.S.C. § 1746 and under penalty of perjury, I swear that the foregoing is true and correct.

Executed on June 21, 2018 in Washington, D.C.



Jeffrey S. Kerr

WITNESSED BY NOTARY:



District of Columbia: SS
Subscribed and sworn to before me, in my presence,
this 21st day of June, 2018
COB
Notary Public, D.C.
My commission expires 8-31-21

COLLEEN O'BRIEN
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires August 31, 2021

Exhibit C

**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

**AFFIDAVIT OF ADAM MASON IN
SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

AFFIDAVIT OF ADAM MASON

I, Adam Mason, swear and affirm as follows:

1. The facts contained in this declaration are known personally to me and, if called as a witness, I could and would testify competently thereto under oath.
2. I am the State Policy Director with Iowa Citizens for Community Improvement (CCI), a plaintiff in the above-captioned action.
3. 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.

4. 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 worker justice, racial justice, and immigrants' rights.

5. CCI has more than 4,700 dues paying members around the state, in addition to another 17,000 supporters and activists.

6. 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 investigations and evidence collection through surreptitious or undercover methods to support its mission.

7. CCI has had to limit its 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.

8. 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. Those photos were key components of the OSHA complaint that CCI members, who were Latino farmworkers, filed in 2012 against Anogla Pork LLC, a factory farm near Algona, which resulted in citations and notifications of penalty by the agency to Anogla Pork later that year. 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.

9. 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.

10. In addition, CCI utilizes video and images in its online and in-person activism, including online petitions and other forms of advocacy. 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. 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. This necessarily severely limits what documentation and images are available for use in CCI’s advocacy.

11. 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. 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.

12. If Iowa Code § 717A.3A is declared unconstitutional, CCI intends to resume its reliance on its members’ investigations of Iowa agricultural facilities, including by methods that are likely to be construed as surreptitious or undercover, specifically, by workers taking photographs

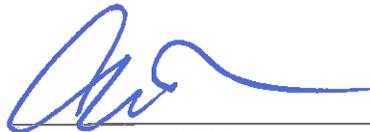
or collecting eye witness testimony of workers' rights and environmental violations without the knowledge or permission of the employer/owner of the agricultural production facility.

13. 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.

14. 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 educating the public about the harms of industrial farming, and other forms of abuse, neglect, and cruelty to animals.

In accordance with 28 U.S.C. § 1746 and under penalty of perjury, I swear that the foregoing is true and correct.

Executed on June 13, 2018 in Des Moines, Iowa


ADAM MASON

WITNESSED BY NOTARY:

State of Iowa
County of Polk
This instrument was acknowledged
before me on 6-19-18

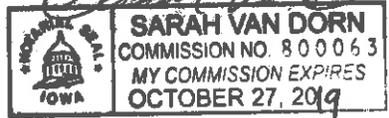



Exhibit D

**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

**AFFIDAVIT OF MINDI CALLISON IN
SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

AFFIDAVIT OF MINDI CALLISON

I, Mindi Callison, swear and affirm as follows:

1. The facts contained in this declaration are known personally to me and, if called as a witness, I could and would testify competently thereto under oath.
2. I am the unpaid/volunteer Founder and Executive Director of Bailing Out Benji, a plaintiff in the above-captioned action.
3. 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.

4. 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. For example, Bailing Out Benji volunteers used false pretenses to gain access to puppy mill auctions, either by stating overtly, or by letting the assumption go uncorrected, that they were breeders or brokers, when in fact, their intent was not to purchase dogs but to document expose practices that they view as abusive and rescue the dogs.

5. For example, I investigated the Century Farm puppy mill in 2011, posing as a potential buyer, although I had no actual intent to buy puppies, but instead, intended to document unsafe and harmful conditions experienced by dogs and puppies in the facility. No footage was taken, but I publicly reported on what was witnessed during this undercover investigation, here: <https://bailingoutbenji.com/century-farm-puppies-grundy-center-iowa/>.

6. I also investigated a dog auction at K-D Kennels in 2012 in which I posed as a potential buyer. I publicly reported on my eye-witness account during this undercover investigation, here: <https://bailingoutbenji.com/my-auction-adventures/>.

7. 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 using undercover methods, because I feel that I cannot safely do so on behalf of the organization: I fear that the footage taken would be used as evidence against me under Ag-Gag.

8. For example, on behalf of Bailing Out Benji, I took part in an undercover investigation in

May 2013 of a dog auction in Amana, Iowa. A USDA breeder was going out of business and selling its dogs to the public. In attendance were approximately a dozen rescue organizations based in the Midwest, including myself on behalf of Bailing Out Benji, as well as other USDA dog breeders. I attended ostensibly as a would-be buyer, although my actual intent was to investigate conditions experienced by dogs, monitor which dogs were sold to rescue organizations, discover which puppy mills were in attendance, and to track the puppy mills' purchase of dogs. In addition to my own account of my investigation, I took undercover video. My investigation found that many of the dogs were without food or water in their kennels, and the dogs outside had no protection from the wind or rain, including from the rain storm on the day of the auction. I witnessed dog fight between two female Rottweilers that occurred on site the day of the auction. With my undercover camera, I recorded the dogs outside in the rain with no protection from the weather. I also recorded the Rottweilers after suffering injuries in the fight I witnessed. One dog was so badly injured that I believe the dog had to be euthanized as a result. My conversations with dog-bidders and with an employee of Southwest Dog Auction Service, who was employed by the auction company and by the puppy mill owner, is recorded. However, because of fear of criminal charges being brought against me under Ag Gag, I never used this undercover evidence in Bailing Out Benji's advocacy and educational efforts, refraining from sharing the evidence with the USDA and state agencies as well as refraining from posting the video on Bailing Out Benji's website to spur public engagement.

9. 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.

10. 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. 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.

11. 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. 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.

12. 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. 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.

13. 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.

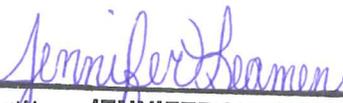
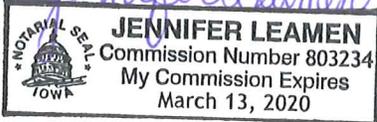
14. The existence of Iowa Code § 717A.3A forces Bailing Out Benji to do public outreach and education about Ag-Gag laws generally, including Iowa's, and as such they have fewer resources to devote to outreach on topics that are central to their missions, such as animal rescues, educating the public about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

In accordance with 28 U.S.C. § 1746 and under penalty of perjury, I swear that the foregoing is true and correct.

Executed on June 18, 2018 in Ames, Iowa


MINDI CALLISON

WITNESSED BY NOTARY:

6-18-2018

Exhibit E

**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

**AFFIDAVIT OF ANDREW KIMBRELL
IN SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

AFFIDAVIT OF ANDREW KIMBRELL

I, Andrew Kimbrell, swear and affirm as follows:

1. The facts set forth in this affidavit are based upon my personal knowledge. If called as a witness, I could and would testify to these facts. As to those matters that reflect an opinion, they reflect my personal opinion and judgment on the matter.

2. I am the Executive Director and founder of Plaintiff Center for Food Safety (CFS). I founded CFS in 1997. Since its inception I have served as a member of the CFS Board of Directors and helped create its organizational purpose and goals.

3. CFS is a 501(c)(3) non-profit environmental and consumer advocacy organization

that empowers people, supports farmers, and protects the earth from the harmful impact of industrial agriculture. Through legal, scientific, and grassroots action, CFS protects and promotes the public's right to safe food and the environment.

4. As a membership organization, CFS has more than 900,000 members nationwide, including more than 3,000 members in Iowa.

5. CFS's industrial animal agriculture program uses regulatory action, citizen engagement, litigation, and legislation to promote transparency and accountability in the animal agriculture industry.

6. 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.

7. CFS has spent significant resources to stop the unconstitutional 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 production system.

8. CFS relies on and uses videos and recordings obtained during undercover industrial agriculture investigations for its legal, policy, advocacy, and educational and outreach work.

9. 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.

10. Without access to undercover recordings CFS has difficulty fulfilling its mission and providing information to the public about food production at agricultural operations.

11. Were the Ag-Law declared unconstitutional and other organizations conducted undercover investigation at animal production facilities in Iowa, CFS would use information derived from those investigations in its own advocacy.

12. 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.

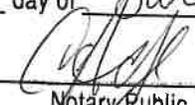
13. The existence of Iowa Code § 717A.3A forces CFS to do public outreach and education about Ag-Gag laws generally, including Iowa's, and as such they have less money and time to devote to outreach on topics that are central to their missions, such as ecological animal agriculture, including pasture-based and educating the public about the harms of industrial farming and its cruelty to animals.

In accordance with 28 U.S.C. § 1746 and under penalty of perjury, I swear that the foregoing is true and correct.

Executed on June 22 2018 in _____, Washington D.C.



WITNESSED BY NOTARY:

District of Columbia: SS
Subscribed and Sworn to before me
this 22nd day of June, 2018


Notary Public, D.C.
My commission expires 02/29/20



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