
**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' RESPONSE TO
DEFENDANTS' STATEMENT OF
UNDISPUTED MATERIAL FACT IN
SUPPORT OF DEFENDANTS'
COMBINED RESISTANCE TO
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT AND CROSS-
MOTION FOR SUMMARY JUDGMENT**

1. The late Senator Joe Seng, a sponsor of the bill that became the Ag-Fraud statute, told ABC News about the intent of the law, “[h]ere’s a commercial enterprise intent on bio-security and here comes someone (who gets in) under false pretenses and screws up your whole system. That should be criminal.” Cindy Galli, ‘Ag Gag’ Bills Would Stop Undercover Animal Abuse Investigations, ABC News, (Feb. 29, 2012), available at:

<https://abcnews.go.com/Blotter/ag-gag-bills-stop-undercover-animal-abuse-investigations/story?id=15816805>.

Response: Admitted.

2. Senator Seng also told a reporter for Iowa Public Television that he supported the Ag-Fraud law because of a concern about potential health risks, stating “[m]aybe corporations or small farmers, they have their life savings invested in facilities, of utmost importance to these people are the fact they have invested money in keeping birds out of there poultry house vermin such as mice or rats, even cockroaches that type of thing from tracking in diseases from the outside.” Paul Yeager, “Ag Gag” Bill Passes Iowa Legislature, Iowa Public Television, (March 2, 2012), available at: <http://www.iptv.org/mtom/story/13293/ag-gag-bill-passes-iowa-legislature>.

Response: Admitted.

3. Senator Seng also told a reporter that he supported the Ag-Fraud law because “The U.S. constitution says that you cannot enter a person’s private property without formal knowledge. Even a policeman has to obtain a search warrant to get on a piece of property. These are private properties owned by either farmers or corporations that have strict bio-security facilities that do not want either birds, mice, vermin, anything like that, even cockroaches entering into these facilities -- people included.” Kai Ryssdal, Iowa’s ‘Ag Gag’ Sponsor Defends Bill, Marketplace, (March 1, 2012), available at: <https://www.marketplace.org/2012/03/01/life/iowas-ag-gag-sponsor-defends-bill>.

Response: Admitted.

4. Then-Representative Annette Sweeney, who authored an earlier version of the bill that became the Ag-Fraud statute, stated that she supported the bill because “[o]ur agriculture community needs some safe havens. We want to make sure we have as safe of a food source. With this bill we want to make sure everybody involved in our livestock facilities and working within in those facilities is forthright, and want to make sure our livestock is being kept safe.”

Paul Yeager, “Ag Gag” Bill Passes Iowa Legislature, Iowa Public Television, (March 2, 2012), available at: <http://www.iptv.org/mtom/story/13293/ag-gag-bill-passes-iowa-legislature>.

Response: Admitted.

5. Then-State Senate President Jack Kibbie told a reporter for the New York Times that he supported an earlier version of the Ag-Fraud statute because of a concern for bio-security, stating “[t]here’s viruses that can put these producers out of business, whether it’s cattle, hogs or poultry.” Amanda Peterka, State Legislatures Take Up Bills Barring Undercover Videos of Confined Animal Feeding Operations, N.Y. Times, (May 5, 2011), available at:

<https://archive.nytimes.com/www.nytimes.com/gwire/2011/05/05/05greenwire-state-legislatures-take-up-bills-barring-under-88103.html>.

Response: Admitted.

6. Then-Governor Terry Branstad, who signed the Ag-Fraud bill into law, stated, “If somebody comes on somebody else’s property through fraud or deception or lying, that is a serious violation of people’s rights—and people should be held accountable for that...That’s very different from a whistleblower that sees something that’s wrong, that is there in an appropriate and legal manner.” Ken Anderson, ‘Ag Facility Fraud’ is Now Illegal in Iowa, Brownfield Ag News, (March 6, 2012), available at: <https://brownfieldagnews.com/news/ag-facility-fraud-is-now-illegal-in-iowa/>.

Response: Admitted.

Response: Admitted.

7. Then-Governor Branstad further stated that he supported the bill because “Agriculture is an important part of our economy and farmers should not be subjected to people doing illegal, inappropriate things and being involved in fraud and deception in order to try to disrupt agricultural operations.” Ken Anderson, ‘Ag Facility Fraud’ is Now Illegal in Iowa,

Brownfield Ag News, (March 6, 2012), available at: <https://brownfieldagnews.com/news/ag-facility-fraud-is-now-illegal-in-iowa/>.

Response: Admitted.

Dated this 3rd day of August, 2018.

Respectfully submitted:

/s/ Matthew Strugar

Matthew Strugar (*Pro Hac Vice*)
Law Office of Matthew Strugar
3435 Wilshire Blvd., Suite 2910
Los Angeles, CA 90010
(323) 696-2299
matthew@matthewstrugar.com

Rita Bettis Austen, AT0011558
ACLU OF IOWA FOUNDATION, INC.
505 Fifth Ave., Ste. 808
Des Moines, IA 50309-2317
Telephone: 515.243.3988
Fax: 515.243.8506
Email: Rita.Bettis@aclu-ia.org

Professor Justin Marceau, (*Pro Hac Vice*)
Of Counsel, Animal Legal Defense Fund
University of Denver
Sturm College of Law
2255 E. Evans Avenue
Denver, CO 80208
(303) 871-6449
jmarceau@law.du.edu

Professor Alan Chen (*Pro Hac Vice*)
University of Denver
Sturm College of Law
2255 E. Evans Avenue Denver, CO 80208
(303) 871-66283
achen@law.du.edu

Matthew Liebman (*Pro Hac Vice*)
Cristina Stella (*Pro Hac Vice*)

Animal Legal Defense Fund
525 East Cotati Avenue
Cotati, CA 94931
(707) 795-2533, ext. 1028
mliebman@aldf.org
cstella@aldf.org

David S. Muraskin (*Pro Hac Vice*)
Public Justice, P.C.
1620 L St. NW, Suite 630
Washington, DC 20036
(202) 861-5245
dmuraskin@publicjustice.net

Leslie A. Brueckner (*Pro Hac Vice*)
Public Justice, P.C.
555 12th St., Suite 1230
Oakland, CA 94607
(510) 622-8205
lbrueckner@publicjustice.net

Attorneys for Plaintiffs

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: August 3, 2018

/s/ Rita Bettis Austen
Rita Bettis Austen