In The United States District Court
For The Middle District of North Carolina
Greensboro Division
Case No.: 1:16-cv-25-TDS-JEP

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.; CENTER FOR FOOD SAFETY; ANIMAL LEGAL DEFENSE FUND; FARM SANCTUARY; FOOD & WATER WATCH; GOVERNMENT ACCOUNTABILITY PROJECT; FARM FORWARD; and AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS,

Plaintiffs,

v.

JOSH STEIN, in his official capacity as Attorney General of North Carolina, and CAROL FOLT, in her official capacity as Chancellor of the University of North Carolina-Chapel Hill,

Defendants.

PLAINTIFFS' OPPOSITION TO THE NORTH CAROLINA FARM BUREAU'S MOTION TO INTERVENE

The North Carolina Farm Bureau's ("Farm Bureau") motion to intervene as a matter of right under Rule 24(a)(2) or, alternatively, with this Court's permission, under Rule 24(b) is directly at odds with the Fourth Circuit's controlling decision in *Stuart v. Huff*, 706 F.3d 345 (4th Cir. 2013), and this Court's decision in *United States v. North Carolina*, No. 1:13CV861, 2014 WL 494911 (M.D.N.C. Feb. 6, 2014) (Schroeder, J.). The Farm Bureau has no rights here and its participation as a party would do nothing to aid this matter. Its motion should be denied.

I. Introduction and Summary.

"Shortly after [North Carolina General Statute § 99A-2] became effective [in January 2016], Plaintiffs brought this action, alleging that the Act interferes with their plans to conduct undercover investigations of government facilities in North Carolina for the purpose of gathering evidence of unethical and illegal animal practices and to disseminate this information to the public, in violation of the First and Fourteenth Amendments to the United States Constitution[.]" *People for the Ethical Treatment of Animals, Inc. v. Stein*, 737 Fed. App'x 122, 126 (4th Cir. 2018). Plaintiffs named as Defendants "the Chancellor at UNC-Chapel Hill and the Attorney General of North Carolina," explaining that Plaintiffs fear these Defendants "will pursue action against them if [Plaintiffs] carry out their plans [to investigate] at UNC-Chapel Hill and the other targeted state-owned facilities," which has chilled Plaintiffs from conducting these investigations and disseminating the information those investigations would produce. *Id.* at 128.

In May 2017, this Court dismissed the suit for lack of standing. Dkt. No. 49. On appeal, however, the Fourth Circuit concluded Plaintiffs' allegations "sufficiently allege[] an injury-in-fact." *PETA*, 737 Fed. App'x at 129. It also explained "an order preventing these Defendants from exercising their powers to initiate or bring a lawsuit under the Act would seem to be sufficient to quell Plaintiffs' fear of liability." *Id.* at 132.

Two and a half years after Plaintiffs' filed this action, the Fourth Circuit remanded the case to this Court for further proceedings. *See id.*

Approximately six months later, this Court denied the remaining portions of Defendants' motion to dismiss Plaintiffs' federal constitutional claims, while granting the motion as to Plaintiffs' state constitutional claims. Dkt. No. 73.

More than a month after that, the Court entered a scheduling order. Dkt. No. 80.

In none of these proceedings—spanning more than three years—did the Farm Bureau seek to participate as an *amicus*, let alone a party.

The Farm Bureau's newfound contention that, pursuant to Rule 24(a)(2), it has a right to intervene and defend § 99A-2 alongside the government is contradicted by the Fourth Circuit's decision in *Stuart*. There, the court explained that if a private party invokes Rule 24(a)(2) to intervene and defend a statute government officials are already defending, the movant "must mount a strong showing" that the government's defense will be "inadequate[e]." *Stuart*, 706 F.3d at 352. Of particular relevance here, the court continued, the movant must do more than assert it could benefit from "preserving the civil remedies" the statute provides. *Id.* at 353. Yet, this is the exact and exclusive argument on which the Farm Bureau relies. Mem. ISO Intervention, Dkt. No. 83 ("Br.") 12-13. Thus, while the Farm Bureau's ability to make *any* of the showings required by Rule 24(a)(2) is questionable, it cannot establish Defendants will fail to adequately defend its interests, which is fatal.

The Farm Bureau's inability to demonstrate it has a right to intervene also "militates against" its request that the Court exercise its discretion to allow the Farm Bureau to intervene under Rule 24(b). *Makhteshim Agan of N. Am., Inc. v. Nat'l Marine Fisheries Serv.*, No. 8:18-CV-00961-PWG, 2018 WL 5846816, at *6 (D. Md. Nov. 8, 2018). The Farm Bureau's arguments under Rule 24(b) are further undermined by its admission that "there is no robust fact development to which [it] will contribute," but rather it seeks to enter the case merely to opine upon "the legal issues raised." Br. 16; *see also id.* at 7 n.2 (The Farm Bureau "seeks only to ensure that the constitutionality of the [statute] is upheld against Plaintiffs' challenges."). As this Court has explained, that is the work of an *amicus*, not an intervenor; intervention to simply add a party to brief the established law will not result in "any benefit" to the case and should be denied. *North Carolina*, 2014 WL 494911, at *4-5.

This District held just a few months ago that "the Farm Bureau clearly has not met the third element of the test [under Rule 24(a)(2)]: it has not shown that its interests are not being properly represented by the current [government] Defendants"; and it "does not need party status and all the privileges pertaining thereto, [to] achieve [its] objective" to state its views on the law, thus it could not intervene under Rule 24(b). *Farm Labor Org. Comm. v. Stein*, No. 1:17CV1037, 2018 WL 3999638, at *20, *23 (M.D.N.C. Aug. 21, 2018) (cleaned up), report and recommendation adopted, 2018 WL 4518696 (M.D.N.C. Sept. 20, 2018). The exact same is true here. The Farm Bureau's motion should be denied.

II. The Farm Bureau Has No Right to Intervene Under Rule 24(a).

The Farm Bureau admits it has no statutory right to intervene in this matter and thus it cannot proceed under Rule 24(a)(1); rather it solely argues it has an "interest relating to the property or transaction that is the subject of the action," and thereby is entitled to intervene under Rule 24(a)(2). *See* Br. 3.

To establish a right to intervene under Rule 24(a)(2), the movant must make out each of four elements.

> A proposed intervenor must establish that: (1) the application to intervene is timely; (2) the proposed intervenor has an interest in the subject matter of the underlying action; (3) the denial of the motion to intervene would impair or impede the applicant's ability to protect its interest; and (4) the applicant's interest is not adequately represented by the existing parties to the litigation. If the movant fails to satisfy any one of the requirements, then intervention as of right is defeated.

Students for Fair Admissions Inc. v. Univ. of N. Carolina, 319 F.R.D. 490, 493-94 (M.D.N.C. 2017) (cleaned up).

In cases such as this, where an intervenor seeks to enter to support the government in defending a statute, the last element is particularly robust. "[E]very circuit to rule on the matter," including the Fourth Circuit, has held this demands an "exacting showing of

inadequacy." *Stuart*, 706 F.3d at 351. There is a "presumption of adequate representation" if there are existing defendants who share the same goals as the proposed intervenor. *Outdoor Amusement Bus. Ass'n, Inc. v. Dep't of Homeland Sec.*, No. CV ELH-16-1015, 2017 WL 2778820, at *6 (D. Md. June 26, 2017). An intervening defendant can only enter under Rule 24(a)(2) by showing "adversity of interests, collusion, or nonfeasance." *Id.* (quotation marks omitted). The evidence on which the would-be intervenor relies to enter a case where the government is already defending the law must make out "a strong showing" of such facts. *Stuart*, 706 F.3d at 350.

Indeed, this burden is so substantial that the Farm Bureau does not cite a *single* post-*Stuart* case granting intervention as a matter of right to defend a statute when the government was already defending the law. *See, e.g.*, Br. 12-13. The Farm Bureau is forced to rely on this Court's decision in *League of Women Voters of North Carolina v. North Carolina*, which explained that post-*Stuart* intervention was *only* allowed because intervenors sought to enter as plaintiffs and "are not seeking to intervene with existing parties who are represented by a government agency in defense of a statute." No. 1:13CV660, 2014 WL 12770081, at *3 (M.D.N.C. Jan. 27, 2014) (Schroeder, J.).

Importantly for this case, the Fourth Circuit has explained that a proposed defendant-intervenor cannot carry its burden to establish the government-defendants' representation is inadequate by arguing it has a "stronger and more specific" interest in the statute "than the state's general interest" in defending the law. *Stuart*, 706 F.3d at 353 (quotation marks omitted). This is true even if the statute at issue provides "civil remedies" the intervenor could employ, and thus it claims to have an "interest in preserving" those remedies. *Id.*

The Fourth Circuit arrived at these principles "for several reasons." *Id.* at 351. "[T]he need for government to exercise its representative function is perhaps at its apex where, as here, a duly enacted statute faces a constitutional challenge." *Id.* "[W]hen a

statute comes under attack, it is difficult to conceive of an entity better situated to defend it than the government. It is after all the government that, through the democratic process, gains familiarity with the matters of public concern that lead to the statute's passage in the first place." *Id.* Further, courts must guard against the "deluge of potential intervenors" that could result if a lesser showing were required. *Id.*

a. The Farm Bureau wholly fails to establish the government Defendants will not adequately represent its interests.

The Farm Bureau does not even attempt to meet *Staurt*'s demand that it make a "strong showing" the government Defendants will not adequately represent its interests. Instead, the Farm Bureau's lead argument is that *Stuart* should be "weake[ned] here" because "Defendants in this case do not object" to intervention. Br. 12. This argument is neither factually nor legally grounded.

As the Farm Bureau explains elsewhere, the government Defendants did *not* welcome it into this case, rather they stated they do not believe the Farm Bureau's "involvement is necessary," but they would not file a brief opposing it. Dkt. No. 82, at 2. Far from suggesting this makes the Farm Bureau's participation more warranted than in *Stuart*, this is the *exact* same posture as in *Stuart*, where the government defendants did not file an opposition, rather intervention was opposed solely by the plaintiffs. *See, e.g.*, Intervenors' Reply, *Stuart v. Huff*, 2011 WL 6813664 (M.D.N.C. Dec. 18, 2011) (solely discussing the plaintiffs' opposition to the motion).

To hold that *Stuart* only applies where the government formally opposes intervention would also be entirely at odds with that decision. *Stuart* created a rule to lessen the government's burden. 706 F.3d at 351. Requiring government defendants to file oppositions would invite the "deluge" of intervention motions the Fourth Circuit feared, out of hopes the government would not formally oppose some. Moreover, the Farm Bureau's argument ignores the Fourth Circuit's holding that the government *should* be the primary entity defending the constitutionality of statutes. *Id.* This is particularly

true here, where Plaintiffs' constitutional challenge rests on the statutory text and legislative record. *See generally* Complaint, Dkt. No. 1. These are the precise "matters of public concern" the Fourth Circuit held should be addressed by government defendants, not private parties. *Stuart*, 706 F.3d at 351.

When the Farm Bureau turns to trying to satisfy *Stuart* it merely repeats (several times) the argument *Stuart* rejected. The Farm Bureau claims that because the civil remedies § 99A-2 provide can be invoked by both government and private parties: (1) the Farm Bureau's members' "broader" interest in the law should be represented here, Br. 12; (2) this is particularly the case as Plaintiffs' prior conduct suggests the Farm Bureau's members may be "directly affected" by Plaintiffs, such that they may wish to invoke § 99A-2, *id.* at 13; and (3) given the Farm Bureau's members' "significant stake" in the case it should be allowed to participate, *id.* These arguments are indistinguishable from the argument *Stuart* held insufficient: that the private intervenors had a "stronger and more specific" interest in the statute's civil remedies than the government Defendants. *Stuart*, 706 F.3d at 353. "[S]tronger, more specific interests do not adverse interests make—and they surely cannot be enough to establish inadequacy of representation since would-be intervenors will nearly always have intense desires that are more particular than the state's (or else why seek party status at all)." *Id.*; *see also North Carolina*, 2014 WL 494911, at *4 (Intervenors "possess an interest in the outcome of this case, but not all parties with strong feelings about or an interest in a case are entitled, as a matter of law, to intervene.").

Indeed, the Farm Bureau essentially concedes it cannot make any showing, let alone the required strong showing of inadequacy. *See, e.g.*, *Outdoor Amusement Bus. Ass'n*, 2017 WL 2778820, at *11. It states it fears "Defendants *may* not adequately represent the proposed intervenor's interest," but it does not actually point to anything inadequate about Defendants' activities to date. Br. 12-13 (emphasis added); *see also id.*

at 13 (stating it is "less likely" Defendants will represent the Farm Bureau's interests, not that they will fail to do so).

The Farm Bureau makes vague references to how Defendants' "constitutional constraints" could somehow prevent them from fully defending § 99A-2. Br. 13. While it is unclear what unconstitutional positions the Farm Bureau hopes to take, the argument is beside the point. "The Attorney General's responsibility to apply or uphold the law does not constitute the kind of adverse interest contemplated" under Rule 24(a)(2). *Maryland Restorative Justice Initiative v. Hogan*, 316 F.R.D. 106, 115 (D. Md. 2016).

For these same reasons, the Farm Bureau errs in relying on *Feller v. Brock*, 802 F.2d 722 (4th Cir. 1986), to contend that because the government-Defendants nominally represent the "public interest" their defense of the law will be inadequate to protect the rights a private litigant. Br. 12-13. *Feller* allowed intervention because the proposed intervenors intended to take a different position than that advanced by the government. *Id.* at 730. The government "admitt[ed] at oral argument" it would argue for a different interpretation of the regulations at issue than the one "preferred by intervenors." *Id.* *Feller* does not address intervenors who seek the same objectives as the government. Therefore, courts within this circuit have rejected efforts to intervene based on *Feller* where, as here, intervenors share the government-defendant's objectives. *Outdoor Amusement Bus. Ass'n*, 2017 WL 2778820, at *11. Moreover, the argument that government defendants "serve the public good" and thus "often cannot adequately represent the more focused interests of special-interest groups" "is precisely the opposite of what the Fourth Circuit explained in *Stuart.*" *Makhteshim Agan of N. Am., Inc.*, 2018 WL 5846816, at *5 (quotation marks omitted).

Finally, the Farm Bureau's statement that it is entitled to intervene because Defendants contended "they are not the proper parties to this litigation" in their motion to dismiss is equally immaterial and inaccurate. As the Farm Bureau explains, "Defendants

remain in the case because the appellate court held that they have sufficient connection to Section 99A-2" to create a case-or-controversy between the parties. Br. 12. This active dispute is *in addition to* the Attorney General's *statutory duty* to defend state laws. N.C. Gen. Stat. 114-2(10). There is nothing to the Farm Bureau's suggestion that additional litigants are needed to "sharpen[]" the adversity between the parties, or any case law to suggest the Farm Bureau's (inaccurate) assertion could ever meet Rule 24(a)(2)'s required showing of inadequacy. Br. 13 (quotation marks omitted).

The Farm Bureau cannot overcome the binding precedent requiring "an exacting showing" that Defendants will inadequately represent the Farm Bureau's interests. Its efforts to make an end-run around that standard fail on multiple levels. Therefore, the Farm Bureau cannot proceed under Rule 24(a)(2).

b. The Farm Bureau cannot make out the other elements of Rule 24(a)(2).

While the Court need not reach these issues in light of the analysis above, to hold that the Farm Bureau established the first three elements for Rule 24(a)(2) intervention—that the motion is timely and that intervenors have an interest that could be harmed by the litigation—would be extreme. Indeed, although some authority can be said to support the Farm Bureau's individual arguments on these points, case law also indicates that each of the Farm Bureau's contentions should represent a far end of what is allowed, suggesting that where, as here, they are presented together, intervention should be denied.

For instance, while some courts have held motions to intervene timely unless they come near the end of discovery, others have recognized special showings should be required where would-be intervenors waited an unusually long time to show an interest in the case. *Fisher-Borne v. Smith*, 14 F. Supp. 3d 699 (M.D.N.C. 2014), only allowed intervention after detailing how changed circumstances justified would-be intervenors waiting to enter cases that had been "in front of this court for several months and over two years, respectively." *Id.* at 702. Another court stated that when "[n]early two and

one-half years elapsed before permission was sought to intervene," without some explanation for why that delay occurred, that was *per se* not "timely" under Rule 24(a) or (b). *Becton v. Greene Cty. Bd. of Ed. of Greene Cty., N. C.*, 32 F.R.D. 220, 223 (E.D.N.C. 1963).

This case was first filed in January 2016. Dkt. No. 1. At no point during the prior *three-plus years* of litigation has the Farm Bureau provided the slightest indication of its purported deep and special interest in this case. It even declined to file *amicus* briefs in connection with the motion to dismiss or the appeal. In contrast, multiple parties supporting Plaintiffs submitted amicus briefs on both occasions. The Farm Bureau asserts that "there was no reason for [it] to seek intervention because the pending motion to dismiss could have resolved the case," Br. 9-10, but that argument does not hold together. If the Farm Bureau could truly contribute to the case, it would have sought to do so as early as possible in hopes of resolving this matter, or at least easing its members' uncertainty regarding the law's constitutionality. The Farm Bureau's motion is timely if the Court measures timeliness based the dates in the scheduling order, but case law suggests that should not be a hard and fast standard, particularly where the proposed intervenor sat on its claimed rights for no apparent reason.

Likewise, courts have warned against intervenors relying on hypotheticals to demonstrate they have a sufficient an interest implicated by the case: intervenors are seeking to be made a party and should have a concrete dispute to litigate. *Stuart v. Huff*, No. 1:11-CV-804, 2011 WL 6740400, at *1 (M.D.N.C. Dec. 22, 2011) ("The medical professionals and pregnancy counseling centers perhaps have a tangible interest in providing the kinds of services the Act requires and perhaps have some civil enforcement rights under the statute. Whether this is enough is doubtful."). The mere "possib[ility]" that intervenors might need to change their operations based on the results of the

litigation is not an actionable interest that justifies intervention. *Ohio Valley Envtl. Coal., Inc. v. McCarthy*, 313 F.R.D. 10, 19-20 (S.D.W. Va. 2015).

Here, the Farm Bureau justifies its participation by, at best, guessing at the "possibilities" of what might occur if Plaintiffs prevail. It asserts that the Farm Bureau's members "stand to lose" if the statute is struck down. Br. 10-11. However, it cannot point to any allegation that suggests Plaintiffs (or anyone else) are currently working to investigate its members in violation of § 99A-2. Dkt. No. 83-2 ¶ 5 (declarant asserting a fear of investigation based the on fact that unnamed third-parties were, at some prior unstated point, "deceived" in some unidentified way by some unknown person, who had some undescribed "personal . . . agenda"); Dkt. No. 83-3 ¶ 6 (asserting, without any substantiation, that the declarant is worried "a 'planted' worker" would be involved in her "sweet potato harvest[]," when ALDF and PETA are focused on *animal* rights). Moreover, it does not point to any different conduct its members would engage in if § 99A-2 were struck down. To the contrary, the Farm Bureau's declarants explain they intend to employ *other* common law or statutory remedies if they are investigated, Dkt. No. 83-3 ¶ 6 (asserting that investigators are "trespassing on our land"), and imply they have *not* altered their hiring or supervision practices based on § 99A-2, Dkt. No. 83-2 ¶¶ 6-7 (indicating declarant has not changed his practices since § 99A-2 was passed). Once again, and particularly in combination with its unjustified delay, the Farm Bureau is asking this Court to stretch Rule 24(a)(2).[1]

III. Permissive Intervention Under Rule 24(b) Should Be Denied.

[1] The Farm Bureau's description of its organizational activities related to § 99A-2 all concern conduct in which it previously engaged. It does not describe how any of the organization's upcoming plans or activities would be disrupted if the law were struck down. Dkt. No. 83-1 ¶ 7.

The Farm Bureau's alternative request, that the Court exercise its discretion to allow the Farm Bureau to intervene under Rule 24(b), should be rejected for at least four reasons. First, even motions to allow "permissive intervention" must be "timely." Fed. R. Civ. P. 24(b)(1). For the reasons stated above, after having waited through three years and three hearings before expressing any interest in this case, the Farm Bureau's motion should be held untimely. At the very least, the Farm Bureau's unwarranted delay should weigh against the Court exercising discretion in the Farm Bureau's favor.[2]

Second, the Farm Bureau's inability to demonstrate the existing government Defendants will fail to represent its interests weighs against permissive intervention. *Makhteshim Agan of N. Am.*, 2018 WL 5846816, at *6; *see also L.S. ex rel. Ron S. v. Cansler*, No. 5:11-CV-354-FL, 2011 WL 6030075, at *2 (E.D.N.C. Dec. 5, 2011).

Third, courts have repeatedly explained "permissive intervention" should only be granted if the intervenors will add to the litigation, which the Farm Bureau's participation here will not. "[C]ourts may consider whether such intervention will contribute to full development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented." *Students for Fair Admissions Inc.*, 319 F.R.D. at 496 (quotation marks omitted). Thus, intervention in *Students for Fair Admissions* was allowed because intervenors pointed to "specific evidence" they would "contribute to the development" of the record that the existing parties did not intend to offer. *Id.* Courts have also granted discretionary intervention where the intervenor "could

[2] To the extent the Farm Bureau suggests in reply that its motion is timely because Plaintiffs recently sought to join other government defendants to this action, Dkt. No. 87, that would be far from accurate. Plaintiffs initially suggested adding these government defendants in Plaintiffs' opposition to Defendants' motion to dismiss, which Plaintiffs filed in *May 2016*. Dkt. No. 35, at 13 n.5. Plaintiffs recent Rule 19 motion represents the first moment Plaintiffs have been allowed to move for this joinder. The Farm Bureau, however, could have sought to intervene (or at least file an amicus brief) at multiple points over the past several years, it simply chose not to do so.

add a dimension to the arguments" by moving the case beyond a "narrow constitutional focus." *Maxwell's Pic-Pac, Inc. v. Vance*, No. 3:11-CV-18-H, 2011 WL 13210024, at *1 (W.D. Ky. Apr. 8, 2011); *see also City of Greensboro v. Guilford Cty. Bd. of Elections*, No. 1:15-CV-559, 2015 WL 12752936, at *1 (M.D.N.C. Oct. 30, 2015) (allowing intervention where the defendants intended to "remain neutral on the substantive issues raised by the complaint").

The Farm Bureau readily admits, however, its intervention will accomplish none of this. It explains "there is *no* robust fact development to which [it] will contribute in this case." Br. 16 (emphasis added).[3] Moreover, it does not pretend to add any legal theory. It states "the only issue in this case is the constitutionality of" § 99A-2, which Defendants are already defending. Br. 15. The only contribution the Farm Bureau claims it can make is to repeat those same "legal issues" in a separate brief. *Id.* at 16. In a case where the proposed intervenors *did* suggest they would offer additional evidence, but only to support the defendants' existing arguments, this Court denied intervention under Rule 24(b) because it would "generate little, if any [] benefit to the existing parties," a conclusion plainly more warranted here. *North Carolina*, 2014 WL 494911, at *3-4. This Court continued that where an intervenor primarily seeks to file a "me too" brief, intervention will likely only complicate, delay, and increase the costs of the matter, which are all additional, independent reasons to deny permissive intervention. *Id.*

Fourth and finally, denying intervention would not leave the Farm Bureau "without recourse." *Id.* It "could seek leave to file an *amicus curiae* brief both in the

[3] Were the Court to grant intervention, it should hold the Farm Bureau to this commitment that it does not seek to engage in fact development. *See* Fed. R. Civ. P. 24, Advisory Committee Notes (1966) (intervention "may be subject to appropriate conditions or restrictions responsive among other things to the requirements of efficient conduct of the proceedings"). The Farm Bureau contends its members fear Plaintiffs. It should not be allowed to use this litigation as a fishing expedition to examine Plaintiffs' strategies and plans.

district court and in the Fourth Circuit," even though it has eschewed this option to date. *Id.*

Indeed, this is the exact result of another case in which many of these same Plaintiffs challenged a state statute on constitutional grounds and an industrial agriculture advocacy group like the Farm Bureau sought to intervene. In *Animal Legal Def. Fund v. Otter*, 300 F.R.D. 461 (D. Idaho 2014), the Court explained that because the proposed-intervenor's and the government-defendants' "goals in this proceeding are identical," and the proposed intervenors had failed to demonstrate the state defendants would not "adequately represent those interests," the motion to intervene under Rule 24(a)(2) *and* "for permissive intervention" would be denied. *Id.* at 465. Instead, the court explained, the would-be intervenor should seek "amicus curiae status" to participate in the case. *Id.*

IV. Conclusion.

For the foregoing reasons, the Farm Bureau's motion to intervene should be denied. It has failed to carry its burdens under Rule 24(a)(2), and its arguments undermine the need for the Court to exercise its discretion to allow intervention under Rule 24(b).

Date: February 22, 2019.

Respectfully submitted,

/s/ Daniel K. Bryson
Daniel K. Bryson
N.C. Bar Number: 15781
Jeremy Williams
N.C. Bar Number: 48162
Patrick Wallace
N.C. Bar Number: 48138
Whitfield Bryson & Mason LP
900 W. Morgan Street
Raleigh, NC 27603
(919) 600-5000
dan@wbmllp.com

jeremy@wbmllp.com
pat@wbmllp.com
Counsel for Plaintiffs

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

Leslie A. Brueckner*
Public Justice, P.C.
555 12th Street, Suite 1230
Oakland, CA 94607
(510) 622-8205
lbrueckner@publicjustice.net
Counsel for Plaintiffs

Matthew Strugar*
3435 Wilshire Blvd., Suite 2910
Los Angeles, CA 90010
323-696-2299
matthewstrugar.com
Counsel for People for the Ethical Treatment of Animals, Inc.

Matthew Liebman*
Cristina Stella*
Animal Legal Defense Fund
170 525 East Cotati Avenue
Cotati, CA 94931
(707) 795-7533
mliebman@aldfALDF.org
cstella@aldf.org
Counsel for Animal Legal Defense Fund

Justin Marceau*
University of Denver—Strum College of Law
(*for reference purposes only*)
2255 E. Evans Ave.
Denver, CO 80208
(303) 871-6000
jmarceau@law.du.edu
Counsel for Animal Legal Defense Fund

Scott Edwards*
Food & Water Watch
1616 P St. NW
Washington, DC 20036
(202) 683-2500
sedwards@fwwatch.org
Counsel for Food & Water Watch

Michael S. McFadden*
Farm Forward
325 W Pierpont Ave.
Salt Lake City, UT 84101
(877) 313-3276
Michael@farmforward.com
Counsel for Farm Forward

Jennifer H. Chin*
Robert Hensley*
ASPCA
520 Eighth Avenue, 7th Floor
New York, NY 10018
(212) 876-7700
jennifer.chin@aspca.org
robert.hensley@aspca.org
Counsel for American Society for the Prevention of Cruelty to Animals

*Appearing by Special Appearance

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.3

I HEREBY CERTIFY that, as determined by the word count feature of the software, this brief contains 4,340 words, including footnotes, but excluding other portions as provided for under Local Rule 7.3.

/s/ Daniel K. Bryson
Daniel K. Bryson
Whitfield Bryson & Mason LLP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing document, *Plaintiffs' Opposition to the North Carolina Farm Bureau's Motion To Intervene,* has been electronically filed with the Clerk of Court this 22nd day of February 2019, by using the CM/ECF system which will send notice of the electronic filing to all parties of record.

/s/ Daniel K. Bryson
Daniel K. Bryson
Whitfield Bryson & Mason LLP