



Litigating Through the Camera's Lens: The Value of Undercover Investigations in Litigation

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AnimalOutlook

29TH ANNUAL ANIMAL LAW CONFERENCE
TRANSFORMING OUR RELATIONSHIP WITH ANIMALS



About Animal Outlook

- National, non-profit farmed animal advocacy organization
- Founded in 1995
- **Mission:** *“Working today to build a better tomorrow for all animals. We’re strategically challenging the status quo of animal agribusiness through undercover investigations, legal advocacy, corporate and food system reform, and empowering everyone to choose vegan.”*
- **Focus areas:**
 - Exposing Truth – Investigations
 - Delivering Justice – Legal Advocacy
 - Revolutionizing Food Systems – Corporate Outreach
 - Inspiring Change – Education & Outreach



Animal welfare is important to consumers

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 - 80% of consumers said they wanted “good living conditions” for animals raised for food (Consumer Reports 2015)
 - 95% of consumers said it is important that animals on farms are “well cared for” (Oklahoma State 2007).
- Demand decreases when consumers are aware of mistreatment
 - Example: 63% of respondents said they would be less likely to buy meat if the company had a bad reputation for animal welfare (YouGov 2018).
- The agriculture industry is intentionally opaque; millions of dollars are spent keeping the public from seeing what happens in factory farms and slaughterhouses
 - “Ag-gag” laws
 - Security measures
 - Agriculture industry groups focused on activism
 - Law enforcement support of the agriculture industry



Animal welfare claims sell products



Investigations counter industry deception

- Investigations are often the consumer's only window into where their food actually comes from
- Investigations can serve as the factual basis for litigation and prosecution (cruelty, false advertising, nuisance, administrative suits, etc.)
- Despite the agriculture industry's efforts, the general public supports investigations:
 - German study that included 95% meat eaters found that the majority of respondents viewed undercover investigations as "justified," and even more did so when abuse/cruelty was documented (M. Schulze 2021)
 - Study of North Carolina voters showed that 74% support undercover investigations (Lake Research Partners/ASPCA 2015)
 - National survey found that 64% oppose making undercover investigations of animal abuse in industrial farms illegal (Lake Research Partners/ASPCA 2012)



Superior Farms (2017)

- California sheep slaughterhouse
- We alleged violations of the Humane Methods of Slaughter Act, changes to “best by” dates, and failure to comply with internal policies
- Superior had contracts with the Department of Defense and the National School Lunch Program
- Case brought under the federal *False Claims Act*
- Department of Justice intervened
- Case led to a consent decree that included changes to animal handling processes

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Cooke Aquaculture (2019)

- Inland salmon hatchery in Bingham, Maine
- Workers slammed, stomped, and violently threw fish; underfed fish in crowded tanks; threw fish in buckets and left them to suffocate; fish with fungal growths and deformities
- Cooke's True North brand is affiliated with Martha Stewart
- False advertising case currently pending in the Superior Court of the District of Columbia*
- Challenge brought under the *District of Columbia Consumer Protection Procedures Act* against claims that products are “naturally raised,” “sustainable,” and the result of “optimal” animal welfare standards
- Court recently rejected four Cooke motions to dismiss the case

* Represented by Richman Law & Policy

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Quality Pork Processors (2015)

- Minnesota pig slaughterhouse that exclusively supplied Hormel brand products
- Slaughterhouse was one of the original pilot plants for pig slaughter deregulation (line speeds & inspectors)
- Pigs beaten, shocked, dragged, and improperly stunned; egregious abuse of “downer” pigs; improper stunning and slaughter
- Investigation materials are being used in support of two active lawsuits for which we are a plaintiff:
 1. Line Speeds (Defendant: USDA)*
 - *Administrative Procedure Act*
 - *National Environmental Policy Act*
 2. Downed Pigs (Defendant: USDA)**
 - *Administrative Procedure Act*
- District Court recently denied the USDA's motion to dismiss in each case

* Represented by Lewis & Clark Animal Law Litigation Clinic & Greenfire Law; coalition of plaintiffs includes Animal Outlook, Farm Sanctuary, Animal Equality, ALDF, Center for Biological Diversity, MFA, & North Carolina Farmed Animal Save

** Represented Lewis & Clark Animal Law Litigation Clinic & Greenfire Law; coalition of plaintiffs also includes Farm Sanctuary, ALDF, AWI, CIWF, Farm Forward, & MFA



Amick Farms (2018)

- Chicken slaughterhouse in Hurlock, Maryland
- Slaughterhouse was granted a USDA waiver to operate at accelerated line speeds
- Workers throwing chickens into shackles; leaving chickens hanging upside down to be shocked and drown in stun baths due to slaughter line breakdowns; cramming chickens into tiny crates; possible food safety issues due to chicken carcasses with pus, discoloration, bruising, and a tar-like substance
- Investigation materials are being used in support of two active lawsuits for which we are a plaintiff:
 1. Line Speeds (Defendant: USDA)*
 - *Administrative Procedure Act*
 - *National Environmental Policy Act*
 2. Cruelty & Food Safety Issues (Defendant: Amick Farms)**
 - *Public nuisance*

* Represented by HSUS and Riley, Safer, Holmes & Cancila; coalition of plaintiffs includes Animal Outlook, HSUS, MFA, Government Accountability Project, and Marin Humane

** Represented by Tycko & Zavareei



Martin Farms (2018)

- Dairy factory farm in Chambersburg, Pennsylvania
- “Downed” cows hoisted by clamps and dragged with tractors; botched and unlicensed attempts at veterinary procedures; improper euthanasia; denial of veterinary care
- Despite evidence, State Police declined to pursue criminal charges after “investigating” for over a year
- Animal Outlook filed a private criminal complaint and a subsequent appeal to the trial court based on investigations materials
 - *Pennsylvania animal cruelty law*
- The case is now on appeal to the Superior Court of Pennsylvania*
- The case challenges Pennsylvania’s interpretation of the “common practices exemption” and the *mens rea* required for cruelty/neglect

* Local counsel is Mays, Connard & Rotenberg

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Bravo Packing (2021)

- Pet food slaughterhouse in Carney's Point, New Jersey
- Long history of food safety and animal cruelty issues
- Animal Outlook legal action led to pet food recall in 2021 due to *Salmonella* and *Listeria* contamination
- Subsequent investigation showed workers dragging and improperly stunning a “downed” cow before slaughter
- Open cases with multiple federal and state agencies for food safety and animal cruelty concerns based on investigations materials
 - *Federal Food, Drug, & Cosmetic Act*
 - *Humane Methods of Slaughter Act*
 - *NJ animal cruelty law*
 - *NJ Humane Treatment of Domestic Livestock law*



Challenges facing investigations

- “Ag-gag” laws
 - Obtaining employment
 - Recording
 - Trespass
 - Reporting timeframes
- Physical/mental toll on investigators
- Prosecutor disinterest, unfamiliarity, etc.
- Other risks

Summary: *Investigations are a critical tool for the animal rights movement. Without investigations, the agriculture industry can deceive consumers unchecked. Investigations content is a also powerful, offensive tool against the agriculture industry with a wide range of possible legal uses.*





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A close-up photograph of a young brown cow (calf) standing in a green field under a blue sky with clouds. The calf is looking directly at the camera. The image is part of a presentation slide, with a green bar at the bottom containing the text 'ANIMALS' and a white bar at the top left containing the text 'ANIMALS'.