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**Class meetings:**

Thursday, May 29 1:00 – 5:00PM

Friday, May 30 1:00 – 5:00PM

Saturday, May 31 8:00AM – 12:00PM and 1:00 – 5:00PM

Sunday, June 1 8:00AM – 12:00PM and 1:00 – 5:00PM

**COURSE DESCRIPTION**

Welcome to Vermont Law & Graduate School's summer program and thank you for your interest in animal protection. This two-credit course introduces students to a uniquely valuable tactic in animal advocacy and addresses the following questions: What are undercover investigations? Why do animal advocacy organizations conduct them? Students explore a variety of legal considerations as they relate to conducting and maximizing the impact of undercover investigations of animal operations, which include facilities such as hatcheries, grow-out operations, and slaughterhouses where animals are treated as commodities. Specifically, students will examine the intersection of criminal law, constitutional, tort, and ethical issues, as well as what does and does not constitute actionable animal cruelty and increasing its enforcement for cruelty in commercial settings. Students will evaluate evidentiary issues, taking action/pursuing litigation, and corporate liability. The course will also examine how undercover investigations have changed the legal landscape for animals as well as the methods by which industry has pushed back against this advocacy tactic.

Note, the topic of this course is undercover investigations, which by their nature include significant amounts of animal cruelty and neglect. Developing your skills in analyzing and parsing out these investigations is central to the purpose of the class, so expect to be reviewing and discussing a number of these videos and other investigation materials.

## **GOALS**

By successfully participating in this course, you will achieve competence in the following areas:

1. The purpose of conducting undercover investigations of animal operations;
2. The legal aspects a nonprofit or investigator must consider prior to and while conducting an undercover investigation and how to advise and mitigate those risks;
3. Key case law involving undercover investigations;
4. Animal cruelty laws, including their scope and limitations, and how to ensure investigations are conducted and used in a way that maximizes their legal impact and advances the use of animal cruelty laws to address cruelty in commercial settings;
5. Considerations related to pursuing litigation;
6. Industry response patterns and techniques, including successes and failures;
7. How the legal aspects of undercover investigations intersect with and can enhance larger organizational and movement goals to leverage undercover investigations.
8. Problem-solving capability through legal research, legal analysis, and the application of concepts discussed in this course.

## **HOURS AND READINGS**

This 2-credit course will require full engagement prior to and throughout the course. Please complete all readings before each topic meeting. Given the intensity of our meeting schedule, completing readings prior to meeting may require you to engage with the course materials well in advance of the commencement of this course. There are no prerequisites except enthusiasm, curiosity, and a willingness to learn. Attendance for the entire session is mandatory and no exceptions will be granted.

## **GRADING**

For this course, you will be evaluated based on a final paper (80%) and class participation (20%). Class attendance is mandatory. Your final paper is a legal memo in which you will assume the role of a staff attorney for a nonprofit advising the potential legal risks and benefits involved in

conducting an undercover investigation. Details about the final paper are outlined later in the syllabus. You must show up for every class on time and well-prepared. My approach to teaching emphasizes participation and engagement. You will take an active role in each class. In every class, I will be asking for your views on controversial subjects. I am most interested in your response as it relates to law, policy, legal principles, and theory, and how that can translate into effective legal work for nonprofits or investigators using undercover investigations as a tool. Your preparation and participation will make the course more comprehensible and enjoyable. Successful participation is not necessarily measured by whether your answer is correct, but by whether your comments demonstrate that you have read and thought about the material and that you are making a good faith effort to advance the conversation.

## **PLAGIARISM**

You are cautioned to comply with the requirements of the VLGS Honor Code by avoiding plagiarism and other misconduct as provided in the student handbook. Plagiarism is an Honor Code violation that will result in failing the course and a referral to the Vice Dean for Students for further action.

## **DISCRIMINATION/MISCONDUCT**

Our school is committed to fostering a safe, productive learning environment free from unlawful harassment, sexual harassment, discrimination, and retaliation. Unlawful harassment or discrimination on the basis of age, race, color, creed, ethnicity, national origin, place of birth, ancestry, religion, sex/gender, gender identity/expression, sexual orientation, marital status of students, service in the armed forces of the United States, HIV-positive status, genetic information, or against qualified individuals with disabilities on the basis of disability, as defined by applicable law, or other characteristics as defined and protected by applicable law (“protected characteristics”) is prohibited and will not be tolerated. In compliance with Title IX of the Education Amendments of 1972 (“Title IX”) and applicable state law, Vermont Law & Graduate School does not discriminate on the basis of sex in its education programs and activities or in

employment, and it is required by Title IX to not discriminate on that basis. The Law & Graduate School will take all necessary steps to end conduct prohibited by this policy, to prevent its recurrence, and to address its effects.

If you wish to speak confidentially about an incident of misconduct, want more information about filing a report, or have questions about school policies and procedures, please contact our Title IX Coordinator.

## **ACCOMMODATIONS FOR DISABILITIES**

If you have a disability and would like to request an accommodation, please review our Disability Policy at Vermont Law & Graduate School academic accommodations at:

<https://www.vermontlaw.edu/community/students/academic-success/accommodations>

## **TOPIC MEETINGS**

Below is the schedule of topic meetings for our class. It is your responsibility to complete each reading prior to its assigned topic meeting and to participate fully during each class period. This syllabus is subject to change.

**Thursday, May 29, 1:00 PM -5:00 PM**

### *Introduction: Industrial Agriculture, Undercover Investigations, and the Animal Protection Movement in Context*

What is “factory farming”? How did it come about? What is its role in animal law? What is its role in ethics, policy, and social movements? What happens to animals raised for meat, milk, and eggs, and how do we know this? What are the objectives of the animal protection movement? What are undercover investigations and what role do they play in the advancement of the law and the animal protection movement?

Sunstein, Cass R. "The rights of animals: a very short primer." (2002),  
[https://papers.ssrn.com/sol3/Delivery.cfm/SSRN\\_ID323661\\_code020820570.pdf?abstractid=323661&mirid=1&type=2](https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID323661_code020820570.pdf?abstractid=323661&mirid=1&type=2)

P. Singer, *Animal Liberation* (1975), Chs. 1 and 4 (book)

T. Regan, *THE CASE FOR ANIMAL RIGHTS*, (1985) Ch. 5, read only pp. 150-156, 185-194, Ch. 7, Ch. 9, read only pp. 330-334 (other pages optional) (book)

J. Robbins, *DIET FOR A NEW AMERICA* (1998), pp. 48-145, 308-381 (book)

D. Favre & V. Tsang, *The Development of Anti-Cruelty Laws During the 1800's*, 1993 DETROIT L. REV. 1 (1993) (optional), <https://core.ac.uk/download/pdf/228468261.pdf>

Gleckel, Jareb, Grace Brososky, and Cheryl Leahy. "A New Age of Animal Law." *NYUL Rev. Online* 99 (2024): 25. <https://papers.ssrn.com/sol3/Delivery.cfm?abstractid=4678331>

Why Undercover Investigations? My top 5 reasons: <https://animaloutlook.org/why-undercover-investigations-my-top-five-reasons/>

Cody Carlson, My Life as an Undercover Investigator, <https://vegnews.com/my-life-as-an-undercover-investigator>

## **Friday, May 30, 1:00 PM -5:00 PM**

### *Undercover Investigations and Fact-Gathering*

How do we know the facts of the industry? What types of investigations and other fact-gathering opportunities do we have? What makes a good investigation? How do we set up an investigation to maximize potential legal outcomes? Begin conversation on how we determine legally relevant evidence when reviewing investigation material.

Counting Animals, "Meat Industry Advertising," Harish Sethu, May 7, 2012, <https://countinganimals.com/meat-industry-advertising>

Food Safety and Inspection Service, United States Department of Agriculture, Humane Handling Enforcement <https://www.fsis.usda.gov/inspection/regulatory-enforcement/humane-handling-enforcement> (skim)

Statement of Dr. Dean Wyatt, FSIS Supervisory Public Health Veterinarian, Williston, Vermont, Domestic Policy Subcommittee Oversight and Government Reform Committee 2154 of the Rayburn House Office Building Thursday, March 4, 2010, 2:00 p.m.  
"Continuing Problems in USDA's Enforcement of the Humane Methods of Slaughter Act."

Jessica Scott-Reid, Sentient Media, "The Open Rescue Movement for Farm Animals, Explained," Oct. 19, 2023 <https://sentientmedia.org/open-rescue-movement/#:~:text=A%20Brief%20History%20of%20Open,went%20on%20to%20the%20property.>

### Undercover Investigations Types:

Livestock Auctions, e.g. SEED Investigations

<https://www.seedlivestockauctions.org/> (read page and watch embedded video)

Tours, e.g. Hudson Valley Foie Gras,

<https://animaloutlook.org/investigations/hudson-valley/> (read page and watch embedded video)

Employment-based investigations:

#### Dairy:

1. Animal Outlook, Dick Van Dam Dairy, (2020)  
<https://animaloutlook.org/investigations/dick-van-dam-dairy/>  
(read page and watch embedded video)
2. Animal Outlook, Martin Farms (2019)  
<https://animaloutlook.org/investigations/nestles-nightmare/>  
(read page and watch embedded video)
3. Animal Recovery Mission, Operation fairlife Arizona (2025)  
<https://animalrecoverymission.org/operations/factory-farm-division/operation-fairlife-arizona/> (read page and report, watch embedded video)

#### Pork

1. Humane Society of the United States, Wyoming Premium Farms (2012),  
<https://www.humaneworld.org/sites/default/files/docs/2012-undercover-investigation-tyson-supplier.pdf>
2. Animal Outlook, Hawkeye Sow Centers (2012),  
<https://animaloutlook.org/investigations/iowa-pigs/> (read page and watch embedded video)
3. Animal Outlook, Holden Farms (2020),  
<https://animaloutlook.org/investigations/holden-farms-the-problem-with-pork/> (read page and watch embedded video)

When reviewing investigations, prepare to discuss:

- What kinds of information about the industry do these investigations reveal?
- What patterns do you see, and how might that predict future investigations?

- What are the strengths and weaknesses of these investigations from a fact-gathering point of view?

### Laws Pertaining to Undercover Investigations: Risk Mitigation

What kinds of techniques have been used by the movement to conduct investigations? What

#### Open Rescues:

Jesse McKinley, “Two Missing Ducks, a Video, and a Felony Charge in an Episode at a Foie Gras Farm,” New York Times, Feb 22, 2015,  
<https://www.nytimes.com/2015/02/23/nyregion/amid-foie-gras-controversy-an-activist-faces-a-felony-charge-in-poaching-of-ducks.html>

Simple Heart Podcast w/ Wayne Hsiung and Adam Durand, He Rescued a Dying Hen from a Manure Pit; They Jailed him, Ep. 32, Aug. 30, 2024,  
<https://podcasts.apple.com/us/podcast/he-rescued-a-hen-dying-in-a-manure-pit-they/id1529385037?i=1000667451595&l=pt-BR>

Rescuing animals from cruelty should be legal, Farhad Majoo:  
<https://www.satrib.com/opinion/commentary/2023/02/18/farhad-manjoo-rescuing-farm/>

Activists Acquitted in Trial for Taking Piglets from Smithfield Foods, Marina Bolotnikova: <https://theintercept.com/2022/10/08/smithfield-animal-rights-piglets-trial/>

#### Employment based investigations

##### Taping laws:

Can we Tape? The Reporter’s Committee for Freedom of the Press,  
<https://www.rcfp.org/wp-content/uploads/imported/CANWETAPE.pdf>

*Sanders v. Am. Broadcasting Cos.*, 20 Cal. 4th. 907 (Cal. 1999)

Reporter’s Recording Guides  
<https://www.rcfp.org/wpcontent/uploads/imported/RECORDING.pdf>

Read introduction, at a glance chart, and blue boxes. Skim detailed state information.

##### Privacy Torts

Cornell Law School, Annotated Constitution, Privacy Torts,  
<https://www.law.cornell.edu/constitution-conan/amendment-1/privacy-torts>

### Trespass and Fraud

Gleckel, Jareb A., and Elizabeth Nisbet. "Free Speech Versus Property: When Deception Can (And Can't) Give Rise to Trespass." (2024).  
<https://papers.ssrn.com/sol3/Delivery.cfm/4998293.pdf?abstractid=4998293&mirid=1&type=2>

*Food Lion, Inc. v. Cap. Cities/ABC, Inc.*, 194 F.3d 505 (4th Cir. 1999).

*Planned Parenthood Fed'n of Am., Inc. v. Newman*, 51 F.4th 1125 (9th Cir. 2022). (Read only pages 1-8, background section.)

*Desnick v. Am. Broadcasting Cos.*, 44 F.3d 1345 (7th Cir. 1995).

*Pitts Sales, Inc. v. King World Productions, Inc.*, 383 F. Supp. 2d 1354 (S.D. Fla. 2005)

*PETA v. Bobby Berossini, Ltd.*, 1867 P.2d 1121 (Nev. 1994).

*Ouderkirk v. People for Ethical Treatment of Animals, Inc.*, No. 05-10111, 2007 WL 1035093 (Mar. 29, 2007).

### Legal ethics

Model Rules of Professional Conduct, Rule 1.2, available at:  
[https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_1\\_2\\_scope\\_of\\_representation\\_allocation\\_of\\_authority\\_between\\_client\\_lawyer/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_2_scope_of_representation_allocation_of_authority_between_client_lawyer/)

Model Rules of Professional Conduct, Rule 8.4, available at:  
[https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_8\\_4\\_misconduct/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_8_4_misconduct/)

**Saturday, May 31, 8:00 AM - 12:00 PM**

Ag gag



Ag-Gag Across America, by Center for Constitutional Rights & Defending Rights & Dissent: <https://ccrjustice.org/sites/default/files/attach/2017/09/Ag-GagAcrossAmerica.pdf>

W. Potter, "Ag Gag" Bills and Supporters have Close ties to ALEC," Green Is The New Red (2012), <http://www.greenisthenewred.com/blog/ag-gag-american-legislative-exchange-council/5947/>

Utah House Bill 187, Day 32, Transcript (Ag Gag Bill Discussion)

Kreimer, Seth F. "Pervasive image capture and the First Amendment: Memory, discourse, and the right to record." *U. Pa. L. Rev.* 159 (2010): 335, [https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1085&context=penn\\_law\\_review](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1085&context=penn_law_review)

*United States v. Alvarez*, 567 U.S. 709 (2012)

*ALDF et al., v Herbert et al.* (Utah Ag Gag Complaint)

*ALDF et al., v Herbert et al.*, Slip Copy 2017 WL 2912423 (D. Utah July 7, 2017) (Utah Ag Gag Opinion)

*Animal Legal Def. Fund v. Wasden*, 312 F. Supp. 3d 939 (D. Idaho 2018) (9<sup>th</sup> Cir. Ag Gag Opinion)

*PETA v. NC Farm Bureau*, No. 20-1776 (4<sup>th</sup> Cir. 2023) (4<sup>th</sup> Cir. Ag Gag Opinion) (optional)

*Animal Legal Defense Fund v. Reynolds*, 591 F.Supp.3d 397 (S.D. Iowa 2022) (optional)

Federal Court finds 3<sup>rd</sup> Iowa Ag Gag Law Unconstitutional - [https://firstamendment.mtsu.edu/post/federal-court-finds-3rd-iowa-ag-gag-law-unconstitutional/#:~:text=DES%20MOINES%2C%20Iowa%20\(AP\),The%20decision%20Sept.](https://firstamendment.mtsu.edu/post/federal-court-finds-3rd-iowa-ag-gag-law-unconstitutional/#:~:text=DES%20MOINES%2C%20Iowa%20(AP),The%20decision%20Sept.)

## Taylor's Story

Taylor Radig, Tales from the Trenches:

<https://www.youtube.com/watch?v=2Jd8iEQKwNg>

## Maximizing Investigation Impact through Enforcement: Legal Landscape - Federal Animal Protective Laws

What laws govern treatment of animals in agriculture? How have these laws been enforced? What impact has enforcement (or lack of enforcement) of these laws had on animal

treatment? How have undercover investigations played a role here? How does federal law impact state law development and enforcement?

Humane Methods of Slaughter Act, 7 U.S.C. §§ 1901-1907

G. Becker, "Nonambulatory Livestock and the Humane Methods of Slaughter Act," Congressional Research Service (2009)

Friedrich, Bruce. "When regulators refuse to regulate: Pervasive USDA underenforcement of the Humane Slaughter Act." *Geo. LJ* 104 (2015): 197

Animal Outlook Quality Pork Processors Investigation (read site and watch embedded video), <https://animaloutlook.org/investigations/hormel/>

Letter from Carl A. Mayes, Assistant Administrator, Off. of Investigation, Enf't, and Audit, FSIS, to Lisa Winebarger, Couns. for Compassion Over Killing, (Feb. 2, 2016)

Press on HSUS Hallmark Investigation

Twenty-Eight Hour Law, 49 U.S.C. § 80502

*In re: The HSUS: Petition to Apply 28 Hour Law to Truck Transport of Farm Animals* (Oct. 4, 2005), read pp. 1-3, 6-11, 41-47. Remainder optional

*National Meat Association v. Harris*, 132 S. Ct. 965 (2012)

*National Meat Ass'n v. Brown*, 599 F.3d 1093 (9th Cir. 2010), optional

### **Saturday, May 31, 1:00 PM - 5:00 PM**

#### Maximizing Investigation Impact through Enforcement: Legal Landscape - State Animal Cruelty Laws

What do state animal cruelty laws cover? How do they differ in their application to commercial (farmed) animals compared to other animals? What access to the courts do they provide? How is the information obtained? How have these laws been applied to help farmed animals? Has this been effective? How has enforcement changed? What barriers do these laws present and how have animal protection advocates overcome these barriers (or not)? What are the factors that may increase likelihood of enforcement based on an investigation? Based on these, how can we create the best evidentiary record possible?

Leahy, Cheryl. "Do Animal Protection Laws Address Widespread Cruelty? Unique Challenges and Potential for Addressing Institutional Abuse to Farmed Animals." *S. Cal. Rev. L. & Soc. Just.* 32 (2023): 133.

C. Leahy, "*Large-Scale Farmed Animal Abuse and Neglect, Law and its Enforcement*," 4 J. ANIMAL L. & ETHICS 63, University of Pennsylvania Law School, Fall 2011 (optional)

Wolfson, David J., L. L. P. McCloy, and Mariann Sullivan. "Foxes in the hen house: Animals, agribusiness, and the law." (2004) (Book Chapter from Sunstein, Cass R., and Martha C. Nussbaum, eds. *Animal rights: Current debates and new directions*. Oxford University Press, 2004).

Death on a Factory Farm, HBO (2006),  
<https://www.youtube.com/watch?v=T0uvy8kIRBA> (documentary video), recommended viewing, optional

### *Esbenshade Eggs*

Animal Outlook, Esbenshade investigation,  
<https://animaloutlook.org/investigations/esbenshade-farms/> (read page and watch video)

*Commonwealth of Pennsylvania v. Esbenshade and Musser*, bench brief pp. 1-9 (stop at second-to-last paragraph), 35-43

C. Leahy, *The Challenges and Importance of Combating Institutionalized Cruelty to Farmed Animals: The Commonwealth of Pennsylvania v. Esbenshade and Musser Case*, "ABA TIPS ALC Newsletter, Fall 2007

### *Martin Farms Dairy*

Animal Outlook, Nestle's Nightmare, Martin Farms investigation,  
<https://animaloutlook.org/investigations/nestles-nightmare/> (read page and watch video)

Most Animal Cruelty Is Legal on the Farm. A Judge Is Questioning That (Kenny Torella, Vox, Mar. 9, 2022):  
<https://www.vox.com/futureperfect/2022/3/9/22967328/animalcruelty-laws-state-federal-exemptions-pennsylvania-martin-farms-dairy-calves-dehorning>

In re Private Complaint Filed by Animal Outlook, Superior Court of Pennsylvania, Feb. 8, 2022, <https://animaloutlook.org/wp-content/uploads/2022/02/Martin-Farms-Opinion-02082022.pdf>

### *Tyson Broiler Breeders*

Virginia Code § 3.2-6570,  
<https://law.lis.virginia.gov/vacodefull/title3.2/chapter65/article9/>

Animal Outlook, Tyson Exposed: A Tradition of Torture, Tyson Investigation, <https://animaloutlook.org/tyson-exposed-a-tradition-of-torture/> (read page and watch video)

### *Dick Van Dam Dairy*

Animal Outlook, Dairy: Dead on Arrival, Dick Van Dam Investigation, <https://animaloutlook.org/investigations/dick-van-dam-dairy/> (read page and watch video)

*CARU v. Dick Van Dam Dairy*, Complaint <https://talkovlaw.com/wp-content/uploads/Caru-SPCA-Dick-Van-Dam-Dairy-Complaint.pdf>

Larson, LLP, Court Dismisses Case Against Dick Van Dam Dairy, Press Release, <https://www.larsonllp.com/court-dismisses-case-against-dick-van-dam-dairy/>

*CARU v. Dick Van Dam Dairy*, Tentative Ruling, 2020 Cal. Super. LEXIS 15941

### *Case Farms Hatchery*

NCGS § 19A <https://www.ncleg.gov/Laws/GeneralStatuteSections/Chapter19A>

Animal Outlook, Case Farms Hatchery Investigation, <https://animaloutlook.org/investigations/case-farms-hatchery/> (read page and watch video)

Legal Impact for Chickens v. Case Farms, Second Amended Complaint, <https://www.animallaw.info/sites/default/files/Legal%20Impact%20for%20Chickens%20v.%20Case%20Farms.pdf>

Legal Impact for Chickens v. Case Farms, District Court Transcript

Legal Impact for Chickens v. Case Farms, Defendants-Appellees' Brief,  
[https://www.ncappellatecourts.org/show-file.php?document\\_id=362737](https://www.ncappellatecourts.org/show-file.php?document_id=362737)

Legal Impact for Chickens v. Case Farms, Plaintiff-Appellant's Brief,  
[https://www.ncappellatecourts.org/show-file.php?document\\_id=358679](https://www.ncappellatecourts.org/show-file.php?document_id=358679)

North Carolina Court of Appeals, 24-673, Legal Impact for Chickens v. Case Farms, LLC (appellate oral arguments),  
<https://www.youtube.com/live/SVe41Igti7k?si=LiTpVNUW-sy-Srs0>

### **Sunday, June 1 8:00AM – 12:00PM**

#### Undercover Investigations and Impact Litigation

How have animal advocates leveraged undercover investigations to address cruelty in the commercial context outside of direct cruelty law or animal protection law enforcement?  
What are the necessary considerations and evidentiary requirements for these lawsuits to be successful? How can such litigation advance animal protection?

#### Unfair Competition

CA Bus & Prof Code § 17200, <https://law.justia.com/codes/california/code-bpc/division-7/part-2/chapter-5/section-17200/>

D. Mo, Comment, *Unhappy Cows and Unfair Competition: Using Unfair Competition Laws to Fight Farm Animal Abuse*, 52 UCLA L. REV. 1313 (2005)

Animal Outlook, Cal-Cruz Hatcheries Closes Down,  
<https://animaloutlook.org/investigations/cal-cruz/> (read page and watch video)

“Animal Rights Group Reaches Settlement with Now Defunct Live Oak Hatchery,” Santa Cruz Sentinel,  
<https://www.santacruzsentinel.com/2012/06/12/animal-rights-group-reaches-settlement-with-now-defunct-live-oak-hatchery/>

#### False Advertising

Cal. Bus. & Prof. Code § 17500,  
<https://law.justia.com/codes/california/2010/bpc/17500-17509.html>

Animal Recovery Mission, Operation Fairife, fairlife Investigation 2019,  
<https://animalrecoverymission.org/operations/factory-farm-division/operation-fairlife/> (read page and watch video, full report optional)

*In re: Fairlife Milk Products Marketing and Sales Practices Litigation*, MDL No. 2909, Lead Case No. 1:19-cv-03924-RMD-MDW, in the U.S. District Court for the Northern District of Illinois, Consolidated Class Action Complaint, 2020.

*In re: Fairlife Milk Products Marketing and Sales Practices Litigation*, MDL No. 2909, Lead Case No. 1:19-cv-03924-RMD-MDW, in the U.S. District Court for the Northern District of Illinois, Class Action Settlement Agreement and Release (read only Stipulated Injunction section, pp. 123-130, rest optional)

Animal Recovery Mission, Operation Fair Oaks Farms 2023, fairlife Investigation 2023, <https://animalrecoverymission.org/operations/factory-farm-division/operation-fair-oaks-farms-2023/> (read page and watch video, full report optional)

Animal Recovery Mission, Operation Fairlife Arizona, fairlife Investigation 2024 <https://animalrecoverymission.org/operations/factory-farm-division/operation-fairlife-arizona/> (read page and watch video, full reports optional)

*Aryout Michael Thomas Bhotiwihok et al v. Fairlife, LLC et al.*, 2:25-cv-01650, C.D. Cal. Complaint, 2025

#### Agency Failures

Animal Outlook, Aquaculture: A Sea of Suffering, Cooke Aquaculture Investigation, <https://animaloutlook.org/investigations/aquaculture/>

*Block v. Beal*, Petition for Review of Agency Refusal or Failure to Act Pursuant to M.R. Civ. P. 80c, ME Superior Court, Complaint, <https://animaloutlook.org/wp-content/uploads/2023/02/Complaint-Petition-FINAL.pdf>

#### False Claims Act

False Claims Act, 31 U.S.C. §§ 3729–3733, <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title31-section3729&num=0&edition=prelim>

Animal Outlook, Horror at Superior Farms – Lamb Slaughter Exposed, Superior Farms Investigation, <https://animaloutlook.org/investigations/superior-farms/> (read site and watch video)

*Compassion Over Killing v. Transhumance Holding Company, Inc.*, NO. 2:17-cv-210 MCE CKD, C.D. Cal. Complaint, 2019 (Superior Farms Complaint)

Consent Decree between the United States Department of Agriculture Food Safety Inspection Service and Defendant Transhumance Holding Company, Inc., 2019,

<https://www.publicjustice.net/wp-content/uploads/2019/05/Consent-Decree-Fully-Executed1.pdf> (Superior Farms Consent Decree)

*Compassion Over Killing v. Transhumance Holding Company, Inc.*, 2:17-cv-210 MCE CKD, C.D. Cal. Settlement, 2019 <https://www.agripulse.com/ext/resources/pdfs/Settlement-Agreement-Superior-Farms.pdf> (Superior Farms Settlement)

N. Perry and P. Brandt, “A Case Study on Cruelty to Farm Animals: Lessons Learned from the Hallmark Meat Packing Case,” MICHIGAN LAW REVIEW FIRST IMPRESSIONS, 2008 (optional)

*United States of America ex rel. The Humane Society of the United States v. Hallmark Meat Packing Company, Westland Meat Company, Inc.*, Civ. No. 08-0221 (C.D.Cal., seal lifted April 18, 2009) Complaint

KCAL News, CBSLA.com, “Record \$500M Settlement Reached In Chino Slaughterhouse Abuse Case,” at <https://www.cbsnews.com/losangeles/news/record-500m-settlement-reached-in-chino-slaughterhouse-abuse-case/> (2012)

*Compassion Over Killing v. Central Valley Meat Co.*, Civ. No. 1:12-cv-01375 LJO-DLB (E.D.Cal., seal lifted May 24, 2013) Complaint (optional) (Central Valley Meat Complaint)

Others to think about: public nuisance, RICO, securities and SEC litigation, APA, Lanham Act, Clean Air Act, Clean Water Act, climate litigation, others?

**Sunday, June 1 1:00PM – 5:00PM**

Guest Speaker: Former Investigator Erin Wing

Erin’s investigations:

Dick Van Dam <https://animaloutlook.org/investigations/dick-van-dam-dairy/> (review)

Cooke Aquaculture <https://animaloutlook.org/investigations/aquaculture/> (review)

Martin Farms <https://animaloutlook.org/investigations/nestles-nightmare/> (review)

Tyson Growout <https://animaloutlook.org/investigations/tyson2/> (read page and watch video)

Erin's perspective:

Northwest Veg, the Power of Investigations:

[https://www.youtube.com/watch?v=kwrw36\\_feVg](https://www.youtube.com/watch?v=kwrw36_feVg)

\*Prepare a question or two for the discussion with Erin

### Undercover Investigations and Media, Campaigns, and Social Justice: Law and Narratives.

How does the role of the lawyer and the law play into the greater narrative and social movement objectives animal advocates may have for undercover investigations? What unique value can lawyers and the concept of law play in advancing greater social movement goals? What tensions may arise between publicity and campaign goals and legal goals? What are the larger narratives the public should be taking from these investigations and what role can lawyers play in crafting these narratives and making them effective? How might lawyers need to mitigate risk in communications and media?

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### **Final Legal Memo:**

Use the following hypothetical facts to draft a legal memo:

You are the undercover investigations staff attorney for a U.S.-based farmed animal protection nonprofit. The organization has stated that they would like to conduct an employment-based investigation of a pork breeding facility with gestation and farrowing crates in Pennsylvania. They want to know:

- How to mitigate risks of legal liability to the organization and/or the investigator:

- the primary legal risks the organization may face if they conduct this potential investigation
  - what they should advise the investigator prior to conducting the investigation regarding mitigating such risks
  - How to gather evidence in a way that would reduce the risk of defamation liability
  - Communications and publicity principles to guide messaging on the investigation once it is released
  - Whether you advise the organization to conduct the investigation at all
- If the investigation is conducted, how to maximize the strength of the investigation for legal impact
  - Requirements to meet the legal standard for the cruelty law, including what that might look like specifically in this type of investigation
  - What kind of facts to expect and look out for, including practices that are and are not sanctioned by the industry
  - Anticipation of accountability-avoiding countermeasures the industry or corporation might use to avoid liability
  - How to increase the strength of their evidence to increase likelihood of enforcement of the animal cruelty law (e.g. what kind of evidence to capture in addition to merely the acts and omissions showing cruel treatment)
  - What else they might look for or find in their investigation that would trigger possible civil claims outside of the cruelty law
  - Standards for quality of evidence gathering
- What communications and media narratives and strategies would be most effective for overall impact
  - What public messaging would best fit the goals of greatest legal impact?
  - What public messaging would fit the goals of greatest campaign and movement-level impact from the investigation?
  - How to effectively communicate the value of the law in the greater campaign?
  - What messaging to avoid in order to serve the interests of the above goals?

There is no minimum or maximum length; rather, memos will be graded based on the following:

- Identification of Relevant Legal Risks & Analysis
- Identification of Relevant Animal Cruelty Laws
- Consideration of Evidentiary Concerns
- Adherence to Professional Conduct Rules
- Organization, Logic, Persuasiveness
- Demonstration of Understanding of the Organization's Objectives
- References and Citations (Bluebook is encouraged but not required)

FINAL LEGAL MEMO DUE by **5:00pm on Friday, June 13, 2025**. Please submit anonymously.