STATE OF NORTH CAROLINA

COUNTY OF BURKE

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BURKE CO. C.S.C.
BY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
23 CVD 619

LEGAL IMPACT FOR CHICKENS,

Plaintiff,

v.

CASE FARMS, L.L.C., CASE FOODS, INC., and CASE FARMS PROCESSING, INC.,

Defendants.

AMENDED COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF

NOW COMES Plaintiff Legal Impact for Chickens ("LIC" or "Plaintiff"), by and through undersigned counsel, complaining of the acts of Defendants, Case Farms, L.L.C., Case Foods, Inc., and Case Farms Processing, Inc. (collectively, "Case Farms" or "Defendants"), and alleges and states as follows:

NATURE OF THE ACTION

1. In this action, LIC seeks injunctive relief pursuant to N.C. Gen. Stat. §§ 19A-4 and 1A-1, Rule 65 of the North Carolina Rules of Civil Procedure, prohibiting Case Farms from further violations of North Carolina's Civil Remedy for Protection of Animals statute, N.C. Gen. Stat. § 19A-1 *et seq.*

2. Plaintiff contends that Case Farms, a poultry integrator that hatches, raises, and slaughters broiler (meat) chickens in various locations, including Morganton, North Carolina (the "Morganton Hatchery"), and its owners, officers, managers, and employees, have engaged in intentional, affirmative, and reckless acts of neglect and extreme violence causing unjustifiable and unnecessary physical pain, suffering, and death towards the animals under its care and control.

3. As further detailed herein, these documented acts and omissions of Case Farms and its employees are *not* necessary for, nor conducted for the primary purpose of, providing food for human or animal consumption.

4. Indeed, the cruelty alleged herein kills young chicks prematurely, preventing them from growing large enough to be used for food or other intended purposes. Rather, when chicks die early, their cadavers simply become a waste product.

5. All acts of cruelty alleged in this action, as defined by N.C. Gen. Stat. § 19A-1 (2), are inflicted intentionally, knowingly, and/or out of reckless disregard for life, with the full knowledge of Case Farms management.

PARTIES

6. Plaintiff LIC is a 501(c)(3) non-profit charitable corporation dedicated to preventing cruelty to animals. LIC is a real party in interest as defined by N.C. Gen. Stat. §§ 19A-1, 19A-2, and 12-3(6).

7. Defendant Case Farms, L.L.C. is a Delaware limited liability company that operates some or all Case Farms operations, including, upon information and belief, the Morganton Hatchery. Case Farms, L.L.C. is a subsidiary of Defendant Case Foods, Inc. Case Farms, L.L.C.'s corporate headquarters are in Troutman, North Carolina. Upon information and belief, Case Farms, L.L.C. owns or has possession of the animals that are the subject of this action. Case Farms, L.L.C. is a real party in interest as defined by N.C. Gen. Stat. § 19A-2.

8. Defendant Case Foods, Inc. is a Delaware corporation that operates all Case Farms operations, including the Morganton Hatchery. Case Foods, Inc. is the parent company of

Defendants Case Farms, L.L.C. and Case Farms Processing, Inc. and its corporate headquarters are in Troutman, North Carolina. Case Foods, Inc. owns or has possession of the animals that are the subject of this action. Case Foods, Inc. is a real party in interest as defined by N.C. Gen. Stat. § 19A-2.

9. Defendant Case Farms Processing, Inc. is a North Carolina corporation that operates some or all Case Farms operations, including, upon information and belief, the Morganton Hatchery. Case Farms Processing, Inc. is a subsidiary of Defendant Case Foods, Inc. and its corporate headquarters are in Troutman, North Carolina. Upon information and belief, Case Farms Processing, Inc. owns or has possession of the animals that are the subject of this action. Case Farms Processing, Inc. is a real party in interest as defined by N.C. Gen. Stat. § 19A-2.

10. As indicated above, all references to "Case Farms" herein are to Defendants Case Farms, L.L.C., Case Foods, Inc., and Case Farms Processing, Inc., collectively, as a fully integrated group of companies overseeing poultry hatching, farming, slaughtering, and processing, including operations at the Morganton Hatchery.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this subject matter pursuant to N.C. Gen. Stat §§ 19A-2 and 19A-4.

12. This Court has jurisdiction over the parties to this action pursuant to N.C. Gen. Stat. § 1-75.4, because (1) Defendant Case Farms Processing, Inc. is a domestic corporation; (2) all three Defendants' corporate headquarters are in North Carolina; (3) all three Defendants are engaged in substantial activity within North Carolina, namely, operating hatcheries and related

equipment, contract-grower farms, slaughter plants, and other establishments; and (4) as further detailed herein, Defendants engage in acts, omissions, or neglect resulting in the cruel treatment of animals under its ownership and/or possession.

13. Venue is proper pursuant to N.C. Gen. Stat. §§ 1-79, 1-82, and 19A-2, because the cruelty and cruel treatment occurred in Morganton, Burke County, North Carolina.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

I. Background

A. Industry standards for the raising of chickens

14. The National Chicken Council ("NCC") is the United States poultry industry trade association.[1] To be a member, a company must slaughter, eviscerate, and process broiler chickens under U.S. Department of Agriculture ("USDA") inspection.

15. Case Farms is a member of the NCC.

16. The NCC guidelines state that "[p]oultry *should be treated with respect throughout their lives* and provided a humane death when processed for food or when they are euthanized for any other reason."[2] As further detailed below, the Morganton Hatchery's practices fall short of these minimum commercial practices and standards.

17. The NCC guidelines also state that "[a]n animal is considered to be in a good state of welfare . . . if (as indicated by scientific evidence) it is healthy, comfortable, well nourished,

[1] https://www.nationalchickencouncil.org/.

[2] National Chicken Council, *National Chicken Council Animal Welfare Guidelines and Audit Checklist for Broilers* (Sept. 2020) at 2, https://www.nationalchickencouncil.org/wp-content/uploads/2021/02/NCC-Animal-Welfare-Guidelines_Broilers_Sept2020.pdf (emphasis added).

safe, able to express innate behaviour, and if it is not suffering from unpleasant states such as pain, fear, and distress."[3]

18. As further detailed below, upon information and belief, Case Farms causes its chicks to be unhealthy, uncomfortable, and unable to express innate behavior, and subjects its chicks to pain, fear, and distress. Case Farms does this, among other things, by engaging in egregious animal cruelty and violence with painful and often lethal consequences, failing to provide timely euthanasia, and employing improper hatching practices.

19. Additionally, the NCC states that "[p]oultry raised for food should be cared for in ways that prevent or minimize fear, pain, stress, and suffering."[4] As explained below, Case Farms fails to prevent or minimize fear, pain, stress, and suffering, by, among other things, (1) treating chicks aggressively and violently, causing them extreme pain and death; (2) knowingly using inadequate and poorly operated equipment that results in harm and suffering to the chicks; (3) neglecting injured chicks; and (4) hatching chicks improperly, such that many of them predictably become ill or deformed.

B. Case Farms operations

20. Upon information and belief, the Morganton Hatchery at 5067 Foreman Street, Morganton, North Carolina processes approximately 200,000 chicks daily and deals only with eggs and newborn chicks, up to approximately one day old.

21. In the Morganton Hatchery, Case Farms incubates fertilized eggs until they hatch

[3] *Id.* at 2 (internal citations omitted).

[4] *Id.* at 2.

into chicks. This process requires special care to ensure the development of healthy chicks suitable for the hatchery's intended purposes. To incubate eggs in an unnatural environment, such as a commercial hatchery, a company must take specific steps to keep the eggs clean, dry, safe, and ventilated, at a proper temperature. Each of these steps is crucial to the health and welfare of the unborn chicks.

22. The Morganton Hatchery has a setter room, where eggs are placed in trays within a fixture called a setter. The eggs gestate in the setter until they are ready to be moved to the hatcher, where live chicks hatch from the eggs.

23. Once chicks hatch, Case Farms puts the chicks through certain post-hatching procedures, using an assembly-line-style system.

24. For example, Case Farms uses various conveyor belts to move its newly hatched chicks through various steps within the Morganton Hatchery, including putting the chicks directly on a metal conveyor belt.

25. Specifically, once the chicks are removed from the hatchers, they are stacked in shallow, rectangular, plastic trays on buggies. They are then loaded into a separator, which turns the chick-filled trays upside down. Chicks fall through the bars in the separator and onto conveyor belts that move through the facility into the processing room, where chicks are sorted through and then placed in trays that are stacked onto buggies for delivery to local broiler factory farms.

26. There are multiple cull stations in the Morganton Hatchery. At each cull station, a worker is assigned the task of removing dead and injured chicks and eggshells from the conveyor belts.

27. Upon information and belief, the trays move along this conveyor belt, and a machine with a piston regulates the movement of the trays.

28. Upon information and belief, at another point in the process, Case Farms workers stack plastic trays full of chicks on top of one another.

29. Once these procedures are complete, Case Farms employees drive the chicks in trucks from the Morganton Hatchery to various Case Farms-affiliated "grower farms," where the chicks are housed until they are big enough to be slaughtered and later sold as food.

II. An investigation revealed ongoing cruelty and neglect by Case Farms at its Morganton Hatchery.

30. For two-and-a-half months in 2021, Animal Outlook, a non-profit animal protection charity, employed an investigator who worked undercover as a technician at the Morganton Hatchery (the "2021 Investigation").

31. Specifically, the investigator was responsible for removing eggshells and dead or injured chicks from the conveyor belt in the processing room. The investigator was also assigned to work in the setter rooms, removing dead or injured newly hatched chicks and eggshells from the room. The investigator also worked as part of the delivery crew, delivering chicks to grower farm sites.

32. During the course of the 2021 Investigation, the investigator recorded almost five hours of footage and took extensive notes.

33. Animal Outlook publicly released the results of its investigation on September 21, 2021. An illustrative portion of the footage that the investigator recorded at the Morganton Hatchery and at a Case Farms contract grower farm is available in an Animal Outlook compilation

video.[5]

34. Animal Outlook's investigator documented acts of abuse and neglect nearly every day of their employment at the Morganton Hatchery.

35. In fact, when the investigator began working at one of the cull stations, the investigator witnessed a minimum of approximately 150 dead or injured chicks at each shift.

36. Upon information and belief, the acts of cruelty and cruel treatment complained of herein were condoned by Case Farms' management.

37. Upon information and belief, to the extent any of the acts complained of herein were carried out by individual Case Farms employees, those acts were done while the employee was on duty, and within the scope of the employee's employment for Case Farms.

III. At its Morganton Hatchery, Case Farms maims and injures chicks by using inadequate, unmaintained, and dangerous equipment.

38. Pursuant to standards adopted by the NCC, which Case Farms claims it follows, "manual and automated chick processing systems must be designed, *maintained*, and *operated* in a manner that prevents injuries to the chicks. All equipment operation must be examined at the start of the hatch day to ensure chick injuries are prevented. The speed of the belt, belt material, slides and chutes all play a role in preventing injury to chicks."[6]

39. The 2021 Investigation revealed that the Morganton Hatchery uses machinery—

[5] TinyURL.com/CaseFarmsVideo.

[6] National Chicken Council, *National Chicken Council Animal Welfare Guidelines and Audit Checklist for Broilers* (Sept. 2020) at 6, https://www.nationalchickencouncil.org/wp-content/uploads/2021/02/NCC-Animal-Welfare-Guidelines_Broilers_Sept2020.pdf (emphasis added).

such as the conveyor belt used to move chicks—that traps, maims, dismembers, and pulverizes Case Farms' newly hatched chicks.

40. The 2021 Investigation also showed that the pistons meant to stop trays along conveyor belts, that are under the control and supervision of Case Farms personnel, routinely misfire, causing serious injury and death to chicks, as more fully described below.

41. During the course of the 2021 Investigation, there were over 20 documented instances of the investigator removing chicks with severe bodily injuries from the conveyor belt after they had either been trapped in the machinery or struck by automated pistons during the sorting process.

42. Upon information and belief and as further described below, Case Farms maintains and operates its manual and automated chick processing systems in a manner that causes injuries and death to the chicks under its possession and control.

43. Upon information and belief, employees at the Morganton Hatchery, with the knowledge of management personnel, fail to properly examine and maintain equipment so as to prevent injuries or death to chicks.

44. Upon information and belief, despite processing approximately 200,000 chicks each day at the Morganton Hatchery, Case Farms does not employ enough workers to run, supervise, or maintain the hatchery's machinery in such a way so as to avoid causing death or dismemberment to the animals under its possession and control, which directly increases the likelihood and number of instances of animal cruelty.

45. The 2021 Investigation revealed that it was common for the separator machine to

break down.

46. Upon information and belief, since the conclusion of the 2021 Investigation, Case Farms has not serviced, changed, and/or updated the above-mentioned machinery.

A. Case Farms knows that machinery at the Morganton Hatchery regularly slams a metal piston down on chicks, killing them.

47. The 2021 Investigation documented that a machine at the Morganton Hatchery regularly injures and kills chicks by slamming automated pistons onto them.

48. The piston is meant to stop each tray, one at a time, as the trays move along a conveyor belt. Instead, because of defect, design, improper maintenance, no maintenance, or reckless monitoring, the metal piston routinely plows into the delicate bodies of the chicks themselves.

49. Video footage from the 2021 Investigation revealed that the investigator informed a Morganton Hatchery manager about the above-mentioned machine, and the manager indicated that he was aware of the issue, but that Case Farms did not have a plan for how to keep the chicks' heads from getting routinely crushed. Instead, the manager informed the investigator that the malfunctioning machine would simply *always* injure or kill a few chicks.

B. Case Farms knows that a conveyor belt and gear box at the Morganton Hatchery regularly trap and kill chicks.

50. The 2021 Investigation documented numerous instances in which processing machinery—including a metal conveyor belt—trapped chicks.

51. The video footage from the 2021 Investigation shows multiple instances of chicks being dropped, mangled to death, and caught in Case Farms' machinery.

52. For instance, live, infant birds get caught by, and violently dragged inside, a conveyor belt that Case Farms uses to transport the birds within the Morganton hatchery. The footage shows a chick alive and struggling, after having been sucked into the metal conveyor belt. The footage also shows a chick who has been mangled to death by the same metal conveyor belt.

53. In another incident documented by the 2021 Investigation, a live chick fell from the machinery and was trapped in a gear box above the conveyor belt. The chick was severely injured and was struggling to move.

54. During the 2021 Investigation, a Case Farms employee confirmed that the hatchery's machinery frequently traps chicks, causing them to fall six or seven feet and sustain serious injuries. Sometimes, chicks fall off one conveyor belt onto another one.

C. At the Morganton Hatchery, Case Farms personnel repeatedly crush chicks to death between hard plastic trays.

55. The undercover footage shows that employees at the Morganton Hatchery densely pack chicks into hard, rectangular, plastic trays to facilitate movement of the chicks throughout the facility.

56. Upon information and belief, Case Farms personnel sometimes pack so many chicks into a single tray that the birds are forced to stand on top of each other.

57. The footage shows that employees at the Morganton Hatchery then stack or slide these trays on top of one another, causing chicks' necks to be caught and crushed between the trays.

58. For example, the image below, captured from the video footage, shows a chick whom Case Farms killed by crushing the bird's neck between two trays:

59. The footage also shows that employees at the Morganton Hatchery routinely drag the hard, heavy, plastic trays across chicks' fragile bodies, causing pain and suffering, and crushing them.

60. Upon information and belief, employees at the Morganton Hatchery, with the knowledge of the hatchery's management, recklessly, and with knowledge of the consequences, use the plastic trays in ways that are certain to cause unnecessary and unjustifiable extreme pain and suffering to the chicks in the facility.

D. At the Morganton Hatchery, Case Farms fails to secure its chicks during transport, leading to many painful, and wasteful, deaths.

61. The NCC states that "[t]ransport modules are made up of separate compartments which must be appropriately sized and in good repair so that no bird can be injured or escape during transit" and that the "[l]oss of birds from trailers during transport to the processing operation is a major non-conformance [of the guidelines]."[7]

62. Upon information and belief, Case Farms employees drive newly hatched chicks from the Morganton Hatchery to grower farms to grow to an appropriate weight for food production.

63. Upon information and belief and as further detailed below, because of the reckless handling of the chicks, many are subjected to suffering and even death during the transport period.

64. Upon information and belief, Case Farms has a practice of transporting chicks in trays in trucks with corroded and loose floorboards. This leads to many deaths during transport when chicks get out of the baskets and fall through the floor of the transport vehicles.

65. For example, in video footage from the 2021 Investigation, employees at the Morganton Hatchery mention that unsecured chicks escape their baskets and fall through the floorboards of the transport truck. In that same footage, the employees acknowledge that, if someone is driving behind the truck, the chicks get flattened. An employee stated that if they got caught, Case Farms would have to pay a fine for engaging in animal cruelty.

66. Once at the grower farms, Case Farms employees recklessly throw chicks out of

[7] *Id.* at 14.

their trays from substantial heights while unloading them instead of ensuring a safe delivery that minimizes the risk of injury or death.

67. Upon information and belief, the 2021 Investigation revealed that it was typical to see anywhere from 20 to 50 chicks who were trapped between trays and left to die by delivery employees.

68. Due to the foregoing, Case Farms fails to adhere to the NCC Guidelines that it claims to follow.

IV. Employees mistreat chicks by throwing them, dropping them, stepping on them, and running them over with machinery.

69. Upon information and belief, employees at the Morganton Hatchery routinely throw fragile chicks onto processing machinery, inflicting severe injuries in the process.

70. Upon information and belief, Case Farms employees drop newborn chicks from significant heights, onto processing machinery, leading to traumatic injuries.

71. Upon information and belief, many of the chicks thrown and dropped from a significant distance land on the hatchery's concrete floor, instead of on the processing machinery.

72. Upon information and belief, employees at the Morganton Hatchery, with the knowledge of Case Farms management, routinely trample newborn chicks underfoot, causing them pain, suffering, and death.

73. Moreover, Case Farms employees drive over chicks with machinery, almost certainly killing them. Specifically, the 2021 Investigation revealed that Case Farms personnel tell one another to run chicks over with machinery. The investigator witnessed a chick who was run over in this manner.

V. Case Farms employs improper hatching practices which subject chicks to animal cruelty.

74. The 2021 Investigation documented improper hatching practices that caused pain and suffering to chicks.

75. During the 2021 Investigation, a manager at the Morganton Hatchery acknowledged that the facility had left chicks in a hatcher for too long, and that, as a result, the chicks had died of overheating. On that day, the investigator witnessed over 2,000 chicks who were either injured or dead at the investigator's station.

76. The 2021 Investigation also revealed numerous newly hatched chicks with severe deformities.

77. When a flock of chicks displays a high rate of deformities, that may be a sign of improper incubation conditions.

78. Upon information and belief, the Morganton Hatchery's high frequency of deformities is likely caused by failure to follow proper incubation protocol and/or manufacturers' instructions.

VI. Case Farms neglects chicks, places live chicks among the dead, and delays euthanasia.

79. Upon information and belief, the 2021 Investigation revealed that employees at the Morganton Hatchery put living but injured or deformed chicks in trays alongside dead chicks.

80. Video footage from the 2021 Investigation shows injured chicks actively bleeding, with torn limbs, and struggling to breathe.

81. Upon information and belief, employees, with the knowledge of management personnel, also regularly leave suffering chicks to die and decompose on the ground.

82. Upon information and belief, Case Farms neglects chicks that hatch early.

83. Upon information and belief, employees, with the knowledge of management personnel, only check a given setter a maximum of three times per week.

84. Upon information and belief, there is no food or water in the setter room, and many chicks that hatch early therefore do not have access to food or water and die before being discovered.

85. Upon information and belief, Case Farms does not employ enough workers to check the inside of the setters every day to see if any chicks hatched.

86. Based on the foregoing, Case Farms causes significant and unnecessary pain and suffering by leaving its newborn chicks to suffer, unattended to, after the animals experience serious injury, and by failing to euthanize or treat those injured birds immediately.

VII. Management personnel at the Morganton Hatchery condone the chicks' abuse and neglect.

87. The NCC states that "[t]he hatchery must have a person responsible for ensuring that proper animal welfare practices are followed at all times and that there is strict adherence to the guidelines."[8]

88. Upon information and belief, the cruel acts and practices that Animal Outlook's investigator documented in 2021 were done repeatedly by employees at the Morganton Hatchery, pursuant to standard operating procedure at the hatchery. These cruel acts and practices were done in disregard of poultry-industry norms to ensure adherence to proper animal welfare practices.

[8] *Id.* at 6.

89. Upon information and belief, the cruel treatment and practices detailed throughout this Complaint were done under the supervision of the hatchery's management.

90. Upon information and belief, despite knowledge of the cruelty and cruel treatment that have occurred and continue to occur at the Morganton Hatchery, Case Farms continues to operate its facility in a manner that causes unjustifiable cruelty, suffering, severe injuries, and death to chicks.

91. For instance, the 2021 Investigation revealed that Case Farms' hatchery manager knows that the automated pistons are injuring and killing chicks, and has admitted that animal welfare inspectors would be concerned about this. Yet the manager continues to operate the machinery every day without trying to avoid this lethal error.

92. In addition, Case Farms' floor manager knows that chicks are dying due to improper hatching practices. This is evidenced by his informing the undercover investigator that chicks left in the hatcher too long died of overheating.

VIII. Case Farms fails to properly train its employees and intentionally eludes animal-welfare inspectors.

93. The 2021 Investigation revealed that during the course of the investigation, Case Farms employees systematically worked together to deceive and evade animal-welfare auditors.

94. For example, two Case Farms employees warned Animal Outlook's investigator to look out for the animal-welfare inspector. The two Case Farms employees informed Animal Outlook's investigator of what days the animal-welfare inspector frequents the hatchery and advised the investigator to "behave" when the animal-welfare inspector comes.

95. Animal Outlook's investigator never received animal welfare training.

96. Instead, Case Farms falsified the investigator's training records: Nearly one month after the investigator began working at Case Farms, on the day of an announced audit, the company secretary handed the investigator an animal welfare document to quickly read and sign. The company secretary instructed the investigator to *avoid* putting a date on the form so that the company secretary could locate the investigator's hire date and place *that* date on the form instead.

IX. Case Farms' culture of cruelty was in place before, and has continued since, the 2021 Investigation. And this pattern of cruelty extends beyond the hatchery, to the company's slaughter plants and grower farms.

97. Cruelty to animals is prevalent across Case Farms facilities of different types in different locations, suggesting a culture that begins with owners, directors, and management.

98. Upon information and belief, as early as in or around December 2013, Case Farms has subjected its chickens to various forms of cruelty at its slaughter plants in North Carolina and Ohio. Indeed, Case Farms slaughter plants have repeatedly made it onto the Animal Welfare Institute ("AWI") list of cruelest U.S. slaughter plants.

99. For instance, a 2017 AWI report found that Case Farms owned two of the five U.S. chicken slaughter plants with the most humane handling violations issued by federal government inspectors.[9]

100. The 2017 AWI report looked at 300 federally inspected poultry slaughter establishments from 2015 to 2016. The report found that the average poultry slaughter plant received two to three records for noncompliance with good commercial practices, and nearly half

[9] AWI, *The Welfare of Birds at Slaughter in the United States* (2017), https://awionline.org/sites/default/files/uploads/documents/FA-AWI-Welfare-of-Birds-at-Slaughter-Update.pdf at 6.

of the plants received no such records at all. The Case Farms slaughter plant in Morganton, North Carolina, on the other hand, received 33 recorded humane-handling violations from federal inspectors during the report period.[10]

101. According to the 2017 AWI report, Case Farms' Morganton, North Carolina slaughter plant had the second-highest number of violations listed for all of the poultry plants that the USDA inspected nationwide.[11] On February 3, 2016, a USDA inspector wrote the following about Case Farms' Morganton slaughter plant: "There is a pattern/trend of improper handling of poultry that is unacceptable to [USDA's Food Safety and Inspection Service]."[12]

102. The humane handling violations mentioned in the 2017 AWI report included live birds buried under the bodies of dead birds, and took place at both of Case Farms' slaughter plants, including the one in Morganton, North Carolina.[13] Violations at the Morganton plant also included running over chickens, employees kicking chickens, and dipping chickens in a scalder while still alive.

103. Similarly, a 2016 AWI report found that Case Farms owned the two U.S. chicken slaughter plants with the most humane handling violations issued by the federal government from 2011 to 2014.[14]

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[10] *Id.* at 6.

[11] *Id.*

[12] *Id.* at 7 (internal quotations omitted).

[13] The other Case Farms slaughter plant with this violation is located in Winesburg, OH.

[14] AWI, *The Welfare of Birds at Slaughter in the United States* (2016), https://awionline.org/sites/default/files/products/FA-Poultry-Slaughter-Report-2016.pdf at 17.

104. In addition, in 2014, AWI and Farm Sanctuary, another animal protection organization, listed Case Farms' Canton, Ohio slaughter plant as the single cruelest chicken slaughter plant in the country.[15] AWI and Farm Sanctuary looked at records documenting the failure of poultry slaughter plants to adhere to Good Commercial Practices as required by federal Poultry Products Inspection Act regulations during the five-month period from December 2013 to April 2014.[16] Case Farms' Ohio slaughter plant had the most violations of any plant in the country, with 15 incidents of handling birds inhumanely documented by federal inspectors. The recorded violations included Case Farms workers throwing live birds into the trash six times in three months and boiling birds alive nine times in three months. Nearly 50 birds suffered the pain of being boiled alive.[17] Nearly 40 birds were buried alive under dead birds in trash bins.[18]

105. More recently, in November 2018, a USDA inspector observed that, out of 500 chickens examined at Case Farms' Morganton, North Carolina slaughter plant, 65 had wing fractures.[19] The inspector expressed "concern" over "the unusually high number of wing injuries documented."[20] The inspector stated that the high rate of wing injuries appeared to be a "persistent"

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[15] Donna J. Miller, *Chicken slaughterhouse in Canton vows to stop boiling chickens alive* (Nov. 20, 2014), https://www.cleveland.com/metro/2014/11/chicken_slaughterhouse_in_cant.html [hereinafter Miller, *Chicken slaughterhouse in Canton*].

[16] *Id.*; 9 CFR 381.65(b).

[17] Miller, *Chicken slaughterhouse in Canton.*

[18] *Id.*

[19] USDA, *Inspection related records for October 2017 – April 2019*, https://www.fsis.usda.gov/sites/default/files/media_file/2021-06/FOIA-2019-297-Released-Records.pdf at 94 ("During assessment of a 500 bird sample, I noted 32 fractured wings on Line 1 and 33 fractured wings on Line 2.").

[20] *Id.* at 94.

issue in the slaughter plant.[21] Indeed, this was the third time that the wing-fracture issue had either been documented or brought to Case Farms' attention in under a month.[22]

106. Upon information and belief, as early as 2018, Case Farms has also subjected its chickens to various forms of cruelty at its grower farms in North Carolina.

107. For example, two former Case Farms growers described numerous instances of animal cruelty, under oath, in verified complaints.[23] These instances of cruelty included, among other things, providing moldy food to Case Farms' chickens, withholding needed medications, and delivering dead and diseased chicks to Case Farms growers.[24]

108. The two former Case Farms growers also alleged that Case Farms controls "whether" and "when veterinary services are provided on the grower's farm;" "the service technician that oversees each grower's farm;" and "the environment the birds are grown in," including "the temperature," "airflow," and "lighting of the poultry houses the birds are grown in;" as well as even "the disposal of the excrement of its birds."[25]

109. Additionally, less than three months after the release of the 2021 Investigation, on December 17, 2021, a USDA inspector documented a Case Farms employee at Case Farms' Winesburg, Ohio slaughter plant shackle a live chicken upside down and deliberately punch the

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[21] *Id.*

[22] *Id.*

[23] *Lutz v. Case Farms* Verified Complaint ¶¶ 7, 49, 54–55, 20-cv-103-KDB-DCK (W.D.N.C., Aug. 6, 2020); *Parker v. Case Farms* Verified Complaint ¶¶ 8, 51–52, 59–61, 20-cv-11-MR-WCM (W.D.N.C., Jan. 10, 2020).

[24] *Lutz* Verified Compl. ¶¶ 7, 49, 54–55; *Parker* Verified Compl. ¶¶ 8, 51–52, 59–61.

[25] *Lutz* Verified Compl. ¶ 12; *Parker* Verified Compl. ¶ 13.

chicken in the chest with his fist. The federal inspector described this as "intentional mistreatment of an animal" in his report.[26]

110. While this incident occurred outside of North Carolina, it tends to show that the culture of cruelty at Case Farms extends to the company's slaughter plants, and that the culture has continued since Animal Outlook's Investigation.

111. Indeed, Case Farms' North Carolina slaughter plants have continued to embrace this culture of cruelty as well.

112. For instance, on July 8, 2021, a USDA inspector observed "at least [two] live birds" under a pile of dead birds at Case Farms' Dudley, North Carolina slaughter plant.[27]

113. More recently, on September 1, 2021 and September 2, 2021, at the same slaughter plant, a USDA inspector observed chickens entering a tank of scalding-hot water while still alive and "fully alert."[28] The inspector issued a memorandum stating that: "In accordance with the PIA and Agency regulations, live poultry must be slaughtered under good commercial practices whereby the poultry is properly bled out prior to entering the scalder to ensure live poultry do not drown. Further, poultry that die by means other than slaughter are considered adulterated and must be condemned."[29]

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[26] USDA, Est. No. P15724 Inspection Rep. (Dec. 17, 2021), *available at* https://www.peta.org/wp-content/uploads/2022/04/2022-q1-p15724.pdf.

[27] USDA, *Poultry Good Commercial Practices Inspection Task (Archive)*, *available at* https://www.fsis.usda.gov/sites/default/files/media_file/documents/Dataset_InspectionTasksGCP_Archive.xlsx.

[28] *Id.*

[29] *Id.*

114. Even more recently, on January 4, 2022, a USDA inspector issued a memorandum "to document a live bird in the process of being smothered" at Case Farms' Morganton, North Carolina slaughter plant. The inspector "observed three birds in a condemn barrel. On closer observation, [the inspector] noted that one bird in the condemn barrel was still breathing" and that "[a]nother bird was resting on half the live bird's body. Without intervention, this bird was at risk of suffocation." The inspector explained to Case Farms "that live birds must be handled in a manner that is consistent with good commercial practices (GCP), and [must] not die from causes other than slaughter."

FIRST CAUSE OF ACTION: CLAIM FOR RELIEF PURSUANT TO N.C. GEN. STAT. § 19A

115. Plaintiff hereby re-alleges and incorporates by reference each and every paragraph above.

116. N.C. Gen. Stat. § 19A-1 provides that "the term 'animals' includes every living vertebrate in the class [ ] Aves," and that "'cruelty' and 'cruel treatment' include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted."

117. Chicks are vertebrates in the class Aves.

118. N.C. Gen. Stat. § 19A-2 provides "a civil remedy for the protection and humane treatment of animals in addition to any criminal remedies that are available."

119. The acts, omissions, and neglect detailed throughout this Complaint cause and permit unjustifiable physical pain, suffering, and death to chicks.

120. The acts, omissions, and neglect detailed throughout this Complaint amount to

cruelty and cruel treatment under North Carolina law.

121. Based on the foregoing, Defendants are committing or causing cruelty or cruel treatment to the chicks at the Morganton Hatchery by causing them unjustifiable physical pain and suffering in violation of N.C. Gen. Stat. § 19A-1.

MOTION FOR PERMANENT INJUNCTION

122. Plaintiff hereby re-alleges and incorporates by reference each and every paragraph above.

123. There is a substantial and immediate risk that, unless Defendants are permanently enjoined, Defendants will continue to subject the animals it owns or has possession of to further cruelty and cruel treatment in violation of North Carolina law.

124. The equitable remedy of injunction is appropriate here because Plaintiffs' remedies at law are inadequate to ensure an end to the chicks' suffering. Without this injunctive relief, the chicks will continue to suffer irreparable harm.

125. Pursuant to N.C. Gen. Stat. §§ 19A-4 and 1A-1, Rule 65 of the North Carolina Rules of Civil Procedure, Plaintiff moves for, and is entitled to, a permanent injunction enjoining Defendants from any further violations of Chapter 19A of the North Carolina General Statutes.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays the Court as follows:

1. That the Court enter a permanent injunction against Defendants pursuant to N.C. Gen. Stat. §§ 19A-4 and 1A-1, Rule 65 of the North Carolina Rules of Civil Procedure, prohibiting Defendants from further violations of North Carolina General Statutes Chapter 19A;

2. That all costs of this action, including Plaintiff's reasonable attorneys' fees to the extent permitted by applicable law, be taxed against Defendants; and

3. That Plaintiff recovers such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 16 day of June, 2023.

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