

NORTH CAROLINA COURT OF APPEALS

\*\*\*\*\*

LEGAL IMPACT FOR  
CHICKENS,

Plaintiff-Appellant,

v.

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

Defendants-Appellees.

From Burke County

\*\*\*\*\*

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE***  
**NORTH CAROLINA FARM BUREAU FEDERATION, INC. &**  
**NORTH CAROLINA PORK COUNCIL IN SUPPORT OF**  
**DEFENDANTS-APPELLEES**

\*\*\*\*\*

TO THE HONORABLE COURT OF APPEALS OF NORTH CAROLINA:

Pursuant to Rule 28.1 of the North Carolina Rules of Appellate Procedure, North Carolina Farm Bureau Federation, Inc. (“Farm Bureau”) and North Carolina Pork Council submit this Motion for Leave to File an *Amici Curiae* Brief in Support of Defendants-Appellees. *Amici* have separately filed its proposed brief contemporaneously with this Motion. In further support of its Motion, *Amici* state the following:

### **THE NATURE OF *AMICI'S* INTEREST**

*Amicus* North Carolina Farm Bureau Federation, Inc. (“Farm Bureau”) is a 501(c)(5) organization established in 1936 that advocates for the interests of North Carolina’s farmers before Congress, the North Carolina General Assembly, and state and federal regulatory agencies. Many of Farm Bureau’s 31,000 farmer members raise and care for cattle, chickens, goats, fish, horses, pigs, oysters, and turkeys in all 100 counties of the State.

*Amicus* North Carolina Pork Council is a nonprofit 501(c)(5) trade association established in 1962. It strives for a socially responsible and profitable North Carolina pork industry through advocacy, research, education, promotion, and consumer information programs and services.

*Amici* are interested in this case because Appellant’s interpretation of the Animal Cruelty Act’s agriculture exemptions represents a serious threat to North Carolina’s animal agriculture economy. North Carolina is a national leader in farm animal production, ranking fourth in the number of broiler chickens, second in turkeys, and third in hogs. Altogether, farm animal production accounts for almost 75% of the State’s animal farm income.

The Animal Cruelty Act's agricultural exemptions ensure that the State's farmers and agribusinesses are not forced to engage in protracted animal cruelty litigation. However, Appellant's narrow reading of these exemptions, if adopted, would nullify the General Assembly's intent to shield farmers and agribusinesses from litigation relating to ordinary farming and production practices and make them vulnerable to sensationalized allegations asserted by animal rights activists who seek to put them out of business.

**AMICI'S BRIEF WILL BENEFIT THE COURT**

*Amici's* brief will assist the Court in determining the meaning of the Animal Cruelty Act's agricultural exemptions, which ensure that farms and agribusinesses do not have to defend their routine farming and processing practices in costly and time consuming litigation. North Carolina's Animal Cruelty Act is a powerful tool to protect against animal cruelty. It authorizes third parties to bring animal cruelty actions in district court and grants district court judges the power to take animals away from individuals. But in adopting the Act, the General Assembly used broad language to exempt several well-established activities that involve animals, including farming and food processing.

Appellant filed this animal cruelty action requesting in vague terms a permanent injunction that would bar Appellees from conducting their food production business. Appellant also alleges that the farmers who raise chickens for Appellees are engaging in animal cruelty. Fortunately, the District Court dismissed Appellant's complaint, concluding the Animal Cruelty Act did not apply to Appellees.

On appeal, Appellant advances a novel interpretation of the Animal Cruelty Act's agricultural exemptions. If Appellant's narrow reading of the Act is correct, district courts will become the State's *de facto* animal care regulators, and farm families throughout the State will be vulnerable to copy-cat litigation.

In their brief, *Amici* contend that the District Court properly dismissed Appellant's complaint. Specifically, *Amici* argue the plain meaning of the Animal Cruelty Act's agricultural exemption defeats Appellant's claims that Appellees' practices constitute animal cruelty. *Amici* also assert that Appellant's interpretation of the statute would require district court judges to determine whether farmers and agribusinesses have satisfied amorphous animal care standards, a task for which they are not well suited.

**THE ISSUE ADDRESSED IN THE BRIEF AND  
AMICI'S POSITION ON IT**

*Amici's* brief will address the following issue:

Did the District Court properly dismiss Appellant's Second Amended Complaint under Rule 12(b)(6) of the North Carolina Rules of Civil Procedure because Appellees' activities fall within the Animal Cruelty Act's agricultural exemptions?

**RULE 37(c) CERTIFICATION**

Pursuant to Rule 37(c) of the Rules of Appellate Procedure, *Amici's* counsel certifies that he notified all counsel of record of *Amici's* intent to submit this Motion. Counsel for Appellant indicated that Appellant does not object to the Motion and does not intend to file a response. Counsel for Appellees stated that Appellees consent to the Motion and do not intend to file a response.

**CONCLUSION**

For the reasons stated above, *Amici* ask that this Court grant their Motion for Leave to File an *Amici Curiae* Brief in Support of Defendants-Appellees.

Respectfully submitted, this the 12th day of November 2024.

Electronically submitted

Phillip Jacob Parker, Jr.  
North Carolina Farm Bureau Legal  
Foundation, Inc.  
PO Box 27766  
Raleigh, NC 27611  
(919) 987-1244  
N.C. Bar No. 41504  
jake.parker@ncfb.org

Pursuant to Rule 33(b), I certify that all  
of the attorneys listed below have  
authorized me to list their names on  
this document as if they had personally  
signed it.

Stephen A. Woodson  
Senior Associate General Counsel  
N.C. Bar No. 16900  
steve.woodson@ncfb.org

Meghan N. Cook  
Associate General Counsel  
N.C. Bar No. 39948  
meghan.cook@ncfb.org

Stacy Revels Sereno  
Associate General Counsel  
N.C. Bar No. 57354  
stacy.sereno@ncfb.org

*Counsel for North Carolina Farm  
Bureau Federation, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF has been filed by electronic means with the Clerk of Court, North Carolina Court of Appeals pursuant to Rule 26(a) of the North Carolina Rules of Appellate Procedure, and that a copy of the brief has been served on the parties by sending it to the correct and current email addresses for their respective counsels, as follows:

Mark R. Kutny

[mkutny@lawhssm.com](mailto:mkutny@lawhssm.com)

Rebecca K. Cheney

[bcheney@lawhssm.com](mailto:bcheney@lawhssm.com)

Jaclyn Bragano

[jbragano@lawhssm.com](mailto:jbragano@lawhssm.com)

HAMILTON STEPHENS STEELE + MARTIN, PLLC

*Counsels for Case Farms, L.L.C., Case Foods, Inc., and Case Farms Processing, Inc., Defendants-Appellees*

R. Daniel Gibson

[rdg@dhwlegal.com](mailto:rdg@dhwlegal.com)

DAVIS HARTMAN & WRIGHT, LLP

*Counsel for Legal Impact for Chicken, LLC, Plaintiff-Appellant*

This the 12th day of November 2024.

/s/ Phillip Jacob Parker, Jr. \_\_\_\_\_

Phillip Jacob Parker, Jr.