

No. 154P25

No.

THIRTY-SIXTH DISTRICT

SUPREME COURT OF NORTH CAROLINA

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
No. COA24-673

PLAINTIFF'S PETITION FOR DISCRETIONARY REVIEW UNDER
N.C.G.S. § 7A-31(c)

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N.C.G.S. § 7A-31(c)

TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

Plaintiff respectfully petitions the Supreme Court of North Carolina that the Court certify for discretionary review the Judgment of the Court of Appeals filed on 21 May 2025, in *Legal Impact for Chickens v. Case Farms, L.L.C., Case Foods, Inc., and Case Farms Processing, Inc.*, No. COA24-673 (N.C. Ct. App. 2025),¹ which affirmed the trial court's 15 December 2023 Order granting Defendants' motion to dismiss the claim pursuant to exemptions in the North Carolina Protection of Animals statute. Plaintiff respectfully requests this Court grant discretionary review in this matter on the basis that the cause is of significant public interest and involves legal principles of major significance to the jurisprudence of the State of North Carolina. The Court of Appeals' opinion on this case of first impression is inconsistent with this Court's decisions requiring courts to construe remedial statutes broadly and statutory exemptions narrowly. The Court of Appeals decision also conflicts with statutory definitions and legislative intent.

¹ Due to the length of the case name, subsequent citations use the short cite *Legal Impact for Chickens*, No. COA24-673.

Chapter 19A is a broad remedial act “for the protection and humane treatment of animals,” but the Court of Appeals erred by interpreting it narrowly and construing its exceptions broadly—an error that defeats legislative intent by immunizing most people who work with animals from civil and criminal liability for animal cruelty. In support of this petition, Plaintiff shows the following:

STATEMENT OF THE CASE AND FACTS

According to the Complaint,² Defendants Case Farms, L.L.C., Case Foods, Inc., and Case Farms Processing, Inc. “disregard poultry industry norms.” Defendants had the second-highest number of USDA violations in 2017, and their unjustified, unnecessary cruelty continues today. (R pp 126, 129, ¶¶ 101, 114). Plaintiff Legal Impact for Chickens sued Defendants under N.C.G.S. § 19A-1.1, which creates a private right of action for animal cruelty. (R p 110). Defendants filed an Answer pleading, as an affirmative defense, that their conduct was exempt. (R p 157–158).

² Because this appeal addresses a motion to dismiss for failure to state a claim, the statement of facts draws from allegations in the operative version of the complaint (R pp 109–138). Unless indicated otherwise, all facts come from that complaint.

Defendants moved to dismiss under Rule 12(b)(6) based on the statutory exemption. (R p 157).

From when they hatch chickens to when they slaughter them, Defendants are routinely cruel to chickens in ways that are “not necessary for, nor conducted for the primary purpose of, providing food for human or animal consumption.” (R p 110, ¶ 3). Defendants’ cruelty “kills young chicks prematurely, preventing them from growing large enough to be used for food or other intended purposes.” (R p 110, ¶ 4). This cruelty includes recklessly crushing chicks’ necks between trays and running chicks over with vehicles. (R p 122–125, ¶¶ 71–73, 86). Defendants’ cruelty is “done repeatedly . . . pursuant to standard operating procedure at [Defendants’] hatchery.” (R p 126, ¶ 101). There are “documented acts of abuse and neglect nearly every day” at the hatchery. (R p 118, ¶ 48).

USDA found that Defendants’ slaughterhouse exhibits a “pattern/trend of improper handling of poultry that is unacceptable[.]” (R p 129, ¶ 114). Among other things, Defendants’ cruelty results in improperly slaughtered chickens that “simply become a waste product.” (R p 110, ¶¶ 4–5). This happens when Defendants “routinely send[]

chickens into the scalding tank alive and fully conscious.” (R p 135, ¶ 135). Defendants’ cruelty violates federal regulations. (R p 135, ¶ 136 n.37).

Defendants’ cruelty is “inflicted intentionally, knowingly, and/or out of reckless disregard for life, with the full knowledge of [Defendants’] management.” (R p 110, ¶ 6). Indeed, these acts are “condoned by [Defendants’] management.” (R p 118, ¶ 50). Management even falsifies mandated animal welfare training. (R p 128, ¶ 109). Defendants do not “properly examine and maintain equipment.” (R p 119, ¶ 57). Ten to fifteen minutes before a slaughterhouse shift ends, Defendants take away knives from the employees whose job it is to ensure all chickens are dead before they enter the scalding tank—meaning some chickens will enter the scalding tank alive and fully conscious. (R p 136, ¶ 142). Defendants do not “employ enough workers to run, supervise, or maintain the hatchery’s machinery” and to prevent cruelty. (R p 119, ¶ 58).

Defendants filed an Answer pleading statutory exemption as an affirmative defense. (R pp 157–158). N.C.G.S. § 19A-1.1 exempts, among other things, “lawful activities” “conducted for . . . purposes of production

of . . . poultry” and “conducted for the primary purpose of providing food for human or animal consumption.” N.C.G.S. § 19A-1.1 (2023). Defendants’ Answer thus pled that Defendants’ activities are “lawful” and provide food. (R p 158). Defendants moved to dismiss under Rule 12(b)(6). (R p 49). The trial court concluded the Complaint did not state a claim because the animal cruelty statute is “inapplicable to the Defendants.” (R p 166). The Court of Appeals affirmed. The Court of Appeals concluded that the purpose of Defendants’ activities is a question of law, not of fact. It held that the “lawful activities” exemption shields any “commercial poultry-production operation . . . provided the operation is permitted by law.” *Legal Impact for Chickens*, No. COA24-673, slip op. at 12. And it ruled that the complaint had failed to disprove the possibility that Defendants’ operation was permitted by law. *Id.* at 12.

REASONS WHY CERTIFICATION SHOULD ISSUE

Discretionary review is justified here because this case raises an issue of first impression about a statute that applies to people who work with animals across North Carolina, and the Court of Appeals’ resolution of that issue threatens precedent on the construction of remedial statutes

and statutory exemptions. The Court of Appeals decision will harm farmers and affect other remedial statutes.

I. APPLYING N.C.G.S. § 19A-1-1 IS AN ISSUE OF FIRST IMPRESSION AND THE COURT OF APPEALS' MISINTERPRETATION OF THE STATUTE UNDERMINES LEGISLATIVE INTENT.

The Court of Appeals acknowledged that it “appear[ed] to be the first [panel] to interpret the [statutory] exemptions at issue in this case.” *Legal Impact for Chickens*, No. COA24-673, slip op. at 10. Whether N.C.G.S. § 19A-1, *et seq.* is inapplicable to Defendants will affect civil and criminal liability for animal abuse broadly. Whether the purpose of Defendants’ activities is a question of fact or law will affect whether civil and criminal cases across the state proceed. Applying N.C.G.S. § 19A-1.1 and answering these questions “involves legal principles of major significance to the jurisprudence of the State” under N.C.G.S. § 7A-31(c)(2).

A. Interpreting the PAA Affects Both Criminal and Civil Cases.

The Protection of Animals Act (“PAA”) allows a civil injunction to stop cruelty to animals. N.C.G.S. § 19A-1 (2023), *et seq.* Chapter 14 makes animal cruelty a crime, mirroring the PAA with slightly different

exemptions. *Compare* N.C.G.S. § 14-360 (2023) *with* N.C.G.S. §§ 19A-1 (2023), 19A-1.1 (2023). Both the criminal and civil law exempt:

- (1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this Article applies to those birds other than pigeons exempted by the Wildlife Resources Commission from its definition of “wild birds” pursuant to G.S. 113-129(15a).
- (2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.
- (3) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.
- (4) Activities conducted for lawful veterinary purposes.
- (5) The lawful destruction of any animal for the purposes of protecting the public, other animals, or the public health.

N.C.G.S. §§ 14-360(c) (2023), 19A-1.1 (2023). The civil law also exempts:

- (6) Lawful activities for sport.
- (7) The taking and holding in captivity of a wild animal by a licensed sportsman for use or display in an annual, seasonal, or cultural event, so long as the animal is captured from the wild and returned to the wild at or near the area where it was captured.

N.C.G.S. § 19A-1.1 (2023). And the criminal law exempts:

- (5) The physical alteration of livestock or poultry for the purpose of conforming with breed or show standards.

N.C.G.S. § 14-360(c) (2023). Until this case, no North Carolina court had interpreted the scope of these exemptions civilly or criminally. Like the majority of exemptions, the exemptions Defendants claim apply both civilly and criminally.

The scope of the PAA exemptions at issue here affects both civil and criminal cases because the civil and criminal exemptions use the same language. If, as the Court of Appeals held, an agricultural operation is immune from civil liability “provided the operation is permitted by law[,]” then the operation is also immune from criminal liability. *Legal Impact for Chickens*, No. COA24-673, slip op. at 12. Nor is that immunity hypothetical. The State prosecuted Frank Talley, Jr. for starving horses and withholding medical treatment—Plaintiff alleges Defendants did the same to their chickens. *State v. Talley*, 110 N.C. App. 180, 184 (1993); (R pp 125–126, ¶¶ 92–99). The Court of Appeals’ holding means that Talley would be criminally immune if he farmed horses³ and pleaded that his operation was permitted by law. To be clear, the facts reported in *Talley* do not say whether Talley was a farmer or not. If, however, Talley was a

³ N.C.G.S. § 68-15 defines livestock to include “equine animals.”

farmer or pleaded as an affirmative defense that his operation was legal, he would have fallen under the Court of Appeals’ construction of the exemption and his cruelty to horses would have gone unaddressed. The statutory exemptions must be properly applied narrowly to prevent overbroad immunity the General Assembly did not intend.

B. The Court of Appeals’ Misinterpretation of the PAA Conflicts with Established Canons of Construction.

The Court of Appeals’ decision conflicts with this Court’s established precedent on statutory construction. N.C.G.S. § 7A-31(c)(3) (2023). Although the PAA exempts “lawful activities,” the Court of Appeals read this exemption broadly by examining Defendants’ “entire operation.” It did so by relying on dictionary definitions, despite a related statutory definition and applicable canons of construction. The Court of Appeals’ decision threatens legislative intent by narrowing the applicability of remedial statutes generally and broadening their exemptions.

The PAA’s definitions section clarifies whether a court applying it should examine individual acts of cruelty or an entire operation. When a statute defines a term “that definition controls.” *Appeal of Clayton-Marcus Co., Inc.*, 286 N.C. 215, 219–220 (1974). Before analyzing

dictionary definitions, courts interpreting a statute should first analyze statutory definitions. The PAA defines “cruelty” and “cruel treatment” to “include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.” N.C.G.S. § 19A-1 (2023). Under this definition, a court determining whether an activity is cruel should examine “every act” causing “unjustifiable physical pain, suffering, or death.”

The definition of cruelty to include “every act” informs the meaning of “lawful activities” in N.C.G.S. § 19A-1.1. Courts “should ‘evaluate a statute as a whole.’ ” *Lunsford v. Mills*, 367 N.C. 618, 628 (2014). When a statute defines a term, that definition informs the meaning of related terms. Activities are “[t]he collective acts of one person or two or more people engaged in a common enterprise.” *Legal Impact for Chickens*, No. COA24-673, slip op. at 11 (quoting *Activity*, Black’s Law Dictionary (8th ed. 2004)). If activities are a person’s “collective acts” and the statutory definition of cruelty includes “every act” of cruelty, then cruel activities are every collective act of cruelty. When determining whether an activity is exempt, the court should apply the statutory definition and examine “every act.”

The Court of Appeals erred by not applying the PAA’s definition of cruelty and cruel treatment to include “every act” causing or permitting “unjustifiable physical pain, suffering, or death.” The Court of Appeals held the PAA did not exempt “each individual step . . . but rather the entire process itself.” *Legal Impact for Chickens*, No. COA24-673, slip op. at 11–12. It reached this conclusion by applying external definitions rather than statutory definitions. Rather than engaging in traditional statutory construction or examining related statutory definitions to determine the meaning of “lawful activities,” the Court of Appeals “consult[ed] dictionaries[.]” *Legal Impact for Chickens*, No. COA24-673, slip op. at 11. That violates this Court’s established precedent requiring courts to apply statutory definitions.

Construing cruelty broadly and lawful activities narrowly is also consistent with this Court’s canons of construction. Defendants and the Court of Appeals acknowledge that the PAA is a remedial statute. Remedial statutes “must be construed broadly ‘in the light of the evils sought to be eliminated, the remedies intended to be applied, and the objective to be attained.’” *O & M Indus. v. Smith Eng’g Co.*, 360 N.C. 263, 268 (2006) (quoting *Puckett v. Sellars*, 235 N.C. 264, 267 (1952)). Because

the PAA is a remedial statute, a court construing the PAA must construe it broadly in light of the evils it seeks to eliminate. The PAA states its purpose is “to provide a civil remedy for the protection and humane treatment of animals.” N.C.G.S. § 19A-2 (2023). It thus creates a broad private right of action for “any person” even if that person “does not have a possessory or ownership right in an animal[.]” *Id.* When faced with a choice between a narrow construction of cruelty and broad construction, canons of construction prescribe a broad construction because the PAA is a remedial statute.

Canons of construction likewise prescribe a narrow construction of the PAA’s exemptions. Statutory “exceptions must be narrowly construed.” *Good Hope Hosp., Inc. v. N.C. Dep’t of Health and Hum. Servs.*, 175 N.C. App. 309, 312 (2006), *aff’d*, 360 N.C. 641 (2006). A party claiming an exemption “bears the burden of establishing that they fit squarely within the exception.” *Id.* This is because a “court should always construe the provisions of a statute in a manner which will tend to prevent it from being circumvented.” *Campbell v. First Baptist Church of City of Durham*, 298 N.C. 476, 484 (1979). Defendants must thus show they fit squarely within the exception and courts should narrowly

construe it. When choosing between a narrow construction of “lawful activities” and a broad construction, canons of construction prescribe a narrow one.

Defendants’ burden to show they are exempt is why they pleaded statutory exemption as an affirmative defense. A court may dismiss a complaint based on an affirmative defense only when it “discloses an unconditional affirmative defense which defeats the claim asserted[.]” *Sutton v. Duke*, 277 N.C. 94, 102 (1970). A court may not look to facts or allegations outside the complaint to resolve an affirmative defense at the 12(b)(6) stage. *E.g., Horton v. Carolina Medicorp, Inc.*, 344 N.C. 133, 136 (1996). Although the complaint never alleges that Defendants’ poultry operation is in any way “permitted by law”—let alone that the cruel “activities” complained of in the complaint are “lawful”—the Court of Appeals nonetheless affirmed dismissal based on an exemption which, in the Court of Appeals’ words, required the Defendants’ “operation” to be “permitted by law.” *Legal Impact for Chickens*, No. COA24-673, slip op. at 12. Defendants’ operation was permitted, it reasoned, because the “complaint does not and cannot support a claim” that Defendants’ operation is “illegal or otherwise prohibited by law.” *Id.* This reverses the

burden of showing a statutory exemption by requiring the Complaint to show Defendants are not exempt. Canons of construction require Defendants to prove their exemption.

The Court of Appeals' decision also conflicts with legislative intent. The General Assembly amended the PAA in 2003 to add the modifier "lawful" before "activities . . . conducted for purposes of . . . production of . . . poultry." 2003 N.C. Sess. Laws 208. Before that amendment, every exemption except the production of poultry exemption required activities to be lawful. N.C.G.S. § 19A-1(2) (1979). When the General Assembly amends a statute, "the presumption is that the legislature intended to change the law." *State v. White*, 162 N.C. App. 183, 189 (2004) (quoting *State ex rel. Utilities Comm'n v. Public Serv. Co.*, 307 N.C. 474, 480 (1983)). Adding the adjective "lawful" to modify the noun activities shows an intent to limit the exemption to only lawful activities. The complaint alleges Defendants routinely violate the law, making their activities unlawful. The Court of Appeals circumvented legislative intent by substituting operations for activities. It held that a "commercial poultry-production operation" is exempt "provided the operation is permitted by law." *Legal Impact for Chickens*, No. COA24-673, slip op. at 12. Simply

changing “operation” to “activities,” produces a ruling in Plaintiff’s favor. Such a ruling would say that Defendants’ commercial poultry-production activities are exempt provided the activities are permitted by law. The law specifically prohibits Defendants’ activities, including its “routine[]” improper slaughter in violation of federal regulations. (R p 135, ¶ 136 n.37, citing 9 CFR 381.65).

The General Assembly specifically conditioned Defendants’ exemption on whether their activities are lawful. The complaint alleges they are not. The Court of Appeals’ decision frustrates legislative intent, broadly construes a statutory exemption, narrowly construes a remedial statute, and passes over a statutory definition of a related term. That decision conflicts with this Court’s precedent on statutory construction. This Court should allow discretionary review to protect its precedent.

C. The Court of Appeals Undermined Legislative Intent by Examining the Lawfulness of Defendants’ Operations Rather than Whether Defendants’ Activities Were Lawful and for an Exempt Purpose.

The PAA exempts activities that are both (1) “lawful” and (2) “conducted for . . . purposes of production of . . . poultry” or for the “primary purpose of providing food for human or animal consumption.” N.C.G.S. § 19A-1.1 (2023). The Court of Appeals held that this exempted

Defendants’ “commercial poultry production operation as a whole,” so it need not examine the purpose of any of Defendants’ activities. *Legal Impact for Chickens*, No. COA24-673, slip op. at 12. That holding undermines legislative intent by nullifying the § 19A-1.1 purpose prong and substituting “operations” for “activities.”

The Court of Appeals’ analysis of Defendants’ purpose assumes its own conclusion. The Court of Appeals concluded Defendants are immune because they are a commercial chicken producing operation. *Legal Impact for Chickens*, No. COA24-673, slip op. at 12. Because the purpose of the Defendants’ entire operation is to produce chicken for human consumption, the Court of Appeals reasoned, that is also the purpose of all of Defendants’ activities. But every company engages in activities that are not conducted for its primary purpose—marketing, human resources, accounting, et cetera. If Defendants employ an accountant who is cruel to an animal, that accountant is not immune from liability just because he works for a company that produces chicken for human consumption. The question is whether the alleged cruelty is both (1) a lawful activity and (2) conducted for the purpose of producing poultry or the primary

purpose of producing food for human or animal consumption. And that involves questions of fact.

Similarly, even if Defendants' overall purpose is lawful, that purpose being the purpose of producing poultry or food for human or animal consumption, the activities performed in pursuing that purpose must also be lawful for the exemption to apply. Unlawful activities are not exempted from the statute. Here, the unlawful activities undermine the "lawful" purpose because, among other things, the chickens Defendants cruelly kill "become a waste product." (R p 110, ¶¶ 4–5). The Court of Appeals' decision nullifies legislative intent by treating this element of the statute as a question of law and ignoring Plaintiff's factual allegations as to the specific unlawful activities of Defendants. That holding exempts Defendants' every activity, no matter how cruel and ultimately unrelated to producing chicken. N.C.G.S. § 19A-1.1 exempts "lawful activities," not "lawful operations."

Resolving an activity's purpose as a question of law will also affect cases outside the animal cruelty context. Purpose or intent is often a question in civil or criminal cases. Intent is an element of many civil claims, including fraud, assault, battery, intentional infliction of

emotional distress, malicious prosecution, and conversion. N.C.P.I. Civil 800.00, 800.50, 800.51, 800.60, 801.00, 806.00. Most crimes require intent. *E.g.*, *State v. Ataei-Kachuei*, 68 N.C. App. 209, 214 (1984). If an activity's purpose is a question of law rather than a question of fact, then many of these cases could be dismissed as a matter of law. The Court of Appeals resolved an issue of first impression with far-reaching civil and criminal effects. Its resolution of that issue conflicts with established canons of construction and will harm other litigants. This Court should allow discretionary review.

II. THE COURT OF APPEALS' DECISION WILL HARM THE MAJORITY OF NORTH CAROLINA FARMERS.

The subject matter of this appeal also has significant public interest because it will harm the majority of farmers, especially family farmers, who follow the law and do not engage in animal cruelty. N.C.G.S. § 7A-31(c)(1) (2023).

Taken as true, the complaint's allegations show that Defendants are not typical of North Carolina's poultry industry. Defendants' "Morganton, North Carolina slaughter plant had the second-highest number of violations listed for all of the poultry plants that the USDA inspected nationwide" in 2017. (R p 129, ¶ 114). USDA noted a

“pattern/trend of improper handling of poultry that is unacceptable[.]” *Id.* Instead of following poultry industry norms, Defendants “disregard . . . poultry-industry norms.” (R pp 126–127, ¶ 101). The cruelty alleged is “not necessary for, nor conducted for the primary purpose of, providing food for human or animal consumption.” (R p 110, ¶ 3). Defendants’ cruelty is not a normal part of chicken farming.

Because Defendants’ cruelty is not necessary to animal farming, animal farmers supported Plaintiff at the Court of Appeals. A nonprofit with three board members that farm animals, Food Animal Concerns Trust, argued Plaintiff’s claim should proceed. *Legal Impact for Chickens*, No. COA24-673, Brief of Food Animal Concerns Trust, et al.; Food Animal Concerns Trust, Board of Directors, <https://www.foodanimalconcernstrust.org/boardofdirectors> (last visited June 23, 2025). The Northeast Organic Dairy Producers Alliance joined that brief too. They argued that “[i]nterpreting the statutory exemptions to shield all poultry farming and processing operations would undermine the legislature’s purpose in enacting the statute.” (Farm Amici Br., p 11). Those amici noted that Defendants’ conduct is “completely contrary to the professional standards of modern poultry farming.” (Farm Amici Br., p 9).

Holding bad actors like Defendants liable protects good actors and North Carolina agriculture. Agriculture contributes \$111.1 billion to North Carolina's annual GDP. *North Carolina Agriculture's Economic Impact Rises to \$111 Billion*, N.C. State Univ. Coll. of Agric. & Life Scis., <https://cals.ncsu.edu/news/north-carolina-agricultures-economic-impact-rises-to-111-billion> (last visited June 24, 2025). North Carolina had 42,817 farms covering 8.1 million acres in 2022. U.S. Dep't of Agric., Nat'l Agric. Stats. Serv., *2022 Census of Agriculture State Profile: North Carolina* (2022), https://www.nass.usda.gov/Publications/AgCensus/2022/Online_Resources/County_Profiles/North_Carolina/cp99037.pdf. Eighty-one percent of farms cover less than 180 acres. *Id.* Ninety-five percent of North Carolina farms are family farms. *Id.*

A family farmer with one hundred chickens cannot afford to intentionally run over his chickens, let them fall out of trucks, or let them overheat and die. (R p 124, ¶ 86; p 123 ¶ 77; R pp 125, 133–134, ¶¶ 88, 129). That unnecessary cruelty results in waste he cannot afford. Nor can he cut corners when slaughtering them and routinely boil adult chickens alive. (R p 135, ¶ 135). A chicken he boils alive is a chicken he cannot sell. But an industrial farm processing 200,000 chickens per hatchery per day

operates on such a scale that cruelty can constitute an acceptable loss. Defendants have decided it is cheaper to disregard the law, and lose some chickens, than prevent cruelty. Shielding the minority of farmers that are cruel harms the majority of farmers that are not—with family farmers hit hardest.

Defendants are exceptional: animal cruelty is not part of typical animal farming. Unlike other farmers, Defendants “do[] not employ enough workers to run, supervise, or maintain the hatchery’s machinery” and prevent cruelty. (R p 119–120, ¶ 58). Defendants seem to believe it is cheaper or easier to let some chicks be maimed or die than to hire more employees. The Court of Appeals’ decision will put farmers who expend the resources needed to follow animal cruelty laws at a competitive disadvantage to Defendants. Allowing the enforcement of existing statutes is an effective and appropriate way to change the Defendants’ economic calculation. Indeed, Judge Posner suggests “extend[ing], and more vigorously [] enforc[ing], laws designed to prevent gratuitous cruelty to animals.” Richard A. Posner, *Book Review: Animal Rights, Rattling the Cage: Toward Legal Rights for Animals. by Steven M. Wise*, 110 Yale L.J. 527, 539 (2000). That is exactly what Plaintiff seeks to do

here. Plaintiff alleges Defendants' cruelty is gratuitous and not part of normal farming. Shielding Defendants from liability will harm farmers who do not engage in animal cruelty. If Defendants save money by employing fewer workers at the cost of not following the law but are never held liable for it, then they have an economic advantage over farmers who follow the law. The law should not punish law-abiding farms and reward law-breaking farms.

Shielding cruel farmers will also reduce consumer confidence. The General Statutes explain that “[u]nwholesome, adulterated, or misbranded poultry . . . destroy markets for wholesome, not adulterated, and properly labeled and packaged poultry and poultry products[.]” N.C.G.S. § 106-549.50 (2023). Chickens that have been boiled alive are adulterated products. 9 CFR 381.65(b). The complaint alleges Defendants boil chickens alive. (R p 135, ¶ 136 n.37, citing 9 CFR 381.65). According to the farm amici supporting Plaintiffs, not imposing liability for that cruelty “would put consumers at risk by permitting dangerous and unhealthy poultry to enter the food supply.” (Farm Amici Br., p 12). Consumers do not want to worry if the chicken they are eating came from a slaughterhouse where birds are boiled alive. Farmers and farm hands

do not want to torture animals or watch them being tortured. Ensuring that bad actors are punished will protect the entire industry—an industry that contributes significantly to our economy.

Enforcing animal cruelty laws will not harm chicken consumers either. Defendants have already implicitly acknowledged this. During oral argument, Defendants said that “the court can take judicial notice that Chick-fil-A does not want to buy chicken that has been cruelly treated.” North Carolina Court of Appeals, *North Carolina Court of Appeals: 24-673, Legal Impact for Chickens v. Case Farms, LLC*, YouTube (Feb. 11, 2025), <https://www.youtube.com/watch?v=SVe41Igti7k>.⁴ Chick-fil-A is not a minor business selling niche goods. Chick-fil-A shows that consumers and companies can produce and consume chicken, even at scale, without needless cruelty.

Enforcing the law will not harm consumers or companies that follow the law. This Court should allow discretionary review to enforce the law and protect farmers, restaurants, and consumers.

⁴ This quote is taken from the 36:01 mark of the oral argument video.

ISSUES TO BE BRIEFED

In the event the Court allows this Petition for Discretionary Review, Plaintiff intends to present the following issues in its brief to the Court:

- I. Whether the Court of Appeals erred in holding that farming operations that violate the law and abuse animals in ways not intended to produce food or poultry are completely immune from liability under N.C.G.S. § 19A-1.1.
- II. Whether the Court of Appeals erred by requiring the Complaint to affirmatively disprove an affirmative defense, rather than requiring Defendants to prove it.
- III. Whether the Court of Appeals erred by not treating the facts in the Complaint as true and relying on facts outside the Complaint rather than applying the Rule 12(b)(6) standard.

Respectfully submitted, this the 24th day of June, 2025.

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/s/ R. Daniel Gibson

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CERTIFICATE OF SERVICE AND OF FILING

I hereby certify that I have this day electronically filed a copy of the foregoing document with the Clerk of the North Carolina Court of Appeals and the Clerk of the Supreme Court of North Carolina and that I have served the foregoing by e-mailing a copy to counsel's correct and current email address as shown below:

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This the 24th of June, 2025

/s/ R. Daniel Gibson
R. Daniel Gibson

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-673

Filed 21 May 2025

Burke County, No. 23CVD000619-110

LEGAL IMPACT FOR CHICKENS, Plaintiff,

v.

CASE FARMS, L.L.C., CASE FOODS INC.,
And CASE FARMS PROCESSING, INC., Defendants.

Appeal by Plaintiff from order entered 15 December 2023 by Judge Wesley W. Barkley in Burke County District Court. Heard in the Court of Appeals 11 February 2025.

Davis Hartman & Wright, LLP, by R. Daniel Gibson, for Plaintiff-Appellant.

Hamilton Stephens Steele & Martin PLLC, by Rebecca K. Cheny, Mark R. Kutny, and Jacklyn Bragano, for Defendant-Appellees.

Ward and Smith, P.A., by Christopher S. Edwards, for Beautiful Together, Inc., amicus curiae.

Michael Best & Frederick LLP, by Michael G. Schietzelt and Luke Taylor, for Dega Mobile Veterinary Care, Dr. Laura Cochrane, and Dr. Martha Smith-Blackmore, amici curiae.

Milberg Coleman Bryson Phillips Grossman PLLC, by Lucy N. Inman and Katharine W. Batchelor, for The Cornucopia Institute, Farm Animal Concerns Trust, and The Northeast Organic Dairy Producers Alliance, amicus curiae.

Jordan Price Wall Gray Jones & Carlton PLLC, by H. Weldon Jones, III, for The North Carolina Poultry Federation, Inc., amicus curiae.

Phillip Jacob Parker Jr., Stephen A Woodson, Meghan N. Cook, and Stacy Revels Sereno, for North Carolina Farm Bureau Federation, Inc. & North Carolina Pork Council, amici curiae.

CARPENTER, Judge.

Legal Impact for Chickens (“Plaintiff”) appeals from the trial court’s 15 December 2023 order (the “Order”) granting the motion to dismiss filed by Case Farms, LLC, Case Foods, Inc., and Case Farms Processing, Inc. (collectively, “Defendants”). On appeal, Plaintiff argues the trial court erred by granting Defendants’ motion to dismiss for failure to state a claim under Rule 12(b)(6). After careful review, we affirm the Order.

I. Factual & Procedural Background

This case concerns an action initiated by Plaintiff, a non-profit organization, against: Case Farms LLC, a poultry producer; Case Foods, Inc., Case Farms’ parent corporation; and Case Farms Processing, Inc., a subsidiary of Case Foods. Generally speaking, Defendants are in the business of raising and slaughtering broiler-meat chickens for commercial sale. The allegations in Plaintiff’s complaint concern Defendants’ conduct in connection with the growth, slaughter, and sales process at two locations in Morganton, North Carolina: 5067 Foreman Street (the “Hatchery”) and 121 Rand Street (the “Slaughterhouse”).

Defendants’ process for raising and slaughtering chickens can be summarized as follows. First, chicks gestate as eggs in the “setter room” at the Hatchery. Then, when the eggs are expected to hatch, Defendants move the eggs to a “hatcher.” Once

the chicks hatch, Defendants place the chicks in rectangular-shaped trays to be transported. Defendants next place the trays on a system of conveyor belts where pistons redirect or push the trays to various locations at the Hatchery. After the chicks are moved using the conveyor-belt system, Defendants drive the chicks to affiliated “grower farms” where they are raised until they are ready to be slaughtered. Once the chickens are ready to be slaughtered, Defendants drive the chickens from the “grower farms” to the Slaughterhouse. At the Slaughterhouse, Defendants paralyze the chickens in a stun bath, cut their necks using automated machinery, and place them in a scalding tank filled with boiling water. Finally, machines process the slaughtered chickens for human consumption.

On 24 May 2023, Plaintiff filed a complaint and request for injunctive relief, alleging Defendants violated section 19A-1 of our General Statutes of North Carolina, entitled the Protection of Animals Act (the “PAA”). Thereafter, on 19 June 2023, Plaintiff filed an amended complaint and request for injunctive relief. On 16 August 2023, Defendants filed a motion to dismiss and answer to Plaintiff’s first amended complaint. Then, Plaintiff amended its first complaint with Defendants’ written consent. Thereafter, Plaintiff filed its second amended complaint (the “Complaint”) alleging Defendants “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.”

To summarize, Plaintiff alleged Defendants’ treatment of chickens at various

stages throughout the hatching and slaughtering process amounted to animal cruelty. Specifically, Plaintiff alleged that Defendants: (1) starve chicks that hatch early in the setter room; (2) allow chicks to overheat and die in the Hatchery; (3) allow chicks to be maimed and crushed by the conveyor-belt system; (4) crush chicks between transport trays; (5) allow chicks to fall to their death through the floor of transport trucks; (6) intentionally run over chickens with their vehicles; (7) allow chickens to overheat in the transport trucks; (8) bury injured chickens alive under dead chickens; and (9) boil chickens alive. Plaintiff did not allege that Defendants' hatching and slaughtering operation as a whole was illegal or otherwise prohibited by law.

On 15 November 2023, Defendants filed an answer and motion to dismiss under Rule 12(b)(6). On 15 December 2023, following a hearing on the matter, the trial court entered the Order. In the Order, the trial court concluded that the PAA was "inapplicable to Defendants" because they were exempt from suit under sections 19A-1(2) and (3). On 30 January 2024, Plaintiff filed notice of appeal.¹

II. Jurisdiction

This Court has jurisdiction under N.C. Gen. Stat. § 7A-27(b)(2) (2023).

III. Issue

¹ The parties stipulated to the Order being served on Plaintiff on 2 January 2024. Thus, Plaintiff's notice of appeal was timely since the Order was served on Plaintiff more than three days after it was entered. See N.C. R. App. P. 3(c)(2).

The sole issue is whether the trial court erred by granting Defendants’ motion to dismiss for failure to state a claim upon which relief may be granted.

IV. Analysis

Plaintiff makes two assertions in support of its primary argument that the trial court erred by granting Defendants’ motion to dismiss. First, Plaintiff asserts the trial court improperly considered questions of fact and mixed questions of law and fact at the 12(b)(6) stage. Next, Plaintiff asserts that Defendants are not exempt from suit under the PAA because their individual systems and processes are either unlawful or not conducted for the purpose of producing poultry or food for human or animal consumption. For the reasons outlined below, we disagree with Plaintiff.

A. The PAA

The PAA provides a “civil remedy for the protection and humane treatment of animals in addition to any criminal remedies that are available” N.C. Gen. Stat. § 19A-2 (2023). Under this statutory scheme, any “person” can seek a preliminary injunction against “any person who owns or has possession of an animal” by filing a verified complaint alleging “cruelty to an animal.” *Id.* at § 19A-3. “Cruelty [to an animal]” and “cruel treatment [of an animal]” are defined by the PAA as “every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.” *Id.* at § 19A-1. The PAA also provides that “person has the same meaning as in [N.C. Gen. Stat. §] 12-3.” *Id.* at § 19A-1(3); *see* N.C. Gen. Stat. § 12-3(6) (2023) (“The word ‘person’ shall extend and be applied to bodies politic and

corporate, as well as to individuals, unless the context clearly shows to the contrary.”).

But the PAA does not apply, in pertinent part, to:

Lawful activities conducted . . . for purposes of production
of . . . poultry [or]

Lawful activities conducted for the primary purpose of
providing food for human or animal consumption.

N.C. Gen. Stat. § 19A-1.1(2) and (3) (emphases added).

B. Standard of Review

This Court reviews a trial court’s order granting a Rule 12(b)(6) motion to dismiss de novo. *See Taylor v. Bank of America, N.A.*, 382 N.C. 677, 679, 878 S.E.2d 798, 800 (2022) (citing *Bridges v. Parrish*, 366 N.C. 539, 541, 742 S.E.2d 794, 796 (2013)). Likewise, we review issues of statutory construction de novo. *Wilson v. Funeral Directors Inc. v. N.C. Bd. of Funeral Serv.*, 244 N.C. App. 768, 773, 781 S.E.2d 507, 510 (2016) (citations omitted). “Under a *de novo* review, [this Court] considers the matter anew and freely substitutes its own judgment’ for that of the lower tribunal.” *State v. Williams*, 362 N.C. 628, 632–33, 669 S.E.2d 290, 294 (2008) (quoting *In re Greens of Pine Glen Ltd. P’ship*, 356 N.C. 642, 647, 576 S.E.2d 316, 319 (2003)).

Motions to dismiss brought under Rule 12(b)(6), “test[] the legal sufficiency of [a] complaint.” *Proctor v. City of Jacksonville*, ___ N.C. App. ___, 910 S.E.2d 269, 273 (2024); *see Estate of Graham v. Lambert*, 385 N.C. 644, 656, 898 S.E.2d 888, 899 (2024) (“At the pleading stage, a 12(b)(6) motion tests the law of the claim, not the

facts which support it.”) (internal quotation marks and citation omitted). When reviewing the trial court’s grant of a motion to dismiss, we consider “whether the allegations of the complaint, if treated as true, are sufficient to state a claim upon which relief can be granted under some legal theory.” *Bridges*, 366 N.C. at 541, 742 S.E.2d at 794. We treat factual allegations as true and ignore legal conclusions. *See Proctor*, ___ N.C. App. at ___, 910 S.E.2d at 273.

It is proper for the trial court to dismiss the claim if one of the following is true: “(1) the complaint on its face reveals that no law supports the plaintiff’s claim; (2) the complaint on its face reveals the absence of facts sufficient to make a good claim; or (3) the complaint discloses some fact that necessarily defeats the plaintiff’s claim.” *Newberne v. Dep’t of Crime Control & Pub. Safety*, 359 N.C. 782, 784, 618 S.E.2d 201, 204 (2005) (quotation marks and citation omitted).

C. Rule 12(b)(6) Limitations

First, Plaintiff asserts it was improper for the trial court to conclude Defendants were exempt from suit under the PAA at the 12(b)(6) stage because determining Defendants’ exemption status involved questions of fact and mixed questions of law and fact. Specifically, Plaintiff argues the question of whether Defendants activities are *lawful* is a mixed question of law and fact because it requires applying legal principles to the allegations in the complaint. Likewise, Plaintiff argues the determination of the *purpose* of Defendants’ activities is a pure question of fact. In Plaintiff’s view, these questions should have been presented to a

jury for determination.

“Questions of statutory interpretation are ultimately questions of law for the courts” *Wilkie v. City of Boiling Spring Lakes*, 370 N.C. 540, 547, 809 S.E.2d 853, 858 (2018). Stated differently, “[t]he interpretation of statutory language is a matter of law, and thus, appropriately resolved upon a Rule 12(b)(6) motion.” *Peacock v. Shinn*, 139 N.C. App. 487, 497, 533 S.E.2d 842, 849 (2000).

Here, the trial court, in ruling on Defendants’ 12(b)(6) motion, resolved the issue of whether Defendants were exempt under the PAA. Before reaching this conclusion, the trial court interpreted the relevant provisions of the PAA and ultimately ruled that Defendants’ pertinent activity—commercial raising and slaughtering of chickens—was exempt from suit. Indeed, in the Order the trial court determined the PAA was “inapplicable to Defendants.” This language demonstrates the trial court’s determination of Defendants’ exemption status was rooted in statutory interpretation. *See N.C. Bar & Tavern Ass’n v. Cooper*, 293 N.C. App. 402, 411, 901 S.E.2d 355, 364 (2024) (determining the language used by the trial court in its order indicated the trial court relied on statutory interpretation). Accordingly, the trial court did not improperly resolve issues of fact or mixed issues of law and fact at the 12(b)(6) stage. Instead, the trial court properly addressed a question of law—whether Defendants were exempt from suit under the PAA.

C. Defendants’ Exemption Status

Next, Plaintiff asserts that Defendants are not exempt from the PAA because

some of the individual systems and processes Defendants employ in their poultry-production operation are either unlawful or not for the purpose of producing poultry or providing food for consumption. In other words, Plaintiff seeks to narrow our focus from Defendants' operation as a whole to individual steps within Defendants' poultry-production process. According to Plaintiff, every stage in Defendants' operation should be analyzed for its lawfulness and purpose. Conversely, Defendants argue they are exempt because their entire operation—commercial raising and slaughtering of chickens—is both lawful and conducted for the purpose of producing food for consumption.

The parties' arguments require us to interpret the relevant exemptions under the PAA. In doing so, we consider whether our General Assembly intended to exempt Defendants from suit under the circumstances of this case, with the outcome turning on how the relevant "activity" is defined.

"Our primary goal in construing a statute is 'to ensure that the purpose of the legislature, the legislative intent, is accomplished.'" *Wynn v. Frederick*, 385 N.C. 576, 581, 895 S.E.2d 371, 377 (2023) (quoting *Elec. Supply Co. of Durham v. Swain Elec. Co.*, 328 N.C. 651, 656, 403 S.E.2d 291, 294 (1991)). Because the best indicia of legislative intent is the plain language of the statute, our analysis begins there. *Id.* at 581, 895 S.E.2d at 377. When interpreting the plain language of a statute, "undefined words [] 'must be given their common and ordinary meaning.'" *State v. Rieger*, 267 N.C. App. 647, 649, 833 S.E.2d 699, 701 (2019) (quoting *In re Clayton-*

Marcus Co., 286 N.C. 215, 219, 210 S.E.2d 199, 202 (1974)). “Absent precedent, we look to dictionaries to discern a word’s common meaning.” *N.C. Dep’t of Env’t Quality v. N.C. Farm Bureau Fed’n*, 291 N.C. App. 188, 193, 895 S.E.2d 437, 441 (2023) (citing *Midrex Techs., Inc. v. N.C. Dep’t of Rev.*, 369 N.C. 250, 258, 794 S.E.2d 785, 792 (2016)). “If the plain language of the statute is unambiguous, we ‘apply the statute[] as written.’” *Wynn*, 385 N.C. at 581, 895 S.E.2d at 377 (quoting *N.C. Dep’t of Corr. v. N.C. Med. Bd.*, 363 N.C. 189, 202, 675 S.E.2d 641, 649 (2009)) (alteration in original).

“If the plain language of the statute is ambiguous, however, we then look to other methods of statutory construction such as the broader statutory context, ‘the structure of the statute[,] and certain canons of statutory construction’ to ascertain the legislature’s intent.” *Id.* at 581, 895 S.E.2d at 377 (quoting *Elec. Supply Co. of Durham v. Swain Elec. Co.*, 328 N.C. 651, 656, 403 S.E.2d 291, 294 (1991)) (alteration in original). Further, we may also “consider the policy objectives prompting passage of the statute and should avoid a construction which defeats or impairs the purpose of the statute.” *O&M Indus. v. Smith Eng’g Co.*, 360 N.C. 263, 268, 624 S.E.2d 345, 348 (2006). “[R]emedial statute[s] must be construed broadly ‘in the light of the evils sought to be eliminated, the remedies intended to be applied, and the objective to be attained.’” *Id.* at 268, 624 S.E.2d at 348 (quoting *Puckett v. Sellars*, 235 N.C. 264, 267, 69 S.E.2d 497, 499 (1952)).

This panel appears to be the first to interpret the PAA exemptions at issue in this case. Accordingly, we begin by examining the plain language of the PAA to

determine which “activities” the General Assembly intended to exempt from suit. The PAA provides, in pertinent part, that an individual or entity is immune from suit if they are engaging in:

Lawful activities conducted . . . for purposes of production
of . . . poultry [or]

Lawful activities conducted for the primary purpose of
providing food for human or animal consumption.

N.C. Gen. Stat. § 19A-1.1(2) and (3) (emphases added).

The phrase “lawful activities” is not defined by the PAA or precedent. Thus, we consult dictionaries to discern the common meaning of the words “lawful” and “activities.” *See N.C. Dep’t of Env’t Quality*, 291 N.C. App. at 193, 895 S.E.2d at 441 (citing *Midrex Techs., Inc.*, 369 N.C. at 258, 794 S.E.2d at 792). According to Black’s Law Dictionary, “lawful” means “[n]ot contrary to law; permitted by law.” *Lawful*, Black’s Law Dictionary (8th ed. 2004). “Activities,” the plural form of “activity,” means “[t]he collective acts of one person or of two or more people engaged in a common enterprise.” *Activity*, Black’s Law Dictionary (8th ed. 2004). Thus, the phrase “lawful activities” under the PAA means one’s *collective acts* or behaviors, not contrary to law. Accordingly, we find the PAA to be unambiguous and apply the statute as written. *See Wynn*, 385 N.C. at 581, 895 S.E.2d at 377.

The process of raising and slaughtering chickens is comprised of a series of tasks conducted for a common purpose—to produce poultry. Therefore, contrary to Plaintiff’s interpretation, we hold the exempted activity is not each individual step

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within the commercial poultry-production process, but rather the entire process itself. Defendants' operation involves a collective series of tasks in pursuit of a common outcome—to produce and sell poultry products for profit. Accordingly, we conclude the General Assembly intended to exempt Defendants' commercial poultry-production operation as a whole from suit under the PAA, provided the operation is permitted by law. Because Plaintiff's complaint does not and cannot support a claim that Defendants' operation of raising and processing poultry is illegal or otherwise prohibited by law, the trial court properly granted Defendants' motion to dismiss. *See Newberne*, 359 N.C. at 784, 618 S.E.2d at 204.

V. Conclusion

Under the circumstances of this case, Defendants' poultry-production operation is exempt under the PAA. Accordingly, we affirm the Order.

AFFIRMED.

Judges ARROWOOD and MURRY concur.