

STATE OF NORTH CAROLINA
COUNTY OF BURKE

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.*)
)
 _____)

**PLAINTIFF’S BRIEF IN
OPPOSITION TO
DEFENDANTS’ MOTION TO
DISMISS**

Plaintiff Legal Impact for Chickens (“Plaintiff” or “LIC”), by and through undersigned counsel, respectfully submits the following Brief in Opposition to Defendants Case Farms, L.L.C., Case Foods, Inc., and Case Farms Processing, Inc.’s (collectively “Defendants” or “the Case Entities”) Motion to Dismiss LIC’s Second Amended Complaint and Request for Injunctive Relief.

North Carolina, through its legislature, has expressly codified an interest in having robust protections for animal welfare. North Carolina General Statutes § 19A-1 *et seq.* (hereinafter “Chapter 19A”), the statute on which LIC relies in its complaint, has been in place since 1969. And North Carolina’s first criminal animal-cruelty statute was enacted even earlier, in 1881. *See* 1881 N.C. Sess. Laws 609-12. LIC, as a real party in interest,¹ brings this suit to enforce North

¹ *See* N.C.G.S §§ 12-3(6) (“The word ‘person’ shall extend and be applied to bodies . . . corporate . . .”), 19A-1 (“The term ‘person’ has the same meaning as in G.S. 12-3.”), 19A-2 (“A real party in interest as plaintiff shall be held to include any person even though the person does not have a possessory or ownership right in an animal. . .”). North Carolina courts have deemed organizations such as LIC “real part[ies] in interest.” *See, e.g., Animal Legal Def. Fund v. Woodley*, 181 N.C. App. 594, 596, 640 S.E.2d 777, 778–79 (2007) (holding that Chapter 19A “expresses the General Assembly’s intent that the broadest category of persons or organizations be deemed ‘a real party in interest’ when contesting cruelty to animals.”) (quoting *Justice for Animals, Inc. v. Robeson Cnty.*, 164 N.C. App. 366, 371, 595 S.E. 2d 773, 776–77 (2004)).

Carolina animal-welfare values and prevent further violations of North Carolina’s animal protection statute.

As detailed below, the Second Amended Complaint sufficiently alleges that the Case Entities have and continue to violate North Carolina’s prohibition against animal cruelty by, among other things, trapping, crushing, and running over newly hatched chicks. The allegations make clear that outside the scope of the Case Entities’ general operations, these wasteful and unnecessary acts of cruelty are done to cut corners—not to produce food or poultry. None of the exemptions in Section 19A-1.1 shield Defendants from North Carolina’s anti-cruelty law. The Motion to Dismiss should therefore be denied and this case should proceed forward on the merits.

STATEMENT OF RELEVANT FACTS

The Case Entities operate as a vertically integrated group of firms that hatch, raise, and slaughter broiler (meat) chickens in various locations, including in Morganton, North Carolina (the “Morganton Hatchery” and “Morganton Slaughterhouse”). 2d Am. Compl. ¶¶ 2, 11.² The Morganton Hatchery processes approximately one (1) million chicks per week. Motion to Dismiss and Answer ¶ 21.³ It deals only with eggs and newborn chicks, up to approximately one day old. Compl. ¶ 21.

LIC requests relief under Chapter 19A in the form of a permanent injunction prohibiting the Case Entities from further violations of North Carolina’s Civil Remedy for Protection of Animals statute. *Id.* ¶¶ 1, 153. As alleged in the Complaint—and as must be assumed true by the Court in evaluating a motion to dismiss—the Case Entities engage in acts of neglect and extreme violence outside the scope of their general operations that cause unjustifiable and unnecessary pain and death towards the animals under their care and control. *Id.* ¶¶ 2, 19, 48–49, 53–99, 111–42.

² *LIC v. Case Farms, L.L.C.*, (No. 23 CVD 619) (Oct. 24, 2023) (hereinafter “Compl.”).

³ *LIC v. Case Farms, L.L.C.*, (No. 23 CVD 619) (Nov. 14, 2023) (hereinafter “Answer.”).

Defendants’ conduct stands in stark contrast to the minimum guidelines promulgated by the National Chicken Council (“NCC”), of which Defendants are members and by which Defendants claim to abide. *Id.* ¶¶ 15–17, 20, 52, 81, 100–101, 131–41.

Specifically, an undercover investigation conducted by Animal Outlook (“the 2021 Investigation”) revealed a culture of cruelty at the Morganton Hatchery: the investigator documented acts of abuse and neglect nearly every single day of their employment.⁴ *Id.* ¶¶ 44, 48–49. All such acts were inflicted intentionally, knowingly, and/or out of reckless disregard for life, with management’s full knowledge. *Id.* ¶¶ 6, 50, 100–105, 110 (alleging, among other things, that a supervisor admitted that animal welfare inspectors would be concerned about a faulty piston, and that a manager was aware that chicks died of overheating).

The pattern of abuse and neglect at the Morganton Hatchery begins with improper hatching practices and extends to Defendants’ failure to appropriately handle their live chicks and to adequately maintain their dangerous machinery. *Id.* ¶¶ 53–55, 59, 70–73, 78, 82–99.

Defendants neglect chicks that hatch early in the setter rooms or hatchers, leaving the newborn chicks to starve and ultimately perish. *Id.* ¶¶ 95–99. Chicks are often left in hatchers for too long and die from overheating. *Id.* ¶ 88. Newly hatched chicks at the Morganton Hatchery also display a high frequency of deformities, a likely sign of improper incubation conditions. *Id.* ¶¶ 89–91.

The 2021 Investigation revealed that Defendants’ employees at the Morganton Hatchery routinely trample chicks underfoot, causing them to suffer and die. *Id.* ¶ 85. Employees also pack so many chicks into a single tray that the chicks are forced to stand on top of each other. *Id.* ¶¶ 69–70. Personnel then stack these chick-filled trays atop one another, often crushing and killing chicks

⁴ An illustrative portion of the investigative footage is available at tinyURL.com/CaseFarmsVideo. Compl. ¶ 47 & n.5.

caught in between the stacked trays. *Id.* ¶ 71–74.

Defendants’ Morganton Hatchery employees also routinely drop and throw live chicks from a significant distance onto processing machinery, causing severe injuries. *Id.* ¶¶ 82–83. Some chicks never make it onto the machinery for processing and instead land on the concrete floor. *Id.* ¶ 84. It is common practice at the Morganton Hatchery to neglect suffering chicks for hours, leaving them to ultimately die and decompose on the ground. *Id.* ¶¶ 94, 99.

The Case Entities use defective, unmaintained machinery that traps, injures, and kills chicks. *Id.* ¶¶ 53–68. Specifically, misfiring pistons slam into chicks. *Id.* ¶¶ 54–55, 61–62, 104. Additionally, a conveyor belt traps and mangles chicks. *Id.* ¶¶ 53, 55, 64–68. Chicks also routinely fall off conveyor belts. *Id.* ¶ 68. These malfunctions cause serious injury and death. *Id.* ¶¶ 53–68.

Employees instruct one another to drive over chicks with machinery. *Id.* ¶ 86. Chicks are also recklessly thrown from significant heights when unloaded at affiliated grower farms. *Id.* ¶ 79. Defendants fail to provide animal welfare training to all employees, and instead falsify employees’ training records. *Id.* ¶¶ 106–109.

The Case Entities’ culture of cruelty was in place before, and has continued since, the 2021 Investigation. This pattern of cruelty extends beyond the hatchery, to Defendants’ slaughter plants and grower farms. *Id.* ¶¶ 110–142. In fact, prior to the 2021 Investigation, Defendants’ slaughter plants had one of the highest numbers of United States Department of Agriculture (“USDA”) violations of all U.S. slaughter plants, and had repeatedly been listed by the Animal Welfare Institute (“AWI”) as one of the country’s cruelest slaughter plants. *Id.* ¶¶ 111–18. There have been multiple complaints of animal cruelty at Defendants’ grower farms as well. *Id.* ¶¶ 119–121. Moreover, cruelty has continued at Defendants’ slaughter plants throughout the rest of 2021 and 2022, including reports of birds being smothered and boiled alive. *Id.* ¶¶ 122–127.

Even more recently, from at least early 2023 to the filing of the Second Amended

Complaint, there have been cruelty violations at the Morganton Slaughterhouse. *Id.* ¶ 128. These ongoing violations include Defendants (1) regularly leaving chickens to die from overheating in transport trucks in the holding area; (2) not training employees on proper protocol for hanging live chickens, leading to numerous injuries to the chickens; (3) routinely putting live and fully conscious chickens in the scaling tank; (4) egregiously abusing chickens by slapping and throwing them; and (5) discarding injured chickens while they are still alive. *Id.* ¶¶ 129–142.

Based on the allegations of the Second Amended Complaint, LIC has met its burden for this honorable Court to deny Defendants’ Motion to Dismiss pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure.

STANDARD OF REVIEW

A motion brought under North Carolina Rules of Civil Procedure 12(b)(6) should be denied if “the allegations of the complaint, [] treated as true, are sufficient to state a claim upon which relief may be granted under some legal theory.” *Taylor v. Bank of America, N.A.*, 382 N.C. 677, 679, 878 S.E.2d 798, 800 (2022) (citation omitted). The complaint is to be liberally construed and “must provide sufficient notice of the events and circumstances from which the claim arises, and must state allegations sufficient to satisfy the substantive elements of at least some recognized claim.” *Harris v. N.C.N.B. Nat’l Bank of N.C.*, 85 N.C. App. 669, 670, 355 S.E.2d 838, 840 (1987); *see also State Emps. Ass’n of N. Carolina, Inc. v. N. Carolina Dep’t of State Treasurer*, 364 N.C. 205, 210, 695 S.E.2d 91, 95 (2010).

ARGUMENT

Taking the facts alleged in the complaint as true, LIC has sufficiently stated a claim for violations of Chapter 19A-1 and injunctive relief pursuant to N.C.G.S. § 19A-4 and Rule 65 of the North Carolina Rules of Civil Procedure. The Case Entities have and continue to violate North Carolina law by unnecessarily abusing and killing numerous newly hatched chicks who otherwise

would have been raised for human consumption. Defendants similarly violate North Carolina law by leaving chickens to die from heat stroke outside Defendants' Morganton Slaughterhouse. The Case Entities harm and kill these animals *not* to produce food for human or animal consumption, and instead hurt or discard what otherwise could have become food. Defendants' unnecessary crushing, trapping, and killing of newborn chicks is therefore not exempted from North Carolina's animal cruelty statute. Defendants' Motion to Dismiss pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure thus fails. LIC respectfully requests that this honorable Court deny Defendants' Motion to Dismiss.

I. DEFENDANTS' GRATUITOUS ABUSE VIOLATES CHAPTER 19A.

Defendants' conduct squarely meets the criteria for cruelty under North Carolina's Chapter 19A because the Case Entities cause unjustifiable physical pain, suffering, and death to their chickens without an exempt purpose.

Chapter 19A provides a "Civil Remedy for Protection of Animals." *See* N.C.G.S. ch. 19A art. 1. The chapter broadly defines "cruelty" to "include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted." *Id.* § 19A-1(2). Chapter 19A then exempts certain activities under limited circumstances which the legislature has deemed to serve a valid purpose—such as properly slaughtering an animal for human or animal consumption. *See id.* § 19A-1.1 (exempting "[l]awful activities conducted for the primary purpose of providing food for human or animal consumption). Unnecessary cruelty, however, is never permitted. Notably, the inquiry is *what* conduct has occurred and *why* it was done, *not* where it happened or who the actor was, which seems to be Defendants' only defense. *See* Answer.

This case provides a perfect example of the type of misconduct that Chapter 19A was enacted to curtail. The North Carolina Supreme Court has held that animal cruelty laws "protect the public morals, which the commission of cruel and barbarous acts tends to corrupt." *State v.*

Porter, 112 N.C. 887, 887, 16 S.E. 915, 916 (1893). The civil enforcement mechanism contained in Chapter 19A is vital to North Carolina’s effort to halt animal cruelty. Specifically, Section 19A-2 provides that “[i]t shall be the purpose of this Article to provide a civil remedy for the protection and humane treatment of animals in addition to any criminal remedies that are available.” N.C.G.S. § 19A-2.

A. Defendants’ needless trapping, crushing, and killing of chicks plainly meets Chapter 19A-1’s standard for cruelty.

North Carolina law provides an expansive definition of “cruelty,” which “include[s] every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.” N.C.G.S. § 19A-1(2).

Here, the Case Entities’ conduct, as alleged in the Complaint, indisputably constitutes cruelty as defined by N.C.G.S. § 19A-1(2), because Defendants have engaged in both affirmative acts of cruelty and severe neglect, causing chicks pain, suffering, and even death—all without justification. Compl. ¶¶ 2, 19, 48–49, 53–99, 111–42.

a. Defendants engage in acts, omissions, and neglect that cause chickens physical pain, suffering, and death.

The Complaint sufficiently alleges that the Case Entities engage in affirmative acts of cruelty. For example, Defendants operate faulty machinery, which they know leads to the maiming and dismembering of chicks. *Id.* ¶¶ 53–68. Defendants’ employees also step on chicks and crush chicks’ necks in between trays, severely injuring and prematurely killing them. Compl. ¶¶ 71–74, 85. Furthermore, Defendants’ employees throw chicks from substantial heights, leading to severe injuries. *Id.* ¶¶ 79–84. Defendants’ employees also drive over chicks with heavy machinery, crushing chicks underneath. *Id.* ¶ 86. And employees dunk fully conscious chickens into scalding tanks, where the chickens are boiled alive. *Id.* ¶ 135. Each of these actions cause chicks to feel pain that is unnecessary for food production or to die before reaching slaughter. The pain and death

are therefore unjustifiable and the Case Entities' actions rise to the level of "cruelty" and "cruel treatment" as contemplated by N.C.G.S. § 19A-1(2).

Additionally, the Complaint sufficiently alleges that Defendants violate Chapter 19A by "omission" and "neglect." Specifically, the Complaint alleges that the Case Entities fail to properly maintain and/or fix malfunctioning conveyor belts and/or pistons, which cause chicks to be gravely injured and killed. Compl. ¶¶ 57, 59–68. Defendants fail to employ enough workers to properly run, supervise, or maintain the hatchery's machinery to avoid causing death or dismemberment to the chicks. *Id.* ¶ 58. Defendants fail to properly secure chicks during transport and neglect corroded and loose floorboards in their trucks, which cause chicks to fall out of the trucks. *Id.* ¶¶ 76–78. Defendants' delivery employees fail to rescue chicks trapped between trays in the trucks, leaving them to die. *Id.* ¶ 80. Defendants also fail to remove chicks from the hatcher in a timely manner, causing chicks to die from overheating. *Id.* ¶ 88. Defendants consistently neglect severely injured chicks, some of whom are actively bleeding and have torn limbs, leaving the chicks to suffer, die, and decompose on the ground. *Id.* ¶¶ 93–94. Defendants also neglect chicks that hatch early, likewise leaving them to suffer until they ultimately perish. *Id.* ¶¶ 95–99. Defendants fail to properly train employees on animal welfare practices. *Id.* ¶¶ 106–109. Finally, Defendants fail to keep chickens cool while they are waiting to be unloaded from trucks at the Morganton Slaughterhouse, causing hundreds to die from overheating. *Id.* ¶ 129.

The above allegations of omissions and acts of neglect run counter to lawful food production, and instead cause chickens under the care and control of the Case Entities unjustifiable pain and death. These omissions and acts of neglect therefore sufficiently allege violations of Chapter 19A.

In fact, the type of animal mistreatment in which the Case Entities engage is akin to what both the North Carolina Supreme Court and Court of Appeals have determined is impermissible

animal cruelty.⁵ In *State v. Neal*, the defendant knocked a chicken over with a stick and impaled the chicken. 120 N.C. 613, 27 S.E. 81, 84 (1897). The North Carolina Supreme Court held that such actions constituted animal cruelty under an earlier animal protection law, and that “the ‘needless killing’ of [] chickens is of itself cruelty though done without torture.” *Id.* (citation omitted).

Additionally, in *State v. Coble*, the North Carolina Court of Appeals upheld a defendant’s conviction under the state’s criminal animal cruelty law for neglecting to provide dogs with food or water. 163 N.C. App. 335, 338–39, 593 S.E.2d 109, 111–12 (2004). One dog eventually died, and his body was found decaying. *Id.* Similarly, in *State v. Talley*, the Court of Appeals affirmed a defendant’s conviction of animal cruelty under the same statute, for neglecting horses. 110 N.C. App. 180, 193, 429 S.E.2d 604, 611 (1993). In *Talley*, one of the horses was severely emaciated “and had what appeared to be an open draining abscess underneath her jaw.” *Id.* at 184, 429 S.E.2d at 605. Evidence showed that the defendant in *Talley* stated, “I’ve heard if you kick them in the hip they’ll get up.” *Id.* at 186, 429 S.E.2d at 606.

Here, the Case Entities “needless[ly] kill” and harm hundreds of chicks by knowingly operating faulty machinery, crushing chicks between plastic trays, improperly securing chicks during transport, throwing and dropping chicks from significant distances, stepping on chicks, running chicks over with machinery, and leaving chicks to die from overheating. *See Neal*, 120 N.C. 613, 27 S.E. at 84; Compl. ¶¶ 48–49, 53–57, 61–74, 76–80, 82–86, 88.

As in *Neal*, the Case Entities “knock” chicks over by throwing them and knowingly operating conveyor belts that toss chicks onto the floor. *See Neal*, 120 N.C. 613, 27 S.E. at 84;

⁵ Because the criminal cruelty statute bears close resemblance to the civil cruelty statute, criminal cruelty cases are especially persuasive and useful in demonstrating how North Carolina courts construe the term “unjustifiable.” *See* N.C.G.S. § 14-360 (defining “cruelly” as “any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death” and containing many of the same statutory exemptions as the civil statute). Under the criminal cruelty statute, justification for otherwise cruel acts has been asserted and interpreted exclusively in cases where an animal is dangerous or threatening imminent physical injury or property damage.

Compl. ¶¶ 67–68, 79, 82–84. Defendants also “impale” chicks by using broken machinery that slams pistons into their skulls. *See Neal*, 120 N.C. 613, 27 S.E. at 84; Compl. ¶¶ 53–54, 61–63, 65–68, 71–74. Furthermore, even worse than the defendant in *Talley* stating, “I’ve heard if you kick [horses] in the hip they’ll get up,” the Case Entities’ employees instruct one another to run chicks over with machinery and note that chicks get flattened when they fall out of the transport trucks. *See Talley*, 110 N.C. App. at 186, 191, 429 S.E.2d at 606, 609; Compl. ¶¶ 78, 86.

Analogous to the defendant’s conduct in *Coble*, the Case Entities have been documented repeatedly neglecting injured and suffering chicks, leaving them on trays and on the floor, “to the point of decay.” *See Coble*, 163 N.C. App. at 338–39, 593 S.E.2d at 111–12; Compl. ¶¶ 92–99. The *Talley* court held that neglecting a horse with “an open draining abscess underneath her jaw” constituted cruelty. 10 N.C. App. at 184, 429 S.E.2d at 605. As alleged in the Complaint, the Case Entities engage in a pattern of neglecting injured and deformed chicks, including those who are actively bleeding, have torn limbs, and are struggling to breathe. Compl. ¶¶ 92–99.

For these reasons, the Complaint sufficiently alleges that the Case Entities engage in acts, omissions, and neglect that cause or permit physical pain, suffering, and death to chickens in violation of Chapter 19A.

b. Defendants’ cruelty is unjustifiable.

The physical pain, suffering, and death that Defendants cause by crushing chicks, boiling chickens alive, and otherwise abusing and neglecting their animals is clearly “unjustifiable” pursuant to N.C.G.S. § 19A-1(2).

Animal cruelty is considered “justified” only when an animal is dangerous or is threatening imminent physical injury or property damage. *See State v. Smith*, 156 N.C. 628, 72 S.E. 321, 323–24 (1911) (holding that killing an animal in defense of property is justified if injury to the property is imminent); *State v. Dickens*, 215 N.C. 303, 1 S.E.2d 837, 839 (1939) (holding that killing a dog is justified “only . . . to protect person or property”); *State v. Dockery*, 179 N.C. App. 652, 634

S.E.2d 641 (2006) (holding that a defendant was not justified in killing another dog because it was not necessary to protect his own dog's life).

Here, there is no legal justification for the killing and injuring of the newborn chicks and chickens referenced in the Complaint, as the animals clearly do not pose a threat to people or property. The allegations contained in the Complaint thus state a claim against Defendants for unjustifiable cruel treatment as defined in N.C.G.S. § 19A-1(2).

B. Defendants' harmful treatment of animals is not exempted by § 19A-1.1.

Because Defendants gratuitously abuse, neglect, and destroy animals—in a way that Defendants know will make the animals suffer and will also *prevent* the lawful production of food—Defendants cannot seek protection from any of 19A's exemptions.

Chapter 19A contains certain limited exemptions. N.C.G.S. § 19A-1.1. But Chapter 19A intentionally limits the scope of the exemptions to ensure that animals are always protected from gratuitous cruelty. For example, in the agricultural context, Chapter 19A limits exemptions to “[l]awful activities conducted for” a specific “purpose.” N.C.G.S. § 19A-1.1(2–3). Acts of cruelty unnecessary for production are *not* conducted for any valid purpose. Rather, when it comes to a hatchery or slaughterhouse, otherwise cruel activity is exempt from the statute only if it is done for the purpose of producing poultry or providing food. This is clear from a plain reading of the statute, as well as legislative purpose, public policy, and caselaw.

LIC sufficiently alleges that Defendants' crushing and killing of newborn chicks at the hatchery *prevents* chicks from ever growing old enough to be used for food. *E.g.*, Compl. ¶ 4. The Complaint also sufficiently alleges that Defendants causing chickens to die of heat stroke and boiling chickens alive similarly *prevents* those animals from being properly slaughtered and used for food. *See id.* ¶¶ 5, 130, 136. Defendants carry out these alleged actions and omissions simply in order to cut corners and save money, out of some sadistic pleasure, or for no reason at all—

rather than out of any desire to produce food. Therefore, Defendants cannot avail themselves of Chapter 19A’s exemptions.

- a. *A plain reading of § 19A-1.1 shows that Defendants cannot invoke any exemption because their animal cruelty is **not** conducted for the purpose of producing poultry or food.*

Chapter 19A exempts “[l]awful activities conducted . . . for purposes of production of . . . poultry” and “[l]awful activities conducted for the primary purpose of providing food for human or animal consumption.” N.C.G.S. § 19A-1.1 (2–3).

Statutory interpretation “begins with an examination of the plain words of the statute.” *State v. Byrd*, 363 N.C. 214, 219, 675 S.E.2d 323, 325 (2009) (citation omitted). Courts “give every word of the statute effect” and presume that the General Assembly “carefully chose each word used.” *First Mount Vernon Indus. Loan Ass’n v. ProDev XXII, LLC*, 209 N.C. App. 126, 133, 703 S.E.2d 836, 841 (2011) (citation omitted). If the language of a statute is “clear and unambiguous,” courts “eschew[] statutory construction in favor of giving the words their plain and definite meaning.” *State v. Beck*, 359 N.C. 611, 614, 614 S.E.2d 274, 277 (2005). However, if the meaning of a statute is unclear, “courts must interpret the statute to give effect to the legislative intent.” *In re Ernst & Young, LLP*, 363 N.C. 612, 616, 684 S.E.2d 151, 154 (2009).

Additionally, the North Carolina Court of Appeals has held that “statutory exceptions must be narrowly construed” and that “[t]he party seeking the benefit of the exception bears the burden of establishing that they fit squarely within the exception.” *Good Hope Hosp., Inc. v. N.C. Dep’t of Health & Hum. Servs.*, 175 N.C. App. 309, 312, 623 S.E.2d 315, 318, *aff’d*, 360 N.C. 641, 636 S.E.2d 564 (2006).

Here, a plain reading of Chapter 19A shows that, while there are certain limited exceptions for cruelty within the course of food production, there is also a clear limit: to be exempt, each lawful act must be done for the “purpose” of *producing* food or poultry. *See* N.C.G.S. § 19A-1.1 (2–3).

The word “purpose” means the “objective, goal, or end” of a given action. *Clegg v. City of Durham*, 183 N.C. App. 154, 643 S.E.2d 676 (2007) (citing Black’s Law Dictionary 1271 (8th ed. 2004); see also *Brinkman v. Weston & Sampson Engineers, Inc.*, 435 S.C. 354, 362, 867 S.E.2d 460, 464 (S.C. Ct. App. 2021) (“*Purpose* is the result desired by the actor.”) (citation omitted). Thus, where a statute refers to activities done “for” a certain “purpose,” the statute asks whether the activity was done to advance the cause of, or was necessary to achieve the goal of, that listed purpose. See *Alexander v. U. S. Dep’t of Hous. & Urb. Dev.*, 441 U.S. 39, 64, 99 S. Ct. 1572 (1979) (holding that, by a statute providing relocation benefits “requiring that an acquisition be ‘for’ a federal program or project [without including the term ‘purpose’], Congress intended that the acquisition must *further or accomplish* a program designed to benefit the public as a whole.” (emphasis added)). Thus, the Case Entities’ conduct is only exempted from Chapter 19A if the objective of the specific conduct at issue was to produce food or poultry.

The allegations of gratuitous abuse and neglect in the Complaint describe facts outside 19A’s scope of exempted actions. In other words, the fact that Defendants produce food does *not* give Defendants a blanket authorization to commit the clearly alleged litany of senseless acts of cruelty. That would be a misapplication and misreading of the narrowly crafted statutory exemptions. If the legislature intended to authorize companies like Defendants to commit any act of cruelty conceivable, no matter how purposeless or counter-productive to food manufacturing, the statute simply would have exempted “companies that produce poultry or food.”⁶ But the legislature did not do that.

Instead, the only arguably relevant exemptions reference the “purpose” of specific “activities,” indicating that acts of cruelty that are done for a reason other than producing food or

⁶ For an example of how legislators would craft a statute if they want to discuss the purpose of an entity’s business, rather than the purpose of a particular action, see 26 U.S.C. § 502: “*An organization* operated for the primary purpose of carrying on a trade or business for profit shall not be exempt from taxation under section 501 on the ground that all of its profits are payable to one or more organizations exempt from taxation under section 501.” (Emp hasis added).

poultry—or that lack any purpose at all—are not exempted. *See* N.C.G.S. § 19A-1.1 (2–3). The alleged crushing and killing caused or permitted by the Case Entities is *not* done to produce food or poultry. Instead, Defendants engage in concerted actions that are not necessary for, nor for the primary purpose of, providing food. Defendants would still be operating their business if they did not engage in the alleged activities, and even more productively. Indeed, by regularly repairing their hatchery machines, training employees to properly care for chicks, protecting chickens from the heat while the birds await slaughter, and ensuring chickens are dead prior to entering the scalding tank, Defendants would be increasing the amount of food they produce. The abuse and neglect alleged in the Complaint is simply cruel and wanton behavior which serves no valid purpose at all.

The Supreme Court of North Carolina has already made clear that an animal cruelty statute exemption allowing activities for the purpose of producing food does *not* open the door to allow wanton, purposeless, cruelty. Specifically, in *State v. Porter*, the Supreme Court of North Carolina held that a “desire for amusement and sport [was] no justification for the infliction of suffering or death upon any of the creatures protected by” Code § 2482, a previously enacted animal cruelty statute that contained an exemption for “the lawful shooting of birds, deer, and other game for the purposes of human food.” 112 N.C. 887, 16 S.E. 915, 916 (1893). In other words, the inquiry focused on the *purpose* of the shooting, and the court found that the exemption did not pertain to needlessly killing birds for “amusement and sport”—which may be one of the motivations for the actions alleged in the Complaint—as opposed to activities specifically directed at producing food. *See id.* Although the Case Entities may generally be engaged in producing poultry and food, they still must refrain from committing animal cruelty for non-productive reasons—such as out of laziness, for no purpose at all, because of sadistic tendencies, or merely to save money.

Finally, the word “primary” in the exemption for providing food for human or animal consumption warrants careful consideration, as it is the only exemption to Chapter 19A that includes this word. *See* N.C.G.S. § 19A-1.1. The legislature’s use of the word “primary” was deliberate and intentional. *See N.C. Dep’t of Correction v. N. Carolina Med. Bd.*, 363 N.C. 189, 201, 675 S.E.2d 641, 649 (2009) (“Because the actual words of the legislature are the clearest manifestation of its intent, we give every word of the statute effect, presuming that the legislature carefully chose each word used”)(citation omitted); *see also Matter of B.L.H.*, 376 N.C. 118, 122, 852 S.E.2d 91, 95 (2020) (“[A] statute must be considered as a whole and construed, if possible, so that none of its provisions shall be rendered useless or redundant.”) (citation omitted).

“Primary” serves to narrow the scope of the exemption and is plainly interpreted as “principal” or “direct.” *See Primary*, MERRIAM-WEBSTER (last accessed Nov. 2023), <https://www.merriam-webster.com/dictionary/primary>. Specifically, the statute exempts actions committed for the “primary purpose of providing food.” N.C.G.S. § 19A-1.1(3). Thus, only actions conducted for the “principal” or “direct” purpose of providing food are exempt from the anti-cruelty law.

As alleged in the Complaint, Defendants engage in cruel and wanton behavior not for the “direct” or “principal” purpose of producing food. In fact, the chicks and chickens who are subject to the Case Entities’ cruelty are removed from the food supply entirely. Because these birds will never be consumed as food by a human or animal, the Case Entities’ primary purpose in harming them thus cannot be to directly produce food.

b. Based on legislative intent and canons of statutory interpretation, “for purposes of” should be narrowly construed, to mean “to advance the cause of” or “necessary to achieve the goal of.”

Even if the terms “for purposes of” are found to be ambiguous and “fairly susceptible” to more than one meaning, the proper interpretation must effectuate the purpose and rationale of Chapter 19A. *Purcell v. Friday Staffing*, 235 N.C. App. 342, 347, 761 S.E.2d 694, 698 (2014)

(“Statutory language is ambiguous if it is ‘fairly susceptible of two or more meanings.’”) (citation omitted); *Lunsford v. Mills*, 367 N.C. 618, 623, 766 S.E.2d 297, 301 (2014) (“The primary objective of statutory interpretation is to ascertain and effectuate the intent of the legislature.”). Additionally, the North Carolina Court of Appeals has held that “statutory exceptions should be narrowly construed.” *Good Hope Hosp., Inc. v. N.C. Dep’t of Health & Hum. Servs.*, 175 N.C. App. 309, 312, 623 S.E.2d 315, 318, *aff’d*, 360 N.C. 641, 636 S.E.2d 564 (2006) (internal citations omitted). When determining legislative intent, “the words and phrases of a statute must be interpreted contextually, in a manner which harmonizes with the other provisions of the statute and which gives effect to the reason and purpose of the statute.” *Matter of J.E.B.*, 376 N.C. 629, 634, 853 S.E.2d 424, 429 (citation omitted).

The exemptions must be construed in the light of the overall purpose of Chapter 19A, which is to “provide a civil remedy for the protection and humane treatment of animals.” N.C.G.S. § 19A-2. The legislature chose to include a broad category of animals, specifically defining “animal” as “every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings.”⁷ N.C.G.S. § 19A-1. Furthermore, the General Assembly enabled “the broadest category of persons or organizations” to sue to enforce the law. *Animal Legal Def. Fund v. Woodley*, 181 N.C. App. 594, 596, 640 S.E.2d 777, 778–79. This emphasizes that the legislature’s intent in enacting Chapter 19A was to prevent as much cruelty as reasonably possible.

Courts must also avoid statutory constructions that lead to unjust or absurd results. *See Nationwide Affinity Ins. Co. of Am. v. Le Bei*, 259 N.C. App. 626, 629, 816 S.E.2d 251, 254 (2018) (“The Court will not adopt an interpretation which results in injustice when the statute may reasonably be otherwise consistently construed with the intent of the act.”) (citation omitted); *King*

⁷ Chickens and other birds are included in the class “Aves.” *Aves*, Merriam-Webster (last accessed Nov. 2023), <https://www.merriam-webster.com/dictionary/Aves>.

v. Baldwin, 276 N.C. 316, 325, 172 S.E.2d 12, 18 (1970) (“It is presumed that the legislature acted in accordance with reason and common sense and that it did not intend an unjust or absurd result[.]”).

An interpretation of the exemptions broad enough to permit Defendants’ gratuitous violence would lead to absurd and unjust results that impair Chapter 19A’s overall purpose. Specifically, in order for Defendants to have the right to continue their current gratuitous abuse, the statute would have to be interpreted to exempt any cruel act that has even a tangential relationship to any of the exemptions. In addition to the food and poultry exemptions, Chapter 19A also has exemptions for “[a]ctivities conducted for lawful veterinary purposes” and “[t]he lawful destruction of any animal for the purposes of protecting the public, other animals, or the public health.” N.C.G.S. § 19A-1.1(4–5). Under an interpretation of the exemptions broad enough to permit all of Defendants’ cruelty simply because Defendants are in the food industry, various actors would gain the right to engage in egregious and senseless cruelty with impunity—and a court could not instruct them to stop. For example, a sadistic veterinarian could perform surgery on an unanesthetized dog purely to inflict pain or save money. A farm worker could light a cow’s tail on fire during the milking process. A person who captures a rabid racoon to protect public health could make a game out of beating the animal senselessly prior to euthanasia. And courts would be powerless to enjoin the repetition of any of these egregious acts. It would be both unjust and absurd to exempt such cruelty, as such cruelty is unnecessary for the goals of veterinary care, public safety, or food production, and does not benefit society.

The best interpretation of “for purposes of” is “to advance the cause of,” or “necessary to achieve the goal of.” Read this way, Chapter 19A makes sense: it exempts actions that advance or are necessary components of producing poultry or providing food.

This interpretation is in accordance with statutory intent, acknowledging the broad legislative goal of eliminating animal cruelty. *See* N.C.G.S. § 19A-2. Exempted lawful activities produce a societal benefit and necessarily require the toleration of a certain degree of cruelty. However, only actions that advance or are required to achieve those goals are permitted. Had the legislature intended to exclude all cruelty that is done by anyone involved in agricultural production, it would have explicitly done so.

The proper construction of “for purposes of” limits the exempted activities to those that advance the cause of, or are necessary to achieve, the production of poultry or food. Under this construction, Defendants’ cruelty does not fall under the exemptions, as it neither advances the production of poultry or food, nor is a necessary part of the production process. Instead, the Complaint sufficiently alleges that the Case Entities maim and prematurely kill chicks, who are eventually disposed of at the hatchery or grower farms, and never make it to the slaughter plant to be processed into food. Defendants also abuse and kill fully grown chickens in a manner that prevents them from being used for food, including but not limited to leaving chickens to die of heatstroke right outside the slaughter plant.

c. A North Carolina court has convicted three hog farm employees of criminal cruelty to animals, pursuant to an animal cruelty statute with an identical exemption.

Previous convictions for cruelty to animals on a hog farm show that gratuitous animal abuse is illegal in North Carolina—even when done in an agricultural setting.

In February 1999, People for the Ethical Treatment of Animals (“PETA”) sent a North Carolina district attorney video footage of Belcross Farms employees abusing pigs with metal implements.⁸ At the time, North Carolina’s criminal animal-cruelty statute contained numerous exemptions, including one exempting “lawful activities conducted for . . . the primary purpose of

⁸ Letter from PETA to Frank Parrish, District Attorney for the First District, Camden Cnty. (Feb. 9, 1999), <https://web.archive.org/web/20000118043247/https://www.meatstinks.com/pigcaselet.html>.

providing food for human or animal consumption.” N.C. Laws ch. 209, § 8 (1999). PETA argued that the livestock exemption was inapplicable because “the behavior of [the farm’s] employees [did] not remotely relate to lawful activities” and “clearly violate[d] the statute’s prohibition on [animal cruelty].”⁹ Subsequently, the district attorney filed felony charges against three of the hog farm employees.¹⁰ Two defendants pleaded guilty, and one pleaded no contest, to misdemeanor charges.¹¹ All three individuals were convicted of cruelty for abusing pigs.¹² The court ordered that one of the defendants be imprisoned.¹³

Notably, the hog farm employees did not invoke the livestock production exemption, even though the cruel acts inflicted were done in an otherwise lawfully operated facility whose primary purpose was producing food.¹⁴ This indicates that when an animal is unnecessarily injured and the animal is removed from food production, the underlying cruel activity does not qualify for the food-production exception.

Using customary tools of statutory interpretation, it is clear that the allegations in LIC’s Complaint detailing Defendants’ wanton trapping, crushing, and killing of chicks and chickens state a violation of North Carolina law which is not authorized by any exemption. Defendants may contend that *all* their activities are categorically exempt from Chapter 19A, simply because Defendants are a food company. This is not so.¹⁵

⁹ Letter from PETA to Frank Parrish.

¹⁰ Investigation of North Carolina Pig Farm Results in Historic Felony Cruelty Convictions, PETA (Apr. 2000) <https://www.peta.org/about-peta/victories/investigation-north-carolina-pig-farm-results-historic-felony-cruelty-convictions/>.

¹¹ Docket, *State v. Sanchez*, Case No. 99CRS-442 (Camden Cnty. Sup. Ct., May 15, 2000); Docket, *State v. Brown*, Case No. 99CRS-443 (Camden Cnty. Sup. Ct., July 3, 2000); Docket, *State v. Crawford*, Case No. 99CRS-437 (Camden Cnty. Sup. Ct., May 15, 2000).

¹² Docket, *Sanchez*, Case No. 99CRS-442; Docket, *Brown*, Case No. 99CRS-443; Docket, *Crawford*, Case No. 99CRS-437.

¹³ Docket, *Sanchez*, Case No. 99CRS-442.

¹⁴ See Docket, *Sanchez*, Case No. 99CRS-442; Docket, *Brown*, Case No. 99CRS-443; Docket, *Crawford*, Case No. 99CRS-437.

¹⁵ To the extent this Court has any uncertainty as to whether Defendants’ cruelty was carried out for the “primary purpose” of producing food or poultry, at a minimum, this is a question of fact—i.e., were the employees carrying out

II. AN INJUNCTION IS THE PROPER REMEDY FOR DEFENDANTS' VIOLATIONS.

As detailed below, Defendants should be enjoined under North Carolina law to prevent their continued unlawful cruelty to animals.

Chapter 19A instructs courts to issue injunctive relief to prevent further violations of the statute. N.C.G.S. § 19A-4(a) (providing that “a district court judge . . . shall enter orders as the court deems appropriate, including a permanent injunction.”). A permanent injunction is thus an appropriate remedy to cease illegal animal cruelty. *See id.*; *see also Vest v. Easley*, 145 N.C. App. 70, 76, 549 S.E.2d 568, 574 (2001) (“A plaintiff is entitled to injunctive relief when there is no adequate remedy at law and irreparable harm will result if the injunction is not granted.”); *North Carolina Bd. of Pharmacy v. Lane*, 248 N.C. 134, 144, 102 S.E.2d 832, 840 (1958) (holding that an injunction to stop the commission of a crime is proper when authorized by statute).

North Carolina courts have thus issued injunctions pursuant to Chapter 19A to prevent future violations of the statute. In *Woodley*, for instance, the injunction that was issued prohibited defendants “*from any further violation of the statute*, requiring defendants to properly maintain those parts of their property in which the animals were kept[.]” *Animal Legal Def. Fund v. Woodley*, 181 N.C. App. 594, 595, 640 S.E.2d 777, 778 (emphasis added).

Here, there is a substantial and immediate risk that, unless Defendants are permanently enjoined, Defendants will subject their chicks to further cruelty in violation of N.C.G.S. § 19A-1. LIC has sufficiently alleged that this cruel conduct is continuing to impact other chicks at the Morganton Hatchery and will continue to impact additional chicks unless Defendants are enjoined. *See Compl.* ¶¶ 148–52.

the abusive practices and/or allowing them to continue acting “to advance the cause of” or in a way that was “necessary to achieve” the production of food? Such a question is inherently fact-intensive and should not be resolved at the motion to dismiss stage.

LIC lacks any remedy other than an injunction which is adequate to ensure an end to the chicks' suffering. Without an injunction prohibiting Defendants from engaging in any further acts of cruelty, chicks currently in Defendants' possession and control will suffer irreparable harm, and chicks bred by Defendants in the future will similarly suffer neglect and irreparable harm.

III. LIC'S COMPLAINT CONTAINS SUFFICIENT ALLEGATIONS TO SUPPORT A CLAIM FOR RELIEF UNDER THE LAW AND DEFENDANTS' 12(B)(6) MOTION TO DISMISS SHOULD BE DENIED.

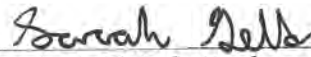
As stated above, the question before the Court on a motion brought under Rule 12(b)(6) is whether "the allegations of the complaint, [] treated as true, are sufficient to state a claim upon which relief may be granted under some legal theory." *Taylor v. Bank of America, N.A.*, 382 N.C. 677, 679, 878 S.E.2d 798, 800 (citation omitted). If so, the motion must be denied.

On its face, LIC's Complaint alleges facts that, taken as true and liberally construed, state a claim upon which relief can be granted. LIC has met its burden for this Court to deny Defendants' Rule 12(b)(6) Motion to Dismiss for failure to state a claim upon which relief can be granted. The motion thus should be denied.

CONCLUSION

Accepting the allegations contained in the Complaint as true—as the Court must do at this stage—LIC has pled facts sufficient to support a claim of cruelty and sufficient to support LIC's claim for relief. Defendants trap and smash newborn chicks in faulty machinery and leave chickens to die from heatstroke right outside the slaughterhouse. Defendants' conduct does not fall under the exemptions contained in N.C.G.S. § 19A-1.1 for it neither advances the cause of, nor is necessary to achieve, producing food or poultry. For these reasons, LIC respectfully prays this Court to deny Defendants' Motion to Dismiss pursuant to Rule 12(b)(6) and the inapplicable defense of the exemptions contained in N.C.G.S. § 19A-1.1 for the reasons set out herein and advanced at the hearing.

Respectfully submitted, this the 1st day of December, 2023.



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BURKE COUNTY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a copy of the foregoing document was duly served upon each party to this cause by electronic mail (e-mail) by 5:00 P.M. Eastern Time as follows:

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This the 1 day of December, 2023.

LAW OFFICE OF F. BRYAN BRICE, JR.

By: 

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