

## *HSUS Uses Growing Litigation Department to Target Agriculture*

*Sarah Hubbard*

### *Animal Agriculture Alliance*

When the Humane Society of the United States (HSUS) merged with The Fund for animals in 2004, the organization's newly-appointed CEO and President Wayne Pacelle wasted no time in establishing an Animal Litigation Protection section within the organization to focus specifically on animal law.

In the last five years, the HSUS litigation department has grown to a staff of 13 lawyers, with offices in Washington, D.C., New York, San Francisco, and Seattle. Pacelle and department head Jonathan Lovvorn oversee the largest animal litigation program in the United States, but until recently the potential impact of this program on the agriculture industry has not been duly considered.

Animal law has gained recognition among lawyers and more law students than ever before are pursuing careers within the specialty. Nearly 100 animal-specific courses are available nationwide and the number of student chapters of the Animal Legal Defense Fund (ALDF), a non-profit aiming to advance the interests of animals through the legal system, has grown from 12 to 112 in just seven years. Ten state bars and the District of Columbia have animal law sections and exams.

Georgetown University was the first to offer a special animal law fellowship for students, giving them the opportunity to work for the HSUS litigation department for a year upon graduation. This program was made possible by several grants, including a \$1 million endowment by the DJ&T Foundation that was established by animal rights activist Bob Barker of *The Price is Right* fame. George Washington University has a similar program and externship with HSUS.

At any one time, HSUS lawyers are working on about three dozen open cases of varying size and scope focused on four main issues: animal cruelty, hunting, fur, and farm animal protection. HSUS has succeeded in pushing through cases ranging from protecting endangered whales to outlawing foie gras. Since becoming CEO, Pacelle has claimed more than 70 "victories" against farmers and ranchers, most calling for the elimination gestation crates and laying hen cages.

One of his biggest achievements came in 2007, when HSUS lawyers succeeded in convincing the United States Court of Appeals to uphold Illinois' decision to ban the slaughter of horses for human consumption. They have also filed suits against the USDA to challenge the exclusion of poultry from the Humane Slaughter Act and have targeted circuses for their treatment of elephants.

More recently, HSUS lawyers have joined with a coalition of environmental groups to file a legal petition with the Environmental Protection Agency (EPA) to regulate confined animal feeding operations under the Clean Air Act. In September 2009, the group submitted a 70-page document detailing their stance against the environmental effects of modern farms, ignoring the current regulations in place at the state level and the revised CAFO regulations that were set in place in 2008 by EPA.

Of course, the legal work of HSUS has not been without scandal. In the heat of California's Proposition 2 battle, the United Egg Producers (UEP) levied wiretapping and conspiracy charges against the group for

allegedly impersonating an egg industry ally and illegally tape-recording three phone calls with the UEP. Frank Loftus, director of HSUS' investigations unit, admitted to posing as someone else to gain information. HSUS also filed a suit against UEP during the campaign for "misleading consumers" by using the "UEP Certified" logo on products that followed the group's animal care guidelines, stating that eggs produced in cage systems could never be considered humane.

Key components of the litigation power of the HSUS are the thousands of lawyers that provide pro bono work for the group each year. "We couldn't support the cases that we have now or do the things that we're doing without them," Lovvorn told Dcbar.org.

In 2007, HSUS received about \$2.5 million in contributed legal services from a dozen key firms across the country. In 2008, major firms provided 10,273 pro bono hours to the group, up from 6,500 in 2007, substantially increasing the contributed value from the year before. Firms that have provided more than 100,000 hours to HSUS at no charge include O'Melveny & Meyers, LLP, Weil, Gotshal & Manges LLP, and Latham & Watkins LLP. During the past three years alone, Latham lawyers have donated 5,000 hours to HSUS at a value of \$1.6 million.

HSUS has been classified as one of the leading animal rights organizations in the U.S by The American Lawyer, a well-respected legal new source. It's important to highlight the distinction between the classification of animal welfare, a moderate stance advocating for proper treatment of animals, and animal rights, the idea that the interests of animals are equal to that of humans. Despite its mainstream approach, HSUS definitely falls in the latter category. It should be noted that four communities (Boulder, CO, Berkeley, CA, Bloomington, IN, and Menomonee Falls, WI) have already enacted animal "guardianship" laws- extreme attitudes towards animal ownership have the potential to impact agriculture in the near future.

The litigation department is just one more tool that HSUS can use against farmers and ranchers to achieve its end goal of putting a stop to animal agriculture. More than ever, agriculturists need to educate themselves about the issues at hand and counter the misinformation spread by HSUS and other groups. The daunting power of HSUS reinforces the need for producers to both be proactive in sharing their story and to take extra legal precautions to protect their livelihood from coming under scrutiny from animal activists.