IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ANIMAL LEGAL DEFENSE FUND, *et al.*,	)	
Plaintiffs,	)	
v.	)	**Case No. 18-2657-KHV-JPO**
LAURA KELLY, *et al.*,	)	
Defendants.	)	

PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO AMEND THE MEMORANDUM AND ORDER AND JUDGMENT AND FOR ENTRY OF A PERMANENT INJUNCTION

On January 22, 2020, this Court issued a Memorandum and Order (Doc. #63) ("Jan. 22 Order") sustaining, in part, Defendants' Motion for Summary Judgment (Doc. #46) and Plaintiffs' Motion for Summary Judgment (Doc. #53), and entered a final judgment in the case (Doc. #64). The Court concluded that it "must declare" K.S.A. § 47-1827(b), K.S.A. § 47-1827(c), and K.S.A. § 47-1827(d) ("Sections (b), (c), and (d)") to be unconstitutional. (Jan. 22 Order at 38). Two days later, Plaintiffs filed a short motion to amend that order and judgment pursuant to Fed. R. Civ. P. 59(e) and to issue a permanent injunction prohibiting Defendants from enforcing Sections (b), (c), and (d) (Doc. #65) pursuant to Fed. R. Civ. P. 65.[1] Plaintiffs' request

[1] Defendants repeatedly suggest Plaintiffs have not followed the proper procedure in seeking to alter and amend the Court's order and judgment. (Doc. #67 at 3, 5) Before filing the present motion, Plaintiffs' counsel contacted the Court's courtroom deputy to determine the proper procedure, and the deputy suggested a motion to clarify the judgment. After reviewing the local rules and finding nothing authorizing such a motion, Plaintiffs' counsel opted to file the present motion to amend the judgment, which is permitted under Fed. R. Civ. P. 59(e). Plaintiffs understand they might, in the alternative, have filed a motion to vacate the judgment under Rule 60, but believed the present course to be more appropriate. However, if the Court wishes Plaintiffs to file a Rule 60 motion, followed by a motion for a permanent injunction, they will do

was (and is) simple: that having found that Sections (b), (c), and (d) violate the First Amendment, the Court should enter the permanent injunction that Plaintiffs sought in their Request for Relief. (Doc. #1 at ¶111).

Defendants' Response attempts to relitigate matters decided in the Court's January 22 Memorandum and Order, conflating the issues of "facial relief" (Defendants' Response to Plaintiffs' Motion to Amend the Memorandum and Order and Judgment and for Entry of a Permanent Injunction (Doc. #67) ("Opp.") at 3)—which the Court already granted—with whether an injunction should issue—which is the modification Plaintiffs seek. However, as explained below, injunctive relief follows naturally from this Court's existing order and is necessary to grant Plaintiffs' complete relief. (Jan. 22 Order at 1). The specter of Defendants' enforcement of the unconstitutional provisions can only be fully eliminated with a permanent injunction, and the Court's ruling—that Sections (b), (c), and (d) operate to chill Plaintiffs' speech and are unconstitutional on their face—are precisely the circumstances that justify Plaintiffs' request for injunctive relief. Plaintiffs respectfully request the Court modify its final order and judgment as specified in the proposed order, which was submitted by email to the Court's chambers pursuant to Local Rule 5.4.4(e).

I. In the Absence of Injunctive Relief, the Court's Ruling that Sections (b), (c), and (d) are Unconstitutional Cannot be Meaningfully Enforced.

As this Court concluded, Sections (b), (c), and (d) are unconstitutional. (Jan. 22 Order at 38). Nothing in its Memorandum and Order suggest that its holding was limited to an analysis of these provisions only as applied to the Plaintiffs. An injunction is necessary to effectuate the Court's ruling.

---

so. In the interests of judicial economy and conserving the parties' resources, Plaintiffs hope the Court finds this an appropriate procedure to resolve the matter.

As the Supreme Court has recognized, the very existence of an unconstitutional statute itself chills protected speech. *See Secretary of State of Maryland v. Joseph H. Munson Co.*, 467 U.S. 947, 964 n.12 (1984); *Peachlum v. City of York*, 333 F.3d 429, 435 (3d Cir. 2003). The harm, of course, is self-censorship, and it "can be realized without an actual prosecution." *Virginia v. American Booksellers Association, Inc.*, 484 U.S. 383, 393 (1988). The Court has for a long time shown special concern for self-censorship because "First Amendment interests are fragile interests, and a person who contemplates protected activity might be discouraged by the in terrorem effect of the statute." *Bates v. State Bar of Arizona*, 433 U.S. 350, 380 (1977). "The loss of First Amendment freedoms, even for minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

Defendants' claim that the Court's declaratory judgment "fully protects plaintiffs' rights" is patently false. (Opp. at 1). Without the promise of injunctive relief, there is no enforceable assurance that the Defendants will not initiate prosecutions under the challenged provisions in the future. As Defendants even concede, "a declaratory judgment is a 'milder form of relief" because *it is not coercive, i.e., noncompliance will not result in contempt proceedings*. . . ." (Opp. at 6) (emphasis added) (citation omitted). Moreover, even in the face of this Court's declaration that Sections (b), (c), and (d) are unconstitutional, the most the Defendants can offer is an unenforceable promise that "*no prosecutions* or action to enforce the involved statutes *are contemplated* by these defendants against plaintiffs or anyone *during any appeal*. (Opp. at 5 n.3) (emphasis added).

II. Defendants Rely on the Wrong Legal Standard for Evaluating Facial Challenges to State Statutes.

To evade the logic that the Court's order justifies a permanent injunction, Defendants assert that this Court only held the law unconstitutional as applied, giving Defendants free rein to

enforce the unconstitutional law. *Doe v. City of Albuquerque*, 667 F.3d 1111 (10th Cir. 2012), demonstrates the flaw of Defendants' argument. Like the City in *Doe*, Defendants claim a law violating the First Amendment can be facially unconstitutional only if there is "no set of circumstances" in which it can be constitutionally applied. (Opp. at 3) (quoting *United States v. Rogers*, No. 18-10018-EFM, 2019 WL 2513348 (D. Kan. June 18, 2019)).[2] Yet, as Defendants seem to concede in footnote, this is incorrect. *Id*. at 3 n.1. Indeed, the "no set of circumstances" language does not reflect the requirements for facial invalidation. *Doe*, 667 F.3d at 1124. Rather it describes the appropriate *remedy* when a law is found on its face to violate the First Amendment.

Doe involved "a facial challenge under the First and Fourteenth Amendments to a ban enacted by the City of Albuquerque that prohibited registered sex offenders from entering the City's public libraries." *Id*. at 1115. In response to Doe's motion for summary judgment, the City argued, like the Defendants do here, that to succeed on his facial challenge, the Plaintiff "Doe had to show that the law could not be constitutionally applied under any circumstance" *Id*. at 1117. The City further contended that in resolving such a claim, the district court was "required to . . . attempt to imagine any hypothetical situation in which the ban could be validly applied." *Id*. Rejecting that argument, the district court found that the City had not met its summary judgment burden of showing that the law met the relevant First Amendment standard, and granted summary judgment to Doe on the basis that the law was facially invalid. *Id*.

The Tenth Circuit affirmed, rejecting the "no set of circumstances" test as a precursor to facial invalidation. *Id*. at 1123. Indeed, the Court found the City's claim to be meritless. As the Tenth Circuit explained:

[2] As Plaintiffs demonstrate below, *Rogers* mistakenly relies on language from *United States v. Salerno*, 481 U.S. 739, 745 (1987), from which the "no set of circumstances" language is drawn.

> The proper framework to apply in a facial challenge is *not to require the challenger to disprove every possible hypothetical situation in which the restriction may be validly applied*, but rather to apply the appropriate constitutional test to determine whether the challenged restriction is invalid on its face (and thus incapable of any valid application).

Id. at 1122 (emphasis added). To do otherwise, the Court said, "completely divorces review of the constitutionality of a statute from the terms of the statute itself, and instead improperly requires a court to engage in hypothetical musings about potentially valid *applications* of the statute." *Id*. at 1123 (emphasis in original).

As the Tenth Circuit accurately observed, "[t]he Supreme Court has repeatedly entertained facial challenges without engaging in this hypothetical exercise." *Id*. The Tenth Circuit went on to provide thirteen examples of cases where the Supreme Court facially invalidated a statute without applying the "no set of circumstances" test, to demonstrate that the alleged test is "simply a fiction." *Id*. at 1124–26 (collecting cases). *See also id*. at 1127 ("facial challenges . . . involve[] an examination of whether the terms of the statute itself 'measured against the relevant constitutional doctrine, and independent of the constitutionality of particular applications, contain[] a constitutional infirmity that invalidates the statute in its entirety.'" (quoting Marc E. Isserles, *Overcoming Overbreadth: Facial Challenges and the Valid Rule Requirement*, 48 AM. U. L. REV. 359, 387 (1998)).

Of particular import here, elaborating on the meaning of *Salerno*'s language, the Tenth Circuit explained that "where a statute fails the relevant constitutional test (such as strict scrutiny, the *Ward* test, or reasonableness review), *it can no longer be constitutionally applied to anyone*—and thus there is 'no set of circumstances' in which the statute would be valid." 667 F.3d at 1127 (emphasis added). In other words, the Tenth Circuit explained that there are two distinct inquiries: first, whether the challenged law is facially unconstitutional because it fails the

applicable First Amendment test; and second, whether the law should therefore be enjoined. If the law is facially unconstitutional, an injunction against its enforcement is the logical remedy. The "no set of circumstances" language is therefore a *description* of the remedial outcome, *not a test* for facial invalidity.

In *Doe*, the relevant constitutional test was the public forum analysis. *Id*. Here, it was the strict scrutiny test. (Jan. 22 Order at 37-38). Because this Court found that the Kansas Ag Gag law provisions failed strict scrutiny, it can "no longer be constitutionally applied to anyone." *Doe*, 667 F.3d at 1127. A permanent injunction is warranted to prevent that potential.

III. At No Time Did Defendants Argue That the Kansas Ag Gag Law was Unconstitutional Only as Applied to Plaintiffs.

Defendants' Opposition is particularly inappropriate because they have never previously suggested that this Court should limit its relief to an as-applied claim. On the parties' cross-motions for summary judgment, Defendants took an all-or-nothing approach. They argued that: (1) Plaintiffs lacked standing to challenge each provision of the statute; (2) even if they had standing the statute did not regulate constitutionally protected activity; and (3) even if the statute did reach speech, it reached only speech that could be proscribed, and that the statute survived under forum analysis. Memorandum in Support of Defendant's Motion for Summary Judgment (Doc. #47) at 1–29. Defendants elected not to argue, even in the alternative, that any section of the law was unconstitutional only as applied to Plaintiffs. *See id*. In *Citizens United v. FEC*, 558 U.S. 310, 333 (2010), the Supreme Court stressed that where the government believes the statute is only unconstitutional as applied, it must make that argument or defend the statute in its entirety, facing the concomitant remedy. "When the Government holds out the possibility of ruling for [Plaintiffs] on a narrow ground yet refrains from adopting that position, the added uncertainty demonstrates the necessity to address the question of statutory validity." *Id.*

Here, the Court issued summary judgment to Plaintiffs "on their claim that those provisions [Sections (b), (c), and (d)] violate the First Amendment." (Jan. 22 Order at 39). Now, for the first time, Defendants assert that those provisions should be upheld as facially constitutional and are unconstitutional only as applied to the four Plaintiffs. While as Plaintiffs have demonstrated, Defendants base this argument on the wrong standard and misconstrue their cited precedent, Defendants' opposition to Plaintiffs' motion for an injunction would be an improper vehicle to revisit such a merits issues even if their legal argument were correct. Defendants swung for the fences and, at least as to Sections (b), (c), and (d), missed. They should not be permitted to reposition their defense of the law post-judgment. Moreover, as in *Citizens United*, "the uncertainty caused by the litigating position of the Government" creates a chilling effect that underscores the need for injunctive relief.

Furthermore, like the City in *Doe*, Defendants here, "apparently as part of [their] litigation strategy, wholly failed to submit" any argument that the law was facially valid even if unconstitutional as applied to Plaintiffs. 667 F.3d at 1122. Consequently, this Court properly analyzed "the terms of the statute itself," *id*. at 1123, and found that with regard to Sections (b), (c), and (d) on their face, "those provisions violate the First Amendment." (Jan. 22 Order at 39).

The Defendants here never presented any evidence on which the Court could base a conclusion that it met its burden under the relevant constitutional standard–strict scrutiny–to enforce any applications of Sections (b), (c) and (d). *See Doe*, 667 F.3d at 1133–35 (noting that City did not present evidence, instead choosing to rest exclusively on its "no set of circumstances" argument). "Because the City, apparently as part of its litigation strategy, wholly failed to submit any evidence as to these factors in response to Doe's summary judgment motion," the Tenth Circuit was compelled to affirm the summary judgment order facially

invalidating the law. *Id*. at 1122; *see also id*. at 1135-36. Similarly, the Defendants here seem to be seeking a second chance to defend the constitutionality of Sections (b), (c), and (d) even though this Court concluded that they could not satisfy the strict scrutiny standard. (Jan. 22 Order at 37-38). Opposition to Plaintiffs' motion for an injunction is an improper vehicle for this last-ditch attempt to save an unconstitutional law.

IV. The Case Law Also Supports Granting of Injunctive Relief Based on Policy Grounds.

Enjoining enforcement of a statute found to be unconstitutional is routine and noncontroversial, and that result should apply here. Plaintiffs' sought injunctive relief and prevailed on their claim that Sections (b), (c), and (d) violate the First Amendment. In fact, Defendants' own authority demonstrates why injunctive relief is necessary and appropriate.

Defendants rely on *Marie v. Mosier*, 122 F. Supp. 3d 1085, 1107–08 (D. Kan. 2015) (Crabtree, J.) to support their claim that an injunction here is unnecessary and improper. (Opp. at 7). But Defendants reveal only half of the story. In *Marie*, the Court entertained a constitutional challenge to Kansas' prohibition on same-sex marriage. *Id*. at 1090. While the defendants' motions to dismiss and the plaintiffs' motion for summary judgment were pending, the Supreme Court decided *Obergefell v. Hodges*, 135 S. Ct. 2071 (2015), finding state laws banning same-sex marriage unconstitutional. 122 F. Supp. 3d at 1092. In response, Kansas officials "assured the Court they [would] comply with *Obergefell* voluntarily." *Id*. at 1091; *see also id*. at 1107. Based on that assurance, the Court reached an interim conclusion that Plaintiffs' claim for injunctive relief was moot on account of voluntary cessation and (preliminarily) declined to enter an injunction. *Id*. at 1107. That is where (misleadlingly) Defendants end their discussion.

The Court went on to reverse itself and provide Plaintiffs with permanent injunctive relief. *Marie v. Mosier*, 196 F. Supp. 3d 1202, 1204 (D. Kan. 2016). The plaintiffs in *Marie*

submitted declarations that third-party same sex couples continued to have trouble having their marriages recognized by a variety of state officials. *Id*. at 1207. Relying on a variety of factors, the *Marie* Court issued the requested injunction; each factor the Court considered in that ruling is also applicable here.

First, *Marie* recognized that in the wake of *Obergefell*, "a majority of courts have continued to issue permanent injunctive relief (in addition to declaratory relief)" and declared it would "follow the majority approach." *Id*. at 1216–17 (collecting cases from seven other states). Similarly, the majority of courts weighing challenges to other Ag Gag laws have issued permanent injunctions against the laws' enforcement after finding that those laws violate the First Amendment. *See Animal Legal Def. Fund v. Reynolds*, No. 4:17-cv-00362-JEG, 2019 WL 1493717, at *3 (S.D. Iowa Feb. 14, 2019) (declaring Iowa Code § 717A.3A "violates the First Amendment to the United States Constitution and is therefore facially unconstitutional" and permanently enjoining "Defendants and their officers, agents, employees, attorneys, and all other persons who are in active concert or participation with them . . . from enforcing, through any action or omission or otherwise, Iowa Code § 717A.3A (2012) as currently drafted"); *Animal Legal Def. Fund v. Wasden*, No. 1:14-cv-00104-BLW, Dkt. 158, (D. Idaho Dec. 4, 2018) (finding Idaho Code Section 18-7042(1)(d) facially unconstitutional under the First Amendment and Idaho Code Section 18-7042(1)(a) facially unconstitutional under the First Amendment "to the extent that it prohibits a person who is not employed by an agricultural production facility from entering an agricultural facility by misrepresentation[,]" and permanently enjoining "[t]he defendant and his officers, agents, employees, attorneys, and all other persons who are in active concert or participation with him . . . from enforcing, through any action or omission or otherwise, Section 18-7042(1)(a) of the Idaho Code, to the extent that it prohibits a person who is

not employed by an agricultural production facility from entering an agricultural facility by misrepresentation, and Section 18-7042(1)(d) of the Idaho Code"); *W. Watersheds Project v. Michael*, 353 F. Supp. 3d 1176, 1191 (D. Wyo. 2018) ("order[ing] that the State of Wyoming is permanently enjoined from enforcing Wyoming statutes §§ 6-3-414(c) and 40-27-101(c) as both are in violation of the First Amendment of the Constitution of the United States of America"). After issuing a permanent injunction against enforcement of Iowa's first Ag Gag law, upon a challenge from Plaintiffs ALDF, CFS, and other nonprofits, the District Court for the Southern District of Iowa also issued a preliminary injunction barring the State Defendants from enforcing Iowa's follow-on second Ag Gag law, after the same coalition challenged its constitutionality. *Animal Legal Def. Fund v. Reynolds*, No. 4:19-cv-00124-JEG, Dkt. 41, at 42 (S.D. Iowa Dec. 2, 2019). Thus, as in *Marie*, "a majority of courts have continued to issue permanent injunctive relief" in Ag Gag litigation even after declaring the relevant statute unconstitutional. *Marie*, 196 F. Supp. 3d at 1216.

Second, the *Marie* Court recognized that a permanent injunction could prevent the need for serial litigation by third parties to obtain the same rights as the plaintiffs. *Id*. at 1218 ("And the court finds that permanent injunctive relief could prevent future same-sex married persons from having to do what the Smiths had to do—initiate a separate lawsuit and incur expenses to secure the equal treatment that *Obergefell* promises."). Here, as in *Marie*, an injunction would obviate the need for serial litigation. Plaintiffs are hardly the only animal welfare organizations that conduct undercover investigations of animal agricultural facilities nation-wide. Without an injunction against the enforcement of Sections (b), (c), and (d), these other organizations, including People for the Ethical Treatment of Animals,[3] Animal Equality,[4] Animal Outlook,[5] and

[3] *See* Investigations, PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, https://www.peta.org/investigations/ (last visited Feb. 20, 2020).

Mercy for Animals,[6] would be forced to bring cases establishing their own right to conduct investigations that would violate Sections (b), (c), and (d). Such litigation would not only be an unnecessary burden on the Court, but given the availability of attorneys' fees, it would also result in needless expense for the State.

Third, the Court found the defendants' own arguments suggesting the *Obergefell* ruling might have done less than guarantee equal treatment of all same-sex marriages with opposite-sex marriages "demonstrate[d] at least continuing resistance to *Obergefell*'s broad mandate" warranting a permanent injunction *Id*. at 1218. Again, as with *Marie*, the Defendants' own arguments made in opposition to Plaintiffs' motion for an injunction demonstrate resistance to the Court's ruling. For one, Defendants' statement that they believe there "are many instances" where they can still enforce the Sections (b), (c), and (d) (Opp. at 5), "demonstrate[s] at least continuing resistance to [the Court's] broad mandate," *Marie*, 196 F. Supp. 3d at 1218. As does Defendants' halfhearted assurance that "no prosecutions or action to enforce the involved statutes are contemplated *by these defendants* against plaintiffs or anyone *during any appeal*." (Opp. at 5 n.3) (emphases added). Defendants' resistance is further illustrated by their attempt to disclaim responsibility for the possibility that county or district prosecutors might still attempt to enforce Sections (b), (c), and (d)—even against Plaintiffs—(Opp. at 9), despite the Attorney General's role as the state's chief prosecutor and his statutory and common law power over local

---

[4] *See* The Power of Undercover Investigations, ANIMAL EQUALITY, https://animalequality.org/investigations/ (last visited Feb. 20, 2020).
[5] *See* Investigations, ANIMAL OUTLOOK, https://animaloutlook.org/investigations/ (last visited Feb. 20, 2020).
[6] *See* Undercover Investigations, MERCY FOR ANIMALS, https://mercyforanimals.org/investigations (last visited Feb. 20, 2020).

prosecutors and prosecutions. *See, e.g.*, *State v. Finch*, 128 Kan. 665, 674 (1929); K.S.A. §§ 75-702, 75-704.[7]

Defendants' other authority fares little better. *Blazier v. Larson*, 443 Fed. Appx. 334 (10th Cir. Oct. 4, 2011) (unpublished), was an unpublished decision decided without oral argument in a case brought by a pro se plaintiff. *Id*. at 335. The plaintiff was originally charged in state court with threatening a witness to a crime in retaliation against the witness testifying. *Id*. at 335–36. The county prosecutor eventually dismissed the charges and Blazier brought suit in federal court seeking, among other things, an injunction against the prosecutor in his official capacity "against future witness-retaliation charges." *Id*. at 336. The district court dismissed the case and the Tenth Circuit affirmed, finding that Blazier alleged no concrete threat of future enforcement, especially an unconstitutional one. *Id*. at 336–37.[8] The opposite is true here: this Court found that not only do Plaintiffs face a credible threat of enforcement under the statute, but also the provisions that they fear enforcement under are unconstitutional.

Finally, an injunction would not prejudice Defendants and they offer no argument that it would. If Defendants were going to abide by the Court's order and not enforce Sections (b), (c), and (d), an injunction would impose no additional burdens or prejudice. But because, as detailed above, Defendants' opposition indicates that Defendants believe they can continue to enforce

[7] And unlike *Marie*, Defendants here *never* voluntarily agreed not to enforce Sections (b), (c), and (d)—instead, it took an order from this Court—so this case lacks the voluntary cessation aspect that motivated even the initial decision in *Marie* on which Defendants rely. *Marie*, 196 F. Supp. 3d at 1107.

[8] Moreover, the Court's rejection of Blazier's claim was premised on principles of *Younger* abstention, not on disputes about the law's facial invalidity. *Id*. at 336-37 (*citing Younger v. Harris*, 401 U.S. 37, (1971)).

Sections (b), (c), and (d), a permanent injunction is required to protect Plaintiffs' First Amendment rights.[9]

Conclusion

For the reasons set forth herein, Plaintiffs respectfully request the Court grant their motion to amend the Memorandum and Order (Doc. #63) and Judgment (Doc. #64), and issue a permanent injunction barring the Defendants from enforcing K.S.A. § 47-1827 (b), (c) and (d), as proposed along with Plaintiffs' motion (Doc. #65).

Dated this 20th day of February, 2020

/s/ Michael D. Moss
Michael D. Moss, KS Bar #22624
Foley & Mansfield, P.L.L.P.
10740 Nall Avenue, Suite 242
Overland Park, KS 66211
913-232-8767
913-800-7238 (fax)
mmoss@foleymansfield.com

Alan K. Chen (*Pro Hac Vice)*
University of Denver Sturm College of Law
(for identification only)
2255 E. Evans Avenue
Denver, CO 80208
(303) 871-6283
achen@law.du.edu

Justin Marceau (*Pro Hac Vice*)
Of Counsel, Animal Legal Defense Fund

[9] In the alternative, should the Court deem an injunction against any enforcement of Sections (b), (c), and (d) to be inappropriate, Plaintiffs have at the very least demonstrated that they meet the test for an injunction as applied to themselves and to all similarly situated persons or groups that engage in undercover investigations of agricultural facilities in Kansas. This would prevent the Defendants from enforcing these provisions in exactly the type of circumstances this Court has deemed to be unconstitutional, would substantially, though not completely, alleviate the chilling effect of these provisions, and significantly limit the possibility of piecemeal litigation by other animal rights groups and others to challenge the application of the statute to them.

University of Denver Sturm College of Law
(for identification only)
2255 E. Evans Avenue
Denver, CO 80208
(303) 871-6449
jmarceau@law.du.edu

Matthew Liebman
Kelsey Eberly
Amanda Howell
(*Pro Hac Vice*)
Animal Legal Defense Fund
525 East Cotati Avenue Cotati, CA 94931
(707) 795-2533
mliebman@aldf.org
keberly@aldf.org
ahowell@aldf.org

Matthew Strugar (*Pro Hac Vice)*
Law Office of Matthew Strugar
3435 Wilshire Blvd., Suite 2910
Los Angeles, CA 90010
(323) 696-2299
(213) 252-0091 (fax)
matthew@matthewstrugar.com

David S. Muraskin (*Pro Hac Vice)*
Public Justice, P.C.
1620 L St. NW, Suite 630
Washington, DC 20036
(202) 861-5245
(202) 232-7203 (fax)
dmuraskin@publicjustice.net

George A. Kimbrell (*Pro Hac Vice*)
917 SW Oak St., Suite 300
Portland, OR 97205
(971) 271-7372
(971) 271-7374 (fax)
gkimbrell@centerforfoodsafety.org

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2020, I electronically filed the foregoing document with the clerk of the court by using the CM/ECF system which will send a notice of electronic filing on the following:

Dennis D. Depew
dennis.depew@ag.ks.gov
Arthur S. Chalmers
art.chalmers@ag.ks.gov

Counsel for Defendants

/s/ Michael D. Moss