



Whether they're taking on factory farms or shutting down puppy mills, The HSUS's litigation team is a powerful force in the push for a more humane world.

Litigating for Animals

Through lawsuits and other legal actions, the team puts factory farms, canned hunt operations, and other abusive industries on the defensive. They also help prosecutors win convictions in criminal cruelty cases. With each victory, they're adding precedents to the nation's case law—paving the way for future courtroom successes.

Strengthening the Law

Every year, the team drafts and analyzes more than 100 state and federal bills. "We're like the boomerang parents," says HSUS legislative counsel Mila Zain. "We build these statutes, we send them off to be enacted, and then they either come back in the form of a legal challenge to them or a need to take enforcement action, and sometimes both."

Raising the Bar

Through a clerkship program and courses at law schools, the team is training the next generation of animal law attorneys. Says corporate attorney and animal law professor David Wolfson: "For my law students, there are very few places that can compete with the experience of working as an animal protection lawyer at HSUS."

Building the Ranks

More than 3,000 attorneys—including future judges and legislators—donate thousands of hours to The HSUS's litigation work. "We reach out to lawyers in firms across the country who are learning how important these issues are, sometimes for the very first time," says HSUS senior vice president Jonathan Lovvorn.



THE TIPOFF CAME IN JANUARY

2008, 10 months before California voters would determine the fate of the most important farm animal reform in U.S. history.

Proposition 2—the Prevention of Farm Animal Cruelty Act—would eliminate the intensive confinement of 20 million egg-laying hens, breeding pigs, and veal calves in the nation’s most populous state. The HSUS and its allies had already spent months gathering signatures to qualify the measure for the November ballot. They were feverishly raising funds for the year of heavy campaigning ahead.

Acting on a tip from a colleague, The HSUS’s Ralph Henry picked up the latest issue of *Egg Industry* magazine and flipped to the headline “AEB Supports California Egg Battle.” The article reported that the American Egg Board—a government-run commodity promotion program—had earmarked \$3 million to fight the state ballot measure. And although federal law prohibits commodity boards from interfering with legislative battles, the USDA had approved the expenditure.

“We called the USDA and said, ‘What gives? They’re not allowed to do this,’” says Henry, deputy director of The HSUS’s Animal Protection Litigation section. “And the USDA denied it.”

A flurry of emails, letters, and phone calls ensued. Ed Schafer, USDA secretary at the time, wrote in one email: “We’ve had our lawyers—way too many of them—all over this issue too and have come to the conclusion that the Egg Board’s expenditures are proper. ... Do you think if you sue it will give ammo to those opposing your initiative measure to say that you are being unfair by not allowing those who think differently to express their opinions too?”

The HSUS refused to back down. “We all know how important TV buys and other advertising are in any legislative campaign,” Henry says. And this was an obvious attempt by the egg board to illegally funnel \$3 million to the opposition.

Through Freedom of Information Act requests, Henry and his colleagues pieced together the paper trail. It included what Henry calls their “smoking gun document”: an email exchange between the American Egg Board’s president and a program officer in the USDA’s agricultural marketing service. “The USDA person basically said, ‘Is this the \$3 million to oppose Prop 2?’ and the response was, ‘Yes, this is to oppose Prop 2.’”

By September, when HSUS attorneys squared off against government lawyers in U.S. district court, this series of emails would be known as Exhibit 12.

FULL COURT PRESS

The HSUS launched its Animal Protection Litigation section in 2005 with three lawyers and one purpose: to use lo-

cal, state, and federal laws to confront animal abuse. Within a year, animal use industries were feeling the pressure. “Livestock groups in the United States are facing many lawsuits from animal welfare groups,” reported one agribusiness publication. “... The major challenges are coming from the Humane Society of the United States.”

But it was during the Proposition 2 battle in 2008 that the litigation team, which had grown to a dozen attorneys, proved just how powerful an adversary The HSUS could be.

In their campaign to defeat the measure, large-scale egg producers claimed that their confinement facilities were good for communities and for the land. HSUS lawyers met with the neighbors of a San Joaquin Valley egg factory where ammonia levels were so high, says senior attorney Peter Brandt, “you just feel like somebody clobbered you with a bat.” A month before the election, The HSUS filed suit on behalf of the neighbors.

While factory farmers contended that legislation was unnecessary because their animals were already treated well, an HSUS undercover video revealed appalling abuses of sick and injured cows at a California slaughter plant. The legal team traced the meat to the national school lunch program and a government contract that barred the use of meat from downed animals. They launched a multimillion-dollar government fraud suit against the Hallmark/Westland slaughter operation.

In the case of the American Egg Board’s \$3 million, the team filed suit in late summer, carefully timed to preempt the release of the anti-Prop 2 ads. “We couldn’t just sue in February, win, and expect that that \$3 million wouldn’t get diverted to another group without us knowing about it,” says Henry. “We knew they wouldn’t put it in the *Egg Industry* journal next time.”

The judge reached a verdict in 15 minutes. In a written opinion, she chastised the USDA for its “unlawful meddling” with state legislation and barred the agency and the egg board from running the ads before the election.

RALPH HENRY Deputy Director

“Far too often, decisions are made based on politics and the fact that a well-funded or well-connected group has a lot more influence than animals do,” says Henry (shown here with his dog Oliver). “That’s a role The HSUS fills—to push back.”



Seven weeks later, when 8.2 million Californians voted in favor of Prop 2, the victory reflected more than a shift in public opinion over the treatment of farm animals. It was also evidence of a movement that was growing more savvy, more creative, and more focused in its legal strategy.

CLEAR AND CONVINCING EVIDENCE

Fifteen years ago, Jonathan Lovvorn was an attorney at a leading public interest law firm in Washington, D.C. “Sympathetic but uneducated” on animal protection issues at the time, he began doing “low-bono”—reduced rate—work for The HSUS, starting with a lawsuit that blocked the USDA from killing thousands of Canada

geese in Virginia. “Once we won that first case, I was excited to do more,” he remembers.

By the time he was recruited to serve as chief counsel of the new Animal Protection Litigation section, Lovvorn had won nearly a dozen animal protection cases, including ones to protect whales, bison, and bears. He knew what he and his small team would be up against.

Animal protection issues are scarce in the nation’s case law. Without clear precedents to guide them, judges tend to rule in favor of protecting the status quo, he says.

But Lovvorn also knew that government agencies, under the influence of the agriculture lobby and other animal-use industries, were often ignoring or watering down animal protection laws. Factory farmers, puppy mill owners, canned hunting operators, and others were committing a range of violations. A group of litigators dedicated to these issues could right a lot of wrongs.

One of the team’s first actions was to resurrect the nation’s oldest federal animal protection law. Enacted in 1873, the Twenty-Eight-Hour Law states that “a rail carrier, express carrier, or common carrier ... may not confine animals in a vehicle or vessel for more than 28 consecutive hours.” After this amount of time, transporters must unload animals and allow them to eat, drink, and rest for five hours.

The language and intent of the law were plain. But the USDA had excluded trucks—used in 95 percent of farm animal transport—from the definition of “common carrier.” Their justification: Since trucks didn’t exist in 1873, the Twenty-Eight-Hour Law didn’t apply to them.

The argument “was completely absurd,” Lovvorn says. But that’s the way it stood for decades until HSUS attorneys filed a petition and threatened to sue. “And the agency said, ‘You know what, it does apply.’”

LEGAL AID

Today the Animal Protection Litigation staff consists of 18 full-time lawyers and one assistant. It’s still a lean operation by any standard. Most of the attorneys work in a narrow building in downtown Washington, D.C., occupying a handful of tiny offices and a jumble of gray cubicles. There are no paralegals, no secretarial pool, no research library, and no sabbaticals. What there is is a lot of work.



PETER PETERSAN & **JONATHAN LOVVORN**
Director & *Senior VP*

Working in animal law requires patience and perseverance, says Lovvorn (right). “A legal campaign is always a multiyear effort. But in the end, we usually prevail.” The team’s success is partly due to its pragmatic approach, Petersan says. “We like to bring concrete cases to get concrete results for animals.”

LEGAL VICTORY HIGHLIGHTS

2005

- ✓ Convince prosecutor to file first-ever animal cruelty charges against an egg farm for smothering live chickens in a dumpster
- ✓ Defeat court challenge to federal animal fighting law
- ✓ Launch partnership with Georgetown University Law Center



2006

- ✓ Force USDA to limit long-distance farm animal transport
- ✓ Halt lethal research on Steller sea lions
- ✓ Block expansion of sport hunting at national wildlife refuges
- ✓ Defeat series of court challenges to Oregon laws banning baiting, hounding, and canned hunting

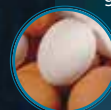


2007

- ✓ Win three court cases that end horse slaughter for human food in the U.S.
- ✓ Force Florida Department of Agriculture to issue new health rules for dogs in puppy mills
- ✓ Block mountain lion hunting in Arizona
- ✓ Protect three endangered whale species from drowning in fishing gear entanglements

2008

- ✓ Help prosecutor win groundbreaking cruelty convictions of two Hallmark/Westland slaughter plant employees
- ✓ Block illegal federal government plan to spend millions to defeat California’s Prop 2 farm animal ballot measure
- ✓ Force USDA to expand regulations banning slaughter of downed cows



GINA TOMASELLI
Staff Attorney

As an HSUS law clerk, Tomaselli (shown here with her dog Bruno) once worked 48 hours straight drafting a 70-page petition to the USDA on veal calf slaughter: "Up until that point, it was maybe the most important thing I'd done in my life." Today, Tomaselli focuses on puppy mills and other cruelty issues. Read a profile of her off-hours pit bull rescue work at humansociety.org/allanimals.



firm has worked in the field since the early 1990s and hasn't seen anything like it: "I'm convinced they're doing the best and most important work in a big way and nobody else could manage it without having that department," he says. "[They're] using a lot of new concepts ... and really pushing things forward."

If the team has a secret weapon, it's people like Wagman, David Wolfson, and Eric Bernthal, three of the 3,000 attorneys who last year provided more than \$4.5 million in free legal services to The HSUS.

"You introduce the right people to [Lovvorn] and his team, and they see the type of work they can do on a pro bono basis and they want to do it," says Wolfson, a partner with Milbank, Tweed, Hadley & McCloy. Bernthal, a partner with Latham & Watkins, was so impressed with HSUS staff and their goals that a year after starting pro

"We're talking about animal issues in all 50 states 24 hours a day," says Peter Petersan, director of the litigation section.

"When things stop on the East Coast, they keep going on the West. And in some ways, we're still just scratching the surface."

On any given day, the team, helped by pro bono attorneys and law student clerks, is juggling more than 30 cases around the nation. (They recently added international law experts to address animal protection issues globally.) They're also identifying potential new court actions; petitioning agencies to enforce laws; helping prosecutors win cruelty convictions; and drafting, reviewing, and defending state and federal animal protection legislation.

Where humane laws are weak—as they often are—the team delves into other areas of the law, including tax evasion, antitrust, consumer protection, and government fraud. Their creativity has broken new ground: the first class action lawsuit against a puppy mill retailer, the first cruelty convictions of slaughterhouse workers in the U.S., the first government fraud suit based on inhumane treatment of animals.

Animal law specialist Bruce Wagman of the Schiff Hardin law

bono work for the organization, he joined its board of directors.

With some of the nation's most respected law firms by their side, the HSUS legal team is rarely underestimated, Bernthal says. "The goal is not to be confrontational or litigious if we can work it out. But the threat of being able to come with some of the best legal resources in the country—and for our adversaries to know that even if it involves an expensive, sustained effort, we will fight it—is of immense value."

SETTING A PRECEDENT

All litigators have their war stories. For Ralph Henry, it's the December 2009 weekend a snowstorm hit the D.C. region. Henry and four other attorneys were rushing to produce documents for a lawsuit against retailers for falsely advertising and labeling fur garments. The metro shut down. Staff slept in the office or camped out at a colleague's apartment seven blocks away. They hiked up 21st Street through more than a foot of snow, toting file boxes and

THIS SPREAD: LOVVORN, PETERSAN, AND TOMASELLI: MEREDITH LEE/FORTHE HSUS; TIMELINE: FROM LEFT: STEVEN MAZLOWSKI/SEAPICS.COM; CHUCK COOM/FORTHE HSUS; VIKTORI PRYIMACHUK/ISTOCKPHOTO; THE HSUS; DAVID PARSONS/ISTOCKPHOTO; MICHELLE RILEY/THE HSUS

2009

- ✓ Shutter major Florida puppy mill dog seller
- ✓ Block government policy allowing canned hunting of endangered species
- ✓ Stop U.S. Postal Service and Amazon.com from shipping animal fighting paraphernalia
- ✓ Block sport hunting of endangered wolves in six states



2010

- ✓ Block sale of raccoon dog fur at dozens of major retail stores
- ✓ Win major federal pollution lawsuit against the nation's largest foie gras producer
- ✓ Win court ruling upholding local government authority to require humane standards for dog breeders
- ✓ Halt killing of sea lions at Bonneville Dam on the Washington-Oregon border

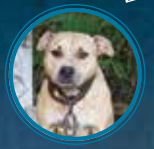


2011

- ✓ Win \$500,000 jury verdict for neighbors of California egg factory farm
- ✓ Win Federal Trade Commission ruling requiring major restaurant chain to hold shareholder vote on farm animal practices
- ✓ Defeat court challenge seeking to reinstate trophy hunting of endangered polar bears
- ✓ Block expanded sport hunting at Prime Hook National Wildlife Refuge in Delaware

2012

- ✓ Secure felony conviction in first-ever private prosecution of dogfighting in Ohio
- ✓ Defeat lawsuit seeking to overturn California's Prop 2 farm animal reform
- ✓ Win court order blocking expanded off-road vehicle use and hunting in Florida's Big Cypress National Preserve
- ✓ Win ruling upholding new federal animal fighting law





AKISHA TOWNSEND
*Assistant
Legislative Counsel*

Advancing strong legislation is vital to animal protection, says Townsend: "There is so much work to be done. There are a lot of places where laws protecting animals don't even exist. Most people would assume otherwise." Townsend also mentors animal law students at her law school alma mater, Georgetown University, and promotes animal protection issues in her church.

laptops wrapped in trash bags, because "the court's deadlines don't care if you have Snowmageddon happening," Henry says.

These are the stories the attorneys laugh over when they get together for happy hour. But they're also one reason for the team's 75-percent success rate—much higher than the typical public interest practice. "We're not doing this just for a paycheck," says senior attorney Kimberly Ockene, "whereas people who work defending cruelty are largely just motivated because it's their job."

High achievers from the nation's top law schools, HSUS attor-

neys have chosen a different path from the typical suits-and-torts crowd. Many entered law school for the sole purpose of using their degree to help animals. Others discovered animal protection issues while in school and quickly changed career direction.

In return, they get work that is meaningful and challenging but seldom glamorous. Lacking paralegals or research librarians, they work up most cases from scratch. This could mean two days spent in the USDA's agricultural library—"the most boring place on earth," Henry calls it—to prepare for a case on poultry slaughter. Or hours watching harrowing footage from an undercover investigation and documenting violations of the law. Or poring through old texts like the 1921 treatise *The Fur Trade of America* that sits on Henry's desk.

Deadlines and stress are ubiquitous, and all-nighters are common. And the lawyers earn a fraction of the salary they could make elsewhere. "A lot of us have had to enter into forbearance programs for our student loans," Henry says, "and some people are paying interest only."

The hardships are real, Lovvorn acknowledges. But "everybody sleeps pretty well at night about the work that they do."

"At the end of the day, it comes down to this," he adds. "The people who have a vested interest in abusing animals are represented by the best and brightest of the legal bar, and what we've tried to do in developing this unit and partnering with major law firms pro bono is to make sure the animals have that same quality of representation." ■

MEREDITH LEE/FOR THE HSUS



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