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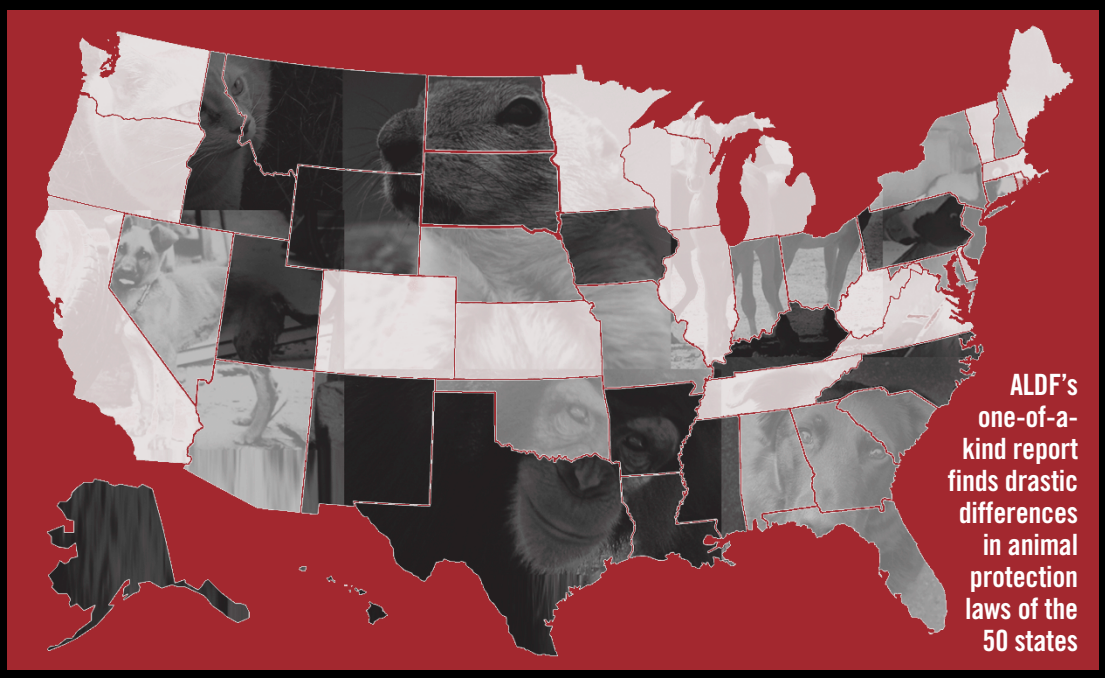
Animal Legal Defense Fund
WINTER 2007
THE ANIMALS' ADVOCATE
A NEWSLETTER FOR SUPPORTERS OF THE ANIMAL LEGAL DEFENSE FUND





ALDF's one-of-a-kind report finds drastic differences in animal protection laws of the 50 states

The State of Protection

Cruelty laws across the nation: How does your state stack up?

IF THERE'S ONE GOOD THING to come from the headline-grabbing Michael Vick dogfighting case, it's the wider spotlight focused on animal cruelty, which so often occurs behind closed doors. The case has also helped the public see how animal abuse laws—like the laws addressing animal fighting specifically—can differ widely from state to state. To acknowledge those states where animal laws have real teeth, and call attention to those giving anti-cruelty laws mere lip service, the Animal Legal Defense Fund recently published its second annual report on the best and worst states in which to be an animal abuser.

Although every state in the U.S. has laws on its books prohibiting the mistreatment of animals, these laws can vary dramatically. ALDF ranks the states of the union, along with the District of Columbia, on the relative strength and general comprehensiveness of their animal protection laws. This one-of-a-kind report is based on a detailed comparative analysis of the animal protection laws of each jurisdiction and groups states into a top, middle or bottom tier, and recognizes the five states with the toughest laws while calling out the five states with the weakest.

The five states with the ignoble distinction of having the worst animal protection laws this year are Alaska, Arkansas, Kentucky, North Dakota and Utah, with Kentucky at the very bottom. Their failings on behalf of animals are ripe for reform. Most of these states, for example, do not have felony animal cruelty provisions, and the one that does, Kentucky, applies it on select

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LETTER FROM THE EXECUTIVE DIRECTOR

Me and the other "Steve," a Jack Russell Terrier rescued from the home of Barbara and Robert Woodley

A Victory for Hope

ON APRIL 13, 2005, I FOUND MYSELF ANXIOUSLY WAITING in a giant brick factory building that had not seen use in decades in Sanford, North Carolina. About two dozen others waited with me. We took care of last minute preparations and confirmed and reconfirmed procedures.

The factory had become the Halls of Hope, a hastily and lovingly constructed sanctuary, and we waited there for the arrival of the refugees. And they came—325 of them ultimately—dog refugees saved from unthinkable cruelty at the home of local puppy mill operators Barbara and Robert Woodley.

When they arrived, these fortunate survivors were cataloged, given thorough medical exams and shots, fed, and put into 10 foot square kennels equipped with warm dog beds, blankets and toys for each dog. Their journey out of hell was over.

The journey began with *ALDF v. Woodley,* a historic lawsuit filed by the Animal Legal Defense Fund to enforce North Carolina's cruelty law. ALDF's victory meant that the dogs were freed and placed with "temporary" foster families, but the Woodleys appealed and appealed again. Little did we know that the final legal victory would take two and half more years!

Logging in V022, now "Major"

But, it's over now. On October 11, 2007, the North Carolina Supreme Court upheld ALDF's victory, and the dogs are free forever.

So, this holiday season, please join ALDF in celebrating a momentous legal victory—as well as a new and better life for 325 abused dogs. As an ALDF member, please know that you are every bit as much a part of this victory as the volunteers, lawyers and veterinarians who found themselves in a Sanford factory that day in 2005. We could not have done it without you.

Happy Holidays!

Stephen Wells
Executive Director

PS: For updates on how Steve (the dog) and some of the other Woodley rescues are doing with their new families, visit www.aldf.org.

FOR THE RECORD

"Many good products are made from kangaroos harvested legally under Australian law and the federal Endangered Species Act and those products should be allowed to be on the California market"

—Arnold Schwarzenegger spokesman Aaron McLear, after the California governor signed a bill that will allow the sale of kangaroo products in the state for the first time in more than three decades.

Animal Legal Defense Fund

Stephen Wells *Executive Director*

NEWSLETTER STAFF

Lisa Franzetta *Editor*
Mark Hawthorne *Contributing Writer*
Stephen Farley Design *Newsletter Design*

The Animal Legal Defense Fund is a nonprofit organization funded almost entirely by individual, tax-deductible contributions. If you would like more information about our work, are interested in joining, or wish to notify us of a change of address, write to the address on back, email us at info@aldf.org, or call (707) 795-2533.

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Animal Legal Defense Fund

Taking the Bite out of Animal Fighting

ALDF pushes for better tools for prosecutors

ALTHOUGH ANIMAL FIGHTING IS ILLEGAL in all 50 states, the Animal Legal Defense Fund is working to make such crimes easier to prosecute and punishable by stronger penalties. ALDF has drafted a recommended amendment to state laws that would enable prosecutors to charge dogfighters under the respective state's Racketeer Influenced and Corrupt Organization Act (commonly referred to as "RICO") statute.

Looking first to revise the law in Virginia and Georgia, currently in the national spotlight because of the now-infamous Michael Vick case, ALDF also has plans to push for a RICO amendment at the federal level.

Applied to animal fighting, RICO – which was originally designed to be a weapon against a wide variety of organized criminal efforts, including drug dealing and gambling – would give prosecutors in dogfighting cases increased powers in seeking justice for the animals abused. If Michael Vick's charges had been part of a RICO case, the authorities could have seized the Surry County, Virginia house he used for his kennel operations and dogfights—a house he sold for well below market value shortly after the first search warrant was executed. What's more, in Virginia, a first conviction for racketeering carries a maximum 40 year sentence; on its own, dogfighting is a "class 6" felony, allowing for only a five year maximum sentence.

Thirty-two states currently have RICO laws, and several of these states have RICO predicates that include offenses for gambling or money laundering (both of which are commonly associated with organized dogfighting operations), but they fail to include dogfighting. Only Oregon specifically incorporates dog-on-dog fighting into its list of crimes that can trigger a RICO case. An amendment such as the one ALDF is proposing could eventually be applied to each of the 32 states with RICO laws, as well as to federal law.

The majority of dogfighting cases are discovered as a collateral matter to some other type of criminal investigation, such as a drug case, a gambling investigation or simply in response to a 911 dispatch to a domestic disturbance.

Bringing a RICO case gives a state prosecutor a host of significant advantages when compared to the underlying crimes, including:

- Extending the statute of limitations
- The ability to employ investigative techniques that would not otherwise be available for the underlying predicate crimes (e.g., in Oregon, a prosecutor cannot get a wiretap order in a dogfighting case, but he or she can get a wiretap order in a RICO case where the underlying predicate acts involve dogfighting)
- Pre-conviction "seize and freeze" of defendant assets
- Longer sentences, both in terms of the actual length of incarceration and the duration of post-prison supervision or probation
- Larger fines
- Forfeiture of the assets used in the illegal activity and the gains generated from the criminal enterprise.

ALDF is now actively seeking legislative support for the proposed amendment among Virginia lawmakers, and we are pushing for a similar amendment in Georgia, home of Vick's Atlanta Falcons. "We are working with local organizations and individuals in both states," says Stephan Otto, ALDF's director of legislative affairs, "including student chapters of ALDF [SALDF] and ALDF member attorneys."

In addition to these state amendments, "the federal RICO Act could – and should – be amended to include any animal fighting activity as a predicate act," says Scott Heiser, director of the Criminal Justice Program for the Animal Legal Defense Fund. "Such activity includes sponsoring or exhibiting a fight, transporting animals for a fight, buying or selling animals for a fighting venture or using the U.S. Postal Service to promote animal fighting."

"Adding dogfighting as a RICO predicate would give law enforcement and prosecutors an additional tool, and strong incentive, to start directly targeting organized dogfighting rings – not to mention that it would send a very strong message to the dogfighting community that the stakes just got substantially higher," adds ALDF Executive Director Stephen Wells.

PETAL-PUSHING PARTNERS

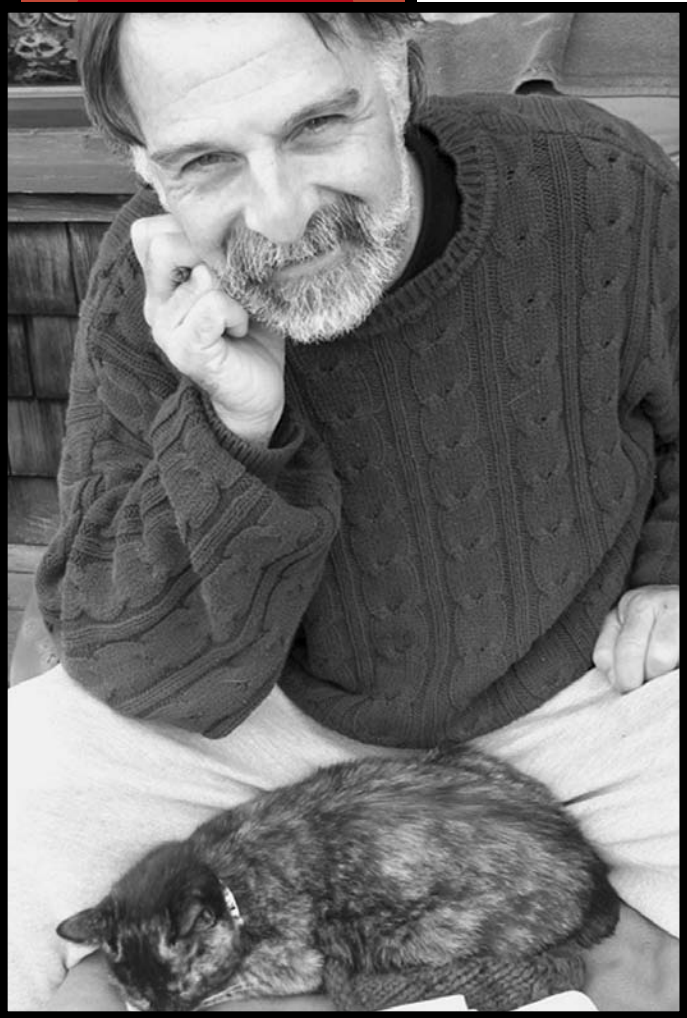
Just in time for the holidays! ALDF has teamed up with Organic Bouquet, which offers a beautiful assortment of sustainably grown flowers, handcrafted wreaths, decorative plants and other gifts that have been created using ethical farming practices. There's even a special "ALDF Bouquet" of long-stemmed, sunset-colored roses. With every purchase made using the dedicated ALDF link on their website, Organic Bouquet will donate 10% of the purchase price to the Animal Legal Defense Fund. Celebrate the season with compassion, and visit www.organicbouquet.com/aldf to add a touch of beauty to any home.

A Friend of Animals… And the Courts

Amicus curiae *briefs provide judges with an expert animal law perspective*

THE ANIMALS' ALLY

Zema cozies up with Bruce Wagman, author of ALDF's amicus brief in the West Hollywood declawing case



WHEN THE CALIFORNIA APPELLATE COURT upheld the City of West Hollywood's ban on cat declawing last June, it was not only a victory for animals – it spotlighted the important role amicus briefs can play in litigation.

West Hollywood had enacted an ordinance prohibiting the painful, non-therapeutic declawing of domestic companion cats in 2003, but the California Veterinary Medical Association sued the city, arguing the ban was preempted by state law regarding the practice of veterinary medicine. Bruce Wagman, ALDF's chief outside litigation counsel, stepped in, helping to draft a document – an amicus brief – that demonstrated to the Court how public policy against animal cruelty, the documented scientific evidence with respect to declawing, and the city's right to legislate what it deemed to be "cruel" within its borders all supported West Hollywood's ordinance.

The brief informed the Court that, contrary to most people's understanding, declawing is not a simple cosmetic procedure, but ten painful surgeries that involve removing not only the claw but also all or part of the last bone and connecting tendons and ligaments on a feline's paw. West Hollywood's ordinance declares that the "mere convenience [of declawing] to the pet's guardian does not justify the unnecessary pain, anguish and permanent disability caused [to] the animal."

Thanks to this precedent-setting case, and some help from ALDF, cities in California can now prohibit cat declawing without breaching state law.

Anyone with a little knowledge of Latin may guess that "amicus" means "friend." "Amicus curiae" translates as "friend of the court," and amicus briefs are filed by someone who is not a party to the case but who has an interest in the court's decision. Such briefs may inform the court of factual or legal matters pertaining to the case and assist the judge in reaching a decision.

Bruce was instrumental in preparing another ALDF friend of the court brief recently, on behalf of Vegetarians International Voice for Animals (VIVA!) in an action challenging sportswear maker Adidas' use of kangaroo skins in its shoes and gloves sold in California.

The importation and commercial sale of kangaroo skin and meat into California had been illegal since 1971, though this law had not been strictly enforced. In 2003, VIVA! filed suit against Adidas and three retailers that had been flouting the law, citing the state prohibition. Adidas argued that state law is preempted by the federal Endangered Species Act, even though that law does not include three kangaroo species used to make soccer shoes. The trial court and court of appeals agreed with Adidas, but VIVA! brought the case to the California Supreme Court. ALDF's amicus brief, which Bruce wrote with pro bono counsel Lisa Pisciotta, cited the extreme cruelty involved in the killing of kangaroos, as well as the importance of anti-cruelty laws and the states' rights to enforce animal protection statutes. The justices responded by unanimously rejecting Adidas' argument that federal law preempts a California ban on products made from the Australian marsupials.

Update: We regret to report that, despite intense public opposition, in mid-October Governor Arnold Schwarzenegger signed a bill making the sale of kangaroo skin legal in California for the first time in over three decades—a huge step backwards for animals. The Governor, an aficionado of animal-skin boots, removed alligator and crocodile skins from a state list of banned products last year.

State of Protection

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repeat offenses involving only specific types of animals.

Among the changes over last year, Hawaii and Idaho have moved off the list of the five states with the worst laws, though they still have plenty of room for improvement and are listed in the report's bottom tier.

"We saw some significant gains by a number of states this year," says Stephan Otto, ALDF's director of legislative affairs and author of the report. "However, there are still important areas for improvement in every state's laws, even for those states currently ranked in the top tier. It is our hope that this report will help draw attention both to the states who are leading the country with their strong animal protection laws, as well as to those states at the lower end of the ranking – states with laws that are plainly incapable of adequately protecting animals."

This year's "best five for animals" list, meanwhile, remains unchanged from the 2006 list, with California, Illinois, Maine, Michigan and Oregon demonstrating through their laws the strongest commitment to combating animal cruelty. Among their many strengths, all of these states can impose felony penalties for animal cruelty and principal protections there apply to all, or the majority of, animals in the state, regardless of whether they are owned by someone, or are non-companion or other types of animals.

Rounding out the top-tier states are Colorado, Delaware, Kansas, Massachusetts, Minnesota, Rhode Island, Tennessee, Vermont, Virginia, Washington, West Virginia and Wisconsin. Congratulations and thanks to all these high-ranking states, which continue to demonstrate their commitment to fighting animal cruelty.

To all the bottom-tier states – Alaska, Arkansas, Hawaii, Idaho, Iowa, Louisiana, Kentucky, Mississippi, Montana, New Mexico, North Carolina, North Dakota, Pennsylvania, South Dakota, Texas, Utah and Wyoming – while a few of you have made some improvements over the past year, there is still much more that can be done. Now is the time to stand up to animal abuse and enact strong, comprehensive protections.

For a copy of the full rankings report, visit aldf.org.

NOW AVAILABLE...

New Edition of *Animal Protection Laws* Yours for FREE at aldf.org!

The Animal Legal Defense Fund's work for animals is spreading to our northern neighbors. At press time, we're doing the final tallying in an all-new report ranking Canada's anti-cruelty laws—check aldf.org for up-to-the-minute details. ALDF's Animal Protection Laws of the United States of America & Canada, also by Stephan Otto, has expanded with its brand new third edition to include Canadian laws. This must-have resource is ideal for lawyers, law professors, law students, legislators, other legal professionals and anyone who wants the most comprehensive animal protection laws collection of its kind available.

Weighing in at nearly 2,900 pages, the latest edition of this compendium contains a detailed survey of the general animal protection and related statutes for all of the states, and for the first time ever, all principal districts and territories of the United States of America, and for all of Canada. It also includes up-to-date versions of each jurisdiction's laws, fully searchable content and easy, clickable navigation. Categories presented in a quick-reference table and full-text statutory section include:

- General prohibitions
- Animals covered by definition
- Classification of crimes
- Penalties (including a table of maximum penalties)
- Exemptions
- Counseling / Evaluations
- Community Service
- Restitution / Reimbursement of Costs / Bonding & Liens
- Seizure / On-site Supervision
- Forfeiture / Possession
- Cross Enforcement / Reporting
- Veterinarian Reporting / Immunity
- Law Enforcement Policies
- Sexual Assault
- Fighting
- Full-text of all referenced statutes

To download a complimentary copy of this edition, or to order a CD version, please visit aldf.org.

START WITH YOUR STATE:

Every state's anti-cruelty laws have room for improvement, and you can make a difference! Check our second annual report at aldf.org to see how your state's laws rank. Then contact your elected officials to express your support for even stronger laws – especially if your state is among those ranked in the middle or bottom tiers. No matter where you live, your voice can make a difference in the lives of animals.

Historic California Ballot Measure Launched

Animal protection organizations make united push to ban abusive factory farming practices

THE ANIMALS'

CALIFORNIA RESIDENTS, TAKE ACTION:

California residents, take action! Your help is urgently requested in this historic campaign. To join the team of volunteers needed immediately to gather the 650,000 signatures required to make this initiative a reality in California, contact:

Californians for Humane Farms
6311 Van Nuys Blvd; PMB 438
Van Nuys, CA 91401
www.humanecalifornia.org
director@humanecalifornia.org

A sow peers from a gestation crate at the massive California pig farm "Corcpork," currently being sued by ALDF for violating state cruelty law.

A HISTORIC BALLOT INITIATIVE IS NOW fully underway in California to outlaw the cruel and intensive confinement of pregnant pigs, veal calves and egg-laying hens on industrialized factory farms. Volunteers all over the state of California are working to gather a goal of 650,000 signatures by February 22nd, 2008 to place a measure on the 2008 November ballot. Endorsed by ALDF, Californians for Humane Farms is sponsored by The Humane Society of the United States, Farm Sanctuary, and other animal protection groups, family farmers, veterinarians and public health professionals.

For decades, California's farmers raised animals in a humane manner – allowing them access to the outdoors and the ability to engage in their natural behaviors. Today, many family farmers have been displaced by corporate farming interests, and it's common for the corporate farmers to discard common sense animal husbandry standards and instead to raise some animals in intensive confinement – so severe that the animals cannot even turn around in their cages or crates. The extreme overcrowded conditions cause suffering for the animals while polluting the air, contaminating groundwater and threatening human health. This ballot initiative will restore California's tradition of humane farming and protect animals, the environment and human health.

The veal crate is well known as one of the most cruel and deplorable animal husbandry techniques used today. Young calves are kept in tiny stalls, purposely confined so intensely that they are not even able to turn around or extend their limbs. Because they are so tightly confined, research has shown that these calves exhibit abnormal coping behaviors associated with stress and fear. These behaviors include head tossing, head shaking, kicking, scratching and stereotypical chewing. After 16-20 weeks, these weak animals are sent to slaughter for veal.

BATTERY CAGES

California has approximately 19 million egg-laying hens. The vast majority of them are confined in cages so small they can barely move. In fact, each caged hen has less space than a sheet of letter-sized paper on which to live for more than a year before she's slaughtered.

These birds are crammed in filthy, barren battery cages where they can't even spread their wings. With no opportunity to nest, dust bathe, perch, and walk, these birds endure lives filled with suffering. Poultry scientist Dr. Ian Duncan states unequivocally: "Battery cages for laying hens have been shown (by me and others) to cause extreme frustration particularly when the hen wants to lay an egg. Battery cages are being phased out in Europe and other more humane husbandry systems are being developed."

Equally cruel and inhumane is the way female breeding pigs are treated on factory farms. Breeding sows are confined in barren metal cages for almost their entire lives. During their pregnancies, the sows are severely restricted in individual "gestation crates" measuring just two feet wide. Like the veal calves, they are unable to exercise, turn around or even extend their limbs. After giving birth to an average of five or six litters of piglets in 4 years, the sows are sent to slaughter as well.

Both veal and gestation crates are so cruel that they have been outlawed in several other countries. And, in fact, the gestation crate was outlawed through a precedent setting citizen initiative in Florida in 2002, and both veal and gestation crates were banned through initiative in Arizona in 2006. Concerned Californians now have a crucial opportunity to outlaw the veal and gestation crate and the battery cage in their state by placing a measure on the ballot for the 2008 election.

ASK JOYCE

Dear Joyce:

I recently read about a case in which hundreds of animals were left to starve to death, but the prosecutor didn't bring charges. Why does that happen, and what can I do to change it?

Dear Reader:

Prosecutors have discretion about whether or not to file criminal charges, and the decision not to file charges may be a result of one or several factors. The prosecutor may lack the admissible evidence (facts) that he or she needs to prove, beyond a reasonable doubt, that a crime was committed by the person identified as the perpetrator. That may be due to a poorly handled investigation, destruction of evidence, lack of witnesses or something else that was beyond the prosecutor's control. Prosecutors are under pressure to win cases and, at the same time, are often overworked and understaffed. Since animals don't vote, animal abuse cases often get overlooked. Finally, some activities are not subject to prosecution: the majority of states specifically exempt the raising of farmed animals from the protections of the anti-cruelty laws, some states exempt animals used in research, entertainment, etc.

Let's focus on what you can do. When you hear about a specific case of cruelty occurring in your community:

1) Send a letter to the prosecutor and express your expectation that his or her office will prosecute this and other animal cruelty cases in an aggressive manner;

2) If the prosecutor files charges, send a letter thanking him or her, and ask the prosecutor to seek a conviction and strong sentencing;

3) In your letters, mention ALDF's Criminal Justice Program, and encourage the prosecutor to contact ALDF for free assistance and other resources;

4) Write a letter to the editor of your local newspaper, refer to the cruelty investigation (or case, if charges have been filed) and stress that cruelty to animals is a crime that must not be tolerated in a civilized society;

5) Prosecutors are elected officials, so help us make cruelty a political issue. During an election, ask each candidate whether he or she will prosecute cruelty cases and if not, why not.

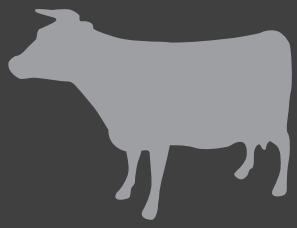
6) Go to our website, www.aldf.org, click "Act Now" and go to our Actionline for a list of current cruelty cases in which we need you to send letters, e-mails or make calls;

7) To learn more about what you can do, read ALDF's publication *Legal Advocates' Manual for Animal Abuse Cases*, available at ALDF's online store at www.cafepress.com/aldf/2855346.

By following these suggestions, you can do a lot to protect animals in your own community and around the country. Help us to "act now" for the animals!

—Joyce

If you have a question you would like to see answered in The Animals' Advocate newsletter, email Joyce Tischler, ALDF's founding director, at: askjoyce@aldf.org, or write to "Ask Joyce," Animal Legal Defense Fund, 170 East Cotati Avenue, Cotati, CA 94931. We regret that we are unable to publish answers to all questions. This column provides general information only. Each state and, in some cases, each county has its own rules and procedures, so please consult a local attorney to assure that you receive advice specific to your jurisdiction.



Save This Baby!

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suit against the calf ranch in California Superior Court in June of last year.

While ALDF waits for the court to provide relief for these calves (*ALDF v. Mendes* is currently on appeal), we've launched a consumer campaign to "Free Baby Mendes" targeting Land O'Lakes and Challenge Dairy, two of the large dairy companies that use milk from calves confined as babies at the California facility. Because of the volume of cheese, butter and other dairy products they produce, Land O'Lakes and Challenge Dairy have influential voices in the industry, and they are in a powerful position to urge Mendes Calf Ranch to end the cruel and unlawful confinement of calves immediately.

Student ALDF (SALDF) chapters at law schools across the country are busy campaigning on this issue, and we've created a special website—www.FreeBabyMendes.com— to spread the word. At press time, nearly 20,000 consumers outraged by the abuse baby cows are enduring at Mendes Calf Ranch have signed on to our letter calling on Land O'Lakes and Challenge Dairy to condemn this intensive confinement and break ties with any suppliers using Mendes to raise their calves.

WANT TO HELP?

It's as Easy as 1-2-3:

1. Visit our online campaign at FreeBabyMendes.com.

2. Click on the "Take Action" link to sign ALDF's letter to Land O'Lakes and Challenge Dairy and learn about what else you can do to fight animal cruelty in the dairy industry.

3. Click on the "Tell-A-Friend" link to spread the word to friends and family so they, too, can ask Land O'Lakes and Challenge Dairy to refuse to purchase from dairy suppliers subsidizing the abuse of baby cows Mendes Calf Ranch.

THE ANIMALS' ADVOCATE

Animal Legal Defense Fund

170 E. COTATI AVE.
COTATI, CA 94931
www.aldf.org

INSIDE

Please Help This Baby!

THE "HAPPY COW" – A CONTENTED, pasture-raised bovine living with her kin on a bucolic farm – is such a successful marketing ploy that most consumers don't think twice about where their milk, butter or other dairy products really come from. Unfortunately, the newborn calves at Mendes Calf Ranch in Tulare County, California, are living in circumstances that are anything but happy.

As ALDF discovered, the Mendes facility keeps approximately 12,000 calves in cramped, filthy crates – often without enough room to turn around or lie down naturally – for the first two months of each calf's life. This cruel practice is in direct violation of Section 597(t) of the California Penal Code, which states that animals in confinement shall be provided with an "adequate exercise area." Since Mendes' treatment of the calves is per se illegal, ALDF filed

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