



# WELCOME!

6<sup>TH</sup> ANNUAL STUDENT CONVENTION

FRIDAY NOVEMBER 4, 2022

**Trish Conlon**

Juris Doctor, 2022

Willamette University College of Law



ANIMAL LEGAL DEFENSE FUND **STUDENT CONVENTION 2022**

# From the Civil War to Civil and Animal Rights

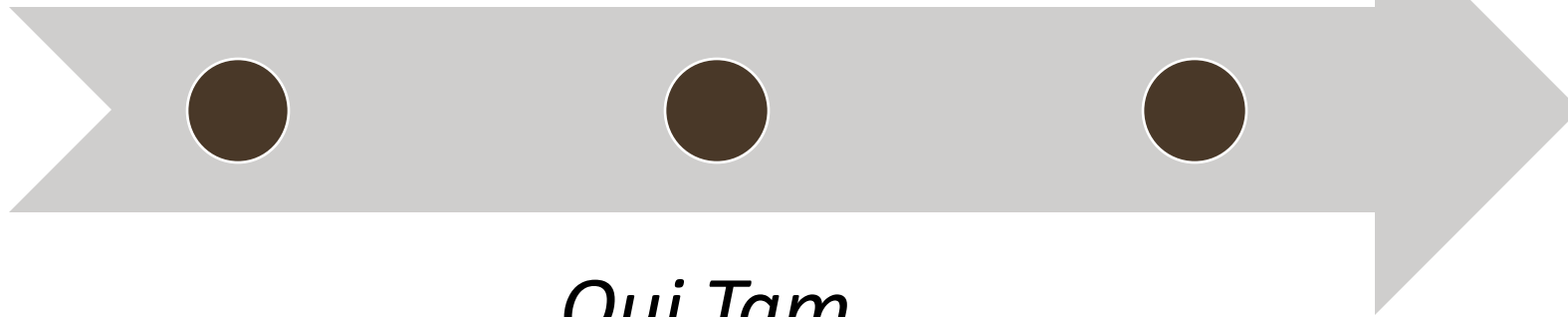
“May all that have life be delivered from suffering.”  
-Buddha



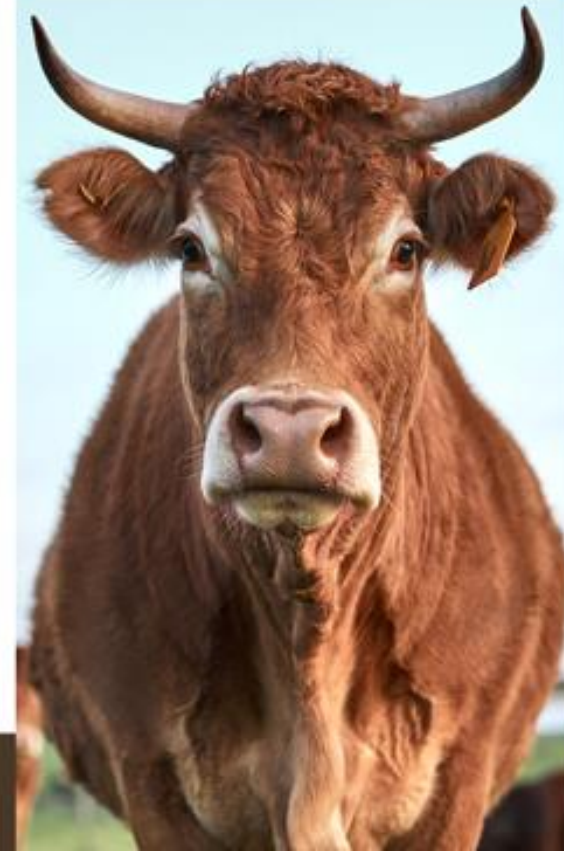
# Our Journey Today

The  
Problem

Weighing  
Risks and  
Rewards



*Qui Tam,*  
a Possible  
Solution



# The Problem

- Agricultural Exceptionalism
  - CAFO toxicity
  - Taxpayers subsidizing the industry
  - Politicians in the pocket of industry
  - Approaches, so far



# Whack-a-Mole

- Common Law
  - However, legislatures can pass laws rendering the common law impotent
  - Politicians in the pocket of the industry
- Federal Laws and Regulations
  - However, exceptions can be made to federal laws



# A Possible New Approach

- A product of the Civil War: The False Claims Act
  - 31 U.S.C. §§ 3729 – 3733
- Involves those in the know bringing *qui tam* actions against CAFOs
- “He who as much for the king as for himself”
  - Standing conferred on private person (relator) because they are looking for a redress of the government’s injury.



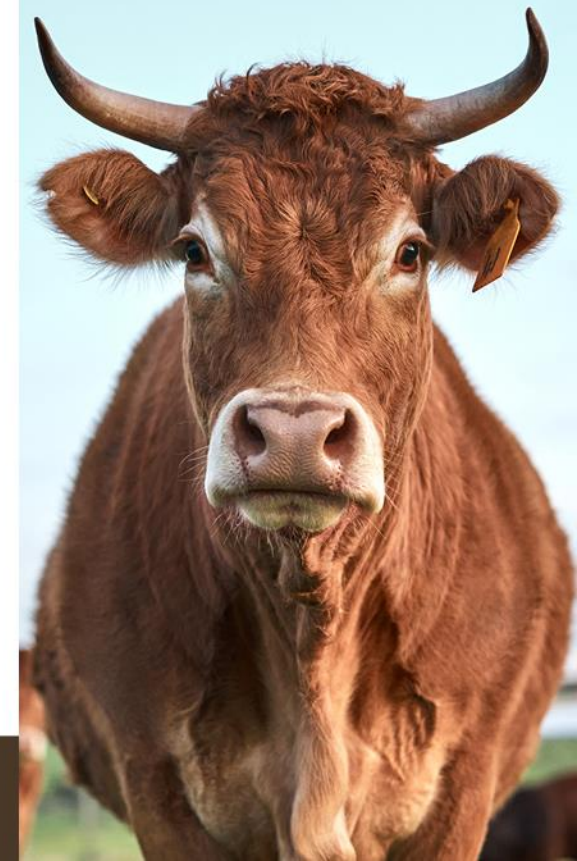
# Substantive Aspects of a Qui Tam Lawsuit

Knowledge

Falsity

Materiality

Damages



# Procedural Aspects of a Qui Tam Lawsuit

9(b) Pleading

Public  
Disclosure Bar

Government  
Dismissal  
Authority





# Initiating a Qui Tam Lawsuit

1. Private citizen with evidence files suit in proper U.S. District Court.
  - a. File *in camera*; remains under seal for at least 60 days.
2. Government has 60 days to investigate and decide whether to intervene.
  - a. Government may intervene; or if it chooses not to, the relator may pursue the case on their own.

\*Provision for protection from retaliation



# Weighing Risks & Rewards

- Look before you leap—political climate
- Government dismissal power
- Defenses
  - FRCP 9(b) heightened pleading requirements
  - Public disclosure bar
  - First-to-file bar
  - Statute of Limitations
- Ethical considerations



# Financial Pros & Cons

## Pros

- Percentage of proceeds if successful
- Treble damages
- Reasonable expenses, attorneys' fees, and costs

## Cons

- Cost of litigation should you not prevail
- 8<sup>th</sup> Amendment excessive fines clause



# Signatures of Successful Qui Tam Actions

- Competent relator
- Great documentation
- In line with government enforcement priorities
- Establishment of a good investigation roadmap from the beginning
- Solid partnerships



# Questions?





# THANK YOU!

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@TrishConlon



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