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10  
 11 IN THE UNITED STATES DISTRICT COURT  
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 13 SAN FRANCISCO DIVISION

14 ANIMAL LEGAL DEFENSE FUND, *et al.*,

15 Plaintiffs,

16 v.

17 UNITED STATES DEPARTMENT OF  
 18 AGRICULTURE, *et al.*,

19 Defendants.

No. 3:17-cv-00949-WHO

**DECLARATION OF E. JOHN POLLAK  
 IN SUPPORT OF DEFENDANTS'  
 OPPOSITION TO PRELIMINARY  
 INJUNCTION**

Date: May 17, 2017  
 Time: 2:00 p.m.

1 I, E. John Pollak, do hereby declare that:

2 1. My name is E. John Pollak. I am the Director of the Roman L. Hruska U.S. Meat  
3 Animal Research Center (“USMARC”) in Clay Center, Nebraska.

4 2. USMARC is a research facility of the Agricultural Research Service (“ARS”),  
5 U.S. Department of Agriculture (“USDA”), operated in collaboration with the University of  
6 Nebraska-Lincoln (“UNL”). The primary mission of USMARC is to develop scientific  
7 information and new technology to solve high priority problems for the U.S. beef, sheep, and  
8 swine industries.

9 3. The USMARC facility is staffed by approximately 110 ARS employees, with  
10 approximately 110 collaborating personnel from the UNL. USMARC researchers are currently  
11 engaged in twelve full-scale research projects involving cattle, sheep, or swine.  
12

13 4. I have been the Director of USMARC since January 19, 2010. As Director, I am  
14 responsible for all aspects of the research center, including, but not limited to, its research  
15 direction, capacity, and day-to-day operations.  
16

17 5. On January 19, 2015, *The New York Times* published an article by Michael Moss  
18 titled, “U.S. Research Lab Lets Livestock Suffer in Quest for Profit” (“NYT article”). A version  
19 of the NYT article was published in the print edition of *The New York Times* on January 20, 2015,  
20 with the headline, “In Quest for More Meat Profits, U.S. Lab Lets Animals Suffer.” The NYT  
21 article presented an investigative report containing a number of allegations and derogatory  
22 information regarding animal treatment, care, and mortality rates at USMARC.  
23

24 6. Beginning in approximately February of 2015, an Animal Handling and Welfare  
25 Review Panel of the Secretary of Agriculture’s National Agricultural Research, Extension,  
26 Education, and Economics Advisory Board (“Advisory Board”) commenced an immediate review  
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1 of the USMARC as part of a review of ARS agency-wide research animal care and well-being  
2 policies, procedures, and standards for agricultural livestock in ARS research.

3           7.       On March 30, 2015, the review panel of the Advisory Board issued a report of  
4 findings and recommendations, *available at* [https://www.ree.usda.gov/ree/news/USMARC-](https://www.ree.usda.gov/ree/news/USMARC-AWHR-Panel-Report_FINAL%20FINAL.pdf)  
5 [AWHR-Panel-Report\\_FINAL%20FINAL.pdf](https://www.ree.usda.gov/ree/news/USMARC-AWHR-Panel-Report_FINAL%20FINAL.pdf) (“Panel Report”). Summarizing its review, the  
6 panel noted: “[w]ithout exception, the panel observed healthy and well-cared for animals. There  
7 were no visible signs of poor care or neglect, such as overgrown hooves, visible injuries or  
8 wounds, or undernourished or excessively thin animals. The animals were calm and appeared  
9 used to human interaction. Indeed, all animals observed appeared to be well fed and cared for.  
10 As a rule, animals were handled with care and professionalism by dedicated staff members. No  
11 instances of animal abuse, misuse, or mistreatment were observed. Areas of the animal care  
12 program where improvements can be made centered primarily on processes and documentation  
13 associated with the role of the [Institutional Animal Care and Use Committee (IACUC)].” *See*  
14 *Panel Report*, at 3 (emphasis in original).

17           8.       Beginning in approximately March of 2015, USDA’s Office of Inspector General  
18 (“OIG”) conducted an audit examining USMARC activities discussed in the NYT article.

19           9.       On September 30, 2016, OIG issued Audit Report 02007-0001-31, titled “U.S.  
20 Meat Animal Research Center Review,” *available at* [https://www.usda.gov/oig/webdocs/02007-](https://www.usda.gov/oig/webdocs/02007-0001-31.pdf)  
21 [0001-31.pdf](https://www.usda.gov/oig/webdocs/02007-0001-31.pdf), presenting the findings of the audit (“OIG Audit Report”). The OIG Audit Report  
22 found that, “[a]lthough [OIG] did not find evidence indicating a systemic problem with animal  
23 treatment and care at USMARC, [OIG] did find ARS could improve its oversight of animal  
24 welfare at the facility and make its research more transparent to the public.” *See* OIG Audit  
25 Report, at 3. Of the 33 statements in the NYT article selected by OIG for review as part of the  
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1 audit, OIG found that only 7 were materially accurate — the remaining 26 statements were  
2 “inaccurate, lacked sufficient context, or were uncorroborated.” *See* OIG Audit Report, at 14.

3 10. Following publication of the NYT article, over 1,400 reader comments were  
4 posted to the online edition of the article. Many of those comments were disparaging of  
5 USMARC personnel and operations, including multiple comparisons to Nazi concentration camps  
6 and war atrocities.

7  
8 11. Immediately following publication of the NYT article, I began receiving numerous  
9 intimidating and threatening messages via telephone and electronic mail referencing the  
10 derogatory statements regarding animal welfare contained in the NYT article, including death  
11 threats and harassing statements directed at me or USMARC personnel in general. As one  
12 example, in a phone call received by one of my assistants, the caller inquired about the place of  
13 my residence and stated that he was going to kill me. As another example, I received a harassing  
14 email expressing a desire that violence be directed at me and members of my staff, including  
15 rape, mutilation, and torture.

16  
17 12. The threats and harassment directed at me were so significant that Federal law  
18 enforcement entities became involved, including assisting me as a possible victim of a Federal  
19 crime.

20  
21 13. The threats and harassment directed at me were so significant that they affected  
22 not only me, but disrupted the lives of members of my family as well. As one example, my  
23 daughter and her family were planning to visit me for her birthday in late January of 2015, a few  
24 days after the NYT article was published, but due to the threats and harassment directed at me, we  
25 were forced to cancel the birthday celebration at my home, and I paid for them to lodge in a hotel  
26 in lieu of lodging with me where I feared they could be at risk of bodily harm.

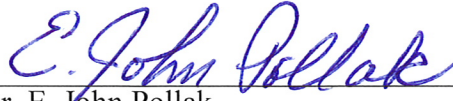
1           14.     Following publication of the NYT article, USMARC employees began expressing  
2 to me and my leadership team concerns about their personal safety due to information contained  
3 in the NYT article. As one example, a USMARC employee contacted me to discuss concerns he  
4 had for his safety and the safety of his family due to certain information reported in the NYT  
5 article that someone could use to reveal that employee's identity.  
6

7           15.     As a result of these threats and related security concerns, USDA's Office of  
8 Homeland Security and Emergency Coordination conducted a comprehensive and robust physical  
9 security assessment of the USMARC facility, leading to multiple security enhancements.  
10

11           16.     Following publication of the NYT article, several actual security incidents  
12 occurred on USMARC property. In one incident that occurred in November of 2015, individuals  
13 associated with a non-profit animal rights organization known as Showing Animals Respect and  
14 Kindness, Inc. (SHARK), were observed piloting an unmanned aerial vehicle, possibly equipped  
15 with a video recording device, across Federal property. A USMARC employee also reported that  
16 occupants of the vehicles involved in the incident harassed and yelled at her as she was  
17 attempting to go through a gate at the USMARC facility, which resulted in her having concerns  
18 for her safety.  
19

20           17.     In summary, I state my belief that the allegations and derogatory information  
21 published in the NYT article concerning animal treatment and care at the USMARC, which  
22 subsequently were shown by independent panel and audit reports to be substantially inaccurate,  
23 were a direct cause of the intimidation, harassment, and threats described above. The  
24 intimidation, harassment, and threats described above occurred despite the fact that most of the  
25 allegations within the article concerned events that occurred before I became the Director and my  
26 management team was in place.  
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1 Under penalty of perjury, pursuant to 28 U.S.C. § 1746(2), I declare the foregoing to be  
2 true and correct to the best of my knowledge, and that this declaration was executed on April 26,  
3 2017, in Clay Center, Nebraska.  
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7 Dr. E. John Pollak  
8 Director, Roman L. Hruska U.S. Meat Animal Research Center  
9 Agricultural Research Service  
10 U.S. Department of Agriculture  
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