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MAY 30 2025

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

LEGAL IMPACT FOR CHICKENS,

CASE NO. CV2401841

Plaintiff,

**RULING AND ORDER ON
DEFENDANTS' DEMURRER**

vs.

ALEXANDRE FAMILY FARM, LLC, et al.,

Defendants.

Presently before the Court is Defendants' demurrer to Plaintiff's complaint. Plaintiff appeared by attorneys Frank Martin and Isabella Nelson. Defendants appeared by attorneys John Lopez and Heather Burke. The Court has considered Defendants' demurrer and points and authorities in support, Plaintiff's opposition, Defendants' reply, and oral argument at the hearing. The Court rules as follows.

For the purpose of testing the sufficiency of the causes of action, the demurrer admits "all material facts properly pleaded. The court does not, however, assume the truth of contentions, deductions or conclusions of law." *Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 967. "To survive a demurrer, the complaint need only allege facts sufficient to state a cause of action;

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1 each evidentiary fact that might eventually form part of the plaintiff's proof need not be alleged.”
2 *C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal.4th 861, 872.

3 A general demurrer should be overruled where the complaint states some cause of action,
4 even if not the cause of action the pleader intended. *Sheehan v. San Francisco 49ers, Ltd.* (2009)
5 45 Cal.4th 992, 998 (general demurrer should be sustained “only if the complaint fails to state a
6 cause of action under any possible legal theory”); *Saunders v. Cariss* (1990) 224 Cal.App.3d
7 905, 908 (“Our task is to determine whether the pleaded facts state a cause of action on any
8 available legal theory”). A demurrer does not lie to a portion of a cause of action. *PH II, Inc. v.*
9 *Superior Court (Ibershof)*(1995) 33 Cal.App.4th 1680, 1682.

10 A complaint will be upheld against a demurrer if it provides the defendant with “notice of
11 the issues sufficient to enable preparation of a defense.” *Doe v. City of Los Angeles* (2007) 42
12 Cal.4th 531, 549-550. The plaintiff need only plead such facts as are necessary “to acquaint a
13 defendant with the nature, source and extent of his claims.” *Doe, supra*, 42 Cal.4th at 550.

14 Here, Plaintiff alleges two causes of action against the defendant Alexandre Family Farm,
15 LLC and three individuals (collectively referred to as Alexandre): first, for declaratory and
16 injunctive relief under Corporations Code section 10404 (complaint ¶¶220 - 253); and second,
17 for declaratory and injunctive relief under section 14501 ¹ (complaint, ¶¶254 et seq.). Plaintiff
18 alleges that Alexandre violated California’s animal anti-cruelty laws in Penal Code sections 597
19 et seq. (see, e.g., complaint ¶¶226-232), as well as industry standards for treatment of farm
20 animals (see, e.g., complaint ¶¶ 178-195).

21 In opposing the demurrer, Plaintiff requested judicial notice of decisions from other
22 California superior courts (requests 1 and 2) and an unpublished court of appeal decision in *Caru*
23 *Society for the Prevention of Cruelty to Animals v. Anthony* (Cal. Ct. App., June 7, 2022, No.
24 A160487) 2022 WL 2037757 (request 3). As this Court is not bound by and cannot rely on those

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¹ All undesignated statutory references are to the Corporations Code
Ruling on Demurrer

1 decisions in reaching its ruling here, those proffered materials are not relevant to this proceeding.
2 *Hernandez v Restoration Hardware* (2018) 4 Cal.5th 260, 269 n.2 (declining to take judicial
3 notice of unpublished Court of Appeal opinions); *Bolanos v. Superior Court* (2008) 169
4 Cal.App.4th 744, 761 (trial court ruling has no precedential value); *In re Molz* (2005) 127
5 Cal.App.4th 836, 845 (trial court decisions had no precedential authority); and Rule of Court
6 8.1115. There is insufficient evidence or allegations to support using those materials for claim
7 preclusion (res judicata), issue preclusion (collateral estoppel) or under the law of the case
8 doctrine. The Court therefore denies Plaintiff's request for judicial notice of items 1, 2, and 3, but
9 will take judicial notice of item 4, as legislative history.

10 Turning to the substantive merits of the demurrer, Defendants first argue that Plaintiff is
11 barred from bringing this lawsuit because only humane officers have standing to pursue a private
12 right of action in civil court, and Plaintiff does not allege that it has humane officers involved in
13 its organization. Standing is a threshold jurisdictional issue, without which " 'no justiciable
14 controversy exists.' " *Saterbak v. JPMorgan Chase Bank, N.A.* (2016) 245 Cal.App.4th 808, 813.

15 Plaintiff alleges that it is organized as a non-profit corporation and a humane society
16 under section 10400 as a corporation for the prevention of cruelty to animals ("SPCA"). Plaintiff
17 does not allege that it is or has a humane officer as defined in section 14502.

18 The basis for Plaintiff's first cause of action is section 10404, which provides:

19 Any such corporation [i.e., an SPCA], or humane officer thereof, may proffer a
20 complaint against any person, before any court or magistrate having jurisdiction,
21 for the violation of any law relating to or affecting animals and may aid in the
prosecution of the offender before the court or magistrate.

22 Corp. Code §10404. Section 10405 provides:

23 All magistrates, sheriffs, and officers of police shall, as occasion may require, aid
24 any such corporation [i.e., an SPCA], its officers, members, and agents, in the
enforcement of all laws relating to or affecting animals.

25 Corp. Code §10405. These statutes authorize an SPCA such as Legal Impact for Chickens (or,

1 alternatively, a humane officer of an SPCA) to “proffer” a complaint for violations of state and
2 local laws enacted for the protection of animals. *Animal Legal Defense Fund v. Mendes* (2008)
3 160 Cal.App.4th 136, 142–143 (“*ALDF*”). As the court there observed:

4 Since 1905, California has authorized the formation of corporations for the
5 prevention of cruelty to animals. (See former Civ.Code, §607, repealed by
6 Stats.1947, ch.1038, §100001, p.2439; see also Stats. 1947, ch. 1038, § 10404, p.
7 2423, enacting Corp. Code, § 10400.) Such a corporation (hereafter section 10400
8 corporations) “may prefer a complaint against any person, before any court or
9 magistrate having jurisdiction, for the violation of any law relating to or affecting
10 ... animals, and may aid in the prosecution of any such offender before such court
11 or magistrate.” (Corp.Code. §10404.)

12 *ALDF, supra*, at pp. 142-143. Section 10404 was amended by the legislature in 2010 after the
13 decision in *ALDF*, removing the term “prefer” and substituting the term “proffer”.

14 The legislature’s use of the phrase “proffer a complaint” creates some ambiguity. The
15 legislature does not appear to have used that phrase in any other current statute, and the phrase
16 does not seem to have been judicially defined in California. Black’s Law Dictionary defines
17 “proffer” as “to offer or tender (something, esp. evidence) for immediate acceptance.” Black’s
18 Law Dictionary (12th ed. 2024) p. 1465. “Prefer” is defined as “to put forward or present for
19 consideration.” Black’s Law Dictionary (12ed. 2024) p. 1427.

20 Legislative history is unhelpful to explain the reasons for the change in language from
21 “prefer” to “proffer,” or whether the Legislature meant “proffer” to include filing and
22 prosecuting a civil action. One commentator noted, “In Section 10404, “proffer” is used as a
23 transitive verb (the object being a complaint). The transitive meanings of “proffer” include to
24 bring or put before a person for acceptance. OED Online, Oxford University Press, June 2015.
25 That seems to be the meaning intended by the statute.” Bishop, *Do You Proffer, Profer, or
Prefer A Complaint?* National Law Review Vol XV no. 143 (comment, posted at
[https://natlawreview.com/article/california-corporations-code-do-you-proffer-profer-or-prefer-](https://natlawreview.com/article/california-corporations-code-do-you-proffer-profer-or-prefer-complaint)
complaint, last reviewed on 5/23/2025), further noting that, “In the legal setting, the word

1 'prefer' is often used to mean to present or submit, as in the phrase 'prefer charges'."

2 Though not defining the phrase, "proffer a complaint," the court in *Animal Legal Defense*
3 *Fund v. California Exposition & State Fairs* (2015) 239 Cal.App.4th 1286, 1298 noted in dicta
4 the "comprehensive statutory scheme that provides multiple avenues for the enforcement of
5 California's animal cruelty laws."

6 Section 10404 does not limit the power to "proffer a complaint" to a humane officer, but
7 also grants that authority to an SPCA as well, as the statute is worded in the disjunctive.

8 For the foregoing reasons, the Court finds that an SPCA filing and prosecuting a civil
9 action to enjoin violations of animal cruelty laws is encompassed within the phrase "proffer a
10 complaint" under section 10404, as it is one of the multiple avenues for the enforcement of
11 California's animal cruelty laws.

12 Plaintiff's second cause of action is premised on section 14501, which provides:

13 Every society incorporated and organized for the prevention of cruelty to animals
14 may enter into a contract with any city, city and county, or county, where the
15 society is located, to enforce the provisions of laws of this state for the prevention
16 of cruelty to animals, or arresting or prosecuting offenders thereunder, or
preventing cruelty to animals. A humane society may perform those actions in the
absence of a contract with a city, city and county, or county.

17 Corp. Code §14501.

18 Section 14502 authorizes an SPCA to appoint a humane officer whose duty "shall be the
19 enforcement of the laws for the prevention of cruelty to animals," and requires such officers to
20 meet certain requirements. However, there is no language in these statutes requiring an SPCA to
21 appoint a humane officer. Indeed, section 14501 expressly authorizes a humane society to
22 "enforce the provisions of laws of this state for the prevention of cruelty to animals" whether or
23 not the humane society has a contract with a local government to do so. Further, there is no
24 language precluding an SPCA that does not appoint such officer from "proffering a complaint"
25 against an individual or business entity for violating animal cruelty laws.

1 Without a qualified humane officer, an SPCA is limited as to what it can do. For
2 example, such an SPCA cannot seize or impound animals from an alleged cruel environment.
3 See generally *Bakos v. Roach* (2025) 108 Cal.App.5th 390, 397 (lawsuit against humane society
4 who seized animals pursuant to a warrant). But the statutory scheme authorizes an SPCA to
5 proffer a complaint in civil court regardless of whether it has a humane officer.

6 As to both causes of action, the Court finds that Civil Code section 3369 is not a bar.
7 Civil Code section 3369 provides:

8 Neither specific nor preventive relief can be granted to enforce a penalty or
9 forfeiture in any case, nor to enforce a penal law, except in a case of nuisance or
as otherwise provided by law.

10 Civ. Code, § 3369.

11 Interpreting the phrase, “except as otherwise provided by law,” the supreme court has
12 held that the particular law at issue must provide “a definition of prohibited conduct along with a
13 provision specifically authorizing equitable relief to restrain the defined conduct.” *Leider v.*
14 *Lewis* (2017) 2 Cal.5th 1121, 1136 (taxpayer action to enjoin alleged mistreatment of an elephant
15 as a violation of the penal code’s prohibition of animal cruelty; held, inter alia, that the taxpayer
16 action did not qualify under the phrase, “except as otherwise provided by law” and therefore a
17 taxpayer action did not lie to enforce a penal code provision on animal cruelty under Civil Code
18 section 3369).

19 Here, the Court finds that sections 10404 and 14501 meet the *Leider* criteria. Those two
20 sections adequately define the prohibited conduct – violation of the animal cruelty laws – and
21 specifically authorizes humane societies to obtain injunctive relief for violations of the animal
22 cruelty laws.

23 *Animal Legal Defense Fund v. Mendes* (2008) 160 Cal.App.4th 136, 143 (“*ALDF*”) does
24 not compel a contrary conclusion. There, the court of appeal held that the plaintiff did not have a
25 private right of action to enforce Penal Code section 597t (keeping an animal in an enclosed

1 area). However, plaintiff ALDF was not a section 10400 corporation, and so the court of appeal
2 did not address the question presented here, whether a SPCA or humane society organized under
3 Corporations Code section 10400 could bring an injunction action for violations of the Penal
4 Code's prohibitions on animal cruelty.

5 Here, Plaintiff specifically alleges that it is organized as an SPCA or humane society
6 under section 10400. This Court concludes that *ALDF* is not controlling on the facts alleged
7 here.

8 Lastly, Defendants assert that because there are no dates associated with many of the
9 alleged events, the complaint is uncertain. The Court finds that Plaintiff alleges the various
10 events with sufficient particularity to enable Defendants to answer the complaint. Further, a
11 general demurrer on statute of limitation grounds lies only where the dates in question are shown
12 on the face of the complaint. If they are not, there is no ground for general or special demurrer as
13 dates are not essential to a cause of action. *Union Carbide Corp. v. Sup.Ct. (Villmar Dental Labs,*
14 *Inc.)* (1984) 36 Cal.3d 15, 25 (rejecting a challenge to a complaint where the complaint alleged
15 that offenses "began at a time unknown and continued up to the date of the filing of the
16 complaint"); *Committee for Green Foothills v. Santa Clara County Bd. of Supervisors* (2010) 48
17 Cal.4th 32, 42 (in order to raise the bar of a statute of limitations in a demurrer, the "defect must
18 clearly and affirmatively appear on the face of the complaint"); and *Nguyen v. Western Digital*
19 *Corp.* (2014) 229 Cal.App.4th 1522, 1553 (a demurrer based on the statute of limitations lies
20 only where the dates in question are shown on the face of the complaint).

21 The Court concludes that the complaint alleges sufficient facts to establish this Court's
22 jurisdiction over the dispute, to establish standing of the plaintiff, to state a cause of action for
23 injunctive and declaratory relief under Corporations Code sections 10404 and 14501, and is not
24 barred solely because dates of all the events were not alleged.

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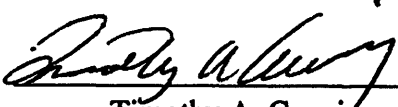
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For the foregoing reasons, and good cause appearing,

IT IS HEREBY ORDERED THAT:

1. Defendants' Demurrer is overruled; and
2. Defendants are ordered to answer the complaint within 30 days of the date this order is served on the parties.

Dated: May 27, 2025



Timothy A. Canning
Judge of the Superior Court

PROOF OF SERVICE BY MAIL

I am over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, 825 5th St., Eureka, California, 95501; that I served a true copy of the attached RULING AND ORDER ON DEFENDANTS' DEMURRER by placing said copies in the attorney's mail delivery box in the Court Operations Office at Eureka, California on the date indicated below, or by placing said copies in envelope(s) and then placing the envelope(s) for collection and mailing on the date indicated below. I am readily familiar with this business practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited with the United States Postal Service at Eureka, California in a sealed envelope with postage prepaid. These copies were addressed to:

Megan Yarnall, Court Operations Box #5

John Lopez, Court Operations Box #68

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on the 30th day of May 2025, at the City of Eureka, California.

Meara C. Hattan, Court Executive Officer/Clerk

By



Deputy Clerk

Risa Wadden