

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE)
PREVENTION OF CRUELTY TO)
ANIMALS, <i>et al.</i> ,)
)
Plaintiffs,)
)
v.)
)
RINGLING BROS. AND BARNUM &)
BAILEY CIRCUS, <i>et al.</i> ,)
)
Defendant.)
_____)

Case No. 1:03-cv-02006 (EGS/JMF)

DX 26

EXHIBIT 26

TO

REPLY IN SUPPORT OF DEFENDANT’S MOTION

FOR SUMMARY JUDGMENT

Washington, DC

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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AMERICAN SOCIETY FOR THE PREVENTION	:	
OF CRUELTY TO ANIMALS, et al.,	:	
Plaintiffs,	:	Civ. No.
v.	:	03-02006
RINGLING BROTHERS AND BARNUM & BAILEY	:	(EGS)
CIRCUS, et al.,	:	
Defendants.	:	

----- X

Washington, D.C.

Thursday, October 12, 2006

Videotaped deposition of TOM E. RIDER, called for examination by counsel for the Plaintiffs in the above-entitled matter, pursuant to notice, the witness being duly sworn by CARLA L. ANDREWS, a Notary Public in and for the District of Columbia, taken at the offices of Meyer, Glitzenstein & Crystal at 1601 Connecticut Avenue, Northwest, Suite 700, Washington, D.C. 20009-1056, at 9:27 a.m., Thursday, October 12, 2006, and the proceedings being taken down by Stenotype by CARLA L. ANDREWS and transcribed under her direction.

Tom E. Rider

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1 Q Were they all Asians?
 2 A Yes, ma'am.
 3 Q Who were your supervisors?
 4 A Graham Chipperfield. He was in charge of the
 5 elephants. And of course Jeff Steele, unit manager.
 6 Q And what other responsibilities did you have?
 7 A In general it was cleaning up and working
 8 around the elephants, whatever they wanted me to do
 9 around the elephants.
 10 Q Okay. Was that true for your entire time
 11 there?
 12 A Well, when I was barn man, my
 13 responsibilities were to take care of the elephants,
 14 clean up after them.
 15 Q When did you become the barn man?
 16 A In Dallas, Texas. It would have been
 17 approximately a month or so after I started. I
 18 started -- I became the barn man in Dallas. That's
 19 where I actually took over the barn.
 20 Q That was 1997?
 21 A Yes, yes.
 22 Q And do you remember the names of the

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1 elephants that you worked with?
 2 A Yes.
 3 Q Can you tell me what they were?
 4 A Meena, Lechme, Kamala, Susan, Lutze, Rebecca
 5 Jewel, Sophie, Karen, Minnie, Mysore, Nicole and Roma.
 6 But Roma was not there too long.
 7 Q Did you work with any baby elephants?
 8 A Not in the beginning. I never personally
 9 worked with the babies in the beginning.
 10 Q Did you -- during the time that you were barn
 11 man, were there ever any baby elephants in the Blue
 12 Unit?
 13 A Yes, there was.
 14 Q Who were those elephants?
 15 A Benjamin and Shirley.
 16 Q Do you know how old Benjamin and Shirley
 17 were?
 18 A Approximately four years old.
 19 Q And I assume Benjamin is a male and Shirley
 20 is a female; is that correct?
 21 A Yes.
 22 MR. SIMPSON: Object to the leading.

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1 BY MS. MEYER:
 2 Q Did you -- while you were barn man for the
 3 circus, did you have an opportunity to observe the way
 4 the elephants were handled by others?
 5 A Yes, I did.
 6 Q What kind of employees did you have an
 7 opportunity to observe?
 8 A What kind of employees?
 9 Q What category of employees did you have an
 10 opportunity to observe working with the elephants?
 11 A Handlers, elephant handlers.
 12 Q Okay. And what is an elephant handler?
 13 A A person who basically works around the
 14 elephants and moves the elephants from one location
 15 another or is in general working along the elephant
 16 crew.
 17 Q And are there also individuals who actually
 18 perform with the elephants?
 19 A Yes, there is.
 20 Q And what are those individuals called?
 21 A Performers.
 22 Q And they also handlers?

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1 A Yes.
 2 Q And did you travel on the road with the Blue
 3 Unit?
 4 A Yes, I did.
 5 Q Did you travel on the road the entire time
 6 you were there?
 7 A Yes, I did.
 8 Q Can you tell me how much time you spent on
 9 the road for each year that you worked for Ringling
 10 Brothers?
 11 A Well, you are basically on the road 365 days
 12 a year because you live on the train, so. But you
 13 don't travel all 365 days.
 14 Q So for 1997 that would have been from, I
 15 think you said June?
 16 A Yes.
 17 Q Of '97 to the end of December?
 18 A Yes. Well, we went to Winter Quarters around
 19 November. I came in on the end of the Areana Tour.
 20 Q I am sorry. The end of?
 21 A The end of the Areana Tour.
 22 Q How are you spelling that?

4 (Pages 10 to 13)

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<p>1 Q But you wanted them to do an investigation, 2 correct?</p> <p>3 A I wanted them to check into the death of 4 Benjamin, yes.</p> <p>5 Q Among other things, correct?</p> <p>6 A Among other things.</p> <p>7 Q And you wanted them to take action against 8 Ringling Brothers, did you not?</p> <p>9 A It is not my determination.</p> <p>10 Q But that's what you hoped they would do, 11 correct?</p> <p>12 A I hoped they would stop the abuse at 13 Ringling, yes.</p> <p>14 Q And in that connection, you provided as much 15 information that was then available to you about what 16 you had witnessed at Ringling Brothers, isn't that 17 correct?</p> <p>18 A Most of it, yes.</p> <p>19 Q You hit the highlights. You surely didn't 20 leave any highlight out; is that correct?</p> <p>21 A No, not that I -- some -- some not, no. I 22 just told them what -- I told them what I saw at</p>	<p>1 Q Have you called the person to whom you 2 submitted this affidavit and asked them what's going 3 on?</p> <p>4 A No. She is no longer available. 5 (Defendant's Exhibit No. 12, marked for 6 identification.)</p> <p>7 BY MR. SIMPSON:</p> <p>8 Q Let me show you, sir, a letter that is 9 dated -- it has two dates both in July 2002. But it is 10 addressed to Ms. Julie Alexa Strauss at Feld 11 Entertainment, Inc. from Chester A. Gibson, deputy 12 administrator, Animal Care USDA. I ask you to examine 13 this letter. And my question to you, sir, is, have you 14 ever seen it before?</p> <p>15 A No.</p> <p>16 Q And accept for purposes of my question that 17 this letter addresses the investigation that was 18 commenced as a result of your affidavit to the USDA --</p> <p>19 A No.</p> <p>20 Q No, no. I am not done. Accept for me that 21 that's this represents. Does it surprise you, sir, 22 that the USDA closed the file on this matter with a</p>
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<p>1 Ringling Brothers.</p> <p>2 Q You tried to be accurate?</p> <p>3 A I tried as much as I could.</p> <p>4 Q And I think you indicated in your direct that 5 you had no knowledge of what happened -- well, you have 6 no knowledge of whether there ever was an 7 investigation, do you?</p> <p>8 A No. I still don't. I have received no 9 response to it.</p> <p>10 Q Are you expecting to receive one any time 11 soon?</p> <p>12 A Not any time soon.</p> <p>13 Q So it is your understanding it is still 14 pending?</p> <p>15 A I have no conclusion to it.</p> <p>16 Q You haven't been advised one way or the 17 other?</p> <p>18 A No.</p> <p>19 Q Have you checked with anyone about it?</p> <p>20 A No. Who would I check with? No, I haven't.</p> <p>21 Q Have you checked with the USDA?</p> <p>22 A No, I haven't.</p>	<p>1 finding of no violation?</p> <p>2 A Does it surprise me that they closed it with 3 no -- nothing to do against Ringling? No, I am not 4 surprised at all at that.</p> <p>5 Q Why doesn't that not surprise you?</p> <p>6 A The USDA does not enforce anything at 7 Ringling Brothers.</p> <p>8 Q And why is that?</p> <p>9 A I have no clue.</p> <p>10 Q Are they being bribed by Ringling Brothers?</p> <p>11 A I wouldn't know that.</p> <p>12 Q Is there some corrupt influence underway 13 between Ringling Brothers and the USDA?</p> <p>14 MS. MEYER: I am going to object to that. It 15 calls for speculation on the part of the witness.</p> <p>16 BY MR. SIMPSON:</p> <p>17 Q You don't know one way or the other, do you?</p> <p>18 A I wouldn't be able to talk for the USDA on 19 that part.</p> <p>20 Q But you could pick the phone up and ask them, 21 couldn't you?</p> <p>22 A Not that I know of.</p>

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1 A That's what I saw.

2 Q Now, you indicated, I think, that Karen was
3 rattling her chain; is that right?

4 A Yes.

5 Q Now, isn't it true that when an elephant
6 rattles their chain, usually it is because she wants to
7 be fed?

8 MS. MEYER: I am going to object to that
9 question on the grounds that it requires speculation.

10 BY MR. SIMPSON:

11 Q Well, in your experience, I mean, haven't you
12 seen elephants when they rattle their chain they want
13 more hay?

14 A No.

15 Q You have never seen that?

16 A No.

17 Q The English elephants, that wasn't one of
18 their characteristics?

19 A Their characteristic was rattle it all the
20 time.

21 Q But is it your testimony that Meena, the
22 English -- the elephant from England never rattled her

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1 supposed to know what they do and what their
2 characteristics are.

3 MS. MEYER: Well, that's -- I also object to
4 your testimony that you just gave.

5 BY MR. SIMPSON:

6 Q Can you answer the question?

7 A When -- if Karen rattles her chain, she was
8 doing it because of what he was doing to Benjamin. Pat
9 Harned hated anybody that -- as soon as they would
10 rattle their chains, he hated it. As far as Meena or

11 Lechme or Kamala rattling their chain or Susan, Lutze,
12 any of them, they rattled their chain because they were
13 bored, not because -- sometimes they wanted some more,
14 sometimes that would see me coming with the hay, they
15 would rattle them. But they are just standing there
16 and chained up. They have got nothing to do but rattle
17 chains. And that's why it made Pat Harned so mad.

18 Q And you know this because of what you
19 observed or what someone told you?

20 A I'm sorry. Because of what I observed.

21 Q Is it your view that there is no appropriate
22 use of the bull hook on an Asian elephant?

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1 chain because she wanted to be fed more?

2 MS. MEYER: I object to your characterization
3 of his testimony.

4 MR. SIMPSON: I am asking him what his
5 testimony is now.

6 MS. MEYER: That's different.

7 BY MR. SIMPSON:

8 Q Is that your testimony? Are you telling me
9 that --

10 A As I recall --

11 MS. MEYER: Let him ask the question.

12 BY MR. SIMPSON:

13 Q Are you telling me that she did not rattle
14 her chain because she wanted to be fed?

15 A No.

16 Q That Lechme did not rattle her chain because
17 she wanted to be fed?

18 MS. MEYER: And, again, I am going to object
19 on the grounds that it requires Tom Rider to be
20 speculating about why the elephants were rattling their
21 chains.

22 MR. SIMPSON: Well, if he knows. He is

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1 A In my opinion?

2 Q I am not sure there is a difference.

3 A Okay. All right. My opinion is, no, there
4 is no safe way to use a bull hook on an Asian elephant
5 or an African or any of them.

6 Q So if you have an elephant in a circus parade
7 who starts to run, how are they supposed to stop that
8 elephant from running?

9 A Same thing I said in Chicago, with a gun.

10 Q Not using a bull hook?

11 A With a gun. I am sorry.

12 Q And it would take a pretty big gun, right?

13 A It is up to them.

14 Q I mean, but they could shoot an elephant with
15 a gun. And it would require a large caliber weapon; is
16 that correct?

17 MS. MEYER: I am going to object on the
18 grounds that it requires speculation by Mr. Rider.

19 BY MR. SIMPSON:

20 Q Well, you were in Army. Don't you -- I mean,
21 you know something about firearms, correct?

22 MS. MEYER: I am going to object to your

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<p>1 to Jeff Steele. And I told them what happened. I 2 didn't file a complaint. I told Jeff Steele what 3 happened. And he said, Well, we are going to write you 4 up for drunken disorderly. 5 And at that time Geoff Pettigrew, who is the 6 union steward at the time for the union, came in and 7 said, Geoff, you write him; you have got to write me 8 up. We were all there partying, and we were all 9 chanting. It ended up just, look, guys, let's just 10 sign, let it go. I am leaving here in a few days. 11 Let's just sign it. I was a bad boy for saying that. 12 And I apologized to Dave and signed it. I was 13 disorderly. Yeah, I signed it. 14 Q Was there any adverse employment action taken 15 against you as a result of this other than receipt of 16 this paper? 17 A Yes, sir, three days off of work. I am sorry 18 to laugh, but they gave me three days off work without 19 pay at the end of the season. I wasn't complaining too 20 much about that. 21 Q And I take it that this incident that you 22 described was on the train after hours; is that right?</p>	<p>1 A No. 2 Q Did you witness the death of Kenny, the 3 elephant? 4 A No. 5 Q Since you left Ringling Brothers in 1999, 6 have you made any efforts to contact Sophie, the 7 elephant? 8 MS. MEYER: I am going to object to that 9 question on the grounds that it is vague. 10 BY MR. SIMPSON: 11 Q Well, there was an elephant on the Blue Unit 12 that you worked for named Sophie, correct? 13 A Uh-huh. 14 Q Have you made any efforts since you left the 15 company to contact Sophie, the elephant? 16 MS. MEYER: When you say contact. 17 BY MR. SIMPSON: 18 Q Go see. 19 A Not her on her own. I went to see the 20 elephants. 21 Q The question was as to Sophie. 22 A Of Sophie. Yes, in San Diego. I said when</p>
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<p>1 A Oh, yes. 2 Q Off duty? 3 A Sure, yeah. 4 Q You didn't drink when you were around the 5 elephants, did you? 6 A No, absolutely not. Elephants don't tolerate 7 alcohol. 8 MS. MEYER: Can we actually take a break for 9 a few minutes. 10 MR. SIMPSON: Sure, sure. 11 THE VIDEOGRAPHER: Going off the record. The 12 time is 1602:04. 13 (A recess was held.) 14 THE VIDEOGRAPHER: Going back on the record 15 The time is 1608:51. 16 BY MR. SIMPSON: 17 Q Mr. Rider, were you present when Benjamin 18 died? 19 A I worked for Ringling Brothers at the time 20 Benjamin died. 21 Q Were you present when he died? Let me say. 22 Did you witness his death?</p>	<p>1 the train was parked on the sidewalk, I was saying, 2 Sophie. And she didn't answer. I believe she was 3 there in front, but I am not sure about it. But that 4 would be the only time I can say that I actually said 5 Sophie. 6 Q Have you made any effort -- well, when you 7 worked on the Blue Unit, there was an elephant named 8 Rebecca; is that correct? 9 A Yes. 10 Q Have you made any effort since you left the 11 company to find out where Rebecca is and visit her? 12 A Yes, I know where Rebecca is. But, no, I did 13 not go there because she was in a sanctuary. 14 Q Now, when you were on the Blue Unit, you 15 indicated, I think, that there was an elephant named 16 Minnie; is that right? 17 A Yes. 18 Q And there was also an elephant named Meena? 19 A Yes. 20 Q And the Minnie elephant was owned by Ringling 21 Brothers, correct? 22 A To my knowledge, yes.</p>

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<p>1 Q And the Meena elephant was a Chipperfield 2 elephant, correct? 3 A Yes. 4 Q Have you made any efforts since you left the 5 company to find out where Minnie is and visit her? 6 A No. I am not sure where Minnie is. 7 Q During the two and a half year time period in 8 which you worked for Ringling Brothers, did you ever 9 touch Karen? 10 A Yes, sir. 11 Q And where did you touch her? 12 A On the trunk. 13 Q Now, is it your testimony that Karen is a 14 dangerous elephant? 15 A Yes. 16 Q And would strike down a stranger? 17 A Yes. 18 Q That comes into her space? 19 A Yes. 20 Q So if based on what you know about Karen, if 21 someone were to approach her from the front, total 22 stranger, such as me John Simpson, the lawyer, and pats</p>	<p>1 my hypothetical. 2 THE WITNESS: I would say if she is with -- 3 there is always a chance that she could turn at any 4 given time. But if she is with someone she knows, you 5 stand a better chance of her not attacking. 6 BY MR. SIMPSON: 7 Q And when you touched her on the trunk, was 8 there a handler present? 9 A Yes. 10 Q Who was that handler? 11 A Alex Vargas. 12 Q I think described an incident -- 13 A Excuse me. And Graham Chipperfield. 14 Q You described a situation to the Connecticut 15 Senate in which you examined Karen for an abscessed 16 tooth. Do you remember that? 17 A Nope, I do not remember that. 18 Q All right. 19 A Unless it is a misprint. 20 Q I am going to turn your attention, sir, to a 21 transcript that was obtained from the Connecticut State 22 Senate Committee on the Environment, dated March 4,</p>
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<p>1 her on the trunk and she would knock me down? 2 A I don't think you would get to the trunk. 3 Q She would stomp me before I got there? 4 A No, no. She would swing at you. 5 Q With her trunk? 6 A Right. 7 Q Knock me down? 8 A Yes. 9 Q Would it be your expectation that she would 10 try to kill me? 11 A If you went up to Karen by yourself with no 12 handler, nobody from Ringling Brothers with you, walk 13 straight up to Karen, my opinion is, yes, she would 14 attempt to take your life. 15 Q But it would be different if she was with a 16 handler, correct? 17 A A handler that knew her, yes. 18 Q And in that event, you wouldn't expect her to 19 behave in a violent way, correct? 20 MS. MEYER: We are still talking about your 21 hypothetical? 22 MR. SIMPSON: We are talking about Karen in</p>	<p>1 2005? 2 A Okay. 3 Q This big fat document. 4 A Uh-huh. 5 Q But I want to turn your attention to page 190 6 and 191. And I am going to hand it to you in a 7 minute -- and it's big, so I only made one copy -- and 8 ask you to read the statement that is opposite Tom 9 Rider. And I ask you, sir, does that refresh your 10 recollection about a situation in which you examined 11 Karen, the elephant, for an abscessed tooth? 12 A I have to say that this is a misprinted -- 13 this is -- no, no, this is wrong. 14 Q All right. Now -- 15 A That is wrong. 16 Q In what way is it misprinted? 17 A It should have said Kamala, not Karen. 18 Q So whoever heard that, heard it wrong? 19 A Yes, they did. I am sorry for that. But 20 that's it. 21 Q Do you know about the suppleness of Karen's 22 trunk?</p>