UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, et al.,	:	
Plaintiffs,	:	
v.	:	**Case No. 03-2006 (EGS/JMF)**
RINGLING BROS. AND BARNUM & BAILEY CIRCUS, et al.,	:	
Defendants.	:	

DEFENDANT'S SECOND NOTICE OF SUPPLEMENTAL POINTS AND AUTHORITIES IN SUPPORT OF ITS MOTION TO COMPEL DOCUMENTS SUBPOENAED FROM THE WILDLIFE ADVOCACY PROJECT

Defendant Feld Entertainment, Inc. ("FEI") hereby provides notice of supplemental points and authorities in support of its Motion to Compel Documents Subpoenaed from the Wildlife Advocacy Project ("WAP"), filed on September 7, 2006. FEI has received additional evidence demonstrating that WAP, contrary to its prior statements to this Court, has not complied with FEI's subpoena and, apparently, has not even bothered to conduct a full search in good faith. Cf. WAP's Opposition to Defendant's Motion to Compel at 1-2 (9/21/06) ("Opposition") (claiming that WAP has "actually gone to great pains to respond" to the subpoena and that only a "few categories of documents . . . remain at issue" for which WAP would like a protective order).

On November 2, 2006, after the related briefing was completed, WAP again produced materials (three videotapes) responsive to FEI's subpoena that were "inadvertently omitted" from its production. See Glitzenstein letter on behalf of WAP to Gasper (11/2/06) (attached hereto). Notably, although WAP had not previously produced these materials, it was clearly able

to locate and attach one of them as an exhibit in support of its opposition to FEI's Motion. See Exhibit B to Opposition. Two additional exhibits from the Opposition are responsive to the subpoena but have never been produced to FEI. See id. at Exhibits C & F.

A copy of Mr. Glitzenstein's letter, sent on behalf of WAP, is attached hereto as well as FEI's response to the same.

Dated this 14th day of November, 2006.

Respectfully submitted,

/s/

John M. Simpson (D.C. Bar #256412)
Joseph T. Small, Jr. (D.C. Bar #926519)
Lisa Zeiler Joiner (D.C. Bar #465210)
Michelle C. Pardo (D.C. Bar #456004)
George A. Gasper (D.C. Bar #488988)

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Counsel for Defendant Feld Entertainment, Inc.

WILDLIFE ADVOCACY PROJECT
1601 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20009
(202) 518-3700

November 2, 2006

George A. Gasper
Fulbright & Jaworski, L.L.P.
801 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Dear Mr. Gasper:

Enclosed are copies of three videotapes of media events involving Tom Rider. These were inadvertently omitted from the Wildlife Advocacy Project's response to the subpoena.

Sincerely,

Eric R. Glitzenstein

ERG/ms

cc: Michael Trister (w/o enclosure)

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November 14, 2006

VIA FACSIMILE

Richard Thomas, Esq.
Lichtman, Trister & Ross, PLLC
1666 Connecticut Avenue, N.W., Suite 500
Washington, DC 20009

Re: *ASPCA et al. v. Ringling Bros. and Barnum & Bailey Circus, No. 03-2006 (D.D.C.)*

Dear Mr. Thomas:

We are in receipt of the letter from plaintiffs' counsel Eric Glitzenstein on behalf of Wildlife Advocacy Project ("WAP") dated November 2, 2006. As you know, that letter enclosed three videotapes that were purportedly "inadvertently omitted" from WAP's response to the subpoena served upon it by Feld Entertainment, Inc. ("FEI") on July 27, 2005. It is particularly troublesome that WAP "inadvertently omitted" these videos when responding to FEI's subpoena, but somehow managed to locate them in time to file one as an attachment to WAP's Opposition to FEI's Motion to Compel (9/21/05). The production is further evidence of WAP's failure to comply with our subpoena. It is beyond credulity that these videos were "inadvertently omitted" until being produced six weeks after WAP elected to file one of them with the Court in an effort to disparage FEI. We note, moreover, that WAP still has not produced to FEI the other two videos that were attached to WAP's opposition brief. Please confirm in writing by close of business on Friday, November 17, 2006 that WAP has no additional materials responsive to the subpoena that have been "inadvertently omitted" or otherwise withheld from production.

Very truly yours,

George Gasper

George A. Gasper

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Defendant's Second Notice of Supplemental Points and Authorities in Support of Its Motion to Compel Documents Subpoenaed from the Wildlife Advocacy Project** was mailed, first class mail, postage prepaid, on this 14th day of November, 2006, to:

Mr. Richard Thomas
Attorney for Wildlife Advocacy Project
Lichtman, Trister & Ross, PLLC
1666 Connecticut Ave., N.W., Suite 500
Washington, DC 20009

I further certify that on this 14th day of November, 2006, the foregoing notice was electronically filed with the Clerk of this Court using the CMF/ECF system, which will send notification of such filing to plaintiffs' counsel.

/s/
George A. Gasper