

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE PREVENTION)	
OF CRUELTY TO ANIMALS, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	
)	Civ. No. 03-2006
)	(EGS/JMF)
RINGLING BROTHERS AND BARNUM & BAILEY)	
CIRCUS, <i>et al.</i> ,)	
)	
Defendants.)	

**PLAINTIFFS’ NOTICE OF FILING AN ADDITIONAL EXHIBIT
IN SUPPORT OF THEIR OPPOSITION TO DEFENDANTS’
MOTION FOR SUMMARY JUDGMENT**

In further support of Plaintiffs’ Opposition to Defendants’ Motion for Summary Judgment (Docket No. 96), plaintiffs hereby give notice that, pursuant to Fed. R. Civ. P. 56(c), they are filing as Exhibit NN to their Opposition, the transcript of the January 24, 2007 Deposition of Gerald R. Ramos, who worked as a care-taker for the Ringling Bros. elephants in August 2006 for only one week. Mr. Ramos’s testimony was obtained in Las Vegas, Nevada, pursuant to a subpoena issued by the plaintiffs.¹

Mr. Ramos testified that bullhooks are used “all the time” in the circus; and that, in Oakland, California in August 2006, he witnessed Troy Metzler – the head elephant handler for the Ringling Bros. “Blue Unit” – use the sharp end of a bull hook in the mouth of a baby elephant to pull her away from another elephant’s food. See Transcript, Exhibit NN at 11; see also id. (“I saw Mr. Metzler . . . take the bull hook in this manner, put it in the elephant’s mouth,

¹This testimony was also preserved on a CD-Rom.

and come back at a very rapid rate in order to make the animal [move]”); id. at 79 (“one time [the baby elephant] was drinking water and eating some hay from a pile and . . . next to the elephants, next to the bigger ones. And he wanted her . . . away so he put the bull hook right in her mouth and [pulled down on the bullhook]”). Mr. Ramos also testified that, on another occasion, he saw Troy Metzler take a bullhook, swing it like “a baseball player swing[s] a baseball bat,” and hit the baby elephant over the head with it. See Transcript at 79 (“another time . . . I guess she didn’t want to move. Anyway, for whatever reason, he took the bull hook and hit her over the head with it”); id. at 95 (“have you ever seen anybody swing a baseball bat – a baseball player swing a baseball bat? Kind of like that, but over the head”). Mr. Ramos testified that other employees told him that they had also witnessed elephants being “beat on.” Id. at 75-77; 87.

Mr. Ramos also testified that the elephants are chained “all the time,” id. at 13; that when he came in the morning to start his shift, the elephants were “always chained,” and were also covered with “excrement.” Id. at 14-15; see also id. at 15 (“[s]ome of them were laying in the excrement when I did arrive there . . . because I guess they had a problem with one leg being chained and trying to lay down and stuff”). Mr. Ramos further testified that the largest elephant was “always chained” except when she was doing a performance, id. at 16; and that the other elephants are only off their chains “for about an hour, two hours, if that.” Id. at 89.

Mr. Ramos further testified that he quit the circus after only a week because “he didn’t like the animals being beat on.” Id. at 60; see also id. at 17 (“I just couldn’t believe what was taking place there . . . the treatment of the animals”); id. at 77 (“I says, Man . . . I don’t need a job that bad”).

All of this testimony, and additional testimony in Mr. Ramos's deposition, further supports plaintiffs' contention that defendants are not entitled to summary judgment in this case, since defendants deny that they engage in any of these practices and insist that the only practices in which they engage are "normal husbandry practices" for the care and treatment of Asian elephants. See Defendants' Summary Judgment Memorandum (Docket No. 82) at 27-29; see also Plaintiffs' Summary Judgment Opp. at 27-38. Hence, this evidence further supports plaintiffs' position that there are material issues in dispute in this case and that defendants are not entitled to judgment as a matter of law.

In view of this new evidence, which further corroborates plaintiffs' allegations that defendants strike and beat the elephants with bull hooks and keep them chained for most of the day and night, and that this kind of abuse of this endangered species continues on a daily basis, in violation of the "take" prohibition of the Endangered Species Act, 16 U.S.C. § 1538(a) – plaintiffs respectfully request that the Court set a trial date for this case as soon as possible.

Respectfully submitted,

/s/

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