

**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.

EXHIBIT 16

TO

**MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF FEI'S MOTION TO COMPEL
DISCOVERY FROM PLAINTIFF TOM RIDER
AND FOR SANCTIONS, INCLUDING DISMISSAL**

Meyer Glitzenstein & Crystal
1601 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20009-1056

Katherine A. Meyer
Eric R. Glitzenstein
Howard M. Crystal
Kimberly D. Ockene
Joshua R. Stebbins
Tanya M. Sanerib
Erin M. Tobin

Telephone (202) 588-5206
Fax (202) 588-5049
www.meyerglitz.com

February 8, 2007

Sent by E-mail and First Class Mail

Lisa Joiner
Michelle Pardo
George Gasper
Fulbright & Jaworski
801 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2623

Re: ASPCA v. Ringling Bros., Civ. No. 03-2006

Dear Ms. Joiner, Ms. Pardo and Mr. Gasper:

The purpose of this letter is to follow up on some of the matters that we discussed yesterday at the meet and confer meeting we had at your office concerning the plaintiffs' alleged "deficiencies" in their June 2004 discovery responses.

In response to your question as to whether you have received all documents that Mr. Rider has that are subject to the discovery, and also materials that should be provided pursuant to his obligation to supplement his June 2004 discovery requests, we have again asked Mr. Rider to make sure that he has provided everything, and we will provide you any additional responsive, non-privileged materials as soon as possible. Please keep in mind that, with respect to Mr. Rider's duty to supplement his answers to the defendants' original document production request, we were not required to provide all such items by January 31, 2007, since Mr. Gasper declined to agree to that date for the supplemental production of all documents by defendants. In any event, we hope to provide you with any additional records that Mr. Rider may have within the next two weeks.

As to your position that Mr. Rider has custody and control of Wildlife Advocacy Project records, as we explained to you yesterday, with the possible exception of 1099 forms, we



Lisa Joiner
Fulbright and Jaworski
February 8, 2007
Page 2

disagree with your position. As we mentioned yesterday, it is our understanding that you already have copies of all of those 1099 forms through December 31, 2006, from either the Wildlife Advocacy Project pursuant to the third party subpoena you served on that organization, or Mr. Rider himself. Therefore, insisting that Mr. Rider obtain duplicates of those forms to provide you seems completely unnecessary. Nevertheless, if you insist that he do so, please let us know.

Regarding the interrogatories and document production requests for all communications the plaintiffs have had with their attorneys concerning litigation strategy and the evidence plaintiffs may rely on in this case, plaintiffs continue to assert that all such communications are covered by the attorney-client and work product privileges.

As to such communications concerning plaintiffs' media, public education, or legislative strategies for ending the abuse and mistreatment of captive elephants, plaintiffs maintain that such information is irrelevant, would impose an undue burden on the plaintiffs, constitute harassment of them, and infringe on their First Amendment rights of freedom of speech and association. At yesterday's meeting, the only argument you made in support of your position that you are entitled to such information is that the funding of Mr. Rider to engage in media and public education efforts on this issue bears on Mr. Rider's credibility in this case. However, as we discussed yesterday, and as further documented in our January 16, 2007 letter to Mr. Gasper, the plaintiffs have always been extremely forthcoming about the fact that they were providing funding for this purpose, and the amount of funding they have provided directly to Mr. Rider and to the Wildlife Advocacy Project for this purpose – i.e., they have answered all of the discovery requests and provided deposition testimony on this matter, and have provided defendants with all documents that reflect this information. In addition, in response to defendants' March 2004 discovery requests, Mr. Rider has since June 2004 consistently agreed to provide you with information concerning the funds he has received, but has requested that such information be subject to a confidentiality agreement to protect his personal privacy. Accordingly, we disagree that you need additional information on this issue in order to make your arguments concerning Mr. Rider's credibility.¹

In addition to the above matters, you asked us several questions and raised some concerns for the first time about (a) the January 16, 2007 production of discovery by the Animal Protection Institute; and (b) the supplemental productions made by the other plaintiffs on January 31, 2007. We provided some of those answers yesterday and, as promised, we are looking into some of the

¹It is also our position that, in light of abundant evidence – including Ringling Bros.' own records – supporting plaintiffs' claims in this case – Ringling's attack on Mr. Rider's "credibility" becomes even more attenuated from the underlying issues in this case and more obviously an effort simply for harassing and punishing Mr. Rider and plaintiffs for bringing it.


Lisa Joiner
Fulbright and Jaworski
February 8, 2007
Page 3

other matters so that we can provide you with additional information. However, since you raised these matters for the first time at the meeting yesterday, we assume that defendants will not be moving to compel with respect to any of these additional matters at this point. Please let us know if you have a different view on this before you file any such motion to compel so that we can attempt to obviate the need for any such motion.

As we also discussed, please provide us with the requisite verification for the original Interrogatories that we served on the defendants in March 2004, which has never been provided to us.

We will get back to you soon on the outstanding matters that were discussed at yesterday's meeting.

Sincerely,



Katherine A. Meyer
Howard M. Crystal