

**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 10

TO

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

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January 16, 2007

Hand-Delivered

George A. Gasper
Fulbright & Jaworski
801 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2623

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

Dear Mr. Gasper:

This letter supplements the letter I sent you dated December 15, 2006, regarding the "deficiencies" you alleged in your November 22, 2006 letter with respect to the plaintiffs' June 9, 2004 discovery responses, and concerns you also have about certain deposition testimony that was provided to defendants in the summer of 2005. Many of the answers to your questions are contained in my December 15 letter and I will not repeat those matters here. Rather, the purpose of this letter is only to provide answers to the questions you posed in your November 22 letter regarding such alleged deficiencies that were not addressed in my December 15 letter.¹

In addition, as we have discussed, plaintiffs recognize that they have a duty to continue to supplement their discovery responses. We note that in your December 22 letter, you accepted our suggestion that the parties mutually agree to supplement their June 2004 Interrogatory responses by January 31, 2007, and plaintiffs fully intend to do so. However, you did not agree to provide all supplemental documents by that date, yet you appear to insist that plaintiffs do so. While plaintiffs have every intention of also providing supplemental documents by January 31, 2007, they cannot guarantee that they will provide all such documents by that date, particularly when defendants would not agree to do so.

¹Although we intended to provide you with this response on January 15, that day fell on a federal holiday.



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Also, by separate letter dated today, we are providing you with the discovery responses for plaintiff Animal Protection Institute ("API") which became a plaintiff to this case on February 23, 2006. By separate letter to us dated December 15, 2006, you stipulated that API should respond to the same discovery that was served on the other organizational plaintiffs in March 2004.

Additional Responses Regarding Plaintiffs' Alleged Discovery Response Deficiencies

A. Discovery Provided By The Organizational Plaintiffs

(1) Communications Between The Organizational Plaintiffs and Tom Rider

You have questioned whether any of the organizational plaintiffs had communications with Tom Rider that did not involve legal strategy. Nov. 22 Let at 1-2. With few exceptions, discussed in their Interrogatory responses and further discussed below, none of the plaintiff organizations recall any communications they had with Mr. Rider that did not involve legal strategy that occurred prior to June 2004, the date of the initial discovery responses. Plaintiffs understand that they have a duty to supplement their response to Interrogatory No. 16 and Document Request No. 21, and intend to do so as discussed above.

With respect to discussions Ms. Weisberg may have had with Mr. Rider concerning this litigation and the evidence that the plaintiffs may wish to rely on in this case, which she was asked about at her July 19, 2005 deposition, see Nov. 22 Let at 2, the ASPCA continues to assert that such conversations would be protected by the attorney-client privilege, as well as the attorney work product privilege, since Ms. Weisberg was providing legal advice and strategy to the ASPCA with regard to this case, in consultation with the other plaintiffs and their lawyers.

As Ms. Weisberg already testified at her July 19, 2005 deposition, she also talked to Mr. Rider "on a weekly basis" regarding his public education and media efforts when the ASPCA was providing him funding for that purpose. See Weisberg Depos. at 166; see also id. at 168 ("[h]e would report on . . . how his interview went in whatever city he was in, requests for further interviews, what town he was going to next and for us to outreach to some of the media in that town to see if they were interested in speaking to him"); id. at 167 (recounting discussion with Mr. Rider about a possible "interview with CNN" and about the "taping of the video news release"). Ms. Weisberg also testified that she spoke to Mr. Rider in May 2005 about some Massachusetts legislation and told him that he should speak at a hearing on that matter. Id. at 169. In fact, at her deposition Ms. Weisberg answered all of defendants' questions about her conversations with Mr. Rider concerning his media and public education work.²

²With respect to all additional responses to Interrogatories provided herein, we will provide you with amended Interrogatory responses with sworn verifications as required by Rule 33(b). For purposes of efficiency, plaintiffs intend to do so on January 31 when they provide their supplemental answers to all of the Interrogatories.

However, at this late date, Ms. Weisberg does not recall any conversations she had with Mr. Rider prior to her deposition on July 19, 2005 concerning the litigation that did not involve lawyers from this office, or that she did not already testify about at her deposition. Hence, there certainly is no basis upon which defendants may “re-open Ms. Weisberg’s deposition to obtain answers to this line of inquiry.” See also Rule 30(a)(2)(B), Fed. R. Civ. P. (“[a] party must obtain leave of court” to examine a person who has already been deposed in the case”). Moreover, defendants have unduly delayed pursuing this line of inquiry from Ms. Weisberg, having waited more than a year and a half to do so since she was deposed. See, e.g., In re Sulfuric Acid Antitrust Litigation, 230 F.R.D. 527 (N.D. Ill. 2005) (delay of six weeks in moving to compel testimony provided at deposition was undue delay).

With regard to the three individuals from ASPCA’s media department who the ASPCA identified in its June 2004 response to Interrogatory No. 16 as having had discussions with Mr. Rider, see Nov. 22 Let at 2, none of those individuals work for the ASPCA any longer and hence the ASPCA has no obligation at this point in time – two and a half years after it provided this response – to track down these individuals and interrogate them further on behalf of defendants. Indeed, in its June 2004 response, the ASPCA identified these individuals by name, and provided their addresses and phone numbers (with the exception of Ms. Walker), and also provided a general description of their conversations with Mr. Rider – i.e., that they involved “his efforts to educate the public about Ringling Bros.’ treatment of Asian elephants.” Defendants have had more than ample time to follow-up this Interrogatory Response, but failed to do so. Hence, to require the ASPCA to provide a further response to this Interrogatory at this late date and under these circumstances would impose an undue burden on the ASPCA. See, e.g., Rule 26(b)(2)(ii), (iii) (the court may limit discovery when “the party seeking discovery has had ample opportunity . . . to obtain the information sought,” and “the burden or expense of the proposed discovery outweighs its likely benefit”).

Dr. Larry Hawk, the former President and CEO of the ASPCA, also is no longer with the ASPCA, and hence it would be an undue burden for the ASPCA to ask him whether he remembers any additional details about a conversation he had with Mr. Rider “sometime during 2001-2002 to discuss the lawsuit.”

Dale Reidel, Vice President for Humane Law Enforcement, is still employed at the ASPCA. Therefore, although the ASPCA believes that defendants have waited far too long to require it to provide additional responses to any of these Interrogatories, it has contacted Mr. Reidel about this matter to ascertain if he remembers any additional details about his conversation prior to June 2004 with Mr. Rider. Mr. Reidel has responded that he believes Mr. Rider told him how the Ringling handlers use the bullhooks on the elephants, including where on the bodies of the elephants the bullhook is used, and how the handlers try and hide the use of the bullhook when they are in public view. This is all that Mr. Reidel remembers about this conversation.

You also complain that Ms. Weisberg did not provide “sufficient detail about the financial decisions to fund Rider and could not answer questions about communications between Rider and other ASPCA personnel.” Nov. 22 Let at 2. However, in her July 19, 2005 deposition, Ms. Weisberg gave extremely detailed testimony about funding provided to Mr. Rider and to the Wildlife Advocacy Project, see Weisberg Depos. at 43-92, 224-227, and the ASPCA also provided all such information in response to defendants’ Interrogatories and Document Request. Your letter fails to provide any explanation of what further information you seek on this point that was not provided by the ASPCA either in its June 2004 discovery responses or in Ms. Weisberg’s July 19, 2005 deposition testimony.

With regard to Mr. Rider’s discussion with Mr. Hawk in 2001-2002, the ASPCA had already answered that question in its June 2004 discovery response, and Ms. Weisberg testified that she did not remember any more details about that conversation. Again, Dr. Hawk is no longer at the ASPCA, and defendants have waited far too long to request the ASPCA to track him down to provide additional information about a conversation that occurred 4-5 years ago.

We have checked with Mr. Markarian, and he does not recall any further details about conversations that he had with Mr. Rider, which the Fund described in response to Interrogatory No. 16. See Nov. 22 Let at 3. As you note, Mr. Markarian did provide details in his June 22, 2005 deposition testimony regarding Mr. Schubert’s discussion with Mr. Rider concerning a possible job at the Fund’s animal sanctuary, Black Beauty Ranch. See Markarian Depos. at 166. Mr. Schubert is no longer employed by the Fund. However, because he is now employed by the Animal Welfare Institute, which is also a plaintiff to this case, we asked him if he remembered any more detail about this conversation. In response, Mr. Schubert stated that he had one conversation with Mr. Rider about this matter, that he does not recall when this conversation took place, that he told Mr. Rider there was an opening at the ranch and that someone with Mr. Rider’s experience would be a good fit, and that Mr. Rider declined the job offer on the grounds that he needs to continue to stay on the road to tell people about what goes on at the circus. Mr. Schubert further recalls that he suggested that maybe Mr. Rider could work at Black Beauty on a part time basis, but that Mr. Rider declined that suggestion as well and said that he is more interested in continuing his public education efforts throughout the country. That is all that Mr. Schubert remembers about that conversation.

As to Ms. Prescott’s conversation with Mr. Rider, Nov. 22 Let at 3, she also is no longer employed by the Fund. However, in an effort to respond to your question, a Fund representative asked Ms. Prescott whether she remembered her conversation with Mr. Rider, and she replied that she was doing lobbying in Harrisburg on an unrelated matter and there was a press conference of local animal welfare activists concerning some proposed legislation. She does not remember what the legislation was about but thinks it could have been about bull hooks or the circus. She went to the press conference because she was in the same building lobbying on something else and wanted to meet the people holding the press conference. She ran into Mr. Rider as part of a group at the press conference and she just said hi to everyone, including him. She only talked with him for a few seconds – she said hello and thanked him for the work he does on behalf of animals. She

thinks the event may have been in the cafeteria of the State Legislative Building, and she vaguely recalls holding a big cup of coffee as she said her hellos to the activists there. That is all that she recalls about this conversation.

You have also asked us to identify the basis upon which the Fund claimed attorney client and work product privileges. Nov. 22 Let at 3. The Fund claims such privileges with respect to conversations it has had with its attorneys and the other plaintiffs regarding litigation strategy and the evidence that the plaintiffs may wish to use in the litigation.

As to communications between the Animal Welfare Institute ("AWI") and Mr. Rider, Nov. 22 Let at 3, AWI's response provided as much detail as possible regarding the conversation between Christine Stevens and Mr. Rider without infringing on the attorney client and work product privileges. I attended that meeting with Mr. Rider, Ms. Stevens, and Ms. Liss, and the discussion involved litigation strategy and the evidence plaintiffs may wish to rely on in this case. Hence that conversation is privileged. As to any further details about any non-privileged portion of the discussion, Ms. Stevens is now deceased and Ms. Liss does not recall any such discussion. See also Liss Depos. At 146 (Ms. Liss affirmed that during that conversation they were only talking about the litigation).

As to alleged deficiencies in this response based on Ms. Liss's deposition testimony, Nov. 22 Let at 3, as you note, Ms. Liss already testified about such matters in her deposition on May 18, 2005, and answered all questions that she was asked about these matters. Defendants' counsel had ample opportunity to ask follow-up questions about these matters at the May 18, 2005 deposition, and apparently chose not to. This does not give defendants a basis to compel testimony on these matters now. See, e.g., In re Sulfuric Acid Antitrust Litigation, supra.

AWI has no additional documents in response to Document Request No. 21 that were in its possession as of June 2004.

(2) Communications Between Lisa Weisberg and Other ASPCA Personnel

There are no documents in response to Document Request No. 3; this claim of privilege was simply over-inclusive.

(3) Communications Between Plaintiffs and Other Animal Advocacy Organizations

All of plaintiffs' discussions with each other and with their lawyers concerning litigation strategy and the evidence they may rely on in this case is privileged under the attorney client and attorney work product privileges. See Nov. 22 Let at 4-5. Moreover, there were no discussions "relating to the organizations' decisions to fund Mr. Rider's participation in this lawsuit and employment aimed at harassing FEI."

The plaintiff organizations do not remember any other conversations about non-litigation matters, other than those described in response to the March 2004 discovery requests and the subsequent 2005 depositions of Ms. Liss, Mr. Markarian, and Ms. Weisberg. Moreover, defendants had an opportunity to ask all of these deponents additional questions regarding such discussions at their 2005 depositions and apparently chose not to. They cannot now, a year and a half after taking those depositions, insist that additional deposition testimony be provided concerning these matters. See Rule 30(a)(2)(B); In re Sulphuric Acid Antitrust Litigation; see also Alexander v. FBI, 192 F.R.D. 47 (D.D.C. 2000) (requiring "good cause" for permission to re-depose a witness).

Nancy Blaney no longer works for the ASPCA, and it would be an undue burden for the ASPCA to ask Ms. Blaney whether she remembers additional details about conversations she had with D'Arcy Kemnitz more than four and a half years ago. See Nov. 22 Let at 5. The basic substance of the conversations Lisa Weisberg had with the organizations listed in the ASPCA's response to Interrogatory No. 19, see Nov. 22 Let at 5, concerned the status of this litigation, evidence to be used in this case, various legislative proposals concerning elephants in circuses, and possible remedies for this case. Defendants have waited far too long to expect the ASPCA to provide more details about those conversations. In addition, Ms. Weisberg was deposed by defendants on July 19, 2005 for approximately six and a half hours. If defendants had additional questions about any of these conversations, they should have asked them at that time.

With one exception, the plaintiffs produced all documents they had as of June 2004 regarding communications with the Wildlife Advocacy Project. See Nov. 22 Let at 5. AWI recently located some such documents which are enclosed. AWI 06038 - 06059.

(4) Communications Among Plaintiffs and Counsel Discussed During Depositions

Your complaint about certain deposition testimony given by Ms. Weisberg and Ms. Liss is unfounded. Nov. 22 Let at 6. Ms. Weisberg answered all questions concerning the ASPCA's funding of Mr. Rider and contributions to the Wildlife Advocacy Project. The only questions Ms. Ockene objected to her answering were those involving attorneys at this firm "to the extent that it calls for attorney-client communications." See Weisberg Depos. at 80. Defendants' counsel did not inquire further about this objection or the substance of those conversations, but instead asked Ms. Weisberg to describe those conversations that "did not involve anybody from Meyer & Glitzenstein," and Ms. Weisberg answered all such questions, as well as all questions she was asked about the ASPCA's contributions to the Wildlife Advocacy Project. Id. at 80-92. If there were additional questions that defendants wanted to ask Ms. Weisberg about these matters, it should have done so at her deposition.

There were no "conversations relating to funding Rider's employment and participation in this lawsuit." Nov. 22 Let at 6.

Ms. Ockene's instruction during Ms. Liss's May 18, 2005 deposition that she should not answer questions concerning conversations she had with Mr. Rider "to the extent that any of these conversations reveal attorney-client material," Liss Depos. at 144-45, was entirely proper, and there was no follow-up by defendants' counsel regarding any conversations that did not "reveal attorney-client material," other than questions about whether "the first time" Ms. Liss met with Mr. Rider he said whether he was employed. Liss Depos. at 145. Ms. Ockene also instructed the witness not to answer questions regarding that specific conversation if it "involves attorney-client privilege material." Id. Ms. Ockene further explained that she was instructing Ms. Liss not to answer that question "if there was an attorney present and it was in the context of the litigation." Id. at 146. Defendants' counsel then asked Ms. Liss whether during that conversation she was "only talking about the litigation," to which she replied "yes." Id.

While Ms. Liss is not required to provide further testimony on this point, a year and a half after she was deposed, she can state that this conversation involved her, Christine Stevens (then President of AWI), Mr. Rider, and me, and that it concerned litigation strategy and the evidence that plaintiffs would rely on in this case, all of which is clearly protected by both the attorney-client and work product privileges. Ms. Liss does not remember any discussion about whether Mr. Rider was employed at that time.

(5) Payments to Tom Rider and/or WAP

Interrogatory Nos. 21 and 22 quote plaintiffs' standing allegations in their Complaint and ask them the basis for those allegations. Compare Interrogatory Nos. 21 and 22 with Complaint ¶¶ 4, 6, 9, 11, 14, 16. As of June 2004, when these Interrogatories were answered, none of the plaintiffs were relying on any funds provided to either Mr. Rider or the Wildlife Advocacy Project with respect to the standing allegations contained in paragraphs 4, 9, or 14 of the Complaint, which is quoted in Interrogatory No. 21. As of June 2004, the ASPCA is the only plaintiff organization that was relying on funds paid directly to the Wildlife Advocacy Project with respect to the standing allegations made in paragraphs 6, 11, or 16 of the Complaint, which is quoted in Interrogatory No. 22, and the ASPCA identified such funds and also provided documents concerning those funds.

Even though this information is not responsive to the discovery directed at AWI, with this letter AWI is providing documents concerning a contribution it made to the Wildlife Advocacy Project in February 2004. See AWI 06038 - 06059. In addition, all of the plaintiff organizations have been extremely forthcoming about funds that they have contributed to either Tom Rider or the Wildlife Advocacy Project for media, public education and advocacy concerning the mistreatment of elephants in captivity by Ringling Bros. and others. See, e.g., ASPCA Responses to March 2004 Discovery Requests; July 19, 2005 Deposition of Lisa Weisberg at 43-92, 224-227; June 22, 2005 Deposition of Mike Markarian at 157-158; May 18, 2005 Deposition of Cathy Liss at 138-143, and the plaintiffs intend to provide additional information concerning such funding in their supplemental discovery. Pursuant to a third party subpoena, the Wildlife Advocacy Project has also provided defendants with extensive information concerning the

contributions to that organization for such purposes by each of the plaintiff organizations and others. Accordingly, to the extent that defendants are complaining that they have been denied such information, this simply is not true.

(6) ASPCA's 2003 Budget Information

You have asked Ms. Weisberg to identify the issues that the ASPCA spent money on that, prior to 2003, had been allocated for Mr. Rider's public education and media work. Nov. 22 Let at 7. Ms. Weisberg testified at her July 19, 2005 deposition that such funds were devoted to "other budgetary needs." Weisberg Depos. at 80-81; see also Id. at 140- 41 (explaining that this money was budgeted to "[o]ther issues that we wanted to pursue that we needed to provide for monetarily."). In response to your November 22 letter, we have asked Ms. Weisberg if she can provide any additional information concerning this matter, and she has responded that the funds would not have been spent on any particular project, but would have been dispersed throughout the entire budget for 2003. Those issues are reflected in the ASPCA's 2003 Annual Report which is enclosed, A01144.

(7) ASPCA Inspection Information

Enclosed is an additional document ASPCA located concerning the reason there was no inspection report located for 1997 (A001145). See Nov. 22 Let at 8. As to ASPCA providing a description of those inspections, ASPCA states that those inspections would have been the same in scope as those that are reflected in the inspection reports that the ASPCA has already provided to defendants, and that the inspection form used in 1997 and 1998 was the same as the form that has already been produced. In further response, ASPCA reiterates the July 19, 2005 deposition testimony of Lisa Weisberg – i.e., that these inspections are "arranged in conjunction with Ringling Bros.," that the inspectors "are accompanied by a Ringling Bros. employee," Weisberg Depos. at 115; "they are general inspections that are more superficial in nature;" the ASPCA inspectors "are not experts in elephants;" the inspectors "did not actually inspect each animal;" the inspection is done "from a distance;" and the inspectors did not look behind the ears of the elephants. Id. at 231-32.

As Ms. Weisberg further testified, there was no inspection of Ringling Bros. one year as a result of Ringling Bros. questioning the ASPCA's authority to conduct the inspection; even during the time period when the inspections were "unannounced," the inspectors "would have to wait a period of time until [Ringling Bros.] would accompany [the inspectors] into the area where the animals were kept;" and "at some point" after that time "we did inspections by invitation . . . by appointment, rather, so that we would have to contact Ringling Bros. ahead of time and arrange a specific day and time in which we could come in and inspect the animals." Id. at 233.

**(8) AWI's Knowledge Concerning Whether Other Groups Were
Sharing Tom Rider's Expenses**

Your complaint that Cathy Liss did not accurately answer a question posed to her at her May 18, 2005 deposition regarding whether she was "aware" that AWI was "sharing" the expenses of Mr. Rider's media and public education efforts "with some of the other organizations," is also unfounded. Nov. 22 Let at 9. The only document that you have produced on this matter is an email sent by Lisa Weisberg to Larry Hawk of the ASPCA. A 00046. However, that email was not sent to Ms. Liss. Moreover, that document had already been in defendants' possession since June 9, 2004 when it was produced by the ASPCA pursuant to the March 2004 discovery requests, yet defendants' counsel did not provide that document to Ms. Liss at her deposition in an effort to jog her memory on this subject, nor was this line of inquiry otherwise pursued by defendants at Ms. Liss's deposition. Therefore, you have no basis for asserting that Ms. Liss's testimony on this point was not accurate, and Ms. Liss has no obligation to now – in the face of this document – update her May 18, 2005 deposition testimony on this point. There is no other AWI employee who would have had better information on this point than Ms. Liss.

B. Discovery Sought From Tom Rider

You state that it is "troubling" that Mr. Rider did not produce 1099s from the WAP in response to his June 2004 Interrogatory Responses. Nov. 22 Let at 10. However, Mr. Rider simply did not have copies of those documents when he was served with the Interrogatories in March 2004. Furthermore, in light of the answers Mr. Rider very candidly provided to you at his October 12, 2006 deposition regarding his position on whether he was obligated to pay taxes on the grants he received from the Wildlife Advocacy Project, it should not be that surprising to you that he had not maintained copies of those documents in March 2004. Moreover, since you were able to obtain copies from the Wildlife Advocacy Project, it is not clear why it is so "troubling" that you were not able to also obtain copies of the same documents from Mr. Rider pursuant to defendants' March 2004 discovery responses.

Regarding the answers to Document Requests 20 and 21, and Interrogatory No. 24, as you note, Mr. Rider has already provided some of this information to you during his October 12, 2006 deposition, and you have also received some of this information from the other plaintiffs and from the Wildlife Advocacy Project. In addition, Mr. Rider is willing to provide a more complete list to defendants of his sources and amounts of income since he stopped working for circuses – as he has consistently stated he would do since June 2004. However, because he still believes that much of this information is personal and confidential, he continues to request that he provide this information to defendants subject to a confidentiality agreement. If you agree to this approach, I will draft a proposed agreement for your review as soon as possible.

As to Mr. Rider's response to Interrogatory No. 4, see Nov. 22 Let at 11-12, Mr. Rider continues to object to describing conversations he has had with the co-plaintiffs and their

attorneys concerning litigation strategy, on the grounds that such information is protected by both the attorney client and work product privileges. He also continues to object to providing information concerning conversations he may have had with Ms. Weisberg concerning litigation strategy or the evidence that plaintiffs may rely on in this case on the same basis, since Ms. Weisberg is both a co-plaintiff and in-house counsel advising the ASPCA on such matters.

However, with respect to conversations Mr. Rider has had with Ms. Weisberg that did not involve litigation strategy or evidentiary matters, Mr. Rider can state that during 2002-2003, when the ASPCA was funding his public education and media efforts, he did have regular conversations with Ms. Weisberg concerning those efforts – *i.e.*, which reporters he was meeting with in which city, the substance of his media interviews, discussions about which city to go to next and which reporters to talk to, and any subsequent news coverage that was generated. He may also have had conversations with her concerning other advocacy work he was doing on behalf of elephants, such as testifying at hearings on various legislative proposals or speaking to grassroots groups. Mr. Rider also had conversations with other individuals in the ASPCA's media office, including Brigid Fitzgerald, Patricia Jones, and Robin Walker about these same matters during the same time period. He also had conversations with D'Arcy Kemnitz of the Wildlife Advocacy Project between March 2001 and February 2002, and with me in my capacity as an official of the Wildlife Advocacy Project between March 2001 and June 2004 about these same matters and other public education outreach he was doing on the issue of elephants in circuses with grassroots groups around the country. Mr. Rider will be providing supplemental responses to this discovery as discussed above.

Mr. Rider properly objected to Interrogatory No. 4 on the grounds that it was overly broad and unduly burdensome." *See* Rider Responses to Interrogatory No. 4 at 8 (objecting on the grounds that this question is "overly broad, unduly burdensome, and oppressive, because Mr. Rider has had hundreds of communications that fall within the scope of this Interrogatory"). However, the ASPCA identified many of these same conversations in its responses to defendants' March 2004 discovery requests, and also produced documents demonstrating that the ASPCA had contributed funding to the Wildlife Advocacy Project for this purpose. We note that the Wildlife Advocacy Project also produced discovery to defendants on these matters pursuant to a third party subpoena. Nevertheless, when Mr. Rider was deposed on October 12, 2006, defendants did not ask him any questions about any of these conversations, nor have defendants yet taken their own deposition of Mr. Rider at which they may obviously do so.

Mr. Rider does not recall any other communications he had with any of the organizational plaintiffs that did not involve litigation strategy that he has not already described, and he has already produced all documents that he had as of June 2004.

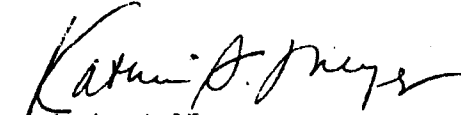
To the extent that defendants are concerned about funding that Mr. Rider has received from the other plaintiffs, again, all of the plaintiff organizations have been extremely forthcoming about the funds that they have contributed to either Tom Rider or the Wildlife Advocacy Project, *see supra* at 7, and will continue to provide such information in their supplemental responses. In

addition, the Wildlife Advocacy Project has also provided defendants with extensive information concerning the contributions to that organization for such purposes by each of the plaintiff organizations and others. See id. Moreover, as mentioned above, since June 2004, Mr. Rider himself has agreed to provide defendants with information concerning all such funding, as well as other sources of funding he has received, but has requested a confidentiality agreement for that purpose because such information is confidential and personal. Accordingly, again, to the extent that defendants allege that they have been denied such financial information, there simply is no basis for any such allegation.

Conclusion

This letter, together with my previous letter dated December 15, 2006, should adequately address the issues raised in your November 22, 2006 meet and confer letter. In addition, as mentioned above, API is providing discovery responses to defendants by separate letter today, and we are also gathering information from the plaintiffs in order to provide supplemental answers to the March 2004 Interrogatories and Document Requests. Please let me know if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine A. Meyer". The signature is fluid and cursive, with a large initial "K" and a long, sweeping underline.

Katherine A. Meyer