

## **PLAINTIFFS' EXHIBIT 17**

To Plaintiffs' Opposition to Defendant Feld  
Entertainment, Inc.'s Motion for Leave to Amend  
Answers to Assert Additional Defense and Rico  
Counterclaim

Civ. No. 03-2006 (EGS/JMF)

Privacy Act Notice on Reverse

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AFFIDAVIT

I, (name of affiant) Gary D. West, DVM being duly sworn on oath

make the following statement:

I, Gary D. West, D.V.M., voluntarily give this statement to W.D. McFather who has identified himself to me as an Investigator with USDA, APHIS, Investigative & Enforcement Services. *bu*

I reside at *bu* I prefer not to give my social security number. Phone No.

I am employed full time by Ringling Bros. & Barnum & Bailey Circus as their Attending Veterinarian. I have held this position for approximately 1 1/2 years. I have been a veterinarian for 2 1/2 years. I have had approximately 2 years experience giving veterinary care to elephants. *bu*

On January 24, 1998, I received a call from *bu* around 1:40pm regarding Kenny an Asian male elephant which was born on August 19, 1994. I was informed that Kenny had not been drinking for about 18 hours, with the exception of some rain water, although he was eating a little. I was also informed that he was showing some colicky signs, but he was performing normally.

*bu* I told *bu* to give him 500mg of Banamine orally. I called back a short time later and was informed that Kenny readily took the medicine.

On this same date I arrived in Jacksonville, FL, at about 5:45pm. This is where the circus was being held and where Kenny was located. I was told by *bu* that during the second performance Kenny had 3 episodes of diarrhea. After my examination of kenny he appeared mildly dehydrated. I gave him 1 gram of ceftiofur IM and 400 mg Banamine IM. He was offered water with powered electrolytes of which he drank about 40 liters within a 3 hour period. After he drank the fluids he seemed well hydrated and his mucous membrane color was good. He continued to

Gary D. West  
SIGNATURE OF AFFIANT

Subscribed and sworn to before me at *bu*  
on this 5 day of February 19 98

W.D. McFather  
DESIGNATED PURSUANT TO 7 USC 2250  
ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS  
AUTHORITY NO 2250

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I, (name of affiant) Gay D. West, DVM being duly sworn on oath

make the following statement:

act painful and colicky and laid down and rose several times. Some fresh blood was passed after a formed bolus of feces was passed. More blood was passed with formed stool. I performed a rectal examination with no palpable abnormalities. After the exam my rectal sleeve was covered with blood. Shortly afterwards he was again offered fresh vegetables and fruit items. He ate several apples. He also drank some more water with electrolytes.

The decision was made by <sup>b6</sup> to take Kenny with the other elephants to the arena because he felt that leaving Kenny behind might be more disruptive to his routine. I advised him that Kenny should remain in the barn. The reason for this is because Kenny didn't feel good and I felt he might pass some blood which might be seen by a spectator and cause speculation as to his well being. I don't believe the walk to the arena with the other elephants would exacerbate his condition nor do I believe it did. Kenny was taken to the arena with the other elephants and was returned to the barn about 15 minutes later. <sup>b6</sup> I told me that coming back Kenny was a little unsteady. When the elephants were in the arena I heard one of them wail a few times. Wailing is not an indication that an elephant is in pain. I don't know which elephant did the wailing. To my knowledge while at the arena, Kenny stood next to the ring while the other elephants performed. After returning from the arena he started playing with his water. He drank approximately 1 gallon of electrolytes and water. Afterwards he passed some blood and his condition appeared to improve. Approximately 1 1/2 to 2 hours later he died acutely. Rectal hemorrhage was prominent at death. Even though I performed a necropsy, which started about 5:00am on January 25, 1998, to date the cause of death has not been determined and may never be definitive.

Kenny had performed in 2 shows that day prior to my arrival and to my knowledge performed normally. His performance usually lasts

Gay D West  
SIGNATURE OF AFFIANT

Subscribed and sworn to before me at \_\_\_\_\_  
on this 5 day of February 19 98

W. A. McFadden  
DESIGNATED PURSUANT TO 7 U.S.C. 2217 TO  
ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS  
AUTHORITY NO 2250

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I, (name of affiant) Gary D. West, DVM being duly sworn on oath

make the following statement:

about 7 minutes. I believe our handlers would not allow an animal to perform if they knew that the animal had a serious illness. We could not foresee that this illness was serious enough to cause kenny's acute death.

W.D. McFather has a copy of my case report, necropsy report, histopathology report, and culture reports. I have given him a copy of our written program of veterinary care. This copy was faxed to Ringling Bros. This is why it is not signed by them.

I swear that this statement is true and correct to the best of my knowledge and belief.

Gary D. West  
SIGNATURE OF AFFIANT

Subscribed and sworn to before me at  
on this 5 day of February 19 98

W.D. McFather  
DESIGNATED PURSUANT TO 7 U.S.C. 2217 TO  
ADMINISTER OATHS, AFFIDAVITS, AND AFFIR  
AUTHORITY NO 2250

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