

**PLAINTIFFS' EXHIBIT 19**

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)

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December 21, 1998

Hand-Delivered

Michael Dunn, Assistant Secretary for Marketing  
and Regulatory Affairs  
Dr. Craig Reed, Associate Administrator,  
Animal and Plant Health Inspection Service  
1400 Independence Ave., S.W.  
Washington, D.C. 20250

Re: Complaint Against Ringling Brothers For Abusing  
And Mistreating Elephants And Request For  
Immediate Investigation And Seizure And Protection  
Of Several Elephants By The Department Of  
Agriculture.

Dear Mr. Dunn and Mr. Reed:

On behalf of Performing Animal Welfare Society ("PAWS"), and its officers, Pat Derby and Ed Stewart, we write to bring to your attention evidence of serious violations of the Animal Welfare Act and the implementing regulations to that statute by Ringling Brothers and Barnum & Bailey Circus with particular regard to its treatment of elephants in its possession, including baby elephants. Specifically, PAWS has recently obtained the sworn deposition testimony of two elephant handlers who recently left the employ of Ringling Brothers who provide eye-witness accounts and other evidence of routine, severe beatings with bull hooks of elephants, including babies, used in Ringling Brothers' "Blue Unit," to make those elephants perform in a certain way, and to punish them for not performing or otherwise behaving as desired by the circus's trainers. Both eye-witnesses further testified that this abhorrent, unlawful treatment of these animals has occurred in front of, and with the apparent acquiescence of, Jeffrey Steele, Ringling Brothers' Executive Manager for the Blue Unit. They also testified that Ringling Brothers uses an



elephant in its performances who is extremely dangerous.

As discussed below, and more fully in the attached Addendum, this conduct violates the AWA and implementing regulations in numerous respects, and requires the immediate suspension of Ringling Brothers' exhibition license, and a full investigation. In addition, PAWS implores you to act expeditiously to protect these animals from further abuse and mistreatment, by exercising your authority to seize the animals and ensure their safety during the pendency of your investigation and enforcement proceedings. PAWS stands ready to assist you in acting to protect these animals as expeditiously as possible.

A. Eye-Witness Testimony.

1. Elephants Are Severely Beaten With Bull Hooks.

Enclosed is a videotape of sworn deposition testimony of two recent employees of Ringling Brothers who worked on the animal crew for Ringling Brothers' Blue Unit between September and December, 1998, Glenn Ewell and James Stehcon. Exhibit A. Both individuals were assigned primarily to the care of the elephant herd. Copies of the transcripts of their depositions are also enclosed as Exhibits B and C.

Both individuals provide sworn testimony that on many occasions they witnessed Ringling Brothers' elephant handlers and trainers, including individuals named "Randy," "Adam," "Pat," "Steve," and "Robby" beat elephants severely with an instrument called a "bull hook" which is a hard club made of fiber glass, wood, or metal, with a sharp hook on the end of it. Many of these bull hooks are manufactured by Adam, one of Ringling Brothers' trainers, for use on the elephants by the animal crew. One of the deponents, Mr. Ewell, has provided one of these bull hooks to PAWS as evidence and we have enclosed a photograph of it. Exhibit D.

Mr. Ewell exhibits and further describes these bull hooks in his deposition, and demonstrates their use by Ringling Brothers' employees. He explains that on several occasions, these employees used bull hooks to beat elephants repeatedly on the head, ankles, and other parts of their bodies to make them behave in a particular way or to punish them for not performing as desired. This testimony is completely corroborated by the other deponent, Mr. Stehcon.

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<sup>2</sup>The depositions were taken on December 7, by attorney Sharon Simms, 721 Ninth Street, Suite 100, Sacramento, California.

Both men also testified that the Ringling Brothers' elephant handlers and trainers use the sharp end of the bull hook to make the elephants do as they wish, by hooking it onto their ears, their ankles, and other parts of their hides and then pulling on the bull hook. These men also testified that these beatings and stabbings with the bull hooks cause the elephants much distress and pain, as evidenced by the animals' cries and other distressful verbal reactions, and that the elephant handlers often draw blood from the animals when they use the bull hooks. This testimony is further corroborated by videotape of Ringling Brothers' "Red Unit" arriving in Sacramento in 1997. That videotape, attached as Exhibit E, shows elephant handlers unloading elephants from the trains and striking the animals with whips, and using hooks on their ears to "control" them.

There are 13 adult and 2 baby elephants in the Blue Unit. Although the trainers use the bull hooks on many of these animals, Mr. Ewell and Mr. Stechcon testified that particular elephants are beaten more frequently, including an Asian elephant named "Nicole," and a baby elephant named "Benjamin." The men testified that they have seen Randy and Adam beat Nicole on several occasions, and that Randy beat her so hard once that he shattered a bull hook on her. Mr. Stechcon testified that he saw three of the handlers and trainers, Randy, Adam, and Pat, beating Nicole at one time.

The men also testified that they also witnessed Pat beat the baby elephant Benjamin many times. Both men testified that beatings occurred throughout the country where the Blue Unit performed, including Denver, Colorado, Cleveland, Ohio, and the Rosemont Arena, outside Chicago, Illinois. They also testified that the beatings were completely unprovoked by the animals, who are extremely gentle and cooperative.

Both men further testified that Jeffrey Steele, who is the executive manager of the "Blue Unit," was present during at least one severe beating of Nicole -- that this vicious beating with a bull hook took place in Rosemont, Illinois, outside of Chicago, after "Randy" made Nicole lay down on the ground, that this beating lasted for several minutes, and that it was conducted within full view of Mr. Steele. When asked whether it was possible that Mr. Steele did not see this beating and therefore was unaware of it, one of the deponents, Mr. Stechcon, testified that, while he did not believe that Mr. Steele could have avoided seeing the beating, he certainly could not have missed hearing the repeated "whacking" sound of the bull hook on Nicole as well as Nicole's cries of distress.

Despite this abusive and clearly unlawful treatment toward this animal, Mr. Steele neither said nor did anything to stop it, nor did he take any action whatsoever to reprimand the Ringling Brothers' employee who was engaging in this conduct. Rather,

according to both Mr. Ewell and Mr. Stechcon, Mr. Steele -- the top executive officer of the Blue Unit -- simply ignored this conduct and went on about his business. This incident alone, and Mr. Steele's cavalier reaction to it, suggests that such treatment of elephants in Ringling Brothers' circus is by no means aberrational, but, rather, is business as usual for this exhibitor.

As detailed below, and more fully in the attached Addendum, these beatings and stabbing with bull hooks violate the Animal Welfare Act and its implementing regulations, including the provisions that state that "[p]hysical abuse shall not be used to train, work, or otherwise handle animals," that "[h]andling of all animals shall be done . . . in a manner that does not cause trauma . . . behavioral stress, physical harm, or unnecessary discomfort," and that "[y]oung animals shall not be exposed to rough or excessive public handling . . . which would be detrimental to their health or well-being." 9 C.F.R. § 2.131(a), (b) (emphasis supplied).

2. Elephants, Including Babies, Are Left Chained For Days.

Both deponents also testified that elephants are left chained hour after hour, each day, and that, with few exceptions, they are allowed off their chains only when they perform. In addition, when the circus is traveling, the elephants remain chained in the stock cars for as long as 2-3 days consecutively, and are not provided any opportunity, whatsoever, to walk around, or otherwise exercise.

These conditions, which are completely at odds with the natural biological needs of these magnificent animals, also violate the AWA regulations, since they too constitutes conduct that causes the animals "behavioral stress." 9 C.F.R. § 2.131(a). In addition, these conditions appear to violate the provision of the regulations which states that the animals must be provided sufficient space "to make normal postural and social adjustments with adequate freedom of movement." 9 C.F.R. § 3.128, 3.137(c).

3. Ringling Brothers Is Using An Extremely Dangerous Elephant In Public Exhibitions And Exposing The Public, Including Thousands Of Young Children, To The Risk Of Injury.

Both Mr. Ewell and Mr. Stechcon testified that there is an elephant in the Blue Unit named Karen who, according to Ringling Brothers' own trainers and handlers, is extremely dangerous. In fact, this elephant is considered so dangerous by these Ringling Brothers' trainers, that the other members of the animal crew are emphatically instructed not to get near her or they can be killed. For this reason, this animal is not cared for in the same manner as the other animals -- e.g., the crew is not

permitted to feed her directly or to bathe her without a trainer being present to maintain control over the animal. A Ringling Brothers animal handler who appears on the videotape marked Exhibit E explains that Karen is "very mean" because she was beaten by her former circus owners.

Despite Ringling Brothers' own knowledge of the dangerousness of this animal, it nevertheless continues to use her in its public performances around the country, in violation of 9 C.F.R. § 2.131(b), which prohibits animals from being exhibited if they pose a risk to the safety of the public. Particularly in light of past incidents where performing elephants have gone on rampages, including the 1994 Circus International incident in Honolulu, Hawaii which resulted in several deaths and severe personal injuries, this elephant should not be permitted to perform in public arenas, only feet from thousands of young children. Indeed, the parents of these children are completely unaware of the condition of this particular animal and the fact that Ringling Brothers' own trainers regard her as extremely dangerous.

**B. The Agency Must Act To Protect These Animals And To Ensure That Ringling Brothers Does Not Continue To Mistreat Them.**

In light of this recent eye-witness testimony, there can be no doubt that Ringling Brothers is in violation of the Animal Welfare Act and the statute's implementing regulations. In addition, because these animals are "endangered" within the meaning of the Endangered Species Act, 16 U.S.C. § 1531 et seq., Ringling Brothers is also in violation of the prohibition against the "taking" of any such animal. PAWS is today sending Ringling Brothers and the Fish and Wildlife Service notice letters pursuant to 16 U.S.C. § 1540(g) concerning those additional violations of federal law.

On the basis of the evidence presented here, PAWS implores you immediately to investigate these charges, to suspend Ringling Brothers' exhibition license, and ultimately to revoke that license, pursuant to 7 U.S.C. § 2149. In the meantime, to ensure that these animals, particularly Nicole and Benjamin, are protected from further abuse and mistreatment, PAWS urges you to exercise your authority, pursuant to 9 C.F.R. § 2.129, to confiscate these animals and place them in temporary shelters until this matter can be resolved. In addition, to protect the public from the risks posed by Karen, PAWS urges you to prohibit Ringling Brothers from continuing to use this elephant in exhibitions, and to determine her appropriate disposition.

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PAWS urges you to act on this matter immediately. It is prepared to assist you in any way possible to protect these magnificent animals from any further abuse or mistreatment. Please contact us or Ms. Derby directly concerning the actions you will take in response to this Complaint.

Sincerely,



Katherine A. Meyer



Cara L. Romanzo

cc: Secretary Dan Glickman  
Congressman Sam Farr

## ADDENDUM

### PAWS COMPLAINT AGAINST RINGLING BROTHERS CIRCUS

Eye-witness Testimony Applied to Violations of Animal Welfare Act Regulations ("GE" means deponent Glenn Ewell; "JS" means deponent James Stehcon):

- (A) **9 C.F.R § 2.131. (a)(1)** requires that "handling of animals shall be done as expeditiously and carefully as possible in a manner that does not cause excessive trauma, overheating, excessive cooling, behavioral stress, physical harm or unnecessary discomfort."

#### Relevant Deposition Testimony

- (1) Bull Hooks are frequently and maliciously used by trainers to train, work, punish and otherwise handle the elephants

- GE: testified that trainers used what was called a bull hook, instead of "positive reinforcement". He explained that if an animal is not trained well enough, did not rise or sit fast enough, or did not perform well, bull hooks would be used. He described a bull hook as a long stick fashioned from either wood or fiberglass, with either a straight or curved hook on either end. Animals were beaten on both ends with these bull hooks.
- GE: The hooks can be extremely sharp. One trainer in particular, named Randy, has an extremely heavy bull hook with a very sharp tip. Has seen Trainer Randy make one elephant lower her head before he commenced beating her about the head with the extremely sharp point of the bull hook.
- GE: Has seen one bull hook shattered over Nicole, heard one wooden one shattered on another elephant Karen and saw the broken bull hook used on Karen.
- JS: Trainers or handlers using bull hooks include Randy, Adam, Steven, Pat and Robby.

- (2) Trainers physically abuse adult elephants with the bullhook

- GE: Has seen them beat other elephants "many times". He witnessed occasions where the trainers were brushing the animals off and the animals were too slow or non-responsive, whereupon trainers would take the bull hook and hit them on the head, behind the ear and on the ankles. Would do it to get them to lie down or if did not perform well.
- JS: Randy, the head trainer, treats the elephants "forcefully and with no compassion"



-- **Locations Where Strike Animals:** Animals are struck with bull hooks under the trunks, hooked behind the ear, or even inside of their ears, or on top of their heads.

(3) Beatings of Nicole are particularly frequent and brutal, and entirely unprovoked

-- GE: Witnessed frequent, brutal, malicious and entirely unprovoked attacks on Nicole, who is a very gentle elephant. He saw Nicole beaten over 12 times in the short period he worked with Ringling Brothers. He typically saw Nicole struck about the head, on the ears, and about the ankles. Randy, the head trainer, beats Nicole with great frequency. She was "his favorite one to pick on".

-- GE saw them shatter a fiberglass bull hook over the top of Nicole's head.

-- GE witnessed several occasions where trainer Randy would start beating Nicole as she was returning from her performance.

-- JS witnessed a **3-person attack** by Randy, Adam and Pat, where they took two handed swings at her with their bull hooks.

-- **Dates and locations of Nicole beatings:** GE witnessed Nicole being beaten by Randy for the first time on **October 10, 1998**, the day after he began working there. Beaten by Randy or Adam every day after each performance in Cleveland, except on Mondays when there were no performances. The same occurred in **Denver, Colorado**. It also occurred at the **Rosemont Arena** outside Chicago.

-- JS saw beatings by Randy in **Cleveland, Ohio**, within the last three weeks as punishment for her performance. Nicole was making lots of noises and bellowing loudly. **This beating persisted for at least three minutes, was done with a bull hook, and blood was drawn.**

(4) Nicole suffered from severe emotional distress as a result of abusive treatment

-- JS: There were a couple of shows after the three person attack and other beatings, where it was taking Nicole a while to climb up on the other elephants back ends, as required by the act. Eventually she would climb up as she was supposed to. She **shuffled her feet and kept urinating** during the performances because she was afraid.

(5) Physical Abuse of Baby Elephants Benjamin & Shirlev

-- GE: Trainer Pat handled the young elephants. GE saw Pat beating Benjamin with a bull hook several times. The animal would cry out and bellow in pain.

-- JS: Has witnessed Pat beat Benjamin on many occasions. JS recalls one particular occasion when Benjamin was beaten just for throwing hay on his back, which is healthy and normal elephant behavior.

(6) Adults show severe behavioral distress when Benjamin is beaten

-- GE: When Benjamin is beaten, all the adult elephants cause a "ruckus" and create a danger to the crew.

-- JS: The adult elephants go "berserk" and get "really freaked out and pull on their chains" when Benjamin is beaten. Beatings to baby done without regard to the danger created for crew members standing between adult elephants. "It's not good things, you are in terrible danger, and it would not take much for the elephants to break the chains."

(7) Excessive chaining and limited exercise/ play opportunities cause behavioral stress and unnecessary discomfort

-- GE: With rare exception, the elephants are chained unless they are performing. They were sometimes unchained for a few minutes during their daily bathing, which involves being washed down with a firehose. The baby elephants are cooped up and want to run and play, but they are always chained up -- they try to play with the chains on but have difficulty doing so.

-- JS: The elephants do not have an opportunity to walk around, and only walk when going from the pen to the show, or when arriving to or leaving from town. They spend 9/10 of their lives chained, including being chained for days at a time in a train, without any breaks for exercise or play.

(8) Train travel without exercise causes behavioral stress and unnecessary discomfort to the animals:

-- GE: The animals are in the trains for 2-3 days at a time, chained, and do not have any opportunity for exercise during this time.

-- JS: They are chained by right front and left rear foot for the whole time they are in the train.

B. 7 C.F.R. § 2.131(a)(2)(i) requires that "[p]hysical abuse shall not be used to train, work, or otherwise handle animals."

(1) Bull hooks are frequently and maliciously used by Trainers to train, work, and otherwise handle and mistreat the elephants (see

supra)

- (2) Trainers physically abuse the adult elephants on a regular basis  
(see supra)
- (3) Beatings of one particular elephant, Nicole, are frequent, brutal and unprovoked (see supra)
- (4) Trainer Pat physically abuses the baby elephants (see supra)
- (5) Ringling Brothers Permits and Encourages Physical Abuse to Train, Handle and Work the Animals

-- JS: Use of bull hooks was never discouraged; on the contrary, it was **encouraged**. JS was given a bull hook and told to use it. He never needed it, beyond gently laying it on their backs to guide them. In his experience, a firm voice and gentle guiding sufficed to get elephants to obey.

-- One time in Rosemont, **Jeff Steele**, the Executive Manager, came into the training area talk with Adam - he is the Executive Manager and paid no mind to the beating going on with Nicole. Randy was "going berserk" on Nicole. He did not say "you should not be doing that" or use Randy as an example. People present included: Randy, Adam, Steve, and some other crew people.

-- JS: Saw **Jeff Steele** in Rosemont deliberately ignore a severe beating of Nicole. He came down ramp and went right, and then right again into his trailer and could not have missed viewing the incident. Randy and Adam were beating Nicole and even if "he [Mr. Steele] had no eyes he could have heard him -- you cannot miss it -- WHACK WHACK WHACK." He likened it to the sound of a person hitting a hanging bag full force with a baseball bat.

- (6) Trainers attempt to hide the animal injuries resulting from their abusive practices

-- GE: It is not uncommon that the animals are bloodied from the attacks. GE has seen "Sonny" come in with a **little kit** and put something on the elephants to **stop their bleeding** and cover up what they are doing.

-- JS: Stated that when the trainers are done beating the elephants, someone will come back -- usually whoever did the beatings -- and brush the cuts out and put purple stuff on them (to camouflage the wounds).

(C) § 2.131 (b)(1). "During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and/or general viewing public so as to assure the safety of animals and the public."

(1) Karen

-- GE was emphatically told to "Stay away from Karen! She is dangerous!" Everyone at the RB, except the trainers, were forbidden to go near Karen because she was extremely aggressive. The crew members could not approach the animal for any reason, even to clean the area behind her, unless a trainer was standing directly with her.

-- JS was also told to stay away from Karen by Tom Henry, Simon, Randy. JS was told that Karen is a "killer" and that individuals had gotten the 'hell knocked out of them' and gone to the hospital because of her.

(D) § 2.131 (c)(1). "Animals shall be exhibited only for periods of times and under conditions consistent with their good health and well-being."

(1) Exhibition of Nicole is detrimental to her health and well-being.

-- JS: Nicole is **afraid** to perform. There were a couple of shows after the 3-person attack and other beatings, where it was taking her a while to climb up on the other elephants' backs. Eventually she would get up and do it ... She **shuffled her feet and kept urinating** during the performances because she was afraid.

-- Nicole is a severely abused animal, and her life performing circus exhibitions has been extremely detrimental to her health and well being. GE and JS witnessed countless and frequent beatings of Nicole with bull hooks, some of which were a direct result of her poor exhibition performance. Some beatings were bloody, and some involved multiple attackers.

-- JS: One night after Randy was not satisfied with Nicole's performance, he heard Randy telling Nicole to lay down, and then noises that sounded like a **baseball bat** hitting something. He looked around and saw **Randy hitting her with a bull hook very fast and hard all about the head**. Nicole was making lots of pain noises and bellows. This persisted for **more than three minutes and blood was drawn**.

(F) § 3.128 **Space Requirements**. "Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor

condition, stress, or abnormal behavior patterns.”

- (1) **Chaining does not provide sufficient space for the elephants to make normal social adjustments with adequate freedom of movement.**

-- JS: The elephants do not have an opportunity to walk around, and only walk when going from the pen to the show, or when arriving to or leaving from town. They spend 9/10 of their lives chained, including being chained for days on end in a train, without breaks to exercise.

- (2) **Four-year old elephants Benjamin and Shirlev do not have opportunity adequate space or freedom of movement to make normal social adjustments.**

-- GE: The baby elephants are cooped up and want to run and play, but they are always chained up -- they try to play with each others but the chains greatly hinder them.