

PLAINTIFFS' EXHIBIT 29

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)

USDA Investigates Death of Circus Lion

Activists Challenge Ringling Brothers' Account, Say They Notified Federal Officials

By MARC KAUFMAN
Washington Post Staff Writer

The Ringling Brothers and Barnum & Bailey circus is facing a federal investigation amid allegations that it allowed a young lion to die in a sweltering animal train crossing the Mojave Desert and then tried to keep key information from the government.

Soon after the investigation was launched, a recently fired Ringling Brothers lion handler delivered an affidavit to Agriculture Department officials contending that the lion died because the boxcar it was riding in was extremely hot and the animal needed water.

He said circus officials would not stop the train to cool the animal off despite reports by him and another handler that the 2-year-old lion, named Clyde, and other animals were suffering from intense heat.

Frank Hagan, the veteran Ringling Brothers employee who wrote the affidavit, also said that circus lawyers told him and others familiar with the incident not to talk with Agriculture Department officials who were coming to the circus train to ask questions. Hagan said in the affidavit that the circus fired him soon after on what he contends was a pretext.

The lion's death in July and the federal investigation have quickly become part of the battle between circuses and animal rights activists over the treatment of animals in captivity.

People for the Ethical Treatment of Animals, which was contacted by Hagan and forwarded his affidavit to the Agriculture Department last week, said the incident illustrates the conditions under which many circus animals live. Darin Johnson, national spokesman for Ringling Brothers, disagreed, saying the company has been dedicated to the humane treatment of its animals for 134 years and is using the "sad death" of Clyde as an opportunity to review and improve policies for transporting animals.

Johnson said there are "discrepancies" between Hagan's recollection of events in the animal's death and the company's understanding of what happened. But be-

cause of the investigation, he said, he could not discuss details.

"We have nothing to hide here and are cooperating with the investigation," Johnson said. "We initially contacted the USDA when Clyde died, and that was something we didn't have to do."

Debbie Leahy, PETA director for captive exotic animals, gave a different version, saying that another circus whistleblower called her organization about the lion's death, and PETA then notified USDA. "We have been told by various people that circus animal deaths like this happen quietly on a regular basis," she said. "The public just doesn't learn about them."

USDA spokesman Jim Rogers confirmed that an investigation had begun into the lion's death but declined to give details about it. He said that under the federal Animal Welfare Act, the agency can take action against alleged violators ranging from entering an agreement to change procedures to imposing fines and suspending or revoking licenses. The law provides for hearings by an administrative law judge, and the option to appeal to federal courts if alleged violators disagree with rulings.

Clyde was part of a lion troop from Spain traveling with the circus since January. According to the company, a necropsy was inconclusive about the cause of death.

Hagan could not be reached last week. In the document, he said he was one of two handlers in charge of caring for the 14 lions. He said all the animals were in good condition when they left Phoenix on July 12 and during the first day's train ride, but when he checked them the next morning they were panting. Hagan said that he and his colleague watered the animals down but grew worried as the train entered the Mojave Desert, with its 100-plus temperatures.

Around 9:30 a.m., Hagan said, he called a supervisor and told him the animals needed to be watered down again and that the train had to stop. Hagan said the supervisor told him they were behind schedule and could not stop. Hagan said his co-worker called the same supervisor and got



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Frank Hagan, an animal affidavit about the lion's firing by Ringling Brothers Agriculture Department

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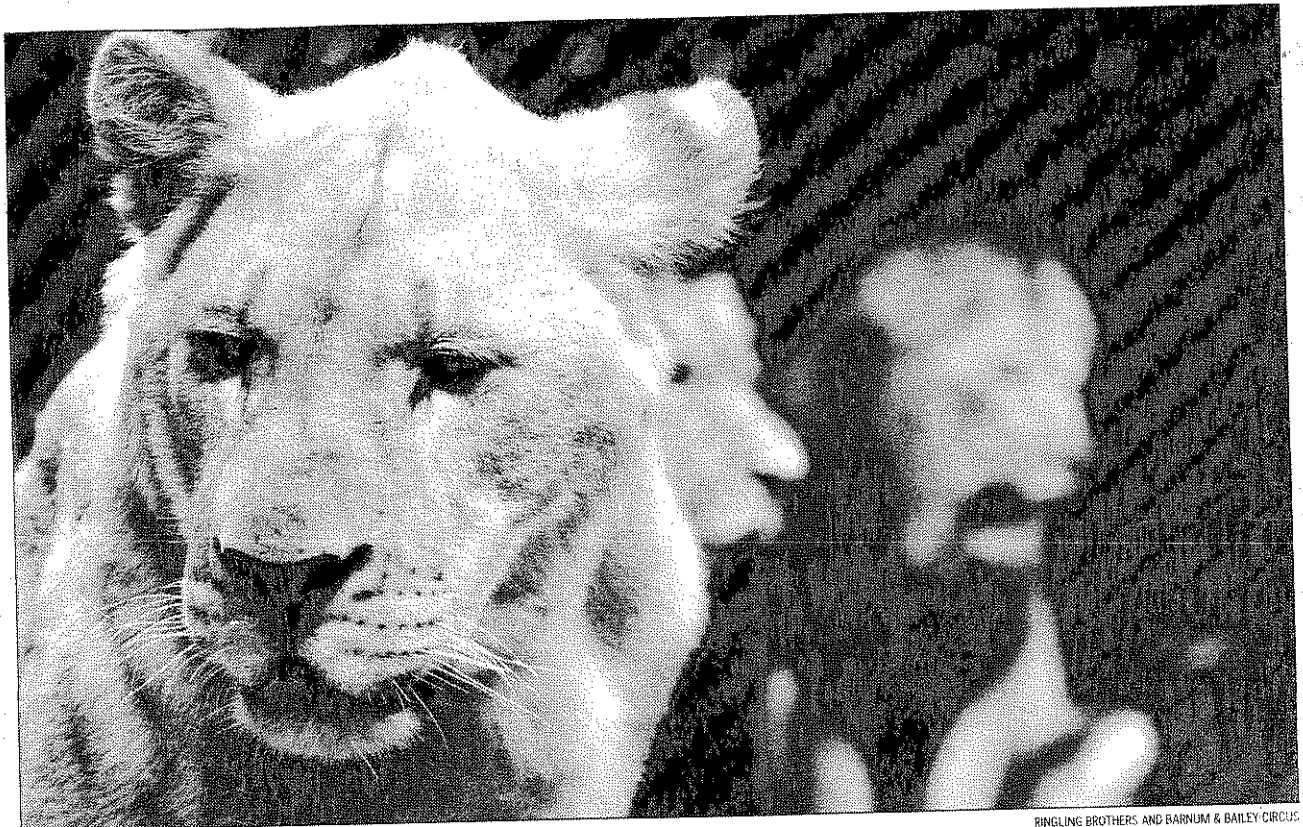
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RINGLING BROTHERS AND BARNUM & BAILEY CIRCUS

This 2-year-old lion, named Clyde, was riding in a circus train boxcar crossing the Mojave Desert when it was found dead.



COURTESY OF FRANK HAGAN

Frank Hagan, an animal handler, gave an affidavit about the lion's death and his firing by Ringling Brothers to the U.S. Agriculture Department.

the same response.

Hagan said the train did not stop until about 2:45 p.m., and that when he and his co-worker went to water the lions, it was apparent that Clyde was dying. Hagan said the animal's tongue was hanging out

and the lion was barely breathing. The animal died soon after, he said, and was later moved to the cooled "meat truck" where food is kept.

The circus train arrived at its next stop, Fresno, Calif., on July 14, and Hagan said he was interviewed the next day about the incident by lawyers from Feld Entertainment, which owns the Ringling Brothers circus. He said inspectors from the Department of Agriculture arrived July 16 and that Ringling's lawyers "kept those of us with knowledge of the lion's death away from the USDA and instructed us not to speak to the inspectors." The day before federal inspectors arrived, Hagan said, the circus installed a system to spray cooling mist in the car where Clyde had died.

Hagan said he was fired by the circus within a week after supervisors told him several times to keep quiet about the "Clyde incident." He said the circus left him and his 9-year-old daughter behind in Los Angeles. He contacted PETA a week later, after moving back to Maryland.

The timing of the lion's death could be an issue in Denver, where voters will decide Tuesday whether to ban animal circus acts—including those with lions, tigers and elephants—from the city. The ballot initiative is the first of its kind, although

some smaller cities have banned circus animal acts.

Animal activists and circuses, including Ringling Brothers, have treated the Denver vote as an important test case, and the lion's death has become part of the debate. Discussing the Denver vote, Tom Albert, vice president of government affairs for Feld Entertainment, recently told the Rocky Mountain News that, "The fact is, without the animals, there is no circus."

Ringling Brothers, the nation's largest circus, has been the target of many animal rights activists. It was sued under the federal Endangered Species Act in 2000 by the American Society for the Prevention of Cruelty to Animals, which argued that the circus mistreats threatened Asian elephants.

As part of what it terms its dedication to endangered animal conservation, Ringling Brothers started an Asian elephant breeding and rearing center in Florida in 1995.

On Friday, Ringling spokesman Johnson contacted The Washington Post to report that an 8-month-old elephant named Ricardo was euthanized at the center last week after falling off a low platform and fracturing its two hind legs. He said the animal had been rejected by its mother and was reared by the center staff.