

**PLAINTIFFS' EXHIBIT 30**

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)



1 they want to, they do. That's what happens.

2 I don't see anything nefarious or wrong about that.  
3 They're free to respond to it. Right now they are out there on  
4 a daily basis making all kinds of statements about the  
5 wonderful care that they give their elephants, that they're  
6 conserving them for the future and that our clients are lying,  
7 Mr. Rider is lying about what he is saying about these  
8 elephants being beaten all the time, chained all the time, that  
9 we're lying about the babies being forcibly removed from their  
10 mothers, that we are whacky animal rights activists, we cannot  
11 be trusted. None of that is true. And they're controlling the  
12 entire debate.

13 Now, if they're going to get to control the entire  
14 debate, then perhaps we should get a gag order against them for  
15 making those kind of statements and then we'll be on equal  
16 footing. But I don't think that they should be able to use  
17 that fact that one of these documents might make its way into  
18 the public somewhere along the line and somebody might draw an  
19 inference from it as a basis for getting a protective order.

20 THE COURT: I agree with you. There's no reason why  
21 your organization ought be maligned. Especially if they  
22 control the media, they can get on the Katie Couric show and  
23 bad mouth your organization and call you whatever they're  
24 calling you, I agree with you.

25 MS. MEYER: That's right. And what we have on the

1 other side, Your Honor, we have Tom Rider, a plaintiff in this  
2 case, he's going around the country in his own van, he gets  
3 grant money from some of the clients and some other  
4 organizations to speak out and say what really happened when he  
5 worked there. That's what we have on their side.

6 And they want to make sure that none of the  
7 information that might actually shed some light on what's going  
8 on, I'm not saying it necessarily does, but it might, I don't  
9 know, not be ever disclosed to the public. We have to litigate  
10 this case in secret so that they can control the debate.

11 And, again, Your Honor, the presumption is open  
12 proceedings. They have to come forward with good cause to get  
13 a protective order. They simply haven't met their showing.

14 The number one argument is that we're going to, they  
15 say, misuse the information in the public. No showing on that  
16 score.

17 Number two, they say the information relate, all of  
18 the medical records, all of the detailed medical records,  
19 relate to scientific research papers that they're working on  
20 right now. We say, well, we doubt that all of the medical  
21 records do, if you could show us particular records of  
22 particular studies we might be able to willing to agree to a  
23 protective order.

24 And their third argument that they came up with most  
25 belatedly, I think it was in their reply brief on the motion

1 also to show cause why they shouldn't be held in contempt of  
2 court, and I mean it. And if I find they're in contempt of  
3 court, I'm going to impose sanctions. I'm going to give the  
4 word monetary recovery a new definition, because they're  
5 playing games with the Court and I don't appreciate that.

6 MR. GULLAND: Your Honor, with all due respect, I  
7 don't think that there's an adequate basis here to reach that  
8 conclusion.

9 THE COURT: Fine. Then they can respond to my order  
10 to show cause, but someone is going to respond and tell me why  
11 they could not respond to a clear English request for a  
12 production of all medical and veterinarian records. They're  
13 going to do that. And if they don't, if they can't do it, I'm  
14 going to hold them in contempt and impose significant -- and do  
15 you know what, I'm not going to rule out incarceration either.  
16 Because I'm sick and tired of all these efforts by litigants to  
17 hide the ball. I've seen it time and time again and I'm tired  
18 of it.

19 So an order to show cause will be separate and apart  
20 from my ruling to produce all of the medical records and  
21 veterinarian records. And when I say all, I mean all, every  
22 last record.

23 Now, if there's some research going on that is going  
24 on in an effort to prepare some documentary, that's something  
25 different. If it can be justified. If it can be justified.

1 protective order, and then puts the burden on my clients to  
2 come forward and ask you with respect to particular  
3 information, please let that be lifted from the protective  
4 order.

5 That's not the way it's supposed to work, Your Honor,  
6 under the rules. The burden is on them, the burden is on them  
7 to show that something, that there's good cause to have  
8 something subject to a protective order. Otherwise, the  
9 presumption is that these proceedings should be open to the  
10 public.

11 Now, I've got to address what Mr. Gulland had to say  
12 about the Channel 2 report in San Francisco. It's true, that  
13 was a videotape that they released to us, never claimed it was  
14 confidential, never claimed it was privileged, our clients have  
15 it. And Mr. Rider, as I explained, he goes around the country,  
16 he tries to talk to reporters, tell them what's really going on  
17 behind the scenes, because it is an issue of great public  
18 debate. The only reason they're allowed to have these animals  
19 that's an endangered species, Your Honor, is because our  
20 federal government allows them to have them because they claim  
21 they're conserving them.

22 And one of the reporters say, well, do you have  
23 anything? You say they chain their elephants all the time,  
24 Ringling Brothers say they don't chain their elephants all the  
25 time. Do you have any anything that would show they chain

1 their elephants? Yeah, we have this videotape that shows a  
2 nine year old elephant chained on three legs giving birth to a  
3 baby. Here it is. They gave it to us in discovery, just as  
4 you suggested.

5 The correspondence that Mr. Gulland referred to, they  
6 even gave the reporter the correspondence from Mr. Wolson. Do  
7 you know why we gave him that correspondence? Because the  
8 editor called us up on the phone and said where did you get  
9 this, how did you get this? We said they gave it to us in  
10 discovery, here's the letter, here's the letter from their  
11 lawyer. That's why we gave it to them.

12 So we just said we got it in discovery, they gave it  
13 to us, it's their videotape. That's exactly what we did.  
14 That's all we did. There's nothing nefarious about that. And  
15 they don't want that kind of information to be made public,  
16 Your Honor.

17 I've got to say one other thing, Your Honor, again,  
18 about them controlling the debate. They go around the country,  
19 they issue, here's an example, colored brochures handed out.  
20 This one we got in April of this year, babies, babies, babies  
21 and more on the way. All about their wonderful conservation  
22 program. They're breeding more elephants for use in the circus  
23 and they say they're conserving them.

24 This is what they're handing out to the public, Your  
25 Honor. Now, they didn't bother to tell the public that three

1 of these baby elephants who are depicted here, Kenny, Benjamin  
2 and Ricardo, are dead, they're dead. We think the public is  
3 entitled to know that. These baby elephants all died when they  
4 were under the age of four in the care of Ringling Brothers.  
5 They don't tell the public that. They say, babies, babies,  
6 babies.

7 THE COURT: Is this a recent publication?

8 MS. MEYER: Yes, Your Honor.

9 THE COURT: And it's published post-death of those  
10 baby elephants?

11 MS. MEYER: Yes, Your Honor. We got it just in  
12 April, April of 2005. It was picked up at the circus. The  
13 three babies that are dead are at the bottom of the page. The  
14 two in the corner, Kenny and Benjamin, it tells you when  
15 they're born, it tells the public when they're born. It  
16 doesn't mention that they're dead. The other elephant is  
17 Ricardo. Here he is on the left-hand page. He's at the  
18 bottom. Ricardo, born 12-05-03. Well, Ricardo died last  
19 August. They don't mention that. This was handed out at the  
20 circus in April of this year in Washington, D.C.

21 THE COURT: I didn't go this year.

22 MS. MEYER: So they're allowed to do that.

23 THE COURT: Not because I didn't want to go. My  
24 grandkids didn't want to go.

25 MS. MEYER: The point is, Your Honor, I don't

1 begrudge them their right to issue things like this. I have no  
2 problem with that at all.

3 I do object strenuously, however, when they come to  
4 this Court and say the actual records about these animals,  
5 records that might show that Ricardo is dead, that Kenny is  
6 dead, that Benjamin is dead, oh, the public can't see those  
7 because those are confidential. They get to control the  
8 debate. That's not fair.

9 And that's my position, Your Honor.

10 Again, we are willing to entertain the notion that  
11 there may be some particular medical record that relates to  
12 some scientific study that they're working on.

13 Mr. Gulland kept talking about how they're so  
14 cryptic, they're cryptic, they're cryptic. I mean, I know in  
15 the Exemption 4 context under FOIA. If the information is so  
16 cryptic, there is case law that says, well, then how could it  
17 be of any commercial value to any competitor if it's so cryptic  
18 you can't understand it without additional information. It  
19 seems to be what he's taking. It's your cryptic.

20 But there's simply no basis for basically giving them  
21 what they want and again rewarding them for the practice that  
22 they engaged in here by a year and a half later giving them the  
23 protective order and making us have to come in document by  
24 document and explain to you why this should be made public.

25 we don't want to advocate that a particular document

1 should be made public. We may not rely on any of this  
2 information in the public domain, I don't know. The point is  
3 it shouldn't be held in secret, unless there's a good reason to  
4 hold it in secret.

5 I mean, I got to tell you, Your Honor, one of the  
6 other reasons that we want this information to be available to  
7 us is, frankly, the only way we've been able to figure out that  
8 there are documents that we asked for that we didn't get,  
9 because, again, they didn't tell us, they didn't list them on a  
10 privilege log, was, frankly, talking to other groups and  
11 talking to reporters. The way we found out about this baby  
12 Ricardo, we had no medical records on him at all, the baby who  
13 is dead, the way we found out about it is a Washington Post  
14 reporter wrote an article about a lion, a Ringling Brothers  
15 lion, a young lion that had died last summer. And in the  
16 course of writing that story he found out that Ricardo, a baby  
17 elephant --

18 THE COURT: You're saying three of these elephants  
19 are dead?

20 MS. MEYER: Correct.

21 THE COURT: When did this appear? When did this  
22 publication appear?

23 MS. MEYER: This was a souvenir program that was  
24 handed out by Ringling Brothers in April of 2005 at either the  
25 MCI Center or the Armory.

1 THE COURT: It ends, and when Asian elephants are  
2 content, they naturally make little Asian elephants creating a  
3 wondrous living legacy for many generations to come.

4 Endangered species? Not if we can help it. And  
5 three of these elephants are dead?

6 MS. MEYER: Correct, Your Honor. And they don't want  
7 the public to know that. And that's why they don't want us to  
8 have any of these records in public.

9 Again, Your Honor, the burden is on them, the burden  
10 is on them. They claim they're not privileged, they have some  
11 other basis for saying this information should be withheld from  
12 the public. Let them make a document by document  
13 demonstration. But don't put the burden on my plaintiffs to  
14 come forward and show that a particular document should be  
15 disclosed. That's just not the way the rules are supposed to  
16 work.

17 And I really think it really gives these defendants  
18 what they wanted and what their whole strategy was designed to  
19 get. And I really just don't, in the interest of fairness, in  
20 addition to the fact that that's not the way the rules work, I  
21 don't think that should be the outcome here.

22 I'm a little concerned that we haven't really  
23 addressed the motion to compel, because there are large  
24 categories of other records that we've never seen. There's  
25 videotapes. We asked for all the videotapes that depict their