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.

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EXHIBIT 32

TO

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

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, et al.,

v.

Plaintiffs,

Case No. 1:03-CV-02006 (EGS/JMF)

RINGLING BROS. AND BARNUM & BAILEY CIRCUS, et al.,

Defendants.

DECLARATION

I. Lisa Zeiler Joiner, declare under oath as follows:

- I am counsel of record to the defendant in this case, Feld Entertainment, Inc. 1. ("FEI"). I have reviewed the declaration submitted by plaintiffs' counsel, Katherine Meyer, on April 19, 2007 as Exhibit 1 to Rider's Opposition (4/19/07) to FEI's Motion to Compel Discovery from Rider and for Sanctions, Including Dismissal (3/20/07) ("Motion").
- Meyer's declaration accuses FEI's counsel of making "false statements" in the 2. Motion and that "none of those statements" are "supported with any sworn testimony or other evidence." (Ex. 1 to Opposition, Meyer Decl. at ¶¶ 1-2). I, along with two of my colleagues, attended the February 7, 2007 meet and confer that is the subject of Meyer's declaration. Accordingly, I submit this declaration in reply thereto.
- Meyer's declaration is incorrect, and she has no basis for claiming that FEI's 3. counsel have made false statements in the Motion. The discovery meeting occurred only after months of conferring with counsel and after Tom Rider supposedly supplemented his discovery responses and document production in January 2007. Rider produced seven pages in his

supplemental document production made on January 31, 2007, five of which post-dated March 30, 2004. At the meeting, I then personally asked Meyer whether Rider finally had produced everything he had. There was no time limitation involved in the question. Meyer responded without qualification that Rider had produced everything with the possible exception of maybe a videotape. (Videotape was stated by Meyer in the singular, not the plural.) There was no time limitation on Meyer's response to exclude, as she now claims, Rider's documents from the past three years. Such a response would have not only been entirely inconsistent with the course of conduct that had occurred between counsel since November but also entirely inconsistent with Rider's supplemental production on January 31, 2007.

- 4. Meyer offered to go back and re-check once again with Rider to make sure he had produced everything. Again, there was no time limitation placed on this offer by Meyer. The offer did in fact result in yet another supplemental production from Rider, which Meyer references in paragraph 5 of her declaration by citing to the e-mail she sent in late February. That supplemental production from Rider occurred on March 2, 2007. See Ex. 1 hereto (production letter). It contained not one but several videotapes along with documents, which Meyer declines to reference in her declaration. Again, some of these materials post-dated March 30, 2004, including three "grant" letters from WAP to Rider dated October and November 2006. Again, this production is entirely inconsistent with Meyer's claim now that she had limited her response to pre-March 30, 2004 documents.
- 5. Also at the February 7 meeting, after discussing whether Rider had produced everything, I then asked what he had done with his documents. Meyer responded, as she puts it "candidly," see Meyer Decl. ¶ 3, that he was "not keeping them." That is a direct quote from her that I, along with my other two colleagues who were present, distinctly recall. Meyer also stated

that Rider lives in a van, and he just does not keep documents. Again, there was no temporal limitation to this exchange, and Meyer did not limit her response to documents pre-dating March 30, 2004.

6. During our meeting, I used the example of documents produced by WAP to demonstrate what Rider had failed to produce. This discussion included the Forms 1099 that WAP has prepared for Rider, which are dated 2002 to 2005. Meyer flippantly stated that we had received these from WAP, and that she would re-copy them and provide us with duplicates on behalf of Rider. Here again, there was no limitation of the WAP documents to those pre-dating March 30, 2004. Meyer's present claim makes no sense whatsoever because half of the 1099's post-date March 2004.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this ______ day of May, 2007.

Lisa Zeiler Joiner

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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Defendants.

EXHIBIT 1

TO

DECLARATION OF LISA ZEILER JOINER (May 7, 2007) Meyer Glitzenstein & Crystal

1601 Connecticut Avenue, N.W. Suite 700

Washington, D.C. 20009-1056

Katherine A. Meyer Eric R. Glitzenstein Howard M. Crystal Kimberly D. Ockene Joshua R. Stebbins Tanya M. Sanerib Erin M. Tobin

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March 2, 2007

Hand-Delivered

Lisa Joiner Fulbright & Jaworski 801 Pennsylvania Ave., N.W. Washington, D.C. 20004-2623

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

Dear Ms. Joiner:

Enclosed are additional supplemental responses to Defendants' Document Production Requests to Tom Rider, including seven videotapes labeled TR00198-00204, and documents labeled TR00205-00220.

Sincerely,

Katherine A. Meyer

