

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE	:	
PREVENTION OF CRUELTY TO	:	
ANIMALS, <u>et al.</u> ,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Case No. 03-2006 (EGS/JMF)
	:	
RINGLING BROS. AND BARNUM &	:	
BAILEY CIRCUS, <u>et al.</u> ,	:	
	:	
Defendants.	:	
_____	:	

EXHIBIT 37

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.,

Plaintiffs,

v.

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

Defendants.

Civ. No. 03-2006 (EGS)

**PLAINTIFF THE FUND FOR ANIMALS' SUPPLEMENTAL RESPONSES AND
OBJECTIONS TO DEFENDANTS' FIRST SET OF INTERROGATORIES**

Pursuant to Federal Rule of Civil Procedure 33 and the agreement of the parties, plaintiff
The Fund for Animals ("The Fund") hereby provides the following supplemental responses to
Defendants' First Set of Interrogatories.

DEFINITION

1. As used herein, "irrelevant" means not relevant to the subject matter of this action
and not reasonably calculated to lead to the discovery of admissible evidence.

OBJECTIONS

1. The Fund hereby incorporates by reference both the general and specific objections
that it made to Defendants' First Set of Interrogatories, as well as the Fund's objections to
defendants' definitions of "describe" and "identify."

Interrogatory No. 16: Describe every communication that you, any of your employees or volunteers, or any person acting on your behalf or at your behest has had with any current or former employee of defendants since 1996.

Supplemental Objections and Response to Interrogatory No. 16:

The Fund further objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome, and to the extent that it calls for information that is irrelevant or protected by the attorney-client or work product privileges. The Fund also objects to this interrogatory to the extent that it calls for the disclosure of conversations with former employees of defendants regarding various legislative or media strategies for halting the abuse and mistreatment of circus elephants and educating the public about this issue. Additional details of such conversations are irrelevant and their disclosure would impose an undue burden on The Fund and infringe upon the Fund and the former employees' First Amendment rights of association and expression. Subject to and without waiving these or The Fund's previous objections, The Fund supplements its answer to this Interrogatory by stating that, in addition to the communications discussed in The Fund's original Interrogatory responses, former Fund employee D.J. Schubert also had a single telephone conversation with Tom Rider concerning a possible job at the Fund's animal sanctuary, Black Beauty Ranch. Mr. Schubert does not recall exactly when this conversation took place, but he believes it was in 2003. He told Mr. Rider there was an opening at the ranch and that someone with Mr. Rider's experience would be a good fit. Mr. Rider declined the job offer on the grounds that he needs to continue to stay on the road to tell people about what goes on at the circus. Mr. Schubert further recalls that he suggested that maybe Mr. Rider could work at Black Beauty on a part time basis, but that Mr. Rider declined that suggestion as well and said that he is more interested in continuing his public education efforts throughout the country. That is all Mr.

Schubert recalls about this conversation. In addition, as regards former Fund employee Heidi Prescott's communication with Tom Rider, The Fund states that Ms. Prescott was lobbying in Harrisburg, Pennsylvania on an unrelated matter and met Mr. Rider as one of a group attending a press conference of local animal welfare activists concerning some proposed legislation. She does not remember what the legislation was about but thinks it could have been about bull hooks or the circus. She went to the press conference because she was in the same building lobbying on another matter and wanted to meet the people holding the press conference. She ran into Mr. Rider as part of a group at the press conference and she just said hi to everyone, including him. She only talked with him for a few seconds – she said hello and thanked him for the work he does on behalf of animals. She thinks the event may have been in the cafeteria of the State Legislative Building, and she vaguely recalls holding a big cup of coffee as she said her hellos to the activists there. That is all that she recalls about this conversation

Interrogatory No. 17: Describe any and all positions you have taken, held, or espoused as regards the presentation of elephants in circuses, the date on which you adopted or espoused each such position, whether you still hold such position, and the manner in which you communicated the position to your membership or to others, including to government officials or persons in the business of operating circuses.

Supplemental Response to Interrogatory No. 17:


Subject to and without waiving its previous objections to this Interrogatory, The Fund states that it has not changed its positions as stated in its prior Interrogatory responses, and that the manner in which it has communicated any such positions is reflected in supplemental documents that it is providing to defendants.

VERIFICATION

I, MICHAEL MARKARIAN, declare as follows:

I am employed as the President of The Fund for Animals. The Fund for Animals is a plaintiff in this case. I have read the foregoing objections and responses to Defendants' Interrogatories to Plaintiff The Fund for Animals and know the contents thereof. Upon information and belief, said Objections and Responses are true and correct.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

 1/31/07

Michael Markarian

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Plaintiffs,

v.

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

Defendants.

Civ. No. 03-2006 (EGS)

PLAINTIFF ANIMAL PROTECTION INSTITUTE'S RESPONSES AND OBJECTIONS
TO DEFENDANTS' FIRST SET OF INTERROGATORIES TO PLAINTIFFS
AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS,
ANIMAL WELFARE INSTITUTE, AND FUND FOR ANIMALS

Pursuant to Federal Rule of Civil Procedure 33 and the agreement of the parties, plaintiff Animal Protection Institute ("API") hereby offers the following objections and responses to Defendants' First Set of Interrogatories to Plaintiffs American Society for the Prevention of Cruelty to Animals, Animal Welfare Institute, and Fund for Animals.

DEFINITION

1. As used herein, "irrelevant" means not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence.

GENERAL OBJECTIONS

1. API's general objections, as set forth herein, are to be considered continuing objections and responses to the specific Interrogatories that follow, even if not referred to in the

Interrogatory No. 16: Describe every communication that you, any of your employees or volunteers, or any person acting on your behalf or at your behest has had with any current or former employee of defendants since 1996.

Objection and Response to Interrogatory No. 16:

API objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and to the extent that it calls for information that is irrelevant or protected by the attorney-client or work product privileges. API further objects to this interrogatory to the extent it calls for the disclosure of conversations with former employees regarding various legislative, regulatory, litigation, and other strategies for halting the abuse and mistreatment of circus elephants and educating the public about this issue. Additional details of such conversations are irrelevant and their disclosure would impose an undue burden on API and impinge upon API and the former employees' First Amendment rights of association and expression. Subject to and without waiving these or the general objections, API states that Nicole Paquette, Director of Legal and Government Affairs and General Counsel for API, has had a number of conversations with Tom Rider in which they have discussed Ringling Brothers' mistreatment of elephants, and their common interest in pursuing this lawsuit and media and public education strategies for educating the public about Ringling Brothers and others' mistreatment of elephants. In addition, former Chief Executive Officer, Michelle Thew; former Policy Coordinator, Emily Clemont; Media Director, Elizabeth Wilder; and Grassroots Coordinator, Sandy Haynes have also had similar conversations with Mr. Rider about Ringling Brothers' mistreatment of its elephants, and their common interest in pursuing this lawsuit and media and public education strategies. Ms. Paquette has also had conversations with Tom Rider regarding proposed legislation in Nebraska,

L 1000 (that would prohibit certain elephant training techniques) and in Massachusetts, S 2457 (that would prohibit the display of exotic animals in traveling shows and circuses).

Nicole Paquette has also spoken with Kelly Tansey, who was a clown with Ringling Brothers from 1979-1980 on the Blue Unit. Ms. Paquette spoke with Mr. Tansey in Seattle, Washington in 2000 while Ms. Paquette was working on a proposed ordinance in the city to prohibit the display of wild and exotic animals in circuses. Ms. Paquette spoke also with Mr. Tansey in 2001 while working on legislation related to the keeping of exotic animals in private possession on the state level. During these times they discussed the proposed legislation at issue and Mr. Tansey's stories from the time that he worked at Ringling Brothers. Ms. Paquette does not recall the details of their conversations during those occasions.

API states that Nicole Paquette has had numerous conversations with Julie Strauss and Tom Albert in conjunction with meetings of the California Advisory Committee on Humane Care and Treatment of Wild Animals of which they are all members. This Committee was convened in August 2003 and the meetings are still on-going. During meetings of this Committee Ms. Paquette, Ms. Strauss, and Mr. Albert have discussed existing California state law regarding the maintenance of exotic animals within the state and proposed regulations to implement existing laws, as well as standards of care for these animals. Ms. Paquette and Ms. Strauss have also had numerous communications about the organizational structure of the Advisory Committee and its agenda, meeting times, and the like.

Ms. Paquette has also exchanged cordial greetings with Cassie Folk on numerous occasions between 2002 to 2006, and has discussed proposed legislation with Ms. Folk on various occasions in 2002. Ms. Paquette's conversations with Ms. Folk regarding proposed

legislation have included discussions relating to SB 1210 (a bill in California that API sponsored and that relates to restrictions placed on traveling shows and circuses).

In 2002, Ms. Paquette and then Chief Executive Officer of API, Alan Berger, had lunch with Todd Willens and Cassie Folk in California during which time they discussed SB 1210 (a bill that API was working on in California that would place restrictions on traveling shows and circuses).

During meetings of the National Conference of State Legislatures, Ms. Paquette has also spoken with Cassie Folk and Tom Albert to exchange general greetings and have cordial conversations unrelated to this lawsuit. These conversations occurred at this Conference from 2003 to 2005. Such conversations may have also occurred in 2002, but Ms. Paquette does not recall whether she in fact spoke with Ms. Folk or Mr. Albert during the Conference that year.

In 2005, during opening night of Ringling Brothers' show in Sacramento, California, Nicole Paquette spoke with Tom Albert, who noted that API had joined this lawsuit. Mr. Albert then asked Ms. Paquette whether she wanted to go behind the scenes and look at the animals that night. Mr. Albert said that if Ms. Paquette was able to see first hand how they took care of the animals, then maybe she would have a different opinion of Ringling Brothers. Mr. Albert then left, came back, and said that he could not find anyone to arrange to take Ms. Paquette to see the animals, but that he would see if Ms. Paquette could come back a different night in order to do so. Ms. Paquette asked if she could bring another person from API with her when she came back for this purpose, and Mr. Albert stated that he was just inviting Ms. Paquette. Mr. Albert left again, came back, and said that he could not arrange to have Ms. Paquette see the animals.

Ms. Paquette and Bruce Read have been in the same location on at least two occasions: once in Lincoln, Nebraska and once in Sacramento, California when proposed bills regarding the use of certain tools by circuses was being considered by legislators in those States – i.e., L 2000 and AB 3027, respectively. Ms. Paquette does not recall whether she has ever had a conversation with Mr. Read.

During the course of five days in September of 2005, while Ringling Brothers was in California, Ms. Paquette had numerous conversations at the arena with Ringling Brothers' hired security guard, named Charley. They exchanged greetings and discussed the rights of protesters and the circus in general. Ms. Paquette does not recall any additional details of these conversations.

Ms. Paquette and Murray Fowler spoke on a radio show together in California in 2006, during which time they both made comments regarding the presentation of elephants in circuses, use of the bull hook, and defendants.

Interrogatory No. 17: Describe any and all positions you have taken, held, or espoused as regards the presentation of elephants in circuses, the date on which you adopted or espoused each such position, whether you still hold such position, and the manner in which you communicated the position to your membership or to others, including to government officials or persons in the business of operating circuses.

Objection and Response to Interrogatory No. 17:

API objects to this Interrogatory on the grounds that it is vague, ambiguous, unduly burdensome, overly broad, and calls for irrelevant information. Subject to and without waiving these objections, API states that it is opposed to the use of wild and exotic animals in circuses. To the extent that the Interrogatory is intended to call for information regarding "positions" API has "taken," "held," or "espoused" with respect to the treatment of elephants in circuses in

VERIFICATION

CITY OF SACRAMENTO)
)
STATE OF CALIFORNIA)

NICOLE PAQUETTE, being duly sworn, says:

I am employed as Director of Legal and Government Affairs and General Counsel for the Animal Protection Institute. The Animal Protection Institute is a plaintiff in this case. I have read the foregoing objections and responses to Defendants' First Set of Interrogatories to Plaintiffs American Society for the Prevention of Cruelty to Animals, Fund for Animals, and Animal Welfare Institute and know the contents thereof. Upon information and belief, said Objections and Responses are true and correct.


Nicole Paquette

Sworn to before me this
10 day of January, 2007


Notary Public

My Commission Expires:

Dec 11, 2008

