

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. :

_____ :

EXHIBIT 38

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, <u>et al.</u> ,)		
)		Civ. No. 03-2006 (EGS)
Plaintiffs,)		
)		
v.)		
)		
RINGLING BROS. AND BARNUM)		
& BAILEY CIRCUS, <u>et al.</u> ,)		
)		
Defendants.)		
_____)	

**PLAINTIFF AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO
ANIMALS' SUPPLEMENTAL RESPONSES AND OBJECTIONS TO
DEFENDANTS' INTERROGATORIES**

Pursuant to Federal Rule of Civil Procedure 33 and the agreement of the parties, plaintiff American Society for the Prevention of Cruelty to Animals ("ASPCA") hereby offers the following supplemental 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. ASPCA hereby incorporates by reference both the general and specific objections that it made to Defendants' First Set of Interrogatories, as well as its objections to defendants' definitions of "describe" and "identify."

behavior. ASPCA incorporates by reference such video footage that is responsive to this request, including, but not limited to: PL 07066, 07068, 07069, 07070, 07073, 07074, 07075, 07077, 07078, 07083, 07084, 08967, 08969, 08962, 08963, 08964, 08972, 08975, 08976, 08980, 08982. ASPCA also incorporates by reference the footage obtained from Madison Square Garden in New York City and the footage obtained from the MCI Center in Washington, D.C. pursuant to third party subpoenas issued in 2004, which depict the elephants engaged in stereotypic behavior.

Additionally, ASPCA incorporates by reference video footage produced by defendants that is responsive to this request, such as the footage of elephants at the Center for Elephant Conservation, including, but not limited to: FELD-VID 001, 002, 006, 007; FEI 0010, 0013, 0016, 0017, 0018, 0019, 0020, 0025, 0026, 0436, 0437, 10350, 10351, 10352, 10354, 10355, 10357, 10358, 10359, 10360, 10361, 10362, 10364, 10365, 10366, 10367, 10368, 10369, 10383, 38227, 38228, 38229, 40957, 40958, 40960, 40965, 40966, 40968, 40969, 40970, 40971, 40972, 40974, 40975, 40982, 40983, 40984, 40985, 40986, 40987, 40989, 40990. ASPCA also incorporates by reference footage that plaintiffs' representatives have reviewed that is responsive to this request, but that has not been produced by defendants. ASPCA also incorporates by reference its supplemental response to Interrogatory No. 5 above.

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:

ASPCA 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. ASPCA 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 ASPCA and infringe upon ASPCA and the former employees' First Amendment rights of association and expression. Subject to and without waiving these or ASPCA's previous objections to this Interrogatory, ASPCA provides the following supplemental answers to this Interrogatory:

During 2002-2003, Lisa Weisberg, Senior Vice President, Government Affairs and Public Policy, and Senior Policy Advisor for the ASPCA spoke with Tom Rider on approximately a weekly basis concerning Mr. Rider's public education and media efforts on behalf of captive elephants. These conversations included the outcome of Mr. Rider's media interviews in various cities that he visited to educate the public about the circus, where Mr. Rider was going next, and steps to coordinate his and ASPCA's media and public education efforts. During this time period, Ms. Weisberg and Mr. Rider also spoke about proposed legislation in Massachusetts pertaining to circus elephants and whether Mr. Rider should speak at a hearing in support of that legislation.

Since that time, Ms. Weisberg has continued to have conference calls with Mr. Rider, the other plaintiffs, and plaintiffs' attorneys regarding this lawsuit, which included discussions about legal strategies in this case, the evidence that plaintiffs may rely on, and the status of the litigation, all of which are protected by the attorney-client and attorney work product privileges.

During May or June of 2006, Ms. Weisberg also spoke briefly with a woman who had been a dancer with Ringling Brothers Barnum and Bailey's Circus. Ms. Weisberg does not recall

the woman's name, only that she lived in Florida, or the details of their conversation. Ms.

Weisberg directed the woman to contact the law firm of Meyer Glitzenstein & Crystal.

Dale Riedel, Senior Vice President for Humane Law Enforcement for the ASPCA spoke with Mr. Rider in June of 2004. Mr. Riedel recalls Mr. Rider explaining how the Ringling Brothers elephant handlers use bull hooks on the elephants and how the handlers attempt to hide their bull hook use from the public. Mr. Riedel does not recall any further details of 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, ASPCA supplements its response by stating that any additional "positions" ASPCA may have taken regarding elephants in circuses and the "manner" in which it communicated any such positions would be reflected in the supplemental documents that ASPCA has produced to defendants. See A 01146, 01147, 01148, 01150, 01151, 01152.

Interrogatory No. 18: Describe any and all positions you have taken, held, or espoused as regards the use of ankuses to train, handle, or care for elephants, 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. 18:

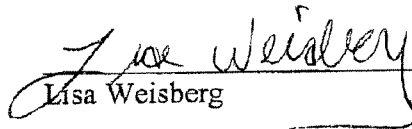
Subject to and without waiving its previous objections to this Interrogatory, ASPCA supplements its response by stating that any additional positions it has taken and the manner in

VERIFICATION

CITY OF NEW YORK)
)
STATE OF NEWYORK)

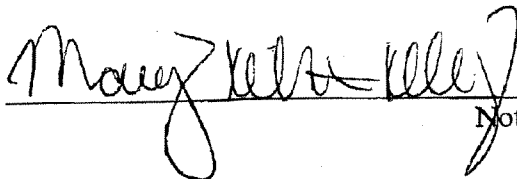
LISA WEISBERG, being duly sworn, say:

I am employed as the Senior Vice President, Government Affairs and Public Policy, and Senior Policy Advisor for the American Society for the Prevention of Cruelty to Animals. The American Society for the Prevention of Cruelty to Animals is a plaintiff in this case. I have read the foregoing supplemental objections and responses to Defendants' 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.



Lisa Weisberg

Sworn to before me this
31st day of January, 2007



Notary Public

MARY KRISTEN KELLY
Notary Public, State of New York
No. 01KE6117001
Qualified in New York County
Commission Expires October 12, 2008

My Commission Expires:

October 12, 2008

