

**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.

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Case No. 03-2006 (EGS/JMF)

EXHIBIT 16

TO

**MOTION TO COMPEL DISCOVERY FROM
THE ORGANIZATIONAL PLAINTIFFS AND API**

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| Page 78 | Page 80 |
| <p>1 A. I don't believe it was the Ringling Bros. 2 Circus. It could have been the Clyde Beatty circus. 3 Q. Media relations you've listed at 5 percent 4 of staff time. 5 A. Correct. 6 Q. And what types of activities would that 7 have entailed? 8 A. I believe that was their work on 9 publicizing the enforcement report and any 10 developments related to the lawsuit. 11 Q. When you say enforcement report, that's 12 the report we discussed earlier, correct? 13 A. Correct. 14 Q. And Animal Watch articles, again, I'm 15 going to assume are those -- 16 A. Correct. 17 Q. -- approximately one and a half pages. In 18 2004, you have the same salary and benefits which I'm 19 assuming is the same calculation method. 20 A. Correct. 21 Q. Along with your 10 percent of legislative 22 alerts that are listed as supporting expenses. 23 A. Correct. 24 Q. And next you have \$5,000 to Meyer & 25 Glitzenstein?</p> | <p>1 A. They may have. 2 Q. Did you have any discussions with any of 3 the other plaintiffs regarding continuing funding 4 past 2003? 5 A. Yes. 6 Q. And what were those discussions? 7 MS. OCKENE: I'm going to object just to 8 the extent that it calls for attorney-client 9 communications and instruct you not to answer, just 10 to the extent it would include such conversations. 11 BY MS. DALTON: 12 Q. You can continue, with that instruction. 13 So if there were any conversations that you had that 14 did not involve anybody from Meyer & Glitzenstein, 15 please let me know what those are. 16 A. I'm sorry, I'm not supposed to answer 17 that, correct? 18 MS. OCKENE: To the extent that you had 19 discussions that didn't involve us, your lawyers, you 20 can answer the question. Maybe you want to repeat -- 21 BY MS. DALTON: 22 Q. My question is, did you have any 23 communications with any of your co-plaintiffs 24 regarding whether or not to provide Mr. Rider with 25 any continuing funding past 2003?</p> |
| Page 79 | Page 81 |
| <p>1 A. Correct. 2 Q. To your knowledge, were any of those 3 payments intended to end up with Mr. Rider? 4 A. No. 5 Q. Were any of those payments intended to end 6 up with the Wildlife Advocacy Project? 7 A. No. 8 Q. And media relations, it says approximately 9 5 percent of staff time. And what efforts were those 10 made -- what efforts did those include? 11 A. They included any kind of support with the 12 media in discussing the lawsuit. 13 Q. Was there a reason why the ASPCA did not 14 provide any funding either directly or indirectly to 15 Mr. Rider following 2003? 16 A. We had other budgetary needs and we felt 17 that, for the most part, Mr. Rider had, in previous 18 years, done a very good job in working with the media 19 to discuss the issue. 20 Q. Did you feel as though Mr. Rider had other 21 financial support for his efforts? 22 A. I do not recall. 23 Q. Do you know if the other plaintiffs in 24 this lawsuit were still providing Mr. Rider with 25 funding following 2003?</p> | <p>1 A. Yes. Both with the Fund For Animals and 2 AWI and recognizing the good work that Mr. Rider was 3 doing and the ASPCA's inability to continue funding 4 his expenses to continue that work due to other 5 budgetary needs. 6 Q. As a result of ASPCA's inability to 7 continue funding those expenses, did the Fund For 8 Animals continue to provide Mr. Rider with continuing 9 funding past 2003? 10 A. I believe they funded some of those 11 expenses. 12 Q. Were you told of those expenses or their 13 funding of those expenses during this conversation? 14 A. There was a discussion about what those 15 expenses typically would amount to and whether they 16 could fund them as well. 17 Q. And what about the Animal Welfare 18 Institute. Did they continue funding Mr. Rider 19 following this conversation? 20 A. I believe they funded him in part. 21 Q. So following 2003, to the best of your 22 knowledge, while ASPCA was not providing any funding 23 to Mr. Rider, the AWI and the Fund For Animals were? 24 A. That's correct. 25 Q. Do you know if this funding was being</p> |

21 (Pages 78 to 81)

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| <p>1 these expenses?</p> <p>2 A. Correct.</p> <p>3 Q. And you said that that was a budgetary</p> <p>4 decision?</p> <p>5 A. Correct.</p> <p>6 Q. And who made that budgetary decision?</p> <p>7 A. The budgetary decision was made in</p> <p>8 November of 2002. We formulate our budget for the</p> <p>9 following year in the November and December prior to</p> <p>10 that new year.</p> <p>11 Q. And who is involved in the budgetary</p> <p>12 decision-making process?</p> <p>13 A. Myself, our chief financial officer and</p> <p>14 president.</p> <p>15 Q. And who is your CFO?</p> <p>16 A. Steve Eudene.</p> <p>17 Q. And your president is Dr. Hawk?</p> <p>18 A. In 2003, it was Ed Sayres.</p> <p>19 Q. And is there board approval for your</p> <p>20 budgets?</p> <p>21 A. Yes.</p> <p>22 Q. And who -- was one person in particular</p> <p>23 responsible for making the decision to stop funding</p> <p>24 Mr. Rider?</p> <p>25 A. It was a joint decision.</p> | <p>1 A. It was a discussion between myself and</p> <p>2 Nancy Blaney, and she may have had a discussion with</p> <p>3 Darcy at the time.</p> <p>4 Q. When you say Darcy --</p> <p>5 A. Darcy Kemitz, who was a staff person</p> <p>6 working for the Wildlife Advocacy Project.</p> <p>7 Q. I had asked you previously about who was</p> <p>8 employed by the Wildlife Advocacy Project and you</p> <p>9 said you didn't know, so this is one person --</p> <p>10 A. Currently.</p> <p>11 Q. Okay. Let's go back and I'll ask you</p> <p>12 about that later. First I want to talk about this</p> <p>13 discussion that you had with Nancy Blaney and</p> <p>14 Darcy -- I'm sorry, what's Darcy's --</p> <p>15 A. Kemitz.</p> <p>16 Q. Can you spell that last name for me?</p> <p>17 A. I believe it's K-e-m-i-t-z.</p> <p>18 Q. Can you tell me the contents of that</p> <p>19 conversation, please?</p> <p>20 A. To the best of my knowledge, Darcy had</p> <p>21 been working with Tom Rider in assisting him with his</p> <p>22 work with the media to discuss his experience working</p> <p>23 for Ringling Bros. and their treatment of Asian</p> <p>24 elephants. And there was a conversation, to the best</p> <p>25 of my knowledge, between Darcy and Nancy Blaney as to</p> |
| Page 87 | Page 89 |
| <p>1 Q. Between you, your CFO and your president?</p> <p>2 A. Correct.</p> <p>3 Q. And in 2004, there have not been any</p> <p>4 expenses to -- there were no expenses to Mr. Rider?</p> <p>5 A. Correct.</p> <p>6 Q. And there were no expenses to the Wildlife</p> <p>7 Advocacy Project?</p> <p>8 A. Correct.</p> <p>9 Q. And in 2005, so far there have not been</p> <p>10 any payments to Mr. Rider?</p> <p>11 A. Correct.</p> <p>12 Q. And there have been no payments to the</p> <p>13 Wildlife Advocacy Project?</p> <p>14 A. Correct.</p> <p>15 Q. So your payments to the Wildlife Advocacy</p> <p>16 Project were limited to 2001 and 2002, correct?</p> <p>17 A. It was --</p> <p>18 Q. I'm sorry, 2001.</p> <p>19 A. Correct.</p> <p>20 Q. Okay. Who approached you from the</p> <p>21 Wildlife Advocacy Project regarding this funding?</p> <p>22 A. I don't recall.</p> <p>23 Q. Do you recall whose idea it was to have</p> <p>24 payments provided to the Wildlife Advocacy Project</p> <p>25 that would eventually end up with Mr. Rider?</p> | <p>1 Mr. Rider's work with the media.</p> <p>2 Q. And what was the conversation between</p> <p>3 ASPCA and wildlife Advocacy Project regarding</p> <p>4 Mr. Rider's work with the media? You said that Darcy</p> <p>5 and Nancy had a conversation, so I'm asking you about</p> <p>6 that.</p> <p>7 A. To the best of my knowledge, it was how we</p> <p>8 could assist Mr. Rider in continuing that work.</p> <p>9 Q. And was the decision as to how to assist</p> <p>10 Mr. Rider was providing the additional payments -- to</p> <p>11 assist by providing a grant in 2001?</p> <p>12 A. Correct.</p> <p>13 Q. And do you know what the decision was --</p> <p>14 do you know when the decision was made to provide</p> <p>15 that grant through Meyer & Glitzenstein and not</p> <p>16 directly to the Wildlife Advocacy Project?</p> <p>17 A. I'm sorry, I don't understand the</p> <p>18 question.</p> <p>19 Q. Just recapping what you said and then I'll</p> <p>20 follow up. You said that there was a conversation</p> <p>21 between Darcy and Nancy regarding the best way that</p> <p>22 the ASPCA could aid Mr. Rider's work with the media</p> <p>23 A. Correct.</p> <p>24 Q. And as a result of that, you said that</p> <p>25 there was a decision that was made to provide a grant</p> |

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| 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 PREVENTION
OF CRUELTY TO ANIMALS’ RESPONSES AND
OBJECTIONS TO DEFENDANTS’ FIRST SET OF 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 objections and responses to Defendants’ First Set of Interrogatories to the ASPCA.

DEFINITIONS

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. The ASPCA’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 objection and response to a specific Interrogatory. The ASPCA’s

Objection and Response to Interrogatory No. 17:

The ASPCA 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 and the ASPCA's general objections to these Interrogatories, the ASPCA states that the only "positions" it has taken regarding the presentation of elephants in circuses are reflected in documents that the ASPCA is producing in response to defendants' document production requests Nos. 2, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 22, 24, 25, 26, 27, 28, 29, 30, 31, 33, and 34, and such information is hereby incorporated by reference. Additional information that is responsive to this Interrogatory may also be contained in documents that are being produced collectively by the organizational plaintiffs in response to defendants' document production request. All such information is also hereby incorporated by reference.

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.

Objection and Response to Interrogatory No. 18:

The ASPCA hereby incorporates the same objections and response to Interrogatory No. 17 above.

Interrogatory No. 19:

Describe each communication you have had since 1996 with any other animal advocates or animal advocacy organizations about the presentation of elephants in circuses or about the treatment of elephants at any circus, including Ringling Brothers. and Barnum & Bailey Circus.

Objection and Response to Interrogatory No. 19:

The ASPCA objects to this Interrogatory on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, oppressive, seeks irrelevant information, and to the extent that it also seeks information that is protected by the attorney-client and work product privileges. Subject to and without waiving these and the general objections to these Interrogatories, the ASPCA states that Lisa Weisberg has had numerous conversations with the other organizational plaintiffs and their attorneys, all of which are privileged under the attorney-client and work product privileges. Ms. Weisberg has also had conversations with individuals from the following organizations: the Elephant Sanctuary, People for the Ethical Treatment of Animals, the World Society for the Protection of Animals, the Animal Protection Institute, Performing Animal Welfare Society, and the Massachusetts Society for the Prevention of Cruelty to Animals. Additional information responsive to this Interrogatory is reflected in the documents that the ASPCA is producing in response to defendants' document production request Nos. 5, 6, 8, 9, 13, 14, 19, 20, 22, 27, 33, 34, which are hereby incorporated by reference.

Interrogatory No. 20:

Describe each communication in which any person, other than defendants or their employees, has expressed support for or otherwise said positive things about defendants' treatment of their elephants.

Objection and Response to Interrogatory No. 20:

The ASPCA objects to this Interrogatory on the ground that it is vague and ambiguous. In particular, the ASPCA does not know what is meant by the term "positive things." However, without waiving this objection and the general objections to these Interrogatories, the ASPCA states that the answer to this Interrogatory is:

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| AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, <u>et al.</u> , |) | |
| |) | |
| Plaintiffs, |) | Civ. No. 00-01641 (EGS) |
| |) | |
| v. |) | |
| |) | |
| RINGLING BROS. AND BARNUM & BAILEY CIRCUT, <u>et al.</u> , |) | |
| |) | |
| Defendants. |) | |

**PLAINTIFF ANIMAL WELFARE 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 Welfare Institute ("AWI") hereby offers the following objections and responses to Defendants' First Set of Interrogatories to AWI.

DEFINITIONS

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. AWI'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 objection and response to a specific Interrogatory. AWI's objections

time it has specifically taken a "position" on the use of ankuses on elephants was in comments submitted to USDA in response to a Federal Register Notice on Docket #97-001-4. Cathy Liss, then Executive Director, submitted written comments dated April 17, 2000, which stated, "The use of ankuses should be prohibited since these devices are tools of negative reinforcement and are oftentimes misused, subjecting animals to severe physical abuse." To the extent the Interrogatory is meant to call for information regarding "positions" AWI has "taken," "held," or "espoused" with respect to the use of ankuses in particular instances, that information is contained within the documents provided by AWI, and by the plaintiffs collectively, in response to defendants' document requests.

Interrogatory No. 19:

Describe each communication you have had since 1996 with any other animal advocates or animal advocacy organizations about the presentation of elephants in circuses or about the treatment of elephants at any circus, including Ringling Brothers. and Barnum & Bailey Circus.

Objection and Response to Interrogatory No. 19:

AWI objects to this Interrogatory on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, seeks irrelevant information, and to the extent that it seeks information that is protected by the attorney-client and work product privileges. AWI cannot recall or itemize each communication it has had with other animal advocates on this topic. Subject to and without waiving these objections, AWI states that, to the best of its recollection, Cathy Liss has had about six conversations with Florence Lambert of the Elephant Alliance since 1996. Ms. Liss contacted Ms. Lambert twice regarding photographs that were needed to accompany articles being run in AWI's magazine, the AWI Quarterly. Florence contacted AWI on August 29, 2000, seeking funds for ARCA

BRAZIL to hold a Brazilian and Latin-American Animal Welfare Congress. Cathy spoke with Florence regarding USDA Docket #97-001-4 (a USDA draft policy statement on Training and Handling of Potentially Dangerous Animals) in April 2000.

In addition, various members of the AWI staff have responded to inquiries from individuals in response to each of the AWI Quarterly articles that have been run regarding Ringling Brothers (Fall 2000 and Fall 2003). These likely involved requests for extra copies of the newsletter or requests for copies of the report, "Government Sanctioned Abuse." In March 2004, we had a few calls from people about Hawthorn Circus's violations of the Animal Welfare Act and its agreement to relinquish all of its elephants.

Other AWI staff members may periodically have communications with other animal advocates regarding elephants in circuses. Information regarding such communications may be found in the documents provided by AWI in response to defendants' document requests.

In addition, Cathy Liss has had numerous conversations with the other organizational plaintiffs in this case, and their attorneys, concerning the litigation, most of which are protected by the attorney-client privilege.

Interrogatory No. 20:

Describe each communication in which any person, other than defendants or their employees, has expressed support for or otherwise said positive things about defendants' treatment of their elephants.

Objection and Response to Interrogatory No. 20:

AWI objects to this Interrogatory on the ground that it is vague and ambiguous. In particular, AWI does not know what is meant by the term "positive things." Subject to

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| Plaintiffs, |) | Civ. No. 00-01641 (EGS) |
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| RINGLING BROS. AND BARNUM & BAILEY CIRCUT, <u>et al.</u> |) | |
| Defendants. |) | |
| |) | |

**PLAINTIFF THE FUND FOR ANIMALS' 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 The Fund for Animals ("The Fund") hereby offers the following objections and
responses to Defendants' First Set of Interrogatories to The Fund.

DEFINITIONS

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. The Fund'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 objection and response to a specific Interrogatory. The Fund's

interrogatory is overly broad, and unduly burdensome. Subject to and without waiving these or the general objections to these interrogatories, The Fund states that it is opposed to the use of ankuses to train, handle, or care for elephants. To the extent The Fund's opposition to the use of ankuses has been communicated to its membership or others, either as a general matter or in particular instances, that information can be found in the documents provided by The Fund, and by the plaintiffs collectively, in response to defendants' document requests.

Interrogatory No. 19:

Describe each communication you have had since 1996 with any other animal advocates or animal advocacy organizations about the presentation of elephants in circuses or about the treatment of elephants at any circus, including Ringling Brothers. and Barnum & Bailey Circus.

Objection and Response to Interrogatory No. 19:

The Fund objects to this Interrogatory on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, oppressive, seeks irrelevant information, and to the extent that it also seeks information that is protected by the attorney-client and work product privileges. The Fund cannot recall or itemize each communication it has had on this topic. Subject to and without waiving these or the general objections to these Interrogatories, The Fund provides the following response:

As members of the Captive Wild Animal Protection Coalition, staff members of The Fund for Animals (Michael Markarian, Heidi Prescott, Andi Bernat, and P.J. McKosky) have had discussions about the treatment of animals in circuses with other coalition participants including organizations and individuals such as the Animal Protection Institute, African Elephant Conservation Trust, American Society for the Prevention of Cruelty to Animals, Born Free Foundation, Detroit Zoological Institute,

Bosack & Kruger Foundation, Folsom Zoo/Sanctuary, Houston Society for the Prevention of Cruelty to Animals, Humane Society of the United States, International Fund for Animal Welfare, Kimya Institute, Marin Humane Society, Oakland Zoo, Performing Animal Welfare Society, People for the Ethical Treatment of Animals, Robert L. "Skip" Trimble, The Association of Sanctuaries, Inc., The Science & Conservation Center, and The Summerlee Foundation. Meetings were held in May 8, 2002, in Sacramento; August 19-20, 2002, in Washington; February 24-25, 2003, in Los Angeles; July 2003, in Washington; February 27-28, 2004, in San Francisco; and May 17, 2004, in Sacramento.

Michael Markarian, President of The Fund for Animals, has had discussions with members of Youth Opposed to Animal Acts (YOTAA) in Denver, including David Hatch, Ken Smith, and Tammie Lackey, regarding an upcoming city ballot measure (Initiative 100) in Denver to prohibit circuses from using animal acts.

Michael Markarian attended the Performing Animal Welfare Society (PAWS) "War on Wildlife" conference at the Ark 2000 sanctuary in San Andreas, California, on May 18-19, 2004, where he spoke with other participants about the treatment of animals in circuses.

Jeff Leitner of The Fund for Animals has had discussions with members of the Massachusetts Society for the Prevention of Cruelty to Animals and Massachusetts Action for Animals regarding a Massachusetts state bill to prohibit circuses from using animal acts. He attended a rally in Boston to support the bill on October 29, 2003.

Fund employees also periodically have communications with members of The Fund or other animal advocates regarding the use of elephants in circuses. The Fund

cannot recall each such communication. Some information regarding such communications may be found in the documents provided by The Fund in response to defendants' document requests.

In addition, Michael Markarian has had numerous conversations with the other organizational plaintiffs and their attorneys in this case concerning the litigation, most of which are protected by the attorney-client privilege.

Interrogatory No. 20:

Describe each communication in which any person, other than defendants or their employees, has expressed support for or otherwise said positive things about defendants' treatment of their elephants.

Objection and Response to Interrogatory No. 20:

The Fund objects to this Interrogatory on the ground that it is vague and ambiguous. In particular, The Fund does not know what is meant by the term "positive things." Subject to and without waiving this objection or the general objections to these Interrogatories, The Fund states that it is not aware of any such communications.

Interrogatory No. 21:

Identify each resource you have expended from 1997 to the present in "advocating better treatment for animals held in captivity, including animals used for entertainment purposes" as alleged in the complaint, including the amount and purpose of each expenditure.

Objection and Response to Interrogatory No. 21:

The Fund objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and highly oppressive. The term "each resource" is also vague and ambiguous. Subject to and without waiving this or the general objections to the interrogatories, The Fund provides the following information concerning resources expended advocating better treatment for animals in captivity: