

**PLAINTIFFS' EXHIBIT 3**  
To Plaintiffs' Motion Under Rule 11  
Against Defendants And Their Counsel  
Civ. No. 03-2006 (EGS/JMF)

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

Telephone (202) 588-5206

Fax (202) 588-5049

www.meyerglitz.com

May 3, 2007

John M. Simpson  
Fulbright & Jaworski  
801 Pennsylvania Ave., N.W.  
Washington, D.C. 20004-2623

Re: ASPCA v. Ringling Bros., et al.  
Civ. No. 0-3-2006 (EGS)

Dear Mr. Simpson:

We have received your letter dated April 30, 2007. As an initial matter, we note that at the same time you are insisting to Judge Sullivan that Mr. Rider is not conducting a media campaign concerning the circus's abuse of endangered Asian elephants, you are now complaining to us about that fact that Mr. Rider is using documents detailing that abuse when he makes "statements to the press." See April 30, 2007 Letter at 1; compare, e.g., Proposed Counterclaim Under RICO at ¶ 73 ("[t]he payments actually fund Rider's continued participation in the ESA Action . . . and *not his 'media and public education efforts'*") (emphasis added).

In addition, Judge Sullivan's Order of September 26, 2005, upon which you rely, was an Order denying defendants' request for a protective order in this case, that would have required plaintiffs to keep secret all of the "veterinary records" for the elephants that the Court ordered defendants to produce, pursuant to that same Order. It was with respect to those specific records that Judge Sullivan's September 26, 2005 Order was directed. Defendants had specifically represented to Judge Sullivan that such documents were highly confidential because public release would compromise the scientific validity of the data contained in such records. See, e.g., September 16, 2005 Hearing at 48 (defendants' counsel states that defendants are "particularly concerned that if the raw data comes into the public domain . . . meaning the information that is contained in these records and that is part of the basis for scientific studies that are being conducted by contractors and by Feld . . . [i]t will destroy the publishability of that") (emphasis added). None of the documents about which you complain contains any such data whatsoever.



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In fact, as you know, Judge Sullivan had already denied another request by defendants for a much broader protective order that would have covered all discovery in this case. See Order (November 25, 2003). Therefore, contrary to your reading of Judge Sullivan's September 26, 2005 Order, the plaintiffs in this case were not ordered to keep all documents obtained in discovery secret. On the contrary, defendants had already lost that effort with respect to all discovery, and they had even lost that effort with respect to all of the "veterinary records," even though defendants had specifically complained to Judge Sullivan that plaintiffs would provide such documents to the media. See, e.g., September 26, 2005 Hearing at 81-82. Accordingly, in light of the fact that Judge Sullivan denied defendants' request that all documents produced by them be maintained in secret, your suggestion that the plaintiffs are somehow "violating" Judge Sullivan's Order by disseminating documents that are not covered by a protective order has no basis in fact.

While it is true that in his September 26, 2005 Order compelling the production of the veterinary records and denying defendants' request for a protective order for all such records, Judge Sullivan expressed concern that plaintiffs should not "abuse the discovery process for purposes of publicity or to argue the merits of plaintiffs' claims in the media, as opposed to the Court," Order at 2, plaintiffs have done nothing to transgress those concerns. Thus, the three documents about which you complain – (1) Deborah Fahrenbruck's January 8, 2005 report of "an elephant dripping blood all over the arena floor during the show from being hooked" (FEI 15025 -15027); (2) the July 24, 2004 electronic message from a Ringling veterinary technician noting that "[a]fter this morning's baths, at least 4 of the elephants came in with multiple abrasions and lacerations from the hooks," (FEI 16648); and (3) the January 8, 2005 electronic message concerning the fact that Troy Metzler "was observed hitting Angelica 3 to five times in the stocks before unloading her and then using a hand electric prod within public view," (FEI 15024) – were in fact all obtained in discovery for the purpose of demonstrating to Judge Sullivan the correctness of plaintiffs' claims that defendants routinely harm the elephants with bull hooks and other instruments in violation of Section 9 of the Endangered Species Act. See also Amended Complaint ¶¶ 1, 62, 96.

In fact, all three of these documents have already been submitted to Judge Sullivan as exhibits in this case in response to either (a) defendants' motion for summary judgment, in which they contend that they do not engage in these harmful practices (Exhibits C and N); or (b) defendants' motion to amend their answers to add a RICO counterclaim that is premised on defendants' contention that Mr. Rider is lying about the fact that he witnessed Ringling employees routinely abuse the elephants (Exhibit 32). Accordingly, plaintiffs have in fact used these documents to argue the merits of their case "to the Court" as is entirely appropriate and consistent with Judge Sullivan's September 26, 2005 Order.


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In sum, all three of the documents about which you complain are currently Exhibits to public briefs filed in this case – again, made directly in response to defendants' arguments to the Court that Ringling does not strike its elephants with bull hooks or other instruments, and that Mr. Rider is lying when he states otherwise. Therefore, you appear to be asking us to “cease and desist” from publicly disseminating documents that are already a matter of public record in a public proceeding. We know of no legitimate basis for such a request, nor is that result in any way compelled by Judge Sullivan’s September 26, 2005 Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine A. Meyer", with a long horizontal flourish extending to the right.

Katherine A. Meyer