

PLAINTIFFS' EXHIBIT 5
To Plaintiffs' Motion Under Rule 11
Against Defendants And Their Counsel
Civ. No. 03-2006 (EGS/JMF)

USDA-APHIS

USDA, APHIS,
INVESTIGATIVE &
ENFORCEMENT SERVICES

Diane Ward
California and Nevada
(703) 812-6681

Memorandum

To: Robert Gibbens, Elizabeth Goldentyer-
A.C. Regional Directors.
From: Diane Ward, IES, Investigator
cc: Wendy Koch, David Head, Mark
Kurland
Date: July 21, 2000
Subject: Ringling Brothers' elephants- CA00136.

Background: An ex-Ringling Brothers Circus employee [redacted] has come forward with many allegations of abuse to the elephants by Ringling Brother's employees. This man is speaking out to the USDA (apparently directly to Michael Dunn), and to the news media; all of which he has done with the assistance of Pat Derby (PAWS). I have worked with [redacted] for the last week, and have taken a lengthy statement from him (attached). [redacted] worked with the elephants, as their [redacted]. There is no question that he loves the elephants that he worked with (in the blue unit), and wants to help them find a better life than what is provided by the circus.

b7D
b7C
b6
b7C
b7D

b6, b7C, b7D

b6
b7C
b7D

Current Violations?: The information that [redacted] as brought to me involves many "gray areas". Because the "violation" issues are not straight forward, I am asking for your input to determine if I should continue to investigate the complaint, and what issues to investigate. The following are the issues that I could further investigate, as I see them (feel free to add anything else I may have missed):

b6
b7C
b7D

b6
b7C
b7D

b6, b7C, b7D

b6, b7C
b7D

1.) The abuse that [redacted] talks about is the routine handling of the elephants by the trainers. [redacted] finds the use of "bull hooks" to be totally unnecessary. [redacted] claims that the elephants are constantly being hooked to hard behind the ears, around the tail, and on the back side of the foot. He would like the USDA to inspect each elephant, claiming that you will see scars in all these areas from the misuse of the hooks. Do we want to have each elephant examined, and have the USDA Officials decide if there are scars (and are they excessive)?

2.) In the case of the death of the elephant know as "Benjamin". Do we want to reopen this case? One point that [redacted] makes (and may be valid), is that none of the Benjamin handlers and trainers are still employed by Ringling Brothers. The [redacted] was a man named [redacted] and he is now working [redacted]. According to [redacted] the circus employees who witnessed the drowning state that Benjamin was beaten prior

b6
b7C
b7D

b6
b7C
b7D

to going into the water (and maybe while in the water) and that is what caused Benjamin not to come out of the water. We could try to locate [redacted] (also former Ringling employee, who witnessed the drowning) and see if he wants to add any new information about what happened to Benjamin. Do you want to reopen this case (TX99237)?

] b6

3.) Many of the other issues that [redacted] ^{talks} about in this affidavit appear to me to have already been investigated, but I can't be sure from what information I have. For example he talks about a tiger being shot in it's own cage, and about abuse to the elephants at the winter quarters in Florida- it appears that the cases may be IL99016 and FL99028 (but I can't get a lot of details from the computer tracking system). Maybe you could go through the Animal Care files and determine what has been investigated, and if any further work needs to be added to these cases (from what [redacted] has to contribute).

b6
b7c
b7d

4.) Do you find [redacted] complaints about the elephants exposure to excessive heat and cold to be worth investigating? The problem will be the time that has gone by since the events happened. The USDA inspection reports for the blue unit must show some of the conditions during the times that he complains about. Maybe the decision to further investigate can already be answered through the inspection reports.

b6
b7c
b7d

5.) [redacted] complains about having advance notice of the USDA coming to do inspections of the animals (he claims is happens more in the eastern region, then in the western region). I find this complaint very hard to believe, because he isn't talking about an individual State. Let me know if you want IES to further investigate this issue.

b6
b7c
b7d

Another issue that [redacted] brings up is the time of day that the USDA does their inspections. He claims that most of the abuse to the elephants happens just prior to a performance (1 hour before). It may not be reasonable for the USDA to conduct a full inspection just prior to a show, but it would be interesting to review the times of the day that inspections are made to show if the USDA personnel may have been on the grounds the day of a show. The USDA Inspectors may have witnessed rehearsal times, and gone back later to do a full inspection. I do not have this information, but you may be able to respond to such allegations by reviewing the inspection reports.

b6
b7c
b7d

6.) In May 1998, at the New Haven Arena in CT [redacted] alleges that the elephant "Karen" was beaten for 23 minutes. He claims this beating was done by [redacted] Another employee witnessed the beating [redacted] and so did an employee (security guard) of the arena. We could try to contact [redacted] and the security guard, but a lot of time has gone by.

b6, b7c, b7d
b6
b6

7.) Apparently Ringling Brothers went through a lot of employees during the time [redacted] was employed. [redacted] claims that the day a person is hired to help with the elephants, is the same day they are given a bull hook and are made to walk with the elephants. We could ask Ringling for their elephant employee records and see if we could locate some of these people for an interview. The current employees could also be interviewed to see how much experience they have, although this may be part of the routine inspection and be unnecessary to look into again.

Another issue that came up during my interview with [redacted] is the responsibility of the railroad companies who haul the Ringling train. The Ringling train is a mile (plus) long, and the cars are owned by Ringling Brothers. The train engines that haul the cars are owned by what ever railroad company that Ringling contracts with to do the haul. Does the railroad company become a "carrier" under the USDA regulations? The railroad does not take possession of the animals, but they may have responsibility for the positioning of the cars so that the fumes and heat from the engines do not go into the animal's cars. Would the railroads need to be licensed by the USDA to do these hauls?

The IES tracking number for this complaint is CA00136. I will wait to hear from you before doing any further investigation into these complaints.