

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. :

_____ :

DEFENDANT'S OPPOSITION TO PLAINTIFFS' MOTION UNDER RULE 11

EXHIBIT 92

COPY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Plaintiffs,

vs.

RINGLING BROTHERS AND BARNUM
BAILEY CIRCUS, et al.,

Defendants.

Docket No. CA-03-2006

Washington, D.C.

Friday, September 16, 2005

2:35 p.m.

TRANSCRIPT OF A MOTION
BEFORE THE HONORABLE EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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by computer-aided transcription.

1 they want to, they do. That's what happens.

2 I don't see anything nefarious or wrong about that.
3 They're free to respond to it. Right now they are out there on
4 a daily basis making all kinds of statements about the
5 wonderful care that they give their elephants, that they're
6 conserving them for the future and that our clients are lying,
7 Mr. Rider is lying about what he is saying about these
8 elephants being beaten all the time, chained all the time, that
9 we're lying about the babies being forcibly removed from their
10 mothers, that we are whacky animal rights activists, we cannot
11 be trusted. None of that is true. And they're controlling the
12 entire debate.

13 Now, if they're going to get to control the entire
14 debate, then perhaps we should get a gag order against them for
15 making those kind of statements and then we'll be on equal
16 footing. But I don't think that they should be able to use
17 that fact that one of these documents might make its way into
18 the public somewhere along the line and somebody might draw an
19 inference from it as a basis for getting a protective order.

20 THE COURT: I agree with you. There's no reason why
21 your organization ought be maligned. Especially if they
22 control the media, they can get on the Katie Couric show and
23 bad mouth your organization and call you whatever they're
24 calling you, I agree with you.

25 MS. MEYER: That's right. And what we have on the

1 other side, Your Honor, we have Tom Rider, a plaintiff in this
2 case, he's going around the country in his own van, he gets
3 grant money from some of the clients and some other
4 organizations to speak out and say what really happened when he
5 worked there. That's what we have on their side.

6 And they want to make sure that none of the
7 information that might actually shed some light on what's going
8 on, I'm not saying it necessarily does, but it might, I don't
9 know, not be ever disclosed to the public. We have to litigate
10 this case in secret so that they can control the debate.

11 And, again, Your Honor, the presumption is open
12 proceedings. They have to come forward with good cause to get
13 a protective order. They simply haven't met their showing.

14 The number one argument is that we're going to, they
15 say, misuse the information in the public. No showing on that
16 score.

17 Number two, they say the information relate, all of
18 the medical records, all of the detailed medical records,
19 relate to scientific research papers that they're working on
20 right now. We say, well, we doubt that all of the medical
21 records do, if you could show us particular records of
22 particular studies we might be able to willing to agree to a
23 protective order.

24 And their third argument that they came up with most
25 belatedly, I think it was in their reply brief on the motion