

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
AMERICAN SOCIETY FOR THE)	
PREVENTION OF CRUELTY)	
TO ANIMALS, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civ. Action No. 03-2006 (EGS)
)	
RINGLING BROTHERS AND BARNUM)	
& BAILEY CIRCUS, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

ORDER

Pending before the Court is defendant Feld Entertainment, Inc.'s ("FEI") Expedited Motion to Enforce the Court's September 26, 2005 Order. Defendant argues that plaintiffs are in violation of the Court's admonishment in its Order that "the purpose of discovery is to produce and seek evidence for use in litigation and the Court will not take lightly any abuse of the discovery process for purposes of publicity or to argue the merits of plaintiffs' claims in the media, as opposed to the Court." Order (Sept. 26, 2005). Specifically, defendant contends that plaintiffs have issued press releases or internet press postings (and have made comments to the press) that refer to and quote from at least three documents that have no source other than FEI's document productions pursuant to plaintiffs'

production requests and orders of the Court. Plaintiffs do not dispute these allegations.

All of the documents about which defendant complains are available on the public record as exhibits to public filings, including plaintiffs' opposition to defendant's motion for summary judgment, through the electronic case filing ("ECF") system, and none of the documents at issue are subject to a protective order. Although the Court is sensitive to defendant's concern that plaintiffs might misuse discovery documents out of context to try their case in the media, the Court declines defendant's invitation to treat the Court's admonishment as a protective order. The Court's refusal at this time to impose a categorical ban on the use of or reference to any documents obtained in discovery or impose sanctions on plaintiffs for the alleged violation of the Court's "admonishment" in this instance is not, however, a determination that disclosure of any document or other evidence obtained in discovery would always be proper.

As the Court finds no abuse of the discovery process at this time, it is

ORDERED that defendant's Expedited Motion to Enforce the Court's September 26, 2005 Order [Dkt. No. 152] is **DENIED**; and it is

FURTHER ORDERED that plaintiffs' Motion to File a Sur-reply [Dkt. No. 161] is **GRANTED** as the Court has already considered the

sur-reply and defendant had an opportunity to respond to the arguments in the sur-reply; and it is

FURTHER ORDERED that neither party shall be awarded attorneys' fees in connection with defendant's Expedited Motion.

SO ORDERED.

Signed: Emmet G. Sullivan
United States District Court
August 23, 2007