

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. No. 03-2006 (EGS/JMF)
	)	
RINGLING BROTHERS AND BARNUM & BAILEY	)	
CIRCUS, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**PLAINTIFFS’ SUR-REPLY IN RESPONSE TO FELD ENTERTAINMENT INC.’s  
REPLY IN SUPPORT OF ITS “MOTION TO ENFORCE THE COURT’S  
SEPTEMBER 26, 2005 ORDER”**

Plaintiffs file this sur-reply to correct three misstatements of “fact” that were asserted in the Reply in Support of Defendant Feld Entertainment Inc.’s “Expedited Motion To Enforce the Court’s September 26, 2005 Order” (“FEI Reply”).

1. In that reply FEI incorrectly states that “FEI has consistently refused to comment on this case to the press.” FEI Reply at 7-8. In fact, FEI spokespersons have often commented to the press “about this case” – calling it completely unsubstantiated, meritless, and part of the plaintiffs’ “extremist” “political agenda.” See, e.g., The Kansas City Star (2003) (“This suit is clearly part of their political campaign to remove animals from circuses and their continuing attempt to use the courts to further their agenda . . . no matter how these extremist groups try to mischaracterize procedural rulings in the case and mislead the public, their allegations run exactly counter to what millions of families see each year when they come to Ringling Bros. and

Barnum & Bailey”) (attached as Exhibit 1).<sup>1</sup> FEI also frequently tells the media that Mr. Rider is making up his eye-witness accounts that Ringling Brothers mistreats the Asian elephants in its care and that he is being “paid” to make these statements.<sup>2</sup>

2. On page 8 of the reply FEI also states that Mr. Rider has “not” filed tax returns “since 1998.” This statement is also incorrect – as FEI’s counsel knows. In fact, as Mr. Rider stated he would do in his declaration to the Court in opposition to defendants’ motion to add a counterclaim in this case, see Exhibit 38 to Docket No. 132, in April 2007 Mr. Rider filed tax returns for the years 1998-2006. FEI knows this because, prior to the date that it filed its reply stating otherwise, Mr. Rider offered to provide defendants with the relevant portions of those returns subject to a confidentiality agreement – an offer that defendants have thus far chosen to ignore. See Letter from Katherine Meyer to George Gasper (sent by e-mail June 26, 2007) (attached as Exhibit 2); see also 26 U.S.C. § 1603(b)(2) (personal tax returns are not to be disclosed to the public); accord, Church of Scientology of California v. Internal Revenue Service,

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<sup>1</sup> See also id., Springfield State Journal-Register (circus representatives issued a statement saying that “the case has no legal merit”); The Patriot News, id. (the spokeswoman for the circus “called the lawsuit ‘meritless’” . . . “We believe the allegations . . . to be unsubstantiated and to be contradicted by the findings from more than 40 inspections that federal, state and local officials have conducted . . .”); Press-Telegram, id. (“Ringling Bros. officials deny the allegations by the American Society for the Prevention of Cruelty to Animals . . . [t]hey call the lawsuit ‘part of a political campaign to remove animals’ from the circus”); Chicago Tribune (Ringling Bros. Vice President for Government Relations states that “They are alleging that anytime we do anything with an elephant we are violating the Endangered Species Act”).

<sup>2</sup> See, e.g. id., ABC7 I-Team (quoting Ringling’s “animal stewardship director” stating that “Tom Rider worked for Ringling Brothers for two years and never once did he make a complaint about what he says he witnessed . . . Today he works for an extremist hate organization and he gets paid to do it. He shoveled manure for us then and he shovels manure today”).

792 F.2d 153 (D.C. Cir. 1986).

3. On page 8 of FEI's Reply, FEI also states, without any supporting evidence, that Tom Rider "was declared a deserter from the United States Army." This extremely defamatory statement about Mr. Rider is also incorrect. Although FEI has revealed to plaintiffs that it has a copy of a partial military record from 1969-71 concerning Mr. Rider that contains an unidentified person's notation "dropped from rolls - deserter," this document does not state, let alone demonstrate, that Mr. Rider was ever "declared a deserter from the United States Army." In fact, the document upon which FEI is relying for this clearly defamatory statement further reflects that Mr. Rider participated as a "duty soldier" in the Army after the notations upon which FEI relies were made – belying defendant's assertion that Mr. Rider was nevertheless "declared a deserter" by the Army. See Exhibit F to Defendant Feld Entertainment Inc.'s Motion to Compel Testimony of Plaintiff Tom Eugene Rider (Docket No. 101) (attached hereto as Exhibit 3).<sup>3</sup>

Respectfully submitted,

/s/ Katherine A. Meyer  
Katherine A. Meyer  
(D.C. Bar No. 244301)  
Kimberly D. Ockene  
(D.C. Bar No. 461191)

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<sup>3</sup> The fragmented document relied on by FEI appears to have been provided to defendants in violation of Mr. Rider's Privacy Act rights. See 5 U.S.C. § 552a(b) (prohibiting all government agencies from releasing to third parties personal information about an individual without the "prior written consent of" that person). In any event, Mr. Rider previously agreed to provide FEI with complete information about his military service subject to a confidentiality agreement to protect his personal privacy, but FEI has refused to agree to such an agreement. Accordingly, Mr. Rider has moved for a protective order with regard to this matter. See Docket No. 106.

Tanya M. Sanerib  
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Date: July 18, 2007

**PLAINTIFFS' EXHIBIT 1**

To Plaintiffs' Sur-Reply in Response to Feld  
Entertainment Inc.'s Reply in Support of It's  
"Motion to Enforce the Court's September  
26, 2005 Order"  
Civ. No. 03-2006 (EGS/JMF)

**Subject:** please print for field offices and Mike's file Ringling Bros. Lawsuit  
**From:** Michael Markarian <mmarkarian@fund.org>  
**Date:** Thu, 11 Sep 2003 09:25:59 -0400  
**To:** Tashee Meadows <tmeadows@fund.org>

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Kansas City Star

September 10, 2003, Wednesday METROPOLITAN EDITION

SECTION: FYI; Pg. F1 ;EVENT

LENGTH: 1319 words

HEADLINE: Animal abuse accusations follow Ringling to KC

BYLINE: ROBERT TRUSSELL; The Kansas City Star

BODY:

When the circus comes to town you can bet on one thing: Allegations of animal abuse come with it.

Ringling Bros. and Barnum & Bailey employs 70 animals in its Blue Unit, which opens a five-day stand today at Kemper Arena. The menagerie includes 11 elephants and nine tigers, and circus officials insist the trained animal performers are so well-cared-for that they will most likely outlive their counterparts in the wild.

But a Saturday protest at Kemper planned by Animal Outreach of Kansas will argue otherwise. Advocates from the Lawrence group plan to hand out literature and screen video footage of elephants being beaten, which animal-rights groups say is typical of training methods.

And a pending lawsuit filed by animal-rights organizations contends that the circus abuses its Asian elephants. A motion by circus owner Feld Entertainment to dismiss the suit was denied in July by a federal judge in Washington, D.C.

The suit was brought by the American Society for the Prevention of Cruelty to Animals; the Fund for Animals; the Animal Welfare Institute; and former Ringling elephant handler Thomas Rider. They allege that the Ringling circus violates the Endangered Species Act.

"These animals are chained up. They're in railroad cars 50 weeks out of the year," said Lisa Weisberg, ASPCA senior vice president for government affairs, in a telephone interview. "You cannot provide for their emotional needs. So for that reason we're against the use of exotic animals in entertainment."

Ringling argues that training is "based on positive reinforcement in the form of food rewards and words of praise ... .Verbal or physical abuse and the withholding of food and water are strictly prohibited. ... "

Mark Riddell, national director of public relations for Feld Entertainment, said animal-rights groups single out the Ringling show as a way of drawing public attention to their cause.

"This suit is clearly part of their political campaign to remove

F 00945

animals from circuses and their continuing attempt to use the courts to further their agenda," Riddell said from Feld headquarters in Vienna, Va.

The circus, Riddell said, is subject to federal, state and local inspections at any time. As it will in Kansas City, the circus frequently has "animal open houses" before each performance that allow ticket-holders a close-up view of the animals and how they interact with their trainers and handlers.

"No organization knows more about living with and caring for these animals than we do," Riddell said. "And no matter how these extremist groups try to mischaracterize procedural rulings in the case and mislead the public, their allegations run exactly counter to what millions of families see each year when they come to Ringling Bros. and Barnum & Bailey."

But the ASPCA does not see itself as an extremist group. Founded in 1866, the ASPCA is one of the country's oldest animal-rights organizations. Unlike People for the Ethical Treatment of Animals, or PETA, known for its theatrical public protests and aggressive tactics, the ASPCA pursues its agenda largely through lobbying.

"We don't go around suing people," Weisberg said. "This was a very serious decision on our part. They (Ringling) are an institution. We're going out on a limb here, but we're for the prevention of cruelty to all animals."  
Animal Welfare Act

The U.S. Department of Agriculture is responsible for inspecting circuses to ensure compliance with the Animal Welfare Act through its Animal and Plant Health Inspection Service. According to USDA spokesman Jim Rogers, federal inspectors can visit circuses at any point on their tour routes. Inspections also can be triggered by complaints from the public.

"Our inspections are a comprehensive look at how a facility is doing on any particular day," Rogers said. "When we do an inspection we look at everything. The Animal Welfare Act is extremely comprehensive."

Possible outcomes of an investigation include a finding of no violation, a letter of warning, a fine or formal charges. The maximum penalty is \$2,750 per count per animal per day.

Ringling has been investigated 16 times since 1990, according to Rogers. No violations were found in 11 cases, and letters of warning were issued in three others - one for failing to provide sufficient cage space for dogs in 1992; and another in 1998 for "failure to euthanize ... in accordance with a program of veterinary care" when a trainer killed a tiger with a shotgun after the cat mauled the trainer's brother.

Two cases involving an ill elephant that was required to perform twice before a veterinarian could examine the animal were combined, Rogers said. As a result, Feld Entertainment agreed in 1998 to contribute \$10,000 to elephant conservation and another \$10,000 to animal research in lieu of a fine. The ASPCA contends that the elephant was a baby that was forced to perform three times in one day.

There have been no investigations in 2003, Rogers said. Copies of almost 20 inspection reports from 2001 through this year provided by the USDA reflected no evidence of animal abuse.

However, the ASPCA, along with the Fund for Animals and the Animal Welfare Institute, argue that the USDA has a "cozy"

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relationship with Ringling and that investigators are often overruled by their supervisors. In a just-issued report based on USDA documents obtained through the Freedom of Information Act, the groups depict a grim picture inside the circus.

The "USDA purposely ignored crucial evidence, closed investigations prematurely and overrode its own inspectors' and investigators' determination," the report states.

The report includes accounts of the drowning death of a 4-year-old elephant in Texas in 1999; cases of elephants with unreported cases of tuberculosis at Feld Entertainment's breeding facility in Florida; elephant performers, including juveniles, receiving frequent beatings; and baby elephants being separated from their mothers prematurely. In each case, the report alleges, the USDA found no violation despite physical evidence and eyewitness testimony to the contrary.

Rogers, the USDA spokesman, said many of the regulations require subjective judgments by inspectors and investigators.

"Sometimes people may see something they think is out of line which actually may not be," Rogers said. "We've had incidents in the past where people have sent us videotapes showing what was described as animal beatings, and it turned out to be something else."

In the view of animal-rights advocates, however, training animals to perform in circuses is wrong, regardless of how humanely they are treated.

"There's no dissent within the humane community that circuses are cruel," said Michael Markarian, president of the Fund for Animals. "Elephants are highly intelligent, socially complex animals. To do silly tricks just for our amusement is demeaning and inhumane."

But director Philip Wm. McKinley, who stages the shows for Ringling, said he has never witnessed animal abuse in seven years of working for the circus.

"The animals at Ringling are highly regarded, not as props, not as inanimate objects," McKinley said. "They are fellow performers. Much the same way anybody feels about their pet dog or their pet cat is exactly the way these performers feel about their animal partners

"I have not seen that, when people say that there's the abuse and the whipping and all that. Does it happen in circuses? It may. I personally have never witnessed it. Has it happened in Ringling? No."

- To reach Robert Trussell, who covers theater and other performing arts, call (816) 234-4765 or send e-mail to [rtrussell@kcstar.com](mailto:rtrussell@kcstar.com).

GRAPHIC: Photo, Ringling says cries of animal abuse on its circus tours are false.; Courtesy Ringling Bros. and Barnum & Bailey Circus

LOAD-DATE: September 10, 2003

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# Animal activist plans nude, caged protest of circus

BY DAVE BAKKE *2259A*  
STAFF WRITER

The Ringling Bros. and Barnum & Bailey Circus will be in Springfield next week, but the show will begin early.

On Thursday, a partially nude woman plans to paint herself in tiger stripes and sit in a cage on the Old Capitol Plaza as a protest against what she says is animal abuse by the circus.

Kristie Phelps, a 23-year-old campaign coordinator for People for the Ethical Treatment

of Animals, travels the country doing the same thing in other cities where the circus appears. Today, she will protest in Rockford, and Wednesday, she'll be in Peoria.

Phelps gets plenty of attention from passers-by, the media and the police, who have arrested her for public indecency. In October, she was arrested by Chicago police. She faces arrest in Springfield as well.

"If someone is exposing themselves like this in public, we'll probably have to arrest her," said Cmdr. Jim Burton of the Springfield Police Department. "People should know that we don't allow that type of activity. Irregardless of what the issue is, we still have to enforce the law."

"There are probably more appropriate places to be nude. There are other ways to do things properly."

Phelps said Monday that PETA protesters have disrobed and gotten into the cage numerous times. She has been arrested twice. In one instance, she said, the charges eventually were dropped. In Chicago, she had to pay a small fine.

"But whenever we do it, we get a chance to talk to people who were considering going to the circus and had no idea how they treat their animals," Phelps said. "To me, getting arrested is nothing compared to the suffering these animals endure."

—KRISTIE PHELPS  
CAMPAIGN COORDINATOR  
PEOPLE FOR THE ETHICAL  
TREATMENT OF ANIMALS

Ringling Brothers is being sued by several animal-rights groups under the Endangered Species Act. The groups — the ASPCA, The Fund for Animals and the Animal Welfare Institute — charge that circus personnel keep elephants in chains and beat them with clubs with sharp metal hooks on the ends. A former Ringling Brothers animal trainer is cooperating with the accusers. The case is pending in federal court in Washington, D.C. PETA is not a party to that lawsuit.

While circus representatives would not discuss specific allegations due to the pending lawsuit, they did issue a statement saying that, overall, the case has no legal merit. The circus says this is part

## CIRCUS

From page 9

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of a campaign by animal activists to remove animals from all forms of entertainment.

"We believe allegations made by the activists to the media to be unsubstantiated," Ringling Brothers said in its statement, "and to be contradicted by findings from more than 40 inspections that federal, state and local officials have conducted in the last two years."

The circus distributes substantial information to back up its claim that its animals are treated humanely. It points out that the animals are inspected by the U.S. Department of Agriculture, are protected by law, receive around-the-clock veterinary care and live longer, healthier lives

*"We believe allegations made by the activists to the media to be unsubstantiated."*

—RINGLING BROTHERS

than do their counterparts in the wild.

Circus representatives also say that a 1999 "Dateline NBC" broadcast on this subject included examinations of the elephants before and after performances by an animal behaviorist from Texas A&M University. He found that the animals were normal and, he said, "finding it very comfortable and tolerating it very well, and they probably perceive it as being a fine environment."

Dave Bakke can be reached at 788-1541 or dave.bakke@sj-r.com

See CIRCUS on page 10

A 00698

# Press-Telegram

SUNDAY, JULY 16, 2000

Long Beach, California

## Animal cruelty debate rolls in with the circus

Everyone loved Jumbo.

With a height of nearly 11 feet at the shoulder, he was the world's largest captive elephant. When London's zoo sold him to circus mogul P.T. Barnum in 1882, even Queen Victoria protested.

But the 16-year-old elephant's career as an American circus icon was short-lived. In 1995, he was being led across a railroad track when a freight train approached. The frightened Jumbo bolted



**TOM HENNESSY**

from his handlers and was fatally crushed between two rail cars.

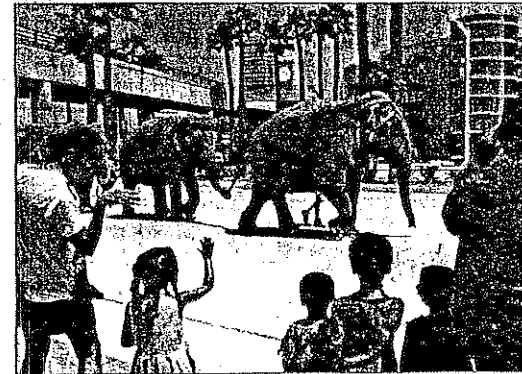
It was the kind of tragedy animal rights advocates would rail

about 115 years later.

### That time again

When the Ringling Bros. and Barnum & Bailey Circus rolls into town this week for a five-day stint, Wednesday to Sunday, at the Long Beach Arena, it will be toting a bit of extra baggage: a lawsuit filed Tuesday by four prominent animal protection organizations.

PLEASE SEE CIRCUS /A11



Elephants with the Ringling Bros. and Barnum & Bailey Circus parade past a crowd along Shoreline Drive in Long Beach on their way to Long Beach Arena in this 1999 photo.  
Craig Fujii / Press-Telegram

AWI 01554

# CIRCUS: Critics file lawsuit

CONTINUED FROM A1

The suit charges in part that Ringling Bros. violates the Endangered Species and Animal Welfare acts by beating young Asian elephants as part of their training, chaining elephants for hours and removing babies from their mothers before they are weaned.

Ringling Bros. officials deny the allegations by the American Society for the Prevention of Cruelty to Animals, Fund for Animals, Animal Welfare Institute and Performing Animal Welfare Society. They call the lawsuit "part of a political campaign to remove animals" from the circus.

That will not happen, says Ringling spokeswoman Catherine Ort-Mabry. "Animals are an integral part of the Ringling Bros. Barnum & Bailey experience. People love to see the animals in our shows."

## Wrong image

Critics say circuses distort true animal life. And they point to scores of alleged incidents which, they say, add up to a pattern of abuse by most, if not all U.S. circuses.

Circus animals "exist in a pathetic state of captivity that denies them even the semblance of their native habitat," says Christine Wolf, director of government and international affairs for the national Fund for Animals. "What children learn from circuses is that it is acceptable to dominate another creature for profit and that beating and breaking animals just to provide entertainment is a normal function of society."

Critics also argue that circus animals, notably elephants are dangerous. Wolf: "Over the past 10 years, numerous attacks by elephants against handlers and spectators have plagued the circus

industry."

Not so, says Ringling.

"There is no evidence at all that captive elephants are more prone to aggressive or erratic behavior than those in the wild," reads one company statement.

And Ort-Mabry adds, "Ringling Bros. has a perfect public safety record. In 130 years, we have never had an incident in which a member of the public was put at risk."

## Elephant stats

Whether circus elephants are predictable or not, Florence Lambert, of the La Jolla-based Elephant Alliance, says they often do not fare well. In the last 7 years, she says, there have been 104 captive elephant deaths in the U.S. They included 54 Asian elephants, an endangered species. Of the 54 Asians, she says, 10 were with Ringling Bros.

Says Ort-Mabry, "I would have to check those figures."

The circus also denies allegations that it imports endangered Asian elephants to be used as performers, saying it ended that practice when the U.S., in 1970, became party to a treaty that bars trade in endangered species. To the contrary, says Ort-Mabry, Ringling is working through conservation programs "to save the Asian elephant for future generations."

Another Ringling brochure states: "In over 30 years of current ownership, Ringling Bros. has never been found in violation of the Animal Welfare Act for abuse, neglect or mistreatment of its animals." Ringling also denies that baby elephants are taken prematurely from their mothers.

## Local view

In Long Beach, the head of animal control, the municipal unit which monitors the circus, gives it good marks.

"We've had absolutely no problem with Ringling Bros.," says Roger Hatakeyama. "They're very cooperative. Actually, they've even showed us things we hadn't checked on. They're very good about full disclosure."

"We're there when they unload the animals, and if we see a violation or a sick animal, they're on it right away."

Asked about signs of abuse to circus animals, Hatakeyama says they can be hard to spot. "Even veterinarians can have difficulty finding them. We have to look to the obvious. Do they have enough food and water? Are their corrals clean? Are there wounds that are being covered up? We look really close for these things."

Are the animals, indeed, dangerous? "I'm always concerned when you have wild animals around the public. You never know what might happen."

## Enter Congress

In the center ring of the debate is the Captive Elephant Accident Prevention Act, which received a hearing in the crime subcommittee of the House Judiciary Committee on June 13. It would bar circuses from presenting elephants.

Among those testifying at the hearing was Tom Rider, a former Ringling employee who said the company's elephants "live in confinement" and "are beaten all the time when they don't perform properly." He noted, "When I became disturbed about the treatment of the elephants, the continual beatings ... I was told, 'That's discipline'."

Ort-Mabry contends that Rider

"left our employ on good terms and never brought his allegations forward although he later said he did." Ringling officials would have investigated if he had, she notes.

Critics say circus attendance has fallen as the public becomes more aware of animal abuses. But Ort-Mabry insists attendance is on the rise, and Ringling shows draw about 110 million spectators a year: "People love the circus."

One who does not is Ann Denison, a Long Beach advocate of animal rights who criticizes the Press-Telegram for co-sponsoring the Ringling show during its Long Beach engagement. "It troubles me that the P-T is supporting animal cruelty," she says.

Appealing to the public, she says, "Before you buy those tickets, please think about the circus from the animals' point of view."

## My thoughts

While I have tried above to present a balanced view of the circus debate, part of my job as a columnist is to express my opinion. It will come as no surprise to regular readers that I am on the side of the animal-rights people. In 1995, I decided to never again attend a circus that includes animals.

I was persuaded to that decision in part by Lambert who, I once wrote, is to Ringling Bros. what Ralph Nader is to General Motors.

Subsequent research and a behind-the-scenes tour of a circus convinced me that Lambert and others are correct — if not in every detail, at least in the overall view that a circus is not a good place for an animal to be.

*Tom Hennessy's viewpoint appears Sunday, Tuesday, Thursday and Friday. He can be reached at (562) 499-1270, or via e-mail at Scribe17@aol.com*

### **Lawsuit Claims Big Top is Elephants' Nightmare**

April 10, 2006  
Chicago Tribune  
By Vincent J. Schodolski

#### Original Article

LONG BEACH, Calif. -- There was the big top, a giant blue tent. There were acrobats, a trapeze and even a couple of clowns. There were hot dogs and popcorn and lots of overpriced souvenirs.

But there were no animals, and that kind of spectacle may be coming to your neighborhood if animal-rights activists and the American Society for the Prevention of Cruelty to Animals have their way.

Cirque du Soleil is world-famous for its innovative approach to circus performance, and many conventional circuses may start looking more like Canada-based Cirque as communities across the U.S. ban, or seek to ban, circuses with exotic animal acts--especially those involving elephants.

About 15 U.S. cities have ordinances banning circus acts that involve animals, and a measure is pending in the Chicago City Council to require that each elephant within city limits have at least 10 acres of personal space.

While activists express concern about all exotic animals in circuses, there is special worry about elephants. The animals often spend as many as 22 hours a day tethered, usually with chains on their ankles, said Colleen Kinzley, curator of the zoo in Oakland, who has worked extensively with elephants.

In the wild they roam and forage for as many as 18 hours a day, experts say.

The ASPCA is one of four plaintiffs in a lawsuit against the Ringling Bros. and Barnum & Bailey circus and Feld Entertainment, the company that owns the giant circus.

Using the federal Endangered Species Act, the plaintiffs argue that the way elephants are trained and housed by Ringling Bros. violates the law.

"We allege that the way they train their elephants wounds them," said Kimberly Ockene, one of the attorneys in the case, which is in the discovery phase in federal court in the District of Columbia.

She said the use of a metal bull hook to train the elephants and the practice of separating baby elephants from their mothers too quickly causes the animals physical, emotional and psychological suffering.

Ockene said the suit, begun in June 2004, likely will go to trial sometime next year.

Ringling Bros. said their elephants live a pampered existence.

"Our animals are amongst the best cared for anywhere," said Thomas Albert, vice president for government relations and animal policy with Ringling Bros. "Sady, our elephants are better cared for than many children in this country."

Under the Animal Welfare Act, the U.S. Department of Agriculture is charged with guaranteeing the welfare of exotic animals in zoos and circuses.

Albert said the USDA regularly inspects Ringling Bros. facilities and that the things the ASPCA and the other plaintiffs allege would make it impossible for the circus to continue with elephant acts.

"They are alleging that anytime we do anything with an elephant we are violating the Endangered Species Act," he said.

At any given time, Ringling Bros. has about 54 elephants. Three of the traveling circuses have nine or 10 elephants on the road with each of them. A smaller one-ring circus travels with just two, he said.

**'Leaders in animal care'**

Ringling Bros. does a great deal to benefit elephants and other exotic animals in its possession, Albert said.

"We have been the leaders in animal care for 136 years," he said. The circus' breeding program, Albert said, was responsible for 19 elephant births in the last 14 years, accounting for 45 percent of Asian elephant births in the United States.

The elephants not on the road are kept at a Florida facility where they rest and are involved in breeding operations.

In the suit, a former Ringling Bros. employee, Tom Rider, said that during his years caring for elephants with the circus he witnessed many acts that he considered cruel.

Rider, who also is a plaintiff in the suit, said he saw routine beating of elephants among other acts during his nearly two years with the circus.

"While working for Ringling Bros., Mr. Rider saw several of the other elephant handlers and 'trainers' routinely beat the elephants, including the baby elephants, and he saw them routinely hit and wound the elephants with sharp bull hooks," the lawsuit states.

The suit also says that such actions were carried out throughout the country as the circus moved around.

Dan Stockdale, a consultant and exotic animal trainer who also has worked with Ringling Bros., said he had a different experience.

"I have found almost all of the facilities I have visited to be extraordinarily professional and well-managed operations," Stockdale said. "I have had the privilege of being behind the scenes with several organizations and have seen surprisingly clean conditions, excellent medical care and very creative ideas for daily enrichment."

Oakland Zoo curator Kinzley said circus conditions can cause problems for the animals.

"The biggest issue facing elephants in circuses is that they spend a lot of time contained and with ankle chains," she said.

She said such confinement could cause the elephants to gain excessive weight and engage in "swaying" where they move their bodies from side to side. "When they are in chains, this is the only motion they can do," Kinzley said.

**Natural behavior suppressed**

She said confinement also prohibits natural elephant behavior such as bathing and mud wallowing.

Anyes Van Volkenburgh, a veterinarian in Malibu, Calif., said it is unnatural for exotic animals to live in a circus environment.

"Circus animals are deprived of living their lives according to their nature," she said. "Their instincts are not honored, their natural needs are ignored. As a result their mental and emotional health suffers as signified by stereotypical behaviors like pacing."

Van Volkenburgh said that such behaviors weaken and suppress the animals' immune systems and make them more susceptible to disease.

Cirque du Soleil is far from the only non-animal, themed circus performing in the United States. Circuses.com, a Web site maintained by People for the Ethical Treatment of Animals, lists 25 animal-free circuses.

Among them are: Bindlestiff Family Cirkus--vaudeville-style acts; Circus Luminous--elaborate costumes and a turn-of-the-century look; Cloud Seeding Circus--works with schools and museums; Flying Fruit Fly Circus--circus, dance, theater and live percussion; and New Pickle Circus--choreographed adventure of acrobatics, aerial work, dance and clowning.

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# The Patriot-News

## Ex-employee alleges abuse of elephants

Ringling Bros. spokeswoman calls case 'meritless'

06/01/01

By Irvin Kittrell III  
Of The Patriot-News

A former employee of Ringling Bros. and Barnum & Bailey Circus claims its handlers abuse performing elephants and has a tape showing the endangered Asian animals being struck.

Thomas Rider joined American Society for the Prevention of Cruelty to Animals, Animal Welfare Institute and the Fund for Animals to sue Ringling Bros. in July 2000 under the Endangered Species Act, which prohibits the harming of any animal that is listed as endangered.

The lawsuit, filed in federal court in Washington, D.C., contends Ringling Bros. routinely beats elephants to train them and chains them for long periods of time.

"This is about the elephants, this isn't about me," said Rider who worked for the circus as an elephant keeper from 1997 to 1999. "I want to see the abuse stopped. If we win this lawsuit, Ringling Bros. would have to get rid of the elephants."

Catherine Ort-Mabry, spokeswoman for the circus, called the lawsuit "meritless." She said Ringling Bros. moved to dismiss the lawsuit in late 2000. The motion is pending in court.

"We believe the allegations ... to be unsubstantiated and to be contradicted by the findings from more than 40 inspections that federal, state and local officials have conducted in the last two years," she said. "We are committed to working to save the Asian elephant for future generations and to providing people everywhere an opportunity to see these animals for themselves."

Rider's allegations come as the circus performs at Hershey Park Arena until Tuesday. Hershey Park spokesman Garrett Gallia said his company has heard of

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the lawsuit pending against Ringling Bros., but he was not aware of the specific allegation or the supporting facts of the complaint.

"Ringling Bros. has told us that the complaint is meritless," Gallia said. "Ringling Bros. has assured us that they have the highest standards for the care of all their animals."

Rider said he has witnessed some of the abuse.

Rider worked as an elephant keeper for about 22 months, Ort-Mabry said. Rider, who left the circus on amicable terms, said most of the cruelty to the elephants is done by the handlers.

"These elephants are beat on a daily basis," Rider said. "This is something the public needs to be made aware of. If they do the slightest thing wrong, they get hit."

Ort-Mabry said Rider never told the circus about the abuse while he was employed, something that Rider denies.

"I did complain to Ringling Bros. and they did nothing," he said.

Rider also produced a videotape of elephants being struck by circus employees. Ort-Mabry said she has seen the tape and the handlers who did strike the elephants were reprimanded.

"We had our medical team go in and evaluate if the elephants were harmed physically or emotionally," she said. "The elephants are fine."

Irvin Kittrell III may be reached at 255-8412 or [ikittrell@patriot-news.com](mailto:ikittrell@patriot-news.com).

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Friday, April 30, 2004

NEWS HEADLINES

**Tamed or Tortured**  
ABC7 I-Team investigates elephant training  
By Chuck Goudie

November 22, 2002 — The circus is in town tonight and so is the controversy about how circus elephants are trained to perform. The ABC7 I-Team reports that what happens away from the big top is not always the greatest show on earth, and what you are about to see may be disturbing. It has been almost eight years since the I-Team first exposed how pain and punishment are used to train performing elephants in an investigation called "Tamed or Tortured."

Since then, there have been congressional hearings, demands for tighter animal inspections, even calls for the banning of elephants in circuses. As the Ringling Brothers' Circus debuts weekend shows in Chicago, the controversy has not gone away.

This is a snapshot of obedience-- elephants lumbering down Damen Avenue this week and into the United Center, where the Ringling Brothers' Circus is on for 21 shows.

For many fans, the elephants make it the greatest show on earth. But to Tom Rider, a former barn hand at Ringling Brothers', elephants represent the cruelest show on earth.

"They are beaten into submission. The only way to keep an elephant under your control is to beat it," said Rider, former Ringling employee.

Rider tended elephants at Ringling for two and a half years, but says in 1989 he quit after witnessing this kind of treatment by trainers...what he claims is torture administered with an ankus or metal bull hook.

"We had a standing rule that if you could put a bull hook on your finger and hold it, it wasn't sharp enough, you have to sharpen it. It would literally penetrate the skin of an elephant," said Rider.

"Tom Rider worked for Ringling Brothers for two years and never once did he make a complaint about what he says he witnessed if what he saw was so bad. Today he works for an extremist hate organization and he gets paid to do it. He shoveled manure for us then and he shovels manure today," said John Kirtland, Ringling animal stewardship director.

John Kirtland manages animal care and training at Ringling's elephant farm in central Florida.

Kirtland admits elephant trainers carry bullhooks but claims they are used primarily to "guide" the pachyderms.

He says videotape like this shot by animal rights groups is out of context and he vigorously disputes charges of elephant torture, saying Ringling consistently passes government animal inspections.

Kirtland says radicals just don't want animals in captivity.

"They don't want people to enjoy relationships with animals. They want to take the dog out of your house and the horse out of your barn," said John Kirtland, Ringling animal stewardship director.

Ringling has even prepared a videotape featuring veteran trainer Troy Metzler explaining the intended use of a bull hook or "guide" as he calls it.

"Anytime they do something that is right, you always reward them with a pat or a carrot or apple...if a verbal command doesn't work you can use the guide to guide them where you want them to go," said Troy Metzler, Ringling animal trainer.

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But this same man Ringling puts forth touting animal care, also appears on another tape shot two years ago by animals rights advocates.

Metzler is seen backstage cracking a baby elephant across the trunk and then performing a faux-karate chop for some bystanders. Metzler tells the I-team he was reprimanded-- not for clubbing the elephant, but for doing so on camera.

"The animal was going to pull down a fence onto himself and other elephants and hurt himself. The procedure was correct but the way it was carried out was unprofessional...The mistake was in the way he acted, showing off. He pretty much knew he was on tape and was showing off for the people who are adversarial," said Kirkland.


Then, a few minutes later Metzler is seen on tape issuing a pair of uppercuts with the bull hook to an elephant's jaw.

"I want you to hear the sound on this, that's from about 75 yards away and you can hear how hard he's hit that baby and why, because that baby wouldn't raise its trunk. Wouldn't get her head up," said Rider.

Metzler-- now performing in Chicago-- admits that on seldom occasions elephants need to be hit. But he contends that 95 percent of the time elephants respond to verbal commands.

"They like to say that they don't do it, that it doesn't happen, that we're the greatest show on earth...we take such good care of our animals. But you can see on the video that doesn't happen. They are all about show," said Rider.

*Last Updated: Nov 22, 2002*

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PL 08372

**PLAINTIFFS' EXHIBIT 2**

To Plaintiffs' Sur-Reply in Response to Feld  
Entertainment Inc.'s Reply in Support of It's  
"Motion to Enforce the Court's September  
26, 2005 Order"  
Civ. No. 03-2006 (EGS/JMF)

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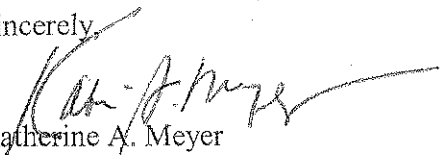
Re: ASPCA v. Ringling Bros., Civ. No. 03-2006

Dear Mr. Gasper:

I have received your letter requesting that Mr. Rider provide to you copies of his tax returns. To begin with, since such documents were only recently generated, I myself have not had a chance to review them; accordingly, Mr. Rider certainly has not been dilatory in providing such information to defendants in satisfaction of his duty to supplement his discovery responses. In addition, while Mr. Rider does not object to producing any such information that is relevant to the claims and defenses in this case, because such information is extremely personal and confidential in nature, he requests that defendants agree to allow him to produce such information subject to a confidentiality agreement. See, e.g., 26 U.S.C. § 1603(b)(2) (personal tax returns are not to be disclosed to the public); accord, Church of Scientology of California v. Internal Revenue Service, 792 F.2d 153 (D.C. Cir. 1986).

I will be out of the office until July 9, 2007. However, if defendants are willing to agree to allow Mr. Rider to provide this information subject to a confidentiality agreement, upon my return I will send you a proposed draft of such an agreement for your review.

Sincerely,

  
Katherine A. Meyer



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**PLAINTIFFS' EXHIBIT 3**

To Plaintiffs' Sur-Reply in Response to Feld  
Entertainment Inc.'s Reply in Support of It's  
"Motion to Enforce the Court's September  
26, 2005 Order"  
Civ. No. 03-2006 (EGS/JMF)

RECORD OF ASSIGNMENT						
EFFECTIVE DATE	DUTY POST	PRINCIPAL DUTY	ORGANIZATION AND LOCATION OF INTEREST	COMPLET	REAS.	REASON
1 Nov 67	[REDACTED]	[REDACTED]	590th Trans Co (ASLT) Ft Leonard Wood, MO			
6 Dec 67	[REDACTED]	Act	[REDACTED]			
2 Mar 68	[REDACTED]	Act	590th Trans Co (ASLT) Ft Leonard Wood, MO			
23 Apr 68	[REDACTED]	A IT	Co D, 2 Bn, 2 BCT Bde USARV PLW MO			
21 Jun 68	[REDACTED]	C2521	Company USAREUR			
12 Jul 68	[REDACTED]	Lt Veh Evr	590th Trans Co USAREUR			
27 Jul 68	[REDACTED]	Lt Veh Der	590th Trans Co USAREUR			
10 Sep 68	[REDACTED]	Lt Truck Driver	590th Trans Co USAREUR			
Feb 69	[REDACTED]	Dropped From Rolls	590th Trans Co USAREUR			
16 Apr 69	[REDACTED]	Light Truck Driver (2-96)	590th Trans Co USAREUR			
18 Apr 69	[REDACTED]	Confinement	USARV Forces, Bader/Werltensberg Stk PO 09128-			
24 Apr 69	[REDACTED]	Light Truck Driver	590th TRANS Co USAREUR			
8 Jul 69	[REDACTED]	Light Truck Driver	590th TRANS Co USAREUR			
9 Jul 69	[REDACTED]	Dropped From Rolls-Deserter				
8 Aug 70	[REDACTED]	Sent Prisoner	Co D, USARV Bn & Ft Leonard Wood, Mo			
21 Dec 70	[REDACTED]	Lt Veh Driver	Co C, 11th Comd, Ft Leonard Wood, Mo			
4 Feb 71	[REDACTED]	Lt Veh Driver	Co C, 11th Comd, Ft Leonard Wood, Mo			
6 Mar 71	[REDACTED]	Dropped From Rolls-Deserter				
23 Jun 71	[REDACTED]	Duty Soldier	CO B USAPOF HQ COMD PLW MO			

