

PLAINTIFFS' EXHIBIT 1

To Plaintiffs' Motion for Leave to File a
Supplemental Complaint Adding Three
Former Ringling Brothers Employees as
Additional Plaintiffs
Civ. No. 03-2006 (EGS/JMF)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

AND,)

ARCHELE HUNDLEY,)
5609½ Church Drive,)
Charleston, West Virginia, 25306,)

Civ. No. 03-2006 (EGS/JMF)

ROBERT TOM JUNIOR,)
1213 North 16th Street,)
Murray Kentucky, 42071,)

MARGARET TOM,)
1213 North 16th Street,)
Murray Kentucky, 42071,)

Plaintiffs,)

v.)

RINGLING BROTHERS AND BARNUM & BAILEY)
CIRCUS, et al.,)

Defendants.)

SECOND SUPPLEMENTAL COMPLAINT

1. This Second Supplemental Complaint adds three individuals – Archele Hundley, Robert Tom, Jr., and Margaret Tom – as plaintiffs to this pending case under the Endangered Species Act (“ESA”), 16 U.S.C. § 1531 et seq. against Feld Entertainment, Inc. and Ringling Brothers and Barnum and & Bailey Circus (hereinafter collectively referred to as “Ringling Bros.”) for “taking” endangered elephants – i.e. harming, harassing, and wounding them – in violation of the ESA and the regulations implementing that statute. All three of the additional plaintiffs are former employees of Ringling Bros.

Jurisdiction

2. This Court has jurisdiction over this case pursuant to 16 U.S.C. § 1540(g) and 28 U.S.C. § 1331.

Parties

3. Archele Hundley worked for Ringling Bros.' "Red Unit" from approximately April 20, 2006 through June 27, 2006, as part of the animal crew. Although Ms. Hundley worked primarily with the horses at the circus, because of the general proximity of the elephants to the horses she got to know the elephants on the Red Unit well. Ms. Hundley has always loved animals, and has always been fascinated by elephants in particular. During her work at the circus, Ms. Hundley grew extremely fond of the elephants. She enjoyed observing them and communing with them on a daily basis. She looked forward to seeing them every day, and formed a strong personal attachment to these animals.

4. However, while working for Ringling Bros., Ms. Hundley also observed the daily mistreatment of the elephants, including handlers who routinely beat, struck, and hit the elephants with sharp bull hooks behind their ears, on their heads, on their legs, and on other parts of the elephants' bodies. She saw both high-level and low-level personnel treat the animals this way, and it was clear to her that this was part of the circus's routine, accepted way of treating these animals. She frequently saw elephants with wounds caused by bull hooks, and she saw an elephant bleed profusely after being beaten with a bull hook. Ms. Hundley also witnessed the elephants being chained at night and saw them chained most of each day. She saw the elephants treated this way each day she worked at the circus, throughout the country.

5. Ms. Hundley has a personal and emotional attachment to these elephants. She has been aesthetically and emotionally injured by defendants' unlawful actions towards these animals, and continues to be so injured, knowing that this routine and unnecessary beating, wounding, chaining, and other mistreatment of the animals continues almost every day. Ms. Hundley was aesthetically injured by the demeanor and physical appearance of the elephants who appear sad and beaten down, devoid of their spirits, and extremely stressed and unhappy, and who exhibit stereotypic behavior as a result of their mistreatment, such as continuously swaying back and forth. Because of her experience at the circus, her life-long experiences with animals, and her love of animals, Ms. Hundley knows that the demeanor and behavior of the elephants, which cause her aesthetic injury, is the result of the way these animals are mistreated by Ringling Bros.

6. Ms. Hundley quit the circus because she could no longer stand watching the way the animals, including but not limited to the horses and elephants, were routinely abused by defendants.

7. Ms. Hundley would very much like to visit the elephants in defendants' possession so that she can continue her personal relationship with them and enjoy observing them. In fact, since she left the circus, Ms. Hundley has already returned to see the horses and the elephants, and she will continue to make efforts to visit the elephants, even though each time she does she suffers more aesthetic injury because of the way these animals are routinely mistreated. Thus, Ms. Hundley is unable to visit the elephants without subjecting herself to more aesthetic and emotional injury, unless and until these animals are placed in a different setting, or are otherwise no longer routinely beaten, chained for long periods of time, and otherwise

mistreated. If these animals were relocated to a sanctuary or other place where they were no longer mistreated, or defendants no longer mistreated them, Ms. Hundley would visit them as often as possible.

8. If Ms. Hundley prevails in her claim for relief regarding forfeiture of the endangered elephants in defendants' possession, she will have a statutory right to a reward for furnishing information that leads to such forfeiture, pursuant to the ESA, 16 U.S.C. § 1540(d).

9. Robert Tom, Jr., worked for the Ringling Bros.' Red Unit for approximately two years, from the summer of 2004 until August of 2006. He was employed as an animal handler for the horses. However, because the elephant compound was usually located in close proximity to where the horses were kept, Mr. Tom was generally able to observe the elephants on a daily basis, and he got to know the elephants on the Red Unit very well. During his work at the circus, Mr. Tom grew extremely fond of the elephants. He enjoyed observing them and communing with them on a daily basis. He also looked forward to seeing them every day, and formed a strong personal attachment to these animals.

10. However, while working for Ringling Bros., Mr. Tom also observed the daily mistreatment of the elephants, including handlers who routinely beat, struck, and hit the elephants with sharp bull hooks behind their ears, on their heads, on their legs, and on other parts of the elephants' bodies. He saw both high-level and low-level personnel treat the animals this way, and it was clear to him that this was part of the circus's routine, accepted way of treating these animals. He frequently saw elephants with wounds caused by bull hooks, and he saw elephants bleed and scream in pain after being beaten with a bull hook. Mr. Tom witnessed the

elephants being chained at night and for most of each day. He saw the elephants treated this way each day he worked at the circus, throughout the country.

11. Mr. Tom has a personal and emotional attachment to these elephants. He has been aesthetically and emotionally injured by defendants' unlawful actions towards these animals, and continues to be so injured knowing that this routine and unnecessary beating, wounding, chaining, and other mistreatment of the animals continues almost every day. Mr. Tom was aesthetically injured by the demeanor and physical appearance of the elephants who appear sad and beaten down, devoid of their spirits, and extremely stressed and unhappy, and who exhibit stereotypic behavior, such as continuously swaying back and forth. Because of his experience at the circus, Mr. Tom knows that the demeanor and behavior of the elephants, which cause him aesthetic injury, is the result of the way these animals are mistreated by Ringling Bros.

12. Mr. Tom was fired from the circus because he complained about the way the animals, including both the horses and the elephants, were being abused. To deny that this was the reason he was fired, the circus falsely accused Mr. Tom of mistreating the animals, including a horse that he saw horribly beaten by one of his supervisors. On the same day, the circus also fired Mr. Tom's wife, Margaret Tom, also under false pretenses.

13. Mr. Tom would very much like to visit the elephants in defendants' possession so that he can continue his personal relationship with them and enjoy observing them. However, he is unable to visit the elephants without subjecting himself to more aesthetic and emotional injury, unless and until these animals are placed in a different setting, or are otherwise no longer routinely beaten, chained for long periods of time, and otherwise mistreated. If these animals

were relocated to a sanctuary or other place where they were no longer mistreated, or defendants stopped mistreating the animals, Mr. Tom would visit them as often as possible.

14. If Mr. Tom prevails in his claim for relief regarding forfeiture of the endangered elephants in defendants' possession, he will have a statutory right to a reward for furnishing information that leads to such forfeiture, pursuant to the ESA, 16 U.S.C. § 1540(d).

15. Margaret Tom is the wife of plaintiff Robert Tom, Jr. She also worked for the Ringling Bros.' Red Unit for approximately two years, from the summer of 2004 until August of 2006. She was originally hired as a day-care provider for the children of the staff, but ultimately employed as a props and backstage hand. As a result of her work backstage, Mrs. Tom routinely observed the treatment of the Asian elephants in defendants' possession. She very much enjoyed observing the elephants and got to know some of them well. She looked forward to regularly seeing them, and formed a strong personal attachment to these animals.

16. However, while working for Ringling Bros., Mrs. Tom also observed the routine mistreatment of the elephants, including handlers who regularly beat, struck, and hit the elephants with sharp bull hooks behind their ears, on their heads, on their legs, and on other parts of the elephants' bodies. She saw both high-level and low-level personnel treat the animals this way, and it was clear to her that this was part of the circus's routine, accepted way of treating these animals. She saw elephants with wounds caused by bull hooks, and she saw elephants bleed and scream in pain after being beaten with a bull hook. Mrs. Tom also witnessed the elephants being chained for extended periods of time. She saw the elephants treated this way when she worked at the circus, throughout the country.

17. Mrs. Tom has a personal and emotional attachment to these elephants. She has been aesthetically and emotionally injured by defendants' unlawful actions towards these animals, and continues to be so injured, knowing that this routine and unnecessary beating, wounding, chaining, and other mistreatment of the animals continues almost every day. Mrs. Tom was aesthetically injured by the demeanor and physical appearance of the elephants who appear sad and beaten down, devoid of their spirits, and extremely stressed and unhappy, and who exhibit stereotypic behavior, such as continuously swaying back and forth. Because of her experience at the circus, Mrs. Tom knows that the demeanor and behavior of the elephants, which cause her aesthetic injury, is the result of the way these animals are mistreated by Ringling Bros.

18. Mrs. Tom was fired from the circus because her husband, Robert Tom, had become very vocal about complaining about the way the animals, including both the horses and the elephants, were being abused. To deny that this was the reason she was fired, the circus falsely accused her of various petty infractions.

19. Mrs. Tom would very much like to visit the elephants in defendants' possession so that she can continue her personal relationship with them and enjoy observing them. However, she is unable to visit the elephants without subjecting herself to more aesthetic and emotional injury, unless and until these animals are placed in a different setting, or are otherwise no longer routinely beaten, chained for long periods of time, and otherwise mistreated. If these animals were relocated to a sanctuary or other place where they were no longer mistreated, or defendants stopped mistreating them, Mrs. Tom would visit them as often as possible.

20. If Mrs. Tom prevails in her claim for relief regarding forfeiture of the endangered elephants in defendants' possession, she will have a statutory right to a reward for furnishing information that leads to such forfeiture, pursuant to the ESA, 16 U.S.C. § 1540(d).

21. The defendants to this Supplemental Complaint are the same as the defendants to the Complaint in this action, and therefore paragraphs 25-35 of the Complaint are hereby incorporated by reference.

Relevant Facts

22. This case challenges the defendants' violations of the ESA, by engaging in actions that "take" endangered Asian elephants, including the routine beating, hitting, and striking of elephants with bullhooks and other instruments; the chaining of elephants for long periods of time; and the forcible removal of baby elephants from their mothers before they are naturally weaned.

23. The same statutory and regulatory framework that is set forth in the Complaint at paragraphs 36-47 also applies to this Supplemental Complaint, and therefore, all of those paragraphs from the Complaint are hereby incorporated by reference. In addition, all of the factual allegations set forth in the Complaint at paragraphs 48-95 also apply to this Supplemental Complaint and are therefore also hereby incorporated by reference.

24. On March 30, 2007, Ms. Hundley, and Mr. and Mrs. Tom sent a notice letter to Kenneth Feld, President of Feld Entertainment Inc., advising him that Ringling Bros. is in violation of the "take" and other prohibitions of Section 9 of the ESA, 16 U.S.C. § 1538(a), and in violation of the regulations implementing the ESA, because "its elephant handlers and caretakers routinely beat, strike, and hit Asian elephants with sharp bull hooks . . . [and] because

it keeps the Asian elephants chained for most of the day and night.” The notice letter explained that such treatment “harms,” “harasses” and “wounds” the elephants, and therefore constitutes an illegal “take” of the elephants under the ESA. In support of these allegations, Ms. Hundley and Mr. and Mrs. Tom relied on, expressly incorporated by reference and attached, the notice letters sent by the other plaintiffs in this action on December 21, 1998, November 15, 1999, April 12, 2001, and July 22, 2005. Ms. Hundley and Mr. and Mrs. Tom explained that the bull hook and chaining practices they witnessed during 2004-2006 “are precisely the same kind of bull hook and chaining practices included in [these prior notice] letters, and yet these illegal activities continue day after day at the Ringling Bros. circus.” Copies of the notice letter were also sent to the Secretary of the Interior and the Director of the Fish and Wildlife Service, pursuant to 16 U.S.C. § 1540(g).

Claims for Relief

25. Ms. Hundley’s, Mr. Tom’s, and Mrs. Tom’s claims for relief are the same as those contained in the Complaint at paragraphs 96-97, and are therefore also hereby incorporated by reference.

WHEREFORE, plaintiffs Archele Hundley, Robert Tom, Jr., and Margaret Tom request that this Court grant them the same relief that has been requested by the other plaintiffs to this case, as stated at pages 21-22 of the Complaint.

Respectfully submitted,

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

/s/ Kimberly D. Ockene
Kimberly D. Ockene
(D.C. Bar No. 461191)

/s/ Tanya M. Sanerib
Tanya M. Sanerib
(D.C. Bar No. 473506)

/s/ Eric R. Glitzenstein
Eric R. Glitzenstein
(D.C. Bar No. 358287)

Meyer Glitzenstein & Crystal
1601 Connecticut Avenue, Suite 700
Washington, D.C. 20009
(202) 588-5206

/s/ Stephen A. Saltzburg
Stephen A. Saltzburg
(D.C. Bar No. 156844)
George Washington University
School of Law
2000 H Street, N.W.
Washington, D.C. 20052
(202) 994-7089

Counsel for Plaintiffs

August 29, 2007