

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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

**Plaintiffs,**

**v.**

**Civil Action No. 03-cv-2006 (EGS/JMF)**

**FELD ENTERTAINMENT, INC.,**

**Defendant.**

**ORDER**

Pursuant to the status hearing held before me on September 19, 2007, the following is, hereby,

**ORDERED:**

1. Disclosure of Expert Witnesses

It appears that the parties contemplate having their experts perform certain tests on the elephants. As I understand the situation, the experts will then write reports based on their examinations of the elephants. This order speaks, for the time being only, to the identification of the experts and the nature of the tests they will perform. Dates for the exchange of the post-inspection reports will be set later.

Accordingly, Plaintiffs shall, on or by October 12, 2007, disclose to defendant the names of its expert witnesses. In addition to the identity of the expert, such disclosure shall also include a) the expert's curriculum vitae and b) a precise detailed description of each test or procedure the expert wishes to perform and its purpose. Defendant shall, on

or by October 19, 2007, disclose its expert witnesses and provide plaintiffs with the same information provided them by plaintiffs.

2. Dates and Locations of Inspections

Pursuant to Judge Sullivan's ruling granting in part and denying in part defendant's Motion for Summary Judgment, only the Pre-Act elephants remain at issue in this lawsuit. Plaintiffs will therefore be allowed to inspect each of the Pre-Act elephants. Plaintiffs and defendant shall meet and confer on or by October 12, 2007 to agree upon the date and location for each inspection. If they cannot agree, they will jointly submit an explanation of their differences to the Court on or by October 14, 2007. Unless absolutely necessary, each inspection may not exceed four (4) hours. I have under advisement the suggestion that I attend the inspections.

3. Handling of and Interactions with the Elephants

At all times, defendant will have the primary responsibility of supervising plaintiffs' handling of and interactions with the elephants. If, during the inspections, plaintiffs' experts are in need of assistance from defendant in the handling of the elephants and administering of the tests or procedures, defendant shall provide such assistance.

4. Limitations on Photographing/Videotaping

The parties are to jointly agree upon and pay for the services of a videographer, who will tape each inspection from beginning to end.

5. Safety Issues

Defendant shall have the primary responsibility of maintaining the safety of both the elephants and any and all individuals involved in the handling of the elephants during

the inspections.

6. Issues Specific to Individual Elephants

Prior to any inspections, defendant is to inform plaintiffs of any special issues or concerns relating to those individual elephants that plaintiffs wish to inspect. Although the primary responsibility for these individual elephants rests at all times with defendant, plaintiffs are to insure that their inspections in no way compromise the special care or treatment needed by these individual animals.

7. Disruption of Operations, Animal Husbandry, and Daily Routines

Plaintiffs are to take every precaution necessary to conduct their inspections in the least intrusive manner possible in order to keep the disruption of defendant's operations, animal husbandry, and daily routines to a minimum.

8. Performance of Certain Tasks by Defendant's Employees

If plaintiffs seek the assistance of defendant's employees during the inspections, plaintiffs shall notify defendant prior to the inspection in order to insure that defendant will have the appropriate personnel available during the inspection. Defendant shall make every effort possible to assist plaintiffs during the inspections, if such assistance is requested.

9. Permitted Inspection Areas

Defendant shall designate an area that is appropriate for plaintiffs' inspection of the elephants. Plaintiffs shall not be permitted to inspect any of defendant's other facilities, whether permanent or mobile. Plaintiffs are permitted to inspect the tools or instruments used by defendant in the care and training of the elephants and defendant shall make these available to plaintiffs at plaintiffs' request.

10. Liability Release

Defendant shall, prior to the first scheduled inspection, draft a liability release for plaintiffs' signature. Any disputes concerning the coverage of the release or its terms will be submitted to the Court as soon as they emerge.

11. Confidentiality and Protective Order Issues

From this point, all information disclosed during discovery, including information disclosed or learned during the inspections, will be sealed and both parties and their counsel are prohibited from disclosing it to any person who is not a party to this lawsuit or counsel to one of the parties. At the conclusion of the inspections, the Court will permit the parties to brief the question of what, if any, disclosure there should be of information disclosed or learned during discovery, including during the inspections.

**SO ORDERED.**

September 25, 2007

\_\_\_\_\_  
/S/  
JOHN M. FACCIOLA  
UNITED STATES MAGISTRATE JUDGE