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)

JUDGE: Emmet G. Sullivan

RINGLING BROS. AND BARNUM & BAILEY CIRCUS, et al.,

5, et al.,

Defendants.

STIPULATION LIMITING THE SCOPE OF EXPERT DISCOVERY

The parties, by undersigned counsel, hereby mutually agree as follows regarding the scope of discovery relating to experts in this matter:

- 1. In order to avoid consuming the parties' and the Court's time and resources, the parties have agreed to certain limitations on the scope of discovery of individuals who may offer testimony at trial in this matter under Federal Rules of Evidence 702, 703, or 705 ("Expert Testimony"). The parties' agreement to the terms of this stipulation does not imply that any of the information restricted from discovery would necessarily be discoverable or admissible absent the stipulation. This stipulation does not apply to the possible fact testimony of any witness, including a witness who may also offer Expert Testimony.
- 2. No subpoena (for depositions or documents) need be served on any testifying expert. Instead, the party offering the expert shall make him or her available for deposition and produce the expert's documents as outlined below.

- 3. The parties will make all disclosures required by Federal Rule of Civil Procedure 26(a)(2)(B), as modified or limited by this Stipulation, on the schedule set forth in the Second Stipulated Pre-Trial Schedule. In addition, the parties will supplement such disclosures, to the extent necessary, no later than ten (10) business days before an expert's deposition.
- 4. The following categories of data, information, or documents need not be disclosed by any party, and are outside the scope of permissible discovery:
- a. any notes or other writings taken or prepared by or for an expert witness in connection with his or her Expert Testimony in this matter including any notes of conversations in connection with this matter with any of the following: his or her assistants and/or clerical or support staff; attorneys for the party offering the expert witness in this matter and such attorneys' assistants and/or clerical support staff; or other expert witnesses or non-testifying expert consultants; provided, however, that nothing in this paragraph shall prevent discovery into factual information known or communicated to the expert;
- b. draft reports, draft studies, or draft workpapers prepared in connection with this matter; preliminary calculations or computations prepared in connection with the expert's Expert Testimony in this matter; or other preliminary or draft materials prepared by, for, or at the direction of an expert witness in connection with the expert's Expert Testimony in this matter;
- c. any oral or written communication made in connection with the expert's Expert Testimony in this matter between an expert witness and any of the following: the expert's assistants and/or clerical staff; attorneys for the party offering the

testimony of the expert witness in this matter or such attorneys' assistants and/or clerical support staff, and/or other expert witnesses or non-testifying expert consultants; provided, however, that nothing in this paragraph shall prevent discovery into factual information known or communicated to the expert.

Respectfully submitted,

MEYER & GLITZENSTEIN

COVINGTON & BURLING

/s/ Katherine A. Meyer

Katherine A. Meyer (DC Bar No. 24301) Eric R. Glitzenstein (DC Bar No. 358287) Jonathan R. Lovvorn (D.C. Bar No. 461163) 1601 Connecticut Avenue, N.W., Suite 700 Washington, DC 20009 (202) 588-5206 /s/ Joshua D. Wolson

Harris Weinstein (DC Bar No. 032268)
Eugene D. Gulland (DC Bar No. 175422)
Jeannie Perron (DC Bar No. 456099)
Joshua D. Wolson (DC Bar No. 473082)
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 662-6000

ATTORNEYS FOR PLAINTIFFS

September 2, 2004

ATTORNEYS FOR DEFENDANTS

SO ORDERED.

Hon. Emmet G. Sullivan United States District Judge