

**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**

Tom Rider is a significant witness for the plaintiffs in this case and I permitted the defendant two days within which to take his deposition. I ordered the deposition to begin each day at 9:30 a.m. and run until 12:30 p.m. The parties were then to break for one hour. The deposition was to resume at 1:30 p.m. and run until 4:00 p.m.

When the deposition concluded, counsel for the defendant sought an additional three hours to continue Rider's deposition, and I indicated by my Order of December 19, 2007, that I would review the transcript before I ruled on that request.

I have now reviewed the transcript and will deny the request to permit the defendant to take three more hours to complete the deposition. First, quite a bit of time was taken up at the beginning of the deposition with questions pertaining to Rider's army service, non-circus employment, and his work in a European circus-areas of, at best, questionable relevance to this case. On the other hand, he was exhaustively examined on the two most crucial issues presented by his testimony: (1) money made available to him by, for example, the Wildlife Advocacy Project, and others as he traveled across the United States to speak generally about his claims of the abuse of circus elephants, and (2)

his allegations of the abuse of the elephants by defendant's employees when he was working for the Ringling Brothers Circus.

In the latter part of the deposition, defendant's counsel reviewed with Rider his answers to interrogatories in which Rider indicated the city in which he saw the abuse of the elephants by the defendant's employees. In each instance, Rider insisted that his interrogatory answer—that he saw the abuse in a particular city where the circus was—was true. The deposition ended with defendant's counsel indicating that he wanted another three hours to continue reviewing with Rider his interrogatory answers.

If, as I think is certain, Rider continues to confirm the accuracy of his interrogatory answers, the continuation of the deposition serves no purpose that I can see. If he remains steadfast in insisting that his interrogatory answers were true, and testifies to the same effect at trial, his consistent statements in his interrogatory answers, confirmed by his deposition testimony, are hearsay. If, on the other hand, in his trial testimony, he surprisingly retreats from his interrogatory answers and now says that he did not witness any abuse in a certain city, he can be impeached with his inconsistent interrogatory answer, whether or not he has confirmed the answer's accuracy in his deposition. Thus, I cannot find that the three additional hours sought would be a productive use of any one's time. On the other hand, I am convinced from reading the deposition that the defendant covered exhaustively the crucial issues that Rider's testimony presents and I will not extend his deposition any longer. See Fed. R. Civ. P. 26(b)(2)(C)(iii).

January 7, 2008

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/S/  
JOHN M. FACCIOLA  
UNITED STATES MAGISTRATE JUDGE