

# **EXHIBIT 1**

**Plaintiffs' Motion for Clarification of  
Court's Order Concerning the Close of Fact  
Discovery and Supporting Memorandum  
Civ. No. 03-2006 (EGS/JMF)**

Dominic C. MacKenzie  
904 798 7303  
donny.mackenzie@hklaw.com

March 27, 2008

**VIA TELEFAX 202-588-5049**

Kimberly D. Ockene  
Meyer, Glitzenstein & Crystal  
1601 Connecticut Avenue, N.W.  
Suite 700  
Washington, DC 20009-1056

**Re: Subpoena Duces Tecum  
American Society for the Prevention of Cruelty to Animals et. al v.  
Ringling Brothers and Barnum & Bailey Circus et. al.  
Civ. No.: 03-2006 (D.D.C.)(EGS/JMF)  
Subpoena to CSX Transportation Corporation (sic)**

Dear Ms. Ockene:

In the course of investigating the requirements for complying with your subpoena, I was contacted by Lisa Zeiler Joiner. Ms. Joiner subsequently wrote me on behalf of her client, Feld Entertainment, Inc. and advised that all fact discovery in your litigation matter closed on January 30, 2008. She further advised that the court initially ordered all discovery, fact and expert, to close on December 31, 2007 due to the extended nature of your case.

Ms. Joiner also told me Plaintiffs have not sought relief to alter that deadline nor does she believe that the court would be inclined to do so at this time. Accordingly, Ms. Joiner objected on behalf of her client to any fact discovery taken from any party and asserted such would be a violation of the court's discovery cut-off.

Absent a court order, CSX will maintain its objections to the subpoena served upon it January 28, 2008, so as to not violate any court order or provide any party to your dispute an unfair advantage or disadvantage. Moreover, CSX does not want to unnecessarily incur the cost and expense of complying with the subpoena in question which said cost and expense appears substantial given the scope and breath of the subpoena in question.

As such, CSX respectfully declines to voluntarily produce documents at this time for fear of violating the court's order. I trust that you understand this situation. Please call if you have any questions or wish to discuss this further.

Sincerely,

**HOLLAND & KNIGHT LLP**



Dominic C. MacKenzie

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cc: Cindy Craig Johnson, Esq.