

## **EXHIBIT 6**

**Plaintiffs' Motion to Lift the  
September 25, 2007 Protective Order  
Civ. No. 03-2006 (EGS/JMF)**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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In the Matter of: :
  
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AMERICAN SOCIETY FOR THE :
  
PREVENTION OF CRUELTY TO :
  
ANIMALS, et al., :
  
Plaintiffs, :
  
:
  
vs. : Civil Action No. 03-2006
  
:
  
RINGLING BROTHERS AND :
  
BARNUM & BAILEY CIRCUS, et al., :
  
:
  
Defendants. :
  
: Washington, D.C.
  
-----x September 19, 2007

TRANSCRIPT OF STATUS CONFERENCE  
BEFORE THE HONORABLE JOHN M. FACCIOLA  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiffs: KATHERINE A. MEYER, ESQ.  
KIMBERLY D. OCKENE, ESQ.  
TANYA SANERIB, ESQ.

For the Defendants: JOHN M. SIMPSON, ESQ.  
LISA ZEILER JOINER, ESQ.

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1 basis, we come back here by no later than next Friday?

2 THE MAGISTRATE JUDGE: Okay, and finally, on the  
3 last page, which is, I think also Roman -- there are two  
4 Roman Numeral III's --

5 MS. SANERIB: Uh-huh, yeah.

6 THE MAGISTRATE JUDGE: -- there should be Roman  
7 Numeral IV. They lastly there, and they're saying that--  
8 well, they're saying that they want all this information as  
9 it is gathered to be placed under a protective order so  
10 that you can't use it, and they point to your Web site,  
11 accusing you of abusing the process, interfering with their  
12 right to a fair trial.

13 How do you feel about that?

14 MS. SANERIB: Well, we feel that that's -- first  
15 of all, it's a very inaccurate representation of what the  
16 Plaintiffs have done in this case. We think that's also  
17 their effort to rehash a motion which Judge Sullivan  
18 already decided. As part of his rulings on August 23rd, he  
19 denied a motion along these lines, saying that Plaintiff's  
20 use of evidence that had been made available through public  
21 pleadings was not an abuse of the discovery process.

22 And I think if you look at Judge Sullivan's  
23 ruling on our request for inspections, he said that our  
24 inspection of the elephants is highly relevant to this  
25 case. We didn't request to inspect these elephants just

1 to get a media hit on it. We're doing it because it's  
2 essential information.

3 THE MAGISTRATE JUDGE: No, but I mean -- I'll  
4 have to review His Honor's order about that, but most  
5 fundamentally, under the Supreme Court's decision in the  
6 Seattle Times, discovery usually is not placed on the  
7 public record. In this jurisdiction, it's not filed at  
8 all. Then, when it's attached to a pleading, the question  
9 then becomes, under Judge Kollar-Kotelly's decision in the  
10 FEC case, whether it discloses what the judge is thinking  
11 and so forth. There's a whole protocol about that. But I  
12 take it you also would differ about them, and we are not  
13 looking towards a proposed mutually agreed-upon protective  
14 order.

15 MS. SANERIB: That's correct, Your Honor. I  
16 mean, we think that the information that would be obtained  
17 during an inspection doesn't meet the good cause standard  
18 in Rule 26(c). I mean, they haven't, as of yet, made any  
19 demonstration that we're going to be obtaining information  
20 that anywhere comes close to meeting that standard. We're  
21 asking to physically inspect animals, to observe them, to  
22 see the facilities they have access to and the tools that  
23 are used to train them and maintain them. And I can't  
24 imagine that any of that is confidential or commercial  
25 information or anything otherwise subject to what would

1 otherwise necessitate a protective order.

2 Now, we are willing to agree, we have requested  
3 to videotape the inspections. And to the extent that any  
4 inspection of the circus on the road includes videotaping  
5 the elephants rehearsing or videotaping the animals during  
6 a performance, we already have a protective order between  
7 the parties regarding that type of footage, and we'd be  
8 willing to agree that that footage would be subject to that  
9 protective order.

10 But beyond that, I just can't imagine what  
11 aspects of these inspections would cause any issues that  
12 would raise the level of good cause.

13 THE MAGISTRATE JUDGE: All right. I'm saying all  
14 right; I'd want to think about that a bit. I'm not certain  
15 I understand where the law is. Because there is a whole --  
16 believe me, there's this whole very complicated issue out  
17 there now that we have electronic filing, about public  
18 access, privacy, and so forth and so on. So that's  
19 something I'm going to have to work on.

20 MS. SANERIB: Yes, Your Honor.

21 THE MAGISTRATE JUDGE: And then they claim that  
22 you should be precluded from making a request pertaining  
23 to, quotes, "inspection of the veterinary offices, the  
24 medicine, the training tools and equipment."

25 MS. SANERIB: And on that point, we are willing

1 to be flexible with respect to the veterinary offices and  
2 the medicine, but the training tools and equipment -- that  
3 is highly relevant here. I mean, I think that is -- it's  
4 critical information to our case.

5 THE MAGISTRATE JUDGE: Is that the bull hook  
6 you're talking about?

7 MS. SANERIB: That is correct. It's the bull  
8 hook. And to the extent that there are bull hooks that are  
9 used by Ringling Brothers' elephant handlers that are on  
10 any of the premises, we'd like the opportunity to inspect  
11 those. We actually, way back in 2004 with our initial  
12 document production requests, sought the opportunity to  
13 inspect a bull hook. We've never received that opportunity  
14 and it seems like that's an issue that could very easily be  
15 wrapped into our inspections here. So I think that makes  
16 sense.

17 And I would like to just clarify, while we're  
18 talking about this, the second sub-point 3, Defendant  
19 raised this issue that -- they say that the layout and the  
20 identity of FEI's facilities is a security issue. And I've  
21 brought some documents with me, and we don't necessarily  
22 have to get into this level of detail today, but I do want  
23 to clarify that it's not as though these facilities are a  
24 complete secret.

25 I have copies of -- it's a PowerPoint

1 presentation that was produced to us in discovery that  
2 depicts the layout of one of their facilities in Florida.  
3 We have notes from USDA inspectors that give the addresses,  
4 the locations, where all the elephant barns are at those  
5 facilities. So it's not like this is highly confidential  
6 information that's never, ever been in the eyes of the  
7 public. A lot of this information has been made available  
8 to the USDA; in turn, has been disclosed to the public  
9 under the Freedom of Information Act.

10 So I'd be happy to pass around these documents.  
11 I have copies for all the parties, if you'd like to see  
12 them. But I just think that that's a little disingenuous  
13 for Defendants to suggest that the layout of their  
14 facilities has never been made available to the public.  
15 Especially if you look at their --

16 THE MAGISTRATE JUDGE: I didn't read it that way.  
17 I thought --

18 MS. SANERIB: -- their web site. Okay.

19 THE MAGISTRATE JUDGE: I thought they were saying  
20 that people who are evil-intentioned and might want to hurt  
21 the animals would like to know the layout of the facilities  
22 and they're concerned about that.

23 MS. SANERIB: Well, we're certainly not those  
24 people.

25 THE MAGISTRATE JUDGE: I know you're not those