

3. I understand that the plaintiffs in this action have asked Feld to identify all video, audio, or other recordings that have been made by or for Ringling since 1994 that involve, concern, or record elephants or individuals who “work with” the elephants. As explained below, I have in my possession a significant number of tapes – probably more than 5,000 – that might be responsive to plaintiffs’ request. Many of the videos have no labels on them, and, of those videos that are labeled, many provide little or no information as to whether the video contains footage of Ringling Bros.’ elephants. The process of viewing videos to determine whether they do, in fact, have footage of elephants would require thousands of man-hours.

Video Footage In My Possession

4. As noted above, as part of my effort to refine current acts, I periodically shoot video footage of Feld’s acts, including Ringling Bros.’ elephants. By watching video of a performance, we can determine whether an act’s timing is correct and whether its visual effects need to be altered. We also use the tapes to develop future acts by noting what has worked and not worked in the past. The decision to tape a particular act is mine, and I do not generally report that decision to any supervisor. I generally make the decision about whether and what to record on an *ad hoc* basis, depending on which act is my focus at a given point in time.

5. More often than not, either I or my assistant will shoot the footage that we need without assistance from anyone else at Feld. Occasionally, however, I will ask someone on one of Ringling Bros.’ touring units to shoot footage for me, either because I cannot be there in person or because I need footage from more than one camera.

6. Having footage of a show does not guarantee that it contains footage of elephants. Frequently, I am focusing on presentations that only include humans, such as a flying trapeze or teeterboard act. When I am taping, I will shoot only one portion of the act or I will

focus a camera on one of Ringling Bros.' three rings, and I will simply tape the acts in that ring. If no elephants perform in that ring, then it is likely that the tape will have no footage of elephants. However, because of the casual nature of my taping, I generally do not label the tapes with any specificity, as elaborated below. Therefore, there is no way to know that for certain without watching the entire tape.

7. In addition to shooting footage of Ringling Bros.' performances, I often shoot footage of rehearsals. I use this footage to critique an act with performers, as well as to refine and/or redesign an act with the performers and other creative personnel. Generally, I do not shoot all of a practice session. Instead, I concentrate on the act (or acts) that is my focus at that time. Thus, unless I am focusing on an act involving an elephant, I likely would not have taped the elephants during a practice session.

8. I also shoot a significant amount of footage at Winter Quarters – a time from November to January each year when one of Ringling Bros.' two touring units returns to Tampa, Florida, to design a new show. This process involves extensive rehearsals, and I generally shoot footage of those rehearsals to critique and refine the acts under development. As with practice sessions on the road, however, I do not tape all practice sessions for every act. Instead, I concentrate on the act (or acts) that is my focus at that point in time.

9. In addition to the footage described above, I typically try to maintain one good copy of each of Ringling Bros.' shows. For example, if the Blue Unit is touring for two years in what is called the "134th Edition," I will generally have one complete copy of the show that the Blue Unit performs.

10. Although I have not made a precise count, I estimate that I have at least 5,000 tapes in my possession, and possibly more.

11. Because the footage in my possession is shot by and for me, I expect that there is very little overlap between the videos that I have and the videos in Feld's video archive. I generally do not make an effort to coordinate my taping with the taping that is done for the Marketing Department or placed in the Marketing Department's video archive. In any event, there is no way to know if there is overlap without reviewing all of the videos in the archive and in my possession.

Labeling Of Video Footage

12. The videos that I have taken, or that have been taken for me, are generally in my office in Florida.

13. Some of the videos are labeled. However, the labels typically do not describe the content of the video in a way that would permit someone to determine whether the video contains footage of elephants. For example, if I shoot video of a practice session on August 31, I might label the video "Practice Session 8/31." Similarly, a video from Winter Quarters in December 1999 might say "Winter Quarters 12/18/99."

14. I also have a large number of videos that are not labeled at all. Although I generally try to label all of the videos, it is simply not possible in light of my travel schedule.

The Burden Of Reviewing Videos

15. Because the video labels do not provide a basis to determine whether a particular video contains footage of elephants, and because some videos are not labeled at all, someone will have to watch all of the footage of each tape to see whether there is footage of elephants, including any stray shots of elephants in the background.

16. I generally do not have a record of how long a video in my possession is. Some could be as short as 5 minutes, while others are likely hours long. Indeed, over the years, I

have made efforts to combine multiple tapes onto one tape or DVD. Without watching, there is no way to know how long each video is.

17. Based on my experience, however, I can estimate that each tape is, on average, approximately 30 minutes long. Therefore, I estimate that watching all of the videos in my library would require at least 2,500 man-hours.

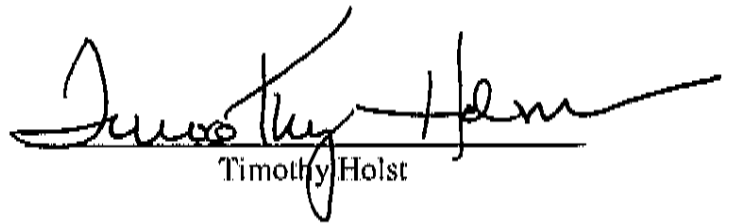
18. Given my travel schedule, I do not have the time to review the videos in my possession, nor does anyone on my staff. Thus, in order to review the videos, Feld would have to hire one or two people on a full-time basis.

19. Although a temporary employee can determine whether a video contains footage of elephants, he or she does not have the knowledge to view a tape and know whether it is Ringling Bros. footage or footage of potential new elephant acts that is not Ringling Bros. Moreover, a temporary employee will not be able to handle the second-half of plaintiffs' request – determining whether the video contains footage of any person who “works with” elephants, regardless of whether they are actually working with elephants on screen. In order to comply with that request, each video must be viewed by multiple Feld employees who can recognize all of the people who appear on camera and who can identify who has, at some point, “worked with” elephants. That will require thousands of additional man-hours from regular employees who have other responsibilities.

20. All of the burdens I am discussing in this declaration deal with the process of reviewing the footage in question. I have not made any effort to quantify the burden associated with copying the tapes once they are identified as responsive. However, that burden would be significant, both in terms of cost and in terms of time spent.

21. For all of the burden that Feld would be incurring to respond to plaintiffs' request, it is likely that the majority of responsive videos that it locates would have only snippets of elephant footage mixed in with significant amounts of footage that has nothing to do with elephants.

Pursuant to 28 U.S.C. § 1746, I swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Timothy Holst

February 28, 2005