



**(1) Red Unit Testimony.** FEI specifically objects to any witnesses providing testimony regarding FEI's Red Unit. FEI has filed a motion in limine to, *inter alia*, exclude Red Unit evidence because it is irrelevant to whether the remaining six (or seven) elephants at issue are being "taken." See Motion in Limine to Exclude Irrelevant Evidence Regarding Other Elephants ("FEI's Motion in Limine") (Docket No. 345) (8/29/08). FEI therefore objects to the testimony of the following former Red Unit employees: (1) Archele Hundley and (2) Robert Tom, Jr. To the extent that any witness will testify for the purpose of authenticating videotapes only containing footage of FEI's Red Unit or of any elephant no longer at issue in this case, FEI also objects to their testimony.

**(2) Lanette Williams.** FEI also objects to the testimony of Lanette Williams. Ms. Williams has knowledge relevant only to FEI's Red Unit and therefore she will not testify to any evidence relevant to whether the remaining six (or seven) elephants at issue are being "taken." See FEI's Motion in Limine.

**(3) Michelle Sinnott.** If the Court were to grant plaintiffs' motion in limine to exclude witnesses not timely disclosed, then FEI objects to the testimony of Michelle Sinnott because the plaintiffs also failed to disclose her as a witness in their interrogatory responses.

**(4) Daubert Objections to Expert Witnesses.** Pursuant to paragraph 6 of the Court's First Amended Pre-Trial Order, FEI hereby notifies the Court that it intends to make Daubert objections to the following expert witnesses: Joyce Poole, Philip Ensley, Ros Clubb, Carol Buckley, Colleen Kinzley, Gail Laule and Benjamin Hart. FEI reserves its right to file Daubert objections with respect to Ajay Desai, given that FEI has not yet had the opportunity to depose him.<sup>1</sup>

---

<sup>1</sup> Because Mr. Desai lives in India, he has not yet been deposed. The parties agreed to do this at a later date closer to trial.

**V. PLAINTIFFS' EXHIBITS**

Pursuant to paragraph 8 of the Court's First Amended Pre-Trial Order, FEI will file its objections to plaintiffs' trial exhibits on September 23, 2008.

**VI. PLAINTIFFS' DEPOSITION DESIGNATIONS**

FEI objects to any witnesses providing testimony regarding FEI's Red Unit for the reasons set forth in its motion *in limine*. See FEI's Motion in Limine. FEI therefore objects to plaintiffs' designation of the depositions of the following current and former Red Unit employees for use at trial as irrelevant: (1) Joseph Frisco, Jr.; (2) Sacha Houcke; and (3) Margaret Tom.

FEI reserves any and all testimonial objections for trial.

Pursuant to paragraph 7 of the Court's First Amended Pre-Trial Order, FEI's counter-designations are being provided to plaintiffs and the Court on CD-Rom today. Plaintiffs' designations are highlighted in green. FEI's counter-designations are indicated by yellow highlighting. Where FEI's and plaintiffs' counter-designations overlap, that testimony is highlighted in orange. Specifically, FEI has counter-designated portions of the deposition testimony of the following individuals:

- A. Gary Jacobson (10/24/07<sup>2</sup> & 1/18/08)
- B. Joseph Frisco, Jr.
- C. Robert Ridley
- D. Troy Metzler

---

<sup>2</sup> Plaintiffs have designated a portion of Mr. Jacobson's October 24, 2007 deposition that deals with weaning and the separation of baby elephants from their mothers. Jacobson Dep. (10/24/07) at 271-283. Plaintiffs' designation of this testimony is contrary to the representation in their pre-trial statement that plaintiffs are no longer addressing the claim of separation, and FEI therefore objects to plaintiffs' designation of this testimony. See Pls. Pre-Trial Statement at 3 n.1.

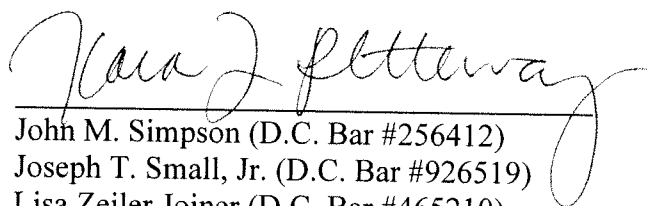
- E. Alejandro Vargas
- F. Sacha Houcke
- G. Betsy Swart
- H. Ed Stewart
- I. Kenneth Feld
- J. James Andacht
- K. Frank Hagan
- L. Gerald Ramos

**VIII. RELIEF SOUGHT BY PLAINTIFFS**

FEI objects to any and all relief sought by plaintiffs, including but not limited to any relief related to any elephants other than the six (or seven) at issue in this case.

Dated this 16th day of September, 2008.

Respectfully submitted,



John M. Simpson (D.C. Bar #256412)  
Joseph T. Small, Jr. (D.C. Bar #926519)  
Lisa Zeiler Joiner (D.C. Bar #465210)  
Lance L. Shea (D.C. Bar #475951)  
Michelle C. Pardo (D.C. Bar #456004)  
Kara L. Petteway (D.C. Bar #975541)

FULBRIGHT & JAWORSKI L.L.P.  
801 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Telephone: (202) 662-0200  
Facsimile: (202) 662-4643

Counsel for Defendant Feld Entertainment, Inc.