

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, <u>et al.</u>, <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> FELD ENTERTAINMENT, INC., <p style="text-align: center;">Defendant.</p>)))))))))))	Civ. No. 03-2006 (EGS/JMF)
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PLAINTIFFS' WITNESS AND EXHIBIT LIST FOR MONDAY, OCTOBER 27, 2008

Plaintiffs hereby provide notice of the following list of witnesses who are likely to testify on Monday, October 27, 2008 and exhibits plaintiffs intend to introduce that same date:

Witness/ Exhibit	Description	Evidentiary Basis
	Demonstrative	Bull hook
	Demonstrative	Chains
1. Dr. Joyce Poole		Expert Witness
	Pls. WC Ex. 9. 1/8/05 Email from Deborah Fahrenbruck to Mike Stuart regarding a letter written, but never sent, to Kenneth Feld (FEI 15025-15027)	<i>Admission probative of plaintiffs' bull hook claim.</i>
	Pls. WC Ex. 41. 2/16/99 Memo from Miava Binkley documenting USDA inspection of Doc and Angelica (FEI 817-818)	<i>USDA business record probative of plaintiffs' chaining claim.</i>
	Pls. WC Ex. 42. 2/9-10/99 Inspection Report of Ringling Brothers CEC (PL 3846)	<i>USDA business record and public record probative of plaintiffs' chaining claim.</i>

	Pls. WC Ex. 43. 5/11/99 Letter from Ron DeHaven to Julie Strauss regarding the 2/10/99 inspection at Ringling Brothers CEC (FEI 843-844)	<i>USDA business record probative of plaintiffs' chaining claim.</i>
	Pls. WC Ex. 49. Transportation Orders	<i>Admissions probative of plaintiffs' chaining claim.</i>
	Pls. WC Ex. 50. Declaration of Michelle Sinnott and Attachments (Exhibit 37 to Plaintiffs' Motion for Preliminary Injunction, DE 297)	<i>Summary prepared in accordance with Federal Rule of Evidence 1006 that is probative of plaintiffs' chaining claim; declaration explaining preparation of chart.</i>
	Pls. WC Ex. 64. Itineraries for Ringling Brothers Red and Blue Units (2001-2007)	<i>Admissions probative of plaintiffs' chaining claim.</i>
	Pls. WC Ex. 69. Elephant Husbandry Care Ringling Bros. and Barnum & Bailey Circus (FEI 13060) - Preface	<i>Responsive to defendant's <u>Daubert</u> objections regarding Dr. Poole's qualifications.</i>
	Pls. WC Ex. 113. Plaintiffs' Expert Reports and Exhibits: Complete Expert Report of Dr. Joyce Poole; and "Elephant - Lord of the Jungle"	<i>Probative of Dr. Poole's expertise and qualifications, and of plaintiffs' take claims.</i>
	Pls. WC Ex. 118. Photographs taken during Court Ordered Inspection of The Center for Elephant Conservation (11/29/07) and the Blue Unit in Auburn Hills, MI (11/13/07)	<i>Probative of plaintiffs' take claims.</i>

	<p>Pls. WC Ex. 132. Compilation of video footage of elephants from 1987-2004 (Produced to Defendant on 3/20/08 along with Plaintiff's Expert Reports)</p> <p>Authenticating Declarations of Pat CuvIELLO, Barbara Grove, Alfredo Kuba, Judy Jones, Tracy DeMartini, and Deniz Bolbo (provided to defendant on 10/7/08)</p>	<i>Probative of plaintiffs' take claims.</i>
	<p>Pls. WC Ex. 136. Compilation of Defendant Performance Footage (Provided to Defendant on 6/10/08) (FEI 0023) 19:24-22:19</p>	<i>Probative of plaintiffs' take claims.</i>
	<p>Pls. WC Ex. 141. Baby Ricardo - Raw Birth Footage - unedited (FELD-VID 006, FEI 0019)</p>	<i>Probative of plaintiffs' take claims.</i>
	<p>Pls. WC Ex. 142. Video footage of the Rule 34 Inspection at the Center for Elephant Conservation outside Polk City, Florida (11/29/07)</p>	<i>Probative of plaintiffs' take claims.</i>
	<p>Pls. WC Ex. 145B. Surveillance Video from the MCI Center Ex. 1 and 2-9 to David Clarence Coley's Deposition (August 10, 2004)</p>	<i>Business record probative of plaintiffs' take claims.</i>
	<p>Pls. MC Ex. 54. Photographs taken during Court-ordered inspection of The Center for Elephant Conservation (11/29/07) and the Blue Unit in Auburn Hills, MI (11/13/07)</p>	<i>Probative of plaintiffs' take claims.</i>

	Pls. MC Ex. 71. Why exotic animals should be banned?; Ringling PR Film; Ringling Conservation Center PR Film; Ringling Show 122nd edition; Gunther in Show; Interview with former RB employee Joe Heflin ('97); Carson & Barnes training footage; (PL 8969): 30:00-30:12; 36:10-36:28	<i>Defendant's video footage probative of plaintiffs' take claims.</i>
	Designated Dep. Tr. Coley, David Clarence (8/10/04): 01:01-115:06	<i>To authenticate Plaintiffs' Will Call Exhibit 145B, which is probative of plaintiffs' take claims.</i>
	Designated Dep. Tr. Stewart, Edward (8/16/04): 6-10:14, 37:08-41, 108:23-109, 145	<i>To authenticate portion of plaintiffs' Will Call Exhibit 132.</i>
	Designated Dep. Tr. Metzler, Troy (7/25/06): 62-65	<i>Responsive to defendant's <u>Daubert</u> objections regarding Dr. Poole's qualifications.</i>
2. Michelle Sinnott¹		
	Pls. WC Ex. 49. Transportation Orders (Exhibit 49A; Exhibit 49B; Exhibit 49C)	<i>Admissions that will be used to explain the chart included as part of plaintiffs' will call Exhibit 50, which is probative of plaintiffs' chaining claim.</i>
	Pls. WC Ex. 50. Declaration of Michelle Sinnott and Attachments (Exhibit 37 to Plaintiffs' Motion for Preliminary Injunction, DE 297)	<i>Declaration explaining the preparation of the chart included as part of plaintiffs' will call Exhibit 50, which is based on defendant's admissions included at plaintiffs' will call Exhibit 49; probative of plaintiffs' chaining claim.</i>

¹ Plaintiffs only expect to call Ms. Sinnott if necessary to respond to any objections defendant may raise with regard to plaintiffs' will call Exhibit 150.

	Pls. WC Ex. 56. 5/9/05 Ringling Brothers Circus Operations Standard Operating Procedures (FEI 3069-3086)	<i>Admission that will be used to explain the chart included as part of plaintiffs' will call Exhibit 50, which is probative of plaintiffs' chaining claim.</i>
	Pls. WC Ex. 64. Itineraries for Ringling Brothers Red and Blue Units (2001-2007)	<i>Admissions that will be used to explain the chart included as part of plaintiffs' will call Exhibit 50, which is probative of plaintiffs' chaining claim.</i>
	Designated Dep. Tr. Jacobson, Gary /Feld 30(b)(6) (1/18/08): 183:13-227:14	<i>Admissions that will be used to explain the chart included as part of plaintiffs' will call Exhibit 50, which is probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 46.	Defendant's First and Supplemental Responses to Plaintiffs' Interrogatories (6/9/04, 3/3/05, 1/31/07, and 1/30/08) - Response and Supplemental Response to #13	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 51.	Burlington Northern Santa Fe Railroad Documents dated 2007 Declaration of BNSF Representative authenticating authenticating Exhibit 51 as a business record pursuant to Federal Rule of Evidence 902(11) (provided to defendant 10/7/08)	<i>Business records probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 52.	10/16/04 Email from Ellen Wiedner to William Lindsay, Allison Case, and Ramiro Isaza (FEI 33114-33115)	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 53.	1/25/02 Email from Todd Willens to Joe DeMike (FEI 17030-17032)	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 55.	Undated Memo from S. Taylor to R. Williams documenting a 12/22/98 inspection (FELD 1529-1531)	<i>USDA business record probative of plaintiffs' chaining claim.</i>

Pls. WC Ex. 56.	5/9/05 Ringling Brothers Circus Operations Standard Operating Procedures (FEI 3069-3086)	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 58.	6/18/99 Elephant Daily Report (FEI 22576)	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 59.	2/27/01 Daily Animal Record (FEI 36878)	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 60	8/2/01-8/13/01 Daily Animal Record (FEI 36713-36723)	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 62	8/12/04 Affidavit of Jonathon Griggs regarding Investigation # AZ04156 (PL 13483-13486)	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 63.	7/21/04 Memo from Michael Smith to Dr. Garland regarding Ringling Circus train arrival inspection (PL 13535-13536)	<i>USDA business record probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 67.	10/17/99 Daily Animal Report (FEI 22670)	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 68.	10/22/99 Daily Animal Report (FEI 22672)	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 100.	Excerpts, Ringling Brothers Website (7/24/08): Show and Ticket Information Bookmark	<i>Admission probative of plaintiffs' chaining claim.</i>
Pls. WC Ex. 145A	Surveillance Video from Madison Square Garden Ex. 1, 2, 3, 4, 5-1, 5-2, 5-3, 5-5, 5-6, 5-7, 5-10, 5-11, 5-12, 5-13, 5-14, 5-15, and 5-16 to Dep. Temistocles Nadal (February 8, 2005)	<i>Business record probative of plaintiffs' take claims.</i>
Pls. WC Ex. 145B	Surveillance Video from the MCI Center Ex. 1 and 2-9 to David Clarence Coley's Deposition (August 10, 2004)	<i>Business record probative of plaintiffs' take claims.</i>

Pls. WC Ex. 148.	Hershey Animal Care Shoot, Tape 4 of 5 5/27/04, AC2004-004-01 (FEI 145224) 07:48-08:53	<i>Admission probative of plaintiffs' chaining claim.</i>
Designated. Dep. Tr.	Feld, Kenneth (1/16/08): 70-76.	<i>Deposition testimony of a party; admission probative of plaintiffs' chaining claim.</i>
Designated Dep. Tr.	Hagan, Frank (11/9/04): 05:01-13:25, 85:17-122:15 video: Tape 1: 1:28:21-1:37:08; Tape 2: 0:0:17-0:32:48	<i>Deposition testimony of an unavailable witness; probative of plaintiffs' chaining claim.</i>
Designated Dep. Tr.	Jacobson, Gary /Feld 30(b)(6) (1/18/08): 183-184, 187, 189-193, 202-212, 220, 223	<i>Deposition testimony of a party; admission probative of plaintiffs' chaining claim.</i>
Designated Dep. Tr.	Jacobson, Gary (11/20/07): 29:02-30:21	<i>Deposition testimony of a party; admission probative of plaintiffs' chaining claim.</i>
Designated Dep. Tr.	Jacobson, Gary (10/24/07): 152-154, 155, 156, 158-160, 163-164, 244-246, 263:21-267:09, 274-275, 279-280, 314:01-315:10	<i>Deposition testimony of a party; admission probative of plaintiffs' chaining claim.</i>
Designated Dep. Tr.	Metzler, Troy (7/25/06): 128-148	<i>Deposition testimony of a party; admission probative of plaintiffs' chaining claim.</i>
Designated Dep. Tr.	Nadal, Temistocles (2/8/05): 01:01 – 119:11	<i>Deposition testimony of an unavailable witness. Authenticates plaintiffs' Will Call Exhibit 145A, which is probative of plaintiffs' chaining claim.</i>
Designated Dep. Tr.	Ramos, Gerald (1/24/07): 13:18-17:13, 87:24-95:07 video: 0:12:04-0:17:10; 1:50:07-1:57:44	<i>Deposition testimony of an unavailable witness; probative of plaintiffs' chaining claim.</i>

Designated Dep. Tr.	Ridley, Robert (8/25/06): 128:04-24	<i>Deposition testimony of a party; admission probative of plaintiffs' chaining claim.</i>
Designated Dep. Tr.	Vargas, Alex (5/31/07): 55:01-56:02, 186:14-187:2	<i>Deposition testimony of a party; admission probative of plaintiffs' chaining claim.</i>
3. Dr. Ros Clubb		Expert Witness
	Pls. WC Ex. 28. 5/20/05 Letter from Adam Parascandola to Julie Strauss regarding investigation by the Washington Humane Society on 4/16/05 (FEI 1576-1579) Declaration of Washington Humane Society representative authenticating Exhibit 28 pursuant to Federal Rule of Evidence 902(11). (provided to defendant on 10/7/08)	<i>Probative of plaintiffs' chaining claim.</i>
	Pls. WC Ex. 50. Declaration of Michelle Sinnott and Attachments (Exhibit 37 to Plaintiffs' Motion for Preliminary Injunction, DE 297)	<i>Summary prepared in accordance with Federal Rule of Evidence 1006 that is probative of plaintiffs' chaining claim.</i>
	Pls. WC Ex. 54. 7/16/99 Memo from Charles Curren to Dr. Robert Williams documenting a 7/15/99 inspection (PL 2081-2083)	<i>USDA business record probative of plaintiffs' chaining claim.</i>

	<p>Pls. WC Ex. 113. Plaintiffs' Expert Reports and Exhibits: Complete Expert Report of Dr. Ros Clubb.</p> <p>Clubb, R. & Mason, G. (2002) A Review of the Welfare of Zoo Elephants in Europe. RSPCA, Horsham, UK</p> <p>Mason, G. J. & Latham, N. (2004) Can't stop, won't stop: is stereotypy a reliable animal welfare indicator? <i>Animal Welfare</i> 13: S57-69</p> <p>Kurt, F. & Garai, M. (2001) Stereotypies in captive Asian elephants - a symptom of social isolation. Abstracts of the International Elephant and Rhino Research Symposium, Vienna, Austria, Schüling, Münster</p> <p>Brockett, R. C., Stoinski, T. S., Black, J., Markowitz, T. & Maple, T. L. (1999) Nocturnal behavior in a group of unchained female African elephants. <i>Zoo Biology</i> 18: 101-109</p> <p>Schmid, J. (1995) Keeping circus elephants temporarily in paddocks - the effects on their behaviour. <i>Animal Welfare</i> 4: 87-101</p> <p>Friend, T. (1999) Behavior of picketed circus elephants. <i>Applied Animal Behaviour Science</i> 62: 73-88</p> <p>Williams, J. L. & Friend, T. H. (2003) Behavior of circus elephants during transport. <i>Journal of the Elephant Managers Association, JEMA</i>, 14(3): 8-11</p>	<p><i>Probative of Dr. Clubb's expertise and qualifications, and of plaintiffs' take claims.</i></p>
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	Pls. WC Ex. 128. Ringling - Angelica & Sara chained & Swaying (PL 08980) - 0:00-2:00	<i>Probative of plaintiffs' chaining claim.</i>
	Pls. WC Ex. 132. Compilation of video footage of elephants from 1987-2004 (Produced to Defendant on 3/20/08 along with Plaintiff's Expert Reports) - 1:00-1:11; 4:05-4:30; 4:45-5:19; 13:48-14:19; 14:57-15:53	<i>Probative of plaintiffs' take claims.</i>
	Pls. WC Ex. 133. Compilation (May 6, 2005) (Produced to Defendant on 3/20/08 along with Plaintiff's Expert Reports) - 3:30-5:30; 15:35-16:36	<i>Probative of plaintiffs' chaining claim.</i>
	Pls. WC Ex. 135. Compilation of Defendant Video Footage (Provided to Defendant on 6/10/08) - 21:52-22:24 (FEI 45191)	<i>Probative of plaintiffs' bull hook claim.</i>
	Pls. WC Ex. 142. Video footage of the Rule 34 Inspection at the Center for Elephant Conservation outside Polk City, Florida (11/29/07)	<i>Probative of plaintiffs' take claims.</i>
	Pls. WC Ex. 143. Video footage of the Rule 34 Inspection of the Blue Unit in Auburn Hills, Michigan (11/13/07)	<i>Probative of plaintiffs' take claims.</i>
	Pls. WC Ex. 54. Photographs taken during Court-ordered inspection of The Center for Elephant Conservation (11/29/07) and the Blue Unit in Auburn Hills, MI (11/13/07)	<i>Probative of plaintiffs' take claims.</i>
	Designated Dep. Tr. Jacobson, Gary /Feld 30(b)(6) (1/18/08): 189-195	<i>Admission probative of plaintiffs' chaining claim.</i>
	Designated Dep. Tr. Ridley, Robert (8/25/06): 134:14-138:11	<i>Admission probative of plaintiffs' chaining claim.</i>

Respectfully submitted,

/s/ Katherine A. Meyer
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