

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

AMERICAN SOCIETY FOR THE PREVENTION)	
OF CRUELTY TO ANIMALS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civ. No. 03-2006 (EGS/JMF)
)	
FELD ENTERTAINMENT, INC.,)	
)	
Defendant.)	
)	

PLAINTIFFS' WITNESS AND EXHIBIT LIST FOR TUESDAY, OCTOBER 28, 2008

Plaintiffs hereby provide notice of the following list of witnesses who are likely to testify on Tuesday, October 28, 2008 and exhibits plaintiffs intend to introduce that same date. In addition to the witnesses and exhibits listed in this notice, plaintiffs may also call any remaining witnesses or introduce any remaining exhibits previously identified for Monday, October 27, 2008.

1. Exhibits Plaintiffs Intend to Introduce Before Calling Witnesses

Exhibit	Description	Evidentiary Basis
Demonstrative	Bull hook	Not being moved into evidence.
Demonstrative	Chains	Not being moved into evidence.
Chart of FEI's Elephants	Compilation of records produced by defendant in discovery and statements made by defendant's employees in depositions. Provided to FEI on Oct. 7, 2008.	Summary of background factual information on FEI's elephants prepared pursuant to Federal Rule of Evidence 1006 and based on defendant's admissions, Fed. R. Evid. 801(d)(2).

Chart of FEI Employees	Compilation of records produced by defendant in discovery and statements made by defendant's employees in depositions. Provided to FEI on Oct. 20, 2008.	Summary of background factual information prepared pursuant to Federal Rule of Evidence 1006 and based on defendant's admissions, Fed. R. Evid. 801(d)(2).
Designated Dep. Tr. Jacobson, Gary (Oct. 24, 2007): 07:09 – 07:19; 14:03 – 47:12; 59:01 – 105:18; 123:07 – 128:15; 136:14 – 141:12; 151:01 – 164:17; 169:21 – 179:05; 187:06 – 191:07; 197:12 – 203:06; 207:13 – 219:10; 219:18 – 226:10; 236:20 – 249:09; 255:21 – 258:20; 260:05 – 262:08; 263:21 – 267:09; 269:07 – 285:19; 298:19 – 302:13; 314:01 – 315:10; 326:06 – 326:17; 334:01 – 348:07; 360:20 – 382:03	Deposition testimony of a party relevant to the training, handling, and management of elephants.	Fed. R. Evid. 401, 402, 801(d)(2); Fed. R. Civ. P. 32(a). Deposition testimony of a party; admissions probative of plaintiffs' bull hook claim.
Designated Dep. Tr. Jacobson, Gary (Nov. 20, 2007): 06:07 – 27:17; 29:02 – 30:21; 43:03 – 50:15; 54:02 – 68:16; 79:13 – 79:22; 80:04 – 86:12; 89:03 – 104:12	Deposition testimony of a party relevant to the training, handling, and management of elephants.	Fed. R. Evid. 401, 402, 801(d)(2); Fed. R. Civ. P. 32(a). Deposition testimony of a party; admissions probative of plaintiffs' bull hook claim.

<p>Designated Dep. Tr. Jacobson, Gary /FEI 30(b)(6) (Jan. 18, 2008): 18:21 – 165:13</p>	<p>Deposition testimony of a party relevant to the elephants Jewell, Karen, Lutzi, Mysore, Nicole, Susan, and Zina.</p>	<p>Fed. R. Evid. 401, 402, 801(d)(2); Fed. R. Civ. P. 32(a). Deposition testimony of a party; admissions probative of plaintiffs' bull hook and chaining claims.</p>
<p>Designated Dep. Tr. Jacobson, Gary /FEI 30(b)(6) (Jan. 18, 2008): 246:16-247:19; 247:22-248:8; 248:18-249:7; 249:16-250:1; 250:2-251:2; 251:7-251:19; 251:20-252:6; 252:9-252:17; 263:20-264:19</p>	<p>Deposition testimony of a party identifying employees: 246:16-247:19 for Pls.' WC Ex. 121A (0:27-0:49); 247:22- 248:8 for Pls.' WC Ex. 121A (1:21-1:48); 248:18-249:7 for Pls.' WC Ex. 121A (1:53-2:29); 249:16-250:1 for Pls.' WC Ex. 121A (12:36-13:06); 250:2-250:9 for Pls.' WC Ex. 121A (18:18-19:22); 251:7-251:19 for Pls.' WC Ex. 121A (19:40-20:02); 251:20-252:6 for Pls.' WC Ex. 121A (21:29-21:54); 252:9-252:17 for Pls.' WC Ex. 121A (23:35-23:58); 263:20-264:19 for Pls.' WC Ex. 123 (19:30-19:49)</p>	<p>Fed. R. Evid. 401, 402, 801(d)(2); Fed. R. Civ. P. 32(a). Deposition testimony of a party; admissions probative of plaintiffs' bull hook claim.</p>
<p>Designated Dep. Tr. Hagan, Frank (Nov. 9, 2004): 05:01-13:25, 15:01-25:12, 30:02-44:13, 57:18-73:02 Video</p>	<p>Deposition testimony of an unavailable witness; probative of plaintiffs' bull hook claim.</p>	<p>Fed. R. Evid. 401, 402, 804(b)(1); Fed. R. Civ. P. 32(a).</p>

Designated Dep. Tr. Ramos, Gerald (Jan. 24, 2007): 11:08-17:13; 68:01-72:14; 78:06-79:23; 87:24; 95:07 Video	Deposition testimony of an unavailable witness; probative of plaintiffs' bull hook claim.	Fed. R. Evid. 401, 402, 804(b)(1); Fed. R. Civ. P. 32(a).
Designated Dep. Tr. Swart, Betsy (March 18, 2005): 05:06, 6:19-7:23, 23:03-24:22, 57-61, 65	Deposition testimony of an unavailable witness; probative of plaintiffs' bull hook claim.	Fed. R. Evid. 401, 402, 804(b)(1); Fed. R. Civ. P. 32(a).
Pls.' WC Ex. 4	1/16/99 Narrative written by Kristina Cox Documenting the 1/7/99 and 1/8/99 Inspection of Ringling Brothers Blue Unit (PL 14244-14245)	USDA business record and public record probative of plaintiffs' bull hook claim.
Pls.' WC Ex. 10	1/8/05 Email from Deborah Fahrenbruck to Mike Stuart regarding notes on Phoenix/California (FEI 15024)	Admission probative of plaintiffs' bull hook claim.
Pls.' WC Ex. 12	7/24/04 Email from Heather Riggs to William Lindsay, Ellen Wiedner, and Allison Case regarding elephants (FEI 16614-16618)	Admission probative of plaintiffs' bull hook claim.
Pls.' WC Ex. 13	9/14/00 Inspection Report of Ringling Brothers Red Unit (PL 11784)	USDA business record and public record probative of plaintiffs' bull hook claim.
Pls.' WC Ex. 14	6/9/00 Memo from Carl LaLonde to Dr. Miava Binkley regarding Case #OH00018-AC (PL 11840-11841)	USDA business record and public record probative of plaintiffs' bull hook claim.
Pls.' WC Ex. 25	8/30/04 Email from Ellen Wiedner to William Lindsay, Allison Case, and Ramiro Isaza (FEI 32492-32494)	Admission probative of plaintiffs' bull hook claim.

Pls.' WC Ex. 77	9/3/94 Memorandum from Richard Froemming to Richard Houck regarding Guide for Animal Handlers (FEI 486-489)	Admission probative of plaintiffs' bull hook claim.
Pls.' WC Ex. 81	12/14/97 Letter from Joan Galvin to Barbara Kohn regarding Docket No. 97-001-1; Handling, Training and Exhibition of Potentially Dangerous Exotic or Wild Animals (FELD 25288-25300)	Admission probative of plaintiffs' bull hook claim.

2. Plaintiffs' Expert Witness Gail Laule

Exhibit	Description	Evidentiary Basis
Demonstrative from Def.'s Ex 2	Elephant Husbandry Resource Guide, Diagram of Cue Points, page 26	Not being moved into evidence.
Demonstrative from Def.'s Ex 2.	Elephant Husbandry Resource Guide, photographs from pages 23, 31	Not being moved into evidence.
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)	Admission probative of plaintiffs' bull hook claim.
Pls.' WC Ex. 10	1/8/05 Email from Deborah Fahrenbruck to Mike Stuart regarding notes on Phoenix/California (FEI 15024)	Admission probative of plaintiffs' bull hook claim.
Pls.' WC Ex. 12	7/24/04 Email from Heather Riggs to William Lindsay, Ellen Wiedner, and Allison Case regarding elephants (FEI 16614-16618)	Admission probative of plaintiffs' bull hook claim.
Pls.' WC Ex. 78	2/5/01 -2/10/01 AZA Principles of Elephant Management, Wheeling, WV, conducted by American Zoo & Aquarium Association (PL 16732 -16998)	Probative of circus industry standards, plaintiffs' take claims, and witness's expertise.

Pls.' WC Ex. 81	2/14/97 Letter from Joan Galvin to Barbara Kohn regarding Docket No. 97-001-1; Handling, Training and Exhibition of Potentially Dangerous Exotic or Wild Animals (FELD 25288-25300)	Admission probative of plaintiffs' take claims.
Pls.' WC Ex. 113	<p>Plaintiffs' Expert Reports and Exhibits: Complete Expert Report of Gail Laule.</p> <p>Broom, D.M. & Johnson, K.G. (1993) Stress and Animal Welfare. Chapman and Hall, London, UK.</p> <p>Hediger, H. (1950) Wild animals in captivity. London: Butterworth</p> <p>Hemsworth, P.H. & Coleman, G.J. (1998) Human-Livestock Interactions: The Stockperson and the Productivity and Welfare of Intensively-Farmed Animals. CAB International, Wallingford, UK.</p> <p>Hiby, E.F., Rooney, N.J., Bradshaw, J.W. (2004) Dog training methods: their use, effectiveness and interaction with behaviour and welfare. <i>Animal Welfare</i> 13: 63-59.</p> <p>Laule, G. M. Whittaker. <i>Protected Contact and Elephant Welfare</i>. In <i>An Elephant in the Room: the Science and Well Being of Elephants in Captivity</i> (eds. Kane. L. and Forthman, D. Tufts University Cummings School of Veterinary Medicine's Center for Animals and Public Policy, North Grafton, MA).</p> <p>Lenhardt, J. (1991) Elephant handling - A problem of risk management and resource allocation, Proceedings,</p>	Probative of Ms. Laule's expertise and qualifications, and of plaintiffs' take claims.

	<p>American Zoo and Aquarium Association Annual Conference, San Diego.</p> <p>Mason GJ (1991) Stereotypies: a critical review. <i>Animal Behavior</i> 41; 1015-1037.</p> <p>Pryor, K. (1999) <i>Don't Shoot the Dog. The New Art of Teaching and Training.</i> Bantom Books, New York.</p> <p>Roocroft, A, Zoll, D (1994) <i>Managing Elephants. An introduction to their training and management,</i> PL 11245, 126.</p>	
Pls.' WC Ex. 122	<p>PETA "Ringling Bullhooking Incidents in Greenville, SC on 2/1/06" (00-43:15) and 2/3/06 (PL 08982) -16:56-17:04</p> <p>Dep. Tr. Jacobson, Gary / FEI 30(b)(6) (Jan. 18, 2008): 262:5-263:2</p>	Probative of plaintiffs' take claims and expert's opinions.
Pls.' WC Ex. 128	Ringling - Angelica & Sara Chained & Swaying (PL 08980) - 16:13-17:13	Probative of plaintiffs' take claims and expert's opinions.
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) - 1:30-1:43; 17:07-17:56; 18:52-19:19; 19:20-19:40	Probative of plaintiffs' take claims and expert's opinions.
Pls' WC Ex. 133	Compilation (May 6, 2005) (Produced to Defendant on 3/20/08 along with Plaintiff's Expert Reports) - 46:09-1:01:05; 12:57-14:57	Probative of plaintiffs' chaining claim and expert's opinions.
Pls.' WC Ex. 139	Compilation of Defendant Video Footage (Provided to Defendant on 6/10/08) - 45:00-47:06	Probative of plaintiffs' bull hook claim and expert's opinions.
Pls.' WC Ex 140	Plaintiffs Training Footage Compilation (Provided to Defendant on 6/10/08) (PL 07077, PL 14918, PL 09043, PL	Probative of circus industry standards, plaintiffs' take claims, and expert's opinions.

	09044) - 0:19-0:32; 54:20-54:57	Not being moved into evidence.
Pls.' WC Ex. 142	Video footage of the Rule 34 Inspection at the Center for Elephant Conservation outside Polk City, Florida (11/29/07) - 2:02-2:04	Probative of plaintiffs' take claims and expert's opinions.
Pls.' MC Ex. 30.	Roberts, Ed, Elephant Control, June 1979, Elephant Keepers Forum (PL 16720-16724)	Probative of circus industry standards, plaintiffs' take claims, and expert's opinions.
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)	Probative of plaintiffs' chaining claim and expert's opinions.
Designated Dep. Tr. Houcke, Sacha (Jan. 7, 2008): 91:07- 96:17; 99:01- 103:12		Fed. R. Evid. 401, 402, 804(b)(1); Fed. R. Civ. P. 32(a). Deposition testimony of an unavailable witness.
Designated Dep. Tr. Jacobson, Gary (Nov. 20, 2007): 81-86:12; 96		Fed. R. Evid. 401, 402, 801(d)(2); Fed. R. Civ. P. 32(a). Deposition testimony of a party; admission probative of plaintiffs' bull hook claim.
Designated Dep. Tr. Jacobson, Gary (Oct. 24, 2007): 103-104		Fed. R. Evid. 401, 402, 801(d)(2); Fed. R. Civ. P. 32(a). Deposition testimony of a party; admission probative of plaintiffs' bull hook claim.
Designated Dep. Tr. Metzler, Troy (July 25, 2006): 342:02-343; 346- 349; 350-354:04; 368:1-19		Fed. R. Evid. 401, 402, 801(d)(2); Fed. R. Civ. P. 32(a). Deposition testimony of a party; admission probative of plaintiffs' bull hook claim.
Designated Dep. Tr. Vargas, Alex (May 31, 2007):		Fed. R. Evid. 401, 402, 801(d)(2); Fed. R. Civ. P. 32(a). Deposition testimony of

114-119; 127-135	a party; admissions probative of plaintiffs' bull hook claim.
------------------	---

3. Exhibits Plaintiffs Intend to Introduce After Calling Witnesses

Exhibit	Description	Evidentiary Basis
Designated Dep. Tr. Tom, Margaret (Dec. 17, 2007): 7:02-7:06; 7:16-8:01; 8:11-21; 19-27	Deposition testimony of an unavailable witness; probative of plaintiffs' bull hook claim.	Fed. R. Evid. 401, 402, 804(b)(1); Fed. R. Civ. P. 32(a).
Designated Dep. Tr. Kenneth Feld (Jan. 16, 2008): 07:02 – 09:17; 10:18 – 13:13; 15:03 – 20:06; 21:21 – 27:10; 28:02 – 28:18; 31:18 – 38:17; 42:02 – 42:06; 42:19 – 43:20; 46:08 – 51:17; 51:21 – 77:13; 82:04 – 82:11; 89:04 – 103:20; 108:16 – 111:18; 113:04 – 156:02; 159:03 – 159:09; 159:15 – 163:12; 164:01 – 167:03; 167:14 – 169:04; 170:16 – 185:04; 191:01 – 191:22; 192:15 – 209:14; 211:13 – 235:09; 236:03 – 243:13; 245:10 – 247:04; 257:11 – 274:03;		Fed. R. Evid. 401, 402, 801(d)(2); Fed. R. Civ. P. 32(a). Deposition testimony of a party; admissions probative of plaintiffs' bull hook claim.

278:02 – 301:05; 302:03 – 305:05; 308:14 – 308:21; 319:04 – 329:15; 321:29 – 331:07; 333:20 – 339:06 Video		
--	--	--

Respectfully submitted,

/s/ Katherine A. Meyer
Katherine A. Meyer
(D.C. Bar No. 244301)
Tanya M. Sanerib
(D.C. Bar No. 473506)
Delcianna J. Winders
(D.C. Bar. No. 488056)

Meyer Glitzenstein & Crystal
1601 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20009
(202) 588-5206

Dated: October 23, 2008

Counsel for Plaintiffs