

Plaintiffs' Motion For Partial
Reconsideration Of Magistrate
Facciola's October 10, 2008 Order
Regarding Documents "Misplaced"
By FEI's Counsel

Exhibit 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

-----x

AMERICAN SOCIETY FOR THE :
PREVENTION OF CRUELTY TO :
ANIMALS, et al. :

Plaintiffs :

vs. :

FELD ENTERTAINMENT, INC. :

Defendant :

-----x

Washington, D.C.

August 29, 2008

Deposition of:

DENNIS SCHMITT, DVM, Ph.D.,
called for oral examination by counsel for
Plaintiffs, pursuant to notice, at the offices
of Meyer Glitzenstein & Crystal,
1601 Connecticut Avenue, N.W., Suite 700,
Washington, D.C., before Zev V. Feder, CSR, a
Notary Public in and for the District of
Columbia, beginning at 9:24 a.m., when were
present on behalf of the respective parties:

On behalf of the Plaintiffs:

BY: TANYA SANERIB, ESQ.
Meyer Glitzenstein & Crystal
1601 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20009-1056
(202)588-5206

On behalf of Defendant Feld Entertainment,
Inc.:

BY: LANCE L. SHEA, ESQ.
Fulbright & Jaworski, LLP,
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202)662-0200

+ + +

WITNESS: DENNIS SCHMITT, DVM, Ph.D.

EXAMINATION BY:

PAGE:

MS. SANERIB

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MR. SHEA

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EXHIBITS (Attached)

DEPOSITION NO. MARKED FOR IDENTIFICATION

1. Expert witness report	8
2. Resource guide page	105
3. Elephants without borders executive summary	139
4. Emails, 4/18/07, etc.	160
5. Draft guidelines, 3/17/08	192
6. Wildlife Diagnostics report	202
7. Williston summary, 10/12/05	202
8. William Lindsay handwritten notes	207
9. Chapter 6, "Stress, Disease and Tuberculosis in Elephants	209
10. Blue Unit chart	222

1 research on tuberculosis?

2 A. I attempt to.

3 (Discussion off the record.)

4 (A recess was taken from 3:02 to

5 3:08 p.m.)

6 (Document marked Deposition

7 Exhibit No. 9 for identification and

8 subsequently attached to the deposition.)

9 BY MS. SANERIB:

10 Q. I have marked as Exhibit 9 -- this
11 is a chapter six. It is titled, "Stress,
12 Disease and Tuberculosis in Elephants." The
13 author is Susan Mikota.

14 Have you ever seen this book
15 chapter before?

16 A. Which book is it in?

17 Q. The book actually has not come out
18 in press yet but this is available on line.

19 A. No, I have not.

20 Q. You have mentioned Dr. Mikota
21 before, today. Is she somewhat of an
22 authority on tuberculosis in elephants?

1 A. She is one of several. One of the
2 few, yes.

3 Q. Would you disagree with her
4 premise that stress influences both the
5 susceptibility to tuberculosis and its
6 severity once infection is established?

7 A. No scientific evidence to that but
8 it is possible.

9 Q. And do you believe that humans
10 working with elephants, that if tested
11 positive for tuberculosis, can contract
12 tuberculosis from those elephants?

13 A. Possible.

14 Q. Have you seen any proof of that?

15 A. No.

16 Q. On page 12 of your reports you say
17 that Karen is 39 years old. Is that correct?

18 A. That's what I say.

19 Q. How did you arrive at that age for
20 Karen?

21 A. I can't remember. I either looked
22 in -- I think I looked in the AZA SSP stud