

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

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

Plaintiffs,

v.

FELD ENTERTAINMENT, INC.,

Defendant.

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Case No. 03-2006 (EGS/JMF)

**DEFENDANT FELD ENTERTAINMENT, INC.'S ("FEI") OPPOSITION TO
PLAINTIFFS' MOTION FOR PARTIAL RECONSIDERATION OF
MAGISTRATE JUDGE FACCIOLA'S OCTOBER 10, 2008 ORDER**

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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Plaintiffs,

v.

FELD ENTERTAINMENT, INC.,

Defendant.

Case No. 1:03-CV-02006 (EGS/JMF)

DECLARATION

I, Mark Gaipo, declare under oath as follows:

1. I am currently employed by Feld Entertainment, Inc. ("FEI"). I was the General Manager of the Ringling Bros. – Barnum & Bailey Red Unit Circus from October 1996 to December 2005. As the Red Unit General Manager, I worked daily with the Red Unit employees, and my responsibilities included some of the paperwork on the Red Unit.

2. I have reviewed the document labeled FEI 42474-42478. It is a fax from Blaine Lipski, who worked at the Baltimore Arena, to me dated February 20, 1998. I provided the original of this document to counsel for FEI, and I do not have a copy of it. The Baltimore Arena is one of the venues where the Red Unit performs. At that time, certain venues like the Baltimore Arena were contractually obligated to apply for all required licenses and permits, including but not limited to animal walk permits.

3. To the best of my recollection, Mr. Lipski sent me this fax because he was working on permit applications. He faxed me what he previously had received from FEI as an

example to show me what documents he needed from me for the permit applications. I believe this fax, including the redacted pages (FEI 42477, 42475), contained a batch of vet certificates or "interstates" as they are known at FEI. In addition to elephants, FEI has interstates for the numerous other animals traveling on the unit such as horses, zebras, goats, alpacas, domesticated dogs and cats, and large exotic cats like lions and tigers. Sometimes the animals are listed together on the interstates and sometimes they are listed separately.

4. No elephant on the Red Unit ever tested positive for tuberculosis while I was the General Manager. As the General Manager, if an elephant on the Red Unit would have tested positive for tuberculosis, I would have known and been among the first to receive the laboratory reports. (FEI began testing its elephants with trunk washes pursuant to the USDA Guidelines in 1998.) If any elephant would have tested positive for tuberculosis, it would have been removed from the Red Unit. There was no such positive test, and we never had to remove an elephant from the Red Unit because of that.

5. The interstates are standard forms that are used for numerous animals. Consequently, not every category on them applies to every animal. For example, brucellosis does not affect elephants but can affect animals such as horses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 16 day of September, 2008.

A handwritten signature in black ink, appearing to read 'Mark Gaipo', is written over a horizontal line.

Mark Gaipo