

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.

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 2

produced without redaction. See, e.g., FEI 42478. If an interstate contained only animals other than elephants, it was not responsive and not produced.

4. To the best of our recollection, we believe that the fax was a batch of interstates. This is based on our recollection as well as the nature of the fax itself and the subject matter of the production occurring. It is also consistent with Mr. Gaipo's recollection of the document. Some of the interstates in the fax contained elephants, and some of the interstates in the fax contained only animals other than elephants. Because the fax constituted a single document, the interstates that did not contain elephants were removed and replaced with slip sheets. We use slip sheets to indicate the removal of pages from a document when produced. Two of these slip sheets were inserted, and they are identified as FEI 42475 and FEI 42477.

5. When we pulled this document for *in camera* production in June 2008, we were unable to locate the non-responsive pages that had been removed. We routinely keep non-responsive documents when processing documents for production. Counsel searched our files in June 2008 and re-searched them again in August 2008 in order to locate the pages, but we were unable to find them. Because the original rather than a copy of this document was inadvertently processed for production, neither counsel nor FEI has a copy of it.

6. We apologize for the inability to locate and produce this document to the Court. FEI is not responsible for counsel's inability to find this document. We do not believe, however, that the missing pages relate to elephants.

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

Executed on this 16th day of September, 2008.



Lisa Zeiler Joiner