



**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
1, 1A, 1B, 1C <sup>1</sup>	Records of Ringling Brothers Elephants (contained on DVD provided to Defendant on 8/23/08)	<p>Plaintiffs represented to Defendant that Plaintiffs' Will Call Ex. 1 contains the same documents upon which their expert, Dr. Philip Ensley, relied when preparing his report. If so, this exhibit alone is approximately 12 boxes of documents.</p> <p>This exhibit is grossly overbroad and unwieldy (see, e.g., objections to Ex. 2 herein). It includes documents purporting to relate to non-Rider Blue Unit elephants; Red Unit elephants; elephants never owned by FEI; elephants that have been deceased for years; and at least one African elephant.</p> <p>Defendant objects to plaintiffs' misleading characterization of Ex. 1A. Exhibit 1A includes a number of documents that are not "medical" records (see, e.g., objections to Ex. 2A herein).</p> <p>Defendant objects to any implication that Ex. 2B is a compilation of all "USDA and Other Enforcement Agency Records"; it is not.</p> <p>Defendant objects to exhibit 1C as incomplete, F.R.E. 106, and to the extent that it is duplicative of Pls. Will Call Ex. 86. F.R.E. 403</p> <p>Irrelevant as to documents not included in Def. Exs. 8-14. F.R.E. 401, 402</p> <p>Irrelevant (CBW elephants, deceased elephants, Red Unit elephants, non-Rider elephants, non-Rider Blue Unit elephants). F.R.E. 401, 402</p>

<sup>1</sup> FEI's objections to exhibits 1A, 1B, 1C, 2A, 2B and 2C were previously raised in FEI's Objections to Plaintiffs' Amended Pre-Trial Statement (Docket # 370) (10/12/08) and Exhibit 4 thereto. For the convenience of the Court and plaintiffs, FEI has combined these objections, together with its September 23, 2008 and its January 12, 2009 objections to the new exhibits set forth in Plaintiffs' Second Amended Pre-Trial Statement, into one document.

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
		<p>Immaterial (elephants never owned by FEI; African elephant). F.R.E. 401, 402</p> <p>Unfair prejudice and misleading as to the documents not included in Def. Exs. 8-14; needless cumulative evidence; waste of time. F.R.E. 403</p>

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
2	Records of the elephants Jewell, Karen, Lutz, Mysore, Susan, and Zina (contained on DVD provided to Defendant on 8/23/08)	<p>Irrelevant as to documents not included in Def. Exs. 8-14. F.R.E. 401, 402</p> <p>Needless cumulative evidence; waste of time. F.R.E. 403</p> <p>Exhibit 2 contains a broad, unrelated mass of documents, such as the following contained in the Jewell "file":</p> <p><b>Interrogatory response</b> (FEI 1239); <b>Elephant Food Chart</b> (FELD 0024233-237); <b>Blue Unit Schedule</b> (API 1010); <b>Animal Care Routine/Do's and Don'ts</b> (FEI 51671-679); <b>Staff Meeting Notes</b> (FEI 52173-174); <b>Operations E-mail</b> (FEI 32603); <b>USDA Animal Welfare Complaint, Red Unit</b> (PL 013694; PL 013696); <b>USDA Inspection Reports</b> (FEI 2707; FEI 39550; FEI 49027); FEI 49026 (Red Unit); PL 13603 (duplicate)); <b>USDA correspondence</b> (FEI 49022; FEI 49023; FEI 49024; FEI 49021; FELD 23800; PL 013786-788; PL 13681; PL 013732-733); <b>USDA Affidavit</b> (FELD 0000688-691 (duplicate of Pls. Will Call Ex. 3)); <b>Other Investigation Documents</b> (FELD 0001234-235; FELD 0001086-087; API 1007-009; PL 07112); <b>Certificates of Veterinary Inspection</b> (FEI 42466; FEI 41146; FEI 42671; FEI 41229; FEI 41230; FEI 42669; FEI 42672; FEI 41231; FEI 41375; FEI 41228; FEI 42673; A 00850); <b>Elephant Movement Documents</b> (FEI 1164; FEI 1241; FEI 41293); <b>CITES permits</b> (PL 07097; FELD 5172-174; FELD 0005169-171; FELD 00005165; FELD 0005162; FELD 5163-164; FELD 5166-168); <b>Form 7020s</b> (FEI 12468; FELD 0021172; FEI 1240); <b>Affidavits on Regulatory Status</b> (FELD 0005175; PL 07136; FELD 0005176).</p>

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION														
2A	Medical Records of the Elephants Jewell, Karne, Lutzi, Mysore, Nicole, Susan and Zina Prepared by Defendant or at Defendant's Request.	Defendant objects to plaintiffs' misleading characterization of Ex. 2A. Exhibit 2A includes a number of documents that are not "medical records." Defendant objects to the inclusion non-medical record in Ex. 2A.														
2B	USDA and Other Enforcement Agency Records Pertaining to the Elephants Jewell, Karen, Lutzi, Mysore, Nicole, Susan, and Zina	Incomplete. F.R.E. 106. FEI objects to any implication that Exhibit 2B is a compilation of <i>all</i> "USDA and Other Enforcement Agency Records," which it is not.														
<p>FEI specifically objects to the individual elephant "files" as follows:</p> <p style="text-align: center;"><b>JEWELL</b></p>																
<table border="1"> <thead> <tr> <th data-bbox="716 993 756 1759">DOCUMENT</th> <th data-bbox="716 268 756 993">OBJECTION</th> </tr> </thead> <tbody> <tr> <td data-bbox="756 993 829 1759">FEI 2707</td> <td data-bbox="756 268 829 993">No Objection.</td> </tr> <tr> <td data-bbox="829 993 870 1759">FEI 39550</td> <td data-bbox="829 268 870 993">No Objection.</td> </tr> <tr> <td data-bbox="870 993 911 1759">FEI 49026</td> <td data-bbox="870 268 911 993">No Objection.</td> </tr> <tr> <td data-bbox="911 993 1162 1759">FELD 0001234-235</td> <td data-bbox="911 268 1162 993">Incomplete (FOIA Redactions; unredacted version, PL 014244-245, is included in Nicole file, Pls. Will Call Ex. 2B). F.R.E. 106</td> </tr> <tr> <td data-bbox="1162 993 1421 1759"></td> <td data-bbox="1162 268 1421 993">Relevance as to non-Rider Blue and CBW Elephants. F.R.E. 401, 402</td> </tr> <tr> <td data-bbox="1421 993 1484 1759"></td> <td data-bbox="1421 268 1484 993">Duplicative (included in Mysore, Susan and Nicole files, Pls. Will Call Ex. 2B). F.R.E.</td> </tr> </tbody> </table>			DOCUMENT	OBJECTION	FEI 2707	No Objection.	FEI 39550	No Objection.	FEI 49026	No Objection.	FELD 0001234-235	Incomplete (FOIA Redactions; unredacted version, PL 014244-245, is included in Nicole file, Pls. Will Call Ex. 2B). F.R.E. 106		Relevance as to non-Rider Blue and CBW Elephants. F.R.E. 401, 402		Duplicative (included in Mysore, Susan and Nicole files, Pls. Will Call Ex. 2B). F.R.E.
DOCUMENT	OBJECTION															
FEI 2707	No Objection.															
FEI 39550	No Objection.															
FEI 49026	No Objection.															
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	Relevance as to non-Rider Blue and CBW Elephants. F.R.E. 401, 402															
	Duplicative (included in Mysore, Susan and Nicole files, Pls. Will Call Ex. 2B). F.R.E.															

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
2B		402
	FELD 0001374-375	No Objection.
	API 1007-009	Duplicative (Pls. Will Call 54). F.R.E. 402
		Same Objections as to Pls. Will Call 54.
	FELD 0023800	Irrelevant and Immaterial (TB; CBW; non-FEI). F.R.E. 401, 402
		Duplicative (included in Karen, Mysore and Zina files, Pls. Will Call Ex. 2B). F.R.E. 402
	FELD 0000688-691	Duplicative (Pls. Will Call Ex. 3; included in Lutzi and Zina files, Pls. Ex. Will Ex. 2B). F.R.E. 402
		Same Objections as to Pls. Will Call Ex. 3.
<b>KAREN</b>		
		<b>OBJECTION</b>
	<b>DOCUMENT</b>	Incomplete (FOIA Redaction). F.R.E. 106
	FELD 0001376-1379	

**A. Exhibits Plaintiffs Expect To Offer:**

<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION</b>	<b>OBJECTION</b>										
2B		<p>FELD 0023800</p> <p>Irrelevant and Immaterial (TB; CBW and non FEI elephants). F.R.E. 401, 402</p> <p>Duplicative (included in Jewell, Mysore and Zina files, Pls. Will Call 2B). F.R.E. 402</p>										
<b><u>LUTZI</u></b>												
<table border="1"> <thead> <tr> <th data-bbox="803 84 852 352"><b>DOCUMENT</b></th> <th data-bbox="803 352 852 993"><b>OBJECTION</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="852 84 901 352">FELD 0000688-691</td> <td data-bbox="852 352 901 993">Duplicative (Pls. Will Call Ex. 3; included in Jewell and Zina files, 2B). F.R.E. 402</td> </tr> <tr> <td data-bbox="901 84 950 352">AWI 06673</td> <td data-bbox="901 352 950 993">Same Objections as to Pls. Will Call Ex. 3</td> </tr> <tr> <td data-bbox="950 84 998 352"></td> <td data-bbox="950 352 998 993">Incomplete (FOIA Redaction). F.R.E. 106</td> </tr> <tr> <td data-bbox="998 84 1047 352"></td> <td data-bbox="998 352 1047 993">Irrelevant (non-Rider elephant; injuries as to human handler, not elephant). F.R.E. 401, 402</td> </tr> </tbody> </table>			<b>DOCUMENT</b>	<b>OBJECTION</b>	FELD 0000688-691	Duplicative (Pls. Will Call Ex. 3; included in Jewell and Zina files, 2B). F.R.E. 402	AWI 06673	Same Objections as to Pls. Will Call Ex. 3		Incomplete (FOIA Redaction). F.R.E. 106		Irrelevant (non-Rider elephant; injuries as to human handler, not elephant). F.R.E. 401, 402
<b>DOCUMENT</b>	<b>OBJECTION</b>											
FELD 0000688-691	Duplicative (Pls. Will Call Ex. 3; included in Jewell and Zina files, 2B). F.R.E. 402											
AWI 06673	Same Objections as to Pls. Will Call Ex. 3											
	Incomplete (FOIA Redaction). F.R.E. 106											
	Irrelevant (non-Rider elephant; injuries as to human handler, not elephant). F.R.E. 401, 402											
<b><u>MYSORE</u></b>												
<table border="1"> <thead> <tr> <th data-bbox="1079 84 1128 352"><b>DOCUMENT</b></th> <th data-bbox="1079 352 1128 993"><b>OBJECTION</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="1128 84 1177 352">FELD 0023800</td> <td data-bbox="1128 352 1177 993">Irrelevant and Immaterial (TB; CBW and non-FEI elephants). F.R.E. 401, 402</td> </tr> </tbody> </table>			<b>DOCUMENT</b>	<b>OBJECTION</b>	FELD 0023800	Irrelevant and Immaterial (TB; CBW and non-FEI elephants). F.R.E. 401, 402						
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**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION								
2B		<table border="1"> <tr> <td data-bbox="276 535 389 987">FELD 0001086</td> <td data-bbox="276 81 389 535">                     Duplicative (included in Jewell and Karen files, Pls. Will Call 2B). F.R.E. 402                 </td> </tr> <tr> <td data-bbox="389 535 503 987">FELD 0001234-235</td> <td data-bbox="389 81 503 535">                     Irrelevant (as to CBW, non-Rider blue elephants and other animals). F.R.E. 401, 402                      Incomplete (FOIA Redactions; unredacted version, PL 014244-245, is included in Nicole file, Pls. Will Call Ex. 2B). F.R.E. 106                      Relevance (as to non-Rider blue and CBW Elephants). F.R.E. 401, 402                 </td> </tr> <tr> <td data-bbox="503 535 617 987">FELD 0001380-081</td> <td data-bbox="503 81 617 535">                     Duplicative (included in Jewell, Mysore and Nicole files, Pls. Will Call Ex. 2B). F.R.E. 402                      No objection.                 </td> </tr> <tr> <td data-bbox="617 535 730 987">PL 013715</td> <td data-bbox="617 81 730 535">                     No objection.                 </td> </tr> </table>	FELD 0001086	Duplicative (included in Jewell and Karen files, Pls. Will Call 2B). F.R.E. 402	FELD 0001234-235	Irrelevant (as to CBW, non-Rider blue elephants and other animals). F.R.E. 401, 402 Incomplete (FOIA Redactions; unredacted version, PL 014244-245, is included in Nicole file, Pls. Will Call Ex. 2B). F.R.E. 106 Relevance (as to non-Rider blue and CBW Elephants). F.R.E. 401, 402	FELD 0001380-081	Duplicative (included in Jewell, Mysore and Nicole files, Pls. Will Call Ex. 2B). F.R.E. 402 No objection.	PL 013715	No objection.
FELD 0001086	Duplicative (included in Jewell and Karen files, Pls. Will Call 2B). F.R.E. 402									
FELD 0001234-235	Irrelevant (as to CBW, non-Rider blue elephants and other animals). F.R.E. 401, 402 Incomplete (FOIA Redactions; unredacted version, PL 014244-245, is included in Nicole file, Pls. Will Call Ex. 2B). F.R.E. 106 Relevance (as to non-Rider blue and CBW Elephants). F.R.E. 401, 402									
FELD 0001380-081	Duplicative (included in Jewell, Mysore and Nicole files, Pls. Will Call Ex. 2B). F.R.E. 402 No objection.									
PL 013715	No objection.									
<p><b><u>SUSAN</u></b></p>										
<table border="1"> <thead> <tr> <th data-bbox="1201 535 1274 987">DOCUMENT</th> <th data-bbox="1201 81 1274 535">OBJECTION</th> </tr> </thead> <tbody> <tr> <td data-bbox="1274 535 1315 987">FEI 0635</td> <td data-bbox="1274 81 1315 535">No objection.</td> </tr> <tr> <td data-bbox="1315 535 1356 987">FEI 37628</td> <td data-bbox="1315 81 1356 535">No objection.</td> </tr> <tr> <td data-bbox="1356 535 1432 987">PL 10483-084</td> <td data-bbox="1356 81 1432 535">                     Incomplete (FOIA Redactions; unredacted version, PL 014244-245, is included in Nicole files,                 </td> </tr> </tbody> </table>			DOCUMENT	OBJECTION	FEI 0635	No objection.	FEI 37628	No objection.	PL 10483-084	Incomplete (FOIA Redactions; unredacted version, PL 014244-245, is included in Nicole files,
DOCUMENT	OBJECTION									
FEI 0635	No objection.									
FEI 37628	No objection.									
PL 10483-084	Incomplete (FOIA Redactions; unredacted version, PL 014244-245, is included in Nicole files,									



**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION														
2B		<p>Pls. Will Call Ex. 2B). F.R.E. 106</p> <p>Relevance (as to non-Rider Blue and CBW elephants). F.R.E. 401, 402</p> <p>Duplicative (included in Jewell, Mysore and Nicole files, Pls. Will Call Ex. 2B). F.R.E. 402</p>														
<b><u>ZINA</u></b>																
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"><b>DOCUMENT</b></th> <th><b>OBJECTION</b></th> </tr> </thead> <tbody> <tr> <td>FEI 39957</td> <td>No objection</td> </tr> <tr> <td>FELD 0023800</td> <td>Irrelevant and Immaterial (TB; CBW; non-FEI elephants). F.R.E. 401, 402</td> </tr> <tr> <td>FELD 000688-691</td> <td>Duplicative (included in Karen and Mysore files, Pls. Will Call Ex. 2B). F.R.E. 402</td> </tr> <tr> <td></td> <td>Duplicative (Pls. Will Call Ex. 3; included in Jewell and Lutz files, Pls. Will Call Ex. 2B).</td> </tr> <tr> <td></td> <td>Same Objections as to Pls. Will Call Ex. 3.</td> </tr> <tr> <td>PL 013618-319</td> <td>Irrelevant (as to non-Rider and CBW elephants). F.R.E. 401,</td> </tr> </tbody> </table>			<b>DOCUMENT</b>	<b>OBJECTION</b>	FEI 39957	No objection	FELD 0023800	Irrelevant and Immaterial (TB; CBW; non-FEI elephants). F.R.E. 401, 402	FELD 000688-691	Duplicative (included in Karen and Mysore files, Pls. Will Call Ex. 2B). F.R.E. 402		Duplicative (Pls. Will Call Ex. 3; included in Jewell and Lutz files, Pls. Will Call Ex. 2B).		Same Objections as to Pls. Will Call Ex. 3.	PL 013618-319	Irrelevant (as to non-Rider and CBW elephants). F.R.E. 401,
<b>DOCUMENT</b>	<b>OBJECTION</b>															
FEI 39957	No objection															
FELD 0023800	Irrelevant and Immaterial (TB; CBW; non-FEI elephants). F.R.E. 401, 402															
FELD 000688-691	Duplicative (included in Karen and Mysore files, Pls. Will Call Ex. 2B). F.R.E. 402															
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	Same Objections as to Pls. Will Call Ex. 3.															
PL 013618-319	Irrelevant (as to non-Rider and CBW elephants). F.R.E. 401,															

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
2C	Regulatory Documents Regarding the Location and Transfer of the Elephants Jewell, Karen, Lutzi, Mysore, Nicole, Susan and Zina	Incomplete. F.R.E. 106 Needless cumulative evidence (duplicative of Pls. Will Call Ex. 86). F.R.E. 403
3	9/26/00 Affidavit of Dr. Michael Smith regarding a 9/7/00 inspection of Ringling Brothers Blue Unit (FELD 0688-0691)	Hearsay. F.R.E. 801, 802 Incomplete (FOIA redactions). F.R.E. 106
4	1/16/99 Narrative written by Kristina Cox documents the 1/7/99 and 1/8/99 inspection of Ringling Brothers Blue Unit (PL 14244-14245)	No objection.
5	Adams, Dr. Jack, Wild Elephants In Captivity (PL 10896)	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
6	8/25/01 Humane Society of Santa Clara Valley elephant abuse citation issued to Mark Oliver Gebel (FELD 28618)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402
7	9/2/05 Report of Investigation for Case # VA05008-AC (PL 11716-11748)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Incomplete. (complete investigation file omitted). F.R.E. 106  Plaintiffs mistakenly represent that Ex. 7 contains all of the documents listed by Bates number in the "description". However, Ex. 7, as provided on DVD and hard drive by plaintiffs, does not contain the following: PL 11725-11737; PL 11740-11746. Defendant therefore objects to plaintiffs use of any exhibit that it has not had the opportunity to review for accuracy and object accordingly.

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
8	10/12/05 Letter to Kenneth Vail from Cassie Armiger regarding Case # VAO5008-AC (PL 14659-14660)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
9	1/8/05 Email from Deborah Fahrenbruck to Mike Stuart regarding a letter written, but never sent, to Kenneth Feld (FEI 15025-15027)	Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 The marginal relevance of this document is outweighed by unfair prejudice, confusion of the issues, and misleading the trier of fact. F.R.E. 403
10	1/8/05 Email from Deborah Fahrenbruck to Mike Stuart regarding notes on Phoenix/California (FEI 15024)	Irrelevant and Immaterial (electric prod not at issue). F.R.E. 401, 402 The marginal relevance of this document is outweighed by unfair prejudice, confusion of the issues, and misleading the trier of fact. F.R.E. 403 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
11	7/25/04 Email from Heather Riggs to William Lindsay, Ellen Wiedner, and Allison Case regarding a few updates (FEI 16646-16648)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802
12	7/24/04 Email from Heather Riggs to William Lindsay, Ellen Wiedner, and Allison Case regarding elephants (FEI 16614-16618)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802
13	9/14/00 Inspection Report of Ringing Brothers Red Unit (PL 11784)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Incomplete (FOIA redactions). F.R.E. 106
14	6/9/00 Memo from Carl LaLonde to Dr. Miava Binkley regarding Case #OH00018-AC (PL 11840-11841)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802
15	5/31/00 Interview Log regarding case # OH00018-AC (FELD 591)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Incomplete (FOIA redactions). F.R.E. 106

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
16	9/3/99 Email from William Lindsay to Pete Cimini regarding Elephant Reports (FEI 31338-31342)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802
17	Lanette Williams report of 8/22-29/99 inspection, Government Exhibit 85, (FELD 626-636)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Incomplete (FOIA redactions). F.R.E. 106
18	9/20/94 Inter-Office Memorandum from Richard Froemming to Kenneth Feld regarding status update - winter quarters, animals, and projects (FEI 39504-Revised - FEI 39507H-Revised)	Irrelevant (date). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802
19	3/7/94 Animal Activist Activities (FEI 38273-38299)	Hearsay. F.R.E. 801, 802
20	7/20/00 Affidavit of Tom Rider (PL 4458-4464)	Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
21	5/15/01 Report of Investigation for Case # CA01069-AC (PL 1351-1352)	Irrelevant (CBW elephants not at issue) and Immaterial. F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Incomplete (FOIA redactions) (complete investigation file omitted) F.R.E. 106
22	9/18/01 Ringling Bros, and Barnum & Bailey Circus Department of Veterinary Care Elephant Workshop in Conjunction with the Annual Meeting of the American Association of Zoo Veterinarians (FEI 2349-2373)	No objection.
23	2/4/01 Email from Cathy Shilton to Mark Gaipo regarding vet report (FEI 21230)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
24	9/1/99 Report of Investigation for Case # TX99237-AC (PL 10051)	Irrelevant (CBW and deceased elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802, 805 Hearsay within Hearsay. F.R.E. 801, 802, 805 Incomplete (FOIA redactions; entire investigation file omitted) F.R.E. 106
25	8/30/04 Email from Ellen Wiedner to William Lindsay, Allison Case, and Ramiro Isaza (FEI 32492-32494)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
26	1/9/99 Affidavit of Robert [Ridley] (FELD 23386)	No objection.
27	8/25/01, 8/30/01, 9/1/01, and 9/4/01 Report of Humane Society of Santa Clara Valley Inspection Report of Ringling Brothers (FELD 28607-28617)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
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)	Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
29	7/26/04 Email from Allison Case to Jim Andacht and Mark Gaiipo (FEI 19522)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
30	5/15/98 Letter from Rosemary Vozobule to Ron DeHaven regarding a 3/25/98 concerning an incident at the MCI Center (FELD 330)	Irrelevant and Immaterial (other animal not at issue (monkey)). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
31	3/6/98 Email from Ron DeHaven to Michael Dunn regarding several Ringling Brothers investigations (FELD 00219)	Irrelevant (other animal not at issue (tiger)). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
32	2/5/98 Affidavit of Gary West regarding the elephant Kenny (PL 1537-1539)	Irrelevant (CBW/deceased elephant(s) not at issue). F.R.E 401, 402 Incomplete (FOIA redaction). F.R.E. 106
33	7/5/98 Consent Decision relating to the elephant Kenny (A 1126-1129)	Irrelevant (CBW/deceased elephant not at issue). F.R.E 401, 402
34	Documents concerning the location and transfer of Ringling Brothers elephants (2000-2005) FEI 1453-1456 FELD 5891 FELD 5889 FELD 6022-6023 FELD 6086-6087 FELD 6252-6253 FEI11014 FEI11150	No objection.
35	Regulatory Status of Asian Elephants Currently Owned by Feld Entertainment, Inc. - Summary (Exhibit 1 to Defendant Motion for Summary Judgment, DE 82)	No objection.
36	5/1/05 - 7/16/07 Asian Elephant North American Regional Studbook (PL 16303-16430)	No objection.
37	9/19/07 Defendant Notice of Issues (DE 188)	No objection.
38	5/11/00 Daily Animal Report (FEI 36506)	No objection.
39	Marcy Rosendale's inspection notes from a 7/11/06 inspection (PL 13735-13736)	Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
40	Physical Examination and Diagnostic Procedures (FEI 2358)	Needless cumulative evidence (duplicative of document included in Pls. Will Call Ex. 22). F.R.E. 403
41	2/16/99 Memo from Miava Binkley documenting USDA inspection of Doc and Angelica (FEI 817-818)	Irrelevant (CBW elephants not at issue; weaning not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
42	2/9-10/99 Inspection Report of Ringling Brothers CEC (PL 3 846)	Hearsay within Hearsay. F.R.E. 801, 802, 805 Irrelevant (CBW and deceased elephants not at issue; non-Rider elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Incomplete (FOIA redactions). F.R.E. 106
43	5/11/99 Letter from Ron DeHaven to Julie Strauss regarding the 2/10/99 inspection at Ringling Brothers CEC (FEI 843-844)	Irrelevant (elephants never owned by FEI and CBW elephants not at issue). F.R.E. 401, 402
44	Blue Unit Elephant Husbandry Protocol (FEI 51888-51890)	No objection.
45	Daily Routine for the CEC (FEI 49629)	Irrelevant (CBW and non-Rider elephants not at issue). F.R.E. 401, 402
46	Defendant First and Supplemental Responses to Plaintiffs' Interrogatories (6/9/04, 3/3/05, 1/31/07, and 1/30/08)	No objection.
47	Defendant Response to Plaintiffs Request for Admissions (6/9/04)	Needless cumulative evidence (included in Pls. Will Call Ex. 46). F.R.E. 403
48	7/21/04 Memo from Michael Smith to Dr. Garland regarding a 7/12/04 Ringling Brothers Train arrival inspection (PL 13535-13536)	Irrelevant (Red Unit elephants not at issue) F.R.E. 401, 402 Immaterial (other animal not at issue (lion)) F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Needless cumulative evidence (duplicates Pls. Will Call Ex. 63). F.R.E. 403
49	Transportation Orders	49A: No objection.
49A	Blue Unit Transportation Orders dated 2000-2008 (see Appendix A)	49B: Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
49B 49C	Red Unit Transportation Orders dated 2000-2008 (see Appendix A) Blue and Red Unit Transportation Orders dated 1997-1999 (see Appendix A)	49C: Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402
50	Declaration of Michelle Sinnott and Attachments (Exhibit 37 to Plaintiffs' Motion for Preliminary Injunction, DE 297)	<i>Declaration:</i> Unfair prejudice, confusion of the issues, misleading the trier of fact. F.R.E. 403 Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 <i>Charts Attached to Declaration:</i> Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402
51	Burlington Northern Santa Fe Railroad Documents dated 2007 PL 17118-17120 PL 17225-17227 PL 17460-17462 PL 17133-17138 PL 17229-17231 PL 17499-17501 PL 17145-17148 PL 17234-17237 PL 17662-17666 PL 17172-17177 PL 17258-17263 PL 17687-17691 PL 17178-17183 PL 17353-17354 PL 17707-17708 PL 17212 PL 17381-17383 PL 17711-17713 PL 17212-17213 PL 17384-17386 PL 17736-17741 PL 17216-17218 PL 17387-17391	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Needless cumulative evidence. F.R.E. 403
52	10/16/04 Email from Ellen Wiedner to William Lindsay, Allison Case, and Ramiro Isaza (FEI 33114-33115)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802
53	1/25/02 Email from Todd Willens to Joe DeMike (FEI 17030-17032)	Hearsay. F.R.E. 801, 802
54	7/16/99 Memo from Charles Curren to Dr. Robert Williams documenting a 7/15/99 inspection (PL 2081-2083)	Irrelevant in part (other animals not at issue (alpaca)). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Needless cumulative evidence/Duplicative. F.R.E. 402 (included in



A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
		Pls. Will Call Exs. 1 & 2, "Jewell" file Incomplete (FOIA redactions). F.R.E. 106
55	Undated Memo from S. Taylor to R. Williams documenting a 12/22/98 inspection (FELD 1529-1531)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
56	5/9/05 Ringling Brothers Circus Operations Standard Operating Procedures (FEI 3069-3086)	No objection.
57	5/10/00 Email from Betty Goldentyer to Barbara Kohn regarding Research Proposal (PL 11874)	Hearsay. F.R.E. 801, 802
58	6/18/99 Elephant Daily Report (FEI 22576)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402
59	2/27/01 Daily Animal Record (FEI 36878)	No objection.
60	8/2/01-8/13/01 Daily Animal Record (FEI 36713-36723)	No objection.
61	5/11/06 Animal Welfare Complaint regarding allegations of elephant abuse at Ringling Brothers (PL 13718-13721)	Irrelevant (Red Unit; other animals not at issue (hoofstock)). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Incomplete (Plaintiffs' Redactions). F.R.E. 106
62	8/12/04 Affidavit of Jonathon Griggs regarding Investigation # AZ04156 (PL 13483-13486)	Irrelevant (other animals not at issue (lions)). F.R.E. 401, 402
63	7/21/04 Memo from Michael Smith to Dr. Garland regarding Ringling Circus train arrival inspection (PL 13535-13536)	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Needless cumulative evidence/Duplicative. F.R.E. 402 (Duplicative of Pls. Will Call Ex. 48)
64	Itineraries for Ringling Brothers Red and Blue Units (2001-2007) FELD 1684-1685 FELD 1686-1687	Irrelevant (only as to Red Unit elephants). F.R.E. 401, 402

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
	FELD 1688-1689 FELD 1699 FELD 1690 PL 12056-12057 PL 13595-13596 PL 13588 FELD 1693-1694 FELD 1695-1696 FELD 1697-1698 FELD 1700-1702 PL 12066 PL 13577-13578 PL 13572	
65	Friend, Ted, Transportation and Management of Circus Animals, Transportation of Circus Elephants, July 2001 (FELD 2210-2317)	No objection.
66	5/3/99 Daily Animal Report (FEI 22645)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402
67	10/17/99 Daily Animal Report (FEI 22670)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402
68	10/22/99 Daily Animal Report (FEI 22672)	Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402
69	Elephant Husbandry Care Ringling Bros, and Barnum & Bailey Circus (FEI 13060)	No objection.
70	USDA Animal Care Resource Guide, 10/13/98 Policy #6 (FELD 2453-2454)	No objection.
71	USDA Animal Care Resource Guide, 4/1/98 Policy #21 (F 3348-3349)	Irrelevant and Immaterial (TB not at issue). F.R.E. 401, 402
72	9/5/97 Animal Care Inspection Report (FELD 001 -002)	No objection.
73	3/2001 AZA Standards for Elephant Management and Care (PL 10938-10950)	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 801, 802
74	5/2003 AZA Standards for Elephant Management and Care (API 1424-1437)	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 401, 402
75	AZPA Guidelines for Management of Elephants in Captivity (F 3403-3408)	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 401, 402

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
76	2002 Feld Entertainment Standards and Guidelines for Animal Care and Management (FEI 438-467)	Confusion of the issues; misleading the trier of fact. F.R.E. 403. Plaintiffs have selected a single document from 2002 relating to animal care and management; however, multiple, more current documents relating to animal care and management have been produced in discovery. Defendant objects to plaintiffs' reliance on such a document that is superseded and/or supplemented by other FEI documents.
77	9/3/94 Memorandum from Richard Froemming to Richard Houck regarding Guide for Animal Handlers (FEI 486-489)	Irrelevant (date). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802
78	2/5/01-2/10/01 AZA Principles of Elephant Management, Wheeling, WV, conducted by American Zoo & Aquarium Association (PL16732-16998)	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Incomplete. F.R.E. 106
79	The Elephant Managers Association Inc. Guidelines for Elephant Management and Care (FEI 3215-3225)	No objection.
80	Roocroft, Alan and Zoll, Donald Atwell, Managing Elephants: An Introduction to Their Training and Management, 1994 (PL 11245)	Hearsay. F.R.E. 801, 802
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)	No objection.
82	Complaint, ASPCA et al. v. Feld Entertainment, Inc. et al., Civ. No. 03-2006 (EGS/JMF) Supplemental Complaint ASPCA et al. v. Feld Entertainment, Inc. et al., Civ. No. 03-2006 (EGS/JMF)	No objection.
83	5/14/02 Invoice, Check Request, and Check concerning the purchase of 40 bullhooks for \$12,000 from Charlie	No objection.

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
	Gray (FELD 3295-3297)	
84	September 2005 USDA/APHIS Audit Report; APHIS Animal Care Program Inspection and Enforcement Activities (PL 10817-10876)	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 801, 802
85	3/29/07 Letter from Elizabeth Goldentyer to Robert Huttenlocker regarding Case #VA07015(PL 13841)	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Incomplete (Plaintiffs' Redaction). F.R.E. 106
86	Documents reflecting the origin of Ringling Brothers elephants (DX 5 and DX7 to Defendant Motion for Summary Judgment, DE 82)	No objection.
87	2/15/01 Affidavit of Gary West regarding the investigation of the Doc and Angelica incident (PL 4104-4108)	Irrelevant (CBW elephants not at issue; weaning not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Authenticity (lack of foundation). F.R.E. 901 Incomplete (FOIA redaction). F.R.E. 106
88	8/9/01 Letter from Jeannie Perron to Ron Dehaven regarding a previous letter to Feld Entertainment, Inc. of July 23, 2001 (PL 4145)	Irrelevant (CBW elephants not at issue; weaning not at issue). F.R.E. 401, 402
89	8/10/01 Letter from Ron DeHaven to Jeannie Perron (PL 4147)	Irrelevant (CBW elephants not at issue; weaning not at issue). F.R.E. 401, 402
90	3/28/00 Letter from Julie Strauss to Ron Dehaven regarding a February 1999 inspection at the CEC (FELD 25632-25633)	Irrelevant (CBW elephants not at issue; weaning not at issue). F.R.E. 401, 402 Plaintiffs mistakenly represent that Ex. 90 contains only the documents listed by Bates number in the "description". However,

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
91	Plaintiffs' 60-Day Notice Letters (12/21/98, 11/15/99, 4/12/01, 7/22/05)	the documents contained in Ex. 90, as provided on DVD and hard drive by plaintiffs, also contains FELD 25634. Defendant therefore objects to plaintiffs' use of this exhibit without this page (FELD 25634)
92	Documents reflecting Animal Protection Institute's Circus Advocacy Work API 4827-4937, API 5549-5704, API 2868-2873, API 7203-7206, API 7256-7259	<p>API 4827-4937; API 5549-5704: Irrelevant (CBW/deceased elephants; weaning not at issue) and Immaterial (other circuses (Shrine Circus; Carson &amp; Barnes; Clyde Beatty Cole Bros.); zoos (El Paso Zoo, Los Angeles Zoo); other animals; electric prod). F.R.E. 401, 402 Confusion of the issues, misleading the trier of fact, needless cumulative evidence/duplicative. F.R.E. 403 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 API 2868-2873; API 7203-7206; API 7256-7259: No objection.</p>
	API Website (current)	<p>API Website: Pursuant to ¶8 of the First Amended Pretrial Order, the parties were ordered to exchange copies of exhibits no later than September 16, 2008. Plaintiffs have not provided any document in connection with Ex. 101. Plaintiffs have not provided any document in connection with Ex. 92. Defendant therefore objects as there is no exhibit to review for objections and/or accuracy. The exhibit therefore should be excluded. However, if plaintiffs are permitted to use this exhibit at trial, Defendant reserves all objections to this exhibit after having the opportunity to review it. <i>Supplemental Interrogatory Responses (9/24/07):</i></p>

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
93	API Third Supplemental Interrogatory Responses (9/24/07) 7/21/00 Memo from Diane Ward to Robert Gibbens (PL 12609-12611)	Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 No objection.
94	Media concerning Tom Rider and the Ringling Brothers Circus Exhibit 94A Print Media (see Appendix A) Exhibit 94B Broadcast Media (see Appendix A)	94A: Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 94B: Defendant has no objection to Tom Rider's statements only. As to the other statements contained on this video footage, defendant objects as follows: Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Confusion of the issues; misleading the trier of fact. F.R.E. 403
95	Legislation regarding Circus Practices PL 05405-05410 FEI38603 API 1886 API 1912-1916 API 5005-5011 API 4955-4957 API 1853-1855 API 4977-4979 API 1850-1852 API 1840-1849 API 1888-1893 API 2013-2015 API 1909-1911 API 1880-1883 API 1976-1979 API 1859-1879 API 1962-1963 API 1993 API 4938-4939 API 1398-1402 API 3751-3752 API 0653-0670 API 0639-0642 PL 08731-08734	Irrelevant and Immaterial (multiple, unrelated proposed/adopted/rejected legislation) F.R.E. 401, 402  Needless cumulative evidence; confusion of the issues; misleading the trier of fact; waste of time. F.R.E. 403 Hearsay. F.R.E. 801/802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Authenticity (lack of foundation). F.R.E. 901 Incomplete. F.R.E. 106
96	Feld Entertainment & Subsidiaries tax form number 1120 (2004) (Exhibit H to Plaintiffs' Opposition to Defendant Motion for Summary Judgment, DE 96)	Irrelevant. F.R.E. 401, 402
97	Dukevich, David Forbes Face: Kenneth Feld, Forbes.com, 1/9/01 (PL 5917-5918)	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 801; 802 Hearsay within Hearsay F.R.E. 805

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
98	8/6/04 Email from Kenneth Feld regarding Riccardo (FEI 30193)	Irrelevant. (CBW/deceased elephant not at issue) F.R.E. 401, 402
99	2006 Ringling Brothers and Barnum & Bailey Animal Care Brochure (PL 15735)  Kirtland, John, Ort-Mabry, Catherine, and Jacobson, Gary, Endangered Species? Not If We Can Help It. Reproductive Success at Ringling Brothers Center for Elephant Conservation (FEI 719-749)	PL 15735: No objection.  FEI 719-749: No objection.
100	Excerpts, Ringling Brothers Website (7/24/08) Show and Ticket Information Animal Care FAQ, Answers by Bruce Read Amazing Animals Awesome Elephants; CEC Animal Care; Get the Answers  Excerpts, Center for Elephant Conservation Website (7/24/08) Home About the Center for Elephant Conservation Safety and Comfort in a Pristine Wilderness Ringling Bros. Center for Elephant Conservation Facts & Figures Asian Elephants by the Numbers The Nursery A Year in the Life of an Asian Elephant Elephants Born in Ringling Bros. Breeding Program Research & Conservation Ringling Bros. Center for Elephant Conservation Media Contact Information	Excerpts, Ringling Brothers Website (7/24/08): Confusion of the issues. F.R.E. 403 (Ex. 100 as assembled suggests it is one document; additional partial documents from other years have been merged into the same document/exhibit). Otherwise no objection.  Excerpts, Center for Elephant Conservation Website (7/24/08) No objection.
101	Excerpts, Ringling Brothers Website (Current)	Pursuant to ¶8 of the First Amended Pretrial Order, the parties were ordered to exchange copies of exhibits no later than September 16, 2008. Plaintiffs have not provided any document in connection with Ex. 101. Defendant therefore objects as there is no exhibit to review

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
102	Documents reflecting the TB status of Ringling Brothers Elephants (see Appendix A)	<p>for objections and/or accuracy. The exhibit therefore should be excluded. However, if plaintiffs are permitted to use this exhibit at trial, Defendant reserves all objections to this exhibit after having the opportunity to review it.</p> <p>Irrelevant (CBW; deceased; Red Unit, and non-Rider elephants) and Immaterial (elephants never owned by FEI not at issue; TB not at issue). F.R.E. 401, 402</p> <p>Needless cumulative evidence/waste of time. F.R.E. 403. Plaintiffs have grouped approximately 633 pages of test results (many irrelevant and immaterial) together as a single exhibit making it needlessly cumulative and unwieldy.</p> <p>Defendant also objects to plaintiffs' misleading characterizations in "Appendix A" to Ex. 102. In Exhibit A plaintiffs group multiple trunk wash test results under the heading "TB + Trunk Washes"; however, not every test result in this category is a positive trunk wash as plaintiffs represent to the Court. See, e.g. FELD 10788, FELD 13022, FELD 14641; FELD 14642; FELD 14643; FELD 15105; FELD 15312; FELD 25029; FELD 25030; FELD 25164.</p>
103	<p>Guidelines for the Control of Tuberculosis in Elephants (Oct. 2008, March 2008, 2003, Oct. 2002, Jan. 2000, Nov. 1997)</p> <p>PL 11034-11061      FELD 14386-14422                      FELD 29774-29814  <a href="http://www.usaha.org/committees/tb/tb.shtm">http://www.usaha.org/committees/tb/tb.shtm</a></p>	<p>Defendant objects to the compilation of unrelated documents into a single exhibit. Exhibit 103 contains draft and final guidelines for various years, including other documents that are not "guidelines" (i.e. USDA correspondence; necropsy protocol).</p> <p>"Oct. 2008" document:                      Defendant objects to this document as irrelevant and immaterial (F.R.E. 401, 402) (TB not at issue) (document is a "draft" and is not in final form).                      Hearsay F.R.E. 801, 802</p>



**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
		<p>Authenticity F.R.E. 901</p> <p><i>“March 2008” document:</i>                      Defendant objects to this document as it contains no Bates label and therefore it is unclear if plaintiffs are providing this for the first time or whether this has previously been produced in discovery.                      Defendant objects to this document as irrelevant and immaterial (F.R.E. 401, 402) (TB not at issue) (document is marked at a “draft” and is not in final form). Hearsay F.R.E. 801, 802                      Authenticity F.R.E. 901</p> <p><i>FELD 0029774:</i>                      Irrelevant and immaterial (TB not at issue). F.R.E. 401, 402</p> <p><i>PL 11034:</i>                      Irrelevant and immaterial. (TB not at issue) (document is a “draft” and is not in final form) F.R.E. 401, 402                      Hearsay F.R.E. 801, 802                      Authenticity F.R.E. 901</p> <p><i>FELD 0014386:</i>                      Irrelevant and Immaterial. (TB not at issue). F.R.E. 401, 402                      Hearsay. F.R.E. 801, 802                      Hearsay within Hearsay. F.R.E. 801, 802, 805</p> <p><i>FELD 0014401:</i>                      Irrelevant and Immaterial. F.R.E. 401, 402 “Elephant Necropsy Protocol” produced by the AZAA is not related to any issue in this case.                      Hearsay. F.R.E. 801, 802</p>

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
104	USDA Animal Care Resource Guide, 1/14/00 Policy #3 <a href="http://www.aphis.usda.gov/animalwelfare/downloads/policy/policy3.pdf">http://www.aphis.usda.gov/animalwelfare/downloads/policy/policy3.pdf</a>	FEI objects to the mischaracterization of Exhibit 104. Plaintiffs' description of this document indicates a date of "1/14/00" and the document itself lists a date of 7/17/07.
105	Irrelevant. F.R.E. 401, 402	Defendant objects to this document as it was never produced by plaintiffs in discovery.
106	5/12/06 Letter from Michelle Pardo to Kimberly Ockene regarding the production of elephant veterinary records	Irrelevant. (Discovery dispute no longer at issue). F.R.E. 401, 402
107	9/7/00 Inspection Report of Ringling Brothers (FEI 629)	No objection.
108	5/3/06 Inspection Report of Ringling Brothers CEC (PL 13566)	No objection.
109	6/9/98 Inspection Report of Ringling Brothers CEC (FELD 063-064)	No objection.
110	8/27/01 Memorandum from Charmain Zordan to Diane Ward regarding additional information on Investigation #CA00136-AC (PL 4607)	Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Incomplete. F.R.E. 106
111	Internal Ringling Brothers Notes concerning an 6/9/04 inspection by the Ashville Animal Services (FEI 10893)	Irrelevant. (Gold Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805
112	Trial Testimony of Kenneth Feld, People for the Ethical Treatment of Animals v. Kenneth Feld, et al., No. 024452 (Cir. CT. Fairfax County, VA) (March 9, 2006, at 1894-2118)	Irrelevant. F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Incomplete. F.R.E. 106
112	7/2004 - 8/2004 Handwritten Notes Regarding the	Irrelevant (deceased elephant not at issue; non-Rider elephants not at issue). F.R.E. 401, 402

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
113	Elephant India (FELD 9753) Plaintiffs' Expert Reports and Exhibits	Pursuant to ¶6 of the First Amended Pretrial Order, the parties have been directed to provide expert reports and summary thereof to the Court by September 29, 2008. <u>Daubert</u> objections are reserved for trial. Defendant further understands that the Court is not accepting reports in lieu of live testimony.  Needless cumulative evidence and waste of time F.R.E. 403  No objection as to video included in PIs. Will Call Ex. 113.
114	9/29/05 Declaration of Archele Hundley (API 6241 - 6248) 12/13/06 USDA Affidavit of Archele Hundley (PL 14350-14354)	<i>API 6241-6248:</i> Irrelevant (Red Unit elephants not at issue) F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay, F.R.E. 801, 802, 805  <i>PL 14350-14354:</i> Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Incomplete (Plaintiffs' redactions). F.R.E. 106
115	10/10/06 Declaration of Robert Tom, Jr. (API 6235-6240) 4/4/07 USDA Affidavit of Robert Tom, Jr. (PL 14501-14502)	<i>API 6235-6240:</i> Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay, F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 805  <i>PL 14501-14502:</i> Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Incomplete (Plaintiffs' Redactions). F.R.E. 106

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
116	<p>1/13/06 Letter from Margaret Tom to The Honorable Richard Daley regarding elephant abuse at Ringling Brothers (PL 10936)</p> <p>4/4/07 USDA Affidavit of Margaret Tom (PL 14503-14504)</p>	<p><i>PL 10936:</i> Hearsay. F.R.E. 801, 802 Irrelevant (Red Unit elephants not at issue) F.R.E. 401, 402</p> <p><i>PL 14503-14504:</i> Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402 Hearsay. F.R.E. 801, 802 Hearsay within Hearsay. F.R.E. 801, 802, 805 Incomplete (Plaintiffs' redactions). F.R.E. 106</p>
117	<p>Photographs of Ringling Brothers Elephants</p> <p>FEI 15434-15437 FEI 7940-7943 FEI 7970-7971, FEI 7984-7985, FEI 7990-7991 FEI 7998-7999 FEI 8016-8017 FEI 8047-8049 FEI 8058-8059 FEI 8070-8075 FEI 8080-8081 FEI 8085-8090 FEI 8106-8121 FEI 8124-8125 FEI 8150-8154 FEI 8161-8162 FEI 8168-8169 FEI 8175-8188 FEI 8223-8225 FEI 8232-8243 FEI 8248-8251 FEI 8257-8268 FEI 8283-8284 FEI 12201-12202</p>	<p>No objection.</p> <p>Plaintiffs mistakenly represent that Ex. 117 contains all the photographs listed by Bates number in the "description". However, the documents contained in Ex. 117, as provided on DVD and hard drive by plaintiffs, do not contain the following: FEI 15434-15435; FEI 8110-8119; FEI 8172-8174. Defendant therefore objects to plaintiffs use of any exhibit that it has not had the opportunity to review for accuracy and object accordingly.</p>
118	<p>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> <p>PL 15010 PL 14992 PL 15000 PL 15143 PL 15145 PL 15148 PL 15150 PL 15051 PL 15072 PL 15086 PL 15018 PL 15017</p>	<p>No objection.</p>

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
	PL 15121 PL 15118 PL 15543 PL 15548 PL 15600 PL 15601 PL 15602 PL 15652 PL 15661 PL 15688 PL 15725 PL 15727	
119	8/23/99 Photographs taken by Christine Franco as part of a Santa Clara Humane Society Inspection of Ringling Brothers (PL 8318-8361)	Irrelevant (Red Unit; elephants never owned by FEI not at issue). F.R.E. 401, 402 Authenticity. F.R.E. 901
120	Photographs taken during 8/25/01 - 9/4/01 Humane Society of Santa Clara Valley Inspection of Ringling Brothers (FELD 28620-28625, FELD 28674-28677, FELD 28391)	Irrelevant (Red Unit; elephants not at issue). F.R.E. 401, 402 Authenticity. F.R.E. 901
120A	Color Prints of Photos in Exhibit 120 (FELD 28674 and FELD 28677)	No objection.
121	"Ringling Abuse" (PL 07074)	Mistakenly labeled exhibit that actually consists of two separate items totaling more than five hours of video material. The part labeled "121-A" is a two hour, four minute and twelve second (2:04:12) compilation of video footage that is edited; has no continuity; cuts in and cuts out; jumps back and forth date-wise, portrays immaterial animals such as camels, horses, burros, zebras, alpacas and cows; contains self-serving commentary from the camera person; records unidentified people repeating what other unidentified people allegedly have said; portrays elephants that are not at issue in the case (Red Unit, non-Rider Blue Unit & CBW elephants) and contains video footage that is duplicative of footage contained in another exhibit (Pls. Will Call Exs. 123, 128, 129 & 132). No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact,

**A. Exhibits Plaintiffs Expect To Offer:**

<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION</b>	<b>OBJECTION</b>
		<p>delay, waste of time and cumulative effect. F.R.E. 403</p> <p>The part labeled "121-B" is a three-hour, one minute and forty second (3:01:40) compilation of edited video clips, most of which consists of material regarding immaterial animals (horses, tigers, bears, dogs, camels, goats, alpacas); portrays elephants not at issue (Red Unit, non-Rider Blue Unit and CBW elephants); contains self-serving commentary and other hearsay statements by camera operators and others in vicinity of same; contains news footage and editorial commentary; and duplicates material contained on other exhibits (Pls. Will Call Exs. 123, 124, 128 &amp; 129).</p>
122	<p>PETA "Ringling Bullhooking Incidents in Greenville, SC on 2/1/06 (00-43:15) and 2/3/06 (26:58 - end) (PL 08982)"</p>	<p>Forty-three minute, thirty-five second (43:35) compilation of video footage that is not continuous, with numerous breaks in the filming; contains approximately ten minutes of footage that is too dark to see anything; portrays elephants that are not at issue in the case (non-Rider Blue Unit &amp; CBW elephants); and portrays immaterial animals such as horses, burros, sheep and alpacas. No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Marginal relevance outweighed by confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403</p>
123	<p>Pat Cuiello Compilation (PL 07069)</p>	<p>One hour and seven minute (1:07:00) compilation of video footage that is nothing more than an advocacy piece with self-serving commentary spliced in with irrelevant elephant and television news broadcast footage; is edited; has no continuity, cuts in and cuts out, with some segments as short as five seconds, jumps back and forth date wise, portrays immaterial animals such as camels, horses, zebras and tigers; contains self-serving commentary from the camera person; portrays elephants that are not at issue in the case (Red Unit, non-Rider Blue Unit, CBW and deceased elephants not at issue); portrays deceased individuals; contains video footage that is</p>

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
124	1987 Footage - PAWS Ringling Bros. Elephant Complaint (PL 070660)	<p>duplicative of footage contained in another exhibit (Pls. Will Call Ex. 121-A, 121-B, 128, 129 &amp; 132); and has nearly twenty-three (23) minutes of footage that is totally black with no images or audio at all. No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403</p> <p>Thirty-one minute compilation of video footage that is an advocacy piece by a nonparty based upon material described to be more than twenty-one (21) years old, that contains self-serving commentary and quotations from deceased individuals, is edited, portrays immaterial animals such as white rhinos, chimpanzees, and horses; portrays elephants that are not at issue in the case (Red Unit and deceased elephants); portrays deceased individuals; portrays the elephants owned by another circus (Circus Vargas); has footage that duplicates the footage on another exhibit (Pls. Will Call Exs. 121-B, 123 &amp; 132); and has more than ten (10) minutes of footage that is that is simply snow with no images or audio at all. No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403</p>
125	Ringling Bro's in Mexico 5/9/98-8/11/06 (PL 08979, Exhibit H to Edward Stewart's Deposition)	<p>Mistakenly labeled exhibit actually consists of two separate videos. First item is an eleven minute, thirteen second (11:13) compilation of edited video clips from an animal unloading and walk in Mexico ten (10) years ago with spliced in edited clips from an unidentified performance that portrays elephants not at issue (Red Unit and CBW elephants); portrays deceased individuals; contains commentary of bystanders and self-serving verbal attacks by the camera operator;</p>

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
		<p>portrays immaterial animals (horses and camels); contains several obvious breaks in the tape; and duplicates material in another exhibit (Pls. Will Call Ex. 133). No foundation due to lack of authentication. F.R.E. 901. Hearsay. F.R.E. 801, 802. Irrelevant. F.R.E. 401, 402. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403</p> <p>Second item is a twenty minute, fourteen second (20:14) version of the same material that is on the first video and is objected to on the same grounds as are set forth for the first video.</p> <p>Typographical error in date range of plaintiffs' "description" of Ex. 125.</p>
126	Carson & Barnes Elephant Training (PL 14918)	<p>Highly edited, apparently surreptitious, video of the actions of an individual (Tim Frisco) employed by another circus interacting with an employee of, and elephants owned by, another circus. No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403</p>
127	Footage of Austin Texas, July 2, 2006 (API 7166)	<p>Selectively edited altered/doctored video footage of elephants that are not at issue in this case (Red Unit and CBW elephants), complete with self-serving commentary by camera operators. No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403</p>



A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
128	<p>Ringling - Angelica &amp; Sara chained &amp; Swaying (PL 08980)</p> <p>#18 Ringling Bro's Oakland, Ca Aug 04 Violations 2-131(2)(1) Exhibit 3A to VA 05008 USDA Investigation (PL 14913)</p>	<p>The first video clip, which is misleadingly labeled as portraying two specific elephants, actually is a nineteen minute, twenty second (19:20) compilation of at least twelve (12) unconnected, highly edited clips of multiple elephants at different times and different locations. Compilation contains misleading special effects and self-serving labeling; portrays elephants not at issue (Red Unit, non-Rider Blue Unit and CBW elephants); and duplicates material contained on other exhibits (Pls. Will Call Exs. 121-A, 121-B, 123, 129, 132, &amp; 133). No foundation due to lack of authentication. F.R.E. 901. Hearsay. F.R.E. 801, 802. Irrelevant. F.R.E. 401, 402. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403</p>
129	<p>"Ringling Greatest Hits" (201 mins) (PL 07083)</p>	<p>Forty-nine minute, twenty-five second (49:25) compilation of video footage that is highly edited; jumps around date-wise; contains self-serving, profanity-laced commentary from camera operator or bystander; portrays immaterial animals (camels, zebras and tigers); portrays elephants not at issue in this case (Red Unit, non-Rider Blue Unit and CBW elephants); duplicates footage contained in other exhibits (Pls. Will Call Ex. 121-A, 121-B, 123, 128 &amp; 132); and contains more than twenty-six (26) minutes of snow with no images or audio at all. No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403</p>
130	<p>Ringling Brother's Elephants chained in boxcars, March 2000 (PL 08970)</p>	<p>Totally duplicative of material contained on Pls. Will Call Ex. 133. No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Marginal relevance</p>

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
131	RB Blue Unit; Oakland, CA, San Jose, CA: Parking lot scene @6:45:35 7/11/06 (PL 08963)	outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403.
132	Compilation of video footage of elephants from 1987-2004 (Produced to Defendant on 3/20/08 along with Plaintiffs Expert Reports)	No objection.  Thirty-nine minute, thirty-two second (39:22) compilation of video footage that is edited, jumps around without continuity date-wise, portrays elephants not at issue in this case (Red Unit, non-Rider Blue Unit and CBW elephants), contains self-serving commentary by the video operators and duplicates footage contained on other exhibits (Pls. Will Call Exs. 121-A, 123, 128 & 129). No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403
133	Compilation (May 6, 2005) (Produced to Defendant' on 3/20/08 along with Plaintiffs Expert Reports) (PL 08970, PL 08963, PL 08980, PL 08979, FELD-VID 0004, PL 08969)	No objection to the approximately fourteen (14) minutes of material contained between the following timer locations: 1:02:45 through 1:17:24.  Remainder of exhibit (approximately one hour and fifty minutes) is a compilation of unrelated footage that portrays elephants that are not at issue (Red Unit, non-Rider Blue Unit, CBW and deceased elephants); portrays deceased individuals; contains unrelated segments that are edited, garbled and jump around; duplicates information already contained on other exhibits (Pls. Will Call Exs. 125, 128 & 130 & 134); and contains approximately fifty (50) minutes of nothing but snow with no video or audio at all. No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Marginal relevance outweighed by unfair

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
134	Blue Unit; Oakland & San Francisco (PL 08964)	prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403
135	Compilation of Defendant Video Footage (Provided to Defendant on 6/10/08) FEI40979 FEI45189 FEI45221 FEI45190 FEI45191 FEI40964 FEI40973 FEI45229 FEI45233 FEI45193 FEI45204 FEI45245 FEI45194 FEI45196 FEI45198 FEI45215 FEI45216 FEI40966	Irrelevant and Immaterial (other animals). F.R.E. 401, 402 Hearsay (spoken comments). F.R.E. 801, 802 <i>Excerpt #1 from FEI 40979:</i> Irrelevant. F.R.E. 401, 402  <i>Excerpt #6 of FEI 40964; Excerpt #8 of 45229; Excerpt # 9 of FEI 45229; Excerpt #17 of FEI 45216 (Clips #1-3):</i> Irrelevant (Red Unit elephants not at issue). F.R.E. 401, 402  No objection to remainder of exhibit.
136	Compilation of Defendant Performance Footage (Provided to Defendant on 6/10/08) FEI 45220 FEI 0022 FEI 00024 PL 08969 FEI 3241	<i>Clips # 1 and 2 from Excerpt 2 from FEI 10353:</i> Irrelevant (contained in the exhibit but omitted from the exhibit description) (portrays Red Unit and deceased elephants not at issue) and portrays a deceased individual. F.R.E. 401, 402  <i>Clip # 2 from Excerpt 5 from FEI 0023:</i> Irrelevant (portrays an elephant not at issue (not owned by FEI) and is a promotional piece for a clown). F.R.E. 401, 402  <i>Excerpt #6:</i> Irrelevant (CBW elephants not at issue). F.R.E. 401, 402  No objection to remainder of exhibit.
137	Compilation of PETA Footage (Provided to Defendant on 6/10/08) (PL 16717, API 7166)	Four minute and twelve second (4:12) compilation of footage that is highly edited, cut into very short segments, and altered/doctored;

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
138	PETA Alleged Animal Welfare Act Violations by Ringling Bros. February -March 2006 (PL 16717)	portrays elephants not at issue (Red Unit, non-Rider Blue Unit and CBW elephants); contains self-serving commentary by videographer; contains argumentative and false statements of fact; and duplicates material contained on other exhibits (Pls. Will Call Exs. 122 & 127). No foundation due to lack of authentication. F.R.E. 901. Hearsay. F.R.E. 801, 802. Irrelevant. F.R.E. 401, 402. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403
139	Training & Rehearsal Footage from Defendant (Provided to Defendant on 6/10/08)  FEI 40988 FEI 004 FEI 0022 FEI 40976 FELD-VID 0004 FEI 40956 FEI 40979 FEI 0001 FEI 40981 FEI40959	Nine minute, thirty-four minute (9:34) compilation of video footage that contains misleading special effects; portrays elephants not at issue (Red Unit elephants); contains self-serving commentary and duplicates footage on another exhibit (Pls. Will Call Ex. 122). No foundation due to lack of authentication. F.R.E. 901. Hearsay. F.R.E. 801, 802. Irrelevant. F.R.E. 401, 402. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403  No objection.
140	Plaintiffs Training Footage Compilation (Provided to Defendant on 6/10/08) (PL 07077, PL 14918, PL 09043,	Fifty-five minute, thirty-nine second (59:39) compilation of alleged elephant "training" footage which portrays elephants that are not

A. Exhibits Plaintiffs Expect To Offer:

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
PL 090444)		owned by FEI, portrays personnel who are not employed by FEI; contains news commentary spliced into the video, and duplicates material contained on another exhibit (Pls. Will Call Ex. 126). No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403
141	Baby Riccardo - Raw Birth Footage - unedited (FELD-VID 006, FEI 0019)	Irrelevant (CBW/deceased elephant not at issue; breeding not at issue). F.R.E. 401, 402
142	Video footage of the Rule 34 Inspection at the Center for Elephant Conservation outside Polk City, Florida (11/29/07)	No objection.
143	Video footage of the Rule 34 Inspection of the Blue Unit in Auburn Hills, Michigan (11/13/07)	No objection.
144	"Our Girls Video" - The Elephant Sanctuary - www.elephants.com (PL 08973)	Nine minute, fifty-seven second (9:57) video, apparently for fundraising purposes, of elephants at facility operated by one of plaintiffs' expert witnesses. Tape is irrelevant because it portrays elephants not at issue (owned by someone other than FEI) and immaterial because it could only go to a claim for relief (forfeiture) that has been abandoned. F.R.E. 401, 402. Also contains hearsay. F.R.E. 801, 802. Any marginal relevance is outweighed by the misleading nature of this exhibit. F.R.E. 403

**A. Exhibits Plaintiffs Expect To Offer:**

<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION</b>	<b>OBJECTION</b>
145	<p>Surveillance Video from Madison Square Garden Ex. 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 Temistocles Nadal's Deposition (February 8, 2005)</p> <p>Surveillance Video from the MCI Center Ex. 2-9 to David Clarence's Deposition (August 10, 2004)</p>	<p>Madison Square Garden item is footage that portrays multiple images of large bags of cotton candy and contains no reviewable footage of elephants. Irrelevant. F.R.E. 401, 402. Needless cumulative evidence, waste of time. F.R.E. 403</p> <p>MCI Center collection is approximately twenty (20) hours of security footage portraying immaterial animals (horses) and elephants not at issue (Red Unit elephants). Irrelevant. F.R.E. 401, 402. Needless cumulative evidence, waste of time. F.R.E. 403</p>
146	Pat CuvIELlo Recent Compilation - Ringling '05 and '06 (PL 17095)	Video footage purports to contain one hour, twenty-nine minutes and forty-two seconds of material (1:29:42) but actually contains about eight minutes and twenty seconds (8:20) of footage. From counter point 8:19 to the end the video is inoperable. Operable contents consist of twelve highly edited segments of approximately 10-20 seconds each, that portray elephants not at issue (Red Unit and CBW elephants) and contain commentary by the camera operator. No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Hearsay within hearsay. F.R.E. 805. Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403
147	Video of Santa Clara Humane Society Inspection, San Jose, CA (7/99) (PL 08962)	Twenty-five minute, thirty-three second (25:33) tape that portrays elephants not at issue (Red Unit and CBW elephants and elephants not owned by FEI); portrays immaterial animals (alpacas, goats, yaks, zebras, camels, tigers, dogs, pigeons and cats); contains a sixty-second gap with audio and no video recording multiple conversations of several unidentified people; and contains several minutes of unviewable footage due apparently to cameraman dangling camera from neck while running. No foundation due to lack of authentication. F.R.E. 901. Irrelevant. F.R.E. 401, 402. Hearsay. F.R.E. 801, 802. Hearsay within hearsay. F.R.E. 805.

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
148	Hershey Animal Care Shoot, Tape 4 of 5 5/27/04, AC2004-004-01 (FEI 145224)	Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay, waste of time and cumulative effect. F.R.E. 403
149	#8 Interviews with: Kenneth Feld, Gunther Gebel Williams; Gunther's Triumphant Return RB000-381-R (FEI 45200)	Video compilation of footage, labeled as forty-two minutes and forty one seconds (42:41) in length, but actually containing nearly sixteen (16) minutes of blank space, that portrays irrelevant animals (horses) and contains hearsay statements of unidentified persons. Objection to the portion of the tape containing the farrier as irrelevant and immaterial, F.R.E. 401, 402 and to the hearsay. F.R.E. 801, 802
150	Baby 1/4/1996 (FEI 10362, 10368)	Video labeled as twenty minutes and forty-four seconds (20:44) (five (5) minutes of which is totally blank) containing statements having nothing to do with elephants by, inter alia, a deceased person and footage of immaterial animals not at issue (tigers). Irrelevant. F.R.E. 401, 402
"Chart A"	Elephants Born to Feld Entertainment, Inc. – Summary (Def. Ex. 69)	Irrelevant (non-Rider and CBW elephants). F.R.E. 401, 402  Irrelevant on the ground that it is inaccurate because changes have occurred with respect to this group of elephants since the preparation of Def. Ex. 69. F.R.E. 401, 402. FEI has updated exhibit 69, and has no objection to the latest version, which is being provided to the Court and plaintiffs on Tuesday, January 13, 2009.
"Chart B"	Elephants Owned by Feld Entertainment as of 9/5/06 (based entirely on information obtained from Feld Entertainment.)	Irrelevant and misleading because it does not accurately represent the demographic information on the elephants, does not accurately portray information from the FEI exhibit upon which this chart purports to be based and is incomplete in material respects. F.R.E. 401, 402. Even if this chart were relevant, accurate and complete, it is unnecessarily cumulative because it duplicates information already contained in Pl. Will Call Ex. 35 as to which FEI has made no objection.

**A. Exhibits Plaintiffs Expect To Offer:**

EXHIBIT NUMBER	DESCRIPTION	OBJECTION
"Chart C"	Feld Entertainment Employees that May be Mentioned at Trial (based entirely on information obtained from Feld Entertainment.)	<p>FEI objects to this chart as inaccurate, misleading, immaterial and irrelevant. Plaintiffs did not serve FEI with a written interrogatory regarding the human resources information in this chart, nor was it a designated topic for FEI's Rule 30(b)(6) deposition. <u>See</u> FEI's Objections to Plaintiffs' Rule 30(b)(6) Deposition Notice. Accordingly, most of this information is based simply on witness recollection, which may or may not be correct, rather than being "based entirely on information obtained from Feld Entertainment" as plaintiffs claim.</p> <p>F.R.E. 103                      Irrelevant. F.R.E. 401, 402.                      Marginal relevance outweighed by unfair prejudice, confusion of the issues, misleading the trier of fact, undue delay; waste of time and cumulative effect. F.R.E. 403                      Lack of personal knowledge. F.R.E. 602                      Improper and inaccurate summary based on, <i>inter alia</i>, deposition testimony and not "voluminous writings, recordings or photographs which cannot conveniently be examined by the court." F.R.E. 1006</p>