

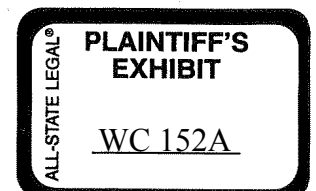
Additional Designations of Deposition Testimony
for FEI Rule 30(b)(6) Witness Gary Jacobson (Jan. 18, 2008)

Transcript Designations

182:06 - 182:12; 186:04 - 186:07; 187:02 - 187:05; 189:04- 189:07; 192:20 - 193:01; 200:22 - 201:04; 202:04 - 202:21; 203:05 - 203:15; 203:18 - 204:22; 205:13 - 205:17; 206:02 - 206:07; 208:03 - 208:20; 210:18 - 211:11; 211:15 - 212:02; 212:07 - 213:09; 214:06 - 214:22; 215:09 - 215:12; 217:08 - 218:03; 218:18 - 218:22; 219:03 - 221 :10; 226:08 - 226:22; 227:15 - 230:01; 236:21 - 237:09; 263:20 - 263:21

Video Designation

video footage corresponding to 264:03 - 264:19



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C-O-N-T-E-N-T-S

WITNESS

EXAMINATION BY COUNSEL FOR

GARY JACOBSON

PLAINTIFFS

By Ms. Meyer

5

E-X-H-I-B-I-T-S

NO.

IDENT.

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(Original Exhibits 1-17, 20-21 attached.)

(Original Exhibits 18 & 19 retained by Ms. Meyer.)

1 blue unit whose name is Peshta?

2 MS. JOINER: Objection to form.

3 A. No.

4 BY MS. MEYER:

5 Q. Peshta. Anything like that?

6 A. No.

7 Q. He worked on the blue unit with Troy

8 Metzler and Alex Vargas in 2004, 2005?

9 MS. JOINER: Objection to form.

10 BY MS. MEYER:

11 Q. Do you know that name?

12 A. I know the name but he's on the red

13 show.

14 Q. Oh, he's on the red show?

15 A. I've never anyone him to be on the

16 blue show, unless I missed it.

17 Q. Who is he?

18 A. He's a handler on the red show.

19 Q. As far as you know, he's never worked

20 on the blue show?

21 A. I don't think so. No.

22 Q. Do you know who trained Peshta to

1 day, the elephants are taken to the train as soon
2 as possible; is that what you're saying?

3 A. Yes.

4 Q. The elephants on the blue unit are
5 transported from venue to venue via train cars,
6 right?

7 A. Yes.

8 Q. And on a tear-down day, I'd like you
9 to explain as much as you can, describe to me the
10 process of, the process engaged in by the Circus
11 from the time the last show ends until the
12 elephants are loaded onto the train, what happens?

13 MS. JOINER: Objection to form.

14 A. That varies depending on if the
15 weather is warm, the tent is taken down normally
16 during the last show or in between the last shows,
17 if the weather is nice. And the pens are left up
18 and after the show, the elephants go back in those
19 and are watered and then depending on the things
20 that I have described to you already they'll
21 either wait awhile in the pens or go straight to
22 the train. They will be watered first. Once

1 they're on the train, they're tied up and fed.

2 Q. When you say once they're on the train
3 they're tied up, their legs are chained, is that
4 correct?

5 A. They're put on the chains. Yes.

6 Q. And where in the process are the
7 elephants loaded as opposed to other species of
8 animals?

9 A. What do you mean?

10 Q. Well, there's other animals that are
11 used in the circus, correct?

12 A. Right. All the animal cars are
13 together in a group.

14 Q. But are all the animals loaded onto
15 the train at the same time?

16 A. Pretty much. Yes. They all walk at
17 the same time to the train.

18 Q. Oh they are. All right. And while
19 the elephants are waiting to be loaded onto the
20 train, are they on chains or off chains?

21 A. Off chains.

22 Q. So if the last show, I know there's

1 MS. JOINER: Objection to form.

2 A. Not that I know of. No.

3 BY MS. MEYER:

4 Q. And once the elephants are loaded onto
5 the train, there sometimes is a wait before the
6 train actually leaves the venue; is that correct?

7 A. Yes.

8 Q. And on the other end when the train
9 gets to a new venue, there is a wait before the
10 elephants get off the train; is that correct?

11 A. Sometimes. It varies tremendously.

12 Q. Is there a process at the other end
13 when the train arrives at a new venue that has to
14 be followed before the elephants can be loaded off
15 the train?

16 A. Right.

17 Q. What is that process?

18 A. The facilities they'll be housed in
19 have a building that is put up.

20 Q. Who does that, the crew?

21 A. Yes.

22 Q. So you have to wait for the facility

1 that's put up around the area where the elephants
2 are unloaded?

3 A. Not while they're unloaded but at the
4 building.

5 Q. At the building?

6 A. Right. There's fence put up around
7 where the animals are kept.

8 Q. Well, I went to an inspection in
9 Auburn Hills and they put up a little area that we
10 had to stand behind before the elephants came off
11 the train. I'm wondering if that's the normal
12 procedure?

13 A. Normally there wouldn't be anybody
14 there that close.

15 Q. So that's not a normal procedure to
16 put any kind of security area up when the
17 elephants are being unloaded from the train?

18 A. Normally they're unloaded and they're
19 walking.

20 Q. When the train arrives in a new venue,
21 do the police have to arrive before the elephants
22 can be unloaded from the train?

1 A. Yes.

2 Q. And are there any other requirements
3 that have to be met before the elephants can be
4 unloaded from the train?

5 A. No.

6 Q. It sometimes takes a while for the
7 police to get there, doesn't it?

8 A. All of that is set up in advance, way
9 in advance.

10 Q. Does that mean it never takes a while
11 for the police to get there?

12 A. Well, anything can happen. We were
13 late coming here today.

14 Q. Because I remember when I was in
15 Auburn Hills we had to wait for the police to
16 come. So that seemed to be the procedure and I'm
17 just asking you if that's the normal procedure?

18 A. Normally, that's the way it's done.
19 It's required to have the police escorts.

20 Q. Required by whom?

21 A. I imagine the company and also the
22 different municipalities.

1 Q. Well, you've seen them, haven't you?

2 A. Yes.

3 Q. Can you tell whether or not they're
4 prepared on a computer?

5 A. I would imagine everything is prepared
6 on a computer as far as I know.

7 Q. So Ringling Brothers has to get
8 permission from a rail company to travel on the
9 tracks from one venue to another, correct?

10 MS. JOINER: Objection to form.

11 MS. MEYER: What's the objection?

12 MS. JOINER: Permission.

13 A. They buy it.

14 BY MS. MEYER:

15 Q. They buy it? They have to make
16 arrangements with the rail company to travel on
17 the tracks, correct?

18 A. Yes.

19 Q. How is that done?

20 A. I do not know. We have a large
21 transportation department that takes care of that.

22 Q. Who is the head of the transportation

1 department?

2 A. The person that does that normally is
3 a guy named Joe DeMike.

4 Q. Joe DeMike?

5 A. Yes.

6 Q. How do you spell the last name?

7 A. D-E-M-I-K-E.

8 Q. And if the train is going to stop
9 somewhere along the way from one venue to another,
10 does the rail company have to be notified of that?

11 A. Yes. That's the only way you're going
12 to stop is if the engineer stops it. Yes.

13 Q. Is that something that would be
14 denoted on this schedule that we talked about that
15 the crew gets?

16 A. Yes.

17 Q. Does the rail company have to be
18 notified of when the train arrives at a new venue?

19 A. The railroad yard would. Yes.
20 Because you have to store the trains in different
21 places.

22 MS. MEYER: I'd like to have this

1 marked as an exhibit.

2 (FEI Deposition Exhibit No. 12 marked for
3 identification.)

4 MS. MEYER: So I have had an exhibit
5 handed to you that's been marked Exhibit No. 12,
6 and for the record, it's a document that was
7 produced by the defendant in this case with the
8 Bates label Feld 0004065. I'm going to ask you to
9 take a look at that?

10 A. (The witness complies.)

11 BY MS. MEYER:

12 Q. Have you taken a look at it?

13 A. Yes.

14 Q. Is this an example of one of the
15 documents you were talking about that's posted on
16 the back door?

17 A. I'm not sure. They also have another
18 document but this would be one of them. Yes.

19 Q. So you're familiar with this kind of
20 document; is that correct?

21 A. Yes. Sort of.

22 Q. Because I'm hoping you can help me

1 decipher what's on here. So I'd like to kind of
2 walk through it with you and see if you can answer
3 my questions about it and for the record, this
4 exhibit is titled blue unit

5 schedule-transportation order. This one is dated
6 06/02/04 and up in the right-hand corner it has
7 the name J. William Misiura. Do you see that?

8 A. Bill Misiura. Yes.

9 Q. And he's identified as the director of
10 transportation. Would that be for the Circus?

11 A. Yes.

12 Q. But he's no longer the director of
13 transportation?

14 A. No. He still is. Joe DeMike works
15 for him.

16 Q. I see. Okay.

17 A. This is a few years old, right?

18 Q. This is dated 2004. This has a lot of
19 information on it. It says departure Monday,
20 June 14, 2004 from station Wilkesborough,
21 Pennsylvania and then it has a route with a bunch
22 of names and it looks like rail companies on it

1 and then it says to station Wichita Falls, Texas.

2 Do you see that?

3 A. Uh-huh.

4 Q. And then over on the right-hand column
5 right opposite of where it says Wichita Falls,
6 Texas it says 1,961 miles. Do you see that?

7 A. Yes.

8 Q. So that 1,961 miles would connote the
9 mileage from Wilkesborough, Pennsylvania to
10 Wichita Falls, Texas; is that correct?

11 A. I believe so.

12 Q. Where it says route and then it has
13 some names of it looks like companies, are those
14 the rail companies? See where it says LNS,
15 Wilkesborough; CP, Harrisburg; NS, Kansas City;
16 DNSF, Wichita Falls; WKTJR, are those -- those are
17 rail companies?

18 A. Yes.

19 Q. So were those the rail companies that
20 Ringling Brothers has to get permission or has to
21 pay in order to use the tracks?

22 A. Yes. They employ them. We use their

1 engines.

2 Q. So explain how that works to me?

3 A. Different engines go in different
4 parts of the country on different tracks and we
5 rent the engines to pull the train.

6 Q. And those are the companies you rent
7 the engines from?

8 A. Some of them.

9 Q. Once you have the engines, then you
10 are you allowed to use the tracks for a certain
11 period of time?

12 A. Yes.

13 Q. It says transportation order at the
14 top. What does that mean?

15 A. It's just explaining where they're
16 going to be at certain times if it's on the
17 schedule.

18 Q. Was is an order from someone to
19 someone else?

20 MS. JOINER: Objection to form.

21 A. Bill Misiura sets it up, and this is
22 for everybody to look at to see where they're

1 going to be at certain times.

2 Q. So it's an order directed to the crew
3 then?

4 A. Yes. More or less.

5 Q. And it's a regular practice of
6 Ringling Brothers to prepare these documents; is
7 that correct?

8 A. Yes.

9 Q. Are they kept in the course of
10 Ringling Brothers regularly-conducted business?

11 A. Pardon?

12 Q. Are they maintained in the course of
13 the company's business?

14 A. They would be. Yes.

15 Q. Do you know what any of these rail
16 company acronyms stand for?

17 A. No, I do not.

18 Q. Particularly looking at the left-hand
19 column of this document where it as LNS, then it
20 says CP, NS, do you see those?

21 A. Yes.

22 Q. Abbreviations. Do you know what those

1 Q. Who is that directed to?

2 A. I'm not sure.

3 Q. All right. Now it says, just going
4 down this document a couple of lines under that
5 double line there at the top it says, "Train
6 loaded and ready for switching." Do you see that?

7 A. Yes.

8 Q. Do you know what that means?

9 A. That means they're ready to switch
10 over onto the main tracks.

11 Q. Switch over from where?

12 A. From the siding that they're on where
13 they're unloading.

14 Q. Does it mean the train is loaded with
15 the animals on it?

16 A. Yes.

17 Q. Then it has the time there in the
18 right-hand column and I assume that's military
19 time, correct?

20 A. Yes.

21 Q. So, for example, when it says train
22 loaded and ready for switching, then it says 00:01

1 Q. Well, I believe 00:01 is 12:01 a.m.

2 We can check that, that's not a problem. You
3 agree this is military time on here, right?

4 A. Yes. Or Greek.

5 Q. So at that point in time, again, the
6 animals are loaded onto the train when it says
7 train load and ready for switching, correct?

8 A. Yes.

9 Q. Then when it says a few lines down
10 depart Wilkesborough, Pennsylvania and it has the
11 time over in that right-hand column it says
12 5 o'clock right there, Monday, 06/14/04, that
13 would be the time that the train actually starts
14 moving?

15 MS. JOINER: Objection to form.

16 A. I'm not sure.

17 BY MS. MEYER:

18 Q. What is meant by depart Wilkesborough,
19 Pennsylvania?

20 A. That sounds like when the train
21 leaves.

22 Q. Okay. When it leaves Wilkesborough,

1 correct?

2 A. Right.

3 Q. Just below that it says arrive

4 Harrisburg and then it says at the end of that

5 line, deliver to NS. Do you know what that means?

6 A. I would assume that's another engine

7 or track.

8 Q. Well, the train, correct me if I'm

9 wrong, but the animals aren't getting off the

10 train and getting into new train cars, are they?

11 A. No, they're not.

12 Q. But they may be getting onto tracks

13 that are owned by different rail companies?

14 A. It could be.

15 Q. Then a couple of lines down from there

16 it says, arrive Altoona, Pennsylvania, crew

17 change, water animals. Do you see that?

18 A. Yes.

19 Q. And does that mean the animals were

20 given water at that point in time?

21 A. It may. In the old days, they used to

22 stop the train twice a day to water. Now they

1 have ample water in the cars but when they do

2 stop, they do refill the tanks normally.

3 Q. But that's at a point in time when the
4 animals would be given water, correct?

5 A. They may have already been watered
6 before then.

7 Q. Oh, I see okay. Then nine lines down
8 from that, again, it says arrive New Haven, crew
9 change. It says water animals. Do you see that?

10 A. Yes.

11 Q. Then just below that it says, rest
12 animals?

13 A. Yes.

14 Q. Do you see that? What does that mean?

15 A. They must have taken the elephants off
16 the cars.

17 Q. And that's what is denoted by the word
18 rest animals?

19 A. That's what I believe it means?

20 Q. That means the animals actually got
21 off the train?

22 A. Just the elephants.

1 Q. Just the elephants. How do you know
2 that?

3 A. I don't think they take the zebras and
4 other things off. I think it's just the
5 elephants.

6 Q. So when it says rest animals, that
7 means the elephants got off the train at that
8 point in time, correct?

9 A. I believe so. Yes.

10 Q. And these, right before the hours in
11 the, that says when each of these events occurred
12 it says EDT, CDT, I assume those are time zones,
13 correct, like Eastern Daylight?

14 A. Central Daylight. Yes.

15 Q. Right? Those are time zones?

16 A. They should be.

17 Q. And do you know given that they're
18 crossing different time zones, do you know how
19 that affects the column where the time is listed,
20 would that be taken into account?

21 A. I do not know.

22 Q. That's something the director of

1 transportation could answer, right?

2 A. Certainly.

3 Q. And you think Mr. Polke could answer
4 that question?

5 A. No.

6 Q. If you go sort of way down to the
7 bottom of the column it says at one point, arrive
8 Wichita Falls, Texas, deliver coaches to WTJR. Do
9 you see that? It's almost at the very end right
10 before it says lock and blue flag storage?

11 A. Yes.

12 Q. And that would be the arrival time of
13 the train at the new venue in Wichita Falls,
14 correct?

15 A. Yes.

16 Q. And the arrival time on this document
17 says 9:15, and that would be 9:15 a.m. on June
18 17th '04; is that correct?

19 A. Yes.

20 Q. And then it says, all cars spotted.
21 Do you see that?

22 A. Yes.

1 Q. What does that mean?

2 A. It could mean several different
3 things. They spot cars in different places,
4 sometimes they spot the stock cars close so the
5 walk is not as far, sometimes the coaches are
6 spotted 10 miles away, sometimes the flats are
7 spotted close and moved 10 miles.

8 Q. I don't even know what spotted means.
9 What does spotted mean?

10 A. Put in a spot where they can unload
11 things from them, normally or put in a spot where
12 their going to stay for the duration of the venue.

13 Q. You used several different terms when
14 you were answering my question. You said stock
15 car and coach cars. What is a stock car?

16 A. That's where the animals ride, in this
17 case, elephants.

18 Q. And how do you know it's just
19 elephants?

20 MS. JOINER: Objection to form.

21 A. I'm only talking about elephants,
22 right?

1 A. Probably not. Joe DeMike would know.

2 Q. Is it possible that the elephants are
3 still on the train when it says all cars spotted?

4 A. Yes.

5 Q. And when they're on the train, they're
6 in chains, correct?

7 A. They're tied up. Yes.

8 Q. And then once the train arrives and
9 all cars have been spotted, that's when this
10 procedure we talked about earlier kicks in that
11 occurs when a train arrives at a new venue; is
12 that correct?

13 A. Yes.

14 MS. JOINER: Objection to form.

15 BY MS. MEYER:

16 Q. That's when the police have to arrive,
17 correct?

18 A. Correct.

19 Q. And the crew has to get there,
20 correct?

21 A. Unless they have gone over land.

22 Q. And those things have to occur before

1 the elephants can get off the train; is that

2 correct?

3 A. Right.

4 Q. I see Joe DeMike, he's listed down
5 here, I see that, transportation manager. That's
6 who you were talking about?

7 A. Yes.

8 Q. What is meant by lock and flag storage
9 tracks?

10 A. I do not know.

11 Q. Who would know that?

12 A. Probably Joe DeMike.

13 MS. MEYER: I've got another document
14 I'd like you to take a look at.

15 (FEI Deposition Exhibit No. 13 was marked for
16 identification.)

17 BY MS. MEYER:

18 Q. So I have handed you a document that's

19 been marked Exhibit 13. It is a document that was

20 produced by defendant in this case with the Bates

21 label Feld 0004056. And for the record, it is

22 another blue unit schedule transportation order.

1 This one is dated June 6, 2004. Do you see that?

2 A. Yes.

3 Q. And this concerns a trip that the
4 train -- that the circus took from Washington,
5 D.C. to Charleston, West Virginia; is that
6 correct?

7 A. Yes.

8 Q. And this looks like a much shorter
9 trip. It says it's 453 miles, correct?

10 A. Yes.

11 Q. That's a lot shorter than the last
12 trip we were talking about, right?

13 A. Yes.

14 Q. And again, it says train loaded and
15 ready for switching at the top?

16 A. Yes.

17 Q. And it has a time over here which is
18 military time for 8 o'clock p.m., Monday, April
19 21, 2003, correct?

20 A. Right.

21 Q. Then I see down here a ways it says
22 arrive Elmore, West Virginia, crew change, water

1 animals, head for cars. Do you see that?

2 A. Yes.

3 Q. And that happened at 17:15, which is
4 5:15 p.m. on April 22nd, 2003; is that correct?

5 A. Yes.

6 Q. And then I don't see anything about a
7 rest period here at all. Do you see anything
8 about a rest period?

9 A. No. There wouldn't be.

10 Q. Why not?

11 A. It's a short distance.

12 Q. So if it's shorter distance, there
13 would not be a rest period, correct?

14 A. Right.

15 Q. If there had been a rest during this
16 trip, it would be on here as a rest period,
17 correct?

18 A. Yes.

19 Q. Then I see arrive Charleston, West
20 Virginia, 1:30 a.m. Wednesday, 4/23/03, correct?

21 A. Yes.

22 Q. That would be the time the train

1 finally arrived in Charleston, West Virginia; is

2 that right?

3 A. Right.

4 Q. And then the rest of these phrase is

5 spot coaches, that's the same as the phrase you

6 explained to me earlier on the last document?

7 A. Correct.

8 Q. All cars spotted is the same as you

9 explained to me before, correct?

10 A. Yes.

11 Q. And at that point in time when all
12 cars are spotted again, the elephants could still
13 be on the train at that point; is that correct?

14 A. Yes.

15 MS. MEYER: Okay. I've got another one
16 I'm going to ask you about. Can you mark that
17 Exhibit 14.

18 (FEI Deposition Exhibit No. 14 was marked for
19 identification.)

20 MS. MEYER: You've been handed what's
21 been marked Exhibit 14, which is a document
22 produced by the defendant with the Bates label

1 Incorporated. Going off the record. The time is
2 2:51 p.m.

3 This marks the beginning of videotape 4 of
4 the deposition of Gary Jacobson representing Feld
5 Entertainment, Incorporated. Going back on the
6 record. The time is 2:56 p.m.

7 BY MS. MEYER:

8 Q. Mr. Jacobson, if you will turn back to
9 Exhibit 12 which is the Wilkesborough,
10 Pennsylvania to Wichita Falls, Texas
11 transportation order. I just want to make it
12 clear, for the record, that this trip occurred,
13 departure date was Monday, June 14, 2004 and the
14 arrival date was June 17, 2004; is that correct?

15 A. Yes.

16 Q. Okay. And if you would look at
17 Exhibit 13 which is the transportation order for
18 the trip from Washington, D.C. to Charleston, West
19 Virginia, the departure date was Monday, April
20 21st, 2003 and the arrival date was April 23,
21 2003; is that correct?

22 A. Yes.

1 Q. And if you look at Exhibit 14 which is
2 the transportation order for Waco, the trip from
3 Waco, Texas to Dallas, Texas, the departure date
4 was July 30th, 2001 and the arrival date was
5 August 1st, 2001; is that correct? I'm sorry. No
6 it isn't. Arrival, 7/31/01, correct?

7 A. Yes.

8 Q. And if you look at Exhibit 15 which is
9 the transportation order from the trip to East
10 Rutherford to Uniondale, Garden City, New York,
11 the departure date was March 6, 2000 and the
12 arrival date was the same date, March 6, 2000,
13 correct?

14 A. Yes.

15 Q. Mr. Jacobson, what is the role of
16 Nicole among the elephants on the blue unit?

17 A. What do you mean role?

18 Q. Does she have any particular role
19 among the elephants?

20 A. She's a nice, stable, gentle
21 performing elephant. She paints. She can be
22 taken by herself. She's just a nice elephant.

1 Q. Do the other elephants enjoy

2 interacting with her?

3 A. Some of them.

4 Q. Which ones?

5 A. She lives primarily with Karen.

6 Q. Any of the other elephants that she

7 interacts with?

8 A. Not a lot, no.

9 Q. Have she and Karen been together for a

10 long time?

11 A. Quite a while.

12 Q. Does Karen have any special role among

13 the elephants?

14 A. She's similar to the Nicole. She's a

15 nice steady older elephant.

16 Q. Is Nicole going to stay on the blue

17 unit for a while?

18 A. Yes.

19 Q. How long will she be on the blue unit?

20 A. Probably as long as there's a blue

21 unit.

22 Q. Really?

1 A. Yes.

2 Q. And she's about 31 years old right
3 now; is that correct?

4 A. Yes.

5 Q. So you see her say staying on the blue
6 unit for some period of time?

7 A. Yes.

8 Q. And what about Karen, is she going to
9 stay on the blue unit for a while?

10 A. Yes.

11 Q. And she's about 38, 39 years old; is
12 that correct?

13 A. Yes.

14 Q. So you see her staying on the blue
15 unit for the foreseeable future?

16 A. Yes.

17 Q. Now, what about is it possible that
18 either Nicole or Karen may be transferred to the
19 gold unit at some point?

20 A. No.

21 Q. Why not?

22 A. Basically we need more, not less

1 elephants on the blue show.

2 Q. Why do you say you need more?

3 A. It's nice to have more.

4 Q. And is there a possibility that Nicole
5 or Karen would be transferred to the red unit?

6 A. No.

7 Q. And is there any possibility that Zina
8 may go back out on the road?

9 A. No.

10 Q. What about Jewell?

11 A. No.

12 Q. What about Susan?

13 A. No.

14 Q. What about Mysore?

15 A. No.

16 Q. What about Lutzi?

17 A. No.

18 Q. Is there any possibility that any of
19 those five elephants may be sent somewhere else?

20 A. We have no plans at this time to send
21 them anywhere.

22 Q. Are you familiar with the routine

1 yet?

2 A. Not that I know of.

3 Q. Is anybody within the company right
4 now being considered for that position?

5 A. Not that I know of, no.

6 Q. So that means Jim Andacht was
7 traveling with the blue unit for some period of
8 time; is that correct?

9 A. Yes.

10 Q. When was he traveling with the blue
11 unit?

12 A. I'm not sure.

13 Q. Would he have been traveling with the
14 blue unit the entire time he was the general
15 manager?

16 A. I think not, no.

17 Q. Does the general manager of the blue
18 unit usually travel with the rest of the blue
19 unit?

20 A. Yes.

21 Q. Can you tell me the total amount of

22 time that the elephants on the blue unit, and I'm

1 speaking of Karen and Nicole, are actually

2 performing when there's a show?

3 A. You mean, on the floor? In the arena?

4 Q. Well, do they perform somewhere else?

5 A. No.

6 Q. Yes. On the floor, in the arena?

7 A. Maybe 10 minutes.

8 Q. Is that true for each show?

9 A. Would be the same for each show. Yes.

10 Q. And is there a policy at the blue unit
11 regarding written reprimands of employees for
12 misconduct?

13 A. I believe they may do that there.

14 Q. You're not familiar with the policy?

15 A. No.

16 Q. Would Mr. Andacht be familiar with the
17 policy?

18 A. Yes.

19 Q. Would Mr. Polke be familiar with the
20 policy.

21 A. Probably. Yes.

22 Q. Who at Feld Entertainment is

1 through 17 minutes and 3 seconds.

2 MS. MEYER: All right.

3 MS. SINNOTT: This is the beginning of
4 the clip (video plays). That's the end.

5 BY MS. MEYER:

6 Q. Was that Mr. Metzler?

7 A. I couldn't tell you.

8 MS. MEYER: Can we play it again?

9 MS. SINNOTT: Yes (video replays).

10 A. I still couldn't tell you.

11 BY MS. MEYER:

12 Q. Don't know that that's Mr. Metzler?

13 A. No.

14 MS. MEYER: Michelle, if we play more
15 of that tape, would we see more of him?

16 MS. SINNOTT: I believe not. No.

17 MS. MEYER: All right.

18 MS. JOINER: Same objections for
19 Exhibit 20 as 18 and 19.

20 MS. MEYER: This will be No. 21 and it
21 has a bates label of PLO 7069.

22

1 (FEI Deposition Exhibit No. 21 was marked for
2 identification.)

3 MS. SINNOTT: This is the beginning of
4 the clip (video plays). That's the end.

5 BY MS. MEYER:

6 Q. Do you recognize that individual?

7 A. Just that it's one of Axel's boys.

8 Q. Do you know which one it is?

9 A. No.

10 Q. When you say Axel's boys, you mean one
11 of the sons of Axel Gautier?

12 A. Right.

13 Q. So it would be either Michael Gautier
14 or Kevin Gautier; is that correct?

15 A. Correct.

16 MS. MEYER: What's the time stamp for
17 that one?

18 MS. SINNOTT: 19 minutes and 31 seconds
19 through 19 minutes and 51 seconds.

20 MS. MEYER: That's it for the video
21 clips. I have no further questions.

22 MS. JOINER: Same objection for

1 Exhibit 21. I have no questions.

2 THE VIDEO OPERATOR: This concludes the
3 videotape deposition of Gary Jacobson representing
4 Feld Entertainment, Incorporated. This is tape 4
5 of 4. Going off the record. The time is
6 4:17 p.m.

7

8 (Deposition concluded at 4:17 p.m.)

9

10

11

12

13

Signature

Date

14

15

SUBSCRIBED AND SWORN to before me

16

this ____ day of _____, 200__.

17

18

19

NOTARY PUBLIC

20

21

My Commission Expires:

22

1 CERTIFICATE OF REPORTER/NOTARY PUBLIC

2 DISTRICT OF COLUMBIA, to wit:

3 I, OKEEMAH S. HENDERSON, a notary Public for
4 the District of Columbia, do hereby certify that
5 the within-named witness personally appeared
6 before me at the time and place herein set out,
7 and after having been duly sworn by me, according
8 to law, was examined by counsel.

9 I further certify that the examination was
10 recorded stenographically by me and this
11 transcript is a true record of the proceedings.

12 I further certify that I am not of counsel
13 to any parties, nor in any way interested in the
14 outcome of this action.

15 As witness my hand and notarial seal this
16 _____ day of _____, 2008.

17

18

19 Okeemah S. Henderson

20 Notary Public

21 My Commission Expires: February 28, 2010

22