

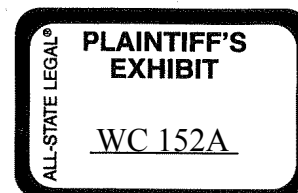
Additional Designations of Deposition Testimony  
for FEI Rule 30(b)(6) Witness Gary Jacobson (Jan. 18, 2008)

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



Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

----- X

AMERICAN SOCIETY FOR THE PREVENTION :  
OF CRUELTY TO ANIMALS, et al., :  
  : Plaintiffs, : Civ. No.  
  : V. : 03-02006

RINGLING BROTHERS AND BARNUM & BAILEY : (EGS)  
CIRCUS, et al., :  
  : Defendants. :

----- X

Washington, D.C.  
Friday, January 18, 2008

Videotaped deposition of GARY JACOBSON, called for examination by counsel for the Plaintiffs in the above-entitled matter, pursuant to notice, the witness being duly sworn by OKEEMAH S. HENDERSON, a Notary Public in and for the District of Columbia, taken at the offices of Meyer, Glitzenstein & Crystal at 1601 Connecticut Avenue, Northwest, Suite 700, Washington, D.C. 20009-1056, at 9:49 a.m., Friday, January 18, 2008, and the proceedings being taken down by Stenotype by OKEEMAH S. HENDERSON and transcribed under her direction.

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 2

1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 KATHERINE A. MEYER, ESQ.

4 DELCIANNA J. WINDERS ESQ.

5 Meyer, Glitzenstein & Crystal

6 1601 Connecticut Avenue, Northwest

7 Suite 700

8 Washington, D.C. 20009-1056

9 (202) 588-5206

10 E-Mail: delciwinders@meyerglitz.com

11

12 On behalf of the Defendants:

13 LISA ZEILER JOINER, ESQ.

14 JOHN M. SIMPSON, ESQ.

15 Fulbright & Jaworski, L.L.P.

16 801 Pennsylvania Avenue, N.W.

17 Washington, D.C. 20004-2623

18 (202) 662-0200

19 E-Mail: jsimpson@fulbright.com

20

21 ALSO PRESENT:

22 RICK SANBORN, Videographer

JULIE ALEXA STRAUSS, ESQ.

MICHELLE SINNOTT, Paralegal

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

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

2 WITNESS EXAMINATION BY COUNSEL FOR

3 GARY JACOBSON PLAINTIFFS

4 By Ms. Meyer 5

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

7 NO.		IDENT.
8 1	Notice of deposition	7
9 2	Letter dated 12/28/07	7
10 3	E-mail dated 1/17/05	8
11 4	Cites sheet issued 2/28/97	31
12 5	Cites sheet issued 6/14/99	34
13 6	Cites sheet issued 10/30/02	37
14 7	Asian elephant studbook update	46
15 8	Affidavit of Jerome Sowalsky	50
16 9	Veterinarian health certificate	52
17 10	Cites sheet issued 7/29/86	71
18 11	Cites sheet issued 6/14/99	74
19 12	6/2/04 blue unit transportation order	202
20 13	6/6/04 blue unit transportation order	218
21 14	6/6/04 blue unit transportation order	221
22 15	6/3/04 blue unit transportation order	223

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 4

1 E X H I B I T S Continued

2

3 16 Video footage CD dated 12/10/01 239

4 17 Video footage CD dated 12/15/03 242

5 18 Video footage CD 259

6 19 Video footage CD 262

7 20 Video footage CD dated 2/1/06 262

8 21 Video footage CD 264

9

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

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

12

13

14

15

16

17

18

19

20

21

22

Alderson Reporting Company  
1-800-FOR-DEPO

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 182

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

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 186

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

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 187

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



Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 189

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

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 192

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?

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 193

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.

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 200

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

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 201

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

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 202

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

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 203

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

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 204

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

Alderson Reporting Company

1-800-FOR-DEPO



Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 205

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

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 206

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

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 208

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

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 210

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,

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 211

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.

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 213

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.



Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 215

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?

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 217

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

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 218

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.

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 219

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

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 221

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

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 226

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.

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 227

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.



Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 228

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?

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 229

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

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 230

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

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 236

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

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 237

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

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 263

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

Gary Jacobson 30(b)(6)

January 18, 2008

Washington, DC

Page 264

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

Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 265

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



Gary Jacobson 30(b)(6) January 18, 2008  
Washington, DC

Page 266

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

Alderson Reporting Company  
1-800-FOR-DEPO