

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF NORFOLK

FRANK HAGAN

Plaintiff,

v.

AT LAW NO:

FELD ENTERTAINMENT, INC.
d/b/a RINGLING BROS. and
BARNUM & BAILEY CIRCUS

SERVE AT: Corporation Service Company
11 S. 12th Street
Richmond, VA 23218

Defendant.

MOTION FOR JUDGMENT

Plaintiff, Frank Hagan, by counsel, moves for judgment against the Defendant, Feld Entertainment, Inc., d/b/a Ringling Bros. and Barnum & Bailey Circus, on the grounds and in the amount set forth as follows:

1. Plaintiff, Frank Hagan ("Mr. Hagan"), is a resident and citizen of the Commonwealth of Virginia.
2. Defendant, Feld Entertainment, Inc. ("Feld") is a Virginia corporation with its principal place of business in Virginia. Feld is engaged in the production of live entertainment.
3. Feld owns and operates the production of Ringling Bros. and Barnum & Bailey Circus ("Ringling Bros."), and regularly conducts business in Norfolk, Virginia at the Norfolk Scope. Feld also produces Disney on Ice and produced the Siegfried & Roy Show.
4. In approximately March of 1993, Mr. Hagan was employed by Feld to work for Ringling Bros. Mr. Hagan continued his employment with Feld intermittently until 2000.

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PLAINTIFF'S
EXHIBIT

WC 162

5. On or about March 7, 2000, Mr. Hagan was employed by Feld again and continued his employment with Feld without interruption until July 21, 2004 when he was terminated.

6. In December 2003, Feld assigned Mr. Hagan to the lions and he worked as a lion handler from that time up until his termination on July 21, 2004.

7. As a lion handler, Mr. Hagan's duties and responsibilities included feeding and watering the lions, cleaning the lions' cages, providing the lions with clean straw for bedding, caring for the lions while they were in transport on the train, to and from their performance locations and while at the performance site.

8. As a lion handler, Mr. Hagan spent approximately 12 to 14 hours a day caring for the lions.

9. Ringling Bros. travels across the United States by train to put on its shows.

10. On or about July 12, 2004, the Ringling Bros. train left Phoenix, Arizona at or about 11:00 a.m. and headed for Fresno, California for a show.

11. On that date, Mr. Hagan checked the lions during three train stops and all the lions appeared to be doing well and were healthy.

12. On or about July 13, 2004, Mr. Hagan watered down the lions at approximately 8:30 a.m., and they appeared to be doing well and were healthy.

13. On July, 13, 2004, the train continued to travel through the Mojave Desert to Fresno, California. Outside temperatures approached 100 degrees that day.

14. At or about 9:30 a.m. that day, Mr. Hagan called Gene Petis ("Mr. Petis"), Ringling Bros. Train Master, and advised him that the train needed to make another stop, so that he could water down the lions.

15. At that time, Mr. Petis advised Mr. Hagan that the train could not stop because Ringling Bros. was behind schedule.

16. Upon information and belief, when the Ringling Brother's train is late arriving to its destination, Feld is required to pay overtime to all of its employees and outside contractors.

17. Jarak, a lion handler, then attempted to contact Jeff Steele ("Mr. Steele"), General Manager of Ringling Bros., to make an additional request to stop the train, however, Mr. Steele could not be reached by radio or in person.

18. The train did not stop until 2:45 p.m. that day. The lions were in transit from approximately 8:30a.m. until 2:45 p.m. without receiving any water at all, including drinking water or being watered down, despite numerous requests by Mr. Hagan and Jarak.

19. When the train stopped in Arizona at 2:45 p.m., Mr. Hagan immediately went to the lion train car to the lions down the lions.

20. When Mr. Hagan arrived at the lion train car, he discovered that the two-year-old lion, known as Clyde ("Clyde"), was in a fetal position, with his tongue hanging out, eyes rolled back in his head, unresponsive, and barely breathing.

21. Mr. Hagan placed his hand on Clyde in an effort to help Clyde, but Clyde's body was as hot as an oven, and at that moment, Clyde took his last breath.

22. Mr. Hagan sat with Clyde's corpse and cried. He attempted to contact Mr. Steele, but was unsuccessful. Mr. Hagan then was able to contact John Griggs, Ringling Bros.' Operations Manager, who came to the lion train car.

23. Mr. Griggs then ordered Mr. Hagan and others to move Clyde's body to the meat truck, where the lions' food is kept, and further ordered Mr. Hagan not to say a word to anyone about Clyde's death.

24. The train started back up at approximately 5:00 p.m. It stopped in Barstow, California once that evening and then arrived in Fresno, California just before midnight on July 13, 2004.

25. As soon as the train arrived in Fresno, Mr. Hagan was again ordered to move Clyde's body from the meat truck to a Ryder rental truck.

26. On or about July 14, Mr. Hagan was ordered to pressure wash the meat truck to remove Clyde's blood and hair before the U.S.D.A inspectors arrived.

27. When the U.S.D.A. inspectors arrived, Mr. Hagan was taken offsite to a hotel and questioned by Feld's legal counsel. He was again ordered not to discuss the incident with anyone. Mr. Hagan understood this order to include no discussions with the U.S.D.A. inspectors.

28. Mr. Hagan wanted the truth of Clyde's death to be discovered and continuously discussed the incident with other Feld employees and demanded answers about Clyde's death from management of Ringling Bros.

29. On numerous occasions, Mr. Hagan was threatened, and intimidated by Mr. Steele not to discuss this incident with anyone. However, Mr. Hagan continued to question Clyde's death.

30. On or about July 21, 2004, during a circus show in California, Mr. Steele wrongfully terminated Mr. Hagan for the false and pretextual reason of an unintended power outage.

31. On or about July 22, 2004, Mr. Hagan and his nine-year-old daughter were thrown off the train in California and left with no way to get home.

Count I: Wrongful Termination

32. Plaintiff restates and re-alleges paragraphs 1 through 31 as if fully enumerated herein.

33. Plaintiff was unlawfully intimidated and ultimately discharged by Mr. Steele, acting in his capacity as an agent/employee on behalf of Feld, on July 21, 2004, for exercising his statutory rights in carrying out the purpose of the Animal Welfare Act. (7 U.S.C., §§2131-2159, as amended).

34. The Animal Welfare Act is administered by the USDA's Animal and Plant Health Inspection Service (APHIS). The Animal Welfare Act requires that minimum standards of care and treatment be provided for certain animals transported or exhibited to the public. These animals must be provided with adequate care and treatment in the areas of housing, handling, sanitation, nutrition, water, veterinary care, and protection from extreme weather and temperatures.

35. Plaintiff attempted to meet the requirements of the Act and attempted to assist and participate in an U.S.D.A. investigation on July 14, 2004, regarding the death of Clyde, but was not permitted.

36. On July 13, 2004, Mr. Hagan was aware that serious injury or death could result to the lions if the Ringling Bros. train did not stop in a timely manner and allow for proper care, including hydration, of the lions.

37. Such serious injury and death did result as a direct result of Defendant's failure to allow for hydration of Clyde.

38. Plaintiff was ordered, against his will and in fear of dismissal for insubordination, to hide Clyde's body and aid in the destruction of the proof of his death.

39. Since that date, Plaintiff was subjected to Ringling Bros. surveillance, harassment, and intimidation in an effort to coerce him to resign from employment. On July 21, 2004, only one week after Clyde's tragic death, Plaintiff was discharged for a false and pretextual reason, culminating in the Defendant's continuous campaign and course of conduct to rid itself of Mr. Hagan.

40. The above mentioned Ringling Bros.' policy and practice to alter and destroy proof, not cooperate with government entities and forbid employees like Mr. Hagan to cooperate with investigators are in direct violation of the Animal Welfare Act.

41. Defendant, by and thru the actions of its officers, employees and agents, has intentionally, knowingly and tortiously wrongfully terminated the employment of the Plaintiff for reasons which contravene public policy; to wit, Defendant has terminated Plaintiff in retaliation for Plaintiff's refusal to not expose policies, practices and procedures of Defendant, which impact the health and welfare of endangered animals.

42. Further, Plaintiff attempted to further the public policy of animal cruelty, abuse and neglect law in California, namely, §597 and §597a of the Penal Code of California.

43. As a consequence of Defendant's illegally motivated intimidation, hostility, and discharge, Plaintiff has suffered monetary damages for lost compensation, present and future, humiliation, loss of livelihood, loss of home and shelter for him and his young daughter, extreme mental and emotional pain and suffering, distress, depression and attorneys fees and expenses.

Count II: Intentional Infliction of Emotional Distress

44. Plaintiff restates and re-alleges paragraphs one through 43 as if fully enumerated herein.

45. Defendant Feld knew that Mr. Hagan's duties as a lion handler included caring for and watering the lions to keep them healthy and safe.

46. Despite numerous requests, agents and employees of Feld deliberately, intentionally and recklessly denied Mr. Hagan's requests to stop the train to water the lions knowing the denial would prohibit him from doing the job he was hired to do and cause severe stress on Mr. Hagan.

47. Refusing Mr. Hagan's requests to stop the train to allow him to water the lions he cared for and loved, which would have saved Clyde's life, was intentionally intrusive and outrageous and has had a severe traumatic effect on Mr. Hagan's emotional tranquility.

48. Ordering Mr. Hagan to physically move Clyde's body to the meat truck was intentionally intrusive and outrageous and has had a severe traumatic effect on Mr. Hagan's emotional tranquility.

49. Ordering Mr. Hagan to physically move Clyde's body from the meat truck to the Ryder truck was intentionally intrusive and outrageous and has had a severe traumatic effect on Mr. Hagan's emotion tranquility.

50. Ordering Mr. Hagan to pressure wash the meat truck to remove Clyde's blood and hair, so that Ringling Bros. could hide the truth of Clyde's death from U.S.D.A. inspectors, was intentionally intrusive and outrageous and has had a severe traumatic effect on Mr. Hagan's emotional tranquility.


51. Ordering and threatening Mr. Hagan not to discuss the truth of Clyde's death with anyone, including U.S.D.A. inspectors, was intentionally intrusive and outrageous and has had a sever traumatic effect on Mr. Hagan's emotional tranquility.

52. As a direct and proximate result of defendant Feld's willful, wanton, outrageous and intentional infliction of emotional distress on Mr. Hagan, Mr. Hagan was caused to sustain and continues to sustain severe mental anguish, severe sadness, severe and great emotional pain, loss of sleep, disappointment, guilt and anger. His emotional distress is of such substantial quality that no reasonable person in civilized society should be expected to endure it.

For the foregoing reasons, the plaintiff respectfully prays for judgment against defendant, Feld Entertainment Inc., d/b/a Ringling Bros. and Barnum & Bailey Circus, in the amount of One Million Dollars (\$1,000,000.00) in compensatory damages and Fifty Million Dollars (\$50,000,000.00) in punitive damages, plus pre-judgment and post-judgment interest as allowed by law, plus his costs expended herein.

TRIAL BY JURY IS REQUESTED.

FRANK HAGAN


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