

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE	:	
PREVENTION OF CRUELTY TO	:	
ANIMALS, et al.	:	
	:	
Plaintiffs	:	
	:	
vs.	:	Case No.
	:	03-02006
FELD ENTERTAINMENT, INC.	:	
	:	
Defendant	:	

Washington, D.C.
Monday, December 17, 2007

Deposition of:

MARGARET TOM

called for oral examination by counsel for Defendant, pursuant to notice, at the offices of Fulbright & Jaworski, LLP, 801 Pennsylvania Avenue, N.W., Washington, D.C. 20004, before Renee A. Feder, CSR, a Notary Public in and for the District of Columbia, beginning at 1:40 p.m., when were present on behalf of the respective parties:

1 On behalf of the Plaintiff:

2

2 BY: KIMBERLY OCKENE, ESQ.
3 Meyer Glitzenstein & Crystal
3 1601 Connecticut Avenue, N.W.
4 Suite 700
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6 On behalf of Defendant Feld Entertainment,
6 Inc.:

7

7 BY: LISA ZEILER JOINER, ESQ.
8 MICHELLE C. PARDO, ESQ.
8 KARA PETTEWAY, ESQ.
9 Fulbright & Jaworski, LLP,
9 801 Pennsylvania Avenue, N.W.
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10 (202)662-0200
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12 and

13 BY: JULIE ALEXA STRAUSS, ESQ.
13 Feld Entertainment
14 8607 Westwood Center Drive
14 Vienna, Virginia 22182
15 (703)448-4065
15

16 On behalf of the Witness:

17 BY: BRYON A. CHRISTENSEN, ESQ.
17 JOHN P. MARSTON, ESQ.
18 1440 New York Avenue, N.W.
18 Washington, D.C. 20005
19 (202)371-7000
19

20

20 Also Present: Kenyan C. Hopchas, Videographer
21

21

22

+ + +

C O N T E N T S

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3
4 WITNESS: MARGARET TOM

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* * *

1 parties whom they represent beginning with
2 defendant's counsel first, please?

3 MS. JOINER: Lisa Joiner with
4 Fulbright & Jaworski on behalf of Feld
5 Entertainment, Inc.

6 MS. PARDO: Michelle Pardo with
7 Fulbright & Jaworski on behalf of Feld
8 Entertainment.

9 MS. STRAUSS: Julie Strauss,
10 in-house counsel for Feld Entertainment.

11 MS. PETTEWAY: Kara Petteway with
12 Fulbright & Jaworski on behalf of Feld
13 Entertainment, Inc.

14 MR. MARSTON: John Marston, on
15 behalf of the witness, Margaret Tom.

16 MR. CHRISTENSEN: I am Brian
17 Christensen representing the witness, Margaret
18 Tom.

19 MS. OCKENE: Kimberly Ockene with
20 Meyer, Glitzenstein & Crystal for the
21 Plaintiffs.

22

VIDEOGRAPHER: Now, will the court

1 reporter please swear in the witness?

2 Thereupon,

3 MARGARET TOM

4 was called for examination by counsel and,
5 after having been duly sworn by the Notary,
6 was examined and testified as follows:

7 EXAMINATION BY COUNSEL FOR DEFENDANT FELD
8 ENTERTAINMENT, INC.

9 Q. Mrs. Tom, is there any reason
10 today why you cannot testify truthfully and
11 accurately?

12 A. There is none.

13 Q. And you have kind of a soft voice
14 so if you would try to speak up a little bit,
15 and I will try to listen very closely.

16 What time frame did you work for
17 the circus?

18 A. I do not remember.

19 Q. Does this -- let me give you some
20 dates and see if this sounds right to you.
21 Okay. From approximately April, 2005 to
22 August, 2006?

1 A. Yes.

2 Q. And the time frame that you worked
3 there, was that also the same time frame that
4 your husband worked there?

5 A. Yes.

6 Q. Which unit did you work on?

7 A. The Red.

8 Q. Is that the only unit you have
9 ever worked on?

10 A. Yes.

11 Q. What was your job there?

12 A. Back stage.

13 Q. And what were your duties as a
14 back stage person?

15 A. Taking care of props and getting
16 animals ready to go out -- we would get them
17 ready to go out on the floor.

18 Q. So you were taking care of props.
19 When you say getting ready to go out on the
20 floor, you mean to go out to the performance?

21 A. Yes.

22 Q. Why did you end up leaving

1 Ringling Brothers in August of 2006?

2 A. They said they suspended me. And
3 I left to go back to the train. And then
4 about two hours later my husband called and
5 said we got fired.

6 Q. So that wasn't your decision to
7 leave?

8 A. No.

9 Q. And when you said "they suspended
10 me," who do you mean?

11 A. My supervisor and the main guy in
12 charge.

13 Q. Do you remember your supervisor's
14 name?

15 A. No, I do not.

16 Q. Do you remember -- by "main guy",
17 do you mean the general manager?

18 A. Yes.

19 Q. Do you remember his name?

20 A. No, I do not. They changed.

21 Q. Why did they tell you you were
22 being suspended? What did they tell you as to

1 circus? What was her job?

2 A. I am not sure.

3 Q. Do you know what Jimmy Strickland
4 did, what his job was?

5 A. I am not sure.

6 Q. You said that your husband was
7 there?

8 A. Yes.

9 Q. What was your husband's job?

10 A. Taking care of the animals.

11 Q. Which animals?

12 A. He was -- the horses mostly.

13 Q. Did you ever complain to anybody
14 about the way the animals were treated?

15 MR. MARSTON: Objection to the
16 form of the question.

17 THE WITNESS: Yes.

18 BY MS. JOINER:

19 Q. When did you do that?

20 A. I don't remember exactly the
21 dates.

22 Q. Was it while you were still

1 working?

2 A. Yes.

3 Q. Do you have an idea as to how many
4 times you did that?

5 A. I am not really sure.

6 Q. Do you think it is more or less
7 than five times?

8 A. I am not really sure.

9 Q. Do you think it is more or less
10 than ten times?

11 A. I am not really sure.

12 Q. Did you do that the entire time
13 you worked there?

14 A. I don't remember.

15 Q. Do you remember any of the
16 complaints that you made?

17 A. Yes.

18 Q. Can you tell me what those were?

19 A. About the Asia incident.

20 Q. What was the complaint about Asia?

21 A. They beat Asia coming off of the
22 floor.

1 at the top?

2 A. Yes.

3 Q. Whose phone number is that?

4 A. It is my husband's cell.

5 Q. If you would look, please, at the
6 second paragraph. The very first sentence of
7 your letter states, "It was common for the
8 elephants to be hit, whacked and prodded with
9 bullhooks just before going into the arena."
10 Do you see that?

11 A. Yes.

12 Q. So can you explain what you mean
13 by the elephants being hit, whacked, prodded?

14 A. They would get hit, poked with the
15 bullhooks.

16 Q. Which ones?

17 A. All of them.

18 MR. MARSTON: Objection to the
19 form of the question.

20 BY MS. JOINER:

21 Q. All of the elephants?

22 A. (Indicating.)

1 Q. How often did this happen?

2 A. All the time.

3 Q. And you are standing by the door
4 to the show, because that is part of your job.
5 Right?

6 A. Yes.

7 Q. And then the animals would come
8 line up by the door. Correct?

9 A. Yes.

10 Q. And is that when you saw this?

11 A. Yes.

12 Q. And which employees did you see
13 doing this to the elephants?

14 A. I am not sure of the names right
15 now.

16 Q. Did you ever know any of their
17 names?

18 A. I knew some of their names.

19 Q. Which names do you remember?

20 A. I just know them by their first
21 names.

22 Q. That is okay. You can give me

1 their first names.

2 A. Jimmy.

3 Q. Jimmy?

4 A. Yes. That is the only one I
5 remember.

6 Q. Do you remember any other names?

7 A. No.

8 Q. So, explain to me -- you started
9 to do this. The incident with Asia that you
10 referenced, can you tell me what happened with
11 Asia?

12 A. She defecated on one of the
13 performers and they took her off of the floor,
14 and started hitting her.

15 Q. Who is "they"?

16 A. Jimmy was the only one I seen.
17 But they said there were others there but I
18 don't remember.

19 Q. Who said there were others?

20 A. The people that worked with me.

21 Q. And who was that?

22 A. The backstage crew.

1 Q. What are their names that saw
2 this?

3 A. Victor and Joe. That is all I
4 know.

5 Q. I am sorry, Victor?

6 A. Victor and Joe.

7 Q. Did you say Joe Saletto? I am
8 sorry.

9 A. No, I don't know their last names.

10 Q. So you only saw Jimmy?

11 A. Yes.

12 Q. So you said they took her back
13 stage and started hitting her?

14 A. Yes.

15 Q. Can you describe for me how Jimmy
16 was hitting her?

17 A. I do not remember the whole -- how
18 he was swinging or whatever. I don't
19 remember.

20 Q. Do you remember how long this
21 lasted?

22 A. I am not sure because I walked

1 away.

2 Q. Where did you go to?

3 A. I went backstage.

4 Q. You went backstage?

5 A. Yes.

6 Q. So, how long were you there while

7 Jimmy was doing this?

8 A. I am not really sure.

9 Q. A short time? A long time?

10 A. I was just trying to do my job.

11 Q. So you walked backstage and you

12 were not able to see then how it ended?

13 A. No.

14 Q. In this letter, if you look at the

15 very last sentence, do you see that? It says

16 "I witnessed two guys beat Asia the minute she

17 left the stage, hitting her at least ten times

18 with bullhooks making her scream." Do you see

19 that?

20 MR. MARSTON: Objection to the
21 form.

22 BY MS. JOINER:

1 Q. Have you located that?

2 MR. MARSTON: Objection to the
3 form of the question. I think you might have
4 mischaracterized where that is on the
5 document.

6 MS. JOINER: I am sorry, let me
7 point it out to you on the document.

8 BY MS. JOINER:

9 Q. (Indicating.) Right here. The
10 last sentence of that paragraph, do you see
11 that?

12 A. Yes, I see it.

13 Q. So, there you write, I witnessed
14 two guys beat Asia --

15 A. Jimmy was the only one near me.
16 There was another image there, but like I
17 said, I couldn't tell you who it was.

18 Q. You saw two people?

19 A. Yes.

20 Q. But you don't know the name of one
21 of them?

22 A. No, I do not.

1 Q. How far away were you standing
2 from Asia when this happened?

3 A. I couldn't really tell you. I was
4 close enough but not too close.

5 Q. Maybe 10 feet?

6 A. No. It was a little closer than
7 that.

8 Q. Closer. Maybe 5 feet?

9 A. It could have been.

10 Q. So you recognized Jimmy?

11 A. Yes.

12 Q. And then tell me what you saw of
13 this other person?

14 A. I just seen an image and they were
15 hitting Asia, too. And then I just turned
16 around and walked out. I couldn't handle it
17 no more.

18 Q. Was it the front of the person or
19 the back of the person?

20 A. I couldn't really tell.

21 Q. Did Asia go back into the show
22 that night?

- 1 A. Yes.
- 2 Q. How long after this happened?
- 3 A. Right after it.
- 4 Q. Was she bleeding?
- 5 A. She was, but they didn't care.
- 6 Q. Did she have blood on her when she
- 7 went back into the show?
- 8 A. I am not really sure.
- 9 Q. Did you see her go back into the
- 10 show?
- 11 A. Yes.
- 12 Q. So at some point you returned?
- 13 A. Yes, I was at the back curtain.
- 14 Q. So you walked away?
- 15 A. Yes.
- 16 Q. And how long were you gone?
- 17 A. I can't really tell.
- 18 Q. You don't know how many minutes?
- 19 A. I don't remember.
- 20 Q. A short time or a long time?
- 21 A. I am not really sure.
- 22 Q. But why did you come back then?

1 A. I came up to the back curtain to
2 get the other animals ready to go out.

3 Q. So when you went back to the
4 curtain, that is when you saw Asia go in?

5 A. Yes.

6 Q. So you saw Asia come back out a
7 second time then?

8 A. Yes.

9 Q. And did anything happen to Asia
10 the second time she came back out?

11 A. They got her out of the curtain
12 and started hitting her again. Then that was
13 it.

14 Q. Who was hitting her the second
15 time?

16 A. Jimmy is the only one I seen.

17 Q. How was he hitting her?

18 A. He was hitting her with a
19 bullhook.

20 Q. Where at?

21 A. I can't really tell you. I don't
22 remember exactly where.

1 Q. So, how long did Jimmy spend
2 hitting Asia?

3 A. Right after we seen him start
4 hitting, they left with the animals. So I
5 don't really know.

6 Q. They left -- you mean they took
7 the elephants back to the tent?

8 A. Yes. Because we had to bring
9 other animals in and they were in the way.

10 Q. So the second time when they came
11 out, did Jimmy stop with Asia or did he just
12 keep going straight from the curtain to the
13 tent?

14 A. No, he stopped.

15 Q. He stopped?

16 A. Yes.

17 Q. And what did the other elephants
18 do?

19 A. They stopped, also.

20 Q. They all stopped?

21 A. Uh-huh.

22 Q. Do you have any idea how long they

1 were stopped for?

2 A. No, because I was doing the
3 horses.

4 Q. So you were trying to get the
5 horses ready to go on?

6 A. Yes.

7 Q. What do you have to do to get the
8 horses ready?

9 A. We was just getting them just up
10 to go out.

11 Q. You put their costumes on?

12 A. No, we just do like little
13 blankets on them.

14 Q. And by the time you finished
15 putting the blankets on the horses, had the
16 elephants moved off?

17 A. Yes.

18 Q. Is there anything else that you
19 can remember about what you call the Asia
20 incident?

21 A. Just how she squealed.

22 Q. What did she do? Can you describe

1 that?

2 A. A deafening squeal.

3 MR. MARSTON: I am sorry. If it
4 is okay, I think the witness would like to
5 take a break at this time.

6 MS. JOINER: Sure. That is fine.
7 Okay.

8 VIDEOGRAPHER: We are off the
9 record at 2:05 p.m.

10 (A recess was taken.)

11 VIDEOGRAPHER: Back on the record
12 at 2:12 p.m.

13 BY MS. JOINER:

14 Q. We are back from the break,
15 Mrs. Tom. Did you discuss your testimony
16 during the break?

17 A. No.

18 Q. Not at all with your counsel?

19 A. No.

20 Q. You say in the very last paragraph

21 of this letter that we were looking at that

22 you grew very fond of the elephants. Do you

1 see that?

2 A. Yes.

3 Q. Which elephants did you grow very
4 fond of?

5 A. All of them.

6 Q. All of them.

7 Do you remember how many elephants
8 there were?

9 A. Ten that I dealt with.

10 Q. Do you remember their names?

11 A. I remember some names.

12 Q. Which ones can you remember?

13 A. Asia, Baby, Tonka is the only ones
14 I can remember right now.

15 Q. Did you have any of the elephants
16 that were your favorites?

17 A. The ones I named.

18 Q. Asia, Baby and Tonka?

19 A. Uh-huh.

20 Q. Why were they your favorites?

21 A. Just how I dealt with them. How
22 they were on the line is how I dealt with

1 them.

2 Q. How did you deal with them?

3 A. Just got them ready for the show,
4 talked to them.

5 Q. What did you have to do to get
6 them ready for the show?

7 A. Nothing. Just put blankets on
8 them and got ready.

9 Q. I think you mentioned at one point
10 in some of these papers that you were escorted
11 from the train. Is that right?

12 A. I do not remember.

13 Q. Do you remember being escorted by
14 anybody when you were let go?

15 A. I do not remember.

16 Q. So, after your husband told you
17 that you were both fired, what did you do
18 next?

19 A. Start packing.

20 Q. How long did that take?

21 A. I am not really sure. I just
22 started packing to get everything ready.

1 Q. What did you do in Wagon 16?

2 A. We sit down and talked to the
3 manager.

4 Q. Mr. Griggs?

5 A. I am not really sure. I do not
6 remember names.

7 Q. That is okay. A man?

8 A. Yes.

9 Q. What did you talk to this man
10 about?

11 A. Just we are not supposed to talk
12 about what we had seen, and that we were gone.

13 Q. I am sorry, and we were --

14 A. We were gone. We got fired.

15 Q. This man told you you are not
16 supposed to talk about what you saw?

17 A. Yes.

18 Q. Did he tell you anything else?

19 A. No.

20 Q. Did you tell him anything else?

21 A. No, I did not.

22 Q. About how long did that last in

1 A. (Indicating.)

2 Q. Do you think that chains should be
3 illegal?

4 MR. MARSTON: Objection to the
5 form of the question. Objection to lack of
6 foundation.

7 THE WITNESS: I don't think they
8 should use them.

9 BY MS. JOINER:

10 Q. Do you think they should have
11 elephants in the circus at all?

12 MR. MARSTON: Objection to the
13 question, objection to the form of the
14 question, I should say. Objection, lack of
15 foundation.

16 THE WITNESS: No.

17 BY MS. JOINER:

18 Q. No, they shouldn't?

19 A. No, they shouldn't.

20 MS. JOINER: Number 3, please.

21 (Document referred to marked

22 Deposition Exhibit No. 3 for identification

1 and subsequently attached to the deposition.)

2 BY MS. JOINER:

3 Q. Please take your time and let me
4 know when you are ready. Okay.

5 A. (Witness reviewing document.)

6 Q. Have you looked at this?

7 A. Yes.

8 Q. Have you ever seen this before?

9 A. I have seen it before.

10 Q. Is that your signature at the
11 bottom?

12 A. Yes.

13 Q. It says a date of April 4, 2007 at
14 the bottom. Do you see that?

15 A. Yes.

16 Q. Is that when you signed this?

17 A. Yes.

18 Q. Where did you sign this at?

19 A. I am not really sure.

20 Q. Do you remember speaking with
21 somebody named Carol Ballard?

22 A. I don't remember the name.

1 Q. Do you remember speaking with
2 somebody from the USDA?

3 A. Yes.

4 Q. Did you understand when you signed
5 this that this was submitted under oath?

6 A. Yes.

7 Q. When you reference in here that --
8 at the very bottom of that first paragraph, it
9 says, "I believe I was fired because I saw
10 them abusing the animals and I voiced my
11 concerns to management and the corporate
12 office."

13 A. Yes.

14 Q. Do you see that?

15 Who did you mean when you said
16 management?

17 A. My supervisor and the manager.

18 Q. Who was your supervisor?

19 A. I am not really sure.

20 Q. And the manager, do you mean the
21 general manager?

22 A. Yes.

1 Q. What concerns did you tell your
2 supervisor?

3 A. That it very -- that it upset me
4 very badly.

5 Q. What upset you very badly?

6 A. The beatings and the abuse to the
7 animals.

8 Q. And when did you tell your
9 supervisor that?

10 A. I am not really sure.

11 Q. Was it before or after the
12 incident with Asia?

13 A. It was after the incident.

14 Q. With Asia?

15 A. Uh-huh.

16 Q. Do you know how long after the
17 incident with Asia?

18 A. No, I am not really sure.

19 Q. When did you voice your concerns
20 with the manager?

21 A. The same day.

22 Q. The same day. Was it the same

1 conversation?

2 A. Yes.

3 Q. Was there anybody else there?

4 A. No.

5 Q. When you voiced your concern, what
6 did they say?

7 A. Keep quiet or you will be fired.

8 Q. Did they say anything else?

9 A. No. They just told me to go back
10 to work. That is what I did.

11 Q. And then you also reference there
12 at the corporate office. Who did you tell at
13 the corporate office?

14 A. I am not really sure. I just know
15 someone was there.

16 Q. I didn't hear the last part.

17 A. Someone was there from the
18 corporate office. That is all I remember.

19 Q. Was it male or female?

20 A. I am not really sure.

21 Q. Did you speak in person?

22 A. Yes.