

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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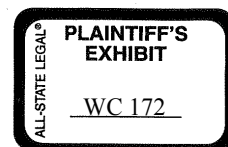
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|---------------------------------------|---|----------|
| AMERICAN SOCIETY FOR THE PREVENTION | : | |
| OF CRUELTY TO ANIMALS, et al., | : | |
| Plaintiffs, | : | Civ. No. |
| V. | : | 03-02006 |
| RINGLING BROTHERS AND BARNUM & BAILEY | : | (EGS) |
| CIRCUS, et al., | : | |
| Defendants. | : | |

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Washington, D.C.

Wednesday, January 16, 2008

Videotaped deposition of KENNETH FELD, 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 10:04 a.m., Wednesday, January 16, 2008, and the proceedings being taken down by Stenotype by OKEEMAH S. HENDERSON and transcribed under her direction.



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

WITNESS

EXAMINATION BY COUNSEL FOR

KENNETH FELD
By Ms. Meyer

PLAINTIFFS
5

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

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(Original exhibits attached.)

1 Q. And to you, that's striking them; is
2 that correct?

3 MR. SIMPSON: Object to the form.
4 You're arguing with the witness.

5 MS. MEYER: I am not.

6 A. It might be. It's semantics.

7 BY MS. MEYER:

8 Q. Have you seen Ringling Brothers
9 employees strike elephants on the legs?

10 A. Yes.

11 Q. And have you seen them strike
12 elephants behind the ears?

13 A. I have seen them touch elephants
14 behind the ears. I don't know if it's a strike.

15 Q. Is that also a matter of semantics
16 then?

17 A. Well, it's more of a prod.

18 Q. When you say, "prod," what do you
19 mean?

20 A. I mean if somebody pushing part of the
21 bull hook so it moves the elephant along.

22 Q. Which part of the bull hook have you

1 seen handlers prod elephants with behind their
2 ears?

3 A. Both.

4 Q. Both the hooked end of the bull hook?

5 A. Both sides, one or the other.

6 Q. Sorry. When you say both sides, what
7 do you mean?

8 A. Well, on a bull hook or an ancus, one
9 side is just the handle and one side typically has
10 a hook on it.

11 Q. So you've seen elephant handlers at
12 Ringling Brothers prod an elephant behind its ear
13 with the hooked end of the bull hook?

14 A. With both ends, it depends on the
15 occasion and I guess the situation. Yes.

16 Q. Which side of the elephant do the
17 handlers usually stand on?

18 A. I think the left side.

19 Q. Have you also seen Ringling Brothers
20 employees strike elephants under the chin with a
21 bull hook?

22 A. Yes.

1 Q. And have you seen them strike
2 elephants under the chin with the hooked end of
3 the bull hook?

4 A. I don't know.

5 Q. Have you seen them strike elephants
6 with the other end of the bull hook?

7 A. Yes.

8 Q. And when you've observed that kind of
9 treatment of the elephant, is that an example of
10 what you referred to as guiding the elephant
11 before?

12 MR. SIMPSON: Object to the form of the
13 question.

14 A. What I have seen is guiding or
15 correction. Yes.

16 BY MS. MEYER:

17 Q. So it could be correction as well?

18 A. Yes.

19 Q. How about disciplining?

20 MR. SIMPSON: Object to the form of the
21 question.

22 A. Again, I think it's semantics. So I

1 don't know that that's disciplining them. I think
2 it's more of a reminder that when I say pick up
3 your head, you should pick up your head. It's
4 conditioning.

5 BY MS. MEYER:

6 Q. Okay. Do you know whether any of the
7 elephant handlers that you've seen strike an
8 elephant with a bull hook have ever received a
9 written reprimand?

10 A. I don't know.

11 Q. And if they had not received a written
12 reprimand for striking an elephant with a bull
13 hook, would that be against company policy?

14 MR. SIMPSON: Object to the form of the
15 question.

16 A. Well, it can be very appropriate to
17 correct an elephant with a bull hook. You're
18 saying that's the same as striking, so that's
19 where we have our issue in language and that would
20 be appropriate for them and as an accepted method
21 of working and handling elephants.

22 BY MS. MEYER:

1 worked for Ringling Brothers Circus being accused
2 of hitting elephants with bull hooks?

3 A. Yes. The activists are constantly
4 accusing all of our elephant handlers of hitting
5 the elephants.

6 Q. All of them have been accused of
7 hitting elephants with bull hooks?

8 A. Well, according to the activists,
9 that's what you hear, that everybody has a bull
10 hook and everybody hits an elephant.

11 Q. So you have heard of accusations that
12 all of the elephant handlers that work for
13 Ringling Brothers Circus have hit elephants with
14 bull hooks?

15 A. No. No.

16 Q. Okay. Have you ever heard accusations
17 that Troy Metzler has hit elephants with bull
18 hook?

19 A. Yes.

20 Q. Who is Troy Metzler?

21 A. Troy Metzler is an elephant handler
22 with Ringling Brothers Barnum & Bailey.

1 Q. He's worked on the blue unit; is that

2 correct?

3 A. Yes.

4 Q. And he's currently at the CEC; is that

5 correct?

6 A. I don't know. I think so.

7 Q. Have you heard that Sasha Houcke has

8 hit elephants with bull hooks?

9 A. I have heard that.

10 Q. And have you heard information that an

11 individual named Pat Harned has hit elephants with

12 bull hooks?

13 A. When?

14 Q. Ever.

15 A. I have heard that.

16 Q. Okay. Have you ever heard that an

17 individual named Jimmy Strickland has hit

18 elephants with bull hooks?

19 A. No.

20 Q. Never heard that?

21 A. Never heard of Jimmy --

22 Q. Do you know who Jimmy Strickland is?

1 A. No.

2 Q. Don't know who he is? How about an
3 individual named Icham?

4 MR. SIMPSON: Object to the form.

5 BY MS. MEYER:

6 Q. Do you know who Icham is?

7 A. I know who Icham is.

8 Q. Who is he?

9 A. Icham is an elephant handler on the
10 blue unit.

11 Q. Have you ever heard any accusations
12 that Icham has hit elephants with bull hooks?

13 A. No.

14 Q. What about Alex Vargas. Have you ever
15 heard of any acquisitions of Alex Vargas hitting
16 elephants with bull hooks?

17 A. Yes.

18 Q. Who is Alex Vargas?

19 A. Alex Vargas is an elephant handler on
20 the red unit.

21 Q. What about an individual named Peshta.
22 Do you know who that is?

1 you; is that correct?

2 A. That's correct.

3 Q. Now, Ms. Fahrenbruck's job as animal
4 behaviorist required her to make sure that the
5 animals were treated well; is that correct? Was
6 that part of her job?

7 A. I presume so. I don't know. I don't
8 know the job description of what her position was
9 and I don't know if it was animal behaviorist and
10 if there was some other title to her job.

11 Q. I thought you said she was hired to
12 provide enrichment for the animals.

13 A. She was originally. I don't remember.
14 I think she was hired prior to January of '05. I
15 think she worked for the company prior to that
16 time.

17 Q. Okay. I'm sorry. What was the last
18 part of it?

19 A. I think she worked for the company
20 prior to this time.

21 Q. Okay. And she was working for the
22 company in 2005, correct?

1 A. Yes.

2 Q. And assuming she was still the animal
3 behaviorist in 2005?

4 A. That's what I said. I don't know if
5 she was.

6 Q. Okay. Assuming she were?

7 A. Okay.

8 Q. Part of her job would be to make sure
9 the animals were treated well, correct?

10 A. I assume so.

11 Q. And part of her job would be if she
12 saw an animal mistreated, would be to report it to
13 the appropriate individuals at the circus; is that
14 correct?

15 A. That's correct.

16 Q. So when she's reporting to Mr. Stewart
17 about what she observed at the blue unit, that was
18 an appropriate exercise of her job, was it not?

19 A. I believe so.

20 Q. Now, Mr. Stewart as a general manager
21 of the circus had no obligation to report to you
22 about observations of mistreatment of the animals

1 that Ms. Fahrenbruck had observed; is that

2 correct?

3 A. That's correct.

4 MR. SIMPSON: Object to form.

5 BY MS. MEYER:

6 Q. And he had no responsibility to report
7 that to you?

8 A. That's correct.

9 Q. Why is that?

10 A. Because he would report to the vice
11 president of circus operations. He doesn't report
12 to me.

13 Q. I'm sorry. Who would that individual
14 be again?

15 A. Jim Andacht.

16 Q. So he would be responsible for
17 reporting incidents of mistreatment of animals to
18 Jim Andacht; is that correct?

19 A. Yes.

20 Q. And how would he report such incidents
21 to Mr. Andacht?

22 A. I have no idea.

1 BY MS. MEYER:

2 Q. And are lacerations on the elephants
3 sometimes caused by bull hook use, too?

4 A. They may be.

5 Q. Did you know about a baby elephant
6 named Benjamin who traveled with the blue unit in
7 the late 1990s?

8 A. Yes.

9 Q. Did you ever have an opportunity to
10 observe Benjamin?

11 A. Yes.

12 Q. And know that Benjamin died while
13 swimming in a pond in Texas in July, 1999?

14 A. Yes.

15 Q. And do you know that Pat Harned was
16 Benjamin's handler at the time?

17 A. Yes.

18 Q. And Pat Harned was a handler for
19 elephants on the blue unit during that period of
20 time; is that correct?

21 A. I believe so.

22 Q. Were you ever informed about the

1 Yes.

2 Q. But the female elephants are handled
3 by the employees that work at the CEC; is that
4 correct?

5 A. That's correct.

6 Q. So it's likely that Mr. Harned handles
7 the female elephants at the CEC?

8 A. I don't know. I don't know the
9 division of work down there. I don't know who is
10 assigned to what animals.

11 MS. MEYER: I'd like to have that
12 marked as an exhibit.

13 (Feld Deposition Exhibit No. 9 was marked for
14 identification.)

15 MS. MEYER: For the record, I have
16 handed you an exhibit which is marked Exhibit 9
17 and it is a document that was produced by
18 defendant in this case. It has the Bates label
19 FEI 38273 through FEI 38280 and on the first page
20 it states that it is a Confidential Animal
21 Activist Activities with Related Material to Same
22 and then it has a date March 7, 1994. Do you see

1 that?

2 A. Yes.

3 BY MS. MEYER:

4 Q. Have you seen this document before?

5 A. This appears to be a document that I
6 have seen before. Yes.

7 Q. When would you have -- when did you
8 see it before?

9 A. I know that I saw this or a very
10 similar document in the PETA trial two years ago.

11 Q. Did you see it prior to that time?

12 A. I don't recall if I did or not.

13 Q. You may have seen it prior to that
14 time?

15 A. That's correct.

16 Q. Do you know who prepared this
17 document?

18 A. I believe it was prepared by Richard
19 Froemming.

20 Q. At the time it was prepared by
21 Mr. Froemming, what was Mr. Froemming's
22 relationship to Feld Entertainment, Incorporated?

1 A. At the time that this was prepared, I
2 believe he was a consultant that we used with
3 respect to animal operations and along the
4 traveling circus units.

5 Q. What were Mr. Froemming's duties in
6 that regard?

7 A. His duties were to keep us aware of
8 animal activists, of demonstrations that were
9 happening to help us with proactive animal
10 activism on our part and welfare, to really
11 improve our animal how we worked with the animals,
12 how our people handled them, the whole demeanor
13 with the public.

14 And that was sort of the advent of how we
15 would secure our animal logs. He was responsible
16 for security and other things like that.

17 Q. When you say he was responsible for
18 keeping you aware of the activities of activists,
19 what do you mean by that?

20 A. Well, when there would be protests or
21 demonstrations at the circus or at the animal
22 logs.

1 Q. How would he keep you aware?

2 A. He would I think send memos like this

3 and he would meet with people of the circus
4 management; he was traveling between the different
5 units and with other security firms that we would
6 hire for protection.

7 Q. Would you have been a recipient of the
8 reports that Mr. Froemming made with respect to
9 his duties in this regard?

10 A. I received some reports from I think
11 some time in '94 on this.

12 Q. So it's likely that you received a
13 copy of this report?

14 A. It may have been.

15 Q. And at page 38280, which is the very
16 last page, at the bottom of the page it states,
17 "R. Froemming received a message from Mary Reed."

18 A. Uh-huh.

19 Q. Who is Mary Reed?

20 A. Mary Reed was an employee at the
21 company.

22 Q. What was her job at the company?

1 A. She was in the creative services
2 department, prepared advertising and promotional
3 paraphernalia.

4 Q. Do you know what her title was?

5 A. No.

6 Q. Do you know how long she was employed
7 by Feld Entertainment?

8 A. She was a long time employee. I mean,
9 it was well over 10 years.

10 Q. It was well over 10 years as of 1994?

11 A. I believe so. Yes. Or it was at
12 least let's say at least 10 years at that time.

13 Q. Okay. Did she stay employed at Feld
14 Entertainment after 1994?

15 A. Yes.

16 Q. When did -- is she still at Feld
17 Entertainment?

18 A. I'm not sure.

19 Q. She might be?

20 A. I'm not sure. I think that she
21 retired but I'm not quite sure.

22 Q. So you see in the very last paragraph

1 Feld Entertainment employee with regard to this
2 incident?

3 A. This Juno thing?

4 Q. Yes.

5 A. I don't know.

6 Q. If, in fact, a Ringling Brothers
7 employee had beaten an elephant in the way that's
8 described here, is that the kind of thing there
9 would be a written record of?

10 A. I don't know. I would think so. I
11 don't know what happened at that time.

12 Q. But it's the kind of thing that should
13 be written up and put in the employee's personnel
14 file; is that correct?

15 A. I think so.

16 Q. Do you see earlier in this document at
17 page 38277 there's a reference to the lead
18 elephant Siam. Do you see that?

19 A. Yes.

20 Q. And in the next paragraph it says,
21 "Also during show prior to entrance to manage
22 Buckles giving Siam a hot shot." Do you see that?

1 A. Yes.

2 Q. And it says, "Just great. Trying to
3 get her moving into ring faster." Do you see
4 that?

5 A. Yes.

6 Q. Siam is an elephant who is still on
7 the red unit; is that correct?

8 A. There is a Siam on the red unit?

9 Q. You don't know whether it's the same
10 elephant?

11 A. I don't believe it is.

12 Q. Now, who is this Buckles that's being
13 referred to here?

14 A. Buckles Woodcock was the elephant
15 trainer at the time. What happened in January of
16 1994, we had a train accident and there was
17 basically all the living cars, the coaches for the
18 people were destroyed.

19 Also in that accident there was two people
20 that were killed. One of them was the head
21 elephant trainer Ted Svertesky.

22 Q. How do you spell the last name?

1 A. This may not be accurate.

2 Q. Okay. That's all right.

3 A. S-V-E-R-T-E-S-K-Y.

4 Q. Okay.

5 A. We were in a situation where we needed
6 someone to supervise the elephant herd and I knew
7 that Buckles was a capable elephant handler,
8 elephant trainer and he was available and I hired
9 him for that position. So he was engaged on a
10 short-term notice and when we were made aware of
11 this, his employment at the termination with his
12 contract was let up, he was let go.

13 Q. Do you remember when his contract was
14 up?

15 A. I think it was at the end of that
16 season. I'm not sure exactly the entire term of
17 his employment but for whatever it was, he was let
18 go.

19 Q. And when would the season have ended
20 with respect to an incident that occurred in March
21 of 1994?

22 A. The season would have ended in

1 November.

2 Q. So you're saying in November of 1994
3 he was let go; is that correct?

4 A. Whenever his contract was up. Yes.

5 Q. When you say he was let go, was he
6 fired?

7 A. No. He was not rehired.

8 Q. Between March of 1994 and November of
9 1994 when he was not rehired, did he receive a
10 written reprimand for this incident that's
11 recounted on page 38277?

12 A. I don't know. My understanding is
13 that Richard Froemming did have discussions about
14 the improper use of a hot shot.

15 Q. But you don't know whether or not
16 there was a written reprimand put in
17 Mr. Woodcock's record about this incident, do you?

18 A. No, I do not know.

19 Q. There should have been, though,
20 correct?

21 A. I presume so.

22 Q. And why did you decide to not renew

1 A. If that's when the contract was up. I
2 don't know. It may have been at the end of there,
3 it may have been '95, I'm not sure. I said at the
4 end of term of that, so I don't recall --

5 Q. I see?

6 A. -- when it was.

7 Q. Okay. So the earliest his contract
8 would not have been renewed you said was the end
9 of the season for 1994; is that correct?

10 A. Correct.

11 Q. But it might have been after that that
12 his contract was up?

13 A. Yeah. I don't recall the terms of his
14 contract.

15 Q. So he might have stayed at the circus
16 for another year and a half after this incident;
17 is that correct?

18 A. It may have been through the end of
19 the entire tour. Yes.

20 Q. So the use of a hot shot was not a
21 grounds for immediately firing Mr. Woodcock; is
22 that correct?

1

A. Not at that time.

2

Q. Why wasn't he fired immediately?

3

A. I believe he wasn't fired immediately

4

because there were 10, 12, 15 elephants there and

5

I needed somebody that I could count on to take

6

care of the elephants. I couldn't just leave

7

elephants out there.

8

Q. And you were willing to have someone

9

who used a hot shot on an elephant be in charge

10

with the rest of your elephants?

11

A. My understanding is he was spoken

12

with. I don't know if there was ever another

13

incident.

14

Q. Would you be in a position to know

15

whether there was another incident?

16

A. If someone informed me. There were, I

17

believe, memos like this throughout 1994 and I

18

don't recall there ever being another mention.

19

Q. Okay. When you say memos like this

20

throughout 1994, what kind of memos are you

21

talking about?

22

A. There were memos from Richard

1 record will show what he said.

2 BY MS. MEYER:

3 Q. Let me ask you that question. Do you

4 agree that elephants are sometimes disciplined by

5 elephant handlers at Ringling Brothers?

6 A. Yes.

7 Q. So what was I was asking you was
8 negative reinforcement is used as a disciplinary
9 tool by the Ringling Brothers handlers; is that
10 correct?

11 MR. SIMPSON: Object to the form of the
12 question.

13 A. What definition of negative
14 reinforcement are we going to use?

15 BY MS. MEYER:

16 Q. Who is Joan Galvin?

17 A. Joan Galvin was formally with the
18 company and I believe she was vice president of
19 government relations.

20 Q. How long was she with the company?

21 A. I don't know.

22 Q. You don't know?