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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

-----X

AMERICAN SOCIETY FOR THE :

PREVENTION OF CRUELTY TO :

ANIMALS, et al., :

Plaintiffs, :

vs. : Civil Action No.

RINGLING BROTHERS AND : 03-2006 (EGS/JMF)

BARNUM & BAILEY CIRCUS, :

et al, :

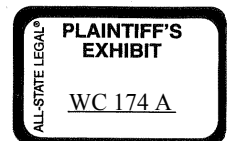
Defendants. :

-----X

Washington, D.C.

Friday, December 7, 2007

SUBJECT TO PROTECTIVE ORDER



CERTIFIED COPY

1 Videotaped Deposition of JOSEPH T.
2 FRISCO, JR., a witness herein, called for
3 examination by counsel for the plaintiffs in
4 the above-entitled matter, pursuant to notice,
5 the witness being duly sworn by KATHY SAVICH,
6 a Notary Public in and for the District of
7 Columbia, taken at the offices of Meyer,
8 Glitzenstein & Crystal, 1601 Connecticut
9 Avenue, N.W., Washington, D.C., at 9:45 a.m.,
10 Friday, December 7, 2007, and the proceedings
11 being taken down by Stenotype by KATHY SAVICH,
12 RPR, and transcribed under her direction.

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1 APPEARANCES:

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13 ALSO PRESENT:

14 RAYMOND HEER, Videographer

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C O N T E N T S

WITNESS EXAMINATION BY COUNSEL FOR
JOSEPH FRISCO, JR. PLAINTIFFS DEFENDANTS
By Ms. Meyer 7

E X H I B I T S

FRISCO EXHIBIT NO.	PAGE NO.
1 - Notice of deposition and subpoena dated 9/28/07	7
2 - Notice of deposition and subpoena dated 10/19/07	8
3 - DVD numbered PL 14918	335

1 A. No.

2 (Cellular telephone interruption.)

3 THE WITNESS: I don't know how to
4 turn it off. Sorry.

5 MS. MEYER: That's all right. It
6 happens all the time.

7 BY MS. MEYER:

8 Q. Have you been -- Mr. Frisco, have
9 you been asked to testify in this case by Feld
10 Entertainment?

11 A. Have I been asked to testify?

12 Q. To testify at the trial in this
13 case.

14 A. No.

15 Q. Do you know whether or not you will
16 be testifying at the trial in this case?

17 A. I don't know.

18 Q. Okay. Where do you work presently?

19 A. On the world show, red unit.

20 Q. And that's for the Ringling

21 Brothers Circus?

22 A. Right.

1 Q. And that's owned by Feld

2 Entertainment?

3 A. Right.

4 Q. And when were you first hired by

5 Feld Entertainment?

6 A. I believe it was in the -- I'm
7 terrible on dates -- in the mid-fall of 2005
8 [sic].

9 Q. That's when you were first hired to
10 work on the red show; is that correct?

11 A. Yes.

12 Q. But weren't you hired --

13 A. No.

14 Q. Sorry. Go ahead.

15 A. The CEC.

16 Q. Okay. So you were hired in the
17 fall of 2005 to work at the CEC; is that
18 correct?

19 A. I'm terrible about dates.

20 Q. I think Gary Jacobson said it was
21 December 2005. Does that comport with your
22 memory?

1 A. Yes. Yes.

2 Q. Okay. And by the "CEC," do you
3 mean the Center for Elephant Conservation?

4 A. Yes.

5 Q. And that's Ringling Brothers'
6 breeding facility in Florida?

7 A. Yes.

8 Q. Okay. And who hired to you work at
9 the CEC?

10 A. Gary Jacobson.

11 Q. And when he hired you to work at
12 the CEC, where had you been working prior to
13 that, immediately prior to that?

14 A. For the Miller family in Oklahoma,
15 Carson & Barnes Circus.

16 Q. Does the Miller family own Carson &
17 Barnes?

18 A. Yes.

19 Q. And how long had you been working
20 at Carson & Barnes when you were hired to work
21 at the CEC?

22 A. I think it was five years.

1 what I'm talking about. If an attorney were
2 applying for a job here and I had heard that
3 the attorney was -- had engaged in some
4 unethical conduct, I probably would bring that
5 up in the conversation, during the
6 interview -- during the interview process,
7 want to find out about it, is there any
8 validity to that, before I offered him a job.
9 I'd kind of want to explore that.

10 And so I'm asking you, in your
11 context, when you were being interviewed for
12 your job by Gary Jacobson to go work at the
13 CEC, did he ever raise with you any matters in
14 which people had said you had mistreated
15 elephants? Did he ever bring that up with you
16 and ask you about it?

17 MS. PARDO: Objection to the form.
18 It's been asked and answered.

19 THE WITNESS: We talked over -- for
20 a year. I really can't remember.

21 BY MS. MEYER:

22 Q. Okay. And what were your job

1 responsibilities at the CEC?

2 A. Elephant husbandry.

3 Q. Can you be more specific about what
4 you mean by that?

5 A. Feeding, watering, foot care,
6 bathing, exercise, medical attention.

7 Q. Did you actually administer any
8 medical care to the elephants while you were
9 at the CEC?

10 A. No.

11 Q. So when you say "medical
12 attention," what did you mean by that?

13 A. I just -- assisting with the vets.

14 Q. Okay. How long did you work at the
15 CEC?

16 A. Almost a year.

17 Q. And did you work with all of the
18 elephants at the CEC?

19 A. Most.

20 Q. Are there any you did not work
21 with?

22 A. No.

1 Q. Okay. So it would be all of the
2 elephants, then?

3 A. All -- right.

4 Q. And who were your supervisors at
5 the CEC?

6 A. Gary Jacobson.

7 Q. And what was your title, again, at
8 the CEC?

9 A. Elephant superintendent. Assistant
10 elephant superintendent.

11 Q. Was that your only title?

12 A. Yes.

13 Q. Anybody else serve as a supervisor
14 to you other than Gary Jacobson?

15 A. Jim Williams.

16 Q. Anybody else?

17 A. (Shaking head.)

18 Q. And did you have responsibility for
19 supervising anybody at the CEC?

20 A. At times, yes.

21 Q. Who did you supervise?

22 A. Pat.

1 Q. Pat Harned?

2 A. Right. Tom Hafner, Sean Quinn,
3 David Garcia. That's all that handled
4 elephants.

5 Q. Is Mr. Hafner still at the CEC?

6 A. I don't know. I haven't been there
7 in over a year.

8 Q. Okay. Have you heard his name
9 mentioned in the last year by someone who
10 works at the CEC?

11 A. Yes.

12 Q. Do you know whether he still works
13 for Feld Entertainment in any capacity?

14 A. No.

15 Q. You don't know?

16 A. I don't know.

17 Q. Okay. And what were your
18 supervisory responsibilities with respect to
19 these individuals?

20 A. Just to make sure the daily
21 procedures went on schedule.

22 Q. And when you say you worked at --

1 with a lot of the elephants down there, that
2 would include elephants named Lutzi,
3 L-u-t-z-i, Zina, Mysore, Suzan and Jewel; is
4 that correct?

5 A. Right.

6 Q. Was Jewel at the CEC when you were
7 there?

8 A. At the very end, yes.

9 Q. When did she get there?

10 A. I couldn't give you an exact date.

11 Q. Okay. How many months did you work
12 at the CEC with Jewel?

13 A. I couldn't answer that because I
14 don't remember when she got there.

15 Q. Okay. And did you have occasion to
16 observe, while you were working at the CEC,
17 the elephants on chains?

18 A. Yes.

19 Q. And can you describe how the
20 elephants were chained?

21 A. I don't understand what you're
22 asking.

1 gentleman whose name is Jeff Lease.

2 Q. What does Jeff Lease do at the CEC,
3 or what did he do when you were there?

4 A. He was a handler.

5 Q. An elephant handler?

6 A. Yes.

7 Q. And did he handle these young
8 elephants --

9 A. No.

10 Q. -- that we talked about?

11 No?

12 A. No.

13 Q. Okay. But he was present, you
14 said, during these sessions when you were
15 training the elephants to go through their
16 routines?

17 A. Yes.

18 Q. All right. What was his -- what
19 was his responsibility?

20 A. To be there to clean up behind them
21 or move a prop.

22 Q. Okay. And why did you -- when did

1 you leave the CEC?

2 A. I think it was early December.

3 Q. December of 2006?

4 A. Yes.

5 Q. Why did you leave?

6 A. They needed a superintendent on the
7 red unit.

8 Q. How did you find out about that?

9 A. Through Gary Jacobson.

10 Q. What did Gary Jacobson tell you
11 about that?

12 A. That they needed an elephant
13 superintendent.

14 Q. Okay. When did he tell you that?

15 A. Honestly, I don't remember.
16 August, maybe.

17 Q. It was a few months before you left
18 the CEC?

19 A. Right.

20 Q. And did he tell you why they needed
21 a superintendent on the red unit?

22 A. Other than the gentleman that was

1 there was leaving.

2 Q. Who was that?

3 A. Sacha.

4 Q. Sacha?

5 A. Houcke. I couldn't spell it for

6 you.

7 Q. I think it's H-o-u-c-k-e.

8 Did you know Sacha Houcke?

9 A. I only met him for a brief period
10 of time.

11 Q. When did you meet him?

12 A. In November of '06.

13 Q. And what was the circumstances of
14 your meeting him?

15 A. I flew to the show to see the
16 elephants and the operation of the circus.

17 Q. Where was that?

18 A. Pittsburgh and Auburn Hills,
19 Michigan.

20 Q. Is that the only time you met Sacha
21 Houcke?

22 A. That's the only time I've ever met

1 hour and a half with him.

2 Q. Did you know why Mr. Houcke was
3 leaving the red unit?

4 A. No, I do not.

5 Q. Did anyone discuss with you why
6 Mr. Houcke was leaving the red unit?

7 A. (Shaking head.)

8 Q. Sorry. You have to answer for the
9 record.

10 A. Oh. No.

11 Q. No one at Feld Entertainment had
12 any discussion with you at all about why Sacha
13 Houcke was leaving the red unit?

14 A. Other than his contract was up.

15 Q. Who did you have that conversation
16 with?

17 A. Gary Jacobson.

18 Q. When was that conversation?

19 A. I can't remember.

20 Q. So as far as you know, Gary
21 Jacobson said, "we need a superintendent on
22 the red unit because the guy who is doing it's

1 Q. Let's talk about a daily schedule.

2 A. Okay.

3 Q. Is there a daily schedule for the
4 elephants?

5 A. Yes.

6 Q. Okay. Could you describe the daily
7 schedule for the red unit elephants?

8 A. I come in in the morning between
9 6:30 and 7:00.

10 Q. Do you actually live on the train?

11 A. No. I live about five feet from
12 the elephant tent.

13 Q. In what kind of --

14 A. In an RV.

15 Q. Do you travel in the RV when the --
16 when the red unit is traveling from city to
17 city?

18 A. On short jumps, yes.

19 Q. Okay. And on longer jumps?

20 A. I ride the train.

21 Q. All right. So -- I'm sorry.

22 Continue. You arrive between 6:30 and 7:00.

1 A. The first thing I do is go down and
2 make a visual inspection of all the elephants.

3 Q. Now, at that point in time, are the
4 elephants on chains?

5 A. Yes.

6 Q. Are all of the elephants on chains?

7 A. Yes.

8 Q. And have they been on chains
9 throughout the night?

10 A. Yes.

11 Q. And when would they have been
12 chained up for the night?

13 A. Between 9:30 and 10:00 at night.

14 Q. Okay. So you do a visual
15 inspection. Then what happens?

16 A. I come in and sweep them all off.

17 Q. You sweep off the elephants?

18 A. And use a blower.

19 Q. When you say "a blower," what do
20 you mean?

21 A. It's a gas blower. Leaf --

22 Q. Like a leaf blower?

1 A. Yeah.

2 Q. Okay. So I'm just trying to figure
3 out -- you said, if you can -- if you can, you
4 walk them outdoors on the perimeter --

5 A. Right.

6 Q. If you can't, you walk them in
7 circles indoors, right?

8 A. Right.

9 Q. I'm just trying to figure out the
10 breakdown of venues, how many are indoor, how
11 many are outdoor for this exercise period.

12 MS. PARDO: I am just going to
13 object to the -- something in your testimony.
14 You said he walks them indoors; I think his
15 testimony was he walks them in the tent.

16 MS. MEYER: Okay.

17 THE WITNESS: Yeah. That's --

18 BY MS. MEYER:

19 Q. In the tent?

20 A. In the tent, which is outdoors.

21 Q. Well, this building is outdoors,
22 too, but we're inside the building, so that's

1 paddock area?

2 A. Luna had a -- she has a habit of
3 eating anything that blows into the area or
4 comes near the area.

5 Q. So the reason for the chain was to
6 keep her from eating things that --

7 A. Right.

8 Q. -- you didn't want her to eat?

9 A. Right.

10 Q. Okay. And what about Banana?

11 A. She's like a grumpy old lady,
12 didn't get along with a few of the other
13 elephants.

14 Q. So she was chained because of that?

15 A. Well, to keep from -- so no one
16 would get hurt.

17 Q. Because she might hurt the other
18 elephants?

19 A. So no elephants would become
20 harmed.

21 Q. Because Banana might harm them?

22 A. Have you ever seen elephants argue

1 before?

2 Q. I'm asking you the questions. I'm

3 just trying to figure out why Banana was --

4 A. It's an 8,000 --

5 Q. -- kept on a chain.

6 A. It's an 8,000-pound elephant. I

7 just started there. She was tied up for a

8 reason. That was the reason that was given.

9 So I didn't feel that I knew enough about the
10 situation to take the chain off of her at that
11 time.

12 Q. Okay. How long were Luna and
13 Banana kept on a chain in the paddock area?

14 A. During the day?

15 Q. Yes.

16 A. Whenever Alex or I or Antonio
17 weren't -- weren't standing out there, which
18 was probably an hour at a time. They were
19 always under supervision, but...

20 Q. All right. Let's back up a little
21 bit. Before we get to the paddock area, when
22 the elephants are still inside the tent, were

1 Luna and Banana also kept on a chain for some
2 period of time?

3 A. During the washing and stuff?

4 Q. Yes.

5 A. No.

6 Q. No? Okay.

7 But when the elephants were let
8 into the paddock area, Luna and Banana -- and
9 again, you were saying this was for some
10 period of time; it's no longer -- and I do
11 want to talk about that -- were chained,
12 correct?

13 A. Yes.

14 Q. Okay. And how long did this go on
15 for Luna and Banana, when they were in the
16 paddock area, had to be put on a chain, after
17 you got there, as far as you know?

18 A. After I got there?

19 Q. Yeah.

20 A. About three weeks.

21 Q. Three weeks. And is it your
22 understanding that, prior to your coming to

1 the red unit, Luna -- this was the practice,
2 that Luna and Banana were kept on chains in
3 the paddock area?

4 A. Right.

5 Q. Okay. So this was a change in the
6 regular routine when they were taken off
7 chains, I guess, in the paddock area after you
8 had been there for three weeks?

9 A. Yes.

10 MS. PARDO: Objection to the form.

11 BY MS. MEYER:

12 Q. Okay. And why was there a change
13 in the routine?

14 A. I felt they didn't need it.

15 Q. Okay. What changed your mind? Or
16 why did you feel that they didn't need it?

17 A. I just didn't. I just watched them
18 for three weeks, and they didn't show any sign
19 of -- maybe by them being tethered for that
20 period of time, it taught them a lesson.

21 Q. Okay. Did you do any special work
22 with Luna or Banana to get them to the point

1 if you ever did.

2 A. No.

3 Q. Never struck an elephant with a
4 bull hook during the training of an elephant?

5 A. The -- I've tapped one on the leg
6 or tapped her on the side of the head, yes.

7 Q. You've tapped.

8 A. (Nodding head.)

9 Q. I see. But never struck?

10 A. Struck.

11 Q. How about hit?

12 A. Hit? Hit? Bopped one under the
13 chin a few times.

14 Q. Just a few times?

15 A. Well, I can't remember -- 30-some
16 years.

17 Q. How about last year, working on the
18 red unit, how many times did you bop an
19 elephant under the chin?

20 A. Maybe a couple times.

21 Q. Any particular elephant?

22 A. I can't remember.

1 Q. With the hooked end of the bull
2 hook?

3 A. No.

4 Q. With the handle end of the bull
5 hook?

6 A. Right.

7 Q. Why did you do that?

8 A. I can't -- I can't remember exactly
9 why.

10 Q. Okay. Are you done?

11 A. Yes.

12 Q. Okay. So you were describing this
13 training before -- I was asking you how an
14 elephant knows what the bull hook means, and
15 you said they're taught that. And then you
16 described using the soft cotton rope and
17 lifting the elephant's leg, and there's
18 usually carrots or apples, some kind of treat,
19 right?

20 A. Not --

21 Q. Always. Always, right? Correct?

22 A. Yes.

1 AFTERNOON SESSION

2 THE VIDEOGRAPHER: This begins
3 tape 3 in the depositions of Joseph T. Frisco,
4 Junior. On the record at 1:20:41.

5 BY MS. MEYER:

6 Q. Mr. Frisco, before we broke for
7 lunch, I was asking you to go through a
8 typical schedule of the red unit. And we got
9 to the point when -- we were talking about a
10 day when there's a 7:30 show -- 7:30 p.m.
11 show, and you were explaining that after the
12 show at some point the elephants are then put
13 on chains in the barn for the night. And I
14 wanted to know what time does that usually
15 occur when there's a 7:30 show?

16 A. Between 9:30 and 10:00.

17 Q. All right. And after they're put
18 on chains for the night is when they're
19 watered and fed; is that correct?

20 A. They're watered directly when
21 they're brought back to the tent. As soon as
22 they come back to the tent, they're tied up

1 and given a drink of water.

2 Q. Okay. And what about fed?

3 A. As soon as they're done finished
4 drinking, everybody has drank as much as they
5 want, then they're given their food and
6 vegetables and sweet feed.

7 Q. So that -- the watering and the
8 feeding also occurs between 9:30 and 10:00 --

9 A. Right.

10 Q. -- on a day when there's a 7:30
11 show; is that correct?

12 A. Yes.

13 Q. All right. And is a 7:30 p.m. show
14 the latest show that there usually is?

15 A. Yes.

16 Q. All right. And when there's a day
17 when there is no show, what time, in the usual
18 schedule, would the animals be chained for the
19 night?

20 A. Between 8:30 and 9:00.

21 Q. So it's a little earlier?

22 A. Right.

1 Q. Okay. And would they then be
2 watered and fed at that point, too?

3 A. Yes.

4 Q. Okay. But they would be chained
5 first and then watered and fed; is that
6 correct?

7 A. Right.

8 Q. Okay. Now, before you were hired
9 by Feld Entertainment to work at the CEC, I
10 want to talk about what experience you had had
11 working with elephants. If you could tell me,
12 when is the first time you ever worked with
13 elephants?

14 A. My father had elephants. I was
15 around elephants from the time I was five
16 years old.

17 Q. What's your father's name?

18 A. Joe Frisco, Senior.

19 Q. Okay. Did he ever go by any other
20 name?

21 A. Just Friscia.

22 Q. Okay. That you spoke of earlier?

1 under Smokey Jones. That's not true?

2 A. No. Not that I know of. I mean...

3 Q. He's never -- your father never
4 mentioned that to you?

5 A. No, he has mentioned that he had
6 been around Smokey, but he didn't train under
7 Smokey.

8 Q. Oh, okay. He specifically said he
9 did not train under him?

10 A. Right. No, he didn't tell me that
11 he trained under Smokey Jones.

12 Q. Okay. He didn't mention it one way
13 or the other?

14 A. Right.

15 Q. I see. All right.

16 A. And to tell -- I never asked. I
17 mean, young -- you listen to what he said and
18 watch what he does. That's not a question.

19 Q. So did you -- did you learn how to
20 handle elephants from your dad, then?

21 A. In the beginning, yes.

22 Q. When you say, "in the beginning,"

1 did you learn from someone else later on?

2 A. Well, it's a learning -- Gary

3 Jacobson, Gary Johnson, Rex Williams, Smokey

4 Jones.

5 Q. Oh, so you've had some training

6 from Smokey Jones?

7 A. I have been around Smokey and

8 watched some of the techniques.

9 Q. Okay. And have you employed some

10 of his techniques in your handling of

11 elephants?

12 A. Yes.

13 Q. And you mentioned Gary Johnson.

14 What's your relationship to Gary Johnson?

15 A. I worked for Gary for a year.

16 Q. When was that?

17 A. In the -- I believe it was in the

18 late '90s.

19 Q. Where was that?

20 A. In California.

21 Q. Was that with Have Trunk Will

22 Travel?

1 Q. Barbara and Gary --

2 A. -- Byrd.

3 Q. Byrd? Are they the owners of
4 Carson & --

5 A. Yes.

6 Q. -- Barnes?

7 What year did you go to work for
8 Carson & Barnes?

9 A. I believe it was 2000, 2001,
10 somewhere in there.

11 Q. All right. So we're almost up to
12 the present.

13 A. I better get my calendar out.

14 Q. And what did you at Carson &
15 Barnes?

16 A. I assisted my brother as elephant
17 superintendent.

18 Q. Which brother?

19 A. Tim.

20 Q. And had he already been there for a
21 while?

22 A. Yes.

1 Q. How long had he been there?

2 A. I'd say maybe four or five years.

3 He had already been there one time before
4 that.

5 Q. Had he been the elephant

6 superintendent for four or five years --

7 A. Yeah.

8 Q. -- by the time you got there?

9 A. Yes.

10 Q. And how many elephants did Carson &
11 Barnes have when you went to work there?

12 A. At the time, I think they owned 30,
13 31.

14 Q. And were they all Asians?

15 A. No.

16 Q. How many were Africans?

17 A. Just two.

18 Q. What were their names?

19 A. Paula and Kristy.

20 Q. Paula and Kristy?

21 A. Yes.

22 Q. All right. I'm not going to ask

1 go off and work other places?

2 A. They -- they rent elephants to
3 organizations that need elephants.

4 Q. So he would go with the elephants?

5 A. Right.

6 Q. I see. Okay. So he followed the
7 elephants?

8 A. Right. He took the elephants to
9 wherever --

10 Q. He took the elephants. But he went
11 with the elephants?

12 A. Exactly.

13 Q. So if someone needed the -- wanted
14 the elephants, they could rent the elephants
15 and they would get your brother with the
16 elephants?

17 A. Right.

18 Q. Okay. Did you say you had another
19 brother who also handled elephants?

20 A. Right.

21 Q. Who is that?

22 A. Terry.

1 A. Right.

2 Q. Okay. Now, did Terry learn how to
3 handle elephants from your father?

4 A. Yes.

5 Q. All right. And did Tim also learn
6 to handle elephants from your father?

7 A. He started there.

8 Q. Do you know what other kind of
9 training he had?

10 A. No, I don't.

11 Q. Okay. You don't know who else he
12 trained with?

13 A. No, I don't.

14 Q. Did he get his basic training from
15 your father?

16 A. Basic -- I would say basic, yes.

17 Q. Okay. So all three of you sons got
18 your basic training from your father?

19 A. Right.

20 Q. So do all three of you use the same
21 basic handling methods with elephants?

22 A. I can't answer for --

1 MS. PARDO: Objection. Calls for
2 speculation.

3 THE WITNESS: I can't answer for my
4 brothers.

5 BY MS. MEYER:

6 Q. Have you --

7 A. I know I do.

8 Q. Sorry. Go ahead.

9 A. I know I do.

10 Q. Okay. Have you ever observed Terry
11 Frisco handling elephants?

12 A. Yes.

13 Q. Does he use the same basic methods
14 that you use?

15 A. It appears to me, yes.

16 Q. Okay. And have you ever observed
17 Tim Frisco handling elephants?

18 A. Yes.

19 Q. And does he use the same basic
20 methods that you use?

21 A. It's -- it's all about the same.

22 Q. Okay. You mentioned a while ago

1 Q. Never used a bamboo stick with an
2 elephant?

3 A. Never used a bamboo stick.

4 Q. Okay. And so when you -- you have
5 used a bull hook to correct an elephant,
6 though, correct?

7 A. Right.

8 Q. Okay. And how did you use it?

9 A. I just explained to you. I reached
10 over and pulled one to me.

11 Q. With the hooked end of the bull
12 hook under the elephant's chin?

13 A. Right.

14 Q. Okay. Have you ever had to correct
15 an elephant with a bull hook on the red unit?

16 A. Yes.

17 Q. Have you ever had to correct an
18 elephant with a bull hook when you worked at
19 the CEC?

20 A. No, not that I recall.

21 Q. Okay. Did you ever hit an elephant
22 on the red unit with a bull hook?

1 A. No. As you I explained to you,
2 I've bopped one under the chin before.

3 Q. When you say, "bopped one under the
4 chin," what do you mean by --

5 A. Just kind of a bop.

6 Q. Okay. Is that the only time you've
7 ever used a bull hook in that way with an
8 elephant?

9 A. When you say "only time," I don't
10 understand what you mean.

11 Q. Have you ever taken a bull hook and
12 held it like a baseball bat and hit an
13 elephant with it?

14 A. No. Are you supposed to?

15 Q. I'm asking you the questions.

16 A. No, I haven't.

17 Q. You've never done that in your
18 life?

19 A. No.

20 Q. Did you ever see anybody do that?

21 A. Not -- that's not the way I was
22 raised.

1 Q. Have you ever seen anybody do that?

2 A. No.

3 Q. Never?

4 A. On -- I've seen videos before.

5 Q. Did you ever see your farther do
6 that?

7 A. No.

8 Q. Did you ever see any of your
9 brothers ever do that?

10 A. No.

11 Q. Have you ever seen any of your
12 brothers ever hit an elephant with a bull
13 hook?

14 A. Other than the occasional whack
15 under the chin or on the leg, no.

16 Q. And when you say, "the occasional
17 whack under the chin or on the leg," is that
18 the same as bopping an elephant under the
19 chin?

20 A. Yeah, I would say yes.

21 Q. Okay. Did you ever hit Opal with a
22 bull hook when you were at Carson & Barnes?

1 MS. PARDO: Okay.

2 BY MS. MEYER:

3 Q. Does anyone on the red unit
4 currently have a hot shot?

5 A. Not to my knowledge.

6 Q. Have you seen any hot shots at the
7 red unit?

8 A. No.

9 Q. Have you even seen one there?

10 A. No.

11 Q. How about whips? Does anybody at
12 the red --

13 A. I have a whip.

14 Q. Let me ask the question first.

15 Does anyone at the red unit have a
16 whip?

17 A. Yes, I have a whip.

18 Q. Okay. And what do you use the whip
19 for?

20 A. It's an extension of my arm. I use
21 it to -- if I've got -- say I've got six
22 elephants down there and she's reaching over

1 at the trash or something there, I can kind of
2 wave it at her and ask her not to do that.

3 Q. Just wave it at her?

4 A. It's a little buggy whip.

5 Q. Do you ever have physical contact
6 between your whip and the elephant?

7 A. I touch them with it at times.

8 Q. Okay. And how did you learn how to
9 use a whip with an elephant?

10 A. With -- they normally use them with
11 African elephants.

12 Q. Who taught you how to use a whip
13 with an elephant?

14 A. I don't remember.

15 Q. Did your father use a whip with an
16 elephant?

17 A. No.

18 Q. You don't remember who taught you
19 how?

20 A. No.

21 MS. MEYER: Okay. We can stop now
22 for a break.

1 Q. California Animal Control?

2 A. San Jose Animal Control were
3 standing right there.

4 Q. Okay.

5 A. They came in, inspected the
6 elephant.

7 Q. Okay. Have you ever --

8 A. Our veterinarians were there, too.

9 Q. Okay. Have you ever hit Asia with
10 a bull hook?

11 A. Hit Asia with a bull hook?

12 Q. Yes.

13 A. She would be the one I bopped under
14 the chin.

15 Q. Okay. How about Tonka? Have you
16 ever hit Tonka with a bull hook?

17 A. Maybe a whack on the lag.

18 Q. On the leg?

19 A. Yeah.

20 Q. How about Luna? Have you ever hit
21 Luna with a bull hook?

22 A. Maybe on the tip of the trunk so

1 she would quit grabbing at everything.

2 Q. Okay. How about Aussan? Have you
3 ever hit her with a bull hook?

4 A. No.

5 Q. How about Banana?

6 A. No.

7 Q. How about Sarah? Have you ever hit
8 any of those elephants with a bull hook?

9 A. No.

10 Q. How about Toby?

11 A. Toby, no.

12 Q. Have you ever hit Bangko with a
13 bull hook.

14 A. No.

15 Q. Have you ever hit Siam with a bull
16 hook?

17 A. (Shaking head.)

18 Q. You have to say the words for --

19 A. No. I'm sorry.

20 Q. For the reporter.

21 Have you ever hit Baby with a bull
22 hook?

1 A. No.

2 Q. Have you ever hit Asia with a whip?

3 A. I've touched Asia on the rump with
4 a whip before, yes.

5 Q. Okay. How about Tonka? Have you
6 ever hit Tonka with a whip?

7 A. Maybe on the -- I've touched her
8 with it on the -- on the end of her nose, yes.

9 Q. All right. How about Luna? Have
10 you ever hit Luna with a whip?

11 A. Yes.

12 Q. Okay.

13 A. Touched her on the end of her nose
14 with a whip.

15 Q. And how about Aussan? Have you
16 ever hit Aussan with a whip?

17 A. No.

18 Q. Ever hit Banana with a whip?

19 A. No.

20 Q. How about Sarah? Ever hit her with
21 a whip?

22 A. No.

1 Q. Have you ever hit Toby, Bangko,
2 Siam or Baby with a whip?

3 A. Bangko maybe on the tip of the
4 nose.

5 Q. All right. Have you ever use a hot
6 shot on any of these animals?

7 A. It's not permitted.

8 Q. Well, that's a different --

9 A. No.

10 Q. I'm asking a different question.

11 A. No, I have not.

12 Q. Okay. Have you ever seen Alex
13 Vargas hit any of these animals I've named
14 with a bull hook?

15 A. No.

16 Q. None of them?

17 A. No.

18 Q. Have you ever seen Antonio Almeda
19 hit any of these animals on the red unit with
20 a bull hook?

21 A. No. He wasn't here very long after
22 I came.

1 Q. Oh. He's gone already?

2 A. Yes.

3 Q. Where did he go?

4 A. He's in Vegas somewhere.

5 Q. Do you know what he's doing in
6 Vegas?

7 A. Stage hand.

8 Q. And how about Silvio -- do you know
9 his last name?

10 A. No. I know who you're talking
11 about. No, I've never seen him hit --

12 Q. You've never seen him hit any of
13 the elephants on the red unit with a bull
14 hook?

15 A. No.

16 Q. Have you ever seen him bop the
17 elephants with a bull hook?

18 A. He's not around the elephants as
19 much as everybody else, so...

20 Q. Okay. Did you ever see Alex Vargas
21 bop any of the elephants with a bull hook?

22 A. Maybe under the chin.

1 Q. Did you ever bop Bangko with a bull

2 hook?

3 A. Yes.

4 Q. Did you ever bop Siam with a bull
5 hook?

6 A. No.

7 Q. How about Baby? Did you ever bop
8 Baby with a bull hook?

9 A. No.

10 Q. All right. Now, have you ever seen
11 Jimmy Strickland hit or bop any of the
12 elephants on the red unit with a bull hook?

13 MS. PARDO: Objection to the form.

14 MS. MEYER: Is that because it's a
15 compound question?

16 MS. PARDO: That's right.

17 MS. MEYER: All right. Let's go
18 through it.

19 BY MS. MEYER:

20 Q. Have you ever seen Jimmy Strickland
21 hit Asia with a bull hook?

22 A. No.

1 lay down all the way on its side.

2 Q. Have you ever made an elephant go
3 down on its -- not on its side, but down
4 straight with its legs collapsed and made it
5 hold its trunk up to correct it?

6 A. Yes. It's known as a timeout.

7 Q. Okay. Oh, that's an industry term?

8 A. I use that as a timeout.

9 Q. Okay. I mean, do other elephant --

10 A. Yes.

11 Q. Let me ask the question.

12 Do other elephant handlers in the
13 circus industry use the term "timeout" to
14 refer to what I've described?

15 A. Yes.

16 Q. Okay. And what does -- when would
17 you use that kind of a timeout?

18 A. Let me think. Like if -- Baby has
19 a tendency to walk and push on the other
20 elephants at times in her enclosure. If she
21 tends to keep doing it, I'll walk over and
22 ask -- she likes putting her nose into little

1 kids' -- nose in the corner. And I'll have
2 her come over on the platform and stretch out
3 for -- for three or four minutes.

4 Q. Okay. That's what's called
5 stretching out?

6 A. Right.

7 Q. All right. Describe what the
8 elephant does when it's stretching out.

9 A. She just stretches out there for
10 four or five minutes.

11 Q. Can you describe what the elephant
12 is doing when it's stretching out?

13 A. Just -- she's stretched out on the
14 ground with her nose up.

15 Q. Okay. When you say her nose, you
16 mean her trunk --

17 A. Her trunk, yes.

18 Q. -- right?

19 So then -- but how -- what is the
20 position of the body of the elephant when it's
21 stretching out, as you've described?

22 A. Her front feet are out and her back

1 feet are behind her.

2 Q. Okay. And why do you do that?

3 A. Well, it's like, I use that as a --

4 they realize that the behavior they've done,

5 just done, it draws attention to it, just

6 like -- it makes them think about what they've

7 just done. If I just take them over and lead

8 them in their corner and let them stand, it

9 doesn't mean anything.

10 Q. Okay. Is it difficult for the

11 elephant to be stretched out?

12 A. If they're left there for any

13 amount of time, yes.

14 Q. It's uncomfortable for the animal?

15 A. If they're left there at any amount

16 of time, it is.

17 Q. So the elephant didn't like being

18 stretched out; is that correct?

19 A. If they didn't like being stretched

20 out, they wouldn't stretch out.

21 Q. So they like it; is that what

22 you're saying? They like to be stretched out?

1 yards. But when they're in there getting a
2 bath, there has to be some kind of order to
3 the -- to the day.

4 Q. Okay. And what's the part of it --
5 of the timeout that you described where they
6 have to hold their trunk up? Is that a --
7 that's part of the timeout --

8 A. Right.

9 Q. -- in addition to the stretching
10 out, correct?

11 A. Right. It's not always done, but
12 it -- it's done at times.

13 Q. What impact does that have --

14 A. Just keeps --

15 Q. -- on the animal?

16 A. -- her mind on what's going on.

17 Q. Okay.

18 A. When an elephant has her nose up,
19 that's what we do to have them focus on what's
20 going on.

21 Q. Why does that help them focus?

22 A. It just gets their attention, lets

1 them know you're talking to them and not the
2 elephant standing next to --

3 Q. Is that an unnatural way for the
4 elephant to hold its trunk?

5 A. No.

6 Q. So why -- I don't understand why
7 that would --

8 A. Because the elephant has her nose
9 up, and she's paying attention to you because
10 you're talking to her.

11 Q. Okay. And as part of the timeout,
12 the elephant is not to put her trunk down
13 until you say she can put her trunk down?

14 A. Sometimes, yes.

15 Q. Okay. I mean, how do you end a
16 timeout?

17 A. Just -- it's only four to five
18 minutes. Then you let them up.

19 Q. And what do you say to end the
20 timeout?

21 A. "All right."

22 Q. "All right"? And if the timeout

1 A. No.

2 Q. Oh, okay. I was talking about the
3 timeout that you described.

4 A. No.

5 Q. You seemed -- you seem to stress
6 that it's only done for four to five minutes,
7 and I was just asking you -- I guess I'm
8 asking you, why are you stressing that to me?

9 A. Because I just put a time limit on
10 the timeouts. That's all.

11 Q. Okay. Because if it were longer
12 than that, it would be more of a problem for
13 the animal?

14 A. No. It's just -- I want the
15 timeouts to be, you get their attention. They
16 realize what's going on. Let's move on.

17 Q. Okay. All right. Have you ever
18 had an elephant in a timeout situation for
19 longer than four to five minutes?

20 A. No.

21 Q. Have you ever known anyone who has
22 had an elephant in a timeout situation for

1 at 3:52:35.

2 (Recess.)

3 THE VIDEOGRAPHER: On the record at
4 3:54:41.

5 MS. MEYER: Okay. I wanted to ask
6 Mr. Frisco some questions after he watches
7 this tape that we're going to show. It's a
8 short tape. And it's been produced to
9 defendants. It's PL 14918. So I would like
10 to have that marked as an exhibit.

11 And, actually, let me read the
12 title of it, what it says on the label. It
13 says, "Carson & Barnes elephant training with
14 Tim Frisco," and then, in parentheses, it says
15 PETA, P-E-T-A.

16 (Frisco Deposition Exhibit No. 3
17 was marked for identification.)

18 MS. MEYER: Okay. So I just want
19 to watch it through first, and then I'm going
20 to ask him some questions.

21 (Video played.)

22 BY MS. MEYER:

1 Q. Okay. Have you ever seen that
2 videotape before, Mr. Frisco?

3 A. Yes.

4 Q. When did you see it?

5 A. When it first came out.

6 Q. Have you seen it since then?

7 A. I've only watched it twice.

8 Q. When is the last time you watched
9 it?

10 A. The last time I watched this tape?

11 Q. This tape -- sure. The last time
12 you watched this tape.

13 A. A -- Ryan, a guy that works with
14 me, was watching this thing about two weeks
15 ago, and I think yesterday I looked at it.

16 Q. Okay. Who is Ryan?

17 A. He works for me.

18 Q. What's his last name?

19 A. Ryan Henning. Did I not give you
20 his name?

21 Q. No, I don't think so.

22 A. I'm sorry. He's on vacation.

1 That's why.

2 Q. What's his last name?

3 A. Ryan Henning.

4 Q. Henning?

5 A. Right. H-e-n-n --

6 Q. Okay. Are you saying that Ryan
7 Henning had a copy of this tape?

8 A. No, not a copy. He watched it on
9 the -- he has a computer. He goes through the
10 Google tape and stuff like that, I guess.

11 Q. You watched it online?

12 A. I did? No. No.

13 Q. Ryan Henning watched it online?

14 A. I guess.

15 Q. And he talked to you about it?

16 A. They were standing over in the
17 corner watching it.

18 Q. Why was he watching it?

19 A. They just go through all the --
20 they're young guys. They just watch all the
21 stuff on the Internet.

22 Q. Okay. Did you recognize anybody on

1 that videotape?

2 A. My brother.

3 Q. I want to figure out which one is
4 your brother.

5 MS. MEYER: So if you could just --
6 if you don't mind, Delci, just going forward,
7 and then if you could stop it on who I think
8 your brother is, and then ask Mr. Frisco, if
9 he wouldn't mind identifying --

10 MS. PARDO: We're going to make an
11 objection for the record. I don't think
12 you've laid a foundation for this tape. Are
13 you planning to ask the witness on how this
14 tape was made or --

15 MS. MEYER: I wasn't thinking about
16 that. I'm just going to ask him some
17 questions about it.

18 MS. PARDO: We're going to object
19 to the foundation of this.

20 MS. MEYER: Okay.

21 MS. PARDO: But, for the record,
22 there is no foundation that's been laid for

1 this tape, or anyone that can authenticate it.

2 MS. MEYER: Okay.

3 BY MS. MEYER:

4 Q. So I'm asking my associate to
5 freeze it on a particular individual and ask
6 you if that's your brother.

7 (Video played.)

8 BY MS. MEYER:

9 Q. Is that your brother talking? Do
10 you recognize that voice?

11 A. That's --

12 Q. Who is saying, "move up, Becky"?
13 Do you know?

14 A. I think it's Tim. I'm trying to
15 see where he's at. Right here.

16 Q. Okay.

17 A. That's not a good shot.

18 MS. MEYER: See if you can go back.

19 THE WITNESS: Right there.

20 BY MS. MEYER:

21 Q. So that's your brother Tim Frisco?

22 A. Yes.

1 Q. Okay. And did you recognize his
2 voice before?

3 A. Yeah.

4 Q. And that was him talking to Becky,
5 the elephant Becky?

6 A. Right.

7 Q. All right. And do you recognize
8 where this is taking place?

9 A. I believe that's the old winter
10 quarters, the old elephant barn in Oklahoma.

11 Q. And that's at the Carson & Barnes
12 Circus?

13 A. Right.

14 Q. And do you recognize some of those
15 elephants?

16 A. It's hard to tell. I know it's
17 Becky because I can hear him.

18 Q. Okay. All right. And do you have
19 any idea what year this is?

20 A. I don't have any idea.

21 MS. MEYER: I want you to, if you
22 don't mind, fast forward to the second part of

1 it.

2 MS. WINDERS: Go forward?

3 MS. MEYER: Go forward.

4 BY MS. MEYER:

5 Q. I mean, could you tell if that's --
6 the guy in the back with his hand on his hip?

7 A. I can't --

8 Q. You can't see? Okay. Let's just
9 go to the next segment of the tape.

10 Now, who -- do you know who that is
11 in the foreground?

12 A. Where? Here?

13 Q. That's your brother, right, Tim
14 Frisco?

15 A. Yeah. That's Tim.

16 Q. All right.

17 MS. MEYER: Actually -- I'm sorry.
18 Can you back up a minute, reverse it a minute,
19 Delci.

20 Stop.

21 BY MS. MEYER:

22 Q. All right. Did you see that guy --

1 there. Now, who is that?

2 A. It looks like Ken.

3 Q. That's Ken Hardy. Do you see him
4 slugging the elephant with a bull hook on its
5 legs?

6 A. Yeah. It looks like Ken.

7 Q. Okay.

8 MS. MEYER: Now you can
9 fast-forward, if you want to, to the second
10 segment.

11 BY MS. MEYER:

12 Q. Is that your brother? Do you
13 recognize his voice?

14 A. It sounds like him, yes.

15 Q. Can you see -- is that your brother
16 right there?

17 A. Right here, yes.

18 Q. Yes. Okay. So that was your
19 brother right there at the end, is that
20 correct?

21 A. Yes.

22 Q. Okay. Do you know what's going on

1 A. Yes. I don't -- I don't do it that
2 way. It's not done that way.

3 Q. So he was engaging in practices
4 that are unacceptable in the industry?

5 A. I didn't -- I didn't really see
6 where he grabbed anybody or -- he used a hot
7 shot in the back.

8 Q. You did not see him use a hot shot?

9 A. No. I said I saw him --

10 Q. Oh.

11 A. -- use the hot shot --

12 Q. Okay.

13 A. -- in the back.

14 Q. And that's unacceptable in the
15 circus industry, correct?

16 A. In that context, yes.

17 Q. And what about the use of the bull
18 hook that's depicted on the videotape?

19 A. The videotape is so fuzzy. He's up
20 there in the front. I can't -- I really can't
21 tell what he's doing.

22 Q. Okay. What about the individual

1 of your animals before you get your shower and
2 your breakfast. And that's the way our world
3 works.

4 Q. Okay. Now, getting back to this
5 tape, again, I'm trying to figure out which of
6 the handling training methods we saw used on
7 this tape you regard to be inappropriate and
8 why.

9 So you've identified the hot shot,
10 although you said you personally do not think
11 it's necessarily inappropriate to use a hot
12 shot in a training session?

13 A. In the right context --

14 Q. In the right context.

15 A. -- for safety.

16 Q. Okay. What about the use of the
17 bull hook to strike the elephants to make them
18 do as commanded? Is that an appropriate use
19 of the bull hook?

20 A. In that manner, I would say yes.

21 Q. Okay. Does an elephant -- is an
22 elephant hurt when it's zapped with a hot