

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Case No. 03-2006 (EGS)
Judge Emmet G. Sullivan

AMERICAN SOCIETY FOR THE PREVENTION OF
CRUELTY TO ANIMALS
THE ANIMAL WELFARE INSTITUTE
THE FUND FOR ANIMALS
TOM RIDER

Plaintiffs

v.

RINGLING BROTHERS AND BARNUM AND BAILEY CIRCUS
FELD ENTERTAINMENT

Defendant

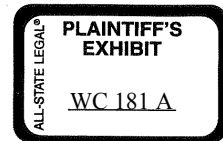
DEPOSITION of BETSY SWART

Friday, March 18, 2005, 10:26 a.m. to 1:10 p.m.

Offices of Foley, Hoag and Eliot LLP

World Trade Center West, 155 Seaport Boulevard

Boston, Massachusetts



----- JONATHAN H. YOUNG, RDR, CRR -----

COURT REPORTER

1 PRESENT:

2 Katherine A. Meyer, Esq.

3 Meyer, Glitzenstein & Crystal

4 1601 Connecticut Avenue NW

5 Suite 700

6 Washington, DC 20009

7 202.588.5206

8 for the Plaintiffs

9

10 Maura A. Dalton, Esq.

11 Covington & Burling

12 1201 Pennsylvania Avenue NW

13 Washington, DC 20004

14 202.662.5282

Fax 202.778.5282

15 mdalton@cov.com

16 for the Defendants

17

18 Paul R. Collier, III, Esq.

19 675 Massachusetts Avenue, 12th Floor

20 Cambridge, Massachusetts 02139

21 617.441.3300 x 202

Fax 617.441.3300

22 for Betsy Swart

23

24 Also present:

25 Craig Newman, Videographer

I N D E X

Betsy Swart

Examination by:

Ms. Dalton	5
Ms. Meyer	108
Ms. Dalton	110

Swart Exhibit 1	34
Swart Exhibit 2	67
Swart Exhibit 3	81

*Original exhibits retained by Ms. Dalton

1 Q. And the temperature of the train cars
2 transporting elephants in particular?

3 A. Correct.

4 Q. Do you know whether or not there are
5 misters in the train cars?

6 A. No, I don't.

7 Q. Do you know how much room the elephants
8 have in the train cars?

9 A. I know what I have seen. In terms of
10 square feet, I couldn't tell you, no.

11 I have seen, well, I don't want to say;
12 because it's been a long time, and I'm not sure I
13 remember accurately.

14 Q. When did you make these observations?

15 A. I have seen the Ringling elephants coming
16 off the train cars. I have seen the doors opened;
17 and I have seen the elephants inside very close
18 together, swaying back and forth and chained.

19 Q. When did you make those observations?

20 A. I have seen that in Sacramento, and
21 probably in 2000 and 2001.

22 I have seen it in Mexico City.

23 Q. When did you see it in Mexico City?

24 A. In 1998.

25 Q. Do you know how the elephants are monitored

1 Q. Have you read anything else besides the
2 USDA reports and Ringling's press?

3 A. I've read of books on elephants.

4 Q. I'm just referring specifically to Ringling
5 Brothers right now.

6 A. No.

7 Q. Nothing from other animal-activist groups
8 regarding Ringling's treatment?

9 A. Well, I have read certainly, generally, in
10 the movement of which I am a part; but I can't think
11 of any specific articles I've read.

12 Q. Would you say that various things you've
13 read from other animal-activist groups have informed
14 your treatment regarding Ringling's treatment of
15 elephants?

16 A. No.

17 Q. Going back and talking about the
18 various times you've been an eyewitness to
19 Ringling's treatment of elephants before, during
20 and after a show, if you could just outline for me
21 where those were.

22 A. I've seen elephants offloaded in
23 Washington, DC, and I cannot tell you the date
24 at the moment because I don't know it; and in
25 Sacramento, California, and then also in

1 Mexico City.

2 Q. Did you also attend Ringling performances
3 at any of those three times?

4 A. I have, yes.

5 Q. Let's take them one at a time.

6 When you saw the offloading of elephants
7 in Washington, DC, did you also attend the
8 performance?

9 A. Yes, I did.

10 Q. And the same question for Sacramento. Did
11 you also attend the performance?

12 A. No, I do not think so.

13 Q. And in Mexico City, did you attend the
14 performance?

15 A. Yes.

16 Q. Did you witness the elephants after the
17 show in Washington, DC?

18 A. Yes.

19 Q. And in Sacramento?

20 A. No.

21 Q. And in Mexico City?

22 A. No.

23 Q. So you witnessed the elephants after the
24 show only in Washington, DC?

25 A. Yes.

1 Sacramento.

2 Q. And then, in Mexico City?

3 A. Once.

4 Q. Once?

5 A. Yes.

6 Q. Do you have any sense of the number of
7 times you've seen the circus in Washington, DC?

8 I'm sorry; I shouldn't say that. I want
9 to focus on the offloading first.

10 A. I think twice that I can recall.

11 Q. What about Sacramento?

12 A. At least twice.

13 Q. And the actual performances in DC?

14 A. At least two performances in DC, one in
15 Mexico City.

16 Q. And none in Sacramento?

17 A. I don't think so; although, maybe. No, I
18 don't think so.

19 Q. And how many times have you viewed the
20 elephants after the performance in Washington, DC?

21 A. I will say one time.

22 Q. Do you recall seeing any particular
23 performers whom you recognized?

24 A. You mean human performers?

25 Q. Yes.

1 A. Well, Gunther Gebel Williams, certainly.

2 Q. And when did you see him?

3 A. I saw him certainly in Mexico City.

4 I thought maybe you meant particular
5 elephants.

6 Q. And what about the other times you've seen
7 the circus in Washington, DC? Did you recognize any
8 individuals?

9 A. I can't say, because I don't recall.

10 Q. What about Sacramento?

11 A. I can't recall for sure.

12 Q. Did you recognize any elephants at any of
13 these shows?

14 A. No; but you hear their names.

15 You hear their handlers or the trainers
16 calling their names, so one does hear certain names
17 repeated.

18 Q. Do you recall any particular names at any
19 particular shows?

20 A. I recall the name Aja.

21 Q. At which show?

22 A. Mexico City.

23 Q. And that was the show where Gunther Gebel
24 Williams was?

25 A. Yes.

1 Q. And I'm not entirely clear whether or not
2 you're going to be able to separate them out; but
3 I'd like to ask you a few questions regarding your
4 Washington, DC experiences.

5 Can you describe what you saw when the
6 elephants were offloaded in Washington, DC?

7 A. They were offloaded at different places.
8 On different trips in different years, they're
9 offloaded different places.

10 Q. If you could describe them one at a time.

11 A. When they come off the train, obviously,
12 they're usually hooked with a bullhook.

13 There is less of that now, because
14 these offloadings are very much scrutinized by
15 activists and by the media; but there's always
16 prodding of some sort with the bullhook, and
17 yelling, and trying to coerce the elephants
18 to stand in a line or hurry up.

19 So there's a forcefulness about it that
20 is not very attractive.

21 Q. Those were all very general comments.

22 But, if you could perhaps think back to
23 the first one of your Washington, DC experiences
24 viewing an offloading, can you recall any more
25 specifics?

1 A. Yes. I remember there was a lot of concern
2 about an elephant that was limping, and I remember
3 local humane people taking note of that and trying
4 to ascertain what elephant it was who was limping,
5 and whether or not something should be done about
6 that.

7 Q. You said that there was hooking. Can you
8 describe that, please?

9 A. You know, with a bullhook, with a hooked
10 end, prodding with that, and hooking and moving
11 and directing an elephant with a stick.

12 Q. Was there anything else that you could
13 specifically say regarding that treatment of
14 elephants during the offloading the first
15 time in Washington, DC?

16 A. No, nothing more.

17 Q. What about the second time you saw the
18 elephants being offloaded in Washington, DC?

19 A. Same.

20 Q. There was the same guiding of the elephants
21 off the...

22 MS. MEYER: I object to that question;
23 putting words in the mouth of the witness. She
24 didn't say anything about guiding.

25 A. They're not guided. They are prodded and

1 poked, and it's very aggressive.

2 Q. Moving on to your Sacramento experiences
3 watching elephants being offloaded, you said that
4 you were there at least two times; so if you could
5 describe the first time you were there.

6 A. The first time I was there, it seemed like
7 the circus attempted to stop the train away from
8 where people were, and then offload the elephants
9 there; so, we saw at a distance the same prodding
10 and poking that I had seen in Washington, DC.

11 The second time, we were closer, with
12 again the prodding and the poking, the yelling.

13 And there is the general feeling that
14 when the elephants come out of those cars they are
15 frustrated and in need of space, water, touching
16 each other, certain natural behaviors which are
17 denied repeatedly and always.

18 If an elephant attempts, after coming
19 off the train, to touch another elephant with her
20 trunk, to do normal things like put her trunk in
21 another elephant's mouth or touch another elephant,
22 Ringling instructs them to stop it and to separate
23 and not to do those natural behaviors.

24 So I have always thought that, it's a
25 shame; because they're coming off of a very confined

1 situation, it's too bad they're not allowed to be
2 more natural in that time.

3 Q. When you say that they Ringling stops those
4 behaviors, what do you mean? What do they do to
5 stop those behaviors?

6 A. Take the trunk and pull it back to the
7 elephant's own body space.

8 Q. And when you say natural behaviors, what is
9 the basis for your saying that they're natural
10 behaviors?

11 A. Well, I've seen elephants in the wild,
12 albeit certainly African elephants and not Asian;
13 but I've seen Asian elephants on television and read
14 books about Asian elephants, and I think the
15 behaviors apply to both species.

16 Q. So those are your descriptions regarding
17 the two times you saw the elephants offload in
18 Sacramento; correct?

19 A. Correct.

20 Q. Let's move on to Mexico City now. If you
21 could describe the offloading of the elephants in
22 Mexico City.

23 A. The use of the bullhook was much more
24 pronounced there; and it was in the mouth and ears,
25 and behind the knees, in a more pronounced and sharp

1 way than it had been in the United States.

2 Q. Continue, if you...

3 A. That's what I saw. I saw the hooking kind
4 of behind the ears and into the corner of the mouth
5 and other parts of the body; and so I saw it be more
6 aggressive than I had described to you before.

7 Q. Moving on to the performances, you said
8 that you saw performances in Washington, DC twice.

9 A. At least twice.

10 VIDEOGRAPHER: 11:37, going off the
11 record.

12 [Recess taken]

13 VIDEOGRAPHER: 11:51, back on the
14 record.

15 Q. If you could next tell me about the first
16 time you saw a performance in Washington, DC; if you
17 could describe what you saw at the performance.

18 A. You mean as it pertains to elephants, or
19 just in general?

20 Q. Yes.

21 A. Well, several things.

22 Elephants have to do behaviors that are
23 extremely unnatural, and so therefore dangerous for
24 them. And I can't say exactly what tricks they did
25 in which performance I saw, but I have seen them.

1 They do the thing where they have to sit
2 on the barrel, or they have to do a hind-leg stand,
3 or they do a kind of lineup where they put their
4 feet on each other's backs and stand kind of like
5 dominoes.

6 Those kinds of behaviors create stress
7 in elephants, because they're not natural behaviors.

8 Q. And your knowledge regarding the stress
9 caused to the elephants is based on what you've
10 read?

11 A. What I've read, and what I've seen in the
12 wild.

13 Q. Did you see similar performances by the
14 elephants in Washington, DC the other times you
15 attended performances?

16 A. Yes. The stunts or the tricks vary from
17 performance to performance, but they're pretty
18 standard.

19 Q. So you can say that it's essentially the
20 same performance that you saw in Mexico City?

21 A. In Mexico City I specifically saw Gunther
22 Gebel Williams use some sort of an electric device
23 on an elephant during a performance, so that it was
24 visible from where I was sitting.

25 It was a Hotshot or something in his

1 hand that I could see; and he shocked the elephant
2 with it, or prodded the elephant with it, during the
3 performance.

4 Q. Where did he use the electrical device on
5 the elephant?

6 A. It was during the performance, and they
7 were moving. I believe it was in the hindquarters
8 of the elephant, the leg, or somewhere to the rear;
9 keeping the elephant in control.

10 Q. You said that you saw the elephants after
11 the performance one time when you were in
12 Washington, DC; is that correct?

13 A. What I recall is what I said to you before,
14 that there were people there from the humane society
15 who were concerned that a particular elephant was
16 limping.

17 And so we were looking at the
18 elephants after they came out of the performance
19 with particular regard to that one, to see if she
20 was limping, or what was...

21 Q. Do you know what elephant it was?

22 A. No.

23 Q. Do you know who you were with from the
24 humane society?

25 A. No, I don't.

1 Q. Besides the events that you've described in
2 Washington, DC, Sacramento and Mexico City, have you
3 been an eyewitness to any other Ringling elephants
4 at any other time?

5 A. Well, you mean other than those three
6 specifically?

7 Q. Yes.

8 A. Well, we saw the babies in Mexico City, the
9 two baby elephants that were travelling with that
10 train. Those animals were not at the other
11 performances that I saw.

12 And it was in Mexico City that I saw
13 the babies coming off the train and Gunther Gebel
14 Williams deliberately taking a whip, striking one of
15 the babies in the face with the whip, and the baby
16 screeching and recoiling.

17 So that was something different, that I
18 had not seen in Washington or Sacramento.

19 Q. So that's in addition to what else you
20 described to me when you watched the offloading in
21 Mexico City?

22 A. Correct.

23 Q. Can you think of anything else that you saw
24 in Washington, DC that you have not already told me
25 about?

1 A. As I said, the hooking in the mouth and
2 ears and places like that; yes. And the legs.

3 Q. You've mentioned hooking in the mouth,
4 hooking on the ears, and hooking behind the leg. Is
5 there anywhere else that you can think of that you
6 saw hooking?

7 A. Sometimes just generally on the back area,
8 and you can often see scars from that on elephants.
9 Yes, I saw them do it in Mexico City.

10 The elephants were offloaded, and
11 then they were paraded right after the offload.

12 They were lined up in front of the train
13 cars, again with the handlers making sure that they
14 didn't do any of the things that they wanted to do,
15 touch each other, touch other things, or even touch
16 themselves, or drink out of a puddle or whatever;
17 and they were then paraded to the place where
18 they would be performing.

19 Q. Did you see anything that you have not
20 already told me about regarding the Sacramento
21 performances you've seen?

22 A. In Sacramento, I believe the second time
23 -- and you probably will ask me then who it was, and
24 I do not know -- somebody, after the elephants were
25 out of the train, went into the train car with a

1 controlled.

2 And there was, I believe, another horse
3 that was limping. But I thought you just wanted to
4 know about elephants.

5 Q. I just wanted to know about elephants, but
6 I didn't want to cut you off.

7 Let's clarify. Other than the events
8 you discussed in Washington, DC, Mexico City, and
9 Sacramento, have you seen any other actions by
10 Ringling employees that you would consider
11 mistreatment of elephants?

12 A. Not that I eyewitnessed, no.

13 Q. Have you heard of any other actions by
14 Ringling employees that you would consider
15 mistreatment?

16 A. I've seen videotapes of other actions, yes.

17 Q. When you were in Washington, DC at any of
18 the performances, did you take any pictures of what
19 you saw regarding the elephants?

20 A. No.

21 Q. Did you take any pictures of elephants in
22 Mexico City?

23 A. Video, yes.

24 Q. Did you take any pictures of elephants in
25 Sacramento?

1 A. No.

2 Q. So there are no benefits that accrue from
3 having other elephant populations in North America?

4 MS. MEYER: Again, I object to the use
5 of the term population.

6 Q. Again, there are no benefits to elephants
7 in North America from Ringling's...

8 A. From what I know of Ringling's breeding
9 programs, they produce babies that are separated
10 from their mothers under harsh circumstances, and
11 they're put on the road in difficult conditions and
12 forced to perform unnatural kinds of tricks and
13 behaviors; and I can't see any benefit in that
14 to them, or any other benefits.

15 Q. So you're saying that there are no benefits
16 to any elephants, either in North America or Asia or
17 Europe or anywhere else, as a result of Ringling's
18 breeding program?

19 A. No.

20 Q. Have you ever witnessed Asian elephants in
21 the wild?

22 A. No.

23 Q. Have you ever witnessed Asian elephants in
24 government-owned sanctuaries in Asia?

25 A. No.

1 record.

2 [Off the record]

3 VIDEOGRAPHER: 1:07; back on the record.

4 MS. DALTON: I have no further questions
5 at this time.

6 EXAMINATION

7 BY MS. MEYER:

8 Q. Betsy, you testified in response to
9 Ms. Dalton's questions about what you witnessed in
10 Washington, DC when you saw the elephants being
11 unloaded from the train.

12 I think you were describing the hooking
13 of the elephants with the bullhook; and you said
14 that they do less hooking now, because the
15 activity is scrutinized by the public.

16 And my question was, did you mean to
17 suggest that Ringling Brothers actually uses the
18 bullhook less on elephants now than it did at the
19 time that you witnessed this unloading in
20 Washington, DC?

21 A. I meant they do it less in public view.
22 I don't mean they use it less on elephants. They
23 just do it less where people can see it, is my
24 opinion.

25 I've seen video that animal-activist

1 groups took a long time ago when nobody went to see
2 these offloadings; and when nobody went to see these
3 offloadings they were very violent, with the hitting
4 with the full, force hitting with the bullhook, and
5 hitting and jerking.

6 And then, as more and more animal
7 people would go and watch the offloadings, that
8 behavior would lessen; and then out would come the
9 watermelons, so that the public and the media would
10 have a shot of an elephant in a happier
11 circumstance.

12 However, I believe that our trip to
13 Mexico kind of showed that when public scrutiny is
14 not there the same old behavior prevails; because
15 what I saw in Mexico was as violent or more violent
16 than what Ringling did a decade ago, when nobody was
17 watching here in America.

18 I saw a whip in the face of a baby, and
19 violent hooking; so that's what I meant.

20 What I meant is that when nobody
21 is watching, it's a violent practice; and when
22 somebody is watching, then they're performing for
23 the camera.

24 MS. MEYER: That's my only question.

25 MS. DALTON: I have one question, just