

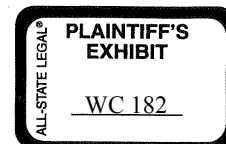
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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. :

Washington, D.C.

Thursday, May 31, 2007

Videotaped deposition of ALEJANDRO VARGAS,
called for examination for the Plaintiffs in the
above-entitled matter, pursuant to notice, the
witness being duly affirmed by MARIANNE R. HEWITT, a
Notary Public in and for the District of Columbia,
taken at the offices of Meyer, Glitzenstein &
Crystal at 1601 Connecticut Avenue, N.W., Suite 700,
Washington, D.C. at 10:08 a.m., Thursday, May 31,
2007, and the proceedings being taken down by
Stenotype by MARIANNE R. HEWITT and transcribed
under her direction.



1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 KATHERINE A. MEYER, ESQ.

4 KIMBERLY OCKENE, ESQ.

5 ALLYSON N. HAMMERSTEDT

6 Meyer, Glitzenstein & Crystal

7 1601 Connecticut Avenue, N.W.

8 Suite 700

9 Washington, D.C. 20009-1056

10 (202) 588-5206

11

12 On behalf of the Defendants:

13 MICHELLE C. PARDO, ESQ.

14 JOHN M. SIMPSON, ESQ.

15 Fulbright & Jaworski, L.L.P.

16 801 Pennsylvania Avenue, N.W.

17 Washington, D.C. 20004-2623

18 (202) 662-0200

19

20 ALSO PRESENT:

21 RAYMOND HEER, III

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

WITNESS EXAMINATION BY COUNSEL FOR
ALEJANDRO VARGAS PLAINTIFFS
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1 Q Did any other members of your family
2 handle the animals at the Royal Hanneford Circus?

3 A My sisters --

4 THE WITNESS: Sorry.

5 A -- work in the elephant act introducing
6 the elephants together with an elephant tamer. My
7 sisters also worked in the horses' act.

8 Q And what year did your family go to work
9 for Ringling Brothers Circus?

10 A 1989.

11 Q And which unit of the circus did you go
12 to work for in 1989?

13 A Red, the Red Unit.

14 Q And did your entire family --

15 THE INTERPRETER: Actually he said a
16 Spanish word rather than unit, it usually means
17 like -- it's something different. Like should I
18 clarify it?

19 No, he meant unit.

20 BY MS. MEYER:

21 Q Okay. And did your -- the entire family
22 that was with you at the Royal Hanneford Circus

1 also go to the Ringling Brothers Circus in 1989?

2 A Yes.

3 Q And what were your responsibilities at
4 the Ringling Brothers Circus with the Red Unit when
5 you started there in 1989?

6 A I was in charge of the trapeze act, and
7 over all my brothers in the trapeze act.

8 Q Did you have any responsibilities for
9 animals when you went to work for the Red Unit in
10 1989?

11 A Not at the time.

12 Q And how long did you work for the Red
13 Unit?

14 A Four years.

15 Q And during those four years did you have
16 any responsibilities at all with respect to the
17 animals in the Red Unit?

18 A No.

19 Q And when you left the Red Unit what was
20 your next job?

21 A We went to the Blue Circus, to the other
22 unit.

1 Q So you went to the Blue Unit in 1993; is
2 that correct?

3 THE WITNESS: Yes.

4 A Yes.

5 Q And at some point in time did you work
6 for another segment of the circus called
7 Kaleidoscope?

8 A Yes.

9 Q When did you work for Kaleidoscope?

10 A 1998.

11 Q Okay. When you went to work for the Blue
12 Unit in 1993 what were your responsibilities?

13 A Trapeze artist.

14 Q And how long did you work for the Blue
15 Unit starting in 1993 continuously?

16 A In the Blue one, the Blue Unit.

17 Q Yes. Yes.

18 A Approximately six, seven years, eight
19 years.

20 Q Did you go to Kaleidoscope after that
21 stint with the Blue Unit?

22 A I finished there in '97, and I began in

1 Kaleidoscope in '98.

2 Q Okay. So you finished that -- that stint
3 at the Blue Unit that you started in 1993 in 1997;
4 is that correct?

5 A Yes.

6 Q And did you have any responsibilities
7 between 1993 and 1997 for the animals on the Blue
8 Unit?

9 A In that period I began working with the
10 elephants while I was in the Blue Unit as a helper.

11 Q And what did you do as a helper for the
12 Blue Unit?

13 A I was working with shovels and sweeping
14 and carrying the wheelbarrow and -- around the
15 tent -- the tents, just keeping the maintenance of
16 the tents.

17 Q Okay. And do you remember how many
18 elephants there were in the Blue Unit at that time?

19 A Fourteen.

20 Q And did that include young elephants?

21 A No.

22 Q There were no baby units in the Blue Unit

1 MS. PARDO: Object to the vague.

2 You can answer, if you can.

3 THE WITNESS: I like animals, I like
4 elephants.

5 BY MS. MEYER:

6 Q Did you enjoy seeing the elephants when
7 you went to work with them?

8 A I have always liked them since I was a
9 little boy.

10 Q Did you find that the elephants had
11 different personalities?

12 A Yes.

13 Q In what regard?

14 A They are all different.

15 Q Do you remember any of the elephants that
16 you worked with when you first became a helper for
17 the elephants?

18 A Yes. Several of them I do remember, yes.

19 Q Which elephants do you remember?

20 THE WITNESS: Zina, Rebecca, Lutzi,
21 Lutzi, Broma, Siam, Karen, Sophie, Mysore, Jewel
22 and Minnie.

1 A I have never seen it, no.

2 Q Okay. And the book that I was referring
3 to is PL 10896 and it's called Wild Elephants In
4 Captivity by Dr. Jack Adams.

5 You've never seen that book before.

6 A No.

7 Q And when did you leave the Blue Unit
8 after you did that period of work as a helper for
9 the elephants between 1993 and 1997?

10 A The beginning of '98.

11 Q Okay. And where did you go at that point
12 in time?

13 A I was vacationing in Europe in Portugal
14 for some weeks.

15 Q And what was your next job after that job
16 with the Blue Unit?

17 A Barnum Kaleidoscope.

18 Q And was that an operation that was run by
19 the Ringling Brothers Circus?

20 A Yes.

21 Q Now was your family still with you at
22 that point in time at Kaleidoscope?

1 Q There were no elephants with
2 Kaleidoscope; is that correct?

3 A No.

4 Q Okay. And what was your next job after
5 you worked for Kaleidoscope?

6 THE WITNESS: Animal superintendent.

7 A Animal superintendent.

8 Q And where did you do that job?

9 A In the Blue Unit.

10 Q So after Kaleidoscope you went back to
11 the Blue Unit; is that correct?

12 A Yes.

13 Q Why did you leave Kaleidoscope?

14 A They closed it, they closed the circus.

15 Q Okay. When did you go work for the Blue
16 Unit again after you had worked at Kaleidoscope?

17 A Beginning of 2001.

18 Q And what was your title again?

19 THE WITNESS: Animal -- animal

20 superintendent. Superintendent of animals.

21 Q And what were your responsibilities?

22 A With the tents, with the animals to have

1 the animals. My responsibility was to have the
2 tent ready, to have water ready, to have the food
3 ready, the fruit -- the fruit as well.

4 Q Did you have any responsibilities at all
5 with respect to the elephants?

6 A No.

7 Q You didn't do any elephant handling at
8 all during that time.

9 A During the first months, no.

10 Q At some point in time did you have
11 responsibility for handling the elephants?

12 A Yes, I began work -- walking them, going
13 with them on walks, and then doing rehearsal with
14 them.

15 Q Who did you work with when you were doing
16 rehearsals with the elephants?

17 A Are you talking about elephants or
18 animals or people?

19 Q I'm talking about which humans did you
20 work with when you were doing -- working on
21 rehearsals with the elephants?

22 THE WITNESS: Brian Christiani and Troy

1 Metzler.

2 Q Brian Christiani and Troy Metzler.

3 A Yes.

4 Q And what were their responsibilities at
5 that time?

6 A Brian Christiani was in charge of the
7 large elephants. Troy Metzler of the small ones.

8 Q Do you remember which small elephants
9 were with the Blue Unit at that time?

10 THE WITNESS: Juliet, Bonnie, Kelly.

11 Q I'm sorry, could you say that again.

12 THE WITNESS: Juliet, Bonnie, Kelly.

13 Q And this was in the year 2000.

14 A Yes.

15 Q And you did not work with the Blue Unit
16 at all in 1999; is that correct?

17 A No.

18 Q Did you ever work with Tom Rider at the
19 Blue Unit?

20 A Yes.

21 Q What -- when was that?

22 A '97 and at the end of '97.

1 the tent, and I would walk them to the tent.

2 Q Did you use a bull hook when you walked
3 them to the tent?

4 A Yes.

5 Q And you said you also helped with the
6 elephant walks; is that correct?

7 A Yes.

8 Q What was your job responsibility?

9 A Just to walk them.

10 Q Were you --

11 A To walk.

12 Q Were you assigned a particular elephant
13 to walk?

14 A No, because the tamers were there, that
15 was Troy and Brian.

16 Q How long did you stay with the Blue Unit
17 after you started to work there in 2000?

18 A Up to 2005 or 2004, perhaps 2005.

19 Q Do you remember the names of the
20 elephants that you worked on when you worked at the
21 Blue Unit between 2000 and 2005?

22 A Yes.

1 Q Who were they? Let's start with the
2 adults first.

3 THE WITNESS: Okay. Minyak, Susan,
4 Lutzi, Karen, Mysore and Nicole.

5 Q Is that all?

6 A Yes.

7 Q And were there any other young elephants
8 besides Julia, Bonnie and Kelly?

9 A At the beginning of 2000 there were
10 Angelica, and then afterwards Sarah.

11 Q When was Sarah on the Blue Unit?

12 A I think it was in 2003.

13 Q And when you worked at the Blue Unit
14 between 1994 and 1997 were there any baby elephants
15 on the Blue Unit at that time?

16 MS. PARDO: Objection.

17 Can you clarify what you mean by baby?

18 BY MS. MEYER:

19 Q An elephant less than six years old.

20 A In 1996 there was Romeo and Juliet.

21 Q Was an elephant named Benjamin on the
22 Blue Unit when you worked there?

1 MS. MEYER: Oh, I'm sorry.

2 THE INTERPRETER: No, no, no, that's
3 fine.

4 MS. MEYER: We're way past an hour, I
5 think.

6 THE INTERPRETER: No, we are just coming
7 to the hour.

8 MS. MEYER: Oh, we are.

9 THE INTERPRETER: It should be at --

10 MS. MEYER: Okay. All right, I'll finish
11 at a good spot.

12 BY MS. MEYER:

13 Q When you worked on the Blue Unit in 1996
14 when Romeo and Juliet were on the Blue Unit, do you
15 know whether Romeo and Juliet's mothers were also
16 on the Blue Unit?

17 A They were walked with two large
18 elephants, but I never paid any -- any attention to
19 see whether they were the mothers or not.

20 Q Okay. Do you know who the mothers of
21 Romeo and Juliet are?

22 A No.

1 Q When you worked on the Blue Unit in 1996
2 was an elephant named Icky II ever on the Blue
3 Unit?

4 THE INTERPRETER: In 1996, did you say?

5 MS. MEYER: Yes.

6 THE WITNESS: I do not remember.

7 BY MS. MEYER:

8 Q Did you ever work with an elephant named
9 Icky II?

10 A No.

11 Q Did you ever work with an elephant named
12 Alana?

13 A No.

14 Q And when you worked on the Blue Unit in
15 2000 when Angelica and Doc were on the Blue Unit,
16 do you know whether their mothers were also
17 traveling with them on the Blue Unit?

18 A No, they were not.

19 Q And when you worked on the Blue Unit in
20 2003 when Sarah was on the Blue Unit, do you know
21 whether her mother was traveling on the Blue Unit
22 with her?

1 A No, she was not.

2 Q Okay.

3 MS. MEYER: This is a good place to take
4 a break.

5 THE VIDEOGRAPHER: This concludes tape
6 one in the deposition of Alejandro Vargas.

7 Off the record at 11:18:34.

8 (A recess was taken from 11:18 a.m. until
9 11:33 a.m.)

10 THE VIDEOGRAPHER: This begins tape two
11 in the deposition of Alejandro Vargas.

12 On the record at 11:33:39.

13 BY MS. MEYER:

14 Q Mr. Vargas, you mentioned to me that when
15 you were growing up as a child that you had been
16 around elephants; is that correct?

17 A Yes.

18 Q Did you receive any training with respect
19 to how to deal with elephants during your
20 childhood?

21 A No, I was with my father learning from
22 him.

1 BY MS. MEYER:

2 Q Mr. Vargas, I want to read to you some
3 testimony that Kenneth Feld gave in another matter
4 last year on March 9th, 2006 in a case entitled
5 People For The Ethical Treatment of Animals versus
6 Kenneth Feld. And it's Number 220181 from the
7 Circuit Court of Fairfax County in Virginia.

8 And I just want to read it to you first,
9 and then ask you some questions about it.

10 And I'm reading from page 2032 of the
11 transcript of that proceeding.

12 Mr. Feld was asked the question, "Now who
13 cares for the elephants and the other animals?"

14 MS. PARDO: Where, where are you reading
15 from?

16 MS. MEYER: Page 2032. Bottom, very
17 bottom.

18 MS. PARDO: Okay.

19 BY MS. MEYER:

20 Q Mr. Feld was asked the question, "Now who
21 cares for the elephants and the other animals?"

22 And he answered, "We have an animal care

1 staff not only at the center but on each of the
2 traveling units. There are trainers, there are
3 handlers, there are people that virtually live with
4 the elephants and the other animals."

5 And then he was asked the question, "What
6 is the relationship? How have you observed the
7 relationship between these animal trainers and the
8 animals that they care for?"

9 And his answer is, "There's a real bond.
10 I mean it's an attachment that they have. It's
11 really no different than what any of us would have
12 with our dogs or our pets. Actually on the units
13 we have our animal -- our key animal people that
14 live on the premises in trailers."

15 And that's end quote, that's all I'm
16 going to read from that.

17 And my question is, do you agree with
18 what Mr. Feld said about the relationship between
19 the elephants and the elephant handlers?

20 THE INTERPRETER: Oh, you stopped at
21 trailers, is that where you stopped?

22 MS. MEYER: Yes.

1 THE INTERPRETER: Okay.

2 MS. MEYER: Correct.

3 THE WITNESS: Yes, I agree with that.

4 BY MS. MEYER:

5 Q Okay. And was that the kind of
6 relationship that you had with the elephants when
7 you first worked at the Blue Unit?

8 A Yes.

9 THE INTERPRETER: If you do it in short
10 segments, then I can do it alternating.

11 MS. MEYER: Whatever is best for you.
12 It's just when I'm reading --

13 THE INTERPRETER: No, that will --

14 MS. MEYER: -- I want --

15 THE INTERPRETER: Generally if you're
16 doing short sentences I will have no problem
17 alternating.

18 MS. MEYER: Okay.

19 BY MS. MEYER:

20 Q When you went to work for the Blue Unit
21 in the year 2000 were you given a written
22 employment contract?

1 list of the commands that the elephants
2 understood -- let me -- let me finish my question.

3 My question is was that a -- is this a
4 complete list of the commands that the elephants in
5 the Blue Unit understood when you went to work
6 there in 2000?

7 MS. PARDO: And I'm going to object to
8 the question.

9 Are you asking -- are you asking with
10 respect to what Mr. Vargas knows?

11 MS. MEYER: Yes.

12 MS. PARDO: Okay.

13 THE WITNESS: Yes.

14 BY MS. MEYER:

15 Q Okay. And when you went to work for the
16 Blue Unit in the year 2000 you were the
17 superintendent of animals; is that correct?

18 A In the Red Unit or the Blue Unit.

19 Q The Blue Unit in 2000; is that correct?

20 A Yes.

21 Q Okay. And as part of your duties as the

22 superintendent of animals in the Blue Unit in the

1 year 2000, were you required to know what the
2 commands for the elephants were?

3 A Yes.

4 Q Do you know how the elephants learned
5 what to do in response to these various commands
6 that you listed for us?

7 A Yes.

8 Q How do you know that?

9 A I learned it with my father.

10 Q Were you ever present when an elephant
11 was taught to sit down for the first time?

12 A No.

13 Q Okay. Were you -- were you ever present
14 when an elephant was taught to respond to the
15 command foot for the first time?

16 A No, I only have memory of large elephants
17 that have been working already for some time.

18 Q Okay. So my question is you -- you never
19 actually observed an elephant being trained for the
20 first time to respond to these various commands; is
21 that correct?

22 A No.

1 Q In other words, the answer is I -- that
2 is a correct statement.

3 MS. PARDO: I'm going to object to the
4 form of the question.

5 But if you could clarify your question
6 that would be helpful.

7 MS. MEYER: Could you read back the
8 question, please.

9 (The record was read by the Reporter.)

10 MS. PARDO: And he said no.

11 BY MS. MEYER:

12 Q So it's not correct.

13 A I have never seen an elephant being
14 trained.

15 THE REPORTER: I'm sorry, I can't hear
16 you.

17 A I have never seen an elephant being
18 trained.

19 Q Okay, thank you.

20 Now when you worked on the Blue Unit did
21 you use a bull hook?

22 A Yes.

1 Q Where did you get the bull hook that you
2 used on the Blue Unit when you started there in the
3 year 2000?

4 A The office gave it to me.

5 Q Did you have more than one bull hook when
6 you worked at the Blue Unit between the year 2000
7 and 2005?

8 A I have always had two.

9 Q Okay. Are they different somehow?

10 A Yes.

11 Q How are they different?

12 A The one that I normally use is two feet
13 long. The other one is smaller, it's about half
14 the size of the -- of the one that I just
15 described.

16 Q Okay. And other than the length of the
17 bull hook, the two bull hooks, are they otherwise
18 the same?

19 A Yes, they are the same kind.

20 Q Okay. And do they have hooks on the end
21 of them?

22 A Only on one side.

1 Q Right, okay. And do you have the two
2 different points that you described earlier on
3 them?

4 A Yes.

5 Q And that's true of the smaller one as
6 well; is that correct?

7 A Yes.

8 Q And is the smaller one also made of
9 fiberglass?

10 A Yes.

11 Q And did you -- did you have these bull
12 hooks when you came to the Blue Unit in 2000?

13 A Yes.

14 Q You already had them.

15 A Yes.

16 Q And when did you receive these two blue
17 hooks -- bull hooks?

18 A It's something I had from my father.

19 Q When did you first have these two bull
20 hooks in your possession?

21 A I don't remember the date. I do not
22 remember the year but it was when I began working

1 Q Okay. When you're using the word
2 trainer, and that's your word, what do you mean by
3 that?

4 A The ones who train the animals.

5 Q Okay. And who were those individuals
6 between the years of 2000 and 2005 on the Blue
7 Unit?

8 THE WITNESS: Troy Metzler, Mike Hayward
9 and Brian French.

10 Q But he was Brian Christiani then,
11 correct?

12 A They call him different ways.

13 Q The same guy, okay.

14 So those three individuals you're
15 referring to as trainers; is that correct?

16 A Yes.

17 Q Okay. And did all three of those
18 individuals have both a large -- at least one large
19 bull hook and one smaller bull hook?

20 A One was like two and a half feet and the
21 other one was like a few inches shorter.

22 Q Okay. But all three of those individuals

1 had both kinds of those bull hooks; is that

2 correct?

3 A Well, that is what I saw when I saw them

4 working during the act, but I don't know whether

5 they have more or not.

6 Q Okay. So they may have had more than two

7 bull hooks; is that correct?

8 A Perhaps, I don't know.

9 Q But they at least had two, a large one

10 and a smaller one.

11 A Yes.

12 Q Okay. And did those three individuals

13 also present elephants during the act?

14 A Yes.

15 Q When they were presenting the elephants

16 during the act did those three individuals use

17 their smaller bull hook?

18 A Generally.

19 Q And when did they use the larger bull

20 hook?

21 A I think when they forgot the little one.

22 Q How often did you see one of these three

1 Q Did you ever have an elephant who did not
2 perform as required during a show?

3 A No.

4 Q Did you ever have an elephant who did not
5 do as commanded of it?

6 A No.

7 Q Have you ever seen anyone else discipline
8 an elephant?

9 A Yes.

10 Q Who have you seen?

11 A Sasha.

12 Q Sasha Houcke.

13 THE WITNESS: Yes.

14 Q Houcke.

15 THE WITNESS: Houcke.

16 Q How do you pronounce his name?

17 THE WITNESS: Houcke.

18 Q And who is he?

19 A A friend, tamer.

20 Q And when did you see him discipline an
21 elephant?

22 A In Tulsa.

1

Q What year?

2

THE WITNESS: Last year.

3

Q 2006.

4

A Last year, yes.

5

Q And when you say he was disciplining an

6

elephant, what do you mean?

7

A He was putting -- he was making him lie

8

down because he was fighting with another elephant.

9

Q What was the name of the elephant that he

10

disciplined?

11

THE WITNESS: Banko.

12

Q Banko.

13

A Yes.

14

Q And what else did -- did Sasha do with

15

that elephant to discipline him?

16

A When he made him lie down he was just

17

saying no, no, no.

18

Q Did he strike the elephant with a bull

19

hook?

20

A No.

21

Q Did he have any physical contact at all

22

with the elephant and the bull hook?

1 A He had the guide on the upper part of the
2 elephant's head just holding it there and talking
3 to the elephant.

4 Q And when you say the guide you mean a
5 bull hook, correct?

6 A Yes.

7 Q Okay. Which end of the bull hook did he
8 have on the elephant's head?

9 A The part where the metal is.

10 Q Which part of the metal?

11 A At the other side of where the guide is.

12 Q Was it the hook part of the metal?

13 A Yes.

14 Q Okay. So the hooked part of the metal
15 was on the elephant's head; is that correct?

16 A Yes.

17 Q And how do you know that he was
18 disciplining the elephant?

19 A Because I was working in the back of the
20 tent, I heard that the elephants were fighting. I
21 heard Sasha's voice calling the elephants by their
22 name, and then he went and brought over the two

1 elephants that had been fighting. He put them
2 inside the tent and that is where he made him lie
3 down.

4 And minutes later I turned around the
5 tent and he was standing right next to them.

6 THE INTERPRETER: Sorry, the Interpreter
7 doesn't know who was standing right next to who.
8 He was -- the witness said and he was standing
9 there with a guide.

10 Q And when you say he you mean Sasha; is
11 that correct?

12 THE WITNESS: Yes.

13 A Yes.

14 Q And when you say guide you mean bull
15 hook.

16 A Yes.

17 Q Was -- was Sasha using one of the larger
18 bull hooks that you've described or one of the
19 smaller bull hooks?

20 A One of the long ones.

21 Q Okay. And how long did Sasha make the
22 elephant lie down for?

1 A Around five, ten minutes.

2 Q Did he make the elephant put its trunk up
3 when he was doing this?

4 A He called him and the elephant did raise
5 his trunk like that, yes.

6 Q So Sasha commanded the elephant to put
7 its trunk up.

8 A Yes.

9 Q And that -- was that also for five to ten
10 minutes?

11 A No, it was short. I don't know exactly
12 how long but no, no.

13 Q And how long did Sasha have the metal end
14 of the bull hook on the elephant's head during this
15 time?

16 A Only when he asked him to lie down, and
17 then he lie down and he was just -- then afterwards
18 he was just talking to him saying no, no, no.

19 Q Okay. When you say the elephant was made
20 to lie down can you describe how the elephant was
21 made to lie down?

22 A He was like this in all -- on all fours,

1 we call that stretched out (indicating).

2 Q Is that a natural way for an elephant to
3 lie down?

4 A Yes.

5 Q When does an elephant lie down like that?

6 A When we put the blankets on or when we
7 are going to clean the sawdust on their backs.

8 Q When an elephant sleeps at night does it
9 lie down like that?

10 A It lies down all along on the side.

11 Q So it does not lie down like the way it
12 was lying down when it was being disciplined when
13 it is sleeping at night; is that correct?

14 A No.

15 Q Okay. During the time that the elephant
16 was made to lie down what was Mr. Houcke doing?

17 THE INTERPRETER: Mr. what was the name?

18 BY MS. MEYER:

19 Q Mr. Houcke, what was Mr. Houcke doing?

20 A I -- he then he allowed him to stand up,
21 and then he told some guys to close up, and we left
22 two elephants inside and two elephants outside.

1 A Like this (indicating).

2 Q He had it down by his side.

3 A Yes.

4 Q Okay. Had you ever seen an elephant
5 disciplined this way before?

6 A Yes.

7 Q When?

8 THE WITNESS: Chipperfield.

9 A Chipperfield.

10 Q When was that?

11 A When I worked during that period with
12 Chipperfield.

13 Q When you worked on the Blue Unit with
14 Chipperfield.

15 A Yes.

16 Q And was it Mr. Chipperfield who you saw
17 discipline an elephant like that?

18 A Yes.

19 Q How many times did you see him discipline
20 an elephant like that?

21 A In the years that I was there like two or
22 three times perhaps.

1 Q Do you remember why the elephants were
2 being disciplined by Mr. Chipperfield?

3 A Because there was an acrobatic number
4 that they were doing and the elephant did not step
5 on the place he should have.

6 And then he moved back and he was called
7 back, and he did not step on as he should have --

8 Q So then --

9 A -- once again.

10 Q -- the elephant was disciplined for not
11 performing as required.

12 A Yes.

13 Q And did the discipline happen after the
14 performance?

15 A Yes.

16 Q Okay.

17 MS. MEYER: I guess we have to stop.

18 THE VIDEOGRAPHER: This concludes tape
19 two in the deposition of Alejandro Vargas. Off the
20 record at 1:08:23.

21 (Discussion was held off the record.)

22 (Whereupon, at 1:08 p.m., a luncheon

1 AFTERNOON SESSION

2 THE VIDEOGRAPHER: This begins tape three
3 in the deposition of Alejandro Vargas. On the
4 record at 1:47:44.

5 BY MS. MEYER:

6 Q Mr. Vargas, before we took a break you
7 were describing an incident that you witnessed
8 involving Sasha Houcke disciplining an elephant, do
9 you recall that?

10 A Yes.

11 Q And you said it occurred when an elephant
12 named Banko was fighting with another elephant; is
13 that correct?

14 A Yes.

15 Q Do you know what the name of the other
16 elephant is?

17 THE WITNESS: Baby.

18 A Baby.

19 Q But Banko was the elephant who was being
20 disciplined by Mr. Houcke; is that correct?

21 A Yes.

22 Q Was any action taken with respect to Baby

1 A No.

2 Q Have you ever used the term bull hook to
3 refer to the stick as you call it?

4 A I have heard people using it. I have not
5 used it in that manner, I always use guide.

6 Q So you've never used the term bull hook
7 in your life; is that correct?

8 A Yes, I have used it, but I don't remember
9 when.

10 Q Okay. And earlier you had no trouble
11 describing what a bull hook was and explaining that
12 when you use the word guide you mean a bull hook,
13 correct?

14 A Is that a question?

15 Q Yes, there was a correct.

16 A Yes.

17 Q Okay. So I was asking you about Baby,
18 whether or not anybody took any action against Baby
19 as a result of that incident you were discussing
20 earlier.

21 A No.

22 Q And do you regard Sasha Houcke's

1 line there is no need to do that.

2 Q So you would never use a bull hook in
3 that situation; is that correct?

4 A Not to put them on a line, no.

5 Q Okay. So is it your testimony that the
6 only time you've ever put the hooked end of a bull
7 hook behind an elephant's ear and pulled on it was
8 if the elephant was in danger somehow or about to
9 eat something that wasn't good for it?

10 A Or if we are walking and it stops.

11 THE INTERPRETER: In some nationalities
12 they use the word meaning to stand up not although
13 the normal meaning in general is to stop.

14 No, he means to stop. When an elephant
15 stops and will not move.

16 BY MS. MEYER:

17 Q Okay. And in that circumstance you would
18 take the hooked end of a bull hook and put it
19 behind the elephant's ear and pull on it.

20 A You put it down here in this part
21 (indicating).

22 Q And pull on it.

1 A I walk with him.

2 THE WITNESS: With her.

3 A With her.

4 Q You don't pull on the bull hook in a
5 situation like that.

6 A We walk together, yes, I pull it as we
7 walk together.

8 Q And how often does it happen that you
9 would need to use a bull hook in that way to make
10 an elephant who has stopped moving start moving
11 again?

12 A Whenever it is necessary.

13 Q And do the other elephant handlers on --
14 when you worked at the Blue Unit did the other
15 elephant handlers on the Blue Unit also use a bull
16 hook in that manner?

17 A Yes.

18 Q Is that a common use of a bull hook?

19 A Yes. To guide the animal when you need
20 to guide the animal, yes.

21 Q So when you use the word guide you are
22 including actually having physical contact between

1 the bull hook and the animal's body; is that

2 correct?

3 A Yes.

4 Q Okay. Have you ever caused a puncture
5 wound behind an elephant's ear by using the bull
6 hook in that manner?

7 MS. PARDO: Object to the form.

8 The term puncture wound is not defined.

9 BY MS. MEYER:

10 Q Do you know what a puncture wound is?

11 A A wound.

12 Q Do you know what that means?

13 A A wound, yes.

14 Q Have you ever caused a wound to an
15 elephant's ear by use of a bull hook when you put
16 the hooked part of the bull hook behind the
17 elephant's ear and pulled on it?

18 A No.

19 Q Have you ever seen any wounds caused by
20 bull hooks on elephants?

21 A Yes.

22 Q When did you see them?

1 A He was in 2000 -- he was in 2005 where he
2 was.

3 Q Okay. And was Rudy's mother traveling
4 with the Red Unit at that point in time?

5 A No.

6 Q Do you know who Rudy's mother is?

7 A No.

8 Q Okay. Was Sally on the Red Unit at that
9 time?

10 A No.

11 Q Do you know why Rudy was taken off the
12 Red Unit?

13 A No.

14 Q Are the elephants on the Red Unit chained
15 during the night?

16 A At night, yes.

17 Q And when are the chains put on at night?

18 A About 10:00, 10:30 at night.

19 Q And when are the chains taken off?

20 A Between 7:30 and 8:00 or 8:30 perhaps.

21 Q And how are they chained during the
22 night, can you describe it?

1 A One on the front and the other one on the
2 back on the opposite side.

3 Q And are the elephants chained during the
4 day at all?

5 A No.

6 Q They're not chained at all during the
7 day.

8 A Only Luna.

9 Q Luna is the only elephant that is chained
10 at any point during the day on the Red Unit.

11 A And Bananna.

12 Q Okay. None of the other elephants are
13 ever chained during the day on the Red Unit.

14 A Not during the daytime.

15 Q Why are Luna and Bananna chained?

16 A Luna will just grab anything and eat
17 anything. We are afraid she will eat -- end up
18 eating a cable or something that would do her harm.

19 Q Can you put her somewhere where she is
20 away from a cable so that won't happen?

21 A Well, it's not so much the cable she just
22 grabs anything and starts eating anything, you

1 know, the tent, the plastics, just anything at --
2 at hand. But whether Joe Frisco is there or when
3 Ryan is there then they are free.

4 THE REPORTER: Did you say Ryan or Brian?

5 THE WITNESS: Ryan.

6 A Ryan.

7 THE INTERPRETER: I don't know who it is.

8 BY MS. MEYER:

9 Q And why is that, why are they free when
10 those individuals are there?

11 A Because they are in charge of that
12 department, what that is Joe Frisco and then Ryan
13 helps him clean and all of that.

14 Q Are you saying that Joe Frisco can keep
15 Luna under control so that she doesn't try to eat
16 things that are dangerous for her?

17 THE WITNESS: Jimmy, Joe, Peshta.

18 A Jimmy, Joe, Peshta, but since he is in
19 charge we have to abide by his decisions, by Joe
20 Frisco's decisions.

21 Q Why -- why is Bananna chained during the
22 day?

1 A Because he or she fights with the other
2 elephants.

3 Q And does she also get off her chains when
4 Joe Frisco is around?

5 A Generally in the case of Bananna when we
6 are all there he is let free -- she is let free.

7 Q How many hours during the day is Luna on
8 chains?

9 A Three, perhaps four hours.

10 Q And how about Bananna, how many hours a
11 day is she on chains?

12 A Like -- like an hour or two hours. It
13 depends on the shift change.

14 Q Do you know an elephant named Asia?

15 A Yes.

16 Q Is she on the Red Unit right now?

17 A Yes.

18 Q Has -- is she ever chained during the
19 day?

20 A She's never chained during the day.

21 Q Okay. Do you know what the phrase empty
22 out means?

1 objection.

2 And I guess because you have not made any
3 statement that you have any basis for believing
4 that I've edited anything out of the excerpt that
5 was shown from start to finish that you don't have
6 any basis for questioning that the excerpt at least
7 is complete from start to finish.

8 MS. PARDO: I can't say that sitting here
9 today, no, I don't know that.

10 MS. MEYER: And you have no basis for
11 saying it.

12 MS. PARDO: I -- I can't compare unless I
13 saw the complete footage, which has not been
14 provided today to the witness.

15 MS. MEYER: Okay.

16 BY MS. MEYER:

17 Q Subject to all of that, Mr. Vargas, I
18 want to ask you some questions about that.

19 Have you seen that excerpt before?

20 A (Nods head negatively.) No.

21 Q Do you recognize yourself on that

22 videotape?

1 A Yes.

2 Q Did you notice at the beginning of the
3 videotape there's an incident where one of the
4 handlers takes the bull hook and puts it behind the
5 elephant's ear and pulls on the elephant to make it
6 go in a certain direction?

7 A I was looking at the elephant, and I was
8 looking at myself trying to move the elephant.

9 Q Did you notice at the beginning of the
10 tape that someone took a bull hook to the ear of
11 the elephant to make it go in a certain direction?

12 A After I was there I see Sasha's legs.

13 Q Okay. So was that Sasha who used the
14 bull hook in that way at the beginning of the tape?

15 A I think so.

16 Q Okay. Because earlier you testified
17 about I asked you if you've ever seen a wound on an
18 elephant, and you said there was only one time
19 you've ever seen a wound and you described an
20 incident that occurred in Tulsa -- I'm sorry, in
21 Austin, Texas I believe last year sometime.

22 Do you remember that testimony?

1 A Yes.

2 Q Just to be clear, I misspoke. It took
3 place in Austin, Texas; is that correct?

4 A I said Texas, that's what I said.

5 Q Okay. Do you know whether or not the
6 incident you described earlier with Sasha, Sasha
7 Houcke took place in Austin, Texas?

8 A Yes.

9 Q And just watching that tape does that
10 appear to be the incident that you were describing
11 earlier in your testimony when you described an
12 incident in which you saw Sasha Houcke use a bull
13 hook on an elephant and -- and then you saw a wound
14 on the elephant's ear?

15 MS. PARDO: Objection.

16 Objection. The same objection that this
17 is an incomplete videotape of the events that we're
18 speaking of right now.

19 MS. MEYER: Okay. You've already made
20 that objection, I don't think it needs to be made
21 over and over again. It's on the record.

22 MS. PARDO: Do you want to agree to that

1 being a continuing objection?

2 MS. MEYER: Sure.

3 MS. PARDO: Okay. With respect to the
4 videotape being incomplete we'll make that a
5 continuing objection for this portion of the
6 question.

7 BY MS. MEYER:

8 Q So when you watch that video it appears
9 to be the incident that you were describing earlier
10 in your testimony involving Sasha Houcke; is that
11 correct?

12 A Yes.

13 Q Okay. And in the latter part of the tape
14 there's a scene where it looks to be you are
15 pulling on an elephant's ear or head while the
16 elephant is trying to defecate.

17 Did you see that scene?

18 A Yes, and I -- and there I also realized
19 that when the -- the elephant was defecating then
20 we stopped and I went back.

21 Q Which elephant was that that you were
22 pulling on?

1 THE WITNESS: Luna.

2 A Luna.

3 Q And which elephant was it that Sasha
4 Houcke was using the bull hook on?

5 THE WITNESS: Tonka.

6 A Tonka.

7 Q Do you know how much Luna weighs?

8 A Approximately 8,500 -- 8,800 pounds.

9 Q Did you use force on Luna when you were
10 trying to pull her away from where she was when she
11 was trying to defecate?

12 MS. PARDO: Objection to the form.

13 THE WITNESS: Excuse me.

14 MS. PARDO: The term force is vague, if
15 you can define that for the witness.

16 BY MS. MEYER:

17 Q Do you know what the term force means?

18 A Force, yes.

19 Q Okay. So my question was did you use
20 force on Luna when you pulled her away from the
21 place where she was trying to defecate?

22 A Just when I was stretching my arm.

1 Q Okay. Now is that example that we've
2 seen in this tape that we just watched an example
3 of you using the bull hook as a guide?

4 MS. PARDO: Objection to the form.

5 THE WITNESS: Yes.

6 MS. MEYER: What's your objection?

7 MS. PARDO: You're saying using the bull
8 hook as a guide. I think he's previously testified
9 that to him the bull hook is the guide.

10 BY MS. MEYER:

11 Q How do you use a bull hook in the Red
12 Unit?

13 A To guide the animal.

14 Q Okay. Is the tape that we just saw, the
15 segment of the tape that involved you and Luna an
16 example of you using the bull hook as a guide on
17 Luna?

18 MS. PARDO: The same objection. It's the
19 same objection, bull hook as a guide.

20 THE WITNESS: I was guiding the animal.

21 BY MS. MEYER:

22 Q Which end of the bull hook were you using

1 when you were guiding the animal in that excerpt?

2 A The part of the metal.

3 Q Did you -- were you using the hooked part
4 of the metal end of the bull hook?

5 A Yes, the part of the guide.

6 Q I asked whether you were using the hooked
7 part of the metal end of the bull hook?

8 A And I said yes.

9 Q Okay. Do you know whether or not you
10 punctured Luna's skin when you used the bull hook
11 in that way?

12 MS. PARDO: Objection.

13 Objection to the term puncture. If you
14 can define that for the witness, it's vague.

15 THE WITNESS: Could you ask the question
16 again.

17 BY MS. MEYER:

18 Q Do you know what the word puncture means?

19 THE WITNESS: Punch.

20 THE INTERPRETER: In Mexico they -- you
21 use when there is a flat tire they call that punch.

22 But the word that the Interpreter used in

1 THE WITNESS: Julie Strauss, Michelle.

2 A Julie Strauss, Michelle and the
3 gentleman.

4 Q And when Ms. Meyer was asking you
5 questions earlier were you concerned about
6 revealing a privilege when she asked you things
7 that went on at that meeting?

8 MS. MEYER: Objection, that's a leading
9 question.

10 THE WITNESS: Excuse me, can you say that
11 again, can you ask it again.

12 BY MS. PARDO:

13 Q I guess my question is when Ms. Meyer
14 earlier asked you questions about the videotape was
15 there any confusion in your head about whether or
16 not you were allowed to speak to it?

17 MS. MEYER: And I'll object on the
18 grounds that that's a leading question.

19 THE INTERPRETER: The answer is yes.

20 BY MS. PARDO:

21 Q Okay. And so the record is clear, you --
22 did you view any portions of the videotape that

1 Ms. Meyer showed you in this deposition today

2 yesterday with the lawyers?

3 A Yes.

4 Q Okay.

5 MS. PARDO: I have no further questions.

6 MS. MEYER: I have a few.

7 EXAMINATION BY COUNSEL FOR THE PLAINTIFFS

8 BY MS. MEYER:

9 Q Mr. Vargas, just to make it clear, you're
10 the unit superintendent of animals for the Red
11 Unit; is that correct?

12 MS. PARDO: Objection, that has been
13 already asked and answered on the record.

14 BY MS. MEYER:

15 Q When you said in response to Ms. Pardo's
16 question that you were confused about whether or
17 not you were allowed to answer my question about
18 whether or not you had ever seen that videotape
19 before, was the source of your confusion the fact
20 that you speak Spanish?

21 A I did not understand you. You, you --
22 oh, you have to speak louder.