

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE
PREVENTION OF CRUELTY TO
ANIMALS, et al.,

Plaintiffs,

v.

FELD ENTERTAINMENT, INC.,

Defendant.

Case No. 03-2006 (EGS/JMF)

DEFENDANT'S WITNESS AND EXHIBIT LIST FOR TUESDAY, MARCH 3, 2009

I. EXHIBITS NOT OBJECTED TO BY PLAINTIFFS

EXHIBIT #	Description	Evidentiary Basis
DX 4	Asian Elephant North American Regional Studbook (DX 6 to FEI's Motion for Summary Judgment (Docket No. 82) (9/5/06)	No objection by plaintiffs
DX 5	Letter from C.R. Bavin, Chief, Division of Law Enforcement, United States Department of Interior to Ringling Brothers & Barnum & Bailey Shows (11/4/75) (DX 11 to FEI's Motion for Summary Judgment (Docket No. 82) (9/5/06))	No objection by plaintiffs
DX 7	ASPCA Inspection Documents (A 00801, A 00804-806, A 00819-841)	No objection by plaintiffs
DX 30A	Tom Rider / San Diego Video Footage (TR 00201) Timestamp: 9:42-10:00 (shown on cross-examination of Tom Rider)	No objection by plaintiffs
DX 30B	Tom Rider / San Diego Video Footage (TR 00201) Timestamp: 16:45-16:55 (shown on cross-examination of Tom Rider)	No objection by plaintiffs

EXHIBIT #	Description	Evidentiary Basis
DX 30C	Tom Rider / San Diego Video Footage (TR 00201) Timestamp: 21:17-21:58 (shown on cross-examination of Tom Rider)	No objection by plaintiffs
DX 31	Letter from Kathi Travers (ASPCA) to Julie Strauss (5/5/96) (FELD 0024121)	No objection by plaintiffs
DX 37	Letter from Katherine Meyer to Tom Rider (4/12/05) (WAP 262) (Ex. 6 to Tom Rider Deposition (10/12/06))	No objection by plaintiffs
DX 38	Tom Rider Application for Employment with Feld Entertainment, Inc. (FELD 0004826-827) (Ex. 7 to Tom Rider Deposition (10/12/06)) (marked on cross-examination of Tom Rider)	No objection by plaintiffs
DX 39	Letter from Tom Rider to Pat Derby (PAWS) (5/14/01) (TR 00001) (Ex. 10 to Tom Rider Deposition (10/12/06)) (marked on cross-examination of Tom Rider)	No objection by plaintiffs
DX 46	Email from Lisa Weisberg to Larry Hawk (5/7/01) (A 00046) (Ex. 9 to ASPCA Rule 30(b)(6) Deposition)	No objection by plaintiffs
DX 48A	Payments to or for Tom Rider -- Summary	No objection by plaintiffs
DX 49	WAP Ledgers of Payments Made to or for Tom Rider (September 24, 2007 WAP- 004-009; November 30, 2007 WAP-001)	No objection by plaintiffs
DX 50	WAP Ledgers of Payments Received for Tom Rider (September 24, 2007 WAP-002-003; November 30, 2007 WAP-002)	No objection by plaintiffs
DX 51	Checks from WAP to Tom Rider	No objection by plaintiffs
DX 52	Tom Rider's Receipts	No objection by plaintiffs

EXHIBIT #	Description	Evidentiary Basis
DX 53	Letters from Eric Glitzenstein to Tom Rider (marked on cross-examination of Tom Rider)	No objection by plaintiffs
DX 54	IRS Forms 1099 Issued to Tom Rider by WAP (marked on cross-examination of Tom Rider)	No objection by plaintiffs
DX 55	IRS Forms 1099 Issued to Tom Rider by MGC (TR 00456 / M 0106) (marked on cross-examination of Tom Rider)	No objection by plaintiffs
DX 56	IRS Form 1099 Issued to Tom Rider by PAWS (TR 00613) (marked on cross-examination of Tom Rider)	No objection by plaintiffs
DX 57	IRS Wage and Income Transcript for PAWS Earnings in 2001 (TR 00565) (marked on cross-examination of Tom Rider)	No objection by plaintiffs
DX 58A	Federal Express Airbills from Meyer, Glitzenstein & Crystal to Tom Rider	No objection by plaintiffs
DX 59	Show Schedules for the Red Unit, Blue Unit and Gold Unit	No objection by plaintiffs
DX 60	Tom Rider's Tax Returns (2000-2006) (TR 00546-611)	No objection by plaintiffs
DX 61	Meyer Glitzenstein & Crystal Invoices Reflecting Payments to Rider	No objection by plaintiffs
DX 62	Fundraiser Invitation (AWI 09925)	No objection by plaintiffs
DX 63	AWI Check to an Employee for Wire Transfer to Tom Rider (AWI 09946)	No objection by plaintiffs
DX 64	FFA Accounting Record Concerning Payment to Tom Rider (7/22/04) (F 004485- 486)	No objection by plaintiffs

EXHIBIT #	Description	Evidentiary Basis
DX 65	Partial Email (pages 2 and 3) From Katherine Meyer to Lisa Weisberg, Michael Markarian, and Cathy Liss (11/5/03) (WAP 270)	No objection by plaintiffs
DX 66	API Letters to WAP (API 2868-873, API 7203-206)	No objection by plaintiffs
DX 67	HSUS Letters to WAP (Produced by HSUS)	No objection by plaintiffs
DX 68	FFA/HSUS Asset Acquisition Agreement (Produced by HSUS on December 13, 2007)	No objection by plaintiffs
DX 92	FedEx Airbill from Tom Rider to Meyer, Glitzenstein & Crystal (TR 00468) (Ex. 20 to Def. Deposition of Tom Rider (12/18-19/07))	No objection by plaintiffs
DX 127A	Photographs Taken By Archele Hundley (AH-0019-4, 6, 7, 8) (marked during cross-examination of Archele Hundley)	No objection by plaintiffs
DX 128A	Photographs Taken by Archele Hundley (AH-0020-2, 5, 8, 9) (marked during cross-examination of Archele Hundley)	No objection by plaintiffs
DX 170	Gerald Robert Ramos, Application for Employment with Feld Entertainment, Inc. (Ex. 2 to Gerald Ramos Deposition)	No objection by plaintiffs
DX 184	Court Orders Regarding Fed. R. Civ. P. 34 Inspections ((Docket No. 195) (9/25/07); (Docket No. 219) (11/5/07); (Docket No. 228) (11/26/07))	No objection by plaintiffs; Judicial notice
DX 185	Sanerib Letter to Joiner (10/12/07) and attachments thereto	No objection by plaintiffs
DX 193	Feld Entertainment, Inc.'s Current USDA Licenses and Permits	No objection by plaintiffs
DX 196	Records Concerning Payments to or for Frank Hagan (Produced by PETA)	No objection by plaintiffs

EXHIBIT #	Description	Evidentiary Basis
DX 204	<u>United States of America v. Ramos</u> , Case No. CR 86-466-HLH (C.D. Ca. 2000), Judgment and Commitment Order Following Revocation of Supervised Release (marked during deposition testimony of Gerald Ramos)	No objection by plaintiffs
DX 208	Jury Verdict and Final Judgment, <u>People v. Mark Oliver Gebel</u> Case No. CC 122517 (Ca. Super. Ct.)	No objection by plaintiffs
DX 209	Documents Produced by Plaintiffs on 8/11/08	No objection by plaintiffs
PWC 35	Regulatory Status of Asian Elephants Currently Owned by Feld Entertainment, Inc. – Summary (DX 1 to Defendant’s Motion for Summary Judgment)	Plaintiffs’ exhibit to which defendant did not object
PWC 86	Documents reflecting the origin of Ringling Brothers elephants (DX 5 and DX 7 to Defendant’s Motion for Summary Judgment)	Plaintiffs’ exhibit to which defendant did not object

II. ADDITIONAL EXHIBITS MARKED OR IDENTIFIED DURING PLAINTIFFS’ CASE-IN-CHIEF

EXHIBIT #	Description	Evidentiary Basis
DX 302A (photographs 1, 5, 25)	Photographs from the website of Dr. Joyce Poole (marked on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim;
PWC 113M	Elephant Lord of the Jungle Time stamp: 19:24-20:32 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object

EXHIBIT #	Description	Evidentiary Basis
PWC 113N	Elephant Lord of the Jungle Time stamp: 44:35-44:59 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object
PWC 113O	Elephant Lord of the Jungle Time stamp: 45:20-45:37 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object
PWC 113P	Elephant Lord of the Jungle Time stamp: 45:46-47:8 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object
PWC 113Q	Elephant Lord of the Jungle Time stamp: 49:12-51:3 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object
PWC 113R	Elephant Lord of the Jungle Time stamp: 1:25:15-1:25:39 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object
DX 309	Redline of May/March Declarations of Michelle Sinnott (marked on cross-examination of Michelle Sinnott)	Evidence of defenses to “taking” claim

EXHIBIT #	Description	Evidentiary Basis
DX 32 (plus two additional pictures)	Email from Lisa Picard to Julie Strauss (4/10/00) (shown on cross-examination of Tom Rider)	Credibility of lead plaintiff
DX 173A	Blue Elephants Video Footage (4/5/99) (FEI 52899) Timestamp: 0:07-0:40 (shown on cross-examination of Tom Rider)	Evidence of defenses to “taking” claim; Credibility of lead plaintiff
DX 40	Written Warning from Feld Entertainment, Inc. to Tom Rider (12/2/98) (FELD 0004832) (Ex. 14 to Tom Rider Deposition) (10/12/06) (marked on cross-examination of Tom Rider)	Credibility of lead plaintiff
DX 41	Written Warning from Feld Entertainment, Inc. to Tom Rider (7/18/99) (FELD 0004831) (Ex. 15 to Tom Rider Deposition) (10/12/06) (marked on cross-examination of Tom Rider)	Credibility of lead plaintiff
DX 42	Written Warning from Feld Entertainment, Inc. to Tom Rider (10/30/99) (FELD 0004830) (Ex. 16 to Tom Rider Deposition) (10/12/06) (marked on cross-examination of Tom Rider)	Credibility of lead plaintiff
DX 166	Written Warning to Robert Tom, Jr. from Feld Entertainment, Inc. (6/28/06) (Ex. 16 to Robert Tom Deposition) (marked on cross-examination of Robert Tom)	Witness credibility
DX 167	Written Warning to Robert Tom, Jr. from Feld Entertainment, Inc. (6/28/06) (Ex. 17 to Robert Tom Deposition) (marked on cross-examination of Robert Tom)	Witness credibility

EXHIBIT #	Description	Evidentiary Basis
DX 168	Written Warning to Robert Tom, Jr. from Feld Entertainment, Inc. (6/28/06) (Ex. 18 to Robert Tom Deposition) (marked on cross-examination of Robert Tom)	Witness credibility
DX 146	Notice of Disciplinary Action Form (10/30/05) (Ex. 7 to Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility
DX 148	Margaret Tom Written Statement (Ex. 9 to Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility
DX 149	Notice of Disciplinary Action Form (4/1/06) (Ex. 10 Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility
DX 150	Coaching / Counseling Form (4/8/06) (Ex. 11 to Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility
DX 151	Disciplinary Report Form / Margaret Tom (4/26/06) (Ex. 12 to Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility
DX 152	Written Warning to Margaret Tom from Feld Entertainment, Inc. (6/29/06) (Ex. 13 to Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility

III. KENNETH FELD

(No exhibits will be used during Mr. Feld's examination.)

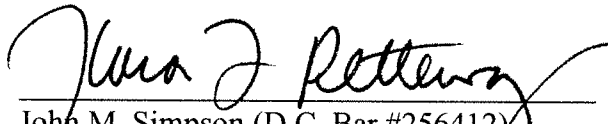
IV. GARY JACOBSON

EXHIBIT #	Description	Evidentiary Basis
	Guide	Demonstrative
	Various elephant husbandry tools including hoof knives, hoof nippers, chisels, rasps, and brushes	Demonstrative
PWC 139	Training & Rehearsal Footage from Defendant (Provided to Defendant on 6/10/08) Timestamps: 40:00-45:08 45:09-47:07 (in evidence as PWC 139A) 47:15-49:00 54:34-56:20	Evidence of defenses to "taking" claim; Plaintiffs' exhibit to which defendant did not object
PWC 132F	Compilation of video footage of elephants from 1987-2004 (produced to Defendant on 3/20/08 along with Plaintiffs' Expert Reports)	Evidence of defenses to "taking" claim
PMC 54	Photographs taken during Court Ordered Inspection of the CEC (11/29/07) and the Blue Unit in Auburn Hills (11/13/07) pp. 211, 217, 226, 240, 242	Evidence of defenses to "taking" claim
PWC 142	Video footage of the Rule 34 Inspection at the CEC (11/29/07) Timestamps: 0:45-1:17 2:15-2:45 20:30-23:48 26:39-28:00 47:38-48:04 53:10-54:00	Evidence of defenses to "taking" claim; Plaintiffs' exhibit to which defendant did not object

EXHIBIT #	Description	Evidentiary Basis
	54:20-54:41 1:13:45-1:53:00	
PWC 35	Regulatory Status of Asian Elephants Currently Owned by Feld Entertainment, Inc. – Summary (DX 1 to Defendant’s Motion for Summary Judgment)	Plaintiffs’ exhibit to which defendant did not object
PWC 86	Documents reflecting the origin of Ringling Brothers elephants (DX 5 and DX 7 to Defendant’s Motion for Summary Judgment)	Plaintiffs’ exhibit to which defendant did not object
DX 2	Asian Elephant Husbandry Guide	Evidence of defenses to “taking” claim
DX 6	Animal Censuses (1994-2008)	Evidence of defenses to “taking” claim
DX 69	Elephants Born to Feld Entertainment, Inc. – Summary	Evidence of defenses to “taking” claim
DX 76	USDA Inspection Reports Produced by FEI: CEC	Evidence of defenses to “taking” claim
DX 78	USDA Inspection Reports Produced by FEI: Miscellaneous	Evidence of defenses to “taking” claim

Dated this 26th day February, 2009.

Respectfully submitted,



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