

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.

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Case No. 03-2006 (EGS/JMF)

DEFENDANT'S WITNESS AND EXHIBIT LIST FOR WEDNESDAY, MARCH 11, 2009

Defendant hereby provides notice of the following list of witnesses who are likely to testify on Wednesday, March 11, 2009 and the exhibits defendant intends to introduce that same date. Given the back log in witness and exhibits previously identified, defendant hereby also provides notice of the order of witnesses¹ and exhibits to be introduced on Monday, March 9, 2009 and Tuesday, March 10, 2009. Defendant reserves the right to rely upon any exhibit already admitted into evidence.

MONDAY, MARCH 9, 2009

I. DR. TED FRIEND

II. EXHIBITS TO WHICH PLAINTIFFS DID NOT OBJECT AND WHICH WERE IDENTIFIED ON CROSS EXAMINATION *(See March 3, 2009 List)*

III. LISA WEISBERG (ASPCA)

IV. MICHAEL MARKARIAN (FFA/HSUS)

V. CATHY LISS (AWI)

¹ The exhibits for the witnesses to be called on Monday, March 9 and Tuesday, March 10 already have been identified in previous notices.

VI. ERIC GLITZENSTEIN (WAP) (VIDEOTAPE DEPOSITION)**TUESDAY, MARCH 10, 2009****I. JEROME SOWALSKY****II. BRIAN FRENCH****III. ANGELA MARTIN (DEPOSITION); DX 183****WEDNESDAY, MARCH 11, 2009****I. MICHAEL KEELE**

EXHIBIT #	Description	Evidentiary Basis
DX 25	Expert Report of Michael N. Keele (6/28/08)	Probative of Dr. Friend's qualification as an expert witness; Evidence of defenses to "taking" claim
DX 2	Elephant Husbandry Resource Guide	Evidence of defenses to "taking" claim
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
PWC 36	5/1/05-7/16/07 Asian Elephant North American Regional Studbook	Evidence of defenses to "taking" claim
DX 69	Elephants Born to Feld Entertainment, Inc. – Summary	Admitted into evidence on 3/5/09

EXHIBIT #	Description	Evidentiary Basis
PWC 73	3/2001 AZA Standards for Elephant Management and Care	Evidence of defenses to “taking” claim
PWC 74	5/2003 AZA Standards for Elephant Management and Care	Admitted into evidence during plaintiffs’ case-in-chief
PWC 75	AAZPA Guidelines for Management of Elephants in Captivity	Evidence of defenses to “taking” claim
PWC 79	The Elephant Managers Association Inc. Guidelines for Elephant Management and Care	Plaintiffs’ exhibit to which defendant did not object

II. TROY METZLER

EXHIBIT #	Description	Evidentiary Basis
PWC 9	1/8/05 Email from Deborah Fahrenbruck to Mike Stuart regarding a letter written, but not sent, to Kenneth Feld (FEI 15025-027)	Admitted into evidence during plaintiffs’ case-in-chief
PWC 10	1/8/05 Email from Deborah Fahrenbruck to Mike Stuart regarding notes on Phoenix/California (FEI 15024)	Admitted into evidence during plaintiffs’ case-in-chief
DX 59	Show Schedules FELD 1699, 1690	No objection by plaintiffs

EXHIBIT #	Description	Evidentiary Basis
PWC 121A	“Ringling Abuse” (PL 07074) Timestamp: 50:14-53:07	Evidence of defenses to “taking” claim
PWC 132	Compilation of video footage of elephants from 1987-2004 (Produced to Defendant on 3/20/08) Clips 24-36	Admitted into evidence during plaintiffs’ case-in-chief
PWC 132	Compilation of video footage of elephants from 1987-2004 (Produced to Defendant on 3/20/08) Clips 46-50, 54	Evidence of defenses to “taking” claim
PWC 133A	Compilation (May 6, 2005) (Produced to Defendant on 3/20/08) Timestamp: 10:59-13:30	Admitted into evidence during plaintiffs’ case-in-chief

III. JEFFREY PETTIGREW

EXHIBIT #	Description	Evidentiary Basis
--	Deposition Testimony 05:21-06:01 07:06-07:08 12:03-12:08 12:11-13:22 14:07-14:20 15:02-15:11 15:14-16:15 25:10-25:22 27:14-27:16 29:04-29:06 29:14-30:07 30:20-31:07 33:09-34:06 39:09-39:21 40:06-40:09 68:22-69:05 70:02-70:07	Deposition testimony of unavailable witness

EXHIBIT #	Description	Evidentiary Basis
	83:14-84:19 85:01-85:10 114:14-114:22 115:02-115:19 116:04-116:05 116:11-117:05 117:16-118:02 118:09-119:04 145:07-149:01 150:03-151:03 151:08-153:03	

IV. ALEX VARGAS

EXHIBIT #	Description	Evidentiary Basis
--	Deposition Testimony 08:10-08:21 17:08-18:02 19:08-19:13 20:03-22:19 23:01-24:10 25:06-25:22 26:22-28:02 28:18-29:18 30:05-30:21 34:22-35:19 41:07-41:22 43:06-43:07 44:04-45:04 45:19-46:02 47:10-47:14 48:18-49:06 51:19-52:04 78:06-78:16 80:06-80:12 109:08-110:01 139:20-142:06 144:10-146:02 148:03-148:13 150:03-150:19	Deposition Testimony of unavailable witness

EXHIBIT #	Description	Evidentiary Basis
	157:20-158:02 179:14-181:04 186:14-187:05 219:03-219:11	

Dated this 6th day of March, 2009.

Respectfully submitted,

/s/ Kara L. Petteway

John M. Simpson (D.C. Bar #256412)
 Joseph T. Small, Jr. (D.C. Bar #926519)
 Lisa Zeiler Joiner (D.C. Bar #465210)
 Lance L. Shea (D.C. Bar #475951)
 Michelle C. Pardo (D.C. Bar #456004)
 Kara L. Petteway (D.C. Bar #975541)

FULBRIGHT & JAWORSKI L.L.P.
 801 Pennsylvania Avenue, N.W.
 Washington, D.C. 20004
 Telephone: (202) 662-0200
 Facsimile: (202) 662-4643

Counsel for Defendant Feld Entertainment, Inc.