

**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  
(CORRECTED)**

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 witnesses<sup>1</sup> 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)**

<sup>1</sup> 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**

<b>EXHIBIT #</b>	<b>Description</b>	<b>Evidentiary Basis</b>
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

<b>EXHIBIT #</b>	<b>Description</b>	<b>Evidentiary Basis</b>
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

<b>EXHIBIT #</b>	<b>Description</b>	<b>Evidentiary Basis</b>
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

<b>EXHIBIT #</b>	<b>Description</b>	<b>Evidentiary Basis</b>
PWC 121A	“Ringling Abuse” (PL 07074)  <b>Timestamp: 50:14-53:07</b>	Evidence of defenses to “taking” claim
PWC 132	Compilation of video footage of elephants from 1987-2004 (Produced to Defendant on 3/20/08)  <b>Clips 24-36</b>	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)  <b>Clips 46-50, 54</b>	Evidence of defenses to “taking” claim
<b>PWC 133C<sup>2</sup></b>	<b>Compilation (May 6, 2005) (Produced to Defendant on 3/20/08)</b>  <b>Timestamp: 26:52-27:30</b>	<b>Admitted into evidence during plaintiffs’ case-in-chief</b>

### III. JEFFREY PETTIGREW

<b>EXHIBIT #</b>	<b>Description</b>	<b>Evidentiary Basis</b>
--	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	Deposition testimony of unavailable witness

<sup>2</sup> This is the correction from the previous version filed on PACER/ECF (Docket No. 452). FEI will use PWC 133C, and not PWC 133A, with Mr. Metzler. There are no other changes from Docket No. 452.

EXHIBIT #	Description	Evidentiary Basis
	40:06-40:09 68:22-69:05 70:02-70:07 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	Deposition Testimony of unavailable witness

<b>EXHIBIT #</b>	<b>Description</b>	<b>Evidentiary Basis</b>
	144:10-146:02 148:03-148:13 150:03-150:19 157:20-158:02 179:14-181:04 186:14-187:05 219:03-219:11	

Dated this 6th day of March, 2009.

Respectfully submitted,

/s/ Kara L. Petteway

John M. Simpson (D.C. Bar #256412)  
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