

**PLAINTIFFS' MEMORANDUM REGARDING CERTAIN  
EVIDENTIARY MATTERS THAT WERE RAISED IN COURT  
ON MARCH 11, 2009**

**ATTACHMENT A**



\*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*

ENTERTAINMENT, INC.

June 6, 2005

Adam Parascandola  
 Director of Law Enforcement  
 Washington Humane Society  
 7319 Georgia Avenue, N.W.  
 Washington, D.C. 20012

JULIE ALEXA STRAUSS  
 Vice President  
 and Corporate Counsel

Dear Mr. Parascandola:

This is in response to your May 20, 2005 letter regarding the April 2005 visit by the Washington Humane Society (WHS) to *Ringling Bros. and Barnum & Bailey* during its stay at the D.C. Armory, as well as WHS's related Official Notification. We strongly object to the actions of the WHS and deny the allegations contained in your letter. Accordingly, since we do not believe that any "violations" occurred, as you state in your letter and Notification, it is our position that both the letter and Notification should be withdrawn.

First, although your officers did not have a search warrant, as is required in accordance with Section 22-1005 of the D.C. Code, our General Manager granted access to your staff to view several of our animals, including permitting a close examination of our elephants. That was done as a courtesy since it is our policy to admit only properly authorized animal control personnel. Presumably your officers were well aware that they lacked the authority to enter the premises absent a search warrant, a fact they never shared with our staff. Moreover, your officers first requested access to our animals from building management personnel who did not have the authority to grant such access. The building staff appropriately contacted our staff to determine whether entry should be granted. Your officers' apparent misrepresentation regarding their inspection authority is highly unprofessional at the very least.

Second, your letter completely fails any test of due process applicable to law enforcement. Due process includes, at a minimum,

FEI 1572

Mr. Adam Parascandola  
June 6, 2005  
Page 2 of 4

providing discovery of all materials, investigative notes and documents, in addition to an evidentiary hearing on the merits. Your letter asserts that violations occurred, but contains no information about the evidentiary support (e.g., reports, statements, photos) for the alleged violations. Section 22-1006 of the D.C. Code, does empower, among others, "... any humane officer of the Washington Humane Society, to prosecute all violations of the provisions of Section 22-1001". The law does **not**, however, empower the WHS to act as judge and jury to make a legal conclusion unilaterally that alleged violations are true, especially when elements of fundamental due process rights are lacking. It is irresponsible for WHS to issue a document that is so clearly outside of its legal authority and demonstrates both a bias and disregard for the right to due process by WHS. If this letter is any indication of how WHS normally conducts its business there is a serious misuse and abuse of authority occurring.

Third, your letter contains several glaring inaccuracies regarding our elephants and the amount of time they spend tethered. At no time were any of the elephants at risk of being harmed or otherwise tethered in a manner proscribed by Section 1001. In fact, our elephants spend an overwhelming majority of their day socializing in compatible groups in pens. They are not tethered during this time. Nor are they tethered during performances. Given their large role in our circus performances that would not even be possible. When we do tether our elephants, it is always done in a manner that is well within the provisions of Section 1001, not to mention American Zoo and Aquarium Association and Elephant Managers Association guidelines and protocols.

At the time of the officers' visit, our Asian elephants were outside the Armory in their exercise area, as they often are prior to and between performances. At that time, one of the elephants was tethered by a 10 to 12 foot chain on one of her front legs. The elephants were always under the direct and careful supervision of our trained elephant staff, as is always the case. The staff ensured that all of the elephants had ready access to hay, fresh fruit and vegetables, and other food. The elephants were watered frequently and regularly. If any of the elephants, including the one that was tethered, urinated or defecated, a staff member used one of several buckets to catch the waste. Any waste that was not caught was immediately cleaned up, and clean sand or other ground cover was put down. One would think that your officers would have noted this kind of hands on attentiveness instead of making their baseless criticism.

After the day's last performance, all of the elephants were moved to pens inside the Armory where they spent the night. Because the elephants were outside at different intervals for portions of the day, shade is not an issue as they are out of the sun while indoors. Presumably WHS

Mr. Adam Parascandola  
June 6, 2005  
Page 3 of 4

is not advocating that our elephants not be given the opportunity to spend time outside while at the Armory.

As stated above, *Ringling Bros.*' tethering practices are consistent with those set out in the *Elephant Husbandry Resource Guide*, which was published by the International Elephant Foundation with the support of the American Zoo and Aquarium Association and the Elephant Managers Association. The Guide reflects the recognized, state of the art, industry standards for the care and management of elephants. Tethering of elephants is addressed in the Guide where it states, among other things, that, "Leg restraints or tethers are an acceptable and necessary tool in the management of captive elephants." It also recommends that chains are the preferred method of restraint, citing the need to ensure that tethers remain clean. Our tethering practices are also in compliance with the applicable requirements established by the United States Department of Agriculture (USDA) under the Animal Welfare Act. See Animal Care Resources Guide, Space and Exercise Requirements for Traveling Exhibitors (Policy #6, issued 10/13/1998). WHS should consider contacting the USDA, the EMA, AZA or IEF to obtain accurate information about the proper care and handling of elephants.

Third, your letter and the Official Notification incorrectly state applicable D.C. law. This law clearly does not contain an absolute prohibition on chaining, and your representation to that effect is irresponsible. As stated above, any tethering of our animals is always done in a manner that is within the provisions of Section 1001. Suggesting that the provision means that elephants may never be tethered is illogical and totally inconsistent with both federal law and widely recognized and endorsed professional elephant management practices cited above and used at numerous zoos and facilities throughout the United States and internationally. A review of the legislative history of Section 1001 suggests that in adopting the chaining language, the District Council was attempting to address some very real problems related to abuse and mistreatment by pet owners, as well as the use of certain dogs in cruel and unlawful activities. There is absolutely no indication that the Council even discussed the activities of lawful and licensed exhibitors such as *Ringling Bros.*, much less intended for the section to be applied to them or to elephants.

Fourth, your letter and the Official Notification, as well as the conduct of the officers, suggest that the WHS, which publicly advocates against circuses, is using its law enforcement authorities under District law to advance its political and philosophical agenda. We strongly object to such an abuse of authority as unlawful. Inherent in any authority that is granted pursuant to the D.C. Code is the principle that it be exercised in a fair and objective manner and not be misused to advance a subjective

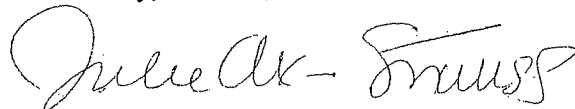
Mr. Adam Parascandola  
June 6, 2005  
Page 4 of 4

political agenda as would seem to be the case here. It would be much better if your organization would focus its efforts and resources on addressing the very real problems of animal mistreatment and neglect in the District as opposed to harassing a federally licensed and inspected exhibitor that is a world leader in proper animal care and husbandry.

Finally, it is worthy of mention that the dog referenced in the letter and Notification is a personal pet and is not under *Ringling Bros.*' control. While I cannot address the specific facts, I note that neither the letter nor the Notification set forth in what manner Section 1001 was allegedly violated - - I suspect that this assertion is also unfounded. I also note that your officers incorrectly identified the dog as a mixed Rottweiler. It is a Doberman.

In light of the above information, your May 20 letter and the Official Notification are erroneous and reflect an incorrect application of Section 1001. We reject the allegations in your letter, and we believe that the Notification and letter should be formally withdrawn and that such action be appropriately reflected in the public records of the Washington Humane Society.

Sincerely,

A handwritten signature in cursive script that reads "Julie Alexa Strauss". The signature is written in dark ink and is positioned above the printed name.

Julie Alexa Strauss