

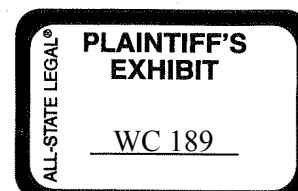
**ASPCA et al. v. Feld Entertainment, Inc.**  
**Civ. No. 03-2006 (D.D.C.) (EGS/JMF)**  
**Deposition of Angela Martin**  
**Plaintiffs' Counter Designations**

**Designations read in court:**

10:04 - 11:03  
14:08 - 16:03  
34:17 - 35:21  
35:22 - 35:23 [defendant's completeness designation]  
35:24 - 36:17  
37:10 - 37:24  
38:05 - 39:05  
42:25 - 43:04 [defendant's completeness designation]  
43:05 - 43:18  
56:07 - 57:07  
66:23 - 67:09  
68:09 - 70:01  
70:23 - 72:08  
73:15 - 76:18  
76:19 - 79:25  
137:13- 137:18  
137:19 - 138:02 [defendant's completeness designation]

**Additional Designations to be submitted to the Court:**

07:08 - 07:22  
08:24 - 09:01  
09:04 - 09:05  
12:02 - 12:18  
20:01 - 20:03  
20:05 - 20:06  
20:22 - 22:15  
39:15 - 40:20  
42:09 - 43:04  
44:06 - 44:18  
46:13 - 47:04  
49:10 - 50:10  
50:21 - 52:21  
57:18 - 58:12  
60:03 - 60:07  
60:16 - 60:18  
61:06 - 62:01  
65:11 - 65:15



72:17 – 72:19  
84:05 – 84:09  
85:19 – 85:21  
90:25 - 91:15  
91:18 - 92:15  
92:16 - 93:19  
93:20 - 94:11  
94:12 – 94:14 [defendant’s completeness designation]  
95:19 - 96:05  
94:12 - 95:18  
102:01 – 102:04  
113:13 – 113:14  
118:01 – 118:02  
121:01 – 121:07  
125:10 – 125:12  
129:20 – 129:23  
133:01 – 134:04  
135:07 – 135:24  
136:15 – 136:25  
140:06 – 142:11

ANGELA D. MARTIN - 03-09-2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

AMERICAN SOCIETY FOR THE (   
PREVENTION OF CRUELTY TO (   
ANIMALS, ET AL., (   
Plaintiff, (

VS. (

CASE NO. 03-2006 (   
(D.D.C.) (EGS) (

RINGLING BROTHERS, BARNUM & (   
BAILEY CIRCUS, ET AL., (   
Defendants. (

\*\*\*\*\*   
ORAL DEPOSITION OF ANGELA D. MARTIN   
MARCH 9, 2005   
\*\*\*\*\*

ORAL DEPOSITION OF ANGELA D. MARTIN, produced as  
a witness at the instance of the PLAINTIFF, and duly  
sworn, was taken in the above-styled and numbered  
cause on the 9th day of March, 2005, from 10:54 a.m.  
to 2:36 p.m., before LORI A. BELVIN, CSR, and Notary  
Public in and for the State of Texas, reported by  
stenographic means, at the Law Offices of Johnson &  
Associates, 2202 Timber Loch Place, Suite 112, The  
Woodlands, Texas, pursuant to the Federal Rules of  
Civil Procedure.

**COPY**

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**EXHIBITS**

13	NO.	DESCRIPTION	PAGE REFERRED
14	1 -	U.S. District Court Subpoena with Attachment	7
15	2 -	U.S. District Court Subpoena with Attachment	7
16	3 -	Affidavit of William H. Lawler dated 8/2/99.	34
17	4 -	Videotape - "USDA Inspection of Premises Where Benjamin Died 8/2/99".....	40
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23	6 -	Affidavit of Angela D. Martin dated 8/2/99..	66
24	7 -	USDA - Report of Investigation dated 9/1/99.	73
25	8 -	Affidavit of Angela D. Martin (not dated)..	76

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BY MS. DALTON: Pages 6, 90, 138  
BY MS. OCKENE: Pages 6, 112, 113, 118, 139

1 Entertainment's lawyer to, also, ask you questions. 10:55  
2 And I, also, want to let you know that sometimes  
3 lawyers may object to the questions that I'm asking;  
4 but unless your lawyer specifically instructs you not  
5 to answer a question, you're allowed to answer my 10:56  
6 question any way. Do you understand that?

7 A. Yes.

8 Q. Ms. Martin, are you here today pursuant to a  
9 subpoena that you received on January 14th, 2005?

10 A. Well, I actually received two different 10:56  
11 subpoenas on two different days.

12 Q. Okay.

13 A. I don't remember the exact date.

14 MS. OCKENE: All right. I'd like to have  
15 this marked as Exhibit 1. 10:56

16 (Exhibit Nos. 1 & 2 marked.)

17 Q. (BY MS. OCKENE) If you could, take a look at  
18 this document and tell me whether this is an accurate  
19 copy of the subpoena that you received?

20 A. Yes. 10:57

21 Q. Okay. So you're here today pursuant to that  
22 subpoena, correct?

23 A. Correct.

24 Q. And where do you currently live?

25 A. In Huntsville. 10:57

1 Q. Can you give us your full address? 10:57

2 A. 1420 14th Street, No. 3.

3 Q. And how long have you lived there?

4 A. Since July of last year.

5 Q. Since July of 2004? 10:57

6 A. (Witness nods head.)

7 Q. And where do you currently work?

8 A. The City of Huntsville.

9 Q. And what is your position?

10 A. Benefits coordinator. 10:57

11 Q. And how long have you held that position?

12 A. This week I was promoted.

13 Q. Okay. And what did you do before that?

14 A. I was the staffing coordinator.

15 Q. Okay. And since when did you hold the 10:57

16 staffing coordinator position?

17 A. Since November of '03.

18 Q. Okay. And, at some point, did you work at the  
19 trucking company owned by your father?

20 A. Yes, I did. 10:58

21 Q. And what's the name of that company?

22 A. Well, there were actually two companies,  
23 Lawler Trucking and Will Lawler Dirt Contractor.

24 Q. And can you tell -- so your father's name is

25 William Lawler; is that correct? 10:58



1 A. Uh-huh -- yes. 10:58

2 Q. When did you work for that company?

3 A. I believe it was from '96 to 2002.

4 Q. What were your duties?

5 A. I was the office manager. 10:58

6 Q. Okay. Have you ever worked for the Ringling  
7 Brothers Circus or Feld Entertainment?

8 A. No.

9 Q. Have you ever worked for any circus?

10 A. No. 10:58

11 Q. Are you related to anyone that works for  
12 Ringling Brothers or Feld Entertainment?

13 A. No.

14 Q. Have you ever been related to anyone who works  
15 for Feld Entertainment or Ringling Brothers? 10:58

16 A. No.

17 Q. What did you do to prepare for your deposition  
18 today?

19 A. I reviewed a copy of the videotape and a copy  
20 of the affidavit given to the USDA. 10:59

21 Q. Okay. And did you have any discussions -- and  
22 without telling me any of the content of those  
23 discussions -- did you have discussions with your  
24 lawyer about the deposition?

25 A. Yes. 10:59

1 Q. And your lawyer is Mr. Steed, who is here with  
2 you today?

3 A. Yes.

4 Q. And did you speak with anyone else about the  
5 deposition --

6 A. No.

7 Q. -- or about the subpoena?

8 A. Yes.

9 Q. Who did you speak with?

10 A. I contacted Julie Strauss.

11 Q. And who is that?

12 A. She works for Feld Entertainment.

13 Q. And when did you contact her?

14 A. The day after I received the subpoena.

15 Q. So that was -- can you recall what date that  
16 was?

17 A. No, I don't remember the exact date.

18 Q. Okay. Soon after you received the subpoena,  
19 which was marked Exhibit 1?

20 A. Correct.

21 Q. And what did you discuss with Ms. Strauss?

22 A. I didn't know what it was. I've never been  
23 involved in a deposition, and I just faxed over  
24 copies to her.

25 Q. Okay. And how did you know to contact

1  
2  
3  
4  
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10  
11  
12  
13  
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25

Ms. Strauss?

A. I remembered her from the incident with Benjamin.

Q. And you had her contact information?

A. No, I had to go on-line and look up "Feld."

Q. So you found her contact information on-line?

A. Yes.

Q. And you first telephoned her, or did you fax something?

A. Telephoned.

Q. And can you tell me what the contents of that discussion was?

A. I didn't speak with her. I just got in contact with the legal department and faxed over what I had.

Q. So who did you speak with; do you recall?

A. No, I don't remember, the receptionist.

Q. And what did that person tell you?

A. Just asked if I would fax over the document.

Q. Okay. So, then, you faxed the subpoena --

A. Yes.

Q. -- directly to Ms. Strauss?

A. Yes.

Q. And did you follow up with another conversation, or did Ms. Strauss then contact you

11:00  
11:00  
11:01  
11:01  
11:01  
11:01  
11:01

1 with regard to the subpoena? 11:01

2 A. Ms. Strauss then contacted me.

3 Q. And what were the contents of that discussion?

4 A. She just asked me if I had any idea what a  
5 deposition was or if I had been contacted by an  
6 attorney at that time. 11:01

7 Q. Okay. Did you talk about the incident with  
8 Benjamin?

9 A. No.

10 Q. Did you talk about any documents you would be  
11 producing? 11:02

12 A. I don't recall.

13 Q. Did she ask you whether you would be producing  
14 a videotape?

15 A. Yes. 11:02

16 Q. And what did you say?

17 A. At that time, I did not have a copy of the  
18 videotape.

19 Q. Okay. Did she ask you anything else about  
20 what you would be discussing in the deposition or  
21 documents -- 11:02

22 A. No.

23 Q. -- or any documents you might be producing?

24 A. No.

25 Q. Nothing else? 11:02

1 A. No. 11:03

2 Q. Did she review the documents that you faxed  
3 over?

4 A. I don't know. I assume.

5 Q. You're referring to the subpoena that you 11:04  
6 faxed over?

7 A. Yes, yes.

8 Q. Okay. So how did you come to get in touch  
9 your attorney, Mr. Steed?

10 A. I received a phone call from Mr. Steed's 11:04  
11 office.

12 Q. An unsolicited phone call, you didn't contact  
13 them first?

14 A. I don't remember if I contacted them first. I  
15 don't remember, sorry. 11:04

16 Q. So you don't recall what your first contact --  
17 when your first contact was with Mr. Steed's office?

18 A. It was the same day that I faxed over the  
19 documents.

20 Q. That you faxed the subpoena to Ms. Strauss? 11:04

21 A. Yes.

22 Q. Okay. So you received a call from Mr. Steed;  
23 is that what you're saying, at some point after you  
24 faxed the subpoena --

25 A. Yes. 11:05

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1 Q. -- to Ms. Strauss?

11:05

2 A. Yes.

3 Q. Are you aware of how Mr. Steed's office found  
4 your name?

5 A. I don't really -- I think -- I think that I  
6 was given a couple of numbers, and I contacted  
7 Mr. Steed's office.

11:05

8 Q. You were given those numbers by whom?

9 A. Julie Strauss.

10 Q. So, she did give you some numbers of lawyers  
11 to contact?

11:05

12 A. I think that's --

13 Q. That's okay, just to the best of your  
14 recollection.

15 A. Yeah, yeah.

11:05

16 Q. Okay. And is Ringling Brothers or Feld  
17 Entertainment paying for your legal fees in this  
18 matter?

19 MR. STEED: I'm going to object to that.

20 I think it invades the attorney/client privilege,  
21 but -- and I, also, think it's irrelevant. But under  
22 the Federal Rules, I'll allow her to answer the  
23 question; but I want my objection noted for the  
24 record. You can go ahead and answer.

11:05

25 A. Yes.

11:06

1 Q. (BY MS. OCKENE) "Yes," they're paying your  
2 fees?

11:06

3 A. (Witness nods head.)

4 Q. All right. You brought some documents with  
5 you here today pursuant to the subpoena that was  
6 served on you; is that correct?

11:06

7 A. Correct.

8 Q. And those documents are contained in this  
9 purple folder as well as a videotape in this brown  
10 envelope, correct?

11:06

11 A. Yes.

12 Q. I'm going to return to the videotape later,  
13 but I'd like you to look through these documents and  
14 explain to me what they are and what you're  
15 producing.

11:06

16 A. This is the letter and the subpoena that I was  
17 served with -- well, both of them, because I was  
18 served on two different days --

19 Q. Okay.

20 A. -- and a copy of the affidavit to the USDA.

11:06

21 Q. Okay. Which affidavit to the USDA; can you  
22 describe that?

23 A. That I gave.

24 MR. STEED: Give her the date.

25 A. August 2nd, 1999.

11:07

1 A. When Mrs. Strauss called me after she received  
2 the fax, she gave me her direct number and fax  
3 number.

11:10

4 Q. Okay. Thank you.

5 All right. I'd like to turn now to the  
6 events of July 26th, 1999.

11:10

7 MR. STEED: Can we have an agreement on  
8 those documents; because that's all the file that she  
9 has. Can we substitute copies with the deposition,  
10 or do you want the originals and give her a copy; or  
11 how do you want to do that?

11:10

12 MS. OCKENE: If you are willing to, I'd  
13 prefer to take this and make a complete copy set and  
14 give it back to you and give you the originals back,  
15 if it's all right.

11:11

16 MR. STEED: That'd be great. So you'll  
17 give the originals, then, to the court reporter at  
18 the end of the deposition; and she'll make copies and  
19 send the originals back to me.

20 MS. OCKENE: That would be perfect.

11:11

21 MR. STEED: Okay. Thank you.

22 Q. (BY MS. OCKENE) Ms. Martin, do you recall  
23 where you were on July 26th, 1999?

24 A. At our home.

25 Q. At your home. Can you describe where that is?

11:11



1 A. In Huntsville. Do you want the address? 11:11

2 Q. Yes, please.

3 A. 46 Joe Smith Road.

4 Q. In Huntsville, Texas?

5 A. Huntsville, Texas. 11:11

6 Q. And the ZIP Code?

7 A. 77320, I believe, at that time.

8 Q. And when you say "our home," whose home?

9 A. Well, it was actually my parents home; but my  
10 husband and I lived there. 11:11

11 Q. And the name of your husband is?

12 A. Well, my ex-husband, sorry.

13 Q. That's okay.

14 A. Scott Martin.

15 Q. Scott Martin, okay. So living at that address  
16 was you, your ex-husband, Scott Martin, and your  
17 parents? 11:11

18 A. No, they didn't live there. They lived in  
19 another home.

20 Q. Okay. So just the two of you lived there? 11:12

21 A. And our daughter.

22 Q. And your daughter. And how old was your  
23 daughter on July 26th, 1999?

24 A. Six.

25 Q. Okay. So the three of you lived at that 11:12

1 address?

11:12

2 A. Yes, ma'am.

3 Q. And was this, also, your place of business?

4 A. Yes.

5 Q. Okay. And I think you referred to it earlier,  
6 but can you describe for me again what that business  
7 was and who owned it?

11:12

8 A. My father owned a dirt contracting business  
9 and an over-the-road trucking business.

10 Q. Okay. And that business was run out of 46 Joe  
11 Smith Road?

11:12

12 A. The home, correct.

13 Q. And you testified that you were the office  
14 manager on July 26th, 1999 of that business?

15 A. Yes.

11:13

16 Q. Okay. All right. Can you describe to me --  
17 I'd like you to take me through the events of  
18 July 26th, 1999, as you remember them. So if  
19 you -- do you remember those events --

20 A. Vaguely.

11:13

21 Q. -- that you're here to testify about?

22 A. It's been a while, but --

23 Q. Okay. Well, if you would just start from when  
24 you woke up and tell me who was on the premises that  
25 day and then just take it from there.

11:13

1 A. Uh-huh.

11:27

2 Q. Prior to that, you were videotaping the whole  
3 thing?

4 A. Well, I was starting and stopping because my  
5 tape was low and the battery was not very good.

11:27

6 Q. Okay. All right. I just want to turn back  
7 for a minute to when you indicated that at one point,  
8 I think, when Benjamin was still alive and in the  
9 water he came over to the pier; and you said that --  
10 I think you said that Pat went out to the pier and  
11 was trying to get Benjamin's attention, and Benjamin  
12 was running away from him?

11:27

13 A. Uh-huh.

14 Q. And you said you didn't think that Pat had  
15 anything in his hand?

11:27

16 A. I don't remember seeing anything in his hand.

17 MS. OCKENE: Okay. I'm just going have an  
18 exhibit marked. I'll have this marked Exhibit 2.

19 MR. STEED: I'm sorry, I marked the  
20 subpoena 1 and 2. I'll mark this as 3.

11:28

21 MS. OCKENE: Okay.

22 (Exhibit No. 3 marked.)

23 Q. (BY MS. OCKENE) And if you'll take a minute  
24 to look at this. At the top it says "Affidavit" and  
25 then right underneath that it says, "I, William Henry

11:28

1 Lawler, being duly sworn on oath make the following  
2 statement"; is that correct? Do you see that?

3 A. Yes.

4 Q. So this appears to be an affidavit that your  
5 father gave, I believe, to the USDA investigators,  
6 correct?

7 A. Correct.

8 Q. And I want just want to draw your attention to  
9 the last full paragraph, and I'll read from it. It  
10 says, "The trainer then tried to get the elephants  
11 out of the pond." Do you see that?

12 A. Yes.

13 Q. And then it says, "One of the elephants came  
14 out of the pond, the other did not. The trainer used  
15 a rod to poke the other elephant. This rod was about  
16 3 feet long with a hook. The elephant would go the  
17 other direction." Do you see that?

18 A. Yes, I see that.

19 Q. Does that statement refresh your memory at all  
20 as to whether --

21 A. No, I don't remember seeing that.

22 Q. You don't remember that at all?

23 A. No, no.

24 Q. Okay. All right. I'd like to just have  
25 another exhibit marked and this is actually a

11:28

11:29

11:29

11:29

11:29

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1 videotape. It's not the one that you brought today. 11:29

2 A. Okay.

3 (Exhibit No. 4 marked.)

4 MS. OCKENE: This is a videotape, which is  
5 labeled "USDA Premises Where Benjamin Died 8/2/99."  
6 I'll have that marked. 11:30

7 MR. STEED: Do you want the box marked or  
8 the videotape?

9 MS. OCKENE: The videotape itself,  
10 actually. If you could pull it out and just mark it. 11:30

11 MR. STEED: Okay.

12 (Exhibit No. 4 marked.)

13 MS. OCKENE: I'd like to have us watch the  
14 videotape now and ask you a few questions about it.  
15 And I just want to let you know that this is actually  
16 a videotape of, I believe, your father being  
17 interviewed. So this might be emotional for you. 11:30

18 Let me know if you need to stop.

19 THE WITNESS: (Nods head.)

20 MR. STEED: Just so you'll know, her  
21 father died about a year ago or so. So that may be a  
22 little difficult. I mean, we'll work through it; but  
23 I just wanted you to know part of the circumstance.

24 MS. OCKENE: All right. Okay.

25 MR. STEED: We can go ahead. And then if 11:31

1 we need to take a break, we can. And if we can just 11:31  
2 work through this and we'll go get you a Kleenex.  
3 It's easier to make it through it than it is to start  
4 and stop and stop and start.

5 THE WITNESS: And this is his birthday 11:31  
6 month.

7 MR. STEED: This month?

8 THE WITNESS: (Nods head.)

9 (Discussion off the record.)

10 Q. (BY MS. OCKENE) Okay. So we just watched the 11:37  
11 video that was marked as Exhibit 4. Have you seen  
12 this videotape before?

13 A. No.

14 Q. Was your father talking in that videotape?

15 A. Yes. 11:38

16 Q. Was he the man with the beard --

17 A. Yes.

18 Q. -- and the blue shirt?

19 A. Uniform, yes.

20 Q. Uniform, okay. And tell me his full name, 11:38  
21 please.

22 A. William Henry Lawler.

23 Q. And you said your father is deceased, correct?

24 A. Correct.

25 Q. When did he die? 11:38

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1 A. September of '02. 11:38

2 Q. Do you mind if I asked you how he died?

3 A. Colon cancer.

4 Q. Sorry.

5 All right. Now, did you notice in the 11:38  
6 video where your father was describing what happened  
7 down at the pier and he gestured and stated that Pat  
8 poked the elephant with a rod. Did you see that?

9 A. Yes, I did.

10 Q. Okay. And, again, did that refresh your 11:39  
11 recollection at all?

12 A. No, it didn't. I don't know if I wasn't  
13 watching. You know, there were two elephants there,  
14 so we were watching. The female was already in the  
15 trailer; but, you know, she was making noise and so 11:39  
16 we were looking at her as well.

17 Q. Okay. And did you hear where your father,  
18 also, stated that Pat was -- I think he used the word  
19 hollering at Benjamin?

20 A. Yeah. 11:39

21 Q. Does that sound like an accurate description?

22 A. Well, to my dad, hollering is like "hey."

23 Q. Does it sound like it --

24 A. Yes, yes.

25 Q. And you don't have any reason or do you have 11:39

1 any reason to believe that your father would have  
2 made anything up?

11:39

3 A. No.

4 MS. OCKENE: All right. Thank you. Just  
5 take one second.

11:39

6 (Discussion off the record.)

7 MS. OCKENE: Back on the record.

8 Q. (BY MS. OCKENE) So, just to be clear, you  
9 said that you may have been watching Shirley, who was  
10 already up in the trailer?

11:40

11 A. I don't remember seeing that, so I just assume  
12 I was looking at Shirley or --

13 Q. But you don't recall specifically?

14 A. No, I don't.

15 Q. All right. I'd like to turn now to this brown  
16 envelope with the video in it that you brought with  
17 you today.

11:40

18 A. Okay.

19 MS. OCKENE: I'd like to have this --  
20 actually, I'd like to have the envelope and the video  
21 itself marked as two separate exhibits.

11:40

22 MR. STEED: Why don't we mark the envelope  
23 as 5 and the video as 6 -- or let's go off the record  
24 for just a second.

25 MS. OCKENE: Okay. And, actually, can we



1 mark this 5A, 5B and 5C?

2 MR. STEED: Yeah.

3 (Discussion off the record.)

4 (Exhibit Nos. 5A, 5B, 5C marked.)

5 MR. STEED: I've marked on the record 5A,  
6 B, and C. 5A is the yellow envelope that she'll talk  
7 about from David Green with the USDA, I believe. 5B  
8 is the actual videotape itself; and 5C is the cover,  
9 the box in which the video is that has a -- in which  
10 the video is kept that has a yellow sticker. And  
11 I'll let her testify as to what that yellow sticker  
12 is.

11:42

11:43

13 But we've agreed that as with the original  
14 documents, we'll make copies of the box and the  
15 envelope; and then the court reporter will have a  
16 video copy made from this video and will return the  
17 original with the deposition transcript to me. And  
18 we'll maintain that in the event you need the  
19 original for some reason.

11:43

20 MS. OCKENE: Okay.

11:43

21 Q. (BY MS. OCKENE) All right. Ms. Martin, would  
22 you, please, take these items that have been marked  
23 5A, B, and C and just describe them to me.

24 A. 5A is the mailing envelope for VHS tape from  
25 David Green at the USDA.

11:43

1 Q. Okay. Do you know for a fact when you made  
2 that copy? 11:45

3 A. No.

4 Q. Okay. And why is this in an envelope from  
5 David Green? 11:45

6 A. They took it with them with -- the USDA took  
7 it with them, along with the affidavits, to make  
8 their own copy.

9 Q. So tell me the circumstances under which --  
10 just tell me again the circumstances under which this 11:45  
11 copy was given to David Green. Did you say David  
12 Green took it or someone else?

13 A. Whoever took the affidavits -- I don't  
14 remember the two gentlemen's names.

15 Q. Representatives of the USDA? 11:46

16 A. Yes, ma'am.

17 Q. Okay. And under what circumstances did they  
18 take this videotape?

19 A. They needed a copy of the videotape for their  
20 records. 11:46

21 Q. How did they know that the videotape existed?

22 A. I told them.

23 Q. And when did you tell them?

24 A. When they were taking the affidavit.

25 Q. All right. And you had made this copy -- 11:46

1 A. Yes.

11:46

2 Q. -- from the original, which you said is an  
3 8 millimeter tape?

4 A. Yes.

5 Q. What type of camera were you using; do you  
6 recall?

11:46

7 A. I don't remember the brand.

8 Q. Do you still have that camera?

9 A. No.

10 Q. What happened to it?

11:46

11 A. It was stolen when our house was broken into.

12 Q. So when did you first remove the original from  
13 the camera, the original 8 millimeter?

14 A. To have the copies made for the USDA.

15 Q. Did you have copies made for anyone else?

11:47

16 A. Yes, Ringling Brothers.

17 Q. For who?

18 A. Ringling Brothers.

19 Q. Did you watch the original before making  
20 copies?

11:47

21 A. Yes.

22 Q. So you know everything that was on the  
23 original?

24 A. Yes.

25 Q. And have you watched this tape before coming

11:47

1 here today?

11:47

2 A. Yes.

3 Q. And does this tape accurately reflect the  
4 original that you removed from the camera?

5 A. Yes.

11:47

6 MS. OCKENE: Why don't we watch that tape  
7 now?

8 (Discussion off the record.)

9 MS. OCKENE: We're now going to go off the  
10 record and watch this tape that's been marked Martin  
11 5B.

11:48

12 (Discussion off the record.)

13 (Whereupon, a recess was taken.)

14 MS. OCKENE: All right. Let's go back on  
15 the record.

16 Q. (BY MS. OCKENE) All right. We just watched  
17 the video that you brought with you today?

18 A. Yes.

19 Q. And this is a video of footage that you took  
20 on July 26th, 1999; is that correct?

12:07

21 A. I took the day before and the day of.

22 Q. So July 25th and July 26th, 1999?

23 A. Yes.

24 Q. All right. Were you the only narrator, the  
25 only videographer?

12:07

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1 A. Yes. 12:09

2 Q. -- is that correct?

3 A. Well, we plugged the camera up to the TV to  
4 watch it.

5 Q. When you say "we," who was that? 12:09

6 A. Well, my family and I, myself, my husband, my  
7 father, the USDA.

8 Q. Okay. I'll get back to this in a minute.  
9 Right now, actually, I just want to replay a few of  
10 the segments on here and ask you a few questions. 12:09

11 A. Okay.

12 (Discussion off the record.)

13 Q. (BY MS. OCKENE) All right. Did you see that  
14 part where it looks as though there's a jump in  
15 something? It appears to be cut from one segment to  
16 the next? 12:10

17 MR. STEED: Object to the form of the  
18 question.

19 MS. OCKENE: Can we watch that one more  
20 time, Katherine? 12:10

21 MS. MEYER: Sure.

22 Q. (BY MS. OCKENE) I'd like you to watch  
23 closely. Did you see the trainer, Pat, in that first  
24 part of that segment we just showed you?

25 A. Yes. 12:10

1 Q. And then, at some point, it appears as though  
2 he's walking around and then he disappears from the  
3 frame. Did you see that?

12:10

4 A. Yes, yes.

5 Q. Can you explain why it jumps like that from  
6 him being?

12:10

7 A. Pausing the camera.

8 Q. And why would you have paused it? Are you  
9 testifying that you did pause the camera there?

10 A. Yes, yes. I was pausing the camera several  
11 times during the video to reserve the tape and the  
12 battery in the camera.

12:10

13 Q. Did you charge your camera before taking  
14 footage?

15 A. No, no, I didn't.

12:11

16 Q. All right. Let's just watch one more segment.

17 MS. MEYER: One more?

18 MS. OCKENE: Or possibly two more.

19 MS. MEYER: Let's see, I've got to get  
20 there, sorry.

12:11

21 MS. OCKENE: That's okay.

22 Q. (BY MS. OCKENE) Please watch closely.

23 A. Okay.

24 Q. In that segment, it looks like the elephants  
25 were walking toward the pond and then you tell me if

12:11

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1 A. Why did I stop filming? Because he was 12:12  
2 putting them up, so I thought, "Okay. Well, we got  
3 them going around the pond."

4 Q. And what about -- did you witness them turn 12:12  
5 back around to go toward the pond again?

6 A. No, I don't remember -- all I remember is when  
7 I heard them in the water, turning around. And, you  
8 know, I had my daughter out there and so I wasn't  
9 just focusing on it.

10 Q. Okay. I just want to understand what you're 12:13  
11 saying. You were watching them go toward the trailer  
12 and then, I guess, you're testifying that you turned  
13 the camera off?

14 A. Right.

15 Q. And, then, are you testifying that you then 12:13  
16 went and did something else and not watched the --  
17 and stopped watching the elephants?

18 A. I don't know what I was doing at that time. I  
19 didn't leave the area, but I didn't keep filming. I  
20 didn't -- there was nothing, I thought, to film. 12:13

21 Q. But you said you did notice that the elephants  
22 on their own without any instigation from Pat turned  
23 around?

24 A. Well, because when I heard the noise, Pat was  
25 kind of frantic. 12:13

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1 Q. Why was he frantic? 12:13

2 A. Because they got in the water, I assume. You  
3 know, I could hear him saying, "Benjamin, Benjamin."

4 Q. Okay. I just want to be clear about the  
5 sequence of events. 12:13

6 A. Okay.

7 Q. If you can describe -- because this is  
8 something that you didn't describe earlier when we  
9 were going through the whole sequence.

10 A. Okay. 12:14

11 Q. Could you, please, describe for me when the  
12 elephants were -- as we just saw them heading toward  
13 the trailer and from that point to when they were  
14 pictured here in the water? Can you describe that  
15 whole intervening time for me? 12:14

16 A. Just -- he had walked the elephants around.  
17 They had gotten drinks and he said he was going to go  
18 put them up. I filmed a little bit, stopped filming.  
19 I don't really remember exactly what I was doing,  
20 other than probably talking to my daughter. 12:14

21 Q. So how did you know that the elephants turned  
22 around on their own without Pat telling them to?

23 A. Because he was heading to the trailer, so -- I  
24 mean, I didn't see them turn; but I was just --

25 Q. So you just assumed? 12:14



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1 A. Yeah. 12:14

2 Q. And, then, you said Pat got frantic and  
3 describe that sequence.

4 A. Just his voice, you know, him saying  
5 "Benjamin, Benjamin." 12:15

6 Q. At the time when they were heading toward the  
7 water?

8 A. No, after I already heard them in the water.  
9 When I heard the water, that's when I turned the  
10 camera back on, you know. 12:15

11 Q. Okay. So you saw them heading toward the  
12 trailer?

13 A. Uh-huh.

14 Q. And, then, you're saying you're not sure what  
15 you were doing then? 12:15

16 A. No, I stopped filming and I don't -- you know,  
17 I don't know.

18 Q. And the next thing you know -- what?

19 A. I hear water and hear Patrick.

20 Q. So you're saying -- it sounds to me like  
21 you're testifying that Patrick got frantic almost  
22 right when they got in the water? 12:15

23 A. Well, I mean, I -- he was hollering for  
24 Benjamin, so....

25 Q. Even while Shirley was still in the water? 12:15

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1 A. Just as I heard them in the water, I heard him 12:15  
2 saying "Benjamin."

3 Q. Okay. Just because earlier I think that you  
4 testified that they both got in the water and were  
5 just playing for a little while and then Shirley got 12:16  
6 out on her own?

7 A. Right, and that's what we saw on the video.  
8 They were in the water playing.

9 Q. So, now, it sounds like you're saying that Pat  
10 was, what you said, frantic almost right away when 12:16  
11 you first saw them in the water?

12 A. Well, I'm sure because he didn't want them in  
13 the water. You know, he didn't tell them "Go get in  
14 the water." So that'd be like if your child just  
15 jumped in the water. 12:16

16 Q. And, again, how do you know --

17 A. I would be --

18 Q. And how do you know he didn't tell them "Go  
19 get in the water"?

20 A. Well, because he said he was putting them up. 12:16

21 Q. Okay. All right.

22 MS. MEYER: Are you done watching that?

23 MS. OCKENE: Yeah, let's go to the next  
24 scene.

25 MS. MEYER: All right. 12:16

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1 A. I don't really remember, other than I would 12:21  
2 have gone back down the pier to be filming that  
3 close; so I wouldn't have been walking with the  
4 camera and just --

5 MS. MEYER: Can I turn it off? 12:22

6 MS. OCKENE: Yes, you can turn it off.

7 Q. (BY MS. OCKENE) Okay. So I just want to turn  
8 back to sort of the procedure for making a copy and  
9 what we were talking about briefly before?

10 A. Okay. 12:22

11 Q. You testified this is the reproduction of the  
12 original it has not been edited correct?

13 A. Correct.

14 Q. Now, tell me what you did with the original?

15 A. The original was put in a lockbox, a fireproof 12:22  
16 lockbox that had several things in it, my daughter's  
17 birth certificate, jewelry, important papers; and we  
18 had several of the little 8 millimeter VHS. That was  
19 one of them, but also my daughter growing up and --

20 Q. Okay. Why did you decide to put that 12:22  
21 particular cassette in the lockbox?

22 A. We put several -- I mean, you know, just all  
23 the films that we had; because, like I said, it was  
24 fireproof.

25 Q. Okay. And did you maintain that original 12:23

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1 within your control at all times?

12:23

2 A. Yes.

3 Q. And what happened to that original?

4 A. Our house was broken into in November of 2002

5 and that, among several things, was stolen.

12:23

6 Q. So you no longer have custody of the original?

7 A. Right.

8 Q. Now, you said that you removed the original

9 from the camera. On what day did you say that was

10 that you removed the original from the camera?

12:23

11 A. I don't know what day it was I removed it from

12 the camera. We watched it in the camera when the

13 USDA came down. You know, you can plug it directly

14 to the TV and we watched through there.

15 Q. So --

12:24

16 A. The USDA myself and a representative from

17 Ringling Brothers watched it.

18 Q. We'll get back to that in one minute. I want

19 to turn to the events that happened after Benjamin's

20 death.

12:24

21 A. Okay.

22 Q. As you just stated, the USDA came and, I

23 guess, you're testifying that Ringling Brothers

24 representatives were also there?

25 A. Yes.

12:24

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1 Q. To the best of your recollection, can you tell  
2 me after the 26th of July, which is the day that  
3 Benjamin died, when were you next contacted by anyone  
4 about the events on July 26th?

5 A. The day of.

6 Q. The day of?

7 A. Yes.

8 Q. So on July 26th you were contacted?

9 A. We were contacted, yes.

10 Q. By who?

11 A. We were contacted by Ringling Brothers, and we  
12 were contacted by the USDA.

13 Q. And when you say "we," who exactly --

14 A. Oh, my father -- I'm sorry.

15 Q. That's okay. And do you know who from  
16 Ringling Brothers contacted your father?

17 A. No, I don't remember her name.

18 Q. It was a woman?

19 A. Yes.

20 Q. And do you know who from the USDA?

21 A. No, I don't -- I don't remember their names.  
22 And I don't know if it was the same people that took  
23 the affidavits or not. I don't know.

24 Q. Do you know what they -- what the substance of  
25 those conversations were between -- first, let's say,

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1 Benjamin? 12:27

2 A. I don't remember.

3 Q. Okay. Okay. And, so, what happened next with  
4 respect to either Ringling Brothers or the USDA?

5 A. We had a meeting set up with the USDA and  
6 Ringling Brothers to come in on the same day to take  
7 our affidavits. 12:27

8 Q. Do you know what day that was?

9 A. I don't remember.

10 Q. So when did -- so you don't remember when  
11 those meetings took place? 12:27

12 A. (Witness shakes head.)

13 MR. STEED: Is that "no"? Be sure and  
14 answer.

15 THE WITNESS: I'm sorry. No, I don't. 12:28

16 Q. (BY MS. OCKENE) And you're saying that both  
17 the USDA representatives and the Ringling Brothers  
18 representatives were there simultaneously?

19 A. Yes.

20 Q. Did you personally speak with anyone from  
21 Ringling Brothers before they arrived at your home? 12:28

22 A. Yes, to give directions to our home.

23 Q. So you spoke to --

24 A. They had to get directions, yes.

25 Q. Do you know who that was that you spoke with? 12:28

1 A. No, no. 12:28

2 Q. Do you think that the representatives from  
3 Ringling Brothers and the USDA arrived on the 27th of  
4 July, the 28th? Do you have any recollection?

5 A. I think it was a couple of days later. 12:28

6 Q. A couple of days later, okay. And describe  
7 for me the sequence of events once the USDA -- how  
8 many representatives from Ringling Brothers were  
9 there?

10 A. Two, I think. 12:28

11 Q. Two. Women, men?

12 A. Women.

13 Q. Two women?

14 A. (Witness nods head.)

15 Q. And do you know where they both actually 12:28  
16 employees of Ringling Brothers or --

17 A. Feld Entertainment.

18 Q. All right. And how many representatives from  
19 the USDA?

20 A. Two, I believe. 12:29

21 Q. Do you recall their names?

22 A. Men. No, I don't.

23 Q. Okay. So now take me through the events once  
24 they all arrive on the scene.

25 A. We just all sat down at the table and they 12:29

1 asked for the story.

12:29

2 Q. Who?

3 A. My father, myself, my ex-husband.

4 Q. Anyone else?

5 A. I don't remember anybody else.

12:29

6 Q. So you sat down at the table. Then what  
7 happened?

8 A. They asked us -- well, I sat down first and  
9 they took my story first.

10 Q. You were the first one?

12:29

11 A. Yes.

12 Q. So, first, did you-all talk together?

13 A. No, no.

14 Q. So just individually?

15 A. Yes.

12:29

16 Q. And, so, when you were sitting at the table,  
17 who else was there?

18 A. My father would have been sitting there.

19 Q. I thought you just said that you were the only  
20 one among the witnesses, that you -- that the  
21 affidavits were --

12:30

22 A. You said we were all telling the story  
23 together.

24 Q. I see. So everybody was sitting at the table  
25 together --



1 A. Asked if we had pictures or videos, yeah. 12:32

2 Q. And you said "yes"?

3 A. Yes.

4 Q. And, then, you immediately proceeded to watch  
5 the videotape? 12:32

6 A. Yes.

7 Q. Is that when you removed it?

8 A. No. It stayed in the camera. We just had a  
9 wire that would run from the camera, and you plug it  
10 into the back of your TV. 12:32

11 Q. Okay. And did you tell them that you had  
12 photographs?

13 A. No, we didn't have photographs.

14 Q. Nobody had photographs?

15 A. No. 12:32

16 Q. Okay. So you went to watch the video?

17 A. Uh-huh.

18 Q. And then what happened next?

19 A. Then after we watched the video, they asked  
20 for a copy of the videotape. 12:33

21 Q. And when you say "they," who do you mean?

22 A. The USDA. I'm sorry.

23 Q. That's okay. Okay. Go on.

24 A. After we watched, they asked for a copy; so we  
25 took the original to town to Revelle's. 12:33

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1 Q. When you say "we," who are you referring to? 12:33

2 A. I'm sorry.

3 Q. That's okay. I'm trying to be as specific as  
4 possible.

5 A. I did -- myself and my mother. She rode with 12:33  
6 me.

7 Q. This is -- I'm just trying to understand the  
8 sequence of events. This is before you sat down with  
9 them to give your story or after?

10 A. I don't remember. I just remember after they 12:33  
11 saw it they wanted a copy of the tape, and they  
12 wanted it when they left.

13 Q. Okay. All right. So then, at some point, you  
14 sit down with everyone and you told your story first?

15 A. Uh-huh. 12:34

16 Q. And what did you tell them?

17 A. Well, I don't remember exactly what I told  
18 them, just the events that happened.

19 MS. OCKENE: Okay. I'd like to have an  
20 exhibit marked. 12:34

21 (Exhibit No. 6 marked.)

22 Q. (BY MS. OCKENE) And I think this may be

23 similar or the same as what you produced for us

24 today, but this is an exhibit that's been marked

25 Martin Exhibit 6. At the top, it says "Affidavit" 12:34

1 and then the next line is, "I, Angela Deann Martin,  
2 being duly sworn on oath make following statement,"  
3 correct? Do you see that?

4 A. Correct.

5 Q. So, is this copy of -- well, why don't you  
6 take a moment to look it over?

7 A. (Witness nods head.)

8 Q. You've had a minute to look at this?

9 A. Yes.

10 Q. Before we get to this exhibit, I just want to  
11 backtrack for one second. You said that when the  
12 USDA investigators arrived you then all -- they asked  
13 about a videotape. You watched the video tape; is  
14 that correct?

15 A. Correct.

16 Q. And, prior to that moment of watching the  
17 videotape with the USDA investigators, had anyone  
18 from Ringling Brothers or Feld Entertainment, anyone  
19 affiliated with Feld Entertainment, spoken to you  
20 about this videotape?

21 A. No.

22 Q. Had you spoken to --

23 A. No. This was the -- when the USDA asked was  
24 the first time we talked about the tape.

25 Q. And does that include Pat Harned? Had he

1 previously --

12:36

2 A. No, he wasn't talking to anybody about  
3 anything. He was just distraught. He wouldn't eat  
4 or drink.

5 Q. So, when you watched the tape with the USDA  
6 inspectors, you're testifying that was the first time  
7 that anyone viewed the videotape?

12:36

8 A. Yes, yes.

9 Q. All right. Now, let's turn to this exhibit  
10 that's just been marked. Tell me what this is.

12:37

11 A. This is an affidavit that I gave to the USDA  
12 on August 2nd, 1999.

13 Q. Okay. And tell me what the process was for  
14 producing this affidavit.

15 A. What do you mean?

12:37

16 Q. Under what circumstances was this typed out  
17 and signed by you.

18 A. The USDA typed it up, as I gave the testimony.  
19 And, then, I was asked to read over it; and if I --  
20 if everything was correct, to sign it.

12:37

21 Q. And you've had a chance to look this over now,  
22 correct?

23 A. (Witness nods head.)

24 Q. Did you see in here any statement about your  
25 videotape?

12:37

1 A. No.

12:38

2 Q. Why is there no statement about the  
3 contemporaneous videotape?

4 A. I don't know. I guess I wasn't asked. I  
5 don't know. I don't remember.

12:38

6 Q. You're saying you think you weren't asked  
7 about the videotape?

8 A. I don't know. I don't remember.

9 MR. STEED: If you don't know, don't  
10 speculate.

12:38

11 A. I don't know.

12 Q. (BY MS. OCKENE) Okay. Did you think it was  
13 important, given what had just happened, in that you  
14 had contemporaneous videotape of the whole event to  
15 indicate that in your testimony to the USDA?

12:38

16 A. I don't understand what you're saying.

17 Q. Did you think it was important to tell the  
18 USDA while you were giving them your testimony that  
19 you had contemporaneous video footage of Benjamin's  
20 death?

12:39

21 A. I did tell them.

22 Q. Okay. And, yet, you signed an affidavit where  
23 you testified to the events of Benjamin's death that  
24 has no statement about the videotape?

25 A. It doesn't mention the videotape; but it

12:39

1 doesn't say there's not a tape, either.

12:39

2 Q. Is there any mention in this affidavit that  
3 you signed under oath of you leaving the scene when  
4 there was a problem with Benjamin -- in other words,  
5 earlier -- let me just backtrack. Earlier you  
6 testified that when you became clear there was a  
7 problem with Benjamin, you left to take your daughter  
8 to the house; is that correct?

12:40

9 A. Yes, that is correct.

10 Q. Is there any mention of that series of events  
11 where you left to take your daughter to the house in  
12 this affidavit?

12:40

13 A. No, I don't see it.

14 Q. Do you know whether you told the USDA  
15 investigators that you left the scene?

12:40

16 A. I don't know.

17 Q. Do you think that would have been important  
18 information?

19 A. I don't know.

20 Q. Okay. You can put that aside.

12:41

21 A. Okay.

22 (Discussion off the record.)

23 Q. (BY MS. OCKENE) One more question about this  
24 affidavit. I want to be clear about the chronology  
25 and the sequence of events. I think earlier you

12:41

1 testified that right when the USDA investigators got  
2 there and started talking to all of you, you then  
3 watched the videotape; is that correct?

12:41

4 A. I could be wrong. I don't know. I don't  
5 remember exactly.

12:41

6 Q. Do you think that you watched the videotape  
7 before telling them your story, which this affidavit  
8 is based on?

9 A. I don't know.

10 Q. So now you're saying you're not sure whether  
11 you actually --

12:42

12 A. Yeah, now I'm not sure.

13 (Discussion off the record.)

14 Q. (BY MS. OCKENE) Okay. So you signed this  
15 affidavit on August 2nd; is that correct?

12:42

16 A. Yes.

17 Q. Did you sign this on the same day that you  
18 told the USDA investigators your story?

19 A. Yes.

20 Q. So, was it almost simultaneously? And tell me  
21 from the time you told them your story until you  
22 signed this affidavit?

12:42

23 A. They typed it up on the computer as I was  
24 giving it, printed it out, and had us sign it right  
25 there.

12:42

1 Q. Right there? 12:42

2 A. (Witness nods head.)

3 Q. Right you told your story?

4 A. Yes.

5 Q. And now you're saying you don't recall whether 12:43  
6 you had already watched the videotape?

7 A. No, I don't remember if it was before or  
8 after.

9 Q. But are you sure you actually watched the  
10 videotape -- 12:43

11 A. Yes.

12 Q. -- with the USDA inspectors?

13 A. Yes.

14 MR. STEED: Be sure you let her finish her  
15 question before you start to answer. 12:43

16 THE WITNESS: I'm sorry.

17 Q. (BY MS. OCKENE) But you're not sure when that  
18 was?

19 A. No.

20 Q. Do you think it was -- could it have been 12:43  
21 after they left the house on August 2nd?

22 A. No, because it was with them; so they would  
23 have to be there.

24 (Discussion off the record.)

25 Q. (BY MS. OCKENE) Now, how long were the USDA 12:43



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1 inspectors at your house for? 12:43

2 A. I don't know exactly how long.

3 Q. Was it more than a day?

4 A. No.

5 Q. Just one day? 12:43

6 A. One day.

7 Q. So they came on August 2nd, and you're saying  
8 they took everybody's testimony on that day?

9 A. They took -- I know I gave mine and my husband  
10 gave his. I don't remember -- I don't remember if my  
11 father gave his that day or not, if he was there. 12:44

12 Q. Do you think that they may have come back on a  
13 different day, the USDA inspectors?

14 A. I didn't -- I only saw them one day.

15 MS. OCKENE: Okay. I just need to get 12:44  
16 something in my bag, so if we can take one minute.  
17 I'd like to have another exhibit marked.

18 (Exhibit No. 7 marked.)

19 Q. (BY MS. OCKENE) Can you just read for me what  
20 the top portion of that document says? 12:45

21 A. "United States Department of Agriculture,  
22 Animal Plant Health Inspection Service, Investigative  
23 and Enforcement Services, Western Region, Fort Worth,  
24 Texas."

25 Q. And the next line? 12:46

1 A. "Report of Investigation."

12:46

2 Q. Okay. And does it have a date?

3 A. September 1st, 1999.

4 MS. OCKENE: Okay. Let me just take a  
5 look at this for a second. Unfortunately, I didn't  
6 bring copies of this. I'm sorry. Do you want a  
7 minute to look through this.

12:46

8 MR. STEED: No, that's fine.

9 Q. (BY MS. OCKENE) And on the front there does  
10 it say who the investigator is?

12:46

11 A. David Green.

12 Q. So it looks like a report of the investigation  
13 that was done by David Green. Does this name refresh  
14 your recollection as to whether David Green was one  
15 of the people who took your testimony?

12:46

16 A. Yeah, it's also on this affidavit.

17 Q. Okay. I just want to turn your attention to  
18 one page in this exhibit -- actually two pages. At  
19 the top, it says "Page 7" and "Page 8"; and it's a  
20 list of exhibits.

12:47

21 A. Okay.

22 Q. Can you read those two pages and tell me  
23 whether anywhere on those two pages is an indication  
24 of a video that you took?

25 A. Yes.

12:48

1 Q. "Yes"?

12:48

2 A. Yes, Exhibit 30.

3 Q. Exhibit 30, what does that say?

4 A. "Videotape made at Huntsville, Texas on August  
5 2nd, 1999. 1 videotape."

12:48

6 Q. Are you sure that that's -- was your videotape  
7 made on August 2nd, 1999?

8 A. No, I -- you just asked me if it mentions a  
9 videotape.

10 Q. I said: Does it mention the videotape that  
11 you made?

12:48

12 A. It doesn't distinguish what videotape it is.

13 Q. I think that's actually the videotape that we  
14 watched earlier of your father, which has been marked  
15 Martin Exhibit 4.

12:48

16 A. Okay.

17 Q. So, is there any other mention on there of any  
18 videotape?

19 A. Not that I see.

20 Q. Okay. And, yet, you're still testifying that  
21 you had specifically told David Green of the  
22 existence of your videotape and actually watched it  
23 with him --

12:48

24 A. Yes.

25 Q. -- on the day he took your testimony?

12:48

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1 A. Yes. 12:48

2 Q. So he omitted to include that in your --

3 A. I don't know. It's his report. I --

4 MR. STEED: Let her finish her question.

5 THE WITNESS: I'm sorry. 12:49

6 Q. (BY MS. OCKENE) So he omitted any mention of  
7 your contemporaneous video footage in his exhibit  
8 list in his report; is that correct?

9 A. Correct.

10 Q. And you, also, omitted any mention of that 12:49  
11 videotape, the contemporaneous video footage from  
12 your affidavit, which you gave to the USDA?

13 MR. STEED: Objection, form. The  
14 question's misleading.

15 Q. (BY MS. OCKENE) Did you include any mention 12:49  
16 of the videotape that you made in the affidavit that  
17 you gave to the USDA?

18 A. No.

19 MS. OCKENE: All right. I'd like to have  
20 another exhibit marked. 12:49

21 (Exhibit No. 8 marked.)

22 Q. (BY MS. OCKENE) If you'd just look this over  
23 and I'll ask you a couple of questions in a minute.

24 A. (Witness complies with request.)

25 MS. OCKENE: Do you guys need copies of 12:50

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1 this? 12:50

2 MR. STEED: No. Thank you.

3 Q. (BY MS. OCKENE) Did you have a minute to look  
4 it over?

5 A. Yes. 12:50

6 Q. And can you tell me what this is?

7 A. It is an affidavit by me in regards to the  
8 videotape.

9 Q. And when was this affidavit signed?

10 A. I don't know the date it was signed. It's not  
11 dated. 12:50

12 Q. And under what circumstances, if you could  
13 describe, to me in as much detail as possible was  
14 this affidavit written and signed?

15 A. I don't understand. 12:50

16 Q. Tell me how you came to write and sign this  
17 affidavit.

18 A. I don't remember.

19 Q. Who asked you --

20 A. I don't remember who asked. 12:51

21 Q. You have no recollection?

22 A. No, ma'am.

23 Q. Did you personally type this?

24 A. I don't remember.

25 Q. Is this what's termed an "affidavit" 12:51

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1 notarized?

12:51

2 A. No.

3 Q. Is it -- did you sign this under oath?

4 A. Not to my knowledge.

5 Q. Okay. And you're saying you have no

12:51

6 recollection of who asked you to write this

7 affidavit?

8 A. I don't remember who asked, no.

9 Q. Do you think it was someone from Ringling

10 Brothers or Feld Entertainment?

12:51

11 A. I don't remember.

12 Q. Do you think it was someone from the USDA?

13 A. I don't -- I'm sorry, I don't remember.

14 Q. I'd like to draw your attention to the last

15 paragraph.

12:52

16 A. Uh-huh.

17 Q. The last sentence, can you read that for me?

18 A. "I have not made any other copies of the tape

19 and I have kept the original video footage in my

20 possession."

12:52

21 Q. Okay. And, I'm sorry, start from the

22 preceding sentence, where it says "I made a complete

23 copy."

24 A. "I made a complete copy of the tape that

25 pertained to Benjamin and gave it to Ringling

12:52

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1 Brothers. I have not made any other copies of the  
2 tape, and I have kept the original video footage in  
3 my possession."

4 Q. Okay. It sounds like this was an affidavit  
5 that you made in conjunction with giving a videotape  
6 to Ringling Brothers. Does that sound correct?

7 A. I don't know.

8 Q. Okay. Now, here where you say, "I have not  
9 made any other copies of the tape and I have kept the  
10 original video footage in my possession," how does  
11 that reconcile with your testimony earlier that you  
12 gave a copy of the video footage to the USDA?

13 A. It doesn't mention the USDA tape.

14 Q. Yeah, it actually says you gave a copy to  
15 Ringling Brothers and "I have not made any other  
16 copies of the tape"; is that correct?

17 A. Correct, that is what it says.

18 Q. And you signed this?

19 A. Yes, I did.

20 Q. Is it still your testimony that you had given  
21 a copy of the -- that before you executed this  
22 affidavit you had given a copy of the tape to the  
23 USDA?

24 A. I don't know if it was before or after,  
25 because there's no date on here.

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1 Q. So when you say "we," who are you referring 12:58  
2 to?

3 A. My family -- my father, my ex-husband, and  
4 myself.

5 Q. You called who? 12:59

6 A. Julie Strauss.

7 Q. Okay. Was she one of the people who was on  
8 your property taking everybody's story?

9 A. Yes.

10 Q. So she was. Earlier you said you didn't 12:59  
11 remember who it was, but it was Julie Strauss?

12 A. (Witness nods head.)

13 Q. And you're not sure who the other person was?

14 A. Other than she was an attorney.

15 Q. Okay. All right. So -- was it Jeannie Perrin 12:59  
16 (phonetic) ; do you recall?

17 A. I'm not sure. I'd hate to guess.

18 Q. All right. So you said that you called to ask  
19 how Pat was doing?

20 A. Yes. 12:59

21 Q. When did you call?

22 A. I don't know exactly. It would have been a  
23 week or so after.

24 Q. A week or so after Benjamin's death?

25 A. Yes. 12:59



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1 Q. And, so, within a week or so after Benjamin's 12:59  
2 death, it sounds like the Ringling Brothers/Feld  
3 representatives had already come and gone; is that  
4 correct?

5 A. Uh-huh, uh-huh. 12:59

6 Q. And you called and spoke with Julie Strauss?

7 A. Yes.

8 Q. You personally did?

9 A. Yes.

10 Q. And tell me about your conversations with her. 01:00

11 A. I just asked her how Pat was doing.

12 Q. And what did she say?

13 A. She said not very well.

14 Q. And did you discuss Benjamin's death at all?

15 A. No. 01:00

16 Q. Did you discuss anything related to the USDA  
17 inspectors?

18 A. No.

19 Q. Did you discuss anything related to your video  
20 footage? 01:00

21 A. Maybe. I'm not sure.

22 Q. Do you recall what that discussion would have  
23 been?

24 A. No, but I don't know if it would have come up  
25 or not. 01:00

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1 A. "A videotape of Benjamin swimming in the pond 01:17  
2 on July 26th, 1999 with accompanying affidavit of  
3 Ms. Angela Deann Martin."

4 Q. So this is in conjunction of what looks like a  
5 report from Ringling Brothers to the USDA, correct? 01:17

6 A. Correct.

7 Q. And did you know that Ringling Brothers was  
8 conducting its own investigation and was planning to  
9 submit a report to the USDA?

10 A. No. 01:17

11 MS. DALTON: Objection, form.

12 Q. (BY MS. OCKENE) And does looking at this  
13 exhibit refresh your recollection as to whether you  
14 gave the affidavit, the affidavit which was  
15 previously marked Exhibit 8, whether you gave that 01:18  
16 to Ringling Brothers in conjunction with their own  
17 investigation?

18 A. I really don't remember.

19 Q. You don't remember any of the circumstances  
20 under which that affidavit was drafted or signed? 01:18

21 A. That is my signature on it, but I don't know  
22 who it was to. It doesn't say.

23 Q. Okay. All right. You can put that aside.

24 A. (Witness complies with request.)

25 Q. I'd like to now turn back to the envelope that 01:18

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1 you produced today that was marked "Martin 5A." And  
2 I'd like you again to look at the date on that  
3 envelope?

01:18

4 A. Uh-huh.

5 Q. What is it dated?

01:19

6 A. September 13th, '99.

7 Q. So that was the date on which it looks like  
8 David Green sent the video to you, correct?

9 A. Correct.

10 Q. Do you recall how long it was after you gave  
11 him the videotape that you received it back from him?

01:19

12 A. No.

13 Q. Could it have been in September that you  
14 actually gave him the videotape for the first time?

15 A. I don't remember.

01:19

16 Q. All right. You can put that aside.

17 A. (Witness complies with request.)

18 MS. OCKENE: I'd like to have another  
19 document marked as exhibit.

20 (Exhibit No. 10 marked.)

01:19

21 Q. (BY MS. OCKENE) And I'm just going to  
22 represent to you that these are photographs that were  
23 submitted with the Ringling Brothers report to the  
24 USDA.

25 A. Okay.

01:20

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1 Q. And I'd like you to take a look through those. 01:20

2 A. (Witness complies with request.)

3 Q. Can you tell me what these are -- what this  
4 document is, what it looks like to you?

5 A. Pictures. 01:20

6 Q. Of what?

7 A. The truck and the elephant and it looks like  
8 pictures from the videotape.

9 Q. Do you think these are pictures taken from  
10 your videotape that -- 01:21

11 A. I don't know. It just looks like some of the  
12 scenes from the video.

13 Q. You testified earlier that no one was taking  
14 photographs, correct?

15 A. No, no one -- not to my knowledge. 01:21

16 Q. I'd like to draw your attention to the -- I  
17 think it's Page 1, 2, 3 of this document.

18 A. (Witness complies with request.)

19 Q. The top photograph --

20 A. Okay. 01:21

21 Q. -- looks like a view of the elephants looking  
22 across the pond. Is that what it looks like to you?

23 A. I can't really tell.

24 Q. Do you see elephants under the trees in the  
25 middle of the picture there? 01:21

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1 A. I see -- I mean, I see -- I guess it's the 01:21  
2 elephants. It's kind of hard to say.

3 Q. Right. Does it look like --

4 A. It kind of looks like a horse, too. I'm just  
5 saying "I don't know." 01:22

6 Q. Okay. Does it look like elephants to you?

7 A. No.

8 Q. It doesn't look like elephants to you?

9 A. That? -- the top picture?

10 Q. Right here (indicating). 01:22

11 A. (Witness shakes head.)

12 Q. Actually, let me just make sure I'm looking at  
13 the right thing. Yeah, right here (indicating).  
14 You're saying that that doesn't look like elephants?

15 A. It looks like it could be a horse to me. 01:22

16 Q. Why do you think Ringling Brothers would have  
17 submitted a picture of a horse to the USDA?

18 A. I don't know. It's just not clearly an  
19 elephant to me.

20 Q. Now, you said it looks like these, at least, 01:22  
21 other than this one that you think looks like a  
22 horse, you're saying that these photographs were  
23 taken from your video footage, correct?

24 A. They look like some of the scenes from the  
25 video. 01:23

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1 Q. And you also said, to your knowledge, no one 01:23  
2 was taking photographs on that date; is that correct?

3 A. No, not to my knowledge.

4 Q. Do you recall seeing in the footage that you  
5 showed to us, which you testified is a copy of the 01:23  
6 original, do you recall seeing any shots across a  
7 pond with elephants pictured on the other side?

8 A. I don't -- I do not recall.

9 Q. We can watch it again, if you want; but do you  
10 recall seeing that? 01:23

11 A. No.

12 Q. So, do you have any explanation as to how this  
13 particular picture --

14 A. No.

15 (Discussion off the record.) 01:23

16 Q. (BY MS. OCKENE) When you first were meeting  
17 with the USDA inspectors, along with the other  
18 witnesses to the Benjamin's death, as well as meeting  
19 with Ringling Brothers representatives, do you recall  
20 whether anyone stated that there were photographs 01:24  
21 taken?

22 A. I don't remember.

23 Q. Because you said that the USDA specifically  
24 asked -- and you remember this -- you said they  
25 specifically asked whether there were videos or 01:24

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1 photographs? 01:24

2 A. They asked if I had videos or photographs.

3 Q. Everybody was there when they asked that  
4 question, correct?

5 A. Yeah, my father, myself, and I think my  
6 ex-husband. I'm not -- 01:24

7 Q. And you said "yes," you had video and earlier  
8 you testified that --

9 A. I hadn't taken photos.

10 Q. And nobody had said they had taken photos? 01:24

11 A. Right.

12 Q. So, to your knowledge, nobody was taking  
13 photographs?

14 A. To my knowledge, no.

15 MS. OCKENE: Okay. All right. I think 01:24  
16 that wraps it up for me. Let me just take one more  
17 minute to inquire and be sure.

18 (Discussion off the record.)

19 Q. (BY MS. OCKENE) You, a moment ago, testified  
20 that it looks like this is stills from your video  
21 footage? 01:25

22 A. Well, it's what it looks like to me on some of  
23 the images.

24 Q. Okay. And did anyone ever ask you whether  
25 they could make stills of the footage from your 01:25

1 videotape?

01:25

2 A. No, it never came up.

3 Q. So you never knew whether anyone had, in fact,  
4 made stills from your footage?

5 A. No, I don't know.

01:25

6 MS. OCKENE: Okay. I have no further  
7 questions.

8 MR. STEED: Thank you.

9 MS. DALTON: Can we break for, say, five  
10 minutes before I have some questions for you?

01:26

11 MS. OCKENE: Yeah, sure.

12 (Whereupon, a recess was taken.)

13 Q. (BY MS. OCKENE) I want to go back to the  
14 scene that you described when the USDA came to your  
15 home at 46 Joe Smith Road and took statements from  
16 everyone.

01:41

17 Can you, with as much specificity as you  
18 can recall, describe to me precisely who was at that  
19 table and then what the sequence of events was? You  
20 said you were the first one to give your statement.  
21 Tell me who gave their statements next and then the  
22 whole series of events.

01:41

23 A. I don't -- I just remember I was first.

24 Q. First, tell me exactly who was there.

25 A. The USDA representatives, myself, I believe my

01:42



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1 Q. Okay. And after Benjamin died, you earlier  
2 testified that he was then taken in a truck, I think,  
3 to -- where was he taken?

01:47

4 A. Texas and A&M University.

5 Q. And, then, what happened with respect to Pat  
6 and Katia? What did they do?

01:48

7 A. Pat had to accompany Shirley to Dallas and I'm  
8 not -- I don't know -- I assume Katia went, also. I  
9 don't really remember.

10 Q. Do you remember when they left your property,  
11 when Katia and Pat left your property?

01:48

12 A. No.

13 Q. Do you think they stayed overnight?

14 A. I don't think it was overnight, but --

15 Q. So you think they left on the 26th of July?

01:48

16 A. Yes.

17 Q. But you're not sure?

18 A. Yes.

19 Q. All right. I want to turn quickly to the  
20 robbery that you testified occurred.

01:48

21 A. Okay.

22 Q. You said that the original footage that you  
23 shot on July 26th was in some sort of a lockbox?

24 A. A fireproof lockbox.

25 Q. Fireproof?

01:48

1 get Benjamin. And that's when Benjamin was -- to me, 02:00  
2 it looked like he was playing, like hide-and-seeK,  
3 you know, like kids do. When Pat would go over here,  
4 he'd move over here (indicating).

5 Q. So it's your testimony it looked like he was 02:00  
6 playing hide-and-seeK?

7 A. Yes.

8 Q. And it's your testimony that he did not appear  
9 to be running away from Pat?

10 A. No. It appeared he was playing. 02:00

11 Q. So, at a certain point, he was playing and  
12 then what happened next?

13 MS. OCKENE: Objection, assuming facts  
14 into evidence.

15 Q. (BY MS. DALTON) According to your 02:00  
16 description, he was playing and what happened next?

17 A. After that, I just remember him, you know,  
18 telling Benjamin to get out. And then I remember him  
19 saying something and jumping in the water. And then  
20 from there -- 02:01

21 Q. Did you see what happened after he jumped in  
22 the water?

23 A. I did. He jumped in the water and went --  
24 like was touching Benjamin to see if he was  
25 playing -- I guess playing possum or -- and then 02:01

1 Q. Whose decision was it to bring him to A&M?

02:06

2 A. Ringling Brothers.

3 Q. Who called Ringling Brothers?

4 A. Pat.

5 Q. Pat. When did he call them?

02:06

6 A. I don't know exactly when.

7 MS. OCKENE: Objection to the word "him,"  
8 no foundation.

9 MS. DALTON: I can't recall even recall  
10 how I used it. Can you read that back?

02:06

11 (Question read back for the record.)

12 Q. (BY MS. DALTON) Whose decision was it to  
13 bring Benjamin to A&M?

14 A. Ringling Brothers.

15 Q. Where was Katia after the CPR -- following the  
16 CPR, your testimony was that Pat was still outside  
17 and that he wouldn't leave Benjamin's side?

02:07

18 A. Uh-huh.

19 Q. Where was Katia during this period?

20 A. I think they had gone -- Katia had arrived in  
21 a truck with like a trailer behind it, a living  
22 trailer; and I think she had gone in the trailer,  
23 because I didn't see her.

02:07

24 Q. And it was your testimony that you weren't  
25 entirely sure how long Pat stayed at your home?

02:07

1 Q. And were these large videos, like we've seen  
2 played in the TV, or were they smaller tapes?

02:10

3 A. No, they're 8 millimeter.

4 Q. So the other videos that were lost during the  
5 burglary, were they large videos or 8 millimeter  
6 videos?

02:10

7 A. Both.

8 Q. When the USDA showed up at your house,  
9 whenever they showed up, do you remember knowing why  
10 they were coming?

02:10

11 A. We knew it was because of Benjamin.

12 Q. Okay. And what was your understanding of why  
13 the USDA was coming then?

14 A. Because it had to do with the transport of  
15 live animals.

02:11

16 Q. Did you have any further understanding of the  
17 purpose of the USDA wanting to talk to you?

18 A. No.

19 Q. All right. Were you aware at that time, or  
20 any time prior to getting legal notice in this case,  
21 were you aware of the USDA being of the opinion or  
22 belief that there may have been some type of abuse to  
23 either Benjamin or the other young elephant?

02:11

24 A. No.

25 Q. Did they ever talk to you about that?

02:11

1 A. No. 02:14

2 Q. Can you say under oath whether anybody else  
3 had a still photo camera?

4 A. No.

5 Q. For instance, do you know if Pat had one? 02:14

6 A. No, I don't.

7 Q. Do you know if this friend of his, Katia, had  
8 one?

9 A. I don't know.

10 Q. Do you know if anyone else was taking pictures  
11 or not? 02:14

12 A. I never saw anybody taking pictures.

13 Q. Can you say they weren't --

14 A. No.

15 Q. -- under oath? 02:14

16 A. No.

17 Q. So how these pictures were taken that are  
18 marked as Exhibit 10, can you tell the jury one way  
19 or the other where these came from?

20 A. No. 02:14

21 Q. And had you ever seen them before today?

22 A. No.

23 Q. If we assume this Page 3 of Exhibit 10 is, in  
24 fact, elephants, as opposed to some other animal,  
25 have you ever seen this photo before today? 02:15

1 Q. And you see David Green's signature on his  
2 affidavit?

3 A. Yes.

4 Q. And you see your ex-husband's signature?

5 A. Yes.

6 Q. What's the date that his was notarized?

7 A. August 3rd, 1999.

8 Q. Do you know if your husband met with the USDA  
9 the day after you met with the USDA?

10 A. It looks like it.

11 Q. All right. Can you say one way or the other?

12 A. No.

13 Q. All right. How long has this been? How long  
14 ago has this been?

15 A. Almost six years.

16 Q. Do you have specific recollection of every  
17 word said, every person present, what was done  
18 five-and-a-half years ago?

19 A. No.

20 Q. All right. Now, can you say whether the USDA  
21 stayed for a couple of days when they met with you,  
22 your dad, and your ex-husband?

23 A. I'm not sure.

24 Q. All right. Now, on this report to the FDA --  
25 the USDA -- you can tell what kind of work I do.

1 Q. This 5A is the envelope, 5B is the tape, and  
2 5C is the case for the videotape, correct?

02:22

3 A. Yes.

4 Q. And when did you find Exhibits 5A, B, and C?

5 A. My brother found it two weeks after I received  
6 the subpoena.

02:22

7 Q. Do you remember meeting with me?

8 A. Yes.

9 Q. And do you remember not having a copy of the  
10 videotape when we met?

02:22

11 A. Yes.

12 Q. And I brought one so you could see it?

13 A. Yes.

14 Q. Did you know this existed then?

15 A. No, I didn't.

02:22

16 Q. And did you subsequently call me and send it  
17 to me because your brother found it?

18 A. Yes.

19 Q. Has there been anything done to these  
20 envelopes or the tape, anything removed, anything  
21 added, anything like that?

02:22

22 A. No.

23 Q. On Exhibit 5C there's a yellow sticky. Do you  
24 see that?

25 A. Yes.

02:23

1 Q. For the record, it says "Send back to Angela  
2 Martin. Use Fed-Ex from office." Do you know who  
3 wrote that?

4 A. No, I don't.

5 Q. Was that on the videotape that was in the  
6 envelope when your brother gave it to you?

7 A. Yes.

8 Q. Do you recognize that handwriting?

9 A. No.

10 Q. Do you know your brother's handwriting?

11 A. Yes.

12 Q. Is that his?

13 A. No.

14 Q. Is it yours?

15 A. No.

16 Q. Anybody in your family that you're aware of?

17 A. No.

18 Q. You understand that, although we're not in the  
19 court in front of the judge and jury, your testimony  
20 today is sworn to? It's under oath?

21 A. Yes.

22 Q. You understand if you were to lie or misstate  
23 something intentionally you could be prosecuted for  
24 perjury?

25 A. Yes.



1 Q. And have you done that? 02:23

2 A. No.

3 Q. Have you lied?

4 A. No.

5 Q. Have you misstated anything consciously? 02:23

6 A. No.

7 Q. There was also an exhibit marked, which was a

8 paragraph that you had signed that was noted

9 "Affidavit," Exhibit 8. Do you remember that?

10 A. Yes. 02:24

11 Q. Now, that says "Affidavit" at the top; and it

12 has your signature, right?

13 A. Correct.

14 Q. Do you see a Notary anywhere on there?

15 A. No. 02:24

16 Q. Do you see a date in anywhere on that in terms

17 of when you signed it?

18 A. No.

19 Q. Do you know when you signed it?

20 A. No. 02:25

21 Q. Do you know who presented that to you?

22 A. No.

23 Q. Do you know why it was presented to you?

24 A. I don't remember.

25 Q. After you made the copy of the tape for the 02:25

1 USDA and Ringling Brothers or Feld, did you make any 02:25  
2 further copies of that original after that?

3 A. No.

4 Q. Did you ever edit or erase any portion of the  
5 videotape, either the original or any copy? 02:25

6 A. No.

7 Q. On this affidavit, then, where you say,  
8 "I have not edited or erased any portion of the  
9 videotape" was that true at the time you signed this?

10 A. Yes. 02:25

11 Q. Is it true today?

12 A. Yes.

13 Q. Has that ever changed?

14 A. No.

15 Q. Okay. You then say, "I made a complete copy 02:25  
16 of the tape that pertained to Benjamin and gave it to  
17 Ringling Brothers." Did you do that?

18 A. Yes.

19 Q. And did you ever erase or edit any portion of  
20 that tape? 02:26

21 A. No.

22 Q. Then -- so was that true when you signed it?

23 A. Yes.

24 Q. Is it true today?

25 A. Yes. 02:26

1 Q. Has that changed at all?

02:26

2 A. No.

3 Q. You then say, "I have not made any other  
4 copies of the tape, and I have kept the original  
5 video footage in my possession." Was that true when  
6 you made it?

02:26

7 A. Yes.

8 Q. Since you made the copy for Ringling Brothers,  
9 have you made any other copy?

10 A. No.

02:26

11 Q. Is it true today then?

12 A. Yes.

13 Q. The copy you made for the USDA, as best you  
14 recall, and the copy you made for Ringling Brothers,  
15 was there a time period between those two copies or  
16 did you make them at the same time?

02:26

17 A. They were made -- I think they were made at  
18 the same time, but I don't remember.

19 Q. Okay. Well, do you have any memory of ever  
20 making?

02:26

21 A. I remember going one time to Revelle's.

22 Q. That was going to be my next question. And  
23 you went with your mother?

24 A. Yes.

25 Q. Do you recall ever going again to get another

02:27

1

copy made?

02:27

2

A. No.

3

MR. STEED: Thank you. Pass the witness.

4

MS. DALTON: I have one additional point.

5

It's not a question for Ms. Martin, but I want to

02:27

6

note for the record that until today I had never seen

7

a copy of the videotape of Mr. Lawler at Mr. Lawler's

8

house that the USDA made with him, nor has anybody

9

from defense counsel or defendants seen that

10

videotape. And it's clearly covered by our discovery

02:27

11

request. It's covered by request No. 2, 12, 13 and,

12

more importantly, 16, which requests documents

13

specifically related to the death of Benjamin.

14

And I want to note that it's -- we think

15

it's wholly inappropriate for plaintiffs to hold back

02:28

16

documents or videos, especially when you're going to

17

use them at a deposition. And we're reserving the

18

right to object or to supplement the record as

19

necessary. And I'd like to note a record request for

20

the videos to be produced to us.

02:28

21

And, in addition, at the beginning of the

22

deposition, Ms. Ockene noted that there was a letter

23

discussing the time and place of this deposition; and

24

we, again, don't have a record of that. So if you

25

could provide that to us, that would be very helpful

02:28

1 MS. OCKENE: I think it was Friday -- this 02:29  
2 past Friday. Before that, we had never seen it  
3 ourselves.

4 FURTHER EXAMINATION

5 BY MS. OCKENE: 02:29

6 Q. Okay. Ms. Martin, I just have a few  
7 questions; and we can, hopefully, let you go.  
8 Ms. Dalton asked you earlier whether you noticed any  
9 scratches or marks of any kind on Shirley or  
10 Benjamin. Did you actually get up close and inspect 02:30  
11 the elephants?

12 A. No.

13 Q. In fact, you stated you, quote, "stayed back a  
14 distance"; is that correct?

15 A. Correct. 02:30

16 Q. You, also, indicated that it looked as if  
17 Benjamin was playing?

18 A. Yes.

19 Q. Do you have any experience with elephants  
20 prior to seeing them on your property on July 26th, 02:30  
21 1999?

22 A. No.

23 Q. Do you have any basis for knowing whether, in  
24 fact, Benjamin was playing or running away from Pat  
25 Harned or anything else? 02:30

1 A. No.

02:30

2 Q. Was it clear that Benjamin was still alive  
3 when Pat got into the water?

4 A. I don't remember.

5 Q. You don't remember seeing whether the elephant  
6 was still active when Pat got into the water?

02:30

7 A. Well, yes, because he had to get in under the  
8 water. That's right. He got in beside the pier and  
9 walked over. So, yes, Benjamin was still moving  
10 around.

02:31

11 Q. Okay. And what did he do when Pat got into  
12 the water? What did Benjamin do?

13 A. He just moved over and then he stopped moving.

14 Q. Did he move in a direction away from Pat?

15 A. Just moved kind of toward the pier, toward us.

02:31

16 Q. Would that have been away from Pat?

17 A. Right. Pat was coming around this way,  
18 walking on the ledge. There's kind of a ledge out  
19 there and so Benjamin was coming back toward the  
20 pier.

02:31

21 Q. Away from Pat?

22 A. Uh-huh.

23 Q. "Yes"?

24 A. Yes, I guess.

25 Q. Do you recall noticing how Shirley was

02:31

1 reacting when it was clear that Benjamin was in  
2 distress and/or dead?

3 A. I remember she was making noises, but --

4 Q. Anything else?

5 A. No.

6 Q. What kind of noises?

7 A. Just elephant sounds.

8 Q. Loud noises?

9 A. I don't know what you call that.

10 Q. Did it seem loud?

11 A. Yeah.

12 Q. Was she making any movements in her trailer?  
13 Did she seem agitated?

14 A. I don't remember that, huh-uh.

15 Q. Earlier when we were -- when you were  
16 answering some of my questions about who was on the  
17 premises, you said that you weren't sure whether your  
18 brother was there. Subsequently, I can't remember  
19 whether it was when you're answering Ms. Dalton's or  
20 Mr. Steed's questions. You said you were certain  
21 your brother was there. Are you now?

22 A. After watching the videotape with my father on  
23 it and he was talking about -- he said "the guys were  
24 there." When he said "the guys," that would be my  
25 ex-husband and my brother. That's just how he