

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Plaintiffs

vs.

FELD ENTERTAINMENT, INC.

Defendant

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Washington, D.C.

August 29, 2008

Deposition of:

DENNIS SCHMITT, DVM, Ph.D.,
called for oral examination by counsel for
Plaintiffs, pursuant to notice, at the offices
of Meyer Glitzenstein & Crystal,
1601 Connecticut Avenue, N.W., Suite 700,
Washington, D.C., before Zev V. Feder, CSR, a
Notary Public in and for the District of
Columbia, beginning at 9:24 a.m., when were
present on behalf of the respective parties:

1 Q. Are the two grants on your CV,
2 page three, the one from 2002 to 2004, and
3 from 2006 to 2008, are those included within
4 your \$1 million figure?

5 A. I know the one for 2002 to 2004
6 was. I am not certain if I included my
7 Ringling Brothers chair in that or not.

8 MS. SANERIB: I think this may be
9 a good --

10 THE WITNESS: I don't think so.
11 But I am not positive.

12 MS. SANERIB: This may be a good
13 point in time to break for lunch.

14 (Discussion off the record.)

15 MS. SANERIB: Be back here by
16 1:15?

17 MR. SHEA: We will try to be back
18 by then.

19 (Discussion off the record.)

20 (A recess was taken.)

21 (Whereupon, a recess for lunch was
22 taken from 12:24 p.m. to 1:19 p.m.)

1 Q. Do you realize that your quote is
2 in it?

3 A. No.

4 Q. If you turn to page five, the
5 bottom paragraph, you will see there is a
6 little quote from you regarding free contact
7 training.

8 If you turn to page eight, you
9 will see there is another quote from you.

10 What I am interested in talking
11 about is on page 11.

12 A. All right. I don't see the second
13 quote. I see what appears to be something
14 attributed to me but there is not a quote.

15 Q. That's correct. There is no
16 quotations around it.

17 It does say, says Dr. Schmitt.

18 But you are correct, there are no quotes
19 around that.

20 We will say on page eight, then,
21 there is a reference to you.

22 On page 11 there are four

1 BY MS. SANERIB:

2 Q. Did you discuss your deposition
3 testimony at all at lunch?

4 A. No.

5 MS. SANERIB: Let's mark this as
6 the next exhibit.

7 (Document referred to marked
8 Deposition Exhibit No. 3 for identification
9 and subsequently attached to the deposition.)

10 BY MS. SANERIB:

11 Q. I have had marked as Exhibit 3 a
12 paper titled Elephants Without Borders. The
13 author is Hopping, H O P P I N G, Egan,
14 E G A N.

15 This is a paper that is currently
16 displayed, or at least recently was displayed,
17 on the Ringling Brothers website. Are you
18 familiar with this paper?

19 A. No, I am not.

20 Q. You have never seen it before?

21 A. I haven't read it thoroughly
22 before. I may have seen it.

1 different bullet points here. The director of
2 research and conservation. I wanted to ask
3 you a couple of questions about these.

4 The first bullet point notes
5 surplus domesticated elephants in some Indian
6 timber camps. It asks the question, does it
7 make sense for these camps to export their
8 elephants.

9 As far as you are aware, has
10 Ringling Brothers ever discussed attempting to
11 import any elephants from timber camps in
12 India?

13 A. No.

14 Q. Have they discussed attempting to
15 import elephants from timber camps in any
16 other range countries of Asian elephant?

17 A. Not that I am aware of.

18 Q. And if such discussions had
19 occurred within the past two years, would you
20 be aware of them, as the director --

21 A. More than likely.

22 Q. The next bullet point mentions

1 dimensions?

2 A. I really didn't inspect the train
3 cars prior to that point for the dimensions,
4 but I would assume so.

5 Q. You say on page 17 of your
6 reports, under the heading Jewel, paragraph
7 that starts off with Ensley and it is
8 underlined, you say that, "While elephants may
9 intermittently sway, I do not consider it an
10 issue unless it occurs to the point of
11 becoming self-injurious."

12 What do you mean by that?

13 A. Movement is a normal process for
14 any animal. As they are moving, that's not
15 affecting their health. If they are
16 exhibiting swaying to the point they are not
17 interacting with normal behaviors with their
18 environment or other elephants, it may be
19 self-injurious at that point.

20 Q. Based on the behavior you saw
21 Jewel exhibit when plaintiff's experts
22 conducted their inspection at the CEC, would

1 notes.

2 (A recess was taken from 3:33 p.m.
3 to 3:39 p.m.)

4 BY MS. SANERIB:

5 Q. Have you ever met someone named
6 Iain Valentine?

7 A. Yes.

8 Q. About how many times have you met
9 him?

10 A. Maybe three times.

11 Q. Have you done any consulting work
12 for the zoo he is at?

13 A. Not currently, no.

14 Q. But in the past you have?

15 A. Yes.

16 Q. Have you ever had to search your
17 files for this case?

18 A. Yes.

19 Q. Is there any reason that the
20 testimony you provided today is not truthful?

21 A. No.

22 Q. So you are not taking any

1 you make any notations about behavior in her
2 medical record if you were evaluating her
3 health and wellbeing?

4 A. I don't consider that a normal
5 situation. If there were strangers standing
6 at the door, she was on the end watching that
7 end, she was facing the people that were
8 strangers to her, am I going to get fed, what
9 is going to happen, am I going to get some
10 extra attention, I would not put that in a
11 notation for a medical record. That's not her
12 normal behavior.

13 Q. If you had -- this is a
14 hypothetical. If you had witnessed that
15 behavior without all the strangers present,
16 would you note that in her medical records?

17 A. If it wasn't continuous, she
18 interacted with other elephants, she ate
19 normally, no.

20 MS. SANERIB: I think I just have
21 a few more things for you. Maybe we will take
22 a quick break and I will look through my

1 medications that would alter the truthfulness
2 of your testimony?

3 A. No.

4 Q. And you are not -- you don't have
5 a medical condition or anything that would
6 prohibit you from testifying truthfully?

7 A. No.

8 MS. SANERIB: I don't think I have
9 anything else at this time.

10 MR. SHEA: I don't have anything.

11 (Whereupon, at 3:40 p.m., the
12 deposition was concluded.)

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