

LORI A. BELVIN & ASSOCIATES - (281) 367-4144

2
ANGELA D. MARTIN - 03-09-2005

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1 PROCEEDINGS

2 THE REPORTER: We're on the record, going
3 under the Federal Rules.

4 * * *

5 ANGELA D. MARTIN,
6 having been first duly sworn, testified as follows:

7 * * *

8 EXAMINATION

9 BY MS. OCKENE:

10 Q. Good morning, Ms. Martin. Would you, please, 10:54 AM

11 stated your full name for the record?

12 A. Angela Deann Martin.

13 Q. Can you spell your middle name?

14 A. D-e-a-n-n.

15 Q. My name is Kim Ockene, and I represent the 10:54 AM

- 8 A. The City of Huntsville.
- 9 Q. And what is your position?
- 10 A. Benefits coordinator. 10:57 AM
- 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 AM
- 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 AM
- 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 AM

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- 1 A. Uh-huh – yes.
- 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 AM

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 AM

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 AM

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 AM

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 AM

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1 Q. And your lawyer is Mr. Steed, who is here with

2 you today?

1 address?

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, 11:12 AM

6 but can you describe for me again what that business

7 was and who owned it?

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 11:12 AM

11 Smith Road?

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 AM

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 AM

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 AM

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- 1 A. Okay. On July 26th, we woke up probably -- I
2 don't know -- I assume around 7:00, 7:30. I would
3 have gotten my daughter breakfast made; and then, of
4 course, we went outside to see the elephants.
- 5 Q. Okay. Can you give me a description of -- let 11:13 AM
6 me just back up for one second. Who else was on the
7 property at 46 Joe Smith Road on July 26th, 1999,
8 other than you, your husband, and your daughter?
- 9 A. My nephew.
- 10 Q. And how old was he? 11:14 AM
11 A. Three.
- 12 Q. Okay. Who else?
13 A. The trainer -- the elephant trainer.
- 14 Q. An elephant trainer. And who did he work for?
15 A. Ringling Brothers. 11:14 AM
16 Q. And what was his name?
17 A. Pat.
- 18 Q. Do you recall his last name?
19 A. No.
- 20 Q. Was it Patrick Harned? 11:14 AM
21 A. I'm not sure. I just remember "Pat."
- 22 Q. Okay. Who else was there?
23 A. Katia.
- 24 Q. Do you recall her last name?
25 A. No. 11:14 AM

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- 1 Q. And what was her relationship with --
- 2 A. She was a circus worker and Pat's friend.
- 3 Q. Anyone else on the property that day?
- 4 A. I think my brother was there.
- 5 Q. What's his name? 11:15 AM
- 6 A. William Stacey Lawler.
- 7 Q. And how old is he?
- 8 A. Now?
- 9 Q. Yes.
- 10 A. He is 33. 11:15 AM
- 11 Q. Did he, also, live in that house with you?
- 12 A. No.
- 13 Q. No, okay. All right. So we have you, your
- 14 ex-husband, Scott, your daughter, your nephew, the
- 15 trainer named Pat, his friend and circus worker named 11:15 AM
- 16 "Katia"?
- 17 A. Uh-huh.
- 18 Q. And you think your brother. Was there anyone
- 19 else there?
- 20 A. My father was there later. 11:15 AM
- 21 Q. Okay. Anyone else?
- 22 A. Not that I can recall.
- 23 Q. Was your mother there?

24 A. No.

25 Q. And you mentioned elephants. Were there 11:16 AM

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1 elephants on the property?

2 A. Yes.

3 Q. How many elephants?

4 A. Two.

5 Q. And do you recall the names of the elephants? 11:16 AM

6 A. Yes, Benjamin and Shirley.

7 Q. And can you just, briefly, describe to me how

8 the elephants came to be on the property that day?

9 A. Our trucking company was hired to transport

10 the circus trailer from Houston, Texas to Dallas, 11:16 AM

11 Texas.

12 Q. And when you say "our trucking company," you

13 mean --

14 A. My father's, I'm sorry.

15 Q. Okay. Go on. 11:16 AM

16 A. And we picked the trailer up -- excuse me. My

17 husband, myself, my daughter, and my nephew went to

18 Houston with the truck, picked up the trailer, and

19 came back to Huntsville.

20 Q. Okay. And when did you arrive -- when did 11:17 AM

21 the truck with the elephants arrive on the property

22 at 46 Joe Smith Road?

23 A. The wee hours of the morning. I'm not sure

24 exactly the time.

25 Q. Of which morning? 11:17 AM

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1 A. The 26th.

2 Q. Okay. And you said there were two elephants?

3 A. Yes.

4 Q. Were they -- could you tell whether they were

5 young elephants? 11:17 AM

6 A. Yes, they were young.

7 Q. Okay. All right. So now getting back to the

8 series of events on that day, you said you woke up --

9 A. Yes.

10 Q. -- you made your daughter breakfast, and then 11:17 AM

11 what happened?

12 A. We went outside to look at the elephants.

13 Q. Okay.

14 A. And I took the video camera out to film.

15 Q. And what was happening with the elephants? 11:18 AM

16 A. They were in the trailer. I think they were

17 being fed.

18 Q. So who was feeding them?

19 A. Pat.

20 Q. And then what happened? 11:18 AM

21 A. At that time, Pat asked questions about our
22 property, if the fence went all the way around, how
23 deep the pond was, and just different questions
24 about -- if the elephants were let out of the trailer
25 to walk around a bit for exercise, would it be okay. 11:18 AM

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1 Q. Okay. And he was asking you these questions?

2 A. No, he was asking my ex-husband.

3 Q. And that's Scott Martin, correct?

4 A. Uh-huh.

5 Q. And what did Mr. Martin say? 11:18 AM

6 A. He called my father to get permission, because
7 it was my father's land. And Pat called to get
8 permission from the circus, but I don't know who he
9 spoke with.

10 Q. Okay. 11:19 AM

11 A. And both parties agreed, so he let the
12 elephants out of the trailer.

13 Q. And you were videotaping this; is that
14 correct?

15 A. Yes. 11:19 AM

16 Q. Okay. So this would have been, approximately,

17 what time?

18 A. Maybe 9:00 a.m.

19 Q. You think about 9:00 a.m.?

20 A. (Witness nods head.) 11:19 AM

21 Q. So he let the elephants -- Pat let the

22 elephants out of the trailer, correct?

23 A. Yes.

24 Q. And if you could just continue to take me

25 through the events? 11:19 AM

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1 A. They just walked around. They circled around

2 the pond, kind of exercising, and they walked up to

3 the edge of the water and kind of played in the water

4 for a little while; and they just decided to go in.

5 Q. Okay. Did Mr. Harned or Pat tell them to go 11:20 AM

6 in the water?

7 A. No.

8 Q. So you saw the elephants -- both the two

9 elephants go in the water, correct?

10 A. Yes. 11:20 AM

11 Q. And then what happened?

12 A. The elephants started playing and swimming and

13 just -- it was very cute. They were having a good

14 time. And Pat -- I'm not sure the word he used, but

15 he was telling them to get out. 11:20 AM

16 Q. Okay.

17 A. But it was some word that I wasn't familiar

18 with.

19 Q. Did it sound like a command?

20 A. Yeah. And Shirley immediately got out. 11:20 AM

21 Q. And about how long was it after they got in

22 the water that Pat started telling them to get out of

23 the water?

24 A. Probably five minutes.

25 Q. Okay. So Shirley got out of the water? 11:21 AM

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1 A. Uh-huh.

2 Q. And then what happened?

3 A. And Benjamin wouldn't listen. He was playing.

4 And, so, Pat walked out onto the pier; and when he

5 did, then Benjamin would hide from him on this side 11:21 AM

6 of the pier. He just kept commanding him to get out.

7 But much like a little child, he was just kind of

8 playing hide-and-seek.

9 Q. Okay. Now, you mentioned a pier?

10 A. Yes. 11:21 AM

11 Q. Why don't you just describe, briefly, for me

12 what the pond looked like?

13 A. It's -- I don't really know how big it is.

14 It's just a large size pond, and we have a fishing

15 pier that goes more than halfway out in the middle of 11:21 AM

16 the pond.

17 Q. Okay. So there's one pier?

18 A. Yes.

19 Q. All right. So you said -- I think you said

20 that Pat was repeatedly calling -- 11:22 AM

21 A. Yes.

22 Q. -- for Benjamin to come out?

23 A. Yes.

24 Q. And Benjamin was --

25 A. -- not responding to him. 11:22 AM

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1 Q. And about how many times would you say Pat

2 called for Benjamin to get out?

3 A. More than 20. I don't know exactly, but --

4 Q. Did Pat appear to be getting impatient --

5 A. No. 11:22 AM

6 Q. -- or angry?

7 A. No, he wasn't angry.

8 Q. Did Pat have anything in his hands --

9 A. No.

10 Q. -- during this sequence of events? 11:22 AM

11 A. No.

12 Q. No, he wasn't holding anything?

13 A. Not that I remember, no.

14 Q. Okay. So he asked Benjamin -- so he went

15 out -- you said Pat went out to the pier repeatedly 11:23 AM

16 and asked Benjamin to get out?

17 A. Get out, uh-huh.

18 Q. And Benjamin would not?

19 A. No.

20 Q. And then what happened? 11:23 AM

21 A. And, then, Benjamin went out further away

22 from the pier, as if to get away. Like I said, he

23 looked like a little child running from a parent or

24 something. And Pat decided to get in the water to

25 try to move him along. And, at that time, Pat got in 11:23 AM

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1 the water and he swam up to him and he noticed

2 something was wrong.

3 Q. How do you know that he noticed that?

4 A. He dove down; and when he came back up, he was

5 screaming. 11:23 AM

6 Q. When you say "he," you're referring to Pat?

7 A. Pat.

8 Q. And what was he screaming?

9 A. He said "Oh, God, no."

10 Q. And then what happened? 11:23 AM

11 A. And, then, my ex-husband jumped in, because --

12 I mean, you could just tell by his scream that

13 something was wrong. And they kind of moved Benjamin

14 over to the side of the pond where we could get him

15 out. 11:24 AM

16 Q. So who, in addition to your husband and Pat,

17 got him out of the pond?

18 A. My father went and got some ropes and the

19 tractor and they -- Pat put the rope around him where

20 it wouldn't hurt him and pulled him out. 11:24 AM

21 Q. And then what happened?

22 A. And, at that time, he started doing CPR on

23 Benjamin.

24 Q. And when you say "he" --

25 A. Pat. 11:24 AM

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1 Q. Okay.

2 A. And Katia was, also, blowing in the trunk; and

3 Pat was, like, banging on his chest and clearing his

4 mouth out.

5 Q. It's upsetting, I know. 11:24 AM

6 A. Yeah.

7 Q. All right. And just -- do you want to take a
8 break or are you okay?

9 A. No, I'm okay.

10 Q. So what happened after that? 11:25 AM

11 A. We immediately called the veterinarian.

12 Q. When you say "we," who called?

13 A. My father called the veterinarian that we've

14 used for our large animals, horses and cows. And he

15 came out to the property, and Benjamin was already 11:25 AM

16 deceased when he got there.

17 Q. Okay. So -- do you have any idea what time

18 that was?

19 A. No.

20 Q. So you were there throughout this entire 11:25 AM

21 sequence?

22 A. (Witness nods head.)

23 Q. Were you videotaping throughout the entire

24 time?

25 A. I was videotaping. Whenever he dove in and 11:25 AM

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1 came up screaming, I decided I better take my

2 daughter up to the house because I didn't want her
3 seeing this. So I did put the camera down and take
4 her up to the house before I came back out.

5 Q. So when did you come back out? 11:26 AM

6 A. I just got her settled down and went back
7 outside.

8 Q. Okay. You testified a minute ago, I think,
9 that after Benjamin appeared to be having problems in
10 the water Pat and your ex-husband, Scott, started 11:26 AM
11 pushing him out; and then your father helped get him
12 out?

13 A. Yes.

14 Q. And, then, Katia and Pat were trying to
15 resuscitate Benjamin? 11:26 AM

16 A. Uh-huh.

17 Q. So you said you saw all that. Now, at what
18 point, did you take your daughter?

19 A. Whenever they jumped in, is when I took my
20 daughter up to the house. And when I came back out, 11:26 AM
21 they were getting him in out, you know, to the side
22 and pulling him out; and then the CPR took place.

23 Q. Okay. And prior to -- now, you said that you
24 turned the video camera off when you felt you needed
25 to take your daughter inside? 11:26 AM

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1 A. Uh-huh.

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 AM

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 11:27 AM
11 was trying to get Benjamin's attention, and Benjamin
12 was running away from him?

13 A. Uh-huh.

14 Q. And you said you didn't think that Pat had
15 anything in his hand? 11:27 AM

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 AM

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, "1, William Henry 11:28 AM

12 is.

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 11:43 AM
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.

20 MS. OCKENE: Okay. 11:43 AM

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 AM

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1 Q. Is it dated?

2 A. Yes, 9/13/99.

3 Q. Is there anything else on that envelope?

4 A. There's a phone number, an address.

5 Q. David Green's address? 11:44 AM

6 A. Yes, the USDA address.

7 MR. STEED: And I'll re-mark that so it's

8 not up sidedown, sorry.

9 Q. (BY MS. OCKENE) All right. And, then, you

10 brought that here today with something inside of it. 11:44 AM

11 What was that?

12 A. Yes, the videotape.

13 Q. Which has now been marked 5- --

14 A. -- 5B.

15 Q. And the jacket? 11:44 AM

16 A. The cover is marked 5C.

17 Q. Can you explain to me what that is?

18 A. This is a copy of the original. The original

19 was an 8 millimeter out of the camcorder. This was a

20 copy that was made for the USDA. 11:44 AM

21 Q. Okay. And when was that copy made?

22 A. 7/27/99.

23 Q. You're saying that this copy that you brought

24 here today was copied on 7/27/99?

25 A. That's the date that's on there, so.... 11:45 AM

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1 Q. Okay. Do you know for a fact when you made

2 that copy?

3 A. No.

4 Q. Okay. And why is this in an envelope from

5 David Green? 11:45 AM

6 A. They took it with them with -- the USDA took

5 Q. What type of camera were you using; do you 11:46 AM
6 recall?

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 AM

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 AM

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 AM

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 AM

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1 here today?

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 AM

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 11:48 AM
11 5B.

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 PM

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 PM

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1 A. I was the only one taking video.

2 Q. The voice that we hear, is that yours, the one

3 that sounds the closest to the camera?

4 A. Yes.

5 Q. Maybe I'll try and find the spot in the 12:08 PM

6 minute, but there was another woman's voice at one

7 point. It sounded like, maybe, an older woman --

8 A. Yes.

9 Q. -- while you're watching the elephants?

10 A. Yes. 12:08 PM

11 Q. Do you know who that was?

12 A. I believe it was one of the truck driver's

13 wives. I don't remember her name. I'm sure I could

14 find out, but --

15 Q. You don't remember? 12:08 PM

16 A. I don't remember.

17 Q. Okay. And does this video that we just

18 watched represent all of the footage that you took on

19 July 26th, 1999?

20 A. Yes. 12:08 PM

21 Q. Nothing's, to your knowledge, been edited from

22 the original footage?

23 A. No, no, nothing was ever edited.

24 Q. And you said that you watched the original as

25 soon as you took it out of the camera -- 12:09 PM

25 A. Yes. 12:10 PM

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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?

4 A. Yes, yes.

5 Q. Can you explain why it jumps like that from 12:10 PM
6 him being?

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 12:10 PM
11 times during the video to reserve the tape and the
12 battery in the camera.

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

15 A. No, no, I didn't. 12:11 PM

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 PM

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 PM

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1 this is what you watched. It appears as though it

2 suddenly jumps to the elephants being in the pond.

3 Do you see that?

4 A. The elephants were walking toward the trailer.

5 He was going to put them up, so I stopped filming; 12:11 PM

6 and that's when the elephants went in the water on

7 their own.

8 Q. I see. So you're saying that -- let me just

9 understand your testimony.

10 A. Okay. 12:12 PM

11 Q. You're saying the elephants were walking --

12 when they were in that frame that we just watched,

13 what looks sort of like trunk-to-tail, you're saying

14 at that point they're walking toward the trailer away

15 from the pond? 12:12 PM

16 A. He was going to walk them to the trailer to

17 put them up.

18 Q. Before they got in the water?

19 A. Yes.

20 Q. And, then, they turned around on their own 12:12 PM

21 you're saying?

22 A. Yes.

23 Q. He did nothing to turn them around?

24 A. No.

25 Q. And, so, why did you? 12:12 PM

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1 A. Why did I stop filming? Because he was

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

5 back around to go toward the pond again? 12:12 PM

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 PM

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 PM

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 PM

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 PM

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1 Q. Why was he frantic?

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 PM

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 PM

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 PM
- 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 PM
- 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 PM

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- 1 A. Yeah.
- 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 PM
- 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 PM
- 11 Q. Okay. So you saw them heading toward the
- 12 trailer?

10 was, what you said, frantic almost right away when 12:16 PM

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 PM

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 PM

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 PM

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1 Q. (BY MS. OCKENE) And again, please, watch

2 closely.

3 A. Okay.

4 MS. OCKENE: Can we watch that one more

5 time? 12:17 PM

6 MS. MEYER: Yes.

7 Q. (BY MS. OCKENE) Did you see in that segment

8 where, again, it looks as though there's an abrupt

9 stop and start?

10 A. Yeah, I was changing my direction on the pier, 12:18 PM

11 trying to get out of Pat's way.

12 Q. So you specifically recall that you stopped

13 there because you were changing your direction on the

14 pier?

15 A. Yeah, because you see Pat come around. I 12:18 PM

16 wasn't going to be, you know, in anybody's way. I

17 was just filming. So I remember, you know, moving

18 when Pat came down there, moving to one side.

19 Q. And, again, do you recall whether Pat had

20 anything in his hand? 12:18 PM

21 A. No, I don't.

22 Q. You don't?

23 A. No.

24 MS. OCKENE: All right. Go to the next

25 segment. 12:18 PM

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1 MS. MEYER: (Complies with request.)

2 Hold on. I'm just trying to get to it.

3 MS. OCKENE: Okay.

4 MS. MEYER: Okay.

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 12:35 PM
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 12:35 PM
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. 12:36 PM

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? 12:36 PM

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 12:36 PM

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1 previously --

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 12:36 PM

6 inspectors, you're testifying that was the first time

7 that anyone viewed the videotape?

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 PM

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 PM

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 PM

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 PM

17 A. No, I don't remember that.

18 Q. Okay. So, at some point, they left having
19 taken your story?

20 A. (Witness nods head.) 12:58 PM

21 Q. Did you have any subsequent communications

22 with anyone affiliated with Feld Entertainment

23 concerning Benjamin's death?

24 A. Yes, we called several times. We were

25 concerned about Pat. 12:58 PM

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

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

5 Q. You called who? 12:59 PM

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 PM

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 PM

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 PM

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 PM

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1 Q. And, so, within a week or so after Benjamin's
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 PM

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 PM

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 PM

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 PM

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 PM

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1 Q. So that was one conversation. Did you
2 subsequently have any other contacts with Julie
3 Strauss or anyone else affiliated with Feld
4 Entertainment?

5 A. Not until a year later. 01:00 PM

6 Q. And what happened a year later?

7 A. A year later we had gotten a phone call -- and
8 I'm not sure who it was from. It was an anonymous

- 10 Q. And when did that occur? 01:54 PM
- 11 A. I -- I think it was around 9:00 a.m. I'm not
- 12 a hundred percent sure, but --
- 13 Q. What was your impression of Benjamin when he
- 14 left the trailer?
- 15 A. I don't have -- 01:54 PM
- 16 Q. Did you see any scratches on Benjamin?
- 17 A. No.
- 18 Q. Did you see any cuts on Benjamin?
- 19 A. No.
- 20 Q. Did you see any scratches on Shirley? 01:54 PM
- 21 A. No.
- 22 Q. Did you see any cuts on Shirley?
- 23 A. No.
- 24 Q. Did you notice Benjamin limping?
- 25 A. No. 01:55 PM

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- 1 Q. Did you notice Shirley limping?
- 2 A. No.
- 3 Q. Did you see Mr. Harned leading them out of the
- 4 trailer?
- 5 A. Yes. 01:55 PM
- 6 Q. Let me ask you: How did Mr. Harned bring the
- 7 two elephants down from the trailer?

- 8 A. He opened the door; and I kind of stayed back,
9 because I had my little girl with me. I don't know
10 if he gave them a command or -- to get out or -- 01:55 PM
11 Q. Yeah. Did you see him use an ankus with the
12 elephants at that time?
13 A. No.
14 Q. Did Benjamin appear afraid of Mr. Harned?
15 A. No. 01:55 PM
16 Q. Did Shirley appear afraid of Mr. Harned?
17 A. No.
18 Q. Did Benjamin appear to run away from
19 Mr. Harned as they were walking down to the lake?
20 A. No. 01:55 PM
21 Q. Did Shirley appear to run away?
22 A. No.
23 Q. When the elephants were being walked down to
24 the lake, was Katia anywhere nearby?
25 A. I don't remember. 01:56 PM

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- 1 Q. Were you scared of the elephants at any time?
2 A. I wasn't scared of them. I just didn't want
3 my daughter to get too close.
4 Q. So after they were walking down the little

5 grassy area that we saw on the videotape, they 01:56 PM
6 went -- we saw them on the videotape and you
7 testified they went down and started drinking the
8 water. And if you could -- and this is where some of
9 the back-and-forth with Ms. Ockene got a little
10 convoluted, and I just want you to walk through what 01:56 PM
11 happened next in your own words right now.
12 A. The elephants were drinking, kind of playing
13 around at the edge of the water. And I believe after
14 that, they kind of moved around to another area of
15 the pond and drank at the edge again. After that, as 01:56 PM
16 he was coming back around, I heard him say he was
17 going to put -- Pat was going to put the elephants
18 up. I heard Pat say he was going to put the
19 elephants up, so I stopped filming because I thought
20 that was the end of it. 01:57 PM
21 Q. And what happened next?
22 A. I heard a splash and heard Pat kind of saying
23 "Benjamin, Benjamin." And then I turned around and
24 saw they were in the water and started filming again.
25 Q. You testified that when they went in the water 01:57 PM

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1 they went -- they started swimming in the water
2 without any command from Pat to do so. Did they

3 appear to be running away from him when they did
4 that?

5 A. No. 01:57 PM

6 Q. How would you characterize their movements?

7 A. They were playing it looked like to me.

8 Q. Now, you also said that Pat had put -- was,
9 quote, "hollering" at the elephants?

10 A. Yes. 01:58 PM

11 Q. Was he hollering in an angry way?

12 A. He was hollering like I would holler at my
13 daughter if she jumped in the water without me
14 letting her, you know. It wasn't screaming. It was

15 just, like, "Benjamin," you know. 01:58 PM

16 Q. Were you worried about -- were you worried at
17 all when you saw the elephants start to swim in the
18 lake?

19 A. Well, yeah, I was because, you know, we never
20 talked about the elephants going in the water, so of 01:58 PM
21 course. That's like a shock.

22 Q. During any of this time, did you see
23 Mr. Harned using an ankus to touch or hit the
24 elephants?

25 A. I don't remember seeing that, no. 01:58 PM

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1 Q. Could you describe a little bit what happened

2 once the --

3 MS. OCKENE: I'm sorry. Objection, no

4 foundation to the use of the word "ankus."

5 Q. (BY MS. DALTON) Did you see Pat use a long 01:59 PM

6 stick to touch the elephants at any time?

7 A. No.

8 Q. Have you swam in this pond before?

9 A. Yes.

10 Q. Have your children swam in this pond? 01:59 PM

11 A. Yes.

12 Q. Do you know if Mr. Harned had -- if Pat had

13 talked to anybody in your family about the elephants

14 going in the water?

15 A. I don't know. 01:59 PM

16 Q. So if we could continue on with your

17 description of what happened. You said that the

18 elephants were in the water playing?

19 A. Yes.

20 Q. If you could continue and tell us what 01:59 PM

21 happened during that time.

22 A. Well, he called and told them to get out. But

23 I don't remember the word he used. It was some type

24 of command word or -- and Shirley got out. He put

25 Shirley up in the trailer and then he went back to 02:00 PM

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1 get Benjamin. And that's when Benjamin was -- to me,
2 it looked like he was playing, like hide-and-peek,
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 PM
6 playing hide-and-peek?

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 PM

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 PM
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 PM

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 PM

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1 he dove down. And when he came back up, that's when

2 he hollered.

3 Q. And what happened after -- and if I recall

4 correctly your testimony was that after he hollered

5 after diving down to see if he was breathing, that is 02:01 PM

6 when you turned off the tape?

7 A. Yes.

8 Q. So, at that point, what did you do?

9 A. I took my daughter up to the house and then I

10 came back down and that's when they were swimming, 02:01 PM

11 trying to get Benjamin over to the side; and they got

12 the ropes.

13 Q. When you say "they," who do you mean?

14 A. My father and my ex-husband.

15 Q. Were your father and ex-husband in the water 02:02 PM

16 as well?

17 A. My father was not. My ex-husband was in the

18 water and Pat was in the water, also.

19 Q. And you said they were going to get ropes and

20 trying to bring him out of the water? 02:02 PM

21 A. Yes.

22 Q. And where was Katia during this period?

23 A. I don't remember.

24 Q. And during this period Shirley was in the

25 trailer? 02:02 PM

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1 A. Yes.

2 Q. And what happened after they went and got the

3 ropes to bring Benjamin out of the water?

4 A. My father got the tractor and pulled him out

5 to the side and they started CPR on Benjamin -- or 02:02 PM

6 Katia and Pat were doing CPR on Benjamin.

7 Q. How were they performing CPR?

8 A. She was blowing in his trunk and Pat was

9 pounding on his side and clearing his mouth out.

10 Q. And how would you describe -- how would you 02:03 PM

11 describe Pat's behavior during this time?

12 A. He was screaming at the top of his lungs.

13 Q. What was his screaming?

14 A. "No. God, no."

15 Q. Was he crying? 02:03 PM

16 A. Yes.

17 Q. Was he shaking?

18 A. Yes.

19 Q. What was Katia's reaction during this time?

20 A. She was upset as well, but he was -- it was 02:03 PM

21 heartbreaking.

22 Q. How long did they perform CPR?

23 A. Until the veterinarian got there.

24 Q. And whose decision was it to call the

25 veterinarian? 02:03 PM

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1 A. My father did.

2 Q. So your father spoke on the phone with the

3 veterinarian?

4 A. (Witness nods head.)

5 Q. Did Pat tell your father what to tell the 02:03 PM

6 veterinarian?

7 A. I don't know.

8 Q. Did Katia your father what to say to the

9 veterinarian?

10 A. I don't know. 02:04 PM

11 Q. Did you hear them say anything -- did you hear

12 Pat tell your father to tell anything to the

13 veterinarian?

14 A. I wasn't around when my father made the call.

15 Q. During the -- about how long did it take for 02:04 PM

16 the veterinarian to arrive?

17 A. 20 minutes.

- 18 Q. And during that 20 minutes they were
19 performing CPR the whole time?
20 A. Yes. 02:04 PM
21 Q. And during that period Pat was upset --
22 A. Yeah.
23 Q. -- and crying the entire time?
24 A. He wouldn't leave Benjamin. When the vet got
25 there, he just still wanted to continue CPR. 02:04 PM

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- 1 Q. And what happened after the vet arrived?
2 A. They -- excuse me.
3 Q. I'm sorry. Are you okay? Would you like to
4 stop for a few minutes?
5 A. It's just kind of reliving it. It's sad. 02:04 PM
6 Q. It is.
7 A. They got Pat away from Benjamin. My husband
8 kind of pulled him away so that the vet -- so the
9 veterinarian could check him, and that's when he said
10 that he had passed. I'm sorry. 02:05 PM
11 Q. Oh, no. Please don't be sorry. Are you sure
12 you don't need a break?
13 A. (Witness nods head.)
14 Q. What was Pat's reaction to hearing the vet say
15 that? 02:05 PM

- 16 A. He kept screaming and he was screaming, "Why
17 God, why? God, why?" and screaming obscenities. And
18 he was -- we couldn't get him to eat or drink
19 anything. He just --
- 20 Q. Was Pat -- did Pat stay outside at this time? 02:05 PM
- 21 A. Yeah.
- 22 Q. And where was he?
- 23 A. By the trailer where Benjamin was. We had put
24 him in a refrigerated trailer to help preserve him to
25 get him to A&M. 02:06 PM

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- 1 Q. Whose decision was it to bring him to A&M?
- 2 A. Ringling Brothers.
- 3 Q. Who called Ringling Brothers?
- 4 A. Pat.
- 5 Q. Pat. When did he call them? 02:06 PM
- 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 PM
- 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 02:07 PM

16 CPR, your testimony was that Pat was still outside

17 and that he wouldn't leave Benjamin's side?

18 A. Uh-huh.

19 Q. Where was Katia during this period?

20 A. I think they had gone -- Katia had arrived in 02:07 PM

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.

24 Q. And it was your testimony that you weren't

25 entirely sure how long Pat stayed at your home? 02:07 PM

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1 A. I don't remember exactly. He had to leave

2 whenever Shirley left. He had to go with Shirley,

3 but I don't remember exactly when she left.

4 Q. And during this period Shirley was in the

5 trailer? 02:07 PM

6 A. In the trailer, yes, the original trailer.

7 Q. Did anybody else perform CPR during this time?

8 A. I don't remember.

9 Q. When did you decide to videotape the elephants

10 with -- when did you decide to use the videotape to 02:08 PM

11 film the elephants?

12 A. When I got up that morning, I thought how many
13 times are you going to have an elephant in your
14 backyard; so I just wanted to go out there and tape
15 it. And I never even thought about them being out of 02:08 PM
16 the trailer. I just thought "Oh, wow," you know, "I
17 can have this videotape for my daughter" and for us,
18 too"; because that's kind of cool.

19 Q. Was it your intent to capture every moment
20 that the elephants were on your father's property? 02:08 PM

21 A. Well, just, you know, not every second, but
22 just certain clips, you know. I wasn't going to film
23 them walking around the whole pond. I didn't have
24 enough tape or battery, but --

25 Q. And you, in fact, produced -- you provided 02:09 PM

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1 this tape to USDA?

2 A. Yes.

3 Q. And you did not -- did you alter the tape
4 before producing it to the USDA?

5 A. No. 02:09 PM

6 Q. To your knowledge, did Feld alter the tape
7 before it was produced to the USDA?

8 A. Not to my knowledge.

9 MS. DALTON: I think that that's it, but I
10 want to go back through my notes, if we could take a 02:09 PM
11 few minutes.

12 MR. STEED: Do you want me to go ahead?

13 MS. DALTON: Sure.

14 EXAMINATION

15 BY MR. STEED: 02:09 PM

16 Q. Angela, first of all, you took the video with
17 you to Houston when you and your husband and your
18 nephew and daughter went to pick up the elephants;
19 is that correct?

20 A. Yes. 02:10 PM

21 Q. And did you use the same video the next
22 morning to video what we've seen on the video today?

23 A. Yes.

24 Q. So you didn't change out tapes or anything?

25 A. No. 02:10 PM

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

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 02:10 PM

6 videos?

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 PM

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 PM

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, 02:11 PM
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?

24 A. No.

25 Q. Did they ever talk to you about that? 02:11 PM

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1 A. No.

2 Q. Was there any discussion by them? Did they

3 question you or anybody in your presence about

4 whether the animals were mistreated or abused or

5 anything like that? 02:11 PM

6 A. Oh, yes.

7 Q. Okay. And what did you tell them?

8 A. No, they were not mistreated.

9 Q. You said that you didn't take any pictures and

10 you were unaware of pictures, correct? 02:12 PM

11 A. Correct.

12 Q. And now you've seen during the deposition

13 today this Exhibit 10, correct?

14 A. Yes.

15 Q. You're under oath; you understand that? 02:12 PM

16 A. Yes, I do.

17 Q. And you've got to tell the truth?

18 A. Yes.

19 Q. And you're not to guess or speculate; do you

20 understand that? 02:12 PM

21 A. Yes.

22 Q. All right. Do you know where these pictures

23 that are marked as Exhibit 10 came from?

24 A. No.

25 Q. Do you know who took them? 02:12 PM

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1 Q. -- except they're different types of animals,
2 correct?

3 A. Correct.

4 Q. But based on your being around animals and
5 your feelings about animals, did you ever see 02:36 PM
6 anything to you as a layperson appear that either
7 Shirley or Benjamin were being mistreated or
8 mishandled by Pat or anybody else?

9 A. No, never.

10 Q. Did you ever see any evidence that there was 02:36 PM
11 fear in the animals, either one of them?

12 A. No.

13 MR. STEED: Nothing further.

14 MS. OCKENE: I don't have anything else.

15 Thank you for your time today.

16 THE WITNESS: Sorry about getting
17 emotional.

18 (Exhibit No. 11 marked.)

19 (Deposition concluded at 2:36 p.m.)

20 -- SIGNATURE REQUIRED --

21

22

23

24

25