

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| AMERICAN SOCIETY FOR THE |) | | |
| PREVENTION OF CRUELTY TO |) | | |
| ANIMALS, <u>et al.</u> , |) | | |
| |) | Civ. No. 03-2006 (EGS) | |
| Plaintiffs, |) | | |
| |) | | |
| v. |) | | |
| |) | | |
| RINGLING BROS. AND BARNUM |) | | |
| & BAILEY CIRCUS, <u>et al.</u> , |) | | |
| |) | | |
| Defendants. |) | | |
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**PLAINTIFF ANIMAL PROTECTION INSTITUTE’S RESPONSES AND OBJECTIONS
TO DEFENDANTS’ FIRST SET OF INTERROGATORIES TO PLAINTIFFS
AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS,
ANIMAL WELFARE INSTITUTE, AND FUND FOR ANIMALS**

Pursuant to Federal Rule of Civil Procedure 33 and the agreement of the parties, plaintiff Animal Protection Institute (“API”) hereby offers the following objections and responses to Defendants’ First Set of Interrogatories to Plaintiffs American Society for the Prevention of Cruelty to Animals, Animal Welfare Institute, and Fund for Animals.

DEFINITION

1. As used herein, “irrelevant” means not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence.

GENERAL OBJECTIONS

1. API’s general objections, as set forth herein, are to be considered continuing objections and responses to the specific Interrogatories that follow, even if not referred to in the



objection and response to a specific Interrogatory. API's objections and responses given herein shall not be construed to waive or preclude any objections it may later assert.

2. API objects to each Definition and Instruction and each Interrogatory to the extent that they are vague, ambiguous, overly broad, unduly burdensome, or seek irrelevant information.

3. API objects to each Definition and Instruction and each Interrogatory to the extent that it seeks to impose obligations on API beyond the requirements of the Federal Rules of Civil Procedure and any applicable local rules.

4. API objects to each Definition and Instruction and each Interrogatory to the extent that it seeks information protected against disclosure by the attorney-client privilege, the work-product doctrine, or any other privilege, immunity, doctrine, or rule of confidentiality. API further objects to each Definition and Instruction, and each Document Request, to the extent it seeks disclosure of information that would violate any of the privacy or other rights of individuals or organizations.

5. In responding to these Interrogatories, API does not waive the foregoing objections or the specific objections that are set forth in the responses to particular requests. In addition, API does not concede by responding to any of these interrogatories that the information sought or produced is relevant to the subject matter of this action or is calculated to lead to the discovery of admissible evidence. API expressly reserves the right to object to further discovery into the subject matter of these Interrogatories and the right to object to the introduction into evidence of any of the information provided in response to the Interrogatories.

6. API reserves the right to amend or supplement its responses and objections to the Interrogatories if additional or different responsive information is discovered during discovery or otherwise hereafter.

7. Although API has exercised due diligence in responding to the Interrogatories, without waiving the foregoing objections or the specific objections set forth in the responses to particular interrogatories, there may be instances in which API used an incorrect name or other identifying information with respect to identifying individuals or animals involved in a particular incident that occurred, or it used an incorrect date to describe a particular incident that occurred.

SPECIFIC OBJECTIONS TO DEFINITIONS

1. API objects to the definition of “describe” to the extent it seeks to impose discovery obligations exceeding those required by the applicable rules of civil procedure, and on the grounds that it is overly broad, unduly burdensome, oppressive, vexatious, and seeks irrelevant information.

2. API objects to the definition of “identify” to the extent it seeks to impose discovery obligations on API exceeding those required by the applicable rules of civil procedure, and on the grounds that it is overly broad, unduly burdensome, oppressive, vexatious, and seeks irrelevant information. In particular, where a business address is available for an identified individual, API objects to the instruction to provide a home address on the grounds that it invades personal privacy rights and seeks overly broad and irrelevant information.

RESPONSES AND SPECIFIC OBJECTIONS

API incorporates herein by reference its Definitions and General Objections with respect to each Interrogatory to which those objections apply, as though fully set forth therein, and no

specific objection or response is intended or shall be construed to waive any of those objections.

Subject to and without waiving those objections, API answers defendants' Interrogatories as follows:

Interrogatory No. 1: Identify each and every person you expect to call as a witness in this case, and state the subject and substance of the person's expected testimony, including all details of which you are aware.

Objection and Response to Interrogatory No. 1:

Subject to and without waiving the general objections to these Interrogatories, API states that the plaintiffs have not yet determined which persons they expect to call as fact witnesses in this case. Plaintiffs do expect to call Tom Rider as a witness in this case. He will testify about the mistreatment of elephants that he witnessed while he worked at Ringling Brothers Barnum and Bailey Circus (hereinafter "Ringling Brothers"), and the mistreatment he has observed since he left Ringling Brothers. More specific information about the substance of his testimony is provided in Mr. Rider's answers to Defendants' First Set of Interrogatories to Plaintiff Tom Rider, Nos. 9, 11, 12, 14, 17, 18, and 19; the specific incidents set forth in the sworn affidavit that Mr. Rider provided to the United States Department of Agriculture on July 20, 2000, which Mr. Rider provided in response to defendants' document production request to him, PL 04458; and in Mr. Rider's deposition testimony from October 12, 2006 – all of which are hereby incorporated by reference. Plaintiffs also expect to rely on the testimony provided by Frank Hagan at his deposition on November 9, 2004, which is hereby incorporated by reference. If defendants need additional copies of the transcripts from Mr. Rider or Mr. Hagan's depositions, API will provide such copies.

Interrogatory No. 21: Identify each resource you have expended from 1997 to the present in “advocating better treatment for animals held in captivity, including animals used for entertainment purposes” as alleged in the complaint, including the amount and purpose of each expenditure.

Objection and Response to Interrogatory No. 21:

API objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and oppressive. Subject to and without waiving this or the general objections, API estimates that approximately eight to ten percent of its program activities are related to advocating for better treatment for captive animals, with an average annual total expenditure of approximately \$299,827.67 for the last two years, 2005-2006. Since 1999, API has dedicated approximately three to eight percent of its budget to advocating better treatment for animals held in captivity.

In addition, API also has made three contributions to the Wildlife Advocacy Project for advocacy work for public education on the issue of the treatment of elephants held in captivity.

Documents reflecting these contributions have been produced by API and are hereby incorporated by reference, API 2868.

Interrogatory No. 22: Identify each expenditure from 1997 to the present of “financial and other resources” made while “pursuing alternative sources of information about defendants’ actions and treatment of elephants” as alleged in the complaint.

Objection and Response to Interrogatory No. 22:

API objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving these objections, API states that: from 2002 to 2006 about six percent of the time and benefits of Nicole Paquette was spent gathering information from individuals, other organizations, and government agencies about Ringling Brothers’ treatment of its Asian elephants, as well as searching news articles and reports and the internet for information concerning Ringling Brothers; from November 2005 to June 2006, roughly one percent of the time and benefits of API’s Policy Coordinator, Emily Clermont, was spent gathering information from individuals, other organizations, and government agencies about Ringling Brothers’ treatment of its Asian elephants; from 2005 to 2006, about 15 percent of the time and benefits of API’s Program Assistant, Stacy Cachules, was spent communicating with API members, activists, and members of the public and obtaining information from them on Ringling Brothers; and from 2002 to 2006, approximately .5 percent of the overhead for API’s office was dedicated to these endeavors for an approximate total resource expenditure of \$42,270. From 1997 to 2001, API approximates that to the best of its knowledge it dedicated about half as many resources to obtaining information on defendants’ treatment of the elephants.

In addition, API also has made three contributions to the Wildlife Advocacy Project for advocacy work for public education concerning the issue of the treatment of elephants held in

captivity, which in turn also resulted in the generation of additional information to API about Ringling Brothers and its treatment of elephants. Documents reflecting these contributions have been produced by API and are hereby incorporated by reference, API 2868.

Interrogatory No. 23: Describe the subject and substance of the testimony that would be given by each person identified in the initial disclosures.

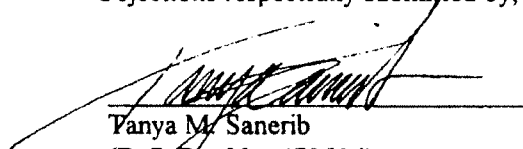
Objection and Response to Interrogatory No. 23:

API objects to this Interrogatory on the ground that the plaintiffs have already provided this basic information with their initial disclosures, and to provide further details at this point would reveal both the work product of their attorneys and conversations protected by the attorney-client privilege. Subject to and without waiving the foregoing or general objections to these Interrogatories, API states that the subject and substance of the testimony that Tom Rider will provide is described in Mr. Rider's answers to the Interrogatories directed to him; the specific incidents set forth in the sworn affidavit that Mr. Rider provided to the United States Department of Agriculture on July 20, 2000, which Mr. Rider provided in response to defendants' document production request to him, PL 04458; and in the deposition testimony of Tom Rider that was given on October 12, 2006, all of which API hereby incorporates by reference.

In addition, the substance and subject of the testimony of Miyun Park was provided by deposition on January 5, 2005; the substance and subject of the testimony of Betsy Swart was provided by deposition on March 18, 2005; and the substance and subject of the testimony of Angela D. Martin was provided by deposition on March 9, 2005, all of which API hereby incorporates by reference. API also states that the subject and substance of Frank Hagan's

testimony is preserved in his video deposition testimony that was provided on November 9, 2004 and that is hereby incorporated by reference.

Objections respectfully submitted by,

A handwritten signature in black ink, appearing to read 'Panya M. Sanerib', is written over a horizontal line. The signature is stylized and somewhat cursive.

Panya M. Sanerib
(D.C. Bar No. 473506)
Katherine A. Meyer
(D.C. Bar No. 244301)

Meyer Glitzenstein & Crystal
1601 Connecticut Ave., N.W., Suite 700
Washington, D.C. 20009
(202) 588-5206

Dated: January 16, 2007

VERIFICATION

CITY OF SACRAMENTO)
)
)
STATE OF CALIFORNIA)

NICOLE PAQUETTE, being duly sworn, says:

I am employed as Director of Legal and Government Affairs and General Counsel for the Animal Protection Institute. The Animal Protection Institute is a plaintiff in this case. I have read the foregoing objections and responses to Defendants' First Set of Interrogatories to Plaintiffs American Society for the Prevention of Cruelty to Animals, Fund for Animals, and Animal Welfare Institute and know the contents thereof. Upon information and belief, said Objections and Responses are true and correct.


Nicole Paquette

Sworn to before me this
10 day of January, 2007


Notary Public

My Commission Expires:

Dec 11, 2008



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Plaintiffs,

v.

RINGLING BROS. AND BARNUM
& BAILEY CIRCUS, et al.,

Defendant.

Civ. No. 03-2006 (EGS)

**PLAINTIFF ANIMAL PROTECTION INSTITUTE'S SUPPLEMENTAL RESPONSES
AND OBJECTIONS TO DEFENDANT'S FIRST SET OF INTERROGATORIES TO
PLAINTIFFS AMERICAN SOCIETY FOR THE PREVENTION OF
CRUELTY TO ANIMALS,
ANIMAL WELFARE INSTITUTE, AND FUND FOR ANIMALS**

Pursuant to Federal Rule of Civil Procedure 33 and the August 23, 2007 Order of the Court, plaintiff Animal Protection Institute ("API") hereby offers the following supplemental or amended responses to Defendants' First Set of Interrogatories to Plaintiffs American Society for the Prevention of Cruelty to Animals, Animal Welfare Institute, and Fund for Animals. API hereby incorporates by reference the definitions and the general and specific objections that it made in its original response to Defendants' First Set of Interrogatories to Plaintiffs American Society for the Prevention of Cruelty to Animals, Animal Welfare Institute, and Fund for Animals.

Interrogatory No. 21: Identify each resource you have expended from 1997 to the present in “advocating better treatment for animals held in captivity, including animals used for entertainment purposes” as alleged in the complaint, including the amount and purpose of each expenditure.

Supplemental Response to Interrogatory No. 21:

API supplements and amends its original response to this Interrogatory by providing the following supplemental information concerning contributions to the Wildlife Advocacy Project.

The remaining portions of the original response remain unaltered.

API has made contributions to the Wildlife Advocacy Project for its advocacy and public education efforts on the issue of the treatment of elephants held in captivity. It is API’s understanding that these funds are used to support Tom Rider’s media and public education campaign concerning the treatment of elephants in circuses. Documents reflecting these

contributions have been produced by API and are hereby incorporated by reference, API 2868-2873, and 7203-7206.

API has also paid for Mr. Rider's expenses directly on one occasion. In January 2006, API paid for Tom Rider's plane fare and hotel expenses to enable him to attend and testify at a hearing before the Nebraska state legislature's Committee on Judiciary on LB 1000, a bill concerning elephants in circuses. Those expense payments are reflected in documents produced by API, API 7256-7259.

Interrogatory No. 22: Identify each expenditure from 1997 to the present of "financial and other resources" made while "pursuing alternative sources of information about defendants' actions and treatment of elephants" as alleged in the complaint.

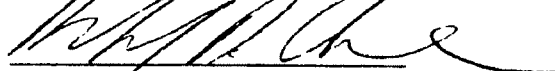
Supplemental Response to Interrogatory No. 22:

Subject to and without waiving its previous objections to this Interrogatory, API supplements and amends its original response to this Interrogatory by providing the following supplemental information. The remaining portions of the original response remain unaltered.

API has made five contributions to the Wildlife Advocacy Project for advocacy work for public education concerning the issue of the treatment of elephants held in captivity, which in turn also resulted in the generation of additional information to API about Ringling Brothers and its treatment of elephants. Documents reflecting these contributions have been produced by API and are hereby incorporated by reference, API 2868-2872, and 7203-7206.

API has also spent \$8508.55 on legal fees and costs pursuing information from the United States Department of Agriculture concerning defendant's actions and treatment of elephants.

Objections respectfully submitted by,


Kimberly D. Ockene

(D.C. Bar No. 461191)

Tanya M. Sanerib

(D.C. Bar No. 473506)

Katherine A. Meyer

(D.C. Bar No. 244301)

Meyer Glitzenstein & Crystal

1601 Connecticut Ave., N.W., Suite 700

Washington, D.C. 20009

(202) 588-5206

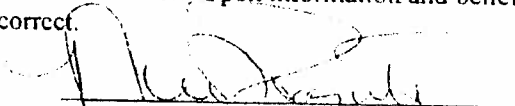
Dated September 24, 2007

VERIFICATION

CITY OF SACRAMENTO)
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STATE OF CALIFORNIA)

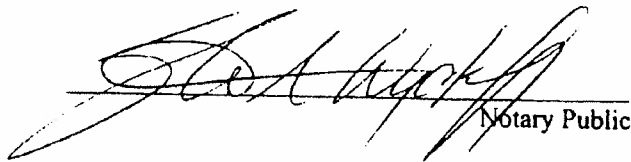
NICOLE PAQUETTE, being duly sworn, says:

I am employed as Director of Legal and Government Affairs and General Counsel for the Animal Protection Institute. The Animal Protection Institute is a plaintiff in this case. I have read the foregoing supplemental objections and responses to Defendants' First Set of Interrogatories to Plaintiffs American Society for the Prevention of Cruelty to Animals, Fund for Animals, and Animal Welfare Institute and know the contents thereof. Upon information and belief, said Objections and Responses are true and correct.



Nicole Paquette

Sworn to before me this
20 day of September, 2007



Notary Public



My Commission Expires:

Dec 11th 2008

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Plaintiffs,

v.

RINGLING BROS. AND BARNUM
& BAILEY CIRCUS, et al.,

Defendants.

Civ. No. 03-2006 (EGS)

**PLAINTIFF ANIMAL PROTECTION INSTITUTE'S RESPONSES AND
OBJECTIONS TO DEFENDANTS' FIRST SET OF INTERROGATORIES**

Pursuant to Federal Rule of Civil Procedure 33, plaintiff Born Free USA united with Animal Protection Institute ("API") hereby offers the following supplemental responses to Defendants' First Set of Interrogatories. API hereby incorporates by reference the definitions and the general and specific objections that it made in its previous responses to Defendants' First Set of Interrogatories.

On December 12, 2007 Animal Protection Institute combined with Born Free USA to form Born Free USA united with Animal Protection Institute.

Interrogatory No. 21: Identify each resource you have expended from 1997 to the present in “advocating better treatment for animals held in captivity, including animals used for entertainment purposes” as alleged in the complaint, including the amount and purpose of each expenditure.

Objection and Response to Interrogatory No. 21:

Subject to and without waiving its previous objections to this Interrogatory, API estimates that in 2007 approximately 5% of its total expenditures for the year were spent on advocating for the better treatment of elephants. Since 1999, API has dedicated approximately three to eight percent of its budget to advocating better treatment for animals held in captivity, for a total approximate expenditure of \$97,930. Additional information concerning funding that API has

provided either directly or indirectly to support Tom Rider's media and public education campaign on behalf of elephants in circuses was provided in API's September 2007 supplemental interrogatory responses. Since those responses were submitted, API has provided no additional funds for Mr. Rider's media and public education campaign. However, API did recall that, in addition to paying for Mr. Rider's plane fare and hotel expenses to enable him to attend and testify at a hearing before a committee of the Nebraska state legislature in January – which API reported in its September 2007 supplemental responses – API also purchased a meal for Mr. Rider during that same trip to Nebraska. API does not have any records related to that meal, but it could not have cost more than ten to fifteen dollars in total.

Interrogatory No. 22: Identify each expenditure from 1997 to the present of “financial and other resources” made while “pursuing alternative sources of information about defendants’ actions and treatment of elephants” as alleged in the complaint.

Objection and Response to Interrogatory No. 22:

Subject to and without waiving its previous objections to this Interrogatory, API states that in 2007 roughly ten percent of the time and benefits of Nicole Paquette was spent gathering information from individuals, other organizations, and government agencies about Ringling Brothers' treatment of its Asian elephants, as well as searching news articles and reports and the internet for information concerning Ringling Brothers; roughly ten percent of the time and benefits of API's Director of Public Relations, Elizabeth Wilder, was spent gathering information from individuals and other organizations about Ringling Brothers' treatment of its Asian elephants; roughly fifteen percent of the time and benefits of API's Grassroots Coordinator, Sandy Haynes, was spent communicating with API members, activists, and members of the

public and obtaining information from them on Ringling Brothers, and approximately .5 percent of the overhead for API's office was dedicated to these endeavors for an approximate total resource expenditure of \$42,000.

Objections respectfully submitted by,



Kimberly D. Ockene
(D.C. Bar No. 461191)
Katherine A. Meyer
(D.C. Bar No. 244301)

Meyer Glitzenstein & Crystal
1601 Connecticut Ave., N.W., Suite 700
Washington, D.C. 20009
(202) 588-5206

Dated: January 30, 2008

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| AMERICAN SOCIETY FOR THE |) |
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Civ. No. 03-2006 (EGS/IMF)

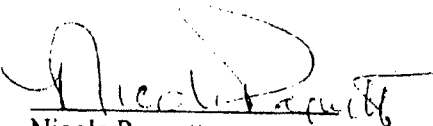
VERIFICATION

I, NICOLE PAQUETTE, declare as follows:

1. I am employed as the Senior Vice President and General Counsel for Born Free USA united with Animal Protection Institute ("API"). API is a plaintiff in this case.

2. I have read the foregoing supplemental objections and responses to Defendants' First Set of Interrogatories and know the contents thereof. Upon information and belief, said Objections and Responses are true and correct.

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge.



Nicole Paquette

Dated: January 30, 2008