

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, <u>et al.</u> ,)	
)	
Plaintiffs,)	Civ. No. 00-01641 (EGS)
v.)	
RINGLING BROS. AND BARNUM & BAILEY CIRCUIT, <u>et al.</u> ,)	
Defendants.)	

**PLAINTIFF THE FUND FOR ANIMALS' 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 The Fund for Animals ("The Fund") hereby offers the following objections and
responses to Defendants' First Set of Interrogatories to The Fund.

DEFINITIONS

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. The Fund'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. The Fund's



objections and responses given herein shall not be construed to waive or preclude any objections it may later assert.

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

4. The Fund 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. The Fund further objects to each Definition and Instruction, and each Interrogatory, to the extent it seeks disclosure of information that would violate any of the privacy or other rights of individuals.

5. In responding to these Interrogatories, The Fund does not waive the foregoing objections or the specific objections that are set forth in the responses to particular requests. In addition, The Fund does not concede by responding 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. The Fund 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. The Fund 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 The Fund 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 The Fund 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. The Fund 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. The Fund objects to the definition of “identify” to the extent it seeks to impose discovery obligations on The Fund 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 individual identified, The Fund 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

The Fund 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, The Fund responds to 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.

Response to Interrogatory No. 1:

Subject to and without waiving the general objections to these Interrogatories, The Fund states that, with one exception, the plaintiffs have not yet determined which persons they expect to call as witnesses in this case. The one exception is that plaintiffs 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, 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 directed at Mr. Rider, Nos. 9, 11, 12, 14, 17, 18, and 19, and those answers are hereby incorporated by reference.

Interrogatory No. 2:

Identify each person within your organization who has any responsibility for, or authority over, your policy regarding the presentation of elephants in circuses.

Interrogatory No. 4:

Identify each of your employees or volunteers who has any training or experience in the treatment of Asian elephants, including but not limited to the use of an ankus or tethering Asian elephants, and describe that training or experience.

Objection and Response to Interrogatory No. 4:

The Fund objects to this Interrogatory on the grounds that the terms “experience” and “treatment” are vague and ambiguous. Subject to and without waiving this or the general objections, The Fund states that Alfredo Govea, a ranch-hand at The Fund’s Black Beauty Ranch, has experience working with an Asian elephant named “Tara” (a.k.a. “Fanny”), who lived at Black Beauty Ranch from 1993 to August 2003. Alfredo was primarily responsible for the Tara’s feeding, footcare, environmental enrichment, daily shower, and daily cleaning of Tara’s stall and yard. Mr. Govea received some training in elephant care from Karen Gibson and her staff at the Houston Zoo. In addition, Mr. Govea has consulted a text on elephant foot care. Local veterinarians were available to tend to Tara’s medical and health needs.

D.J. Schubert, Manager of Black Beauty Ranch, also has some experience working with Tara, and was responsible for feeding Tara, addressing her environmental enrichment needs, and cleaning her stall and yard when Mr. Govea was not available. Mr. Schubert learned to care for Tara by working with Mr. Govea. The use of an ankus is strictly prohibited at Black Beauty Ranch. “Tethering” animals is also prohibited at Black Beauty Ranch except for in the case where an animal must be restrained for an

emergency medical procedure. Neither Mr. Schubert nor Mr. Govea ever “tethered” Tara. Both Mr. Govea’s and Mr. Schubert’s business address is Black Beauty Ranch, P.O. Box 367, Murchison, Texas, 75778, (903) 469-3811.

Interrogatory No. 16:

Describe every communication that you, any of your employees or volunteers, or any person acting on your behalf or at your behest has had with any current or former employee of defendants since 1996.

Objection and Response to Interrogatory No. 16:

The Fund objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and to the extent that it calls for information that is protected by the attorney-client privilege or the work product privilege. Subject to and without waiving

these or The Fund's general objections, The Fund states that the following communications have taken place:

D.J. Schubert, Manager for Black Beauty Ranch, has had several communications with Tom Rider since 1996. To the best of Mr. Schubert's recollection, these communications included: (1) In June or July of 1999 or 2000, Mr. Schubert (then not an employee of The Fund) contacted Mr. Rider by telephone to determine whether he would be available to travel to Phoenix, AZ, to participate in a press conference being hosted by the Animal Defense League of Arizona to discuss the abusive treatment of Ringling Bros. Elephants, prior to the arrival of the circus in Phoenix. Arrangements were made for Mr. Rider to fly into Phoenix's Sky Harbor Airport. Mr. Schubert picked up Mr. Rider at the airport, took him out to dinner, and dropped him off at a hotel. Mr. Schubert picked Mr. Rider up the next morning and drove him to the Phoenix Public Library where a room had been reserved for the press conference. After the press conference, Mr. Schubert and Mr. Rider went to several media outlets to provide information on Ringling Brothers. To the best of his knowledge, Mr. Schubert eventually took Mr. Rider to a small hotel near the airport/bus terminal from where Mr. Rider departed the following day. Mr. Schubert does not specifically recall the substance of what he and Mr. Rider discussed during this visit, but it may have generally related to Ringling Bros. mistreatment of their elephants; (2) on one other occasion in 2000 or 2001, Mr. Rider contacted Mr. Schubert to advise him that Mr. Rider would be in Phoenix for several hours. To the best of his recollection, Mr. Schubert picked up Mr. Rider from the Greyhound terminal near the Phoenix Sky Harbor Airport, took him back to his residence in Phoenix, and returned Mr. Rider to the bus terminal later that day. Mr. Schubert does not specifically recall the substance of

what he and Mr. Rider discussed during this visit, but it may have generally related to Ringling Bros. mistreatment of their elephants; (3) Mr. Schubert has also engaged in a handful (3-5) of phone calls with Mr. Rider from 1999 to the present regarding circus issues and Black Beauty Ranch.

Chris Byrne, then-Manager of The Fund for Animals' Black Beauty Ranch, visited Ringling Bros.' Center for Elephant Conservation ("CEC") sometime before 2002, and may have had conversations with Ringling Bros. employees. Mr. Byrne is now deceased and there is no record of the conversations he had at the CEC or which Ringling Bros. employees he spoke with during that visit.

Michael Markarian, President of The Fund for Animals, has had several conversations with Tom Rider regarding this litigation and regarding media interviews on circus issues.

Heidi Prescott, National Director of The Fund for Animals, spoke with Tom Rider in Harrisburg, Pennsylvania, at a rally protesting the circus on October 28, 2003.

Virginia Handley, California Coordinator of The Fund for Animals, is a member of the California Department of Fish and Game's Advisory Committee on Humane Care and Treatment of Wild Animals, along with Ringling Bros. employees Julie Strauss and Tom Albert. Meetings have been held on August 14, 2003, and May 5, 2004.

Interrogatory No. 17:

Describe any and all positions you have taken, held, or espoused as regards the presentation of elephants in circuses, the date on which you adopted or espoused each such position, whether you still hold such position, and the manner in which you communicated the position to your membership or to others, including to government officials or persons in the business of operating circuses.

Objection and Answer to Interrogatory No. 17:

The Fund objects to this Interrogatory on the ground that the terms “positions,” “taken,” “held,” and “espoused” are vague and ambiguous, and on the grounds that the Interrogatory is unduly burdensome, overly broad, and calls for irrelevant information. Subject to and without waiving these or the general objections to these interrogatories, The Fund states that it has opposed the use of elephants in circuses since Cleveland Amory founded the organization in 1967, and it still holds this position. That position has been communicated to the public and to The Fund’s membership through various means over the years, including letters to the editor, public speeches, informational fact sheets, legislative testimony, The Fund’s web site (www.fund.org), direct mail, The Fund’s newsletters and annual reports, educational publications for use by teachers and children, interviews with the media, public demonstrations at circuses, educational tours at Black Beauty Ranch, and Cleveland Amory’s book Ranch of Dreams. The Fund refers defendants to documents produced by The Fund, as well as by plaintiffs collectively, in response to defendants’ document requests for additional specific information concerning when and through what means The Fund has communicated its position.

Interrogatory No. 18:

Describe any and all positions you have taken, held, or espoused as regards the use of ankuses to train, handle, or care for elephants, the date on which you adopted or espoused each such position, whether you still hold such position, and the manner in which you communicated the position to your membership or to others, including to government officials or persons in the business of operating circuses.

Objection and Response to Interrogatory No. 18:

The Fund objects to the Interrogatory on the grounds that the terms “position,” “taken,” “held,” or “espoused” are vague and ambiguous, and on the grounds that the

interrogatory is overly broad, and unduly burdensome. Subject to and without waiving these or the general objections to these interrogatories, The Fund states that it is opposed to the use of ankuses to train, handle, or care for elephants. To the extent The Fund's opposition to the use of ankuses has been communicated to its membership or others, either as a general matter or in particular instances, that information can be found in the documents provided by The Fund, and by the plaintiffs collectively, in response to defendants' document requests.

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:

The Fund objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and highly oppressive. The term “each resource” is also vague and ambiguous. Subject to and without waiving this or the general objections to the interrogatories, The Fund provides the following information concerning resources expended advocating better treatment for animals in captivity:

The following funds were expended on printing, postage, and mail services for direct mailings to members of The Fund for Animals and potential supporters on topics such as circuses, canned hunts, and animals raised in captivity for their fur:

- 1997: \$393,209
- 1998: \$204,570
- 1999: \$441,213
- 2000: \$425,068
- 2001: \$764,572
- 2002: \$1,269,770
- 2003: \$1,096,580

The following funds were expended on printed literature for educational purposes, including fact sheets, brochures, and materials for teachers and children regarding circuses, canned hunts, and other issues related to captive animals:

- 1997: \$54,160
- 1998: \$170,932
- 1999: \$65,525
- 2000: \$125,711
- 2001: \$132,112
- 2002: \$128,712
- 2003: \$173,828

The following funds were expended on paid print and broadcast advertising to educate consumers on the issue of animals raised in captivity for fur production:

- 2001: \$150,410
- 2002: \$631,061
- 2003: \$606,525

The following funds were expended on media distribution services to educate the public on issues such as circuses, private ownership of exotic wildlife, captive animals raised for fur, and canned hunts:

U.S. Newswire:

- 2003: \$12,425
- 2004: \$1,975

P.R. Newswire:

- 2000: \$17,680
- 2001: \$23,690
- 2002: \$28,270
- 2003: \$26,805
- 2004: \$17,820

The following funds were expended to produce Public Service Announcements distributed to television stations nationwide on the issues of “canned hunts” of captive wildlife and the private ownership of exotic wildlife:

- 2001: Canned Hunts, \$40,000
- 2003: Exotic Animals, \$44,200

The following funds were expended on web site and online communications to educate people about animal cruelty issues such as circuses, canned hunts, exotic pets, and animals raised for their fur:

- 2001: \$22,660
- 2002: \$72,622.48
- 2003: \$106,433.58
- 2004: \$52,933.34

The Fund made a donation to the Captive Wild Animal Protection Coalition of \$2,000 in 2003.

Extensive staff time and other resources have also been expended annually on various items relating to advocating for animals in captivity, including:

- 2002-2003 - running the National Humane Essay Contest on the topic of circuses with animal acts.
- 2003-2004 – running the National Humane Essay Contest on the topic of exotic animals as “pets.”
- Writing reports, fact sheets, and press releases every year.
- Setting up canned hunt filing system.
- Setting up and updating canned hunt database.
- Sending letters to state wildlife agencies requesting canned hunting info.
- Writing letters opposing rodeos.
- Researching canned hunt laws and regulations.
- Writing letters to zoos about surplus animal policy.
- Attending Chronic Wasting Disease conference in Colorado where game farms were discussed.
- Testifying on Pennsylvania canned hunt regulations.
- Lobbying on Pennsylvania canned hunt bill.
- Attending Federal canned hunt bill committee mark-up.
- Protesting circus at Montgomery County Fair, Maryland, in 2002 and 2003.
- Employing a full-time lobbyist in California working on exotic animal bills and attending meetings of the California Fish and Game Commission and the Advisory Committee on Humane Care and Treatment of Wild Animals. Lobbyist has worked on the following state bills: (1997) SB 196, AB 716; (1998) AB 1635, AB 409, AB 716; (2000) SB 1462, SB 2149; (2001) F&G regs on deer farms;

(2002) AB 2574, AB 2847, SB 1210, SB 1306, SB 1851, F&G regs on exotics in captivity and deer farms; (2003) SB 732, AB 885, AB 395.

- Employing a full-time lobbyist in New York working on exotic animal bills, including bills to ban the trophy shooting of captive exotic mammals and to ban the private ownership of exotic wildlife. Lobbyist has worked on the following bills: (2003) S2735a and A4609a; (2004) A2684b, S905b, S6446a, A10188a.

The Fund's Director of Government and International Affairs has also expended time engaging in the following activities related to advocacy on behalf of animals in captivity:

2001:

1/11: Participated in conference call regarding circus lawsuits.

2/6: Attended monthly lobbyist meeting.

2/23: Attended Species Survival Network Strategy Meeting.

3/5: In Annapolis for meetings with state legislators regarding MD General Assembly bill to prohibit elephants in circuses in MD.

3/9: same as 3/5

3/12: same as 3/5

3/16: Testified on MD General Assembly bill to prohibit elephants in circuses in MD.

3/19: Participated in conference call regarding upcoming press conference on circus lawsuit.

3/22: Attended press conference on circus lawsuit at Nat'l Press Club.

4/26 through 4/28: Meetings with Dr. Willie Smits of Gibbon Foundation, Indonesia, and legislative staff on Capitol Hill. Also with staff of USFWS.

4/28 through 5/2: Attended conference in Boston on Great Apes.

6/5: Met with AZA staff re roadside zoos.

6/14 through 7/6: Uganda/Rwanda/UK trip: Meetings with heads of wildlife agencies, local NGOs, park rangers, ecotourism operations, UK-based animal protection organizations regarding various wildlife issues, including wildlife trade and animals in captivity. Field site visits in Uganda and Rwanda with national park staff and wildlife biologists regarding protected areas management, viability of endangered wildlife populations, and impacts of trade. Strategy sessions with Government Ministers regarding bilateral cooperation between Uganda and Rwanda on CITES positions, migratory routes of certain species, poaching, and illegal trade.

8/24: Attended Species Survival Network Strategy Meeting.

8/30: Met with Dr. Marc Ancrenaz of Kinabatangan Orangutan Conservation Project.

9/25: Several appointments on Capitol Hill with staff re CITES issues, including trade for captivity. Also attended reception at Indonesian Embassy.

10/3: Attended House Resources Committee hearing.

10/19: Attended Species Survival Network Strategy Meeting, met with Director of Conservation International re coordinated projects in Africa.

11/29 through 12/4: Attended Species Survival Network Annual Summit in Costa Rica.

12/13: Several meetings on Capitol Hill re canned hunt bill.

12/14: Species Survival Network Strategy Meeting.

2002:

1/30: Meeting with Senator Jeffords.

1/31: meeting with American Zoo and Aquarium Association.

2/14: Meeting with USFWS.

2/15: Species Survival Network Strategy Meeting.

2/20 through 2/24: Meetings in Chicago with U.S. based ecotourism companies, including their charitable foundations.

2/28 through 3/1: Trinational Conference on Wildlife Law Enforcement.

3/1: Meeting with Kevin Adams at USFWS.

4/6 through 4/13: CITES Animals Committee Meeting in Costa Rica.

4/17: USFWS Public Meeting on proposals for CITES CoP 12.

4/18: Meetings on Capitol Hill re Captive Exotic Animal Protection Act (CEAPA).

4/25 Humane Awards dinner and ceremony.

4/26: Species Survival Network Meeting.

4/26 through 5/15: Tanzania and Netherlands trip. Lectured at Mweka College of African Wildlife Management, met with Tanzanian based animal protection NGOs, toured Trophy hunting concession with local Maasai tribal leaders, met with Tanzanian Minister of Tourism and Environment, accompanied Tanzanian National Parks staff on several wildlife recovery missions, attended strategy meetings at Greenpeace Amsterdam.

5/21: Strategy meeting with other lobbyists re CEAPA.

5/22: Meetings on Capitol Hill re CEAPA.

6/14 through 6/18: Black Beauty Ranch, Texas.

6/21: Species Survival Network Meeting.

6/28 through 7/3: Various speeches given at Animal Rights 2002 Conference.

7/11: Strategy Meeting at HSUS re CITES elephant proposals.

7/18: Meetings with Congressional candidates re animal issues at the federal level.

8/20: Briefing at USFWS re proposals and resolutions for CITES CoP 12.

8/23 Species Survival Network Strategy Meeting.

9/5: Meetings on Capitol Hill re CEAPA.

9/17: CITES oversight hearing in House Resources Committee.

9/20 Species Survival Network Meeting.

10/3: Meetings on Capitol Hill re Captive Exotic Animal Protection Act (CEAPA).

10/18: Species Survival Network Meeting.

10/19: Meeting with WV state delegates re animal legislation in Charleston.

10/22: Species Survival Network Press Conference.

10/31 through 11/17: Attended CITES CoP 12 in Santiago Chile as non-governmental observer and lobbied for pro-animal initiatives.

12/3: Meetings on Capitol Hill re Captive Exotic Animal Protection Act (CEAPA).

12/13: Meeting with AZA re roadside zoos and CEAPA.

2003:

- 1/14: Conference call re CEAPA.
- 3/6: Meetings on Capitol Hill re Captive Exotic Animal Protection Act (CEAPA).
- 3/11: Meetings on Capitol Hill re Captive Exotic Animal Protection Act (CEAPA) various times during March 2003: Worked on article for Animal Free Press re elephants, including captive elephants.
- 3/10: Met with WV state legislators re various animal related legislation.
- 3/19-3/20: Smithsonian Conference, "Elephants and Ethics".
- 3/24: Conference call with USFWS.
- 4/3: Meeting with IFAW contract lobbyist.
- 4/7: Meetings on Capitol Hill re Captive Exotic Animal Protection Act (CEAPA).
- 4/15: Meetings on Capitol Hill re Captive Exotic Animal Protection Act (CEAPA).
- 4/20 through 4/27: CITES Standing Committee, Geneva Switzerland.
- 5/5: Conference call with members of Pan African Sanctuary Alliance.
- 5/23: Conference call with members of Pan African Sanctuary Alliance.
- 5/25 through 6/16: Rwanda/Uganda/Kenya trip: Field work in various national parks, meetings with President Kagame's staff re restoration of migratory corridors, wildlife trade issues, and expansion of ecotourism, meetings with Uganda Wildlife Authority director and staff re wildlife export policies and protected areas management, meetings with President Kibaki's staff re Kenya's comprehensive wildlife policy strategy and elephant relocation plans. Spoke at Pan African Sanctuary Alliance annual meeting, Kenya Wildlife Service briefing and East African Wildlife Society dinner.
- 6/27 through 7/2: Gave various speeches at Animal Rights 2003 conference.
- 8/15 through 8/22: CITES Animals Committee Meeting, Geneva Switzerland.
- 9/12 Meeting with Dr. Sammy El Falaly, Director of CITES Management Authority for Egypt, in Cairo re wildlife trade and policies on confiscated animals, also Egyptian animal protection laws and live animal auctions.
- 9/24 Lectured at Shepherd College on wildlife related legislation and international wildlife law.
- 9/26: conference call on USFWS draft regs and proposed rule on ESA changes.
- 10/2: conference call on USFWS draft regs and proposed rule on ESA changes.
- 10/16 through 10/19 White Oak Plantation Wildlife facility, Jacksonville FL.
- 10/22: conference call on USFWS draft regs and proposed rule on ESA changes.
- 10/24 Speech at Women in Government Relations conference in D.C.
- 11/2: Speech at Animal Welfare Society Annual Dinner, Shepherdstown WV.
- 11/6: Meeting with Uganda President Yoweri Museveni in Washington DC.
- 11/9: Speech at Student Lobby Day training session, American University, Washington DC.
- 11/21: conference calls on USFWS draft regs and proposed rule on ESA changes.
- 12/3: speech at WV Democratic Association Annual Dinner.
- 12/18: Meeting with HSUS Investigations staff.

2004:

Various dates through January and February: conference calls on USFWS draft regs and proposed rule on ESA changes.

3/14 through 3/19: CITES Standing Committee Meeting, Geneva Switzerland.

3/23: Meeting w/WV State Delegate John Doyle and State Senators John Unger and Herb Snyder re animal related legislation.

4/16 through 4/23: Animal Transport Association Conference in Vienna Austria.

1997:

Numerous meetings, conference calls and Hill visits re CITES proposals dealing with transport of circus animals, captive breeding, etc.

June 1997: CITES Conference of the Parties 10 in Harare, Zimbabwe.

1998:

Countless meetings, Hill visits, and embassy visits re capture of wild elephant calves in Botswana and subsequent abuse of calves, and selling to various zoos. Ensuing Legal case in South Africa – worked extensively with South African NGOs lining up expert testimony, research and background information. Briefed CITES parties on developments in the case against the wildlife dealer, Riccardo Ghiazza

September: Speeches at Performing Animal Welfare Society Annual Meeting In Sacramento, CA.

In addition to the above-listed human resource and monetary resource expenditures, the documents produced by The Fund in response to defendants' document requests also demonstrate numerous resources The Fund has expended in advocating for the better treatment of animals in captivity, and The Fund refers defendants to those documents.

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:

The Fund objects to this Interrogatory on the grounds that it is overly broad, and unduly burdensome. Subject to and without waiving these or the general objections, The

Fund states that its Director of Government and International Affairs spent approximately 10% of her time in 2000 gathering information on Ringling Bros. (approximately \$3,000), culminating in a decision to be a co-plaintiff in this law suit. The Fund also spent approximately \$4,000 between 2001 and 2003 pursuing a Freedom of Information Act case against the United States Department of Agriculture for documents related to defendants' treatment of their elephants. The Fund also spent approximately \$14,000 between 2002 and 2004 for reviewing the documents received in response to the Freedom of Information Act law suit, and compiling and disseminating a report based on those documents concerning the United States Department of Agriculture's failure to enforce the Animal Welfare Act against defendants. In addition, The Fund annually expends miscellaneous staff resources searching the news, the internet, and other sources for information related to defendants' treatment of their elephants.

Objections submitted by,

A handwritten signature in black ink, appearing to read 'Katherine A. Meyer', written over a horizontal line.

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

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

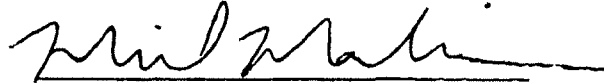
June 9, 2004

VERIFICATION

CITY OF SILVER SPRING)
)
)
STATE OF MARYLAND)

MICHAEL MARKARIAN, being duly sworn, says:

I am employed as the President of The Fund for Animals. The Fund for Animals is a plaintiff in this case. I have read the foregoing objections and responses to Defendants' First Set of Interrogatories to Plaintiff The Fund for Animals and know the contents thereof. Upon information and belief, said Objections and Responses are true and correct.

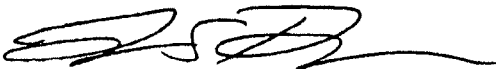

Michael Markarian

Sworn to before me this
4 day of June, 2004

Notary Public

My Commission Expires:

OPHER S. BENDAVID
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires: June 24, 2005


6/4/04

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)
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**PLAINTIFF THE FUND FOR ANIMALS' SUPPLEMENTAL RESPONSES AND
OBJECTIONS TO DEFENDANTS' FIRST SET OF INTERROGATORIES**

Pursuant to Federal Rule of Civil Procedure 33 and the agreement of the parties, plaintiff
The Fund for Animals ("The Fund") hereby provides the following supplemental responses to
Defendants' First Set of Interrogatories.

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.

OBJECTIONS

1. The Fund hereby incorporates by reference both the general and specific objections
that it made to Defendants' First Set of Interrogatories, as well as the Fund's objections to
defendants' definitions of "describe" and "identify."

2 The Fund further objects to each Definition and Instruction, and each Interrogatory, to the extent it seeks disclosure of information that would violate any of the First Amendment rights of organizations or their members.

RESPONSES AND SPECIFIC OBJECTIONS

The Fund incorporates by reference its Definitions and General Objections with respect to each Interrogatory to which those definitions and 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, The Fund supplements its answers to defendants' First Set of 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.

Supplemental Response to Interrogatory No. 1:

Subject to and without waiving the general objections to this Interrogatory, The Fund supplements the answer to this Interrogatory by stating that plaintiffs also expect to rely on incidents recounted by Tom Rider in deposition testimony he provided on October 12, 2006, which is hereby incorporated by reference, as well as additional incidents that Mr. Rider recounts in his Supplemental Interrogatory Responses. The Fund will also rely on the testimony provided by Frank Hagan at his deposition on November 9, 2004, which is hereby incorporated by reference, and the deposition testimony provided by Gerald Ramos on January 24, 2007, which is also incorporated by reference. The Fund also incorporates by reference plaintiffs' initial disclosures from January 30, 2004, which lists additional fact witnesses that plaintiffs may ask to testify and includes a brief description of their expected testimony.

Interrogatory No. 4: Identify each of your employees or volunteers who has any training or experience in the treatment of Asian elephants, including but not limited to the use of an ankus or tethering Asian elephants, and describe that training or experience.

Supplemental Objections and Response to Interrogatory No. 4:

The Fund further objects to this Interrogatory on the grounds that the terms “experience” and “treatment” are vague and ambiguous. Subject to and without waiving this or any of The Fund’s general objections, The Fund states that it has nothing to add to its original answer to this Interrogatory, and that it does not presently have any such employees or volunteers.

Interrogatory No. 16: Describe every communication that you, any of your employees or volunteers, or any person acting on your behalf or at your behest has had with any current or former employee of defendants since 1996.

Supplemental Objections and Response to Interrogatory No. 16:

The Fund further objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome, and to the extent that it calls for information that is irrelevant or protected by the attorney-client or work product privileges. The Fund also objects to this interrogatory to the extent that it calls for the disclosure of conversations with former employees of defendants regarding various legislative or media strategies for halting the abuse and mistreatment of circus elephants and educating the public about this issue. Additional details of such conversations are irrelevant and their disclosure would impose an undue burden on The Fund and infringe upon the Fund and the former employees' First Amendment rights of association and expression. Subject to and without waiving these or The Fund's previous objections, The Fund supplements its answer to this Interrogatory by stating that, in addition to the communications discussed in The Fund's original Interrogatory responses, former Fund employee D.J. Schubert also had a single telephone conversation with Tom Rider concerning a possible job at the Fund's animal sanctuary, Black Beauty Ranch. Mr. Schubert does not recall exactly when this conversation took place, but he believes it was in 2003. He told Mr. Rider there was an opening at the ranch and that someone with Mr. Rider's experience would be a good fit. Mr. Rider declined the job offer on the grounds that he needs to continue to stay on the road to tell people about what goes on at the circus. Mr. Schubert further recalls that he suggested that maybe Mr. Rider could work at Black Beauty on a part time basis, but that Mr. Rider declined that suggestion as well and said that he is more interested in continuing his public education efforts throughout the country. That is all Mr.

Schubert recalls about this conversation. In addition, as regards former Fund employee Heidi Prescott's communication with Tom Rider, The Fund states that Ms. Prescott was lobbying in Harrisburg, Pennsylvania on an unrelated matter and met Mr. Rider as one of a group attending a press conference of local animal welfare activists concerning some proposed legislation. She does not remember what the legislation was about but thinks it could have been about bull hooks or the circus. She went to the press conference because she was in the same building lobbying on another manner and wanted to meet the people holding the press conference. She ran into Mr. Rider as part of a group at the press conference and she just said hi to everyone, including him. She only talked with him for a few seconds – she said hello and thanked him for the work he does on behalf of animals. She thinks the event may have been in the cafeteria of the State Legislative Building, and she vaguely recalls holding a big cup of coffee as she said her hellos to the activists there. That is all that she recalls about this conversation

Interrogatory No. 17: Describe any and all positions you have taken, held, or espoused as regards the presentation of elephants in circuses, the date on which you adopted or espoused each such position, whether you still hold such position, and the manner in which you communicated the position to your membership or to others, including to government officials or persons in the business of operating circuses.

Supplemental Response to Interrogatory No. 17:

Subject to and without waiving its previous objections to this Interrogatory, The Fund states that it has not changed its positions as stated in its prior Interrogatory responses, and that the manner in which it has communicated any such positions is reflected in supplemental documents that it is providing to defendants.

Interrogatory No. 18: Describe any and all positions you have taken, held, or espoused as regards the use of ankuses to train, handle, or care for elephants, the date on which you adopted or espoused each such position, whether you still hold such position, and the manner in which you communicated the position to your membership or to others, including to government officials or persons in the business of operating circuses.

Supplemental Response to Interrogatory No. 18:

Subject to and without waiving its previous objections to this Interrogatory, The Fund states that it has not changed its positions as stated in its prior Interrogatory responses, and that the manner in which it has communicated any such positions is reflected in supplemental documents that it has provided to defendants.

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, The Fund states that since its most recent response to this Interrogatory, the Fund has expended approximately \$88,378.68 advocating better treatment for animals held in captivity, including animals used for entertainment purposes, through its website and other online communications, which are included in supplemental documents that The Fund is providing to defendants. This amount was expended on consulting and hosting fees incurred in creating and maintaining the Fund's website.

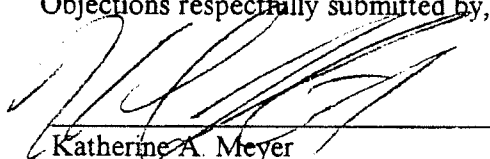
Interrogatory No. 22: Identify each expenditure from 1997 to the present of “financial and other resources” made while “pursuing alternative sources of information about defendants’ actions and treatment of elephants” as alleged in the complaint.

Supplemental Response to Interrogatory No. 22:

Subject to and without waiving its previous objections to this Interrogatory, the Fund states that since its original response to this Interrogatory The Fund has spent approximately

\$12,000 pursuing information from the United States Department of Agriculture concerning defendants' actions and treatment of elephants.

Objections respectfully submitted by,



Katherine A. Meyer
(D.C. Bar No. 244301)
Tanya M. Sanerib
(D.C. Bar No. 473506)
Howard M. Crystal
(D.C. Bar No. 446189)

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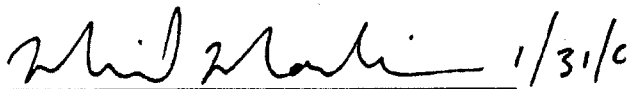
Dated: January 31, 2007

VERIFICATION

I, MICHAEL MARKARIAN, declare as follows:

I am employed as the President of The Fund for Animals. The Fund for Animals is a plaintiff in this case. I have read the foregoing objections and responses to Defendants' Interrogatories to Plaintiff The Fund for Animals 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 is true and correct.

 1/31/0
Michael Markarian

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS. <u>et al.</u> ,)	
)	
Plaintiffs,)	Civ. No. 03-2006 (EGS)
)	
v.)	
)	
RINGLING BROS. AND BARNUM & BAILEY CIRCUS. <u>et al.</u> ,)	
)	
Defendants.)	

**PLAINTIFF THE FUND FOR ANIMALS' FOURTH SUPPLEMENTAL RESPONSES
TO DEFENDANTS' FIRST SET OF INTERROGATORIES**

Pursuant to Federal Rule of Civil Procedure 33, plaintiff The Fund for Animals ("The Fund") hereby provides the following supplemental responses to Defendants' First Set of Interrogatories. The Fund hereby incorporates by reference both the general and specific objections that it has previously made to Defendants' First Set of Interrogatories and definitions.

SUPPLEMENTAL RESPONSES

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.

Supplemental Response to Interrogatory No. 1:

Subject to and without waiving The Fund's previous objections to this Interrogatory, and pursuant to the Court's December 18, 2007 Order concerning the exchange of witness lists, The Fund states that, in addition to those individuals whose names have previously been provided to defendant in plaintiffs' initial disclosures, as well as in subsequent correspondence, the following

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:

In accordance with the Court’s August 23, 2007 Order, The Fund supplements and amends its prior responses to this Interrogatory by providing the following information concerning funding for media and public education efforts with respect to the treatment of elephants in the circus. The Fund did not originally view this information as responsive to this

Interrogatory because the Fund believed the Interrogatory's reference to "resource you have expended from 1997 to the present in 'advocating better treatment for animals held in captivity, including animals used for entertainment purposes'" referred only to funds expended by the Fund's own staff to advocate for elephants, as opposed to grants to other activists or non-profits. The Fund makes donations to a number of individuals and non-profits each year, and does not consider advocacy undertaken by grantees to be Fund advocacy. The Fund is nonetheless providing the information in compliance with the Court's Order, and because defendant has stated that it views this information as responsive to this Interrogatory. The remaining portions of The Fund's prior responses to this Interrogatory remain unaltered.

The Fund has provided funds to Mr. Rider on the following two occasions: July 21, 2004, in the amount of \$500.00, and July 22, 2004, also in the amount of \$500.00. These funds are reflected in documents being produced by The Fund, F 4483-4486. As reflected in the documents and described in Mr. Michael Markarian's deposition, these funds were to cover the cost of repairing Mr. Rider's van, so that he could drive from California to Denver, Colorado for a press conference concerning proposed legislation regarding elephants in circuses.

The Fund has also made contributions to the Wildlife Advocacy Project for that organization's advocacy and public education work on the issue of the treatment of elephants held in captivity. Although The Fund makes these contributions with the understanding that WAP may use the money however it chooses in conjunction with its advocacy and public education work concerning elephants in captivity, The Fund is aware that the contributions have been used by WAP to support Mr. Rider's important public education and media efforts

concerning the treatment of elephants in the circus. The following documents reflecting these contributions are hereby incorporated by reference: F 4487-4492.

On several occasions in 2001, 2002 and 2003, The Fund also provided some funds indirectly to Mr. Rider through reimbursements to the law firm Meyer & Glitzenstein. Those funds were transferred to Mr. Rider by Meyer & Glitzenstein, and billed to The Fund as a cost for media work.¹

The amount of funds that The Fund contributed to Mr. Rider's public education work in this fashion – including the fees for the wire transfers – amounts to approximately \$4,433.00, and is reflected in Meyer & Glitzenstein invoices being produced by The Fund, see F 4493-4516. Some of these invoices are addressed to the American Society for the Prevention of Cruelty to Animals, because, at the time, the Meyer & Glitzenstein billing system created one detailed bill for all three plaintiff organizations addressed to the ASPCA (as the lead plaintiff), and each individual group received a cover sheet specifying the amount that group was being billed, as well as any specific expenses charged only to that group. The phrase "Shared Expense" in an invoice, see, e.g., F 4499, means that the expense was shared equally among the groups. The phrase "special expense" in an invoice, see, e.g., F 4493, means that the specified expenses were billed only to the client to whom the invoice is addressed. Similarly, due to a change in the

¹Mr. Markarian was asked at his June 2005 deposition whether "the fund ever paid Mr. Rider any money." Transcript of June 22, 2005 Deposition of Michael Markarian at 157. Mr. Markarian identified the \$1000 in direct payments made to Rider mentioned above, see Transcript of June 22, 2005 Deposition of Michael Markarian at 157-159, but did not identify these other funds at that time because they were itemized as reimbursements for expenses paid within a legal invoice, rather than direct payments from the Fund to Mr. Rider, and thus Mr. Markarian did not focus on them in response to the question at the deposition.

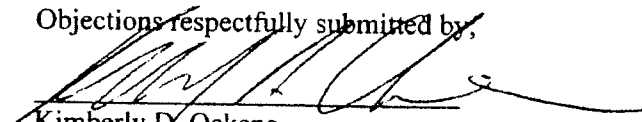
invoicing system, the phrase "Additional Charges from Primary Client" in the April 11, 2003 invoice, F 4511, means that that particular item was shared among the clients. In that same invoice, F 4511, the phrase "Additional Charges" means that only The Fund was charged for that item.

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 their previous objections to this Interrogatory, The Fund states that, to date, it has spent approximately \$12,870.70 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)
Katherine A. Meyer
(D.C. Bar No. 244301)
Tanya M. Sanerib
(D.C. Bar No. 473506)
Howard M. Crystal
(D.C. Bar No. 446189)

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

Dated: September 24, 2007

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE)
PREVENTION OF CRUELTY TO)
ANIMALS, <u>et al.</u> ,)
)
Plaintiffs,)
)
v.)
)
RINGLING BROS. AND BARNUM)
& BAILEY CIRCUS, <u>et al.</u> ,)
)
Defendants.)

Civ. No. 03-2006 (EGS/JMF)

VERIFICATION

I, MICHAEL MARKARIAN, declare as follows:

1. I am employed as the President of the Fund for Animals ("The Fund"). The Fund is a plaintiff in this case.

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

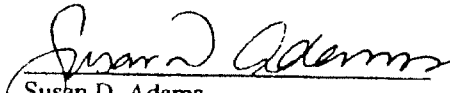
Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge.


Michael Markarian

Dated: September 24, 2007

State of Maryland
County of Montgomery

Subscribed and sworn to before me this 24th day of September 2007.


Susan D. Adams
Notary Public

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/JMF)

**PLAINTIFF THE FUND FOR ANIMALS' 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 The Fund for Animals ("The Fund") hereby offers the following supplemental or amended responses 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. The Fund hereby incorporates by reference the definitions and the general and specific objections that it made in its original and January 31, 2007 responses 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.

Interrogatory No. 17: Describe any and all positions you have taken, held, or espoused as regards the presentation of elephants in circuses, the date on which you adopted or espoused each such position, whether you still hold such position, and the manner in which you communicated the position to your membership or to others, including to government officials or persons in the business of operating circuses.

Supplemental Response to Interrogatory No. 17:

Subject to and without waiving its previous objections to this Interrogatory, The Fund states that it has not changed its positions as stated in its prior Interrogatory responses, and that the manner in which it has communicated any such positions is reflected in supplemental documents that it has provided to defendants, F 4517-4522, and 4525.

Interrogatory No. 18: Describe any and all positions you have taken, held, or espoused as regards the use of ankuses to train, handle, or care for elephants, the date on which you adopted or espoused each such position, whether you still hold such position, and the manner in which you communicated the position to your membership or to others, including to government officials or persons in the business of operating circuses.

Supplemental Response to Interrogatory No. 18:

Subject to and without waiving its previous objections to this Interrogatory, The Fund states that it has not changed its positions as stated in its prior Interrogatory responses, and that the manner in which it has communicated any such positions is reflected in supplemental documents that it has provided to defendants, F4517-4522, and 4525.

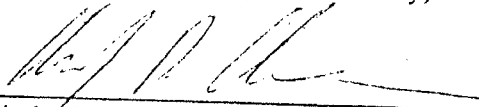
Interrogatory No. 21: Identify each resource you have expended from 1997 to the present in “advocating better treatment for animals held in captivity, including animals used for entertainment purposes” as alleged in the complaint, including the amount and purpose of each expenditure.

Objection and Response to Interrogatory No. 21:

Subject to and without waiving its previous objections to this Interrogatory, The Fund states that since January 2007, the Fund has expended approximately \$72,529.87 advocating better treatment for animals held in captivity, including animals used for entertainment purposes, through its website and other online communications. This amount was expended on consulting

and hosting fees incurred in creating and maintaining the Fund's website. Additional information concerning funding that The Fund has provided either directly or indirectly to support a media and public education campaign on behalf of elephants in circuses – including the work of Tom Rider – was provided in The Fund's September 2007 supplemental interrogatory responses. Since those responses were submitted, The Fund has provided no additional funds for the media and public education campaign, either directly or indirectly.

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 29, 2008

VERIFICATION

I, MICHAEL MARKARIAN, declare as follows:

I am employed as the President of The Fund for Animals. The Fund for Animals is a plaintiff in this case. I have read the foregoing objections and supplemental responses to Defendants' Interrogatories to Plaintiff The Fund for Animals 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 is true and correct.

1/29/08
Date


Michael Markarian

State of Maryland
County of Montgomery.

Subscribed and sworn to this 29th day of January 2008.


Susan Adams
Notary Public
My Commission Expires: 6/21/2011