

Feld Entertainment, Inc.'s Responses and Counter Designations
FEI Exhibit 315A

Joseph T. Frisco, Jr.

SUBJECT TO PROTECTIVE ORDER
Washington, DC

December 7, 2007

Page 1

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF COLUMBIA

3 -----X

4 AMERICAN SOCIETY FOR THE :

5 PREVENTION OF CRUELTY TO :

6 ANIMALS, et al., :

7 Plaintiffs, :

8 vs. : Civil Action No.

9 RINGLING BROTHERS AND : 03-2006 (EGS/JMF)

10 BARNUM & BAILEY CIRCUS, :

11 et al, :

12 Defendants. :

13 -----X

14 Washington, D.C.

15 Friday, December 7, 2007

16

17 SUBJECT TO PROTECTIVE ORDER

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1 Videotaped Deposition of JOSEPH T.
2 FRISCO, JR., a witness herein, called for
3 examination by counsel for the plaintiffs in
4 the above-entitled matter, pursuant to notice,
5 the witness being duly sworn by KATHY SAVICH,
6 a Notary Public in and for the District of
7 Columbia, taken at the offices of Meyer,
8 Glitzenstein & Crystal, 1601 Connecticut
9 Avenue, N.W., Washington, D.C., at 9:45 a.m.,
10 Friday, December 7, 2007, and the proceedings
11 being taken down by Stenotype by KATHY SAVICH,
12 RPR, and transcribed under her direction.

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1 responsibilities at the CEC?

2 A. Elephant husbandry.

3 Q. Can you be more specific about what
4 you mean by that?

5 A. Feeding, watering, foot care,
6 bathing, exercise, medical attention.

7 Q. Did you actually administer any
8 medical care to the elephants while you were
9 at the CEC?

10 A. No.

11 Q. So when you say "medical
12 attention," what did you mean by that?

13 A. I just -- assisting with the vets.

14 Q. Okay. How long did you work at the
15 CEC?

16 A. Almost a year.

17 Q. And did you work with all of the
18 elephants at the CEC?

19 A. Most.

20 Q. Are there any you did not work
21 with?

22 A. No.

1 Q. Let's talk about a daily schedule.

2 A. Okay.

3 Q. Is there a daily schedule for the
4 elephants?

5 A. Yes.

6 Q. Okay. Could you describe the daily
7 schedule for the red unit elephants?

8 A. I come in in the morning between
9 6:30 and 7:00.

10 Q. Do you actually live on the train?

11 A. No. I live about five feet from
12 the elephant tent.

13 Q. In what kind of --

14 A. In an RV.

15 Q. Do you travel in the RV when the --
16 when the red unit is traveling from city to
17 city?

18 A. On short jumps, yes.

19 Q. Okay. And on longer jumps?

20 A. I ride the train.

21 Q. All right. So -- I'm sorry.

22 Continue. You arrive between 6:30 and 7:00.

1 A. The first thing I do is go down and
2 make a visual inspection of all the elephants.

3 Q. Now, at that point in time, are the
4 elephants on chains?

5 A. Yes.

6 Q. Are all of the elephants on chains?

7 A. Yes.

8 Q. And have they been on chains
9 throughout the night?

10 A. Yes.

11 Q. And when would they have been
12 chained up for the night?

13 A. Between 9:30 and 10:00 at night.

14 Q. Okay. So you do a visual
15 inspection. Then what happens?

16 A. I come in and sweep them all off.

17 Q. You sweep off the elephants?

18 A. And use a blower.

19 Q. When you say "a blower," what do
20 you mean?

21 A. It's a gas blower. Leaf --

22 Q. Like a leaf blower?

1 A. Yes.

2 Q. Does the noise bother the
3 elephants?

4 A. No.

5 Q. It doesn't bother them at all?

6 A. No.

7 Q. I mean, do they react to the noise
8 of the leaf blower?

9 A. No.

10 Q. They just stand still while you're
11 using a leaf blower to blow them off?

12 A. Try to stick their nose in the end
13 of it and play with the air and open their
14 mouths, so you'll -- they kind of enjoy it.

15 Q. They enjoy the leaf blower?

16 A. Yes.

17 Q. All right. Then what happens?

18 A. Then they're all turned loose.

19 Q. Turned loose where?

20 A. Inside the tent. There is an
21 electric fence put up.

22 Q. Okay. And when you say they're all

1 turned loose inside the tent with the electric
2 fence, how big an area are we talking about?

3 A. I couldn't -- it's -- it's 90 foot
4 wide by 130 feet long.

5 Q. And all ten elephants are put in
6 that area?

7 A. For the night, yes.

8 Q. All right. I'm talking about
9 when -- after you are done blowing them off,
10 apparently they're unchained. You said
11 they're turned loose.

12 A. As soon as they're swept off,
13 they're turned loose.

14 Q. Okay. That means the chains are
15 taken off?

16 A. Exactly.

17 Q. Okay. And --

18 A. Then they're watered.

19 Q. But before we get to that, they
20 are -- all ten of the elephants, the chains
21 are taken off. And about what time does that
22 occur that the chains are taken off?

1 A. Between 6:30 and 7:00 in the
2 morning.

3 Q. After you -- but after you're done
4 with your visual inspection --

5 A. I just kind of walk down the line.

6 Q. After you're done with your visual
7 inspection and the sweeping of the elephants,
8 that's when the chains are taken off, correct?

9 A. Right.

10 Q. All right. And they're -- all ten
11 of the elephants are then -- the chains are
12 taken off, and they're in this area which is
13 90 feet wide by 30 feet long?

14 A. 130 feet long.

15 Q. Oh, 130 feet. Okay. But all ten
16 are in the same area?

17 A. They're partitioned.

18 Q. Okay. Let's --

19 A. Three different --

20 Q. Go ahead.

21 A. Three different areas.

22 Q. All right. What are the three

1 different areas?

2 A. Asia, Tonka and Luna.

3 Q. All right.

4 A. Aussan, Banana, Sarah.

5 Toby, Bangko, Siam and Baby.

6 Q. You lost me on -- I'm sorry. The
7 second grouping was Aussan --

8 A. -- Banana --

9 Q. Banana, okay.

10 A. -- and Sarah.

11 Q. Got it. Okay. And there's a
12 partition, then, between each of these three
13 areas; is that correct?

14 A. Yes, it's about that big, two
15 strands of wire.

16 Q. Two strands of wire?

17 A. Electric fence.

18 Q. Okay. So there is an electric
19 fence between each of these three groups?

20 A. Right.

21 Q. All right. So they can't get to
22 the other area without getting an electric

1 shock; is that correct?

2 A. Well, it's not on most of the time.

3 Q. But that's why it's there, is that
4 correct, to keep them from intermingling?

5 A. Right. Right.

6 Q. All right. So then what happens?
7 We're still doing the daily schedule.

8 A. We stopped at watering, right?

9 Q. Oh, I'm sorry. Then they get
10 water?

11 A. Yes.

12 Q. Okay. And then what happens?
13 Sorry. They get water at what time?

14 A. We turn them loose between 6:30 and
15 7:00.

16 Q. Okay.

17 A. Okay. And the watering takes
18 between -- between a quarter after 7:00 and
19 8:00.

20 Q. Then what happens next?

21 A. We wash them, bathe them.

22 Q. All right. And that's from 8:00 to

1 8:30?

2 A. No. I --

3 Q. Longer than that?

4 A. -- wish.

5 Q. 9:00? I mean, what time?

6 A. It usually takes two-and-a-half
7 hours to bathe everybody.

8 Q. Okay. Because there's ten
9 elephants?

10 A. Right.

11 Q. All right. So that goes on until
12 about 10:30?

13 A. 11:00. 10:30, 11:00.

14 Q. All right. And then what?

15 A. They're -- if we have no shows that
16 day, we exercise them.

17 Q. How long are they exercised for?

18 A. Between 25 minutes and 35 minutes.

19 Q. All right. And what does that
20 consist of?

21 A. Walking the perimeter of the
22 elephant compound or, if the weather doesn't

1 permit, we do circles inside the tent.

2 Q. And how many cities does the red
3 unit visit a year, and how many different
4 venues, approximately?

5 A. I don't keep track, so some venues
6 are two weeks, some venues are a week. 30.

7 Q. And of those approximate 30
8 different venues, how many of them would you
9 say are, at least in your experience, which
10 would be, I guess, mostly last year and some
11 of the year before -- or all of last year, how
12 many of those were outdoor -- I'm sorry.
13 Strike that.

14 Of the 30 venues in your experience
15 being on the red unit, how many of those
16 allowed you to walk the animals during the
17 exercise period outdoors?

18 A. Walk them outdoors?

19 Q. Well, you said you walk them on the
20 perimeter. That's not outdoors? I'm sorry.

21 A. Right.

22 Q. Oh, that's what I thought it was.

1 A. Yeah.

2 Q. Okay. So I'm just trying to figure
3 out -- you said, if you can -- if you can, you
4 walk them outdoors on the perimeter --

5 A. Right.

6 Q. If you can't, you walk them in
7 circles indoors, right?

8 A. Right.

9 Q. I'm just trying to figure out the
10 breakdown of venues, how many are indoor, how
11 many are outdoor for this exercise period.

12 MS. PARDO: I am just going to
13 object to the -- something in your testimony.
14 You said he walks them indoors; I think his
15 testimony was he walks them in the tent.

16 MS. MEYER: Okay.

17 THE WITNESS: Yeah. That's --

18 BY MS. MEYER:

19 Q. In the tent?

20 A. In the tent, which is outdoors.

21 Q. Well, this building is outdoors,
22 too, but we're inside the building, so that's

1 what I meant.

2 A. Over half.

3 Q. Okay. So it's about 50-50?

4 A. I would say a little bit more that

5 they're -- we get them outside as much as

6 possible.

7 Q. Over half you're able to walk them

8 outside?

9 A. Right.

10 Q. During the exercise period?

11 A. Right.

12 Q. Okay. And the other half or

13 less -- whatever is left, it's walking in

14 circles inside the tent; is that correct?

15 A. Yes.

16 Q. Okay. All right. Now, you said if

17 there are no shows, that's the exercise

18 routine. What if there is a show?

19 A. We do it directly before the

20 routine.

21 Q. When you say that, you mean

22 directly before taking the elephants out to

1 perform?

2 A. Within a 20- or 30-minute period.

3 Q. But other than the timing of it, is
4 the exercise routine the same?

5 A. Yes.

6 Q. All right. So if you're at a place
7 where you can't take them outside, you're
8 walking them in circles inside a tent?

9 A. Yes.

10 Q. All right. And if you have more
11 than one show -- sometimes you have more than
12 one show in a day; is that correct?

13 A. Yes.

14 Q. And if you have more than one show
15 in a day, do you exercise them each time you
16 take them out?

17 A. Yes.

18 Q. All right. Typically, how many
19 shows are there in a day?

20 A. One to two.

21 Q. And how often are there two shows a
22 day?

1 A. I've only been here for -- my
2 experience with it is most of the -- you don't
3 get to two shows until, like, Friday and
4 Saturday. Most of them are Wednesday,
5 Thursday, and there might be two shows on
6 Friday.

7 Q. Okay. All right.
8 So when there's only one show, the
9 exercise you described is the -- is the -- is
10 the usual routine for exercise; is that
11 correct?

12 A. Right.

13 Q. Okay. And if there's no show --

14 A. -- we do it in the morning.

15 Q. You do it in the morning. Okay.

16 So that's where we left off.

17 All right. So how long does that
18 take? You said about 25 to 35 minutes?

19 A. Right.

20 Q. So where does that take us to in a
21 usual day? About 12:30?

22 A. Right.

1 Q. All right. And then what happens?

2 A. They get turned out in the

3 paddocks.

4 Q. And what does that mean?

5 A. If we're outside and the weather is
6 good, they're turned outside on the sand. And
7 we have outside paddocks built outside the
8 tent where they can go in and out.

9 Q. All right. And is that -- are any
10 of the elephants chained in the paddock?

11 A. No, not anymore. In the beginning
12 there were two.

13 Q. You say, "in the beginning." When
14 are you talking about?

15 A. When I first went to the red show.

16 Q. Okay. So that was January of '07?

17 I'm lost on the time.

18 A. Well, when I went to winter
19 quarters.

20 Q. When you went to winter quarters?

21 A. Right.

22 Q. Which was December of '06?

1 A. This is -- the tent is here.

2 There's three areas in the tent that are
3 inside areas.

4 Q. Right.

5 A. Now, when you go to the edge of the
6 tent are three more larger areas. The same
7 group of elephants that go here go in this
8 paddock.

9 Q. Okay.

10 A. So Luna is in this paddock --

11 Q. Right.

12 A. -- on a tether -- was on a tether
13 in this -- with the other two elephants. And
14 Banana is in the next one.

15 Q. Got it. That's what I thought.

16 A. Yes.

17 Q. And when you say "on a tether,"
18 you're talking about a chain?

19 A. Right.

20 Q. All right. And why were Luna and
21 Banana kept on a chain during some period of
22 time when you were in winter quarters in the

1 paddock area?

2 A. Luna had a -- she has a habit of
3 eating anything that blows into the area or
4 comes near the area.

5 Q. So the reason for the chain was to
6 keep her from eating things that --

7 A. Right.

8 Q. -- you didn't want her to eat?

9 A. Right.

10 Q. Okay. And what about Banana?

11 A. She's like a grumpy old lady,
12 didn't get along with a few of the other
13 elephants.

14 Q. So she was chained because of that?

15 A. Well, to keep from -- so no one
16 would get hurt.

17 Q. Because she might hurt the other
18 elephants?

19 A. So no elephants would become
20 harmed.

21 Q. Because Banana might harm them?

22 A. Have you ever seen elephants argue

1 Luna and Banana also kept on a chain for some
2 period of time?

3 A. During the washing and stuff?

4 Q. Yes.

5 A. No.

6 Q. No? Okay.

7 But when the elephants were let
8 into the paddock area, Luna and Banana -- and
9 again, you were saying this was for some
10 period of time; it's no longer -- and I do
11 want to talk about that -- were chained,
12 correct?

13 A. Yes.

14 Q. Okay. And how long did this go on
15 for Luna and Banana, when they were in the
16 paddock area, had to be put on a chain, after
17 you got there, as far as you know?

18 A. After I got there?

19 Q. Yeah.

20 A. About three weeks.

21 Q. Three weeks. And is it your
22 understanding that, prior to your coming to

1 the red unit, Luna -- this was the practice,
2 that Luna and Banana were kept on chains in
3 the paddock area?

4 A. Right.

5 Q. Okay. So this was a change in the
6 regular routine when they were taken off
7 chains, I guess, in the paddock area after you
8 had been there for three weeks?

9 A. Yes.

10 MS. PARDO: Objection to the form.

11 BY MS. MEYER:

12 Q. Okay. And why was there a change
13 in the routine?

14 A. I felt they didn't need it.

15 Q. Okay. What changed your mind? Or
16 why did you feel that they didn't need it?

17 A. I just didn't. I just watched them
18 for three weeks, and they didn't show any sign
19 of -- maybe by them being tethered for that
20 period of time, it taught them a lesson.

21 Q. Okay. Did you do any special work
22 with Luna or Banana to get them to the point

1 Q. With the hooked end of the bull

2 hook?

3 A. No.

4 Q. With the handle end of the bull

5 hook?

6 A. Right.

7 Q. Why did you do that?

8 A. I can't -- I can't remember exactly

9 why.

10 Q. Okay. Are you done?

11 A. Yes.

12 Q. Okay. So you were describing this
13 training before -- I was asking you how an
14 elephant knows what the bull hook means, and
15 you said they're taught that. And then you
16 described using the soft cotton rope and
17 lifting the elephant's leg, and there's
18 usually carrots or apples, some kind of treat,
19 right?

20 A. Not --

21 Q. Always. Always, right? Correct?

22 A. Yes.

1 A. Alex Petrov.

2 Q. Where is Alex Petrov?

3 A. I don't have any idea.

4 Q. Do you know who Alex Petrov is?

5 A. Yes.

6 Q. Who is he?

7 A. He did work on the gold show.

8 Q. Do you know when he stopped working
9 on the gold show?

10 A. This season.

11 Q. When you say "this season," can you
12 give me a date?

13 A. I'm not sure when the gold show
14 closed.

15 Q. Sometime in the year 2007, then?

16 A. Right.

17 Q. All right. Let's get back to the
18 schedule. We got off on that a little bit --
19 a lot, actually. We were doing the red unit
20 schedule, and we were at the place during the
21 day when they're in the paddock.

22 And let's talk about -- let's leave

1 winter quarters and just talk about on the
2 road. All right? And currently on the road I
3 want to talk about the schedule.

4 So they're in the paddock. And how
5 big is the paddock?

6 A. It depends on the venue.

7 Q. All right.

8 A. The tent is -- most of the pens are
9 over -- they're over 50 feet wide and usually
10 anywhere from 60 to 80 feet long.

11 Q. Now, you just used the words pens.
12 Are you using paddocks --

13 A. Paddocks, pens.

14 Q. I'm just trying to be clear about
15 that. You're using paddocks and pens to mean
16 the same thing?

17 A. Right.

18 Q. All right. What's the smallest
19 paddock that you're familiar with during your
20 time on the red unit?

21 A. Now, we're talking about those --
22 each individual paddock is what we're talking

1 about, right?

2 Q. I don't know. What were you

3 talking about?

4 A. No. Those measurements I just gave

5 you were each individual --

6 Q. For each of the groups.

7 A. There's three --

8 Q. For each of the groups.

9 A. Right.

10 Q. For each of the groups.

11 A. Right.

12 Q. Okay.

13 A. Right. Probably 50-by-50. And

14 I'm -- that's a guess.

15 Q. All right. Do you know -- have you

16 gone to visit the blue unit at all?

17 A. No, I have not.

18 Q. Okay. So how long are the

19 elephants in the -- on a typical day, how long

20 are they in the paddock area?

21 A. All day.

22 Q. All day. And this is when there is

1 no show, they're in there all day; is --

2 A. All day.

3 Q. -- that correct?

4 Until it's time to --

5 A. Up till 8:30, 9:00 at night.

6 Q. And then what happens to them?

7 A. They're swept off, brought in,

8 given a drink of water and tied up.

9 Q. When you say "tied up," you mean

10 put on chains?

11 A. Yes.

12 Q. For the night?

13 A. Yes.

14 Q. And when there is a show, how does

15 the routine differ?

16 A. They're only brought in out of the

17 paddocks to sweep them up for their routines

18 in the show. Then they're put back out.

19 (Discussion off the record.)

20 BY MS. MEYER:

21 Q. When you say they're swept off, is

22 that with -- again, with the leaf blower that

1 you described earlier?

2 A. And a brush.

3 Q. Okay. So when there's a show --

4 I'm sorry -- what's the routine?

5 A. They're left in the paddocks until

6 show time. Then they're brought in and swept

7 and washed off for the show.

8 Q. Okay. So what time would that be

9 on a day that there's a show?

10 A. It depends on what time the shows

11 are.

12 Q. All right. What's a typical time

13 for a show?

14 A. 7:30.

15 Q. All right. So if it's a 7:30 show,

16 what time would the elephants come out of the

17 paddock?

18 A. Probably a quarter after 6:00.

19 Q. All right. And you can describe

20 what happens with the elephants from the time

21 they come out of the paddock to when they go

22 out on the show.

1 A. They're swept off and given --
2 they're rinsed off with a hose. Then they put
3 their head gear on, head pieces. And then
4 they're thrown some hay.

5 Q. They're thrown hay at that point to
6 eat?

7 A. They have hay all through the day.

8 Q. Okay. Why are they thrown hay
9 before they go out and perform?

10 A. Because they eat all day.

11 Q. It's to eat? Okay. Because I
12 thought you said they were just swept off with
13 the leaf blower.

14 A. Right.

15 Q. Isn't there a risk that they'll
16 throw some hay on their backs?

17 A. No.

18 Q. There is no risk of that? Why not?

19 A. They've been doing it so long,
20 once -- they know once you put the head pieces
21 on, they're going in to work.

22 Q. So once you put the head pieces on

1 them, they know not to throw hay on their
2 backs?

3 A. Right. And if they do, they just
4 take a leaf blower over there and blow it back
5 off. It's not a big deal.

6 Q. Would there be a negative
7 consequence for an elephant who put hay on its
8 back once its head piece is on.

9 A. No.

10 Q. No negative reinforcement?

11 A. No.

12 Q. You don't really care if the
13 elephants put hay on their back once they've
14 been swept off and their head pieces are put
15 on?

16 A. Maybe the guy that's got to go over
17 there and blow them off does, but I don't.

18 Q. You don't care about that?

19 A. (Shaking head.)

20 Q. Okay. And then they go in and
21 there's a performance?

22 A. Well, ten minutes before they go

1 in, the hay is swept up, and they blow the
2 area down, blow their feet off, and any hay
3 that's on their backs. The reason they're
4 washed is for the dirt.

5 Q. All right.

6 A. The hay is not a big deal.

7 Q. So now we're up to about 7:20 on a
8 day when there's a 7:30 show; is that correct?

9 A. About 7:20 -- about 7:10, 15,
10 that's when they start sweeping the hay up.

11 Q. Okay. And we're talking 7:15 p.m.,
12 correct?

13 A. Right.

14 Q. All right.

15 A. And then they sweep the hay off
16 and -- blow and sweep the excess hay off the
17 elephants' feet.

18 Q. All right.

19 A. And then they're taken over to the
20 backstage area for blankets.

21 Q. All right. The blankets are part
22 of the costume?

1 A. Right.

2 Q. All right.

3 A. Once the blankets are on, they
4 do -- they go through opening.

5 Q. The opening is part of the show?

6 A. Right.

7 Q. And how long are the elephants in
8 the opening?

9 A. Four minutes at the most.

10 Q. All right. And then what happens
11 to them?

12 A. They go back and the blankets are
13 taken off.

14 Q. But the head pieces remain on?

15 A. Right.

16 Q. All right. And then what happens?

17 A. Then they go back to the tent and
18 they're thrown more hay.

19 Q. When they go back to the tent, are
20 they put on chains?

21 A. No.

22 Q. Okay. But they go back into the

1 same configuration they were in in the morning

2 when you let them loose in the --

3 A. Right.

4 Q. In the tent --

5 A. Right.

6 Q. -- area.

7 THE REPORTER: I'm sorry.

8 BY MS. MEYER:

9 Q. When they go back to the tent area,

10 they're not put on chains, correct?

11 A. Right.

12 Q. And then what happens on a day when
13 they're -- we're doing the 7:30 show example.

14 A. They're thrown more hay.

15 Q. All right.

16 A. Until after intermission -- or at
17 intermission is when they sweep the floor
18 again and --

19 Q. All right.

20 A. -- sweep all the elephants off.

21 Q. And then at some point do the
22 elephants actually go back in and perform in

1 Q. All right. And then after the show
2 is over, what happens to the elephants?

3 A. After the 7:30 show is over?

4 Q. Yes.

5 A. They come back from the -- well, we
6 exercise them before we go to the --

7 Q. All right. And how long does that
8 take?

9 A. Usually we do it about 20 to 25
10 minutes before we work.

11 Q. All right.

12 A. And then -- then they go and we do
13 the show. Then when they're brought back,
14 their head pieces are taken off, they're tied
15 up.

16 Q. When you say, "tied up," you mean
17 chained, right? Correct?

18 A. Yes.

19 Q. Okay.

20 A. And they're given a drink of water,
21 and then they're fed their produce and sweet
22 feed for the night.

1 Q. Okay.

2 A. Bedded down in sawdust.

3 Q. So at the time that they're tied

4 up, chained, in the evening after the

5 performance, then they're on the chains until

6 the next morning; is that correct?

7 A. Until 6:30, 7:00, right.

8 MS. MEYER: Okay. Perfect place to
9 stop.

10 THE VIDEOGRAPHER: This concludes
11 tape 2 in the deposition of Joseph T. Frisco,
12 Junior. Off the record at 12:35:56.

13 (Lunch recess.)

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1 and given a drink of water.

2 Q. Okay. And what about fed?

3 A. As soon as they're done finished
4 drinking, everybody has drank as much as they
5 want, then they're given their food and
6 vegetables and sweet feed.

7 Q. So that -- the watering and the
8 feeding also occurs between 9:30 and 10:00 --

9 A. Right.

10 Q. -- on a day when there's a 7:30
11 show; is that correct?

12 A. Yes.

13 Q. All right. And is a 7:30 p.m. show
14 the latest show that there usually is?

15 A. Yes.

16 Q. All right. And when there's a day
17 when there is no show, what time, in the usual
18 schedule, would the animals be chained for the
19 night?

20 A. Between 8:30 and 9:00.

21 Q. So it's a little earlier?

22 A. Right.

1 Q. Okay. And would they then be
2 watered and fed at that point, too?

3 A. Yes.

4 Q. Okay. But they would be chained
5 first and then watered and fed; is that
6 correct?

7 A. Right.

8 Q. Okay. Now, before you were hired
9 by Feld Entertainment to work at the CEC, I
10 want to talk about what experience you had had
11 working with elephants. If you could tell me,
12 when is the first time you ever worked with
13 elephants?

14 A. My father had elephants. I was
15 around elephants from the time I was five
16 years old.

17 Q. What's your father's name?

18 A. Joe Frisco, Senior.

19 Q. Okay. Did he ever go by any other
20 name?

21 A. Just Friscia.

22 Q. Okay. That you spoke of earlier?

1 A. Yes.

2 Q. All right. And when you say he had
3 elephants, in what capacity did he have
4 elephants when you were five years old?

5 A. Let me clarify. He still has
6 elephants.

7 Q. Oh, he still has them?

8 A. Yes.

9 Q. All right. But I want to start
10 with the earlier years, then. What was he --
11 why did he have elephants?

12 A. Well --

13 Q. When you first started working with
14 him, why did he have elephants?

15 A. When I first started, he managed
16 the zoo in Peoria, Illinois. He was the zoo
17 director.

18 Q. Okay. And did you have an
19 opportunity to work with any of the elephants
20 at the zoo in Peoria, Illinois?

21 A. I was very young, but I had
22 interactions with them, yes.

1 Q. Okay. And were these both Asian
2 and African elephants?

3 A. At the zoo, they were Asian.

4 Q. All right. And when did you first
5 actually begin handling elephants?

6 A. Probably 13, 14 years old.

7 Q. All right. And were you working
8 for your father at the time?

9 A. Yes.

10 Q. And what kind of a business did
11 your father have?

12 A. He was the director of the zoo in
13 Peoria.

14 Q. Okay. Now, were the animals -- the
15 elephants at the zoo when you were 13 or 14
16 elephants that were performing any kind of
17 tricks at the zoo?

18 A. They did educational shows there at
19 the zoo.

20 Q. All right. Did the elephants give
21 elephant rides?

22 A. At one point, yes.

1 principally responsible for handling the 12 to
2 13 elephants?

3 A. Right.

4 Q. Is that a lot of elephants for
5 three people to handle?

6 A. No. We had three trainers there,
7 but we had handlers that were -- I can't
8 remember their names.

9 Q. I see. Okay. So you were the
10 three trainers --

11 A. Right.

12 Q. -- and, in addition, there were
13 some handlers who --

14 A. Right.

15 Q. -- helped you out? Okay.

16 A. Right.

17 Q. And when you say you were trainers,
18 what were you training the elephants to do?

19 A. Nothing. All we did was elephant
20 rides.

21 Q. Have you ever trained an elephant
22 to give an elephant ride?

1 A. Yes. I put my daughter up on her
2 back and walk her around. And -- it's pretty
3 simple.

4 Q. Who taught you how to train an
5 elephant to give an elephant ride?

6 A. Who taught me?

7 Q. Yeah.

8 A. I just watched my dad do it with...

9 Q. And how do you -- I mean,
10 elephants -- strike that.

11 As I understand it, elephants are
12 usually fearful of strangers; is that correct?

13 A. Not to my knowledge.

14 Q. How do you teach an elephant to let
15 a human being get on its back?

16 A. We just take them over to the ride
17 platform. First you get the elephant used to
18 walking into the ride platform. And then you
19 just slide somebody up on her neck, give her
20 bread or apples or whatever and walk her
21 around.

22 Q. When you say the "ride platform,"

1 this down for me, because it seems like
2 there's several steps here in teaching the
3 elephant to give an elephant ride.

4 If I understand what you've told me
5 so far, there's getting the elephant to go
6 over to the platform, correct?

7 A. It's kind of like training a horse
8 to ride on his back.

9 Q. Okay. You also have to get the
10 elephant to accept the howdah, right, on its
11 back?

12 A. Most -- not all elephants will do
13 elephant rides for their personalities -- some
14 accept it; some don't.

15 Q. Okay. For the ones that accept it,
16 how do you get them to accept it?

17 A. They just accept it. You just set
18 it up there and feed them bread and they...

19 Q. That's all you have to do?

20 A. That's all I've ever had to do.

21 Q. Have you ever had to use negative
22 reinforcement when you're training an elephant

1 to accept the howdah on its back?

2 A. No.

3 Q. Never done that? Just positive

4 reinforcement?

5 A. If -- if she rejected the howdah,

6 we just would take it off of her and not deal

7 with it.

8 Q. Okay. And how much does a howdah

9 weigh?

10 A. I could pick it up by myself, raise

11 it over my head.

12 Q. So do you have any idea how much it

13 would weigh, then?

14 A. They're made out of aluminum, so 45

15 to 55 pounds.

16 Q. Okay.

17 A. That's not all in one area. It's

18 spread out over a...

19 Q. If you wanted to teach an elephant

20 to give elephant rides, would it be -- at what

21 age do you start that training of the

22 elephant?

1 Q. Okay. And how old is he?

2 A. In his 30s.

3 Q. Where does he work?

4 A. With my father.

5 Q. So your father still has elephants?

6 A. Yes.

7 Q. Okay. How many does he have?

8 A. Two.

9 Q. Who are they?

10 A. Dumbo and Gina.

11 Q. Dumbo and Zino?

12 A. Gina.

13 Q. Gina. And are they Asians?

14 A. No, they're Africans.

15 Q. They're both Africans? And what
16 kind of operation does your father have?

17 A. They travel to fairs and do
18 educational shows.

19 Q. Okay. And Terry works with your
20 father, doing that?

21 A. Works the elephants.

22 Q. Oh, he does?

1 A. Right.

2 Q. Okay. Now, did Terry learn how to
3 handle elephants from your father?

4 A. Yes.

5 Q. All right. And did Tim also learn
6 to handle elephants from your father?

7 A. He started there.

8 Q. Do you know what other kind of
9 training he had?

10 A. No, I don't.

11 Q. Okay. You don't know who else he
12 trained with?

13 A. No, I don't.

14 Q. Did he get his basic training from
15 your father?

16 A. Basic -- I would say basic, yes.

17 Q. Okay. So all three of you sons got
18 your basic training from your father?

19 A. Right.

20 Q. So do all three of you use the same
21 basic handling methods with elephants?

22 A. I can't answer for --

1 MS. PARDO: Objection. Calls for
2 speculation.

3 THE WITNESS: I can't answer for my
4 brothers.

5 BY MS. MEYER:

6 Q. Have you --

7 A. I know I do.

8 Q. Sorry. Go ahead.

9 A. I know I do.

10 Q. Okay. Have you ever observed Terry
11 Frisco handling elephants?

12 A. Yes.

13 Q. Does he use the same basic methods
14 that you use?

15 A. It appears to me, yes.

16 Q. Okay. And have you ever observed
17 Tim Frisco handling elephants?

18 A. Yes.

19 Q. And does he use the same basic
20 methods that you use?

21 A. It's -- it's all about the same.

22 Q. Okay. You mentioned a while ago

1 trunk -- T.B. procedures. Is that a trunk

2 wash? Is that what we're talking about?

3 A. Yes.

4 Q. Okay. Have you ever given an

5 elephant a trunk wash?

6 A. Yes.

7 Q. How many times have you done that?

8 A. Many.

9 Q. Many. Okay. Actually, before we
10 get to that, I'm not sure I was -- let's
11 finish your employment history. When did you
12 leave Carson & Barnes?

13 A. When I went to work for --

14 Q. The CEC?

15 A. The CEC.

16 Q. So we are up to the present, okay.

17 And -- so you've given many trunk
18 washes?

19 A. Yes.

20 Q. Is there any other kind of test to
21 see if an elephant has T.B. that you're aware
22 of?

1 A. They used to give a skin test on
2 the elephants.

3 Q. Anything else?

4 A. No.

5 Q. All right. So how many trunk
6 washes have you given to elephants in your
7 career?

8 A. It's done once a year, so in the
9 last ten years it's just -- it depends on how
10 many elephants were there. But for the last
11 ten years, it's done once a year.

12 Q. Okay. And so when you were
13 describing your job responsibilities at your
14 various places of employment, was one of them
15 giving elephants trunk washes?

16 A. Well, the veterinarian has to be
17 there for that.

18 Q. Okay. But helping the veterinarian
19 perform the trunk --

20 A. Right.

21 Q. Let me finish the question.

22 Was one of your responsibilities

1 over the last ten years of working with
2 elephants helping the veterinarian perform a
3 trunk wash?

4 A. Yes.

5 Q. All right. Can you describe how
6 it's done?

7 A. Well, you get a big loaf of bread.
8 You go in there, and everybody has to put on
9 the gloves.

10 Q. Okay.

11 A. And then the elephant presents you
12 with her trunk. She puts it in your hand.
13 You hold it. And then either the vet tech or
14 the veterinarian, they'll spray -- I think
15 it's 60 cc's of saline into both sides of the
16 elephant's trunk. And then you raise it up in
17 the air a little bit, move it, and then
18 they'll put a plastic bag over her nose, and
19 then she'll blow into the plastic bag.

20 Q. Okay. And this is done to see
21 whether or not the elephant tests positive for
22 tuberculosis; is that correct?

1 at -- while you've been working on the red
2 unit?

3 A. Just a month ago.

4 Q. You started doing them a month ago?

5 A. No. We did it --

6 Q. Oh, you did them a month ago.

7 A. -- a month ago.

8 Q. Okay. And were the elephants
9 chained during the trunk wash procedure?

10 A. Yes.

11 Q. Okay. And have you ever had
12 trouble getting an elephant to submit to a
13 trunk wash?

14 A. Besides blowing it back in your
15 face? I don't understand what you --

16 Q. Well, does the elephant ever resist
17 giving you -- participating in the trunk wash
18 process?

19 A. They're conditioned for it. You
20 just don't walk up to them and say, "here,
21 we're going to do this today."

22 Q. Okay. How are they conditioned?

1 A. You just take bread, apples,
2 bananas, whatever they like to eat, and just
3 walk out there, and they stick their trunks
4 out, and they'll put them in your hand. You
5 just get them used to where your hands hold --
6 most of the elephants that have been around
7 have already had it done. I mean, the
8 elephants, they'll put their nose in your hand
9 because they refer to your hand as a treat.

10 Q. Okay. So trunk washes are all done
11 with positive reinforcement; is that correct?

12 A. That's the only way I know how to
13 do it.

14 Q. Okay. You've never had to use a
15 bull hook on an elephant during a trunk wash?

16 A. We have one --

17 Q. Have you ever had to use a bull --

18 A. No.

19 Q. -- hook on an elephant during --

20 A. No.

21 Q. -- a trunk -- you never had to
22 strike an elephant during a trunk wash?

1 she would quit grabbing at everything.

2 Q. Okay. How about Aussan? Have you
3 ever hit her with a bull hook?

4 A. No.

5 Q. How about Banana?

6 A. No.

7 Q. How about Sarah? Have you ever hit
8 any of those elephants with a bull hook?

9 A. No.

10 Q. How about Toby?

11 A. Toby, no.

12 Q. Have you ever hit Bangko with a
13 bull hook.

14 A. No.

15 Q. Have you ever hit Siam with a bull
16 hook?

17 A. (Shaking head.)

18 Q. You have to say the words for --

19 A. No. I'm sorry.

20 Q. For the reporter.

21 Have you ever hit Baby with a bull
22 hook?

1 A. No.

2 Q. Have you ever hit Asia with a whip?

3 A. I've touched Asia on the rump with
4 a whip before, yes.

5 Q. Okay. How about Tonka? Have you
6 ever hit Tonka with a whip?

7 A. Maybe on the -- I've touched her
8 with it on the -- on the end of her nose, yes.

9 Q. All right. How about Luna? Have
10 you ever hit Luna with a whip?

11 A. Yes.

12 Q. Okay.

13 A. Touched her on the end of her nose
14 with a whip.

15 Q. And how about Aussan? Have you
16 ever hit Aussan with a whip?

17 A. No.

18 Q. Ever hit Banana with a whip?

19 A. No.

20 Q. How about Sarah? Ever hit her with
21 a whip?

22 A. No.

1 Q. Have you ever hit Toby, Bangko,
2 Siam or Baby with a whip?

3 A. Bangko maybe on the tip of the
4 nose.

5 Q. All right. Have you ever use a hot
6 shot on any of these animals?

7 A. It's not permitted.

8 Q. Well, that's a different --

9 A. No.

10 Q. I'm asking a different question.

11 A. No, I have not.

12 Q. Okay. Have you ever seen Alex
13 Vargas hit any of these animals I've named
14 with a bull hook?

15 A. No.

16 Q. None of them?

17 A. No.

18 Q. Have you ever seen Antonio Almeda
19 hit any of these animals on the red unit with
20 a bull hook?

21 A. No. He wasn't here very long after
22 I came.

1 Q. Okay. Have you ever seen -- did
2 you ever see Antonio Almeda bop an elephant --

3 A. No.

4 Q. -- with a bull hook?

5 When I was asking you about whether
6 or not you had ever hit any of these elephants
7 with a bull hook, were you differentiating
8 between hitting and bopping? You might have
9 bopped some of them with a bull hook, if I
10 asked you if you hit them?

11 MS. PARDO: Object to the form.

12 BY MS. MEYER:

13 Q. Let me go over the list -- I'll go
14 over the list again.

15 Did you ever bop Asia with a bull
16 hook?

17 A. I told you yes, I did, under the --

18 Q. Okay. Did you ever --

19 A. Under the chin.

20 Q. Did you ever bop Tonka with a bull
21 hook?

22 A. Yes.

1 Q. Did you ever bop Luna with a bull

2 hook?

3 A. Yes.

4 Q. Did you ever bop Aussan with a bull

5 hook?

6 A. Not that I recall.

7 Q. You might have?

8 A. I am not going to guess.

9 Q. You don't remember ever bopping

10 Aussan --

11 A. I don't --

12 Q. -- with a bull hook?

13 A. I don't remember.

14 Q. Did you ever bop Banana with a bull

15 hook?

16 A. No.

17 Q. Did you ever bop Sarah with a bull

18 hook?

19 A. No.

20 Q. Did you ever bop Toby with a bull

21 hook?

22 A. No.

1 Q. Did you ever bop Bangko with a bull
2 hook?

3 A. Yes.

4 Q. Did you ever bop Siam with a bull
5 hook?

6 A. No.

7 Q. How about Baby? Did you ever bop
8 Baby with a bull hook?

9 A. No.

10 Q. All right. Now, have you ever seen
11 Jimmy Strickland hit or bop any of the
12 elephants on the red unit with a bull hook?

13 MS. PARDO: Objection to the form.

14 MS. MEYER: Is that because it's a
15 compound question?

16 MS. PARDO: That's right.

17 MS. MEYER: All right. Let's go
18 through it.

19 BY MS. MEYER:

20 Q. Have you ever seen Jimmy Strickland
21 hit Asia with a bull hook?

22 A. No.

1 Q. Have you ever seen him hit Tonka
2 with a bull hook?

3 A. No.

4 Q. Luna with a bull hook?

5 A. No.

6 Q. Have you ever seen him hit any of
7 the red unit elephants with a bull hook?

8 A. I've seen him bop Banana.

9 Q. Okay. You have seen him bop
10 Banana. So -- okay. Has he bopped anybody
11 else with a bull hook?

12 A. Not that I've seen.

13 Q. Have you ever heard about him
14 bopping an elephant with a bull hook?

15 A. I don't speculate on hearsay. I
16 don't -- I don't know of it -- I haven't heard
17 it, so I --

18 Q. You haven't heard anybody
19 mention --

20 A. No.

21 Q. -- Jimmy Strickland --

22 A. No.

1 Q. -- bopping an elephant with a bull

2 hook?

3 A. No.

4 Q. Okay. And you mentioned an

5 individual named Pista.

6 A. Pista.

7 Q. Yes. Have you ever observed Pista

8 hit any of the red unit elephants with a bull

9 hook?

10 A. No, I have not.

11 Q. Have you ever observed him bopping

12 any of the red unit elephants with a bull

13 hook?

14 A. No, I have not.

15 Q. Okay. Have you ever seen him use a

16 whip on any of the elephants on the red unit?

17 A. No.

18 Q. Have you ever seen Jimmy Strickland

19 use a whip on any of the elephants on the --

20 A. No.

21 Q. -- red unit?

22 How about Alex Vargas? Has he ever

1 used a whip on any --

2 A. No.

3 Q. -- of the elephants on the blue
4 unit? Let me -- red unit, I'm sorry. Let me
5 finish my question.

6 Have you ever seen Karen -- Karen
7 Houcke -- she's Sacha's daughter, right?

8 A. Yes.

9 Q. Who is her role on the red unit?

10 A. She worked as a -- in the elephant
11 department.

12 Q. Is she still there?

13 A. No.

14 Q. Is she his only daughter?

15 A. No -- I'm not familiar with the
16 family. I think he has two daughters, but I
17 couldn't --

18 Q. Okay. Where is she now?

19 A. She is -- I -- I don't know.

20 Q. When did she leave the red unit?

21 A. I didn't say she left the red unit.

22 Q. Oh, I'm sorry.

1 to as a correction.

2 Q. Okay. Have you ever punished an
3 elephant for not obeying a command? Or is
4 that -- let me just ask that question.

5 A. Punish an elephant for not obeying
6 a command?

7 Q. Yes.

8 A. No.

9 Q. But you have corrected elephants --

10 A. Right.

11 Q. -- for not obeying a command?

12 Okay. When you put Luna and Tonka
13 in the truck because they were stopping in the
14 middle of a walk, do you regard that as
15 correcting them?

16 A. Yes.

17 Q. Have you ever made an elephant lay
18 down and hold its trunk up as a means of
19 correction?

20 A. Define "lay down."

21 Q. Go down on its legs.

22 A. When an elephant lays down, they

1 feet are behind her.

2 Q. Okay. And why do you do that?

3 A. Well, it's like, I use that as a --
4 they realize that the behavior they've done,
5 just done, it draws attention to it, just
6 like -- it makes them think about what they've
7 just done. If I just take them over and lead
8 them in their corner and let them stand, it
9 doesn't mean anything.

10 Q. Okay. Is it difficult for the
11 elephant to be stretched out?

12 A. If they're left there for any
13 amount of time, yes.

14 Q. It's uncomfortable for the animal?

15 A. If they're left there at any amount
16 of time, it is.

17 Q. So the elephant didn't like being
18 stretched out; is that correct?

19 A. If they didn't like being stretched
20 out, they wouldn't stretch out.

21 Q. So they like it; is that what
22 you're saying? They like to be stretched out?

1 A. I've seen them out in the yard
2 stretched out in that position before.

3 Q. Well, then why do you -- here we
4 are again. I don't understand why you would
5 do it if they like it so much.

6 A. At this time, she's not able to go
7 play. She's not able to go over and get into
8 the hay, the sand, the sawdust, the logs, the
9 tires, the mud puddle we've made for her. So
10 it's a timeout.

11 Q. Okay. So --

12 A. It's to draw attention to the
13 behavior that she's just done. Now, when
14 she's stretched out and she's not allowed to
15 go over and do those things -- and it works
16 well.

17 Q. Okay. That method works well?

18 A. With her, yes.

19 Q. With who? Who are we talking
20 about?

21 A. Baby.

22 Q. Baby, okay. And -- so stretching

1 her out and giving her a timeout in that way,
2 as you've described, is a negative consequence
3 to her engaging in behavior that you don't
4 want her to engage in; is that correct?

5 A. Yes.

6 Q. Okay. Is she the only one that
7 you've had to use a timeout in that manner
8 with on the red unit?

9 A. Well, sometimes Luna, giving her a
10 bath, she'll start playing and throwing --
11 kicking water and just being -- we let her
12 play and then finish her little thing, and
13 then she'll come back over, and I'll ask her
14 to stretch out.

15 Q. For the same reason?

16 A. Yeah. I mean, it's a safety
17 purpose because she can't be kicking her legs
18 out and splashing around and thrashing around
19 when we're trying to give her a bath or --
20 with brushes and the water hose.

21 Q. Okay.

22 A. They're allowed to do that in the

1 yards. But when they're in there getting a
2 bath, there has to be some kind of order to
3 the -- to the day.

4 Q. Okay. And what's the part of it --
5 of the timeout that you described where they
6 have to hold their trunk up? Is that a --
7 that's part of the timeout --

8 A. Right.

9 Q. -- in addition to the stretching
10 out, correct?

11 A. Right. It's not always done, but
12 it -- it's done at times.

13 Q. What impact does that have --

14 A. Just keeps --

15 Q. -- on the animal?

16 A. -- her mind on what's going on.

17 Q. Okay.

18 A. When an elephant has her nose up,
19 that's what we do to have them focus on what's
20 going on.

21 Q. Why does that help them focus?

22 A. It just gets their attention, lets

1 them know you're talking to them and not the
2 elephant standing next to --

3 Q. Is that an unnatural way for the
4 elephant to hold its trunk?

5 A. No.

6 Q. So why -- I don't understand why
7 that would --

8 A. Because the elephant has her nose
9 up, and she's paying attention to you because
10 you're talking to her.

11 Q. Okay. And as part of the timeout,
12 the elephant is not to put her trunk down
13 until you say she can put her trunk down?

14 A. Sometimes, yes.

15 Q. Okay. I mean, how do you end a
16 timeout?

17 A. Just -- it's only four to five
18 minutes. Then you let them up.

19 Q. And what do you say to end the
20 timeout?

21 A. "All right."

22 Q. "All right"? And if the timeout

1 lasted for longer than four to five minutes,
2 would that be inappropriate?

3 A. It wouldn't last for more than four
4 or five minutes.

5 Q. If any elephant handler had an
6 elephant engage in that kind of a timeout for
7 more than four or five minutes, would that be
8 inappropriate?

9 MS. PARDO: Objection to the form.
10 Calls for speculation.

11 THE WITNESS: No, because when we
12 give them baths, we stretch them out like
13 that, and then we scrub their backs.

14 BY MS. MEYER:

15 Q. Well, earlier, I thought you were
16 saying if it was longer than four or five
17 minutes, that might be some kind of a problem.
18 Did I misunderstand you?

19 A. No.

20 MS. PARDO: I'm going to object to
21 the characterization of the prior testimony.

22 THE WITNESS: We only do it for

1 three to four minutes.

2 BY MS. MEYER:

3 Q. Okay.

4 A. Four to five minutes.

5 Q. Got it. And why do you only do it
6 for four to five minutes?

7 A. It's -- I don't know. It's just
8 something we do. I don't -- when we wash
9 them, we try to not keep them down any longer
10 than five to eight minutes when we're
11 scrubbing on their backs.

12 Q. They're not stretched out when
13 you're washing them, are they?

14 A. They lay down on their side.

15 Q. Yes.

16 A. We wash their bellies, the back.
17 Then we stretch them out, scrub that little
18 top of their back, and then they stand up and
19 we finish their backs.

20 Q. Okay. But when you're -- I'm
21 talking about the timeout. You don't do a
22 timeout during the bath, do you?

1 A. No.

2 Q. Oh, okay. I was talking about the
3 timeout that you described.

4 A. No.

5 Q. You seemed -- you seem to stress
6 that it's only done for four to five minutes,
7 and I was just asking you -- I guess I'm
8 asking you, why are you stressing that to me?

9 A. Because I just put a time limit on
10 the timeouts. That's all.

11 Q. Okay. Because if it were longer
12 than that, it would be more of a problem for
13 the animal?

14 A. No. It's just -- I want the
15 timeouts to be, you get their attention. They
16 realize what's going on. Let's move on.

17 Q. Okay. All right. Have you ever
18 had an elephant in a timeout situation for
19 longer than four to five minutes?

20 A. No.

21 Q. Have you ever known anyone who has
22 had an elephant in a timeout situation for

1 more than four to five minutes?

2 A. No.

3 Q. All right. You've trained baby
4 elephants to perform in a circus; is that
5 correct?

6 A. What's your definition of a baby
7 elephant?

8 Q. How young have the elephants been
9 that you've trained to perform in a circus?

10 A. I've started behaviors on young
11 elephants at five and seven months old.

12 Q. That's pretty -- that's a baby;
13 would you agree?

14 A. Yes.

15 Q. Okay. Have you done that while
16 you've worked for Feld Entertainment?

17 A. No.

18 Q. All right. Did you -- I may have
19 asked you this. If I did, I apologize. Did
20 you -- you helped Gary Jacobson train some of
21 the younger elephants at the CEC, did you?

22 A. Never trained. All I did was in

1 Q. Okay. Have you ever seen that
2 videotape before, Mr. Frisco?

3 A. Yes.

4 Q. When did you see it?

5 A. When it first came out.

6 Q. Have you seen it since then?

7 A. I've only watched it twice.

8 Q. When is the last time you watched
9 it?

10 A. The last time I watched this tape?

11 Q. This tape -- sure. The last time
12 you watched this tape.

13 A. A -- Ryan, a guy that works with
14 me, was watching this thing about two weeks
15 ago, and I think yesterday I looked at it.

16 Q. Okay. Who is Ryan?

17 A. He works for me.

18 Q. What's his last name?

19 A. Ryan Henning. Did I not give you
20 his name?

21 Q. No, I don't think so.

22 A. I'm sorry. He's on vacation.

1 That's why.

2 Q. What's his last name?

3 A. Ryan Henning.

4 Q. Henning?

5 A. Right. H-e-n-n --

6 Q. Okay. Are you saying that Ryan

7 Henning had a copy of this tape?

8 A. No, not a copy. He watched it on
9 the -- he has a computer. He goes through the
10 Google tape and stuff like that, I guess.

11 Q. You watched it online?

12 A. I did? No. No.

13 Q. Ryan Henning watched it online?

14 A. I guess.

15 Q. And he talked to you about it?

16 A. They were standing over in the

17 corner watching it.

18 Q. Why was he watching it?

19 A. They just go through all the --
20 they're young guys. They just watch all the
21 stuff on the Internet.

22 Q. Okay. Did you recognize anybody on

1 that videotape?

2 A. My brother.

3 Q. I want to figure out which one is
4 your brother.

5 MS. MEYER: So if you could just --
6 if you don't mind, Delci, just going forward,
7 and then if you could stop it on who I think
8 your brother is, and then ask Mr. Frisco, if
9 he wouldn't mind identifying --

10 MS. PARDO: We're going to make an
11 objection for the record. I don't think
12 you've laid a foundation for this tape. Are
13 you planning to ask the witness on how this
14 tape was made or --

15 MS. MEYER: I wasn't thinking about
16 that. I'm just going to ask him some
17 questions about it.

18 MS. PARDO: We're going to object
19 to the foundation of this.

20 MS. MEYER: Okay.

21 MS. PARDO: But, for the record,
22 there is no foundation that's been laid for

1 this tape, or anyone that can authenticate it.

2 MS. MEYER: Okay.

3 BY MS. MEYER:

4 Q. So I'm asking my associate to
5 freeze it on a particular individual and ask
6 you if that's your brother.

7 (Video played.)

8 BY MS. MEYER:

9 Q. Is that your brother talking? Do
10 you recognize that voice?

11 A. That's --

12 Q. Who is saying, "move up, Becky"?
13 Do you know?

14 A. I think it's Tim. I'm trying to
15 see where he's at. Right here.

16 Q. Okay.

17 A. That's not a good shot.

18 MS. MEYER: See if you can go back.

19 THE WITNESS: Right there.

20 BY MS. MEYER:

21 Q. So that's your brother Tim Frisco?

22 A. Yes.

1 Q. Okay. And did you recognize his
2 voice before?

3 A. Yeah.

4 Q. And that was him talking to Becky,
5 the elephant Becky?

6 A. Right.

7 Q. All right. And do you recognize
8 where this is taking place?

9 A. I believe that's the old winter
10 quarters, the old elephant barn in Oklahoma.

11 Q. And that's at the Carson & Barnes
12 Circus?

13 A. Right.

14 Q. And do you recognize some of those
15 elephants?

16 A. It's hard to tell. I know it's
17 Becky because I can hear him.

18 Q. Okay. All right. And do you have
19 any idea what year this is?

20 A. I don't have any idea.

21 MS. MEYER: I want you to, if you
22 don't mind, fast forward to the second part of

1 the tape where I think Mr. Frisco is wearing
2 different clothes.

3 BY MS. MEYER:

4 Q. While we're doing that, do you
5 recognize any of these other handlers from
6 Carson & Barnes?

7 A. Not like this, I can't.

8 MS. MEYER: Stop it for a minute,
9 will you, Delci? Sorry.

10 THE WITNESS: This gentleman is --
11 his name is -- he's from Chicago. I can't
12 even really remember what his name is.

13 BY MS. MEYER:

14 Q. Is one of the individuals Ken
15 Hardy?

16 A. That's -- he's not in that frame.

17 Q. Okay. I think it was actually the
18 larger guy, if we could get to him.

19 A. Yeah. He's a big guy.

20 MS. MEYER: If we could get to a
21 frame that has that larger handler in it and
22 ask if that's Ken Hardy, I would appreciate

1 it.

2 MS. WINDERS: Go forward?

3 MS. MEYER: Go forward.

4 BY MS. MEYER:

5 Q. I mean, could you tell if that's --
6 the guy in the back with his hand on his hip?

7 A. I can't --

8 Q. You can't see? Okay. Let's just
9 go to the next segment of the tape.

10 Now, who -- do you know who that is
11 in the foreground?

12 A. Where? Here?

13 Q. That's your brother, right, Tim
14 Frisco?

15 A. Yeah. That's Tim.

16 Q. All right.

17 MS. MEYER: Actually -- I'm sorry.
18 Can you back up a minute, reverse it a minute,
19 Delci.

20 Stop.

21 BY MS. MEYER:

22 Q. All right. Did you see that guy --

1 there. Now, who is that?

2 A. It looks like Ken.

3 Q. That's Ken Hardy. Do you see him
4 slugging the elephant with a bull hook on its
5 legs?

6 A. Yeah. It looks like Ken.

7 Q. Okay.

8 MS. MEYER: Now you can
9 fast-forward, if you want to, to the second
10 segment.

11 BY MS. MEYER:

12 Q. Is that your brother? Do you
13 recognize his voice?

14 A. It sounds like him, yes.

15 Q. Can you see -- is that your brother
16 right there?

17 A. Right here, yes.

18 Q. Yes. Okay. So that was your
19 brother right there at the end; is that
20 correct?

21 A. Yes.

22 Q. Okay. Do you know what's going on

1 in that video that we just watched?

2 A. Do I know what's going on?

3 Q. Yeah.

4 A. I wasn't there. I...

5 Q. It looks like a training session
6 with elephants. Is it?

7 A. It could be a -- it could be
8 they're routining elephants. I wasn't there.
9 I couldn't tell you.

10 Q. Okay. Is your brother on that tape
11 that we just watched handling elephants in a
12 way that's acceptable in the circus industry?

13 A. No.

14 Q. It's unacceptable?

15 A. Well, I didn't -- the way he talked
16 and -- I didn't -- the guy that hit the
17 elephant in the foot there -- we don't do it
18 that way.

19 Q. Okay. So you're saying the way
20 your brother is handling the elephants that's
21 seen in this videotape is unacceptable in the
22 circus industry?

1 A. Yes. I don't -- I don't do it that
2 way. It's not done that way.

3 Q. So he was engaging in practices
4 that are unacceptable in the industry?

5 A. I didn't -- I didn't really see
6 where he grabbed anybody or -- he used a hot
7 shot in the back.

8 Q. You did not see him use a hot shot?

9 A. No. I said I saw him --

10 Q. Oh.

11 A. -- use the hot shot --

12 Q. Okay.

13 A. -- in the back.

14 Q. And that's unacceptable in the
15 circus industry, correct?

16 A. In that context, yes.

17 Q. And what about the use of the bull
18 hook that's depicted on the videotape?

19 A. The videotape is so fuzzy. He's up
20 there in the front. I can't -- I really can't
21 tell what he's doing.

22 Q. Okay. What about the individual

1 who hits the elephant on the legs? I think
2 it's Mr. Hardy, you said. Is that an
3 acceptable use of a bull hook?

4 A. No.

5 Q. So he's engaged in unacceptable
6 behavior as well in this videotape; is that
7 correct?

8 A. Yes.

9 Q. And why is it unacceptable?

10 A. Well, I believe he had two hands,
11 swinging it.

12 Q. Okay. If he had used one hand,
13 would it have been acceptable?

14 A. If you're going to give direction.
15 It doesn't look like he was giving direction;
16 he was just swinging away.

17 Q. Okay. But if he had hit the
18 elephant with the bull hook with one hand --
19 using one hand on the elephant's leg, that
20 would have been acceptable?

21 A. You touch the --

22 MS. PARDO: Calls for -- hold on.

1 Let me place my objection.

2 Calls for speculation.

3 You can answer.

4 THE WITNESS: Touch the elephant on
5 the back of the leg.

6 BY MS. MEYER:

7 Q. Okay. But striking the elephant on
8 the back of the leg with a bull hook is not
9 acceptable; is that correct?

10 MS. PARDO: Same objection.

11 THE WITNESS: Touching the elephant
12 on the back of the leg.

13 BY MS. MEYER:

14 Q. Okay. When you say touching, are
15 you saying touching without using any force at
16 all?

17 A. There is a little force --

18 Q. Okay.

19 A. -- whether you push or you tap.

20 Q. Okay. Why is what we see Ken Hardy
21 do on this videotape an unacceptable handling
22 practice for an elephant?

1 A. I'm not sure he was in the position
2 to be doing that, capable.

3 Q. What do you mean by that?

4 A. I don't know a lot about him, but I
5 don't think he had a whole lot of elephant
6 expertise.

7 Q. Well, it sounded like your brother
8 was instructing him to make the elephant
9 scream and make it hurt and things like that;
10 is that -- is that not correct?

11 A. I can't answer for my brother.

12 Q. I'm just --

13 A. I wasn't there.

14 Q. I understand that, and I very much
15 appreciate that fact. What I'm trying to
16 figure out is if you could -- as someone who
17 has worked in the industry for so many years,
18 if you could explain to me what is acceptable
19 and unacceptable about what we see in this
20 videotape in terms of handling elephants.

21 MS. PARDO: We're going to have an
22 objection to the continuing line of this

1 questioning. He has established that he
2 wasn't here and that this isn't Ringling
3 elephants or Ringling Brothers Circus, so I
4 don't know why we're even talking about this.

5 Would you like to make a proffer as
6 to how this is even related to the lawsuit?

7 MS. MEYER: Well, this is -- it's
8 related to the lawsuit because I'm asking
9 Mr. Frisco about practices that occur in the
10 industry, circus industry. Carson & Barnes is
11 an operation in the circus industry --

12 MS. PARDO: Carson & Barnes is not
13 part of this lawsuit, so we have an objection
14 to the continued line of questions about
15 completely irrelevant material. He identified
16 the tape, but we would object to continued
17 questions that --

18 MS. MEYER: Okay. Well, I didn't
19 finish my proffer.

20 What I was explaining is that I'm
21 entitled to ask him questions about which
22 practices used in the industry would be

1 considered appropriate practices by Ringling
2 Brothers and which would not be considered
3 appropriate practices and why. I think that's
4 perfectly relevant information in this
5 lawsuit.

6 We're challenging Ringling
7 Brothers' practices with respect to elephants,
8 and if I've got videotape of some other circus
9 employee using practices that Mr. Frisco, with
10 his great knowledge, can tell me are
11 inappropriate and tell me why, that's relevant
12 information.

13 MS. PARDO: Well, our objection is
14 that you're using Carson & Barnes videotape to
15 establish a Ringling practice. So --

16 MS. MEYER: No, I am not. Not
17 necessarily.

18 MS. PARDO: That's my objection for
19 the record because --

20 MS. MEYER: No, I've never --

21 MS. PARDO: -- because this is a
22 Carson & Barnes videotape. So with that in

1 mind, we would -- we're making an objection to
2 these continued --

3 MS. MEYER: Fine.

4 MS. PARDO: -- questions.

5 MS. MEYER: I understand your
6 objection. Are you instructing him not to
7 answer the questions?

8 MS. PARDO: No, I'm not instructing
9 him not answer.

10 MS. MEYER: Oh, okay. Good.

11 MS. PARDO: But we --

12 MS. MEYER: Okay. I understand
13 your objection.

14 MS. PARDO: We've made it for the
15 record.

16 BY MS. MEYER:

17 Q. So, Mr. Frisco, I'm trying to find
18 out from you, when you look at that tape and
19 you see the way the elephants are being
20 handled by your brother and others working for
21 the Carson & Barnes Circus, which actions
22 they're taking you consider to be

1 inappropriate handling methods and why. You
2 said -- go ahead.

3 A. In the first place, the tape is not
4 very clear, so I'm not--- you're not going to
5 get an honest answer from me.

6 Q. From what you can tell. You
7 mentioned the hot shot.

8 A. Right.

9 Q. You said that was an inappropriate
10 practice, correct?

11 A. Right.

12 Q. Okay. And why is it inappropriate?

13 A. In that context.

14 Q. Why is it inappropriate in -- and
15 when you say "that context," what are you
16 talking about?

17 A. It's not -- it's -- a hot shot is a
18 safety --

19 Q. Okay. So it's your position that a
20 hot shot should not be used to train an
21 elephant?

22 A. As a last resort in a -- in a

1 shot?

2 A. Hurt?

3 Q. Does it cause the elephant pain?

4 A. I've zapped myself with it.

5 Q. Does it hurt?

6 A. It's like a pin -- poking yourself
7 with a pin.

8 Q. How many -- how many volts are in a
9 hot shot?

10 A. I'm not sure. It's a -- it's a
11 little battery.

12 Q. How about the way your brother is
13 speaking to the elephants --

14 A. That --

15 Q. -- in that -- just hold on a
16 minute. Let me ask the question.

17 That very aggressive tone that he
18 uses with the elephants, is that an
19 appropriate way to handle elephants?

20 A. No, the language is unacceptable.

21 Q. I'm not talking about the
22 obscenities; I'm talking about the tone of his

1 voice.

2 A. It's hard to tell with this tape.

3 Q. Okay. I mean, he seems to be

4 screaming at the elephants at one point on the

5 tape. Is that an appropriate way to -- to

6 handle elephants?

7 A. No.

8 Q. Why not?

9 A. They're not hard of hearing.

10 Q. Have you ever used a hot shot on an
11 elephant's tongue?

12 A. I would hope not. No, I have not.

13 Q. Okay. Have you ever seen Pat
14 Harned ever treat an elephant in any way
15 that's depicted on the tape we just saw?

16 A. No.

17 Q. How about Gary Jacobson?

18 A. No.

19 Q. How about Alex Vargas?

20 A. No.

21 Q. How about Pista?

22 A. No.

1 old barn at Carson & Barnes?

2 A. Yes.

3 Q. Have you been in that barn?

4 A. The barn on this tape?

5 Q. Yes.

6 A. Only to visit.

7 Q. Okay. So -- you do recognize it;
8 is that correct?

9 A. Yes.

10 Q. And have you ever seen -- while
11 you've been at the red unit, have you ever
12 seen any blood from a bull hook on an
13 elephant?

14 A. Blood from a bull hook?

15 Q. Yeah.

16 A. No.

17 Q. How about when you were at the CEC?
18 Did you ever see any elephants bleed from the
19 use of a bull hook on an elephant?

20 A. No.

21 MS. MEYER: Okay. I don't have any
22 other questions.