

Feld Entertainment, Inc.'s Responses and Counter Designations  
FEI Exhibit 321A

Gary Jacobson

November 20, 2007

Washington, DC

1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF COLUMBIA

3 - - - - -X

4 AMERICAN SOCIETY FOR THE PREVENTION, :

5 OF CRUELTY TO ANIMALS, et al., :

6 Plaintiffs, :

7 vs. : Civ. No.

8 RINGLING BROTHERS AND BARNAM : 03-02006

9 &amp; BAILEY CIRCUS, et al., : (EGS)

10 Defendants. : VOLUME II

11 - - - - -x

12 Videotaped deposition of GARY JACOBSON,

13 a witness herein, called for examination by

14 counsel for Plaintiffs in the above-entitled

15 matter, pursuant to notice, the witness being duly

16 sworn by Robert M. Jakupciak, a Notary Public in

17 and for the District of Columbia, taken at Judge

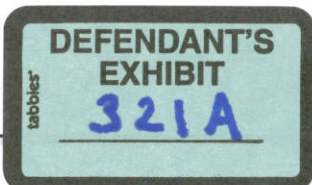
18 Facciola's Chambers, U.S. District Court for the

19 District of Columbia, 333 Constitution Avenue,

20 N.W., Washington, D.C., at 12:00 Noon, on November

21 20, 2007, and the proceedings being taken down by

22 Stenotype by Robert M. Jakupciak, RPR.



1 APPEARANCES:

2 On behalf of the Plaintiffs:

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20 Also Present

21 Videographer: Nick Guzman

22

1 A. No.

2 Q. Did you have an opportunity to observe  
3 the relationship between Benjamin and Shirley when  
4 you were training them down at the CEC?

5 A. Between the two?

6 Q. Yeah.

7 A. Uh-huh.

8 Q. What kind of a relationship did they  
9 have?

10 A. About normal for a young male and his  
11 sister.

12 Q. So they were like siblings; is that  
13 correct?

14 A. Yeah. I mean the males are a little  
15 rough on the females.

16 Q. They play together?

17 A. Some.

18 Q. Did they -- you said they trained  
19 together when they were at the CEC; is that  
20 correct?

21 A. Yes.

22 Q. Were they also housed together at the

1 A. Yes.

2 Q. And that again would have been January  
3 2000; correct?

4 A. Yes.

5 Q. And did she receive any more training  
6 to prepare her to go out on the road?

7 A. No. Nope.

8 Q. No training at all, no more training?

9 A. Not, not to prepare her to go out on  
10 the road, no.

11 Q. Okay. And how -- and Shirley at that  
12 time would have been how old?

13 A. Four or five.

14 Q. Almost five; right?

15 A. Around five.

16 Q. Did you make a decision that she wasn't  
17 going to go back out on the road?

18 A. Not necessarily.

19 Q. But she hasn't gone back on the road?

20 A. She has not.

21 Q. And over seven years later; is that  
22 correct?

1 A. Seven years later?

2 Q. And she still hasn't gone back on the  
3 road?

4 A. Seven years?

5 Q. I assume somewhere along the line  
6 somebody made the decision that she is not going  
7 back on the road?

8 A. Well, that's not for sure. That  
9 depends on who you may have her go back with.

10 Q. Okay. She may go back on the road in  
11 the future?

12 A. It's possible, yes.

13 Q. But for the last seven years she's  
14 been --

15 A. Correct.

16 Q. And has she -- other than -- strike  
17 that.

18 When Mr. Harned came back in 2001 -- he  
19 came back in 2001; correct? I think that's what  
20 you told me.

21 A. I believe that's when it was.

22 Q. All right. And when he came back to --

1 and he still is at the CEC; correct?

2 A. Yes.

3 Q. He's your operations manager; correct?

4 A. Correct.

5 Q. And when he came back to the CEC in  
6 2001, did he have any responsibilities for  
7 handling Shirley?

8 A. Yes.

9 Q. What were his responsibilities?

10 A. Feed her, water her, take care of her.

11 Q. When you said she didn't receive any  
12 training to go back out on the road, did she  
13 receive some other kind of training?

14 A. No.

15 Q. Did she receive some training to enable  
16 her to participate in the breeding program?

17 A. Training? No. No. Nothing special.

18 Q. Because I think you testified that  
19 she -- and you know that she has participated in  
20 the breeding program?

21 A. Yes.

22 Q. And I think you did testify last time

1 that there are some certain, there's certain  
2 training that has to go on in order to have  
3 elephants participate in that program?

4 A. Well, if it's an AI, more so than  
5 natural breeding.

6 Q. I see. Okay. And her two calves were  
7 Riccardo and Mable; right?

8 A. Uh-huh.

9 Q. Were those artificial insemination  
10 births?

11 A. No.

12 Q. Either one of them?

13 A. No.

14 Q. So does Mr. Harned have  
15 responsibilities with respect to Shirley now?

16 A. Yes.

17 Q. And what are they?

18 A. He takes care of her.

19 Q. Did you ever have a conversation with  
20 Mr. Metzler about Shirley's behavior on the road  
21 and your decision to take her down to the CEC?

22 A. I'm sure I must have.

1 Q. Do you remember any of those  
2 conversations?

3 A. I told him I was going to make his life  
4 easier and take her and Romeo back.

5 Q. Was he happy with that decision?

6 A. Yes.

7 Q. Did you have any discussions with  
8 anyone else at the CEC or at Feld Entertainment  
9 about the decision to take Shirley off the road,  
10 off the Blue Unit and take her down to the CEC in  
11 the year 2000?

12 A. Richard Fremming.

13 Q. Besides Mr. Fremming?

14 A. No.

15 Q. What were your conversations with Mr.  
16 Fremming?

17 A. I explained to him basically what I  
18 just explained to you and he said fine.

19 MS. MEYER: Can we go off the record  
20 for a second?

21 - - -

22 (Discussion off the Record.)



1 Q. I'm sorry, what?

2 A. Could you repeat the question?

3 Q. I was asking you if -- well, the  
4 immediate question is what is negative  
5 reinforcement?

6 A. That, again, depends on who you're  
7 talking to.

8 Q. I'm talking to you. So I'm asking you.

9 A. Well, it could be the same as  
10 correction I suppose.

11 Q. What do you mean by that?

12 A. I guess there would have to be a  
13 certain amount of discipline involved.

14 Q. To reinforce a certain behavior of the  
15 elephant? Is that what you mean?

16 A. Probably, if there was negative  
17 behavior involved.

18 Q. Okay. If -- does negative  
19 reinforcement mean that if an elephant were asked  
20 to do a particular command and it refused to do  
21 so, some kind of negative consequence would be  
22 experienced by the elephant?

1 A. That's possible.

2 Q. And the purpose of that would be so  
3 that the next time the elephant, to avoid the  
4 negative consequence, would actually do as  
5 commanded; is that correct?

6 A. Possibly, or to get their attention  
7 back again.

8 Q. To get whose attention back again?

9 A. The elephant.

10 Q. So the negative reinforcement could be  
11 used to get the attention of the elephant as well?

12 A. Which is normally where the problem  
13 arises.

14 Q. What's the problem that you're speaking  
15 of?

16 A. Whatever problem you have in mind.  
17 Negative reinforcement.

18 Q. Right.

19 A. Normally it's just a lapse between the  
20 man and the elephant.

21 Q. Can you describe that?

22 A. If you lose their attention, then they

1 get lost in the shuffle, so-to-speak. So you get  
2 their attention back.

3 Q. And how do you do that?

4 A. You just talk to them, make them stop  
5 what they're doing, stand still for a minute, walk  
6 them around, go have a coke and come back later.

7 Q. And is this -- the things you're  
8 describing, that's negative reinforcement?

9 A. Yes.

10 Q. Why would it be negative reinforcement?

11 A. Because you're not continuing with what  
12 you're setting out to do. You're stopping it.

13 Q. And that has a negative consequence for  
14 the animal?

15 A. Yes.

16 Q. Okay. So a verbal reprimand could be  
17 negative reinforcement?

18 A. Yes.

19 Q. All right. And how about striking the  
20 elephant with a bull hook, would that be negative  
21 reinforcement?

22 A. That's possible.

1 Q. How about use of a hot shot, would that  
2 be negative reinforcement?

3 A. That would be very negative.

4 Q. That would be very negative  
5 reinforcement?

6 A. (Nodding head indicating yes.)

7 Q. All right. Now, was any negative  
8 reinforcement used to train Juliet?

9 A. Not that I know.

10 Q. So you didn't see any of the training  
11 of Juliet?

12 A. No.

13 Q. Well, you observed Mr. Woodcock train  
14 other young elephants; correct?

15 A. Yes.

16 Q. Did he ever use negative reinforcement?

17 A. Yes.

18 Q. And did he ever use striking an  
19 elephant with a bull hook as negative  
20 reinforcement?

21 A. Yes.

22 Q. Did you ever use rope, tying the