

Feld Entertainment, Inc.'s Responses and Counter Designations
FEI Exhibit 322A

Troy J. Metzler

July 25, 2006

Washington, DC

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UNITED DISTRICT COURT

FOR THE THE DISTRICT OF COLUMBIA

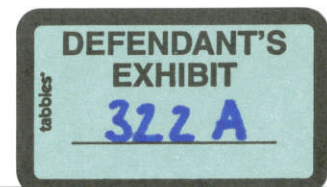
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|-----------------------------|---|---------------|
| AMERICAN SOCIETY FOR THE |) | |
| PREVENTION OF CRUELTY TO |) | |
| ANIMALS, et al. |) | Case No. |
| Plaintiffs, |) | 1:03-cv-02006 |
| -vs- |) | (EGS/JMF) |
| RINGLING BROS. AND BARNUM & |) | |
| BAILEY CIRCUS, et al., |) | |
| Defendant. |) | |

Tuesday, July 25, 2006

Washington, D.C.

Video Deposition of TROY J. METZLER

called for examination by counsel for the Plaintiff, pursuant to notice, held at the offices of Meyer Glitzenstein & Crystal, 1601 Connecticut Avenue, N.W., Washington D.C., beginning at 9:35 a.m., before Karen N. McConnell, CSR-RMR-CRR, a notary public in and for the District of Columbia, when were present on behalf of the respective parties:



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1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 KATHERINE A. MEYER, ESQ.

4 KIMBERLY OCKENE, ESQ.

5 Meyer Glitzenstein & Crystal

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12 On behalf of the Defendants:

13 LISA ZEILER JOINER, ESQ.

14 MICHELLE C. PARDO, ESQ.

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20 Also present: Tracy Silverman, Animal Welfare
21 Institute

22 Dustin Lavalley, Videographer

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1 subpoena that was issued to him on June 8th,
2 2006, which I would like to have marked as
3 Exhibit 1.

4 (Metzler Deposition Exhibit Number 1 was
5 marked for identification and attached to
6 the transcript.)

7 MS. MEYER: There was a difference of
8 opinion between the parties as to whether or not
9 Mr. Metzler would have to be made available for
10 a deposition pursuant only to a Notice of
11 Deposition under Rule 30, or whether or not a
12 subpoena would be required. And in any event,
13 to resolve that difference of opinion, the
14 plaintiffs issued a subpoena to Mr. Metzler, and
15 the counsel for defendants agreed to accept that
16 subpoena on behalf of him, and he is here now
17 and ready to be deposed.

18 BY MS. MEYER:

19 Q. Mr. Metzler, would you state your full
20 name, please, for the record.

21 A. Troy J. Metzler.

22 Q. And how old are you?

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1 Q. And is that a female?

2 A. Yes.

3 Q. Do you remember when she arrived?

4 A. No.

5 Q. And Rajah, Sheena, and Tova, were they
6 Asian elephants?

7 A. Yes.

8 Q. All three of them?

9 A. Yes.

10 Q. And were they adult elephants?

11 A. Yes.

12 Q. Were there any other elephants that
13 you worked with when you worked with Bobby Moore
14 in Michigan?

15 A. No.

16 Q. Okay. And when you said that you
17 received training from Mr. Jones and Mr. Moore
18 in how to make the elephants do their routines,
19 how much training did you receive in terms of
20 hours?

21 A. That's a hard answer. That would be
22 with practice every day, exercise every day.

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1 It's a 45-acre farm. So it was throughout the
2 day we lived and slept elephants.

3 Q. And what was the routine for these
4 elephants?

5 A. We would start off in the morning
6 around 7:30; go in and exercise.

7 Q. I'm sorry. I actually meant what was
8 their performing routine. You mentioned earlier
9 that -- the various tricks that the elephants
10 did in the entity that you worked with in
11 Canada, so I was wondering what kind of tricks
12 did these elephants do?

13 A. The basic tricks like the other
14 elephants.

15 Q. Anything different than the other
16 elephants?

17 A. No, not really.

18 Q. Now, with respect to the four young
19 elephants, Tonka, Luna, Smokey, and Roman?

20 A. Yes.

21 Q. Where did they come from, do you know?

22 A. Busch Gardens.

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1 calculation, about eight years?

2 A. About that, yes.

3 Q. Did your job duties change during the
4 course of those eight years at all?

5 A. With my experience, yes.

6 Q. Can you explain chronologically how
7 your job duties changed?

8 A. I -- I can't recall all of them, but
9 just I -- we went on the road and started
10 performing with the elephants.

11 Q. So at some point you became an actual
12 performer with the elephants?

13 A. Yes.

14 Q. And you would be responsible for
15 having them go through their routine?

16 A. Yes.

17 Q. And how many years did you do that?

18 A. I was three years into the job when I
19 started.

20 Q. When you started performing with the
21 animals?

22 A. Yes, and driving a truck.

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1 A. In Canada.

2 Q. When did Smokey Jones give you a copy
3 of that book?

4 A. I'm not very good with my years.

5 Q. Would it have been soon after you met
6 him?

7 A. Yes.

8 Q. And did he give you that book as part
9 of your training in how to train elephants to
10 perform in circuses?

11 A. No. It's not something that you can
12 read in a book.

13 Q. Okay. Why did he give you a book?

14 A. Because I'm an elephant man, and to be
15 an elephant man you collect anything and
16 everything that has to do with elephant history
17 and where they come from, and what they do with
18 the,, and their past, and so forth.

19 Q. Did he give you any other written
20 materials?

21 A. Not that I recall.

22 Q. Okay. And as far as you know, did Mr.

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1 Q. Okay. I'm just trying to find out if
2 you had any tangible materials like books,
3 training videos, anything like that that taught
4 you or supplemented your training in how to
5 train elephants to do any of these tricks
6 that --

7 A. No.

8 Q. -- that you were doing in the circus
9 with them?

10 A. No. There really aren't any books
11 like that.

12 Q. Okay. And I'm just -- we are still up
13 to the point where you left Bobby Moore's?

14 A. Right.

15 Q. All right. Where did you go after you
16 left Bobby Moore's?

17 A. I stayed there for a year.

18 Q. Doing what?

19 A. Taking care of the elephants until
20 they could be transported to Florida.

21 Q. Okay. So that would have been '91 to
22 '92, is that correct?

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1 different from Asian elephants?

2 A. Where they come from.

3 Q. Right.

4 A. I mean, they are all different. Each
5 one has got a different personality. Its just
6 like two different dogs, I guess. You know,
7 they are --

8 Q. Okay. Is the skin of an African
9 elephant similar to the skin of an Asian
10 elephant?

11 A. Similar, yes.

12 Q. And are they both very sensitive?

13 A. Yes. Like people. Some are very
14 sensitive and some aren't sensitive at all.

15 Q. And are both African and Asian social
16 animals?

17 A. Yes.

18 Q. They like to be with other elephants?

19 A. Yes.

20 Q. And are both African and Asian
21 intelligent animals?

22 A. Just like people, some are very

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1 from anyone else?

2 A. Not that I know of.

3 Q. Did Ms. Jacob also train any of the
4 elephants?

5 A. She would assist, yes

6 Q. Do you know where she received her
7 training from?

8 A. From Pancho Magana.

9 Q. How do you know that?

10 A. It was his girlfriend when I was a
11 child.

12 Q. Add when Feld Entertainment acquired
13 the Bobby Moore elephants, did you say that Reba
14 also went to Feld Entertainment?

15 A. Yes.

16 Q. And how long did you work for Jacob
17 Barrada?

18 A. About a year.

19 Q. And, again, your duties were what?

20 A. Took three on the road performing,
21 animal husbandry, all around care.

22 Q. And what kind of tricks or routines

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1 did those elephants do?

2 A. Long mount, spindles.

3 Q. What does that mean?

4 A. Foot on one spindle like a -- well, a
5 spindle. It's a pyramid where their foot goes
6 on top, and then the rest of their body turns.

7 Q. Foot on the ground on top of what?

8 A. Of a pyramid, a small pyramid with an
9 axle on top. It is hard to describe. I'm
10 sorry.

11 Q. No, you are doing a good job. So that
12 a foot goes on the pyramid --

13 A. Yes.

14 Q. -- that rotates?

15 A. Yes.

16 Q. And then?

17 A. They pick up one foot and their back
18 end turns.

19 Q. Okay. Any other tricks or routines?

20 A. Lay down, sit up, wave hankies.

21 Q. Wave hankies?

22 A. Yes.

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1 Q. What -- can you describe that?

2 A. They take a hanky and wave it.

3 Q. Take it in their foot?

4 A. Truck.

5 Q. In their trunk?

6 A. They can't pick things up with their

7 feet.

8 Q. Okay. Any other tricks?

9 A. Yeah. There's quite a few, a

10 harmonica.

11 Q. What's that? I mean, I know what a

12 harmonica is, but what's the trick?

13 A. They play it.

14 Q. How do they do that?

15 A. With their nose.

16 Q. Do they pick it up?

17 A. Yes.

18 Q. With their trunk?

19 A. Yes.

20 Q. And play the harmonica?

21 A. Yes.

22 Q. Did you teach them how to do that?

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1 Q. And were you employed at all during
2 those nine months?

3 A. No.

4 Q. And then where did you go for
5 employment?

6 A. African Lion Safari in Cambridge,
7 Ontario.

8 Q. And that's Charlie Gray's place?

9 A. Yes.

10 Q. Cambridge, Ontario? Is that what you
11 said?

12 A. Yes.

13 Q. And what were your duties there?

14 A. Well, I started off by going over to
15 Israel to pick up two young Asian elephants for
16 him.

17 Q. Why were the two Asian elephants in
18 Israel?

19 A. They belonged to the Ramat-Gan Zoo and
20 Safari Park.

21 Q. How do you spell that?

22 A. I don't recall.

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1 Q. Can you say it again?

2 A. Ramat-Gan, which is in Tel Aviv.

3 Q. Okay. Charlie Gray had purchased
4 these two elephants?

5 A. Yes.

6 Q. And what is Charlie Gray's lion
7 safari? What kind of an operation is that?

8 A. It is a drive-through safari and park.

9 Q. Do you know how many acres it is?

10 A. 1200.

11 Q. And do you know what kind of animals
12 he has? Or let's talk about the time that you
13 went to work there. What kind of animals did he
14 have?

15 A. He doesn't own all of the animals. He
16 owns the two. He had owned the two Asians at
17 the time.

18 Q. Okay.

19 A. And the park owner owned the rest.

20 Q. Who was the park owner?

21 A. James Daley.

22 Q. So James Daley actually owned the

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1 there?

2 A. Yes.

3 Q. How many other elephants were there?

4 A. I want to say eight.

5 Q. Were they all Asians?

6 A. Yes.

7 Q. Were they adults?

8 A. Four of them.

9 Q. Four adults and four young elephants?

10 A. That's what I recall, yes.

11 Q. Okay. And did -- as far as you know,
12 did Mr. Gray make an arrangement with Mr. Daley
13 to allow Mr. Gray to go buy these two elephants
14 to add to the herd?

15 A. Yes.

16 Q. But those were the only two elephants
17 that Mr. Gray actually owned?

18 A. At the time, yes.

19 Q. Okay. How long did you work for him?

20 A. Oh, until '98, late '98.

21 Q. Okay. So from '93 to '98 you worked

22 for Mr. Gray?

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1 A. Yes.

2 Q. And did you have a title while you
3 were there?

4 A. Assistant superintendent.

5 Q. Assistant superintendent.

6 A. Of elephants.

7 Q. Okay. And did you have that title for
8 the entire time that you worked for Mr. Gray?

9 A. Yes.

10 Q. So when he hired you, he hired you to
11 be the assistant superintendent of elephants?

12 A. Yes.

13 Q. And what did your duties entail?

14 A. Everything with elephants. We took
15 them on the road, commercials, fairs, anywhere
16 you might need elephants. We also --

17 Q. Sorry?

18 A. We also did shows in the summer when
19 the park was open, and rides.

20 Q. Okay. And when you say took the
21 elephants to fairs, was that also for elephant
22 rides?

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1 Q. There was a captive breeding program
2 there?

3 A. Yes.

4 Q. At that zoo in Tel Aviv?

5 A. Yes.

6 Q. And when you picked those elephants
7 up, had they been trained to do any of these
8 tricks that were done on the road with the
9 elephants later?

10 A. No.

11 Q. No. So who trained the elephants to
12 do those tricks?

13 A. Charlie Gray.

14 Q. And did you assist him in that
15 training?

16 A. Yes.

17 Q. And do you know where Charlie Gray got
18 his training in elephant -- how to train
19 elephants to do routines?

20 A. Basically, himself, you know, learning
21 from other people.

22 Q. Do you know who he learned from?

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1 A. I would say some from Smokey Jones,
2 Mike Hackenberg.

3 Q. Hackenberg?

4 A. Hackenberg.

5 Q. Okay. Anybody else?

6 A. Bobby Moore. And that's all I could
7 recall.

8 Q. Did these trainers, Smokey Jones, Mike
9 Hackenberg, Bobby Moore, did they all pretty
10 much use the same techniques to train the
11 elephants?

12 A. Pretty much so, yes.

13 Q. And those were the techniques that
14 were also taught to you by Smokey Jones and
15 Bobby Moore?

16 A. Yes.

17 Q. And those would be the same techniques
18 that were taught to Jody Watkins as well?

19 A. Yes.

20 Q. And were you also involved in training
21 the two Asian elephants that you picked up in
22 Israel to perform tricks and routines?

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1 Q. And where are you in terms of the
2 current contract? Where in the two years are
3 you? When is that contract up?

4 A. 2008.

5 Q. All right. Now, at some point after
6 you were hired at the CEC, did your duties for
7 Feld Entertainment change over the course of
8 time at all?

9 A. Yes.

10 Q. When was that?

11 A. I don't recall the exact time.
12 Somewhere at the end of 2003-2004.

13 Q. So before the end of 2003 -- strike
14 that.

15 All right. When you got to the CEC in
16 1999, those five young elephants, Romeo,
17 Shirley, Juliet, Bonnie, and Kelly Anne were
18 already there, is that correct?

19 A. They were at the fairgrounds in Tampa.

20 Q. And do you know the ages of the
21 elephants at that time?

22 A. Not their exact ages, no.

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1 Q. Approximate ages?

2 A. Kelly was 3-and-a-half. Bonnie would
3 have been 4-and-a-half. Juliet would have been
4 6. Romeo would have been 6, around that.

5 Q. How about Shirley?

6 A. Shirley would have been 7 -- no, I'm
7 sorry, 6 -- 5-and-a-half, 6.

8 Q. Now, when you got to the CEC in 1999,
9 had those five elephants already been trained to
10 perform in the circus?

11 A. Yes.

12 Q. Who had trained them?

13 A. Gary Jacobson.

14 Q. Had anybody else been responsible for
15 training the elephants?

16 A. Working with them or training them?

17 Q. Training them.

18 A. The assistants.

19 Q. Who were those?

20 A. I don't recall.

21 Q. Do you remember any of them?

22 A. No.

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1 Q. Okay. What if an elephant was having
2 difficulty doing the routines?

3 A. Then they would go to CEC.

4 Q. And would they get more training at
5 that point in time?

6 A. Not likely.

7 Q. What would happen to an elephant who
8 went to the CEC because she was having trouble
9 doing the routines?

10 A. She would hang out all day, just go
11 through their routine down there.

12 Q. So they would receive more rehearsals
13 of the routines?

14 A. No. Most of the adults down there
15 don't do anything but hang out, eat and sleep,
16 exercise, basic husbandry.

17 Q. When did you receive your first
18 promotion at Feld Entertainment?

19 A. I have never really received a
20 promotion.

21 Q. Has your job title changed at all?

22 A. Yes.

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1 Q. Who is in charge of the Red Unit? Who
2 is the head of the Red Unit?

3 A. It would be John Griggs.

4 Q. Okay. And Mr. Vargas works under
5 Mr. Griggs?

6 A. Yes.

7 Q. And what's Mr. Griggs' title?

8 A. He is the general manager.

9 Q. Right. Of the Red Unit?

10 A. Yes.

11 Q. Okay. And who is the -- is there a
12 general manager of the Blue Unit as well?

13 A. Yes.

14 Q. Who is that?

15 A. Mike Stuart.

16 Q. And is there an animal superintendent
17 of the Blue Unit?

18 A. Yes.

19 Q. Who is that?

20 A. David Polke.

21 Q. Polke?

22 A. Yes.

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1 Q. There were approximately 10 or 11 --

2 A. Yes.

3 Q. -- elephants on the Blue Unit when you
4 became the superintendent of elephants?

5 A. Yes.

6 Q. And I'm asking which elephants are no
7 longer on the Blue Unit who were on the Blue
8 Unit when you became the superintendent of
9 elephants?

10 A. Got you. Lutsie.

11 Q. Lutsie?

12 A. Lutsie, Susan, Mysore, Tova.

13 Q. Tova?

14 A. Tova.

15 Q. Where are Lutsie, Susan, Mysore, and
16 Tova now?

17 A. Mysore is on the Gold show, and the
18 other three are at the CEC.

19 Q. Do you know the ages of these
20 elephants?

21 A. Approximately.

22 Q. Okay. How old is Lutsie?

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1 A. She is about 55.

2 Q. How about Susan?

3 A. She is about 54.

4 Q. How about Mysore?

5 A. 58.

6 Q. And Tova?

7 A. Early 40s.

8 Q. And do you know what Lutsie, Susan,

9 and Tova are doing at the CEC?

10 A. Hanging out.

11 Q. Are they being bred?

12 A. No.

13 Q. Do you know why they are not being

14 bred?

15 A. Their ages.

16 Q. Are there any other additional duties
17 that you acquired when you became the
18 superintendent of animals -- I'm sorry,
19 superintendent of elephants -- that you haven't
20 told us about?

21 A. No.

22 Q. And are you currently performing with

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1 the Blue Unit?

2 A. Yes.

3 Q. And what does your performance entail?

4 A. Anything with elephants.

5 Q. Is there a regular routine that you
6 use during the performance?

7 A. Yes.

8 Q. In every city that you go to, it's the
9 same routine?

10 A. Yes.

11 Q. All right. What is the routine?

12 A. With the elephants?

13 Q. Yes.

14 A. Oh, they are in opening.

15 Q. What does that mean?

16 A. A parade of the opening of the show.

17 Q. How long does that take?

18 A. 90 seconds.

19 Q. Okay. And is that where all of the
20 elephants or all of the animals and performers
21 come out?

22 A. Yes.

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1 A. Get on the cart, and the girl gets
2 off. Kelly turns and leaves.

3 Q. And when do any of the elephants next
4 perform?

5 A. Kelly goes back, and then Nicole comes
6 down.

7 Q. Before we get to Nicole, how long is
8 the part of the act that where Kelly is on the
9 cart?

10 A. Maybe 60 seconds.

11 Q. Okay. And then the next part of the
12 performance?

13 A. Would be when Nicole comes down.

14 Q. Mm-hmm. And what does Nicole do?

15 A. She is in the diner gag.

16 Q. I'm sorry?

17 A. A diner gag.

18 Q. A diner gag?

19 A. Yes.

20 Q. Can you describe that?

21 A. Sure. There's a bunch of clowns out
22 there, and it is a diner's kind of set up, and

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1 there is a maitre d', and then they are all
2 hanging out, and the cue comes. Nicole goes in
3 and sits down at the table. She runs out two
4 clowns, sits down at the table, rings a bell for
5 the maitre d' to bring something to drink.

6 Q. How does she ring the bell?

7 A. With her trunk. A drink comes. She
8 grabs the maitre d's leg. He spills it onto the
9 clowns, and those clowns blame the other clowns,
10 and she rings the bell again. Then she gets
11 water. Sprays it on a clown. That clown blames
12 it on the other clowns. Then she knocks a tray
13 from the clown's hand and then leaves, which
14 leads into a big food fight with the clowns.

15 Q. Okay. And who taught Nicole how to do
16 that part of the routine?

17 A. Mike Hayward.

18 Q. And who is he?

19 A. He works under me.

20 Q. What's his title?

21 A. Presenter.

22 Q. How long has he been with Feld

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1 Entertainment?

2 A. Since 2002.

3 Q. Has he worked under you since 2002?

4 A. Yes.

5 Q. And do you know his background, where
6 he came from?

7 A. From England.

8 Q. And do you know who trained him to
9 work with elephants?

10 A. I don't recall the gentleman's name.
11 Lee. I do know his first name was Lee.

12 Q. And who trained Kelly Anne to do the
13 bit on the cart?

14 A. I did.

15 Q. All right. And how long is the Nicole
16 diner gag? How long is Nicole involved in the
17 Nicole diner gag?

18 A. A little over 90 seconds.

19 Q. Okay. And then what happens next in
20 terms of when the elephants perform?

21 A. That would be the second half of the
22 show.

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1 A. Evenson is one of the leg carries,

2 Q. I'm sorry, Evenson?

3 A. Evenson.

4 Q. Is one of --

5 A. One of the clowns.

6 Q. During the leg carry, did you say?

7 A. Yes.

8 Q. Who is the other one?

9 A. Neil.

10 Q. Is Evenson a first name or a last
11 name?

12 A. First name.

13 Q. Do you know his last name?

14 A. No.

15 Q. What about Neil?

16 A. No.

17 Q. Don't know his last name either?

18 A. No. There's 300 people in the show.

19 Q. Okay. And who taught the elephants to
20 do the various parts of the performance that you
21 described?

22 A. Most of them were already taught to do

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1 the basic stuff.

2 Q. By whom?

3 A. I would guess Axel.

4 Q. What is your basis for saying that?

5 A. Because he was on the Blue Show for
6 many years.

7 Q. What about the nonbasic stuff?

8 A. We did.

9 Q. When you say we --

10 A. Myself and Mike.

11 Q. And is Mike Hayward involved in the
12 performance with the elephants?

13 A. Oh, yes.

14 Q. And who else is involved?

15 A. Isham.

16 Q. How do you spell that?

17 A. I-S-H-A-M. Sunny.

18 Q. Is Isham a last name or a first name?

19 A. First name.

20 Q. Sunny is a first name?

21 A. Yes.

22 Q. Last name?

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1 something if that you are doing nails and you
2 clip your cuticle too short, you just got slight
3 bleeding, that's when you would use it.

4 Q. Okay. Have you ever seen a wound on
5 an elephant that was caused by a bullhook?

6 MS. JOINER: Object to form.

7 THE WITNESS: Just explain to me what
8 you mean by wound.

9 BY MS. MEYER:

10 Q. Do you know what a wound is?

11 A. I do. There's different sizes of
12 wounds. There's different --

13 Q. I'm talking about any wound right now.

14 A. That word can mean many different
15 things. What is your definition of wound?

16 Q. Well, I asked you if you knew what a
17 wound was, and you said yes, so I'm asking you
18 to use your definition of a wound.

19 A. A wound to me would be an open cut, a
20 gash.

21 Q. Okay. Do you know what a bullhook is?

22 A. Yes, I do.

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1 Q. Have you ever seen a wound as you have
2 described it on an elephant that was caused by a
3 bullhook?

4 A. No.

5 Q. Never?

6 A. No.

7 Q. Okay. Have you ever seen an elephant
8 with a hook boil?

9 A. Yes.

10 Q. Do you know what a hook boil is?

11 A. Yes.

12 Q. What is it?

13 A. It can be caused from a splinter from
14 a tree, improper use of a hook.

15 Q. Why would it be called a hook boil if
16 it was caused by a splinter?

17 A. That's what people call it.

18 Q. Who? Who calls it that?

19 A. Everybody calls it that. We don't
20 call them boils. We call them -- we don't call
21 them. We just fix them.

22 Q. But you are familiar with the term

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1 A. No.

2 Q. Have you ever witnessed any other
3 Ringling Bros. Employee, Feld Entertainment
4 employee reprimanded for the way he or she
5 treated an elephant?

6 A. No.

7 Q. Have you ever reprimanded a Ringling
8 Bros. employee or Feld Entertainment employee
9 for the way he or she treated an elephant?

10 A. Yes.

11 Q. Who would that be?

12 A. They are no longer there.

13 Q. Who was it?

14 A. It was a newer guy.

15 Q. What was his name?

16 A. I don't recall.

17 Q. Was it Brian Clark?

18 A. No.

19 Q. You don't recall who the person is?

20 A. No.

21 Q. Would there be a written record of it?

22 A. He was not a handler.

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1 Q. What was his role?

2 A. General work.

3 Q. General work?

4 A. Yes. General, you know, we have got
5 three people, four people that are there.

6 Q. When did you reprimand this person?

7 A. About two, three years ago.

8 Q. Do you remember where that happened?

9 A. No.

10 Q. Do you remember the circumstances?

11 A. Had to do with a tool, trying to move
12 them over with a broom when he is not supposed
13 to be talking to them or anything.

14 Q. I'm sorry. Tried to move whom over?

15 A. You know, touching them with a broom,
16 sweeping up and getting their feet.

17 Q. You are talking about the elephants?

18 A. The human pushing the broom, pushing
19 and pushing into their feet.

20 Q. Mm-hmm. And what kind of action did
21 you take against this person?

22 A. I just let -- a verbal reprimand.

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1 I saw her when she was born.

2 Q. And she is at the CEC?

3 A. Yes.

4 Q. And as far as you know, is she being
5 trained to go out on the road?

6 A. I don't know if he started that yet.

7 Q. And he would be Gary Jacobson?

8 A. Yes.

9 Q. And what about Asha? Are you familiar
10 with Asha?

11 A. Yes.

12 Q. And do you know how old she is?

13 A. She is almost -- she is going on 4.

14 Q. And where is she?

15 A. The CEC.

16 Q. And what is she doing at the CEC?

17 A. Hanging out.

18 Q. Is she being trained to perform?

19 A. No, she is already trained.

20 Q. And she was trained by whom?

21 A. All of the youngsters were trained by
22 Gary Jacobson.

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1 elephants coming to visit at winter quarters?

2 A. Socialization.

3 Q. Is part of the purpose to see if they
4 are ready to go out on the road?

5 A. Yeah. And just give them a look at
6 what is out there. And with Juliet and Bonnie
7 and Kelly, that is a good start for them.

8 Q. And when they come for a visit to
9 winter quarters, are they rehearsed to see how
10 they would do in a performance?

11 A. We will practice and exercise and do
12 your normal daily husbandry with all of them.

13 Q. So are the young elephants who are
14 being trained by Gary Jacobson down at the CEC
15 specifically being trained to perform the tricks
16 that you need to be done in the Blue Unit?

17 A. They learn all of the basics. From
18 there, we would pick who would be more agile to
19 do things different than the others.

20 Q. And is that kind of -- strike that.

21 Is the time that you make that

22 decision with the newer elephants at winter

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1 Q. Other than the walks from the train,
2 what else did she do that made you think that
3 she didn't --

4 A. Dancers --

5 Q. Let me just finish the question.

6 What else did she do that made you
7 think that she didn't like the life-style?

8 A. Dancers wear big costumes. At that
9 time we had a man that got in a big uniform kind
10 of thing like a robot that was 9 feet tall.
11 Those kind of things that are part of the show.

12 Q. And how would she act around that
13 individual that made you think that she didn't
14 agree with the life-style?

15 A. It wasn't the individual. It would be
16 around certain objects and things. And she
17 would be antsy. They all show it in different
18 ways. They all have different personalities.
19 So...

20 Q. But just talking about Shirley. I'm
21 just interested in what kinds of behavior she
22 manifested that made you think that she didn't

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1 agree with the life-style?

2 A. Big eyes. She would never settle.

3 Q. And how did you deal with that?

4 A. We sent her to the CEC.

5 Q. Before you sent her to the CEC?

6 A. We would practice and calm her down
7 and reassure her with carrots or apples or jelly
8 beans, anything that we could find that might be
9 her favorite to reassure her that everything was
10 cool. The boogeyman under the bed.

11 Q. Now, at the time that you sent her to
12 the CEC because you determined she didn't agree
13 with the life-style, had Benjamin already died?

14 A. Yes.

15 Q. And who was Benjamin?

16 A. A little male elephant.

17 Q. And was Benjamin significant in
18 Shirley's life?

19 A. That was before my time.

20 Q. Do you know whether or not Benjamin
21 and Shirley traveled together in the circus?

22 A. As far as I know, they did, yes.

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1 Q. And do you know whether or not they
2 had traveled together since they were very young
3 elephants?

4 A. That I do not know.

5 Q. And do you know how soon after
6 Benjamin died that Shirley was manifesting these
7 behaviors that made you think she didn't agree
8 with the life-style?

9 A. Shirley has always been like that,
10 from what I'm told.

11 Q. Okay. Well, the five-month period
12 that you are talking about in the Blue Unit
13 occurred when?

14 A. 2000.

15 Q. Okay. Do you know when Benjamin died?

16 A. I don't recall. I wasn't working for
17 the company then.

18 Q. And when in 2000 were those five
19 months?

20 A. I'm sorry?

21 Q. What part of the year were those five
22 months?

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1 A. It wouldn't come up because something
2 like that, we -- we wouldn't have to analyze
3 something like that. We wouldn't believe it
4 true to have an animal that would show that much
5 behavior towards something, another elephant,
6 through some experiences of other elephants.

7 Q. So I just want to be clear because I'm
8 not sure I asked the question as clearly.

9 Is it your position that the death of
10 Benjamin had no negative impact on Shirley's
11 behavior?

12 A. At the time she was acting like that
13 on the show, no.

14 Q. Okay. Did it at some point?

15 A. I wasn't there then.

16 Q. So you don't know?

17 A. I don't know. I can only speak for
18 when I was working with her.

19 Q. But you don't know when Benjamin died?

20 A. I don't recall, no.

21 Q. Well, if you don't know when Benjamin
22 died, how do you know that the death of Benjamin

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1 had no negative impact on Shirley's behavior?

2 MS. JOINER: Objection, argumentative.

3 THE WITNESS: From experience.

4 BY MS. MEYER:

5 Q. Did you understand the question?

6 A. Can you repeat it, please.

7 Q. If you don't know when Benjamin died,
8 then how do you know that the death of Benjamin
9 had no negative impact on Shirley's behavior?

10 A. Basically we are talking about a
11 mourning situation, an animal's mourning, which
12 I have been around elephants that have passed
13 on, fortunately, not that often.

14 They do not mourn like we do, like you
15 would like to perceive it. That's what I feel
16 that you are trying to get to, that she reacted
17 like she did because she was mourning for
18 Benjamin. I don't believe that that would have
19 been the cause for it. In my experiences with
20 elephants, that would not be the cause.

21 It would have some effect for a
22 certain amount of time, but even with a mother

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1 that loses a baby, she will rumble for that baby
2 for a while, then instinct will kick in, so she
3 will cycle again so she can reproduce.

4 But elephants don't go on thinking
5 about tomorrow or yesterday or the next hour or
6 five hours previous to that.

7 Q. So you do agree that at the time that
8 Benjamin died, Shirley may have had a negative
9 reaction at that very time to the death of
10 Benjamin? Is that correct?

11 MS. JOINER: Objection. Asked and
12 answered. Calls for speculation.

13 THE WITNESS: I wasn't there.

14 BY MS. MEYER:

15 Q. Okay. I'm just trying to understand
16 your answer. You were suggesting there is a
17 time issue involved in whether or not the death
18 of Benjamin would have a negative impact on
19 Shirley, based on your experience with
20 elephants. That's what I understood your
21 testimony to be, correct?

22 A. With the other elephants, yes.

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1 Q. How much time would go by before the
2 elephant would be completely over the death of a
3 companion elephant?

4 A. They are all individuals.

5 Q. Can you give me any time frame?

6 A. Just because they were together
7 doesn't mean that it would last a week, two
8 weeks. There is no time frame. I don't think
9 there has ever been any studies on it in
10 captivity, and she came from there to the herd
11 of young elephants where we were --

12 Q. Mm-hmm.

13 A. -- and was put in that herd, and from
14 there, that is what happened.

15 Q. And you also mentioned during your
16 testimony before we broke for lunch that there
17 was a time when you reprimanded an individual
18 for I think you said hitting the foot of an
19 elephant with a broom?

20 A. He was pushing the broom, and he kept,
21 you know, like moving her out of the way, but...

22 Q. Where was he pushing the broom on the

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1 reprimanding employees?

2 A. They are written up with a signature
3 from the general manager and Dave Polke and
4 myself, which they would sign. And then it
5 would go on record.

6 Q. But as I understand your testimony,
7 first you would give them an oral, a verbal
8 warning before you would proceed to a written
9 reprimand, is that correct?

10 A. It would depend on the situation.

11 Q. Okay. What factors would determine
12 whether or not you prepared a written reprimand
13 the first time an incident occurred with respect
14 to the mistreatment of an elephant?

15 A. It would depend on the situation.

16 Q. Can you give me an idea of what kind
17 of situation would warrant a written reprimand
18 as opposed to a verbal reprimand?

19 A. I have never had to do it.

20 Q. Okay. I just want to go through the
21 tricks that you described for the Blue Unit. So
22 the record is clear, to the best of your

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1 elephants for the Red Unit at that time, is that
2 correct?

3 A. Yes. There was three rings of
4 elephants.

5 Q. Is Sasha Houcke still with the Red
6 Unit?

7 A. I think he is, yes.

8 Q. Is he still titled head presenter?

9 A. I think so, yes.

10 Q. Does very responsibility for training
11 the elephants used by the Red Unit?

12 A. They are pretty much all trained.

13 Q. Okay. Does he have responsibility for
14 helping the elephants learn how to do new
15 routines?

16 A. Yes.

17 Q. Okay. And do you know where he
18 received his training in handling elephants
19 from?

20 A. No.

21 Q. Do you know what country he is from?

22 A. France.

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1 on the --

2 A. No, I don't.

3 Q. You didn't make any bullhooks for any
4 of these individuals, did you?

5 A. No.

6 Q. And did any of these individuals ever
7 make a bullhook for you?

8 A. No.

9 Q. Are elephant handlers and trainers
10 required to have bullhooks if they work at Feld
11 Entertainment?

12 A. Anybody that works with elephants
13 would have a bullhook.

14 Q. Are they required to have a bullhook?

15 A. It's something that's necessary to
16 have, yes.

17 Q. Is it a requirement of the job?

18 A. Yes. Any elephant job.

19 Q. Do you know whether Adam Hill ever
20 made any bullhooks for use by individuals at the
21 Feld Entertainment?

22 A. I know that he does make bullhooks.

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1 A. I do not.

2 Q. Have you ever used a bullhook to
3 discipline an elephant?

4 A. I have corrected elephants with
5 bullhooks, yes.

6 Q. And what do you mean by that?

7 A. If they are doing something wrong,
8 fighting, things of that nature.

9 Q. And how do you correct them with the
10 bullhook?

11 A. There's various ways. It depends on
12 what they are doing. It depends on the
13 situation.

14 Q. Well, let's go through the situation.
15 You said if they are fighting.

16 How would you correct an elephant with
17 a bullhook if it was fighting?

18 A. You back them up away from each other
19 and bop them on the head. Depends on the
20 severity of the confrontation.

21 Q. Okay. And when you say you would bop
22 them on the head, with what end of the bullhook

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1 would you bop them on the head?

2 A. With the handle.

3 Q. Could you describe what a bullhook
4 looks like?

5 A. It's a stick with a hook on the end of
6 it.

7 Q. Okay. Does it have one or two hooks?

8 A. One.

9 Q. What is the hook made out of?

10 A. Normally it's stainless steel or
11 titanium.

12 Q. Okay. Now, what other instances would
13 you have to correct an elephant with a bullhook
14 besides fighting if they are fighting?

15 A. That would vary from time to time.

16 Q. What if an elephant isn't moving fast
17 enough for your purposes?

18 A. Then you guide her with it.

19 Q. You would -- how would you do that?

20 A. You would pull her with the hook.

21 Q. You would pull it with the hook.

22 Where would you put the hook to pull the

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1 Q. I'm talking about correction with a
2 bullhook, which is what we were talking about.

3 A. It is not a way of life, no.

4 Q. So if, in fact, you were quoted as
5 saying that by a reporter in Chicago in the year
6 2002, he misquoted you?

7 A. He very well could have. I don't
8 recall the instance in 2002.

9 Q. Do you ever use the bullhook to punish
10 an elephant?

11 A. We correct the elephants with that.

12 Q. And do you use the word correct as a
13 synonym for punishment?

14 A. No. What is your definition of
15 punishment?

16 Q. If an elephant does something it's not
17 supposed to do, you --

18 A. Depending on the situation.

19 Q. -- inflict punishment on it in order
20 to teach it a lesson?

21 A. No. Depending on the situation.

22 Q. Well, if its depending on the

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1 situation, then that would indicate that under
2 some circumstances you would use a bullhook to
3 punish an elephant, is that correct?

4 A. No. We correct with the bullhook.

5 Q. Okay.

6 A. Correction and punishment to me are
7 two different things.

8 Q. Okay. How do they differ?

9 A. Punishment to them would be time out.
10 They get put off in a pen by themselves. They
11 don't get to hang out with each other for a bit.
12 Take their mind set away from whatever they were
13 thinking.

14 Q. Do you ever use that kind of
15 punishment with an elephant?

16 A. Yes.

17 Q. Under what kind of circumstances?

18 A. It could vary from day to day.

19 Q. And what would you do under those
20 circumstances?

21 A. Put them in time out.

22 Q. Would the elephant be chained?

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1 situation, then that would indicate that under
2 some circumstances you would use a bullhook to
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19 Q. And what would you do under those
20 circumstances?

21 A. Put them in time out.

22 Q. Would the elephant be chained?

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1 A. On occasion, yes.

2 Q. How long would an elephant remain in a
3 time out?

4 A. That depends on the situation.

5 MS. MEYER: Do you need to change
6 tapes?

7 THE VIDEOGRAPHER: This is the end of
8 tape number 4 in the deposition of Troy Metzler.
9 We are off the record at 4:13:37 p.m. on July
10 25, 2005.

11 (Recess was taken from 4:14 p.m. to
12 4:20 p.m.)

13 THE VIDEOGRAPHER: This is the
14 beginning of tape number 5 in the video
15 deposition of Troy Metzler. We are on the
16 record at 4:20:23 p.m. on July 25, 2006.

17 BY MS. MEYER:

18 Q. Mr. Metzler, how much does a typical
19 bullhook weigh?

20 A. That would depend on what it's made
21 of.

22 Q. Okay. Let's talk about the three