

James M. Andacht

January 30, 2008

Washington, DC

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1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

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4 AMERICAN SOCIETY FOR THE :
5 PREVENTION OF CRUELTY TO :
6 ANIMALS, et al., :

7 Plaintiffs, :

8 v. : Civ No. 03-2006
9 : (EGS/JMF)

10 RINGLING BROTHERS AND BARNUM :
11 & BAILEY CIRCUS, et al., :
12 Defendant. :

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14 Washington, D.C.
15 Tuesday, January 30, 2008

16 Video Deposition of
17 JAMES M. ANDACHT, called for examination by
18 counsel for Plaintiffs, pursuant to notice, at the
19 Law Offices of Meyer Glitzenstein & Crystal, 1601
20 Connecticut Avenue, N.W., Washington, D.C.,
21 commencing at 10:07 a.m., before Barbara A. Huber,
22 Notary Public in and for the District of Columbia,
when were present on behalf of the respective
parties:



1 APPEARANCES:

2 On behalf of Plaintiffs:

3 KATHERINE A. MEYER, ESQUIRE
4 Meyer Glitzenstein & Crystal
5 1601 Connecticut Avenue, N.W.
6 Suite 700
7 Washington, D.C. 20009-1056
8 (202) 588-5206
9 katherinemeyer@meyerglitz.com

7 On behalf of Defendant and The Witness:

8 JOHN M. SIMPSON, ESQUIRE
9 Fulbright & Jaworski, LLP
10 801 Pennsylvania Avenue, N.W.
11 Washington, D.C. 20004-2623
12 (202) 662-0200
13 jsimpson@fulbright.com

11 On behalf of Defendant:
12 JULIE ALEXA STRAUSS, ESQUIRE
13 Feld Entertainment
14 8607 Westwood Center Drive
15 Vienna, Virginia 22182
16 (703) 448-4065
17 jstrauss@feldinc.com

16 Also Present:

17 S. Anthony Francis, Videographer

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19
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21
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* * * * *

1 Q Where did you go to college?

2 A University of Wisconsin Waukesha, UWM.

3 Q UWM?

4 A University of Wisconsin Milwaukee. And
5 for a semester University -- University of
6 Wisconsin Parkside.

7 Q All right. What are your duties as vice
8 president of circus operations?

9 A I'm in charge of oversee of the three
10 circus units: The blue, the red, and the gold;
11 also the CEC, which is our facility in -- in Polke
12 County; and Williston, which is our retirement
13 facility. I'm also -- part of the

14 responsibilities are to -- basically to take the
15 mission statement of our company, if you may say,
16 of being the -- in charge of the best live
17 entertainment circus in the world, and improving
18 it or taking it to new levels.

19 Q Okay. When you say you oversee the
20 three circus units, what does that entail?

21 A Entails having weekly conference calls
22 with my -- with the -- with the general managers,

1 Q All right. And do you keep Kenneth and
2 Nicole -- let's one at a time.

3 Do you keep Mr. Feld informed about
4 circus operations?

5 A Very rarely. I mean, I might call him
6 regarding an issue.

7 Q Okay. Under what circumstances would
8 you call him?

9 A There's no really rhyme nor reason.
10 Sometimes it's because I -- I'm not able to get in
11 touch with the -- Mike Shannon. It might be
12 something that's production-related that he would
13 want to know, like the Wheel of Death isn't in the
14 show tonight, for example.

15 Q Is that the kind of thing that he
16 normally wants to know about?

17 A Uh-huh.

18 Q He wants to know if a particular act is
19 not being used in a particular show?

20 A That's -- I would call him and give him
21 that information; again, if I hadn't been able to
22 get in touch with anyone else.

1 Q Okay.

2 A He's not my first point of contact.

3 Q All right. Your first point of contact
4 on something like that would be Mr. Shannon; is --

5 A Yeah.

6 Q -- that correct?

7 Sorry, you got -- unfortunately, you've
8 got to let me --

9 A I'm sorry.

10 Q -- answer (sic), so that the reporter
11 can get both the answer --

12 A Okay.

13 Q -- I mean both the -- let me ask the
14 question so she can get both the question and the
15 answer.

16 But that is something that you would
17 keep Mr. Shannon apprised of -- apprised of,
18 whether or not there's a particular act that's not
19 going to be in the show?

20 A Yes.

21 Q All right. And would you let
22 Mr. Shannon know that on a regular basis?

1 that we've been talking about?

2 A Mostly the things that I e-mail Kenneth
3 about are -- are production-related. And when I
4 say that it's -- we do a new show every year. And
5 so I'm also heavily involved in the putting
6 together of those shows. So we correspond on
7 things like set pieces, you know, the size of the
8 show, the logistics of the show.

9 Q And then when you -- when you're doing a
10 new show, do you also keep him apprised of how
11 it's going?

12 A He's usually there.

13 Q He attends the show? Is that --

14 A He attends --

15 Q -- what you're saying?

16 A -- the rehearsal period, yes.

17 Q Okay. So Mr. Feld is kept informed
18 about what's going on at the circus?

19 A When he's at the rehearsals.

20 Q Okay. But even when he's not at the
21 rehearsals, it sounds like either you or
22 Mr. Shannon keep him pretty well informed about

1 what's going on; is that correct?

2 A I don't know about Mr. Shannon,

3 whether -- how he works with Mr. Feld. I

4 occasionally will talk to Mr. Feld.

5 Q Okay.

6 A And Nicole.

7 Q Okay. You have no idea how

8 Mr. Shannon -- if Mr. Shannon keeps Mr. Feld

9 informed about what's going on at the circus?

10 A No.

11 Q What do you -- do you think he probably
12 does?

13 A I don't know.

14 Q Do you know what Mr. Shannon's
15 responsibilities as president of Feld
16 Entertainment are?

17 A No.

18 Q You have no idea what his
19 responsibilities are?

20 A He's the president of the company. So
21 whatever that makeup is that's been determined
22 between him and I guess Kenneth is what that is.

1 A No.

2 Q Where has he been working since March of
3 '06?

4 A I'm not certain of all the positions. I
5 mean, we've talked. I think he did a couple of
6 consulting jobs. He was work -- in the
7 entertainment industry. He worked for a
8 company -- another entertainment company, in
9 Korea.

10 Q Do you know the name of it?

11 A No, I do not.

12 Q Okay. And has he agreed to come back
13 and be the general manager of the blue unit?

14 A Yes.

15 Q Okay. When does he start?

16 A Supposed to have started beginning of
17 this week, but he threw his back out. And we're
18 expecting him hopefully by the weekend.

19 Q Okay. And do you know why Mr. Stuart
20 left Feld Entertainment in March of '06?

21 A Yes.

22 Q Why?

1 A He was terminated.

2 Q Why was he terminated?

3 A We had a situation on the train with the
4 animals, where we were traveling from -- I can
5 never remember. I want to say Pittsburgh. But
6 anyway, we were coming -- we were on a train run
7 from a city to Baltimore. And on that run, we had
8 a number of issues that came up. Call it the
9 perfect storm scenario. We were late coming out
10 of a town. We ran into severe cold weather. And
11 we were under the gun to get into the next city to
12 make an opening. And when I say opening, meaning
13 the opening of a show.

14 Q And that would have been in Baltimore?

15 A Yes.

16 Q All right. And for all of those reasons
17 Mr. Stuart was terminated?

18 A No.

19 Q Oh. Why was he terminated?

20 A As those conditions happened, the water
21 froze in the stock cars. And when I say the water
22 froze, the -- we have water on every stock car for

1 the animals. And we have tanks underneath, 700
2 gallon tanks underneath each stock car. The --
3 call it the connection of where that water comes
4 up to the hose spigot inside froze. So we were in
5 a situation where for approximately -- I'm not
6 certain -- 12 to 16 hours without water.

7 So when that happened, Mike Stuart was
8 informed by my -- he asked the question -- you
9 know, as the train moves, there's communication.
10 And they realized that they were without water.
11 It was Mike Stuart's decision, based on
12 discussions he'd had with both the train -- or the
13 train master; Mike Haywood, who is the elephant
14 department head; and I think Dave Polk, who was
15 the unit superintendent, to forego stopping, and
16 went down the road and finished the run and got
17 into the town.

18 So the -- the animals didn't have water
19 for that period of time. And in our estimation,
20 that was not acceptable. So as -- call it
21 disciplinary action or whatever you want to call
22 it, he was terminated.

1 could have in your head as institutional
2 knowledge; is that correct?

3 A Yes.

4 Q And there's no reason to have that in
5 the actual written --

6 A I'm not --

7 Q Let me -- let me -- I'm sorry. Let me
8 just finish asking -- asking the question.

9 There's no reason to have a written
10 record of that in Mr. Stuart's personnel record?

11 A Not -- not for me.

12 Q Okay. Would there be a reason to have
13 it in his record for anyone else at the circus?

14 A I don't -- I don't know. I mean, you'd
15 have to ask HR. Maybe there is something. I
16 don't -- I don't know.

17 Q All right.

18 A Or human resources.

19 Q But as far as you're concerned, there's
20 no reason to have any written record in
21 Mr. Stuart's personnel record concerning the
22 incident that you described earlier about the

1 job?

2 A Well, we would probably write someone up
3 for that.

4 Q Okay. How about being late for work?
5 Or you mentioned that one.
6 How about missing a shift?

7 A Yes.

8 Q That's the kind --

9 A Could be.

10 Q That's the kind of thing that would be
11 written up?

12 A Depending.

13 Q Depending on what?

14 A Why they missed the shift.

15 Q What about if they overslept?

16 A Would be a good reason to write someone
17 up.

18 Q Okay. And when you say with the
19 assistance of HR, what kind of assistance does HR
20 provide with respect to the -- the policy of
21 writing someone up?

22 A They might -- they might help in the

1 construction of the formal writeup.

2 Q All right.

3 A They may observe it, look at it.

4 Q Okay. Who on the units is responsible
5 for the writeups?

6 A Depends on -- it could be any manager.

7 Q Okay. Let's assume that it's a writeup
8 about a member of the elephant crew.

9 Who would be responsible for the
10 writeup?

11 A It could be the animal superintendent.

12 Q Okay.

13 A It could be the elephant department
14 head. It could be the operations manager. It
15 could be the general manager.

16 Q All right. What about insubordination?
17 Is that the kind of thing that would be written
18 up?

19 A It could, yes.

20 Q Normally is that the kind of thing
21 that's written up?

22 A I don't really see them physically.

1 Q Uh-huh.

2 A But it could be, yes.

3 Q Okay. You're saying you don't
4 physically see --

5 A I don't see --

6 Q -- the writeups?

7 A -- the -- in what you were saying to me
8 was like one more than the other, I don't -- I
9 don't know. I don't usually see all the different
10 writeups.

11 Q Okay. I'm just trying to -- to sort of
12 get a sense of the categories of infractions that
13 would be covered by this policy. That's all.

14 So insubordination was one that I'd gone
15 and --

16 A Uh-huh.

17 Q -- I was just asking if that's --

18 A Yeah.

19 Q -- the kind of thing that would be
20 written up?

21 Okay. And when you say -- when you say
22 it's written up, that writeup becomes a document

1 that's entered into the employee's personnel file;
2 is that correct?

3 A If it gets to that level, yes.

4 Q Okay. And is the employee given some --
5 some opportunity to give his or her side of story?

6 A Yes.

7 Q Okay. And is that -- is that normally
8 done?

9 A Yes.

10 Q And is that also included in the
11 person's personnel file?

12 A I would hope so.

13 Q Okay. I mean that's part of the policy?

14 A Yes.

15 Q Okay. Are there some instances in which
16 infractions are not written down, or written up I
17 should say?

18 A It can only gone on the -- you know, on
19 what I know. But, yeah, I'm -- assume that there
20 are times that they're not written up, yes.

21 Q Okay. What would be the circumstances
22 under which --

1 and what investigation we done -- we've done to
2 figure out whether or not it actually merits a
3 writeup.

4 Q Okay. Could a writeup occur months
5 after the incident occurred?

6 A I don't know.

7 Q All right. How about a year after the
8 incident occurred?

9 A Again, I don't know.

10 Q All right. Now, does the writeup policy
11 that we've been discussing apply to an employee
12 who mistreats an animal?

13 A Rephrase that question. I'm sorry.

14 Q Would an employee who mistreats an
15 animal be written up for that?

16 A I don't know.

17 Q Under what circumstances would -- would
18 an employee who mistreats an animal not be written
19 up?

20 A Would, I guess again, whether or not an
21 investigation proved or not that someone actually
22 did something.

1 informed about everything.

2 There's 900 people in the circus.

3 There's however many animals, however many trains,
4 whatever. And I'm not -- I am not going to know
5 everything.

6 BY MS. MEYER:

7 Q Can you tell me, as the director of
8 operations, what information you expect the people
9 who work for you to keep you informed about?

10 MR. SIMPSON: Object to the form.

11 THE WITNESS: You said director of
12 operations.

13 BY MS. MEYER:

14 Q Circus operations, aren't you the
15 director of circus operations?

16 A No.

17 Q I'm sorry. What is your title again?

18 A Vice president of circus operations.

19 Q As the vice president of circus
20 operations, do you have -- do you have -- do you
21 expect your people who work for you to keep you
22 informed about circus operations?

1 A Yes.

2 Q Okay. What do you -- what do you expect
3 them to keep you informed about?

4 A I don't have a list.

5 Q Okay. Could you -- could you tell me,
6 though, what it -- what it is?

7 A The operations, the overall operations.

8 Q Okay. And what do you mean by overall
9 operations?

10 A Operations could be anything from moving
11 from city to city.

12 Q Okay. What if an elephant on the blue
13 unit had to be taken off the blue unit because of
14 an injury? Is that something you'd be informed
15 about?

16 A It's possible.

17 Q Is that something you would expect to be
18 informed about?

19 A Yes.

20 Q Okay. What if an employee on the blue
21 unit were written up for mistreating an elephant
22 on the blue unit? Is that something you would be

1 informed about?

2 A It's possible.

3 Q Is it something you would expect to be
4 informed about?

5 A Again, it depends on what -- what the
6 situation would be, whether there was an
7 investigation. I don't know.

8 Q Would you be informed about such an
9 investigation?

10 A I don't know. I -- I'm sorry. I jumped
11 ahead there. Repeat the question.

12 Q Would you be informed about such an
13 investigation?

14 A I don't know. Depending on the
15 situation, I may or may not be brought into the
16 loop.

17 Q Under what circumstances would you be
18 brought into the loop?

19 A Be the -- pretty much the decision of
20 the person's that's out there on the road, whether
21 they feel they need to bring me in or not.

22 Q So it would be completely up to that

1 person?

2 A As the -- yes.

3 Q Okay. So --

4 A I mean, they're the one's -- yes.

5 Q Sorry.

6 So if the person out on the road who was

7 conducting the investigation of an allegation of

8 mistreatment of an animal decided to not keep you

9 informed about that investigation, that would be

10 fine with you?

11 A I would be -- I would be thinking that

12 they had the things under control, that they were

13 the management on the unit, and they're -- they're

14 doing their job.

15 Q So you don't need to know what's going

16 on in a situation where the manager of the unit is

17 handling it on his own?

18 A That's correct.

19 Q Okay. Now, certainly when you were

20 acting as the manager of the blue unit you would

21 expect to be informed about incidents of

22 mistreatment of animals on the blue unit, correct?

1 reporter can get it down.

2 So he left the company in about November
3 of 2006; is that correct?

4 A Yes.

5 Q All right. And you said he was a
6 presenter of elephants?

7 A Yes.

8 Q For the red unit, correct?

9 A Also horses.

10 Q All right. Did Sasha Houche ever
11 mistreat an elephant when he worked for Feld
12 Entertainment?

13 A Not to my knowledge.

14 Q Did you ever know him to strike an
15 elephant with a bull hook?

16 A No.

17 Q Did you ever know him to hit an elephant
18 with a bull hook?

19 A No.

20 Q Did you ever obtain any information that
21 he ever struck an elephant with a bull hook in the
22 elephant's eye?

1 A No.

2 Q Anyone ever discuss that with you?

3 A No.

4 Q Did you ever get any information that

5 Mr. Houche had caused any kind of injury to an

6 elephant?

7 A Repeat the question.

8 Q Did you ever get any information that

9 Mr. Houche had caused any kind of injury to an

10 elephant?

11 A No.

12 Q Okay. Did anyone ever recommend to you
13 that Mr. Houche be fired?

14 A Not to my recollection.

15 Q If someone had recommended that
16 Mr. Houche be fired, is that the kind of thing you
17 would remember?

18 MR. SIMPSON: Object to the form of the
19 question.

20 THE WITNESS: I don't know if I would
21 remember it. I don't know what -- in what contact
22 text it would have been said.

1 that incident, would that be grounds for firing
2 him?

3 A Possibly.

4 Q But he wasn't fired?

5 A He was not fired.

6 Q Okay. And was he subsequently fired for
7 any reason?

8 A No.

9 Q Was a decision ever made by the company
10 not to renew Sasha Houche's contact?

11 A Yes.

12 Q Why?

13 A We do it all the time. I mean, it's
14 not -- it's not uncommon for us to not renew a
15 contract.

16 Q Why was the decision made not to renew
17 his contract?

18 A Time for a change. He'd been there for
19 a number of years. The numbers start to look
20 pretty much the same, you know, same people doing
21 it.

22 Q What does that mean, the numbers

1 start --

2 A The manage, the --

3 Q Sorry. Let me just finish the question.

4 What does that mean?

5 A The manage, the number in the show,

6 production number --

7 Q Uh-huh.

8 A -- the horse numbers. When you have the

9 same people doing the training year after year,

10 the acts get tired. They look the same. So

11 it's -- it's actually smart to shake it up and

12 bring in new people, get a fresh look.

13 Q So it was the company's decision not to

14 renew Sasha Houche's contract --

15 A Yes.

16 Q -- is that correct?

17 Okay. And who informed Mr. Houche of

18 the company's decision?

19 A I don't know.

20 Q Would it have been you?

21 A I don't think so.

22 Q Could it have been you?

1 receiving enough water -- and then she has an
2 internal quote -- So as to minimize the amount
3 they urinate -- end of internal quote.

4 Do you see that?

5 A Yes.

6 Q And then a couple lines down she has,
7 Perhaps this is worth investigating.

8 Do you see that?

9 A Yes.

10 Q All right. Do you know what, if any,
11 action was taken in response to Dr. Case's e-mail
12 to you about the fact that it had been brought to
13 her attention by more than one person that the
14 elephants were not receiving enough water so as to
15 minimize the amount they urinate?

16 A No, I don't know what action was taken.

17 Q Okay. Do you remember taking any action
18 at all in response to this e-mail?

19 A No, I do not.

20 Q Do you remember whether any

21 investigation of this matter was conducted by the

22 company?

1 A No, I do not.

2 Q Okay. If an investigation had occurred,
3 would there be some documentation of that
4 investigation?

5 A I don't know.

6 Q When she refers to Sacha in that last
7 paragraph, is she referring to Sasha Houche?

8 A I assume she is.

9 Q Okay. Was there anybody else named
10 Sacha working for the circus during this time
11 period, that you know of?

12 A I'm not aware of.

13 Q Okay. There wasn't anyone else with
14 responsibility for the elephants at the circus
15 during this time period whose first name was
16 Sacha, was there?

17 A No.

18 Q Okay. Do you regard Dr. Case's concern
19 about depriving the elephants of water so as to
20 minimize the amount they urinate to be a serious
21 concern?

22 A If I thought it was true, yes.

1 Q It would be the kind of thing that would
2 be investigated, would it not?

3 A Possibly.

4 Q And you don't know if it's true unless
5 it's investigated, correct?

6 A True.

7 Q Okay. And how would a concern that's
8 raised by a veterinarian like this be investigated
9 at the circus?

10 A Most times it would be the general
11 manager would then investigate through the unit
12 superintendent of animals through the department
13 head, in this case Sacha, discuss it.

14 Q All right. And that would have been
15 Mark Gaipo, the general manager of the unit at
16 that point in time, correct?

17 A Yes.

18 Q All right. Did Mark Gaipo ever get back
19 to you about any results of an investigation of
20 this concern --

21 A I don't know.

22 Q -- by Dr. Case?

1 Q Okay. If there had been an
2 investigation of either of these two incidents
3 that are recorded in Ms. Fahrenbruck's January
4 8th, 2005, e-mail, who would have been responsible
5 for conducting the investigation?

6 A Could have been anyone from the general
7 manager to the superintendent of animals to the --
8 well, not the department head in this particular
9 instance because it's who you're talking about.

10 And --

11 Q And if there had -- sorry. I'm sorry.

12 A And actually the operations manager
13 would -- could be in that, any manager above that
14 position on the unit.

15 Q Okay. And if there had been an
16 investigation that culminated in some resolution
17 of the matter, there should be some written
18 document that explains what that resolution is; is
19 that correct?

20 A Might have done one, they might not have
21 done one.

22 Q Could have all -- the investigation

1 could have all been done orally?

2 A Yes.

3 Q So the circus does not keep records of
4 investigations of allegations of mistreatment of
5 animals; is that correct?

6 A I don't -- that's not true. I mean, I
7 don't -- whether or not we keep certain ones or
8 all or whatever, I -- I have no idea.

9 Q Okay. Was there --

10 A Might be some in -- in somebody's file,
11 there might not.

12 Q Is there any policy within the circus
13 that would require the results of an investigation
14 of an allegation that an elephant handler was
15 using an electric prod to be put in writing?

16 A Please repeat that. I'm sorry.

17 MS. MEYER: Can you repeat -- can you
18 read that back?

19 (Whereupon the reporter read
20 the record as requested.)

21 THE WITNESS: Would be -- would be --
22 would be required? No.

1 BY MS. MEYER:

2 Q Okay. So the results of an
3 investigation of an allegation of this kind of
4 mistreatment may or may not be put in writing?

5 A Correct.

6 Q And that would be true if Mr. Metzler
7 were accused of using an electric prod and he were
8 exonerated of that accusation --

9 A Exonerated --

10 Q -- correct?

11 A -- meaning?

12 Q There was -- turned out there was
13 nothing to that allegation; it was a false
14 allegation, would there --

15 A What's the question?

16 Q -- would there be a written record that
17 it had been a false allegation?

18 A Not necessarily.

19 Q Okay. And if it turned out that it were
20 true that he were -- he was using an electric prod
21 on elephants, there might not be a written record
22 of that either?

1 BY MS. MEYER:

2 Q Mr. Andacht, you've been handed a
3 document that's been marked as Exhibit 5. And for
4 the record, it was a document produced by a
5 Defendant in this case. And it has a Bates-label
6 of FEI 16646 through 16648. I'd ask you to take a
7 look at it.

8 A (Witness examined document).

9 Q Have you had a chance to review it?

10 A Uh-huh.

11 Q Okay. Have you seen this document
12 before?

13 A I don't remember it.

14 Q Okay. Have you seen it before?

15 A No.

16 Q All right. It looks like on page FEI
17 16646 at the top of the page that you were sent a
18 copy of this e-mail exchange.

19 Do you see your name there --

20 A Yes.

21 Q -- in the "to" line?

22 Okay. Does that indicate that you were

1 in fact sent a copy of this e-mail?

2 A Yes.

3 Q All right. And if you turn to the next
4 page, FEI 16647, you'll see that the e-mail starts
5 from, on Saturday July 24th, 2004, 12:41 p.m.,
6 from Heather Riggs.

7 Do you know who Heather Riggs is?

8 A She was a vet tech on the unit.

9 Q Which unit?

10 A The red unit.

11 Q Okay. Did she work for you?

12 A Directly for me? She worked in -- for
13 the red unit.

14 Q Okay. But I mean she was -- she was
15 under your ultimate supervision as vice president
16 of circus operations, correct?

17 A Yes.

18 Q All right. Is Heather Riggs no longer
19 with the red unit?

20 A No, I don't think Heather's with the
21 company any more.

22 Q Okay. Do you know when she left?

1 Q Okay. So you don't know whether or not
2 any disciplinary action was taken at all with
3 respect to Dr. Case's concerns expressed in this
4 e-mail; is that correct?

5 A Not that I recall.

6 Q All right.

7 MS. MEYER: This is another one.

8 (Andacht Deposition Exhibit
9 No. 9 was marked for
10 identification.)

11 BY MS. MEYER:

12 Q Okay. You've been given a document
13 that's been marked as Exhibit 9. And for the
14 record, it is a document produced by Defendant,
15 with the Bates-label FEI 15025 through 15027. And
16 I'd like you to take a minute to look at that,
17 please.

18 A (Witness examined document).

19 Q Have you had a chance to look at it?

20 A Yes.

21 Q Have you read it?

22 A Yes.

1 A That is correct.

2 Q Okay. And if there weren't a written
3 writeup about it, would that be consistent with
4 the circus' policy?

5 MR. SIMPSON: Object to the form.

6 THE WITNESS: Repeat the question.

7 BY MS. MEYER:

8 Q If there had -- if, in fact, there was
9 an investigation, and the result of the
10 investigation was that Isham had hooked Lutzi in
11 the way described by Ms. Fahrenbruck, and there
12 was no written writeup about it, would that be
13 consistent with company policy?

14 A Not -- not necessarily, no.

15 Q So there should have been a -- there
16 should be a writeup in --

17 A Could be --

18 Q -- that situation?

19 A -- one --

20 MR. SIMPSON: Object to the form.

21 THE WITNESS: -- might not be one. I
22 mean, I'm not -- I'm not there. I'm not

1 physically there. I can't tell you whether
2 someone is putting it in the file. I don't know
3 what -- what the circumstances are. And so it's
4 very difficult for me to sit here and give that
5 answer --

6 BY MS. MEYER:

7 Q Okay.

8 A -- but I'm saying I don't know.

9 Q But under the circumstances I described,
10 if there had not been a written writeup, that
11 would be a flaw in the system?

12 MR. SIMPSON: Object to the form.

13 THE WITNESS: Not necessarily. Again,
14 I -- I don't know what the circumstances were, so
15 I can't -- I can't -- can't say.

16 BY MS. MEYER:

17 Q If anyone had been reprimanded for the
18 incident described by Ms. Fahrenbruck, who would
19 have been responsible for reprimanding the
20 employee?

21 A It could be anyone from the manager. It
22 could have been anyone from myself to the manager

1 to the superintendent to the department head.

2 Q Did you ever discuss this incident with
3 Ms. Fahrenbruck?

4 A I don't recall ever speaking about it.

5 Q Did you ever discuss it with Mike
6 Stewart?

7 A No. I believe this is the first time
8 I've seen it.

9 Q You've never seen this document before
10 today?

11 A No. I saw this document yesterday.

12 Q Okay.

13 A But I did not -- I had never -- I had
14 never seen it prior to that.

15 Q Oh, all right.

16 MS. MEYER: Okay. Good time to take a
17 break.

18 VIDEOGRAPHER: The time is 3:23 p.m.

19 This completes tape number three.

20 (Recess)

21 VIDEOGRAPHER: The time is 3:29 p.m.

22 This begins tape number four.

1 A No.

2 Q And as far as you know, no disciplinary
3 action was taken with respect to any of the
4 incidents described in Exhibit 9; is that correct?

5 A I do not know.

6 Q All right. Let me show you another one.
7 (Andacht Deposition Exhibit
8 No. 10 was marked for
9 identification.)

10 BY MS. MEYER:

11 Q You've been handed a document that's
12 been marked as Exhibit 10. And it is a document
13 that was produced by the Defendant, with the
14 Bates-label FEI 15024.

15 A (Witness examined document).

16 Q Have you had a chance to review --

17 A Yes.

18 Q -- that document?

19 Has anyone ever discussed the incidents
20 that are described in this document with you
21 before?

22 A I don't think so. I don't remember.

1 observed hitting Angelica three to five times in
2 the stocks, what does the term "in the stocks"
3 mean?

4 A "In the stocks" would mean in the train
5 cars.

6 Q All right. Were you ever informed of
7 this incident by anyone?

8 A Not that I'm aware of.

9 Q Okay. Mike Stewart never told you about
10 this incident?

11 A No.

12 Q Deborah Fahrenbruck never told you about
13 this incident?

14 A Not that I remember.

15 Q Okay. Were you ever told by Mike
16 Stewart that Troy Metzler was observed using a
17 hand electric prod on an elephant?

18 A Not -- not that I remember.

19 Q Do you know what a hand electric prod
20 is?

21 A I -- I have never -- I don't think I've
22 ever seen one. I kind of relate it to my own

1 impersonation is like I guess a taser. What
2 police officers use, that what they're called?
3 Tasers.

4 Q Okay.

5 A That's what my imperson -- you know --

6 Q Do you know what --

7 A -- what I think.

8 Q Sorry.

9 Do you know what a hot shot is?

10 A The same thing, I guess.

11 Q All right. You've never seen a hot shot
12 at the blue unit?

13 A I have never seen one.

14 Q Okay. Does the circus have a policy
15 with respect to the use of hot shots on the
16 elephants?

17 A We have a policy that we're not -- we're
18 not supposed to use them, yes.

19 Q So if Troy were using one, would that be
20 a violation of the policy?

21 A I don't remember how the policy is
22 written. I -- I don't know. I would again have

1 to refer back to what -- what it's been used for,

2 I guess, I mean. I don't know. I don't know.

3 Q Okay. As far as you know, was Troy
4 Metzler ever disciplined for hitting Angelica
5 three to five times in the stocks?

6 A I don't know.

7 Q Was any disciplinary action taken with
8 respect to Mr. Metzler in regards to this
9 incident?

10 A I don't know.

11 Q Was Mr. Metzler ever disciplined for
12 using a hand electric prod within public view
13 after unloading?

14 A I don't -- I don't know.

15 Q Isn't that the kind of thing that you
16 would expect there to be a written writeup on?

17 A Again, I wasn't there. I have no idea
18 what -- whether any of this is even at the end of
19 the day was investigated and found to be true.

20 Q Okay. You don't know of any
21 investigation of this matter?

22 A No, I do not.