

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

[proposed] PROTECTIVE ORDER

Upon consideration of defendants’ motion for a protective order, and plaintiffs’ opposition thereto, the Court finds that there is good cause to order that the following process be followed with respect to defendants’ compliance with plaintiffs’ document request number 8, calling for “all medical records that pertain to” each Asian elephant that is now or has been in defendants’ custody since 1994 (hereinafter referred to as the “medical records”), which includes but is not limited to all of the elephants’ veterinary records. Accordingly, this ____ day of _____, 2005, it is hereby ORDERED as follows:

1. Defendants are to immediately produce to plaintiffs, in completely unredacted form, all of the medical records concerning all of the Asian elephants in defendants’ custody or control from 1994 to the present, whether owned or leased by

defendants. The records shall be produced no later than ten days from the date of this Order.

2. The medical records shall include such records located anywhere, in the custody of any of defendants' employees, agents, consultants, attorneys, or representatives.

3. The medical records will be subject to a temporary protective order of twenty calendar days from the date they are produced to plaintiffs. Within those twenty days, except upon the prior written consent of defendants, the records shall remain confidential and shall be used solely for purposes of this litigation. During the twenty days the materials may not be disclosed to anyone other than court personnel, court reporters, and other "Authorized Persons." For purposes of this Order, an Authorized Person includes: (a) the parties to the action and their employees; (b) counsel to the parties having responsibility for this action and their legal associates, paralegals, and other support staff; (c) consulting or testifying experts and their employees; and (d) any other person with the prior written consent of defendants.

4. Within the twenty days during which the materials shall remain confidential, the records shall not be disclosed to any Authorized Person unless (a) for purposes of paragraphs 3(a) and 3(b) above, such person has been advised of the existence of this protective order and has been instructed that he or she is bound by its terms; or (b) for purposes of paragraphs 3(c) and 3(d) above, such person has been shown a copy of this protective order and has executed the acknowledgement form which is attached to this protective order as Exhibit A. Each party's counsel of record shall be responsible for maintaining a file of executed acknowledgement forms signed by persons

to whom the party has disclosed records within the twenty days during which the protective order is in place.

5. Within the twenty days during which the temporary protective order is in place, defendants may designate as confidential specific information in which defendants claim to have some identifiable commercial interest, because that particular information forms the basis of a specific research paper that defendants intend to publish in the near future, and because the premature disclosure of such information would substantially diminish the commercial value of that publication. Defendants shall accompany such designations with an appropriate affidavit or other sworn statement.

6. If plaintiffs agree that there is a legitimate basis for defendants' designations pursuant to paragraph 5, then that specifically designated information shall remain permanently confidential, and shall permanently be subject to the procedures outlined in paragraphs 3 and 4 with respect to the disclosure of information.

7. If plaintiffs disagree that there is a legitimate basis for defendants' designations pursuant to paragraph 5, then plaintiffs will so inform defendants and the parties will ask the Court to resolve the matter.

United States District Judge