

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE)
PREVENTION OF CRUELTY)
TO ANIMALS, *et al.*,)
)
Plaintiffs,)
)
v.)
)
RINGLING BROTHERS AND BARNUM)
& BAILEY CIRCUS, *et al.*,)
)
Defendants.)
_____)

Civ. Action No. 03-2006 (EGS)

ORDER

Pending before the Court are plaintiffs' Motion to Compel Discovery Responses and Defendants' Motion for Protective Order Relating to Veterinary Records. Upon consideration of the parties' motions, the responses and replies thereto, oral argument heard in open court on September 16, 2005, and the parties Joint Status Report, defendants' proposed protective order and plaintiffs' proposed protective order, it is hereby

ORDERED that [27] plaintiffs' Motion to Compel is **granted** as to the veterinary and medical records and defendants shall turn over all records by no later than **September 28, 2005**. All remaining issues in plaintiffs' motion to compel, as stated in the parties Joint Status Report filed September 23, 2005, are referred to United States Magistrate Judge John Facciola for his

consideration and resolution; and it is further

ORDERED that [30] defendants' Motion for Protective Order is **granted in part and denied in part**. Although properly requested by the plaintiffs, defendants failed to turn over all veterinary records, failed to properly object to the production of the records, and failed to adequately assert any privilege that would justify non-production of the records. Defendants have therefore waived their right to object to the discovery of the veterinary records. *See, e.g., Athridge v. Aetna Casualty and Surety Co.*, 184 F.R.D. 181 (D.D.C. 1998). The Court thus approves and enters the protective order proposed by plaintiffs, docket no. 49, attachments 1 and 2. Plaintiffs are admonished, however, that the purpose of discovery is to produce and seek evidence for use *in litigation* and the Court will not take lightly any abuse of the discovery process for purposes of publicity or to argue the merits of plaintiffs' claims in the media, as opposed to the Court.

Signed: EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE
September 26, 2005