

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE
PREVENTION OF CRUELTY TO
ANIMALS,

Plaintiff,

v.

FELD ENTERTAINMENT, INC.,

Defendant.

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.
. CA No. 03-2006
.
.
. Washington, D.C.
. Tuesday, March 3, 2009
. 12:53 p.m.
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TRANSCRIPT OF BENCH TRIAL - MORNING SESSION - DAY 15
BEFORE THE HONORABLE EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff:

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P R O C E E D I N G S

COURTROOM DEPUTY: Please remain seated and come to order.

Civil action 03-2006, American Society For the Prevention of Cruelty to Animals, et al versus Feld Entertainment, Inc.

Will counsel please identify yourselves for the record?

MS. MEYER: Katherine Meyer for the plaintiffs, your Honor.

THE COURT: Ms. Meyer.

MS. SANERIB: Good afternoon, your Honor. Tanya Sanerib for the plaintiffs.

MR. CRYSTAL: Howard Crystal for the plaintiffs, your Honor.

MS. WINDERS: Good afternoon, your Honor. Delcianna Winders for the plaintiff.

THE COURT: Good afternoon.

MS. SINNOTT: Good afternoon, your Honor. Michelle Sinnott, tech, for the plaintiffs.

MR. SIMPSON: Good afternoon, your Honor. John Simpson for Feld Entertainment, and also Lisa Joiner is here. She just went to get the witness.

MS. PETTEWAY: Good afternoon, your Honor. Kara Petteway for the defendant.

1 MR. SHEA: Good afternoon, your Honor. Lance Shea for
2 the defendant.

3 MR. PALISOUL: Derrick Palisoul, tech, for the
4 defendant.

5 THE COURT: Again, sorry to keep you waiting. I had
6 an unscheduled meeting this morning.

7 MR. SIMPSON: May it please the Court, defendant calls
8 Kenneth Feld.

9 THE COURT: All right.

10 COURTROOM DEPUTY: Please raise your right hand.

11 Do you solemnly swear that the testimony you're about
12 to give will be the truth, the whole truth, and nothing but the
13 truth?

14 MR. FELD: Yes.

15 THE COURT: Good afternoon, sir.

16 THE WITNESS: Hello.

17 **KENNETH FELD, WITNESS FOR THE DEFENDANT, SWORN**

18 DIRECT EXAMINATION

19 BY MR. SIMPSON:

20 Q. Would you state your name for the record, sir?

21 A. Kenneth Feld.

22 Q. Are you currently employed?

23 A. Yes, I am.

24 Q. How are you currently employed?

25 A. I'm the chairman and chief executive officer of Feld

1 Entertainment.

2 Q. And could you describe briefly for the Court the nature of
3 Feld Entertainment's business?

4 A. Yes. Feld Entertainment is in the family entertainment
5 business, and we provide family entertainment with shows that
6 travel all over the world in the form of Disney on Ice, Disney
7 Live Stage Shows, Motor Sports, and of course, Ringling Brothers
8 Barnum & Bailey.

9 Q. How long have you been with Feld Entertainment, sir?

10 A. Full time since 1970. But I actually started in the summer
11 of 1968 and then the summer of 1969.

12 Q. Could you describe how you came to be with Feld
13 Entertainment?

14 A. My father acquired Ringling Brothers-Barnum Bailey in
15 November of 1967.

16 Q. Mr. Feld, who owns Feld Entertainment?

17 A. My family and I own the vast majority.

18 Q. And could you describe briefly how that ownership came
19 about?

20 A. Yes. In going back, I'll be very brief, but in the 1950s
21 my father was in the music business and the rock and roll
22 business, touring all over North America, and at the time
23 Ringling Brothers Barnum & Bailey was in tents. He found out
24 that these arenas did not have a lot of content, so it was his
25 idea, and he went to John Ringling North who was at that time

1 the owner of the circus, to bring a circus and play all of these
2 arenas around the country, and he would be the marketing person
3 for the circus and the promoter for these events, so he did that
4 basically from 1957 to 1967, and in 1967 with his brother and
5 another partner they were able to acquire the circus from the
6 Ringling-North family.

7 Q. Now, sir, are any members of your family involved in the
8 company business?

9 A. Yes.

10 Q. Could you identify those members and explain what they do?

11 A. Yes. My two daughters, Nicole and Alana, are currently
12 executive vice presidents of Feld Entertainment and are involved
13 in the production of Ringling Brothers-Barnum Bailey.

14 Q. Now, you mentioned Ringling Brothers-Barnum Bailey. How
15 long has the company owned the circus?

16 A. We owned the circus from 1967 to 1971, and in '71 it was
17 sold to Matell, the toy company, and we still continued to
18 operate the business while it was owned by Matell until 1982,
19 and in March of 1982 our family reacquired Ringling Brothers-
20 Barnum Bailey from Matell.

21 Q. Now, sir, does the Ringling Brothers-Barnum Bailey circus
22 have animal acts?

23 A. Yes, we do.

24 Q. Does it have any elephants in its animal acts?

25 A. Yes, we do.

1 Q. What kind of elephants does it have?

2 A. We have Asian elephants in all of our shows.

3 Q. Why does the circus have elephants?

4 A. Elephants are really the main stay of Ringling Brothers-
5 Barnum Bailey, and I believe that Barnum was the first person to
6 exhibit elephants in this country, and he started really the
7 Greatest Show on Earth with what was a traveling zoo, traveling
8 menagerie and show displaying these animals all over America.

9 Q. Now, in terms of the circus itself, are you involved in the
10 process that puts the show together?

11 A. Yes. I'm involved in the production side and the creative
12 side of that as well.

13 Q. Do your elephants fit into that process?

14 A. Yes, they do. They are probably the most important part,
15 and it's the one constant factor year in, year out, that we
16 always have elephants.

17 Q. How long have elephants been in the Ringling Brothers
18 Circus?

19 A. I believe since the -- since 1872.

20 Q. Would this be the same show without the elephants?

21 A. No, it wouldn't.

22 Q. Why do you say that?

23 A. Because we found that the vast majority of the people that
24 come to our shows come to see the elephants and come to see the
25 animals.

1 Q. Would the Ringling Brothers Circus be the Ringling Brothers
2 Circus without the elephants?

3 A. No. I mean, the symbol of the Greatest Show on Earth is
4 the elephant, and that's what we've been known for throughout
5 the world for more than a hundred years.

6 Q. Does the company have any plans to take elephants out of
7 the circus?

8 A. No, we don't.

9 Q. Now, Mr. Feld, how many Asian elephants does Feld
10 Entertainment own?

11 A. We currently have 54 Asian elephants.

12 Q. How many of those elephants perform with the shows?

13 A. I believe there are 19 elephants performing with our shows.

14 Q. Has your company made any sort of commitment to these
15 animals?

16 A. Yes, we have.

17 Q. Could you describe that for the Court?

18 A. Yes. In it was probably about 1989/1990, I could see that
19 the Asian elephant population in this country was declining and
20 our herd was aging and I made the decision to start an elephant
21 breeding program, and we started that about 1990 in a small
22 facility that we leased at the time in Williston, Florida, and
23 the end of 1992 and the first week of 1993 we had our first two
24 Asian elephant births, Romeo and Juliet, and then I knew that we
25 could succeed in having a very successful program, so we

1 acquired two hundred acres in central Florida to create what we
2 call the Ringling Brothers-Barnum Bailey Center for Elephant
3 Conservation for the reproduction, the research, and the
4 retirement of Asian elephants, and since that facility was
5 completed, I believe the summer of 1995, and it is currently
6 where we house the majority of our elephants, and we have had 22
7 successful births at that center after the first two.

8 Q. Now, does the company take care of the elephants that
9 perform in the circus?

10 A. Yes, we do.

11 Q. And could you describe how you do that?

12 A. Well, we provide everything from the best veterinary care,
13 food, water, enrichment, and we have a huge staff that are
14 engaged specifically to work with the animals, with the
15 elephants.

16 Q. Now, what about the elephants that no longer perform, what
17 happens to them?

18 A. When they no longer perform they then go to the elephant
19 center and they are retired there and they are -- every day
20 they're out in the fields and we take care of them the same as
21 we do any of the elephants we have.

22 Q. You mentioned the Center For Elephant Conservation or CEC.
23 Is that a facility that is open to the public?

24 A. No, it's not.

25 Q. Is the company's facility in Williston, Florida open to the

1 public?

2 A. No.

3 Q. Mr. Feld, does it cost money to maintain these elephants?

4 A. Yes. We spend something over \$62,000 per year per Asian
5 elephant that we have for the elephant's entire life, and that
6 can be anywhere from, you know, fifty or sixty years old.

7 Q. Now, the elephants that are retired and the elephants that
8 do not perform and who are kept at the CEC, do they generate any
9 revenue for the company?

10 A. No.

11 Q. Do you sell tickets for people to come in and watch
12 anything at the CEC?

13 A. No, we don't.

14 Q. If these elephants don't perform and don't generate
15 revenue, why does the company maintain them?

16 A. Well, it's a commitment that we wanted to do, and we're a
17 private company so we can allocate resources to where we think
18 it's important, and my understanding is, and there was a study
19 done I believe by the zoos in North America, that in the current
20 state in the zoos that the captive elephant, Asian elephant
21 population would be extinct in forty years, 2049, and that is
22 definitely not the case at Ringling Brothers because we have
23 the, to my knowledge, the only sustainable herd of Asian
24 elephants in the western hemisphere.

25 Q. Are you, sir, familiar with the Asian elephant, Jewell?

1 A. Yes.

2 Q. Are you familiar with the Asian elephant, Lutzi?

3 A. Yes, I am.

4 Q. Are you familiar with the Asian elephant, Mysore?

5 A. Yes.

6 Q. Are you familiar with the Asian elephant, Susan?

7 A. Yes.

8 Q. And are you familiar with the Asian elephant, Zina?

9 A. Yes.

10 Q. Where are these elephants located today?

11 A. They are all they Center For Elephant Conservation.

12 Q. Will these elephants ever go back on the road again?

13 A. No.

14 Q. Why?

15 A. Because they have -- they were on the road for many years,
16 they're now retired, I think there's -- they're in their 50s,
17 and I think Mysore is over 60.

18 Q. Will these elephants that you just named ever be exhibited
19 to the public again?

20 A. No.

21 Q. Why is that?

22 A. Because they're at the center and that's not open to the
23 public.

24 Q. Are you familiar or have you heard of a facility in
25 Tennessee called The Elephant Sanctuary?

1 A. Yes.

2 Q. Will the company ever donate any of its elephants to that
3 facility?

4 A. No.

5 Q. Why not?

6 A. Because we have concerns over the personnel and the care
7 that the elephants would get. And these elephants have been
8 around people. They're in -- well, their entire lives that
9 they've been with Ringling they get the care, they get the
10 attention, and they have a bond with the people that work with
11 them every day.

12 Q. Now, you mentioned, sir, the breeding program at the CEC.
13 Have there been any recent additions to the elephant group down
14 there as a result of that?

15 A. Yes. We've had the first week of November we had a female
16 born, and about a month ago on January 19th we had a male
17 elephant born.

18 Q. Now, are these elephants produced by natural means or
19 artificial means?

20 A. Actually both. I mean, Sundora, the female that was born
21 in November, was a natural breeding, and Barack, who was born on
22 the 19th of January, was the result of artificial insemination
23 with the elephant Bonnie.

24 Q. Had that happened before, the artificial insemination
25 before at the company?

1 A. There had been some attempts, but this is the first
2 successful birth from that method.

3 Q. Now, sir, in your position as CEO of the company do you
4 visit the traveling shows?

5 A. Yes, I do.

6 Q. How many times a year do you think you visit the Blue Unit
7 of the circus?

8 A. It depends on the year of the tour because each show tends
9 to go for a two-year tour. The first year I may visit the show
10 a half a dozen times. The second year of the tour, maybe it's
11 four or five times.

12 Q. When was the last time you were on the Blue Unit?

13 A. The last time on the Blue Unit was in November.

14 Q. Are you familiar with the Asian elephant Karen?

15 A. Yes.

16 Q. Did you see Karen when you visited the Blue Unit?

17 A. Yes.

18 Q. Are you familiar with the Asian elephant Nicole?

19 A. Yes.

20 Q. Did you see Nicole when you made your visit?

21 A. I did.

22 Q. And based on your experience as the head of this company --
23 well, first of all, how many years of experience do you think
24 you've had as the head of this company with Asian elephants?

25 A. Well, as the head of the company, since 1982, but I've been

1 working around the circus, around these animals, seen animals
2 and Asian elephants for almost forty years.

3 Q. So based on that experience, sir, how did Karen look to
4 you?

5 A. She looked fine.

6 Q. How did Nicole look?

7 A. And Nicole looked fine.

8 Q. Sir, do you visit the CEC?

9 A. Yes.

10 Q. How many times a year did you visit the CEC?

11 A. It depends on the year. Anywhere from maybe three to six
12 times a year.

13 Q. When was the last time were you down there?

14 A. About two weeks ago.

15 Q. When were you down there did you see Jewell?

16 A. I did.

17 Q. Did you see Lutzi?

18 A. I did.

19 Q. Did you see Mysore?

20 A. Yes.

21 Q. Did you see Susan?

22 A. I did.

23 Q. Did you see Zina?

24 A. I did.

25 Q. How did they look to you?

1 A. They were fine. They were out in the fields and they were
2 just standing there, so it seemed to me that they were fine.

3 Q. In your travels have you ever seen wild elephants?

4 A. Yes.

5 Q. Could you tell Court when that was and what you saw?

6 A. Yes. Last July we went as a family to the Krueger Park in
7 South Africa.

8 Q. And what did you observe about those wild elephants?

9 A. Well, it was interesting because there are quite a few
10 elephants there, and we observed at one point it appeared to be
11 I guess what would be called the bachelor herd of elephants
12 really going at each other and fighting. And it was a pretty
13 violent scene. We also saw a young elephant by itself, and we'd
14 ask the ranger why is this elephant by itself and he didn't
15 really know, and the elephant turned around and it had what
16 appeared to be lesions, sores, something, open sores all over
17 its head and its trunk, and I said why doesn't somebody do
18 something? And he says, well --

19 MS. MEYER: Your Honor, I would object on hearsay
20 grounds.

21 THE COURT: Sustained.

22 BY MR. SIMPSON:

23 Q. Mr. Feld, based on your experience with your own elephants
24 and your observations of the elephants in Africa in Kenya or the
25 Krueger Park that you just mentioned, how do those wild

1 elephants look in comparison to your own elephants?

2 A. Well, I didn't think that they looked as I want to say
3 robust, just they were not as -- I don't know if plump is the
4 right word, and they were there foraging for food in the brush
5 and the trees and they were just out there. I can't say that
6 they looked any better than what our elephants look like.

7 Q. Did any of those wild elephants sway?

8 A. They did.

9 Q. And when you saw that, how did that compare to what you've
10 seen among your own elephants?

11 A. It was really no different.

12 Q. Mr. Feld, how do you feel personally about the elephants
13 that the company owns?

14 A. Well, I feel that they're really part of our family. I
15 mean, I remember when we acquired Karen, and it was before I was
16 working full time. It was in '68, and I remember she was there,
17 it was the cutest thing I had ever seen and she's still on the
18 show and she's still really with the same elephant handler that
19 she's been with virtually her entire life.

20 Q. So you regard these animals as valuable to you?

21 A. They're extremely valuable.

22 Q. Who have you put in charge of these elephants to take care
23 of them?

24 A. Gary Jacobsen is in charge of our entire elephant program,
25 our elephant management and the training.

1 Q. What qualifies Mr. Jacobsen to hold that position?

2 A. He's qualified because he has many, many years of
3 experience of working with elephants on the circus, not only
4 Ringling, but other places. I think he has a greater knowledge
5 about probably all elephants in America than anyone that I know,
6 and we've entrusted really one of our most valuable assets with
7 him.

8 Q. Do you have a person who provides veterinarian care for the
9 elephants?

10 A. Yes. We have a full-time veterinary staff of three
11 veterinarians.

12 Q. Who's in charge of that?

13 A. Ellen Wiedner and Dennis Schmid, and there's Daniel Graham,
14 and I view Dennis as the foremost authority on Asian elephant
15 reproduction and Asian elephant diseases probably in the world,
16 and I was -- I think that Ringling was very fortunate in being
17 able to engage him.

18 Q. Does Feld Entertainment tolerate mistreatment of its
19 animals?

20 A. No, we don't.

21 Q. What steps have you taken as the chief executive officer to
22 ensure that that does not happen?

23 A. There are policies in effect, and when people come to work
24 for Ringling and if they're working in the elephant department
25 there is a whole training program that goes along with it prior

1 to them being able to actually work with the elephants. There
2 are posted on all of the facilities on the traveling shows about
3 what is appropriate and what is inappropriate with respect to
4 the animals, and people are encouraged if they view what they
5 would say is mistreatment to speak with supervisors about that.

6 Q. Now, are these elephants subject to federal or state
7 regulation?

8 A. Yes.

9 Q. What steps have you taken as CEO to ensure their handling
10 complies with federal and state law?

11 A. Well, we are regulated by the United States Department of
12 Agriculture who inspects us periodically throughout the year
13 randomly and we have to comply with everything, which we do.

14 Q. Now, is it part of your function as CEO to monitor on a
15 daily basis how the elephants are monitored and handled?

16 A. No, it's not.

17 Q. How can you ensure that they're being properly taken care
18 of?

19 A. Because I feel that we have the best people anywhere that
20 are taking care of our elephants, whether it's Gary, who bases
21 out of the CEC or the individual elephant supervisors on the
22 units.

23 Q. Now, you mentioned, sir, the United States Department of
24 Agriculture. To your knowledge, has that agency ever found the
25 company in violation of the law with respect to these Asian

1 elephants?

2 A. To my knowledge, that has never happened.

3 Q. Are you aware of any violation they found with respect to
4 how the company's personnel use the guide on these elephants?

5 A. Not to my knowledge.

6 Q. Are you aware of any violation that the agency has ever
7 found with respect to how the company tethers its elephants?

8 A. No.

9 Q. And if such violations had been found, would you be aware
10 of them?

11 A. I think I probably would be, yes.

12 Q. Sir, do you know what a "taking" is?

13 A. I have what I think is an understanding of a taking.

14 Q. What is your understanding?

15 A. My understanding is that it would be having to do with the
16 acquisition of an endangered species out of the wild.

17 Q. Have you ever heard the term "taking" used in connection
18 with the welfare of an Asian elephant?

19 A. No.

20 Q. Are you aware of an agency called the United States Fish
21 and Wildlife Service?

22 A. Yes.

23 Q. And what is your understanding as to Fish and Wildlife's
24 role -- what is your understanding that Fish and Wildlife's role
25 is with respect to your elephants?

1 A. I do not know.

2 Q. Mr. Feld, does the company hide from public view the way it
3 treats its elephants?

4 A. No. I mean, we're traveling each year with all of our
5 tours in pretty close to a hundred cities, and the purpose is
6 that we want the public to see the shows, we want the public to
7 see when we have animal open houses, but there's also in
8 addition to just the public, there's always people around. I
9 mean, we're in cities, we're in major venues. There are people
10 at these venues. There are law officials. We walk the animals
11 from the train to the venue and back from the venue to the train
12 through the streets of the cities across America.

13 Q. Sir, have you heard of a person named Tom Rider?

14 A. Yes.

15 Q. You know he's a plaintiff in this case?

16 A. Yes.

17 Q. Will Feld Entertainment ever rehire Tom Rider?

18 A. No.

19 Q. Will Feld Entertainment ever employ Tom Rider in any
20 capacity again?

21 A. No.

22 Q. Does Mr. Rider have access to the CEC?

23 A. No, he doesn't.

24 Q. Will Feld Entertainment ever give Tom Rider access to the
25 CEC?

1 A. No.

2 Q. Does Tom Rider have access to the facility at Williston?

3 A. No, he doesn't.

4 Q. Will Feld Entertainment ever give him access to Williston?

5 A. No.

6 Q. Mr. Feld, based on your experience as the head of this
7 company and the work you've done with this company, are you
8 aware of any method of presenting Asian elephants in a traveling
9 circus without the instrument called the guide or the bullhook?

10 MS. MEYER: Objection your Honor; leading.

11 THE COURT: Why don't you rephrase that? What's your
12 understanding of the use of the guide or the bullhook, if you
13 have one?

14 THE WITNESS: What?

15 THE COURT: If you have an understanding.

16 THE WITNESS: The guide, the bullhook --

17 THE COURT: As it pertains to your circus or other
18 circuses or zoos or in any capacity.

19 THE WITNESS: Okay.

20 It is used as a method for guiding the elephant to
21 follow verbal commands, so it is used, to my knowledge, and then
22 this goes I think more with Ringling, our elephants, I can't
23 speak for other places, that there is a vocal command, and there
24 may be a touch, a tap, a hit, whatever the verbiage is, for the
25 elephant to stay in place and the elephant will lift a foot, he

1 may move forward, he may lay down. Whatever the verbal command
2 is with it.

3 BY MR. SIMPSON:

4 Q. Sir, based on your understanding of how the guide is used,
5 are you aware of any alternative that could be used to manage
6 Asian elephants in a traveling circus?

7 MS. MEYER: Objection, your Honor; leading.

8 THE COURT: I'll let the question be answered. Can
9 you answer the question? Do you understand the question?

10 THE WITNESS: Yes, I do.

11 I'm not aware of any other way to have the elephants
12 perform, no.

13 BY MR. SIMPSON:

14 Q. Now, do you have an understanding of whether the Asian
15 elephants in your show or in your company are tethered?

16 A. Yes.

17 Q. Are you --

18 THE COURT: What does that mean?

19 THE WITNESS: Tethered would mean that they are
20 restrained, typically by chains, at various times. It could be
21 after work on the touring shows until the morning, and it is in
22 the railroad cars when they're in transit, and it would be for
23 some of the elephants at the Center For Elephant Conservation in
24 the evenings.

25 BY MR. SIMPSON:

1 Q. And based on your knowledge, sir, is there any alternative
2 to tethering with respect to the presentation of Asian elephants
3 in a traveling circus?

4 A. I don't believe so.

5 Q. If it were determined by this Court that the guide could no
6 longer be used, or that tethers could no longer be used on the
7 Asian elephants at Feld Entertainment, would you continue to
8 present them in the show?

9 A. I don't think that we could.

10 THE COURT: Why not?

11 THE WITNESS: Because I think that there's several
12 concerns. Obviously there is a concern for the welfare of the
13 elephants. We have a concern for the welfare of our animal
14 handlers, and we have a very, very important concern for the
15 safety of the public, and especially when we're taking the
16 animals from the train to the arena from where they would be at
17 the arena into the ring. They are in what I would call public
18 situations, and fortunately I don't know, in all the years that
19 I've been involved, I don't recall an incident of any public
20 safety problem with these elephants walking through the streets,
21 whether it be through the midtown tunnel in New York, or
22 Washington, D.C. or wherever. We're from backstage into the
23 arenas, and I think that's something that our company is very
24 proud of.

25 THE COURT: Could they not be driven in vans or

1 trucks, some other type of vehicle, from a train station to the
2 arena?

3 THE WITNESS: It is possible, and there have been
4 times when we have had an elephant that we've put in a truck,
5 but we would still need to use the guide and we would still need
6 to have the elephant go from, let's say, the train to this van.

7 The other thing is this, that the elephants are used
8 to traveling together. Typically there are certain elephants
9 that get along with other elephants. They travel together and
10 they are -- they're like buddies. There's some elephants that
11 we can take by themselves, but most of the elephants do have
12 certain other elephants that they are constantly with.

13 MR. FELD: Pass the witness, your Honor.

14 THE COURT: All right. Any examination?

15 CROSS-EXAMINATION

16 BY MS. MEYER:

17 Q. Good afternoon, Mr. Feld.

18 A. Hello.

19 Q. Feld Entertainment is a privately owned company, right?

20 A. That's correct.

21 Q. And you own well over ninety percent of Feld Entertainment,
22 isn't that correct?

23 A. Myself and my family, yes.

24 Q. When you say yourself and your family, are you talking
25 about your ownership plus trusts you have for your family?

1 A. That's correct.

2 Q. And you're the trustee of those trusts; is that correct?

3 A. Yes.

4 Q. And the only other owner of Feld Entertainment that's not
5 either you or one of the trusts for your family is Jerome
6 Sawalski; is that correct?

7 A. That's correct.

8 Q. Who is Jerome Sawalski?

9 A. He is executive vice president, general counsel, for Feld
10 Entertainment.

11 Q. And what percentage of the ownership does he have?

12 A. I'm not exactly sure. It's a minor percentage. It could
13 be two percent; something like that.

14 Q. All right. And you can fire Mr. Sawalski, isn't that
15 correct?

16 A. Yes, I guess I could.

17 Q. So you basically have a hundred percent control over Feld
18 Entertainment, isn't that correct?

19 A. I have control over the company, yes.

20 Q. A hundred percent?

21 A. I guess so, yes.

22 Q. Okay. And what is your annual salary from the company?

23 MR. SIMPSON: Objection, your Honor. It's irrelevant.

24 THE COURT: What's the relevance of that, counsel?

25 MS. MEYER: It's relevant to his credibility, your

1 Honor. We've had a lot of time --

2 THE COURT: Overruled, overruled.

3 You have to answer the question.

4 THE WITNESS: Excuse me?

5 THE COURT: You have to answer the question.

6 THE WITNESS: I don't know what my salary is.

7 BY MS. MEYER:

8 Q. You have no idea what your salary is?

9 A. That's correct.

10 THE COURT: I'm sorry. You have no idea what your
11 salary is?

12 THE WITNESS: I don't know the exact amount of my
13 salary, no.

14 THE COURT: You said you have no idea what your salary
15 is.

16 THE WITNESS: I don't have an idea of the exact amount
17 of my salary.

18 THE COURT: Do you have an idea of approximately what
19 you earned last year?

20 THE WITNESS: As salary from the company, it is
21 something over a million dollars, yes.

22 BY MS. MEYER:

23 Q. Something over a million dollars?

24 A. Yes.

25 Q. Okay. And in addition to your salary, you also get an

1 annual bonus from the company, isn't that correct?

2 A. Yes.

3 Q. And that annual bonus is based on how well the company
4 performs; is that correct?

5 A. That's correct.

6 Q. Okay. You're the producer of all three units of the
7 circus: the Red, the Blue, and the Gold Unit, correct?

8 A. That's correct.

9 Q. And how much revenue does the circus produce for Feld
10 Entertainment?

11 MR. SIMPSON: Objection, your Honor. It's irrelevant.

12 THE COURT: It's overruled.

13 THE WITNESS: Again, I don't know the exact amount of
14 the total revenue. Feld Entertainment does a lot of shows, so
15 are you talking about what specifically, is it the revenue from
16 ticket sales, is that what you're talking about?

17 BY MS. MEYER:

18 Q. My question was: How much revenue does Feld Entertainment
19 bring in from the circus?

20 A. I think it's something over a hundred million dollars.

21 Q. It's over a hundred million dollars a year; is that
22 correct?

23 A. Correct.

24 Q. And that's just from the circus?

25 A. I believe so.

1 Q. And you said you've visited the Blue Unit many times over
2 the years, isn't that correct?

3 A. I think I said that if it was the first year of the tour,
4 it would be maybe six or seven times; if it was the second year
5 of the tour, maybe five, four or five times.

6 Q. So you're aware of the practices that go on at the Blue
7 Unit; is that correct?

8 A. Generally speaking, yes.

9 Q. And the same is true with the Red Unit, you visit the Red
10 Unit several times a year too, right?

11 A. Yes.

12 Q. And you're aware of the practices that are used at the Red
13 Unit?

14 A. Generally speaking, yes.

15 Q. And you said you visit the CEC every year also, right?

16 A. That's correct.

17 Q. So you're aware of the practices that go on at the CEC?

18 A. Yes.

19 Q. But you're not familiar with the practices that are used to
20 train the elephants to perform in the circus, isn't that
21 correct?

22 A. That's correct, yes.

23 Q. Okay. You've never watched a training session for any of
24 the Ringling Brothers elephants, isn't that correct?

25 A. I've watched rehearsals sessions. I don't believe I've

1 watched training sessions, per se. It's all somehow together.
2 I mean, my understanding is that the elephants may be trained,
3 you know, throughout their tenure with the circus.

4 Q. But you are not personally familiar with the practices that
5 are used to train the elephants to perform in the circus; is
6 that correct?

7 A. That's correct, um-hmm.

8 Q. And you said that each unit goes to about 40 or 44 cities a
9 year; is that right?

10 A. Something like that, yes.

11 Q. Okay. And you said it depends on which year of the tour
12 the unit is on?

13 A. That's correct, um-hmm.

14 Q. So if it's the first year of the tour, the circus will
15 visit more cities; is that correct?

16 A. Not necessarily, because there tends -- there's some stays
17 of the circus that are not just a week. Sometimes it's two
18 weeks, and New York it's three weeks, so that's the first year
19 of the tour, so it may be the same or even fewer cities, but
20 they're in some of those cities a longer period of time.

21 Q. Okay. And you said each new tour is two years long; is
22 that right?

23 A. Each tour of the Red and Blue Unit is what I would say. We
24 produce one show a year, and that show will tour for a two-year
25 period. There's time off in between, but it is that same

1 production is touring for, let's say, two calendar years.

2 Q. Okay. And is that the same thing as an edition of the
3 circus?

4 A. Yes.

5 Q. So what edition of the circus are we currently in for the
6 Red Unit and the Blue Unit?

7 A. The Red Unit would be the 139th edition. The Blue Unit is
8 currently in the 138th I addition.

9 Q. And which year is the Blue Unit in of its tour?

10 A. Excuse me?

11 Q. Which year of the tour is the Blue Unit in?

12 A. The Blue Unit is currently in the second year of its tour.

13 Q. So the Red Unit is in the first year of the 139th edition?

14 A. That's correct.

15 Q. Now, you've seen elephants on chains on both the Red and
16 the Blue Units, correct?

17 A. That's correct.

18 Q. And you've also seen elephants on chains at the CEC,
19 correct?

20 A. That's correct.

21 Q. And you also know that when the elephants travel on the
22 train, they're in chains, correct?

23 A. That's correct.

24 Q. That's the general practice, when they're on the train,
25 they're in chains, correct?

1 A. My understanding is that when they are traveling on the
2 train, they are in chains. There are times when they're off
3 chains when they have watering stops and rest stops.

4 Q. But that would be when they get off the train, correct?

5 A. It may be or it may not be.

6 Q. Are you suggesting that sometimes when they're on the train
7 they're not in chains?

8 A. I would believe sometimes the train stops and there may be
9 a watering stop, it may be for some reason that sometimes the
10 elephants are let off the chains, yes.

11 Q. Okay. Could we go to -- I'd like to go to Mr. Feld's
12 deposition, page seventy. Mr. Feld, do you remember that I
13 deposed you in this case?

14 A. I think so.

15 Q. And that was on January 16th, 2008?

16 A. Yes.

17 Q. I'd like to read from page 70, line 14 through line 22 of
18 your deposition.

19 Question: Have you seen elephants chained on the
20 train many times over the years?

21 MR. SIMPSON: Object to the form.

22 Answer: Several times.

23 Question: But you know that's the general practice,
24 that they're chained when they're on the train, correct?

25 Answer: Yes.

1 Do you agree with that?

2 A. Yes.

3 Q. Now, it's your position that when an elephant is on chains,
4 this does not in any way interfere with its ability to socialize
5 with other elephants, isn't that correct?

6 A. I think that when the elephants are on chains that they do
7 have the ability to socialize with the elephants that they are
8 in close proximity to.

9 Q. So it's your position that the elephants who are on chains
10 can socialize with the elephant right next to them, but they
11 cannot socialize physically with any of the other elephants,
12 isn't that correct?

13 A. I think that's right, yeah.

14 THE COURT: You're talking about when they're on
15 chains?

16 MS. MEYER: Yes.

17 THE COURT: On the train, correct?

18 MS. MEYER: On the train or at a venue.

19 BY MS. MEYER:

20 Q. I mean, you said they're also chained when they're at a
21 venue, when they are done performing they're chained for the
22 night. You said that, correct?

23 A. Yeah.

24 Q. And sometimes they get chained by five o'clock in the
25 afternoon, don't they?

1 A. At the CEC, is that what you're talking about?

2 Q. When they're on the road if the last show is over they get
3 chained, don't they?

4 A. Yes, that's typically the practice, I believe, but I think,
5 to go back, you know, I'm not an elephant expert, so
6 socialization, I mean, what I do know is that I've gone back-
7 stage, the elephant tent or where the elephants are, many times,
8 for instance, at Madison Square Garden after the shows and they
9 would be on chains, and what I would see is maybe four or five
10 of the elephants sleeping, laying down, and the other elephants
11 are sort of up watching the herd, so I don't know if they have
12 to be next to each other to socialize or not; to touch each
13 other, yes, that would be correct.

14 Q. And you know that the elephants down at the CEC are put on
15 chains for the night at about 3:0, 3:30 every afternoon, don't
16 you?

17 A. I don't know exactly what time it is. I know when they
18 come in from being outside during the day they are then -- the
19 females are then chained for the evening until the next morning,
20 yes.

21 Q. And if Mr. Jacobsen, who is in charge of the CEC, said that
22 they're on chains from about 3:30 in the afternoon every day
23 until the next morning, you wouldn't have any basis for
24 disagreeing with him, would you?

25 A. If he said that, he's the one that is in charge there, so

1 I'm sure that would be accurate.

2 Q. Right. And those elephants when they're on chains down at
3 the CEC are chained in a line, aren't they?

4 A. I believe so. I think so.

5 Q. Have you ever been in the barn where the elephants -- you
6 said you know Susan, Lutzi, and Zina are chained?

7 A. Yes.

8 Q. You've seen them on chains in the barn?

9 A. I believe so.

10 Q. So you've seen that they're lined up on chains next to each
11 other, correct?

12 A. Yeah. I don't recall if they were exactly next to each
13 other. I've seen a group of female elephants that have been
14 chained there. I don't know specifically which ones.

15 Q. But you're not suggesting that the first elephant in the
16 line of chains could somehow physically interact and socialize
17 with the seventh or sixth elephant in the line of chains, are
18 you?

19 A. Again, I go back to socialization. I'm not trying to
20 argue. I don't know. They obviously cannot physically touch
21 each other.

22 Q. Now, you talked about an instrument called a guide. Is
23 another word for that the bullhook?

24 A. Yes.

25 Q. And you have seen Ringling Brothers' employees strike

1 elephants with bullhooks, haven't you?

2 A. Strike, hit, touch, tap, yes. Whatever the terminology is
3 you'd like to use, yes.

4 Q. And you've seen them, Ringling Brothers' employees, use the
5 hooked end of the bullhook to prod elephants behind the ears,
6 haven't you?

7 A. I've seen them use both sides of the bullhook behind the
8 ear of an elephant, yes.

9 Q. And you've also seen Ringling Brothers' employees strike
10 elephants under the chin with a bullhook, haven't you?

11 A. Yes.

12 Q. And you regard this kind of treatment, striking elephants
13 under the chin with a bullhook, as guiding the elephant, isn't
14 that correct?

15 A. I don't know if that's the term, "guiding." I think
16 "correcting," but I don't view what I've seen as abuse.

17 Q. Excuse me? I didn't hear what you said.

18 A. I said I don't view what I've seen as abuse.

19 Q. I wasn't asking you about abuse.

20 A. I understand that.

21 Q. I was asking whether or not you regard it as guiding, and I
22 think you said you did.

23 A. Um-hmm.

24 Q. You also said you regard it as correcting?

25 A. Yes.

1 Q. Correcting, when you say correcting you mean bopping the
2 elephant with the bullhook when the elephant does not respond to
3 a verbal command, isn't that correct?

4 A. Well, I think it could be two things. It think it could be
5 there may be a verbal command, and then there could be a
6 touching, a tapping, a bopping of the bullhook, to re-enforce
7 what that command is, so that the animal does understand what
8 the verbal command means.

9 THE COURT: What's a bopping?

10 THE WITNESS: I would say I think the terminology,
11 because we went through this at the deposition, the touching of
12 an elephant with the guide. Ms. Meyer may say it is striking.
13 I think I may have said it's bopping. Someone said it's
14 tapping, it's touching. I think there all verbs. To me,
15 they're synonymous.

16 BY MS. MEYER:

17 Q. So "bopping" is synonymous with "striking," correct?

18 A. Yes.

19 THE COURT: And synonymous with touching?

20 THE WITNESS: And synonymous with touching and
21 tapping, yes.

22 BY MS. MEYER:

23 Q. And I'd actually like to go to Mr. Feld's deposition at
24 page 89, if we could. Because I want to make sure what you said
25 here is consistent with what you said at your deposition?

1 MR. SIMPSON: Objection, your Honor.

2 THE COURT: I'll disregard it. I only going to rely
3 on competent evidence. It's nonjury. I'll disregard the
4 editorial.

5 Go ahead, ask your question.

6 MS. MEYER: Okay.

7 BY MS. MEYER:

8 Q. Page 89/04, I asked you, have you ever seen a bullhook used
9 to correct an elephant?

10 Mr. Simpson objected to the form of the question.

11 You said: What do you mean?

12 I said: Have you ever heard that term before,
13 "correct an elephant"?

14 You said yes.

15 I said: What do you mean by that?

16 And you said, well, my understanding of it is that
17 there would be a verbal command given and repeated, and if the
18 elephant didn't respond to that there would be a tap or a bop to
19 a certain place to correct the behavior. That's it.

20 That's what you're saying here today as well, right?

21 A. I believe so, yes.

22 Q. Okay. The reason that an elephant would be struck under
23 the chin with a bullhook is to remind the elephant that when the
24 handler says "pick up your head," the elephant should pick up
25 its head, right?

1 A. Well, I don't know the specific reason of what it would be,
2 so it depends what the command was, I think, that the trainer
3 was saying.

4 Q. Okay.

5 MS. MEYER: Let's go to page 99 of Mr. Feld's
6 deposition.

7 THE COURT: Let me ask you something. If I were a
8 trainer, why would I tap and not bop or vice versa, an elephant?

9 THE WITNESS: I'm sorry. I'm not sure I understand.

10 THE COURT: Why would I tap an elephant, if I were a
11 trainer, and not bop the elephant? What circumstances would
12 prompt me to bop an elephant as opposed to touch it or tap it?

13 THE WITNESS: I'm sorry. What I meant to say, if it
14 wasn't clear, is that all of these verbs in my mind are used
15 interchangeably.

16 THE COURT: All right. So there's no difference
17 between bopping and tapping and touching?

18 THE WITNESS: No, there's no difference, that's
19 correct.

20 BY MS. MEYER:

21 Q. And strike, just to make sure, touching, striking, bopping,
22 hitting, it's all the same to you?

23 MR. SIMPSON: Objection, your Honor; it's
24 argumentative.

25 THE COURT: No, it's a fair question.

1 Is it?

2 THE WITNESS: Yes. I think that's what I said before.

3 BY MS. MEYER:

4 Q. Okay. I'd like to go to Mr. Feld's deposition at page
5 99/01 to 108/4.

6 Question: And when you've observed that kind of
7 treatment of the elephant, is that an example of what you
8 referred to as guiding the elephant before?

9 Actually we need to go up a little further to page 98,
10 line 19, because we're talking about striking elephants under
11 the chin with bullhooks.

12 Question: Have you also seen Ringling Brothers'
13 employees strike elephants under the chin with a bullhook?

14 Answer: Yes.

15 Question: And have you seen them strike elephants
16 under the chin with the hooked end of the bullhook?

17 Answer: --

18 MR. SIMPSON: Objection, your Honor. She's reading
19 something that's different than what's on the screen.

20 THE COURT: Too many people talking.

21 MS. MEYER: I'm sorry.

22 MR. SIMPSON: Whatever is on the screen is not what
23 she's reading.

24 THE COURT: Let's make sure we're on the same page.

25 MS. MEYER: It's my fault, your Honor. I'm sorry.

1 THE COURT: What page?

2 MS. MEYER: 98, line 19.

3 THE COURT: Let's start again.

4 MS. MEYER: I decided I needed to step back a little
5 bit. Page 98 at line 19.

6 Question: Have you also seen Ringling Brothers'
7 employees strike elephants under the chin with a bullhook?

8 Answer: Yes.

9 Question: And have you seen them strike elephants
10 under the chin with the hooked end of the bullhook?

11 Answer: I don't know.

12 Question: Have you seen them strike elephants with
13 the other end of the bullhook?

14 Answer: Yes.

15 And when you've observed that kind of treatment of the
16 elephant, is that an example of what you refer to as guiding the
17 elephant before?

18 Mr. Simpson objected.

19 Answer: What I have seen is guiding or correction,
20 yes.

21 Question: So it would be correction as well?

22 Answer: Yes.

23 Question: How about disciplining?

24 Mr. Simpson objected.

25 Answer: Again, I think it's semantics so I don't know

1 what these -- know that that's disciplining them. I think it's
2 more of a reminder that when I say "pick up your head" you
3 should pick up your head. It's conditioning.

4 Did I read that correctly?

5 A. Yes.

6 Q. And that's because if the animal doesn't pick up its head,
7 it could get struck again, correct?

8 A. I don't know.

9 Q. Well, isn't that part of the conditioning you just
10 testified to in your deposition?

11 A. Yes, but you asked me a specific question about what I said
12 in my testimony, in my deposition.

13 Q. How is it a reminder to the elephant that it better pick up
14 its head?

15 A. That's correct.

16 Q. How does that work?

17 A. I think it was as I said in my deposition.

18 Q. The elephant is reminded that when I say, when the handler
19 says "pick up your head," you better pick up your head or you're
20 going to get hit with that bullhook again, isn't that correct?

21 A. It may or may not be. I believe it may be correct.

22 Q. Now, you also agree that discipline is currently used to
23 handle the elephants at Feld Entertainment, isn't that correct?

24 A. I think so, yes.

25 Q. Okay. And you also know that certain handlers of the

1 elephants at Feld Entertainment have been accused of hitting
2 elephants with bullhooks, don't you?

3 A. Of hitting elephants with bullhooks?

4 Q. Yes.

5 A. Specifically what do you mean?

6 Q. You're aware that certain handlers at Ringling Brothers
7 have been accused of hitting elephants with bullhooks, aren't
8 you?

9 A. Accused by whom?

10 Q. Accused by anyone.

11 A. Yes. Any time an elephant is touched they are, by the
12 activists, accused of hitting the elephants.

13 Q. So you know that Mr. Troy Metzler, he's been accused of
14 hitting elephants with bullhooks, right?

15 A. Yes.

16 Q. And you've heard that Pat Harned has hit elephants with
17 bullhooks, right?

18 A. I don't know. I mean, there was an allegation made, I
19 think, by you probably when we had our deposition that something
20 to that effect with Pat Harned.

21 Q. You only heard it from me?

22 A. Well, it may have been in the media that I had heard that,
23 but it wasn't something that internally that somebody said, Pat
24 Harned hit an elephant with a bullhook, any differently or in
25 any other manner than is accepted and what I would say is the

1 standard practice.

2 Q. But you're aware that Pat Harned has been accused of
3 hitting elephants with bullhooks, right?

4 A. Yes. All of our trainers and handlers that have bullhooks
5 touch the elephants with the bullhooks, so I guess you could say
6 that every trainer that has a bullhook has been accused of
7 touching an elephant with a bullhook and that will be a correct
8 assumption.

9 Q. Well, now I'm getting confused, because you said "touch" is
10 synonymous with "strike," so if I said that would mean all of
11 your handlers also strike elephants with bullhooks, correct?

12 A. If you want to put in that phrase. I said they're all
13 verbs, so I guess you could say yes.

14 Q. So you're aware that all of your elephant handlers strike
15 elephants with bullhooks, correct?

16 A. Yes, um-hmm.

17 Q. Now, have any of these handlers that strike elephants with
18 bullhooks ever been reprimanded for that conduct?

19 A. I think if there had been -- has been mistreatment of an
20 elephant that I would believe that they have been reprimanded.

21 Q. All right. As far as you know, have any of the handlers
22 who have struck elephants with bullhooks ever received a written
23 reprimand for striking an elephant with a bullhook?

24 A. I don't know.

25 Q. You have no idea?

1 A. I don't know.

2 Q. Now, Mr. Metzler is currently employed by Feld
3 Entertainment, isn't he?

4 A. That's correct.

5 Q. And he worked for the Blue Unit for many years?

6 A. That's correct.

7 Q. That's the same unit that Karen and Nicole are on, correct?

8 A. That's correct.

9 Q. And it's also the same unit that Lutzi, Mysore, Susan, and
10 Zina were on for many years, right?

11 A. I believe so.

12 Q. He was in a supervisory capacity for many years, wasn't he?

13 A. Yes.

14 Q. He was the superintendent of elephants for the Blue Unit,
15 wasn't he?

16 A. I think that he was.

17 Q. Then he went to work for the CEC for a while, right?

18 A. That's correct.

19 Q. When he was at the CEC, that's where some of these
20 elephants that we've been talking about currently reside, isn't
21 that right?

22 A. That's correct.

23 Q. All right. And then after the CEC Mr. Metzler went back
24 out on to the Blue Unit recently, isn't that correct?

25 A. Yes.

1 Q. And he was a performer for the Blue Unit?

2 A. He was, yes.

3 Q. And an elephant handler?

4 A. Correct.

5 Q. What is he doing now?

6 A. He's currently working at the Center For Elephant
7 Conservation.

8 Q. What's he doing at the CEC?

9 A. I don't know when specifically. He's handling elephants. I
10 don't know what his --

11 Q. Is he handling some of the elephants we've been talking
12 about: Lutzi, Zina, Susan, Jewell, Mysore?

13 A. I have no idea. I have no idea.

14 Q. Pat Harned who I mentioned earlier, he's also working at
15 the CEC, isn't he?

16 A. That's correct.

17 Q. He's working with these elephants, Lutzi, Susan, Mysore,
18 Susan, Jewell, are residing, correct?

19 A. That's correct.

20 Q. And you've also heard that Sacha Houck has hit elephants
21 with bullhooks, haven't you?

22 A. Yes.

23 Q. And he was a trainer and a performer for your Red Unit for
24 many years, right?

25 A. That's correct.

1 Q. For about six years, between 2000 and 2006?

2 A. I believe so, that's correct.

3 Q. All right. And he left the company in November of 2006,
4 isn't that right?

5 A. That's correct.

6 Q. What were the circumstances of him leaving?

7 A. His contract was up and he decided that he wanted to go
8 back to France, which is where he's from.

9 Q. And you know that shortly before he left to go to France he
10 had been accused by at least two former Ringling Brothers'
11 employees of beating an elephant, correct?

12 A. I had heard that, yes.

13 Q. And that that -- those accusations were made public,
14 correct?

15 A. I believe so.

16 Q. And those two individuals were Archele Hundley and Robert
17 Tom, isn't that correct?

18 A. I'm not sure.

19 Q. You don't know their names?

20 A. That's correct.

21 Q. And there was publicity surrounding their accusations,
22 wasn't there?

23 A. I think there was, um-hmm.

24 Q. Now, is it your testimony that Mr. Houck's leaving had
25 nothing to do with those accusations or that publicity?

1 A. That's correct.

2 Q. It had solely to do with the fact that his contract was up
3 and he wanted to go to Europe?

4 A. That's correct.

5 Q. And it wasn't Feld Entertainment that made any decision not
6 to renew Mr. Houck's contract, right?

7 A. That's correct.

8 Q. It was Mr. Houck's decision, right?

9 A. Yes.

10 Q. Now, did Feld Entertainment do an investigation of whether
11 or not Mr. Houck had in fact beaten an elephant?

12 A. I believe it was looked into. I don't know all of the
13 specifics.

14 Q. I'm sorry?

15 A. I believe it was looked into. I do not have all the
16 specifics. I don't know.

17 Q. Do you have any specifics at all?

18 A. No. I don't believe that it was looked into, that there
19 was an investigation.

20 Q. Okay. Who looked into it?

21 A. It would have been probably through our legal department.

22 Q. Did the legal department report back to you about the
23 results of their investigation?

24 A. No.

25 Q. They did not?

1 A. No.

2 Q. And is it true that you told Mr. Sacha Houck that he could
3 come back to work at the circus any time he wants?

4 A. I may have said something like that, yes.

5 Q. And Gunther Gebel-Williams was an elephant presenter for
6 the circus for many years, isn't that correct?

7 A. Yes. An animal trainer.

8 Q. He trained the elephants for the circus, right?

9 A. Yes.

10 Q. In fact, you regard him as the, quote, greatest animal
11 trainer that you've ever known, isn't that right?

12 A. I believe so, yes.

13 Q. So were you knowledgeable about the techniques that he used
14 to handle elephants, right?

15 A. Well, I was knowledgeable about who he was as a performer,
16 his patience for the animals, and I can't say I knew everything
17 about his training techniques, but I knew the man for a long
18 time, yes.

19 Q. But you knew enough about his training techniques to hail
20 him as the greatest trainer who ever lived, or that you've ever
21 known? Sorry.

22 A. Yes.

23 Q. And how long did he work for Feld Entertainment?

24 A. Well, it was at the predecessor company, but do you mean
25 Ringling?

1 Q. Ringling Brothers.

2 A. He came over, his first season was 1969, and he was with
3 Ringling until he died in 2001.

4 Q. And Mr. Williams' son, Mark Gebel, also worked for the
5 Ringling Brothers Circus, isn't that right?

6 A. That's right.

7 Q. You believe that Mark Gebel carried on his father's legacy
8 at the circus, right?

9 A. I believe he did, yes.

10 Q. So he used the same handling technique as his father then?

11 A. I don't know that.

12 Q. Okay. Now, do you know who Robert Ridley is, right?

13 A. Yes.

14 Q. He's an elephant handler on the Blue Unit, right?

15 A. Correct.

16 Q. He's actually been on the Blue Unit for about thirty years,
17 over thirty years, isn't that correct?

18 A. Yeah, something like that.

19 Q. In fact, earlier when you were answering questions from Mr.
20 Simpson and you mentioned Karen, you said Karen has been with
21 the same handler since you got her in the late of '50s. That
22 would have been Robert Ridley, right?

23 A. That's correct.

24 Q. He goes by the nickname Sonnie, right?

25 A. That's correct.

1 Q. And do you know that Sonnie really also has veterinarian
2 technician responsibilities for the Blue Unit?

3 A. I don't know that.

4 Q. He serves has a vet tech?

5 A. I don't know if he does or he doesn't.

6 Q. All right. But you know that he's been on the Blue Unit
7 for thirty years, right?

8 A. That's right.

9 Q. And are you aware that Mr. Ridley testified at his
10 deposition in this case that he sees, quote, puncture wounds
11 caused by bullhooks, end quote, probably three to four times a
12 month on the Blue Unit?

13 A. No, I'm not aware of his testimony.

14 Q. You weren't aware of that?

15 A. No.

16 Q. Actually I'd like to call that testimony up, if I could.
17 That would be Mr. Ridley's deposition at line 55 -- page 55,
18 line twenty. This was a deposition given by Mr. Ridley on
19 August 25th, 2006.

20 Question: Okay. How often do you see puncture wounds
21 caused by bullhooks?

22 Answer: Probably three to four times a month. That's
23 with the whole herd of elephants.

24 Question: And where do you typically see those
25 puncture wounds?

1 Answer: Under the chin. Occasionally on the back of
2 the leg.

3 So that was deposition testimony that Mr. Ridley gave.
4 Were you not aware of that testimony?

5 A. No.

6 Q. You never reviewed that testimony?

7 A. No.

8 Q. No one ever mentioned that testimony to you?

9 A. Correct.

10 Q. Does that testimony concern you at all?

11 A. No. I haven't seen the whole thing. I've seen just what
12 you read.

13 Q. Well, just what I read, does that part concern you?

14 A. No, because I don't know -- I don't know the reasons why or
15 what for or anything about it. It's just out of context for me.

16 Q. Well, the context is he sees puncture wounds caused by
17 bullhooks on the elephants on the Blue Unit three to four times
18 a month. That's the context. Does it concern you?

19 A. Not to my knowledge.

20 Q. Okay. And do you know that Mr. Ridley also gave a sworn
21 affidavit to the United States Department of Agriculture in
22 January of 1999 in which he stated that he sees quote: Hook
23 boils on the elephants twice a week on average?

24 A. No.

25 Q. You're not aware of that either?

1 A. No, I'm not.

2 Q. Okay. I'd like to actually call that exhibit up. It's
3 Plaintiffs' Exhibit 26, Will Call 26. This is a sworn affidavit
4 given by Robert Lee Ridley. It was given on January 9th, 1999.
5 At the bottom of the page it shows his sworn signature and the
6 date. To the USDA, and I'd actually like to go up to the first,
7 second paragraph that starts with "Investigator Santiago," and
8 if you look at the second line, the sentence that begins at the
9 end of the second line: Mr. Ridley says, I have seen hook boils
10 on some of the elephants. I have seen them on the side of the
11 trunks and on the underside of the legs.

12 And then four lines down, he says, quote: I see hook
13 boils twice a week on an average. Hook boils are common in
14 elephants.

15 Do you see that?

16 A. I see what it says, yes.

17 Q. And that was something that Mr. Ridley provided to the USDA
18 under oath; is that correct?

19 A. I don't know. I mean, I haven't seen the whole document,
20 so I don't know.

21 Q. That's the whole document. You can take a look at it.

22 THE COURT: It seems to me, counsel, he can say what
23 the document says, where it was filed or who it was given to.
24 He doesn't know that, though.

25 MS. MEYER: Okay.

1 BY MS. MEYER:

2 Q. Now, you know Buckles Woodcock, right?

3 A. Yes.

4 Q. And his name is William Woodcock?

5 A. Yes.

6 Q. Buckles is his nickname, right?

7 A. Correct.

8 Q. Okay. And he worked on the Blue Unit, didn't he?

9 A. Yes, he did.

10 Q. How long did he work on the Blue Unit?

11 A. He worked on the Blue Unit several times, I think.

12 Initially 1978/'79. I don't know how much longer after that.

13 He then worked at the Blue Unit again starting in 1994 and 1995,
14 I believe.

15 Q. Okay. I'd like to go to Will Call 19. What I'm showing
16 you, Mr. Feld, is a document that is admitted into this case as
17 Plaintiffs' Will Call Exhibit 19. Do you see this document? It
18 says "Confidential Animal Activist Activities With Related
19 Material to Same". It's dated March 7th, 1994.

20 A. Yes.

21 Q. You've seen this document before, haven't you?

22 A. I may have. I don't know.

23 Q. I showed you this document at your deposition when I took
24 it in January of last year. Do you remember seeing it?

25 A. If it's in my deposition, then I saw it, then I would say

1 that I did. I don't recall it.

2 Q. Okay. I'd like to go to -- I'd like to go to page -- I
3 think it's page five of the document, which should be the Bates
4 label FEI 38277. And do you see the second paragraph on that
5 page? It says -- actually, let's back up a minute before we
6 talk about that.

7 This is a report that was provided to you by an
8 individual named Richard Froeming, isn't that correct?

9 A. It may have been, yes.

10 Q. Okay. When you say "it may have been," why are you saying
11 that?

12 A. Because I'm not sure of what this document is.

13 Q. Okay. I thought you said you think you've seen this
14 document before.

15 A. I said that I may have.

16 Q. Did Mr. Froeming at that point in time in 1944, was he
17 giving you reports on animal activist activities?

18 A. Yes, he was, periodically.

19 Q. And this is a report on animal activist activities by Mr.
20 Froeming, isn't it?

21 A. I don't believe so.

22 Q. Why do you say that?

23 A. That's what the title does say that. No. Because what you
24 were showing me didn't seem to be an animal activist report. It
25 seemed to be a report from the unit, so ...

1 Q. I see. Okay.

2 A. It looks here, the front of it, it says "Items Covered," so
3 I think it's a little more than what you just said.

4 Q. Okay. So the items covered in this particular report are
5 listed on the front page of the report, right?

6 A. Yes.

7 Q. And one of the items covered, it's the third -- or now
8 we're back to the front page, yes, it's the third item down, it
9 says Blue Unit, Richard Froeming visit to same in Norfolk,
10 Animal Walk Norfolk, trainer spotting elephants with a hot shot
11 for manage. Do you see that?

12 A. Yes.

13 Q. So this is a report about something Mr. Froeming saw in
14 Norfolk with respect to the Blue Unit involving a hot shot; is
15 that correct?

16 A. That's what it says here, yes.

17 Q. And if we now go to page five, and at the top of page five
18 sure enough it says Blue Unit, Norfolk, right, do you see that?

19 A. Yes.

20 Q. And the second paragraph says, Also during show prior to
21 entrance to manage Buckles giving Siam a hot shot. Just great.
22 Trying to get her moving into ring faster. Do you see that?

23 A. Yes.

24 Q. And that Buckles referred to there would be Buckles
25 Woodcock, right?

1 A. I believe so, yes.

2 Q. Was there any other Buckles working there on the Blue Unit
3 at that time?

4 A. Not that I know of.

5 Q. So this instant where Buckles Woodcock used a hot shot on
6 an elephant occurred in 1994, correct?

7 MR. SIMPSON: Objection, your Honor. This whole hot
8 shot thing is irrelevant.

9 THE COURT: I'll allow it over objection.

10 THE WITNESS: I'm sorry. Could you repeat the
11 question?

12 BY MS. MEYER:

13 Q. This incident involving Buckles Woodcock using a hot shot
14 on an elephant to get it to move faster occurred on an elephant
15 in the Blue Unit in 1994; is that right?

16 A. The report is dated that, yes.

17 Q. Were you made aware of that incident?

18 A. I think that I was, yes.

19 Q. Did you take any action to fire Mr. Woodcock?

20 A. I think that he was spoken with by I'm assuming Mr.
21 Froeming, about this.

22 Q. Was he fired for using a hot shot on an elephant?

23 A. No, he was not fired.

24 Q. Was disciplinary action taken against him at all?

25 A. I don't know.

1 THE COURT: What's a hot shot?

2 THE WITNESS: Excuse me?

3 THE COURT: What's a hot shot?

4 THE WITNESS: A hot shot to my knowledge is I would
5 say it's the same as what a cattle prod is. It's an electric
6 cattle prod.

7 BY MS. MEYER:

8 Q. It delivers an electric shock to the animal, right?

9 A. Yes.

10 Q. Okay. So Mr. Buckles Woodcock after he was seen using a
11 hot shot on an elephant in the show in the Blue Unit to make it
12 move faster stayed in the show, right?

13 A. He did. I believe he was reprimanded, and at the time I
14 think it's important to note that in January of 1994 there was a
15 train accident and our head elephant trainer was killed. We had
16 somewhere, I want to say, 12 to 15 elephants on the show and we
17 needed to get someone that we could trust to take care of our
18 herd of elephants that was responsible, and Buckles Willcock was
19 called. He came literally that day and was able to manage the
20 herd of elephants so that we were not left in a spot, and he was
21 retained I think through the end of his contract in 1995.

22 Q. Okay. So this event where he was seen using a hot shot on
23 an elephant, was that appropriate behavior for a handler of
24 elephants on the Blue Unit at that time?

25 A. I don't believe so.

1 Q. And this event occurred in March of '94?

2 A. Correct.

3 Q. And you're saying he stayed on as a Blue Unit handler until
4 his contract was up in November of 2005, right -- 1995; is that
5 right?

6 A. That's right, but he was reprimanded. He was spoken to
7 about this and I don't recall that there was another incident,
8 and we do have veterinarians that are constantly inspecting the
9 elephants, and to my knowledge all the elephants were fine and
10 there was no damage.

11 Q. Okay. And so you have personal knowledge of the fact that
12 he was reprimanded?

13 A. I understand that he was spoken to, yes.

14 Q. Who spoke to him?

15 A. I think I said that I believe Mr. Froeming did.

16 Q. Did you have a discussion with Mr. Froeming about it?

17 A. Excuse me?

18 Q. Did you have a discussion with Mr. Froeming about his
19 reprimanding of Mr. Woodcock?

20 A. I may have.

21 Q. Do you remember?

22 A. I don't recall, no.

23 Q. Okay. So in other words, he stayed on as an elephant
24 handler for about more than a year-and-a-half after this
25 incident, right?

1 A. That's correct.

2 Q. And even after that, Feld Entertainment continued to regard
3 Mr. Woodcock as a colleague who shared its views about the
4 training and handling of elephants, right?

5 A. I don't know about that. I mean, all I know is once he
6 was -- his employment ended with the company, that's as far as I
7 know. I mean, he may have a relationship with other elephant
8 handlers. I mean, Mr. Woodcock has been in the elephant
9 business I guess since he was born.

10 Q. But Feld Entertainment continued to consider him as a
11 colleague who shared its views about the handling and training
12 of elephants, right?

13 A. I don't know that. I have no idea about that.

14 Q. Okay. I'd like to go to Plaintiffs' Will Call 81.
15 Plaintiffs' Will Call 81 is a document that was sent by Feld
16 Entertainment to the USDA on December 14th, 1997, regarding a
17 proposal for comment on the handling, training, and exhibition
18 of potentially dangerous, exotic or wild animals. Do you see
19 that?

20 A. Yes.

21 Q. And do you see that it's sent to a Dr. Kohn at the USDA by
22 a woman named Joan Galvin, and she identifies herself as the
23 vice president of government relations for Feld Entertainment.
24 Do you see that?

25 A. Yes.

1 Q. And do you see where she says her comments are sent on
2 behalf of several entities, there at the bottom? It says "On
3 behalf of" and there's a colon and it says Ringling Brothers
4 Barnum & Bailey Circus, and then the next person is Gary Dunn,
5 and if you go to the next page, you see the list continues, and
6 if you go down the list you'll see towards the bottom it was
7 also sent on behalf of William Woodcock. Do you see that?

8 A. Yes.

9 Q. So in 1997 Feld Entertainment was sending comments to the
10 United States Department of Agriculture concerning the handling
11 of elephants on behalf of its self and also Mr. Woodcock, isn't
12 that correct?

13 A. Well, he's mentioned here along with many, many other
14 people from different circuses, yes.

15 Q. Right. And he was part of the coalition that was
16 commenting on these regulations, along with Ringling Brothers,
17 right?

18 A. I guess so. I'm not really familiar with this.

19 Q. Okay. Also do you see on the same list here we have
20 Carrie -- Gary and Carrie Johnson, a couple of names up, of Have
21 Trunk Will Travel?

22 A. Yes.

23 Q. They're participating as experts for Ringling Brothers in
24 this case, aren't they?

25 A. I believe so.

1 Q. If you look at the next page of this exhibit, and this is
2 where the comment letter starts that was sent in by Feld
3 Entertainment, it says: Dear Dr. Kohn, the very first paragraph
4 of the letter, it says, on behalf of the undersigned members of
5 the public display and exhibition community, hereinafter known
6 as the coalition, we respectfully submit the following comments.
7 Do you see that?

8 A. Yes.

9 Q. Okay. So Buckles Woodcock was part of the Feld
10 Entertainment coalition that was submitted these comments,
11 right?

12 MR. SIMPSON: Objection, your Honor; mischaracterizes
13 the document.

14 THE COURT: Rephrase that, counsel.

15 BY MS. MEYER:

16 Q. Buckles Woodcock was part of the coalition, along with Feld
17 Entertainment, that was submitting these comments to the USDA?

18 A. I know there was a group. I don't recall seeing this
19 document before so I really can't comment on it.

20 Q. All right. And the use of the hot shot by an elephant
21 handler at Ringling Brothers is still not grounds for immediate
22 termination, is it?

23 A. I don't believe it is. I think it depends on the
24 circumstances, and I think, you know, it's always -- we tend to
25 look into everything and to investigate fully and to see what

1 circumstances are surrounding any event that happens.

2 Q. I'd like to go to Plaintiffs' Will Call 10, please. This
3 is a document that's been submitted as evidence in this case?

4 A. I'm sorry. I can't understand what you're saying.

5 Q. This is a document that has been submitted as evidence in
6 this case, and you'll see it's an e-mail that was sent from
7 Debra Fahrenbruck to a Mike Stewart. Debra Fahrenbruck was at
8 that point in time Feld Entertainment's animal behaviorist,
9 isn't that correct?

10 A. Yes.

11 Q. And it's dated January 8th, 2005. Do you see that?

12 A. Yes.

13 Q. And Mike Stewart was at this point in time was the general
14 manager of the Blue Unit, correct?

15 A. I believe so.

16 Q. All right. And it says, in the first full paragraph it
17 says: Walk in Phoenix. Troy -- I assume that's Troy Metzler on
18 the Blue Unit, would that be right?

19 A. Troy Metzler was on the Blue Unit.

20 Q. Do you know any other elephant handlers named Troy on the
21 Blue Unit?

22 A. I don't know.

23 Q. You don't?

24 A. No, I don't know.

25 Q. It says, Troy was observed hitting Angelica three to five

1 times in the stocks before unloading her and then using a hand
2 electric prod within public view after unloading. Do you see
3 that?

4 A. I see that, yes.

5 Q. And Mr. Metzler wasn't fired for using an electric prod,
6 was he?

7 A. Well, I don't know what this situation was. First of all,
8 I don't think anyone was aware of it. She's writing this in
9 January of 2008. Phoenix would have been the previous July.

10 THE COURT: I'm sorry, January?

11 THE WITNESS: Of 2007.

12 THE COURT: January 2005, is that correct?

13 THE WITNESS: I'm sorry. I apologize. This -- the
14 date of this e-mail is January 8th, 2005. The show would have
15 been in Phoenix in the prior July.

16 BY MS. MEYER:

17 Q. Okay. And what does that have to do with whether or not
18 Troy Metzler was fired for using a hot shot?

19 A. Well, if she's reporting this and she's the only one that
20 knew, no one ever would have known about it in the first place,
21 and I don't know if it's correct or incorrect.

22 Q. Okay. Well, did you do an investigation? You said you
23 fully investigate these matters?

24 A. No. I never saw this until you took my deposition in
25 January of last year.

1 Q. Okay. Do you know whether or not this matter was fully
2 investigated?

3 A. I have no idea.

4 Q. So you don't know, he might have very well have used a hot
5 shot on Angelica during this time period, right?

6 A. He may very well. Maybe he didn't, because no one reported
7 this if in fact it ever did happen till seven months later.

8 Q. Are you saying that Debra Fahrenbruck is making this up?

9 A. She may be. I don't know. I don't know.

10 Q. Okay. Do you see the very first sentence says "These are
11 the notes I jotted down" at the time. Do you see that?

12 A. I understand that, but if there was a problem, obviously
13 the elephant was never in bad health or in any danger because I
14 would have thought someone would have spotted that between, if
15 it in fact it did happen, between July and January of the
16 following year, so I don't know what that means.

17 Q. Well, what it seems to mean is that your animal behaviorist
18 was reporting to the unit manager of the Blue Unit that she saw
19 Troy Metzler use an electric prod on one of your elephants.
20 That seems to be what it's reporting there.

21 MR. SIMPSON: Objection. It's argumentative with the
22 witness, who doesn't know anything about the document.

23 THE COURT: It is.

24 And counsel, speculation. Let's move on.

25 BY MS. MEYER:

1 Q. Do you know if any disciplinary action was taken with
2 respect to the hitting of Angelica three to five times in the
3 stocks?

4 A. I have no idea if this ever happened.

5 Q. Okay. And Mr. Metzler still works for the circus, right?

6 A. He's currently working at the Center for Elephant
7 Conservation, yes.

8 Q. Okay. Now, you're not a veterinarian, correct?

9 A. No, I'm not.

10 Q. You don't have any veterinary training, do you?

11 A. Correct.

12 Q. And you're not kept informed about the medical conditions
13 of the elephants, correct?

14 A. No, not in a general sense.

15 Q. And you've never had a process in place for being kept
16 informed about the medical condition for the elephants for the
17 circus, right?

18 A. That's right. If there's something that's -- that I need
19 to know about, I would find out through one of the vets,
20 usually.

21 Q. But you have no process currently in place to be kept
22 informed about the medical conditions of the elephants, right?

23 A. That's correct.

24 Q. And as CEO of the company, you want to be kept informed of
25 whether or not an employee working for the circus has mistreated

1 an animal, right?

2 A. I'm sorry. I couldn't understand what you're saying.

3 Q. As the CEO of the company you would want to be informed,
4 would you not, if an employee of yours was mistreating an
5 animal, wouldn't you?

6 A. I believe so, yes.

7 Q. But there's no policy in place at Feld Entertainment to
8 ensure that you are informed about incidents of mistreatment of
9 animals, right?

10 A. No. We have management on all of our shows, on all of our
11 units that deal with these things on a day-to-day basis. I am
12 not involved in the day-to-day activities of our various shows
13 and productions.

14 Q. Well, I'm asking you a very specific question, which is:
15 You don't have a policy in place at Feld Entertainment that
16 ensures that you as the CEO are informed about incidents of
17 mistreatment of animals, do you?

18 A. There is no policy that I know of to inform me, that's
19 correct.

20 Q. And you assume that Jim Andacht, who is your vice president
21 of circus operations, is the Feld Entertainment official who
22 would be kept informed of employees who are mistreating animals;
23 is that correct?

24 A. Repeat that again.

25 Q. You assume that Jim Andacht -- do you know who Jim Andacht

1 is?

2 A. Yes.

3 Q. He's the vice president for circus operations for Feld
4 operations, correct?

5 A. Yes.

6 Q. You assume that he is the official at your company who is
7 kept informed if an employee is mistreating an animal in the
8 circus, right?

9 A. That's correct.

10 Q. Now, is there a system in place at Feld Entertainment to
11 make sure that Mr. Andacht is kept informed of incidents of
12 mistreatment of animals?

13 A. I don't know. I presume the managers of the shows report
14 to him. The people that handle the animals on the shows report
15 to the manager, and I'm sure that there's a process if something
16 were to come up that it would go up the chain and he would be
17 informed, yes.

18 Q. But you don't know for a fact that there is a system in
19 place in Feld Entertainment to make sure that Mr. Andacht finds
20 out about mistreating animals?

21 A. That's correct, I don't know that.

22 Q. Okay. Now, is it true that Feld Entertainment -- actually,
23 you said these incidents are fully investigated. I think those
24 were your words?

25 A. Correct. What are you speaking about?

1 Q. These incidents, these allegations of mistreatment are
2 fully investigated, I think that's what you said.

3 A. No. I think there was an incident that you asked me about
4 and I think I said that that was investigated, so if you're
5 speaking of the incident I think it was the Sacha Houck incident
6 that you mentioned. I believe that was fully investigated. I
7 don't know of others that you're talking about.

8 Q. Who conducted that investigation?

9 A. Again, I don't know. I think it may have been our counsel.

10 Q. But you don't know who conducted that investigation?

11 A. I don't know.

12 Q. Okay. Is it true that at Feld Entertainment if it's
13 determined that an employee has actually mistreated an elephant,
14 that is not something that results in a written reprimand?

15 A. No. It may result in a written reprimand.

16 Q. But it may not, right?

17 A. It's possible. It depends on the circumstance.

18 Q. Okay. So it is true that an employee who mistreats an
19 elephant at the circus may never get a written reprimand for
20 that, right?

21 A. It depends. If it's brought to someone's attention if
22 someone knows about it and if it was investigated and if the
23 employee was found to have mistreated the animal, my belief is
24 that they would have a written reprimand.

25 Q. I'd like to go to actually Mr. Andacht's deposition, which

1 has been admitted into evidence here, page ninety. Because the
2 reason I'm going to Mr. Andacht's deposition is because you
3 said, as I understand your testimony, Mr. Andacht as the vice
4 president in charge of circus operations is the one who would
5 have a system in place to make sure that he's informed of the
6 mistreatment of animals, so this is why I'm going to his
7 deposition. I'd like to go to page ninety, line four.

8 Question: Mr. Andacht -- oh, actually let's show it,
9 if we could. Video. Sorry. Is that possible?

10 (Video played.)

11 (Video replayed.)

12 THE COURT: Let's break for fifteen minutes. We have
13 to stop at 4:25, so we'll start back at 2:45.

14 (Recess taken at about 2:25 p.m.)

15 COURTROOM DEPUTY: Please remain seated and come to
16 order.

17 (Back on the record at about 2:45 p.m.)

18 THE COURT: All right. Let's proceed. You can ask
19 your question again. I think you were in the middle of some
20 deposition testimony by Mr. Andacht.

21 MS. MEYER: Okay.

22 (Video played.)

23 BY MS. MEYER:

24 Q. And you agree with Mr. Andacht's testimony that in fact if
25 it were determined that an employee had mistreated an elephant,

1 it might not result in a written reprimand; is that correct?

2 A. I don't know.

3 MS. MEYER: And for the record, the deposition
4 testimony we were using was page 90, line 4, through page 94,
5 line 11.

6 BY MS. MEYER:

7 Q. Now, is it true that the general managers of the units have
8 no obligation to keep Mr. Andacht informed of incidents of
9 mistreatment of elephants?

10 A. My understanding is that the general managers keep Mr.
11 Andacht informed of events that happen on the tour related to
12 whatever unusual events might be and how the show is going, not
13 just in the animal area, but in every area.

14 Q. But I assume in your view the mistreatment of an elephant
15 on the show would be an unusual event, wouldn't it?

16 A. I believe it would be, yes.

17 Q. So based on your testimony you just gave us, that means
18 it's your understanding that the general managers do have an
19 obligation to keep Mr. Andacht informed of incidents of
20 mistreatment of the elephants, correct?

21 A. My understanding would be that if they know that there's
22 mistreatment going on, that they should take some action and do
23 something about it, and that I would think it would be on that
24 they would inform Mr. Andacht, yes.

25 Q. I'd like to go to Mr. Andacht's testimony, deposition

1 testimony, at page 94, line 12. Yes, video.

2 MR. SIMPSON: Your Honor, I'm going to object to this.
3 It's an impeachment of Mr. Feld with Mr. Andacht's deposition.
4 It's unclear what's going on here.

5 MS. MEYER: This is evidence in the case, your Honor.
6 I'm simply asking the witness who is the CEO of the company,
7 what the company's policies are. He's just testified that he
8 believes that the unit managers would keep the vice president of
9 circus operations informed, and I want to present some of this
10 evidence to show him that that behavior is not well-founded.

11 MR. SIMPSON: That's not proper with this witness
12 because this isn't his deposition and it's implying that somehow
13 there's an inconsistency, and Mr. Feld doesn't know what Mr.
14 Andacht testified to.

15 MS. MEYER: I'm not impeaching him with Mr. Andacht's
16 testimony. I'm using Mr. Andacht's testimony, which again is in
17 evidence in this case, to explore the testimony of --

18 THE COURT: Hold on. Let's move it on.

19 MS. MEYER: Thank you.

20 THE COURT: This is painfully slow. Let's move it on.

21 (Video played.)

22 BY MS. MEYER:

23 Q. So, Mr. Feld, you would agree with Mr. Andacht that the
24 general manager of the Blue Unit had no responsibility to keep
25 Mr. Andacht informed about incident of mistreatment of elephants

1 on the Blue Unit, correct?

2 A. I think probably if the manager thought it was of a
3 material nature he would keep Mr. Andacht informed.

4 Q. But he had no obligation to?

5 A. That's correct.

6 Q. And is it true that there is no system in place at Feld
7 Entertainment to ensure that Mr. Andacht, the vice president of
8 circus operations, is in fact kept informed of incidents of
9 mistreatment of animals at the circus?

10 A. No. I think that what happens in reality is that we have
11 people that work with the elephants, we have vets that come in
12 on a regular basis, we're inspected by the USDA and local
13 authorities on a regular basis, they look at the elephants --

14 THE COURT: Do you understand her question, though?
15 You have to answer her question. Do you understand her
16 question?

17 THE WITNESS: Repeat the question then.

18 BY MS. MEYER:

19 Q. My question is: There is no system in place at Feld
20 Entertainment to ensure that Mr. Andacht --

21 THE COURT: Are you referring to Feld policy then?

22 MS. MEYER: Yes.

23 THE COURT: A Feld policy to ensure what?

24 BY MS. MEYER:

25 Q. System or policy, either one, there is no system or policy

1 in place in your corporation to ensure that the vice president
2 of circus operations, Mr. Andacht, is kept informed about
3 incidents of mistreatment of animals in the circus; is that
4 correct?

5 A. That's correct.

6 Q. Now, you talked about some of the elephants that you've
7 produced at the Center For Elephant Conservation in your direct
8 testimony. Do you remember that testimony?

9 A. Yes.

10 Q. It's true that Feld Entertainment has no intention of ever
11 reintroducing any of those elephants into the wild, right?

12 A. At this time, that is correct.

13 Q. When you say "at this time," you have some plans for the
14 future to reintroduction some of those elephants into the wild?

15 A. No. I don't know. I can only speak about today, that it
16 would not be practical. I don't know what would happen in ten
17 years with respect to technology with other situations, where
18 maybe it does make sense. I don't know.

19 Q. But you currently have no plans to --

20 A. That's correct.

21 Q. -- to put any of the animals that you're making at the CEC
22 back into the wild, right?

23 THE COURT: Animals that he's doing what?

24 MS. MEYER: Animals that they're making at the CEC,
25 that they're producing at the CEC.

1 THE WITNESS: The animals, the elephants that are born
2 at the CEC, there's no intention to put them in the wild,
3 correct.

4 BY MS. MEYER:

5 Q. And it's true that the only reason Feld Entertainment is
6 breeding those elephants is to use the baby elephants in its
7 circus performances, correct?

8 A. No. That's not correct.

9 Q. What else are you producing the elephants for?

10 A. Because it is a passion of mine. It is a mission that we
11 should help, not allow these animals to go extinct in captivity,
12 which I mentioned before, that there was a report done saying
13 that in forty years if it was left to zoos in this country, that
14 Asian elephants would be extinct. I hope that we play a small
15 part in preventing that from happening and having Asian
16 elephants, if they're suited to go on the tours of Ringling
17 Brothers-Barnum Bailey, absolutely they'll go there. If they're
18 not suited to, they don't, and the fact of the matter is that we
19 have thirty-some elephants at the center. We have nineteen
20 elephants on tour.

21 Q. So as I understand your testimony, in addition to producing
22 the baby elephants that will perform in the circus, you're also
23 producing baby elephants for zoos?

24 A. No. For the Center of Elephant Conservation, so that we
25 continue to have a diverse gene pool to continue to reproduce

1 elephants.

2 Also, so that at some point in time there are
3 elephants that are suited to go on tour, there are other
4 elephants that may not be suited to go on tour. Many mature
5 males we do not have on tour and there's no intention of taking
6 them, but it gives us the ability to continue the various
7 bloodlines that we have and to continue our success with the
8 breeding.

9 Q. But I'm trying to understand, just to have them down there
10 at the CEC, or how are you going to use the elephants that you
11 are making at the CEC who are not performing?

12 THE COURT: He's already indicated that some go to the
13 circus, if appropriate, right?

14 THE WITNESS: Some go to the circus, some don't.

15 THE COURT: Then what if they're not suitable, what
16 would happen to the others?

17 THE WITNESS: Then they would stay at the Center For
18 Elephant Conservation. We would provide them on breeding loans
19 to appropriate institutions in the country. We would have
20 people come continue to do research there, and hopefully that
21 the herd will continue to be sustainable.

22 BY MS. MEYER:

23 Q. Okay. Feld Entertainment has in the past given elephants
24 that were living at the CEC to zoos, for example, if a zoo
25 didn't have an elephant or only had one and wanted another one?

1 A. Yes. There was a companion elephant program, and if we
2 found that the facilities were suitable, we have contributed
3 those elephants to those facilities.

4 Q. So some of the elephants at the CEC do end up in zoos,
5 correct?

6 A. Some have, yes.

7 Q. And it's true also that elephants sometimes go from the CEC
8 back out on to the road, isn't that correct?

9 A. That's correct.

10 Q. And it's also true that sometimes an elephant may go from
11 the road to the CEC for a time and then back out on the road,
12 isn't that correct?

13 A. That's correct.

14 Q. Now, it's true that several of the elephants who have been
15 born at the CEC have died, isn't that correct?

16 THE COURT: So the fact that an elephant has gone from
17 the circus to the CEC does not mean that necessarily that an
18 elephant will not be returned to the circus; is that correct?

19 THE WITNESS: That's correct. It depends on the
20 circumstance. For instance, Bonnie the elephant that just gave
21 birth to Barack on the 19th of January, was on tour with the
22 Blue Unit. She was artificially inseminated actually on the
23 unit. When we found out that she was pregnant, she was taken
24 off the unit this past fall to the CEC where she could have the
25 baby, and she is currently there with the baby.

1 BY MS. MEYER:

2 Q. Now, it's true that several of the elephants who have been
3 born at the CEC have died, isn't that correct?

4 A. That's correct.

5 Q. Those elephants would include Kenny, Benjamin, Ricardo,
6 Bertha, correct?

7 A. That's correct.

8 Q. And I'd like to actually go to Will Call 99A. It was
9 admitted into evidence last week. This is a -- do you recognize
10 this brochure, Mr. Feld?

11 A. No.

12 Q. You've never seen this brochure before?

13 A. I may have. I'm not sure.

14 Q. Well, it's something that's put out by Ringling Brothers-
15 Barnum & Bailey. Do you see at the top, the Greatest Show on
16 Earth?

17 A. I see that.

18 Q. That's your emblem, right?

19 A. I understand, but I'm not intimately familiar with every
20 brochure or piece that goes out from our company, so it looks
21 like, it's got our name on it. I don't know what's inside.

22 Q. This is a brochure that's distributed by the company,
23 correct?

24 A. I said: I don't know.

25 THE COURT: He said he doesn't know. He doesn't know.

1 BY MS. MEYER:

2 Q. It looks like one, right?

3 A. It has our logo on it.

4 Q. All right. Actually, I think if we can go to where the
5 copyright is, if we could go to that.

6 You can zoom in on the copyright for this brochure.

7 Do you think it's on the left-hand side of this page
8 right here (indicating)? Do you see that it says 2006 Feld
9 Entertainment, Inc.?

10 A. Yes.

11 Q. So that's a copyright for Feld Entertainment, Inc., right?

12 A. That's correct.

13 Q. So this is a brochure that was published by Feld
14 Entertainment, right?

15 A. I assume so.

16 Q. And if we could go to, and it's a brochure that says
17 Ringling Brothers and Barnum & Bailey is committed to
18 progressive animal care. Do you see that in the first column?

19 A. Yes.

20 Q. And in the second column it talks about the Center For
21 Elephant Conservation, right?

22 A. Yes.

23 Q. And if we could go to the inside of the brochure. It's got
24 pictures of baby elephants on it. Do you see that?

25 A. Yes.

1 Q. And it's featuring these baby elephants in the lower left-
2 hand column on this page, if we could zoom in on the lower left-
3 hand column.

4 It says, Endangered Species -- lower left.

5 "Endangered species? Not if we can help it."

6 Do you see that?

7 A. Yes.

8 Q. Now, if you look at this brochure, and I don't know if
9 there's a way to enlarge any of this writing around the circle
10 here on the screen, but it has the names of the baby elephants
11 who have been born at the CEC; is that correct? Do you see
12 that?

13 A. Yes.

14 Q. All right. It goes all the way around the circle. It has
15 all of their birthdays on it, right?

16 A. Yes.

17 Q. But this brochure, this brochure is disseminated to the
18 public, right?

19 A. I'm assuming that it is, yes.

20 Q. And it was being disseminated in 2006, because that's the
21 copyright on it?

22 A. Again, I'll make that assumption. I don't know. I don't
23 know.

24 Q. If you go around here you'll see the dates of the births of
25 the baby elephants. It doesn't mention that some of these

1 elephants have died, does it?

2 A. No, it doesn't.

3 Q. It doesn't mention that Kenny is dead?

4 A. No.

5 Q. Or that Benjamin is dead?

6 A. No. This talks about the births of the elephant.

7 Q. And Kenny, for example, died in 1998, didn't he?

8 A. Yes.

9 Q. And so he had already been dead for about eight years when
10 this brochure came out, right?

11 A. Yes.

12 Q. But the public wouldn't know that by reading this brochure,
13 would it?

14 A. No. I think that we say that these are the births of the
15 elephants that we've had at the center.

16 Q. So this brochure does not indicate that four of these
17 elephants, at the time this brochure was being distributed to
18 the public, were dead, does it?

19 A. Well, I don't know that four of them were. I don't know
20 the exact date, but no, it doesn't mention that.

21 Q. Well, we can go through these. Kenny died in 1998, so that
22 was before 2006, right?

23 A. I can't hear you.

24 Q. Kenny died in 1998, so that was before --

25 THE COURT: Why don't you pull that mike down,

1 counsel? What you're doing is talking over it and there's a
2 dead spot and he can't hear. It is difficult for the Court to
3 hear some things.

4 MS. MEYER: I apologize.

5 BY MS. MEYER:

6 Q. Kenny died in 1998, so he had been dead for about eight
7 years before the brochure came out?

8 A. Correct.

9 Q. And Benjamin died in 1999, right?

10 A. Correct.

11 Q. All right. So he had been dead for about seven years when
12 the brochure came out, right?

13 A. Yes.

14 Q. And Ricardo died in 2004, right?

15 A. I believe so.

16 Q. So he had been dead for a couple of years too before this
17 brochure came out, right?

18 A. Right.

19 Q. And Bertha had died in 2005, isn't that right?

20 A. I don't know. I don't know the year or when she died.

21 Q. For the record, I'll make a proffer based on her medical
22 records she died in 2005?

23 MR. SIMPSON: Objection, your Honor.

24 THE COURT: I'm going to disregard that. Let's move
25 on.

1 BY MS. MEYER:

2 Q. All right. Now, this brochure that was disseminated in
3 2006, Feld Entertainment continued to disseminate it in the next
4 year, right, 2007?

5 A. I don't know. It's possible.

6 Q. Okay.

7 Can we pull up the 2007 brochure?

8 Here's the same brochure. You can see that it's,
9 going to the copyright here, do you see the copyright here on
10 the left-hand side?

11 A. Yes.

12 Q. It says, 2007 Feld Entertainment Inc. Do you see that?

13 A. Yes.

14 Q. And this brochure was also featuring the baby elephants who
15 had been born at the CEC -- there they are again -- saying
16 photograph enlisting big elephants, correct?

17 A. Yes. I don't know if we had any others born.

18 Q. And still not mentioning to the public that four of these
19 elephants had died, right?

20 A. That's right.

21 Q. Now, your website also features the baby elephants who were
22 born at the CEC, right?

23 A. Yes.

24 Q. It has a list of all the elephants who have been born at
25 the CEC, right?

1 A. I believe so.

2 Q. It also doesn't disclose to the public that four of those
3 elephants died, right?

4 A. I don't know. It's possible that it doesn't.

5 Q. We could go to the website. I went there a couple of days
6 ago. If we could pull that up.

7 THE COURT: Is this controverted? Is this fact
8 controverted? If not --

9 MS. MEYER: I think it's important to establish, your
10 Honor.

11 THE COURT: I'm not saying it's not important. I'm
12 just saying, is it controverted? Is it already in the record?

13 MS. MEYER: The deaths?

14 THE COURT: If it's already there, you can argue at
15 the appropriate point. I'm not minimizing the importance. I'm
16 just saying let's move along.

17 MR. SIMPSON: Excuse me, your Honor. It's not
18 disputed these elephants passed.

19 THE COURT: Right, that's what I'm saying, is it
20 controverted? If it's in the record that elephants that were
21 born are listed but those same elephants, some of those same
22 elephants have died and they weren't listed, if that's not
23 disputed, it's a fact already admitted and you can argue it.
24 I'm not minimizing the importance.

25 MS. MEYER: Your Honor, I'm actually using it for a

1 different purpose. I'm using it to show that what Ringling
2 Brothers is telling the public, and that becomes important,
3 particularly for our organizational plaintiffs, why they have to
4 spend additional resources correcting information that Ringling
5 Brothers is putting out into the public realm. That's what this
6 is for.

7 THE COURT: Let's move it along, counsel.

8 BY MS. MEYER:

9 Q. So this is your current website as of -- does it have a
10 date on the bottom, on the right-hand side?

11 THE COURT: Not to belabor the point, but if it's
12 already in the record and it's not disputed, you're free to make
13 that argument, right?

14 MS. MEYER: Okay. I'll get off this quickly then.

15 BY MS. MEYER:

16 Q. I just want to show this is the website, is 2/28, 2009, and
17 again there is a listing of babies. It has the two new babies
18 you mentioned, Barack and Sundora?

19 A. Correct.

20 Q. But there's no mention that any of the elephants that we
21 talked about, Benjamin, Ricardo, Bertha, Kenny, have died,
22 correct?

23 A. That's correct.

24 THE COURT: I'll make an assumption that Ringling
25 Brothers has never publicly stated that any elephant has died

1 either at CEC or the circus; is that fair to say or not?

2 THE WITNESS: No, I think that on our website we have
3 notifications.

4 THE COURT: Deaths?

5 THE WITNESS: Have had if elephants have passed, yes.

6 THE COURT: All right.

7 BY MS. MEYER:

8 Q. You talked about the conservation that you're doing down at
9 the CEC, and I wanted to ask you some questions related to that.
10 It's true that Feld Entertainment has castrated some of its
11 young male elephants, isn't that correct?

12 A. In the past we had, yes.

13 Q. That would include an elephant name Prince Tusk, right?

14 A. Yes.

15 Q. And he was castrated when he was just shy of his 7th
16 birthday; is that correct?

17 A. I don't know when. We acquired him I believe on a breeding
18 loan from the Portland Zoo.

19 Q. And after you acquired him, Feld Entertainment had him
20 castrated, right?

21 A. I believe so.

22 Q. When he was a fairly young male elephant, right?

23 A. I don't know the age.

24 Q. I think I can find that in the record. If we could go to
25 Plaintiffs' exhibit --

1 THE COURT: Let me stop you for one second.

2 (There was a pause in the proceedings.)

3 BY MS. MEYER:

4 Q. If you could look at Plaintiffs' Exhibit 1A, Prince Tusk,
5 page 16. This is a medical record that was produced by Feld
6 Entertainment to the plaintiffs in this case, and it concerns an
7 elephant named Prince Tusk. Isn't that in the upper right-hand
8 column?

9 A. Yes.

10 Q. It says his date of birth, 1/01, 1986. Do you see that?

11 A. Correct.

12 Q. You see about four lines down in his medical history it
13 says 12/4/92, castrated?

14 A. Yes.

15 Q. So he would have been, according to my calculations, just
16 shy of the seventh birthday when he was castrated; is that
17 right?

18 A. I believe so.

19 Q. And where is this elephant now, this tusk?

20 A. He's at the facility in Williston, Florida.

21 Q. How long has he been there?

22 A. I don't know how long.

23 Q. Could we actually go to Chart B, which is Will Call 169.

24 This has been admitted into evidence. It's a list of
25 the elephants and their locations, if we can find Prince Tusk.

1 According to this chart, Prince Tusk went to Williston in
2 February 1996. Do you see that?

3 A. Yes.

4 Q. All right. So he was born in 1986 and he went to Williston
5 in 1996. He would have been about ten years old when he went to
6 Williston, correct?

7 A. Correct.

8 Q. And that's where he is today, right?

9 A. Correct.

10 Q. He's been there ever since, right?

11 A. Correct.

12 Q. He's not being used to breed, is he?

13 A. He's castrated.

14 Q. So he's not being used to breed.

15 And what about Sabu, an elephant named Sabu, is he
16 also castrated?

17 MR. SIMPSON: Objection, your Honor. The castration
18 of these elephants is irrelevant.

19 THE COURT: Where are we going with this?

20 MS. MEYER: Mr. Feld made a point in his direct
21 testimony about the conservation of elephants and the gene that
22 they're preserving, all that out at the CEC, and I think this
23 elephant --

24 THE COURT: Maybe the parties can stipulate. I don't
25 know. If not, what's your proffer, how many elephants have been

1 castrated?

2 MS. MEYER: I just wanted to ask about that, one more
3 elephant.

4 THE COURT: That's fine.

5 MR. SIMPSON: That's the point, your Honor, there are
6 other males that are not castrated that are involved in breeding
7 programs, so this is totally immaterial.

8 MS. MEYER: He can do redirect, your Honor.

9 THE COURT: It's probably of some relevance.

10 BY MS. MEYER:

11 Q. Sabu?

12 A. What is the question?

13 Q. Was he also castrated?

14 A. Yes.

15 Q. And he's also living at Williston, right?

16 A. Yes.

17 Q. And he also went there when he was fairly young, right?

18 A. I don't know when he went there.

19 Q. Now, Feld Entertainment spends money each year on public
20 relations to promote the circus, right?

21 A. Yes.

22 Q. How much do you spend on this?

23 A. I don't know.

24 Q. You don't have any idea?

25 A. No.

1 Q. And, I mean, is it millions of dollars?

2 A. I don't know.

3 Q. So is it -- can you give me any range of a figure that
4 would describe how much you spend on public relations each year?

5 A. I can't break it down as to the circus. I just don't know.

6 Q. And in addition to whatever Feld Entertainment spends on
7 public relations --

8 THE COURT: For the circus, you mean, you're referring
9 to?

10 MS. MEYER: For the circus.

11 BY MS. MEYER:

12 Q. It also spends additional money on advertising, right?

13 A. Yes.

14 Q. All right. And you also hire outside companies to do
15 public relations for you, right?

16 A. That's correct.

17 Q. How much do you pay the outside companies to do public
18 relations for you?

19 MR. SIMPSON: Objection, relevance, your Honor. Plus
20 there's also they saw documents in discovery. Judge Facciola
21 refused to require us to produce this, so I think there's been a
22 judicial ruling this has nothing to do with this case.

23 THE COURT: Did he preclude production?

24 MS. MEYER: Totally incorrect, your Honor. Judge
25 Facciola held in a discovery context even though the financial

1 information we were trying to get was marginally relevant to
2 credibility, he wasn't going to impose a burden on them to
3 produce the documents in discovery. That is not a ruling that
4 the information is not relevant. He simply said it does go to
5 the credibility of witnesses.

6 THE COURT: He found relevance, but he didn't require
7 a production; is that correct?

8 MS. MEYER: Did not require production of documents
9 showing information.

10 THE COURT: All right. You can answer the question.

11 I'll attach it any weight, if any, that's appropriate.

12 BY MS. MEYER:

13 Q. So I think the question on the table is how much you pay
14 outside companies to do public relations for you.

15 A. I don't know.

16 Q. Well, it's certainly more than a hundred thousand dollars a
17 year, right?

18 A. Absolutely.

19 Q. And do you know how much you spend on advertising for the
20 circus each year?

21 A. I don't know.

22 Q. Do you have any idea?

23 A. It's in the millions of dollars.

24 Q. Millions of dollars. Okay. Because New York City alone
25 you could spend a million dollars, right?

1 A. I don't know. Maybe.

2 Q. Okay. Do you remember testifying in a case called PETA
3 versus Feld Entertainment, et al, in 2006 in Fairfax County?

4 A. Yes.

5 MR. SIMPSON: Objection, your Honor. That Feld
6 Entertainment was not a party in that case.

7 THE COURT: Who are the parties?

8 MR. SIMPSON: Mischaracterizes the record.

9 THE COURT: Who are the parties?

10 MS. MEYER: People for the Ethical Treatment of
11 Animals, Kenneth Feld, and PETA plaintiffs versus Steven
12 Kendall, et al, defendants.

13 THE COURT: So it was not Feld Entertainment?

14 BY MS. MEYER:

15 Q. Oh, I'm sorry. Against you. Sorry. Do you remember that
16 case?

17 A. Yes.

18 Q. And you testified in that case?

19 A. That's correct.

20 Q. And you were under oath when you testified?

21 A. That's correct.

22 Q. And you told the truth?

23 A. Yes.

24 Q. All right.

25 Could we go to the transcript of that trial testimony,

1 please, at page 2069, line 11?

2 2069, line 11, and this is your testimony. You say:
3 For instance, we operate in nine cities for the circus, so each
4 city in essence becomes a separate business, so, for instance,
5 in New York City we might spend a million dollars for
6 advertising.

7 Is that correct?

8 MR. SIMPSON: Your Honor, could counsel read the
9 question to the witness?

10 THE COURT: Yes.

11 MS. MEYER: Sure.

12 BY MS. MEYER:

13 Q. Question: When you say a "unique expenditure," what does
14 that mean?

15 Answer: Okay. For instance, we operate in 90 cities
16 with the circus. So each city, in essence, becomes a separate
17 business, so, for example, in New York City, we might spend a
18 million dollars on advertising.

19 Do you see that, Mr. Feld?

20 A. Yes.

21 Q. And since you operate about 90 different cities a year,
22 we're talking about tens of millions of dollars that you spend
23 on advertising every year, right?

24 A. We spend well into the millions. I don't know what the
25 exact number is. New York obviously is the largest market, we

1 spend the most money.

2 Q. And part of the public relations and advertising that Feld
3 Entertainment does is to convince the public that the elephants
4 are healthy and content at the circus, right?

5 A. No. The advertising is a message to compel people to make
6 them want to buy tickets. The advertising shows various acts in
7 the show. Elephants are always featured in our television ads.
8 I think they're probably always featured in our print ads when
9 we use them. And then we have the name of the venue, we have
10 the dates, where you will get your tickets. That's the purpose
11 of advertising.

12 Q. What about public relations? Part of the public relations
13 done by Feld Entertainment is to convince the public that the
14 elephants are healthy and content in the circus?

15 A. The public relations is to go into communities all over the
16 country and internationally as well and talk about all the
17 assets of Ringling, all the good things that we do, and yes, the
18 elephants are a very important part of that, so the idea is to
19 make people as aware as possible as to what we're doing with the
20 elephants, the tigers, with all the animals, with all the other
21 programs that we have involved in the circus, whether it's
22 fitness, whether it's clowning, whatever, so it's a pretty wide
23 array of different things.

24 Q. And part of the public relations done by Feld Entertainment
25 is also to convince the public that animals rights groups are

1 lying when they say the elephants are mistreated, right?

2 A. Well, typically our public relations is to send out
3 positive messages about what we do. I don't think that we spend
4 very much time talking about negatives. If we're asked
5 something, we respond, but I don't know that we put out
6 tremendous amounts of negative P.R. with respect to animal
7 extremist animal rights group.

8 Q. But it's part of your public relations, isn't it, to tell
9 the public that the animal rights groups who say that the
10 animals are being mistreated, are lying, that they're making it
11 up, that they have a political agenda, correct?

12 A. Well, we do say that because that's what I believe is true,
13 but most of what we do, and I would say probably 98% of
14 everything we do, is positive messaging and why you should come
15 to Ringling Brothers-Barnum Bailey, and that's what we do to
16 promote our business.

17 Q. And part of that positive messaging is to tell the public
18 that the elephants, and other animals, are healthy and content,
19 right?

20 A. We do say that, yes.

21 Q. I'd actually like to look at -- you have paid for full-page
22 ads in major newspapers to say these things, right?

23 A. To say what things?

24 Q. Your animals are healthy and content, animal rights groups
25 should not be listened to, they have political agendas, those

1 kinds of things?

2 A. I believe there were two instances. One being after a
3 lawsuit in 2001/2002 in San Jose, California where an elephant
4 trainer we had was accused of mistreating an elephant. It went
5 to court and he was found completely innocent, and in fact, I
6 don't even think we presented a defense. I think there was an
7 ad taken out after the verdict in the PETA trial, which I guess
8 I think there was 2006.

9 Q. Have you taken out full-page ads, for example, in the New
10 York Times to tell the public that your animals are in great
11 shape, they're healthy and content, that animal rights groups
12 are misleading the public, do they say anything other than that,
13 and that in fact animal rights groups should not be trusted
14 because they're linked to terrorist organizations, isn't that
15 correct?

16 MR. SIMPSON: Objection; compound and argumentative.

17 THE COURT: It's certainly compound.

18 MS. MEYER: I can break it down.

19 THE COURT: Go ahead. If you understand it, you can
20 answer it.

21 THE WITNESS: Are you referring to the open letter
22 that I wrote and I took out a full-page ad in the New York
23 Times --

24 BY MS. MEYER:

25 Q. That's --

1 A. -- one time, is that what you're referring to?

2 Q. That's exactly, yes. You did that, right?

3 A. I did, yes, absolutely.

4 Q. You made all of those points that I just talked about,
5 right?

6 A. I don't know. You could show me the letter. It's been a
7 while. It's 2001.

8 Q. Let's do that. Let's go to that. The letter is -- there
9 it is. New York Times, it says at the top. Monday, January
10 7th, 2002. It says an open letter to animal rights groups. It
11 has an elephant's trunk on it, and then at the bottom, it's
12 signed by you "Sincerely, Kenneth Feld," chair and producer, in
13 the left-hand corner, Ringling Brothers and Barnum & Bailey. Do
14 you see that?

15 A. Yes.

16 Q. If I could just bring your attention to some of the
17 statements in here. If you look at paragraph two, in the middle
18 of the paragraph it starts with how much money, and this is
19 basically you're telling the public, you're asking the public
20 how much money raised by PETA and like minded groups was spent
21 on creating politically-motivated lawsuits, violent and sexually
22 titillating ads, publicity stunts. In support of politically
23 extreme groups such as the Animal /PROUPBT front listed as a
24 terrorist organization by the FBI. Do you see that?

25 A. Yes.

1 Q. If you can down to the second to the last paragraph.
2 Actually let's go to the fourth paragraph. It starts with the
3 phrase "People need to know the truth." Do you see that? You
4 say, People need to know the truth. Right.

5 Okay. And if we can go down to the next paragraph,
6 the third line down.

7 In this full page ad in the New York Times you say,
8 quote: The truth is, no one is more concerned about the
9 well-being of animals than Ringling Brothers. And then two
10 lines down from that you say, Our animal partners are healthy,
11 well cared for and content. Do you see that?

12 A. Yes.

13 Q. So how much did this ad in the New York Times cost?

14 A. I don't know.

15 Q. Do you have any idea?

16 A. It's whatever the full-page ad rate is in the New York
17 times we paid for it.

18 Q. Several hundred thousand dollars, isn't it?

19 A. I think it's over a hundred thousand.

20 Q. It's over \$200,000, isn't it?

21 A. I'm not sure of that. I don't believe so.

22 Q. And similarly, you posted an open letter to the people of
23 Boston, do you remember that, Boston Globe?

24 A. I may have.

25 Q. And again, you told the public that statements made by

1 animal rights groups about the treatment of the animals at
2 Ringling Brothers were not true, right?

3 A. I don't know. Could I see the letter?

4 Q. Absolutely. Here we go. I showed both of these to you at
5 your deposition. Do you recall that, this isn't the first time
6 you're seeing these?

7 A. I remember. I know. I'm very well aware of the New York
8 Times ad that I did. I don't recall this one. Maybe you did.

9 Q. I believe this was Exhibit 13 to your deposition. But
10 anyway, it says, Ringling Brothers-Barnum & Bailey, The Greatest
11 Show on Earth at the top, Feld Entertainment. It says an open
12 letter to the people of Boston, and at the bottom it's signed
13 "Sincerely, Kenneth Feld, Producer, Ringling Brothers and Barnum
14 & Bailey." Do you see that?

15 A. Yes.

16 Q. If we can go to the first paragraph, just go to the end of
17 the second line.

18 This letter from you to the people of Boston says,
19 quote: Recent comments about the treatment of animals in the
20 circuses may have raised questions in your mind that it's
21 important to know that the criticism comes from the small group
22 of people who have an extreme agenda promoting complete
23 separation of animals and humans.

24 Do you see that?

25 A. Yes.

1 Q. And in the next paragraph you state, quote: I want to
2 ensure you that at Ringling Brothers four hundred animals we
3 care for around the clock 365 days a year, with safe,
4 stimulating and healthy lives. Do you see that?

5 A. Yes.

6 Q. And the very last paragraph -- I'm sorry, starting with the
7 second sentence, you say, quote: Our commitment to the safety
8 and well-being of our animals is matched only by our promise to
9 provide you and your family with wholesome entertainment that
10 reminds us what is possible when humans and animals work, play
11 and share their lives together?

12 Do you see that?

13 A. Yes.

14 Q. How much did this ad cost?

15 A. I don't know.

16 Q. Do you have any idea?

17 A. No.

18 Q. So in fact, Ringling Brothers/Feld Entertainment does spend
19 quite a lot of money telling the public that it takes care of
20 its animals, they're very healthy, and that the animal groups
21 are lying if they say otherwise, right?

22 A. I absolutely stand behind these letters. There's no
23 question about it. The letter, the one thing, it's a little
24 misleading. Yes, I took this out, this was ten years ago, I
25 believe, this letter, in the Boston Globe. The other one was

1 2002, so seven years away from that, so they were the result of
2 certain events that led up to them. One was the trial, and the
3 other may have been some pending legislation or something in the
4 Boston area, and that would have been the motivation.

5 Q. On your website, your current website in February of
6 200- -- I'm sorry, March of 2009, if we went to your website
7 right now, there would be Frequently Asked Questions on the
8 website and answers to those questions, correct?

9 A. That's correct.

10 Q. And some of those questions that are frequently asked are,
11 does Ringling Brothers mistreat its animals at the circus, and
12 the answer is "no." That is not true, correct?

13 A. That's correct.

14 Q. So you're currently spending money on telling the public
15 that your elephants are healthy and content, right?

16 A. Absolutely.

17 Q. And you're also spending money on telling the public that
18 the animal rights groups who say that Ringling Brothers
19 mistreats its animals are not telling the truth; is that
20 correct?

21 A. I think that's correct, yes.

22 Q. Now, you know Dennis Schmid, right?

23 A. Yes.

24 Q. He's serving as an expert for Feld in this case?

25 A. I think so.

1 Q. He served as a consultant for Feld for over ten years,
2 right?

3 A. That's right.

4 Q. And you paid him for his services during that time, right?

5 A. Yes.

6 Q. How much do you pay him each year?

7 A. Again, I don't know.

8 Q. Do you have any idea how much you pay him?

9 A. No.

10 Q. It's more than a hundred thousand dollars a year, right?

11 A. I'm sure of that, yes.

12 Q. And he was retained -- do you know when he was retained to
13 be an expert in this case?

14 A. I can't hear you.

15 Q. Do you know when he was retained to be an expert in this
16 case?

17 A. No.

18 Q. If I told you 2004, does that sound about right?

19 A. I have no idea.

20 Q. Okay. Since 2004 Feld Entertainment has paid Dennis Schmid
21 over a hundred thousand dollars a year for his services, right?

22 A. I don't know. It's possible. He joined us full time I
23 believe it was 2006, something like that. Prior to that he was
24 consulting veterinarian and we utilized his expertise throughout
25 I would say most of the births that we've had probably at the

1 Center For Elephant Conservation and for other elephant
2 situations.

3 Q. Okay. But since he was retained, since 2004 Feld
4 Entertainment has paid him hundreds of thousands of dollars for
5 his services, correct?

6 A. I presume so.

7 Q. Okay. Now, Feld Entertainment has also spent millions of
8 dollars over the years monitoring animal rights groups and what
9 they say about the circus, isn't that correct?

10 MR. SIMPSON: Objection, your Honor. It's irrelevant.

11 THE COURT: I'll allow it and give it whatever weight
12 it's entitled to.

13 THE WITNESS: I don't know how much money that we
14 spent. We keep track of animal rights groups. We tend to have
15 -- there are demonstrations of virtually every city that we
16 play, so we like to keep track of that.

17 BY MS. MEYER:

18 Q. And the money that you've spent to keep track of animal
19 rights groups has involved paying individuals to report on the
20 activities of those groups, right?

21 A. I don't know that.

22 Q. You have paid individuals to report to you on what's going
23 on with those animal rights groups, right?

24 A. I don't know.

25 Q. You don't remember paying Mr. Froeming's company in the

1 1990s to give you reports on what the animal rights groups are
2 doing?

3 A. We did. Richard Froeming when he was a consultant, part of
4 what we paid him for was to keep track and let us know what the
5 animal rights organizations were doing, yes.

6 Q. And you also paid him -- part of those payments included
7 paying individuals to actually infiltrate those animals rights
8 groups to report on their activities, right?

9 A. I don't know that.

10 Q. You don't know that Mr. Froeming had individuals placed as
11 volunteers at some of the animal rights groups so that he could
12 provide you reports on them?

13 A. I really don't know. I know that he did have people that
14 would report to him that were inside animal rights groups.
15 Beyond that, I don't know if he paid them or he didn't.

16 Q. Okay.

17 MS. MEYER: Can we go to the PETA transcript, page 20,
18 line 14, please.

19 BY MS. MEYER:

20 Q. Can we go to line 7 on page 2114? You're being asked about
21 a document, and the question is, it talks about accomplishments
22 under Richard Froeming's direction. He identified groups whose
23 goal was to destroy Ringling Brothers. Do you see that?

24 Answer: Yes, sir.

25 Question: He identified methods used by the

1 opposition to attack Ringling Brothers. Do you see that?

2 Answer: Yes.

3 Question: And then he talks about accomplishments
4 under his direction further. Do you see that?

5 Answer: That is on the next page?

6 Question: Next page, yes.

7 Answer: Yes.

8 He talks about, number four, developed intelligence
9 operation, created an intelligence-gathering operation. What
10 was his intelligence-gathering operation?

11 Answer: As far as I know, it was to find out what the
12 animal activist groups were doing.

13 Question: I'm sorry. I asked that poorly, sir. I
14 mean, did he have a crystal ball or did he have undercover
15 operatives that were going into people's organizations? Do you
16 know which he had?

17 Answer: I don't know, but what from what I've seen
18 here, it looked like he did have people inside of some of the
19 organizations.

20 Do you see that testimony?

21 A. Excuse me?

22 Q. Do you see that testimony?

23 A. Yes.

24 Q. Did I read that correctly?

25 A. Yes.

1 Q. So you do know that Mr. Froeming did have people placed
2 inside of organizations so that he could report to you on the
3 activities of animal rights groups, right?

4 A. No, that's not exactly what it says. It says evidently
5 there were documents or something presented to me, and I said,
6 From what I've seen here, and again this was 2006 in a case that
7 the jury found that I had no wrongdoing, by the way, it says, I
8 don't know, but from what I've seen here, it looked like he did
9 have people inside some of the organizations, so that's all I
10 know from what I read, but I don't know as to fact or anything
11 else.

12 Q. Well, you hired -- didn't you hire the former head of
13 covert operations of the CIA to help you counter the activities
14 of various animal rights groups? You did that, didn't you?

15 MR. SIMPSON: Objection, your Honor. It's irrelevant.

16 THE COURT: Over objection I'll allow the question to
17 be answered.

18 THE WITNESS: Please ask the question again.

19 BY MS. MEYER:

20 Q. You hired the former head of the covert operations for the
21 CIA to help you counter the activities of various animal rights
22 groups, didn't you?

23 A. No.

24 Q. You didn't hire an individual named Clair George?

25 A. I know Clair George.

1 Q. Okay. I want to see if I can refresh your memory. Could
2 we pull up May Call 51, please?

3 THE COURT: He didn't say he didn't. He said, no, he
4 didn't hire him.

5 MS. MEYER: He said he didn't recall.

6 THE COURT: I'm sorry?

7 MS. MEYER: He said he didn't recall.

8 MR. SIMPSON: I don't see the word "recall" in the
9 witness' answer.

10 THE COURT: He said --

11 THE WITNESS: I said: I know Clair George.

12 MS. MEYER: I'm asking him if he hired him to help him
13 counter the animal rights activity, and he said he didn't recall
14 if he did that.

15 THE COURT: I thought he said no.

16 That's what I thought you said as well. The question
17 was: Did you hire the head of the covert operations of the CIA
18 to -- I don't have realtime -- to essentially spy on the animal
19 rights organizations?

20 THE WITNESS: And I don't believe that I did, no.

21 BY MS. MEYER:

22 Q. Did you hire Clair George for any purpose at all?

23 A. Yes.

24 Q. What did you hire him for?

25 A. I hired him to help us with our international business, to

1 introduce us to people throughout the world so we could expand
2 into international areas. I built a space shuttle that he
3 helped us place in Taiwan, in Korea, Columbia, and ultimately
4 sell in Mexico. He helped me with my business in Indonesia. We
5 had a project in Spain in 1992 celebrating the 500th anniversary
6 of Columbus where we were going to actually build three ships
7 and bring them to this country. He helped me on multiple
8 things. He introduced us to people in Gabaugh so we could bring
9 performers from Gabaugh to the U.S. He helped us with some
10 people in Morocco. He helped us get our ice shows into Egypt.

11 BY MS. MEYER:

12 Q. Okay. But he didn't give you any -- he wasn't helping you
13 at all with following the animals rights groups, is that what
14 your testimony is?

15 A. To my knowledge I don't believe that -- he may have helped
16 us, if I remember correctly, there was a Sideez convention in
17 Switzerland and he may have helped us or given us some advice on
18 that some years ago, but it's been a long time and I don't fully
19 remember the whole context of that.

20 Q. So if Mr. George gave a sworn affidavit in a court case
21 that said that you had hired him in part to help him -- to help
22 you --

23 THE COURT: I don't think I'm going to let him testify
24 about the credibility of some other witness.

25 MS. MEYER: All right.

1 BY MS. MEYER:

2 Q. You were sued by Performing Animal Welfare Society, weren't
3 you, under the RICO statute, for infiltrating PAWS and stealing
4 confidential information from PAWS?

5 A. We were sued by PAWS, and that was a case that was settled.

6 Q. But the reason you were sued was because PAWS was accusing
7 you of having infiltrated PAWS and stealing confidential
8 information from PAWS, isn't that correct?

9 A. I believe that was the allegation.

10 Q. Okay. And in addition to being sued by PAWS, you were sued
11 by the individual officers of the company, Pat Derby and Ed
12 Stewart, right?

13 A. I don't know.

14 Q. You don't remember that part of it?

15 A. I don't remember the particulars. I remember the overview
16 of it.

17 Q. And you settled that case, right?

18 A. I said that. Yes.

19 Q. And part of that settlement of that case was requiring PAWS
20 and Pat Derby and Ed Stuart, who originally were plaintiffs in
21 this case, to withdraw from this case, isn't that correct?

22 MR. SIMPSON: Objection, your Honor. There's a
23 settlement agreement that's confidential, and I don't think that
24 is properly something discussed in the public forum.

25 THE COURT: Is it confidential?

1 MS. MEYER: The settlement discussion is confidential,
2 but the facts I just laid out were presented to you in the
3 Notice of Voluntary Dismissal, which I was going to go to next,
4 which you can take judicial notice of, your Honor.

5 THE COURT: That document you're referring to is not
6 confidential, it was not filed under seal?

7 MS. MEYER: No.

8 THE COURT: All right. Go ahead.

9 MS. MEYER: Actually, why don't we just go to it, the
10 Notice of Voluntary Dismissal?

11 BY MS. MEYER:

12 Q. So this is the Notice of Voluntary Dismissal of three of
13 the plaintiffs in this case that was filed. On the next page
14 it's dated January 8th, 2001, and on the first page it states
15 that the withdrawal of Performing Animal Welfare Society,
16 Patricia Derby and Ed Stewart, was necessitated by a voluntary
17 resolution of a different case between the withdrawing
18 plaintiffs and the defendants herein, and there's a citation to
19 Performing Animal Welfare Society versus Feld Entertainment,
20 Inc., a case in California and has nothing to do with the
21 allegations or arguments that have been set forth in this case
22 under the Endangered Species Act. Do you recall that?

23 A. I knew there was a settlement. I don't know that I've seen
24 this document.

25 Q. Okay. You don't remember that as part of the settlement of

1 the RICO case that PAWS brought against you they were required
2 to withdraw from this case?

3 MR. SIMPSON: Objection, your Honor. This is
4 something beyond the scope of this Notice of Voluntary
5 Dismissal.

6 THE COURT: Are we getting into the confidential terms
7 of the settlement agreement?

8 MS. MEYER: I don't believe so, your Honor. It says
9 right here --

10 THE COURT: I can take judicial notice of this, this
11 was filed in the case.

12 MS. MEYER: Yes, that's all.

13 THE COURT: It's noted, it's noted.

14 BY MS. MEYER:

15 Q. Okay. And in addition, part of the settlement was that
16 PAWS received two elephants from Ringling Brothers to put in its
17 sanctuary, isn't that correct?

18 A. Yes.

19 Q. And also that Feld Entertainment would pay PAWS an
20 undisclosed amount of money for the care of those elephants,
21 right?

22 A. Yes.

23 Q. And another term of that settlement was that no one who was
24 employed by PAWS could speak out against the circus, right?

25 MR. SIMPSON: Same objection, your Honor.

1 MS. MEYER: Tom Rider testified to that in court, your
2 Honor.

3 THE COURT: I'll allow it over objection.

4 THE WITNESS: Could you repeat the question, please?

5 BY MS. MEYER:

6 Q. Another part of the settlement of the RICO case that PAWS
7 brought against you in addition to dropping out of this case and
8 you giving them elephants and an undisclosed amount of money,
9 was that no one who worked for PAWS could speak out against
10 Ringling Brothers, isn't that correct?

11 A. I believe there was probably a nondisparagement clause in
12 there, yes.

13 Q. Now, it's also true that Feld Entertainment developed what
14 it called a Long Term Animal Plan Task Force to deal with the
15 animal rights groups' efforts to ban the use of animals in
16 circuses, isn't that correct?

17 A. Could you repeat that? I'm sorry.

18 Q. Yes. I said: It's true that Feld Entertainment developed
19 what was called the, quote, Long Term Animal Plan Task Force to
20 deal with the animal rights groups' efforts to ban the use of
21 animals in circuses; is that correct?

22 A. There may have been something that was developed. I don't
23 know what the outcome of it was.

24 Q. Did you ever see that document that was developed?

25 A. I'm sure I've seen it in connection with this litigation.

1 Q. Okay. Why don't we take a look at it and see if we can
2 refresh your memory. It's actually Plaintiffs' May Call 44.
3 And this is the first page. Let's go to page three. And do you
4 see at the top it says the Long Term Animal Plan Task Force held
5 seven full-day meetings to discuss the various issues concerning
6 animal care and maintaining animals in Ringling Brothers which
7 resulted in the enclosed detailed plan for consideration by the
8 board? Do you see that?

9 A. No.

10 Q. Oh, you don't see that?

11 A. I'm sorry. I see it.

12 Is there a date on this document?

13 Q. I don't know if there's a date on this document. It was a
14 document that was produced by Feld Entertainment to the
15 plaintiffs?

16 MR. SIMPSON: We object to this document. It's
17 irrelevant. It's got no foundation. This witness has never
18 seen it. It's a complete side show and has nothing to do with
19 the issues in this lawsuit.

20 THE COURT: Overruled.

21 Let's move it along, counsel.

22 MS. MEYER: I'm trying to, your Honor.

23 BY MS. MEYER:

24 Q. And do you see that on the same page, page one, that the
25 next paragraph says, It is the position of all of the members of

1 the task force that the matter of animal activism is one that is
2 of increasing concern and based upon increased instances in the
3 last year involving animal and exhibition, most recently Tyke
4 the elephant in Honolulu that the activists are increasing their
5 activities to effectuate their ultimate goal of banning animals
6 in entertainment, do you see that?

7 A. Yes.

8 Q. Do you see the last paragraph says, Accordingly, the task
9 force proposes that Ringling Brothers adopt a posture which is
10 exceedingly proactive in nature and does not merely react or
11 remain silent when occurrences happen. To that end the enclosed
12 plan was developed which contains many components, all of which
13 are proactive in nature and which require substantial commitment
14 and acceptance by Ringling Brothers and its various departments.
15 Do you see that?

16 A. I see it.

17 Q. And that plan was circulated to the board, correct?

18 A. I don't know.

19 THE COURT: Does this document refresh your
20 recollection about this task force or not?

21 THE WITNESS: I remember that there was something, but
22 I don't believe that I had seen this, and I don't believe
23 that -- I know there was nothing like this was ever implemented.

24 BY MS. MEYER:

25 Q. You know nothing like this was ever implemented?

1 A. I don't believe that there was.

2 Q. Okay. Well, what if part of this plan was to place full-
3 page ads in newspapers to disparage animal rights groups, would
4 you still say none of it was implemented?

5 MR. SIMPSON: Objection; speculation. He already said
6 he didn't know whether it was adopted.

7 THE COURT: He said he didn't know. Move on.

8 MS. MEYER: Okay.

9 BY MS. MEYER:

10 Q. Feld Entertainment spends money video-taping animal
11 activists, doesn't it?

12 A. I don't know.

13 Q. It spends money placing stories in the media with negative
14 information about animal activists, doesn't it?

15 A. I don't know that.

16 Q. If I understood your direct testimony correctly, in your
17 view, the Ringling Brothers Circus is basically an American
18 tradition; is that correct?

19 A. Please repeat the question. I couldn't hear you.

20 Q. In your view, the Ringling Brothers Circus, it's been
21 around a long time and it's basically an American tradition,
22 right?

23 A. Yes, I believe it's an American tradition and an American
24 institution.

25 Q. But just because it's a tradition doesn't mean that all of

1 its practices are lawful, does it?

2 A. I believe that what we do is lawful, yes.

3 Q. But just because it's a tradition doesn't mean that all of
4 its practices are ethical or humane, does it?

5 A. I believe that our practices are ethical and humane.

6 Q. Well, there have been many practices in this country in the
7 past that were traditions that are no longer accepted by our
8 society, right?

9 A. Yes.

10 Q. Okay. And for example, the circus itself, Ringling
11 Brothers Circus, used to showcase disabled people as an
12 attraction, if you wanted to pay a ticket you could come and see
13 someone with no legs, right?

14 MR. SIMPSON: Objection, your Honor. It's immaterial,
15 irrelevant, and a complete waste of time.

16 THE COURT: I'm not so sure it is. I'll allow it over
17 objection.

18 THE WITNESS: Yes, they used to have side shows.

19 BY MS. MEYER:

20 Q. Right. You could pay a ticket and come and see an obese
21 woman, right?

22 A. That's right.

23 Q. And you could see a man with unusual facial hair?

24 A. Yes.

25 Q. But you don't do that anymore, do you, Ringling Brothers

1 doesn't showcase?

2 A. We don't have the side show anymore, no.

3 Q. And that's because it's not accepted by our society, right?

4 A. I think that's part of the reason. I mean, look, one of
5 the reasons why Ringling Brothers has been an American tradition
6 for 139 years, it's evolved like any institution that's been
7 around. In order to survive we've evolved and practices that
8 happened in 1800 we've changed. Technology has changed and
9 we've improved and we've changed consistently. That's with our
10 animal care practices and that's with other elements that are in
11 the show. The format of the show has changed. It used to be
12 one ring, it went to three rings, it went to stages, it's back
13 to a different kind of performing space. We're always changing
14 and evolving. With that in mind, we're also really we work for
15 the consumer and the consumer comes and they come because they
16 like what we do. It is an absolute escape, it is good, whole-
17 some family entertainment and they know that they get to see
18 something they can't see anyplace else, and that goes to the
19 heart of everything that we're talking about here, that is, the
20 human animal experience and the bond that our trainers, our
21 animal handlers have with these animals, and that's demonstrated
22 every single day and I think it's something that people come
23 for, and I will tell you it's something that I am very proud of
24 and I'm proud that we are in charge of this American institution
25 for this period of time.

1 Q. Okay. But it's true that people also used to come to the
2 Ringling Brothers Circus to see human beings displayed, correct,
3 that was part of the tradition back then?

4 A. They still come to see human beings and human skill
5 displayed. That hasn't changed. Acts have changed. What they
6 see has evolved and it's always changing.

7 Q. But don't have anybody with disabilities on display
8 anymore, do you?

9 A. No, we don't.

10 Q. That's just a tradition that went by the way side, right?

11 A. That's correct.

12 Q. Because it wasn't considered ethical, right?

13 A. I don't know what the reasons why, but it's not something
14 that we do, and the public speaks out and the public speaks and
15 they vote whenever they come to our show and they buy a ticket.

16 Q. Okay. And I have one last question, which was, in the
17 eight-and-a-half years this case has been pending, has Tom Rider
18 ever asked you for money in exchange for settling this case or
19 dropping this case?

20 A. I've never had any communication with Tom Rider in my life.

21 Q. So as far as you know, he's never asked Feld Entertainment
22 for a dime to drop this case, has he?

23 A. I don't know.

24 Q. Wouldn't you know that?

25 A. You asked me if he has ever asked me for money to drop this

1 case. I said I have never had any communication with Tom Rider
2 in my life.

3 Q. I understand that. I'm asking you, you would be as the CEO
4 of the company, you would know whether or not the plaintiff in
5 this case had made an offer to settle the case for money,
6 wouldn't you?

7 A. I think I might know. I have never had any communication
8 with him. I have no idea.

9 Q. But as far as you know, Tom Rider has never made a demand
10 of Feld Entertainment of money in exchange for dropping this
11 case; is that correct?

12 A. To my knowledge, he has not made any demand like that.

13 MS. MEYER: That's all, your Honor.

14 THE COURT: Any redirect?

15 MR. SIMPSON: Very briefly, your Honor.

16 REDIRECT EXAMINATION

17 BY MR. SIMPSON:

18 Q. Mr. Feld, Ms. Meyer asked you several questions about you
19 seeing elephant handlers hit, strike, tap, bop, etcetera the
20 elephants with the bullhook. Do you remember those questions?

21 A. Yes.

22 Q. In your view, sir, were the animals you observed harmed in
23 any way by what you saw?

24 A. No.

25 Q. Were those animals wounded in any way by what you saw?

1 A. No.

2 Q. If you thought they were being harmed, would you put a stop
3 to it?

4 A. Absolutely.

5 Q. She asked you a question about employees striking elephants
6 with bullhooks. Is there any reason to reprimand an employee
7 simply because they struck an elephant with a bullhook?

8 A. No.

9 Q. Does it depend on the circumstances?

10 A. Yes.

11 Q. To your knowledge, has Troy Metzler ever harmed a Ringling
12 Brothers elephant?

13 A. Not to my knowledge.

14 Q. To your knowledge, has Pat Harned ever harmed a Ringling
15 Brothers elephant?

16 A. No.

17 Q. So to your knowledge has Soucha Houck ever harmed a
18 Ringling Brothers elephant?

19 A. No.

20 Q. You were asked some questions about Gunther Gebel-Williams.
21 Did you observe Gunther Gebel-Williams' interaction with the
22 animals that he presented?

23 A. Yes.

24 Q. And the elephants that he presented --

25 A. Yes.

1 Q. -- did he harm those elephants?

2 A. Never.

3 Q. If I could direct your attention to the deposition of
4 Sonnie Ridley at page 100, which Ms. Meyer showed you or asked
5 you questions about. She actually didn't show you the
6 deposition. She asked you about his affidavit. But if I could
7 direct your attention to page 100, line 7, and the question to
8 Mr. Ridley was: Have you ever been asked to treat these, the
9 bleeding that is caused by the bullhooks?

10 Answer: Yes.

11 Question: How often do you treat these, I guess would
12 you call them injuries or wounds?

13 MS. PARDO: Objection.

14 Question: Would you say that they are injuries?

15 Answer: No. No.

16 Question: What would you, just so we have a term for
17 it, what would you call it when there's blood drawn from the use
18 of the bullhook?

19 Answer: It is very slight. It is like pricking your
20 finger with a needle or a papercut, and that was down to line
21 twenty. Mr. Feld, does that testimony that I just read comport
22 with your understanding of what it looks like when an elephant's
23 skin is penetrated with a bullhook?

24 A. Yes.

25 Q. Are you aware of what the outcome was of the case that Mr.

1 Ridley's USDA affidavit was submitted in that Ms. Meyer showed
2 you?

3 A. No.

4 Q. Did it result in finding a violation against the company,
5 to your knowledge?

6 A. No.

7 Q. Why wasn't Mr. Woodcock fired for the hot shot incident
8 with the elephant Seium?

9 A. Because we had at the time I think it was a herd of maybe
10 15 or 16 elephants, he was the most responsible, best qualified
11 person to be there. This is not like you have a driver of a car
12 or truck and the guy doesn't do a good job and you get rid of
13 him. This is somebody that is working with elephants. To find
14 good elephant people is a very difficult thing, and for the
15 greater good of public safety and for the elephants we made the
16 decision not to fire him at that time.

17 Q. So you're stuck with him?

18 A. Yes.

19 Q. And he was reprimanded; is that right?

20 A. Yes.

21 Q. But was his contract ultimately terminated, or not renewed?
22 Excuse me. Not renewed.

23 A. His contract was not renewed at the end of the term.

24 Q. Was that as a result of his use of the hot shot?

25 A. No. It was just that we moved on and we had other people

1 at that time that could work with the elephants.

2 Q. Based on your knowledge, does the use of a hot shot on an
3 Asian elephant cause that elephant any harm?

4 A. Not that I know of.

5 Q. Does it inflict a wound?

6 A. No.

7 Q. Under what circumstances today, sir, would use of a hot
8 shot on an elephant be an appropriate thing to do?

9 A. It would be appropriate if there was any concern for public
10 safety or if let's say two elephants had gotten into a fight or
11 something, that if that was the only way to break that up.

12 Q. Now, you testified on cross that Mr. Andacht is currently
13 the vice president in charge of the circus operations; is that
14 correct?

15 A. That's correct.

16 Q. Do you have any reason to believe that Mr. Andacht would
17 not handle an incident of animal mistreatment that was brought
18 to his attention?

19 A. No.

20 Q. Do you have any reason to believe that the manager of the
21 Blue Unit would not handle an incident of animal mistreatment
22 brought to his attention?

23 A. No.

24 Q. Are there people who work for Feld Entertainment whose
25 employment is terminated that you never know about?

1 A. Yes.

2 Q. Are there people who are reprimanded on the job and you
3 never know about the reprimands?

4 A. Yes.

5 Q. Ms. Meyer asked you a series of questions about the process
6 for information flowing to you about animal mistreatment and you
7 said there was no policy in that regard. Does the information
8 when it does exist about animals' mistreatment get to the right
9 people?

10 A. Yes, it does.

11 Q. And how does that happen?

12 A. It happens from the source which is typically on one of the
13 units or at a facility, and it would get to -- it could be to
14 the vets, it could be to the management of the unit, it could be
15 to legal counsel.

16 Q. Now, there were a series of questions about deceased
17 elephants? Is Feld Entertainment ashamed of the fact that Kenny
18 the elephant was born?

19 A. Not at all.

20 Q. Is Feld Entertainment ashamed of the fact that the Benjamin
21 the elephant was born?

22 A. No.

23 Q. Is Feld Entertainment ashamed of the fact that Ricardo was
24 born?

25 A. No.

1 Q. Is Feld Entertainment ashamed of the fact that Bertha was
2 born?

3 A. No.

4 Q. When these elephants have died, sir, has the company issued
5 press releases in that respect?

6 A. There have been releases, yes.

7 Q. Has the company made any effort to hide the fact that these
8 elephants have passed?

9 A. No.

10 Q. Ms. Meyer asked you a series of questions about statements
11 you have made concerning animal rights groups and so forth and
12 the letters that you took out in various newspapers. Has the
13 circus in fact been the target of threats of violence?

14 A. Yes.

15 Q. Have threats of violence been directed at its personnel?

16 A. Yes.

17 Q. And its property?

18 A. Yes.

19 Q. Have there been incidents in which so-called animal
20 activists have threatened the animals?

21 A. There have been.

22 Q. Have you personally witnessed those?

23 A. I did.

24 Q. Could you tell the Court about one you witnessed?

25 A. In, I think it was Anaheim, California, there was a group

1 of activists, protesters, that were constantly running back and
2 forth in front of zebras to try to make them spook as they were
3 being escorted from the tented area down into the arena. That's
4 one.

5 I have seen on the animal walk in New York City where
6 protesters would throw ice cubes at the elephants in order to
7 try to make them stampede or run or react.

8 Q. Did you have an understanding of why ice cubes were used?

9 A. Well, I think because there is at some point they're going
10 to melt and there's nothing left there.

11 Q. Ms. Meyer asked you a series of questions about the PAWS
12 lawsuit in California and then the component of this case that
13 involved PAWS as a plaintiff. Do you remember that?

14 A. Yes.

15 Q. Do you know whether the so-called RICO claim that she
16 referred to in the PAWS case in California, whether that was
17 dismissed before the settlement agreement?

18 A. I don't know.

19 Q. And was there any -- was PAWS in this case, the Endangered
20 Species Act case, forced to settle its claims?

21 A. No.

22 Q. Did they agree to do that?

23 A. Yes.

24 Q. As far as you concerned, that's a matter of voluntary
25 contract?

1 A. That's correct.

2 MR. SIMPSON: No further questions, your Honor.

3 THE COURT: All right.

4 Any other questions, Ms. Meyer?

5 CROSS-EXAMINATION

6 BY MS. MEYER:

7 Q. As I understand your answer to Mr. Simpson, so you have
8 seen the skin of the elephant penetrated by a bullhook?

9 A. No.

10 Q. You haven't?

11 A. No.

12 Q. And you seem to be testifying very definitively that
13 Buckles Willcock was in fact reprimanded for the hot shot
14 incident that we referred to earlier; is that correct?

15 A. Yes. I think before I said that he was definitely spoken
16 to and I think it was a reprimand and it was to my knowledge
17 there was never any further use.

18 Q. Okay. And who reprimanded him?

19 A. Richard Froeming.

20 Q. And what was the reprimand?

21 A. I just said that they had a discussion. I don't know. I
22 wasn't there.

23 Q. So you weren't present when this occurred?

24 A. No.

25 Q. Right. And you never saw anything in writing about this,

1 right?

2 A. That's correct.

3 Q. Okay. So this is based on a conversation you had with Mr.
4 Froeming?

5 A. I believe so.

6 Q. Are you not sure about that?

7 A. I think that's what it was. I think what was that 1994?

8 Q. Correct.

9 A. So it's been a few years.

10 Q. So you don't really remember?

11 A. No. I don't remember what Richard Froeming said, no.

12 Q. And you spoke about Gunther Gebel-Williams, that you
13 actually saw him handle elephants, right?

14 A. Yes.

15 Q. Did you ever see him use a whip on an elephant?

16 A. Yes. When he would work, he would have an ankus and he
17 would also have a whip, yes.

18 Q. Did you ever see him whip baby elephants in the face with a
19 whip?

20 A. I don't know. I don't think so.

21 Q. So you never saw that?

22 A. I don't think so.

23 MS. MEYER: No further questions, your Honor.

24 THE COURT: All right.

25 It's your witness, counsel. Mr. Simpson any other

1 questions.

2 MR. SIMPSON: No questions, your Honor.

3 THE COURT: Mr. Feld, thank you. You may step down.
4 I have to ask you not to discuss your testimony with anyone.

5 MR. SIMPSON: I would just ask that he be released as
6 a witness. We're not going to call him back at this point.
7 He's not under subpoena.

8 MS. MEYER: That's fine with me, your Honor.

9 THE COURT: All right.

10 MR. SIMPSON: So he'd be free to sit in the courtroom.

11 THE COURT: Absolutely. All right. We are scheduled
12 to stop at 4:25. It probably makes no sense for you to call
13 your next witness.

14 We'll start at ten tomorrow. There's matters I have
15 to deal with at the lunch time, but let me just make sure.

16 Carol, let me talk to you.

17 (There was a pause in the proceedings.)

18 THE COURT: All right. We can start promptly at ten
19 o'clock tomorrow morning.

20 MR. SIMPSON: Your Honor, we'd just like to advise
21 that we've got a slight reordering of witnesses. We've got a
22 witness whose native language is not English so he will need a
23 translator. We've arranged for the translator to be here
24 tomorrow. We'd like to start with that witness. His name is
25 Daniel Rapho. It's a little bit out of order. He's on the list

1 for tomorrow. We'd like to start with them and go on to Mr. and
2 Mrs. Johnson, who are from California.

3 THE COURT: What is his native language?

4 MR. SIMPSON: Spanish. He's from Argentina. He
5 speaks English relatively well, and he was deposed, and we had
6 had a translator for the deposition and I think it's appropriate
7 to have one for trial. And we've arrange for one to be here.

8 THE COURT: I was just making sure. There are some
9 other matters that we'll have to deal with, but he can start
10 promptly at ten o'clock tomorrow, that's fine. And you have two
11 witnesses from California?

12 MR. SIMPSON: Yes, sir. And we've got another here.
13 If we can move this along we're ready to put on actually a
14 fourth witness too.

15 THE COURT: We'll see. We'll see. I mean, I don't
16 know, it depends. It depends. All right. Everyone have a
17 wonderful evening. We'll start at ten o'clock.

18 MR. SIMPSON: Thank you.

19 COURTROOM DEPUTY: This Honorable Court now stands in
20 recess.

21 (Proceedings adjourned at about 4:14 p.m.)

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E X H I B I T S

None.

1 CERTIFICATE

2 I, JACQUELINE M. SULLIVAN, Official Court Reporter,
3 certify that the foregoing pages are a correct transcript from
4 the record of proceedings in the above-entitled matter.

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