

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE
PREVENTION OF CRUELTY TO
ANIMALS,

Plaintiff,

v.

FELD ENTERTAINMENT, INC.,

Defendant.

CA No. 03-2006

Washington, D.C.

Wednesday, March 4, 2009

10:08 a.m.

.....

TRANSCRIPT OF BENCH TRIAL - MORNING SESSION - DAY 16
BEFORE THE HONORABLE EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff:

KATHERINE A. MEYER, ESQ.
TANYA SANERIB, ESQ.
DELCIANNA WINDERS, ESQ.
ERIC GLITZENSTEIN, ESQ.
Meyer, Glitzenstein & Crystal
1601 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20009
202-364-4092

For the Defendant:

JOHN SIMPSON, ESQ.
MICHELLE PARDO, ESQ.
KARA PETTEWAY, ESQ.
LANCE SHEA, ESQ.
Fulbright & Jaworski, LLP
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-662-4504

Court Reporter:

JACQUELINE M. SULLIVAN, RPR
Official Court Reporter
U.S. Courthouse, Room 6820
333 Constitution Avenue, NW
Washington, D.C. 20001
202-354-3187

INTERPRETERS: Shelley Blumberg-Lorenzana
Teresa Roman

Proceedings reported by machine shorthand, transcript produced
by computer-aided transcription.

10

P R O C E E D I N G S

(Answers spoken in English by the witness indicated
with an asterisk (*).)

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

Would counsel please identify yourselves for the
record?

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

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

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

MS. SINNOTT: Good morning. Michelle Sinnott, tech,
for the plaintiffs.

MR. SIMPSON: Good morning, your Honor. John Simpson
for the defendant.

MR. SHEA: Good morning, your Honor. Lance Shea for
the defendant.

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

THE COURT: Ms. Petteway.

MS. STRAUSS: Good morning, your Honor. Julie Strauss
for the defendant.

1 MR. PALISOUL: Derrick Palisoul for the defendant.
2 Good morning.

3 THE COURT: Interpreters, good morning. You've been
4 sworn in.

5 THE INTERPRETERS: Good morning.

6 THE COURT: Let's proceed.

7 MR. SIMPSON: May it please the Court, defendant calls
8 Daniel Raffo.

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. RAFFO: I do swear.

15 **DANIEL RAFFO, WITNESS FOR THE DEFENDANTS, SWORN**

16 THE COURT: Good morning.

17 THE WITNESS: Good morning.

18 DIRECT EXAMINATION

19 BY MR. SIMPSON:

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

21 A. Daniel Raffo.

22 Q. Mr. Raffo, are you currently employed?

23 A. Yes.

24 Q. By whom?

25 A. Ringling Brothers and Barnum Bailey.

1 Q. And sir, what is your job?

2 A. I am a tiger handler.

3 Q. Have you had experience in your career with elephants?

4 A. Yes, yes.

5 Q. Describe for the Court your experience with elephants.

6 A. To begin with, I was born in the circus, and since I was
7 eight years old I've been around animals, and my father gave me
8 the opportunity to be around elephants when I was 16, 17 years
9 old.

10 Q. Do you know how to train an elephant?

11 A. Throughout that time I learned more and more, and with
12 time, I've learned more of the system.

13 Q. Did you learn to train elephants from your father?

14 A. Not just with my father. I learned a lot from looking at
15 other people with elephants and you start learning more and
16 more.

17 Q. In your handling of elephants, sir, do you use an
18 instrument called the bullhook or the hook?

19 A. Yes.

20 Q. How did you learn to use the bullhook or the hook?

21 A. Well, you use it as a tool. It's like with a dog you use
22 like a collar that you teach him by pushing that he would come
23 to you or not.

24 Q. Now, in your experience in using the hook, sir, does it
25 cause harm to the elephant?

1 MS. MEYER: Objection, your Honor. Objection;
2 leading.

3 THE COURT: It was leading. It was leading. Rephrase
4 the question, counsel.

5 BY MR. SIMPSON:

6 Q. In your use of the hook, sir, does it have any effect on
7 the animal?

8 A. Absolutely not.

9 Q. All right. And have the methods that you have used with
10 the bullhook changed over time?

11 A. Well, with time everything changes. You start looking.
12 There's better systems, new techniques, so with time it does.

13 Q. Based on your observation of -- well, based on your use of
14 the hook over time, how has your use of it changed?

15 A. Oh, well, in general what I use most commonly is
16 communication. I use reward system. I talk to them. That is
17 my technique.

18 Q. Sir, did there come a time when you worked in the 1990s for
19 Ringling Brothers?

20 A. Yes.

21 Q. And when did you work for Ringling Brothers?

22 A. I started working here in '94.

23 Q. And when did that stop?

24 A. My contract with Ringling Brothers ended between November
25 and December of '99.

1 Q. And what unit of the circus were you with?

2 A. Blue Unit.

3 Q. And what was your job with the Blue Unit?

4 A. I would present the elephants in the ring.

5 Q. Did you have any other duties with regard to the elephants?

6 Did you have any other duties with regard to the elephants?

7 A. Well, mainly maintenance. During the 24 hours of the day
8 you're with the elephant, you feed them, you wash them, you
9 clean them. The function itself, it's only ten to eight
10 minutes, so that's the last thing you're concerned.

11 Q. Can you name the elephants that you presented in the show?

12 A. I will try to remember all of them.

13 *Susan, Lutzi, India, Calcutta, Zina, Bootsie,
14 Rebecca, Jewell, Karen, Nicole.

15 Susan, Lutzi, India, Calcutta, Zina, Bootsie, Rebecca,
16 Jewell, Karen, Nicole. And that's all I remember right now.

17 Q. And when you worked on the Blue Unit in the 1990s, was
18 there a person named Tom Rider?

19 A. Yes.

20 Q. Did you work with Tom Rider?

21 A. Well, we worked together in the elephant department.

22 Q. What was Tom Rider's job?

23 A. Well, the work he did was sort of he was the person that he
24 worked there for a couple of hours each day, and his job was to
25 ensure that the elephants were clean, that their baths had been

1 given, that there was enough feed that they needed, the hay,
2 maintenance, making sure that they were clean and they were fed.

3 Q. Did you observe Mr. Rider's work?

4 A. Well, exactly the time, the times that he was there, I
5 don't know, but I would see him every now and then, because he
6 was cleaning, for example, the defecation. I would just have to
7 wait until that was taken care of.

8 Q. What did you observe about Mr. Rider's work habits?

9 A. As to skill, I don't think you need much skill to pick up
10 poo.

11 Q. Did Mr. Rider have a bullhook?

12 A. Yes.

13 Q. And did Mr. Rider use the bullhook?

14 A. Well, he had it when he was around the elephants, between
15 the elephants. If he needed to move, he would have the bullhook
16 on the wheelbarrow and would pick it up and sort of touch the
17 leg of the elephants so the elephant can raise the leg and he
18 could clean under, for example.

19 Q. Was Mr. Rider an elephant handler?

20 A. No, no, sir.

21 Q. Then why did he have a bullhook?

22 A. Well, the elephant has learned that the bullhook is a tool,
23 so he has learned that when you touch him with it, it would move
24 whatever you touch him, so it is a tool.

25 Q. Did Mr. Rider ever state any objection to you about having

1 to use the bullhook?

2 MS. MEYER: Objection, your Honor; hearsay.

3 THE COURT: I'll allow it. I'll allow it.

4 THE WITNESS: Never.

5 BY MR. SIMPSON:

6 Q. Did Mr. Rider ever state any complaints he had to you about
7 how the elephants were treated?

8 A. Never.

9 Q. Did you hear that Mr. Rider had complained to anyone else
10 about how the elephants were treated?

11 A. No.

12 Q. Did you hear that Mr. Rider had complained to anyone else
13 about the use of the bullhook?

14 MS. MEYER: Hearsay. Double hearsay.

15 THE COURT: Counsel?

16 MR. SIMPSON: These are all admissions, Judge. I
17 mean, Mr. Rider he's a party opponent. That comes in that way.
18 My client employed all the people doing the talking.

19 THE COURT: He is a party opponent.

20 MS. MEYER: That part I understand, but asking him if
21 he heard from other Ringling Brothers' employees.

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

23 THE WITNESS: No.

24 BY MR. SIMPSON:

25 Q. Mr. Raffo, were there other elephant handlers on the Blue

1 Unit when you were there?

2 A. Yes.

3 Q. Can you name them?

4 A. Well, then there were about 15, 17 elephants, so you always
5 need lots of help with so many animals, and that I remember
6 during my time there was a Sonnie or Sonnie, Paco, Graham
7 Chefferfield, and there was somebody else by the name of Tom.

8 Q. Mr. Raffo, did you observe any of these people mistreat any
9 of the elephants?

10 A. In general there is never ever anybody who mistreats the
11 animals in this company.

12 Q. Did you see any of these people injure any of the
13 elephants?

14 A. No.

15 Q. Did these handlers have bullhooks?

16 A. Yes.

17 Q. Did they use the bullhooks to cause the elephants to bleed?

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

19 THE COURT: I'll allow it. Let me ask you this -- no,
20 I won't.

21 How did they use the bullhooks?

22 THE WITNESS: Well, the bullhooks with the elephants,
23 the elephants learned that it is a tool throughout their life.
24 They learn that the bullhook is a tool, and you sort of create a
25 system, a daily routine. For example, if there's food, you

1 touch the leg and they'll know what to do.

2 THE COURT: Go ahead.

3 BY MR. SIMPSON:

4 Q. Mr. Raffo, did any of these -- did any of the use of the
5 bullhook that you observed on the Blue Unit cause any harm to
6 the elephants?

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

8 THE COURT: I'll allow the question.

9 THE WITNESS: Oh, no.

10 BY MR. SIMPSON:

11 Q. Did you ever observe the elephants playing with each other?

12 A. Almost all the time.

13 Q. And what did you observe?

14 A. One thing that always impresses me is to see these animals
15 that can be like nine thousand -- nine tons. They pick up truck
16 beds in the air that would weigh up to three hundred pounds.
17 They throw it up in the air, it falls on their head, so that
18 shows me they're strong animals. What could a bullhook do to
19 them?

20 Q. Mr. Raffo, during the time you were on the Blue Unit, did
21 the company -- let me ask it this way: How were the elephants
22 maintained on the Blue Unit?

23 A. Well, maintenance is sort of a daily routine. You arrive
24 at a certain time to make sure that they have enough water, that
25 there's food. The carrots, the food, that they have something

1 to feed themselves with. There is sort of a veterinary check
2 that you do to make sure, for example, that there is no stones
3 in their feet; things like that. You are doing maintenance all
4 day.

5 Q. Were the elephants restrained in any way?

6 A. At night, yes, for them to go to sleep.

7 Q. How were they restrained at night?

8 A. Their legs are tied with chains so that they can sleep.

9 Q. Now, when they were not on chains, how were they
10 maintained?

11 A. They were surrounded by a type of fence like what's used
12 with horses.

13 Q. Was the fence an electric fence?

14 A. Yes. It's the same system used for horses, with a battery.

15 Q. And how often during the day were the elephants in the
16 electric fence setup?

17 A. Any free time when there's no show they would be there in
18 the fence free.

19 Q. And was that true the entire time you were with the Blue
20 Unit?

21 A. At first it wasn't so much like that, but as time went on
22 it got much better and it was more like that.

23 Q. Mr. Raffo, did you have an opportunity to observe Mr. Rider
24 interacting with the elephants?

25 A. No.

1 Q. Based on what you observed, did he have any kind of
2 relationship with the elephants?

3 THE COURT: His answer was "no." He said he didn't
4 observe anything.

5 BY MR. SIMPSON:

6 Q. Did you observe Mr. Rider on his day off around the
7 elephants?

8 A. No.

9 Q. Did you observe -- were there -- let me ask you this: Were
10 all the elephants on the Blue Unit owned by Ringling Brothers?

11 A. There were three elephants that did not belong to Ringling.

12 Q. Could you name those?

13 A. Camella, Lechame, and Mina.

14 Q. Did Mr. Rider spend any time with those three elephants?

15 A. During that time the other owner had two employees who were
16 with those elephants, and so he didn't spend much time with
17 them. He was cleaning up after the other elephants that
18 belonged to Ringling.

19 Q. Mr. Raffo, I want to direct your attention to a videotape
20 which is Plaintiffs' Exhibit 135, and for the record, it's at
21 counter number 24:11 through 30:44.

22 MR. SIMPSON: Let's run this tape. Just go ahead and
23 run the tape. Okay. Just stop it.

24 BY MR. SIMPSON:

25 Q. Do you recognize those elephants, sir?

1 A. Yes.

2 Q. Who are they?

3 A. Camella, Lechame, Karen, and Sophie.

4 Q. Who is the gentleman with the white clothing?

5 A. That was Thomas Chipperfield.

6 Q. Do you know where this is?

7 A. Excuse me. The interpreter's corrected. Graham
8 Chipperfield.

9 Q. Do you know where this took place?

10 A. I think it was in Tampa, in the place where they stop in
11 Tampa.

12 Q. Do you know when this was?

13 A. More or less mid-November/December.

14 Q. In what year?

15 A. It was probably around the end of '97.

16 Q. Okay.

17 MR. SIMPSON: Continue to roll the tape, please.

18 (Video played.)

19 BY MR. SIMPSON:

20 Q. Do you know what Mr. Chipperfield is doing here?

21 A. He's exercising the elephants.

22 Q. And based on what this shows, does this accurately reflect
23 how Mr. Chipperfield handled these elephants?

24 A. As to what I'm seeing, yes.

25 Q. Does this video in terms of what it shows as to elephant

1 handling, is that typical or not typical of how the elephants
2 were handled in 1997 on the Blue Unit?

3 A. Yes.

4 Q. Do you know what tools Mr. Chipperfield has in his hands?

5 A. Yes. He has a whip and a hook.

6 Q. How did he use the whip?

7 A. Well, what happens is when they're walking around sometimes
8 the elephants are far away from you and they get distracted,
9 they try to grab something from the ground or something like
10 that, and so you touch them with that in order to keep them from
11 getting distracted.

12 Q. Did he ever hit the elephants with the whip?

13 A. He touched them. He didn't hit them.

14 MR. SIMPSON: Now go ahead and run the tape.

15 (Tape played.)

16 BY MR. SIMPSON:

17 Q. Could you describe for the Court what that is, what the
18 elephants are doing?

19 A. Let me see if I can remember in Spanish. It's a mountain
20 of elephants.

21 Q. And does this activity in your experience harm the
22 elephants?

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

24 THE COURT: I'll allow it.

25 THE WITNESS: I've never seen an elephant harm itself

1 or be harmed by this.

2 BY MR. SIMPSON:

3 Q. Okay.

4 MR. SIMPSON: Continue to run the tape.

5 THE COURT: What does that mean, harm? How do you
6 define "harm"?

7 THE WITNESS: Like hurt their back or their leg or
8 something like that.

9 BY MR. SIMPSON:

10 Q. Okay.

11 MR. SIMPSON: Continue.

12 (Video resumes playing.)

13 BY MR. SIMPSON:

14 Q. Can you explain what Mr. Chipperfield is doing, sir?

15 A. Well, this is a routine, an exercise that we set up, and we
16 always give them a reward so they begin to learn what they're
17 supposed to do.

18 Q. Was that you in the film in the black jacket?

19 THE INTERPRETER: The interpreter would add, And
20 there's always a reward.

21 I'm sorry. Repeat the question back.

22 MR. SIMPSON: Run it back.

23 (Video playing.)

24 BY MR. SIMPSON:

25 Q. Is this you in the black jacket in this film?

1 A. Yes.

2 Q. And which of the two elephants here on the left and right,
3 right in front of Mr. Chipperfield?

4 A. On the left it's Karen, and on the right it's Sophie.

5 Q. Okay. That sound, sir, how would you describe what that
6 elephant's sound is?

7 A. That's when they're -- how do you say it? It's when
8 they're excited.

9 Q. Is it a happy sound or a sad sound?

10 MS. MEYER: Objection, your Honor. That's leading
11 too.

12 THE COURT: He asked is it happy or sad. It's not
13 suggestive of any one answer.

14 THE WITNESS: What was the question? Excuse me.

15 THE COURT: I'll tell you what the question is. The
16 question is: When do the elephants make that type of sound?

17 That's all right. You can speak in Spanish. That's
18 fine.

19 THE WITNESS: When they hear a sound that attracts
20 their attention, they make that noise. When an elephant, for
21 example, is happy, they communicate with the other one when
22 they're excited like that with that sound.

23 BY MR. SIMPSON:

24 Q. Which of the elephants made that the sound that we just
25 heard?

1 A. I remember it was Sophie because she made that noise for no
2 reason. She made that noise all the time.

3 Q. Now, Mr. Chipperfield is feeding these elephants apples.
4 How frequent did that happen?

5 (Videotape playing.)

6 A. Elephants eat apples and fruit all day long, but when we're
7 doing the routines we give them apples as a reward.

8 BY MR. SIMPSON:

9 Q. Why did you do that?

10 A. You work a routine daily that's developed in their brain.

11 Q. Now, Mr. Raffo, I'd like to turn your attention to another
12 video on the same exhibit, Plaintiffs' Exhibit 135, and this one
13 is counter number 7:11 to 13:10?

14 (Video playing.)

15 MR. SIMPSON: Stop.

16 BY MR. SIMPSON:

17 Q. Do you recognize this video, sir?

18 A. Yes.

19 Q. Who is the gentleman to the right?

20 A. That's me.

21 Q. And who is the elephant to your right?

22 A. I think the one on the right is Shirley.

23 MR. SIMPSON: Continue to run the film.

24 (Videotape playing.)

25 MR. SIMPSON: Okay. Would you stop?

1 BY MR. SIMPSON:

2 Q. Do you remember where this was, sir?

3 A. That was in the same place in Tampa.

4 Q. In the same year, 1997?

5 A. Yes.

6 Q. And what is that thing hanging around your waist?

7 A. That's where I carry all my apples and carrots.

8 Q. And why do you carry your apples and carrots in that bag?

9 A. Well, because these animals are smaller and they're just
10 learning, then we're constantly giving them these rewards all
11 day so that it becomes a habit in their mind.

12 Q. Could you explain for the Court what you're doing here?

13 A. We're practicing -- I'm practicing the show with them that
14 we're going to do in '98.

15 Q. Can you identify the two elephants in this picture?

16 A. The first one is Benjamin and the second, Shirley.

17 Q. Do you have a bullhook here, sir?

18 A. Yes.

19 Q. Explain to the Court how you're using the bullhook.

20 A. Well, you're touching them here, for example. I'm touching
21 them with my hand. Because they're still very small animals, so
22 you can reach them. With the larger ones you can't touch them
23 up high.

24 Q. In this video, sir, does your use of the bullhook have any
25 effect on these elephants?

1 A. Oh, no.

2 Q. Did you have to hit any of these elephants to get them to
3 perform?

4 A. No. Well, actually it's more like a routine of play. In
5 other words, they lift up things and it's done practicing,
6 rehearsing by lifting up pieces of wood, pieces of trees, and
7 even the hook itself, it's playing, and so we do that same
8 playing in the rehearsals for the show.

9 MR. SIMPSON: Your Honor, we'll offer these two tapes
10 as Defendant's Exhibit 324A and B.

11 THE COURT: Any objection?

12 MS. MEYER: No objection.

13 THE COURT: Admitted.

14 (Defendant's Exhibit Nos. 324A and 324B were admitted
15 into evidence at about 10:42 a.m.)

16 BY MR. SIMPSON:

17 Q. Mr. Raffo, did there come a time when your employment with
18 Ringling Brothers ended?

19 A. Yes.

20 Q. And when was that?

21 A. That was the end of '99.

22 Q. And when you left Ringling Brothers, where did you go?

23 A. I went to Europe.

24 Q. Did anyone go with you to Europe?

25 A. Yes.

1 Q. Who went with you?

2 A. Tom Rider.

3 Q. Could you describe how Mr. Rider came to go to Europe with
4 you?

5 A. As far as I understood it, he found out that my contract
6 and Chipperfield's contract ended with Ringling and then he
7 offered, I think it was to Chipperfield, to go to Europe with
8 us.

9 Q. Who hired Mr. Rider?

10 A. Richard Chipperfield.

11 Q. Who paid Mr. Rider?

12 A. Mr. Richard Chipperfield.

13 Q. And what was Mr. Rider's job to be with you in Europe?

14 A. Well, it was more or less the same thing that he did here,
15 the cleaning and maintenance, but also some additional duties
16 because we had to work more for these people, like setting up
17 the tent.

18 Q. All right, sir, I'd like to direct your attention to
19 Defendant's Exhibit 34, which has been marked for
20 identification. Excuse me. 32. I'm sorry. And go to page
21 two. Do you recognize the person in this photograph, sir?

22 A. Yes.

23 Q. Who is it?

24 A. It's Tom Rider.

25 Q. Mr. Tom Rider?

1 Do you recognize the elephant?

2 A. That's Mina.

3 Q. Now, Mina was one of the Chipperfield elephants?

4 A. Yes.

5 Q. Do you know where this picture was taken?

6 A. I think this was before leaving the U.S. to go to Europe.

7 Q. Do you know what Mr. Rider has in his hand?

8 A. He has a hook.

9 Q. Were you there when this picture was taken?

10 A. I don't think so, because if I had been present, that is
11 not allowed.

12 Q. Why do you say that?

13 A. First of all, because he's the one who lifts up, who cleans
14 up the waste, the poop, of the animal, the elephants. You can
15 see that the elephant isn't doing anything wrong here because it
16 has the containers around it and the tape. As far as I can see,
17 maybe he's trying to bring it towards him to take a picture or
18 something.

19 Q. Did you force him to use the bullhook to take this picture?

20 A. No.

21 Q. Are you married, sir?

22 A. Yes, sir.

23 Q. Was your wife present when this photograph was taken?

24 A. No.

25 Q. Did your wife force Mr. Rider to use the bullhook for this

1 picture?

2 A. No.

3 Q. Now, were there elephants that went with you to Europe?

4 A. Yes.

5 Q. Which elephants?

6 A. Pamela, Lucha, and Mina.

7 Q. How were those elephants transported to Europe?

8 A. It was a large more or less large ship that handled four
9 thousand containers. And in the middle of the boat we set up
10 four flatbed platforms, if that's how you say it. The only way
11 that we could put the elephants on the ship was by using the
12 containers.

13 Q. Now, these containers in this picture, is that what you
14 have reference to?

15 A. Yes.

16 Q. And in comparison to the Ringling Brothers' train, elephant
17 train car, how big were these containers?

18 A. I think that the train is a little higher than this.

19 Q. Do you know in terms of how wide these containers are, how
20 that compared with a train car?

21 A. Well, I know that these containers are the legal size for a
22 road, whereas the train, I know it's different, but I don't know
23 what the rules are.

24 Q. And when these elephants were transported on the ship, were
25 they chained?

1 A. Not on the ship, no.

2 Q. And were they in the containers or out of the containers
3 when they were on the ship?

4 A. When they were on the ship the container doors were open
5 and all day long they could go in and out as they pleased.

6 Q. Mr. Raffo, when you were in Europe with the elephants and
7 Tom Rider, who was Mr. Rider's supervisor?

8 A. When Mr. Chipperfield wasn't there I was in charge of
9 everything.

10 Q. Did you have an opportunity to observe Mr. Rider's work?

11 A. Yes, because we worked together all day.

12 Q. And what did you observe about his work?

13 A. In the beginning everything was fine with him.

14 Q. And did things change?

15 A. Well, things changed when we got to Europe when we went to
16 Holland to the north.

17 Q. How did things change?

18 A. Well, one thing that got me was that one morning I found
19 him in the trailer that Mr. Chipperfield had bought him to live
20 in, and he was there smoking marijuana.

21 MS. MEYER: Objection, your Honor.

22 THE COURT: What's your objection?

23 MS. MEYER: It's irrelevant, it is an attempt to
24 disparage Mr. Rider's character with a bad act under Rule 608.

25 THE COURT: It's overruled.

1 BY MR. SIMPSON:

2 Q. Did you have any other issues with Mr. Rider in Europe?

3 A. When we were there it seemed that his work was bad. I
4 always had to go and look for him and knock on the trailer to
5 get him.

6 Q. When you were with Mr. Rider in Europe did he have a
7 bullhook?

8 A. Yes. When he had to clean up around the elephants he
9 always had the hook in the wheelbarrow.

10 Q. Did you force him to use that bullhook?

11 A. No.

12 Q. Did your wife force him to use that bullhook?

13 A. My wife had nothing to do with that work. I was the one in
14 charge.

15 Q. Did Mr. Rider ever complain to you about how the three
16 elephants were being treated?

17 A. No.

18 Q. To your knowledge, did he complain to anyone else about how
19 those elephants were being treated?

20 A. No.

21 Q. Did he ever complain about the bullhook?

22 A. No.

23 Q. Did he ever discuss it with you?

24 A. No.

25 Q. Did you observe any relationship that Mr. Rider had with

1 any of these three elephants?

2 A. What kind of a relationship?

3 Q. Well, of any kind. Did you see any kind of relationship
4 between him and these elephants?

5 A. No.

6 Q. And when Mr. Rider was not working, where was he?

7 A. Well, in his free time he would go to the supermarket. He
8 would go for a walk. When I stayed, he would leave.

9 Q. Did there come a point in time, sir, when Mr. Rider left
10 this job?

11 A. Yes.

12 Q. Describe what happened.

13 A. Well, what happened was we were I think in Frankfort in
14 Germany -- well, he came -- I always paid him on Sundays, I
15 believe. I think he came on Monday or Tuesday, something like
16 that, like asking me for an advance in his pay that he wanted
17 this for the next weekend and the week after that to be
18 discounted from his pay, and then after that, the next day I got
19 up and he wasn't there anymore.

20 Q. Did you observe anything unusual about the events that led
21 up to his leaving the job?

22 A. Yes.

23 Q. What did you observe?

24 A. There was one thing that was rare that happened before he
25 decided to leave when we were in Frankfort that was strange.

1 There was this man, this woman, they were from England.

2 THE COURT: I'm sorry. I couldn't hear. There was
3 what?

4 THE WITNESS: There was a man and woman who were from
5 England by their accent and he was with them and he said that
6 they were looking for a job and I thought it was odd that these
7 people from England were looking for a job in Germany to work
8 with animals.

9 BY MR. SIMPSON:

10 Q. And what did you observe about Mr. Rider and these two
11 people?

12 A. That they had been there for a couple of days already and
13 he spent that time talking with them on the other -- across the
14 fence.

15 Q. Now, when you were in Europe, sir, with Mr. Rider, were
16 there other animals in the act?

17 A. Yes. There were the tigers as well.

18 Q. How many did you have?

19 A. There were eleven tigers working.

20 Q. Now, did anything happen to any of these tigers?

21 A. Well, when we arrived in Europe, there were -- I had eleven
22 tigers in total. There were thirteen tigers; that is, I had two
23 extra tigers, and then Mr. Chipperfield called me on the phone
24 and told me there was a vet that was going to come and pick up
25 the other tigers to take them to a park or somewhere.

1 Q. Do you know whether those two tigers were killed?

2 A. No.

3 MR. SIMPSON: Your Honor, we're going to offer
4 Defendant's 32, the photograph identified by the witness.

5 THE COURT: Any objection?

6 MS. MEYER: No, your Honor.

7 THE COURT: Admitted.

8 (Defendant's Exhibit No. 32 was admitted into evidence
9 at about 10:58 a.m.)

10 MR. SIMPSON: No further questions.

11 THE COURT: All right. Cross-examination? Counsel?

12 CROSS-EXAMINATION

13 BY MS. MEYER:

14 Q. Good morning, Mr. Raffo.

15 A. Good morning.

16 Q. Mr. Raffo, you're currently supervising employees on the
17 Blue Unit, aren't you?

18 THE INTERPRETER: Could the interpreter have a
19 representation?

20 BY MS. MEYER:

21 Q. You're currently supervising employees on the Blue Unit,
22 aren't you?

23 A. Only if two people who work with me were the tigers.

24 Q. And you were recently rehired to work at the Blue Unit,
25 correct?

1 A. Right.

2 Q. And what is your title at the Blue Unit?

3 A. Just work with the tigers. I present the tigers in the
4 show.

5 Q. And when you supervise the two employees that you
6 supervise, you don't speak to them in Spanish, do you?

7 A. Well, one of them I brought from Europe and I speak with
8 him. He's Polish a little bit. I speak a little bit of Polish,
9 and the gentleman, we communicate like that. And the other one
10 is here from the U.S. and speaks a little bit of English, but
11 you don't need to speak too much to tell them pick up here, pick
12 up there.

13 Q. But you don't supervise them in Spanish, do you?

14 A. No.

15 Q. And you said you originally worked for the Blue Unit
16 between 1994 and 1999; is that correct?

17 A. End of '94 to end of '99, yes.

18 Q. And Ringling Brothers gave you your first job in the United
19 States, isn't that correct?

20 A. Yes.

21 Q. Now, when Mr. Rider went to Europe with you, he was working
22 for you, was he not?

23 A. But he didn't work for me.

24 Q. He was not working for you?

25 A. He was working for Mr. Chipperfield.

1 Q. And you were paying him, correct?

2 A. Yes.

3 MS. MEYER: Could we actually go to Mr. Raffo's
4 deposition at page eighty, line twenty, please?

5 BY MS. MEYER:

6 Q. Mr. Raffo, you remember that I deposed you in this case?

7 A. Um-hmm.

8 Q. When I deposed you, you told the truth, you were under
9 oath, correct?

10 A. Yes, to everything I remembered.

11 MS. MEYER: Are we at page eighty? I'm sorry. Okay.

12 BY MS. MEYER:

13 Q. Could we -- let's start with line fifteen.

14 Question: How did Mr. Rider get paid?

15 Answer: How he got paid?

16 Question: Yes.

17 Answer: I pay him from my money, and after Mr.
18 Chipperfield give the money to me.

19 Question: So you paid Mr. Rider?

20 Answer: Um-hmm.

21 Question: Correct? How much did you pay him, do you
22 remember?

23 I can't remember.

24 Question: Do you remember how often you paid him?

25 Answer: Every week.

1 Question: Every week?

2 Answer: Yes.

3 Question: And were you Mr. Rider's supervisor?

4 Answer: If I was in charge of him?

5 Question: Yes.

6 Answer: The job, of course, yes.

7 Is that correct?

8 THE INTERPRETER: Could you go back? Could that be
9 put again so the interpreter can read? Sorry.

10 BY MS. MEYER:

11 Q. Did I read that testimony correctly?

12 THE INTERPRETER: Another question?

13 MS. MEYER: I'm sorry. Apparently.

14 MS. SANERIB: Lines eight through ten.

15 BY MS. MEYER:

16 Q. Sorry. You need to read through line ten. Through line
17 eleven.

18 THE INTERPRETER: Interpreter correction.

19 MS. MEYER: Through line twelve. I'm sorry.

20 THE INTERPRETER: Okay. Sorry.

21 BY MS. MEYER:

22 Q. Did I read that testimony correctly?

23 A. Yes.

24 Q. And when you were in Europe, you told Mr. Rider what to do;
25 is that correct?

1 A. When Mr. Chipperfield was not there, of course.

2 Q. And you could have had Mr. Rider fired, isn't that correct?

3 A. Well, if we had something really bad, but I generally give
4 people two or three chances, so if he had done something very
5 bad, I would have told Mr. Chipperfield that we needed to get
6 somebody else.

7 Q. So you had -- you had the authority to have Mr. Rider
8 fired, right?

9 A. Authority, I could have said that he was doing a bad job,
10 that we needed to get somebody else.

11 Q. Okay. And you were his only boss, isn't that correct?

12 A. Yes.

13 Q. And touching the elephants with the bullhook was part of
14 Mr. Rider's job when he worked for you, isn't that correct?

15 THE INTERPRETER: Could the interpreter have the
16 question repeated, please?

17 MS. MEYER: Yes.

18 BY MS. MEYER:

19 Q. Touching the elephants with the bullhook was part of Mr.
20 Rider's job when he worked for you, correct?

21 A. It was the same job that he had while he was here at
22 Ringling, yes.

23 Q. And so you're not answering my question. If you would
24 answer my question, which is: Touching the elephants with the
25 bullhook was part of his job when he worked for you; is that

1 correct?

2 A. His job is to clean the elephant; if the elephant was not
3 moving, he had to touch the elephant so he could move. That was
4 what he needed to do. The elephants have that routine. They
5 know that.

6 Q. And so that was part of his job when he worked for you?
7 That was part of --

8 A. That's done everywhere.

9 Q. That was part of his job when he worked for you, correct?

10 A. When it was necessary, yes.

11 Q. Now, you testified about some tigers that were taken away
12 from you in I think Frankfort, Germany. Do you remember that
13 testimony?

14 A. Yes.

15 Q. These were two very young tigers, weren't they?

16 A. No, not very young, no.

17 Q. How old were they?

18 A. They were about three, four years old.

19 Q. And these are two tigers that you had not incorporated into
20 the act when you were in Europe, isn't that correct?

21 A. Well, I had just arrived in Europe. These tigers were
22 removed I think about a month after I got there. It was very
23 quick, and it takes two, three years before you can introduce a
24 tiger to a show.

25 Q. I thought you said the tigers were removed when you were in

1 Frankfort, Germany, isn't that correct?

2 A. The two tigers that were not working were removed when we
3 were in Frankfort in Germany.

4 Q. How long after you got to Europe was it before you were in
5 Frankfort, Germany?

6 A. Well, well, we arrived -- let me think. I don't know,
7 maybe two, three months. This was many, many years ago. Two,
8 three months it could be.

9 Q. And the reason those two tigers were removed from you was
10 that you hadn't been training them to perform in the circus,
11 right?

12 A. Well, when I was -- when the two -- well, when these two
13 tigers, when we -- when we were at the Ringling Brothers, I was
14 not the handler of these tigers. The two sons of Mr.
15 Chipperfield were the handlers of these tigers.

16 Q. And I'm asking you, the reason Mr. Chipperfield sent
17 someone to take the two tigers away from you was that you were
18 not training them to use them in the act; is that correct?

19 A. Not so much. One reason was because the act was -- it was
20 the best act we had and there was -- and it was fine as it was.
21 It was not necessary to incorporate them then.

22 Q. I'd like to go to Mr. Raffo's deposition at page 120. I'd
23 like to actually read pages 120, line 3, to 121, line 6.

24 Question: Okay. There were extra tigers?

25 Answer: Yeah.

1 Question: They weren't involved in the act?

2 Answer: No.

3 Question: Were those two tigers on the boat with you
4 when you came?

5 Answer: Yes.

6 Question: From the United States to Europe?

7 Answer: Yes.

8 Question: Why weren't they involved in the act?

9 Answer: Why? Because it was just extra in case you
10 need, or maybe to practice a new thing for the future, you
11 know --

12 Question: Were they --

13 Answer: And everything.

14 I'm sorry.

15 Question: Were they older tigers?

16 Answer: No, young tigers.

17 Question: How young were they?

18 Answer: Maybe about between three and four, maybe.

19 Question: And they weren't being used in the act at
20 all?

21 Answer: No. I start to train them. Yes, but I
22 didn't brought them in the act yet.

23 Actually I need to read some more. I'm sorry.

24 Question: Did you try to train them for the act?

25 Answer: Oh, yes. I start to train them already in

1 Ringling, you know. So they went to Europe. Everything
2 changed. Contract changed. The contract changed, so, you know,
3 I stopped to train his tigers for anything else. I just stop in
4 there.

5 Did I read that testimony correctly?

6 A. *Um-hmm.

7 THE INTERPRETER: Previous page.

8 MS. MEYER: I think the witness actually answered
9 without having it translated.

10 MR. SIMPSON: Your Honor, that's incorrect.

11 THE COURT: I just need a clear answer to the
12 question.

13 THE WITNESS: Yes. What you're trying to tell me,
14 because you were asking me the following. You asked me if I was
15 training the tigers in Europe to be incorporated -- to
16 incorporate the tigers in the show in Europe. Well, these
17 tigers were in the United States. They were going to stay here
18 longer so I did train them, but the contract change, everything
19 change, so I did not train the tigers there. When we arrived --
20 when I arrived in Europe I didn't train them anymore. Because
21 the two tigers for the shows that are smaller in Europe, these
22 two tigers were not necessary. It was fine as it was, and when
23 they removed those tigers it was in order for the eleven tigers
24 to have more space as well.

25 BY MS. MEYER:

1 Q. Okay. So Mr. Chipperfield sent a vet to take those tigers
2 from you, correct?

3 A. Yes.

4 Q. And in answer to Mr. Simpson's question, you don't know
5 what happened to those two tigers, correct?

6 A. What I was told is that they were going to a park or
7 something like that. That's what I know.

8 MS. MEYER: Can we go to Mr. Raffo's deposition at
9 page 126, please? I'd like to start at line eight.

10 BY MS. MEYER:

11 Q. Question: So you don't know what happened to those two
12 tigers; is that correct?

13 Answer: No, I don't.

14 Did I read your testimony correctly?

15 A. Yes.

16 Q. And it was after the two tigers were taken from you that
17 Mr. Rider left, isn't that correct?

18 A. Up to the time tigers --

19 Could you repeat it, please?

20 Q. It was after the two young tigers were taken from you that
21 Mr. Rider left, isn't that correct?

22 A. I believe so. I'm not certain, but I believe so.

23 Q. Now that you are back on the Blue Unit, you've had occasion
24 to watch the elephant act, isn't that correct?

25 A. The act -- every now and then I see it. My wife works

1 there, but every now and then I get a look at it.

2 Q. And that elephant act is about six to seven minutes long,
3 isn't that right?

4 A. Exactly, I don't know. It could be seven, eight, nine.
5 Exactly I don't know.

6 MS. MEYER: Could we go to Mr. Raffo's deposition at
7 page 183, please, line 16?

8 BY MS. MEYER:

9 Q. Question: Do you know how long the elephant performance is
10 right now on the Blue Unit?

11 Answer: It's not too long. It's sometimes six, seven
12 minutes maybe.

13 Question: What is your basis for saying that the
14 elephant act on the Blue Unit is only about six or seven minutes
15 long?

16 Answer: It's about that time, the act. It's not long
17 now. You just go in and do the stuff you do, the spindle stops.
18 It's more dancing around and girls dancing around and tricks and
19 stuff.

20 Did I read your testimony correctly?

21 A. Yes.

22 MS. MEYER: Now I'd actually like to ask Mr. Raffo a
23 question about the photograph that was shown from Defendant's
24 Exhibit 324. We never got a copy of that photograph, so if you
25 could call it up for me, I'd appreciate it. I'd like to show it

1 to him on the screen, if I could.

2 MR. SIMPSON: I don't have an objection to that.

3 MS. MEYER: Thank you.

4 MR. SIMPSON: Go ahead.

5 (Defendant's Exhibit No. 34 was displayed on screen.)

6 BY MS. MEYER:

7 Q. Mr. Raffo, you said that when this photograph was taken
8 this was shortly before you went to Europe; is that correct?

9 A. As I said at the beginning, I think this was in Florida
10 right before we left before going to Europe in -- not Florida in
11 the United States, before going to Europe.

12 Q. At this point in time Mr. Rider was already employed by you
13 and Mr. Chipperfield, isn't that correct?

14 THE INTERPRETER: Could you repeat the question?

15 BY MS. MEYER:

16 Q. At that point in time when this photograph taken, Mr. Rider
17 was already employed by you and Mr. Chipperfield, isn't take
18 correct?

19 A. Well, by that time we had already arrived at the port, so
20 yes, he was already working there.

21 Q. Now, you said that you were not present when this
22 photograph was taken, isn't that correct?

23 A. Well, I don't know. I don't know where I was. Maybe I was
24 behind. Maybe I was somewhere else; walking around. I don't
25 know what I was doing.

1 Q. Is it possible you were behind the elephant and Mr. Rider
2 was handing you the bullhook?

3 A. No, oh, no, no, no, no.

4 Q. Okay. I thought you said in response to Mr. Simpson's
5 question that you were not there when this incident occurred.

6 A. That's what I said, that maybe I was walking around in the
7 port, maybe I was talking to Mr. Chipperfield about the
8 paperwork. I don't know what I was doing.

9 Q. Okay. And then you said the reason you knew you were not
10 there was because what is depicted in this photograph would not
11 be allowed; is that correct?

12 A. Exactly.

13 Q. And the reason you said it would not be allowed is because
14 you didn't see the elephant doing anything wrong, isn't that
15 what you testified to?

16 A. Of what I can see, the elephant is just standing and quiet,
17 nothing else, looking this way.

18 THE COURT: All right. We'll take a fifteen-minute
19 recess. Give the interpreters a recess.

20 If you need a recess, let me know. All right?

21 THE INTERPRETERS: Okay. Thank you.

22 COURTROOM DEPUTY: This Honorable Court now stands in
23 a fifteen-minute recess.

24 (Recess taken at about 11:25 a.m.)

25 COURTROOM DEPUTY: Please remain seated and come to

1 order.

2 (Back on the record at about 11:53 a.m.)

3 THE COURT: Let's proceed.

4 THE INTERPRETER: Your Honor, before we begin, may I
5 address the Court?

6 THE COURT: Yes.

7 THE INTERPRETER: During the break the attorney for
8 the plaintiff mentioned, concerned that because we from time to
9 time stop the witness to make sure that we get as much as we can
10 remember and retain to relay the message, that she may be
11 missing testimony, so I wondered if you could be so kind to
12 instruct the witness that once we've interpreted, if he has more
13 to say on that question, he's free to continue and we'll be
14 happy to interpret.

15 THE COURT: Sure.

16 THE INTERPRETER: Thank you.

17 THE COURT: Mr. Raffo, once you answer the question,
18 if you think that you have more to add to the answer, you may do
19 so. Just let the interpreter know that there's more that you
20 wish to add.

21 THE WITNESS: *All right. Thank you.

22 THE COURT: All right?

23 THE INTERPRETER: Yes, sir.

24 MS. MEYER: Thank you, your Honor.

25 THE COURT: All right.

1 BY MS. MEYER:

2 Q. Mr. Raffo, before we took the break we were talking about
3 the photograph that was shown to you by defendants in their
4 Exhibit 34.

5 Maybe we could bring that up again.

6 THE COURT: Go ahead.

7 BY MS. MEYER:

8 Q. And during your direct testimony in answer to a question
9 from Mr. Simpson, you said that the reason you know you were not
10 there when this incident depicted on the photograph was
11 occurring was that this would not be allowed. That was your
12 testimony. Do you remember that testimony?

13 A. I didn't see him doing that, and if I had, I would have
14 said something to him. I did not see him doing that.

15 Q. Okay. And you testified that that, meaning what is
16 depicted on the photograph, would not be allowed. Do you
17 remember that testimony?

18 A. I remember seeing that, and I said that because -- what I
19 was trying to explain is that someone with no experience,
20 someone who does not know how to work with the animals who is
21 not supposed to have contact with them, he just cleans, a person
22 who does that would have -- would know not to do something like
23 that, should know not to do something like that.

24 Q. And the "something like that" that you're talking about,
25 what are you talking about?

1 A. What I said to you and you didn't interpret it was that he
2 does that -- the interpreter asks everyone's forgiveness for
3 missing that -- what he does when he is cleaning around them and
4 things like that he touches them so that they can move aside,
5 things like that. But something like this has nothing to do
6 with his work.

7 Q. Okay. And you said that the reason this was not allowed is
8 because you didn't see the elephant doing anything wrong. Do
9 you remember that testimony?

10 A. In the photo I don't see the elephant like he wanted to run
11 or was trying to run or something like that.

12 Q. So is it your testimony that someone would only touch an
13 elephant with a bullhook in the way that is depicted in this
14 photograph if the elephant -- is if the elephant were doing
15 something wrong?

16 A. Well, no. Generally, for example, if the animal is trying
17 to eat off the floor, then you might touch them on the trunk.
18 Animals, they're animals and they're generally very curious and
19 it could be for a different reason, depending on what happens in
20 the moment.

21 Q. So --

22 A. I can't tell you specifically because every animal is
23 different. Every animal has its own personality and it could be
24 for a different reason or not. I can't tell you specific
25 because each day is different.

1 Q. You're not suggesting that Mr. Rider in this photograph is
2 mistreating this animal, are you?

3 A. No.

4 Q. Now, you testified in response to a question from Mr.
5 Simpson that you never heard Mr. Rider complain about the
6 mistreatment of the elephants when you worked at Ringling
7 Brothers. Do you remember that testimony?

8 A. I never heard Mr. Rider complain about the treatment of the
9 elephants at Ringling.

10 Q. Okay. But isn't it true that if Mr. Rider had complained
11 about the treatment of elephants at Ringling Brothers, you never
12 would have taken him to Europe with you with those three
13 elephants?

14 A. That could be a reason for not taking him with me.

15 Q. Now, in answer to a question from Mr. Simpson at the
16 beginning of your testimony you said that your use of the
17 bullhook has changed over time. Do you remember that?

18 A. Well, in general the training of any species of animal over
19 time has improved, has changed.

20 Q. Okay. I'm talking about your use of the bullhook with
21 elephants. You testified to Mr. Simpson that your use of the
22 bullhook with elephants has changed over time. Didn't you
23 testify to that?

24 A. That's right.

25 Q. And you said currently you use a different, a better

1 system, I think that's what you said, a better system.

2 A. I think so, yes.

3 Q. All right. So what system did you use when you were
4 working for Ringling Brothers between 1994 and 1999?

5 A. Well, in working with the elephants I always tried to see
6 what is the easiest and best way to do this, to have contact
7 with them, and I use a lot of patience. I'm always very patient
8 and I don't hurry. I let them loose and I let them play and I
9 observe what they do naturally by instinct so that I can see
10 through what they show me how I can use them so that I can use
11 their natural abilities and techniques.

12 Q. I was asking you a very different question. I was -- you
13 said in your direct testimony that your use of the bullhook has
14 changed over time. You said you remember that testimony, and
15 what I was asking you is, how did you use the bullhook that was
16 different when you worked at Ringling Brothers between 1994 and
17 1999?

18 A. I wanted to clarify this because sometimes when you have a
19 translator, things don't come across completely, and I tried to
20 explain something, and sometimes, as happens, it doesn't get
21 relayed completely.

22 I remember more or less what you were asking me, and I
23 explained to you also that the systems are different from the
24 way they were before and that we do things better now. And I
25 remember my grandparents, for example, they had no experience,

1 they brought in adult animals who were wild, and so they had to
2 be really tough with those animals because they were still wild
3 and that was the only way to deal with them.

4 Q. When you worked with the elephants on the Blue Unit between
5 1994 and 1999, did you use the bullhook any differently than you
6 use it now?

7 A. I wanted to clarify for you that I only started working
8 with elephants in 2001 and 2000 --

9 THE INTERPRETER: The interpreter needs to have a
10 repetition of the response.

11 (Witness and interpreter converse.)

12 THE WITNESS: I have -- you're asking me as if I'm
13 working with elephants now, and I'm not. Since 2001, 2002, I
14 have not worked with elephants.

15 BY MS. MEYER:

16 Q. Okay. You told Mr. Simpson that the use of the bullhook
17 has changed over time, and I want to know what it's changed
18 from. You said now you use more communication and you have a
19 better system, and I want to know what was the system that was
20 used before?

21 MR. SIMPSON: Objection, your Honor. It's vague, and
22 plus she's arguing with the witness now.

23 THE COURT: Well, there's a need for some
24 clarification.

25 THE WITNESS: Well, what I know and what I've seen

1 from my experience of going all around the world and in the past
2 is that people used to be brought in, it didn't matter, they
3 didn't know what they were doing, they didn't study the behavior
4 of the animals. They were ignorant and things have improved and
5 evolved over time, and that type of people that used to be
6 brought in is no longer brought in. In other words, people with
7 no experience who read a book or watch a movie and think they
8 know what to do.

9 BY MS. MEYER:

10 Q. And those kind of people use the bullhook how?

11 A. Well, it could be for many reasons, and it's not
12 necessarily that they're hurting them. It could be that they're
13 touching them for a wrong reason or there's no real reason to be
14 touching them and they do it anyway, but it's not necessarily
15 that they're hurting them. Like they want to show off with
16 people, they want to show that they're animal tamers or
17 something like that.

18 Q. Okay. I'd like to actually ask you some questions about
19 the video clip that you were shown at Plaintiffs' Will Call 135,
20 the excerpt from 24:11 to 30:44, if we could watch that again,
21 please.

22 (Video played.)

23 MS. MEYER: Could we stop that? Okay.

24 BY MS. MEYER:

25 Q. Did you see Mr. Chipperfield just there interact with one

1 of the elephants?

2 A. What do you mean, interact?

3 Q. You don't know what "interact" means?

4 A. I don't understand what you're trying to say.

5 Q. Did you see Mr. Chipperfield have contact with an elephant
6 right there?

7 A. He may have done so before coming to this point, but right
8 there, no.

9 Q. Okay. Let's play that, if we could go backwards in reverse
10 a little bit and play that again. I want you to watch carefully
11 what Mr. Chipperfield does, please.

12 Stop it right there.

13 Do you see Mr. Chipperfield having contact with an
14 elephant right there?

15 A. I saw that he lifted his arm, but the elephant came before
16 he did anything.

17 Q. You don't see Mr. Chipperfield using the bullhook with the
18 elephant right there?

19 A. You can't see clearly there, but it could be a foot away
20 from the trunk on the other side.

21 Q. Okay. Because earlier when we were looking at the picture
22 of Mr. Rider with the bullhook you seemed certain that Mr. Rider
23 was touching the elephant with the bullhook, right?

24 A. If you look at his left hand, it's on the trunk of the
25 elephant. He's like this (indicating).

1 Q. So I'm just asking you, in this photographic image, you're
2 not sure whether or not Mr. Chipperfield is using the bullhook
3 with the elephant, correct?

4 A. What I see is that he has his left hand on the elephant's
5 trunk --

6 Q. And that's --

7 A. -- near the tusk.

8 Q. I'm asking you whether or not he's using the bullhook on
9 the elephant in this scene that we just watched.

10 A. Could I see it again?

11 Q. Sure.

12 (Video replayed.)

13 Okay. Based on your experience, isn't Mr.
14 Chipperfield using a bullhook on an elephant right there?

15 A. I believe that when they were getting in line Mina, he
16 grabbed Mina to move her over. That's all.

17 Q. And he grabbed her with the bullhook, right?

18 A. He would have touched her. You can't really grab her.

19 Q. With the bullhook?

20 A. Yes.

21 Q. And you testified that Mr. Chipperfield -- just keep it
22 right there -- Mr. Chipperfield is using both a whip and a
23 bullhook in this scene, right?

24 A. Well, up to this point I haven't seen him using the whip.

25 Q. He's carrying both a bullhook and a whip when he's

1 exercising the elephants in this scene, correct?

2 A. Yes.

3 Q. And do you know who took this video footage?

4 A. No idea.

5 Q. It's likely someone who works for Feld Entertainment, isn't
6 it?

7 A. I don't know.

8 Q. Well, based on your experience when you worked at the
9 circus, were members of the public allowed to come and watch
10 this kind of an exercise routine?

11 A. Well, when one is in contact with the animals one is highly
12 concentrated and not thinking about the people that are around,
13 and there can be up to three hundred people working around when
14 a new show is being prepared. As in this case when it's a
15 general rehearsal there are lots of people around, and one is
16 concentrated on their work. They're always walking back and
17 forth, up and down.

18 Q. Is it your testimony that when the elephants are being
19 rehearsed, members of the public are allowed to attend the
20 rehearsals?

21 A. Well, people are always walking around, the people that
22 work in the fair grounds, the people that work in the show.
23 Many times we're also close to the road by a street and people
24 start looking from the other side of the fence. They just stand
25 there. They're not in, but they can look. That happens in many

1 cities. People will look from the other side of the fence into
2 our exercise.

3 Q. But members of the public aren't allowed to come to a
4 rehearsal with a video camera and take video footage, are they?

5 A. Many times when we are rehearsing or exercising the
6 elephants or whatever when we're working with them, especially
7 now, people have a video camera there all the time.

8 *Telephones, videos.

9 Q. So if Mr. Feld testified that members of the public are not
10 allowed to attend rehearsals, he could be wrong; is that right?

11 MR. SIMPSON: Objection, your Honor. Objection. I
12 don't think Mr. Feld testified to that.

13 THE COURT: He can answer the question. I'll give it
14 whatever weight it's entitled to, if any. He can answer that.

15 THE WITNESS: Well, truth or not there's people if
16 they're on the other side of the fence they can be taping. We
17 can't do anything about it. There's always people there.
18 People that are against the animals or whatever, you cannot tell
19 them they cannot do it. That is the truth.

20 MS. MEYER: Okay. Can we watch the rest of the clip?

21 (Video played.)

22 MS. MEYER: Okay, that's enough.

23 BY MS. MEYER:

24 Q. Now, you testified when you watched this clip with Mr.
25 Simpson that this was Mr. Chipperfield exercising the elephants,

1 correct?

2 A. To what I see and I remember, yes.

3 Q. So this is how they were exercised, correct?

4 A. No. That is just one of the ways.

5 Q. Okay, one of the ways they were exercised?

6 A. Well, sometimes you walk around the building, sometimes you
7 let them loose in the pen. Sometimes you give them a bath.

8 Other times you give them hay, and then you do it all over
9 again. You try to establish a daily routine because you can't
10 have the people all day around. You know, sometimes you do this
11 at certain hour, you do this at a certain hour, you do that.

12 Q. What kind of surface are the elephant's exercising on in
13 this clip?

14 THE INTERPRETER: What kind of a?

15 MS. MEYER: Surface.

16 THE WITNESS: It's rubber.

17 BY MS. MEYER:

18 Q. It's a rubber surface?

19 A. I believe so. If you go backwards I can tell you for sure.

20 Q. Okay.

21 (Video replayed.)

22 A. Could you stop right there? All those lines that you see,
23 all the lines that you see, it is tape. This is rubber. Even
24 inside the ring, we use this rubber.

25 Q. And what kind of surface are the elephants standing on when

1 they're in the pens that you testified about?

2 A. Well, right now what we have is a big tent and it is made
3 up of wood all the way to the fence so the elephants can go in
4 and out.

5 Q. I'm talking about when you worked at Ringling Brothers
6 between 1994 and 1999, you testified that Ringling Brothers
7 sometimes used pens. Do you remember that testimony?

8 A. Yes.

9 Q. What kind of surface do those pens have?

10 A. Oh, well, it's different. Sometimes when we are close to
11 the grass we set up the pens on the grass. Sometimes if there's
12 cement then we try to put a lot of sawdust and hay so that they
13 don't have too much contact with the cement so that they're more
14 comfortable. It all depends on what kind of surface we have to
15 work with.

16 Q. In this scene that we're frozen on here, you see this
17 pedestal that's being used?

18 A. Yes.

19 Q. And that's a pedestal that's used in the performances,
20 isn't it?

21 A. For some things, for some elephants.

22 Q. And elephants are required to get up on that pedestal with
23 all four of their legs, correct?

24 A. Well, when they play they play with the trunk of trees and
25 you cannot put one of those trunks in a platform in the ring so

1 you do something that is similar to a piece of a tree and the
2 height is or more or less the same that the piece of a trunk of
3 a tree would be, so you're doing things that the normally do.
4 You're not going way beyond something that they're unable to do.

5 Q. I'm simply asking you, Mr. Raffo, if these pedestals are
6 used in the performance, and part of that performance requires
7 elephants to get up with all four of their feet on the pedestal?

8 A. It depends on the show. It's always changing, it's always
9 different. The routines may change. I think there's only two
10 now that are doing that, two elephants that are doing that now.

11 Q. Which of those two elephants?

12 THE INTERPRETER: I'm sorry?

13 MS. MEYER: Which are the two elephants that were
14 doing it?

15 THE WITNESS: I don't know the names.

16 BY MS. MEYER:

17 Q. Mr. Raffo, you're not a veterinarian, are you?

18 A. No, no, no, I'm not.

19 Q. And you haven't reviewed the medical records of the
20 elephants, have you?

21 A. Of what elephant?

22 Q. The elephants that are shown in this clip, for example.

23 A. Well, the elephants's insurance, their paperwork or the
24 medical records, when we went to Europe they were with me so I
25 may have checked them then.

1 Q. Is it your testimony that you have reviewed all of the
2 medical records of the elephants that are shown in this video
3 that you were shown?

4 A. The question that you're asking, I don't know how you want
5 me to respond that I have seen them. I may have seen the
6 records and the vet if something serious had happened, I may
7 have looked at it, but nothing serious happened.

8 Q. Mr. Simpson asked you when you were watching this videotape
9 whether any of these elephants were harmed by any of this
10 activity, and your answer was no, they were not harmed. Do you
11 remember that testimony?

12 A. I remember.

13 Q. And I'm asking you, is your testimony about that based on a
14 review of all the medical records of these animals?

15 A. I don't understand what you want to say.

16 Q. I just want to know if your testimony about whether or not
17 these animals were harmed is based on a review of their medical
18 records.

19 A. What I am saying here, and what I know, is that during the
20 time that I worked with elephants during my time at Ringling
21 Brothers or when we went to Europe, I never saw any elephant get
22 hurt or be hurt.

23 Q. Okay. Mr. Raffo, when you started working for the Blue
24 Unit, you were paid about \$500 a week for your job, isn't that
25 correct?

1 A. Maybe it was about that much, yes.

2 Q. And when you left Ringling Brothers in 1999 you were being
3 paid about \$1,000 a week, isn't that correct?

4 A. More or less after taxes, yeah.

5 Q. And then you left in 1999 and you didn't work for Ringling
6 Brothers for almost nine years, isn't that correct?

7 A. That's correct.

8 Q. But you came back last year to work for Ringling Brothers
9 and you did so under a contract under which you make over a
10 hundred thousand dollars a year, isn't that correct?

11 A. More or less.

12 MS. MEYER: No further questions, your Honor.

13 THE COURT: Redirect?

14 MR. SIMPSON: Very briefly, your Honor.

15 REDIRECT EXAMINATION

16 BY MR. SIMPSON:

17 Q. Mr. Raffo, when you were with the Blue Unit in 1994 to '99,
18 you described to Ms. Meyer how you used the bullhook. Did you
19 injure the elephants with the bullhook at any time during that
20 time period?

21 A. If I ever injured, I don't think it's possible to injure an
22 elephant with a bullhook.

23 THE COURT: Why do you say that?

24 THE WITNESS: I'm saying this because, as I said
25 before, this is an animal that can weigh up to nine tons, that

1 can turn a tractor over with their trunk, that can throw a tree
2 on top of their head, and it's comparing it, for example, and I
3 would like to explain it comparing to something.

4 THE COURT: Sure.

5 THE WITNESS: It's like having an ant, human being and
6 an elephant, if I pick up a bullhook and I go like this
7 (indicating) to the ant, it's going to kill it. If I do like
8 that with a human being, it's going to feel it, but an elephant
9 will not feel it. It all depends in the size. You cannot
10 compare these two things.

11 THE COURT: It depends on the size?

12 THE WITNESS: You cannot compare it to a human being.
13 The size is different. The strengths are different.

14 THE COURT: Let me see your hook for a second. Do you
15 have your hook with you?

16 MS. SANERIB: I can go grab it. Would you like it?

17 THE COURT: Sure. Has that been offered? Has that
18 been admitted?

19 MR. SIMPSON: No, it's not been, your Honor.

20 MS. MEYER: No. We only used it as an exemplar with
21 several witnesses, your Honor.

22 THE COURT: Did both sides want their respective
23 hooks, one from the Smithsonian and one from the circus?

24 MR. SIMPSON: We've got the one that we actually used.

25 THE COURT: Would both like theirs admitted into

1 evidence?

2 MS. MEYER: We'll want ours.

3 MR. SIMPSON: There was one in our opening statement
4 and there may be another one that Mr. Jacobsen has as well.

5 Do we have that here?

6 MR. SHEA: I don't have it here. I'll go check in the
7 room.

8 THE COURT: Are there objections to the plaintiffs' as
9 they talked about in opening statement?

10 MR. SIMPSON: Not as a demonstrative as what they
11 think it is, but I think ours needs to be treated the same way.
12 If your Honor is going to have him do a demonstration --

13 THE COURT: No, not necessarily a demonstration.
14 We're missing an elephant so I can't do a demonstration. Are
15 there objections to asking him to use an elephant -- let me just
16 see.

17 What is this thing here (indicating)?

18 THE WITNESS: That is a hook.

19 THE COURT: All right. Is this similar or not similar
20 to the one used by you at Ringling Brothers?

21 THE WITNESS: At the beginning I used to use bullhook
22 about that size. After a while I started using a smaller one.

23 THE COURT: All right. So this is similar to the one
24 you used at Ringling Brothers, is that a fair statement?

25 THE WITNESS: The hook itself also changes because now

1 it is straighter.

2 THE COURT: Straighter instead of curved?

3 THE WITNESS: Yes.

4 THE COURT: But the one you used had a pointer on it,
5 did it, like that one?

6 THE WITNESS: I use it flat. It's flat on the top.

7 THE COURT: All right. Did the one you used at
8 Ringling Brothers, did it have a point like that (indicating) on
9 it?

10 THE WITNESS: Maybe. I don't know. I don't remember.

11 THE COURT: All right. But this is similar to the
12 one; is that correct? If it's not correct, tell me. Is it
13 similar to the one you used?

14 THE WITNESS: It has never been as exaggerated as this
15 one.

16 THE COURT: I just have a couple of questions to ask.
17 All right. It's --

18 MR. SIMPSON: We've got ours, your Honor.

19 THE COURT: What about that -- I guess these things
20 ought to be marked. That one we were just talking about as --

21 MS. SANERIB: And that's from Frank Hagen, your Honor.

22 THE COURT: That's from another trial?

23 MS. MEYER: No, your Honor. Actually, for the record,
24 that has the exhibit label for Frank Hagen's deposition. It's
25 the one he used in his depo.

1 THE COURT: Mr. Simpson, has that been marked?

2 MR. SIMPSON: Why don't we mark that as Defendant's
3 Exhibit 325, I believe.

4 THE COURT: 325? What about this one?

5 THE WITNESS: It's the one they use now.

6 THE COURT: The one they use now. All right. What
7 about the one you used back in the '90s? We'll mark it.

8 THE WITNESS: The one that I use is more similar to
9 that one. Maybe shorter. At the beginning when I had just
10 arrived I used the ones belonging to the company. Afterwards I
11 had my own made. Smaller, smaller.

12 THE COURT: You had your own made up; is that right?
13 Oh, okay. Did it have a hook on it and a point on it?

14 THE WITNESS: The thing was flat. It was straighter
15 here so you can just pull but not hurt, because here when I'm
16 doing this I am not hurting myself, let alone an elephant. Just
17 feel it.

18 THE COURT: Now let me ask you this: The hook that
19 you used in the circus, were you not able to hook an elephant's
20 ear with that and pierce the elephant's ear with that hook?

21 THE WITNESS: Maybe there are people who could have
22 used the hook and hurt the ear of the elephant, but if it did,
23 it wouldn't be a serious thing.

24 THE COURT: You've never seen that, though, if I
25 understand your --

1 THE WITNESS: I have never -- I don't see people doing
2 that, no.

3 THE COURT: What about in the '90s?

4 THE WITNESS: I have seen videos of thirty years ago
5 they had these big hooks, thick hooks.

6 THE COURT: But you've never seen an elephant's ear
7 punctured or torn with a bullhook while working at Ringling
8 Brothers?

9 THE WITNESS: In the time that I've been with Ringling
10 Brothers I have never seen anything like it.

11 THE COURT: Have you ever seen an elephant bleed as a
12 result of a puncture wound with one of these hooks while working
13 at Ringling Brothers?

14 THE WITNESS: I have never seen an elephant bleed
15 because of a hook.

16 THE COURT: Have you ever seen marks made on an
17 elephant's left side by the use of a bullhook while working at
18 Ringling Brothers?

19 THE WITNESS: I have seen elephants that have
20 scratched their ears on posts or something like that, but as a
21 result of something being done with the hook, never.

22 THE COURT: Never?

23 THE WITNESS: Never. Or a chain or a stake that they
24 have scratched their ear?

25 THE COURT: Have you seen marks caused on an

1 elephant's legs by chains while working at Ringling Brothers?

2 THE WITNESS: Oh, well, mark, the only mark may have
3 been not a lesion of any sort. It's like when you could have,
4 you may have washed the elephant and there's a ring because that
5 part is not as clean as the rest of the elephant, but a mark
6 that's left there because of an injury, no.

7 THE COURT: No injuries because of the chains then?

8 THE WITNESS: No, no, no.

9 THE COURT: Do you know what a hook boil is.

10 THE INTERPRETER: The interpreter doesn't know what a
11 hook boil is.

12 THE COURT: I don't know, do you understand that in
13 English?

14 THE WITNESS: Hook boil?

15 THE COURT: He said she doesn't know. You don't know?

16 What did he say? I don't know. I'll leave it up to
17 the attorneys to try and think of a question to ask.

18 Have you ever seen any injuries caused to the feet of
19 elephants by these bullhooks?

20 THE WITNESS: No.

21 THE COURT: All right. And you say this point, the
22 tip of this bullhook, 325, either Plaintiffs' Exhibit, is not
23 hard enough to puncture the skin of an elephant?

24 THE WITNESS: Of course not.

25 THE COURT: Have you ever seen a bullhook used in this

1 manner by someone thrusting the hook up into the chin area of an
2 elephant?

3 THE WITNESS: Yes, I've seen it.

4 THE COURT: Has it punctured the skin?

5 THE WITNESS: No, no.

6 THE COURT: Never?

7 THE WITNESS: Will not go in.

8 THE COURT: Will not go in, will not puncture the
9 skin. Have you ever seen this hook used to pull the teeth of an
10 elephant or to pull the mouth of an elephant? Never?

11 THE WITNESS: It would be impossible to move a tooth
12 or do anything to a tooth their teeth are so way back in the
13 mouth.

14 THE COURT: Have you ever seen anyone use a bullhook
15 by putting it on the top of the head of an elephant and pulling
16 down on the elephant's head.

17 THE WITNESS: I've seen, as I said before, in videos
18 of the '80s many years ago.

19 THE COURT: But never the '90s? Never?

20 THE WITNESS: No, sir.

21 THE COURT: Show me without demonstrating on anyone or
22 anything, just kind of show me how you use this bullhook.

23 THE WITNESS: The elephants are running, right.

24 THE COURT: You can step down. Why don't you step
25 down to the well of the courtroom? I know we're missing the

1 prop, I know that, but without striking anything or anyone, just
2 show me.

3 (Witness complies.)

4 THE WITNESS: If I did it to myself I'll do it like
5 this (indicating). I just feel it now. If you do this, same
6 thing to an elephant, it looks bad because it's made to look
7 bad.

8 THE COURT: It's made to look bad but it's not bad?

9 THE WITNESS: Exactly. I mean, if the elephant is
10 distracted to one side because of the music and the applause,
11 they can't hear you well. You're calling them over, they have
12 to be here because they're going to go by here. You pull them
13 over like this. I'm not -- if I'm not hurting myself here, how
14 is this going to hurt an elephant? You can pull as hard as you
15 can. You have to use it, you have to use it. It's not hurting
16 it.

17 THE COURT: So you use it then, and correct me if I'm
18 wrong, but you use it primarily, if I understand you, just to
19 get the elephant's attention?

20 THE WITNESS: When you use it, yes. But you hardly
21 ever use it because they're watching you and you can give them
22 signs. See, I work with this all the time. All the time. Come
23 here, steady, keep going, okay, up, trunk, all right. You're
24 not hurting the elephant or anything. It's not what it looks
25 like. If you go like that to a human being it's okay, but if

1 you go in the same way, you do it to an elephant, it looks bad.

2 THE COURT: All right. Have you seen elephant
3 trainers/handlers put bullhooks up their sleeves, up their
4 sleeve like that during the shows at Ringling Brothers?

5 THE WITNESS: Yes.

6 THE COURT: Why do they do that?

7 THE WITNESS: No, no, no.

8 Nowadays because of all the problems we're having.

9 THE COURT: What problems?

10 THE WITNESS: With the animal rights people, they're
11 always there, and they talk so much about this being bad, the
12 less they see of it, better, so you try to hide it because it
13 looks bad to them.

14 THE COURT: It looks bad to?

15 THE WITNESS: To these people who try to make other
16 people see it as bad.

17 THE COURT: So the animal rights people, they're not
18 friends of the circus?

19 THE WITNESS: My honest opinion is, especially
20 nowadays, almost 90% of the people who work with animals love
21 animals. And that's why they do it. They want to be in contact
22 with animals. Might want to do in the future, the population is
23 growing more and more and the earth is the same size. Sooner or
24 later human beings will have to share their piece of earth with
25 animals. This is going to be the future. That's the way it is.

1 THE COURT: I'm sorry. I monopolized the questioning,
2 but in fairness to both sides, if you want to ask some follow-up
3 questions go right ahead.

4 Thank you very much. It's been very helpful. Thank
5 you.

6 BY MR. SIMPSON:

7 Q. Just to follow-up on two things, Mr. Raffo. You indicated
8 to Judge Sullivan today that some of the handlers might try to
9 conceal the hook because it looks bad, but go ahead.

10 A. That's right.

11 Q. But do they use it in a way that is bad?

12 A. It's exactly the same thing, you just try to hide it.

13 That's all.

14 Q. But are they injuring the animals with the hook?

15 A. No, no, no.

16 Q. And earlier in your testimony you mentioned, and I think it
17 got translated as an elephant throwing a truck bed up in the
18 air, and I wanted to know whether you meant truck tire.

19 A. You must always have around those tires that are used on
20 tractors, the land-moving tractors. I don't know how much they
21 weigh, something like four hundred pounds, and you're shocked
22 when you look and you see that they're able to lift something
23 like that up above their heads. And a person, human beings
24 can't do such a thing.

25 I would like to give you and everyone else a point of

1 view that I have.

2 THE COURT: Sure.

3 THE WITNESS: An animal of that size and so much power
4 and the intelligence, because elephants are very intelligent, do
5 you honestly think that an elephant is going to allow you to
6 hurt it? If he wanted to, he could take you and kill you and
7 smash you right then and there. There's nothing you can do
8 about it. Nothing.

9 BY MR. SIMPSON:

10 Q. All right.

11 MR. SIMPSON: I have no further questions, your Honor.
12 I'd like to mark that.

13 THE COURT: Sure. That's 325, I think, your hook, and
14 the other one's been marked, not offered.

15 (Defendant's Exhibit No. 325 was marked for
16 identification at about 12:52 p.m.)

17 COURTROOM DEPUTY: Judge, I need the plaintiffs'
18 Exhibit No.

19 THE COURT: Actually, it's not marked for plaintiffs.

20 MS. MEYER: You can give it an exhibit number, your
21 Honor.

22 THE COURT: You can give it a number, and maybe you
23 can get it in. I don't know.

24 MS. MEYER: 185.

25 MR. SIMPSON: So we would offer Defendant's 325 as the

1 guide or hook that Mr. Raffo used during his demonstration.

2 THE COURT: All right. The one that Mr. Simpson has,
3 that's more like the guide you were using when you worked at
4 Ringling Brothers?

5 THE WITNESS: Yes, sir.

6 THE COURT: And the one I have in my hand?

7 THE WITNESS: That's probably for someone who looks
8 something shiny and sharp.

9 THE COURT: Aren't they both shiny and sharp?

10 THE WITNESS: Actually, you know, there are a lot of
11 people around who don't even work with elephants but they like
12 to have their bullhook around and they shine it up and make it
13 look like that, hang it on their wall.

14 THE COURT: Now you are training tigers now, correct?

15 THE WITNESS: Yes, sir.

16 THE COURT: Do you use that tool with the tigers?
17 What do you use?

18 THE WITNESS: I use horse whip and bamboo sticks.

19 THE COURT: When you were working with the elephants,
20 how would you prevent an elephant from charging you?

21 THE WITNESS: Well, first of all, the elephants that
22 are used around here are twenty to thirty years old already and
23 they have a routine that they have been doing for years so it's
24 not a concern.

25 And also in my case I'm very confident about my work.

1 I'm sure about what I'm doing, and working with elephants and
2 other animals, the times when accidents happen are when the
3 people are insecure, unsure about themselves, and the animal is
4 trying to test them.

5 THE COURT: So you don't really need the hook then?

6 THE WITNESS: What do you mean? You have the hook as
7 part of the daily routine.

8 THE COURT: Right. But you're telling me there is no
9 way to stop an elephant from charging you, hurting you. So why
10 do you use the hook?

11 THE WITNESS: Because that is what has been used to
12 create a routine and to teach the elephants with. So what I'm
13 trying to say is that we create a routine, whether it's an
14 elephant or any other animal, you say I tell you do this and I
15 give you food. Come here, it's 20, 24 hours a day doing the
16 same routine, eventually the animal develops a habit. It's
17 recorded in their brain. It's the same thing. I've indicated
18 that the animals are intelligent, but we are more intelligent
19 than they are, so we have to figure out a way to control them.

20 THE COURT: So you do use it, this can control an
21 elephant then?

22 THE WITNESS: Not really control, like I want you to
23 come here. You have -- there are wild elephants, wild. You
24 have it separate, who you want. They're not going to bring it
25 to you just like that. You can do whatever you want and nothing

1 you can do with the hook because you create in the brain a
2 routine, it's a daily routine, you know, so they know the
3 routine by a month, a year or later on, so it's do all the time
4 I do the same thing with the dogs, it's the same thing. You can
5 have the best dog in the world, if you put a leash on it he act
6 different. Why I don't know, but that's the way it is. You can
7 not feel -- he feels different. You don't have to pull the dog
8 to wrong, just hurt, no. Any good dog touch all the time and
9 the best friend from you you can put a leash on it, even if you
10 didn't have to because that's the way the animals are. We are
11 the smart ones. They're over here, so we can control them over
12 them. As with us, you know --

13 THE COURT: Could you control the elephants with those
14 bamboo sticks you use with the tigers?

15 THE WITNESS: I did use the bamboo sometimes, yes.

16 THE COURT: With elephants?

17 THE WITNESS: Yes, I did that. I always try different
18 things and try this can work, this can be like that, it can be
19 easy for me to work. I, you know, I always try different things
20 myself. I always try to find a better way to do it.

21 THE COURT: There is a better way than the hook?

22 THE WITNESS: For the elephant?

23 THE COURT: Yes.

24 THE WITNESS: I don't think so there's a better way.

25 THE COURT: No better way?

1 THE WITNESS: I mean, you know, even the bamboo, when
2 I worked with the tigers or with the elephants, it happened to
3 me sometimes, you tell them to move down, trunk up, put it up,
4 and then you make a looking somewhere and then you have a bamboo
5 stick or something, they eat or something, they can't use it
6 anymore, so they're stuck, you're like wait, no more bamboo or
7 whatever. So the best way to do it, not just in the circus, the
8 park zoo, anyplace, you're going to have a hook.

9 THE COURT: I know you're not a veterinarian, you
10 worked with elephants for years. Do you have an opinion as to
11 whether elephants are scared of this hook?

12 THE WITNESS: In my opinion they're not scared of it.
13 They're not scared to anything. You know, the elephant for the
14 size is one of the most gentle animals for their size compared
15 to lions and tigers. So they might be more easy to control.
16 Like dogs do. Some dogs are not the same habits as other dogs.
17 Horses the same thing. Species act different. Some can be
18 training, some can be no trained. Some dogs are better for
19 police people. Some are not. It all depends what kind of
20 character they have, so, I mean, I'm sorry.

21 THE COURT: No, no, you're doing well.

22 THE WITNESS: I'm trying to do my best here. I have
23 to be honest with you. The elephant for the size, with this
24 guide we can control it. I think the elephant more easy to
25 control than the horse. If you ask me why, why. Because the

1 horse, in my opinion it's the animal that a horse treated any
2 country in the world. Why is that? Because not anybody can
3 touch, but you still need a piece of metal and a mount to
4 control it and people don't realize that. Nice. You're shy.
5 It was good. You have to pull to stop it. We don't use it on
6 the elephant or the tigers or anything, but we have to do this
7 on the horse, and the horse anyone can touch. So then with the
8 elephant there's more easy to control than the horse.

9 THE COURT: Any questions?

10 325 is admitted.

11 (Defendant's Exhibit No. 325 was admitted into
12 evidence at about 1:01 p.m.)

13 THE COURT: I'm not sure you laid your foundation for
14 it, but you wanted me to use it for demonstrative purposes
15 anyway, right?

16 MS. MEYER: Actually, your Honor, Mr. Hagen, who
17 testified by videotape, that's the bullhook he used in his
18 testimony and it still bears the exhibit label.

19 THE COURT: Any objection?

20 MR. SIMPSON: Mr. Hagen is not an elephant guy, and,
21 as Mr. Raffo just indicated, he might have used it as a trophy.

22 THE COURT: You can look over your notes. I'm not
23 quite sure about the foundation. For demonstrative purposes
24 I've used it. It served the purpose for that reason, but we can
25 deal with admissibility for a later date. Do you have any

1 questions? I asked a fair number of questions.

2 MS. MEYER: No, I don't, your Honor.

3 THE COURT: Thank you. It's been very helpful. Thank
4 you very much.

5 (Witness excused.)

6 THE COURT: All right. It's lunchtime. We'll have to
7 break until 2:30. I have two civil matters that I have to spend
8 some time on, and I'm going to excuse the interpreters, thank
9 the interpreters.

10 THE INTERPRETERS: Thank you, your Honor.

11 THE COURT: It's been a pleasure.

12 (A luncheon recess was taken at about 1:02 p.m.)

13 - - -
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

WITNESSES:

DANIEL RAFFO

Direct Examination by Mr. Simpson	4
Cross-examination by Ms. Meyer	28
Redirect Examination by Mr. Simpson	56

E X H I B I T S

Defendants'

Exhibit

No.	Identification	Marked	Admitted
324A & 324B			20
32			28
325			72

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
CERTIFICATE

I, JACQUELINE M. SULLIVAN, Official Court Reporter,
certify that the foregoing pages are a correct transcript from
the record of proceedings in the above-entitled matter.

Jacqueline M Sullivan
JACQUELINE M. SULLIVAN