

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

|                           |   |                         |
|---------------------------|---|-------------------------|
| AMERICAN SOCIETY FOR THE  | . |                         |
| PREVENTION OF CRUELTY TO  | . |                         |
| ANIMALS,                  | . |                         |
|                           | . | CA No. 03-2006          |
| Plaintiff,                | . |                         |
|                           | . |                         |
| v.                        | . | Washington, D.C.        |
|                           | . | Tuesday, March 10, 2009 |
| FELD ENTERTAINMENT, INC., | . | 10:13 a.m.              |
|                           | . |                         |
| Defendant.                | . |                         |

. . . . .

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

APPEARANCES:

|                    |   |
|--------------------|---|
| For the Plaintiff: | KATHERINE A. MEYER, ESQ.<br>TANYA SANERIB, ESQ.<br>DELCIANNA WINDERS, ESQ.<br>HOWARD CRYSTAL, ESQ.<br>Meyer, Glitzenstein & Crystal<br>1601 Connecticut Avenue, N.W.<br>Suite 700<br>Washington, D.C. 20009<br>202-364-4092 |
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| For the Defendant: | JOHN SIMPSON, ESQ.<br>LISA JOINER, ESQ.<br>KARA PETTEWAY, ESQ.<br>Fulbright & Jaworski, LLP<br>801 Pennsylvania Avenue, N.W.<br>Washington, D.C. 20004<br>202-662-4504 |
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Court Reporter:

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Official Court Reporter  
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Washington, D.C. 20001  
202-354-3187

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

## P R O C E E D I N G S

1  
2 COURTROOM DEPUTY: Remain seated. This Honorable  
3 Court is again in session. Please come to order.

4 Civil action number 03-2006, American Society For the  
5 Prevention of Cruelty to Animals, et al versus Feld  
6 Entertainment, Incorporated.

7 Counsel, can you identify yourself for the record?

8 MR. CRYSTAL: Good morning, your Honor. Howard  
9 Crystal for the plaintiffs.

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

12 MS. SANERIB: And good morning. Tanya Sanerib for the  
13 plaintiffs.

14 MS. WINDERS: Good morning, your Honor. Delcianna  
15 Winders for the plaintiffs.

16 THE COURT: Good morning.

17 MS. SINNOTT: Good morning, your Honor. Michelle  
18 Sinnott, tech, for the plaintiffs.

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

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

23 MS. JOINER: Good morning, your Honor. Lisa Joiner  
24 for the defendant.

25 MS. STRAUSS: Good morning, your Honor. Julie Strauss

1 for the defendant.

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

4 THE COURT: The exhibit we were discussing at the end  
5 of yesterday's session is indeed an exhibit that the plaintiffs  
6 had marked as an exhibit that plaintiff wanted to introduce in  
7 plaintiffs' case in chief at some point but then changed their  
8 mind about utilizing it, correct?

9 MS. WINDERS: Plaintiffs intended to move in part of  
10 that exhibit and decided not to, so in particular, there's one  
11 part of a column of that exhibit we did not intend to because  
12 it's based on rank hearsay.

13 THE COURT: I'll allow it. During the rebuttal  
14 portion -- there is a witness whose name I can't recall, there  
15 is a witness who can provide some evidentiary for that part, Ms.  
16 Petsal?

17 MR. SIMPSON: Mr. Sawolski.

18 THE COURT: So it's admitted over objection.

19 MS. WINDERS: Can I take a minute just to make a  
20 record on that? I just had a chance last night to go through  
21 and find some of the inaccuracies, so I just want to use one as  
22 an example.

23 If we could go to Plaintiffs' Will Call 35 at page 29.  
24 I'm going to use the example of the elephant Nicole. So here  
25 for the elephant Nicole, it states Nicole's date of birth as

1 1975. In fact, defendants --

2 THE COURT: Step back from the microphone.

3 MS. WINDERS: Sorry.

4 Defendant's 30(b)(6) witness testified at his  
5 deposition that Nicole was born in 1976. Defendant's general  
6 counsel testified at his deposition that Nicole was born in  
7 1976. Defendant's internal records state that Nicole was born  
8 in 1976, and when you look over at the last column for the  
9 materials defendant relied on for this, despite defendant's  
10 suggestion yesterday that these are business records, the first  
11 cite in every single one of the rows in this chart is a  
12 declaration that the defendant prepared for this litigation that  
13 has the case caption on top of it that was prepared for  
14 defendant's summary judgment motion, and the case law clearly  
15 recognizes that this cannot be a business record, so we think  
16 this is absolutely based on rank hearsay and cannot be admitted.

17 THE COURT: What about those, that discrepancy?

18 Is that the only discrepancy?

19 MS. WINDERS: No, there are others. Would you like me  
20 to point out others?

21 THE COURT: What's the relevance? So the date of  
22 birth is off a year. Why is that relevant?

23 MS. WINDERS: It's extremely relevant, your Honor. It  
24 would be very prejudicial, because pre-Act, which are not and  
25 this will probably be litigated on appeal, and the difference

1 between whether an elephant was born in 1975 or 1976 can make  
2 all the difference on that issue, and we think defendant --

3 THE COURT: Why? Why?

4 MS. WINDERS: Because the Act provides that -- I can  
5 pull the language out if you give me a minute.

6 The Asian elephant was listed as endangered on June  
7 14th, 1976, and there's an explicit statutory presumption that  
8 an elephant was not held in captivity on the date necessary for  
9 the grandfather clause to apply, which is the date it was  
10 listed, that it would not be considered held in captivity, and  
11 defendant is representing that these are pre-Act elephants. And  
12 defendant simply hasn't presented the best evidence to show  
13 this. Indeed they're relying on a declaration prepared for  
14 litigation.

15 THE COURT: Mr. Simpson, what about that last point?  
16 It sounded relevant, isn't it?

17 MR. SIMPSON: Well, the trigger date is June 14th,  
18 1976, and Nicole's medical records indicate she was born on  
19 January 1, 1976, so the difference between January 1, '76 --

20 THE COURT: She was born in '75, though?

21 MR. SIMPSON: Well, there's another document that also  
22 records it as '75. At the end of the day it's immaterial.

23 THE COURT: What about the witnesses, did they testify  
24 she was born in '76?

25 MR. SIMPSON: And they pegged it to the medical record

1 date of January 1. This declaration was by Gary Jacobson.

2 THE COURT: It may take a little longer. If you make  
3 an evidentiary record I'll vacate what I just said about  
4 admitting that document. Lay your evidentiary basis for this  
5 chart to come up.

6 MR. SIMPSON: I will. But I just want to make one  
7 more point. This declaration she's highlighted here, that  
8 information in the record is in the record also through the  
9 30(b)(6) deposition of Gary Jacobson that they offered in, so  
10 that information is already in the in --

11 THE COURT: To the extent there's information that  
12 they've not offered in the record that defendants want to have  
13 part of the evidentiary record later, then lay your evidentiary  
14 foundation for that additional information. If it's all right  
15 there it's all right there.

16 MR. SIMPSON: I will.

17 THE COURT: Unless the parties disagree about what's  
18 already there.

19 MR. SIMPSON: She made this argument about Jacobson,  
20 but his declaration was simply tracked in his deposition. They  
21 went over the same elephants in that deposition.

22 THE COURT: It's a nonjury proceeding. I don't want  
23 to close my eyes to relevant information. To the extent it's  
24 there it's there and there's no need to duplicate it and require  
25 the defendants to provide an independent basis also. That's

1 already been introduced. If there's new evidence in this chart  
2 that's not heretofore been admitted into the evidentiary record,  
3 and defendant believes it's competent evidence to support its  
4 admissibility, be my guest and admit it and I'll rely on it.

5 MR. SIMPSON: All right.

6 THE COURT: All right.

7 MS. WINDERS: I also just wanted to state for the  
8 record that with regard to the other exhibits that the  
9 plaintiffs had listed that defendant tried to move in yesterday,  
10 Plaintiffs' Will Call 86, these are for the most part the same  
11 documents.

12 THE COURT: I've already ruled. I've issued my  
13 ruling. To the extent that portions of either record are  
14 already in the evidentiary -- already admitted into evidence and  
15 there's no need for defendant to do anything else, it's in the  
16 evidentiary record, and I'll give it whatever weight, if any,  
17 that's appropriate. To the extent that there are portions of  
18 that other document that they wish to introduce, they'll have to  
19 lay an appropriate evidentiary basis for it.

20 MS. WINDERS: Just to be clear, that applies to both  
21 exhibits at issue?

22 THE COURT: Absolutely, yes.

23 MS. WINDERS: Thank you.

24 THE COURT: All right. Let's proceed.

25 MR. SIMPSON: Defendant calls Lisa Weisberg.



1           COURTROOM DEPUTY: Witness, please raise your right  
2 hand.

3           Do you solemnly swear that the testimony you're about  
4 to give in this case now before the Court will be the truth, the  
5 whole truth and nothing but the truth so help you God?

6           THE WITNESS: Yes, I do.

7           COURTROOM DEPUTY: Thank you. Please be seated.

8           THE COURT: Good morning.

9           THE WITNESS: Good morning.

10           **LISA WEISBERG, ESQ., WITNESS FOR THE DEFENDANT, SWORN**

11                           DIRECT EXAMINATION

12 BY MR. SIMPSON:

13 Q. Good morning.

14 A. Good morning.

15 Q. Would you state your name for the record, please?

16 A. Lisa Weisberg.

17 Q. Are you currently employed?

18 A. No.

19 Q. Were you at one time employed by the American Society For  
20 the Prevention of Cruelty to Animals?

21 A. Yes, I was.

22 Q. When did that employment end?

23 A. June 6th of 2008.

24 Q. How are you currently employed?

25 A. I'm currently not employed, but I continue to represent the

1 ASPCA in this case as special legal consultant.

2 Q. All right. When this case was -- well, when you were  
3 before you left your employment with ASPCA, were you designated  
4 as the, and when I refer to ASPCA, we understand American  
5 Society For Prevention of Cruelty to Animals, correct?

6 A. Yes.

7 Q. You were the ASPCA's designated representative in this  
8 case, correct?

9 A. That's correct.

10 Q. You were also their 30(b)(6) witness; is that right?

11 A. That's correct.

12 Q. You supervised the ASPCA's document production; is that  
13 right?

14 A. That's correct.

15 Q. You supervised their Answers to Interrogatories, correct?

16 A. Yes.

17 Q. And you verified those Interrogatories, correct?

18 A. Yes.

19 Q. And in the evidentiary hearing that was held earlier in  
20 2008, February 2008, you were ASPCA's corporate representative,  
21 correct?

22 A. That's correct.

23 MR. SIMPSON: Your Honor, I request the ability to  
24 treat this as an adverse witness pursuant to Rule 611(c).

25 THE COURT: I think counsel's entitled to do that.

1 Are there objections?

2 MR. CRYSTAL: No objection.

3 THE COURT: Proceed, counsel.

4 BY MR. SIMPSON:

5 Q. It's true, is it not, Ms. Weisberg, that ASPCA opposes  
6 animals in the circus?

7 A. That's true.

8 Q. It's also true that ASPCA believes that there should be no  
9 elephants in any circus?

10 A. I think we need to qualify that. The ASPCA's position on  
11 animals in circuses is that if it is a traveling circus and if  
12 pain and cruelty is inflicted on the animal to train it to  
13 perform for human entertainment, we are opposed to that.

14 Q. Now, Ms. Weisberg, you were asked that same question in  
15 your deposition in 2004, were you not?

16 A. I believe so.

17 Q. And at the time you gave that deposition you were under  
18 oath; is that true?

19 A. That's true.

20 Q. And when you appeared at that deposition you appeared as  
21 the Rule 30(b)(6) witness for the corporation, isn't that right?

22 A. Yes.

23 Q. Let me show you, if I could, page 29 of your deposition,  
24 line one. The question was: So is it the ASPCA's position that  
25 there should be no elephants in any circus? And the answer was:

1 Correct.

2 A. That's true.

3 Q. And that was the position of the ASPCA on the date this  
4 deposition was taken in 2005, isn't that correct?

5 A. That's correct.

6 Q. Now, it's also the ASPCA's position that the bullhook  
7 should never be used on an elephant, isn't that correct?

8 A. Yes.

9 Q. And in fact, ASPCA seeks an order in this case prohibiting  
10 all use of the bullhook by Ringling Brothers?

11 A. Yes.

12 Q. ASPCA also seeks an order in this case prohibiting Ringling  
13 Brothers from restraining its elephants in any way, isn't that  
14 right?

15 A. That's correct.

16 Q. ASPCA seeks an order in this case to take Ringling  
17 Brothers' elephants out of the circus, isn't that right?

18 A. Well, if they're going to continue to use the bullhook and  
19 chain them for the lengths of time that they do, yes.

20 Q. You want them out of the circus, correct?

21 A. Under those circumstances, yes.

22 Q. Do you know what free contact is?

23 A. Yes.

24 Q. ASPCA is against free contact, even in zoos, isn't that  
25 true?

1 A. If it inflicts harm on the animal, yes, we are.

2 Q. Well, you didn't qualify it like that when we asked you  
3 that question in 2005, did you?

4 A. Well, I'm not changing my position. I'm just clarifying  
5 our position.

6 Q. You stated under oath in 2005 that ASPCA was against free  
7 contact, without any qualification, didn't you?

8 A. That remains the same.

9 Q. Now, it's true, is it not, that ASPCA's view is that the  
10 circus provides no educational value whatsoever, correct?

11 A. That's absolutely true.

12 Q. And you don't believe that if a child sees a circus, a  
13 child will become interested in animals, correct?

14 A. Correct.

15 Q. You also don't believe that if a child sees animals in a  
16 circus, a child will form a greater respect for animals, isn't  
17 that also true?

18 A. That's true.

19 Q. You don't think that people should attend a circus that has  
20 elephants that perform, correct?

21 A. Correct.

22 Q. Now, there came a point, did there not, ma'am, when you got  
23 involved with a piece of pending legislation in Massachusetts  
24 that would ban elephants and other wild animals in the circus?

25 A. Yes.

1 Q. And that bill would have excluded, however, zoos, isn't  
2 that true?

3 A. Yes, that's true.

4 Q. And the zoos that ASPCA itself supports, correct?

5 A. I'm not sure what you mean by that.

6 Q. Well, it excluded the zoos that you approved of, correct?

7 A. Yes.

8 Q. It's ASPCA's position that captive populations of Asian  
9 elephants have no research value unless they're returned to the  
10 wild, isn't that true?

11 A. There's the issue of the propagation of the species to  
12 return them to wild, as well as for conservation purposes.

13 Q. But it's your organization's position that a captive Asian  
14 elephant has no useful conservation purpose at all unless it is  
15 in fact returned to the wild, correct?

16 A. If it can be returned to the wild. I mean, things are a  
17 bit different today. There is social unrest in some countries  
18 where elephants are native to, but for the most part that  
19 position remains the same.

20 Q. Let me show you, ma'am, your deposition in 2005 at page  
21 147, line 16. The question was: Does ASPCA have a position on  
22 the value of Ringling Brothers -- excuse me. Wrong page.  
23 145; line 9. Does the ASPCA have a position regarding  
24 the research value of the captive populations of Asian  
25 elephants?

1           Answer:  Yes.

2           And what is that policy?

3           Only if it's for conservation purposes where the  
4 species is going to be re-introduced into the wild.

5           Question:  So that there is only -- I'm going to ask  
6 you if this is a correct paraphrasing of what you just said.  So  
7 it's the ASPCA's position that the only research value of  
8 captive populations of Asian elephants is in situations where  
9 those captive populations may be re-introduced to the wild?

10          Answer:  Correct.

11          Did I read that correctly?

12         A.  Yes.

13         Q.  You also are familiar, are you not, with Ringling Brothers'  
14 Center For Elephant Conservation?

15         A.  Yes, I am.

16         Q.  You've heard about that?

17         A.  Yes.

18         Q.  And you don't believe that that serves any conservation  
19 purpose at all, do you?

20         A.  No, I don't.

21          May I explain why?

22          THE COURT:  Sure, you can.

23          THE WITNESS:  The propagation of those elephants are  
24 to produce new babies to be trained for the circus, and that's  
25 the reason why.  It's not to be re-introduced into the wild.

1 BY MR. SIMPSON:

2 Q. Is it your understanding that every elephant born at the  
3 CEC actually performs in the circus?

4 A. Well, certainly that's the intention. Whether or not they  
5 are able to perform or not is a different question.

6 Q. Well, you're aware that some of the elephants in the CEC  
7 are not performing elephants, correct?

8 A. That may be, but they're certainly not being re-introduced  
9 into the wild.

10 Q. So if they're not performing in the circus, they're not  
11 going to be re-introduced into the wild, what's supposed to  
12 happen to them?

13 A. I don't know. Maybe Ringling Brothers should tell us.

14 THE COURT: Maybe they should do what?

15 THE WITNESS: I said, maybe Ringling should tell us.

16 BY MR. SIMPSON:

17 Q. Now, when you were deposed in 2005 you were asked a series  
18 of questions about the then-current policies of the ASPCA. Do  
19 you recall that?

20 A. Yes.

21 Q. And those policies are in written form, isn't that correct?

22 A. Yes, they are.

23 Q. Let me direct your attention, ma'am, to Defendant's Exhibit  
24 45. You recognize this document as the policy and position  
25 statements of ASPCA?



1 A. Yes.

2 Q. These are exhibited in your deposition?

3 A. Yes, they were.

4 Q. And these were then current at the time?

5 A. Yes.

6 Q. That was in 2005?

7 A. I believe so.

8 Q. Now, let me direct your attention, ma'am, to page seven,  
9 actually page ten of this exhibit, PDF page ten, which is part  
10 of the zoo policy, and this is item ten. And it says, A zoo's  
11 mission should be to instill an appreciation and respect for  
12 animals and their environment. Animals should not be taken from  
13 the wild except in cases where species preservation is involved.  
14 Do you see that sentence?

15 A. I do, yes.

16 Q. And that use of the word "taken" means what?

17 A. Well, I think it means to be retrieved from the wild.

18 Q. It means taking animals out of the wild, doesn't it?

19 A. Yes.

20 Q. And there's no other reference in this zoo policy, is  
21 there, to "take" being used as a standard of welfare for captive  
22 animals, isn't that true?

23 A. If you're comparing it to the word "take" in the Endangered  
24 Species Act, there are two different meanings.

25 Q. But this policy doesn't use "take" with respect to zoo

1 animals in any sense other than removing animals from the wild,  
2 isn't that true?

3 A. Removing animals from the wild where they're endangered or  
4 threatened in order to captively breed them to return them to  
5 the wild.

6 Q. Well, is there some place else in the zoo policy that  
7 refers to "take" as being applicable to captive elephant  
8 welfare?

9 A. In the ASPCA's policy?

10 Q. Yes.

11 A. I don't know. I'd have to read all the position  
12 statements.

13 Q. I'm just talking about the zoo policy. Do you want to look  
14 at the whole zoo policy?

15 A. Can you repeat your question again?

16 Q. There's nothing in this zoo policy in which ASPCA uses the  
17 word "take" --

18 A. Correct.

19 Q. -- as a standard for captive Asian elephant welfare, isn't  
20 that true?

21 A. I believe so.

22 Q. Now if I could direct your attention to page eight of this  
23 same zoo policy, item three. ASPCA here makes reference to  
24 standards sets by the American Zoo and Aquarium Association. So  
25 did ASPCA regard the AZA standards as appropriate standards?

1 A. As the minimum standards.

2 Q. As minimum standards. And you're aware, are you not, that  
3 AZA standards permit the chaining of elephants for at least  
4 twelve hours a day, aren't you?

5 A. Well, yes, I do. However, our policy, when we refer to AZA  
6 guidelines here, we're talking generally in nature. In terms of  
7 our position on chaining, it should be for very limited periods  
8 of time and only for veterinarian purposes.

9 Q. That's not stated in here, is it?

10 A. No, it's not, but certainly in other position statements we  
11 talk about chaining.

12 Q. Now if I could direct your attention in this same exhibit  
13 to the exotic pet policy at page three. And here are sentence  
14 appears, No animal taken from the wild should be kept as a pet?

15 A. That's correct.

16 Q. That's a correct statement?

17 A. That's correct.

18 Q. And here ASPCA uses the verb "take" as removing it from the  
19 wild, isn't that true?

20 A. That's true.

21 Q. If I could turn your attention, ma'am, in this same exhibit  
22 to page five, the circus policy. And here it is stated that,  
23 ASPCA does not believe it is possible to maintain wild and  
24 domestic animals on the road for a full circus season without  
25 inflicting abuse on the animals. Did I read that correctly?

1 A. Yes, you did.

2 Q. And that's the policy that existed in '05?

3 A. Yes.

4 Q. That's the policy that exists today?

5 A. Yes.

6 Q. Is that correct?

7 A. Yep.

8 Q. And you don't believe that animals can be trained to do  
9 tricks unless they're abused, correct?

10 A. Correct.

11 Q. But you also say in this policy in the last sentence, While  
12 animals continue to be used legally, we will strive to reduce  
13 stress and cruelty in all cases. Did I read that correctly?

14 A. Yes.

15 Q. So ASPCA basically states in this policy that circus  
16 animals are in the circus legally, isn't that true?

17 A. They may be. However, that doesn't mean that other laws  
18 should not be complied with.

19 Q. But you don't make any reference in your circus policy to  
20 the fact that Asian elephants in a circus are being taken, do  
21 you?

22 A. In this instance we are.

23 Q. In this policy we just read, where does it say that? It  
24 doesn't say it, does it?

25 A. Taking in the sense that the animals are chained for long

1 periods of time and the use of the bullhook. I mean, certainly  
2 there is other stresses involved with elephants that are kept in  
3 the circus and are traveling on the road, so that's what that  
4 refers to, is reducing stress and cruelty.

5 Q. You don't make reference in here to the fact that ASPCA  
6 believes that Asian elephants in a circus are being taken  
7 illegally under the Endangered Species Act?

8 A. Well, we certainly believe it in this case.

9 Q. You may believe it in this case, but you didn't put it in  
10 your policy, did you?

11 A. The policy is very general in nature.

12 Q. And this policy was adopted or was in effect at least as of  
13 2005, isn't that true?

14 A. That's true.

15 Q. And that's what, five years after this lawsuit was filed,  
16 isn't that right?

17 A. Yes.

18 Q. In fact, all of these policies were in effect for five  
19 years after this lawsuit was filed, correct?

20 A. Well, our policies have been in effect for over 140 years,  
21 and they remain constant.

22 Q. If I could also refer you to page eighteen of this same  
23 exhibit. Here the ASPCA states its position on endangered  
24 species and other wildlife. Do you see that?

25 A. I do, yes.

1 Q. Is that a correct statement of ASPCA's policy in 2005?

2 A. Yes.

3 Q. Is it a correct statement today?

4 A. Yes.

5 Q. There's no reference in here made, is there, to circus  
6 elephants being taken, is there?

7 A. No.

8 Q. There's no reference in here that the Endangered Species  
9 Act applies to captive animals, isn't that true?

10 A. That's true. But I'm not sure what the point is. I mean,  
11 our policies stand on their own, and certainly they are a  
12 framework under which guides our mission and our work.

13 Q. ASPCA here supports the bans on traffic, correct?

14 A. Correct.

15 Q. And the provisions to protect habitat, correct?

16 A. Yes.

17 Q. But no mention is made of taken captive animals, is there?

18 A. No.

19 Q. Ms. Weisberg, ASPCA has the current policy stated on its  
20 website, does it not?

21 A. Yes.

22 Q. And those policies are effective as to today, 2009?

23 A. Yes.

24 Q. ASPCA still doesn't say in the circus policy that Asian  
25 elephants in the circus are being taken, isn't that true?

1 A. Certainly we do in this lawsuit.

2 Q. You don't say it in the policy that the ASPCA has put on  
3 its website for the entire world to read, though, do you?

4 A. Well, not all Asian elephants may be taken under the ESA,  
5 but certainly that still remains our position in terms of the  
6 Ringling Brothers operation.

7 Q. Let me show you a document, a print out of the website  
8 ASPCA, website, ASPCA.org as of February 7th, 2009 and turn you  
9 to page two of that document. Do you recognize this as ASPCA's  
10 policy on circus and traveling shows?

11 A. Yes.

12 Q. And here the reference is made to using ASPCA's as opposed  
13 to using wild exotic or nonnative animals, isn't that correct?

14 A. Yes.

15 Q. No where in here do you say, do you, that these animals, if  
16 they're used in a circus and they're endangered, they're going  
17 to be taken under the Endangered Species Act, do you?

18 A. Well, we say when they're taken from the wild and captive.  
19 Broad.

20 Q. There's nothing here about handling with the bullhook and  
21 chains being a taking, isn't that true?

22 A. That's true. However, there are other ways. There are  
23 many ways to inflict stress and cruelty and physical abuse on  
24 animals. The bullhook is one of them.

25 Q. Well, don't you think it's important for the public to know

1 what your position in this lawsuit is when they go to your  
2 website and look at your circus and traveling shows policy?

3 A. Yes. I think it's very clear.

4 Q. Do you have any other lawsuit pending on this subject?

5 A. No. The ASPCA is not in the business of suing companies.

6 Q. Your policy also indicates that exotic should not be  
7 breeding, exotic should not be allowed unless they're returned  
8 to the wild, correct?

9 A. That's correct.

10 Q. So isn't it possible that if you oppose breeding and if  
11 Asian elephants disappeared in the wild because their habitat is  
12 destroyed, that your policies are going to lead to the  
13 extinctment of the species?

14 A. No. It is possible that the current situation today in  
15 some parts of the world, it may not be possible to re-introduce  
16 certain animals back into their native habitat, which is why we  
17 do support the breeding, captive breeding of animals to be kept  
18 in zoos, assuming that they at least comply with minimum  
19 standards of AZA and they're provided a humane existence  
20 resembling as much of their native habitat as possible.

21 Q. Let me go to the next page of this same website. Here is  
22 the ASPCA's position on the endangered species, isn't that  
23 correct?

24 A. Yes.

25 Q. And this is as of today, correct?



1 A. Yes.

2 Q. And this still makes no reference to the concept that an  
3 Asian elephant can be taken under the Endangered Species Act,  
4 isn't that true?

5 A. Yes.

6 Q. ASPCA doesn't own any Asian elephants, correct?

7 A. Correct.

8 Q. It's never bred one?

9 A. No.

10 Q. It's never cared for one, isn't that true?

11 A. To my recollection, yes.

12 Q. And at the time this lawsuit was filed in July of 2000,  
13 ASPCA had no knowledge of any of the facts alleged in the  
14 complaint about elephant abuse other than what your lawyers told  
15 you and other than what Tom Rider told you, isn't that true?

16 A. That's probably true.

17 Q. Well, it is true, isn't it?

18 A. Well, certainly we are aware of some of the abuses that  
19 occur in training exotic animals to perform on command. I can't  
20 tell you when we became aware of that, but certainly when it  
21 comes to Ringling Brothers' operations we most definitely had  
22 solid evidence of that occurring at Ringling Brothers.

23 Q. Let me refer you to your deposition at page 26, line 4.  
24 The question was: Have you -- how did the ASPCA learn of the  
25 abuses alleged in the complaint?

1 Answer: From Tom Rider primarily, and our attorneys.

2 Question: Did you learn of them from any other  
3 groups?

4 Answer. No.

5 Question: Any other witnesses?

6 Answer: No.

7 Did I read that correctly?

8 A. Yes.

9 Q. And when the ASPCA sued Ringling Brothers in July of 2000,  
10 you knew that you were suing an institution and that were you  
11 going out on a limb by doing so, isn't that correct?

12 A. Going out on a limb how so?

13 Q. Isn't that how you described it at the time this lawsuit  
14 was filed?

15 A. I don't believe I described it as going out on a limb.  
16 Certainly we took the prospect of engaging in this lawsuit very  
17 seriously. Again, we are not in the business of suing  
18 corporations, especially ones as established as Feld  
19 Entertainment.

20 Q. Well, let's look at Plaintiffs' Exhibit 94A, page 230,  
21 which is in evidence. And this is from, if we could go back to  
22 the page before just to give a context, this is a September 10,  
23 2003 article that was attached to an e-mail from Michael Maree  
24 and to Tashi Meadows at Fund.org. This is in the Kansas City  
25 Star.

1           Okay. Pull that out, please.

2           And here the statement is made, quote: We don't go  
3 around suing people, quote, Weisberg said. Quote: This was a  
4 very serious decision on our part. They, (Ringling), are an  
5 institution. We're going out on a limb here, but we're for the  
6 prevention of cruelty to all animals. Close quote. Did I read  
7 that correctly?

8       A. Yes.

9       Q. Did you in fact say that at the time?

10      A. Yes, I did.

11      Q. Now, ASPCA has complained, have they not, to the United  
12 States Department of Agriculture about Ringling Brothers' use of  
13 the bullhook?

14      A. Yes, we have.

15      Q. And that has not resulted in any enforcement action by USDA  
16 against Ringling Brothers, isn't that correct?

17      A. For the most part, yes.

18      Q. There has been no such action, isn't that right?

19      A. Well, certainly the inspectors have cited Ringling for  
20 various violations.

21      Q. You don't know of an enforcement action that was brought by  
22 USDA against Ringling as a result of ASPCA's complaints, do you?

23      A. No, I don't.

24      Q. And you've also complained in general to the Fish and  
25 Wildlife Service about how Ringling's elephants are treated, and

1 that hasn't resulted in enforcement action either, isn't that  
2 true?

3 A. Yes.

4 Q. Now, Ms. Weisberg, let me refer you to --

5 MR. SIMPSON: By the way, your Honor, before I forget,  
6 I want to offer Defendant's 45, which is those policy and  
7 position statements.

8 THE COURT: Any objection?

9 MR. CRYSTAL: No objection.

10 THE COURT: Admitted.

11 (Defendant Exhibit No. 45 was admitted into evidence  
12 at about 12:45 p.m.)

13 BY MR. SIMPSON:

14 Q. Let me refer you, ma'am, to Exhibit 47, which were marked  
15 as Exhibit 11 to your deposition. Do you recognize this as the  
16 bylaws of the ASPCA?

17 A. Yes.

18 Q. Let me refer you, if I could, to page seven, paragraph one,  
19 Article VIII, which refers to special agents. Do you see that,  
20 ma'am?

21 A. Yes.

22 Q. And this is the statutory authority, is it not, for the  
23 ASPCA's humane law enforcement officers?

24 A. Yes.

25 Q. And this is a law that exists in -- let me back up.

1                   You're a licensed attorney, correct?

2       A.    Yes.

3       Q.    And you're licensed in New York?

4       A.    Correct.

5       Q.    And you're a member in good standing in New York, correct?

6       A.    Yes.

7       Q.    And when you worked for ASPCA, you had occasion to apply  
8       this law, isn't that right?

9       A.    Yes.

10      Q.    And you're familiar with this law, correct?

11     A.    Yes.

12     Q.    And this law is basically a law that was passed to enable  
13     ASPCA to investigate claims of animal cruelty, correct?

14     A.    Correct.

15     Q.    And these agents are designated as peace officers under New  
16     York state law, correct?

17     A.    Yes.

18     Q.    And that's the same essentially as a New York City police-  
19     man, correct, same basic stature?

20     A.    Well, we're restricted to enforcing laws relating to  
21     animals.

22     Q.    Right. But in that area of animal cruelty, your humane law  
23     enforcement officers are basically cops, aren't they?

24     A.    They're specialized police officers, correct.

25     Q.    Like a state trooper, same stature, they're peace officers

1 under New York law, isn't that correct?

2 A. Correct, yes.

3 Q. And this law was passed in 1866, wasn't it?

4 A. Yes.

5 Q. And this law set up ASPCA and has been your charter ever  
6 since, isn't that right?

7 A. Correct, yes.

8 Q. Now let me go to paragraph or page eight, paragraph four of  
9 this same article. This sets out the actions and so forth that  
10 the special agents can take, isn't that correct?

11 A. Correct.

12 Q. And they can may lawful arrests, is that true?

13 A. Yes.

14 Q. They can issue summonses and appearance tickets, correct?

15 A. Yes.

16 Q. They can seek and obtain warrants, isn't that right?

17 A. Yes.

18 Q. They can execute on the warrants, correct?

19 A. Yes.

20 Q. And they can refer a criminal complaint, right?

21 A. Correct, yes.

22 Q. Under all of which they can do under New York state law  
23 regarding animal cruelty, correct?

24 A. Yes.

25 Q. Your humane law enforcement officers carry firearms, do

1 they not?

2 A. They do.

3 Q. And they're provided a training course that ASPCA sponsors,  
4 correct?

5 A. Yes.

6 Q. They're also provided with continuing education under New  
7 York law, correct?

8 A. Yes, yes.

9 Q. Now, the law that these HLEs, if we can call them that for  
10 short for --

11 A. Sure.

12 Q. -- for abbreviation purposes, the law that these HLEs  
13 enforce, is Article 26 of the New York State Agricultural and  
14 Markets law, correct?

15 A. For the most part. They also enforce other laws, like the  
16 New York Health Code and the New York City Carriage Horse laws.

17 Q. But with respect to animal cruelty, isn't that Article 26  
18 that I just referenced?

19 A. Yes, that's correct.

20 Q. And that's law that you're familiar with, are you not?

21 A. Yes.

22 Q. And you've had occasion to apply it in the course of your  
23 employment with ASPCA, correct?

24 A. Well, certainly to advise the agents of how to apply the  
25 law, yes.

1 Q. But you're familiar with that statute, correct?

2 A. Yes.

3 Q. Let me refer you to Section 30 or 35 of that law, which is  
4 the definitional section, and I want to refer your attention,  
5 ma'am, to Section 2 where it defines torture and cruelty as  
6 including every act, omission, or neglect, whereby unjustifiable  
7 physical pain, suffering or death is caused or permitted. Do  
8 you see that definition?

9 A. Yes.

10 Q. Wouldn't it be ASPCA's position that the use of a bullhook  
11 on an Asian elephant would satisfy the definition of torture or  
12 cruelty?

13 A. Yes.

14 Q. Wouldn't it be ASPCA's position that the chaining in the  
15 Asian elephant in the manner in which you think Ringling  
16 Brothers does it would satisfy this definition of torture and  
17 cruelty?

18 A. Yes.

19 Q. Let me refer you, ma'am, to section 35 of this same law.  
20 The first sentence states, A person who overdrives, overloads,  
21 tortures or cruelly beats or unjustifiably injures, maims,  
22 mutilates, or kills any animal can be subject to various  
23 sanctions. Correct?

24 A. Correct.

25 Q. And isn't it ASPCA's view that the use of the guide



1 satisfies that prohibition or violates that statute?

2 A. Correct.

3 Q. And isn't it your position that the use of chains violates  
4 that statute?

5 A. Correct.

6 Q. Let me refer you to Section 369 of this same law. It this  
7 is entitled Interference With Officers. It's true, is it not,  
8 under this section that it's a misdemeanor, punishable by  
9 imprisonment for not more than a year or a fine of not more than  
10 a thousand dollars to interfere with an HLE in the execution of  
11 his or her duties?

12 A. Yes.

13 Q. Let me refer you to Section 371. This states the Powers of  
14 Peace Officers, correct?

15 A. Yes.

16 Q. And this is the statutory basis for the humane law  
17 enforcement officers' powers, isn't that correct?

18 A. That's correct.

19 Q. And this basically tracks the same functions that are set  
20 forth in your bylaws, true?

21 A. Yes.

22 Q. In fact, this is what your bylaws are drawn from; is that  
23 right?

24 A. That's right. That's right.

25 Q. And let me refer you to Section 372. And this is the

1 provision that states what a humane law enforcement officer has  
2 to do to get a warrant, correct?

3 A. That's right.

4 Q. He's got to go in and -- he or she's got to go in to a  
5 magistrate judge and show probable cause to get that warrant,  
6 correct?

7 A. That's right.

8 Q. Once they have that warrant, then they can descend on  
9 someone suspected of animal cruelty and inspect, isn't that  
10 correct?

11 A. Yes, that is.

12 Q. And seize those animals, correct?

13 A. If necessary, yes.

14 Q. If necessary, right. They don't need to call in advance  
15 and say they're coming, correct?

16 A. Correct.

17 Q. They just show up and kick the door in, right?

18 A. Correct.

19 Q. Now --

20 THE COURT: Not always, do they? They show up.

21 MR. SIMPSON: They show up.

22 THE COURT: And announce their presence.

23 Go right ahead. I'm sorry. I didn't mean to  
24 interrupt.

25 BY MR. SIMPSON:

1 Q. Now, Ms. Weisberg, ASPCA -- you can take that down,  
2 Derrick.

3 ASPCA humane law enforcement officers are authorized  
4 by these laws that we just went over and your own bylaws to  
5 inspect the Ringling Brothers circus, correct?

6 A. Correct.

7 Q. And they can do that any time the show comes to New York,  
8 isn't that right?

9 A. Under the restrictions of the law, correct.

10 Q. And they come in both the Red Unit and the Blue Unit,  
11 you're aware, come to New York City every year, correct?

12 A. Yes.

13 Q. Or every other year. In other words -- let me say it  
14 again. Every year there's going to be a circus, a Ringling  
15 Brothers circus in New York at Madison Square Garden, correct?

16 A. Yes.

17 Q. It's either Blue one year or Red the next, right?

18 A. I believe so. I don't know for sure.

19 Q. That's also the case for the Nassau coliseum, correct?

20 A. I believe so.

21 Q. ASPCA law enforcement officers have jurisdiction over  
22 Ringling Brothers when it's at Madison Square Garden, correct?

23 A. Yes.

24 Q. And the Nassau Coliseum, correct?

25 A. Yes.

1 Q. Now, in order to do an inspection, the HLE would need to do  
2 one of two things: get consent from the company to come in and  
3 inspect the animals, correct?

4 A. Correct.

5 Q. Or get a warrant?

6 A. Correct.

7 Q. Those are the two ways to do it, right?

8 A. Yes.

9 Q. And to get a search warrant, they'd have to go through that  
10 same provision, or to get a warrant, they'd have to go through  
11 that same provision that we just covered, correct?

12 A. Yes. They would need probable cause.

13 Q. All right. Now, it's true, is it not, that the ASPCA's  
14 humane law enforcement officers inspected Ringling Brothers  
15 circus on more than one occasion?

16 A. Yes.

17 Q. In fact, they've inspected them on many occasions, isn't  
18 that right?

19 A. Yes, they have.

20 Q. And these inspections have included the Asian elephants,  
21 correct?

22 A. Yes.

23 Q. And they've had the opportunity, they, your HLE, have had  
24 the opportunity to observe the Asian elephants on the animal  
25 walks, correct?

1 A. Yes.

2 Q. They've had the occasion to observe the animals as they're  
3 kept in the various venues, such as Madison Square Garden and  
4 the Nassau Coliseum, correct?

5 A. Yes, but on a prearranged basis.

6 Q. They've had an opportunity to see those elephants on  
7 chains, correct?

8 A. Yes, they have.

9 Q. They've had an opportunity to see those elephants handled  
10 with a bullhook, correct?

11 A. No, not necessarily. They're only allowed in on the  
12 prearranged basis and that is not when the training occurs so  
13 they don't see the actual use of the bullhook.

14 Q. Well, some of your HLEs have been on animal walks, have  
15 they not?

16 A. They have observed from a distance and it's dark out when  
17 they -- it's nighttime when they go through the tunnel, so it's  
18 difficult to see certainly between the darkness and the distance  
19 any use of bullhooks.

20 Q. They've actually gone on the walks, have they not, as  
21 escorts?

22 A. Not as escorts, no.

23 Q. You don't know that?

24 A. No, I don't believe so.

25 Q. All right. And some of these inspections have been

1 conducted, have they not, while this lawsuit was pending?

2 A. Yes.

3 Q. And as a result of all of these inspections, your HELs have  
4 never found Ringling Brothers in violation of any New York anti  
5 cruelty law, isn't that correct?

6 A. They have not observed the kind of mistreatment that we're  
7 talking about in this lawsuit, and again, the reason for that is  
8 because they are prearranged inspections that need to be -- the  
9 logistics need to be worked out between our agents and Ringling,  
10 and Ringling always has an employee or an official from Ringling  
11 to accompany our agents on the inspection. And we are also, the  
12 agents are kept at a fair distance from actually inspecting each  
13 individual elephant so they're not going to see the actual use  
14 of the bullhook, nor are they necessarily going to see any of  
15 the wounds or lesions or open sores that are caused by the  
16 bullhook.

17 Q. All right. But the question was: They have not found any  
18 violation of New York law with respect to Ringling Brothers,  
19 have they?

20 A. No.

21 Q. All right. Now, you say that the only way to do this is to  
22 set up an appointment with the company and come in in a  
23 leisurely pace and do an inspection from a distance, correct?

24 A. Correct.

25 Q. But you could go -- these people could go to a magistrate

1 judge and get a warrant and show up and do whatever they want,  
2 isn't that right?

3 A. No. But they can't get the warrant because they don't have  
4 an opportunity to actually witness the use of the bullhook to  
5 establish probable cause.

6 Q. Well, ASPCA has conducted discovery in this case, has it  
7 not?

8 A. Yes.

9 Q. And they've gotten how many thousands of records from  
10 Ringling Brothers?

11 A. Several thousand pages of records. I believe that's true,  
12 that's correct.

13 Q. And you've read the depositions in this case, have you not?

14 A. Yes, but that's not the basis for -- for establishing  
15 probable cause to get a search warrant to enter in, you know.  
16 It's a different kind of standard, that the district attorneys  
17 need the evidence at hand.

18 Q. So the evidence that you've amassed in this case doesn't  
19 constitute probable cause to get a warrant under the New York  
20 anti cruelty law?

21 A. Well, I don't know. Maybe that's something that we should,  
22 you know, we should pursue.

23 Q. You've never tried, though, have you?

24 A. No, we haven't.

25 Q. So the statement that you can't do these inspections isn't

1 correct, is it?

2 A. We inspect the animals to at least make sure that they're  
3 provided with food and water, sanitary conditions, and proper  
4 shelter.

5 Q. But you also have access to people like Tom Rider who can  
6 tell you where to look, right? Isn't he one of your co-  
7 plaintiffs in this case?

8 A. Yes.

9 Q. And you have access to Carol Buckley, correct, she's one of  
10 the experts in this case?

11 A. Yes.

12 Q. Both of these people could tell your people where to go  
13 look, correct?

14 A. That is true. We still never get close enough to actually  
15 observe and witness the injuries inflicted on them.

16 Q. Well, is it your testimony that no animal control officer  
17 under state law has ever been allowed to go up and touch these  
18 elephants and look behind their ears and see if they've got  
19 wounds and abrasions before?

20 A. Yes.

21 Q. That's your testimony, it's never happened?

22 A. That's correct.

23 Q. Were you here when Annette Williams testified?

24 A. I don't believe so.

25 Q. Now, if I could refer you to Defendant's Exhibit 7, which



1 is already in evidence from yesterday, which is a cover  
2 memorandum to you dated May 20, 2004, attaching certain  
3 inspection reports. Do you see that, ma'am?

4 A. Yes.

5 Q. So these humane law enforcement officers would conduct  
6 inspections of the circus and then write reports; is that  
7 correct?

8 A. Correct.

9 Q. And when discovery in this case took place, the defendant  
10 asked for those reports, isn't that right?

11 A. Yes, and we turned over all the reports that we had.

12 Q. All right. And when this response was done in May of 2004,  
13 the reports for 2000 -- or excuse me -- for 1997 had been  
14 destroyed, isn't that correct?

15 A. That's correct.

16 Q. And there were no such records for 1998, correct?

17 A. That's correct.

18 Q. Now, the reason they were destroyed is because ASPCA has a  
19 six-year document retention policy, correct?

20 A. Correct.

21 Q. And that policy was not suspended until March of 2004,  
22 correct?

23 A. Correct.

24 Q. And that's contrary to what you testified to in your -- in  
25 the evidentiary hearing that was held in this case, isn't that

1 correct?

2 A. I don't know. You'd have to jog my memory on that.

3 Q. Don't you remember testifying in that hearing that ASPCA  
4 started saving all documents relevant to this case in 2000?

5 MR. CRYSTAL: Your Honor, I'm going to object. He  
6 should show the testimony.

7 THE COURT: She'd like an opportunity to see it. If  
8 you have it, counsel, you can show it.

9 You don't recall?

10 THE WITNESS: No.

11 BY MR. SIMPSON:

12 Q. Let me refer you to the evidentiary hearing transcript of  
13 February 2008, page 54. And just so that we're clear on the  
14 predicate here, we had a hearing in this case in February of  
15 2008, correct?

16 A. Correct.

17 Q. You testified in that hearing as a witness for ASPCA,  
18 correct?

19 A. Yes, I did.

20 Q. And I asked you the questions at the time, right?

21 A. Yes, you did.

22 Q. And were you under oath, correct?

23 A. Yes, yes.

24 Q. It was presided over by Judge Facciola, correct?

25 A. Yes.

1 Q. All right. And the question at line 20 was: The  
2 complaint, the record in case, will show that the original  
3 complaint in 001641 was filed in July of 2000. The answer:  
4 Correct.

5 Question: When in relation to that date did ASPCA  
6 start saving documents relevant to this --

7 That would have been in our D.C. office.

8 Question: Let me finish the question. When in  
9 relation to the date that I just stated did ASPCA start saving  
10 documents relevant to this case?

11 Answer: It would have been when we were first  
12 notified about the prospective filing of the case and whether or  
13 not we wanted to join as a co-plaintiff.

14 Question: Sometime prior to that date?

15 Answer: Absolutely.

16 Did I read that correctly?

17 A. Yes.

18 Q. Except for the humane law enforcement reports, right?

19 A. For those two years, correct.

20 Q. You didn't start saving those until March of '04, correct?

21 A. I believe so.

22 Q. Because they weren't relevant to this case?

23 A. Not necessarily.

24 Q. Your own people's inspection of the Asian elephants in this  
25 lawsuit are not relevant to this case?

1 A. Oh, they are, yes.

2 Q. But you didn't save that, did you? You didn't start saving  
3 that in 2000, did you?

4 A. I guess not.

5 Q. And had you saved them in 2000, then under your document  
6 destruction policy we would have HLE reports going back to 1994,  
7 correct?

8 A. Correct.

9 Q. And they're gone, they've been destroyed, isn't that right?

10 A. They've been discarded, yes.

11 Q. Well, they're not available anymore?

12 A. They're not available. Correct.

13 Q. Now, if I could refer you to page two of this same exhibit,  
14 which is an inspection report dated March 20, 1998. Do you see  
15 that?

16 A. I do.

17 Q. And this was a routine inspection, right, routine circus  
18 inspection?

19 A. Yes.

20 Q. And it was being conducted with respect to the Nassau  
21 Coliseum, right?

22 A. Yes.

23 Q. It says Barnum & Bailey help the stead turnpike?

24 A. Yes.

25 Q. That's in Nassau Coliseum, isn't it?

1 A. Yes, I believe it is.

2 Q. "Routine circus inspection" means that the agent would  
3 check to see if the animals were properly fed and watered,  
4 correct?

5 A. Yes.

6 Q. Were generally in good health, right?

7 A. Correct.

8 Q. Were not visibly ill?

9 A. That's true.

10 Q. Were not visibly injured?

11 A. Correct.

12 Q. And were kept in sanitary conditions?

13 A. That's true.

14 Q. All right. And if I could turn your attention to page  
15 four. This officer signs this record NVO, which means no  
16 violations observed. Correct?

17 A. Correct.

18 Q. If we could turn to the next one.

19 Oh, by the way, this one that we just went over was  
20 the Ringling Brothers' Blue Unit, isn't that right?

21 A. I don't know.

22 Q. Let's go to the next one, which is at Defendant's Exhibit 7  
23 at page five. This was an inspection also at the Nassau  
24 Coliseum March 23, 1999; is that correct?

25 A. Yes.

1 Q. And if we could go to page seven, this agent states:  
2 Participated in the escort of the aforementioned animal parade.  
3 Do you see that?

4 A. Yes.

5 Q. Do you have any reason to believe that that humane officer  
6 did not participate in the aforementioned animal parade?

7 A. No.

8 Q. And the animal parade would have been walking the animals  
9 into Madison Square Garden, isn't that correct?

10 A. I'm not sure how far they accompanied them.

11 Q. Well, it says in the preceding sentence: They were en  
12 route to Long Island City where the animals were to be paraded  
13 on foot to Madison Square Garden, right?

14 A. Yes, yes.

15 Q. They do that every year, correct?

16 A. I don't know if they do that every year.

17 Q. Well, they walk these animals on the streets of New York  
18 every year?

19 A. Oh, Ringling, yes.

20 Q. And they're in full public view?

21 A. Yes.

22 Q. And this HLE was actually on this animal walk, wasn't he?

23 A. It appears that way.

24 Q. So if they were using the bullhook to guide these  
25 elephants, he would have seen it, correct?

1 A. Not necessarily.

2 Q. Well, if he was paying attention he would have, correct?

3 THE COURT: That's probably argumentative.

4 MR. SIMPSON: All right.

5 BY MR. SIMPSON:

6 Q. He did observe on this same report that the elephants, once  
7 they got to Madison Square Garden, were put on padded chains.

8 Do you see that down at the bottom?

9 A. Yes, I do.

10 Q. So he had an opportunity to observe how they were tethered,  
11 isn't that true?

12 A. Yes.

13 Q. And this humane law enforcement officer closed this case  
14 NVO at this time, did he not?

15 A. Yes.

16 Q. Which means no violations observed, correct?

17 A. Yes, that's correct.

18 Q. If you look at the next one, page eight, this is an  
19 inspection at Madison Square Garden, isn't that correct, 34 9th  
20 Street?

21 A. Yes.

22 Q. This was a situation, if we can go to the next page,  
23 actually page ten, where again, no violations were observed,  
24 isn't that right?

25 A. I believe so.

1 Q. And this individual actually observed the elephants,  
2 correct?

3 A. Well, certainly the food was observed. There was food  
4 observed there. He observed the elephants, but again, it's not  
5 clear if he actually inspected each individual elephant.

6 Q. He also observed them as secure, correct?

7 A. Yes.

8 Q. So it's important, is it not, under New York law that when  
9 these elephants are in Madison Square Garden downtown in a  
10 metropolitan urban area that they be secured, correct?

11 A. Well, certainly there should be some security, but whether  
12 or not they have to be chained all the time is a different  
13 question.

14 Q. So do you know whether your humane law enforcement officers  
15 are looking to see if the animals are secured in terms of  
16 compliance with the law?

17 A. They're looking to see if the animals are properly treated,  
18 but whether or not there's any determination of, you know,  
19 safety for the public is not really their responsibility. The  
20 responsibility goes towards the animals only.

21 Q. Well, if the HLE walked into Madison Square Garden and the  
22 elephants were loose, would Ringling Brothers get a ticket for  
23 that?

24 A. I don't know. Maybe not.

25 Q. Let's go to the one at page eleven. This was another



1 routine inspection, correct, at Madison Square Garden?

2 A. I believe so.

3 Q. And this occurred six days after the one we just saw, isn't  
4 that right?

5 A. Yes.

6 Q. If we go to page thirteen, this agent also observed all of  
7 the animals, correct?

8 A. Yes.

9 Q. So he saw fourteen elephants there, right?

10 A. I'm not sure -- yes, correct.

11 Q. He wrote down fourteen elephants?

12 A. Yes, yes.

13 Q. And, The animals were very secure, bright and alert,  
14 correct?

15 A. Yes.

16 Q. Again, he closed this out with no violation reported, isn't  
17 that right?

18 A. No violations observed, correct.

19 Q. No violations observed, excuse me.

20 Now, this document, if we go to the next page, has  
21 something called -- go to the top, please -- a circus inspection  
22 report, correct?

23 A. Correct.

24 Q. And this wasn't in previous documents, correct?

25 A. I believe not.

1 Q. So this is a document actually formulated for purposes of a  
2 circus inspection, correct?

3 A. I don't know that. Yes. It may be. It says Circus  
4 Inspection Report, so that might be the case.

5 Q. All right. This is a document that your humane law  
6 enforcement division developed, correct?

7 A. I believe so.

8 Q. It's not a Ringling Brothers' document, right?

9 A. No.

10 Q. And here we had specific items that the person is supposed  
11 to check, isn't that true?

12 A. Correct.

13 Q. He was actually asked to find out and say yes or no, Any  
14 mistreatment or cruelty to animals? and he answered "no,"  
15 correct?

16 A. That is correct.

17 Q. He was also asked the question, Any animals injured? And  
18 he said "no," correct?

19 A. Correct.

20 Q. Also item nine asked, though, look at the condition and  
21 health of the animals, and he rated that as good, correct?

22 A. Correct.

23 Q. And that's the highest rating on this form, isn't it?

24 A. That's correct.

25 Q. And item ten, sick or injured animals, there weren't any,

1 were there?

2 A. None that were observed, no.

3 Q. And item twelve, Are the animals securely confined? and he  
4 checked that "yes," correct?

5 A. Correct.

6 Q. And that means they have to be securely confined because  
7 it's a safety issue in downtown New York to have Asian elephants  
8 wandering loose, isn't that true?

9 A. That's not necessarily true, no.

10 Q. But whatever it was, he checked that they were securely  
11 confined, correct?

12 A. Yes, he did.

13 Q. Isn't it most likely given the time period here that the  
14 securely confined was that the Asian elephants were on chains?

15 A. Yes.

16 Q. If we go to page 21. And this is a Circus Inspection  
17 Report of April 2nd, 2001. Do you see that?

18 A. Yes, I do.

19 Q. This is Madison Square Garden again?

20 A. Yes.

21 Q. And this one, if we go down, has the same sort of  
22 information as the one we just saw, correct?

23 A. Correct.

24 Q. This one, however, he finds at the bottom with respect to  
25 are there any sick or injured animals, he checks off "yes"?

1 A. That's correct.

2 Q. Right. But this person, if we could go back to page  
3 seventeen of this same exhibit, found no violations observed,  
4 correct?

5 A. That's correct. However, it's not clear the nature of the  
6 sick animals and the cause of that and whether or not that was  
7 due to neglect or was an intentional act.

8 Q. Well, according to this report on this same page, this  
9 agent was escorted throughout the entire area and found  
10 everything to be in order, correct?

11 A. Correct.

12 Q. He also observed that there was a veterinarian on staff,  
13 correct?

14 A. That's correct.

15 Q. So is it possible that he observed sick and injured animals  
16 but concluded they were being taken care of by a veterinarian?

17 A. Yes.

18 Q. Isn't that likely what he did?

19 A. That's probably likely what he did.

20 Q. If we could go to the last report in this series, page 22.  
21 This is a March 21st, '02 inspection report at Madison Square  
22 Garden, and it states it's of the Blue edition. Do you see  
23 that?

24 A. Yes.

25 Q. And that's the Blue Unit of Ringling Brothers circus, isn't

1 that true?

2 A. I believe so.

3 Q. And if we look at page 23 under Additional Information For  
4 Agent, this one actually says "check elephants." Do you see  
5 that?

6 A. Yes.

7 Q. Do you know how that got there?

8 A. How what got there?

9 Q. That notation.

10 A. No, I don't.

11 Q. Is it fair to say that someone asked this agent  
12 specifically to check the elephants?

13 A. Yes.

14 Q. Am I correct?

15 MR. CRYSTAL: Your Honor, she already said she doesn't  
16 know. I'll object.

17 THE COURT: I'll let her answer stand. It's there.

18 BY MR. SIMPSON:

19 Q. Did you make that communication?

20 A. No, I did not.

21 Q. If we look at page 26, and at the time at the top, What  
22 time did you arrive? He was there about an hour, isn't that  
23 right?

24 A. Yes.

25 Q. 10:40 a.m. to 11:30 a.m.?

1 A. That's correct.

2 Q. And if we look at -- he filled out this form. Again, I  
3 don't want to go over it, it's the same type of information on  
4 the other form, correct?

5 A. That's correct.

6 Q. And there was no mistreatment or cruelty, and all the other  
7 items were checked with the highest marks, isn't that correct?

8 A. That's correct.

9 Q. And in specifically, if we go to page 24 of this document,  
10 he looked at the elephants and found nothing wrong with them,  
11 isn't that correct?

12 A. That's correct. From his observation.

13 Q. Circus area, all animals are secure and all bright and  
14 clear. No injuries found on any elephants. Right?

15 A. That's correct.

16 Q. He also noted, did he not, that a Dr. Lindsay, a  
17 veterinarian, was present with the show and available, correct?

18 A. That's correct.

19 Q. And the case was closed out as unfounded, isn't that true?

20 A. That is true.

21 Q. Now, this one, this report is dated March 21st, 2002.

22 There is no HLE inspection report on Ringling Brothers that  
23 comes after that, isn't that right?

24 A. I believe so.

25 Q. This is the last one, correct?

1 A. I believe so.

2 Q. But the inspections continued, did they not?

3 A. After 2002?

4 Q. Yes.

5 A. They did, but I'm not sure from which years.

6 Q. Well, they continued, did they not, all the way up to 2006,  
7 isn't that right?

8 A. Yes, that's my understanding.

9 Q. And at no point during that four-year period of time, from  
10 2002 to 2006, did the HLEs find a violation of New York law with  
11 respect to Ringling Brothers Circus, correct?

12 A. Not from their observation, correct.

13 Q. And they didn't write any such reports either?

14 A. I can't speak to that. I was not a supervisor of that  
15 department ever, but that seems to be the case since we did a  
16 diligent search but we did not come up with any reports.

17 Q. All right. Well, you were required, were you not, to  
18 produce all of these documents by Judge Sullivan's order?

19 A. Absolutely.

20 Q. August 23rd, 2007?

21 A. Absolutely.

22 Q. And so you went and looked?

23 A. Yes.

24 Q. Correct?

25 A. Correct.

1 Q. The last one you had was March 21, 2002, correct?

2 A. Yes.

3 Q. All right. Now, Ms. Weisberg, there have been times, have  
4 there not, when you yourself, when you were employed by ASPCA,  
5 actually requested that an HLE go do an inspection, isn't that  
6 right?

7 A. I don't know if I ever requested that they do an  
8 inspection, but certainly we get calls from the public with  
9 either complaints or concerns, and often times the department  
10 will authorize and send the agents to check the situation out.

11 Q. Let me refer you to page 112 of your deposition, ma'am, at  
12 line 15. The question was: Do you know of any examples when  
13 other individuals at ASPCA have asked that there be an  
14 inspection?

15 Answer: I have.

16 Question: In what cases?

17 Answer: Pet shops, hoarders, individuals, problems  
18 with carriage horses in the city.

19 Did I read that correctly?

20 A. Yes, that's correct.

21 Q. It's true, is it not, that you personally observed in 2005  
22 a Ringling Brothers' elephant handler hook an elephant on the  
23 streets of New York?

24 A. I did.

25 Q. And you did not make any issue about that, did you?



1 A. An issue with the HLE about that?

2 Q. Yes. You didn't go to the HLE and say do something about  
3 this hooking incident, did you?

4 A. No, I did not.

5 Q. You didn't request an inspection, did you?

6 A. No.

7 Q. Let me refer you, ma'am, to Defendant's Exhibit 31, which  
8 is in evidence as of yesterday, which is a letter dated May 5,  
9 1996, to Julie Strauss from Kathi Travers. Have you seen this  
10 document before?

11 A. I have.

12 Q. Do you know who Kathi Travers is?

13 A. Yes.

14 Q. Who was she at the time this letter was written?

15 A. I'm not sure what her exact title was. Originally she was  
16 the director of the animal part at JFK airport which we operated  
17 for the airport for a number of years. Subsequently we did not  
18 renew our contract and so Ms. Travers, she acted in the role of  
19 animal transport and exotic animal, our resource person for  
20 those issues.

21 Q. If we can go to, just zoom that letter in.

22 This is sent on American Society For the Prevention of  
23 Cruelty to Animals letterhead, which appears to be the western  
24 regional office. Do you understand that to be the case?

25 A. Yes, that's true.

1 Q. And did she work in that office?

2 A. I don't recall.

3 Q. Do you have any reason to believe that she didn't work in  
4 that office?

5 A. No.

6 Q. She states in the first paragraph: I must applaud Ringling  
7 for the magnificent job you were doing at the new elephant  
8 breeding facility. I'm very impressed by the professional and  
9 extremely humane conditions I found in my recent visit. I was  
10 also very much impressed by your dedicated staff who obviously  
11 eat, drink and sleep elephants.

12 Did I read that correctly?

13 A. You did.

14 Q. Were you aware of this visit that she made at the CEC?

15 A. No, I wasn't, nor were a lot of the senior staff members at  
16 the ASPCA. She was not authorized.

17 Q. She was off the reservation here?

18 A. I'm sorry?

19 Q. She was off the reservation here when she made this trip to  
20 the CEC?

21 A. She was not authorized to make it, and certainly was not  
22 authorized to issue that letter.

23 Q. Do you have any reason to believe she -- do you have any  
24 reason to doubt that she's accurately reflected what she in fact  
25 observed?

1 A. You know, I don't even know if she wrote that letter.

2 Q. Well, assuming she did, do you have any reason to doubt  
3 that this is an accurate reflection of what she observed?

4 A. It's hard to say. I mean, she's not -- she has no training  
5 in -- no formal training in exotic animals or veterinarian care  
6 or behavior, so whatever her observation was I think needs to be  
7 taken into account given her lack of expertise.

8 Q. Well, there was also, wasn't there, an inspection of the  
9 CEC by the ASPCA in or about this same time, 1996?

10 A. Not that I'm aware of.

11 Q. Wasn't this inspection referred to in a television program  
12 called 20/20 on May 10th, 1996?

13 A. I don't know.

14 Q. Would it refresh your recollection to see part of that  
15 video?

16 A. It may or may not.

17 Q. Let me --

18 THE COURT: I'm sorry. Who signed that letter?

19 THE WITNESS: Well, it appears that Kathi Travers  
20 signed the letter. I've never seen her signature, though, so I  
21 can't authenticate that.

22 BY MR. SIMPSON:

23 Q. You don't have any reason to --

24 A. I'm sorry?

25 Q. You don't have any reason to doubt that, do you?

1 A. I don't know. I mean, you're asking me to verify a  
2 document that I did not see issued at the time and knew nothing  
3 about at the time.

4 THE COURT: Was this produced by your organization  
5 during discovery, though?

6 THE WITNESS: I don't remember how it was produced.

7 MR. CRYSTAL: Your Honor, for the record --

8 MR. SIMPSON: It's got a Feld Bates number. It's  
9 produced by the defendant.

10 THE COURT: All right.

11 MR. SIMPSON: But it's in evidence.

12 BY MR. SIMPSON:

13 Q. Let me show you parts of the clip.

14 MR. CRYSTAL: Before you do --

15 THE COURT: I haven't seen it before. I don't know  
16 that's in evidence. I haven't seen it before.

17 MR. CRYSTAL: With regard to the clip, I'd just like  
18 to object. The clip isn't on their 72-hour --

19 MR. SIMPSON: It's to refresh her recollection.

20 THE COURT: Anything can be used to refresh her  
21 recollection. I'll allow it.

22 That last exhibit, I'm sorry, I don't recall seeing  
23 that. Again, was that introduced?

24 MR. SIMPSON: It was introduced yesterday.

25 THE COURT: Oh, it was one of the exhibits you read

1 off?

2 MR. SIMPSON: Yes, sir.

3 THE COURT: Oh, that's why I had not seen it.

4 (Video played.)

5 BY MR. SIMPSON:

6 Q. Does that refresh your recollection about an inspection of  
7 the CEC by the ASPCA?

8 A. It doesn't. I don't know how that could have been done  
9 since our peace officers' powers are limited to New York state.

10 Q. Well, maybe they were invited in. Is that possible?

11 A. It's possible.

12 Q. And would that be something that would normally be  
13 coordinated through your office?

14 A. No.

15 Q. Ms. Weisberg, it's true, is it not, that in the period from  
16 2001 to 2003 the ASPCA provided \$25,544.50 to Tom Rider?

17 A. I believe that's the correct amount.

18 Q. That's the number you gave in an answer to Interrogatories  
19 in 2007, isn't that true?

20 A. I believe so.

21 Q. And these payments to Tom Rider, to or for Tom Rider, began  
22 in May 2001, isn't that right?

23 A. I believe so.

24 Q. And isn't it a fact that on May 7th, 2001 was the date that  
25 Tom Rider left his position or whatever you want to call it with

1 the entity calls PAWS?

2 A. I don't know the exact date, but if that's the date that he  
3 left, then that's the date that he left.

4 Q. And PAWS, the Performing Animal Welfare Society at the  
5 time, shortly before that date, was a plaintiff in this case,  
6 isn't that correct?

7 A. Yes, that's correct.

8 Q. And at the time Mr. Rider left PAWS he didn't have a job,  
9 isn't that right?

10 A. I believe so.

11 Q. And PAWS was one of the co-plaintiffs in this case who up  
12 until that point in time was providing Mr. Rider with financial  
13 support, isn't that right?

14 A. I don't know that for a fact, but I assume that was the  
15 case.

16 Q. And at the time he left PAWS there needed to be a source of  
17 financial support for Mr. Rider, correct?

18 A. I don't know if he needed financial support or not.

19 Q. Well, you're not aware of any job that he went and got,  
20 correct?

21 A. No. I was not aware.

22 Q. And he didn't have any way of supporting himself other than  
23 the money that he was going to receive from the other plaintiffs  
24 in this case, isn't that correct?

25 A. I don't know that for a fact.

1 Q. Well, in fact, isn't it true that the ASPCA stepped in at  
2 that point, in May 2001, and started to pay Tom Rider?

3 A. We did not pay him. We reimbursed him for his expenses.

4 Q. You started to make money available for him, correct?

5 A. For his expenses.

6 Q. And in order to do that you, Lisa Weisberg, had to get  
7 approval from the head of ASPCA, correct?

8 A. That's correct.

9 Q. You did it by writing an e-mail to a fellow named Larry  
10 Hauk, isn't that right?

11 A. That's correct.

12 Q. Mr. Hauk at the time was the president of ASPCA, right?

13 A. That's correct.

14 Q. Let me show you Defendant's Exhibit 46, which is in  
15 evidence and was offered yesterday.

16 THE COURT: All right.

17 BY MR. SIMPSON:

18 Q. Do you recognize this, ma'am, as the e-mail exchange you  
19 had with Larry Hauk about the subject of Tom Rider?

20 A. Yes, I do.

21 Q. You make reference in here to Mr. Rider being an elephant  
22 trainer. That's not accurate, is it?

23 A. That is correct. That was my mistake.

24 Q. He was just a barn man, correct?

25 A. Correct, yes.

1 Q. And it states in here that, among other things, Mr. Rider  
2 was leaving PAWS so he wouldn't be taken off the suit, correct?

3 A. That's what I said. I can certainly clarify what was meant  
4 by that. That e-mail was sent shortly after we learned that  
5 PAWS had entered into a settlement agreement with Ringling  
6 Brothers, and part of the settlement agreement was that Tom  
7 could no longer be a co-plaintiff in the lawsuit and he could  
8 not speak out against the circus.

9 Q. Okay. But at the time the settlement agreement happened,  
10 he was getting financial support from PAWS, correct?

11 A. I don't know whether he was getting financial support or if  
12 he was just working there to care for the elephants that they  
13 had.

14 Q. And then he had to leave PAWS, correct, in light of their  
15 settlement?

16 A. He had to leave PAWS because of the settlement agreement.

17 Q. And therefore, there needed to be a way to support him  
18 after he left PAWS, correct?

19 A. To go around the country and do his media touring, correct.

20 Q. And when you say "taken off the suit," that's this case  
21 that we're here in trial today, correct?

22 A. Correct.

23 Q. And those are your words in this e-mail, isn't that right?

24 A. Correct.

25 Q. You state in here that he can't be employed because he's



1 got to follow the circus, correct?

2 A. That's correct.

3 Q. You were seeking approval from Mr. Hauk to provide money  
4 for Mr. Rider in lieu of that employment, correct?

5 A. To provide money to enable him to go around the country,  
6 correct.

7 Q. He wasn't going to have a job, right?

8 A. That's correct.

9 Q. So you were providing money in lieu of a job, correct?

10 A. Well, we were providing money so he could go meet with the  
11 media to do interviews.

12 Q. Well, you expected him to do something for the money?

13 A. Oh, yes.

14 Q. It wasn't a gift?

15 A. It was a grant.

16 Q. A grant. Where does it say in here about it being a grant?

17 MR. CRYSTAL: Objection, your Honor. This is  
18 argumentative.

19 THE WITNESS: That's the way it was --

20 THE COURT: Just a minute.

21 It's overruled.

22 THE WITNESS: That's the way that we perceived it. He  
23 wasn't a paid employee at the ASPCA.

24 BY MR. SIMPSON:

25 Q. And the plan here was for ASPCA and the other two

1 plaintiffs, which at the time were the Animal Welfare Institute  
2 and the Fund For Animals, each at this point May of 2001 will  
3 chip in a thousand dollars, correct?

4 A. That's correct.

5 Q. So he was going to get \$3,000 to start with?

6 A. That's correct.

7 Q. For the first two months, correct?

8 A. Correct.

9 Q. And almost nine years later that number has grown to nearly  
10 \$200,000, isn't that right?

11 A. I don't know that.

12 Q. You haven't heard that number?

13 A. No.

14 Q. It's true, though, that although the theory here was he was  
15 supposed to follow the circus, that he really didn't do that,  
16 isn't that right?

17 A. To my knowledge that's what he did.

18 Q. Well, isn't it true that Mr. Rider does his media work from  
19 one location for the most part in Florida by talking to people  
20 on a cell phone?

21 A. I do not know that. I mean, we coordinated Mr. Rider's  
22 media efforts between 2002 till May of 2003. Certainly our  
23 media department was working hand-in-hand with him and he was  
24 following the circus.

25 Q. So you may not know what exactly he did after 2003?

1 A. That's correct.

2 Q. Now, when money was provided to or for Mr. Rider by ASPCA,  
3 initially it was through the law firm of Meyer, Glitzenstein &  
4 Crystal, isn't that correct?

5 A. Yes. Initially we gave I believe a thousand dollars to the  
6 law firm.

7 Q. And the way this worked is the law firm would provide the  
8 money to Mr. Rider; is that right?

9 A. They would send it vis-a-vis Western Union because he was  
10 on the road all the time.

11 Q. And then that money would be put on your legal bill as an  
12 expense, correct?

13 A. I don't believe -- yes. Yes, that's correct.

14 Q. Well, let me show you Defendant's Exhibit 61, which was  
15 offered yesterday, your Honor, and is in evidence.

16 THE COURT: All right.

17 BY MR. SIMPSON:

18 Q. And refer you to page one, which has got heavy redactions  
19 in it, which is how it was produced, but isn't it in fact that  
20 this is an invoice from Meyer & Glitzenstein to ASPCA for this  
21 case dated June 14th, 2001?

22 A. Correct.

23 Q. And if we go to page two of this document, there's a  
24 reference -- well, I guess let's go to the bottom page. There's  
25 a reference to additional charges, shared expense. Do you see

1 that?

2 A. Yes.

3 Q. And "shared expense" means these are expenses shared by the  
4 three organizational plaintiffs, correct?

5 A. I believe so.

6 Q. And if you go to page two. One of those shared expenses  
7 was cash via Western Union plus finance charge and fees from  
8 Western Union, \$684.82, correct?

9 A. That's correct.

10 Q. And that was ASPCA's share of money that was provided by  
11 Western Union to Tom Rider, isn't that true?

12 A. I don't recall. It's hard to tell just from what's shown  
13 in this document.

14 Q. All right. Well, let's look at page four. This is another  
15 invoice, dated July 16th, 2001, from the same law firm. This  
16 one makes reference to finance charge and bank fees from \$500  
17 Western Union wire transfer to Tom Rider on 5/3/01. Do you see  
18 that?

19 A. Yes.

20 Q. So this is another shared expense, correct?

21 A. It appears so.

22 Q. And this one actually is for Tom Rider, correct?

23 A. Correct.

24 Q. And your share, ASPCA's share of this was \$184.82, correct?

25 A. It appears that way.

1 Q. And if we look at page eight, this is an invoice dated  
2 September 27th, 2001, entitled Special Expense, and these  
3 special expenses were expenses that were not being shared,  
4 correct?

5 A. Well, certainly those were the charges to the ASPCA. I  
6 don't know if they were shared or not by the other groups in  
7 terms of also being charged the same amounts.

8 Q. Well, let's look at -- produce that back. Look at the top  
9 of this document. We've got reference to "shared expense"?

10 A. Right.

11 Q. There's a wire transfer fee to Tom Rider. Those were  
12 shared with the other plaintiffs, correct?

13 A. It appears that way.

14 Q. And then the special expense was only paid by ASPCA, isn't  
15 that right?

16 A. It appears that way.

17 Q. Well, isn't that how you described it in your Answers to  
18 Interrogatories?

19 A. I may have. I don't recall.

20 Q. Let's look at Defendant's Exhibit 18, page 68. All right.  
21 Let's move on. I thought I had it. I don't.

22 The other way that the money was provided to Mr. Rider  
23 was money was paid from ASPCA to an entity called Wildlife  
24 Advocacy Project, correct?

25 A. That's correct.

1 Q. The Wildlife Advocacy Project is a corporate entity  
2 established by Kathy Meyer and Eric Glitzenstein, right?

3 A. That's correct.

4 Q. They in turn paid the money to Tom Rider, correct?

5 A. I don't know how the disbursement was made.

6 Q. Well, in December of 2001 ASPCA made a \$6,000 grant to the  
7 WAP, correct?

8 A. That's correct.

9 Q. Also known as Wildlife Advocacy Project, correct?

10 A. Yes.

11 Q. And ASPCA made that payment knowing that the money was  
12 going to be paid to Tom Rider, correct?

13 A. We made the grant to the WAP for use for educational  
14 purposes. At the time there was an employee by the name of  
15 Darcy Kent who was working very closely with Tom in also  
16 scheduling his media tours, so I don't know if a percentage of  
17 that grant was used to pay her in that capacity or how much of  
18 it was used towards Tom's expenses.

19 Q. Well, let's go back to that same interrogatories,  
20 defendant's 18/68. Now, you answered Interrogatories in  
21 response to Judge Sullivan's August 23rd, 2007 order, correct?

22 A. That's correct.

23 Q. And in this answer when -- you can look at the end if you  
24 want, but isn't this one of the answers that was provided at  
25 that time?

1 A. Yes.

2 Q. And this answer was written and verified by you, isn't that  
3 true?

4 A. Yes.

5 Q. It states in here in December 2001 the ASPCA provided a  
6 \$6,000 grant to the Wildlife Advocacy Project for that  
7 organization's advocacy work on behalf of elephants in  
8 captivity, and understood that these funds would be used for Mr.  
9 Rider's media and public education advocacy. Have I read that  
10 correctly?

11 A. Yes.

12 Q. There wasn't anybody else out there on the road talking  
13 about elephants other than Tom Rider, isn't that right?

14 A. That's correct.

15 Q. Now, in addition to the payments to the law firm and the  
16 payments to WAP, the ASPCA also made payments directly to Tom  
17 Rider, isn't that true?

18 A. After the payment to the Wildlife Advocacy Project we then  
19 made payments to Meyer Glitzenstein to reimburse Tom before we  
20 then took that in-house.

21 Q. Right. Well, you made, for example, you gave him certain  
22 things that cost money, correct? You gave him a laptop  
23 computer, right?

24 A. That's correct.

25 Q. You gave him a cell phone?

1 A. That's correct.

2 Q. You paid the cell phone bills, correct?

3 A. Yes, we did.

4 Q. And you paid for his Internet access, correct?

5 A. That's correct.

6 Q. And you gave him \$5,000 in traveler's checks?

7 A. Yes, one time we did, yes.

8 Q. And later you took back \$1,200 of it?

9 A. That's correct.

10 Q. So he ended up with \$3,800 in travelers checks, correct?

11 A. That's correct.

12 Q. And these phone bills were paid by ASPCA on Tom Rider's  
13 behalf and logged into your general ledger, isn't that true?

14 A. That is true.

15 Q. And they were logged into your general ledger without any  
16 attribution to Tom Rider, isn't that right?

17 A. What do you mean by that?

18 Q. It doesn't say whose phone it is?

19 A. Well, we had given him the phone.

20 Q. You gave him the phone, but when you paid the bill and  
21 reflected the payment on the books of your organization, there's  
22 no reference made to Tom Rider, isn't that true?

23 A. Well, certainly on the books, but in terms of the check  
24 requests or any approval, I would always have to earmark the  
25 designation of what it was being use for.



1 Q. Well, is the answer to the question they were not reflected  
2 on the books in a way that made reference to Tom Rider?

3 A. That may be true.

4 Q. Okay. Well, let me show you Defendant's Exhibit 209, which  
5 is in evidence, page one through eighteen. Do you recognize  
6 these as redacted copies of ASPCA's general ledger detail  
7 report?

8 A. Yes.

9 Q. And if you'll go to the next page.

10 MR. CRYSTAL: Your Honor, I'd again like to object  
11 that this is not --

12 THE COURT: Impeachment purposes, counsel. I'll allow  
13 it.

14 BY MR. SIMPSON:

15 Q. You see reference was made here to at the bottom AT&T  
16 Wireless?

17 A. Yes.

18 Q. And that's Tom Rider's phone bill, isn't it?

19 A. Yes.

20 Q. That's why it was produced to us, right?

21 A. Yes, of course.

22 Q. There's no reference in there being made to this being Tom  
23 Rider's phone, isn't that correct?

24 A. No, not specifically there.

25 Q. Now, some of these charges that were paid on Mr. Rider's

1       behalf were actually put on your own credit card, isn't that  
2       right?

3       A.     The corporate credit card, yes.

4       Q.     The corporate credit card issued to Lisa Weisberg?

5       A.     Correct.

6       Q.     Again, those corporate credit card charges don't make any  
7       reference to Tom Rider, isn't that true?

8       A.     Maybe not specifically, but certainly we could -- we could  
9       track them to Tom, wherever Tom was at the time to his following  
10      the circus and doing his media tour.

11      Q.     Well, let me go to page nineteen of that same exhibit, 209.  
12      Do you recognize this as a copy of your redacted version of your  
13      American Express account bill?

14      A.     Yes, I do.

15      Q.     This is that ASPCA credit card you made reference to?

16      A.     Yes.

17      Q.     Here we had certain hotel charges listed; is that correct?

18      A.     Yes.

19      Q.     There's no reference in here to Tom Rider, is there?

20      A.     No, there is not.

21      Q.     Now, the payments that were made by ASPCA through to the  
22      law firm in 2001, they were reflected on a 1099 that Meyer,  
23      Glitzenstein & Crystal gave to Tom Rider; is that correct?

24      A.     I don't know.

25      Q.     Have you ever seen that document?

1 A. I don't believe so.

2 Q. Were you here when Mr. Rider testified about it?

3 A. I may or may not have been.

4 Q. Now, the money that ASPCA gave to the WAP in December of  
5 2001, was paid to Mr. Rider in 2002, isn't that correct?

6 A. That's my understanding.

7 Q. Now, do you know whether the WAP sent Mr. Rider a 1099 for  
8 that year that included that money?

9 A. I don't know.

10 Q. As far as you know, there were payments also made, were  
11 there not, by ASPCA through the law firm and directly to Mr.  
12 Rider that occurred in 2002 and 2003, correct?

13 A. Well, certainly we made payments either directly or on the  
14 credit card to Mr. Rider during that period of time.

15 Q. So both of those years, 2002 and 2003, correct?

16 A. Up until May of 2003.

17 Q. And the ASPCA did not send Mr. Rider a 1099 for 2002, isn't  
18 that true?

19 A. I don't know.

20 Q. And you don't know whether or not they sent him one for  
21 2003, correct?

22 A. I know that would have been from our finance department.

23 Q. But you looked for those kinds of documents in response to  
24 the Court's orders?

25 A. Absolutely.

1 Q. And nothing like that turned up, isn't that true?

2 A. No. That's correct.

3 Q. Had something like that existed, you would have produced  
4 it, correct?

5 A. Absolutely.

6 Q. You don't know whether Meyer, Glitzenstein & Crystal sent  
7 him a 1099 for 2002 or 2003, correct?

8 A. No. I don't know.

9 Q. So are you aware of any way in which ASPCA for 2002 and  
10 2003 reported the money that was provided to Tom Rider to the  
11 federal government?

12 A. I don't know.

13 Q. And you're aware, are you not, that Tom Rider never filed  
14 tax returns about those two years until April of 2007, correct?

15 A. I don't know the dates in particular.

16 Q. You didn't hear that?

17 A. No, I did not.

18 Q. Now, when ASPCA provided this money to Mr. Rider, he wasn't  
19 required to account for it, was he?

20 A. Yes, he was.

21 Q. He sent receipts back accounting for what he had spent it  
22 on?

23 A. Yes. Many times he did.

24 Q. You produced all those in discovery?

25 A. We produced whatever we had to produce.

1 Q. But you didn't produce those receipts in discovery, did  
2 you?

3 A. I believe that we produced whatever was required.

4 Q. All right. Well, you testified in February of 2008 that  
5 you had produced to the defendant any document that concerned  
6 payments to Tom Rider, isn't that right?

7 A. Payments, yes, and that was documented.

8 Q. Regardless of whether, you know, your lawyers view the  
9 order was different or not, you, ASPCA, every document that  
10 concerned payments to Tom Rider, isn't that right?

11 A. We produced whatever was responsive and we turned those  
12 over to Meyer, Glitzenstein, and whether they produced all those  
13 documents, it was, you know, up to their discretion in terms of  
14 whether it was responsive or not.

15 Q. All right. Well, you also in that same hearing put an  
16 exhibit in, did you not, after all the documents that were  
17 produced in this case to the defendant?

18 MR. CRYSTAL: Your Honor, I'm going to object to this  
19 questioning. We had an evidentiary hearing. Judge Facciola  
20 issued a ruling that plaintiffs provided all the responsive  
21 documents, so I'm not sure what the relevance of this is, of  
22 discussing the relevance at this point. It might have been  
23 there.

24 MR. SIMPSON: Well, Ms. Weisberg, I think, Judge, it's  
25 relevant because I don't think there are any such receipts.

1 That's our view. They never were produced in this case.

2 BY MR. SIMPSON:

3 Q. Let me show you what was Tab B at the evidentiary hearing  
4 in February of 2008. We can just scroll through this briefly.

5 MR. CRYSTAL: Again, your Honor, for the record, we  
6 would object that this was not on their 72-hour list.

7 THE COURT: All right. Overruled.

8 MR. SIMPSON: Keep going. Keep going.

9 BY MR. SIMPSON:

10 Q. Did you generally recognize this, ma'am, as the documents  
11 that were produced at that hearing as evidence of your  
12 compliance with the Court's order?

13 A. Yes.

14 Q. And would you be surprised to know that there are no  
15 receipts in here from Tom Rider? You can look through the whole  
16 thing if you'd like.

17 A. No. If that's the case, then that's true.

18 Q. And are you aware of any report that Tom Rider ever wrote  
19 accounting for how he had spent the money and sent that report  
20 to ASPCA?

21 A. No. We didn't require him to do that kind of report.

22 Q. Now, when the defendant took discovery in this case about  
23 payments to Tom Rider, it asked you, ASPCA, a question to  
24 identify each resource that you had expended in advocating  
25 better treatment for animals, isn't that right?

1 A. Yes.

2 Q. That was our Interrogatory No. 21. Do you recall that?

3 A. I recall doing the breakdown, yes.

4 Q. And later, in '07, after the Court's order, that's where  
5 you put all the information about Tom Rider's payments, isn't  
6 that right?

7 A. I don't recall.

8 Q. Well, let's look at the 2007, answer to Interrogatory No.  
9 21. It's DX 18, page 68. If we can just go back to the top  
10 where the question is, the preceding page, this was your  
11 supplemental answer to Interrogatory No. 21, correct?

12 A. Correct.

13 Q. And this is where you provided all the information that  
14 ASPCA had on the payments that had been made to or for Tom  
15 Rider, correct?

16 A. That is correct.

17 Q. And just go to the next page. We have the details, many of  
18 which we've been over with today, correct?

19 A. Correct.

20 Q. In reference to documents and so forth and so on?

21 A. That's correct.

22 Q. Right. None of this information was provided in 2004, was  
23 it?

24 A. I believe it was.

25 Q. All right. Well, let's look at the answer to this same

1 question in June of 2004, which is at the same exhibit, page 29  
2 and 33.

3 MR. CRYSTAL: Again, I'm going to object. This was  
4 the exact same line of questioning at the evidentiary hearing  
5 and we already have a ruling from Judge Facciola, and we believe  
6 this is irrelevant.

7 THE COURT: It's overruled.

8 BY MR. SIMPSON:

9 Q. Here we have that same Interrogatory No. 21. Now, there  
10 are answers provided in here?

11 A. Yeah.

12 Q. We went through various categories of expenses and so  
13 forth, correct?

14 A. Correct.

15 Q. But no where in this answer, ma'am, do you make any  
16 reference to monies being paid to Tom Rider, isn't that true?  
17 Feel free to read it.

18 A. I am. I have to see the entire breakout that was in 1997.

19 Q. All right.

20 Keep going. Let's go down. Keep going.

21 A. So we wouldn't have made any payments.

22 Q. All right. Let's go to 2001. Next page. 2002. Next  
23 page.

24 A. Okay. Well --

25 Q. Stop. There is a payment listed to Meyer, Glitzenstein



1 regarding Ringling lawsuit, right?

2 A. Right, right, and that probably would have been included in  
3 the payment, I believe it was a thousand dollars, that went  
4 towards his expenses.

5 Q. So the money earmarked for Rider was buried in the nine  
6 thousand number here for the law firm, correct?

7 MR. CRYSTAL: Objection, your Honor.

8 THE WITNESS: I wouldn't say buried.

9 THE COURT: Just a minute. Rephrase that question.

10 BY MR. SIMPSON:

11 Q. It was included in it, correct?

12 A. Correct.

13 Q. You didn't break that out separately, correct?

14 A. No, we didn't.

15 Q. And if you go to 2002, you have another payment. This  
16 probably didn't have anything to do with Tom Rider, right, to  
17 the law firm here, humane law enforcement investigations?

18 A. Well, the humane law enforcement investigations was the  
19 \$250.

20 Q. Right.

21 A. That was the time spent on an hourly basis for the  
22 inspection.

23 Q. But in any case, there's no statement in 2002 of any  
24 payment to Tom Rider, right?

25 A. Well, certainly the Meyer, Glitzenstein invoice would have

1 had the breakdown, so that was just reflecting the entire amount  
2 of money that was given to Meyer, Glitzenstein.

3 Q. Well, we didn't get that invoice, did we, at the time, the  
4 invoice from Meyer, Glitzenstein, correct?

5 A. I don't recall. But certainly everything was forwarded to  
6 you subsequently.

7 Q. All right. Just to round this out, can we go to the next  
8 page, 2003? Again, there's a reference to Meyer, Glitzenstein  
9 Ringling lawsuit but no reference to Tom Rider, correct?

10 A. That's correct.

11 Q. Is there any way that the defense counsel could have  
12 determined by reading this answer that you had actually paid  
13 money to Tom Rider?

14 MR. CRYSTAL: Objection; calls for speculation, your  
15 Honor.

16 THE COURT: Sustained.

17 Why don't you rephrase that?

18 BY MR. SIMPSON:

19 Q. Well, there's certainly no reference in here, correct?

20 A. Again, it would have been a breakout in the Meyer,  
21 Glitzenstein invoice.

22 Q. You also were asked a question in this same line,  
23 Defendant's Interrogatory No. 22, if you go to the next page,  
24 that asked you to identified each expenditure from '97 to the  
25 present of financial and other resources made while pursuing

1 alternative sources of information, etcetera. Do you see that?

2 A. Yes.

3 Q. In here you make reference to the grant that was given by  
4 ASPCA to Wildlife Advocacy Project, correct?

5 A. Correct.

6 Q. And that number was later corrected to six thousand; is  
7 that correct?

8 A. That's correct, yes.

9 Q. But you don't say in here anything about that money going  
10 to Tom Rider, do you?

11 A. No, we don't.

12 Q. In fact, there's no where in these answers, in these  
13 answers in 2004 that ASPCA made a mention of giving money to Tom  
14 Rider, isn't that right?

15 A. Correct.

16 Q. Now, all of these payments that were in the answer to this  
17 interrogatory that was finally answered in 2007 all occurred  
18 between 2001 and 2003, correct?

19 A. I believe so.

20 Q. So by the time you answered the Interrogatories the first  
21 time, all of that had happened, had already occurred, correct?

22 A. Correct.

23 Q. And ASPCA quit paying this man after 2003, correct?

24 A. That is correct.

25 Q. And all of the documents that were generated by that

1 process, the invoices the law firm sent you, your American  
2 Express bills, your general ledger entries, all existed prior to  
3 2004, correct?

4 A. That's correct.

5 Q. Yet none of that was produced in 2004, isn't that true?

6 A. We certainly revealed all the money that we spent. Whether  
7 it was produced in that format or a different format is another  
8 question.

9 Q. Well, if we go to Defendant's Exhibit 2309, page one, if  
10 you look at the bottom of the Bates range for this begins at  
11 A012222, so 1,200-and-some-odd documents, correct?

12 A. Yes.

13 Q. And this was your -- this is a general ledger detail  
14 report, correct?

15 A. That's correct.

16 Q. If we look at Defendant's Exhibit 61, these were the  
17 invoices from the law firm, also in the 1200 range, correct?

18 A. I don't know.

19 Q. Well, look at the bottom right-hand corner.

20 A. Yes, that's true.

21 Q. A1203, correct?

22 A. Yes, that's correct.

23 Q. All the documents you produced, you being ASPCA, in 2004,  
24 were in the Bates range from 01 to 934, isn't that correct?

25 A. It appears that way.

1 Q. Are you sure?

2 A. I'm not sure.

3 Q. It's not on this document so --

4 A. I don't know. I don't know.

5 Q. Well, let me refer you to Defendant's Exhibit 189 at page  
6 33, which is your 2004 response to our document production  
7 requests where you describe at the bottom ASPCA documents being  
8 produced. Do you see that?

9 A. Yes.

10 Q. And it states the ASPCA is producing documents labeled A1  
11 through 934. Do you see that?

12 A. Yes.

13 Q. So that was the extent of your production in 2004, correct?

14 A. I believe so.

15 MR. CRYSTAL: Your Honor, I'm going to object on the  
16 grounds that we haven't discussed the document requests which  
17 we're talking about documents being responsive to. We're  
18 talking the abstract about the production of documents. It's  
19 not clear what document requests we're discussing.

20 THE COURT: She can answer the question. She's an  
21 attorney. She can answer the question.

22 BY MR. SIMPSON:

23 Q. Whatever the request was, ma'am, the document you produced  
24 on that day had those Bates labels, correct?

25 A. Correct.

1 Q. So they stopped at 934, correct?

2 A. Correct.

3 Q. And so the documents, the invoices and the general ledgers  
4 that we just looked at, came in the 1,200 series, so they came  
5 after this?

6 A. That's correct.

7 Q. Isn't it true that it came in 2007 in response to Judge  
8 Sullivan's order?

9 A. Yes.

10 Q. Now, Tom Rider was asked in this same written discovery  
11 whether he was being paid money by animal activists. Do you  
12 remember that question?

13 A. Yes.

14 Q. And he answered that he received no such compensation,  
15 correct?

16 A. It wasn't compensation.

17 Q. But his answer was "I've received no such compensation",  
18 right?

19 A. I don't recall.

20 Q. You don't recall that?

21 A. No, I don't.

22 Q. You weren't here when he testified to that?

23 A. I may not have been.

24 Q. So between his answers and your answers, there was no  
25 statement at all that ASPCA had paid him more than \$24,000,

1 isn't that true?

2 MR. CRYSTAL: Objection; argumentative, your Honor.

3 THE COURT: She can't recall about his answer so just  
4 limit it to her answers.

5 BY MR. SIMPSON:

6 Q. Is it true that ASPCA has given money to Carol Buckley's  
7 elephant sanctuary?

8 A. I don't know that for a fact.

9 Q. Let me refer you to page 103 of your deposition, line 2.

10 Question: Since 1996, has ASPCA worked on any projects  
11 regarding Ringling Brothers we have not already discussed?

12 Answer: No.

13 How about the one --

14 Go back to the top.

15 How about projects regarding elephants generally?

16 Go back in. I can't read that.

17 How about projects -- let me start over again.

18 Since 1996, has the ASPCA worked on any projects  
19 regarding Ringling Brothers that we have not already discussed?

20 Answer: No.

21 Question: How about projects regarding Feld  
22 Entertainment that we've not already discussed?

23 Answer: No.

24 How about projects regarding elephants generally?

25 Answer: Lawsuits?

1 Question: No. This is any projects.

2 Answer: Any projects. We may have given some grants  
3 to some elephant sanctuaries to maintain animals at the  
4 sanctuary.

5 Question: And what sanctuaries would those be?

6 Answer: It might have been the elephant sanctuary in  
7 Tennessee or other general animal sanctuaries that may have  
8 elephants there.

9 Question: What are these other general animal  
10 sanctuaries that have elephants there?

11 Answer: The Fund For Animals, Black Beauty Ranch  
12 maybe. We've given grants to Jungle Sanctuary in Mindy's  
13 memory. They may or may not have elephants there.

14 Does that refresh your memory?

15 A. Yes, it does.

16 Q. Does that refresh your recollection whether ASPCA has made  
17 donations to the sanctuary?

18 A. The one in Tennessee?

19 Q. Yes.

20 A. Not necessarily. He has discretionary funds which he will  
21 provide grants from sanctuaries from time to time. Whether or  
22 not he actually gave any money to the elephant sanctuary in  
23 Tennessee I do not know.

24 Q. But is it a fact that ASPCA gave money to the Black Beauty  
25 Ranch?



1 A. I believe the president had given some money to them at one  
2 point.

3 Q. And that's operated by the Fund For Animals, correct?

4 A. That's correct.

5 Q. A co-plaintiff in this case, correct?

6 A. Yes.

7 Q. Since merged with the Humane Society of the United States,  
8 correct?

9 A. That's correct.

10 Q. And the Black Beauty Ranch has an elephant living in  
11 isolation, correct?

12 A. I don't know that for a fact.

13 Q. Do you know whether it has an elephant at all?

14 A. I don't.

15 Q. Now, is it true, ma'am, that ASPCA will attempt to -- well,  
16 is it true that ASPCA raises money by sending letters to  
17 individual households throughout the United States?

18 A. Yes. That's part of our direct mail program.

19 Q. You send those letters?

20 THE COURT: Let's take a break for lunch now. We're  
21 trying to make up time and I'm being a little more indulgent,  
22 hopefully not to the detriment of the court reporter, but I do  
23 have a sealed matter at one o'clock and everyone is going to  
24 have to leave. I want to make sure that starts promptly so we  
25 can resume this trial in promptly at 2:30.

1 MR. SIMPSON: I'll be done in two minutes.

2 THE COURT: I don't want to curtail you.

3 MR. SIMPSON: No. Well, maybe five minutes.

4 THE COURT: Go ahead.

5 BY MR. SIMPSON:

6 Q. Is it true that these letters are sent to millions of  
7 people every year?

8 A. I don't know the exact number.

9 Q. Is it true that a donation to ASPCA of \$20.00 will feed an  
10 abandoned dog for three weeks?

11 A. If that's what it says --

12 Q. Have you seen that before?

13 A. No, I have not.

14 THE COURT: Let her finish the last answer.

15 THE WITNESS: If that's what it says, then I have to  
16 assume that's true.

17 BY MR. SIMPSON:

18 Q. Well, have you had occasion to review these solicitations?

19 A. No. No, that was not part of my duties at the ASPCA.

20 Q. So you've never seen those documents?

21 A. No, not specifically.

22 Q. Do you know whether when ASPCA solicits money from  
23 individual households in the United States for helping dogs and  
24 cats and spaying and neutering and so forth, that it mentions  
25 the fact that it wants to get elephants out of the Ringling

1 Brothers circus?

2 A. I don't think it does specifically, but I'm not aware of  
3 whether or not it does or doesn't.

4 Q. All right.

5 MR. SIMPSON: Your Honor, I have no further questions  
6 of this witness at this time.

7 I want to offer, make sure I've offered Defendant's  
8 Exhibit 18, which are the Interrogatory answers, and I want all  
9 answers, original and supplemental to numbers 2, 21, and 22,  
10 Defendant's Exhibit --

11 THE COURT: Any objection?

12 MR. CRYSTAL: No objection to that.

13 THE COURT: Admitted.

14 (Defendant's Exhibit No. 18 was admitted into  
15 evidence at about 12:55 p.m.)

16 MR. SIMPSON: 45.

17 THE COURT: What are those numbers again? Exhibit 18.

18 MR. SIMPSON: 18, Answers to Interrogatory No. 21 and  
19 22, original and all supplemental answers.

20 THE COURT: All right.

21 MR. SIMPSON: And Defendant's Exhibit 45. I may have  
22 already offered, and Defendant's Exhibit 47.

23 THE COURT: 45 and 47.

24 I'm not sure about 45. It may have come in already.

25 COURTROOM DEPUTY: 45 was not.

1 THE COURT: Admitted.

2 COURTROOM DEPUTY: Okay.

3 THE COURT: And 47.

4 COURTROOM DEPUTY: That one's in, Judge.

5 THE COURT: We're going to break for lunch.

6 I have to tell you, you're an attorney, I have to tell  
7 you you can't discuss your testimony.

8 THE WITNESS: Right.

9 THE COURT: You can enjoy your lunch, though.

10 The next matter is sealed. Ms. Shaner is here. If  
11 you're not associated with the next case you'll have to leave  
12 the courtroom. Thank you.

13 (A luncheon recess was taken at about 12:56 p.m.)

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I N D E X

WITNESSES:

LISA WEISBERG

Direct Examination by Mr. Simpson 9

E X H I B I T S

Defendant's Exhibit

| No. | Identification | Marked | Admitted |
|-----|----------------|--------|----------|
| 45  |                |        | 28       |
| 18  |                |        | 91       |

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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

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