

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE PREVENTION	)	
OF CRUELTY TO ANIMALS, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	Civ. No. 03-2006 (EGS/JMF)
	)	
FELD ENTERTAINMENT, INC.	)	
	)	
Defendant.	)	

**PARTIES' RECOMMENDATIONS FOR FURTHER PROCEEDINGS**

**Plaintiffs' Position.** In light of the pending cross-appeals, Plaintiffs believe that it would be in the interests of judicial economy and efficiency to stay further proceedings on Defendants' application for attorneys' fees and costs, as well as Defendant's bill of costs, pending the outcome of the appeals. Resolution of the appeals may have a bearing on the Court's analysis of Defendant's entitlement to fees and costs, as well as the amount of fees and costs to which Defendant maintains it is entitled. With regard to Defendant's bill of costs, although Plaintiffs have not objected to a number of specific items enumerated by Defendant, Plaintiffs' response to the bill of costs states that pursuant to Local Rule 54.1, the taxation of costs should be deferred until the issuance of the mandate by the Court of Appeals, and that "[w]hen the clerk actually taxes costs against plaintiffs, plaintiffs may ask the Court to exercise its discretion to deny some or all of those costs on the basis of several equitable factors." DE 570 at n. 1.

**Defendant's Position.** In light of the amount of attorneys fees claimed by Defendant (more than \$20 million) as well as the delay that would occur if the matter is deferred until the conclusion of the pending appeals, Defendant believes that that briefing should proceed on the

attorneys' fees issue. In light of the fact that Plaintiffs have not disputed a substantial portion of the costs claimed by Defendant, Defendant believes that the Court should proceed to resolve the cost issue as well.

Since Plaintiffs contest Defendant's entitlement to recovery of any attorneys fees whatsoever, if the Court finds that briefing should proceed, the parties agree that good cause exists to bifurcate the briefing, which should be handled in two phases: (1) Defendant's legal entitlement to recovery; and (2) the amount of recovery. On the entitlement issue the parties agree on the following schedule: Defendant will file its opening motion on December 15, 2010; Plaintiffs will file their responsive brief on February 15, 2011; and Defendant will file its reply on March 15, 2011. The parties will propose an additional briefing schedule on the amount issue within ten (10) days of the Court's decision resolving the entitlement issue.

Respectfully submitted,

/s/ Katherine A. Meyer

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