



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE  
PREVENTION OF CRUELTY TO  
ANIMALS,

Plaintiff,

v.

FELD ENTERTAINMENT, INC.,

Defendant.

.  
. CA No. 03-2006  
. Washington, D.C.  
. June 11, 2008  
. 10:08 a.m.  
.

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TRANSCRIPT OF STATUS CONFERENCE  
BEFORE THE HONORABLE EMMET G. SULLIVAN  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff:

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

For the Defendant:

LISA JOINER, ESQ.  
GEORGE A. GASPER, ESQ.  
JOHN SIMPSON, ESQ.  
Fulbright & Jaworski, LLP  
801 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
202-662-4504

Court Reporter:

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

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

1 MS. JOINER: We'd have to look to see your specific  
2 point, but it goes back to the issue of are we having a jury  
3 trial or not.

4 THE COURT: I thought that was the first question out  
5 of the box at the last hearing, does anyone maintain that there  
6 is a reason for a jury trial, and I thought that everyone said  
7 this was going to be a nonjury trial. I don't recall that  
8 anyone said we maintain that every issue in this case should be  
9 tried before a jury.

10 MS. JOINER: Well, what we said was that the issue  
11 comes down to the relief that plaintiffs are seeking for  
12 forfeiture, which is still in the complaint and it's still in  
13 the supplemental complaint, and that request for relief in a  
14 private cause of action under the Endangered Species Act, it's  
15 our position that that is not an appropriate remedy. Only the  
16 government can seek that when it enforces the ESQ. Plaintiffs  
17 have included that as part of their claimed relief and that has  
18 triggered our request for a jury trial.

19 THE COURT: That gets to remedy, though. Could not  
20 liability be segregated out from remedy?

21 MS. JOINER: I suppose we could bifurcate the trial.  
22 We don't want to do that.

23 THE COURT: This comes as -- well, let me hear from  
24 plaintiffs.

25 MS. MEYER: Your Honor, we've made it clear on a

1 number of occasions, including as recently as I think two days  
2 ago, to defendant very clearly that we're not seeking government  
3 forfeiture of the elephants.

4 THE COURT: What remedy are you seeking?

5 MS. MEYER: We're seeking an order that would make the  
6 defendants stop taking the elephants by hitting them with bull  
7 hooks and keeping them chained for long periods of time.

8 THE COURT: All right. So what are you doing? If it  
9 appears from your complaint -- if it appears from your  
10 supplemental complaint that you were seeking forfeiture as a  
11 remedy, are you now withdrawing that appearance?

12 MS. MEYER: Yes, your Honor.

13 THE COURT: Or that request.

14 MS. MEYER: And we made that clear to defendant on  
15 numerous occasions. I don't know why Ms. Joiner, with all due  
16 respect, your Honor, I don't know why she keeps saying it's  
17 still on the table and we don't know what to do about it when we  
18 made it absolutely clear that we're not going to ask the  
19 government to come in and seize the elephants and take their  
20 property away from them. We're not asking for that.

21 Now, just to be clear, we have said that if in the  
22 course of this case it becomes clear that the defendant cannot  
23 maintain the elephants in the circus without hitting them with  
24 bull hooks and keeping them chained all the time, then they may  
25 have to give up those elephants, but that is not a government