

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

\_\_\_\_\_  
**AMERICAN SOCIETY FOR THE  
PREVENTION OF CRUELTY TO  
ANIMALS, et al.,**

**Plaintiffs,**

**v.**

**FELD ENTERTAINMENT, INC.,**

**Defendant.**  
\_\_\_\_\_

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Case No.: 03-2006 (EGS/JMF)**

**MEMORANDUM IN SUPPORT OF DEFENDANT'S  
MOTION FOR ENTITLEMENT TO ATTORNEYS' FEES**

**EXHIBIT 1**

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

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

-----X  
AMERICAN SOCIETY FOR THE Docket No. CA 03-2006  
PREVENTION OF CRUELTY  
TO ANIMALS, ET AL,  
Plaintiffs,  
v. Washington, D.C.  
**March 23, 2010**  
2:10 p.m.

FELD ENTERTAINMENT, INC.,  
Defendant.

-----X **AND**  
FELD ENTERTAINMENT, INC., Docket No. CA 07-1532  
Plaintiffs,  
v.  
AMERICAN SOCIETY FOR THE  
PREVENTION OF CRUELTY  
TO ANIMALS, ET AL,  
Defendants.

-----X  
**STATUS HEARING**  
*BEFORE THE HONORABLE EMMET G. SULLIVAN*  
*UNITED STATES DISTRICT JUDGE*

APPEARANCES:

For the Plaintiffs: MEYER, GLITZENSTEIN & CRYSTAL  
ASPCA By: Ms. Katherine A. Meyer  
Mr. Howard M. Crystal  
Mr. Eric Glitzenstein  
1601 Connecticut Avenue, N.W.  
Suite 700  
Washington, D.C. 20009  
202.588.5206

ROPES & GRAY, LLP  
By: Mr. Stephen L. Braga  
One Metro Center  
700 12<sup>th</sup> Street, N.W., Suite 900  
Washington, D.C. 20005  
202.508.4600

For the Defendant: FULBRIGHT & JAWORSKI, LLP  
FELD By: Mr. John M. Simpson  
Mr. Richard C. Smith  
Ms. Michelle C. Pardo  
801 Pennsylvania Avenue, N.W.  
Suite 500  
Washington, D.C. 20004  
202.724.6522

1 that going to good faith or not? Because if it's not, then  
2 we're wasting time.

3 THE COURT: You know what, believe me, I'll never  
4 know because I'm not going to micro-manage, but I just -- my  
5 job today, and I think it's an important job today, is to  
6 inquire and see whether or not there is indeed a good faith  
7 basis just to talk for 90 days or so.

8 MR. SIMPSON: No, absolutely, I agree with that  
9 fully.

10 THE COURT: Everything, everything.

11 MR. SIMPSON: Yes, both cases. So far we only have  
12 two --

13 THE COURT: I have no control over staying the  
14 schedule, you know, set by the Court of Appeals. I don't know  
15 what's going on there.

16 MR. SIMPSON: Well, I think if this is something  
17 that the parties are seriously interested in doing, there is  
18 no reason we can't notify the D.C. Circuit that that's what's  
19 going on because they have an appellate mediation program  
20 themselves. So, there's no reason we can't have that appeal  
21 held in abeyance.

22 THE COURT: Right, right. What do you think?

23 MR. CRYSTAL: Your Honor, of course, I only speak  
24 for the Plaintiffs in the -- referred to as the elephant case,  
25 and I do agree with one thing that Mr. Simpson said, and

1 that's that we lost. We recognize that. We appreciate that.  
2 We read Your Honor's ruling. We have great respect for the  
3 Court. We don't know what's going to happen in the Court of  
4 Appeals. There are some factual issues and there are some  
5 legal issues.

6 As Your Honor may recall, you had expanded in very  
7 interesting colloquies about some aspects of the standing  
8 issue, particularly the informational standing question, the  
9 organizational standing question. We don't think the Court  
10 would have expended that energy and time if you did not think  
11 that those were at least arguable questions.

12 Again, all I'm saying is nobody ever predicts what  
13 the D.C. Circuit is going to do. As for the --

14 THE COURT: Or what a trial judge may do.

15 MR. CRYSTAL: Or what a trial judge may do.

16 THE COURT: You know, this case was -- presented  
17 some of the most interesting challenging issues and that's why  
18 the Court had the opportunity, because, you know, the  
19 parties -- I mean, there was an army of attorneys. I had the  
20 opportunity to get questions -- get answers to serious  
21 questions I had at various stages of litigation, but, you  
22 know, go ahead.

23 MR. CRYSTAL: Well, Your Honor, all I was going to  
24 say is, Your Honor did say on the last day of trial that it  
25 was a fairly fought case and you had --