

# EXHIBIT D

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. 1:03-cv-2006  
(EGS)

**DECLARATION OF TRACY SILVERMAN-MEDNIK, ESQ.**

Pursuant to 28 U.S.C. § 1746, I, Tracy Silverman-Mednik, declare as follows:

1. I am the General Counsel for the Animal Welfare Institute (“AWI”) and am more than twenty-one (21) years of age. Unless indicated otherwise, I make this declaration based upon my personal knowledge and information acquired or observed in my involvement on behalf of AWI overseeing the above-captioned case, titled *American Society for the Prevention of Cruelty to Animals, et al. v. Feld Entertainment, Inc.*, Case No. 1:03-cv-2006 (EGS) (the “ESA Litigation”).

2. I have Bachelor of Science and Juris Doctor degrees from the University of Maryland. I am admitted to practice in the District of Columbia and State of Maryland and have never been sanctioned by any court or bar.

3. I was hired by AWI in February, 2005 as counsel and in the summer of 2007, I was promoted to General Counsel. Throughout my employment with AWI, I have been responsible for overseeing many of AWI’s litigation activities (often with the assistance of outside counsel), including the ESA Litigation.

4. AWI is a non-profit organization founded in 1951 and is dedicated to reducing animal pain and fear caused by people. AWI seeks better treatment for animals everywhere, including but not limited to those animals in the entertainment industry. AWI has approximately 39,000 members and constituents worldwide. AWI spends significant resources each year advocating for the protection of endangered and threatened species, such as the Asian elephant. AWI routinely sends submissions to the federal government concerning the treatment of animals and submits comments in response to the government's requests for public comment concerning animal issues.

5. Even though it is a small organization, where appropriate, AWI also engages in litigation in an effort to protect animals in those select cases that AWI believes are meritorious and warrant judicial action. For example, in *Animal Welfare Institute v. Beech Ridge Energy LLC*, Case No. 09cv1519 (D. Md. Dec. 8, 2009), AWI and its co-plaintiffs successfully protected endangered Indiana bats as a result of a federal lawsuit charging an industrial wind energy project in West Virginia with killing and injuring the bats in violation of the Endangered Species Act. In addition, AWI and its co-plaintiffs successfully protected endangered sea turtles as a result of efforts related to claims they brought in *Animal Welfare Institute, et al. v. BP America, et al.*, Case No. 2:10-cv-01866 (E.D. La. 2010), pursuant to the Endangered Species Act and other laws against British Petroleum and the U.S. Coast Guard for burning sea turtles as part of clean-up efforts in the Gulf of Mexico following the Deepwater Horizon oil spill. Like the ESA Litigation, in both cases AWI was represented by Meyer Glitzenstein & Crystal, a public interest law firm that specializes in Endangered Species Act cases.

6. In addition, AWI publishes a magazine on a quarterly basis, which is submitted to its members and constituents, and it operates a web site. The magazine and web site report on

animal welfare issues, such as legislative, regulatory, and litigation matters affecting endangered and threatened species, including animals used for entertainment purposes, and they also inform AWI's members, constituents, and others about actions they can take to promote the protection and humane treatment of animals. As a result of these and other efforts, AWI spends significant resources informing the public about how the elephants in Feld Entertainment, Inc.'s ("FEL") circus are mistreated and advocating for the better treatment of these animals. In pursuing the ESA Litigation, AWI believed it had a good faith basis for asserting Article III standing on the grounds that the relief sought would ameliorate this resource-based injury as well as provide AWI with information that it believed it was statutorily entitled to under the Endangered Species Act. The reason AWI did not separately present testimony about its Article III standing during the trial was to avoid duplication in light of the fact that AWI's basis for standing overlapped with that of the Animal Protection Institute ("API"), and AWI's understanding that it would not be necessary to prove its standing at trial if the Court concluded that another plaintiff (such as API) had standing.

7. AWI directly and indirectly contributed funds for Tom Rider to use for living and travel expenses while he engaged in public education outreach and public relations/media efforts related to the elephant mistreatment he observed when he worked for FEL. Although AWI contributed these funds, AWI never paid Mr. Rider or anyone else to lie under oath, say anything that was not true, or engage in any other improper conduct.

8. In connection with his public education outreach and public relations/media efforts, I spoke with Mr. Rider over the telephone on many occasions and I met with him a number of times. Based on my experience, observations, and interactions with Mr. Rider, I always believed that he had a personal and emotional attachment to the Asian elephants under

the control of FEI, that he suffered injury as a result of the elephant mistreatment he observed when employed by FEI, that he genuinely wanted to improve the elephants' lives, and that he desired to visit these elephants, but he knew that it would be painful for him to do so based upon their mistreatment. Mr. Rider's willingness to travel around the country in a van with few resources to help the elephants reinforced my belief that he was being sincere and AWI would not have participated in the ESA Litigation had we believed Mr. Rider was not being truthful.

9. In addition to my interaction with Mr. Rider, in my role as AWI's General Counsel, I have reviewed pleadings, filings, discovery responses, depositions, documents, reports, video footage, photographs, affidavits, inspection reports by the United States Department of Agriculture, hearing and trial transcripts, and trial exhibits in the ESA Litigation. I also attended much of the ESA Litigation trial. I also was aware that Mr. Rider testified at legislative hearings and made multiple statements under oath regarding the mistreatment of FEI's elephants. All of this material reinforced my belief that Mr. Rider was telling the truth about his love of the elephants, the fact that they were mistreated, and his desire to help them because, in my view, it corroborated his eye-witness accounts, particularly when I watched the videotape evidence of elephants being hit with bull hooks and swaying back and forth while chained. Based on my own emotional reaction to this evidence, I understood how difficult it must have been for Mr. Rider to see this mistreatment on a daily basis.

10. At no time have I believed that the ESA Litigation was brought or continued for an improper purpose or to harass anyone. To the contrary, AWI brought this case to obtain better treatment for the elephants in FEI's circus and to enforce the requirements of the Endangered Species Act. In addition, throughout my involvement in the ESA Litigation I believed that Mr. Rider had a personal and emotional attachment to the Asian elephants under

the control of FEI, that he suffered injury as a result of the elephant mistreatment he observed when employed by FEI, that he genuinely wanted to improve the elephants' lives, and that he desired to visit these elephants, but he knew that it would be painful for him to do so based upon their mistreatment. In other words, I believe that all of AWI's claims were well grounded in fact and the governing law and that the ESA Litigation was one of those select cases that AWI believed was important to file and prosecute. Had AWI thought otherwise, it would not have participated in the ESA Litigation.

I declare under penalty of perjury that the foregoing is true and correct.

  
Tracy Silverman-Mednik

Executed on June 7, 2012.