

EXHIBIT E

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

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AMERICAN SOCIETY FOR THE PREVENTION OF)	
CRUELTY TO ANIMALS, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
v.)	
)	Case No. 1:03-cv-2006
FELD ENTERTAINMENT, INC,)	(EGS)
)	
Defendant.)	
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DECLARATION OF MICHAEL MARKARIAN

Pursuant to 28 U.S.C. Section 1746, I, Michael Markarian, state the following:

1. I am more than 21 years of age and submit this declaration in support of the opposition to FEI's motion for attorneys' fees in the above-captioned case. I declare that the below statements are based on my personal knowledge and are true and correct to the best of my knowledge.
2. I became Executive Vice President of The Fund for Animals in 1998 and its President in 2002. I have worked for The Fund for Animals since 1993.
3. The Fund for Animals is a national nonprofit organization founded in 1967 that is dedicated to preventing abuse and exploitation of animals. The Fund for Animals runs animal-care facilities throughout the United States that provide veterinary, sanctuary, and rehabilitative needs for animals and seeks to protect animals through legal and legislative efforts. In 2005, The Fund for Animals joined together with The Humane Society of the United States (HSUS) and has since expanded its nationwide efforts devoted to protecting animals. Since that time, I have also served in executive capacities at HSUS and am

currently its Chief Program and Policy Officer. I am making this declaration in my capacity as a representative of The Fund for Animals, and not on behalf of HSUS, which is not a party in this case.

4. The Fund for Animals has brought dozens of lawsuits in federal and state court and has achieved significant legal victories on behalf of animals, including legal actions to protect mute swans, wild horses and burros, Yellowstone bison, and other wildlife species. During my time at The Fund for Animals, the organization has never brought a lawsuit that I thought did not have merit or for the purpose of harassing another party.
5. To the best of my recollection, neither I nor The Fund for Animals has ever been sanctioned by a court or found liable for attorneys' fees. To the best of my recollection, other than in this proceeding with FEI, my personal veracity has never been questioned in a legal case.

The Endangered Species Act Lawsuits

6. In 2000, The Fund for Animals joined with other nonprofit organizations and two former circus employees including Tom Rider to bring suit against FEI for its abuse of elephants and violations of the Endangered Species Act. As the Executive Vice President for The Fund for Animals in 2000, I recommended and approved participation by The Fund for Animals in this litigation, after consultation with other staff members and our President.
7. Throughout the litigation, I believed the case against FEI to be legitimate, meritorious, and well-founded in law and fact. I would never have authorized participation by The Fund for Animals in the litigation had I thought otherwise. I would also never have authorized participation by The Fund for Animals in *any* case alongside Mr. Rider had I believed that Mr. Rider was not truthful regarding his emotional attachment to the elephants and the harm that he suffered from witnessing their abuse by FEI.

8. I recognize that the Court found that Mr. Rider was not a credible witness. Based on my personal knowledge, I have believed throughout this litigation that Mr. Rider told the truth about his emotional attachment to the circus elephants with which he worked and the harm he suffered by witnessing their mistreatment and being unable to visit them without feeling pain because of their mistreatment.
9. My beliefs regarding Mr. Rider were based on my personal observations, judgment, and information known to me and known to my colleagues.
10. The Fund for Animals was represented in this case by the law firm of Meyer Glitzenstein & Crystal (MGC), a preeminent public interest law firm. The Fund for Animals has worked with this law firm for almost 20 years, during which its lawyers have represented The Fund for Animals on a number of cases seeking to uphold wildlife protection, environmental, and anti-cruelty statutes. I believe that the firm and its lawyers acted in good faith in bringing and pursuing this litigation. My personal beliefs about the bona fides of this case and Mr. Rider were strengthened because of the reputation of MGC and my knowledge, based on my prior experience with the firm, that its lawyers are diligent, thorough, and exemplify the highest ethical standards.
11. Additionally, I understood that Mr. Rider spent many years directly advocating on behalf of circus elephants, in which he traveled throughout the United States talking to various media outlets, legislative bodies, and grassroots groups. In 2004, I personally witnessed Mr. Rider attend and speak at a press conference in Denver, Colorado, in support of a citywide ballot measure dealing with circuses. I heard him speak passionately in Denver about the mistreatment of elephants in the circus, and it further strengthened my personal belief that he was telling the truth about what he had witnessed and his personal

attachment to the elephants. His continued efforts on behalf of the elephants further bolstered my belief in Mr. Rider's compassion and concern for the circus elephants with whom he worked. Similarly, his willingness to travel around the country to tell his story and generate public awareness about FEI's abuse of elephants convinced me of his commitment to the cause and his personal belief in the need to improve how elephants are treated.

12. I also knew and relied upon the fact that Mr. Rider had testified at legislative hearings and had made multiple statements under oath about the mistreatment of the FEI elephants.

Payments for Mr. Rider

13. I was aware that the Wildlife Advocacy Project (WAP) as well as the nonprofit organizations including The Fund for Animals provided certain funds to Mr. Rider. I understood that this funding was to support Mr. Rider's travel expenses for his media work that I describe above. I believe that all of this funding was for legitimate purposes and legal and approved providing those funds based on that belief.
14. The Fund for Animals never provided money to Mr. Rider, through WAP or MGC or otherwise, for an improper purpose, much less for him to say anything untruthful or to influence his testimony in any respect.
15. I do not know of any organization or individual who paid Mr. Rider to say anything untruthful or try to influence his testimony.
16. My intention was always to be honest and forthcoming throughout this litigation on all topics, including my organization's funding of Mr. Rider, and I never intentionally hid anything about the nature and extent of funds provided to Mr. Rider.

17. I tried to provide full and complete answers in discovery, and I answered the questions posed to me at my deposition regarding Tom Rider truthfully and to the best of my ability, based on my memory at the time and based on what I understood each question to be asking.
18. When I was asked at my 2005 deposition whether The Fund for Animals had ever paid Mr. Rider, I responded "Yes." June 22, 2005 Dep. Tr. at 157-158. I recalled one occasion where The Fund for Animals provided Mr. Rider with \$1,000 for travel expenses in connection with the Denver press conference, which is discussed above and at which I also appeared. *Id.* As explained to Judge Facciola in the evidentiary hearings in 2008, I did not understand that particular question to include funding provided to WAP or to MGC that could later be used to cover Mr. Rider's expenses for his media work. I had no reason to hide any information from FEI.

Organizational Standing

19. I never intended to abandon any argument regarding my organization's legal standing in this case. I believed that The Fund for Animals was similarly situated to the Animal Protection Institute with respect to the standing argument we were making and the relief we were seeking. In order to avoid duplication and pare down the number of trial witnesses, The Fund for Animals chose not to present evidence on its legal standing, relying instead on API's witness to advance the organizational interests.

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



Michael Markarian

Executed on June 10, 2012