

# EXHIBIT G

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.	)	
	)	

DECLARATION OF HOWARD M. CRYSTAL

I, Howard M. Crystal, declare as follows:

1. I submit this declaration in support of the opposition to the motion of defendant Feld Entertainment Inc. (FEI) for an award of attorneys' fees and costs in this litigation. I make this declaration based on my personal knowledge and belief, and not on behalf of any client, and without authorization or intent to waive any privilege held by any current or former client. My clients in the ESA litigation have reviewed this declaration through separate counsel who have advised me that nothing in this declaration waives the attorney-client privilege and that their clients consent to the public filing of this declaration.

2. I am a partner in Meyer Glitzenstein & Crystal (MGC), where I have practiced law since 1996, first as an associate (1996-1999), then as a non-equity partner (1999-2000), then an equity partner (2001-present). I have been the managing partner since 2005, which is when the firm changed its name from Meyer & Glitzenstein to Meyer Glitzenstein & Crystal. I was

previously an associate at Crowell and Moring, and served as a law clerk to Judge Truman A. Morrison III on the D.C. Superior Court. I graduated *magna cum laude* from Georgetown University Law Center (GULC) in 1993, where I was a member of the Public Interest Law Scholars program. I have taught Public Interest Advocacy at GULC and co-taught an Animal Law and Wildlife Protection seminar at George Washington University School of Law. I am a member of the bars of Massachusetts and the District of Columbia, and am a member of the bar of this Court, the D.C. Circuit, the Ninth Circuit, the First Circuit, and the United States Supreme Court.

3. I have been fortunate to have litigated numerous suits to protect animals and public lands during my career, as well as suits concerning other public interest causes. These cases have included suits against the Park Service to protect wildlife from adverse effects associated with snowmobiles and jetskis (*e.g. Fund for Animals v. Norton*, 294 F. Supp. 2d 92 (D.D.C. 2003); *Bluewater Network v. Salazar*, 721 F. Supp. 2d 7 (D.D.C. 2010)); against the Coast Guard to protect right whales (*e.g. Defenders of Wildlife v. Gutierrez*, 532 F.3d 913, 924 (D.C. Cir. 2008)); against gun clubs to protect pigeons from being used as live targets (*e.g. Hulsizer v. Labor Day Comm.*, 734 A.2d 848 (Pa. 1999)); and against the Department of Energy (*e.g. NRDC v. Abraham*, 223 F. Supp. 2d 162 (D.D.C. 2002); *NRDC v. DOE*, 2007 WL 1302498 (N.D. Cal. 2007)). In ruling that the plaintiff in *Hulsizer* had statutory standing to bring the suit, the Pennsylvania Supreme Court also reversed the sanction the lower court had imposed on Ms.

Meyer and myself for filing the case. *See* 734 A.2d at 477. I have never been involved in any other sanction proceeding, nor have I ever been sanctioned by any court.

4. Other than conferring with counsel of record from time to time, I had no direct role in this suit until I entered my appearance in the fall of 2006. DN 104. I had no involvement in preparing the suit or complaint, in determining whether Mr. Rider and others would become plaintiffs, or in Mr. Rider's media work and the funding he received for that work from plaintiffs, the Wildlife Advocacy Project (WAP), or anyone else. Although, as discussed below, I was responsible for presenting the examination of several witnesses during the trial, and also assisted with the evidentiary hearing before Judge Facciola, none of those tasks involved interacting with Mr. Rider.

5. Although WAP is headed by my law partners, it has always been run separately from the firm, and I have never been an officer or director of WAP nor have I been involved in WAP's decision-making concerning circus elephant issues and/or funding Mr. Rider. I have worked with WAP on some other projects with which the organization has been involved over the years, although I also had no decision-making authority for WAP in those endeavors.

6. During the discovery phase of the case I was familiar with Mr. Rider's media campaign, and saw footage of some of the media interviews he gave concerning his experiences at the circus. Once FEI began accusing plaintiffs of improprieties associated with Mr. Rider's funding, I also regularly consulted with co-counsel concerning the import of those accusations on Mr. Rider's credibility, and how to respond to those allegations in numerous court filings,

some of which I participated in drafting. As to these and every other brief or other filing with which I was involved, each was carefully reviewed to ensure its accuracy and veracity. In my view, each filing was supported fully by the applicable facts and established case law. I have never filed any document or taken any action in this case, or in any case, in an effort to delay or multiply the proceedings or to mislead the Court.

7. Although I have met him on several occasions, I never personally discussed any matter of substance with Mr. Rider, such as his experiences at FEI or the bases for his injuries in this case. However, nothing I ever heard or read made me doubt that Mr. Rider genuinely cared about the elephants he tended to during the two years he worked at FEI, and I always believed that plaintiffs and their counsel had a good faith basis for presenting Mr. Rider's testimony and asserting he had Article III standing in this case. I also always understood this case to be a legitimate effort to remedy alleged violations of the Endangered Species Act. I was not involved in, have no knowledge of, and do not believe there was any effort to pay Tom Rider to be a plaintiff or to lie regarding his allegations in this case or about anything else.

8. I was responsible for interviewing and then offering the direct examination at trial of Archele Hundley, Robert Tom and Margaret Tom, three former FEI employees who testified about mistreatment of animals, including the elephants, they witnessed while working at FEI. It was my assessment that all of these individuals were telling the truth about these experiences, and I would not have offered their testimony to the Court had I believed otherwise.

9. The accounts of these witnesses, with whom I interacted directly, corroborated the accounts Mr. Rider gave at trial about the way in which FEI employees mistreated the animals in their care and about how people bonded with the elephants. This supported my belief that plaintiffs and counsel had a good faith basis to argue that Mr. Rider had standing in this case.

10. I was also responsible for offering the examination of Nicole Paquette at trial, the representative of the Animal Protection Institute (API) on whose testimony the plaintiffs relied to assert organizational standing based on information and resource injuries. It was similarly my assessment that Ms. Paquette testified truthfully about the organizational resources API expends as a result of FEI's practices, and the information API would obtain in the event FEI applied for a permit to "take" elephants under the ESA. I therefore also believed plaintiffs and counsel at all times had a good faith basis for asserting that API had standing. I also reviewed the interrogatory responses of the other organizational plaintiffs, which contained facts regarding those organizations' standing, and believed that plaintiffs and counsel also had a good faith basis for the other organizations' standing, although plaintiffs and counsel ultimately elected not to independently pursue those organizations' standing at trial in order to preserve trial time.

11. I also believe plaintiffs and counsel had a good faith basis for the relief they sought at the end of the case, in light of the many precedents emphasizing a court's flexibility in crafting relief for legal violations, including declaratory relief. *See, e.g., Winter v. NRDC*, 129

S. Ct. 365, 381 (2008) (citing *Steffel v. Thompson*, 415 U.S. 452, 466 (1974)) (“Congress plainly intended declaratory relief to act as an alternative to the strong medicine of the injunction”).

12. I played no role in the original discovery responses or the depositions about which the Court expressed concern in the final decision in this case, because I was not yet involved in the case and had not entered an appearance. However, I was involved in discussions with co-counsel about how to respond to FEI’s later complaints concerning these matters, and assisted Mr. Glitzenstein and Ms. Ockene at the evidentiary hearing on discovery responses held before Judge Facciola. I also participated in preparing supplemental discovery responses from some of the organizational plaintiffs. Based on my involvement I believe the plaintiffs and counsel responded in good faith to FEI’s discovery throughout the litigation.

13. I became the managing partner of MGC in 2005. In my capacity as managing partner, I handled MGC’s responses to the subpoena for records the Firm received from FEI during this case and FEI’s subsequent motion to compel, which was ultimately withdrawn (DN 302). In response to the subpoena, MGC provided FEI with all the responsive materials to which FEI was entitled, and there was never any effort to improperly withhold information responsive to the subpoena.

14. I have worked for, and then with, Katherine Meyer and Eric Glitzenstein almost my entire career. I have the upmost respect for their integrity and good judgment. They have been my most important professional role models in learning to zealously advocate for our clients while always practicing law to the highest ethical and professional standards. To the best of my knowledge and belief they have followed those practices in all of the litigation with which I have been involved in my sixteen years at the firm, including this case.

Pursuant to 28 U.S.C. § 1746, I swear that the foregoing is true and correct to the best of my knowledge.

June 10, 2012

A handwritten signature in black ink, appearing to read 'Howard M. Crystal', written over a horizontal line.

Howard M. Crystal