

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Plaintiffs,

v.

RINGLING BROS. AND BARNUM &
BAILEY CIRCUS, et al.,

Defendant.

Case No. 03-2006 (EGS/JMF)

ANSWER TO SUPPLEMENTAL COMPLAINT

Defendant Feld Entertainment, Inc. (“FEI”)¹ hereby answers the separately numbered paragraphs of the Supplemental Complaint as follows:

1. Defendant admits that the Supplemental Complaint purports to add the Animal Protection Institute (“API”) as a plaintiff in this case and admits that Plaintiffs, including API, purport to bring this suit under the Endangered Species Act (“ESA”), 16 U.S.C. § 1531 *et seq.* Defendant denies the remaining allegations in paragraph 1.

2. Defendant denies that this Court has jurisdiction over this case.

3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 and therefore denies them.

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 and therefore denies them.

¹ Ringling Bros. and Barnum & Bailey Circus, although included in the caption of this case, is not a legal entity. For clarification, the appropriate spelling of defendant FEI is “FELD”. Docket entries previously have referred incorrectly to defendant “FLED”.

5. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 and therefore denies them.

6. Defendant denies the allegations in paragraph 6 and the allegations in the unnumbered paragraph between paragraphs 6 and 7.

7. Paragraph 7 contains a legal conclusion to which no response is required; however, to the extent a response is required, Defendant denies the allegations in paragraph 7.

8. Defendant admits that the Supplemental Complaint purports to name the same parties as defendants as does the Complaint in this action, dated September 26, 2003. Defendant denies the remaining allegations in paragraph 8 and incorporates by reference paragraphs 25-35 of the Answer that it filed on October 8, 2003 (“October 2003 Answer”).

9. Defendant admits that Plaintiffs in this case purport to challenge alleged violations of the ESA, 16 U.S.C. § 1631 *et seq.* and denies the remaining allegations in paragraph 9.

10. Defendant states that the first sentence of paragraph 10 contains a legal conclusion to which no response is required; however, to the extent a response is required, Defendant denies the allegations in the first sentence of paragraph 10 and incorporates by reference paragraphs 36-47 of the October 2003 Answer. Defendant denies the allegations in the second sentence of paragraph 10 and incorporates by reference paragraphs 48-95 of the October 2003 Answer.

11. Defendant admits that it received a letter dated July 22, 2005 from API and that API’s letter referred to and purported to incorporate by reference letters

dated December 21, 1998, and November 15, 1999, sent by “other animal protection groups” that are not parties to this case, as well as a letter dated April 12, 2001, sent by Plaintiffs Tom Rider, the American Society for the Prevention of Cruelty to Animals, The Fund for Animals, and the Animal Welfare Institute. Defendant denies the remaining allegations in paragraph 11 and further denies the truth of, adequacy of, and any liability on the basis of the allegations in any notice letter referenced in the Complaint or Supplemental Complaint, including those dated December 21, 1998, November 15, 1999, April 12, 2001, or July 22, 2005.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 and therefore denies them.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 and therefore denies them.

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14 and therefore denies them.

15. Defendant denies the allegations in paragraph 15 that Plaintiffs are entitled to any relief and incorporates by reference paragraphs 96 and 97 of the October 2003 Answer.

16. Defendant denies each and every allegation of the Complaint and Supplemental Complaint not specifically admitted herein.

First Defense

API has failed to state a claim on which relief can be granted.

Second Defense

There is no “case or controversy” under Article III of the Constitution because API does not have standing to pursue this action.

Third Defense

API lacks standing under the Endangered Species Act, 16 U.S.C. § 1631 *et seq.*

Fourth Defense

This Court does not have subject matter jurisdiction over API’s allegations.

Fifth (Affirmative) Defense

API’s claims are barred in whole or in part by the applicable statutes of limitations.

Sixth (Affirmative) Defense

API’s claims are barred in whole or in part by the doctrine of laches.

Seventh Defense

API may not challenge the validity or administrative interpretation of regulations issued by the Department of the Interior in this action against Defendant.

Eighth Defense

This Court does not have jurisdiction over API’s allegations exceeding the scope of the allegations in the “right-to-sue” letter referenced in paragraph 95 of the Complaint.

PRAYER FOR RELIEF

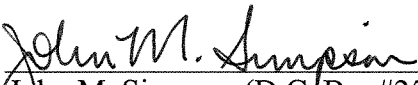
WHEREFORE, Defendant requests that the Court:

- (1) Dismiss this action with prejudice;
- (2) Award Defendant costs and attorneys' fees; and
- (3) Grant such further relief as it deems proper.

JURY DEMAND

Defendant demands a trial by jury of all issues triable by a jury.

Respectfully Submitted,



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March 15, 2006