

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

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

Plaintiffs,)

v.)

RINGLING BROTHERS AND BARNUM)
& BAILEY CIRCUS, et al.,)

Defendants.)

Civ. No. 03-2006 (EGS/JMF)
Judge: Emmett G. Sullivan

**PLAINTIFFS' MOTION REQUESTING ATTORNEYS' FEES
AND COSTS RELATED TO PLAINTIFFS' MOTION
TO COMPEL MEDICAL RECORDS OF ELEPHANTS
AND SUPPORTING MEMORANDUM**

Pursuant to this Court's February 23, 2006 Order [Docket No. 60], and Rules 26(g)(3), 37(a)(4), and 37(d) of the Federal Rules of Civil Procedure, plaintiffs hereby request that they be awarded their reasonable attorneys' fees and costs in connection with their efforts to compel defendants to produce medical records for the endangered Asian elephants who are the subject of this lawsuit under the Endangered Species Act, 16 U.S.C. § 1531 *et seq.* Rather than repeat the basis for this motion, plaintiffs hereby incorporate by reference the background and arguments made in Plaintiffs' Reply to Defendants' Response To Order To Show Cause (October 5, 2005) [Docket No. 53], which prompted this Court's February 23, 2006 Order directing plaintiffs to file this motion.

Plaintiffs request that the Court order defendants to reimburse them in the amount of \$ 26,319.03, which represents \$24,906.50 in attorneys' fees and \$1,412.53 in costs. As explained in the accompanying declaration by Katherine A. Meyer, the amount of fees and costs is fully justified by the contemporaneous time and expense records maintained by plaintiffs' law firm and by the hourly rates used by the Department of Justice – commonly referred to as the “Laffey Matrix.”

A proposed Order is attached.¹

Respectfully submitted,

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April 3, 2006

¹It is now clear that defendants still have not produced “all” of the medical records for the elephants, as ordered by this Court, see September 26, 2005 Order; Transcript of September 16, 2005 Hearing at 36 (“And when I say all, I mean all, every last [medical] record;” id. at 37 (“I want them all produced and I want them produced now”); see also, e.g., Plaintiffs’ Reply to Defendants’ Response To Order To Show Cause at 2-3.

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ORDER

Pursuant to this Court’s February 23, 2006 Order, and upon consideration of plaintiffs’ motion for an award of attorneys’ fees and costs in connection with securing an Order from this Court that defendants provide plaintiffs with “all” of the medical records for the elephants who are at issue in this case, the defendants’ response thereto, and the entire record of this proceeding, especially Plaintiffs’ Reply to Defendants’ Response To Order To Show Cause, it is this day of _____, 2006

ORDERED that plaintiffs’ motion is granted, and it is further

ORDERED that, within ten days of this Order, defendants shall reimburse plaintiffs in the amount of \$ 26,318.03, in the manner that is most convenient for plaintiffs.

United States District Judge