

COPY

1 VIRGINIA:

2 IN THE CIRCUIT COURT OF FAIRFAX COUNTY

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 :
 4 PEOPLE FOR THE ETHICAL :
 TREATMENT OF ANIMALS, INC., :
 5 :
 Plaintiff, :
 6 :
 vs. : Law No. 2002-204452
 7 : Law No. 2004-220181
 KENNETH FELD, et al., :
 8 :
 Defendants. :
 9 :
 ----- x

11 Fairfax, Virginia

12 Thursday, December 8, 2005

13 The proceedings commenced at 10:07 a.m.

14 BEFORE:

15 THE HONORABLE DAVID T. STITT.

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1 should have produced this long ago.

2 As far as the Bloom documents, I filed a
3 document request in this case in August specifically
4 asking for Bloom documents relating to the animal
5 rights groups. She missed it or she concealed it.
6 She didn't produce it. It was her failure,
7 apparently.

8 Well, I'm not litigating with her. If she
9 doesn't like what I did, I invite her today, let's
10 send it all to the District of Columbia Bar and see
11 how they feel about the shenanigans in this case.
12 I'd welcome that. If that's what she wants, I'd
13 welcome it.

14 These documents should have been produced.
15 I go back to my original argument, Your Honor. I've
16 asked for them repeatedly. There's no excuse for
17 not producing these documents before now.

18 THE COURT: All right. Thank you,
19 Mr. Hirschkop.

20 Initially the agreement that Mr. Hirschkop
21 and Mr. Petrosinelli worked out on the nine motions
22 was a very positive development in the case. And

1 pursuant to that agreement these documents were
2 produced. And I don't have any basis at this point
3 for questioning the good faith of the attorneys for
4 the defendant, Ms. Joiner and others, but I really
5 can't say the same about the client.

6 Discovery in this case has been like
7 pulling teeth; it's been way too difficult. It's
8 appeared to me that the defendant's resisting
9 discovery by all available means.

10 These documents come well within a number
11 of discovery requests that have been made through
12 this case by the plaintiff. A good faith inquiry by
13 the client should have revealed these documents and
14 they should have been produced long before now. And
15 I haven't heard anything that's an excuse for them
16 not having been produced long before now. I've
17 heard some technical arguments about one thing or
18 another, but they should have been produced and
19 there's going to be a sanction.

20 One of the sanctions that's been requested
21 has basically been a default judgment and that's
22 going to be denied.

1 But by close of business next Monday
2 unredacted copies of draft five and the Kendall
3 letter, Exhibits 1 and 2 to the motion, are going to
4 be produced to the plaintiff.

5 And further -- and this is also a
6 sanction -- I'm ordering production in unredacted
7 form of all documents in Feld's possession, custody
8 or control, as that's been defined in previous
9 orders, which relate to the animal issues department
10 of the long term animal plan task force and anything
11 else related to Exhibits 1 and 2. They're to be
12 produced by close of business next Friday,
13 December 16th, to the plaintiff.

14 The final motion that we have is the --
15 and attorneys' fees at this point will be denied.

16 The last one we have is plaintiff's motion
17 to unseal court records, release documents, and
18 modify the protective order.

19 MR. HIRSCHKOP: Your Honor, we filed it in
20 both cases. If it please Your Honor, I'd argue them
21 together?

22 THE COURT: Yes.