

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

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ANIMAL WELFARE INSTITUTE, <u>et al.</u>,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 03-2006 (EGS/JMF)
)	
FELD ENTERTAINMENT, INC.,)	
)	
Defendant.)	
<hr/>)	

**DEFENDANT FELD ENTERTAINMENT, INC.'S OPPOSITION TO PLAINTIFFS'
MOTION FOR LEAVE TO TAKE "LIMITED" DISCOVERY**

EXHIBIT 3

(Opp. Ex. 3)

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LAW AND LOBBYING IN THE NATION'S CAPITAL

October 22, 2013

Lawyers in Circus Litigation Seek \$25M in Fees



Lawyers for the producer of the Ringling Bros. and Barnum & Bailey Circus want the animal rights groups that unsuccessfully sued the circus to pay more than \$25 million in legal fees.

It's been more than a decade since the animal rights groups brought claims against producer Feld Entertainment Inc., accusing the circus of abusing its Asian elephants. U.S. District Judge Emmet Sullivan entered a judgment against the animal rights groups in 2009 and granted Feld's request to recoup its legal fees in March.

In court filings yesterday, Feld said it was seeking fees for the nearly 50,000 hours its lawyers spent working on the case from 2000 through March 2013. Feld's lead counsel at Norton Rose Fulbright, formerly Fulbright & Jaworski, reported billing more than 41,000 hours since late 2005 valued at \$22.6 million.

Partner John Simpson, Feld's lead attorney, said today that the requested fees were appropriate given the complexity of the case and the number of years the parties had spent litigating. "It's lasted for 13 years, and is still ongoing," he said. "This is what it costs to defend something like that."

Feld wants the plaintiffs and their former lead counsel Katherine Meyer of Meyer Glitzenstein & Crystal to pay the fees. Meyer's lawyer, Stephen Braga, a solo practitioner in Woodbridge, Va., said they would challenge Feld's request.

"Everything about the fee petition seems to be over-the-top, from the overblown length of the pleading, to its slanted description of the litigation, to the excessive number of hours worked and on to the unprecedented amount of its total fee request," Braga said in an email today.

Lawyers for the animal rights groups couldn't be reached or declined requests for comment. DiMuro Ginsberg is representing the Animal Welfare Institute; Zuckerman Spaeder the Fund for Animals; The Kaiser Law Firm Thomas Rider, a former circus employee who worked with the elephants; and Schertler & Onorato the Animal Protection Institute.

Feld reached a \$9.3 million settlement with one former plaintiff, the American Society for the Prevention of Cruelty to Animals, in January.

The animal rights groups accused the circus of abusing its elephants, highlighting testimony from Rider about his experiences working with the animals. Sullivan discredited Rider's testimony, citing the fact that he was paid by the plaintiffs. The judge dismissed the lawsuit, finding that without Rider, the plaintiffs lacked standing since none of the animal rights groups had a direct connection to the elephants. Feld is pursuing racketeering allegations against the animal rights groups in another case also before Sullivan.

Besides Norton Rose Fulbright, three other law firms—Covington & Burling, Troutman Sanders and Hughes Hubbard & Reed—worked on Feld's defense. For its work on the case from 2000 to 2006, Covington billed nearly 6,000 hours valued at \$2.3 million. Troutman billed approximately 1,300 hours valued at more than \$273,000 for work in 2008 and 2009, and Hughes Hubbard billed 17.5 hours valued at around \$11,700 for work in 2007 and 2008.

Feld argued in its petition that the hourly rates claimed by its attorneys were in line with what other Washington law firms charged. The rates for Fulbright lawyers ranged from an associate charging \$340 per hour to Simpson's \$825 hourly rate. Covington's hourly rates ranged from \$240 for a senior staff attorney to \$915 for partner Eugene Gulland.

Fulbright and Covington both billed at discounted rates, according to Feld's filings. Fulbright discounted its hourly rates on average by 11.16 percent, and then made additional cuts averaging 3.93 percent. The firm billed at the previous year's rates—for work in 2013, for example, Simpson billed his 2012 hourly rate of \$825, as opposed to his current rate

of \$850. Beginning in late 2004, Covington agreed to give Feld a 5 percent discount on all hourly rates.

Feld is seeking \$25.4 million in fees from the plaintiffs, plus \$133,712 from Meyer and her firm for the time Feld's lawyers spent investigating Rider's financial relationship with the animal rights groups.

"We think that the request that we've made is, in fact, appropriate," Simpson said today.

Photo by Bruce Cotler/Globe Photos/ZUMAPRESS.com.

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