

**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 REPLY IN SUPPORT OF
MOTION TO JOIN THE HUMANE SOCIETY OF THE UNITED STATES
AS A PARTY PLAINTIFF**

Exhibit 2

Michael Markarian

Washington, D.C.

June 22, 2005

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA
3 Case No. 03-2006 (EGS)
4
5
6 ----- X
7 AMERICAN SOCIETY FOR THE PREVENTION OF)
8 CRUELTY TO ANIMALS, et al.,)
9 Plaintiffs,)
10 v.)
11 RINGLING BROS. AND BARNUM & BAILEY)
12 CIRCUS, et al.,)
13 Defendants.)

14 ----- X

15 Washington, D.C.
16 June 22, 2005

CERTIFIED COPY

19 Deposition of MICHAEL MARKARIAN, a witness
20 herein, called for examination by counsel for
21 defendant, taken at the offices of COVINGTON &
22 BURLING, 1201 Pennsylvania Avenue, Suite 1100, on the
23 22nd day of June, 2005, at 9:41 a.m. before Mary Ann
24 Payonk, RPR, RMR, RDR, Certified Realtime Reporter and
25 Notary Public.

Michael Markarian

Washington, D.C.

June 22, 2005

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1 APPEARANCES:

2 ON BEHALF OF PLAINTIFF:

3 KATHERINE MEYER, ESQUIRE
4 MEYER GLITZENSTEIN & CRYSTAL
5 1601 Connecticut Avenue., N.W.
6 Washington, DC 20009
7 (202) 588-5206

8

9 ON BEHALF OF DEFENDANT:

10 JOSHUA D. WOLSON, ESQ.
11 COVINGTON & BURLING
12 1201 Pennsylvania Avenue
13 Suite 1100
14 Washington, DC 20004
15 (202) 662-6000

16

17 ALSO PRESENT:

18 Ellen Hebert, videographer

19

20

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24

25

Michael Markarian

June 22, 2005

Washington, D.C.

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1 they may have that you might have to give testimony
2 on?

3 A I believe I have spoken to a couple of our
4 employees about this.

5 Q Who do you recall speaking to?

6 A DJ Schubert, who is our manager at Black
7 Beauty Ranch, and that's the only -- that's the only
8 staff member I recall talking to.

9 Q What did you speak to Mr. Schubert about?

10 A Just some general information about our --
11 our elephant at the Black Beauty Ranch.

12 Q Did you speak to anyone at the Humane
13 Society of the United States about -- about the
14 testimony you were going to give today?

15 A I had spoken with -- with some of our
16 attorneys at the Humane Society.

17 Q Who were they?

18 A Jonathan Lovern and Roger Kindler.

19 Q Were you familiar with all of the -- the
20 subject matters for inquiry here based on your duties
21 either at the Fund for Animals or at the Humane
22 Society?

23 A Yes.

24 Q You can put this aside.

25 Can you tell me what the highest level of

Michael Markarian

Washington, D.C.

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1 A No.

2 Q Or ever had a job that required you to
3 care for Asian elephants?

4 A No.

5 Q Okay. Is there anyone on -- or who was on
6 the fund's board who has any of those qualifications?

7 A I don't believe so.

8 Q What'd you do to prepare for your
9 deposition today? We talked about what you did to
10 sort of educate yourself, but did you do anything else
11 to sort of just prepare yourself to testify today?

12 A Other than reviewing my previous responses
13 to the interrogatories and consulting with my
14 attorneys, no.

15 Q How many times did you meet with counsel?

16 A Once.

17 Q When was that?

18 A Yesterday.

19 Q Was it all day?

20 A No.

21 Q How long was it?

22 A I estimate two and a half hours.

23 Q Did -- who was there?

24 A Katherine Meyer and Jonathan Lovern and
25 Roger Kindler.

EXHIBIT NO:	FFA1
Wit:	Maitland
Date:	02.2.05
Rptr:	MP

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., :
 :
 Defendants. :

Case No. 03-2006 (EGS)
JUDGE: Emmet G. Sullivan

NOTICE OF DEPOSITION OF PLAINTIFF
THE FUND FOR ANIMALS

TO: The Fund For Animals
8121 Georgia Avenue, N.W., Suite 301
Silver Spring, MD 20910

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(6), attorneys for Defendant Feld Entertainment, Inc. shall conduct the deposition upon oral examination of a corporate representative or representatives of The Fund For Animals ("FFA") before a person duly authorized to administer oaths at the offices of Covington & Burling, 1201 Pennsylvania Avenue, N.W., Washington, D.C. 20004. The deposition will be recorded by stenographic means as well as videotape. The deposition will commence on May 11, 2005, at 9:30 a.m. and will continue from day to day until completed. In accordance with Rule 30(b)(6), FFA shall choose one or more of its employees, officers, agents, or other duly authorized persons to testify on its behalf as to all matters known or available to FFA regarding the subjects set forth in the Attachment A hereto. Counsel of record are invited to attend and cross-examine.

PLEASE TAKE FURTHER NOTICE that Defendant reserves the right to take further depositions of FFA pursuant to Rule 30(b)(6) on additional topics not addressed herein.

Respectfully Submitted,

COVINGTON & BURLING



Harris Weinstein (DC Bar No. 032268)
Eugene D. Gulland (DC Bar No. 175422)
Jeannie Perron (DC Bar No. 456099)
Joshua D. Wolson (DC Bar No. 473082)
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Washington, DC 20004
(202) 662-6000

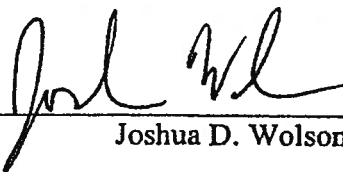
ATTORNEYS FOR DEFENDANTS

April 14, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served this 14th day of
April, 2005, by facsimile and first class mail, to the following:

Katherine A. Meyer
Kimberly Ockene
Meyer & Glitzenstein
1601 Connecticut Ave. N.W., Suite 1700
Washington, D.C. 20009



Joshua D. Wolson

ATTACHMENT A

DEFINITIONS

1. "Communication" means any transmission of information by any means, including but not limited to in-person meetings, telephone conversations, e-mail, facsimile, letter, writing, instant message, voicemail, or any signal.
2. "Defendant" means Feld and Ringling Bros., as those terms are defined herein.
3. "Feld" means Feld Entertainment, Inc., any of its employees, consultants, agents, attorneys, directors, other representatives, and all other persons acting under their control or on their behalf.
4. "FFA" means The Fund For Animals, any of its employees, consultants, agents, attorneys, directors, subsidiaries, affiliates, other representatives, and all other persons acting under its control or on its behalf.
5. "Litigation" means this case, captioned *American Society for the Prevention of Cruelty to Animals et al. v. Ringling Bros. and Barnum & Bailey Circus et al.*, No. 03-2006 (D.D.C).
6. "Plaintiffs" refers to the plaintiffs in the Litigation: American Society for the Prevention of Cruelty to Animals, FFA, the Animal Welfare Institute, and Tom Rider.
7. "Relevant Time Period" means the period from January 1, 1996, to the present.
8. "Ringling Bros." means Ringling Bros. and Barnum & Bailey Circus, any of its employees, consultants, agents, attorneys, directors, other representatives, and all other persons acting under their control or on their behalf.
9. "Treatment" as it refers to elephants or other animals includes interaction with, training of, care for, and handling of elephants or other animals.

SUBJECT MATTERS FOR INQUIRY

1. All financial relationships between FFA and other Plaintiffs during the Relevant Time Period.
2. All Communications between FFA and other Plaintiffs during the Relevant Time Period that mention or relate to Defendant.
3. All Communications between FFA and any other person, organization, or governmental agency during the Relevant Time Period that mention or relate to Defendant or Treatment of Asian elephants.
4. All Communications between FFA and Defendant during the Relevant Time Period.
5. All internal Communications at FFA during the Relevant Time Period that refer to or mention Defendant.
6. All fundraising efforts by FFA during the Relevant Time Period that refer or relate to Defendant or the Treatment of Asian elephants.
7. All actions taken by FFA or at its behest that relate to Defendant or the presentation of Asian elephants in circuses.
8. FFA's training, experience, or expertise in the Treatment of Asian elephants.
9. FFA's position regarding the presentation of Asian elephants in circuses, including FFA's current position and any other positions on that subject it has held during the Relevant Time Period.

10. FFA's position regarding the use of ankuses to train, handle, or care for Asian elephants, including FFA's current position and any other positions on that subject it has held during the Relevant Time Period.
11. Proposed or actual legislation or regulation, including federal, state, or local, relating to Asian elephants or the presentation of animals in circuses, including FFA's position on such legislation and its efforts to secure or oppose passage of such legislation.
12. FFA's Communication or contact with any of the individuals identified as a likely trial witness in plaintiffs' letter dated September 27, 2004.
13. All lawsuits relating to Asian elephants to which FFA has been a party or has contributed to the prosecution or defense, either financially or otherwise.
14. FFA's Communications with any former employee, consultant, or contractor of Defendant during the Relevant Time Period.
15. The circumstances surrounding and amount of any money or other form of remuneration, reimbursement, or coverage for expenses paid by any Plaintiff or any animal activist to any former employee, consultant, or contractor of Defendant during the Relevant Time Period.
16. Any efforts by FFA to gather information regarding the activities of any Feld employee or Feld's treatment of Asian elephants, including any use of third parties in such efforts and any funds expended thereon.
17. Any efforts by FFA to protest Defendant's Treatment of elephants or other animals.
18. Any efforts by FFA to disrupt a Ringling Bros. performance.

19. Any threats made by FFA to Defendant or any of its employees or property, including but not limited to any threats of legal action or physical harm.

20. Any knowledge of each of the specific factual allegations in the Complaint regarding treatment of elephants, including the basis for any such allegations.

21. FFA's relationship with the Humane Society of the United States at any time during the Relevant Time Period.

22. Any assistance that the Humane Society of the United States has provided to the prosecution of this lawsuit, either financial or otherwise.