

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

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<b>ANIMAL WELFARE INSTITUTE, <u>et al.</u>,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 03-2006 (EGS/JMF)</b>
	)	
<b>FELD ENTERTAINMENT, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	
<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 3**

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

AMERICAN SOCIETY FOR THE .  
PREVENTION OF CRUELTY TO .  
ANIMALS, et al., .  
Plaintiffs, .  
vs. . Docket No. CA 03-2006  
FELD ENTERTAINMENT, INC., . Washington, D.C.  
February 26, 2008  
Defendants. .  
.....

**TRANSCRIPT OF EVIDENTIARY HEARING  
BEFORE THE HONORABLE MAGISTRATE JUDGE JOHN M. FACCIOLA  
UNITED STATES DISTRICT JUDGE**

**APPEARANCES:**

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1 Court Reporter: Cathryn J. Jones, RPR  
2 Official Court Reporter  
3 Room 6521, U.S. District Court  
4 333 Constitution Avenue, N.W.  
5 Washington, D.C. 20001

6 Proceedings recorded by machine shorthand, transcript  
7 produced by computer-aided transcription.  
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On behalf of the Defendants:

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Lisa Weisberg				
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Tracy Silverman				
(Ms. Joiner)	189			

1 A Not to my recollection.

2 Q And has API discussed this lawsuit with the Humane  
3 Society of the U.S.?

4 A I'm sure we talked about it in general terms about the  
5 lawsuit.

6 Q And who at -- if I say HSUS would you understand that  
7 to be the Humane Society of the U.S.?

8 A Yes.

9 Q And who at HSUS would you have discussed this case  
10 with?

11 A That would have been Jon Lovvorn.

12 Q Was there anybody else at HSUS you discussed this with?

13 A I don't know. I have no idea. There's a lot of people  
14 who work there.

15 Q If you would turn, please, in your deposition to page  
16 287. Have you found that?

17 A Obviously it would have been Mike Markarian, but I was  
18 assuming we were going back -- he was the Fund for Animals  
19 --

20 Q The question was: "Did API ever discuss this lawsuit  
21 with HSUS?" And your answer was: "I would manage general  
22 conversation could have been -- yeah, we entered this  
23 lawsuit kind of thing." The next question was: "Who at  
24 HSUS would that general conversation have occurred with?"  
25 And your answer was: "Probably since, since we entered the

1 lawsuit the individuals at least me personally who would  
2 have had more contact with HSUS would have been Michael  
3 Markarian and Jon Lovvorn. I'm trying to think of any HSUS  
4 persons I would have chatted with. Those would probably be  
5 the main ones?"

6 A Right.

7 Q Is there anybody else at the HSUS you would have had  
8 conversations with regarding this lawsuit?

9 A No.

10 Q Have you had conference calls with your co-plaintiffs  
11 regarding payments to Mr. Rider?

12 A I know we had one.

13 Q And can you tell me approximately when that first  
14 conference call occurred?

15 A Again, I don't recall the date but obviously it would  
16 have before the April of '06.

17 Q The date of the first payment was April of '06,  
18 correct?

19 A Correct.

20 Q Who was on that conference call?

21 A I don't remember everybody. Maybe I could have  
22 everybody but the only ones I do remember are myself, Tracy  
23 Silverman, Lisa Weisberg and Jon Lovvorn.

24 Q And Lisa Weisberg was there on behalf, on a conference  
25 call on behalf of which co-plaintiff?

1 BY MS. JOINER:

2 Q If you would turn to page 192 of your deposition.

3 There's two components to this. The question asked first

4 192, line 13. "After this conversation were there any

5 others between API and any other plaintiffs, Wildlife

6 Advocacy Project or counsel regarding money to or for

7 Mr. Rider?" Answer: "Well, we had a follow-up conversation

8 but it wasn't about contributions but it was about media

9 strategy."

10 Then down on page 193, at line 11, the question

11 was asked: "And was there any discussion of payments to

12 Mr. Rider during that conversation?" Line 14: "We may have

13 discussed contributions that were made to Mr. Rider in the

14 sense that again it really goes into media strategy, so --"

15 So there was a second conference call, correct?

16 A Well, yeah, I testified to that there was a second

17 call.

18 Q Okay. Can you tell us who was on that conference call?

19 A Again, I don't remember all the people but definitely

20 myself was on the call. I know that Tracy Silverman was on

21 the call. I know Lisa Weisberg was on the call and Jon

22 Lovvorn was on the call.

23 Q All of those people from the same entities you

24 previously identified on the first conference call?

25 A Correct.

1 in which the organizational plaintiffs have discussed the  
2 funding of Mr. Rider; is that correct?

3 A When I testified about the media campaign and the  
4 funding I'm testifying about the same thing.

5 Q Thank you. The conference calls that related to the  
6 funding can you identify for us which of the co-plaintiffs  
7 participated in those?

8 A Sure. Would have been sometimes Cathy Liss. Generally  
9 I've been on all of those calls since February of 2005.  
10 Nicole Paquette, Lisa Weisberg, Jon Lovvorn.

11 Q Anybody else?

12 A Occasionally, Kathy as a representative of the Wildlife  
13 Advocacy Project, Kathy Meyer.

14 THE COURT: Thank you, counsel. It's five  
15 o'clock. Court stands in recess until the next scheduled  
16 date, which is March 6th.

17 MR. STOWE: Can I make on brief oral motion before  
18 we recess. Given that we're here and are participating,  
19 there were a number of documents I noticed on Pacer that  
20 were filed under seal. Right now people are not comfortable  
21 with me reviewing those documents. I'd like a chance to  
22 review them just for the limited purpose of helping me  
23 prepare my witnesses.

24 THE COURT: The problem we've had Mr. Stowe we are  
25 functioning under the attorney/client context and also in