

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

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

**Plaintiffs,**

**V.**

**Case No. 1:03-CV-02006 (EGS/JMF)**

**RINGLING BROS. AND BARNUM &  
BAILEY CIRCUS, et al.,**

**Defendants.**

**DEFENDANT FELD ENTERTAINMENT INC.'S RESPONSE IN  
OPPOSITION TO PLAINTIFFS' EXPEDITED MOTION TO ENFORCE  
THE COURT'S SEPTEMBER 26, 2005 ORDER**

# EXHIBIT A

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

**Plaintiffs,**

**V.**

Civ. No. 03-2006 (EGS)

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

**Defendants.**

**PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION,  
INTERROGATORIES AND REQUESTS FOR DOCUMENTS**

Plaintiffs request that defendants make the following admissions pursuant to Rule 36 of the Federal Rules of Civil Procedure, answer the following interrogatories pursuant to Fed. R. Civ. P. 33, and provide plaintiffs the documents requested herein pursuant to Fed. R. Civ. P. 34. Plaintiffs further request that the admissions, answers to interrogatories and documents requested herein be served on plaintiffs by delivery to their attorneys at Meyer & Glitzenstein, 1601 Connecticut Ave., N.W., Suite 700, Washington, D.C. 20009, by May 3, 2004.

## Instructions

1. Each Request for Admission and Interrogatory must be answered separately and fully, in writing, and under oath. If more than one person is attesting to the answers, please identify for each person the answers or portions of answers to which he or she is attesting.
2. In answering Requests for Admission and Interrogatories, defendants are required to respond based upon all information reasonably available to them, including all knowledge and

material that they own or that is in their possession, custody, or control. If defendants cannot answer after conducting a reasonable due diligence investigation, they should answer to the extent they are able, based on their due diligence investigation, stating what information they do have, what information they cannot provide, and what efforts they made to obtain the unknown information.

3. In answering Requests for Production of Documents, defendants are required to respond based upon all information reasonably available to them, including all knowledge and material that they own or that is in their possession, custody, or control and including any materials that they have a right to secure from any other source and any materials existing on electronic storage devices, such as electronic discs, CD Roms, servers, electronic tapes and hard drives, including any such devices which may contain archived, deleted or erased Documents in electronic format, including electronic mail. If the requested Documents are known by defendants to exist, but are not in the possession of defendants or their agents or representatives, so state and produce Documents that show the name of the person or entity in whose custody such Documents reside.

4. If any Documents have been lost, mutilated, erased, deleted, or destroyed, so state and identify such Document, the time and circumstances under which the loss, mutilation, erasure, deletion, or destruction occurred, and state to which request(s) the Document would have been responsive.

5. In the event that defendants timely object to any Request for Admission or Interrogatory, state in detail the grounds for the objection, and answer all portions of the Request for Admission or Interrogatory that do not fall within defendants' objection.

6. In the event that defendants timely object to any Request for Production of Documents, state in detail the grounds for the objection, and produce all Documents that do not fall within the objection.

7. These Requests for Admission, Interrogatories, and Requests for Production of Documents shall be read so as to be inclusive rather than exclusive. In particular, "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The words "any" and "all" refer to any and all records, documents, persons, entities, or things inclusively, and is not intended to confer the option of responding as to some but not as to others. As used herein, the singular shall include the plural and the plural shall include the singular (except as the context may otherwise dictate).

8. These Requests for Admission, Interrogatories, and Requests for Production of Documents are continuing in nature, and impose upon defendants the obligations to supplement their responses set forth in Fed. R. Civ. P. 26(e).

9. If any written or oral Communication responsive to any Interrogatory or Request for Production of Documents is not disclosed on the basis of any claim of privilege or work product, defendants are requested to provide the following information: (i) the source of the Communication; (ii) the identity(ies) of all Person(s) to whom the Communication was made; (iii) the date of the Communication; (iv) the form of the Communication (e.g., oral, written, letter, memorandum, etc.); (v) the identity of each person who had access to, custody, possession or control over such Communication; and (vi) the basis for defendants' claim of privilege.

10. In accordance with Fed. R. Civ. P. 34(b), defendants must produce documents for inspection as they are kept in the usual course of business or defendants must organize and label

them to correspond with the categories in the following requests.

11. Unless indicated otherwise, the relevant time period for these requests shall be from January 1, 1994 through the present. Therefore, to the extent that any of the information requested changed during that time period, please indicate to what period(s) of time each portion of defendants' responses pertain.

### **Definitions**

1. The word "ankus" means elephant hook, bullhook, and any other tool or instrument that consists of a handle with a metal head and is used to train, control, guide, discipline, correct, or otherwise handle elephants.
2. The word "document" or "documents" shall have the meaning given in Federal Rules of Civil Procedure 26 and 34 and Federal Rules of Evidence 1002 and 1009, and refers to all records and writings of every kind in any medium, including originals and all nonidentical duplicates or copies thereof, including but not limited to: correspondence, electronic mail, including electronic mail stored on any individual's Personal Computer or Computer Work Station (or on electronic back-up storage media, such as disks, CD-ROMs, servers, tapes or hard drives), transcripts of testimonies, letters, memoranda, notes, reports, papers, files, books, records, contracts, agreements, telegrams, teletypes and other communications sent and received, diaries, calendars, telephone logs, drafts, work papers, agendas, bulletins, notices, announcements, instructions, charts, manuals, brochures, schedules, summaries, notes, minutes, and other records and recordings of any conferences, meetings, visits, statements, interviews, or telephone conversations, bills, statements, and other records of obligation and expenditures, cancelled checks, vouchers, receipts, and other records of payments, financial data, analysis,

statements, interviews, affidavits, printed matter (including public books, articles, speeches, and newspaper clippings), press releases and photographs. "Documents" shall also refer to voice records, films, video and audio tapes, and other data compilation from which information can be obtained, including any materials used in data processing or computer operations.

3. The term elephant "handler" means all persons who have any responsibilities to care for, clean, manage, guard, train, discipline, work with or perform with elephants.

4. "Identify" when used in reference to a document, shall mean to state specifically the date of the document, name of the person who prepared it, the nature and substance of the document with sufficient particularity to enable it to be identified, and the physical location of the document.

5. "Identify" when used in reference to a natural person, shall mean to state specifically that person's name, social security number, title, position or office, most recent residential and business address(es) known to Ringling, and such person's residential and business telephone number(s).

6. "Identify" when used in reference to a person other than a natural person, shall mean to state specifically the full name of such entity, its form of organization, its present address and the telephone number of its principal address.

7. "Identify" when used in reference to an act, action, activity, omission, or event, shall mean to state specifically the identity of each person who participated in such act, activity, omission, or event; the date and place of such act, activity, omission, or event in detail; and the identity of each person having knowledge of the act, action, activity, omission, or event.

8. "Identify" when used in reference to a conversation, oral communication, discussion, oral statement, or interview, shall mean to state specifically the date upon which it took place; identify each person who participated in it, witnessed it, and/or overheard it; state the manner or means by which the communication was effected; state what was said by each such person, including the issues and matters discussed; and identify each Document which describes or relates to it.

9. "Person(s)" refers to any person, corporation, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, or other such entity.

10. "Relate to" or "concern" shall mean relate to, concern, refer to, pertain to, reflect upon, discuss, mention, analyze, document, or evidence, in whole or in part, the subject matter of the particular request.

11. The word "Ringling" means Ringling Brothers, Barnum & Bailey Circus, Feld Entertainment, Inc., the Center for Elephant Conservation ("CEC") in Polk City Florida, the elephant retirement facility in Williston, Florida, the Red Unit, Blue Unit, the Home Town Edition, and all subsidiaries, branch offices, and affiliates of such entities, and also means all employees, independent contractors, agents, attorneys, and consultants of such entities.

12. The term "USDA" means the United States Department of Agriculture, its headquarters, regional offices and field offices, and all employees, independent contractors and consultants of that agency.

#### **Request for Admission**

1. Admit that none of the elephants produced by Ringling at its Center for Elephant Conservation ("CEC"), and elsewhere, have been placed in the wild in Asia.

**Interrogatories**

1. Identify each person whom Ringling expects to call as a fact witness in any hearing or trial in this action. For each person, provide the subject matter upon which the witness is expected to testify, the basis for such testimony, all documents and records upon which that person may rely for such testimony; describe the discoverable information that each of the persons who are listed on Defendants' Initial Disclosures under the category "Individuals Likely to Have Discoverable Information" (Fed. R. Civ. P. 26(a)(1)(A)) may have, and identify all records that any such persons may have that in any way relate to such discoverable information.

2. State the factual basis for each of the affirmative defenses asserted in defendants' Answer dated October 8, 2003, and identify all records that support each of those defenses.

3. For each of the former Ringling employees listed on Attachment A, provide the last known (by Ringling) address and phone number for that person, and, if such information is not available, provide the last known (by Ringling) address and phone number of a family member, the last known (by Ringling) address and phone number of the employer of that person, and identify any other individuals who may have such information.

4. For each of the current or former Ringling employees listed on Attachment B, provide the date that person began working for Ringling, provide a history of that person's employment responsibilities with Ringling, and describe the person's current duties and responsibilities at Ringling. If the person is no longer working for Ringling, provide the information requested in Interrogatory No. 3.



5. Identify all persons who have been employed by Ringling for any period of time since 1994 who worked with the elephants in any capacity, including, but not limited to, barn men, handlers, trainers, performers, wardrobe personnel, and floor crew, and describe each such person's responsibilities, which elephants (by name) he or she worked with, and the time-frame during which he/she had such responsibilities. Specifically identify all such employees who were hired from Puerto Rico in April or May, 1999.

6. For the years 1994 to the present, provide information concerning Ringling's policies and practices with respect to the use of an ankus, whip, or any other instrument, to train, control, discipline, correct, separate, wean, guide, or perform with elephants, including a description of such policies and practices, the identity of all Ringling employees who own or use an ankus, and the identity of the person(s) who made each such ankus and a detailed description each such ankus, including, but not limited to, the materials from which it is made; identify all records that in any way relate to Ringling's policies or practices with respect to the use of an ankus, whip, or any other instrument, to train, control, discipline, correct, separate, wean, guide, or perform with elephants.

7. State whether, and under what circumstances, it is a permissible Ringling practice for an employee to hit an elephant with an ankus, whip, or other instrument, to poke or hook an elephant with an ankus, whip, or other instrument, or to lead an elephant by the ear or other part of the body with an ankus or other instrument.

8. For each elephant that Ringling owned or leased from 1994 to the present, provide detailed information about each such animal, including the name of the animal, the circumstances under which Ringling obtained possession of the animal, whether the animal was

born in the wild or in captivity, the date of birth of the animal, and whether the animal has died. If the animal has died, provide the date he or she died and the cause of death. If the animal is still alive, provide the current location of the animal, whether he or she performs with the "Red Unit," the "Blue Unit," is at the CEC or the Williston facility, or elsewhere, whether the animal has produced any offspring, and if so, the name of each such offspring, whether and how the elephant is genetically related to other Ringling elephants. Identify all records that in any way relate to the information requested by this Interrogatory.

9. For each of the elephants identified in response to Interrogatory No. 8, provide information regarding the Ringling employees who worked with each such elephant, including, but not limited to, identifying the persons who worked with each such animal, the time period of such work, and each such person's responsibilities with respect to the animal, and identifying all veterinarians who treated or cared for each such animal. Identify all documents and records that in any way relate to the information requested by this Interrogatory.

10. Describe Ringling's policy and practice with respect to weaning or otherwise separating baby elephants from their mothers, and whether elephants who are related by blood are housed together or separately, and identify all records that in any way relate to such policies and practices.

11. Identify all records that pertain in any way to Ringling's efforts to breed Asian elephants in captivity, including, but not limited to, records that identify each such effort that has been made since 1994, how that effort was undertaken, when that effort was undertaken, whether artificial insemination or any similar method was used, the result of each such effort, the amount of money spent on each such effort, the outcome of each such effort, the identity of the mothers

and resulting calves for each such effort, the complete medical history of the mother involved in each such effort, including both before and after such effort was undertaken, the complete medical history, up to the present, of each of the offspring that was produced as a result of each such effort, and the current age and location of each such mother and offspring of each such effort.

12. Describe Ringling's practices and procedures with respect to providing for social interaction among the elephants, and psychological enrichment and daily exercise for the elephants. Identify all records that reflect such practices and procedures.

13. Describe Ringling's practices and procedures with respect to the chaining of elephants when they are not actually performing and when they are not on the train, including, but not limited to, when the circus is stationed in one venue for a period of time, and when the elephants are maintained at the CEC or at the Williston facility, and describe the other conditions in which the animals are kept, including, but not limited to, their housing and bedding. Identify all documents and records that reflect or pertain to such practices or procedures.

14. Describe Ringling's practices and procedures for maintaining the elephants on the train when traveling from one venue to another, including but not limited to whether the animals are chained, how much space each elephant is provided, how the elephants are fed, the bedding provided to the animals, whether and how often the animals are taken off the train for exercise or for other reasons, whether the animals are bathed, and if so, how often and by what means, the longest period of time Ringling permits the elephants to be kept on the train without being taken off the train, and the average number of weeks each year the elephants are on a train. Identify all records that reflect such practices and procedures.

15. Identify all records that concern or relate in any way to each of the investigations, cases, and fact-finding matters that are discussed in each of the ten Chapters in the attached report entitled "Government Sanctioned, Abuse: How the United States Department of Agriculture Allows Ringling Brothers Circus to Systematically Mistreat Elephants" (Attachment C), and identify all persons who have information related to any such matter, correlating each such record and each such person to the specific Chapter to which it relates; specifically identify each person who took videotape or photographs of the elephant named Benjamin during July 25-26, 1999 in Texas. The records to be identified in response to this Interrogatory shall include, but not be limited to videotapes, photographs, and copies of documents that were obtained by the USDA by means of a subpoena.

16. State whether Ringling uses cauterizing or any other kind of powder or agent, including but not limited to a product known as "Wonder Dust," to treat injuries or marks on elephants, and, if so, explain under what circumstances Ringling uses such powder or agent, and identify the brand and supplier of all such substances.

17. Describe all Ringling practices and procedures with respect to video, audio, or any other recordings that may concern elephants or personnel who work with elephants, including, for example, whether Ringling videotapes training sessions, rehearsals, breeding, or performances, and whether Ringling uses video or other types of cameras for security or surveillance purposes; and identify all video, audio, or other recordings that have been made by or for Ringling in the last ten years that involve, concern, or record elephants or individuals who work with elephants.

18. Provide information concerning Ringling's relationship with USDA personnel, including, but not limited to a description of each meeting, conference, seminar, training session, visit, social gathering, or other function that took place from 1994 to the present, that involved both Ringling personnel and USDA personnel; provide the date(s) for each such event, describe the circumstances and purpose of the event, identify each person who attended the event and where it was held, state the total cost to Ringling to participate in or host the event, identify all records that in any way relate to that event, and provide all of the same information with respect to all such events that are planned for the future.

**Requests for Production of Documents**

1. Produce all documents and records that are identified on defendants' Initial Disclosures under "Categories of Documents That Defendants' [sic] May Use To Support Their Claims or Defenses (Fed. R. Civ. P. 26(1)(B))."
2. For the time period 1990 to the present, produce all documents and records concerning the education and training that persons were required to have to be hired by Ringling to be an elephant handler, trainer, performer, or veterinarian. Produce all documents and records concerning the training and education that Ringling provides to its elephant handlers, trainers, veterinarians, and performers.
3. Produce all documents and records concerning any disciplinary measures that have been taken by Ringling since 1994 with respect to any employee's treatment of an elephant.
4. Produce the programs and schedules for the Blue Unit, Red Unit, and Home Town Edition for each of the last ten years.

5. Produce all documents and records that in any way concern or relate to Tom Rider.

6. Produce all records that in any way relate to or concern advertising and public relations for Ringling's circuses, including, but not limited to, the copy for such advertising and public relations, records that relate to or concern the amount of money spent on such advertising and public relations, planning concerning where and when to disseminate such advertising and public relations efforts, documents that relate to or concern surveys, questionnaires, focus groups, and other efforts to ascertain how to advertize, publicize, or educate the public about the circus, and documents and records that relate to or concern efforts to counter negative publicity generated by animal rights and animal welfare organizations.

7. Produce all records that set forth Ringling's policies or practices with respect to handling, training, controlling, or disciplining elephants.

8. With respect to each of the elephants identified in response to Interrogatory No. 8, produce all medical records that pertain to the animal.

9. Produce all records that concern the amount of money that Ringling has spent on the conservation of habitat in the wild for Asian elephants for each year, from 1994 to the present.

10. Produce all records concerning each project that Ringling has undertaken since 1994 to conserve elephant habitat in the wild in Asia.

11. Produce all documents and records that in any way reflect the amount of money that (a) Ringling and (b) Sells-Floto bring in each year, including both gross and net amounts, from (i) ticket sales and (ii) concessions, in connection with circus performances that include

Asian elephants. Produce all documents and records that in any way relate to how profitable the circus is, how profitable the circus is because it uses and exhibits elephants, and the importance of elephants to the profitability or success of the circus.

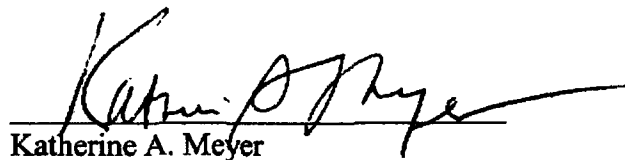
12. Produce all records that in any way relate to or concern allegations or concerns that Ringling has mistreated an elephant in any way, including, but not limited to information received orally or in writing from Ringling employees, contractors, customers, and patrons, state and local humane officers and employees, and other law enforcement personnel, USDA employees, animal welfare and animal rights organizations, and any other source.

13. Produce all documents and records identified in response to Interrogatory No. 1, and all resumes and curricula vitae that concern each person identified in response to Interrogatory No. 1.

8. Produce all documents and records identified in response to Interrogatory No. 2.
9. Produce all documents and records identified in response to Interrogatory No. 6.
10. Produce all documents and records identified in response to Interrogatory No. 8.
11. Produce all documents and records identified in response to Interrogatory No. 9.
12. Produce all documents and records identified in response to Interrogatory No. 10.
13. Produce all documents and records identified in response to Interrogatory No. 11.
14. Produce all documents and records identified in response to Interrogatory No. 12.
15. Produce all documents and records identified in response to Interrogatory No. 13.
16. Produce all documents and records identified in response to Interrogatory No. 14.
17. Produce all documents and records identified in response to Interrogatory No. 15.
18. Produce representative units of any cauterizing agents that are described in

response to Interrogatory No. 16, including, but not limited to a product known as "Wonder Dust."

19. Produce all documents and records identified in response to Interrogatory No. 17
20. Produce all documents and records identified in response to Interrogatory No. 18.
21. Produce an ankus used by a) Mark Gabel, and b) Pat Harned the week of March 22, 2004 without altering either of those ankuses in any way.



Katherine A. Meyer  
(D.C. Bar No. 244301)  
Eric R. Glitzenstein  
(D.C. Bar No. 358287)  
Jonathan R. Lovvorn  
(D.C. Bar No. 461163)  
Kimberly D. Ockene  
(D.C. Bar No. 461191)

Meyer & Glitzenstein  
1601 Connecticut Ave., N.W.  
Suite 700  
Washington, D.C. 20009  
(202) 588-5206

Date: March 30, 2004



**ATTACHMENT A**  
**To Plaintiffs' First Set Of Requests for Admission,**  
**Interrogatories and Requests for Documents**

**Former Ringling Brothers Employees**

Gary Boyle  
Karla Corral  
Joshua Dunlevy  
Dennis Ferguson  
Neill Fillhart  
Adam Hill  
Dr. Richard Houck, DVM  
Ted Huddleston  
Joel Kaplan  
Rob Lile  
Dave MacFarland  
Charles Meek  
John Noonan  
Gary Oxidine  
Abel Rivera  
Charles Smith  
Virgil Andrew Weller  
Dave Whaley  
Theodore White

**ATTACHMENT B**

To Plaintiffs' First Set Of Requests for Admission,  
Interrogatories and Requests for Documents

**Current (or Former) Ringling Brothers Employees**

Dave Brown  
Brian Christiani  
Robert Curry  
Mark Gautier  
Mark Oliver Gebel  
David Gorman  
Katerina (Katya) Harned  
Patrick Harned  
Steve Hart  
Sara Houcke  
Sasha Houcke  
John Jamieson  
Gary Jacobson  
William Lindsay  
Troy Metzler  
Geoffrey Pettigrew  
Robert Ridley  
Carl Ritter  
Todd Sites  
Jeffrey Steele  
Alex Vargas  
David Wiley