

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. 1:03-cv-02006 (EGS/JMF)

DX 2

**EXHIBIT 2
TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

UNITED STATES DISTRICT COURT
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ANIMALS, *et al.*,)
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DECLARATION OF GARY JACOBSON

1. My name is Gary Jacobson. I am more than twenty-one (21) years of age and, unless indicated otherwise, have personal knowledge of the facts stated below.
2. As used in this declaration, "FEI" refers to Feld Entertainment, Inc. and its corporate predecessors (including subsidiaries of FEI and FEI's corporate predecessors).
3. I am currently employed by FEI as General Manager of the Ringling Bros. and Barnum & Bailey Center for Elephant Conservation ("CEC"). I have been employed by FEI in varying capacities and in various time periods since 1973.
4. The information on the Asian elephants set forth in this declaration that are currently owned by FEI is based upon my personal knowledge, records of FEI maintained in the ordinary course of FEI's business and the ASIAN ELEPHANT NORTH AMERICAN REGIONAL STUDBOOK (1 JANUARY 2003 – 30 APRIL 2005) ("2005 STUDBOOK"). The 2005 STUDBOOK is a collection of data on Asian elephants held in captivity in North America, including birth date and transaction history. A true and accurate copy of the introductory parts of the 2005 STUDBOOK and excerpts of the 2005

STUDBOOK that pertain to FEI's Asian elephants is attached as DX 6 to the Memorandum of Points and Authorities in Support of Defendant's Motion for Summary Judgment, filed in the above-captioned case. The 2005 STUDBOOK is publicly available in its entirety at www.elephanttag.org/AsianElephantStudbook.pdf.

5. As of the date of this declaration, FEI owns fifty-four (54) Asian elephants. Each elephant has a "house name" which is a name assigned at birth to the animal based on tradition and other factors. Some elephants may at times have more than one house name. More than one elephant may have the same house name. A house name may have more than one spelling. Elephants born in captivity in the United States generally have a record of a precise birth date. Elephants acquired before 1973 may not have precise birth dates. The birth dates of those animals are derived from available records, the memories of elephant handlers and the appearance of the animal.

6. Forty-two (42) of the 54 Asian elephants currently owned by FEI, are females who have the following house names and approximate years of birth: "Alana" (1975), "Angelica" (1997), "Aree" (2005), "Asha" (2002), "Asia" (1968), "Assan" (1957), "Baby" (1961), "Bananna" (1957), "Banko" (1976), "Bonnie" (1994), "Calcutta I" (1946), "Cora" (1963), "Emma" (1972), "Icky II" (1976), "India" (1951), "Jewell" (1951), "Josky" (1967), "Juliette" (1992), "Karen" (1969), "Kelly Ann" (1996), "Louie" (1966), "Luna" (1984), "Lutzi" (1950), "Mable" (2006), "Mala" (1967), "Minyak" (1967), "Mysore" (1946), "Nicole" (1975), "Putzi" (1962), "Rudy" (2002), "Sally" (1967), "Sara" (2001), "Sarah" (1957), "Shirley" (1995), "Sid" (1967), "Susan" (1951), "Toby" (1961), "Tonka" (1984), "Tova" (1969) and "Zina" (1961). Two (2) of the

female Asian elephants are named "Siam" -- and are distinguished by their approximate dates of birth: "Siam I" (born in 1950) and "Siam II" (born in 1976)."

7. Twelve (12) of the 54 Asian elephants currently owned by FEI are males who have the following house names and approximate years of birth: "Casey" (1972), "Charlie" (1973), "Doc 'Fish'" (1997), "Gunther" (2001), "Irvin" (2005), "Osgood" (1999), "P.T." (2002), "Prince Tusk" (1987), "Rajah" (1970), "Romeo" (1993), "Sabu" (1982) and "Vance" (1967).

8. Some of FEI's Asian elephants perform in circus shows and travel with three circus units that are referred to as the Red Unit, Blue Unit and Gold Unit. FEI also maintains Asian elephants at the CEC. The CEC is a 200-acre facility that was established in 1995 and is located in Polk County, Florida. The CEC is dedicated to the conservation, breeding, research and retirement care of FEI's Asian elephants. FEI also maintains Asian elephants at the Two Tails Ranch, located in Williston, Florida ("Williston"). Williston is a twenty (20) acre facility where FEI houses some of its retired elephants.

9. As of the date of this declaration, the following Asian elephants were located on the Red Unit: Assan, Asia, Baby, Bananna, Banko, Luna, Sarah, Siam II, Toby and Tonka.

10. As of the date of this declaration, the following Asian elephants were located on the Blue Unit: Bonnie, Juliette, Karen, Kelly Ann, Minyak, Nicole and Sara.

11. As of the date of this declaration, the following Asian elephants were located at the CEC: Alana, Angelica, Aree, Asha, Charlie, Doc "Fish," Emma, Gunther,

Icky II, Irvin, Jewell, Josky, Louie, Lutzi, Mable, Mala, Mysore, Osgood, P.T., Rajah, Romeo, Rudy, Sally, Shirley, Sid, Susan, Tova, Vance and Zina.

12. As of the date of this declaration, the following Asian elephants were located at Williston: Calcutta I, Cora, India, Prince Tusk, Putzi, Sabu and Siam I.

13. As of the date of this declaration, the Asian elephant Casey was on loan by FEI to the Fort Worth Zoological Park, in Fort Worth, Texas.

14. In 1954, FEI acquired the Asian elephants India, Jewell, Lutzi, Siam I and Susan. FEI has been the sole holder of India, Jewell, Lutzi, Siam I and Susan from 1954 through the present.

15. In 1964, FEI acquired the Asian elephant Putzi. FEI has been the sole holder of Putzi from 1964 through the present.

16. In 1968, FEI acquired the Asian elephants Assan, Baby, Bananna, Cora, Sarah and Toby. FEI has been the sole holder Assan, Baby, Bananna, Cora, Sarah and Toby from 1968 through the present.

17. In 1969, FEI acquired the Asian elephant Karen. FEI has been the sole holder of Karen from 1969 through the present.

18. In 1971, FEI acquired the Asian elephants Josky, Mala and Minyak. At certain points in the period prior to 1995, Josky, Mala and Minyak were held by Circus World, Inc., Orlando Florida, and Roman Schmitt, Tampa, Florida. Circus World, Inc., was an entity that exhibited Asian elephants in circus performances and other exhibits. Roman Schmitt was a circus performer and exhibitor of Asian elephants at Busch Gardens, Tampa, Florida. FEI reacquired Josky, Mala and Minyak in 1995 and ultimately purchased the animals from the Estate of Roman Schmitt in 2003. FEI has

been the sole holder of Josky, Mala and Minyak from 1995 through the present. The reacquisition of Josky, Mala and Minyak from Roman Schmitt and his estate were transactions that occurred wholly within the State of Florida. Since 1971, the only holders of Josky, Mala and Minyak have been Circus World, Inc., Roman Schmitt, the Estate of Roman Schmitt and FEI.

19. In 1972, FEI acquired the Asian elephant Zina. FEI has been the sole holder of Zina from 1972 through the present.

20. In 1974, FEI acquired the Asian elephant Charlie from Rex Williams of Miyaka City, Florida. FEI has been the sole holder of Charlie from 1974 through the present. Rex Williams was an exhibitor of Asian elephants.

21. In 1975, FEI acquired the Asian elephants Louie and Sid from the George Matthews Great London Circus which was an entity through which Sid Kellner did business. The George Matthews Great London Circus was an entity that exhibited Asian elephants in circus performances. Since 1975, FEI has been the sole owner of Louie, although at certain points prior to 1995, Louie was physically located at Circus World, Inc. At certain points in the period prior to 1995, Sid was held by Circus World, Inc. and Roman Schmitt. FEI reacquired Sid in 1995 and ultimately purchased the animal from the Estate of Roman Schmitt in 2003. FEI has been the sole holder of Sid from 1995 through the present. The reacquisition of from Roman Schmitt and his estate were transactions that occurred wholly within the State of Florida. Since 1975, the only holders of Sid have been Circus World, Inc., Roman Schmitt, the Estate of Roman Schmitt and FEI.

22. In 1975, FEI acquired the Asian elephant Vance from Lion Country Safari, West Palm Beach, Florida. Lion Country Safari was an exhibitor of Asian elephants. At certain points in the period prior to 1995, Vance was held by Roman Schmitt. Between 1967 and 1995, the only holders of Vance I am aware of were Lion Country Safari, FEI and Roman Schmitt. FEI reacquired Vance in 1995 and ultimately purchased the animal from the Estate of Roman Schmitt in 2003. FEI has been the sole holder of Vance from 1995 through the present. The acquisition of Vance from Lion Country Safari and the reacquisition of Vance from Roman Schmitt and his estate were transactions that occurred wholly within the State of Florida. Since 1967, the only holders of Vance have been Lion Country Safari, FEI, Roman Schmitt and the Estate of Roman Schmitt.

23. The Asian elephants Alana, Banko, Icky II, Nicole and Siam II were bred and born in captivity in Burma (now Myanmar) to the Timber Corporation. The Timber Corporation was an entity located in Myanmar that utilized Asian elephants in logging activities. The Timber Corporation was not an entity whose business was the buying and selling of Asian elephants. In 1980, FEI acquired Alana, Banko, Icky II, Nicole and Siam II in a transaction handled by Hermann Ruhe, of Alfeld, West Germany. These elephants were at least four (4) years old or older in 1980. FEI has been the sole holder of Alana, Banko, Icky II, Nicole and Siam II from 1980 through the present.

24. In 1986, FEI acquired the Asian elephants Calcutta I and Mysore from the Buckeye Circus Corporation of Canton, Ohio. Buckeye Circus Corporation was an entity owned by Tony Diano that exhibited Asian elephants in circus performances. From 1947 through their acquisition by Buckeye Circus Corporation, Calcutta I and Mysore were

held by the Dailey Brothers Circus. The Dailey Brothers Circus was an entity owned by John Davenport that exhibited Asian elephants in circus performances. Between 1947 and 1986, the only holders of Calcutta I and Mysore were Buckeye Circus Corporation and the Dailey Brothers Circus. FEI has been the sole holder of Calcutta I and Mysore from 1986 through the present.

25. In 1989, FEI acquired the Asian elephant Casey from Roman Schmitt. The acquisition of Casey from Roman Schmitt was a transaction that occurred wholly within the State of Florida. Casey was acquired by the Lion Country Safari, West Palm Beach, Florida, in 1973. The Lion Country Safari was an exhibitor of Asian elephants. After 1973, Casey was held by Gary Johnson of "Have Trunk Will Travel," Perris, California, and Bill Swain of "Trunks and Humps," Conroe, Texas. "Have Trunk Will Travel" and "Trunks and Humps" were exhibitors of Asian elephants. Roman Schmitt acquired Casey in 1985. Between 1973 and 1989, the only holders of Casey were "Have Trunk Will Travel," "Trunks and Humps" and Roman Schmitt. FEI has been the sole holder of Casey from 1989 through 2005. In 2005, Casey was loaned by FEI to the Fort Worth Zoological Park, Fort Worth, Texas.

26. In 1990, FEI acquired the Asian elephant Asia from Robert B. Moore of New Baltimore, Michigan. This elephant's original house name was "Daisy." Mr. Moore did business under the name "Bobby Moore's Performing Elephants." Mr. Moore was an exhibitor of Asian elephants. Mr. Moore acquired Asia from the Vidbel Brothers Circus in 1986. The Vidbel Brothers Circus was an exhibitor of Asian elephants. Between 1968 and 1990, the only holders of Asia were the Vidbel Brothers Circus and Mr. Moore. FEI has been the sole holder of Asia from 1990 through the present.

27. In 1990, FEI acquired the Asian elephant Rajah from Robert B. Moore. Mr. Moore acquired Rajah from Lyle Wesley Rice (also known as Mike Rice) of Sarasota, Florida, in 1988. Mr. Rice was an elephant trainer and circus performer. Between 1970 and 1990, the only holders of Rajah were Messrs. Rice and Moore. FEI has been the sole holder of Rajah from 1990 through the present.

28. In 1990, FEI acquired the Asian elephant Tova from Robert B. Moore. Mr. Moore acquired Tova at an unknown time prior to 1990. Between 1969 and Mr. Moore's acquisition, Tova was exhibited at Southwick Animal Park in Mendon, Massachusetts, and the Miami MetroZoo. Between 1969 and 1990, the only holders of Tova were the Southwick Animal Park, the Miami MetroZoo and Mr. Moore. FEI has been the sole holder of Tova from 1990 through the present.

29. In 1990, FEI acquired the Asian elephant Emma from Robert B. Moore. Mr. Moore acquired Emma in 1985 from the International Animal Exchange, Ferndale, Michigan. Among other activities, the International Animal Exchange exhibited Asian elephants and other animals. From 1972 through 1982, Emma was exhibited at the Toledo, Ohio, Zoo. Between 1972 and 1990, the only holders of Emma were the Toledo Zoo, the International Animal Exchange and Mr. Moore. FEI has been the sole holder of Emma from 1990 through the present.

30. In 1995, FEI acquired the Asian elephant Sally from Roman Schmitt and ultimately purchased the animal from the Estate of Roman Schmitt in 2003. The acquisition of Sally from Roman Schmitt and his estate were transactions that occurred wholly within the State of Florida. FEI has been the sole holder of Sally from 1995 through the present.

31. The Asian elephant Cora was bred in captivity in the United States and was born in 1963 at the Oregon Zoo, Portland, Oregon. FEI acquired Cora from the Chicago Zoological Park, Brookfield, Illinois, in 1968. FEI has been the sole holder of Cora from 1968 through the present.

32. The Asian elephant Sabu was bred in captivity in the United States and was born in 1982 at the Oregon Zoo, Portland, Oregon. FEI acquired Sabu from the Oregon Zoo in 1983. FEI has been the sole holder of Sabu from 1983 through the present.

33. The Asian elephants Tonka and Luna were bred in captivity in the United States and were born at Circus World, Inc., Orlando, Florida, in 1983 and 1984, respectively. FEI acquired Tonka and Luna in 1990 from Robert B. Moore. FEI has been the sole holder of Tonka and Luna from 1990 through the present.

34. The Asian elephant Prince Tusk was bred in captivity in the United States and was born in 1988 at the Oregon Zoo, Portland, Oregon. FEI acquired Prince Tusk from the Oregon Zoo in 1988. FEI has been the sole holder of Prince Tusk from 1988 through the present.

35. The Asian elephant Juliette was bred in captivity in the United States and was born in 1992 at Williston. FEI acquired Juliette at birth and has been the sole holder of Juliette from 1992 through the present.

36. The Asian elephant Romeo was bred in captivity in the United States and was born in 1993 at Williston. FEI acquired Romeo at birth and has been the sole holder of Romeo from 1993 through the present.

37. The Asian elephant Bonnie was bred in captivity in the United States and was born in 1994 at Busch Gardens, Tampa, Florida. FEI acquired Bonnie at birth and has been the sole holder of Bonnie from 1994 through the present.

38. The Asian elephant Shirley was bred in captivity in the United States and was born in 1995 at Busch Gardens, Tampa, Florida. FEI acquired Shirley at birth and has been the sole holder of Shirley from 1995 through the present.

39. The Asian elephant Kelly Ann was bred in captivity in the United States and was born in 1996 at the CEC. FEI acquired Kelly Ann at birth and has been the sole holder of Kelly Ann from 1996 through the present.

40. The Asian elephants Angelica and Doc "Fish" were bred in captivity in the United States and were born in 1997 at the CEC. FEI acquired Angelica and Doc "Fish" at birth and has been the sole holder of Angelica and Doc "Fish" from 1997 through the present.

41. The Asian elephant Osgood was bred in captivity in the United States and was born in 1999 at the CEC. FEI acquired Osgood at birth and has been the sole holder of Osgood from 1999 through the present.

42. The Asian elephants Gunther and Sara were bred in captivity in the United States and were born in 2001 at the CEC. FEI acquired Gunther and Sara at birth and has been the sole holder of Gunther and Sara from 2001 through the present.

43. The Asian elephants Asha, P.T. and Rudy were bred in captivity in the United States and were born in 2002 at the CEC. FEI acquired Asha, P.T. and Rudy at birth and has been the sole holder of Asha, P.T. and Rudy from 2002 through the present.

44. The Asian elephants Aree (also referred to at times as “Myrtle”) and Irvin were bred in captivity in the United States and were born in 2005 at the CEC. FEI acquired Aree and Irvin at birth and has been the sole holder of Aree and Irvin from 2005 through the present.

45. The Asian elephant Mable (also referred to at times as “Burma”) was bred in captivity in the United States and was born in 2006 at the CEC. FEI acquired Mable at birth and has been the sole holder of Mable since then.

46. The ELEPHANT HUSBANDRY RESOURCE GUIDE contains guidelines for managing elephants in captivity and is regarded as a standard within the community of persons and organizations that hold and manage Asian elephants in captivity. The ELEPHANT HUSBANDRY RESOURCE GUIDE endorses use of the guide (which has also been called a “bull hook”), tethering and weaning as husbandry practices that are normal and generally accepted with respect to Asian elephants held in captivity. A true and accurate copy of the title page, the preface and pages 1-6, 65-70 and 148-49 of the ELEPHANT HUSBANDRY RESOURCE GUIDE is attached as DX 4 to the Memorandum of Points and Authorities in Support of Defendant’s Motion for Summary Judgment, filed in the above-captioned case.

47. The guide, tethering and weaning are normal and generally accepted husbandry practices employed with respect to Asian elephants held in captivity in the United States and throughout the world. The guide and tethering have been employed by FEI for as long as the company has presented elephants in its circus performances. In certain Asian countries in which Asian elephants have been utilized in logging, transportation and other activities, the guide has been used for centuries in handling

elephants. Weaning is an elephant husbandry practice that is followed throughout the world with respect to Asian elephants that are bred in captivity. Weaning is an elephant husbandry practice that FEI has followed since it began breeding Asian elephants in captivity in the early 1990's.

48. I declare under penalty of perjury that the foregoing is true and correct.

Executed on

August 31, 2006

Gary Jacobson
Gary Jacobson