

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FELD ENTERTAINMENT, INC.,

Plaintiff,

v.

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

Defendants.

Case No. 07-1532 (EGS)

**ANSWER OF DEFENDANT AMERICAN SOCIETY FOR THE
PREVENTION OF CRUELTY TO ANIMALS**

Defendant American Society for the Prevention of Cruelty to Animals ("ASPCA"), by and through its undersigned counsel, hereby answers the allegations in the Amended Complaint dated February 16, 2010 ("Amended Complaint") of Plaintiff Feld Entertainment, Inc ("FEI"), as follows:

1. This paragraph states a legal conclusion to which no response is required. To the extent a response is required, admitted that American Society for the Prevention of Cruelty to Animals ("ASPCA") is among the Defendants named in this action, as are the other parties described in this paragraph.

2. Admitted that ASPCA, among other parties, participated in a suit against Feld Entertainment, Inc. ("FEI") under the Endangered Species Act (the "ESA Action"). The remainder of the allegations are denied.

3. Admitted that the ESA Action was filed in part to redress Tom Rider's aesthetic injury resulting from FEI's abuse of its Asian elephants. The remainder of the allegations are denied.

4. Admitted that Tom Rider is a former employee of FEI who worked with elephants. The first and second sentences of this paragraph relate to another Defendant in this action, and ASPCA lacks sufficient knowledge and information to form a belief as to their truth. The remainder of the allegations are denied.

5. Admitted that, at various times, ASPCA provided funding directly to Tom Rider, provided funding for Tom Rider that was included on invoices sent to ASPCA by Meyer Glitzenstein & Crystal ("MGC"), provided funding for Tom Rider that was sent to the Wildlife Advocacy Project ("WAP"), and at certain times reimbursed Tom Rider for his daily living expenses and prepaid his hotel accommodations. This funding was provided to Mr. Rider for his living and travel expenses while he engaged in public education and media outreach. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants, or about additional income to Mr. Rider. The remainder of the allegations are denied.

6. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above. The remainder of the allegations are denied.

7. Admitted that this Court dismissed the ESA Action on standing grounds as to all plaintiffs in 2001, and the D.C. Circuit overturned that ruling. The remainder of the allegations are denied.

8. Admitted that the ESA Action went to trial. ASPCA respectfully refers the Court to the December 30, 2009 opinion excerpted within this allegation for its contents. The remainder of the allegations are denied.

9. Denied.

10. Denied.

11. Admitted that ASPCA engaged in fundraising during this time period. The remainder of the allegations are denied.

12. Admitted that the plaintiffs in the ESA Action did not seek a preliminary injunction when they filed the ESA Action in 2000. The remainder of the allegations are denied.

13. Denied.

14. Denied.

15. Denied.

16. Denied.

17. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above. The remainder of the allegations are denied.

18. Admitted that ASPCA and the additional parties described were plaintiffs in the ESA Action and that FEI was a defendant. The remainder of the allegations are denied.

19. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants, or about additional income to Mr. Rider. The remainder of the allegations are denied.

20. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants, or about additional income to Mr. Rider. The remainder of the allegations are denied.

21. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above. ASPCA lacks sufficient knowledge and information to form a belief about the details of

any funding provided to Mr. Rider by other Defendants, or about additional income to Mr. Rider.

The remainder of the allegations are denied.

22. Denied.

23. Denied.

24. This states a legal conclusion to which no response is required. To the extent a response is required, the allegations are denied. The remainder of the allegations are denied.

25. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants, or about additional income to Mr. Rider. The last two sentences of this paragraph state a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

26. Denied.

27. ASPCA respectfully refers the Court to the December 30, 2009 opinion excerpted within this allegation for its contents. The final sentence of the paragraph states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied. The remainder of the allegations are denied.

28. ASPCA respectfully refers the Court to the documents referenced within this allegation for their contents. The remainder of the allegations are denied.

29. ASPCA lacks knowledge or information sufficient to form a belief about the contents of income tax filings made by Mr. Rider; to the extent a response is required, the allegations are denied. The remainder of the allegations are denied.

30. The last two sentences relate to other Defendants, and ASPCA lacks sufficient knowledge and information to form a belief as to their truth. The remainder of the allegations are denied.

31. Denied.

32. Admitted that a Rule 30(b)(6) deposition of ASPCA took place in the ESA Action on July 19, 2005, and that the Court in the ESA Action issued an order on August 23, 2007 granting a motion to compel by FEI. The remainder of the allegations are denied.

33. Admitted.

34. Admitted that ASPCA is a non-profit membership organization which is dedicated to providing effective means for the prevention of cruelty to animals throughout the United States. ASPCA respectfully refers the Court to the document referenced within this allegation for its contents. Admitted that Lisa Weisberg formerly served as ASPCA's Senior Vice President of Government Affairs and Public Policy, and was and still is a licensed attorney. The remainder of the allegations are denied.

35. These allegations relate to another Defendant, and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

36. These allegations relate to another Defendant, and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

37. These allegations relate to another Defendant, and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

38. These allegations relate to another Defendant, and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

39. The first, second, and fourth sentences of this paragraph are admitted. As to the third sentence, admitted that the predecessor firm of MGC was Meyer & Glitzenstein, but denied that Meyer & Glitzenstein was located in Suite 700 during all relevant times.

40. Admitted.

41. Admitted.

42. The first three sentences in this paragraph are admitted. ASPCA lacks sufficient knowledge and information to form a belief as to the truth of the remainder of the allegations.

43. Admitted that WAP is a non-profit advocacy group founded by Katherine Meyer and Eric Glitzenstein. ASPCA lacks sufficient knowledge and information to form a belief as to the truth of the remainder of the allegations.

44. Admitted that Jonathan R. Lovvorn ("Lovvorn") was an attorney at MGC, and is currently employed by the Humane Society of the United States ("HSUS"). Admitted that Lovvorn was, at various time, counsel of record for the plaintiffs in the ESA Action. ASPCA lacks information sufficient to form a belief as to the truth of the remainder of the allegations.

45. Admitted that Kimberly D. Ockene ("Ockene") was an attorney at MGC, and is currently employed by the Humane Society of the United States ("HSUS"). Admitted that Ockene was, at various time, counsel of record for the plaintiffs in the ESA Action. ASPCA lacks information sufficient to form a belief as to the truth of the remainder of the allegations.

46. Admitted that Meyer, Glitzenstein, Crystal, Lovvorn, and Ockene served as counsel for ASPCA for purposes of the ESA Action. The remainder of the allegations state a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

47. This states a legal conclusion to which no response is required.

48. This states a legal conclusion to which no response is required.

49. This states a legal conclusion to which no response is required.

50. Admitted that ASPCA, along with other plaintiffs, filed a complaint under Civil Action No. 00-1641 on July 11, 2000; a second amended complaint was filed in the ESA Action on April 10, 2001; the Court dismissed this complaint on June 29, 2001, and this decision was reversed by the D.C. Circuit on February 4, 2003. ASPCA respectfully refers the Court to the contents of the D.C. Circuit's February 4, 2003 opinion for its contents. The remainder of the allegations state a legal conclusion to which no response is required.

51. The first sentence of this paragraph states a legal conclusion to which no response is required. As to the third and fourth sentences, ASPCA respectfully refers the Court to the complaints and pleadings filed in the ESA Action for their contents. The remainder of the allegations are denied.

52. Admitted that Mr. Rider worked for a circus after leaving his employment with FEI. The remainder of the allegations are denied.

53. Denied.

54. ASPCA respectfully refers the Court to the D.C. Circuit briefing and ruling in the ESA Action for their contents. The fifth, sixth, seventh, and eleventh sentences in this paragraph relate to another Defendant in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth. The remainder of the allegations are denied.

55. Admitted.

56. ASPCA respectfully refers the Court to the complaint filed in the ESA Action for its contents. The remainder of the allegations are denied.

57. ASPCA respectfully refers the Court to the complaint filed in the ESA Action for its contents.

58. Admitted.

59. Admitted that on December 30, 2009, the Court issued an opinion. ASPCA respectfully refers the Court to that opinion for its contents.

60. Denied.

61. Admitted that ASPCA provided funding to Mr. Rider as described in paragraph 5 above. Admitted that Mr. Rider worked for a period of time as a security guard for the Performing Animal Welfare Society ("PAWS"). ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants. The remainder of the allegations are denied.

62. Admitted that ASPCA provided funding to Mr. Rider as described in paragraph 5 above. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants. The remainder of the allegations are denied.

63. Admitted that ASPCA provided funding to Mr. Rider as described in paragraph 5 above. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants.

64. Denied.

65. Denied.

66. This paragraph states no factual allegations, and thus no response is required; to the extent a response is required, it is denied.

67. Admitted that ASPCA provided funding to Mr. Rider as described in paragraph 5 above. Admitted that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants. The remainder of the allegations are denied.

68. Admitted that ASPCA provided funding to Mr. Rider as described in paragraph 5 above. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants.

69. Admitted that ASPCA provided funding to Mr. Rider as described in paragraph 5 above, including the funding referenced in the first sentence of this paragraph. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants.

70. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants.

71. Admitted that the Animal Protection Institute ("API") was added as an additional plaintiff in the ESA Action in February 2006. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants.

72. Admitted that MGC, Meyer, and Glitzenstein were counsel of record for ASPCA in the ESA Action. Admitted that ASPCA provided funding to Mr. Rider as described in paragraph 5 above. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants, and the remainder of the allegations.

73. Admitted that ASPCA provided funding in the approximate amount of \$5,700 for Mr. Rider that was included on invoices sent to ASPCA by MGC. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants.

74. ASPCA respectfully refers the Court to the document referenced within this paragraph for its contents. ASPCA lacks sufficient knowledge and information to form a belief about the remaining allegations.

75. ASPCA lacks sufficient knowledge and information to form a belief about the details of any funding provided to Mr. Rider by other Defendants.

76. ASPCA respectfully refers the Court to the document referenced within this paragraph for its contents. The remainder of the allegations are denied.

77. Denied.

78. Denied.

79. Denied.

80. Denied.

81. The first sentence of this paragraph is denied. The second sentence states a legal conclusion to which no response is required. The third and fourth sentences are denied. The fifth sentence is admitted. With respect to the sixth sentence, the fact that the quoted communication was made to counsel for FEI is admitted; the remainder of the sentence is denied. With respect to the seventh sentence, admitted that the invoices described in this paragraph were produced in the ESA Action following an August 23, 2007 order of the Court; the remainder of the sentence is denied. The ninth sentence is denied.

82. Admitted that ASPCA provided funding to WAP as described in paragraph 5 above. The remaining allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

83. ASPCA respectfully refers the Court to the document referenced within this allegation for its contents.

84. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

85. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

86. Admitted that ASPCA provided funding to WAP in the amount of \$6,000. ASPCA respectfully refers the Court to the letter referenced within this allegation for its contents. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

87. The first sentence of this paragraph relates to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to its truth. With respect to the second sentence, admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above, and that certain funding was made through wire transfers via Western Union.

88. Admitted.

89. Admitted that ASPCA provided funding directly to Tom Rider at some point during this time period. The remaining allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

90. Admitted that ASPCA stopped providing funding directly to Tom Rider in May 2003, and WAP provided funding to Mr. Rider thereafter. Admitted that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action.

91. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

92. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

93. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

94. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

95. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

96. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

97. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

98. Admitted that ASPCA provided funding to WAP for Tom Rider as described in paragraph 5 above. This also states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied. The remainder of the allegations are denied.

99. Admitted that ASPCA provided funding to WAP for Tom Rider as described in paragraph 5 above. This also states a legal conclusion to which no response is required; to the

extent a response is required, the allegations are denied. The remainder of the allegations are denied.

100. Admitted that ASPCA provided funding to WAP for Tom Rider as described in paragraph 5 above. This also states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied. The remainder of the allegations are denied.

101. Denied.

102. Denied.

103. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

104. The first sentence of this paragraph is denied. The remaining allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth. To the extent any allegations relate to ASPCA, they are denied.

105. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

106. The first three sentence of this paragraph relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth. The remainder of the allegations are denied.

107. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

108. Denied.

109. Denied.

110. Denied.

111. Denied.

112. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

113. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

114. The first sentence contains allegations related to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth. The remainder of the allegations are denied.

115. ASPCA respectfully refers the Court to the documents referenced in this paragraph for their contents. The remainder of the allegations are denied.

116. The first and third sentences of this paragraph are denied. As to the second sentence of this paragraph, admitted only that the funding provided to Mr. Rider was for his living and travel expenses while he engaged in public education and media outreach. The remainder of the allegations are denied.

117. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

118. Denied.

119. Admitted that this paragraph quotes findings of fact by the Court. The remainder of the allegations are denied.

120. ASPCA respectfully refers the Court to the documents referenced in this paragraph for their contents. The remainder of the allegations are denied.

121. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

122. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

123. The fifth sentence of this paragraph relates to another Defendant in this action and ASPCA lacks sufficient knowledge and information to form a belief as to its truth. The remainder of the allegations are denied.

124. ASPCA respectfully refers the Court to the testimony referenced within this allegation for its contents. The remainder of the allegations are denied.

125. This states a legal conclusion, and therefore no response is required; to the extent a response is required, the allegation is denied.

126. ASPCA lacks sufficient knowledge and information to form a belief as to the truth of the allegations in the first sentence of this paragraph. The remainder of the allegations are denied.

127. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

128. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

129. Denied.

130. Denied.

131. Admitted that ASPCA provided funding in the approximate amount of \$26,000 to and for Tom Rider through the various means described in paragraph 5 above. The remainder of the allegations are denied.

132. Admitted that between May 2001 and November 2003, ASPCA provided funding to MGC for expenses associated with Tom Rider. Admitted that these amounts were included on MGC invoices sent to ASPCA. The third, fourth, and fifth sentences are admitted, except that the sixth invoice referenced was actually dated January 3, 2002.

133. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above. The third sentence is admitted. The remainder of the allegations are denied.

134. Admitted that during the January 2003 to May 2003 time period, ASPCA advanced funding to Tom Rider to purchase Greyhound bus tickets, reimburse him for his daily living expenses, and prepay hotel accommodations. Admitted that some of those funds were provided using Lisa Weisberg's American Express corporate card. Admitted that credit card records of such funding were produced in the ESA Action after they were retrieved directly from American Express. The fifth sentence of this paragraph relates to another Defendant in this action and ASPCA lacks sufficient knowledge and information to form a belief as to its truth. The remainder of the allegations are denied.

135. Admitted.

136. Admitted that ASPCA provided funding to WAP with the understanding that some or all of that amount would be provided to Tom Rider. Admitted that ASPCA sent a check in the amount of \$6,000 to the Wildlife Advocacy Project on December 21, 2001 as "grant money for the Tom Ryder project," to "assist in Tom's work on the Ringling Brothers' circus tour and litigation." Admitted that ASPCA knew that the Wildlife Advocacy Project was established and operated by Meyer and Glitzenstein. Admitted that ASPCA did not provide Tom Rider with an IRS Form 1099 for the funds provided to WAP. The remainder of the allegations are denied.

137. The first sentence of this paragraph is denied as phrased. Admitted that ASPCA provided Tom Rider with a laptop computer valued at approximately \$500 and cell phone valued at approximately \$200 to be used in his work with the media on the inhumane treatment of the elephants used in the Ringling Brothers' Circus. Admitted that ASPCA provided additional funding in the amount of \$526.16 to the Wildlife Advocacy Project, approximately \$400 of which was to cover the purchase of a zoom camera. Admitted that in 2002 and 2003, ASPCA directly paid for Tom Rider's cell phone service and internet access, in a total amount for both years of approximately \$6,038.40. With respect to the final sentence, admitted that ASPCA did not provide Tom Rider with an IRS Form 1099.

138. Denied.

139. Denied.

140. Denied.

141. Denied.

142. Denied.

143. Denied.

144. Admitted that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action. The remaining allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

145. Admitted that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action. The remaining allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

146. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

147. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

148. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

149. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

150. Denied.

151. Denied.

152. Denied.

153. Denied.

154. Denied.

155. Denied.

156. Admitted that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action. The remaining allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

157. Admitted that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action. The remaining allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

158. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

159. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

160. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

161. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

162. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

163. Denied.

164. Denied.

165. Denied.

166. Denied.

167. Denied.

168. Denied.

169. Admitted that the Animal Protection Institute ("API") was added as an additional plaintiff in the ESA Action on February 23, 2006. The remaining allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

170. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

171. The first sentence of this paragraph is denied. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

172. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

173. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

174. Denied.

175. Denied.

176. Denied.

177. Denied.

178. Denied.

179. With respect to the first sentence of this paragraph, admitted that a joint fundraiser took place in July 2005; the remainder of the allegations are denied. The third sentence of this paragraph relates to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to the truth of these allegations. The fourth sentence is denied. As to the remainder of the allegations, ASPCA respectfully refers the Court to the invitation referenced within this allegation for its contents.

180. ASPCA respectfully refers the Court to the invitation referenced within this allegation for its contents. ASPCA lacks sufficient knowledge and information to form a belief as to the truth of the allegations regarding the combined net assets of the Defendants. The remainder of the allegations are denied.

181. Denied.

182. Denied.

183. Denied.

184. Admitted.

185. Admitted that ASPCA made use of Tom Rider's interrogatory responses and October 12, 2006 deposition for purposes of litigation in the ESA Action. The remainder of the allegations are denied.

186. Denied.

187. ASPCA respectfully refers the Court to the document referenced in this paragraph for its contents. The remainder of the allegations are denied.

188. Denied.

189. Denied.

190. With respect to the first sentence, admitted that Tom Rider appeared as a witness for plaintiffs in the ESA Action and testified over the course of two days. ASPCA respectfully refers the Court to the December 30, 2009 opinion excerpted within this paragraph for its contents. The remainder of the allegations are denied.

191. Denied.

192. Denied.

193. The allegations relate to another Defendant in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

194. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

195. The allegations relate to another Defendant in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

196. ASPCA respectfully refers the Court to the organizational plaintiffs' discovery responses that are referenced within this allegation for their contents. The remainder of the allegations are denied.

197. Denied.

198. Denied.

199. Admitted.

200. Admitted ASPCA provided funding to Tom Rider as described in paragraph 5 above during the period referenced in the seventh sentence of this paragraph, and including the funding referenced in the sixth sentence of this paragraph, and that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

201. ASPCA respectfully refers the Court to the interrogatory and response referenced within this allegation for their contents. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

202. ASPCA respectfully refers the Court to the interrogatory and response referenced within this allegation for their contents. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

203. Denied.

204. Denied.

205. Denied.

206. ASPCA respectfully refers the Court to the testimony referenced within this paragraph for its contents.

207. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above during the period referenced in the seventh sentence of this paragraph, and including the funding referenced in the sixth sentence of this paragraph, and that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action. ASPCA lacks sufficient knowledge and information to form a belief as to the truth of the remainder of the allegations.

208. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

209. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above and that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action. ASPCA respectfully refers the Court to the testimony referenced in this paragraph for its contents. ASPCA lacks sufficient knowledge and information to form a belief as to the truth of the remainder of the allegations.

210. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above. The remainder of the allegations relate to other Defendants in this action or to Plaintiff and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

211. ASPCA respectfully refers the Court to the document referenced in this paragraph for its contents. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

212. ASPCA respectfully refers the Court to the testimony referenced in this paragraph for its contents. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

213. ASPCA respectfully refers the Court to the document referenced in this paragraph for its contents. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

214. Denied.

215. Denied.

216. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

217. ASPCA respectfully refers the Court to the testimony referenced in this paragraph for its contents.

218. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above during the period referenced in the seventh sentence of this paragraph, and including the funding referenced in the sixth sentence of this paragraph, and that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

219. The allegations relate to other Defendants and the Plaintiff in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

220. Denied.

221. Denied.

222. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

223. The first sentence of this paragraph is admitted. As to the second sentence of this paragraph, admitted that Ms. Meyer signed the objections, but the remaining allegations are denied.

224. Admitted that ASPCA provided funding to Tom Rider as described in paragraph 5 above during the period referenced in the seventh sentence of this paragraph, and including the funding referenced in the sixth sentence of this paragraph, and that representatives of ASPCA discussed the funding provided to Mr. Rider with the other plaintiffs in the ESA Action. ASPCA respectfully refers the Court to the Form 1099 referenced in this paragraph for its contents. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks knowledge or information sufficient to form a belief about their truth.

225. ASPCA respectfully refers the Court to the document referenced in this paragraph for its contents.

226. ASPCA respectfully refers the Court to the document referenced in this paragraph for its contents. The second, fourth, and sixth sentences of this paragraph relate to other Defendants in this action, and ASPCA lacks knowledge and information sufficient to form a belief as to their truth. The third sentence of this paragraph is admitted. The remainder of the allegations are denied.

227. ASPCA respectfully refers the Court to the document referenced in this paragraph for its contents. The second, third, fourth, and fifth sentences of this paragraph relate to the other Defendants in this action, and ASPCA lacks knowledge and information sufficient to form a belief as to their truth. The remainder of the allegations are denied.

228. Denied.

229. Denied.

230. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

231. With respect to the first through third sentences of this paragraph, admitted that the magistrate judge in the ESA action held a hearing in February and March 2008 to discuss discovery disputes between the parties, and that Rider did not appear at that hearing; the remainder of the allegations are denied. The fourth and fifth sentences of this paragraph relate to other Defendants in this action, and ASPCA lacks knowledge and information sufficient to form a belief as to their truth. The sixth sentence is denied as to ASPCA; as to the other Defendants, ASPCA lacks knowledge and information sufficient to form a belief as to its truth.

232. The allegations are denied as to ASPCA. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

233. Denied.

234. Denied.

235. As to ASPCA, the first, second, and third sentences of this paragraph are denied. The remaining allegations relate to other Defendants in this action, and ASPCA lacks knowledge and information sufficient to form a belief as to their truth.

236. Admitted that ASPCA has supported legislation barring the abuse of animals. ASPCA lacks knowledge and information sufficient to form a belief about the positions other Defendants have taken regarding pending legislation. The remainder of the allegations are denied.

237. Admitted that legislation which proposed penalties for the use of elephants in travelling shows, circuses, or elephant rides was introduced in Congress in 1999.

238. Admitted that state and local governments have introduced bills related to the abuse of elephants. ASPCA lacks knowledge and information sufficient to form a belief as to the specific contents of the unspecified bills contained in this paragraph.

239. The first and fifth sentences of this paragraph relate to another Defendant in this action, and ASPCA lacks sufficient knowledge and information to form a belief as to their truth. The remainder of the allegations are denied.

240. Denied.

241. ASPCA respectfully refers the Court to the testimony referenced in this paragraph for its contents. The remaining allegations are denied.

242. ASPCA respectfully refers the Court to the testimony referenced in this paragraph for its contents. The remaining allegations are denied.

243. ASPCA respectfully refers the Court to the testimony referenced in this paragraph for its contents. The remaining allegations are denied.

244. Admitted that ASPCA, The Fund For Animals ("FFA"), and Animal Welfare Institute ("AWI"), with assistance from MGC, issued a report concerning FEI's Asian elephants. The remainder of the allegations are denied.

245. The second sentence of this paragraph is denied as to ASPCA. The remainder of the allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

246. The allegations relate to other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

247. Denied.

248. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

249. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

250. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

251. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

252. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

253. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

254. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to the their truth.

255. The allegations relate to non-parties and other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

256. The allegations relate to non-parties and other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

257. The first sentence of this paragraph is admitted, except that the date of the deposition referenced in this paragraph was November 9, 2004. The second sentence of this paragraph is denied. The third sentence of this paragraph is admitted.

258. Admitted.

259. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

260. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

261. The allegations relate to non-parties and other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

262. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

263. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

264. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

265. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

266. ASPCA respectfully refers the Court to the documents and testimony referenced in this paragraph for their contents. The remainder of the allegations are denied.

267. The first sentence of this paragraph is denied. ASPCA respectfully refers the Court to the documents referenced in the second and third sentences for their contents. ASPCA lacks knowledge and information sufficient to form a belief as to the truth of the allegations in the fourth sentence.

268. The allegations relate to non-parties and other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

269. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

270. The allegations relate to non-parties in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

271. ASPCA respectfully refers the Court to the document referenced in this paragraph for its contents. The fourth sentence is denied. The remainder of the allegations relate to non-parties and other Defendants in this action and ASPCA lacks sufficient knowledge and information to form a belief as to their truth.

272. ASPCA respectfully refers the Court to the testimony referenced in this paragraph for its contents. The remainder of the allegations are denied.

273. Denied.

274. Admitted that FEI has been represented by Fulbright & Jaworski L.L.P. and Covington and Burling L.L.P. in the ESA Action. ASPCA lacks sufficient knowledge and information to form a belief as to the truth of the remainder of the allegations.

COUNT I

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT CONDUCTING THE AFFAIRS OF THE ENTERPRISE THROUGH A PATTERN OF RACKETEERING ACTIVITY

(18 U.S.C. §§ 1962(c) and 1964(c))

(Against All Defendants)

275. ASPCA reiterates its responses to paragraphs 1 – 274 of the Amended Complaint as if set forth fully herein.

276. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

277. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

278. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

279. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

280. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

281. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

282. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

283. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

284. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

285. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

286. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

287. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

288. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

COUNT II

**RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT
CONSPIRACY TO CONDUCT THE AFFAIRS OF THE ENTERPRISE
THROUGH A PATTERN OF RACKETEERING ACTIVITY IN VIOLATION
OF § 1962(C)**

(18 U.S.C. §§ 1962(d) and 1964(c))

(Against All Defendants)

289. ASPCA reiterates its responses to paragraphs 1 – 288 of the Amended Complaint as if set forth fully herein.

290. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

291. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

292. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

293. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

294. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

295. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

296. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

COUNT III
VIRGINIA CONSPIRACY ACT
CONSPIRACY TO HARM A BUSINESS
(Va. Code Ann. § 18.2-499(a), § 18.2-500)

(Against All Defendants)

297. ASPCA reiterates its responses to paragraphs 1 – 296 of the Amended Complaint as if set forth fully herein.

298. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

299. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

300. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

301. This states a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

COUNT IV
ABUSE OF PROCESS
(Against All Defendants)

302. ASPCA reiterates its responses to paragraphs 1 – 301 of the Amended Complaint as if set forth fully herein.

303. Admitted.

304. Admitted that a non-jury trial of the ESA Action took place from February 4, 2009 through March 18, 2009. Admitted that on December 30, 2009, the Court issued an

opinion and ASPCA respectfully refers the Court to that opinion for its contents. The remainder of the allegations are denied.

305. Denied.

306. Admitted that ASPCA is opposed to using wild or exotic (non-native wild) animals, whether taken from the wild or captive-bred, in circuses, carnivals, and other traveling animal shows. The remainder of the allegations relate to other Defendants and ASPCA lacks sufficient knowledge and information form a belief as to their truth.

307. The second sentence of this paragraph is admitted, however such links appeared throughout ASPCA's website at the time. The third sentence is denied as to ASPCA, and ASPCA lacks sufficient knowledge and information as to the truth of the allegations in this sentence as to other Defendants. The remainder of the allegations are denied.

308. ASPCA respectfully refers the Court to the documents referenced in this paragraph for their contents. The remainder of the allegations are denied.

309. ASPCA lacks sufficient knowledge and information as to the truth of the allegations regarding the total amount of donations received by the plaintiffs in the ESA Action. The remainder of the allegations are denied.

310. Denied.

311. Denied.

312. The first sentence of this paragraph relates to another Defendant and ASPCA lacks sufficient knowledge and information to form a belief as to its truth. The remainder of the allegations are denied.

313. Denied.

314. The third sentence of this paragraph is admitted. The remainder of the allegations are denied.

315. Denied.

316. Denied.

317. Denied.

318. Denied.

319. Denied.

320. Denied.

321. This characterizes Plaintiff's action and therefore no response is required; to the extent a response is required, the allegations are denied.

322. This characterizes Plaintiff's action and therefore no response is required; to the extent a response is required, the allegations are denied.

COUNT V

MALICIOUS PROSECUTION

(Against All Defendants)

323. ASPCA reiterates its responses to paragraphs 1 – 322 of the Amended Complaint as if set forth fully herein.

324. Admitted that on December 30, 2009, the Court issued an opinion and respectfully refer the Court to the opinion for its contents.

325. Denied.

326. Denied.

327. Denied.

328. ASPCA respectfully refers the Court to the findings referenced in this paragraph for their contents.

329. Admitted that this Court dismissed the ESA Action on standing grounds as to all plaintiffs in 2001, and the D.C. Circuit overturned that ruling. ASPCA respectfully refers the Court to the D.C. Circuit's opinion for its contents. The remainder of the allegations are denied.

330. Denied.

331. Denied.

332. Denied.

333. This characterizes Plaintiff's action and therefore no response is required; to the extent a response is required, the allegations are denied.

COUNT VI

MAINTENANCE

(Against ASPCA, AWI, FFA/HSUS, API and WAP)

334. ASPCA reiterates its responses to paragraphs 1 – 333 of the Amended Complaint as if set forth fully herein.

335. The first and fifth sentences of this paragraph are admitted. The remaining allegations state a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

336. The first and second sentences are denied. The third and fifth sentences of this paragraph are admitted as to ASPCA; ASPCA lacks sufficient knowledge and information as to the truth of these allegations as to AWP, FFA, or API. The remainder of the allegations state a legal conclusion to which no response is required; to the extent a response is required, the allegations are denied.

337. Denied.

338. Admitted that the Court found that API had not established standing at the trial of the ESA Action. The remainder of the allegations are denied.

339. Denied.

340. Denied.

341. Denied.

342. Denied.

343. Denied.

344. This characterizes Plaintiff's action and therefore no response is required; to the extent a response is required, the allegations are denied.

COUNT VII

CHAMPERTY

(Against MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene)

345. ASPCA is not named as a defendant with respect to this claim, therefore no response is required.

346. ASPCA is not named as a defendant with respect to this claim, therefore no response is required.

347. ASPCA is not named as a defendant with respect to this claim, therefore no response is required.

348. ASPCA is not named as a defendant with respect to this claim, therefore no response is required.

349. ASPCA is not named as a defendant with respect to this claim, therefore no response is required.

350. ASPCA is not named as a defendant with respect to this claim, therefore no response is required.

351. ASPCA is not named as a defendant with respect to this claim, therefore no response is required.

352. ASPCA is not named as a defendant with respect to this claim, therefore no response is required.

353. ASPCA is not named as a defendant with respect to this claim, therefore no response is required.

354. ASPCA is not named as a defendant with respect to this claim, therefore no response is required.

PRAYER FOR RELIEF

ASPCA denies that Plaintiff is entitled to any of the items set forth in items "A" through "H" of its Prayer for Relief.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Amended Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiff's claims are barred by the applicable statutes of limitations.

THIRD DEFENSE

Plaintiff's claims are barred by the Noerr-Pennington Doctrine.

FOURTH DEFENSE

Plaintiff's claims fail to set forth either "but for" or "proximate" causation.

FIFTH DEFENSE

Plaintiff's claims are barred by the equitable doctrines of unclean hands, estoppel, laches, and/or waiver.

SIXTH DEFENSE

Plaintiff's claims are barred because at all relevant times ASPCA's conduct was reasonable, lawful, and in good faith.

SEVENTH DEFENSE

Plaintiff's claims are barred because the alleged conduct complained of by Plaintiff was taken by persons or entities other than ASPCA and, at all relevant times, said persons or entities acted without consent, authorization, knowledge, or ratification of ASPCA.

EIGHTH DEFENSE

Plaintiff's claims must be dismissed on constitutional grounds, because they infringe on First Amendment rights.

NINTH DEFENSE

Plaintiff's claims are barred in whole or in part by the District of Columbia's Anti-SLAPP Act ("strategic lawsuits against public participation"), codified at D.C. Code §§ 16-5501 *et seq.* (2010).

TENTH DEFENSE

Plaintiff's RICO claims constitute a compulsory counterclaim in the ESA Action pursuant to Rule 13(a).

ELEVENTH DEFENSE

Plaintiff's RICO claims based upon misrepresentations and/or fraud fail to comply with the heightened pleading requirements of Fed. R. Civ. P. 9(b).

TWELFTH DEFENSE

Plaintiff's RICO claims fail to plead or prove with sufficient particularity a RICO conspiracy claim under 18 U.S.C. § 1962(d).

THIRTEENTH DEFENSE

Plaintiff's RICO claims fail to set forth an actionable RICO "pattern."

FOURTEENTH DEFENSE

Plaintiff's RICO claims fail to set forth a sufficiently distinct "enterprise."

FIFTEENTH DEFENSE

Plaintiff's RICO claims fail as to ASPCA because Plaintiff has not alleged and cannot prove that ASPCA was engaged in the operation or management of the RICO "enterprise."

SIXTEENTH DEFENSE

Plaintiff's RICO claims engage in impermissible "group pleading."

SEVENTEEN DEFENSE

Plaintiff's RICO claims fail because Plaintiff has not alleged and cannot prove the elements of the underlying predicate acts.

EIGHTEENTH DEFENSE

Plaintiff's Malicious Prosecution claim fails as a matter of law because there was no favorable termination of the ESA Action on the merits, and Plaintiff has not alleged and cannot prove a special injury as a result of the ESA Action.

NINETEENTH DEFENSE

Plaintiff's Abuse of Process claim fails as a matter of law because it does not allege any perversion of the regular and contemplated judicial process.

TWENTIETH DEFENSE

Plaintiff's Maintenance claim fails as a matter of law because (a) such a claim is not recognized in this jurisdiction, and (b) ASPCA had and has a strong interest in advancing the humane treatment of performing animals.

TWENTY-FIRST DEFENSE

Plaintiff has failed to state a claim against ASPCA upon which punitive damages, costs, expenses, interest, or attorneys' fees may be awarded.

TWENTY-SECOND DEFENSE

To the extent Plaintiff is awarded damages, ASPCA is entitled to a set-off in the amount(s) recovered by Plaintiff with respect to the same alleged injuries or damages, including any attorneys' fees that may be awarded in the ESA Action, and any additional benefits or payments the Plaintiff may receive from any collateral source.

TWENTY-THIRD DEFENSE

Plaintiff's alleged injuries and/or damages, if any, were or may have been proximately caused by the superseding and/or intervening acts or negligence of others for whom ASPCA is not responsible.

TWENTY-FOURTH DEFENSE

Plaintiff has, or may have, failed to mitigate its damages.

TWENTY-FIFTH DEFENSE

ASPCA intends to rely upon any and all other defenses that might become available during the course of this litigation, including those raised by other Defendants, and respectfully reserves the right to supplement these Affirmative Defenses based upon discovery in this matter.

JURY DEMAND

ASPCA demands a trial by jury on all issues so triable.

WHEREFORE, having fully answered Plaintiff's First Amended Complaint, Defendant ASPCA respectfully requests that the Court dismiss the First Amended Complaint with prejudice, award Defendant costs and attorneys' fees, and grant any other relief that the Court may find just and appropriate.

Respectfully submitted,

/s/ Daniel S. Ruzumna

Daniel S. Ruzumna (D.C. Bar No. 450040)

Peter W. Tomlinson (*pro hac vice*)

PATTERSON BELKNAP WEBB & TYLER LLP

1133 Avenue of the Americas

New York, NY 10036-6710

(212) 336-2000

August 9, 2012

Counsel for Defendant

American Society for the Prevention of Cruelty to Animals

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer of Defendant American Society for the Prevention of Cruelty to Animals was served via electronic filing this 9th day of August, 2012, to all counsel of record.

/s/ Daniel S. Ruzumna

Daniel S. Ruzumna