UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

FELD ENTERTAINMENT, INC. :

:

Plaintiff,

:

v. : Case No. 07- 1532 (EGS)

•

AMERICAN SOCIETY FOR THE

PREVENTION OF CRUELTY

ANIMALS, et al.

:

Defendants.

ciciiaaiius.

MOTION TO SCHEDULE A RULE 16 CONFERENCE

Plaintiff Feld Entertainment, Inc. ("FEI") hereby respectfully requests that the Court schedule a Rule 16 conference in the above-captioned matter. Plaintiff's Points and Authorities in support of this Motion are stated herein:

- 1. The Court granted in part and denied in part defendants' Motions to Dismiss on July 9, 2012. Docket Entry ("DE") 89 & 90. The Court previously stayed all discovery in this matter pending the outcome of defendants' Motions to Dismiss. Minute Order (3-9-11).
- 2. In light of the Court's July 9, 2012 Order and Opinion, FEI filed an Unopposed Motion for a Rule 16 Conference, requesting that the Court: (1) order the parties to meet and confer regarding the status of discovery; (2) order the parties to file discovery plans with the Court; (3) hold a Rule 16 conference; and (4) hold all responses to outstanding written discovery in abeyance. DE 93 (7-31-12).
- 3. The Court granted the Unopposed Motion for a Rule 16 Conference and scheduled a Rule 16 conference for October 10, 2012. DE 94 (8-3-12). The parties filed discovery plans with the Court on September 10, 2012. DE 117 & 118.

71344905.1 - 1 -

- 4. Defendants filed a Motion for Interlocutory Review or, in the Alternative, Reconsideration on August 9, 2012. DE 105.
- 5. The Court issued a Minute Order indicating that it would resolve defendants' Motion for Interlocutory Review or, in the Alternative, Reconsideration before addressing the parties' discovery plans and cancelled the Rule 16 conference. Minute Order (10-5-12). During the hearing on that motion, counsel for defendants represented that the defendants would not seek a stay of discovery even if their motion were granted.
- 6. The Court ordered dismissal with prejudice as to Defendant American Society for the Prevention of Cruelty to Animals on January 3, 2013. DE 128.
- 7. The Court denied defendants' Motion for Interlocutory Review or, in the Alternative, Reconsideration on January 8, 2013. DE 129.
- 8. In light of the Court's January 8, 2013 Order, FEI hereby respectfully requests that the Court schedule a Rule 16 conference.
- 9. Concurrently herewith, FEI also is filing a motion for a status conference in a related action, *ASPCA et al. v. Feld Entertainment, Inc.*, No. 03-2006 (D.D.C.) (EGS), regarding the taxation of FEI's costs to the plaintiffs in that matter.

Pursuant to Local Rule 7(m), counsel for FEI conferred with counsel for defendants but was not able to ascertain defendants' position with respect to this Motion at the time that the Motion was filed.

71344905.1 - 2 -

Dated: January 11, 2013 Respectfully submitted,

/s/ John M. Simpson

John M. Simpson (D.C. Bar # 256412)
jsimpson@fulbright.com
Stephen M. McNabb (D.C. Bar #367102)
smcnabb@fulbright.com
Michelle C. Pardo (D.C. Bar # 456004)
mpardo@fulbright.com
Kara L. Petteway (D.C. Bar # 975541)
kpetteway@fulbright.com
Rebecca E. Bazan (D.C. Bar # 994246)
rbazan@fulbright.com
FULBRIGHT & JAWORSKI L.L.P.
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2623
Telephone: (202) 662-0200

Counsel for Plaintiff Feld Entertainment, Inc.

71344905.1