

**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.

No. 07-1532

**MOTION BY THE AMERICAN SOCIETY FOR  
THE PREVENTION OF CRUELTY TO ANIMALS  
TO REMOVE ITS NAME FROM THE CASE CAPTION IN  
LIGHT OF THE DISMISSAL OF ALL CLAIMS AGAINST IT**

1. Former party the American Society for the Prevention of Cruelty to Animals ("ASPCA") respectfully moves this Court for an order removing the ASPCA from the case caption in the above-captioned action in light of the Court's dismissal of all claims against it.

2. On December 28, 2012, the ASPCA and plaintiff Feld Entertainment, Inc. ("FEI") filed a stipulation dismissing all of FEI's claims against the ASPCA. The stipulation of dismissal followed a settlement between FEI and the ASPCA, which resolved all of the claims between the ASPCA and FEI. On December 31, 2012, this Court so ordered that stipulation of dismissal and dismissed all claims against the ASPCA. The case remains open because FEI is prosecuting claims against the remaining twelve defendants. As the Court is aware, the case has generated substantial motion practice, and it is likely to continue to generate substantial motion practice in the coming years, including additional court decisions.

3. In light of the dismissal of all of the claims against it, the ASPCA respectfully requests that its name be removed from the case caption going forward so that in future filings and decisions, the case is no longer referred to as *Feld Entertainment, Inc. v. American Society for the Prevention of Cruelty to Animals*. If the ASPCA's name is left in the caption, the case could continue for years as *Feld Entertainment, Inc. v. American Society for the Prevention of Cruelty to Animals* even though the ASPCA is no longer a party to the case.

4. Courts often remove settling or otherwise dismissed parties from a case caption when litigation will be ongoing against other parties. *See, e.g., FHFA v. First Tennessee Bank, N.A.*, 856 F. Supp. 2d 186, 186 (D.D.C. 2012) ("Pursuant to the parties' stipulation of dismissal ... the Court has amended the case caption by omitting respondent First Horizon Home Loan Corporation as a party in this case."); *Trentadue v. Integrity Committee*, 501 F.3d 1215, 1215 n.1 (10th Cir. 2007) ("The suit originally named the President's Council on Integrity and Efficiency ('PCIE') as a defendant in addition to the Integrity Committee ('IC'). Because PCIE was dismissed from this suit, we have amended the caption to list only the IC as defendant-appellee."); *Richardson v. New York City Police Dep't*, 12-CV-5753, 2013 U.S. Dist. LEXIS 2857, at \*8 (E.D.N.Y. Jan. 7, 2013) ("For the reasons set forth above, all of the claims against the NYPD and the New York City Transit Police are dismissed for failure to state a claim .... The Clerk of Court is directed to amend the caption to reflect the dismissal of these defendants."); *Abdul-Hakim v. Impac Assocs. Redevelopment Co.*, 95 Civ. 9416, 1998 U.S. Dist. LEXIS 20222, at \*2-3 & n.2 (S.D.N.Y. Dec. 28, 1998) ("Subsequently, the City Defendants and Epic Security settled this matter with Plaintiffs. The Court has included only the Building Defendants in the caption because the caption should have been amended to reflect these settlements.") This practice is consistent with the fact that the names in the caption should

reflect the names of the parties litigating the case.

5. On February 6, 2013, the ASPCA contacted counsel for all parties regarding its request and asked whether they would oppose its motion. FEI has no objection to the ASPCA's motion, and parties the Fund for Animals, Born Free USA, Wildlife Advocacy Project, and Tom Rider have stated that they will take no position on the ASPCA's motion. The Animal Welfare Institute has stated that it will oppose the ASPCA's motion. None of the other parties has responded to the ASPCA's inquiry.

6. For all of the foregoing reasons, the ASPCA respectfully requests that the Court grant its motion and remove the ASPCA's name from the caption in this case going forward. A proposed order is attached to this motion.

Dated: February 25, 2013

Respectfully submitted,

/s/ Daniel S. Ruzumna  
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