

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FELD ENTERTAINMENT, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	Civ. No. 07-1532 (EGS)
AMERICAN SOCIETY FOR THE PREVENTION OF)	
CRUELTY TO ANIMALS, <i>et al.</i> ,)	
)	
Defendants.)	

**INITIAL DISCLOSURES OF DEFENDANTS JONATHAN LOVVORN AND
KIMBERLY OCKENE PURSUANT TO F.R.C.P. 26(a)(1)**

Pursuant to Fed. R. Civ. P. 26(a)(1) and this Court’s Order dated December 9, 2010, defendants Jonathan Lovvorn and Kimberly Ockene, by undersigned counsel, hereby submit their Initial Disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure on behalf of themselves. Mr. Lovvorn and Ms. Ockene reserve the right to amend or supplement these disclosures as discovery proceeds or as otherwise necessary or appropriate and state upon information and belief, as follows:

1. **Rule 26 (a)(1)(A)(i):** The name and, if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

RESPONSE: As described in Mr. Lovvorn and Ms. Ockene’s motion to dismiss, the amended complaint does not provide fair notice of the factual basis for the claims pled against them, and thus it is impossible at this time to formulate a list of individuals with discoverable information concerning their likely defenses and counterclaims. Nevertheless, Mr. Lovvorn and

Ms. Ockene incorporate by reference each of the individuals identified by the other defendants or by the plaintiff in their Rule 26(a)(1) disclosures.¹

2. **Rule 26 (a)(1)(A)(ii):** A copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

RESPONSE: To the best of Mr. Lovvorn and Ms. Ockene's knowledge, any documents, electronically stored information, or tangible things relevant to their defenses or potential counterclaims in this action are in the possession, custody and control of their employer The Humane Society of the United States, their former employer Meyer Glitzenstein and Crystal, or the other organizational defendants. Mr. Lovvorn and Ms. Ockene reserve the right to rely upon any documents that may be identified or produced in discovery, including any documents identified by the other defendants or the plaintiff in their Rule 26(a)(1) disclosures.²

3. **Rule 26 (a)(1)(A)(iii):** A computation of any category of damages claimed by the disclosing party – who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

RESPONSE: Because defendants Lovvorn and Ockene have a motion to dismiss pending and have not yet been required to file an Answer to the Amended Complaint, they are not yet in a position to compute the damages they may assert should this case go forward. Mr. Lovvorn and Ms. Ockene reserve the right to supplement this initial disclosure as necessary when and if they file a counterclaim in this action.

¹ Should the motion to dismiss be denied in any respect, Mr. Lovvorn and Ms. Ockene will file an Answer as required by the Federal Rules of Procedure, at which point they will assert appropriate defenses and counterclaims and will amend these disclosures accordingly.

² Again, should the Court deny defendants' Motion to Dismiss in whole or part, Mr. Lovvorn and Ms. Ockene reserve the right to amend and supplement these disclosures, particularly with regard to defenses and counterclaims they may assert in their Answer.

4. **Rule 26 (a)(1)(A)(iv):** For inspection and copying as under Rule 34 any insurance agreement under which an insurance business may be liable to satisfy part or all of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

RESPONSE: Any relevant insurance agreements are in the possession and control of Mr. Lovvorn and Ms. Ockene's employer, The Humane Society of the United States, or their former employer Meyer Glitzenstein & Crystal.

5. **Non-Waiver**

Nothing in these initial disclosures shall constitute a waiver of any claim, right, or defense, procedural or substantive, any applicable privilege or immunity, or claim of confidentiality, or the right to object to discovery requests that are not relevant or sufficiently relevant to justify the burden or expense of responding. Nothing in these disclosures shall constitute an admission or concession on the part of defendants with respect to any issues of fact or law. Mr. Lovvorn and Ms. Ockene reserve their right to supplement, modify or change the discovery information contained herein based upon the receipt of any additional information, as well as continued investigation in this matter, up to and including the time of trial.

Date: January 28, 2011

Respectfully submitted,

/s/ Laura N. Steel

Laura N. Steel (D.C. Bar # 367174)

Kathleen H. Warin (D.C. Bar # 492519)

WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP

700 11th Street, N.W., Suite 400

Washington, D.C. 20001

Telephone: (202) 626-7660

Facsimile: (202) 628-3606

Email: laura.steel@wilsonelser.com

kathleen.warin@wilsonelser.com

*Counsel for Defendants, Meyer, Glitzenstein & Crystal,
Katherine Meyer, Eric Glitzenstein, Howard Crystal,
Jonathan Lovvorn and Kimberly Ockene*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of January, 2011, copies of the foregoing Initial Disclosure of Defendants Jonathan Lovvorn and Kimberly Ockene Pursuant to F.R.C.P. 26(a)(1) was served via First Class Mail to the following:

John M. Simpson, Esquire
Joseph T. Small, Jr., Esquire
Richard C. Smith, Esquire
Michelle C. Pardo, Esquire
FULBRIGHT & JAWORSKI LLP
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Stephen L. Braga, Esquire
ROPES & GRAY LLP
700 12th Street, N.W., Suite 900
Washington, D.C. 20005

Bernard J. DiMuro, Esquire
Stephen L. Neal, Jr., Esquire
DIMURO GINSBURG, PC
908 King Street
Suite 200
Alexandria, VA 22314

Barbara Ann Van Gelder, Esquire
William B. Nes, Esquire
MORGAN LEWIS AND BOCKIUS, LLP
1111 Pennsylvania Avenue, NW
Washington, D.C. 20004

Daniel S. Ruzumna, Esquire
Peter Tomlinson, Esquire
Harry Clarke, Esquire
PATTERSON BELKNAP WEBB & TYLER,
LLP
1133 Avenue of the Americas
New York, NY 10036-6710

Andrew B. Weissman, Esquire
WILMER CUTLER PICKERING HALE &
DORR, LLP
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

David H. Dickieson, Esquire
SCHERTLER & ONORATO, LLP
601 Pennsylvania Avenue, N.W.
North Building, 9th Floor
Washington, D.C. 20004

Wendy L. Wysong, Esquire
CLIFFORD CHANCE US LLP
2001 K Street, N.W.
Washington D.C. 20006 1001

/s/ Laura N. Steel
Laura N. Steel