

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FELD ENTERTAINMENT, INC.,

Plaintiff,

v.

Civil Action No. 07-1532 (EGS/JMF)

ANIMAL WELFARE INSTITUTE, *et al.*,

Defendants.

ORDER

There remain vast differences between the parties' positions on the appropriate amount of time that should be allocated for party and non-party depositions. See Notice of Meet and Confer and Proposed Rule 16(B)(3) Discovery Order [#152] at 13-16. First, the Court shall bifurcate the depositions into two stages: 1) depositions of party witnesses and 2) depositions of non-party witnesses, with the understanding that the Court will turn to the time allocations of the non-party witnesses as soon as the depositions of the party witnesses are completed. Second, rather than view the matter abstractly, the Court shall require each party to identify the total amount of time it wishes to depose *each* party witness.

Feld will begin this process by specifying the number of hours it seeks to depose each defendant by filling in the number of hours in the chart below. Feld will then make its list available to defendants. Each defendant will then fill in the number of hours it seeks to depose Feld as well as each codefendant. The chart will then be filed with the Court.

I strongly encourage the defendants to meet and confer as to the amount of time they reasonably anticipate needing for each witness, once Feld completes its portion of the chart, assuming (as shown in the example below) that Feld intends to take the deposition of each

defendant.

| | | WITNESSES | | | | | | | | | | | | |
|---|-------|-----------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| | | Feld | AWI | FFA | Rider | BF | WAP | MG&C | K.M. | E.G. | H.C. | HSUS | JL | KO |
| D E P O N E N T S | Feld | n/a | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs |
| | AWI | 7 hrs | n/a | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs | 7 hrs |
| | FFA | | | | | | | | | | | | | |
| | Rider | | | | | | | | | | | | | |
| | BF | | | | | | | | | | | | | |
| | WAP | | | | | | | | | | | | | |
| | MG&C | | | | | | | | | | | | | |
| | K.M. | | | | | | | | | | | | | |
| | E.G. | | | | | | | | | | | | | |
| | H.C. | | | | | | | | | | | | | |
| | HSUS | | | | | | | | | | | | | |
| | JL | | | | | | | | | | | | | |
| | KO | | | | | | | | | | | | | |

If each defendant insists that it has a right to take seven hours to depose Feld as well as each of its co-defendants, and if the Court permits it, that would mean that each party would be deposed 13 times for a total of 91 hours (13x7). I hope, instead, that the parties, in appreciation of the fact that there has already been a trial in this case (albeit on different issues) will limit their current depositions to only those matters that have not previously been explored under oath – whether at a prior deposition or trial. Counsel are also reminded that all discovery is, of course, subject to the proportionality requirements of Rule 26(b)(2)(C)(iii) of the Federal Rules of Civil Procedure.

The parties' **joint** submission is due September 10, 2013. A hearing on the matter will be held on September 12, 2013 at 10:30 a.m.

SO ORDERED.

JOHN M. FACCIOLA
UNITED STATES MAGISTRATE JUDGE