

EXHIBIT KK

**MOTION FOR PARTIAL SUMMARY JUDGMENT BY
DEFENDANTS KATHERINE MEYER, ERIC GLITZENSTEIN, AND
MEYER GLITZENSTEIN & CRYSTAL**

Civ. No. 07-1532 (EGS/JMF)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Plaintiffs, :

v. :

Case No. 03-2006 (EGS/JMF)

RINGLING BROS. AND BARNUM & :
BAILEY CIRCUS, et al., :

Defendants. :

MOTION TO COMPEL DOCUMENTS SUBPOENAED FROM THE
WILDLIFE ADVOCACY PROJECT AND MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT THEREOF

This lawsuit continues because of Tom Rider’s participation as a plaintiff. *See ASPCA et al. v. Ringling Bros., Civ. No. 1:00CV1641, Mem. Op. & Order (June 29, 2001), rev’d, ASPCA v. Ringling Bros., 317 F.3d 334, 338 (D.C. Cir. 2003)* (Rider’s personal allegations “sufficient to withstand a motion to dismiss for lack of standing”). Having had their lawsuit reinstated because of Mr. Rider, the ASPCA, Animal Welfare Institute, and Fund for Animals (the “Organizational Plaintiffs”) freely admit that they are relying upon Mr. Rider’s allegations to carry them through this case. *See, e.g.,* Exhibit 1, Org. Pls.’ Response to Interrog. No. 5 (relying substantially upon incidents described by Tom Rider when asked to list each allegedly harmful act of FEI).

Feld Entertainment, Inc. (“FEI”)¹ now moves to compel documents from the Wildlife Advocacy Project (“WAP”) that bear heavily upon Mr. Rider’s credibility, or lack thereof. Specifically, FEI seeks documents relating to the systematic payments that Mr. Rider has received over the last five years from the Organizational Plaintiffs and WAP, the alter ego of plaintiffs’ counsel. FEI believes such payments total more than \$100,000.

¹ Ringling Bros. and Barnum & Bailey Circus, although included in the caption of this case, is not a legal entity.

should be permitted to engage in discovery directed towards whether plaintiffs have acted with clean hands.

D. WAP's Insufficient Response to the Subpoena and FEI's Modifications Thereto

FEI served the subpoena upon WAP on July 27, 2005. In response to objections first raised by plaintiffs' counsel himself, Eric Glitzenstein (in his capacity as President of WAP), that the subpoena was overbroad and burdensome, FEI's prior counsel agreed to modify each of the five requests and granted WAP an additional seven weeks to comply with the subpoena. Exhibit 31, Wolson letter to Glitzenstein (Aug. 26, 2005). On September 29, 2005, WAP produced a folder containing 266 pages of documents, 85 pages of which were news articles that WAP retrieved on Lexis after receiving the subpoena. Not only did WAP produce very few documents, it also redacted 91 documents in part and explicitly withheld 3 documents and 80 pages of receipts.

Six pages of WAP's production, all of which were heavily redacted, constituted an accounting ledger of "receipts and disbursements relating in any fashion to elephants, Tom Rider, Ringling Brothers, or the lawsuit." Exhibit 32, Glitzenstein/WAP letter to Wolson (Sept. 29, 2005). Having produced this heavily redacted ledger, WAP also explicitly withheld without identifying "financial records that merely duplicate the information that is embodied" in the six-page chart. *Id.* After reviewing WAP's abbreviated production, FEI's counsel contacted WAP's outside counsel to address concerns that WAP did not produce all of the requested documents and to negotiate a protective order that WAP said was required before it would produce documents containing its financial information. These issues, however, could not be resolved before FEI changed counsel.

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EXHIBIT 32



1601 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20009
(202) 518-3700

September 29, 2005

By Hand Delivery

Joshua D. Wolson
Covington and Burling
1201 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2401

Re: Subpoena to Wildlife Advocacy Project

Dear Josh:

Enclosed are the documents that the Wildlife Advocacy Project believes are responsive to the subpoena, as narrowed and clarified by our subsequent discussion and correspondence. Also enclosed is a detailed privileged log which identifies all materials being withheld and reasons for the withholding. We have separately paginated in the lower right corner each document that has been disclosed in full or in part. As noted on the log, some financial material is being withheld that WAP will make available subject to an appropriate protective order. If you wish to pursue access to these materials, or have any other questions regarding this response, please contact the Project's outside counsel, Richard Thomas and Michael Trister ((202) 328-1666)).

The "transaction detail report" (page #s 135-140) contains a comprehensive compilation of receipts and disbursements relating in any fashion to elephants, Tom Rider, Ringling Brothers, or the lawsuit. Accordingly, we are not providing or identifying financial records that merely duplicate the information that is embodied in this comprehensive report – i.e., monthly financial statements, monthly phone bills, or canceled checks.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric R. Glitzenstein".

Eric R. Glitzenstein
President

ERG/ms

cc: Michael Trister/Richard Thomas (by mail)