

EXHIBIT E

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

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

From: OrtMabry, Catherine
Sent: Monday, May 08, 2000 7:30 PM
To: Ruch, Mike; Strauss, Julie
Subject: RE: Media coverage of animal care concerns

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From: Ruch, Mike
Sent: Monday, May 08, 2000 7:26 AM
To: OrtMabry, Catherine
Subject: RE: Media coverage of animal care concerns

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-----Original Message-----

From: OrtMabry, Catherine
Sent: Sunday, 07 May 2000 9:39 PM
To: EVERYONE
Subject: Media coverage of animal care concerns

During the August 1999 visit of the Red Unit of Ringling Bros. and Barnum & Bailey to San Jose, California, the local animal control authority raised some concerns about our elephants. According to our animal care staff that were on site (including our head veterinarian), there was no basis for the concerns, and the Humane Society appeared to be motivated from an activist perspective.

Despite repeated requests, the Humane Society of the Santa Clara Valley refused to provide information it purports to have that could help us address their concerns about our animal care. Instead, they went to the district attorney - who found there was insufficient evidence to warrant any kind of action. The Humane Society then convinced a reporter from the *San Jose Mercury News* to write an article about their claims. The article ran today (Sunday, May 7, 2000), and was summarized by the Associated Press later in the afternoon.

The coverage also featured information provided by a former Blue Unit employee alleging abuse of the elephants. Tom Rider's claims suggest a systemic pattern of behavior toward animals that, if it existed, would have been noted in the more than 35 inspections of our Blue Unit by federal, state, and local officials that took place during his two and a half years of employment with us. He never reported his concerns to the senior animal care staff and left our company on good terms. The Performing Animal Welfare Society, one of our harshest critic groups, is circulating his story.

I have attached the article from the San Jose Mercury News as well as the article from the Associated Press for your reference. If you have any questions about the situation or the coverage, please let me know.

Published Sunday, May 7, 2000, in the San Jose Mercury News

Investigation found evidence of elephant abuse

Circus probe: Humane Society reported it saw wounds at 1999 San Jose show, but no charges resulted.

By LINDA GOLDSTON <mailto:lgoldston@sjmercury.com>

Mercury News

Investigators found evidence that Ringling Brothers and Barnum & Bailey Circus had mistreated its elephants during a weeklong run of the "Greatest Show on Earth" in San Jose last year, according to documents obtained by the Mercury News.

Officers for the Humane Society of Santa Clara Valley and a San Jose police sergeant sought criminal charges against the circus after documenting numerous lacerations and puncture wounds on seven of the circus's endangered Asian elephants. Prosecutors, however, decided in February not to file charges because there was insufficient evidence.

"The Humane Society did wonderful work in terms of their investigation," Santa Clara County Deputy District Attorney Robin Wakshull said. "But they simply could not answer all of the questions that need to be answered before criminal charges are filed.

"We had no way to determine the circumstances under which (the injuries) occurred, and we were not able to identify a perpetrator."

A Ringling spokeswoman said the Humane Society's accusations were not true.

Catherine Ort-Mabry, spokeswoman for Feld Entertainment Inc., Ringling's parent company, said the circus uses only positive reinforcement with its elephants, building trust between animal and handler and making punishment unnecessary.

But a former Ringling employee described a far different sort of animal management in a recent interview with the Mercury News, including frequent beatings. The employee, who quit in November, is now working with an animal-rights group that has filed complaints against Ringling -- a fact the company has cited in discounting his story.

A written statement to the Mercury News from Ringling Bros. said the circus is "committed to the highest standards in the care of all our animal performers, and we deliver exemplary, hands-on care, 365 days a year.

It was alleged violations of a state elephant-abuse law that prompted the investigation of Ringling by the Humane Society of Santa Clara Valley.

Shortly after Ringling's animals were unloaded from the train in San Jose last Aug. 23 and walked to the arena, "right away, one of my humane officers saw blood coming from behind one of the elephant's ears," said Marcia Mayeda, director of community outreach for the Humane Society.

"The elephant had been wounded behind the ear," she said. "The blood was visible from about 20 feet. That raised it to a concern about animal abuse. We monitored the circus for the entire week."

Ort-Mabry denied any injuries to the elephants occurred during the August 1999 performances in San Jose. She said Dr. William Lindsay, the circus's head veterinarian, was in San Jose "for the majority of the engagement" and "he completely disagrees with (the Humane Society's) allegations."

San Jose police Sgt. Lanette Williams had been asked to assist the humane officers with their investigation

last year. Williams was selected because she previously worked as a state humane officer.

Ort-Mabry accused Williams of having an agenda, however, and said Ringling employees had noticed her in a photograph the circus took of protesters in Oakland. Williams told the Mercury News she had gone to a Ringling circus performance in Oakland in plain clothes to "see what kind of animals were performing and for how long" and had stopped to say hello to a friend from San Jose outside the Oakland Coliseum Arena.

According to a report filed with the district attorney's office by Humane officer Christine Franco, of the 13 Ringling elephants that were examined by investigators in San Jose, "seven of the elephants had injuries behind or on the back of their left ears. Some of the elephants had scars behind their left ears. Almost all of the injuries appeared to be fresh, with bright red blood present at the wound sites."

Ort-Mabry, however, said Ringling's veterinarian told her "if blood were present, it was likely because he drew blood for testing behind the ears of a number of elephants that day." But the former Ringling employee interviewed by the Mercury News, Tom Rider of Peoria, Ill., said he saw the circus's elephant handlers strike elephants repeatedly with a bull hook or ankus. Rider did not travel to San Jose with the circus in 1999, when it was investigated by the Humane Society.

Rider, who was interviewed at the Performing Animal Welfare Society (PAWS), an exotic animal sanctuary in Galt, near Sacramento, said he was told by his supervisors at Ringling that "the beatings were for discipline, that you had to let the elephants know who's in charge."

Ort-Mabry confirmed Rider quit the circus voluntarily.

An attorney for PAWS filed an animal cruelty complaint based on Rider's allegations with the U.S. Department of Agriculture last month.

Report: No Abuse Charge for Circus

.c The Associated Press

SAN JOSE, Calif. (AP) - Despite claims that elephants were mistreated during an engagement by Ringling Brothers and Barnum & Bailey Circus last year, prosecutors say there is insufficient proof of abuse to bring criminal charges, the San Jose Mercury News reported Sunday.

Officers for the Humane Society of Santa Clara Valley and a San Jose police sergeant sought charges after documenting cuts and puncture wounds on seven Asian elephants.

Deputy District Attorney Robin Wakshull praised the Humane Society for its investigation, but said too many questions remain about how the injuries occurred or who the perpetrator might be.

Catherine Ort-Mabry, spokeswoman for Feid Entertainment Inc., Ringling's parent company, denied the charges, saying that animal handlers use positive reinforcement to build trust with the animals - making punishment unnecessary.

According to a report filed with the district attorney's office by humane society officer Christine Franco, seven of the 13 elephants examined last August had injuries.

"Some of the elephants had scars behind their left ears. Almost all of the injuries appeared to be fresh, with bright red blood present at the wound sites," the report said.

Ort-Mabry said Dr. William Lindsay, the circus's head veterinarian, "completely disagrees with (the Humane Society's) allegations." He told her blood was present because he had drawn samples for testing earlier that day.

In June, Congressional hearings are set for the Captive Elephant Accident Prevention Act, proposed Rep Sam Farr, D-Salinas. The measure would ban elephants from circuses and elephant rides.