

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FELD ENTERTAINMENT, INC. :

Plaintiff, :

v. :

Case No. 07-1532 (EGS/JMF)

ANIMAL WELFARE INSTITUTE, et al. :

Defendants. :

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

EXHIBIT 3

ESA ACTION PRECLUSIVE FINDINGS ESTABLISHING ILLEGAL CONDUCT WAS SELF-CONCEALING AND AMOUNTED TO FRAUDULENT CONCEALMENT

FACTUAL MATTERS THAT MGC IS PRECLUDED FROM RE-LITIGATING CITATION

Rider “lied” about the payments when responding to Interrogatory No. 24 on June 9, 2004. His response was “affirmatively false.”

FOF 55 (“In his June 9, 2004 response to FEI’s Interrogatory No. 24, which asked whether Mr. Rider had received any compensation from any animal advocate or animal advocacy organizations for services rendered, Mr. Rider stated – under oath – that ‘I have not received any such compensation.’ This statement was false. By June 9, 2004, the date that Mr. Rider provided this sworn answer, he had received more than \$50,000.00 from PAWS, MGC, ASPCA, AWI, FFA and WAP. All of these entities are, and were at the time, animal advocates or animal advocacy organizations.”) (citations omitted).

No. 03-2006, ECF 620 at 8 (“Rider, the organizational plaintiffs, and plaintiffs’ counsel sought to conceal the nature, extent and purpose of the payments from FEI during the litigation, including through an affirmatively false interrogatory response signed by Rider and prepared by Ms. Meyer, the same attorney who was paying him.”).

No. 03-2006, ECF 620 at 10-11 (“Rider lied about the payments. In 2004, FEI served an interrogatory on Rider asking whether he had received any compensation from any animal advocate or animal advocacy organization for services rendered. Rider stated – under oath – ‘I have not received any such compensation’ when in fact he had already received more than \$50,000.00 from his co-plaintiffs, counsel’s law firm, and WAP, the non-profit organization controlled by attorneys Meyer and Glitzenstein. FOF 55. Ms. Meyer, who signed the objections to the false response, had been paying Rider through her law firm and WAP since 2001, and had sent him 1099s reporting the payments. FOF 56.”).

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FACTUAL MATTERS THAT MGC IS PRECLUDED FROM RE-LITIGATING

CITATION

There was “no excuse” for Rider’s June 9, 2004 “false” response to Interrogatory No. 24, due to Meyer’s knowledge of and involvement in the payments to Rider.

FOF 56 (“[T]he Court finds no excuse for this false response. The lawyer who signed the objections to this answer, Katherine Meyer, was a principal in two of the entities – WAP and MGC that had paid Mr. Rider and had sent him 1099’s reporting such payments. Moreover, the third payor, PAWS, who also sent Mr. Rider a 1099, was one of Ms. Meyer’s clients. Indeed, after the payments to Mr. Rider from PAWS ceased in May 2001, it was apparently Ms. Meyer’s suggestion that the other organizational plaintiffs pay Mr. Rider, initially through MGC and later through WAP.”) (citations omitted).

No. 03-2006, ECF 620 at 10-11 (“Rider lied about the payments. In 2004, FEI served an interrogatory on Rider asking whether he had received any compensation from any animal advocate or animal advocacy organization for services rendered. Rider stated – under oath – ‘I have not received any such compensation’ when in fact he had already received more than \$50,000.00 from his co-plaintiffs, counsel’s law firm, and WAP, the non-profit organization controlled by attorneys Meyer and Glitzenstein. FOF 55. Ms. Meyer, who signed the objections to the false response, had been paying Rider through her law firm and WAP since 2001, and had sent him 1099s reporting the payments. FOF 56.”).

No. 03-2006, ECF 620 at 42 (“[T]he record clearly and convincingly established that Ms. Meyer, who signed the objections to the false response, had been paying Rider through her law firm and WAP since 2001, and had sent him IRS Form 1099s reporting the payments as compensation. FOF 55-56. Accordingly, Ms. Meyer may be held liable for FEI’s attorneys’ fees ...”).

ESA ACTION PRECLUSIVE FINDINGS ESTABLISHING ILLEGAL CONDUCT WAS SELF-CONCEALING AND AMOUNTED TO FRAUDULENT CONCEALMENT

FACTUAL MATTERS THAT MGC IS PRECLUDED FROM RE-LITIGATING	CITATION
<p>Rider “did not provide a complete and truthful answer to Interrogatory No. 24 until September 24, 2007.”</p>	<p>FOF 56 (“Mr. Rider did not provide a complete and truthful answer to Interrogatory No. 24 until September 24, 2007, after the Court had overruled his objections and compelled his answer.”) (citation omitted).</p>
<p>None of the organizational plaintiffs disclosed in their June 9, 2004 interrogatory responses that they had paid money directly to Rider or through MGC, when, by that point in time, they had in fact done so.</p>	<p>FOF 57 (“The organizational plaintiffs have also been less than forthcoming about the extent of the payments to Mr. Rider. In response to FEI’s discovery requests, neither ASPCA, FFA nor AWI disclosed in their initial response in 2004 that they had paid money directly to Mr. Rider or through MGC when, by that point in time, they had in fact done so. In 2004, ASPCA made reference to the fact that payments had been made to MGC and WAP, although ASPCA did not disclose that such payments were ultimately remitted to Mr. Rider.”) (citations omitted).</p>
<p>FFA and AWI did not disclose their payments to Rider through MGC and WAP at deposition.</p>	<p>FOF 57 (“FFA and AWI did not disclose their payments to Mr. Rider through MGC and WAP even when specifically asked about Mr. Rider’s funding at their depositions taken pursuant to Federal Rule of Civil Procedure 30(b)(6).”) (citations omitted).</p>

**ESA ACTION PRECLUSIVE FINDINGS ESTABLISHING ILLEGAL CONDUCT WAS SELF-
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FACTUAL MATTERS THAT MGC IS PRECLUDED FROM RE-LITIGATING	CITATION
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<p>“The true nature and extent of the payments the organizational plaintiffs had made to Mr. Rider directly or through MGC or WAP was not fully disclosed until after the Court’s order of August 23, 2007.”</p>	<p><u>FOF 57</u> (“The true nature and extent of the payments the organizational plaintiffs had made to Mr. Rider directly or through MGC or WAP was not fully disclosed until after the Court’s order of August 23, 2007, granting FEI’s motion to compel the disclosure of such information.”) (citations omitted).</p> <p>No. 03-2006, ECF 620 at 8-9 (“The complete details of the payments to Rider were ‘not fully disclosed until after the Court’s order of August 27, 2007 [<i>sic</i>], granting FEI’s motion to compel the disclosure of such information.’ FOF 57.”).</p> <p>No. 03-2006, ECF 620 at 11 (“The organizational plaintiffs also concealed the payments from FEI, in whole or in part, by providing misleading or incomplete information to FEI until after the Court granted FEI’s motion to compel complete information about payments to Rider in the summer of 2007. FOF 57.”).</p>
<p>The payments to Rider “were not disclosed initially in discovery, by both omissions and affirmatively false statements.”</p>	<p><u>FOF 59</u> (“[T]he Court concludes that the primary purpose of the funding provided by the organizational plaintiffs was to secure and maintain Rider’s participation in this lawsuit, not legitimate reimbursement for bona fide media expenses. This determination is based on (i) the manner in which the payments to Mr. Rider were structured, accounted for and characterized by the organizational plaintiffs, MGC and WAP; (ii) the fact that they were not disclosed initially in discovery, by both omissions and affirmatively false statements; and (iii) the fact that Mr. Rider never even filed tax returns until he was confronted about it in this very case.”).</p>

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FACTUAL MATTERS THAT MGC IS PRECLUDED FROM RE-LITIGATING	CITATION
<p>“Rider, the organizational plaintiffs, and plaintiffs’ counsel sought to conceal the nature, extent and purpose of the payments from FEI during the litigation.”</p>	<p>No. 03-2006, ECF 620 at 8 (“Rider, the organizational plaintiffs, and plaintiffs’ counsel sought to conceal the nature extent and purpose of the payments from FEI during the litigation, including through an affirmatively false interrogatory response signed by Rider and prepared by Ms. Meyer, the same attorney who was paying him.”).</p> <p>No. 03-2006, ECF 620 at 11 (“The organizational plaintiffs also concealed the payments from FEI, in whole or in part, by providing misleading or incomplete information to FEI until after the Court granted FEI’s motion to compel complete information about payments to Rider in the summer of 2007. FOF 57.”).</p>
<p>“The funds paid to Rider appeared to be paid in such a way to avoid ready detection.”</p>	<p>No. 03-2006, ECF 620 at 10 (“The funds paid to Rider appeared to be pay in such a way to avoid ready detection. They were characterized, variously, as ‘wages’ ‘non-employee compensation,’ ‘grants,’ ‘shared expenses,’ ‘special expenses,’ and ‘donations.’ FOF 25-26, 33, 38, 52. Beginning on or about August 2005, more than three years after WAP’s payments to Rider began, ‘WAP started sending letters with its checks to Rider, indicating that Mr. Rider’s media ‘efforts’ will target certain cities. The cities cited in the cover letters track the routes of FEI’s circus performances. The letters were signed by Eric Glitzenstein.’ FOF 45. However, Rider did not actually follow the circus, nor did he perform significant media activity.”</p>