

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
THE FUND FOR ANIMALS, ANIMAL WELFARE INSTITUTE, AND HSUS'
MOTION FOR A PROTECTIVE ORDER**

Civ. No. 1:07-cv-1532

Ex. 15

Excerpt of Kenneth Feld Testimony

1 Q And this is the first one you remember seeing,
2 right?

3 A Oh, I may have seen others. This is when I
4 believe I would get them on a regular basis.

5 Q But you were getting PETA/PAWS reports before
6 that, weren't you?

7 A No, I wasn't.

8 MR. HIRSCHKOP: Okay. Now, this thing -- it's in
9 evidence, Your Honor. May I hold it up so the jury can see
10 what I'm referring to?

11 THE COURT: If it's in evidence, yes, sir.

12 BY MR. HIRSCHKOP:

13 Q The first page has privileged, redacted. What was
14 taken out there that the jury can't see?

15 A I have no idea.

16 Q The bottom has redacted. What was taken out there
17 that the jury can't see?

18 A I don't know.

19 Q Well, look at the next page. What was taken out
20 there that the jury can't see?

21 A I have no idea.

22 Q No signature page, nothing. Why is it we just get

1 prior to depositions.

2 Q Well, at deposition, I deposed you. It was well
3 over a year ago, wasn't it?

4 A The first time it was, yes.

5 Q And I showed you numerous documents with
6 redactions. Why didn't you then, why didn't you then do
7 something about it?

8 A For what reason, sir?

9 Q So that there would be a full and honest
10 disclosure so we can get to the truth of what's happening.

11 A I believe it is full and honest disclosure.

12 Q Well, attached to this document, he says in the
13 bottom -- look at the last paragraph. Read that to the
14 jury on the bottom of the first page.

15 A This is -- "I have on this day prepared a
16 supplemental plan with additional suggestions that will
17 help address the issue of centralizing the efforts on
18 behalf of Ringling to effectively address the problems
19 concerning the perception of animal care given."

20 Q And attached is an implementation plan, is it not?

21 A That's correct.

22 Q Okay. So this report was basically sending you an

1 this totally incomplete document?

2 A I have no idea. This may have come from Charles
3 Smith's files, not from the company files.

4 Q You've seen numbers of documents in this case that
5 have the same kind of redaction that came from the
6 corporation files.

7 A That's right. My understanding is, if they were
8 redacted, they had nothing to do with animal rights.

9 Q Well, you've testified to all these things
10 Mr. Froemming was doing. How can the jury tell if you're
11 accurate if you take out all this stuff and you don't let
12 them see it?

13 A I didn't redact this. They were redacted by
14 counsel.

15 Q Didn't you ever look at these and say, wait a
16 minute. This is not very fair. Why don't the jury have
17 the full information so they can arrive at the truth in
18 this matter?

19 A No, I never did look at them.

20 Q You actually showed up in this courtroom without
21 ever having looked at these documents?

22 A No, I didn't say that. I never looked at them

1 implementation plan, wasn't it?

2 A I don't know what the redacted portion is. There
3 is an implementation plan here, yes, sir.

4 Q Okay. And it says, for instance, at page Smith
5 PETA 0775 -- can you find that, sir, please?

6 A Yes, sir.

7 Q It talks about accomplishments under Richard
8 Froemming's direction. He identified groups whose goal was
9 to destroy Ringling Brothers. Do you see that?

10 A Yes, sir.

11 Q He identified methods used by the opposition to
12 attack Ringling Brothers. Do you see that?

13 A Yes.

14 Q And then he talks about accomplishments under his
15 direction further. Do you see that?

16 A Is that on the next page?

17 Q Next page, yes, sir.

18 A Yes.

19 Q He talks about, number four, developed
20 intelligence operation, created an intelligence gathering
21 operation. What was his intelligence gathering operation?

22 A As far as I know, it was to find out what the

1 animal activists groups were doing.

2 Q I'm sorry. I asked that poorly, sir. I mean, did

3 he have a crystal ball, or did he have undercover

4 operatives that were going into people's organizations? Do

5 you know which he had?

6 A I don't know. But from what I've seen here, it

7 looked like he did have people inside of some of the

8 organizations.

9 Q Well, didn't it wet your curiosity what was his

10 intelligence gathering operation?

11 A I don't know. I don't recall this document.

12 Q He gained advance knowledge of planned attacks.

13 Do you know how he did that?

14 A Where is that, sir?

15 Q The next thing, right under created an

16 intelligence gathering operation.

17 A I see that, yes.

18 Q He gained advance knowledge of planned attacks.

19 Was that also through a crystal ball or perhaps he had some

20 inside information?

21 A He may have. I mean, he talked to a lot of

22 people. I don't know. He obviously gathered some

1 Q Did you direct your lawyers, get me that video

2 propaganda; let's show that to the jury?

3 A They did extensive searches of our facility. What

4 you have is what they came up with.

5 Q But you have no idea where the rest went, the

6 hundreds. You heard Mr. Kendall testify he made over a

7 thousand reports. You heard Mr. Kendall testify he always

8 videotaped demonstrations, that he went to hundreds and

9 hundreds of demonstrations. He made one copy for

10 Mr. Froemming and he kept one copy. Where are the hundreds

11 and hundreds of copies that he gave to Mr. Froemming?

12 A I have no idea.

13 Q What have you done to find out where they are,

14 sir?

15 A We searched all of our facility.

16 Q We searched? Did you go search?

17 A No, I didn't search. But the attorneys searched,

18 and we had people spending a substantial amount of time.

19 Q Did you ever ask Mr. Froemming, when you went into

20 Mr. Smith's office and closed it up, what happened to those

21 videos? The videos, he had a credenza full of videos

22 behind his desk. Did you ever ask him what happened to

1 information.

2 Q Mr. Feld, there is no question you're a brilliant

3 businessman. You got up on the stand there. You told the

4 jury of many major accomplishments of yours. You pride

5 yourself on being a brilliant businessman, right?

6 A I like to think that, yes.

7 Q I'm not appealing to your ego or being negative.

8 Let's get to the truth of this. The fact is, you're very

9 hands on. You're a micro manager, aren't you?

10 A I am when it comes to the shows, yes.

11 Q And you go down and you help pick out the dresses

12 for the entertainers, right, and the pants and everything

13 else. I don't want to limit it to women.

14 A Yes.

15 Q You helped pick out the costumes. You said that,

16 right?

17 A Yeah, I'm very hands on with the production of the

18 shows, that's correct.

19 Q He says here he obtained video propaganda used

20 against the circus. Where's the video propaganda? Why

21 can't the jury see that?

22 A I don't know?

1 those videos?

2 A I don't know that he had a credenza full of

3 videos. But I don't know what happened to the videos no

4 matter what.

5 THE COURT: Let me know when you get to the end of

6 a line of questions.

7 MR. HIRSCHKOP: This is fine, Your Honor.

8 THE COURT: Members of the jury, let's take the

9 afternoon break. If you would, pleased, follow the Deputy

10 Atkins. Please step down, Mr. Feld.

11 (The jury left the courtroom.)

12 THE COURT: Fifteen minutes.

13 MR. CAWLEY: Thank you, Your Honor.

14 (A recess was taken.)

15 THE COURT: Members of the jury, we'll continue

16 with the cross-examination of Mr. Feld. Mr. Hirschkop?

17 MR. HIRSCHKOP: Yes.

18 BY MR. HIRSCHKOP:

19 Q Mr. Feld, I just want to digress into something

20 else that came up while I was looking at this. You said on

21 direct examination that you have never been found guilty of

22 an offense by the Department of Agriculture, isn't that