

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

)	
FELD ENTERTAINMENT, INC.,)	
)	
Plaintiff,)	
)	Case No. 1:07-cv-1532
v.)	(EGS/JMF)
)	
ANIMAL WELFARE INSTITUTE, et al.,)	
)	
Defendants.)	
)	

**DEFENDANTS’ MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO PLAINTIFF’S SECOND
AMENDED COMPLAINT**

Defendants Animal Welfare Institute, The Fund for Animals, Inc., Born Free USA, The Humane Society of the United States, The Wildlife Advocacy Project, Meyer, Glitzenstein & Crystal, Katherine A. Meyer, Eric R. Glitzenstein, Howard M. Crystal, Jonathan Lovvorn and Kimberly Ockene (collectively, the “Defendants”), by and through their undersigned counsel, respectfully submit this Memorandum of Points and Authorities in support of their Motion for Enlargement of Time of thirty (30) days to Answer and/or otherwise respond to Plaintiff Feld Entertainment, Inc.’s (“Feld”) Second Amended Complaint [ECF No. 213] (the “SAC”), and respectfully state as follows:

Pursuant to Federal Rule of Civil Procedure 6(b) and the Court’s inherent authority, Defendants request an enlargement of time of thirty days until April 21, 2014, in which to Answer and/or otherwise respond to the SAC.

On February 28, 2014, Plaintiff filed a Consent Motion for Leave to file the SAC. [ECF No. 205]. On March 3, 2014, the Court granted Plaintiff’s Consent Motion. [ECF No. 213].

Accordingly, pursuant to Local Rule 15.1 the SAC is deemed as filed by mail on March 3, 2014, and currently Defendants' time to Answer and/or otherwise respond to the SAC is March 20, 2014.

Plaintiff's First Amended Complaint (the "FAC") was a 129-page, 358-paragraph pleading. The SAC dramatically expanded to 202 pages and now includes 477 paragraphs of allegations and claims. Feld has added approximately seventy pages of new allegations that need to be reviewed, analyzed, and responded to by Defendants. Moreover, nearly all of the extant paragraphs have undergone some measure of modification, requiring Defendants to revisit their responses thereto. Although Feld has provided a redline to identify changes between the FAC and the SAC, many of the allegations and paragraphs from the FAC have been changed and there are numerous new allegations that need to be reviewed and analyzed. This process will require extensive consultation between the Defendants and their counsel. Due to the volume and complexity of the factual and substantive issues raised in the SAC, Defendants and their counsel need additional time to fully investigate the allegations and to respond to them.

In addition, on February 28, 2014 the Court, in its capacity as Special Master in the ESA Action, entered an order setting April 7, 2014 as the deadline that certain of the Defendants (the "ESA Plaintiffs") to file Oppositions to Feld's unprecedented \$25 million Fee Petition. [ECF No. 712 at 3 in Case No. 1:03-cv-2006 (EGS/JMF)]. The Court set the April 7, 2014 deadline to allow the ESA Plaintiffs an opportunity to examine and utilize the searchable and sortable native format time entries that were finally produced by Feld on March 7, 2014. It would be completely impracticable for the ESA Plaintiffs to perform a reasonable analysis of the SAC, much less submit answers that complied with their legal and ethical obligations, while they and their counsel are entirely occupied with the fee petition. Because this case involves the joint

defense of Feld's claims by all Defendants, those Defendants not occupied with Feld's fee petition nevertheless need to be able to confer with the ESA Plaintiffs to adequately analyze the legal sufficiency of Feld's new allegations. Accordingly, having to respond to the SAC prior to the due date of the fee petition Oppositions in the ESA Action will be disruptive and will greatly prejudice all Defendants.

For the foregoing reasons, Defendants submit that there is good cause for an additional thirty days to Answer and/or otherwise respond to Plaintiff's SAC. Defendants met and conferred with Feld's counsel concerning the thirty day extension requested in this Motion, but Feld would not consent to the extension sought herein. While Feld proposed an extension of fourteen days, Feld's proposed extension is largely nugatory because it places the response time in even greater conflict with the due date for Oppositions to the Fee Petition. Thus, Defendants are requesting an additional two weeks beyond the due date proposed by Feld.

Finally, Feld will not be prejudiced by the requested extension. The requested enlargement of time will not impact the close of discovery or the trial date. And the extension is patently reasonable given that Feld waited over four years, and until the last possible day, to make substantial amendments to the FAC.

WHEREFORE, for the reasons set forth herein, Defendants respectfully request that the Court grant this Motion in its entirety.

DATE: March 11, 2014

Respectfully submitted,

DEFENDANTS

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 11th day of March, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

_____/s/_____
Stephen L. Neal, Jr.