

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

FELD ENTERTAINMENT, INC.

Plaintiff,

v.

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

Defendants.

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Case No. 07- 1532 (EGS)

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO TEMPORARILY STAY
ALL PROCEEDINGS**

EXHIBIT 6

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE)
 PREVENTION OF CRUELTY TO)
 ANIMALS, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 RINGLING BROS. AND BARNUM)
 & BAILEY CIRCUS, et al.,)
)
 Defendants.)

Civ. No. 03-2006 (EGS/JMF)

**PLAINTIFF THE FUND FOR ANIMALS' SUPPLEMENTAL RESPONSES AND
 OBJECTIONS TO DEFENDANT'S FIRST SET OF INTERROGATORIES TO
 PLAINTIFFS AMERICAN SOCIETY FOR THE PREVENTION OF
 CRUELTY TO ANIMALS,
ANIMAL WELFARE INSTITUTE, AND FUND FOR ANIMALS**

Pursuant to Federal Rule of Civil Procedure 33 and the August 23, 2007 Order of the Court, plaintiff The Fund for Animals ("The Fund") hereby offers the following supplemental or amended responses to Defendant's First Set of Interrogatories to Plaintiffs American Society for the Prevention of Cruelty to Animals, Animal Welfare Institute, and Fund for Animals. The Fund hereby incorporates by reference the definitions and the general and specific objections that it made in its original and January 31, 2007 responses to Defendant's First Set of Interrogatories to Plaintiffs American Society for the Prevention of Cruelty to Animals, Animal Welfare Institute, and Fund for Animals.

10383, 38227, 38228, 38229, 40957, 40958, 40960, 40965, 40966, 40968, 40969, 40970, 40971, 40972, 40974, 40975, 40982, 40983, 40984, 40985, 40986, 40987, 40989, 40990. Additional information responsive to his Interrogatory is contained in footage that plaintiffs have reviewed and requested from defendant, but that has not yet been produced by defendant. Once plaintiffs obtain that footage, they will supplement this Response accordingly.

Interrogatory No. 19: Describe each communication you have had since 1996 with any other animal advocates or animal advocacy organizations about the presentation of elephants in circuses or about the treatment of elephants at any circus, including Ringling Bros. and Barnum & Bailey Circus.

Supplemental Response to Interrogatory No. 19:

The Fund supplements and amends its original response to this Interrogatory by providing the following supplemental information. The remaining portions of the original response remain unaltered.

The Fund has continued to have conversations with the other plaintiffs and their lawyers about legal strategies in this case, the evidence that plaintiffs may rely on, and the status of the litigation, all of which are protected by the attorney-client and attorney work product privileges.

Interrogatory No. 21: Identify each resource you have expended from 1997 to the present in “advocating better treatment for animals held in captivity, including animals used for entertainment purposes” as alleged in the complaint, including the amount and purpose of each expenditure.

Supplemental Response to Interrogatory No. 21:

In accordance with the Court’s August 23, 2007 Order, The Fund supplements and amends its prior responses to this Interrogatory by providing the following information concerning funding for media and public education efforts with respect to the treatment of elephants in the circus. The Fund did not originally view this information as responsive to this

Interrogatory because the Fund believed the Interrogatory's reference to "resource you have expended from 1997 to the present in 'advocating better treatment for animals held in captivity, including animals used for entertainment purposes'" referred only to funds expended by the Fund's own staff to advocate for elephants, as opposed to grants to other activists or non-profits. The Fund makes donations to a number of individuals and non-profits each year, and does not consider advocacy undertaken by grantees to be Fund advocacy. The Fund is nonetheless providing the information in compliance with the Court's Order, and because defendant has stated that it views this information as responsive to this Interrogatory. The remaining portions of The Fund's prior responses to this Interrogatory remain unaltered.

The Fund has provided funds to Mr. Rider on the following two occasions: July 21, 2004, in the amount of \$500.00, and July 22, 2004, also in the amount of \$500.00. These funds are reflected in documents being produced by The Fund, F 4483-4486. As reflected in the documents and described in Mr. Michael Markarian's deposition, these funds were to cover the cost of repairing Mr. Rider's van, so that he could drive from California to Denver, Colorado for a press conference concerning proposed legislation regarding elephants in circuses.

The Fund has also made contributions to the Wildlife Advocacy Project for that organization's advocacy and public education work on the issue of the treatment of elephants held in captivity. Although The Fund makes these contributions with the understanding that WAP may use the money however it chooses in conjunction with its advocacy and public education work concerning elephants in captivity, The Fund is aware that the contributions have been used by WAP to support Mr. Rider's important public education and media efforts

concerning the treatment of elephants in the circus. The following documents reflecting these contributions are hereby incorporated by reference: F 4487-4492.

On several occasions in 2001, 2002 and 2003, The Fund also provided some funds indirectly to Mr. Rider through reimbursements to the law firm Meyer & Glitzenstein. Those funds were transferred to Mr. Rider by Meyer & Glitzenstein, and billed to The Fund as a cost for media work.¹

The amount of funds that The Fund contributed to Mr. Rider's public education work in this fashion – including the fees for the wire transfers – amounts to approximately \$4,433.00, and is reflected in Meyer & Glitzenstein invoices being produced by The Fund, see F 4493-4516. Some of these invoices are addressed to the American Society for the Prevention of Cruelty to Animals, because, at the time, the Meyer & Glitzenstein billing system created one detailed bill for all three plaintiff organizations addressed to the ASPCA (as the lead plaintiff), and each individual group received a cover sheet specifying the amount that group was being billed, as well as any specific expenses charged only to that group. The phrase “Shared Expense” in an invoice, see, e.g., F 4499, means that the expense was shared equally among the groups. The phrase “special expense” in an invoice, see, e.g., F 4493, means that the specified expenses were billed only to the client to whom the invoice is addressed. Similarly, due to a change in the

¹Mr. Markarian was asked at his June 2005 deposition whether “the fund ever paid Mr. Rider any money.” Transcript of June 22, 2005 Deposition of Michael Markarian at 157. Mr. Markarian identified the \$1000 in direct payments made to Rider mentioned above, see Transcript of June 22, 2005 Deposition of Michael Markarian at 157-159, but did not identify these other funds at that time because they were itemized as reimbursements for expenses paid within a legal invoice, rather than direct payments from the Fund to Mr. Rider, and thus Mr. Markarian did not focus on them in response to the question at the deposition.

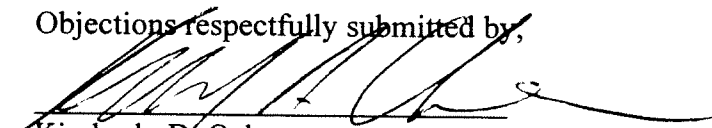
invoicing system, the phrase “Additional Charges from Primary Client” in the April 11, 2003 invoice, F 4511, means that that particular item was shared among the clients. In that same invoice, F 4511, the phrase “Additional Charges” means that only The Fund was charged for that item.

Interrogatory No. 22: Identify each expenditure from 1997 to the present of “financial and other resources” made while “pursuing alternative sources of information about defendants’ actions and treatment of elephants” as alleged in the complaint.

Supplemental Response to Interrogatory No. 22:

Subject to and without waiving their previous objections to this Interrogatory, The Fund states that, to date, it has spent approximately \$12,870.70 on legal fees and costs pursuing information from the United States Department of Agriculture concerning defendant’s actions and treatment of elephants.

Objections respectfully submitted by,



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Katherine A. Meyer
(D.C. Bar No. 244301)
Tanya M. Sanerib
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Dated: September 24, 2007

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Defendants.)

Civ. No. 03-2006 (EGS/JMF)

VERIFICATION

I, MICHAEL MARKARIAN, declare as follows:

1. I am employed as the President of the Fund for Animals ("The Fund"). The Fund is a plaintiff in this case.

2. I have read the foregoing supplemental objections and responses to defendant's Interrogatories and know the contents thereof. Upon information and belief, said Objections and Responses are true and correct.


Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge.


 Michael Markarian

Dated: September 24, 2007

State of Maryland
County of Montgomery

Subscribed and sworn to before me this 24th day of September 2007.



Susan D. Adams
Notary Public

