

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
(Norfolk Division)**

FELD ENTERTAINMENT, INC.,	:	
	:	
Plaintiff	:	
	:	
v.	:	CASE NO. 2:08mc00004
	:	
PEOPLE FOR THE ETHICAL TREATMENT	:	
OF ANIMALS,	:	
	:	
Defendant	:	

MOTION IN THE ALTERNATIVE TO TRANSFER
THIS MATTER FOR FORUM *NON CONVENIENS*

Defendant People for the Ethical Treatment of Animals (“PeTA”), by counsel, respectfully requests that in the alternative this Court transfer this case to the Alexandria Division of the Eastern District of Virginia, pursuant to 28 U.S.C. § 1406(a) and the principles of forum *non conveniens*, and in support of this motion states as follows:

1. At issue in this case is a third-party subpoena that plaintiff Feld Entertainment, Inc. (“FEI”) served upon PeTA arising out of litigation in the District Court for the District of Columbia (*ASPCA, et al. v. Ringling Bros. and Feld Entertainment, Inc.*, Civil Action No. 03-2006 (EGS/JMF)). In the D.C. litigation, the ASPCA and others have sued Ringling Bros. and Feld Entertainment, Inc., alleging that its abuse of Asian elephants constitutes a “taking” under Section 9 of the Endangered Species Act. On September 21, 2007, FEI served PeTA with a third-party subpoena *duces tecum* which issued out of the Eastern District of Virginia, seeking production of documents to allegedly use in the D.C. litigation. On January 28, 2007, FEI filed a Motion to Compel related to the subpoena to PeTA. PeTA is filing an opposition to the Motion to Compel in this Court and a Motion to Transfer this matter

to the trial court in the District of Columbia or to stay it here pending litigation of a Motion for Protective Order in the District of Columbia.

2. PeTA firmly believes that FEI's Motion to Compel will ultimately be denied on the merits. However, PeTA also believes that this Court is not the appropriate venue for the disposition of the Motion and therefore moves to transfer the case to the Alexandria Division of the Eastern District of Virginia..

WHEREFORE, PeTA requests the Court transfer this matter to the Alexandria Division of the Eastern District of Virginia.

Respectfully submitted,

By _____ /s/
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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of February, 2008, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the following:

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And I hereby certify that I will mail the document by U.S. Mail to the following non-filing user:

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