

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

FELD ENTERTAINMENT, INC.	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No.
	:	
PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS,	:	
	:	
Defendant.	:	
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**FELD ENTERTAINMENT'S MOTION TO COMPEL DOCUMENTS SUBPOENAED
FROM PETA**

EXHIBIT 8

December 14, 2007

VIA HAND-DELIVERY

George Gasper, Esquire
FULBRIGHT & JAWORSKI
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

RE: ASPCA v. Ringling Bros, et al.
Subpoena duces tecum to PeTA

Dear Mr. Gasper:

In reply to your letter of December 7, 2007, I do not agree with a number of items. I understood that when we spoke you were traveling, so I'm a little surprised about the extensive detail, although a number of details are omitted that change the context of some of the things we discussed. In light of that, I would first request that you inform me if you have been recording our conversations, or did you record that or any other conversation. If you are recording conversations, you should first inform me. I probably would have agreed, but do insist that I be at a facility where I can also record and we can be on a level playing field. At any rate, I would require that you respond to this inquiry before anything further is done.

With regard to your letter, the major omission is that I was trying to work out the subpoena and our objections, and apparently it is your position that you are not going to settle anything, but rather press PeTA for anything they are willing to give, whether it's within or even exceeding the rulings of the magistrate and the judge, and then you will nonetheless drag us into court. For instance, your continued demand that PeTA produce for inspection every video it has ever taken or any footage it has of anything concerning Ringling Bros. or any other circus over the last ten years (or, perhaps, longer as you have yet to agree to the number of years), is not remotely within reason. Your letter does not suggest we were trying to resolve issues, but rather that it's all a one-way street with PeTA giving and Ringling not accommodating or compromising on anything.

I have reviewed the rulings of Judge Sullivan and Judge Facciola in prior discovery and, after consultation with PeTA, while still maintaining our overall objections, PeTA is making a good faith attempt to produce documents I believe fall within the guidelines of those rulings. Specifically, as discussed in more detail elsewhere in this letter, PeTA is now producing

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information on expenditures, all correspondence by any one of the nine individuals named in paragraphs 1-5 of the subpoena, and all correspondence by PeTA to any one of the nine individuals named in paragraphs 1-5 of the subpoena.

Thus, I have asked PeTA to prepare a table showing expenditures to, or on behalf of, the nine individuals mentioned in paragraphs 1-5 of your subpoena who you claim to be witnesses in this matter. At any rate, I enclose that table. The material it encompasses came from diverse entries which, if produced, would be cumbersome and not as readily identifiable. The preparation of the table is done at considerable effort as an accommodation to resolving disputes over the subpoena.

With regard to Glenn Ewell, you are correct in mentioning in your letter that I did tell you I would be shocked if Glenn Ewell is going to be a witness for plaintiffs, and my inquiries of the plaintiffs confirm that.

With regard to Frank Hagan, your letter is not clear that I protested to you in our conversations that you had not mentioned Hagan in our prior conversation or in the subpoena. You do point out that I did tell you that we had previously produced documents on Hagan. You have now sent those documents to me for review. I have asked PeTA to find the original documents that match the ones with the redactions, and I am awaiting those. However, I am concerned in that you told me that Hagan is going to be a witness and I have since discovered that Hagan is deceased. Accordingly, I'm not sure what good my reviewing these documents (if they can be located) will be, as you certainly can't put them in front of a deceased witness or seek to impeach a deceased witness, nor do they appear to lead to the discovery of admissible evidence. If PeTA cannot locate those documents, perhaps you would accept a table, like the one being produced for the other witnesses, showing expenditures to Hagan, but I would appreciate your input as to why these would be discoverable in light of the fact that he is deceased.

I am providing a number of documents where the nine individuals wrote to public officials. I believe they are within the scope of your subpoena and that the Court would want them produced, and I am thereby producing them, albeit we do have general objections that have not yet been dealt with, should you decide to go to court. Accordingly, I am not waiving those general objections, but am producing these in an effort to be cooperative.

Also, I have asked PeTA to provide all correspondence by any one of the nine individuals named in paragraphs 1-5 of the subpoena, and all correspondence by PeTA to any one of the nine individuals named in paragraphs 1-5 of the subpoena. That correspondence is being produced to you.

With regard to videos or photos, it is hard to try to identify those because of your overall request for any video PeTA has of any circus. That type of search is massive and cannot be done

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repetitively. If we can narrow the request on videos, I could probably promptly produce those. Some videos have been located, which involve one or more of the nine people you identified, and they need to be reviewed to see if they meet your criteria and the guidelines set forth by the Court.

Lastly, I have just received some further documents which I do not think add anything, as they appear to be supporting chits for some of the financial expenses such as travel and meals. I will review them but cannot do so until this weekend. I believe, from a quick review, they are not of any note as the charges have already been produced.

With regard to some of the other recitations in your letter, I am just going to generally deny them, as I don't have time to get into a letter writing campaign with you and your massive law firm. Needless to say, our discussion, I assumed, was trying to settle these issues and not one for a court record, as apparently you are proposing. If that is what you want to do, then we shouldn't speak at all and should only deal in writing. It would make this whole process far more cumbersome. I am not interested in posturing, but in resolution. For instance, the recitation in your letter that you explained to me about the reason to believe that PeTA has provided certain videos to plaintiff and that I confirmed your suspicion, is inaccurate. My recollection of our conversation is that I told you that either the plaintiff got the videos from PeTA, or from public resources, but that I had seen a list of the videos that the plaintiff had produced and I understood they were the videos of PeTA's that the plaintiffs had.

You raised some issue that maybe the plaintiff would get more videos from PeTA in the future, and I told you I didn't know anything about that and that was something for you to work out with the plaintiff and the court. That's not included in your letter. I understand your letter is not meant to be a transcript of our conversation, but I do feel that you have been adversarial in the portions reflecting our conversation that you seek to quote in your letter. I want to be very clear with regard to videos that it is my understanding that the plaintiffs have not come and reviewed all of PeTA's videos. It is PeTA's position that if specific videos are requested, they will deal with each such request. Nor do I know that the plaintiffs got all the videos directly from PeTA. They may, indeed, have gotten some from some of the witnesses you mentioned, but I have not requested of the plaintiffs how they went about handling their lawsuit and discovery.

You also requested information on contributions made to WAP and payments to the Meyer Glitzenstein law firm. I told you that the only knowledge I had regarding WAP after preliminary inquiry was that one grant for which you already have the documents. That is included in the enclosed table. Further inquiry of PeTA indicates there are no further grants. If any turn up, I will immediately inform you, but, as of this time, a search has been made and I am informed no others were made. With regard to Meyer Glitzenstein, I told you very clearly that they have represented PeTA over the years and I have had regular communications with them, as have other PeTA lawyers. We have had a working agreement with that firm, both on behalf of

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myself and general counsel's office for PeTA, in the course of various legal efforts that the communications between counsel would remain privileged. I understood from our conversation that you were not seeking payments by PeTA to Meyer Glitzenstein. However, with regard to the lawsuit, PeTA has not paid any expenses, either for costs or legal fees. That should therefore resolve that issue.

With regard to the miscellaneous points in your letter, I do not recall what my comment was about "a living wage" to Frank Hagan. I know he was paid consulting fees and some costs for a period while he assisted PeTA, and whether it was a living wage or something else, I honestly don't know. Further, I don't recall saying that Garrison Christianson testified before the USDA. It was my understanding then, and it remains now, that he provided an affidavit or at some point drafted an affidavit, which is being supplied to you.

If I have omitted any details of your letter, take them as contested. My task is not to respond to all the details of your letter, but to try and respond to the subpoena within the guidelines set by the Court, and I am trying to do that.

Very truly yours,

PHILIP J. HIRSCHKOP

PJH:er
enclosures

cc: Jeffrey S. Kerr, Esquire
Bonnie Robson, Esquire
Katherine Meyer, Esquire