

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

Plaintiffs,

v.

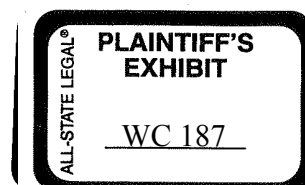
RINGLING BROS. AND BARNUM &  
BAILEY CIRCUS, et al.,

Defendants.

Case No. 03-2006 (EGS)  
JUDGE: Emmet G. Sullivan

**DEFENDANTS' FIRST SET OF DOCUMENT REQUESTS  
TO PLAINTIFFS AMERICAN SOCIETY  
FOR THE PREVENTION OF CRUELTY TO ANIMALS,  
FUND FOR ANIMALS, AND ANIMAL WELFARE INSTITUTE**

Pursuant to Federal Rule of Civil Procedure 34 and the Stipulated Pre-Trial Schedule dated December 5, 2003, defendants Feld Entertainment, Inc. and Ringling Bros. and Barnum & Bailey Circus request that plaintiffs American Society for the Prevention of Cruelty to Animals ("ASPCA"), Animal Welfare Institute ("AWI"), and the Fund for Animals ("FFA") produce, give access to, and permit the undersigned counsel for defendants to inspect and copy any and all of the materials hereinafter requested before or within thirty (30) days after the date of service of this request, at a place to be mutually agreed upon by counsel. The following definitions and instructions should be considered in responding to these Requests.



## I. DEFINITIONS AND INSTRUCTIONS

### DEFINITIONS

1. "ANIMAL ADVOCATES" or "ANIMAL ADVOCACY ORGANIZATION" means any individual or organization as that term is used in plaintiffs' Initial Disclosures. The term includes but is not limited to the ASPCA or any local or regional Society for the Prevention of Cruelty to Animals ("SPCA"), the FFA, the AWI, the People for the Ethical Treatment of Animals ("PETA"), the Performing Animal Welfare Society ("PAWS"), the Earth Liberation Front ("ELF"), the Animal Liberation Front ("ALF"), Animal Protection Institute ("API"), the Captive Animals' Protection Society ("CAPS"), In Defense of Animals ("IDA"), and Compassion over Killing.
2. "COMMUNICATION" means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form.
3. "COMPLAINT" refers to the complaint filed by the ASPCA, AWI, FFA, and Tom Rider in the above-captioned matter, dated September 23, 2003.
4. "DEFENDANTS" refers to Feld Entertainment, Inc. and the Ringling Bros. and Barnum & Bailey Circus.
5. "DOCUMENT" should be interpreted in the broadest sense permitted by the Federal Rules of Civil Procedure, and includes, but is not limited to, writings (whether handwritten or typed), letters, transcripts, speeches, drafts, facsimiles, reports, calendars, correspondence, minutes, drawings, graphs, charts, receipts, invoices, ledger entries, photographs, audio recordings, videotapes, e-mails, and other data compilations from which information can be obtained, including microfilm, microfiche, and computer printouts, cards, disks, and other sources of electronically or magnetically maintained information.

The term "document" includes originals and all non-identical copies, including but not limited to any version containing non-conforming notes, marginal annotations, or other markings, and any preliminary version, draft, or revision of any document.

6. "FORMER PLAINTIFFS" means PAWS, Patricia Derby, and/or Edward Stewart.

7. "HARM" means to "beat," "hit," or "wound" an elephant or other animal as those terms are used in the complaint.

8. "INITIAL DISCLOSURES" means Plaintiffs' Initial Disclosures Pursuant to Federal Rule of Civil Procedure 26(a)(1), dated January 30, 2004.

9. "NOTICE OF INTENT TO SUE LETTERS" means letters dated December 21, 1998, November 15, 1999, and April 12, 2001, sent by plaintiffs and former plaintiffs to defendants indicating an intent to sue defendants pursuant to the citizen suit provision of the Endangered Species Act, 16 U.S.C. § 1540.

10. "PERSON" means any natural persons, proprietorships, public or private corporations, partnerships, trusts, joint ventures, groups, associations, organizations, or other legal entities, including any representative of any such person or persons.

11. "PLAINTIFFS" means all plaintiffs in this action: ASPCA, AWI, FFA, and Tom Rider.

12. "PRODUCE" or "PRODUCTION" means to provide legible, complete, and exact copies of responsive documents to the undersigned counsel, or to make such documents available to the undersigned counsel for inspection and reproduction. Where the document is in the form of a computer program or computer data, production should include production of the responsive information in machine-readable format along with a

description of the format and any other information necessary and sufficient to permit access to and an understanding of the information.

13. The phrase "REFER, REFLECT, OR RELATE TO" is used as a means of requesting information or documents that constitute, comprise, consist of, contain, evidence, set forth, propose, show, disclose, describe, discuss, mention, explain, summarize, reflect, deal with, identify, analyze, demonstrate, or in any way address, involve, regard, pertain to, touch upon, affect, or concern, in whole or in part, the subject matter of the relevant document production request.

14. "TREATMENT" as it refers to elephants or other animals includes interaction with, training of, care for, and handling of elephants or other animals as well as all other aspects of animal husbandry.

15. "YOU" and "YOUR" refers to the plaintiff responding to these requests.

### **INSTRUCTIONS**

You shall adhere to the following instructions in responding to these document production requests:

1. You are to produce all documents in your possession, custody, or control that are responsive to one or more of the document production requests contained herein.
2. Each document production request shall operate and be construed independently. Unless otherwise indicated, no paragraph limits the scope of any other paragraph.
3. Unless otherwise noted, these requests shall apply to the period 1996 to the present.

4. All uses of the conjunctive include the disjunctive and vice versa. Words in the singular include the plural and vice versa. Pronouns shall be construed as gender-neutral.

5. All documents that in their original form were stapled, clipped, or otherwise attached to other documents should be produced in such form.

6. For each document whose production is requested, produce the entire original document, along with all attachments, appendices, and exhibits, and any copies that are not identical to the original (whether because of notes made on, or attached to, such copy or otherwise).

7. You shall affix to every page of every document that you produce a Bates number or other unique identifier.

8. Documents shall be produced in such fashion as to identify the department, branch, or office in whose possession they were located and, where applicable, the natural person in whose possession they were found and the business address of each document's custodian(s).

9. Responsive documents that are not produced because you claim a privilege must be identified on a privilege log. The log must identify the grounds for withholding the document, the date of the document, type (*e.g.*, letter, notes, memo), nature and subject matter of the document, the authors or originators, and the addressees/recipients of the document or information or copies thereof. Each author or recipient who is an attorney should be noted as such.

10. Whenever a document is not produced in full or is produced in redacted form, so indicate on the document and state with particularity the reason or reasons it is not

being produced and describe with particularity those portions of the document not being produced.

11. Pursuant to Federal Rule of Civil Procedure 34(b), plaintiffs shall produce, or make available for inspection and copying, all documents "as they are kept in the usual course of business or shall organize and label them to correspond with categories in the request."

12. These document requests are continuing in nature and should be supplemented as required by Federal Rule of Civil Procedure 26(e) and the Stipulated Pre-Trial Schedule in this case.

## **II. DOCUMENT REQUESTS**

1. Documents sufficient to show your organizational or corporate structure, including but not limited to all departments, divisions, committees, boards, subsidiaries, affiliates, or other sub-units.

2. All documents that refer, reflect, or relate to defendants' treatment of elephants.

3. All documents that refer, reflect, or relate to any meeting of your Board of Directors or any committee, subcommittee, working group, or other sub-unit thereof during which there was any discussion of (a) defendants' treatment of elephants, (b) treatment of elephants in captivity by others, or (c) the complaint.

4. All documents, regardless of time, that refer, reflect, or relate to any policy or position that you take or have taken regarding the presentation of elephants in circuses.

5. All documents, regardless of time, that refer, reflect, or relate to any policy or position that you take or have taken regarding elephants residing in zoos.

6. All documents, regardless of time, that refer, reflect, or relate to any policy or position that you take or have taken regarding the treatment or presence of elephants in captivity.

7. All documents that refer, reflect, or relate to any communications you have had with any federal, state, or local government agency or official regarding any circus including, but not limited to, Ringling Bros. and Barnum & Bailey Circus.

8. All documents you have provided to any federal, state, or local government agency or official that refer, reflect, or relate to (a) the treatment of animals by circuses or (b) the treatment of elephants in captivity.

9. All documents that refer, reflect, or relate to any inspections or investigations of defendants or any other circus, including but not limited to inspections or investigations conducted by any federal, state, or local government agency or official, you or any organization affiliated with you, another animal advocacy group, a media outlet, or any other organization or individual.

10. All documents that refer, reflect, or relate to information you have received from any current or former employee of defendants regarding defendants' treatment of elephants.

11. All documents that refer, reflect, or relate to any complaint or report that you or any person acting on your behalf has made directly to defendants or any of their employees regarding the treatment of elephants by defendants or any of defendants' current or former employees.

12. All documents that purport to memorialize any of the events alleged in the notice of intent to sue letters.

13. All documents that refer, reflect, or relate to allegations in the complaint of defendants harming elephants; to elephants being harmed; or to defendants keeping elephants “confined” or “in chains each day, for most of the day,” including, without limitation, any documents that refer, reflect, or relate to any “physical discomfort, behavioral stress, and severe psychological harm” caused by such conduct.

14. All documents that refer, reflect, or relate to defendants having “taken” an elephant within the meaning of the Endangered Species Act.

15. All documents that describe, purport to memorialize, or refer, reflect, or relate to any of the alleged events or facts as set forth in the complaint relating to elephants’ “stereotypic” behavior or any such alleged behavior by defendants’ elephants, including but not limited to documents documenting such behavior, documents relating to the reasons for such behavior, and/or documents describing such behavior.

16. All documents that refer, reflect, or relate to the death of Benjamin, including without limitation all documents relating to the causes of Benjamin’s death and any alleged “routine beatings” of Benjamin as are alleged in the complaint.

17. All documents that refer, reflect, or relate to defendants’ separation of juvenile elephants from their mothers, including without limitation any documents that refer, reflect, or relate to allegations in the complaint of defendants “forcibly remov[ing] baby elephants from their mothers with the use of ropes and chains,” defendants’ intent to “establish dominance and control over the baby elephants” through the separation process,

or any alleged injuries suffered by Doc, Angelica, or any other elephant during the process of being separated from its mother.

18. All documents that refer, reflect, or relate to the death of Kenny, including without limitation any documents that refer, reflect, or relate to allegations in the complaint of “Ringling Bros. ma[king] Kenny perform on the day that he died, even though it knew that he was ill” and any documents that refer, reflect, or relate to Kenny allegedly being “routinely beaten and hit by Ringling Bros.”

19. Documents sufficient to show all resources you have expended in “advocating better treatment for animals held in captivity, including animals used for entertainment purposes” each year from 1996 to the present.

20. All documents that refer, reflect, or relate to any expenditure by you of “financial and other resources” made while “pursuing alternative sources of information about defendants’ actions and treatment of elephants” each year from 1996 to the present.

21. All documents that refer, reflect, or relate to any communication between you and plaintiff Tom Rider.

22. All documents that refer, reflect, or relate to any communication between you and any other animal advocates or animal advocacy organizations concerning (a) any circus, including but not limited to Ringling Bros and Barnum & Bailey Circus or (b) the treatment of elephants in captivity.

23. All documents that refer, reflect, or relate to any communication between you and any current or former employee of defendants or any other individual identified in the initial disclosures.

24. All documents that refer, reflect, or relate to any communication between you and any of your members, volunteers, donors, and/or employees regarding (a) the events alleged in the complaint or in the notice of intent to sue letters, (b) the presentation of elephants in circuses, or (c) your position, public stance, or public statements regarding the presentation of elephants in circuses.

25. All publications, newsletters, pamphlets, letters, and other communications that you have published or that you have received from any other animal advocates or animal advocacy organizations that refer, reflect, or relate to the presentation of elephants in circuses, the treatment of elephants by circuses, training of elephants, conditions of elephants in the wild and/or in captivity, and the general health and/or well-being of elephants in the care of defendants or any other circus.

26. All documents that refer, reflect, or relate to any public statements that you, your agents, or anyone acting at your behest (including, without limitation, other animal advocates, animal advocacy organizations, or their attorneys) have made about animal care at Ringling Bros. or any other circus.

27. All documents that refer, reflect, or relate to the training of elephants in captivity, including but not limited to American Zoological Association guidelines; guidelines issued by other circuses or organizations, including but not limited to you or any other animal advocates; U.S. Department of Agriculture elephant training guidelines; and any correspondence about the same.

28. All documents that refer, reflect, or relate to elephant behavior and/or physiology, whether in captivity, in the wild, or both.

29. All documents that refer, reflect, or relate to the presence of tuberculosis in circus elephants.

30. All documents that refer, reflect, or relate to legislative bans on use of animals in circuses in U.S. and foreign jurisdictions including without limitation legislation and proposed legislation, correspondence, and speeches or testimony regarding such legislation.

31. Any fact sheets that refer, reflect, or relate to the presentation of and/or treatment of elephants in circuses, and any documents or records underlying or associated with those fact sheets.

32. All documents that contain statements made by you, to you, or of which you are aware that refer, reflect, or relate to anything positive or favorable about defendants' care for, handling training of, or treatment of their elephants.

33. Any other correspondence or other documents in your possession that refer, reflect, or relate to support for or opposition to the presentation of elephants in circuses or to circuses in general, including but not limited to speeches, articles, letters to the editor, and Internet postings.

34. All speeches, presentations, testimony, or correspondence that refer, reflect, or relate to defendants or other circuses.

35. All documents referenced in your Initial Disclosures not covered by an earlier request.

36. All documents in your possession not covered by an earlier request that refer, reflect, or relate to any person identified in your Initial Disclosures as likely to have discoverable information that you may use to support your claims in this case.

37. All documents considered or relied upon in answering any of defendants' interrogatories or requests for admission.

COVINGTON & BURLING



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March 30, 2004