

Closing Arguments Delivered in *ASPCA et. al. v. Feld Entertainment, Inc.*

(March 18, 2009 - VIENNA, VA) – After six weeks of trial, the evidence presented to the Court demonstrates that the *Ringling Bros. and Barnum & Bailey*[®] Asian elephants are healthy, alert and well-cared for, as argued today by attorneys for Feld Entertainment, Inc., during closing arguments before Federal District Court Judge Emmet G. Sullivan.

During the trial, the Court was presented with expert testimony showing the use of elephant husbandry tools - such as guides and tethers - are appropriate and commonly used by trained professionals who work around the clock to care for endangered Asian elephants. The Court also heard testimony that plaintiffs are making an unusual claim under the federal Endangered Species Act, despite the fact that there is no evidence that Congress ever envisioned the statute to be used to ban elephants from circuses, zoos and other facilities.

“We look forward to the Court reviewing the totality of evidence that shows *Ringling Bros.*[®] elephants are healthy and well cared for,” said Michelle Pardo of Fulbright & Jaworski L.L.P., which is representing Feld Entertainment, Inc., the parent company of *Ringling Bros.*, in the case.

“The animal special interest groups are wrong on the facts and they are wrong in their interpretation of the relevant law,” added Pardo.

The complaint was filed by the American Society for the Prevention of Cruelty to Animals (ASPCA), the Animal Welfare Institute, the Fund for Animals, the Animal Protection Institute and Tom Rider, who is a former *Ringling Bros.* employee. The complaint alleges that *Ringling Bros.* has violated the Endangered Species Act by harming the elephants through the use of guides and tethers. The animal groups incorrectly claim this is an illegal “taking” of the elephants under the law.

Background of Case

The original complaint was filed in July 2000. The case was dismissed in 2001 but was reinstated in 2003 after an appeal. The appellate court ruled that if Rider could prove that he was “aesthetically injured” by the company’s treatment of the elephants, the case could proceed. Whether such an “injury” to Rider actually exists and can be remedied is a major issue that the Court will need to decide. Extensive evidence about the financial support that Rider receives from his co-plaintiffs - a fact that was unknown to the appeals court in 2003 - was also presented at trial.

In an important ruling in August 2007, the U.S. District Court narrowed the scope of the case to only six *Ringling Bros.* elephants. The judge granted partial summary judgment to Feld Entertainment and ruled that none of the *Ringling Bros.* Asian elephants that were born in the United States were subject to the claims of the animal groups under the Endangered Species Act.

Feld Entertainment has filed a separate lawsuit against the animal groups under the Racketeer Influenced and Corrupt Organizations Act (RICO). That litigation is on hold and will proceed separately following completion of the current case.

Feld Entertainment, Inc. is represented by John M. Simpson, Lisa Joiner, Lance Shea, Michelle Pardo and Kara Petteway of Fulbright & Jaworski L.L.P.

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