

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

Plaintiffs :

: Case No.

vs. : 03-2006 (EGS/JMF)

FELD ENTERTAINMENT, INC. :

Defendant :

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Washington, D.C.

August 29, 2008

Deposition of:

DENNIS SCHMITT, DVM, Ph.D.,  
called for oral examination by counsel for  
Plaintiffs, pursuant to notice, at the offices  
of Meyer Glitzenstein & Crystal,  
1601 Connecticut Avenue, N.W., Suite 700,  
Washington, D.C., before Zev V. Feder, CSR, a  
Notary Public in and for the District of  
Columbia, beginning at 9:24 a.m., when were  
present on behalf of the respective parties:

Feder Reporting Company  
(202) 863-0000

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1 response rather than saying yeah or nay, or  
 2 shaking your head.  
 3 In order for him to be able to get  
 4 everything we are saying down, it is helpful  
 5 if you let me ask my question and then give  
 6 your answer, so we are not talking over each  
 7 other. And I will try to afford you the same  
 8 opportunity and wait until you are done giving  
 9 your answer until I ask my next question.  
 10 A. All right.  
 11 Q. If I say anything that you don't  
 12 understand, if I ask you a question you don't  
 13 understand, let me know and I will rephrase  
 14 it.  
 15 A. All right.  
 16 Q. If your lawyer objects to anything  
 17 that I say, unless he gives you a specific  
 18 instruction, like an instruction not to  
 19 answer, you should go ahead and answer the  
 20 question.  
 21 A. All right.  
 22 Q. And if you need to take a break at

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1 all, please let me know.  
 2 A. Okay.  
 3 Q. What did you do to prepare for  
 4 your deposition today?  
 5 A. Reviewed my statement that I  
 6 presented earlier with counsel yesterday.  
 7 Q. And who did you meet with?  
 8 A. John, Lance and Lisa.  
 9 Q. About how long did you meet with  
 10 them?  
 11 A. About 10:00 until about 6:00.  
 12 Q. When were you retained to be an  
 13 expert witness in this case?  
 14 A. Originally, sometime in 2004, I  
 15 believe.  
 16 Q. Do you remember about when; was it  
 17 in the spring or in the fall?  
 18 A. No.  
 19 Q. Just sometime in 2004?  
 20 A. I know, I believe -- I think it  
 21 was in the spring.  
 22 Q. Who retained you?

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1 A. Covington Bullard, Burlington?  
 2 Law firm.  
 3 Q. Who was your primary contact?  
 4 A. Jeannie Perron. I believe that's  
 5 her name.  
 6 Q. Since Ringling Brothers has been  
 7 represented by Fulbright, who has been your  
 8 contact?  
 9 A. Primarily, Lisa.  
 10 Q. And that is Lisa Joiner?  
 11 A. Yes.  
 12 Q. And you have agreed to testify at  
 13 the trial of this case?  
 14 A. Yes.  
 15 MS. SANERIB: I would like to go  
 16 ahead and mark as the first exhibit.  
 17 (Document referred to marked  
 18 Deposition Exhibit No. 1 for identification  
 19 and subsequently attached to the deposition.)  
 20 BY MS. SANERIB:  
 21 Q. I have had marked as Exhibit 1 a  
 22 copy of your expert witness report in this

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1 case. Can you take a look at this document  
 2 and let me know if it appears to be your  
 3 report?  
 4 A. (Pause). Yes.  
 5 Q. And did you understand that your  
 6 report was to contain a complete statement of  
 7 all the opinions that you intend to express at  
 8 trial in this case?  
 9 A. As I understand.  
 10 MR. SHEA: Objection.  
 11 MS. SANERIB: What is your  
 12 objection?  
 13 MR. SHEA: Form.  
 14 You can answer.  
 15 THE WITNESS: As I understand.  
 16 BY MS. SANERIB:  
 17 Q. The report contains the basis for  
 18 all of your opinions?  
 19 A. As we -- as I understand them  
 20 today, yes.  
 21 Q. Do you anticipate any of your  
 22 opinions changing?

1 A. I don't anticipate any of the  
2 opinions changing, no.

3 Q. Do you anticipate any of the basis  
4 for your opinions changing before trial?

5 A. I have no reason to believe that  
6 they will.

7 Q. Did you write this report?

8 A. Yes.

9 Q. You typed it yourself?

10 A. Yes.

11 Q. If you turn with me to the last  
12 page of the actual report, which is page 26,  
13 the last sentence on page 26 says that you  
14 reserve the right to update this report as you  
15 conduct a further review of the plaintiff  
16 witnesses' reports.

17 Are you aware that the defendant  
18 sought and obtained an extension of time for  
19 its experts to prepare their reports in this  
20 case?

21 A. No.

22 Q. So you were unaware that you had

1 reproduction, yes. It is called  
2 theriogenology. It literally means the study  
3 of the beginning of beasts.

4 Q. And you have worked on developing  
5 technologies for the captive breeding of  
6 elephants. Correct?

7 A. Yes.

8 Q. And you consult on reproductive  
9 issues for institutions with elephants?

10 A. Yes.

11 Q. And what, in just a brief summary,  
12 what would you say you have predominantly  
13 worked on in the field of elephant  
14 reproductive biology?

15 A. Predominantly, I have worked on  
16 collecting and preserving semen from males and  
17 on artificial insemination and endocrinology.

18 Q. Let's start with artificial  
19 insemination. If we refer to it as AI, will  
20 you know what I am talking about?

21 A. Yes.

22 Q. I just want to make sure I

1 until June 30th to complete this report?

2 A. I don't recall.

3 Q. You learned nothing about having  
4 an additional six weeks for your expert  
5 report?

6 A. No. If I did, it got lost in the  
7 mix. I had already done it.

8 Q. And if we go to the next page  
9 beyond page 26, your curriculum vitae, CV, is  
10 attached to your report. Correct?

11 A. No, the next page is references  
12 cited.

13 Q. And that is about three pages.  
14 Then after that is the CV.

15 A. Okay.

16 Q. That is your current CV as of  
17 April of 2008?

18 A. Yes.

19 Q. It appears from looking at the CV  
20 that you have a specialty in reproductive  
21 sciences. Is that correct?

22 A. I am board certified in veterinary

1 understand the procedure. So as a first step,  
2 you obviously need a female elephant and you  
3 need to do an assessment that she is a  
4 breeding candidate. Is that correct?

5 A. We suggest, yes.

6 Q. And how do you make that  
7 determination that she is a breeding  
8 candidate?

9 A. First step is to see if they are  
10 cycling normally. So weekly blood samples are  
11 assayed for reproductive hormones, primarily  
12 progesterone. We are able to characterize the  
13 length of their cycle, luteal phase,  
14 follicular phase. Luteal phase means they are  
15 producing progesterone. Follicular phase is  
16 when they are no longer producing progesterone  
17 from a corpus luteum, which is a temporary  
18 structure in the ovary, and may have  
19 follicular waves.

20 And that is the development -- the  
21 follicle has an egg, unfertilized egg in it  
22 that is not ready for fertilization at that