

III. Exhibits to be Introduced¹

EXHIBIT #	Description	Evidentiary Basis
PWC 113	Elephant Lord of the Jungle Time stamp: 19:24-20:32 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object
PWC 113	Elephant Lord of the Jungle Time stamp: 44:35-44:59 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object
PWC 113	Elephant Lord of the Jungle Time stamp: 45:20-45:37 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object
PWC 113	Elephant Lord of the Jungle Time stamp: 45:46-47:8 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object
PWC 113	Elephant Lord of the Jungle Time stamp: 49:12-51:3 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object

¹ See Defendant’s Witness and Exhibit List for Tuesday, March 3, 2009 (Docket # 440) (2/26/09) & Defendant’s Witness and Exhibit List for Thursday, March 12, 2009 (Docket # 455) (3/9/09).

EXHIBIT #	Description	Evidentiary Basis
PWC 113	Elephant Lord of the Jungle Time stamp: 1:25:15-1:25:39 (shown on cross-examination of Dr. Joyce Poole)	Evidence of defenses to “taking” claim; Plaintiffs’ exhibit to which defendant did not object
DX 309	Redline of May/March Declarations of Michelle Sinnott (marked on cross-examination of Michelle Sinnott)	Evidence of defenses to “taking” claim
DX 173A	Blue Elephants Video Footage (4/5/99) (FEI 52899) Timestamp: 0:07-0:40 (shown on cross-examination of Tom Rider)	Evidence of defenses to “taking” claim; Credibility of lead plaintiff
DX 40	Written Warning from Feld Entertainment, Inc. to Tom Rider (12/2/98) (FELD 0004832) (Ex. 14 to Tom Rider Deposition) (10/12/06) (marked on cross-examination of Tom Rider)	Credibility of lead plaintiff
DX 41	Written Warning from Feld Entertainment, Inc. to Tom Rider (7/18/99) (FELD 0004831) (Ex. 15 to Tom Rider Deposition) (10/12/06) (marked on cross-examination of Tom Rider)	Credibility of lead plaintiff
DX 42	Written Warning from Feld Entertainment, Inc. to Tom Rider (10/30/99) (FELD 0004830) (Ex. 16 to Tom Rider Deposition) (10/12/06) (marked on cross-examination of Tom Rider)	Credibility of lead plaintiff
DX 166	Written Warning to Robert Tom, Jr. from Feld Entertainment, Inc. (6/28/06) (Ex. 16 to Robert Tom Deposition) (marked on cross-examination of Robert Tom)	Witness credibility

EXHIBIT #	Description	Evidentiary Basis
DX 167	Written Warning to Robert Tom, Jr. from Feld Entertainment, Inc. (6/28/06) (Ex. 17 to Robert Tom Deposition) (marked on cross-examination of Robert Tom)	Witness credibility
DX 146	Notice of Disciplinary Action Form (10/30/05) (Ex. 7 to Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility
DX 148	Margaret Tom Written Statement (Ex. 9 to Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility
DX 149	Notice of Disciplinary Action Form (4/1/06) (Ex. 10 Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility
DX 150	Coaching / Counseling Form (4/8/06) (Ex. 11 to Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility
DX 151	Disciplinary Report Form / Margaret Tom (4/26/06) (Ex. 12 to Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility
DX 152	Written Warning to Margaret Tom from Feld Entertainment, Inc. (6/29/06) (Ex. 13 to Margaret Tom Deposition) (marked on cross-examination of Margaret Tom)	Witness credibility

EXHIBIT #	Description	Evidentiary Basis
DX 16	<p>Rider's First Response and Supplemental Responses to FEI's Interrogatories (6/9/05; 1/31/07; 9/24/07; 1/30/08)</p> <p>Original and all supplemental responses to Interrogatory Nos. 2, 15, 16, 17 and 24</p>	<p>Party Admission;</p> <p>No objection by plaintiffs</p>
DX 21	<p>API First Responses and Supplemental Responses to FEI's Interrogatories (1/15/07; 9/24/07; 1/30/08)</p> <p>1/15/07: Nos. 21, 22, 23</p> <p>9/24/07: Nos. 21 & 22</p>	<p>Party Admission;</p> <p>No objection by plaintiffs</p>
DX 124	<p>Archele Hundley Affidavit (9/29/06) (Exhibit MM to Pls. Opp. to Defendant's Motion for Summary Judgment) (Docket No. 113) (11/22/06) (Ex. 2 to Archele Hundley Deposition)</p>	<p>Judicial Notice;</p> <p>Identical to PWC 114A (DX 124 is filed exhibit)</p>
DX 157	<p>Robert Tom Declaration (10/10/06) (Exhibit LL to Pls. Opp. to Defendant's Motion for Summary Judgment) (Docket No. 113) (11/22/06) (Ex. 4 to Robert Tom Deposition)</p>	<p>Judicial Notice;</p> <p>Identical to portion of PWC 115 (DX 157 is filed exhibit)</p>
DX 186	<p>Notice of Intent to Sue Letter from Archele Hundley; Robert Tom and Margaret Tom (3/30/07) (Ex. 3 to Pls. Motion to File a Supplemental Complaint) (Docket # 181-4) (8/29/07)</p> <p>(marked on cross-examinations of Archele Hundley and Robert Tom)</p>	<p>Judicial Notice;</p> <p>No objection by plaintiffs</p>
DX 266	<p>The Elephant Sanctuary, Annual Reports (2002-2007)</p> <p>(marked on cross-examination of Carol Buckley)</p>	<p>Evidence of defenses to "taking" claim</p>

EXHIBIT #	Description	Evidentiary Basis
DX 302A	Photographs from the website of Dr. Joyce Poole Photograph 1, 5, 8, 25 (marked on cross-examination of Joyce Poole)	Evidence of defenses to “taking” claim
DX 305	2006 Red Unit Schedule (with highlighting) (pdf # 36 from DX 59) (marked on cross-examination of Archele Hundley)	Evidence of defenses to “taking” claim
DX 307	Comparison of PWC 132 Clip Orders and Timestamps (marked on cross-examination of Pat CuvIELlo)	Evidence of defenses to “taking” claim
PWC 92	Documents reflecting Animal Protection Institute’s Circus Advocacy Work API 5662-63 / pdf # 113-14 API 5630-37 / pdf # 81-88 API 5616-21 / pdf # 67-72 API 5566-68 / pdf # 17-19 API 5649 / pdf # 100 (marked on cross-examination of Nicole Paquette (API))	Entire exhibit admitted into evidence during plaintiffs’ case-in-chief; Evidence of defenses to “taking” claim
--	Complaint, Civ. Act. No. 00-1641 (Docket # 1) (7/11/00) (identified on cross-examination of Tom Rider)	Judicial Notice
--	Complaint, Civ. Act. No. 03-2006 (Docket # 1) (9/26/03) (identified on cross-examination of Tom Rider)	Judicial Notice
--	Plaintiffs’ Motion for Reconsideration (district court) (7/16/01)	Judicial Notice
--	Reply Brief of Plaintiffs-Appellants (9/6/02)	Judicial Notice

EXHIBIT #	Description	Evidentiary Basis
--	Motion for Leave to File a Supplemental Complaint (Docket # 55) (10/27/05) (identified on cross-examination of Nicole Paquette(API))	Judicial Notice
--	Order (Docket # 60) (2/23/06) (identified on cross-examination of Nicole Paquette(API))	Judicial Notice
--	Motion for Leave to File a Supplemental Complaint (Docket # 181) (8/29/07) (identified on cross-examination of Archele Hundley)	Judicial Notice
--	Exhibit 1 to Motion for Leave to File Supplemental Complaint (Second Supplemental Complaint) (Docket # 181-2) (8/29/07) (identified on cross-examination of Robert Tom)	Judicial Notice
--	Order & Memorandum Opinion (Docket # 212 & 213) (10/25/07) (identified on cross-examination of Nicole Paquette (API))	Judicial Notice
--	Order (Docket # 195) (9/25/07) (identified on cross-examination of Carol Buckley)	Judicial Notice
--	Order (Docket # 228) (11/26/07) (identified on cross-examination of Carol Buckley)	Judicial Notice

Dated this 15th day of March, 2009.

Respectfully submitted,

/s/ Kara L. Petteway

John M. Simpson (D.C. Bar #256412)
Joseph T. Small, Jr. (D.C. Bar #926519)
Lisa Zeiler Joiner (D.C. Bar #465210)
Lance L. Shea (D.C. Bar #475951)
Michelle C. Pardo (D.C. Bar #456004)
Kara L. Petteway (D.C. Bar #975541)

FULBRIGHT & JAWORSKI L.L.P.
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: (202) 662-0200
Facsimile: (202) 662-4643

Counsel for Defendant Feld Entertainment, Inc.