

EXHIBIT 3

CONFIDENTIAL

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

3 -----
4 LOU BAKER, individually and: Case No. 3:14-cv-
5 on behalf of all others : 2129-MMA-AGS
6 similarly situated, :
7 Plaintiff :
8 vs. :
9 SEAWORLD ENTERTAINMENT, :
10 INC., et al :
11 Defendants. :
12 -----

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15 Videotape Deposition of FREDERICK D. JACOBS,
16 VOLUME I, taken pursuant to Notice, at the law
17 offices of Kessler, Topaz, Meltzer & Check, LLP,
18 280 King of Prussia Road, Radnor, Pennsylvania,
19 commencing at 10:10 a.m., on TUESDAY, DECEMBER
20 18, 2018, before Rose A. Tamburri, RPR, CM, CCR,
21 CRR, USCRA Speed and Accuracy Champion and Notary
22 Public.

23
24 Job No. 3106831
25 PAGES 1 - 316

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1 BY MR. D'ANCONA:

2 Q. Do you see that, sir?

3 A. Yes.

4 Q. Have you had a chance to look over
5 this E-mail?

6 A. Yes.

7 Q. Okay.

8 You sent this E-mail to Darla
9 Morse; correct?

10 A. Yes.

11 Q. Okay.

12 And your E-mail at the bottom
13 contains a copy of an August 28th, 2013,
14 article that appeared in Bloomberg authored by
15 Christopher Palmeri. Do you see that?

16 A. Yes, I do.

17 Q. Is this the Bloomberg reporter who
18 you referenced in your testimony earlier this
19 morning?

20 A. Yes.

21 Q. Okay.

22 The article generally addresses an
23 attendance drop at SeaWorld in 2013; is that
24 fair?

25 A. Yes.

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1 Q. On the page of the exhibit bearing
2 the Bates number ending 310, there is a
3 paragraph that says, "The company is also
4 coping."

5 Do you see that?

6 A. Yes, I do.

7 Q. "The company is also coping," it
8 says, "with negative publicity from Blackfish
9 released in U.S. theaters on July 19th, which
10 began getting attention after its premier at
11 the Sundance Film Festival in January. Quote,
12 We can attribute no attendance impact at all
13 to the movie, Jacobs said."

14 Do you see that?

15 A. Yes.

16 Q. Did you provide the quoted statement
17 that appears there to a reporter from
18 Bloomberg?

19 A. Yes.

20 Q. Was that a true statement when you
21 made it?

22 MR. YOUNGWOOD: Objection to form.

23 THE WITNESS: No.

24 BY MR. D'ANCONA:

25 Q. It says --

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1 A. That is in -- that is I could
2 attribute -- let me -- let me clarify this.

3 Q. Yeah, explain.

4 A. For this statement to be true, not a
5 single person who was contemplating a visit to
6 SeaWorld and changed their mind because of
7 Blackfish came. That -- so the statement is
8 unequivocal and I just can't conceive that it
9 isn't -- you know, that there wasn't at least
10 one person out there who changed their mind
11 about visiting SeaWorld because of Blackfish.

12 Q. When you made your statement, did you
13 know whether it was -- you did not know
14 whether it was true or not; is that fair?

15 MR. YOUNGWOOD: Objection to form.

16 THE WITNESS: I didn't believe it
17 to be true.

18 MR. D'ANCONA: Okay.

19 BY MR. D'ANCONA:

20 Q. In the E-mail at the top of this
21 thread from yourself to Darla Morse --

22 A. Um-hmm.

23 Q. -- I draw your attention to that.
24 Who is Darla Morse?

25 A. Darla was the chief IT officer for

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1 the company at that time.

2 Q. And you're responding in your E-mail
3 to a question from Ms. Morse, and you say, "I
4 guess he figures our attendance softness is
5 influenced in part by consumer response to
6 Blackfish. It's a theory that is impossible
7 to prove or disprove."

8 Do you see that?

9 A. Yes.

10 Q. When you say, "It's a theory that is
11 impossible to prove or dis -- disprove,"
12 please explain what you meant.

13 A. Well, as I said earlier, it -- trying
14 to determine why somebody didn't visit a theme
15 park is difficult to do. It -- so the --
16 well, there's a couple of things. So whatever
17 decrement that you're talking about, say it's
18 -- you're down 100,000. So you have to
19 determine, really through educated guesses,
20 whether a single cause is responsible for that
21 decrement, or multiple causes are responsible
22 for that decrement. And then you apportion
23 how much each of those is responsible for a
24 given amount of the attendance decline.

25 So that's what I mean by the --

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