

Court to decide if SeaWorld whales are illegal 'slaves'

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Killer whale "Tilikum" appears during the show "Believe" at Sea World in Orlando, Florida, in 2011. A California federal court is to decide for the first time in US history whether amusement park animals are protected by the same constitutional rights as humans.

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The issue arises from a lawsuit filed by rights group People for the Ethical Treatment of [Animals](#) (PETA) in a San Diego court on behalf of five [orcas](#) named Tilikum, Katina, Corky, Kasatka and Ulises.

The whales perform water acrobatics at the SeaWorld amusement parks in San Diego and in Orlando, Florida.

PETA argues that continuing the whales' "employment" at SeaWorld violates the 13th Amendment to the US Constitution, which prohibits slavery.

District Judge Jeffrey Miller heard arguments in the complaint Monday and reviewed the response from SeaWorld, which asked that the lawsuit be dismissed. His ruling is expected to come later.

The suit, filed in October 2011, asked that the

court declare that the orcas are "held in slavery and/or involuntary servitude by defendants in violation of the Thirteenth Amendment to the United States Constitution."

"It's a new frontier in civil rights," said Jeff Kerr, PETA general counsel, who described the hearing as a "historic day."

"Slavery does not depend on the species of the slave any more than it depends on race, gender or ethnicity," he argued. "Coercion, degradation and subjugation characterize slavery and these orcas have endured all three."

The complaint says the five [killer whales](#) are represented by their "friends" at PETA, which include three former killer whale trainers, a [marine biologist](#) and the founder of an organization that seeks to protect orcas.

The complaint demands that the court "appoint a legal guardian to effectuate plaintiffs' transfer from defendants' facilities to a suitable habitat in accordance with each plaintiff's individual needs and best interests."

SeaWorld's motion to dismiss argues that, the amendment "only protects people, not animals, from slavery and involuntary servitude."

The courts lack authority to extend the amendment to animals, which could "open a veritable Pandora's Box of inescapable problems and absurd consequences," SeaWorld argued in motion to dismiss last year.

The case is unprecedented not because no laws cover the issue but because PETA's claims "are so baseless that no party has ever wasted the time, energy and expense of any court in making such claims in a lawsuit," SeaWorld argued.

In 2010, Tilikum drowned a trainer after a show in

Orlando and was kept in "complete isolation" in a small concrete tank afterward, PETA said.

SeaWorld denied any implications of cruelty to animals, instead accusing PETA of trying to get attention for itself with its lawsuit.

"While PETA continued to engage in this publicity stunt, SeaWorld San Diego was returning four rescued and rehabilitated sea lions to the wild," SeaWorld said in its response.

"SeaWorld remains the standard for zoological stewardship of marine animals and we reject any challenge to the conditions and quality of care for these remarkable animals," SeaWorld said.

"The welfare of our whales is enshrined in numerous federal and state laws, including the Marine Mammal Protection Act and the Animal Welfare Act."

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